



Crowe Horwath®



Final Report to



AN TÚDARÁS PÓILÍNEACHTA
POLICING AUTHORITY

Review of Matters Related to Mandatory Intoxicant Testing
and the Issue of Summonses by the Garda Síochána

October 2017

STRICTLY CONFIDENTIAL

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1 Introduction

1.1 Background to the Project

Crowe Horwath were commissioned by the Policing Authority in June 2017 to undertake a review of the issues which came to public attention in March 2017 in respect of Mandatory Intoxicant Test (MIT) recording by the Garda Síochána and the incorrect issuing of summonses by the Garda Síochána instead of Fixed Charge Notices (FCNs).

Crowe Horwath's team for the assignment includes process auditors, accountants, consultants, and former senior police officers with extensive operational policing experience in the UK, including roads policing.

1.2 Terms of Reference

The Policing Authority's Supplementary Request for Tender (SRFT) document stated that:

"The purpose of the examination is to address, to the extent possible, the reasons why such issues have arisen, the incidence and scale of the issues and both the solutions implemented to ensure the efficacy of these solutions and that there is no recurrence of these issues. It will also consider any weakness in the control and governance environment that facilitated the occurrence of the issues".

The full Terms of Reference are presented in Appendix 1 of this document. The principal elements of the examination include the following:

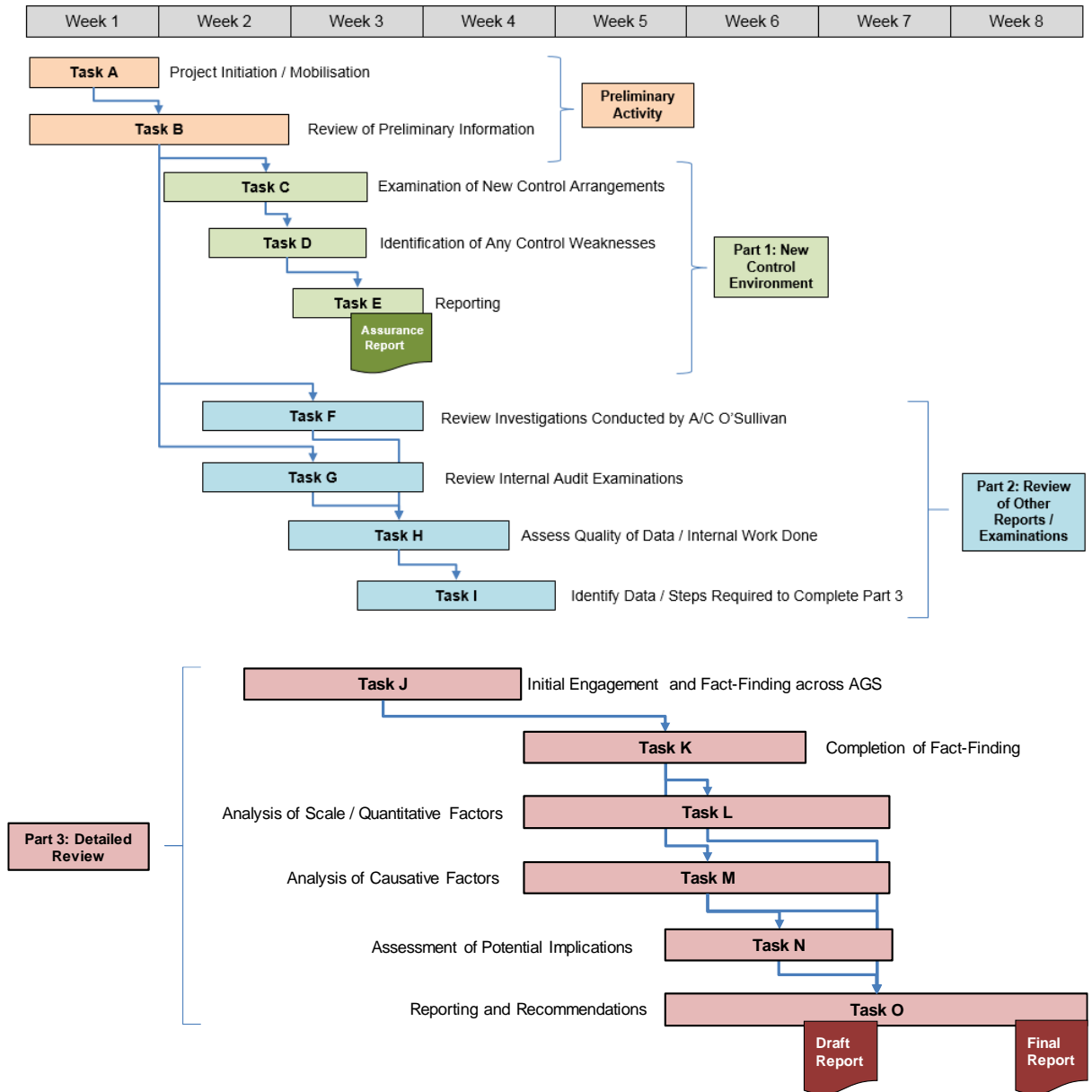
- Examination of new control arrangements;
- Identification of control weaknesses;
- Review of internal investigations conducted by the Garda Síochána into these matters;
- Review of internal audit examinations;
- Analysis of scale and causative factors;
- Assessment of potential implications of issues.

The SRFT indicated that the examination *"will examine the measures put in place to prevent a recurrence of these issues and consider whether any further changes or actions are required in order for the Authority to be assured in its oversight role that robust measures have been put in place to prevent future failures of this nature"*.

1.3 Methodology and Approach

Following vetting and security clearance for our team, we commenced the assignment on Monday 31 July 2017, and agreed a timetable with the Policing Authority which involved the fieldwork and analysis being undertaken within August and September, before a final report due eight weeks after project commencement.

The main tasks within the assignment are illustrated below:



Our work across the duration of the assignment has comprised:

- Project initiation with the CEO and senior officials of the Policing Authority, to agree the methodology, timescales, and project management arrangements;
- An initial meeting with the Garda Commissioner and the Assistant Commissioner (Security and Intelligence), also attended by the CEO of the Policing Authority, to agree the mechanisms for engagement with the Garda Síochána;
- A series of meetings with members of the internal Review Team set up within the Garda Síochána under the Assistant Commissioner (Security and Intelligence) to examine both matters within the scope of this assignment;
- Review of documentation provided to Crowe Horwath by the internal Review Team;

- Engagement with the Assistant Commissioner (Roads Policing) and with senior officers within the Traffic Corps, to establish local liaison for our team across the Garda Síochána;
- Visits to all 28 Garda Divisions (2 locations per Division) and to DMR Traffic Division, in order to understand the local impact of the issues relating to MIT recording and issue of summonses rather than FCNs – our team met with 400+ Gardaí (all ranks) through a combination of one-to-one discussions and focus groups during the course of the review;
- Attendance at 10 MIT checkpoints in both urban and rural locations, in order to understand the nature of the processes involved;
- Engagement with staff at the Garda Information Services Centre (GISC) in Castlebar and review of documentation provided by GISC;
- Engagement with the Road Safety Authority, the Medical Bureau of Road Safety, the Garda Professional Standards Unit, the Garda College, and the Garda Internal Audit Unit;
- Review of the controls in place to prevent future problems, and identification of any potential weaknesses in these controls;
- Analysis of contributing factors, with identification of potential implications of these issues;
- Weekly progress reporting to, and regular engagement with, the Policing Authority.

On 22 August 2017, we submitted an Interim Report to the Policing Authority, providing a high-level and preliminary assessment of the issues under review, and setting out our analysis of the potential for these problems to recur. The content of that report – which forms the basis for our subsequent analysis contained herein – was reviewed by the Garda Síochána in order to check for factual accuracy, and no changes of substance were identified as being required.

The original 8-week timescale for the review was extended by agreement with the Policing Authority, as the commencement of the project in August meant that some consultees were not available to meet us or provide information until a point later than originally expected.

Additionally, a key element of this assignment entailed a review of the reports issued on foot of the examination by Assistant Commissioner O’Sullivan, which (at the time this report was commissioned) were expected to be completed by the end of June 2017. These reports (bearing the cover date 11 August 2017) were not published until 6 September 2017; advance copies were provided to the Policing Authority and to Crowe Horwath on 31 August 2017, and these extended timescales had an impact on the capacity of our review team to consider and assess the content within the original project timeframe.

1.4 Terminology

For the avoidance of doubt, the terminology contained in the original terms of reference document issued by the Policing Authority referred to Mandatory Alcohol Testing (MAT) checkpoints operated by the Garda Síochána. As Gardaí have now been issued with equipment which can test motorists at the roadside for impairment caused by drugs, we understand that the terminology has recently changed and that they are now known as

Mandatory Intoxicant Testing (MIT) checkpoints. We have therefore standardised all references in this document to MIT checkpoints.

1.5 Acknowledgements

Following an early meeting with the Commissioner, the Assistant Commissioner (Security and Intelligence) and the Assistant Commissioner (Roads Policing and Major Event Management) were requested to provide us with the assistance necessary to access documentation, arrange visits to all Garda Divisions, facilitate meetings with various senior officers, and other associated tasks. We acknowledge the considerable assistance the Garda Síochána provided to facilitate this review, and appreciate the willingness to provide data and support the consultation process throughout.

Serving members of the Garda Síochána engaged with the review team with openness and honesty in the various meetings and focus group sessions across the organisation.

At the outset of the assignment, we confirmed that all of our interactions with Garda members would be conducted in strict confidence, and that any information or opinion provided to us would be dealt with on an anonymous basis and would not form part of any future internal Garda process in relation to performance or disciplinary matters. This assurance was undoubtedly helpful in encouraging Garda members to speak to us openly and frankly and to provide us with very valuable insights into the handling of FCN and summons processing and into the conduct of MIT checkpoints. In addition to the 400+ Garda members whom we met during our Divisional visits, we also had confidential written submissions from a small number of Gardaí who contacted us via email, either directly to members of our team or through a dedicated email account which we had set up for the purpose of this project and which was listed on the Garda portal.

All of the staff associations and civilian trade unions within the Garda Síochána were also contacted as part of this review and were invited to engage with our team. Their contributions, which we acknowledge with gratitude, have been taken into account during the analysis we have conducted into the issues within our terms of reference.

We also acknowledge the assistance provided by all of the external stakeholders with whom we engaged during the course of the review, whose assistance in providing important contextual background and understanding has been invaluable.

Part A

Issues Relating to Summonses and Fixed Charge Notices

2 Analysis: Summonses and FCNs

2.1 Background

Since 2002, provision has been made in road traffic legislation to allow for the processing of certain types of road traffic offences by means of a fixed charge or fixed penalty notice (FCN or FPN)¹, whereby a notice is issued for the payment of a fine (fixed charge) and the imposition of penalties, most commonly penalty points on the licence of the motorist who commits the offence. Most penalty point offences also attract fixed charges, but a small number of offences result in automatic summons to court without the option of paying a fixed charge. Typically, the offences which result in automatic summons are of a more serious nature, such as driving a dangerously defective vehicle or careless driving. The intention of fixed charge/penalty notices is to reduce the number of traffic offences being dealt with through the court system.

The Garda Síochána identified, following an examination of summonses issued between April 2006 and May 2016, that 149,426 summonses were issued incorrectly (i.e. an FCN should have been issued instead of a summons), and arising from these a total of 14,736 convictions were recorded.

2.2 Processes Involved

2.2.1 Overview

This section examines the processes involved in the issuing of FCNs and the procedure when these are not paid by the recipients. The process described below outlines how the system is designed to operate, i.e. the procedure as it *should* work. Our comments on the efficiency and effectiveness of the process and any issues and problems we have identified within the system will be detailed in subsequent sections.

As will become evident from the paragraphs which follow, the issuing of FCNs and summonses for road traffic offences is a complex area involving multiple agencies, and it is important that we describe the current procedures as part of our later analysis of how major problems arose in this area.

2.2.2 Background

The Road Traffic Act, 2002, amending the Road Traffic Act, 1961 (the primary road traffic legislation), designated certain specified road traffic offences as “fixed charge offences”. This means that such offences **must** be prosecuted by means of a Fixed Charge Notice (FCN), requiring the payment of a fine and entailing the imposition of penalty points on the licence of the individual in question. A person may only be summonsed to court upon failure to pay the fixed charge within the timeframes provided.

¹ The majority of offences that can be dealt with in this manner are referred to as “fixed charge offences” and the associated notice is a “fixed charge notice”. However, the more recently-introduced similar processes for certain drink driving offences and public order offences are referred to in the legislation as “fixed penalty offences” with “fixed penalty notices”. These are based on the same principles but have some small differences in processing and implementation. We refer primarily to FCNs where there is little relevant difference in processing, but include reference to FPNs in this section.

Since the introduction of FCNs, subsequent road traffic legislative amendments have frequently added to the list of specified FCN offences (and “fixed penalty” offences such as certain drink driving offences, see below). The Courts Service identifies offence codes for sub-specification of offences: there are now 614 such offence codes. The means by which those receiving FCNs or Fixed Penalty Notices (FPNs) can pay the fine has changed also: previously, these were paid directly at Garda stations, but in order to address concerns around Garda stations handling cash receipts for FCN payments, the system has changed so that the payment for these notices is now made through An Post.

There is a 28-day period from the date of issue of the FCN to the individual to pay the specified fine. Should this period elapse without payment, the fine increases by 50% and a further 28 days is given for this to be paid. Up until 1 June 2017, if no payment was received within 56 days following the issue of the notice, a summons was issued for the offence. Since 1 June 2017, a further opportunity to pay the fine has been implemented: a summons is issued along with a notification that payment of a fine 100% greater than the original (to be paid at least 7 days before the appointed court date) will allow the individual to avoid a court appearance. FPNs for qualifying drink driving and public order offences have different time limits to pay (see below).

2.2.3 Issuing FCNs

Fixed charge notices can be issued arising from a number of circumstances. “Intercept” incidents are where a breach of the legislation is detected by a member of the Garda Síochána or a traffic warden either by observation or engagement with the driver or vehicle. “Non-intercept” incidents are where the offence has been detected without a member of the Garda Síochána present, by means of a fixed speed camera or a Garda robotic speed camera vehicle.

For intercept incidents, when a member of the Garda Síochána considers that a fixed charge offence has been committed there are two mechanisms by which this can be processed. The first is by means of a Fixed Charge Processing System (FCPS) handheld device designed for the purpose of issuing FCNs; the second by means of the completion of a paper FCN using a Fixed Charge Penalty Book, which is a notebook containing 20 FCN forms for manual completion. (In practice, few Gardaí use the handheld devices on the roadside at the time of recording an incident that may result in the issuing of an FCN, but note the details manually in their notebooks to be transferred to a handheld device at a later stage, such as when they return to a station.)

Where handheld devices are used, these are docked at the stations and the FCPS computer downloads the FCN information for transfer to the Fixed Charge Processing Office (FCPO) in Thurles, Co. Tipperary. Manually-issued FCNs are forwarded to the FCPO for processing. The FCPO then issues the actual FCN to the individuals involved in the incidents.

Non-intercept detections of FCN offences are processed via the Garda IT system, matching registration plates of cars detected exceeding the speed limit with the National Vehicle and Driver File to identify the owners of the vehicles. This information is then uploaded to the FCPS and the FCNs issued in the same way as other notices.

2.2.4 Production of Documents

Certain incidents involving FCNs require the driver to produce evidence of valid documentation such as a driving licence, insurance certificate, and/or NCT certificate within a specified time to a nominated Garda station. This is recorded by means of “ticking” a box on either the handheld FCPS device or on the manual FCN in the notebook. When these documents are produced, the Garda who receives them – usually not the same Garda who issued the demand for the documents – inputs the details on to PULSE.

The Garda Information Services Centre (GISC) in Castlebar runs a weekly manual cross-check on the FCPS “Driving Licence Insurance Production” (DLIP) report, detailing all of the incidents for which such documentation was required to be produced, and the PULSE DLIP report which details the recorded documentation produced that week to Garda stations. GISC then creates and/or updates incidents and summonses on PULSE in relation to the production of documents.

2.2.5 Linked Offences

Where more than one offence has been detected, involving both one or more FCN offences and one or more non-FCN offences, the offences must be linked on the PULSE and FCPS systems to ensure that should the FCN not be paid, the summons to court for non-payment will be issued for the same court appearance as the summons for the non-FCN offence. (This is important for the Garda Síochána from an efficiency and resourcing perspective, as it ensures that members only have to attend court once.)

This linking is achieved by means of ticking a box on the handheld device or the notepad FCN form, and then inserting the reference number from the handheld (H) or notepad (N) on the PULSE incident created for the non-FCN offences.

A monthly linked offence report is issued, identifying those FCNs linked to non-FCN offences where the FCN has been paid or cancelled. Where such FCNs are not paid within the allotted time, the summons for court appearance on foot of the unpaid FCN is issued for the same date, wherever possible, as the summons for other offences.

2.2.6 Offences with Different Processes

Certain public order and drink driving offences were designated as fixed “penalty” offences in 2008 and 2011 respectively. The processing of such fixed penalty notices (FPNs) is not precisely the same as that for other road traffic FCN offences.

The issuing of an FPN for drink driving is limited to those cases where a driver is determined to have a blood alcohol level which exceeds the legal limit but is below a specified threshold. The legal limit and upper threshold are dependent on the experience of the driver (drivers on learner permits and recently-qualified novice drivers have lower blood alcohol limits and a lower threshold for an FPN drink driving offence). Blood alcohol level may be calculated from breath testing or urine testing as well as by blood testing, so that it is not always necessary to take and analyse a blood sample to determine that a driver is over the legal blood alcohol limit.

The table below sets out the blood alcohol limits and thresholds for FPN drink driving offences, along with the fine and penalties associated with the FPNs:

Driver type	Concentration of alcohol	Fine	Additional penalty
Experienced drivers	(a) Not exceeding 80mg of alcohol per 100ml of blood (b) Not exceeding 107mg of alcohol per 100ml of urine (c) Not exceeding 35mcg of alcohol per 100ml of breath	€200	3 penalty points
Experienced drivers	(a) Exceeding 80mg but not exceeding 100mg of alcohol per 100ml of blood (b) Exceeding 107mg but not exceeding 135mg of alcohol per 100ml of urine (c) Exceeding 35mcg but not exceeding 44mcg of alcohol per 100ml of breath	€400	6 months' disqualification
Other drivers	(a) Not exceeding 80mg of alcohol per 100ml of blood (b) Not exceeding 107mg of alcohol per 100ml of urine (c) Not exceeding 35mcg of alcohol per 100ml of breath	€200	3 months' disqualification

When a detection of a fixed penalty drink driving offence occurs, a check of the driving licence is required through the Department of Transport, Tourism and Sport to ascertain if a previous drink driving offence has been recorded against the driver within the previous three years. If this is the case, the offence proceeds to summons. If no previous drink driving offence has been committed within the previous three years, the FPN is submitted by means of the manual notepad to the FCPO and is processed and issued.

A drink driving FPN is payable within 28 days with no second or third opportunity to pay increased fines. A drink driving FPN that is unpaid after 28 days proceeds directly to summons.

2.2.7 Automatic Summonses

Should an FCN or FPN issued to an individual not be paid, and remain unpaid after the designated time allowed elapses, a summons is then required to be issued.

The majority of such summonses are issued by the Courts Service automatically following the elapsing of the allotted time period allowed for the payment of the fine. In certain circumstances, the issuing of a summons on foot of non-payment of an FCN is required to be done manually, more details of which are below (Section 2.2.8).

GISC automatically issues summonses for non-production of driving licence, insurance, or other documents as relevant on foot of the DLIP cross-check process.

2.2.8 Manual Summonses

Manual summonses for court appearance are issued in relation to road traffic offences in a number of circumstances:

- For offences that are not designated FCN or FPN offences under the relevant legislation;
- For non-payment of fixed penalty notices with variables in relation to the offence, such as drink driving (the blood alcohol level is a variable) or some speeding offences (such as where a temporary speed limit was in effect);

- For offences that may be FPNs/FCNs or non-FCN offences depending on other circumstances, such as where a drink-driving fixed penalty offence has been committed by an individual who has a previous similar offence within the preceding three years.

Non-FCN offences detected by Gardaí are recorded at the time in the member's notebook. The Garda then contacts GISC to create a PULSE traffic incident. Once the incident has been created on PULSE, the Garda uses PULSE to create the summons, selecting the appropriate offence code(s), which is then sent to the Courts Service for processing and issue. Summonses are all returned by the Courts Service to the Garda Síochána to be served in person on the individuals concerned.

Summonses on foot of unpaid fixed penalty offences and specific FCNs have to be manually issued by the originating Garda member, i.e. the member who issued the FCN/FPN at the time of incident. Where a notice of this type has not been paid in the allotted time, this then appears in a PULSE Manual Summons Report, which is issued to each District Office. Each District Office is then required to notify the relevant members of the need to create PULSE incidents and manually issue the summonses.

The FCPO prepares an information pack for manual summonses on foot of unpaid drink driving FPNs and issues this to the relevant Districts as a support for the manual summons process.

In relation to the scale of manual summonses, we are advised by the Garda Síochána that a review of District manual summons offence reports since 1st January 2014 has identified a total 12,061 FCNs. All these FCNs have been reviewed, identifying 5,180 FCNs where summonses were issued and 6,881 FCNs where no summonses issued. In those cases where no summonses were issued, these offences are now all statute barred.

2.3 Nature of the Problems Regarding FCNs

2.3.1 Overview

Following the appearance, in April 2016, in a district court of an individual who advised the judge that they had already paid an FCN for the offence for which they were before the court, and the subsequent investigation into how this had come about, the Garda Síochána commenced a review of records relating to FCNs and related summonses. This review identified a number of issues:

- Prosecutions on foot of summonses taken for fixed charge offences where no FCN had been issued in the first instance;
- Summonses issued despite an FCN having been paid;
- More than one summons issued in respect of the same offence;
- Prosecutions not initiated where a Fixed Charge Notice had not been paid.

On examination of summonses issued between 2006 and 2016, a total of 149,426 incorrectly-issued summonses were identified. Several thousand convictions were imposed in relation to incorrectly issued summonses: this figure is estimated by the Garda Síochána at a maximum of 14,736, with 11,218 of these confirmed as requiring appeal to date.²

²

Figures in respect of incorrectly issued summonses, FCNs, and convictions were supplied by the Garda Síochána.

2.3.2 Scale of the Issues Involved

From January 2006 to March 2017, the Garda Síochána issued approximately 4,456,367 fixed charge notices. A total of 851,886 summonses issued in respect of FCN offence codes were reviewed in respect of the issues raised. The key figures are set out below:

Number of fixed charge notices issued	4,456,367
Total number of summonses issued in respect of FCN offences	851,886
Incorrectly issued summonses	149,426
Percentage of FCNs that were incorrectly issued as summonses (149,426 out of 4,456,367)	3.3%
Percentage of FCN-related summonses issued incorrectly (149,426 out of 851,886)	17.5%
Convictions on foot of incorrectly issued summonses	14,736
Percentage of incorrectly issued summonses resulting in conviction (14,736 out of 149,426)	9.9%
Percentage of wrongful convictions in terms of total summonses issued for FCN-related offences (14,736 out of 851,886)	1.8%

The process by which these were identified was as follows:

- All relevant FCN offence codes were identified;
- A series of computer-based reports were generated identifying any summonses issued for each FCN offence code over the period in question. Each FCN offence code was examined from the date the offence had been designated as an FCN;
- All of the summonses identified as issued on foot of offence codes designated as FCN offences were reviewed to identify if an FCN had been issued before the summons;
- This identified the 149,426 summonses issued where an FCN had not first been issued;
- Each of these was followed up to identify if a conviction had been imposed.

This process was led by Garda IT Services using a computer-based approach, and any queries arising in respect of specific cases were manually checked by a member of the Roads Policing Bureau to consider whether they were correct. Manual checking and data queries were undertaken by Garda members and assisted by Garda IT Services to test and provide quality control for the process.

Our assessment: We reviewed the process undertaken and are satisfied that this was robust and comprehensive. We believe that the process used has identified the cases affected by this issue.

The vast majority (96%) of those convicted in relation to wrongly-issued summonses for FCN offences appeared before the courts in respect of multiple offences arising from the same incident. That is, a number of breaches of the road traffic legislation had been detected by Gardai in respect of the individuals concerned, some of which were FCN offences and some of which were non-FCN offences which entailed summonses.

For instance, a motorist may have been stopped by a Garda patrol after being observed driving carelessly (summons) and speeding (FCN), and then found to have been driving without insurance (summons), and driving a dangerously defective vehicle (summons). In that situation, the Garda dealing with the incident may have “bundled” the offences together into a single summons, including the speeding offence which should have been dealt with separately through the issue of an FCN. Crucially, the PULSE system permitted the bundling of these offences into a single summons, even though the speeding offence was delineated as a FCN offence rather than one which resulted in immediate summons.

2.4 Findings in Relation to FCN Process Issues

2.4.1 Scale and Complexity of the Legislation

When considering the reasons for the errors made in relation to the issuing of summonses on foot of FCN offences detected, it is important first to consider the road traffic legislation governing the application of fixed charge and fixed penalty offences.

The legislation in respect of fixed charge and fixed penalty offences has been amended frequently, with the principal Act still that of 1961 and the subsequent legislation acting to amend the primary legislation. Since the introduction of fixed charge offences, additional offences have been designated as fixed charge/penalty offences on several occasions.

The legislation mandates the issuing of FCNs/FPNs when such offences have been detected. There is no discretion to consider the use of a summons for such offences (except in the case of repeat drink driving offences): the wording of the legislation is that such notices “shall” be issued, rather than “may”, as is the case in some other jurisdictions. This means that in the case where several breaches of the law are detected, they must be pursued through separate processes if some are FCN and some non-FCN offences. It also requires that separate FCNs be issued for each detected FCN offence. Whilst the intention in mandating certain less serious road traffic offences to be dealt with by means of FCNs is to reduce the burden on the courts system, the unintended consequence is that it has made for a very complex and administration-heavy process where one event involves multiple offences.

Compounding the continual updating and amending of the legislation in respect of fixed charge offences is the complexity of the offence codes required to be used to process such notices. In line with the growth in the number of offences designated as FCN/FPNs, there is a large number of offence codes, now numbering 614. These relate to the application of certain offences across different vehicles or to ensure maximum specification of the nature of the offence detected.

For example, there are 32 separate seatbelt offence codes, depending on the position of the seatbelt and the type of vehicle. There are multiple codes in relation to worn tyres and similar offences under the Road Traffic (Construction and Use of Vehicles) Regulations 2003. Many involve matters of technical complexity (e.g. roadworthiness of commercial vehicles).

There have been inconsistencies in the application of FCN status to offences at different times, such as a period where non-display of tax or insurance was an FCN offence but non-display of an NCT disc was a non-FCN offence. The multiplicity of codes, and the challenge in keeping these up to date and communicated to all members of the Garda Síochána,

contributes to an administratively burdensome processing system with confusion and lack of clarity for Gardaí at the frontline.

Our assessment: The legislation governing road traffic offences is complex and unwieldy, making it challenging to implement and operate effectively and efficiently.

Recommendation: A review of road traffic legislation should be undertaken with a view to streamlining and simplifying it where possible. We note that the Working Group set up on foot of the Garda Inspectorate 2014 report is examining this issue and recommend that this work continue.

2.4.2 Complexity of Systems and Processes

As noted in the Garda Inspectorate Report (2014)³ in relation to the fixed charge processing system, the responsibility for the system does not lie solely with the Garda Síochána but across multiple agencies, which need more strategic co-ordination. However, the Gardaí play a key role in the enforcement of the legislation and the processing of the notices and summonses associated with this.

The system implemented by the Garda Síochána is complex and bureaucratic, with multiple methods for issuing FCN/FPNs, various pathways for the processing of these, and exceptions or special cases where the standard process does not apply. This makes it all the more likely to see errors and problems arising. The designation of certain offences as notepad-only; the inconsistent access to and use of handheld devices (more about which below); the fragmented responsibility for following up on unpaid FCNs; the incremental adding-on of technical fixes and paper processes to accommodate new offences or identified issues; and a lack of clarity across the organisation, especially among frontline Garda members, as to exactly how and why such processes are used, all contribute to a system that can fairly be described in the words of the Garda Inspectorate as “technically deficient, managerially uncoordinated, inefficient and excessively resourced”.⁴

In particular, the use of paper notepads to process FCNs is widely criticised by those within the organisation with whom the review team consulted. The resources required to process handwritten paper FCNs, with the large proportion of “send backs”, whereby illegible or incomplete forms are sent back to the issuing member for correction and then resubmitted to the FCPO, are conservatively estimated at costing €2.5m a year.⁵ This may be compounded by the fact that many of these send-backs are never returned for processing as information may be missing and not retrievable, or they may simply go missing in the various postal processes. If FCNs are not issued within 110 days of the date on which the offence was detected, the matter cannot be pursued further. Lengthy administrative delays can therefore cost more in forgone fines.

The responsibility for issuing summonses for unpaid FCNs is fragmented:

- (i) The majority are issued from the Courts Service directly to the Districts, having been “triggered” by the Garda IT operations system as unpaid.

³ Garda Inspectorate (2014) *The Fixed Charge Processing System: A 21st Century Strategy*: Garda Inspectorate, Dublin.

⁴ Ibid., p.9

⁵ According to the Fixed Charge Processing Office

- (ii) Others are sent from the Courts Service to the FCPO (for “non-intercept” speed camera detections), which prepares a summons pack for issuing to the appropriate Garda District.
- (iii) Some are required to be issued manually by the originating Garda member, on foot of a manual summons report issued monthly to District offices. In the case of these manual summonses, the FCPO assembles a manual summons pack with details of the original offence and sends this to Districts, as a reminder and support to the issuing of manual summonses for unpaid fixed penalty notices.
- (iv) GISC issues summonses on foot of non-production of documents in relation to the DLIP report.

Our assessment: The systems and processes established within the Garda Síochána for fixed charge notice processing are bureaucratic, complex, and cumbersome. Significant inefficiency is evident. There is a lack of accountability and supervision in relation to the correct completion of paper FCNs. It is unclear why the implementation of the legislation would require so many different processes, locations, and responsibilities. The Garda system is set up in a way that makes accuracy, efficiency, and effectiveness very difficult to achieve. With this level of complexity, it is unsurprising that errors in the processing of road traffic offences occurred. There is a lack of a strategic approach and a failure on the part of management to address the problems inherent in the existing system.

Recommendation: The system for issuing and processing FCNs by the Garda Síochána requires a complete overhaul, with a strategic approach to identify what should be delivered, and then building the systems and processes around this. Issuing and processing FCNs should be a single system, with no manual summons requirements for unpaid FCNs. We note that the recommendations of the February 2014 Garda Inspectorate report likewise call for a change to the FCPS, and these should continue to be progressed both by the Working Group and the Garda Síochána.

2.4.3 Multiple Offences

A critical feature of the errors in issuing summonses for FCN/FPN offences is that nearly all (96%) of these were issued in cases where there were multiple offences detected for the same incident, at least one of which was not an FCN offence and therefore required a summons.

(A distinction is required here between “multiple offences” and “linked offences”: the latter refers to the *process* that should be followed when there are a number of offences, some FCN and some not, whereby the PULSE record and the FCPS record are linked to allow for simultaneous scheduling of court appearance should there be non-payment of the FCN along with the appearance for the non-FCN offences. In the case of the incorrectly issued summonses, there were multiple offences but these were pursued solely by summons, not by means of a linked offence process on the two systems.)

An example of many of these multiple-offence situations is where a Garda member stops a vehicle that has been identified as speeding, and on inspection of the vehicle and engagement with the driver, a further set of offences is detected, including not having insurance (non-FCN offence), worn tyres (FCN offence), not having tax (non-FCN offence), and not having a valid NCT (FCN offence). Many Garda members with whom the review team engaged reported that they were unaware that the FCN offences were mandatory and had to be processed by FCN, and that the summons for the non-FCN offences was to be issued

solely for these offences and not for all of the offences detected in a single incident. In this type of case, it was assumed by many of the interviewees that a single process, that of issuing a summons for a court appearance for all of the offences, made more sense from an administrative point of view.

Issues have been raised by a number of those consulted as to the impact of processing different offences through different mechanisms not solely on the administration and resources of the organisation, but on the individual concerned. Having a single process for the pursuit of a breach of road traffic laws was considered to be more in line with the principles of natural justice, rather than having multiple outcomes (for example, fines and penalty points for the FCNs and a further imposition of fines and points for the non-FCN offences in court) for the same set of facts in relation to a single incident.

There is also the possibility that if the FCNs go unpaid, the individual will be summonsed to court on separate occasions for the same incident. Whilst the PULSE and FCPS systems are meant to be used to link the offences to avoid this, the difference in processing time may mean that a summons has been issued before the FCN for the other offences has been issued, or before the end of the elapsed time to pay the FCN. In this case, the individual may appear in court on foot of the non-FCN offences and receive a penalty, only to be summonsed again for non-payment of the FCN(s). This is ripe for confusion (someone may not pay an FCN if they are already in a court process, wrongly assuming that the FCN is an error). This is a drain on the resources of the Garda Síochána, in terms of more time on court appearances, and on the Courts Service.

It appeared to many Garda members that a court appearance for the totality of the offences in question could prove more favourable to the individual, as the court decision might entail a single fine and penalty points that could be lower than those received when the separate processes were followed. In many instances, a judge may “take into consideration” the lesser charges and have them inform the overall judgement, rather than treating them as separate and individual. From another perspective, it was also suggested that if the FCN process has separated out a number of the offences detected at the same time as the non-FCN offences, then a judge has incomplete information about the scale of the offences when considering the penalty, if any, to apply in the court proceedings. A number of those we interviewed made the point that to ensure for the proper administration of justice, the court would likely wish to see the entirety of offending. If a person is being summonsed for “dangerous driving causing an accident” and has no insurance, it is relevant and important that the court is also aware that the vehicle had defective tyres, broken headlights, and no NCT. Creating separate processes has led to the unintended consequence we referred to earlier of a judge hearing only a partial story.

The decision on how to proceed with certain types of offence, such as the classification of careless or dangerous driving, or certain types of public order offence, can take time, as it involves a process of approval by senior officers. If a file takes some time to consider, taking into account all of the offences involved, it has been reported that on occasion when the decision has been taken to pursue a summons for some of the offences, the time limit for processing the FCN offences arising from the incident has passed.

There is a desire among many within the Garda Síochána to have the capacity to default to the process for the more serious offences, i.e. if one or more of the multiple offences detected for a single incident requires a summons, then all the offences should be pursued together in this manner, rather than having two separate processes. This relates back to the issue of

discretion in the application of the FCN legislation, whereby the word “shall” makes it mandatory to use the FCN process even in the case where more serious offences have been committed at the same time.

Our assessment: The incorrect processing of multiple offences arising from a single incident was a key feature of the majority of the summonses incorrectly issued for FCN offences. A lack of understanding of the accurate application of the legislation was evident, including among senior management. However, there are advantages to individuals and the court system when multiple offences can be prosecuted in a single process.

Recommendation: The road traffic legislation should be reviewed in respect of the particular issue of processing multiple offences where some are designated as FCN offences and some as non-FCN offences. Consideration should be given to a mechanism to allow for FCN offences to be prosecuted by summons where they have been detected alongside more serious non-FCN offences.

2.4.4 PULSE

The PULSE system is used for the issuing of summonses, and a significant aspect of the problem of incorrectly issued summonses is that the system did not prevent a Garda (or GISC) from selecting the offence code for an FCN offence when issuing a summons. This allowed the error made by Gardaí at the time of processing offences to continue through the system and enabled the Court Service to issue thousands of summonses incorrectly.

We note that this has now been fixed and the system will no longer allow a summons to be manually issued for an FCN offence code. As discussed below, we have tested this and have had feedback from operational Gardaí to the effect that this fix is working to prevent the system from issuing summonses incorrectly for FCN offences.

Other concerns relating to the role of the PULSE system in respect of the processing of FCNs and summonses include the issue of the DLIP report. As stated above, a DLIP report issues from the FCPO, detailing those cases awaiting production of documents by individuals to nominated Garda stations within specified time limits. This is cross-checked weekly in GISC with the PULSE DLIP report, which records the production of documents by individuals to Garda stations.

However, there are anomalies in relation to the DLIP reports: if an individual is prompt in producing their documents, they may have done so before the FCPS record has been created, especially given the delay in processing paper FCNs in particular. The DLIP report from FCPO can only be compared with PULSE data from after the date when the relevant record was created, not from before, so that if someone has produced documents in advance of the FCPO report being created, GISC will not see this and it will appear at a later stage that the documents were not produced, leading to the issuing of a summons.

Our assessment: The fact that PULSE enabled the inaccurate issuing of summonses for FCN offences is a key factor in the incorrect issuing of such summonses. It is concerning that activity that is not in alignment with the relevant legislation was facilitated by PULSE, and this has potential implications for other policing activity. It is also surprising and concerning that this issue was not spotted earlier, and that the problem grew to a huge scale before it was identified and action taken. We note the fix in PULSE, which is working

to prevent this issue in future in respect of FCNs. There remains some concern about other “glitches” in PULSE, including the DLIP cross-check procedure.

Recommendation: The DLIP cross-check process should be enabled to check retrospectively to ensure that early production of documents by individuals does not get overlooked, resulting in the incorrect issuing of a summons.

Given the scale of the problems with the FCNs and the fact that the associated loopholes in PULSE were not spotted more quickly, and the potential that similar issues might arise in other areas of road traffic policing where legislation and regulations are prone to change, we would recommend that a comprehensive systems audit process is put in place by the Garda Síochána to ensure that similar situations do not recur.

2.4.5 Training

A fundamental cause of errors in the issuing of summonses is the lack of appropriate, timely, and effective training for Garda members in the processing of road traffic offences. It was reported by many consultees across the Garda Síochána that there had been no specific training on FCNs for much of the last decade (within the context of Continuous Professional Development training for Gardaí being subject to extensive cutbacks), and that initial training conducted for Garda recruits at Templemore in respect of traffic offences was predominantly focused on matters of interaction and conduct with motorists rather than technical and legal issues; recruits and probationers were expected to learn these issues “on the job”. Road traffic policing was not given significant priority in recruit training.

There is a detailed 168-page manual relating to linked offences, and it is expected that Garda members should be familiar with its content. The review team heard from Garda members that even experienced Traffic Corps members have difficulty in keeping fully abreast of the detail of the frequently changing legislation and application thereof, given the poor communication and inadequate mechanisms for disseminating updates.

The current online methods of disseminating information were seen as inappropriate and inefficient by operational Garda members, due both to the limited time available within a busy policing environment and also to the complexity of the material involved. It was widely considered that the online “training” is completely inadequate. Members are not given any bespoke courses to follow; rather, the portal is used to disseminate information, often in relatively raw form. As mentioned in Section 2.4.6 below, changes are frequently set out in large documents (often in excess of 100 pages) without any particular signposting to the issues of relevance to frontline Gardaí. The absence of any allocated time to allow members to properly engage with the portal compounds the problem. Additionally, given that not all Garda members have regular access to computers in Garda stations, relying on online means to provide training is insufficient to ensure consistent and up-to-date practice.

Garda members repeatedly stated that they saw this “dumping of information” as an abdication of the organisation of its responsibilities and effectively pushing the onus onto them.

The FCPO has noted that queries from Garda members frequently indicate a lack of deep knowledge of the legislation and the procedures in relation to different offences. Moreover, there is no formal engagement with the FCPO in relation to the training of recruits in Templemore, despite their close location. It is perceived that at ground level within the

organisation, there is a dearth of information in relation to the FCN processes, owing to a chronic lack of training both at recruit stage and as CPD.

For a complex system such as that implemented within the Garda Síochána for the enforcement of road traffic legislation, initial training in the system and clear communication in respect of changes and updates is vital, especially in the context of frequent changes to the legislation and the associated internal processes.

Our assessment: The Garda Síochána has failed to implement adequate and appropriate mechanisms for training members in FCN processing, both at recruit training stage and in respect of ongoing CPD. There are inadequate and inappropriate mechanisms for informing and updating serving Garda members on developments in legislation and/or changes to the systems and procedures for processing FCNs and other offences.

Recommendation: The mechanisms for delivering training and information updates to Garda members need to be redesigned. Adequate training in FCN processing should be implemented in Templemore for Garda recruits, and the FCPO should be involved in designing and delivering this training. Mechanisms such as online training courses or apps that are well-designed, appropriate, and useful should be put in place for the processing of road traffic offences (and other CPD requirements), with Garda members assured of adequate access to such training. Technology necessary to delivering such training should be readily available to members, either in stations or by using cloud-based or phone-based systems to enable access from devices other than station-based computers. Other training mechanisms such as training at Divisional level by FCPO personnel should be considered, including identifying Garda members as training leads in each Division who can be formally trained and then in turn train their colleagues. This can include both formal training sessions and short updates presented to Garda members, for instance during the parading time at the start of each shift.

2.4.6 *Dissemination of Information*

In place of formal training in relation to FCN processes, it appears that there is a reliance on information dissemination by means of emailed HQ directives and PULSE bulletins via the portal to inform Garda members as to the appropriate procedures and processes in relation to road traffic offences. As noted in the report by the review team led by Assistant Commissioner O'Sullivan, these documents are typically lengthy and detailed, with a great deal of technical or legal language. Relevant changes and information relating to frontline practice could frequently be found buried in long documents. The PULSE Incident Creation Guideline document currently runs to more than 1,270 pages, and there were four iterations of this issued in 2016 alone. The FCPS Policy and Procedures Manual is 60 pages long, and extremely technical in nature. PULSE Bulletin 103 (November 2015), cited in the O'Sullivan report, has information on 22 new FCN offences on page 32 of a 131-page document; this followed the previous bulletin nine months earlier which had run to 146 pages. The 2014 Roads Policing Manual runs to 219 pages.

Concerns were raised by many Gardaí regarding the number of documents which members were expected to read via the online portal. Many considered that some of these were very technical in nature and it was left to individual members to interpret their meaning. Guidance as to the actual impact on how offences should be dealt with, in clear and comprehensible terminology, was lacking. Many felt that the ambiguity and lack of clear interpretation was evidence of the organisation shifting responsibility to individual Garda members, without the

appropriate resources and capacity, for accessing, absorbing, and interpreting large amounts of technical policy and practice documentation. This was seen as not exercising a proper duty of care to members, and of the organisation protecting itself by claiming to have informed members of critical issues but not having done so in a manner that was effective.

This issue is also compounded by the fact that not all members of the Garda Síochána have ready access to the online portal: those based in smaller stations without IT facilities will typically have to travel to larger stations (e.g. District or Divisional HQ) to access the system.

Our assessment: As stated above, the Garda Síochána has inadequate and inappropriate mechanisms for informing and updating serving Garda members on developments in legislation and/or changes to the systems and procedures for processing FCNs and other offences. The dissemination of such information by the Garda Síochána is poorly executed and is evidently lacking a strategic approach. Information is disseminated in a way that lacks clarity and is not uniformly accessible. This represents an abdication of responsibility by senior management for the communication of the requisite information and updates which are necessary for the consistent and accurate implementation of operational policy.

Recommendation: A wholesale review of the means by which critical information is communicated to serving Gardaí is required. This needs to be undertaken with a strategic view to identify what information is needed, for whom, and at what time, with mechanisms designed to achieve this in an efficient and user-friendly way. Garda members must be enabled to access key information in a more accessible way than at present, in terms of the design of the content, the means by which it is accessed, and the timeliness of the updates.

2.4.7 Technology

The review team have considered the issues in relation to the PULSE system, and the interoperability of PULSE with the FCPS. In addition, the Garda Síochána use handheld devices to issue FCNs in place of notepads, where they have access to these devices. The devices are used to record the offence and, on docking, this information is automatically transmitted to the FCPO. Whilst at first glance this appears to be a more efficient system, and the use of technology to replace the cumbersome and resource-intensive paper-based FCN system would be welcome, in practice there are a number of issues with the handheld devices.

The fundamental concern in respect of the handhelds is that they represent obsolete technology. They are seen by members as being cumbersome to use, outdated, too slow to use at the roadside, and have incomplete information available on them in terms of offence codes, for example, owing to the high number of such codes as discussed earlier. Handheld devices cannot print FCN notices. Our review team noted that the handheld screen is small and difficult to use, the technology is slow to respond, and the device is heavy.

The devices have the technological capacity to do more than record FCN data: for example, they are equipped with a barcode reader, a camera, and the facility for number plate recognition with links to the status of the tax and NCT of the vehicle. However, none of these functions are enabled on the devices, so they cannot be used to support a greater range of road policing activity or to make the detection and processing of offences more efficient. In addition, our inspection found that many devices were non-operational or defective, and had been so for several months in some stations, despite requests to have them repaired.

A limited number of Garda members have access to handheld devices. The review identified that members of the Traffic Corps had more frequent access to the devices than Divisional Garda members. This maintains the reliance on the far less efficient paper-based FCN systems. In addition, drink driving FPNs cannot be processed using the handhelds.

It is apparent that the roadside use of the handheld devices is time-consuming and cumbersome for Garda members, and for this reason few appear to be using them at the time of detecting offences. Instead, the details are recorded in the Garda's notebook and transferred to the device at a later stage, often back at the station, before docking and uploading the information.

We note that the Garda Inspectorate report (2014) recommended the replacement of the handheld devices with more modern and technologically sophisticated devices. This recommendation also suggested that the device be capable of printing a notice to be served on the individual at the roadside; this was envisaged also to act as a "pre-summons" to a fixed-date pre-trial court appearance in the event of non-payment, which would dramatically reduce the administration and Garda resources required to follow up on unpaid FCNs and summonses arising from these. At this time, however, such a process is not capable of being supported by the Courts Service or FCPS systems, related primarily to the issue of the "pre-summons" nature of the notice proposed. This should not preclude, we believe, the introduction of a more up-to-date user-friendly handheld device with significantly enhanced capabilities, to be used as standard by all Garda members involved in roads policing.

We note that there is a current project ongoing within the Garda Síochána to examine a new generation of devices, including an intended pilot project. These devices offer many of the capabilities referred to above, including the capacity to print notices at the roadside. This is a welcome development.

Our assessment: The Garda Síochána have not provided Garda members with appropriate or sufficient technology to support the efficient and productive processing of road traffic offences. Current devices are outdated and cumbersome, and management have not enabled several key aspects of the technology available. There are insufficient numbers of devices to be available to all Garda members involved in road traffic policing.

Recommendation: All Garda members involved in road traffic policing, whether as a member of the Traffic Corps or a regular member, should have access to a modern device supporting the efficient processing of road traffic offences. Such devices should include – and have enabled – the following:

- the capacity to print a ticket to issue directly to the motorist at the time of the offence;
- access to the updated offence code lists (by means of user-friendly menus/submenus, for example);
- GPS to record the location of the incident;
- automatic number plate recognition (ANPR) with links to relevant vehicle data;
- a barcode reader to read barcoded tickets;
- a camera.

Such devices should be capable of being docked and automatically linking to the FCPO for the issuing and processing of FCNs, including notices for drink driving.

2.5 Other Matters

2.5.1 Overview

A number of other concerns relating to the FCN and road traffic offence systems were identified over the course of our review. We set out some of these in the following paragraphs.

2.5.2 *Absence of a Physical Ticket at the Time of the Offence*

When a Garda officer detects an offence, there is no physical ticket completed and handed over as is the case in many jurisdictions – and was previously the case in Ireland. The lack of a notice or ticket issued to individuals at the roadside when offences have been detected creates issues in relation to the effective operation of the FCN system. Concerns have been raised both in relation to the capacity of individuals to claim that they did not receive the FCN and in respect of the risk of multiple FCNs being issued for a single offence in the case of, for example, illegal parking (with no notice placed on the vehicle, another Garda member can issue a second or subsequent FCN without realising that one had already been issued). There is also uncertainty for the motorist, who will often be unaware whether an FCN is being applied or not, given that no physical ticket is issued at the time of the offence.

The Garda Inspectorate report suggests that a new generation of handheld devices should have printing capabilities. Regardless of whether such notices constitute “pre-summuses” or FCNs as they currently operate, it is likely to improve the effectiveness of the FCN system if notices can be issued directly to motorists.

Our assessment: The absence of a physical ticket issued to the motorist at the time of the offence contributes to the rate of non-payment and ultimate strike-out of cases on foot of FCN offences.

Recommendation: The system should facilitate the issuing of a ticket directly to the motorist at the time of a detected FCN offence.

2.5.3 *Pre-Summons*

In respect of the suggestion to have a “pre-summons” as part of the FCN, this is one solution to the resource-heavy serving of summonses: all summonses, regardless of how they have been issued, must be served in person by a member of the Garda Síochána. This takes considerable resource, diverting time away from more critical duties, and there is a significant volume of summonses for unpaid FCNs not being served, with a resulting loss of revenue and waste of resources.

Our assessment: The requirement for Garda members to serve summonses is time-consuming and inefficient.

Recommendation: The recommendation of the Garda Inspectorate report to apply a “pre-summons” status to a physically-issued ticket should be implemented.

2.5.4 *Strike-Outs in Court*

The high rate of strike-outs arising from court appearances on foot of unpaid FCNs is also of considerable concern across the Garda Síochána. It is common that cases are struck out

simply following a claim by the defendant that they did not receive the original FCN, which can lead to a series of consecutive similar claims of this nature in court, with a subsequently high strike-out rate for that day's cases.

Strike-out rates often in excess of 80% were anecdotally reported by Gardaí, which represents a further waste of Garda resources, given the lengthy bureaucratic process that has already been undertaken to bring the matter to court. The requirement for the prosecuting Garda member to appear in court is another strain on resources, even more so when the cases do not proceed to a conviction.

(We note that it was estimated by the Garda Inspectorate that in 2007, 536,865 hours of Garda overtime alone was incurred in court attendance at a total cost of €24.9m, and that this number of hours equates to 309 full-time Gardaí.⁶)

If the Garda member cannot attend, the case will commonly be struck out even if the facts are not in dispute. In other jurisdictions such as the UK, a short (often template-driven) statement of evidence is presented in court, negating the requirement for a police officer to be present.

We note the introduction of a third option to pay an increased FCN fine to avoid court appearance, issued along with the summons. This means that individuals will no longer be able to claim that they did not receive an FCN. As this was introduced from 1 June 2017, it will take some time to establish whether this improves the conviction rate for unpaid FCNs in court.

Our assessment: High strike-out rates in court, often due to a claim of non-receipt of the FCN, mean that Garda resources are wasted in prosecuting and appearing in court in respect of unpaid FCNs.

Recommendations: This may be addressed with the recent introduction of the third payment option for FCNs. This should be monitored closely and other measures considered if strike-out rates do not fall. Our recommendations to issue physical tickets at the time of detection and to introduce the pre-summons element will be likely both to reduce court appearances and strike-outs for non-receipt of FCNs.

Consideration should also be given to the presentation of a statement of evidence in court, rather than the requirement for a Garda member to give evidence in person.

2.5.5 *Phoning in FCNs to FCPO or GISC*

Another suggestion to reform the FCN processing system, in line with a recommendation of the Inspectorate report, is to “phone in” FCN offences to the FCPO and/or GISC to be entered on to the FCPS in a similar fashion to the current practice with regard to creating PULSE incidents. A pilot of this was apparently unsuccessful with the FCPO, in particular given the operating hours of the FCPO, which are not 24 hours a day nor seven days a week. However, the resourcing of GISC to take on such calls out of hours, and to use the FCPS, may be a consideration if a call-centre approach is used to reduce reliance on paper-based processes.

⁶

Report of the Garda Síochána Inspectorate – Resource Allocation, October 2009, p39

Our assessment: In the absence of more functional handheld devices, the capacity to phone details in to the FCPS via the FCPO or GISC may address some of the challenges in the current paper-based system.

Recommendation: Should there be an anticipated delay in the introduction of modern, functional handheld devices for the processing of FCNs, a system of phoning in FCN details to the FCPO and/or GISC should be piloted. This must be capable of being accessed on a 24-hour basis, and the FCPO and/or GISC must be adequately resourced and have access to the required systems to take on the additional calls and processing duties.

2.5.6 *Garda Inspectorate Report, 2014, and Associated Working Group*

The Garda Inspectorate report recommended a complete transformation of the fixed charge processing system, with a total of 37 recommendations. We note the establishment following the publication of this report of a Working Group, chaired by the Department of Justice, and involving membership from the Department of Transport, the Garda Síochána Roads Policing Bureau, the Revenue Commissioners, the Department of the Environment, the Courts Service, and the Director of Public Prosecutions. To date, 22 recommendations have been implemented, five more are in train, and the remaining ten are long-term changes requiring substantial changes to legislation and/or technology and systems.

Our assessment: The establishment of a Working Group in 2014 to address the recommendations of the Garda Inspectorate, many of which we consider will address the issues that arose in respect of the wrongful issuing of summonses for FCN offences, is welcome, and it has made considerable progress.

Recommendation: The remainder of the recommendations of the report should be implemented without delay.

2.5.7 *Use of Manual Summonses*

In Section 2.2.8 above, we referred to the fact that over 12,000 unpaid FCNs had been recorded in respect of those offences requiring the manual issue of summonses if the FCNs remain unpaid, of which just under 7,000 were unpaid FCNs where no such summonses were issued and which are now statute-barred.

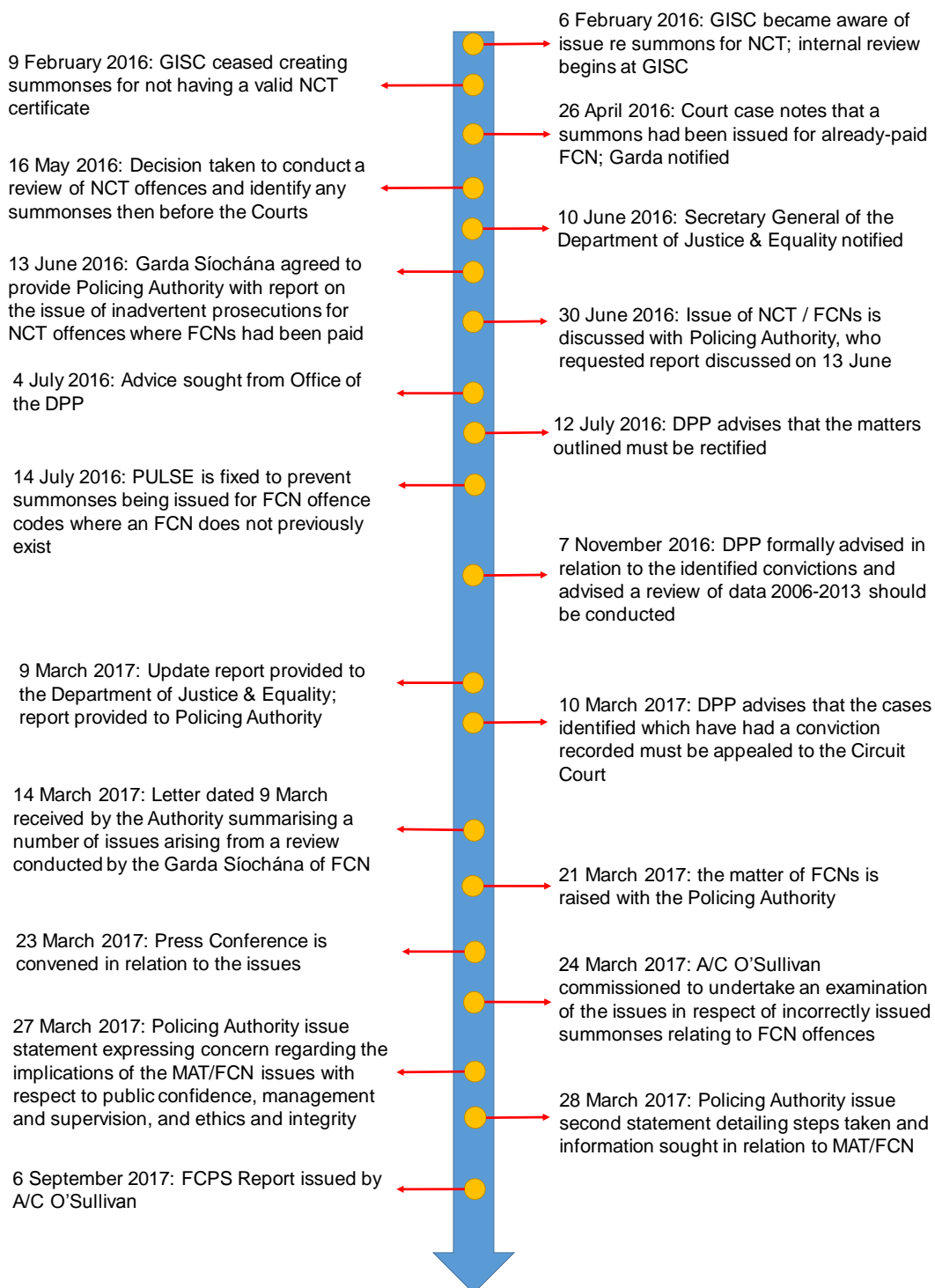
Our assessment: The non-issue of manual summonses represents a process failure within the Garda Síochána, resulting in potential loss of income to the State and the absence of a penalty for motorists who have committed offences and failed to pay the fixed charge. Further work is required to address this issue.

Recommendation: We recommend later in this report the streamlining of the issuing of summonses, and the elimination of manual summons processes in respect of fixed charge offences. In the meantime, however, the Garda Síochána should review non-issue of manual summonses in detail and should provide an assurance report to the Policing Authority within two months.

2.6 Actions Taken to Address the Problem

2.6.1 Identification of Cases / Follow-Up Action

The issues in relation to possible wrongful issuing of summonses emerged in early 2016, when it became evident that GISC had continued to issue summonses on foot of not having a valid NCT certificate for some time after the change of this offence to an FCN. A timeline of the identification of the issues related to FCNs and the response of the Garda Síochána is illustrated below.



As can be seen from the timeline presented, there are approximately five months, from February to July 2016, when the bulk of the issues came to light and ultimately were addressed in the short-term by means of a PULSE fix to prevent summonses being issued where FCNs did not precede them for the relevant offences. The following 12 months entailed a set of internal reviews to identify all the affected cases, and the outcomes thereof, and the instigation of appeals for those convictions incurred against summonses wrongfully issued.

2.6.2 PULSE Fixes

The PULSE system was fixed using temporary measures on 14 July 2016 to prevent the issuing of summonses for offence codes that related to FCN offences unless an FCN had been previously issued for the incident. On 4 December 2016 this fix was made permanent in a PULSE system update. This prevented the issuing of summonses in error for FCN offences, both where the FCN had been issued but paid and where it had not been issued as it ought to have been, were no longer capable of being repeated.

2.7 Assurance Assessment: Could This Happen Again?

We are satisfied that the review process used to identify the wrongfully-issued summonses for FCN offences was robust. It is likely in our view that the cases identified represent all of those affected.

We understand that the December 2016 update of the PULSE system included a change to the software which has effectively removed the option for users to issue a summons for an offence which should attract an FCN. On that basis, we are assured at this stage that there is little probability of this specific issue recurring. Our review team has tested the PULSE system and confirmed that a dip sample of FCN codes were not capable of being progressed to summons without an FCN having been recorded first.

Further changes to PULSE functionality have also been introduced recently to ensure that the system treats incidents correctly if offences are switched from summons to FCN. The system checks if the appropriate process is followed based on the date the offence occurred. To further strengthen the system, the initial change that was applied to PULSE in December 2016 has been left in place as a second line of defence.

Should the road traffic legislation change again in respect of offences being eligible for FCN as opposed to summons, then this will have to be considered by Garda IT Services and any necessary changes made promptly to PULSE to prevent recurrence of this problem. In parallel, details of the changes should be circulated expeditiously to all Garda.

There is, however, still a concern that the DLIP reconciliation process may allow summonses to be issued incorrectly if individuals have produced documents, which are then recorded on PULSE, in advance of the FCPS record being created. Because the process does not look retrospectively, early production of documents can be overlooked by the cross-check and could result in a summons being issued in error.

However, it is important to stress that the problem with incorrect issue of summonses is not solely related to a loophole in the PULSE system specification, and that there are significant issues which need to be addressed by the Garda Síochána in respect of training and technology, and by the Garda Síochána and other stakeholders (the Department of Justice,

the Department of Transport, Tourism and Sport, the Road Safety Authority, and possibly other agencies) in respect of the overall complexity of the road traffic legislation and range of offences.

The issues relating to the issuing of manual summonses, the rate of unserved summonses, the administrative burden and associated cost of paper processing of FCNs, and the resources expended in preparing and attending court cases with a high strike-out rate are all substantial strains on the Garda Síochána in terms of its resourcing. These issues are adding to the costs of operating the FCN system and also reducing the recoupment of fines. The inadequacy of technology and systems to support effective roads policing requires addressing.

The role of the judicial system outside the Garda Síochána is also to be considered: whilst there were errors that led to the issuing of summonses incorrectly for FCN offences, there have been associated convictions, which means these errors were not detected by those within the legal system, including solicitors, barristers, and judges, who typically have a more technical understanding of the relevant road traffic legislation and its application than members of the Garda Síochána.

We consider that the interdepartmental working group established to progress the recommendations of the Garda Inspectorate report in relation to the implementation of a more effective and efficient fixed charge processing system should continue its work, and that fundamental change is needed both from a strategic and policy perspective and from an operational perspective, in respect of the fixed charge processing system.

Part B

Issues Relating to Mandatory Intoxicant Testing Checkpoints

3 Analysis: MIT Checkpoint Recording

3.1 Background

Mandatory Intoxicant Testing (MIT)⁷ at checkpoints was introduced in 2006; since 2009 information regarding such checkpoints has been recorded on PULSE. The current legislation governing MIT checkpoints is contained in Section 10 of the Road Traffic Act 2010. The Garda Síochána has identified that there is a significant discrepancy between the number of breath tests recorded on the Garda PULSE system for a specified period and the data recorded on the Dräger breath test device database, which is maintained by an independent entity, the Medical Bureau of Road Safety (MBRS).

The scale of the discrepancy, according to the Garda Síochána internal examination of the matter, is that over the period from 7 June 2009 to 10 April 2017, Garda PULSE data recorded that 3,498,400 breath tests were performed at 523,198 checkpoints. This compares to the Medical Bureau of Road Safety recording that only 2,040,179 breath tests were performed – a discrepancy of 1,458,221 tests.

When the matter came to public attention in March 2017 the discrepancy between 1 November 2011 and 31 October 2016 was estimated to be 937,212. The additional time period was added to facilitate more reliable calculation of breath test data. The end date of April 2017 also allowed for the collection of the Dräger readings on a specified date.

3.2 Processes Involved

The mandatory testing of motorists for intoxication due to alcohol or drugs is an important aspect of the detection and prevention of drink-driving and drug-driving. (More detailed commentary on the road safety background and context is presented in Section 4 of this report.) The “mandatory” aspect of testing is that motorists must comply with the requirements for a breath test when requested by a Garda. It is not mandatory that all vehicles passing through a MIT checkpoint must be stopped, and Garda members may use their discretion when requesting specific drivers to stop and letting others continue on their journey. In some other jurisdictions (see Section 4), this process is known as Random Breath Testing.

All MIT checkpoints must be authorised before they can take place. The written authorisations must be signed by a Garda member of Inspector rank or higher. In some Divisions, the schedule is completed on a monthly basis in advance, while others would tend to schedule these weekly. All of the locations should be risk assessed in advance of scheduling. Authorisations are very specific and require the precise location expressed in GPS coordinates and the exact start and finish times. Gardaí are not permitted to set up a MIT checkpoint without authorisation, and any prosecutions or FCNs arising from an unauthorised MIT checkpoint could be subject to legal challenge on the grounds of validity.

⁷

As indicated in Section 1.4, mandatory intoxicant testing (MIT) was formerly known as mandatory alcohol testing (MAT) and referred to as such throughout the Garda Síochána.

The scale of MIT checkpoints varies across the country. In large urban centres and for major events, what are referred to by some Gardaí as “super MIT checkpoints” may be utilised to maximise the number of drivers tested while ensuring that traffic continues to flow. These checkpoints will generally be operated by a mixture of Traffic Corps and “regular” Divisional Gardaí, and may involve anything up to 10 to 15 members and a number of patrol cars and motorcycles.



Dräger 6510 device in use with Kildare Division Traffic Corps

At these large checkpoints, which are normally on roads with multiple lanes, one lane is coned off to create a safe area for testing to take place. These checkpoints will generally last for approximately one hour. Typically, 6 to 8 Gardaí would conduct these tests, with each being issued with a separate Dräger 6510 Alcotest device. Another Garda member may also have the larger Dräger 5000 drug testing device available.

The details of all Dräger devices are often recorded on a checkpoint return sheet, which includes the device number and the breath test count. The return sheet also contains details of the Inspector or Superintendent who has authorised the checkpoint.

Once the testing lane has been set up, the motorists for testing are selected by the Garda directing traffic flow who will direct the requisite number of cars into the safe area (i.e. 6 cars if there are 6 Garda members with Drägers).

The testing process is generally quite straightforward and starts with the Garda member introducing himself/herself and briefly explaining the nature of the checkpoint under the relevant legislation.



“Super MIT” checkpoint being set up: Concolbert Road, Dublin, 4 Aug 2017

Drivers are then asked to produce their driving licence so that the Garda member can determine at what level the test should be conducted (as stated in Section 2.2.6 above, different categories of driver have different limits and thresholds for FCN drink driving offences). The devices can test at the two levels outlined in the legislation. If a driver is unable to produce their licence, they will be tested at the lower “specified” level.

The legal requirement to provide a sample of breath is then explained. The driver will then be asked to blow into the Dräger device, and a single-use disposable tube/mouthpiece will be taken from its wrapper and attached to the Dräger.



**“Super MIT” Checkpoint in operation:
Finglas, Dublin, 4 Aug 2017**

Generally, it will take only a few seconds for most drivers to take the actual test, and then another few seconds for the device to show “pass” or “fail”.

When the test is being conducted, the Garda will generally check the tax, insurance, and NCT discs on the vehicle, and will conduct a cursory inspection of its roadworthiness and condition, generally confined to tyre tread, lighting defects, positioning of child seats, and other aspects of the vehicle which are easily observable by the member at the roadside.

If the driver passes the test, he/she will be thanked for their cooperation and permitted to drive on once it is safe to do so. Garda members will often hand the used mouthpiece to the motorist for subsequent disposal.

If the driver fails, he/she will be arrested and taken to a Garda station where a further test will be conducted, either using an Evidenzer breath testing machine (operated by a trained Garda) which gives a more accurate reading for evidential court purposes, or via a blood or urine test administered by a doctor. (The Dräger 6510 device is only intended to give an indication of whether a driver is over the legal limit.) The car of the arrested motorist will then be moved by a Garda member to a safe location or will be collected by a recovery contractor.

Once all of the drivers have been tested, all of the cars are allowed to proceed and the process is repeated with the next batch being brought into the safe lane for testing. If any traffic offences are detected, these will be dealt with appropriately. Many of these “Super MIT” checkpoints will have Traffic Corps members on motorbikes available to stop any drivers who attempt to turn around and avoid the checkpoint.

Once the checkpoint is complete, the Sergeant or senior Garda in charge will typically record the start and end reading of each device. During the course of this review, the Crowe Horwath team attended 10 MIT checkpoints to observe and understand the process involved; with regard to data recording, this ranged from the use of a pre-printed form for roadside data capture (an example of which is shown, right) to the free-format recording of details in the member’s notebook.

P.10 53 20 57 52
094 18 46 31

MAT Checkpoint Return Form

Checkpoint Location: R148 Con Colbert Road, Kilmishan
 Date: 4/8/17 Start Time: 18:45 Finish Time: 19:30
 Authorising Inspector: [Signature]

Dräger Alcometer Serial Number	Counter Reading Start	Counter Reading Finish	Number of Tests Conducted	Number of Positive Tests
ARW 0034	0345.1	0346.6	12	—
ARW 0025	018.37	018.51	12	—
ARW 0123	0328.4	308.4	—	—
ARW 0324	0514.3	—	—	—
ARW 0044	0109.1	0109.6	15	—
ARW 0078	0074.8	0076.3	15	—

Number of Vehicles through Checkpoint: _____
 Number of Drivers Tested: _____
 Number of Positive Tests: _____
 Member in Charge of Checkpoint: _____

MS 2023 (Version 1.0 April 2016)

**Data capture form in use at “Super MIT” Checkpoint:
Concolbert Road, Dublin, 4 Aug 2017**



**MIT Checkpoint: N85, Ennistymon, Co Clare
5 Sept 2017**

The vast majority of MIT checkpoints are smaller than the “Super MIT” operations and generally involve one or two Garda members working from a single patrol car. The process of operating the checkpoint and undertaking the tests remains the same.

The number of drivers tested will depend on the level of traffic at the time of the checkpoint and the number of Garda members available to conduct the checkpoint.

Where there is a constant flow of traffic, members may randomly test one driver and then let a number of vehicles through before carrying out another test. Where there is less traffic, the members may decide to test all of the drivers that pass through.

The amount of time taken with each motorist who is stopped can vary considerably. At the “Super MIT” checkpoints, Garda members are briefed to conduct the tests efficiently and courteously, but without engaging in “idle conversation”. The nature and scale of these checkpoints tends to require an efficient process, and the next batch of vehicles cannot be directed into the safe lane until the last one has cleared. In practice, when a vehicle is stopped and the driver passes the breath test but some other offence is detected, the driver will be asked to move into a separate area where they could be dealt with by the Garda member, thus allowing the flow of the checkpoint to proceed.

Smaller MIT checkpoints involving only one or two Garda members will generally be operated on a very different basis. Those in rural locations or those operating at quieter times will see fewer vehicles through the checkpoint, and in those situations Garda members may well use the opportunity to engage the motorist in conversation, which many Gardaí consider to be important in terms of creating a bond with the local community, providing local presence and reassurance, and general intelligence-gathering.

The reporting process for all checkpoints is the same regardless of size. The details will be called into GISC in Castlebar by the Garda member responsible for the checkpoint, for entry onto PULSE. The call is generally made by phone but may also be done by the Tetra radio system. The call handler in GISC will record the details of the checkpoint as a PULSE “incident”, including the location, GPS co-ordinates, authorising member, members who undertook the checkpoint, and the Dräger details. The Dräger details recorded now are the identification number, start reading, and end reading. PULSE now calculates the number of tests performed – this was not always the case.

Where members are unable to conduct a MIT checkpoint during the authorised period – for example, due to inclement weather (which might prove dangerous) or the need to respond to urgent calls – they must still call GISC and record the checkpoint as invalid. If members are ringing to invalidate checkpoint incidents they must provide a reason for this, and if it is due to another incident the PULSE incident number must be recorded. Some Divisions now insist on recording the reasons at their morning meetings to ensure a level of accountability.

3.3 Nature of the Problems with MIT Data Recording

3.3.1 Overview

Details of MIT checkpoints have been recorded on PULSE since 9 June 2009. Prior to this, details were recorded locally and manually compiled. Since the introduction of the checkpoint recording on PULSE, there have been a number of changes made to the input screen, to the data required, and to the processes within PULSE.

From reviewing the issues associated with all aspects of MIT checkpoints from scheduling to reporting, it is clear that there is no single causative factor that led to the over-reporting of more than 1.4m breath tests. In our view, there are multiple causative factors which are interrelated, including technology, operational processes, training, oversight, supervision, culture, and others.

This section will outline the various issues which we believe have contributed to the over reporting.

3.3.2 Scale of the Issues Involved

There are two sources of information for the number of breath tests undertaken since 2009: PULSE, and the records maintained by the Medical Bureau of Road Safety (MBRS). There are issues with both data sets which creates a level of uncertainty regarding the actual level of over recording.

The PULSE data does not contain information on breath tests undertaken prior to 7 June 2009, while the MBRS data comes from different points in time as it is collected during the calibration process (each Dräger device must be returned to the MBRS every six months so that it can be scientifically recalibrated).

We have reviewed the detailed work undertaken by the Garda Síochána Analysis Service to estimate the scale of the discrepancy in the breath test figures reported on PULSE. This work formed part of the internal Garda report published in September 2017, and shows the following figures:

Total number of MIT breath tests from PULSE	3,498,400
Total number of tests recorded on Drägers	2,040,179
Discrepancy	1,458,221

The 3,498,400 breath tests recorded on PULSE involved 523,198 MIT checkpoints logged on the system, an average of just under 6.7 breath tests per checkpoint. The scale of checkpoints varies significantly, ranging from more than 1,000 motorists breathalysed at a “Super MIT” checkpoint conducted over a four-hour period on a motorway, to only 1 or 2 tests (or in some cases none at all) at checkpoints set up at night in rural locations which see little or no traffic passing through.

The Crowe Horwath review team has assessed the process used to calculate the discrepancy figure of 1.458m, and the process appears robust. However, we are not in a position to validate the specific calculation, as to be able to do so would have required us to undertake a massive data review exercise which would not have been achievable in the timescales available to us.

The process used by the internal Garda review team, where possible, excluded tests that were conducted for calibration and training purposes, whilst also attempting to include a reading for all devices that have been lost or broken beyond economic repair. We are concerned, however, that the total figure of 1.458m does not take account of the extensive use of Dräger devices for other operational policing, which we discuss further in Section 3.4.1 below.

3.3.3 Divisional and Regional Variations

Table 3.3.3, presented below, shows the regional and Divisional discrepancies in MIT breath test data across the Garda Síochána during the period June 2009 to April 2017:

		Dräger Count	Pulse Count	Difference	Difference %
Dublin Region	DMR East	54,330	92,705	38,375	71%
	DMR North	54,692	110,187	55,495	101%
	DMR North-Central	36,752	74,596	37,844	103%
	DMR South	108,431	127,339	18,908	17%
	DMR South-Central	112,055	150,133	38,078	34%
	DMR Traffic	90,853	219,092	128,239	141%
	DMR West	36,527	172,827	136,300	373%
	Garda Mounted Unit	5	0	-5	-100%
	Subtotal	493,645	946,879	453,234	92%
	Adjusted Subtotal	493,645	727,787	234,142	47%
Eastern Region	Kildare	75,059	168,851	93,792	125%
	Laois/Offaly	63,292	100,752	37,460	59%
	Meath	23,577	97,830	74,253	315%
	Westmeath	42,619	79,904	37,285	87%
	Wicklow	61,979	95,214	33,235	54%
	Subtotal	266,526	542,551	276,025	104%
Northern Region	Cavan/Monaghan	58,555	86,844	28,289	48%
	Donegal	79,899	128,666	48,767	61%
	Louth	17,913	56,077	38,164	213%
	Sligo/Leitrim	42,913	75,495	32,582	76%
	Subtotal	199,280	347,082	147,802	74%
South-Eastern Region	Carlow/Kilkenny	60,824	157,211	96,387	158%
	Tipperary	47,943	232,639	184,696	385%
	Waterford	53,828	110,503	56,675	105%
	Wexford	86,299	101,609	15,310	18%
	Subtotal	248,894	601,962	353,068	142%
Southern Region	Cork City	105,357	199,754	94,397	90%
	Cork North	131,196	189,974	58,778	45%
	Cork West	123,238	173,687	50,449	41%
	Kerry	87,567	95,759	8,192	9%
	Limerick	99,061	137,873	38,812	39%
	Subtotal	546,419	797,047	250,628	46%
Western Region	Clare	66,689	136,944	70,255	105%
	Galway	126,642	193,504	66,862	53%
	Longford/Roscommon	48,903	85,562	36,659	75%
	Mayo	43,181	65,961	22,780	53%
	Subtotal	285,415	481,971	196,556	69%
TOTAL		2,040,179	3,498,400	1,458,221	71%

Table 3.3.3: Regional and Divisional Discrepancies in MIT Breath Test Data, 2009-17

The data presented, which is based on Table 10 within the internal Garda Review report published in September 2017, contains an adjustment made to reflect the fact that whilst DMR Traffic Division and the Garda Mounted Unit have conducted breath tests on the Dräger units allocated to them, DMR Traffic and the Mounted Unit are not reported as separate Divisions on PULSE. Instead, Dräger readings for DMR Traffic and the Mounted Unit are subdivided among the six DMR Divisions for incident logging on PULSE. Table 3.3.3 therefore shows an adjusted subtotal for the Dublin Metropolitan Region which includes the Dräger numbers for DMR Traffic and the Mounted Unit, but excludes their figures within the PULSE returns.

The Divisional figures show enormous variations, ranging from a 385% discrepancy between Dräger and PULSE figures within Tipperary, down to a 9% variation in Kerry. Nationally, there is a 71% variation between the two sets of figures. Between the Garda Regions, the discrepancy ranges from 46% in the Southern Region to 142% in the South-Eastern Region. Extreme variations may also be perceived between Divisions within regions.

3.3.4 Assessment of Divisional and Regional Variations

We considered carefully the figures presented for each Garda Division and we attempted to identify any correlation between local practice and the extent of discrepancies, taking account of our findings from the site visits and discussions with Garda members in each Division. In particular, we were keen to see whether there were any examples of particularly good or poor practice associated with those Divisions displaying respectively low or high levels of discrepancy.

Other than a small number of examples of good practice which arose in the better-performing Divisions (i.e. those with the lowest levels of discrepancy), we could find no logical reason why the levels ranged from 9% in Kerry to 385% in Tipperary. Problems existed in every single Garda Division, some much more so than others; and in no Garda Division were the PULSE figures less than those recorded on the Drägers.

3.4 Findings in Relation to MIT Breath Test Recording Discrepancies

3.4.1 Usage of Dräger Devices for Other Operational Roads Policing

Dräger devices are routinely used by Gardaí in the performance of their duties. Members are required to breathalyse motorists at the scene of road traffic collisions where injury is reported. The devices may also be used where a member stops a driver for other road traffic offences and has a suspicion that the individual may be driving under the influence of alcohol.

From our discussions with a wide range of Garda members, it would appear that operational practice varies considerably: for some, the use of the Dräger is exclusively confined to MIT checkpoints and attending the scene of road traffic collisions, whereas for others (particularly Traffic Corps members) the Dräger devices will be routinely carried in the patrol car and will be used to breathalyse motorists at routine traffic stops when another offence has been committed. We queried this with a number of Traffic Corps Gardaí and were advised that this has a useful deterrent value, and that would not be unusual for motorists detected speeding or committing other offences also to be intoxicated.

The number of breath tests undertaken as part of operational roads policing is not separately recorded on PULSE. They may be recorded in the narrative of the PULSE incident, but not in

a statistics field in the same way that the MIT checkpoint information is recorded. Due to the method of recording tests in the narrative field, there is no easy way to extract the information on the number of tests carried out in these incidents from PULSE. Furthermore, some breath tests conducted as part of routine policing will often not get recorded on PULSE (e.g. a traffic stop where no offence has been committed, demonstration of the use of the Drägers at community events, etc.).

It should be noted that it is not necessary for a Garda to use a Dräger device to detect a drunk driver, as the legislation permits Garda members to arrest someone where they have “formed an opinion” that the individual has been driving whilst under the influence of alcohol, for example where there is a strong smell of alcohol from a driver who has been stopped, or slurred speech or other obvious signs of intoxication. In such instances, the driver will be arrested and brought to a Garda station for a further evidential test of breath, blood, or urine.

From our engagement with operational Gardaí – particularly “regular” uniformed personnel who may not routinely carry a Dräger device in their patrol car – it would appear that the preference of many is not to breathalyse a suspected drink driver at the roadside, but to arrest the individual having “formed an opinion” and to convey him/her to the Garda station. A further consideration amongst many Gardaí is that the use of the Dräger simply introduces another element which can be challenged at court (e.g. with lawyers questioning whether the device was properly calibrated, whether the Garda had been trained in its use, etc.), whereas an arrest on the basis of the Garda having “formed an opinion” is less susceptible to challenge.

The Dräger devices are also used in certain circumstances for non-operational purposes. These include station open days, national events such as the Ploughing Championships or Young Scientist Expedition, school visits, and so forth. We were also advised by Garda members about other scenarios where the devices were used, including:

- outside teenage discos, where parents approached a Garda to request that their teenage son or daughter be breathalysed;
- at a checkpoint where the (sober, designated) driver has passed the test but the (drunk) passengers have also asked to be tested – Garda members will often facilitate this as they see it as having a useful deterrent value for the future;
- where members of the public have arrived at Garda stations asking to be breathalysed before driving, following a night out.

For these reasons, it is not possible to estimate with absolute precision how many other, non-MIT checkpoint breath tests were performed on the Dräger devices between 7 June 2009 and 10 April 2017.

However, in order to produce a broad estimate only for illustrative purposes, we have taken account of the following:

- there are 410 Dräger 6510 devices allocated to Garda Traffic Corps units;
- feedback from a range of experienced Traffic Corps members across the Garda Síochána suggests that each Dräger might be used around twice a week for non-MIT purposes (e.g. attending road traffic collisions, breathalysing drivers during other traffic stops, breathalysing Garda members involved in collisions whilst on duty, etc.);
- there are 752 Dräger devices allocated to regular Garda units;

- we assume that each of these devices might be used as little as once a month for non-MIT operational purposes (again, this is based on feedback from Gardaí across the State);
- over the 94 months in total elapsed time covered by this timeline, this would produce a total figure of 404,700 breath tests conducted on all Dräger devices in use across the Garda Síochána, which relate to other operational policing and do not include MIT checkpoint figures.

Such a figure would represent a very significant additional discrepancy over and above the 1.458 million reported by the Garda Síochána. We stress that there is a strong caveat on this figure, but in general terms we would expect the total discrepancy to be significantly in excess of the figure previously reported.

We have stopped short of providing an absolute calculation of what we believe the total discrepancy to be, partly because of the inherent unreliability of the data, and partly because of the fact that this would require a very time-consuming and expensive analysis of PULSE narrative information over the last eight years. Even then, the true figure will probably never be known, as many breath tests conducted as part of routine policing do not get entered onto PULSE.

Our assessment: we believe that it would not be unreasonable to assume that the level of discrepancy is significantly greater than the 1.458m reported by the Garda Síochána, perhaps by an additional 400,000 or more. The use of the Dräger devices and earlier breathalyser equipment predates the introduction of mandatory alcohol testing in 2006, and the Drägers are not exclusively used for MIT checkpoints; accordingly, other operational use of the Drägers should have been included within the calculation of the data discrepancy within the report issued by Assistant Commissioner O’Sullivan.

However, the precise extent of the discrepancy will probably never be known, and in any case the core issue is the fact that such a large discrepancy occurred and developed over a lengthy period before it was noticed. Given the obvious scale of the discrepancy, the precise number is somewhat secondary to the fact that it occurred at all and that it continued for so long.

We also note that work is currently ongoing within the Garda Síochána to examine in detail a number of cases where there were significant discrepancies in MIT data recorded on PULSE. We also note the recent statement by Assistant Commissioner O’Sullivan⁸ that it would take 21 years to audit all of the 502,730 calls recorded by GISC in respect of MIT checkpoint data, in order to determine the exact level of the discrepancy. Our view is that such an audit would be unnecessary and would be a waste of resources, unless there is *prima facie* evidence of either a criminal offence or a disciplinary breach having been committed; the core focus for the Garda Síochána should now be on rectifying these problems permanently, rather than attempting to come up with a more accurate figure.

Recommendation: the focus of the Garda Síochána should now be on correcting these problems across all dimensions (procedures, technology, training, supervision, accountability etc.) rather than conducting continuing and lengthy examinations into the scale of past discrepancies.

8

Evidence to the Oireachtas Justice Committee on 4 October 2017.

3.4.2 Pressure to Report Performance

As previously described, all MIT checkpoints are required by legislation to be authorised by a member of Inspector rank or above. MIT checkpoints form part of the duties of both Traffic Corps and regular uniformed Gardaí. During our consultation meetings across the 28 Garda Divisions, many members – Traffic and regulars – indicated that the number of checkpoints scheduled during a tour of duty (10-hour patrol shift) could be up to three or four, regardless of time of day.

The focus of management at all levels of the organisation was on the number of checkpoints undertaken, and there was an expectation at both management and supervisory levels that the MIT checkpoints authorised in advance would be carried out during the tour. From our engagement with 400+ Gardaí across the organisation, it would appear that this was the universal expectation, and that failure to operate a MIT checkpoint would require an explanation. Whilst in many cases there were quite understandable reasons as to why checkpoints could not be carried out – for example, inclement weather creating dangerous conditions, the need to respond to urgent calls, or the time taken to deal with serious incidents – the general situation appears to have been that Garda members felt that they were under some pressure to report that the number of checkpoints authorised had in fact been conducted, whether or not they actually had.

There does not appear to have been a specific focus on the number of breath tests conducted, and those figures were in effect a by-product of the recording of MIT checkpoints on PULSE. If a MIT checkpoint was recorded as a valid incident on PULSE, the system required a number to be entered in respect of the breath tests conducted, and that number had to be greater than zero.

From our engagement with frontline Gardaí and supervisors (sergeants) across the organisation, it was reported that some members would inflate the number of MIT checkpoints recorded on PULSE, and thereby the number of breath tests, in order to be seen to have delivered the number of checkpoints authorised for that tour of duty. For example, a number of Garda members in a busy urban station told us that they were frequently under significant pressure when on patrol, and at any given time might have six or seven backed up calls awaiting their response, which would be prioritised in order of seriousness. They explained that whilst they fully understood the value of operating MIT checkpoints from a road safety perspective, they simply couldn't manage to perform all of those which had been authorised, and the habit had therefore developed of entering erroneous data onto PULSE – for instance, if three checkpoints were authorised and only one was carried out, two checkpoint incidents might be registered on PULSE and false data entered in respect of the checkpoint which had not been operated.

We were also advised that on occasions, supervisory sergeants would suggest that the numbers be inflated in order to comply with management expectations relating to MIT checkpoints being operated.

We have also heard from serving and retired Garda members who have told us confidentially that some MIT checkpoints were authorised and recorded as having been performed, but were later found not to have taken place, whether due to the pressure to record compliance with the authorisations or (as suggested in some cases) Garda members taking advantage of

the lack of frontline supervision and remaining in the patrol car or in the station rather than conducting the checkpoint.⁹

This tendency seems to have been particularly prevalent amongst regular uniformed Gardaí, whose operational policing duties cover a wide range of activities, and who would therefore often find themselves in a situation where the operation of MIT checkpoints on a given day would be far down their list of priorities.

In some rural areas, it was indicated that up to 80% of patrols were undertaken by a single member. Despite this, MIT checkpoints are frequently scheduled for single-member patrols, when the Garda Síochána health and safety requirements suggest a minimum of two members for a checkpoint to be conducted. This issue was highlighted when speaking to members, raising the concern that management would frequently schedule checkpoints knowing they could never be carried out. This may have contributed to some checkpoints being recorded that may not have taken place.

During our visits to the 28 Garda Divisions, we asked many frontline and supervisory members about the sense of pressure to report performance in respect of MIT checkpoints. We were frequently told during these visits that there was no formal requirement in that regard, and no documentation was presented to us in respect of directives from Garda HQ or from regional or Divisional management to meet any qualified performance targets. Instead, the pressure was apparently more implied rather than explicitly stated, and often related to actual (as opposed to forecast) performance figures presented at Divisional or regional meetings: no Division wanted to be “bottom of the league” and there was often a degree of competition and rivalry between Divisions (i.e. if one Division showed a 5% increase in the number of MIT checkpoints operated, then a neighbouring Division would want its performance to at least match that).

This was interpreted by many frontline and supervisory Garda members as meaning that MIT checkpoint data needed to be maximised. By contrast, the prevailing view from Divisional Officers at Chief Superintendent level, and from other members of local management teams, was that there was never any such pressure placed upon frontline members and supervisors. Indeed, many senior Divisional members were of the opinion that they were happy if checkpoints didn’t take place, provided a valid reason was given.

It should be noted that the scheduling of high numbers of checkpoints was reported by senior members as a deliberate mechanism to ensure that at least some checkpoints could be performed. Given the restrictive nature of the authorisation process, whereby any MIT checkpoint must have been authorised in advance for specific locations and times, senior ranks indicated that they routinely authorise many more checkpoints for a given week than they expected would be capable of being performed, to maximise the flexibility to undertake the checkpoints when there was capacity to do so. For example, one senior Garda member stated, “I schedule 10 checkpoints in the hope that 3 might get done”. This reinforced the view taken by many senior ranks: that whilst there were expectations that this activity would be carried out to the best of the ability of the members, the expectation of performing MIT checkpoints was not intended to be at the cost of other aspects of operational policing, particularly urgent response to serious incidents.

⁹ At the outset of this review, we agreed with the Policing Authority and the Garda Síochána that any information provided to us would be treated in confidence, and no details would be presented in our report which might identify the individual or the location involved. All interviews, focus groups and other discussions were conducted within the context of anonymity being guaranteed by Crowe Horwath.

Despite the repeatedly-stated view from senior Gardaí within the various Divisions that they did not exert pressure on frontline members, this was at variance with the views of the Gardaí on the ground in respect of the pressure they felt. What is instructive in this debate is the number of senior Gardaí who openly stated to us that they now schedule “more realistic numbers of checkpoints”, with the obvious implication that the numbers were previously unrealistic.

Many senior officers also expressed that they were unaware of the collection of the breath test data, although this data was published on the Garda website, until it became known that there were discrepancies in the data. The breath test data did not form part of the performance and accountability framework (PAF) used to compare performance.

However, we have reviewed a selection of Divisional Policing Plans published during the period 2009 to 2016, and it would appear that in a number of these plans there are indeed specific targets relating to both MIT checkpoints and breath tests. In relation to the latter, it is not clear whether these are breath tests conducted at MIT checkpoints or those carried out either at the roadside or in Garda stations as a result of other operational policing activities. The content of the Divisional Policing Plans differs from one Division to another, and will generally depend upon local priorities and policing needs, with a link to overall national priorities and targets. It is certainly the case that some Garda Divisions set and published targets for the performance of MIT checkpoints and breath tests on an annual or quarterly basis, which again is at variance with some of the claims by senior officers that no such targets existed.

Furthermore, in 2016, the Modernisation and Renewal Programme 2016-2021 published by the Garda Síochána specifically states:

“In 2015, over 70,000 MAT checkpoints were conducted and it is proposed to increase MAT checkpoints by 10% each year over the next five years.”¹⁰

This is completely at variance with the assertions by many senior Gardaí that there were no performance targets in place with regard to MIT checkpoints. Given that the Modernisation and Renewal Programme document is relatively recent and is currently being implemented, it is surprising that no senior members of the Garda Síochána acknowledged to us that it contains specific targets relating to MIT checkpoints.

Our assessment: We believe that there was significant pressure within the organisation to be seen to deliver against targets that were set – whether at Divisional level within the annual policing plan, or for a patrol setting out for its tour of duty with an expectation that it would undertake the three MIT checkpoints that it had been authorised to conduct, or at some other level within the organisation.

This pressure to increase the number of MIT checkpoints is clearly seen in the current Modernisation and Renewal Programme document, and in Divisional Policing Plans from as early as 2010. Senior officers in some Divisions who told us that there were no targets appear to have been unaware of the content of both the Modernisation and Renewal Programme document and their own Divisional plans.

For some Garda members, responding to that pressure entailed deliberate falsification of MIT checkpoint data entered on to PULSE. Entering false numbers was seen by some as

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acceptable, and preferable to having to explain why one or more MIT checkpoints had not been operated. For others, entering inflated figures was part of a desire not to be at the bottom of the league table, and to be reporting figures that were better than last year or better than those of a neighbouring Division.

We would also question the appropriateness of Gardaí being directed to conduct scheduled MIT checkpoints (which may have been pre-authorised days or weeks earlier) when only one member was available, as this was in contravention of health and safety regulations. Some Gardaí told us that they would refuse to operate MIT checkpoints when working on their own, whereas others indicated that they felt under pressure to comply and would run the checkpoint as planned.

3.4.3 Reporting on PULSE

MIT checkpoints have been recorded separately on PULSE since June 2009. The addition of this incident type allowed for the returns to be generated electronically, eliminating the need for manual returns. In the period since 2009 there have been a number of changes made to the input screens as part of PULSE updates.

The initial MIT statistics screen recorded details such as the number of vehicles passing through the checkpoint, number of both negative and positive breath tests, and the period of time that motorists were delayed at the checkpoint. Other information collected included details on the road and weather conditions and whether any other road offences were detected.

Changes were made to the details and MIT statistics tabs in July 2010. These changes included new mandatory fields to record details of the authorising member and the date and time. Recording details of when the checkpoint occurred also became mandatory. The statistics tab for the checkpoint incident changed the title of the field relating to the number of vehicles passing through the checkpoint to the number of vehicles “stopped and controlled”. A new, non-mandatory, field in respect of the total vehicles passing through checkpoint was added. The other statistics fields in relation to number of positive and negative roadside tests remained as per the original screens.

The PULSE update in April 2016 added the functionality to invalidate checkpoints if they were not carried out. This checkbox was added to the details tab, which contains the details of the authorising and briefing members. Members were also required to record details of the Dräger serial number and readings in the narrative.

The PULSE update in December 2016 involved renaming the checkpoints from MAT to MIT to facilitate the introduction of roadside drug testing alongside alcohol testing. This was, in addition, the first point at which the Dräger reading details were captured. The device serial number and the counter start and end readings were captured following this update. Despite this information being recorded, Garda members were still expected to verbally provide the total number of tests conducted to populate the relevant field on PULSE.

The inclusion of Dräger readings, although useful, generated some confusion and discrepancies at this time, however, as both members and/or GISC operators were frequently “adding” on a test to the numbers, because the final reading on the device is in fact that relating to the next test to be performed rather than the total of the tests to date.

The most recent PULSE update in August 2017 was designed to reduce the possibility for error in recording the checkpoints. It involved the removal of a number of fields including the details of the road and weather conditions. This update also removed the need to record the vehicles stopped and controlled and the total number of vehicles passing through the checkpoint, and introduced an automatic calculation of the number of breath tests performed based on the start and end readings for each Dräger device used at the checkpoint.

It is important to note the presence on PULSE for many years of fields which could only ever be realistically given as a rough estimate, such as the number of vehicles passing through the checkpoint or the length of delay to motorists; at an operational level, the only way in which this information could have been entered accurately onto PULSE would have been if a dedicated Garda had been assigned to do nothing other than count the vehicles, and another to calculate the delays, which would have been impractical.

Our assessment: we believe that the presence on PULSE of the fields which were inherently difficult or impossible to measure encouraged a situation in which estimated or rounded up figures were considered by Garda members to be acceptable.

3.4.4 Definition of “Stopped and Controlled”

As discussed above, the field “Vehicles Stopped and Controlled” was introduced in the July 2010 PULSE release. Prior to this the data field was labelled “No. of Vehicles through the Checkpoint”.

Through the course of this review members at all ranks across the organisation have been asked for their definition of “stopped and controlled”. The responses varied substantially, between and among members of different ranks and locations. No consistency was evident from any group: Traffic Corps members differed between themselves, as did regular Garda members. When asked, responses ranged from “all cars stopping at a checkpoint”, regardless of whether anything other than being waved on by a Garda member followed the stop; through “stopped and engaged with”, whereby a member will have had a brief interaction with the driver but may opt not to administer the Dräger device; to only those vehicles stopped for the purpose of breathalysing the driver.

No organisation-wide definition was communicated to Garda members following the introduction of the field in PULSE in July 2010. However, call-takers in GISC were given a definition of “stopped and controlled” as “number of drivers breathalysed”. The phrase was not clarified for members until 2016, several years later. When this definition was finally included in the May 2016 PULSE Incident Creation Guidelines, it could be found on page 829 of a 913-page document.

The lack of consistency that persists among Garda members is evidence that this mechanism for communicating the definition was entirely ineffective. As discussed in Section 2, the use of lengthy, dense documentation in lieu of appropriate and adequate communication and training is detrimental to clarity and consistency in practice. Indeed, senior members have indicated they would be concerned if Gardaí in their Districts or Divisions were spending hours on duty reading this extent of documentation.

The process of recording checkpoints involves GISC call-takers asking Garda members questions to complete each data field. From listening to a small sample of calls, it is clear that this was not always the case. In some instances, members were *only* asked for the number of

vehicles “stopped and controlled”. If a member was using their own interpretation of “stopped and controlled”, such as the total number of cars stopped but without all of these having undergone a breath test, the number of breath tests recorded would be higher, in some cases quite substantially, than the number actually completed.

There was a significant period when members were asked three questions by GISC: the number of vehicles passing through the checkpoint; the number of vehicles stopped and controlled; and, finally, the number of breath tests. While the GISC staff had been given a management instruction on how “stopped and controlled” should be interpreted, it is reasonable and logical for frontline Gardaí to consider that if they are being asked three different questions, then there should be three different answers. They therefore interpreted the number of vehicles “stopped and controlled” to be a figure somewhere between the number of vehicles passing through the checkpoint and those that were actually breath tested. If, when passing this information to GISC, the operator was insisting that the stopped and controlled number had to be the same as the breath test number, it is easy to see how the latter might have been revised upwards, to comply with the operator’s requirement.

Our assessment: our belief is that the presence of these three standard questions led to considerable confusion regarding their meaning and definition. Insufficient thought seems to have gone into the design of these questions, and it is unclear why the number of vehicles passing through the checkpoint was seen to be meaningful. Furthermore, it is surprising that these questions were permitted to remain on the PULSE screen for MIT checkpoints for some years before action was taken to simplify them, despite frequent complaints from operational Gardaí to GISC call-takers that they didn’t understand what the questions meant and were unclear as to what answers to give.

3.4.5 Recording Total Vehicle Numbers

It is evident from the Crowe Horwath review team listening to GISC calls and meeting with Garda members that figures for the total number of vehicles passing through a checkpoint were lacking in exact precision.

Furthermore, having observed checkpoints, it is clear that it would be difficult for a member to thoroughly conduct a checkpoint whilst also maintaining a clear record of how many vehicles had passed through. In order to be precise with this number, a checkpoint would require a member specifically tracking the total number of vehicles with a counter. This was not standard, nor would it be practical when considering the resources available for the conduct of checkpoints.

Discussions with Garda members supported this, with most stating that the necessity and importance of knowing total numbers of vehicles passing through the checkpoints was never communicated to them, and that GISC operators rarely questioned an exact number if a member provided a range of estimates – such as “between 20 and 30”.

Our assessment: we believe that the recording of total vehicle numbers through the checkpoint was ill-considered and largely meaningless. It is possible that this lack of communication regarding the need for total vehicle numbers created assumptions that these numbers did not need to be completely accurate. Where numbers are requested that could not be expected to be anything other than a rough estimate, and this is understood by members and call-takers, it does not support the requirement for precision and accuracy in relation to the other checkpoint data being requested.

3.4.6 Lack of Precision

Through the course of the review, both through analysis of calls and stakeholder engagement, it became apparent there was often a lack of precision in the recording of figures relating to checkpoints conducted. Members report – and call samples reveal – that a “guesstimate” of the numbers of breath tests recorded was routinely submitted to GISC in the calls to record the checkpoint data.

As discussed above, given the need to estimate other data for the checkpoint, such as total numbers of vehicles passing through, it appears that common practice in reporting on the checkpoints was to provide an estimated number for the breath tests as well as other figures. The absence of counter numbers for Drägers in the early days of checkpoint recording reinforced the reliance on the memory of the Garda member calling in the checkpoint data as to how many breath tests were conducted. This could never have been as accurate as the device data.

A further issue which impacted negatively on the accuracy of recording is the fact that checkpoints are frequently not recorded on PULSE via GISC immediately after they are finished. Due to operational responsibilities, and the potential lengthy wait-times for phoning in to GISC, if members are unable to report during or at the end of their shift then they may wait until their next shift to report the checkpoint details, which, depending on shift patterns, may be a number of days. The potential for details to be misreported or overlooked when reporting a checkpoint after the event is clear, and may have contributed to a lack of precision in recording actions conducted at MIT checkpoints.

In addition, as set out above, checkpoints are conducted by several Garda members (except in the cases of some Districts where, owing to a lack of resources, some members conduct single-handed checkpoints in breach of health and safety guidelines). Only one member calls the checkpoint into GISC, by necessity reporting on not just his or her own activity in administering breath tests, but that of one or more colleagues involved in the same checkpoint. Before the Dräger counters were available, and indeed until it became obligatory to report these to GISC, one member might be estimating the activity for several and this increased the potential for inaccuracy.

As an anecdotal example, one member mentioned that after the discrepancy was reported in the media, they conducted a small experiment in relation to the accuracy of their own reporting on breath tests. At a checkpoint, the member kept track of the breath tests by placing the mouthpiece used into their pocket. On returning to the station, they estimated that they had done somewhere in the region of 20 breath tests; on counting the mouthpieces, they realised they had only performed 13.

Our assessment: all of the above issues relating to a lack of precision suggest strongly that there was among many Garda members a tendency to overestimate, guesstimate, and/or round up the actual numbers of tests performed at MIT checkpoints, exacerbated by phoning this data in at much later times and for more than one member’s activity. These tendencies worked in tandem with the lack of clarity with regard to what some of the PULSE questions actually meant, and with the deliberate inflation of MIT checkpoint data in response to pressure to meet targets.

Recommendation: the need for precision should be emphasised to all Garda members involved in recording and reporting MIT checkpoint data, as part of training and ongoing professional development, and through strengthened supervisory arrangements.

In addition, given that one aspect of this problem was the lengthy call waiting times at GISC, which in turn led to some data being called in during a subsequent shift, we recommend that GISC take urgent action to address the issue of call waiting times, with a view to ensuring that all MIT incident data can be recorded during the shift (i.e. same day).

3.4.7 *Suggestions of Personal Gain*

During the course of this review, we have become aware of some external commentary within the media that one reason for the inflation of MIT checkpoint and associated breath test figures was that some Garda members use this to justify overtime claims and/or to boost their promotion opportunities.

We discussed these issues with a wide range of senior managers within the Garda Síochána at both HQ and Divisional levels, and it was universally reported that overtime payments would never be authorised for routine policing activities such as MIT checkpoints which would be expected to be undertaken during the course of a normal tour of duty. This was confirmed by the Director of Finance within the Garda Síochána.

Similarly, it was strongly held across the organisation that MIT checkpoint and breath test statistics would not form part of any interview process or consideration of Garda members for promotion.

Our assessment: our view is that it is highly unlikely that there is any connection between the inflation of MIT checkpoint data on PULSE and any personal gain which a Garda member may have wished to attain. Clearly, fabrication of MIT checkpoint data to justify a false claim for overtime payment would represent both a disciplinary and criminal matter, but we have seen no evidence to suggest that this actually happened.

It was also reported to us from several sources that the allocation of resources – for example, overtime budgets or new vehicles – was connected with overall Divisional performance, meaning that Divisions would want to keep their MIT results within an upward trajectory, with the fear that poorly performing Divisions might miss out on such resources. However, we saw no evidence to back up this claim during our engagement across the 28 Garda Divisions.

3.4.8 *Perceived Lack of Importance of the Data*

It is apparent that Garda members did not perceive the exact number of breath tests performed as important. The focus of Garda members at checkpoints is the detection of drink drivers. Little attention has been paid to those drivers who are not in breach of the law.

The recording of data in respect of those not committing road traffic offences was questioned: some likened it to recording the number of cars *not* exceeding the speed limit at a speed checkpoint. The focus of members has been on detecting drink driving, and the recording and processing of such offences in an effective manner. Members at all ranks questioned why the Garda Síochána were required to collect the information on negative breath tests.

We have been surprised and disappointed at the general lack of recognition of the value of recording negative breath tests in being able to identify trends and attitudinal changes towards drinking and driving, including at more senior levels. Checkpoints are not seen as a key tool in the detection of drink driving, the vast bulk of which occurs through operational roads policing (i.e. observation of driving behaviour, etc.), and for many Gardaí, the role they play in educating and deterring drivers in respect of drink driving has not been a key consideration.

This view was reinforced through the additional data required to be collected for the PULSE incident often seen as irrelevant, such as the weather conditions, road conditions, and the delay to motorists. This, coupled with the necessary estimation of certain checkpoint data, reinforced the understanding that that this was a report on activity rather than a key tool in road safety.

Many across the organisation were unaware that this data was collated and published on the Garda website. Senior ranks frequently reported that they were not aware that the number of breath tests was recorded at all, and did not perceive it as valuable information.

Our assessment: It is evident that the fundamental purpose and importance of MIT checkpoints has not been clearly communicated across the organisation, nor has the purpose that might be served by publicising the scale of breath testing activity. We believe that this is a failing of Garda management over the period in question.

We also note with concern that the report on the MIT checkpoint data discrepancies by Assistant Commissioner O'Sullivan and his team has questioned the value of collecting this data. No account is taken of the general deterrent impact of checkpoints and the scale of breath testing communicated to the public.

Recommendation: A clearer strategic view needs to be taken across the Garda Síochána in respect of the purpose of random breath testing (as part of both public policy and operational policing practice), its importance as a fundamental part of the detection and prevention of drink-driving, and the need for accurate, reliable, and honest statistics to be published in respect of MIT checkpoints. This needs to be communicated across the organisation and understood by all operational Garda members involved in conducting MIT checkpoints.

3.4.9 *Lack of Supervision*

A repeated theme across the Divisional visits and other engagements was the difficulty in maintaining adequate levels of supervision for Garda members. There has been a reduction in the number of sergeants, exacerbated by the move from a four-shift to a five-shift roster, with a consequent 25% increase in the requirement for supervisory ranks.

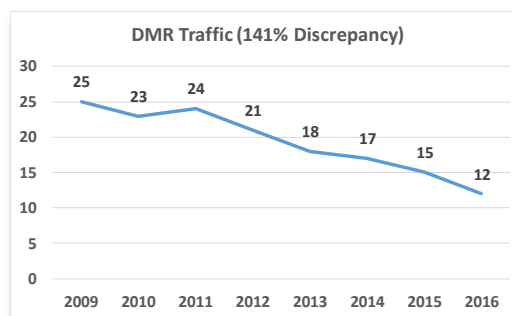
We note that the O'Sullivan team's report referred to a reduction of 6% at sergeant rank: however, this evidently relates to the wider organisational figures for the Garda Síochána. This is not evenly distributed across Divisions, and the review team consistently heard District and Divisional commanders advising of reductions of up to 50% in respect of frontline supervision. It was suggested that members at such ranks were frequently appointed or seconded to duties other than station-based operational supervision.

In order to probe this issue in more detail, we examined data from the Garda Síochána which showed the numbers of Inspectors, Sergeants and Gardaí in each year between 2009 and 2016, broken down by Division. Analysis of the data showed the following:

- Whilst the numbers of sergeants (first line supervisors) dropped significantly in many Divisions, that was not the case uniformly across the Garda Síochána, and in some Garda Divisions the number of sergeants increased;
- In many locations, the number of sergeants fluctuated mildly over the period 2009-16 but did not show significant reductions;
- The number of members at Garda rank in most Divisions also fell during the period 2009-16, so that the ratio of Gardaí to sergeants remained relatively stable;
- There does not appear to be any particular statistical correlation between the scale of the MIT data discrepancy and the number of sergeants allocated – for example, the fifth largest discrepancy was in Carlow-Kilkenny Division (158%) but the number of sergeants there fluctuated between 37 and 41 until 2015, and then increased to 46 in 2016;
- Conversely, Wexford Division, which had the third lowest discrepancy (18%), saw a significant fall in supervisory resources during the period, from 43 sergeants in 2010 to 36 in 2016.

We would stress that the supervisory staffing figures must be treated with considerable caution: they show the total number of sergeants allocated by Division to all functions (detectives, custody sergeants, administration roles, etc.), and not just to uniformed frontline policing. The figures also may include individuals who have been transferred to HQ or national units on a temporary basis, but who are shown on the Garda HR system as being part of their “home” unit.

The specific exception to this is DMR Traffic Division (see the chart displayed on the right), whose members are exclusively involved in frontline roads policing, and which has seen a decrease from 25 to 12 sergeants over the period in question. In 2009, DMR Traffic had 4 inspectors, 25 sergeants, and 127 Gardaí; by 2016, this had reduced to 1 inspector, 12 sergeants, and 96 Gardaí.



With regard to the Garda Síochána generally, and notwithstanding the fact that the supervisory staffing data may not be wholly reliable, we take note of the frequently-expressed concern that the reduction in supervisory numbers had an impact on the ability of the organisation to manage MIT checkpoints effectively. We heard repeatedly across many Garda Divisions that the reduction in numbers and the introduction of the five-shift system had meant that where there were previously (say) four or five sergeants supervising four shifts, there were now only two to supervise five, meaning that some Gardaí would often work without supervision.

Our assessment: The reduction in supervisory ranks has stretched the resources of the organisation to provide adequate supervision and support to frontline Gardaí, and to monitor activity. This has been compounded by the change to a five-shift system. The overall effect of this stretching of resources has been to reduce the capacity of the Garda Síochána to ensure that checkpoints are being performed, that they are being performed

correctly, and that the recording of data is as accurate as possible. The absence of adequate supervision also impacts on consistency of practice, information dissemination, and training/mentoring of Garda members, particularly probationers.

This may have led to the development of a culture in some areas where there was no expectation amongst frontline Gardaí that their work would be supervised or that MIT data entered onto PULSE would be checked.

We would also pose the question as to whether the reduction in supervisory numbers has had any effect on other aspects of operational policing; this may be worthy of further enquiry outside the scope of this review.

Recommendation: Whilst supervisory numbers are increasing again as the Garda Síochána has recommenced recruitment and is running more promotion boards, it would be worthwhile for the organisation to undertake a fresh evaluation of its five-shift system to determine whether it is truly meeting the demands of frontline policing, specifically with regard to the capacity of the Garda Síochána to ensure consistent supervision.

3.4.10 GISC Recording

GISC plays a key role in the reporting and recording of MIT checkpoint data. The review team therefore, deemed it important to meet with the GISC team and understand the process from their perspective. This gave the team an opportunity to view the processes and systems supporting the work of GISC. The team were also able to listen to a sample of checkpoint calls to review them for accuracy.

The Crowe Horwath review team visited GISC on three occasions to examine sample data held on PULSE, seeking to understand the processes and systems that may have contributed to the discrepancies in the recording of MIT checkpoint tests. The team reviewed the data entered on PULSE for 191 checkpoints – each registered as an “incident” – and found that in all but three cases, the data recorded on PULSE matched the data reported by the member. These exceptions included 5 tests being incorrectly recorded as 15; 3 tests being incorrectly recorded as 2; and 2 tests being recorded as 1. This indicates an accuracy rate of 98.6%, albeit from a small sample size.

The team also met with Gardaí of all ranks across all 28 Divisions of the organisation. During these meetings, the impressions members held of GISC were sought – either through direct interaction with GISC or, in the case of Divisional management, from colleagues’ accounts of dealing with GISC. The majority of members interviewed through the course of these meetings stated that they regarded GISC operatives as competent and accurate at their jobs, with the only significant common dissatisfaction being the length of waiting time it can take to get through to a call-taker.

However, when reviewing a sample of relevant phone calls, it was apparent that there was little uniformity of approach among GISC operators. As discussed earlier, GISC staff received a definition of “stopped and controlled” a number of years before Garda members were provided with the same definition. During the 191 calls listened to, not all operators would ask for the “number of vehicles stopped and controlled” and “number of motorists tested” as separate figures. As discussed above, this could have contributed to the number of recorded tests being increased as members used their own interpretation of “stopped and controlled”.

Furthermore, due to the manual nature of the reporting process, the potential for data to be misrecorded is increased. There is often background noise and distractions for both members and GISC operators. These distractions on both sides can make communicating the numbers and checkpoint details difficult, creating the potential for mistakes or misrecording (albeit that the small sample we reviewed showed minimal errors).

A number of Gardaí also reported that when they attempted to put checkpoints on the system via GISC where no cars passed though they were told by the call-taker these could not be recorded as checkpoints. There is evidence that some checkpoints were recorded on PULSE with no breath tests or vehicles passing through; however, it would appear that individual call-takers may have their own interpretation of what can be recorded. As a further example, there have been anecdotal reports of inconsistencies with GISC call-takers when trying to record both alcohol and drug testing at a single checkpoint since the recent introduction of roadside drug testing.

Whilst these issues relate to individual call-takers, they may have impacted on the behaviour of individual Garda members when recording the details of checkpoints. Members have indicated there were situations when, in order to record the checkpoint as having been performed despite not having cars pass through, it was necessary to provide the call-taker with numbers – including numbers of breath tests – to record the checkpoint as having taken place.

Our assessment: the level of accuracy at GISC in relation to the recording of MIT checkpoint data appears to have been high during the period in question, although there was a lack of consistency between GISC and operational Gardaí, specifically with regard to the definition of what certain fields meant. Many of these problems appear to have been resolved in recent months with the changes to the MIT incident screens on PULSE.

3.4.11 PULSE Data Field with Zero Pre-Populated

One issue that was raised in a number of consultations was the suggestion that some of the discrepancy may have arisen from the fact that the field for the breath test numbers, unlike many other numerical fields, is “pre-populated” with a zero, which must be overwritten when entering the number while recording a checkpoint incident. If this is not overwritten, the zero will in effect multiply the entry by ten, resulting in a figure of, for example 110 where the figure reported was 11.

The O’Sullivan report considered that this issue could be determined to have affected a very small number of checkpoint incidents, based on a lack of consistency between, for example, vehicles passing through the checkpoint and the number of breath tests conducted (if the former is 35 and the latter 50, then it is evident that the zero has multiplied the true figure). This appears to account for a small proportion of the discrepancy, which is supported by the high levels of accuracy between the reported figures in GISC call recordings and the actual entries in PULSE in the sample the Crowe Horwath team reviewed.

We also discussed this matter with GISC management, who reported that this was a relatively infrequent occurrence.

Our assessment: Whilst the presence of this data field with a pre-populated zero was a factor in MIT checkpoint recording on PULSE, it does not appear to have been a major contributory factor to the level of discrepancy observed across the Garda Síochána.

3.4.12 Dräger Devices

The Dräger devices are provided to the Garda Síochána by the Medical Bureau of Road Safety (MBRS). The first devices were purchased in 2005. The current version of the device is due to be replaced in 2018, with the Bureau currently undertaking a procurement process. Between 2005 and 2017 there were 1,586 Dräger devices identified as having been issued to the Garda Síochána.

At the time of writing, according to figures made available by the MBRS, there are 1,162 Dräger devices in active use across the Garda Síochána, with 410 of these allocated to the Traffic Corps.

Each device is issued by the MBRS to an individual station or Traffic Corps unit. The devices now have a label on the front showing the serial number and the location to which it has been issued. The labels for each region are a different colour to assist with identification.

The devices are required to be returned to the MBRS every six months for calibration. Originally, when devices were returned to the MBRS for calibration, a replacement device was issued immediately. This issuing of devices on a rolling basis made it difficult to trace the Division to which the tests related. The system has now changed and devices are specifically allocated to Divisions. These are brought to the MBRS and returned to the Division once the calibration is complete. The calibration process on average adds five tests to the device; more may be added if there is an issue during the calibration process.

The devices are also subject to a monthly gas test which is performed locally. During the monthly gas test, the latest reading on the device is recorded. The device details should be recorded on a standard recording sheet issued by the MBRS. A copy of this record should be sent to the MBRS when the device is sent for calibration. This record includes a device reading at the time of gassing. This monthly gas test procedure is to check that the device is still operating within the appropriate ranges, and does not add additional tests to the device counter.

3.4.13 Stewardship of Dräger Devices

Dräger devices are allocated on a Divisional basis, with each Division responsible for distribution and stewardship of the devices they have been allocated with. It was apparent that there were many different approaches to the allocation of the devices. In some stations Dräger devices were kept under tight control, with members required to sign them in and out, while other stations simply kept devices in patrol cars for members to use where needed.

This inconsistency in the stewardship of the devices often contributed to devices being reported as missing or out of service, while in some cases they were still in use or had been redistributed to another station. Such discrepancies in how the Dräger devices were managed cannot have been conducive to the accurate recording and reporting of actions conducted at MIT checkpoints.

Anecdotal situations in relation to Drägers, such as where members may have taken the devices on holiday to France (where drivers must carry a breathalyser device by law), whilst not capable of being verified, suggest that in some Divisions the level of stewardship of devices was poor. We saw little to suggest in many locations that this could not happen.

In contrast, other Divisions have taken the device stewardship very seriously, including taking devices out of service once they reach the recalibration date. One District has set up a database to track all of the devices: the Traffic Sergeant ensures that this is updated regularly. Given that the devices are due to be replaced next year, there is an opportunity to roll out consistent practice, learning from Divisions that have a strong system of control.

Our assessment: Stewardship of the Dräger devices is patchy across the Garda Síochána, and in some parts of the organisation is poor, with no clear accountability for their deployment and use. Clear ethical issues would arise in respect of the suggestions of some Garda members taking Dräger devices abroad, if the reports we heard are correct.

The records maintained by the MBRS in relation to the distribution of each Dräger device and its calibration and maintenance are well organised, but this is not matched by a consistent approach within the Garda Síochána. There are some examples of good practice such as the District database referred to above, but equally there are other locations where devices have gone missing or have been lost.

A further matter of concern is that the field on PULSE for recording Dräger device numbers will permit the entry of any data, rather than using a drop-down pre-populated list of options specifically related to the Garda Division. In that regard, there have been situations where a Dräger number has been misrecorded on PULSE, with the result that the same device appears to be in use in two different parts of the country simultaneously.

Recommendation: more effective arrangements need to be developed for the proper stewardship of Dräger devices across the Garda Síochána, taking account of some of the good practice already in place within the organisation.

Separate examination of PULSE should also take place to determine whether the field for recording Dräger device numbers can be pre-populated with those serial numbers allocated to the Division for which each MIT incident is being recorded.

3.4.14 Training in Dräger Use

The lack of adequate training provided to members impacted on the accurate recording of MIT checkpoints. In the past decade, since the onset of the financial crisis, recruitment was suspended across the organisation, with training severely cut back. These cutbacks have impacted on member familiarity with new resources such as Dräger devices, with members indicating that there has been little training in the use of the Drägers since their introduction.

It is worth noting that training in the use of Dräger devices is important; whilst the devices themselves are not very sophisticated, there is a risk that a Garda appearing in court to give evidence in relation to a drink-driving case could have that evidence undermined if he/she, under cross-examination by the defendant's solicitor or barrister, had to declare that no training in the use of the Dräger had been received.

Since 2015, the Garda Síochána have reopened their recruitment campaigns; consequently, some of the members consulted with were recent recruits. These new recruits indicated that they received little training in the use of the Dräger. Training relating to checkpoints at Templemore was reported to have focused on the interaction with motorists, rather than the use of the device and reading of the counter, or the information to be captured and the process of reporting this to GISC.

Our assessment: Effective training in the use of the Dräger devices has been absent across the organisation for many years. As more sophisticated breathalyser technology is introduced in 2018 with the replacement of the current generation of Dräger devices, the rollout of effective training will become a critical priority.

Recommendation: The Garda Síochána should pay careful attention to the requirement for training in both the current and new generations of breathalyser equipment. This does not have to be delivered at the Garda College, and options for consideration may include the use of training videos or cascaded training delivered across the organisation (e.g. Traffic Corps members trained first, and then they assist in rolling out training to regular members in their own Division).

3.4.15 Training in Data Recording

The call-takers in GISC receive training prior to the introduction of a PULSE update. This ensures that they are aware of the information they need to request from members ringing in incidents. This training also gives an opportunity to test the system prior to it going live and call-takers have an opportunity to become familiar with any changes to the data entry screens.

For Garda members, PULSE updates are communicated through bulletins placed on the portal. As these bulletins contained details of all updates to the system, many of these updates contained numerous pages of technical detail.

The Roads Policing Manual was last published in 2014. This is a 219-page document; chapter 10 relates to the conducting of alcohol checkpoints. The manual, while produced in 2014, refers to a HQ Directive 105/09 from 2009 regarding data collection. This directive had been superseded by a later PULSE release where further data was required including the addition of the “stopped and controlled” field. This is not referenced in the manual.

Members have also indicated that there was no training either at a national or local level in relation to the recording of the data and the purpose for which this was subsequently used. There were four PULSE incident creation manuals issued in the course of 2016. These ranged from 900 pages to over 1,200 pages.

As mentioned in a previous section, there has been a reliance on the portal for the dissemination of information to members. This then requires individual members to familiarise themselves with large documents and interpret them. Some of these documents are highly technical in nature, while others are straightforward. There is a limit to the capacity of individual members to access, read, and comprehend all of the information supplied by means of the portal and email updates. In addition, the actual impact on day-to-day practice is often absent from the technical documentation, and is left to individual Gardaí to interpret.

Apart from the unfairness of placing this responsibility on the shoulders of individual Garda members, it appears an extremely inefficient method of disseminating information. Even if frontline Gardaí had time to engage with and read such lengthy instruction manuals, the abstraction time from operational patrolling would be significant.

Our assessment: This area appears to us to be wholly deficient. The tendency within the Garda Síochána has been to issue extremely lengthy documents either in hardcopy or by placing them on the Garda portal, which is not accessible to those members whose

stations lack good IT systems and email or internet connections. The likelihood of busy operational Gardaí being able to spend the amount of time required to read and understand such lengthy documentation is also remote, and we believe that it was remiss of Garda management to assume that this was a suitable way of disseminating complex information.

Recommendation: More effective means of disseminating this material need to be found which are fit for purpose, taking into account the time available for Garda members to read this material, the availability of IT infrastructure, and other pertinent factors referred to above. A suggestion from many frontline members was that training and updating on these issues should ideally be delivered through more targeted means – for example, shorter briefing sheets or online videos which would get the key points across, with more detailed material available to be accessed as required. We are aware that these approaches are used in some other aspects of Garda training and information dissemination, and would encourage such approaches to be taken in respect of MIT checkpoints and other aspects of roads policing.

3.4.16 Other Issues Identified

The lack of joint training between members of the Garda Síochána and GISC creates certain barriers. Joint training would allow both Garda members and GISC staff to share experiences and insight regarding the interaction along with suggestions as to how to improve communication and collaboration. For example, a small cohort of experienced Traffic Corps members might be tasked to meet on a regular basis (e.g. quarterly) with GISC to examine how MIT checkpoint data recording and other processes are developing, and to identify any ongoing changes required including training for both GISC and Garda members.

In tandem with regular engagement and joint training, there should only be one consistent source of information for both Garda members and GISC staff. The two parts of the organisation should work closely together when PULSE updates are developed to ensure that the same information and interpretation is provided to members and call-takers. By doing this there will be a reduced risk of different definitions or interpretations, as happened with “stopped and controlled”.

Recommendation: We propose that there should be regular engagement and joint training organised between GISC and a small cohort of experienced Garda Traffic Corps members. A single information source should exist in relation to all aspects of MIT checkpoint data recording, accessible to both GISC and Garda members.

3.5 Identified Cases of Good Practice within the Garda Síochána

Although the preceding paragraphs have listed a wide range of systemic problems associated with the recording of breath test data at MIT checkpoints, it is important to note that in the course of our visits to all 28 Garda Divisions and engagement with 400+ Gardaí, we did observe a number of instances of good or very good practice across the organisation which can provide a foundation for the development of new procedures and controls. These included:

- a strong sense of responsibility for the proper stewardship of Dräger devices, including the maintenance of a master list or logbook in some Districts whereby each device had to be signed for by the Garda allocated to use it, both when collecting it from and delivering back to the supervisor’s office;

- similarly, a professional attitude amongst a significant number of Garda members with whom we engaged (especially Traffic Corps members) that MIT checkpoint data should be recorded accurately and reported promptly to GISC;
- a clear determination in many Divisions, following the coming to light of the scale of the discrepancies in March 2017, to ensure that all MIT checkpoint data entered on to PULSE is quality assured and that any inconsistencies are corrected, including having a supervisor given clear responsibility for quality assurance of the data and the power to resolve any problems on the authority of the Chief Superintendent;
- use of effective practices such as the recording of reasons for invalidating checkpoints at Divisional morning meetings, which helps to ensure a level of accountability;
- effective use of data capture forms (such as that illustrated in Section 3.2 above) to ensure that data from the Dräger devices can be written down at the time of the MIT checkpoint and immediately communicated to GISC;
- strong recognition amongst many Gardaí – particularly those within the Traffic Corps – that the recording of MIT checkpoint data is not just an administrative exercise but that it has a clear role in helping to demonstrate to the driving public that the use of random breath tests is a significant deterrent to drink driving.

There is, however, no obvious correlation between the elements of good practice noted above, and the prevalence and extent of the MIT data discrepancies: some of the above examples have come from Garda Divisions where the level of discrepancy was low, and others from Divisions with much higher discrepancy figures. Part of this may be due to the fact that within a Division, one station may have very robust arrangements for Dräger stewardship or data checking, for example, whereas another station may be very lacking in those aspects.

Our assessment: Whilst there are many organisation-wide issues for the Garda Síochána to resolve in relation to MIT checkpoints, it is encouraging to note that there are frontline Gardaí and supervisors who currently operate effective practices for MIT data recording and for the stewardship of Dräger devices – practices which can be rolled out across the organisation as part of the reforms arising from this review.

Recommendation: The Garda Síochána should undertake or commission a detailed review of all operational and data processes associated with MIT checkpoints, with a view to identifying best practice and a new set of processes for implementation across the whole of the organisation.

3.6 Actions Taken to Address the Problem

3.6.1 PULSE Fixes

The new PULSE input screens were introduced on 13 August 2017. These fixes have reduced the level of data required to be provided during calls, which has reduced the length of time taken to record checkpoint incidents with GISC.

While the automatic calculation of the number of breath tests is welcomed by members, concerns have been raised about the possibility of the Dräger serial number being misrecorded. The station or Division that each device is allocated to is not loaded into PULSE, so if the wrong Dräger serial number is entered, this will not immediately be evident. While there is a Dräger report on PULSE that flags incidents where a start number is lower than the

previous end number recorded against that device, there may be difficulties in getting any issues rectified between Divisions where such errors occur.

The checkpoints are subject to an automatic review process that flags any issues and returns the for review clarification. While visiting GISC our team found an issue where a device had been recorded as used at two checkpoints simultaneously. The readings did not raise concerns (neither was lower than the previous end number), so this would not have been returned for clarification even under the revised system.

3.7 Assurance Assessment: Could This Happen Again?

Following the public attention given to the major inaccuracy of MIT checkpoint records, it is clear to us that many within the Garda Síochána have taken this issue seriously, both at senior command level and at management level within many Divisions. The Internal Review Team established under the Assistant Commissioner (Security and Intelligence) has examined the matter very thoroughly, and we have reviewed the detailed report produced. A number of Garda Divisions have undertaken detailed reviews at a local level. By contrast, others would appear to have taken more of a “wait and see” approach, anticipating recommendations will flow from the Internal Review Team.

The positive response we have seen within some parts of the Garda Síochána is welcome, and demonstrates a determination to overcome these difficulties. However, these problems have arisen as a result of a multiplicity of factors – a lack of precision in reporting, a sense that precision was not important, a lack of appreciation of the purpose of the data and the importance thereof, a lack of supervisory ranks across many parts of the organisation, a tendency amongst many Gardaí and supervisors to inflate numbers, a lack of clear definitions, inadequate training, problems with PULSE, miscommunication to GISC, transcription errors within GISC, and issues with the Dräger devices. The deliberate entry of false data, the pressure to show better MIT performance figures, and associated issues around the ethical behaviour of some Gardaí, were also features of these problems.

Not all of these problems appear to have applied equally across every Division, but in aggregate their presence and scale across the Garda Síochána can only be described as widespread and systemic.

Whilst there was no single reason behind these discrepancies in the test numbers reported, the combination and scale of the factors set out above meant that these difficulties were inevitable; the recording of test data from MIT checkpoints was, in our view, bound to fail.

Our assessment: On that basis, significant work will need to be done within the Garda Síochána to rectify these difficulties before any assurance can be given to the Policing Authority that these problems will not recur.

Of fundamental concern to us is the prevailing perception that recording breath test data “serves no purpose”, as cited in the O’Sullivan report. Garda members of all ranks see their role as primarily concerned with the *detection* of drink driving, for which MIT checkpoints are not the primary mechanism, and the importance of recording of activity relating to drivers who are not in breach of the alcohol limits seems counter-intuitive to many. It will require a commitment from the organisation at the most senior level to clearly adopt and communicate the message of the importance of such checkpoints and the scale of breath testing play in

education and deterrence (and not just detection). Introducing new breathalyser devices that will automatically capture the data will help to improve accuracy significantly, but the core message regarding the impact of MIT checkpoints will need to be much clearer to all ranks. If this is not the case, the perceived importance of the data will continue to be in question, with a consequent impact on the reliability of the recording of this data.

A further question which must be addressed is why the Garda Síochána records only breath tests conducted at MIT checkpoints in the statistics. Positive tests that are detected through good police work or as a result of a traffic collision, whilst noted in the individual PULSE incidents, are not collated and reported on. It is worth the Garda Síochána considering what is being recorded and why, and what purpose the compilation of these statistics actually serves. The Policing Authority (from an overall Garda accountability perspective) and/or the Road Safety Authority (from a road safety public policy viewpoint) may have a role to play in this process.

The expected replacement of the Dräger devices in 2018 gives the organisation an opportunity to review the process. It is expected that the new devices will record much of the information that is currently phoned into GISC.

Whilst the current reporting of breath test numbers has been considerably tightened up, given the manual nature of the system it remains open to human error, such as mishearing of data between GISC and the Garda members calling in the information. The current focus on checkpoints ensures that any anomalies are investigated, but this will need to continue until the new breathalysers are operational.

In relation to GISC, for there to be effective recording of incidents on PULSE there needs to be a greater level of consistency in the practice of call-takers. The management in GISC need to ensure that there is a level of uniformity and consistency in the data recorded by the call-takers. This may require additional training and resources.

The level of supervision available at Divisional level will also impact on any issues reoccurring. There is a need to ensure that supervisors are available to manage and inspect checkpoints on a regular basis. The lack of supervision impacts on all operational policing, and on consistency of practice.

4 The Road Safety Context

4.1 Introduction

This section of the report examines the contextual background to breath testing, considers the international research and experience in respect of enforcement and random breath testing, and looks at the impact of Garda Síochána activity on improving road safety in Ireland.

4.2 Impact of Alcohol on Irish Road Safety

Provisional data from the Road Safety Authority (RSA) indicate that, in 2016, 188 people died as a result of road traffic incidents in Ireland. Recent RSA research on the impact of alcohol on road safety further highlights that:

- Alcohol was cited as a contributory factor in 38% of road collisions between 2008 and 2012;
- 30% of road fatalities in 2013 and 2014 tested positive for alcohol.

The RSA's target is to reduce the annual number of road fatalities to 124 by 2020. An average 10% year-on-year reduction in fatalities from current levels would be required in order to achieve this objective.

4.3 Research in Relation to the Role of Enforcement and MIT

4.3.1 Overview

A significant body of international research underlines the central role of detection and enforcement in reducing the negative impact of alcohol in terms of road safety. Research also supports the deterrent effect of random breath testing to reduce drink driving and improve road safety. As part of this review, we asked SWOV, the Institute for Road Safety based in the Netherlands, to undertake some high level research into studies and practices in respect of enforcement policies, specifically random breath testing, in other jurisdictions.

We note that the comparators used in the report by Assistant Commissioner O'Sullivan focused on UK regions; however, only in Northern Ireland has random breath testing been introduced, and this was done in 2016. The Road Traffic (Amendment) Act (Northern Ireland) 2016 was introduced last year, giving the PSNI powers to conduct random breath tests at authorised checkpoints. The remainder of the United Kingdom does not have random or mandatory breath test legislation and no breath testing is carried out by police officers unless there is a reasonable suspicion that the driver has consumed alcohol, or in the event of a road traffic accident, or if another moving traffic offence has been committed (e.g. a motorist stopped for speeding may also be breathalysed).

We are concerned that the choice of comparator policing regions and the practice therein by the O'Sullivan report was not the most appropriate given the difference in legislative powers and approach. We have sought, therefore, to take a wider view in relation to the international experience with random breath testing as an enforcement and deterrent mechanism in relation to drink driving.

4.3.2 Enforcement

Enforcement is one of the main countermeasures against drink driving. The main aim of enforcement is the deterrence and detection of drink drivers. Drivers tend to change behaviour if they perceive the risk of detection as high and the sanctions or negative effects (e.g. fines, loss of licence, or social stigma) as severe.

Enforcement activities result in two types of deterrent effect: general deterrence and specific deterrence. General deterrence is the effect by which potential offenders are influenced by the fear of detection to avoid drink driving. The risk of detection perceived by the drivers can be enhanced by mass media campaigns and the unpredictability and visibility of the enforcement activities.

Specific deterrence is the mechanism whereby those who have been apprehended for such offences are encouraged to avoid reoffending because of their negative experience with detection and its consequences. The scale, swiftness, and certainty of punishment are important factors in specific deterrence.¹¹

The principles of deterrence are also visible in enforcement strategies. Large static random breath test (RBT) checkpoints will have more of a general deterrent effect than a specific deterrence effect. In Australia, mobile units that breath tested drivers who draw police attention were found to detect more offenders per 1,000 tested than static RBT checkpoints.¹² However, this did not suggest that static checkpoints were ineffective; rather, they were considered part of high-profile visible general deterrence, supported by the mobile breath testing activities to detect and deter specific drink driving activity.

In the Netherlands, police reported that the majority of the apprehended drink driving offenders were detected based on their driving behaviour or due to breath testing after a crash. A minority of offenders were detected at static RBT checkpoints.¹³

Random breath testing powers have been delegated to police forces in most European countries; in fact, in most jurisdictions where RBT operates, police can stop drivers entirely randomly, without suspicion and without prior authorisation, to perform a breath test. However, since a number of police officers are frequently involved in checkpoints, these are usually planned as part of policing operations, but no information is required on the locations of the planned RBT checkpoints.

In Canada and the US, however, roadside alcohol screening can only be done though if the officer has a reasonable suspicion the driver has consumed alcohol. Large-scale static RBT checkpoints are not undertaken in these countries. However, proposed legislation in Canada, if passed, would eliminate the need for suspicion for drink driving enforcement activities.

There has been an argument that the instant dissemination of information via social media can undermine the usefulness of static checkpoints, given that drivers can quickly communicate their location and enable others to avoid the checkpoint. However, the

¹¹ Homel, R. (1988). *Policing and punishing the drinking driver: A study of general and specific deterrence*. Springer-Verlag, New York.

¹² Wundersitz, L.N. & Woolley, J.E. (2008). *Best practice review of drink driving enforcement in South Australia*. Centre for Automotive Safety Research, Adelaide.

¹³ Goldenbeld, C., Blom, M. & Houwing, S. (2016). *Zware alcoholovertreders in het verkeer: Omvang van het probleem en kenmerken van de overtredders*. R-2016-12. SWOV Institute for Road Safety Research, Den Haag.

underlying mechanism of the general deterrent effect still holds, in maintaining a visible presence to the public in performing random breath tests.

4.3.3 Enforcement Targets

The deterrence principles also play a role in the choice and scale of activities that are conducted to meet the police road safety enforcement targets. For example, some jurisdictions, such as Belgium and Queensland, have targets in respect of the total number of alcohol tests to be carried out annually. For instance, the target in Queensland is to aim to have every driver in the state breath tested once a year – for reference, there are 3.5 million driving licences issued and 3.77 million registered vehicles in Queensland. Belgium has a target of 2.15 million breath tests per year (for 7,301,766 vehicles). Whilst this can have a clear deterrence effect, research has indicated that this can incentivise the use of large-scale static RBT checkpoints at times and places that relate to the volume of cars that can be tested, rather than focusing on the key times and locations where drink driving is more likely to prevail.¹⁴

In other countries, e.g. in Finland, the US, and Canada, police enforcement units have targets based on the number of drink driving offenders that have been detected and prosecuted. In this case, mobile RBT activity, and/or the detection based on suspicion of drink driving, will be more effective in achieving targets. However, focusing on mobile activity may result in a lower impact in terms of general deterrence. This is the case for the US and Canada where drivers are only allowed to be tested if there is any suspicion of alcohol use.

An alternative to the use of targets based on the number of tests or the number of detected offenders is to introduce targets that are based on hours of police enforcement activities. This is one of the recommendations of the aforementioned Australian review on best practices on drink driving enforcement.¹⁵ The police forces in the Netherlands collect enforcement data based on hours spent, number of tests, and number of positive samples. This data is only collected by the traffic enforcement units and used solely for monitoring: there are no set targets for this activity.

4.3.4 Collecting Information in respect of Drink Driving Enforcement Activities

Information of enforcement activities can be collected for several purposes:

- Monitoring progress concerning enforcement targets;
- Use for legal purposes and for research on the characteristics of offenders;
- Use as information for intelligence-led enforcement.

In countries such as Belgium and Finland, results of drink driving enforcement activities are collected and analysed to gain insight into progress against national drink driving enforcement targets. The information that is collected depends on the targets that are set for particular activities. Police in Finland have targets in respect of drink driving detection, recording the total number of breath tests and the results of these in the police field command ICT system. For each drink driving detection, they record personal information, location, and test results. As stated above, Belgian police have a target for the total number of breath tests, considered to be one of the measures to lower the total number of traffic fatalities in Belgium. The target

¹⁴ Hart et al., 2003 Hart S, Watson B, Tay R (2003). *Barriers and facilitators to the effective operation of RBT in Queensland*. Paper presented at the 2003 Road Safety Research, Policing and Education Conference, Sydney.

¹⁵ Wundersitz. & Woolley (2008).

for the Belgian police is 2.15 million alcohol tests annually, including both positive and negative test results. These targets are further subdivided: local police must account for 80% of breath tests and the federal police (highway enforcement) the remaining 20%.

4.3.5 Australia: Key Research

Australia, where random breath testing was introduced in the late 1980s, has been the subject of substantial research in respect of the impact of random breath testing. A key study by Homel (1993) in respect of the experience of New South Wales, advises that the most effective random breath testing activity is unpredictable, unavoidable and ubiquitous.¹⁶

Queensland in particular has had some key studies, such as research examining the correlation between random breath testing and road deaths. For example, one recent study found that the introduction of a random breath testing programme in 1988 was associated with a 11.3% reduction in traffic fatalities; its expansion in 1998 was associated with a 26.2% reduction in traffic fatalities; and the effect of the “Safe4life” program, which was introduced in 2004, was a 14.3% reduction in traffic fatalities.¹⁷ Other research comparing the RBT rates against other Australian states suggests that there is an inverse relationship between alcohol-related traffic crashes and RBT rates: for every 10% increase in the percentage of RBTs to licensed drivers, there is a 0.15 decrease in the rate of alcohol-related traffic crashes per 100,000 licenced drivers.¹⁸

We are also aware that the data recording associated with RBT operations by police in one Australian state encountered problems some years ago, involving a lack of accuracy and the recording of incorrect and inflated data. One of the approaches adopted to fix this problem was the introduction of random quality control by police supervisors, which involved the recording of vehicle registrations at RBT checkpoints and a small sample of motorists involved (i.e. registered vehicle owners) being phoned by police several days later to check whether the breath tests had actually been administered. This led to a significant improvement in the accuracy of data recording.¹⁹

Recommendation: A quality control mechanism of this nature should be considered by the Garda Síochána, and might involve the occasional use of a Garda robotised speed detection van (which automatically records vehicle details) on an approach to a MIT checkpoint, and subsequent calls to registered owners to check whether breath tests took place.

¹⁶ Homel, R. (1993) Random breath testing in Australia: getting it to work according to specifications. *Addiction*, 88 (Suppl) pp. 27S-33S

¹⁷ Nghiem, S., Commandeur, J., Connelly, L. (2016) New evidence from Australia using state-space analysis. *Accident Analysis & Prevention*, September 2016.

¹⁸ Ferris, J., Mazerolle, L., King, M., Bates, L., Bennett, S., & Devaney, M. (2013) Random breath testing in Queensland and Western Australia: Examination of how the random breath testing rate influences alcohol related traffic crash rates. *Accident Analysis & Prevention*, November 2013.

¹⁹ Interview with Dr Barry Watson, Global Road Safety Consultant, October 2017

4.4 Role of the Garda Síochána in Enforcement

4.4.1 Overview

A key objective within the Garda Síochána's Annual Policing Plan for 2017 is to work to reduce the number of fatalities and serious injuries on Irish roads. High-visibility enforcement of road traffic and road transport legislation is emphasised as a central element in achieving the service's overall aims in this area.

Recent RSA research suggests there is strong public support for the role of the Garda in road safety enforcement and sets forth a number of key findings relevant to our work:

- 89% of adults view Garda enforcement as very or fairly influential in saving lives on Ireland's roads;
- 67% of people surveyed felt that the number of Gardaí currently enforcing drink driving limits was insufficient;
- 88% of respondents would trust the Garda to undertake roadside testing.

4.4.2 Impact of Mandatory Breath Testing in Ireland

It is important to note that the annual number of road traffic fatalities in Ireland has exhibited a consistent downward trend over the past 20 years. The rate of decrease in road deaths has been most pronounced since the introduction of MIT (or MAT as it was formerly) in 2006. The diagram and table below depict the progress made over the past two decades in reducing the number of road fatalities:

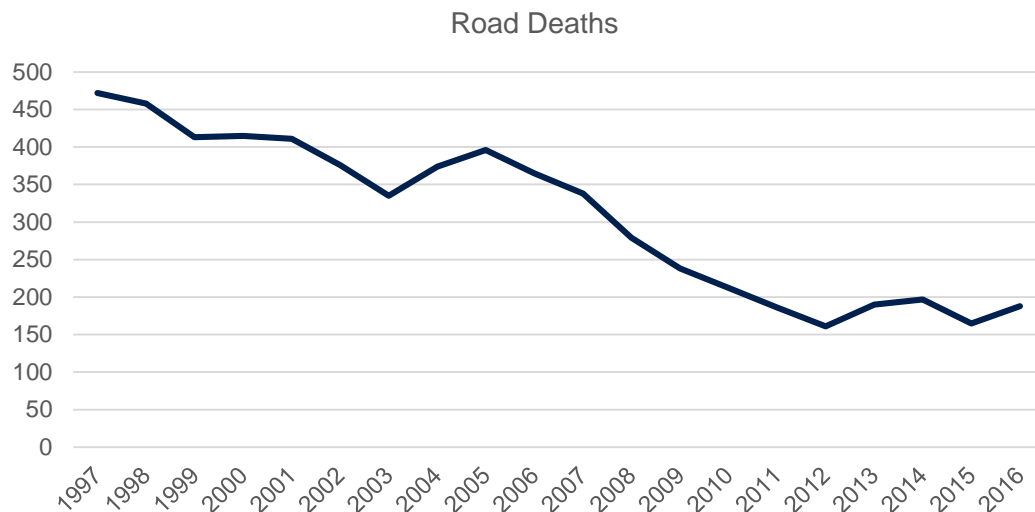


Figure 4.4.2a: Road Deaths in Ireland, 1997-2016²⁰

²⁰

Data supplied by the RSA in Tables 4.4.2a and 4.4.2b is provisional and may be subject to change as a result of validation processes, including those in relation to ongoing Garda investigations and coroner's inquests.

Year	Road Deaths	Ten-Year Average	Five-Year Average
1997	472	402	434
1998	458		
1999	413		
2000	415		
2001	411		
2002	376		369
2003	335		
2004	374		
2005	396		
2006	365		
2006 – Mandatory Alcohol Testing introduced			
2007	338	215	251
2008	279		
2009	238		
2010	212		
2011	186		
2012	161		180
2013	190		
2014	197		
2015	165		
2016	188		

Table 4.4.2b: Road Deaths in Ireland, 1997-2016

4.4.3 Incidence of Drink Driving and Coverage of Testing

Data supplied by the RSA indicate that, over the 2014-17 period, between 8% and 11% of drivers in Ireland reported having consumed alcohol before driving a motor vehicle within the past year. Separate data from the ESRA survey show that 9% of Irish drivers reported having been breathalysed within the past year.

This survey finding is at odds with the numbers the Garda Síochána were reporting on PULSE: if approximately 9% of drivers are tested each year, this represents a little less than 249,000 tests per year. PULSE data was recording an average of 446,600 per year.

It is worthy of note that a recent report by the European Transport Safety Council (ETSC) on traffic law enforcement recommends that national authorities intensify their enforcement of drink-driving laws by setting targets for minimum levels of alcohol checks within the motoring population, with a suggested benchmark that one in five motorists (20%) should be checked each year. This target is marginally higher than ESRA findings on the proportion of drivers across Europe who reported being breathalysed within the past year (19.7%), but considerably above the corresponding proportion of drivers breathalysed annually in Ireland (9%).

This suggests that there is scope for the Garda Síochána to increase the coverage of its driver alcohol testing in seeking to comply with best practice at a European level.

4.4.4 Substance Testing

RSA data indicate that, in 2014, 2% of motorists had travelled in a vehicle where the driver had taken illicit drugs such as cannabis or cocaine prior to driving. ESRA findings relating to 2015 show that 1.9% of drivers in Ireland had been tested for illicit drugs in the past 12 months. We would note that the RSA data above suggest a further 36% of motorists drove in the 12 months preceding the survey date after taking either prescription or over-the-counter medicines. Given the potential adverse effects of these forms of medication on driving ability (e.g. if they induce drowsiness or impair capacity to focus), there would appear to be potential for the Garda to enhance the scope of its testing for medication other than illicit drugs.

4.5 Our Assessment and Recommendations

Our assessment: Our review of the strategic road safety context indicates that:

- Alcohol presents a significant risk factor on Irish roads. Significant progress in reducing the incidence of fatalities will be required to achieve the Government's 2020 target;
- Enforcement activity has been identified as a key deterrent to drink driving in research conducted in other comparable jurisdictions;
- International evidence suggests that random breath testing, including the use of static checkpoints, has a positive deterrent effect on drink driving;
- There is strong public support for the Garda's role in enforcement and breath testing;
- There is potential for the Garda to increase the coverage of its alcohol testing in line with best practice across Europe, and to increase the focus on its testing for inappropriate consumption of prescription and over-the-counter medicines.

Recommendation: The Garda Síochána should work with the Road Safety Authority in developing a strategic and evidence-based approach to Garda activities promoting education, deterrence, and enforcement in respect of drink driving and driving under the influence of drugs. The Garda activities should be at a minimum in line with European Transport Safety Council recommendations, such as a target of 20% of drivers to be breath-tested per year. This should be clearly communicated to all Garda members and the importance of the activities, including breath testing, should be emphasised and explained.

5 Internal Reviews within the Garda Síochána

5.1 The Policing Authority's Requirement

The terms of reference issued by the Policing Authority require Crowe Horwath to undertake the following tasks:

- a) Review and assess the process employed and the outcomes of each of the investigations conducted by Assistant Commissioner O'Sullivan;
- b) Review and assess the process employed and the outcomes of any work done by the internal audit service on these matters;
- c) Assess whether the quality of the internal work done is such that it may be relied upon by the service provider as a key source of data and information; and
- d) Identify what further information or steps are required in order to facilitate the service provider's completion of part three below.

We address these issues in the following paragraphs, dealing firstly with the problems associated with FCNs and summonses, and secondly with the discrepancies in recording of data at MIT checkpoints.

5.2 FCNs and Summonses

5.2.1 *Internal Garda Report*

The internal Garda report produced by the team led by Assistant Commissioner Michael O'Sullivan was published on 6 September 2017. Much of the content of that report aligns strongly with the findings we have presented in Section 2 of this report to the Policing Authority, dealing with issues including PULSE, the complexity of the road traffic legislation, the lack of training or CPD in these matters for Garda members, access to updated information, technology, and other matters.

In relation to the quality of the work undertaken by the O'Sullivan team, we were satisfied that it provided us with a solid body of material which was helpful to our review and which provided a suitable foundation for our information gathering and analysis. The team was composed of detective Gardaí, with assistance from the Garda Síochána Analysis Service, and did not include members of the Traffic Corps in order to ensure no conflict of interest. It is evident that the team undertook a substantial and detailed piece of work over several months, and with a clear intention of determining what went wrong in respect of wrongly-issued summonses and in relation to the MIT data discrepancies.

One issue within the report, however, is its recommendation that a Working Group be established to progress the development of a new fixed charge processing system, as recommended by the 2014 Garda Inspectorate report. This Working Group was in fact established in 2014, co-chaired by the Department of Justice and Equality and the Department of Transport, Tourism and Sport, and has a number of key stakeholder

organisations represented on it, including the Garda Síochána. The fact that the O'Sullivan team were unaware of this indicates a lack of communication within the Garda Síochána.

The internal Garda review team, and the Garda National Roads Policing Bureau under Assistant Commissioner Michael Finn, also provided us with a significant amount of assistance during the course of the review, including various opportunities to discuss the information gathered and provide clarification on issues arising.

5.2.2 Other Garda Review Processes

During the course of the review, we also engaged with the Garda Internal Audit Unit and with the Garda Professional Standards Unit. Neither of these bodies had undertaken any work in relation to the incorrect summoning of motorists who should have received FCNs. It was indicated that this was due to a desire to wait for the publication both of the O'Sullivan team's report and this report, to inform the planning of their own internal investigations.

Both indicated that this matter would form part of future work to be undertaken by them within their respective remits, given the seriousness of the issues involved and the need to ensure that there is no recurrence of these problems in future.

5.2.3 Follow-Up Actions

As shown in the timeline presented within Section 2.6.1 above, it took just over five months for the relevant fix to be made to the PULSE system to prevent the incorrect issuing of a summons for an offence which should attract an FCN, from the time the problem was first identified to GISC. Given the requirement for the Garda Síochána to investigate the problem and to engage with the Office of the DPP, and then to amend the software and implement the change to PULSE, we regard the timescale involved as being reasonable.

Thereafter, the process of examining all of the estimated 14,736 convictions and contacting the individuals concerned was commenced by the Garda Síochána, and continues up to the present point. Again, this is a significant undertaking involving a number of agencies (the Garda Síochána, the Courts Service, the Department of Justice, the Office of the DPP, and others) and we believe that the timescales involved in undertaking this work are reasonable.

In Section 6, we provide further analysis and comment in respect of the broader issues associated with the incorrect summoning of 149,426 motorists, along with recommendations for consideration by the Policing Authority and the Garda Síochána.

5.3 MIT Checkpoint Discrepancies

5.3.1 Internal Garda Report

A separate internal Garda report on the recording of breath tests at MIT checkpoints was produced by the team led by Assistant Commissioner Michael O'Sullivan, and it was also published on 6 September 2017.

Again, at a factual level, many of the causative factors outlined in the internal Garda report are similar to those which we have found during the course of our review – training,

supervision, system failures in respect of PULSE, lack of precise definitions of data required, and so forth.

As with the FCN report, we were satisfied that this report and the work underpinning it provided us with a substantial amount of valuable data in respect of MIT recording. In particular, the work of the Garda Analysis Service was very detailed and gave us a solid foundation for the information gathering and analysis which took place as part of our site visits to the 28 Garda Divisions. We were satisfied that this work was of a sufficient quality to allow us to rely on the data pertaining to PULSE records for each Garda Division, and also on the readings taken from the Dräger devices, without our having to repeat this work or cover the same ground. Again, the internal Garda review team, and the Garda National Roads Policing Bureau under Assistant Commissioner Michael Finn, were helpful to us throughout the course of the review in respect of clarifications, requests for further information, and regular opportunities to discuss the information being gathered.

Notwithstanding the quality of much of the work done, and the fact that the O'Sullivan team identified very similar causative factors to those identified by Crowe Horwath, we believe that the internal Garda report has stopped short of analysing why these problems in respect of MIT data discrepancies occurred, and what was done about them when they first came to light over 3½ years ago. In essence, the O'Sullivan report into MIT data discrepancies is strong on the "what?" and "how?" aspects of the examination, but does not really probe deeply the issue of *why* these problems occurred. There is little self-reflection in the report as to the organisational issues underpinning the problems.

We will return to these matters in Section 6 of this report.

Of concern in the O'Sullivan report is its conclusion that recording breath test numbers serves no purpose, at least partly based on comparisons with practice in UK policing jurisdictions. However, as indicated previously, random or mandatory breath testing is not used in England, Scotland, or Wales, and has only very recently been introduced in Northern Ireland. It is not, therefore, comparing like with like when considering the practices and processes used in breath testing in these jurisdictions. International evidence does support a link between the scale of random breath testing and improvements in road safety outcomes and there are other countries where recording and reporting on random breath testing is in place.

5.3.2 Other Garda Review Processes

During the course of the review, we also engaged with the Garda Internal Audit Unit and with the Garda Professional Standards Unit. Neither of these bodies had undertaken any work in relation to the MIT data discrepancies. In particular, the Garda Internal Audit Unit expressed concern that these matters had not been drawn to its attention before they came into significant media attention in March 2017, given their seriousness, and expressed the view that such issues should have been drawn to their attention and to that of the Audit Committee.

Both the Garda Internal Audit Unit and the Garda Professional Standards Unit advised us that this matter would form part of a future work programme within their respective remits.

Ordinarily, we would expect internal units such as the Garda Internal Audit Unit and the Garda Professional Standards Unit to have a significant and prominent role in reviewing problems such as MIT data recording and the incorrect issue of summonses rather than FCNs, and in carrying out routine thematic inspections of different policing functions and processes. These

are valuable internal resources whose role and skillsets lend themselves towards work of this nature, not just with regard to investigating problems which have arisen, but also in proactive work to ensure that they do not arise in the first place.

5.3.3 Follow-Up Actions

The problems associated with the recording of data at MIT checkpoints operated by the Garda Síochána first started to come to light in 2014. The shaded box below shows the timelines involved:

11 April 2014: The then Minister for Transport, Mr. Leo Varadkar TD, wrote to the Garda Commissioner advising of correspondence received from Mr. Gay Byrne, then Chairman of the Road Safety Authority, containing allegations in relation to the manner in which MIT checkpoints were being performed in the West of Ireland. These allegations, which we understand were made by a Garda Reserve member, were based on anonymous correspondence received by Mr. Byrne. The letter also contained allegations in respect of the lack of enforcement of road traffic legislation.

24 April 2014: The Assistant Commissioner, Western Region, in the Garda Síochána submitted a report in respect of road traffic enforcement in the Western Region. The Assistant Commissioner further advised that the issues raised would be placed on the agenda for the next Regional Performance and Accountability Framework meeting.

12 May 2014: The Minister for Justice was provided with comprehensive report in respect of the issues raised. The report advised of the roles and responsibilities of the Garda Síochána, the Garda Roads Policing Strategy, the background to MIT Checkpoints, enforcement in Western Region and other issues in respect of general policing. The Minister for Transport was advised that a comprehensive report had been submitted to the Minister for Justice.

22 August 2014: The Director of the Medical Bureau of Road Safety wrote to the Garda Síochána in respect of purchasing of consumables in relation to Dräger devices.

8 January 2015: Further correspondence was issued to the Department of Justice by the Garda Síochána advising that all Garda Reserves in the Western Region had been spoken to and it was not possible to identify the author of the correspondence sent to the RSA Chairman. The Garda Síochána indicated that in the absence of same, it would not be possible to progress the matter further.

7 March 2015: The Assistant Commissioner, Traffic issued an instruction to all Divisional and District Officers to ensure that mechanisms were in place to monitor operation of MIT checkpoints.

20 July 2015: The Assistant Commissioner, Traffic directed a Superintendent within the Garda National Roads Policing Bureau to establish a working group to examine recording of equipment and data on PULSE.

11 November 2015: The Working Group submitted a report in relation to an audit conducted in respect of breath tests performed in the Southern Region between 2009 and 2014. The audit identified a discrepancy of 17% between the number of breath tests recorded on PULSE and the number of breath tests recorded on the screening devices.

7 April 2016: A new instruction was issued in the form of a HQ Directive set out the procedures to be followed in respect of the recording on PULSE of the data using Dräger serial numbers and counter readings.

18 May 2016: An instruction was issued to each Regional Assistant Commissioner in requiring Divisional Officers to report the number of checkpoints, both scheduled and performed, and the reasons for any checkpoint being cancelled, at the Performance & Accountability Framework.

2 June 2016: Assistant Commissioner, Traffic, directed a national audit in respect of MIT checkpoints and a 'caveat' was placed on Garda website in respect of figures provided (on the website) relating to breath testing.

8 June 2016: A report was submitted to the Department of Justice & Equality advising that an issue had been identified regarding figures recorded for breath-testing carried out by the Garda Síochána.

1 July 2016: Each Division was required to conduct an audit of Divisional MIT checkpoints.

4 December 2016: The PULSE System was upgraded and created a number of new data fields, including the recording of data in respect of screening devices and the counter readings before and after the checkpoint.

19 January 2017: At the January Policing Strategy and Performance Committee meeting, the Committee raised a number of questions regarding figures provided by the Garda Síochána on MIT checkpoints and breath tests.

14 February 2017: The national audit was extended to include the period from 1st July 2016 to the 31st December 2016.

Over a five-year period from 1 November 2011 to 31 October 2016, PULSE data shows that the Garda Síochána performed a total of 1,995,369 roadside breath test at 373,274 checkpoints. GNRPB sought data from the Medical Bureau of Road Safety for comparison purposes.

24 February 2017: A sample of the data available in respect of screening device counter readings was received from the Medical Bureau of Road Safety.

28 February 2017: A meeting was held with Medical Bureau of Road Safety to identify if any additional data would be of assistance in respect of the audit being conducted.

8 March 2017: A request was submitted to the Medical Bureau of Road Safety seeking additional data in respect of Dräger screening devices.

10 March 2017: The Medical Bureau of Road Safety provided data to the Garda Síochána pertaining to screening devices covering the period when the changeover took place in October / November 2011. Analysis of the available data indicated that 1,058,157 tests were recorded on the screening devices for the period under review.

21 March 2017: The Policing Authority was informed of the discrepancy.

23 March 2017: A press conference was held advising of the details of the MIT checkpoint data discrepancy and the issues in respect of summonses incorrectly issued for FCN offences.

24 March 2017: Assistant Commissioner O'Sullivan was appointed to conduct an examination into the MIT data recording and FCN issues.

27 March 2017: The Policing Authority issued a statement expressing concern regarding the implications of the MIT/FCN issues with respect to a number of areas including public confidence, management and supervision, and ethics and integrity.

28 March 2017: The Policing Authority issued a second statement detailing a number of steps taken and information sought by the Authority in relation to MIT/FCN.

From this timeline, it is evident that it was known within the Garda Síochána that there were discrepancies in MIT checkpoint data as early as 2015, and a working group was established

in July 2015 to examine these matters. This working group reported in November 2015 that its audit of tests conducted in the Southern Region showed a 17% discrepancy. However, it took until March 2017 for these matters to come into the public domain, when the MBRS figures showing a national 88% discrepancy (almost 934,000 tests) were provided to the Garda Síochána and published shortly thereafter.

Given the emerging scale of the discrepancies involved, and the fact that these matters first started to come to light in 2014 and 2015, we find it surprising that the pace of response from senior Garda management was slow, particularly bearing in mind the reputational damage associated with this issue.

When these issues did come fully into the public domain in 2017, the Garda Síochána was forthright in its response. Appearing in front of the Oireachtas Justice Committee on 30 March 2017, the then Commissioner stated:

As Garda Commissioner and on behalf of An Garda Síochána, I sincerely apologise for the grave mistakes and wrongdoing during the last decade that have led to the two controversies we are here today to discuss. Those mistakes and wrongdoings are unacceptable in policing terms, unacceptable in ethical terms, unacceptable in terms of public trust, and, most critically, unacceptable to the advocacy and support groups involved in road safety and to those who were wrongly brought before the courts. They have raised serious issues about how at all levels the service was managed, how certain Gardaí operated on the ground and the supervision applied. Given the scale of these issues, they cannot simply be blamed on one individual or one area. It is a collective failure from top down and bottom up. We all take responsibility for this and for ensuring we establish how this happened and that it cannot happen again.

When these matters came into public attention in late March 2017, the (then) Commissioner convened a meeting of all Chief Superintendents to examine and discuss these matters. At that meeting, *“It was requested (orally) that each Divisional Officer examine his/her own area and liaise with [the O’Sullivan] examination team if factors were identified. This was optional. No official communication or memo followed.”*²¹

This request was then followed up 3½ months later by two email reminders from Assistant Commissioner O’Sullivan to Chief Superintendents, 10 days apart.

5.4 Overall Assessment of the Garda Síochána’s Response

Given the serious reputational damage that inflicted on the Garda Síochána as a result of this problem, we are very surprised that a specific response was not sought from each Division within 1-2 weeks, and that the request for each Chief Superintendent to examine matters in his/her own area was optional and not mandatory. Our team’s experience and understanding of other uniformed organisations internationally is that when serious problems involving public confidence have arisen, their corporate response has been swift and has generally involved searching analysis across the whole of the organisation, on a compulsory basis.

This was not the case in the Garda Síochána. Of the 28 Divisions, only 14 provided a response to Assistant Commissioner O’Sullivan and 14 did not. Of the 14 which did, the material ranged from a highly detailed, 104-page report from one Division (which had set up

²¹

Quotation from an email from Assistant Commissioner Michael O’Sullivan to Crowe Horwath, dated 20 Sept 2017

an internal review team under an Inspector, reporting directly to the Chief Superintendent), to other Divisions which sent in lists of data unsupported by any narrative. Other Divisions reported that they had made internal enquiries but stated that they were unable to furnish any reason why the MIT data discrepancies had occurred. This represents a significant failure both at central and local management level to recognise the severity and impact of the issue and to take swift and effective action.

Overall, there appears to have been a sense across the Garda Síochána that this was a matter for Assistant Commissioner O'Sullivan and his team to review. Some Divisional Officers indicated to us that they did not have the skills or resources within the Division to examine the MIT discrepancies, and that they preferred to wait for the O'Sullivan team (which in fact only visited 12 of the 28 Divisions) to conduct the review. None of the 28 Divisions appears to have considered using the approach taken by Assistant Commissioner O'Sullivan, i.e. appointing detectives to examine these matters.

The prevailing attitude across many Garda Divisions appears to be that this issue was primarily to do with data recording, the compilation of statistics, and problems with the PULSE system. From our discussions with members at all ranks across the 28 Divisions, few would appear to have made the connection between the need for accurate recording of MIT checkpoints / breath tests on the one hand, and the planning and resourcing of campaigns to reduce the scale of drink-driving. For them, this was predominantly an administrative matter. This is reflected in the management approach to investigating and acting on the issues raised, and to an extent in the O'Sullivan report and its conclusions.

Our assessment: Garda management failed to respond to the issues raised in relation to the recording of MIT breath tests in a timely, appropriate, and effective manner. The pace of response was slow, and the approach taken did not recognise the significance of the problem.

6 Conclusions and Recommendations

6.1 Conclusions

6.1.1 *Summonses and FCNs*

Section 2 of this report has provided significant detail in respect of the events leading up to the incorrect summonsing of 149,426 motorists who should have received FCNs, of whom approximately 14,736 were subsequently convicted.

In relation to the reasons why this situation arose, it is clear that there is no single factor that has led to this problem, but rather a series of interlinked deficiencies including:

- highly complex road traffic legislation involving multiple offences;
- inadequate training for new Garda recruits in relation to road traffic offences;
- the absence of continuous professional development for serving Garda members;
- inadequate arrangements for the dissemination of updates regarding road traffic offences in a manner which would be concise and accessible by operational Gardaí;
- fundamentally, a misunderstanding by many Gardaí that offences normally attracting an FCN could be bundled with offences requiring a summons in order to produce a single summons covering series of linked offences relating to single incident;
- fundamentally, a loophole in the PULSE system which permitted these offences to be incorrectly linked;
- the lack of availability of suitable technology at the roadside to assist in the prosecution of road traffic offences, whether through FCN or through summons.

Given the length of time involved – these errors took place over more than 10 years – it is very surprising that this problem was not identified earlier, whether by the Garda Síochána, by the Courts Service, or by lawyers representing the defendants in these cases.

It is worth noting that 96% of those who were incorrectly summonsed for an FCN offence were also summonsed for other road traffic offences, and that only 4% related to “one-off” summonses which were not linked to another offence. However, even that small percentage represents nearly 6,000 incorrect prosecutions, and we find it strange that none of these appears to have been challenged at any stage.

That said, the efforts now being taken by the Garda Síochána to correct the 14,736 incorrect convictions are noted, and we recognise the amount of work being put into this process by the Garda Síochána and by other agencies. This seems to us to be an appropriate response in relation to addressing the specific cases.

However, it is clear that the complexity of the reasons which produced this problem in the first instance requires to be tackled seriously. Whilst the fixes made to the PULSE system appear to have been successful in respect of preventing this specific problem from recurring, there are major underlying deficits which need to be addressed urgently by the Garda Síochána in order to ensure that similar problems of equal magnitude cannot arise in the future.

For instance, we are concerned that other changes to road traffic legislation could potentially result in problems of a similar nature arising, whether through lack of training/CPD, circulation

of overly complex or inaccessible updates, absence of technology, delays in updating PULSE, and so forth. Other than the changes to the PULSE software in respect of closing the loophole for FCN offences to go straight to summons, all of the other factors which caused this major problem are still present and need to be tackled urgently.

We make a series of recommendations on these matters in Section 6.2 below.

6.1.2 MIT Checkpoint Data Discrepancies

In Section 3 of this report, we have detailed the various factors which led to the inaccurate recording of MIT checkpoint data over an eight-year period. As with the problem in respect of summonses and FCNs, there was no single reason behind this problem, but again a series of interlinked deficiencies including:

- a strategic context whereby some Divisional Policing Plans set out numerical MIT checkpoint (and in some cases breath test) targets from as early as 2010, and whereby the national requirement to increase the number of MIT checkpoints by 10% each year was clearly stated in the 2016 Modernisation and Renewal Programme document;
- an organisational context whereby many frontline Garda members and their supervisors felt that it was important to record good or improving performance with regard to the number of MIT checkpoints operated, which was in some cases reflected by specific MIT and breath test targets in Divisional Policing Plans during the period in question;
- the reported entry of false MIT checkpoint data onto the PULSE system by Garda members who had been detailed to perform a certain number of checkpoints during their tour of duty but had been unable to do so;
- the absence of adequate supervision, linked to the reduction in supervisory numbers in many Garda Divisions and compounded by the change to a five-shift system, which left supervisors thin on the ground in many locations;
- uncertainty regarding the definition of “stopped and controlled” on PULSE, and whether this meant the same as the number of drivers breathalysed;
- a lack of precision in recording the number of breath tests administered;
- a sense across the organisation that precision wasn’t important, particularly when some fields originally on the PULSE input screen for MIT incidents (number of vehicles through the checkpoint, time delays) were almost impossible to measure accurately in any case;
- data entry errors by GISC staff, including those caused by the automatic pre-population of the field showing the number of breath tests with a “0” which had to be manually overwritten (otherwise 5 breath tests would appear as 50, etc.);
- a lack of training and CPD in respect of all aspects of the MIT checkpoint data recording process;
- issues with regard to the Dräger devices and their stewardship across the organisation.

The above issues represent the main organisational, functional, and technical reasons why the data discrepancy occurred. Fundamentally, however, we must ask why these problems arose and why they were permitted to go on for so long. A key finding of this review is that these technical and functional matters were compounded by a culture within the organisation that did not recognise the importance of accurate recording but in addition, in a much more damaging sense, created a dynamic of maximising data outcomes due to management

pressure, expectations, and lack of professional curiosity when the outcomes exceeded capacity. This culture was a key driver for and enabled unethical behaviour by Garda members who falsified checkpoint data, as well as the practice of reporting estimated, rounded-up figures for breath tests where accuracy in such detail was not considered important at any level in the organisation.

Our assessment is that poor governance and accountability, coupled with a lack of frontline supervision, were at the heart of these problems. As we have noted within Section 5, it would appear to us that the prevailing attitude across many Garda Divisions was that this issue was primarily to do with data recording, the compilation of statistics, and problems with the PULSE system. It was predominantly an administrative problem. “Feeding the beast” and ensuring that the District or Division continued to report good performance in MIT checkpoints were the main concerns for many Gardaí, along with making sure that if three checkpoints were authorised for a given tour, then the number entered onto PULSE at the end of the tour either matched the expectation or was close to it, irrespective of the number of checkpoints actually operated.

In many areas, frontline supervisory ranks had seen major reductions since 2008 – during our Divisional visits, we were frequently told that one or two sergeants were now doing the job of five or more, and that supervisory resources were simply not available to oversee the work of frontline members outside the station. As a consequence, it was rarely possible for supervisors to verify whether the number of checkpoints being entered onto PULSE was accurate. We were also advised that some supervisors either encouraged the entry of incorrect data onto PULSE, or even entered it themselves, in order to ensure that the number of checkpoints which had been authorised was matched by the number reported on PULSE.

This represents an almost “perfect storm” of a combination of management-level requirements for ever-improving figures despite reducing resources and a lack of frontline supervision or robust accountability mechanisms to validate the returns that were being submitted.

Ultimately, there were no effective governance processes in place within the Garda Síochána to verify that the information being entered onto PULSE in respect of MIT checkpoints, and by extension the number of breath tests performed at these checkpoints, was correct. This information was then published on the Garda website, in effect without any quality controls being in place. Numbers of MIT checkpoints operated were reported at Divisional and regional performance meetings, again without verification or quality control. Given that this was a roads policing issue, we would have expected that ultimate responsibility for the verification of MIT checkpoint data would have rested with the relevant Assistant Commissioner / Garda National Roads Policing Bureau.

We have a concern that the national level statistics continued to rise at a time when human resources were being cut, when overtime budgets were being squeezed, and when frontline supervision was reducing – yet no one at senior management level seemed to say “this appears to be too good to be true”.

From our discussions with members at all ranks across the 28 Divisions, few would appear to have made the connection between the need for accurate recording of MIT checkpoints / breath tests on the one hand, and the planning and resourcing of campaigns to reduce the scale of drink-driving.

We contrast that attitude with the view of the Road Safety Authority, who expressed concern that the over-reporting of breath tests may have determined or influenced the allocation of Garda resourcing away from roads policing. The RSA is of the view that this negatively impacted on the numbers of people killed and seriously injured on Irish roads. Importantly, the recent research conducted by the RSA where alcohol was a contributory factor in fatal collisions was in stark contrast with the attitude towards the reporting of breath tests.

The primary requirement for many Gardaí was seen as being to report data, and many within the organisation seem to have lost sight of the original reason for mandatory testing, i.e. the need to reduce road traffic fatalities and serious injuries caused by drink-driving. “Feeding the beast” was about submission of data, not about detecting or preventing drink-drivers and educating the road-using public.

There does not appear to have been a strong sense of accountability across the Garda Síochána in respect of the submission of correct MIT data. The need to consistently present data showing improving MIT performance seems to have become the overriding necessity across the organisation, with members less focused on the need for accuracy and some deliberately entering incorrect data to make performance look better, or to ensure that they did not get into trouble for not performing the number of checkpoints which had been authorised.

This absence of strong accountability and good governance in respect of MIT operations would appear to be reflected in the response across the organisation following the major publicity and political attention given to these issues in late March 2017. After the then-Commissioner requested that each Division should examine and discuss these matters locally, it is highly surprising that whilst some Divisions responded by establishing internal review teams and undertaking extensive analyses of the MIT data problems at local level, half of the Divisions appear to have done nothing.

This would appear to suggest that not only was there a general under-appreciation of the impact on public confidence in the Garda Síochána, but it also suggests that there was a failure to recognise the potential for similar problems with the recording and publication of other operational data.

We would also suggest that many within the Garda Síochána do not appear to connect the need for accurate recording of MIT data with the requirement to show that the mandatory testing legislation is needed and is being used correctly.

Fundamental changes are needed in this area, and we detail our recommendations in Section 6.2 below.

6.2 Recommendations

6.2.1 Overview

This report has identified a range of deficiencies within the Garda Síochána which led to the major problems in respect of incorrect prosecutions and MIT data discrepancies. These deficiencies covered a wide range of technical, operational, procedural, supervisory, management and governance issues, many of which were impacted by training/CPD, technology, information dissemination, and resourcing across the organisation.

We recognise that some work has been commenced to address these issues, both internally and externally – for example, the multi-agency Working Group established by the Department of Justice to consider road traffic legislation – and that changes to the PULSE system have been introduced in respect of MIT data recording and also to prevent the incorrect issue of summonses for FCN road traffic offences.

With specific regard to the MIT data discrepancies, we note that the procurement process currently being led by the Medical Bureau of Road Safety will see the introduction in 2018 of new alcometer devices with better data recording capabilities. We would strongly suggest that any devices selected for use by the Garda Síochána should be capable of automatic data download, which would facilitate the recording of a wider range of much more accurate data.

Nonetheless, very significant issues remain with regard to both the FCN/summons and MIT data recording problems, particularly with regard to governance and accountability, supervision, training, information dissemination, and related operational and administrative matters.

6.2.2 Summary of Recommendations in Respect of Summonses Incorrectly Issued

- A review of road traffic legislation should be undertaken with a view to streamlining and simplifying it where possible. We note that the Working Group set up on foot of the Garda Inspectorate 2014 report is examining this issue and recommend that this work continue.
- The system for issuing and processing FCNs by the Garda Síochána requires a complete overhaul, with a strategic approach to identify what should be delivered and then building the necessary systems and processes around this. Issuing and processing FCNs should be a single system, with no manual summons requirements for unpaid FCNs. We note that the recommendations of the Garda Inspectorate report likewise call for a change to the FCPS, and these should continue to be progressed both by the Working Group and the Garda Síochána.
- The road traffic legislation should be reviewed in respect of the particular issue of processing multiple offences where some are designated as FCN offences and some as non-FCN offences. Consideration should be given to a mechanism to allow for FCN offences to be prosecuted by summons where they have been detected alongside more serious non-FCN offences.
- The DLIP cross-check process should be enabled to check retrospectively to ensure that early production of documents by individuals does not get overlooked, resulting in the incorrect issuing of a summons.
- Given the scale of the problems with the FCNs and the fact that the associated loopholes in PULSE were not spotted more quickly, and the potential that similar issues might arise in other areas of road traffic policing where legislation and regulations are

prone to change, we would recommend that a comprehensive systems audit process is put in place by the Garda Síochána to ensure that similar situations do not recur.

- The mechanisms for delivering training and information updates to Garda members need to be redesigned. Adequate training in FCN processing should be implemented in Templemore for Garda recruits, and the FCPO should be involved in designing and delivering this training. Mechanisms such as online training courses or apps that are well-designed, appropriate, and useful should be put in place for the processing of road traffic offences (and other CPD requirements), with Garda members assured of adequate access to such training. Technology necessary to delivering such training should be readily available to members, either in stations or by using cloud-based or phone-based systems to enable access from devices other than station-based computers. Other training mechanisms such as training at Divisional level by FCPO personnel should be considered, including identifying Garda members as training leads in each Division who can be formally trained and then in turn train their colleagues. This should include both formal training sessions and short updates presented to Garda members, for instance during the parading time at the start of each shift.
- A wholesale review of the means by which critical information is communicated to serving Gardaí is required. This needs to be undertaken with a strategic view to identify what information is needed, for whom, and at what time, with mechanisms designed to achieve this in an efficient and user-friendly way. Garda members must be enabled to access key information in a more accessible way than at present, in terms of the design of the content, the means by which it is accessed, and the timeliness of the updates.
- All Garda members involved in road traffic policing, whether as a member of the Traffic Corps or a regular member, should have access to a modern device supporting the efficient processing of road traffic offences. Such devices should include – and have enabled – the following:
 - the capacity to print a ticket to issue directly to the motorist at the time of the offence;
 - access to the updated offence code lists (by means of user-friendly menus/submenus, for example);
 - GPS to record the location of the incident;
 - automatic number plate recognition (ANPR) with links to relevant vehicle data;
 - a barcode reader to read barcoded tickets;
 - a camera.
- Such devices should be capable of being docked and automatically linking to the FCPO for the issuing and processing of FCNs, including notices for drink driving.
- The system should facilitate the issuing of a ticket directly to the motorist at the time of a detected FCN offence.
- The recommendation of the Garda Inspectorate FCPS report to apply a “pre-summons” status to a physically-issued ticket should be implemented.
- The rate of strike-out of unpaid FCN prosecutions should be monitored closely and other measures considered if strike-out rates do not fall. Our recommendations to issue physical tickets at the time of detection and to introduce the pre-summons element will be likely both to reduce court appearances and strike-outs for non-receipt of FCNs.
- Consideration should also be given to the presentation of a statement of evidence in court, rather than the requirement for a Garda member to give evidence in person.

- Should there be an anticipated delay in the introduction of modern, functional handheld devices for the processing of FCNs, a system of phoning in FCN details to the FCPO and/or GISC should be piloted. This must be capable of being accessed on a 24-hour basis, and the FCPO and/or GISC must be adequately resourced and have access to the required systems to take on the additional calls and processing duties.
- The remainder of the recommendations of the Garda Inspectorate FCPS report should be implemented without delay.
- We recommend in this report the streamlining of the issuing of summonses, and the elimination of manual summons processes in respect of fixed charge offences. In the meantime, however, the Garda Síochána should review the non-issue of manual summonses in detail and should provide an assurance report to the Policing Authority within two months.

6.2.3 Actions to Progress Recommendations Relating to Summonses and Fixed Charge Notices

- The Garda Síochána should establish a Project Team to examine all of the issues contained within this report, and within the September 2017 report by Assistant Commissioner Michael O'Sullivan, relating specifically to the incorrect prosecution of motorists who should have received FCNs. This team should be led by an individual of senior rank (e.g. Assistant Commissioner) and should include individuals drawn from each of the relevant areas, including Roads Policing, IT, Legal Services, Training/CPD, and others as appropriate.
- This work should also include a proactive element, looking at the potential for future issues of a similar nature to arise, and not just the rectification of the problems associated with the incorrect issuing of summonses rather than FCNs.
- A Project Board to oversee this work should be established, and – reflecting the seriousness of the issues reported herein – should be sponsored by the Commissioner, and chaired by a Deputy Commissioner.
- The Project Team should be requested to produce a detailed implementation plan within eight weeks, setting out all of the sub-projects and tasks required to respond to each of the issues identified within the Crowe Horwath and O'Sullivan reports, including details of timescales, milestones, resources, outputs/deliverables, and expected outcomes. Given the scope and extent of the issues to be resolved, we would anticipate that an implementation period of 18 to 24 months would be required to ensure that all of these issues are effectively concluded.
- The implementation plan should be submitted to the Policing Authority for review and comment, and should be signed off by senior Garda management.
- The implementation process should be subject to six-monthly progress review by the Policing Authority.
- In order to ensure the retention of public confidence, the implementation plan and the six monthly progress reviews should be published.
- When the implementation process is complete, its effectiveness should be formally evaluated by the Policing Authority and the results of this evaluation should be published.

6.2.4 *Summary of Recommendations in Respect of MIT Recording Discrepancies*

- The focus of the Garda Síochána should now be on correcting the identified problems across all dimensions (procedures, technology, training, supervision, accountability etc.) rather than conducting continuing and lengthy examination into the scale of past discrepancies.
- The need for precision should be emphasised to all Garda members involved in recording and reporting MIT checkpoint data, as part of training and ongoing professional development, and through strengthened supervisory arrangements.
- Given that one aspect of this problem was the lengthy call waiting times at GISC, which in turn led to some data being called in during a subsequent shift, we recommend that GISC take urgent action to address the issue of call waiting times, with a view to ensuring that all MIT incident data can be recorded during the shift (i.e. same day).
- A clearer strategic view needs to be taken across the Garda Síochána in respect of the purpose of random breath testing (as part of both public road safety policy and operational policing practice), its importance as a fundamental part of the detection and prevention of drink-driving, and the need for accurate, reliable, and honest statistics to be published in respect of MIT checkpoints. This needs to be communicated across the organisation and understood by all operational Garda members involved in conducting MIT checkpoints.
- Whilst supervisory numbers are increasing again as the Garda Síochána has recommenced recruitment and is running more promotion boards, it would be worthwhile for the organisation to undertake a fresh evaluation of its five-shift system to determine whether it is truly meeting the demands of frontline policing, particularly with regard to the capacity of the Garda Síochána to ensure consistent supervision.
- More effective arrangements need to be developed for the proper stewardship of Dräger devices across the Garda Síochána, taking account of some other good practice already in place within the organisation. Separate examination of PULSE should also take place to determine whether the field for recording Dräger device numbers can be pre-populated with those serial numbers allocated to the Division for which each MIT incident is being recorded.
- The Garda Síochána should pay careful attention to the requirement for training in both the current and new generations of breathalyser equipment. This does not have to be delivered at the Garda College, and options for consideration may include the use of training videos or cascaded training delivered across the organisation (e.g. Traffic Corps members trained first, and then they help roll out training to regular members in their own Division).
- More effective means of disseminating this material need to be found which are fit for purpose, taking into account the time available for Garda members to read this material, the availability of IT infrastructure, and other pertinent factors referred to above. A suggestion from many frontline members was that training and updating on these issues should ideally be delivered through more targeted means – for example, shorter briefing sheets or online videos which would get the key points across, with more detailed material available to be accessed as required. We are aware that these approaches are used in some other aspects of Garda training and information dissemination, and would encourage such approaches to be taken in respect of MIT checkpoints and other aspects of roads policing.
- We propose that there should be regular engagement and joint training organised between GISC and a small cohort of experienced Garda Traffic Corps members. A

single information source should exist in relation to all aspects of MIT checkpoint data recording, accessible to both GISC and Garda members.

- The Garda Síochána should undertake or commission a detailed review of all operational and data processes associated with MIT checkpoints, with a view to identifying best practice and a new set of processes for implementation across the whole of the organisation.
- The Garda Síochána should work with the Road Safety Authority in developing a strategic and evidence-based approach to Garda activities promoting education, deterrence, and enforcement in respect of drink driving and driving under the influence of drugs. The Garda activities should be at a minimum in line with European Transport Safety Council recommendations, such as a target of 20% of drivers to be breath-tested per year. This should be clearly communicated to all Garda members and the importance of the activities, including breath testing, should be emphasised and explained.
- A quality control mechanism similar to that used in one Australian state should be considered by the Garda Síochána, and might involve the occasional use of a Garda robotised speed detection van (which automatically records vehicle details) on an approach to a MIT checkpoint, and subsequent calls to registered owners to check whether breath tests took place.

6.2.5 Actions to Progress Recommendations Relating to MIT Checkpoint Data Recording

- The Garda Síochána should establish a Project Team to examine all of the issues contained within this report, and within the September 2017 report by Assistant Commissioner Michael O'Sullivan, relating specifically to the problems associated with the recording of data from MIT checkpoints. This team should be led by an individual of senior rank (e.g. Assistant Commissioner) and should include individuals drawn from each of the relevant areas, including Roads Policing, IT, Training/CPD, and others as appropriate. Input might also be invited from the Medical Bureau of Road Safety, given their role in respect of the procurement, maintenance, and recording of data from the alcometer devices.
- A Project Board to oversee this work should be established, and – reflecting the seriousness of the issues reported herein – should be sponsored by the Commissioner, and chaired by a Deputy Commissioner.
- The Project Team should be requested to produce a detailed implementation plan within eight weeks, setting out all of the sub-projects and tasks required to respond to each of the issues identified within the Crowe Horwath and O'Sullivan reports, including details of timescales, milestones, resources, outputs/deliverables, and expected outcomes. Given the scope and extent of the issues to be resolved, we would anticipate that an implementation period of 18 to 24 months would be required to ensure that all of these issues are effectively concluded.
- The implementation plan should be submitted to the Policing Authority for review and comment, and should be signed off by senior Garda management.
- The implementation process should be subject to six-monthly progress review by the Policing Authority.
- In order to ensure the retention of public confidence, the implementation plan and the six monthly progress reviews should be published.

- When the implementation process is complete, its effectiveness should be formally evaluated by the Policing Authority and the results of this evaluation should be published.

6.3 Concluding Comments

In this report, we have identified a wide range of problems within the Garda Síochána which led to the incorrect prosecution of 149,426 persons over a ten-year period, and the inflation of MIT checkpoint data by a very substantial (and probably unquantifiable) amount. Although the two issues are distinct, there are common themes running through our analysis which pertain to both: poor or inadequate IT systems and technology, lack of training and CPD, inadequate supervision, and deficits in accountability.

The scale of each of these problems demonstrates an organisational failure. It is of significant concern that the incorrect issue of summonses continued for nearly a decade before the problem was identified and action taken. Similarly, the problems with recording MIT data occurred over many years before serious efforts began to rectify them. We are particularly concerned at the slowness of the pace of the early response after the issues first came to light in 2013.

With specific regard to the recording of MIT data, the pressure to record improving results and unrealistic expectations of performance were central factors which drove the recording of false or inflated information, whilst the nature of the recording process, an absence of adequate supervision, and the general lack of appreciation that precision was important also led to a lack of accuracy. An accountability deficit appears throughout the MIT data recording process, and a lack of strategic appreciation of the importance of MIT checkpoints and the need for operational data to be recorded correctly also played a major part in this problem.

Significant work must now be done by the Garda Síochána to provide a permanent solution to all of these problems, and to provide assurance to the Policing Authority, the Oireachtas, and the general public that there will be no recurrence of such problems in any aspect of Garda operations. This will require strong leadership, a heightened sense of accountability across the organisation at all ranks, and a critical rethinking of the way in which the Garda Síochána delivers training and information updates to frontline Gardaí in these areas of roads policing. Changes to procedures, IT systems, and other technology (such as new breathalysers and hand-held devices for FCNs) will also help greatly, but will only represent part of the solution. Central to the successful rectification of these difficulties must be the determination of Garda members at all ranks, and for the Garda Síochána as an organisation, to learn from the problems detailed within this report and to implement our recommendations without delay.

Appendix 1 – Policing Authority Requirements and Specifications

1. Background

- 1.1. On March 23 2017, the Garda Síochána held a media briefing during which it identified two issues that had arisen and which it wanted to bring to the public's attention. These were:
- the overstatement of the number of mandatory alcohol tests carried out at checkpoints over a number of years; and
 - the prosecution and conviction of persons in respect of offences which should have been disposed of by way of a fixed charge notice.

The scale and consequences of these matters caused the Authority considerable concern which was echoed across Government, statutory agencies, the media and the general public, not least given the impact of these matters on public confidence in the service provided by the Garda Síochána.

- 1.2. The Tánaiste and Minister for Justice and Equality has requested the Policing Authority in accordance with section 62 O (6) of the Garda Síochána Act 2005 to report on the outcomes of an examination into these matters. Specifically, the examination will address, to the extent possible, the reasons why such issues have arisen, the incidence and scale of the issues and both the solutions implemented to ensure the efficacy of these solutions and that there is no recurrence of these issues.
- 1.3. The Garda Síochána is a service of approximately 15,000 sworn and unsworn (civilian) members and 756 reserves. The Garda Síochána is structured around 6 regions, comprising 28 Divisions and 96 Districts. There are 564 Garda Stations.
- 1.4. The primary recording tool relied on by the Garda Síochána is PULSE (“Police Using Leading Systems Effectively”). This is the computer system on which the Garda Síochána records and retrieves information across its many areas of business, including incidents, activities, intelligence and detections. The information is held in an Oracle database and on top of this sits the PULSE interface. It is an enterprise wide IT system.
- 1.5. GISC is the Garda Information Services Centre which is a contact and data entry centre for operational members of the Garda Síochána. The centre facilitates Members to phone in the details of an incident to a trained civilian call-taker who then enters the details on the PULSE system.
- 1.6. The Garda Síochána has commenced an internal investigation, led by Assistant Commissioner Michael O’Sullivan, into both matters which have arisen. It is anticipated that this work by the Garda Síochána will be completed over a period of 8 weeks with an interim report by the end of April 2017 and a final report by the end of May 2017. Any work undertaken and completed by the Garda Síochána as part of the investigation into both issues will be made available to the service provider to facilitate the commencement of their work.

2. Issues under consideration

2.1. Mandatory Alcohol Testing

Mandatory Alcohol Testing (MAT) at checkpoints was introduced in 2006 and since 2009 information regarding such checkpoints is recorded on PULSE. The current legislation governing MAT checkpoints is contained in Section 10 of the Road Traffic Act 2010. The

Garda Síochána has identified that there is a significant discrepancy between the number of breath tests recorded on the Garda PULSE system for a specified period and the data recorded on the Dräger Breath Test device database which is maintained by an independent entity, The Medical Bureau of Road Safety. The scale of the discrepancy according to the Garda Síochána internal examination of the matter is that over the period from 1 November 2011 to the 31 October 2016, Garda PULSE data records 1,995,369 breath tests were performed at 373,274 checkpoints. This compares to the Medical Bureau of Road Safety recording that only 1,058,157 breath tests were performed.

2.2. Fixed Charge Notice

Section 103 of the Road Traffic Act 1961, as amended, provides that where a member of the Garda Síochána has reasonable grounds for believing that a fixed charge offence is being or has been committed by a person, the Garda shall serve a Fixed Charge Notice (FCN). A person may only be summonsed to court upon failure to pay the fixed charge within the time frames provided. The Garda Síochána has identified, following an examination of summonses issued between April 2006 and May 2016, that 14,700 convictions were recorded arising from 146,865 summonses which were issued incorrectly.

2.3. Commentary from the Garda Commissioner

There have been a number of public statements made by the Garda Síochána on these matters, but in essence the Garda Síochána accepts that it is responsible for these errors. In her opening statement to the Oireachtas on 30 March 2017, the Garda Commissioner stated that:

"I sincerely apologise for the grave mistakes and wrongdoing during the last decade that have led to the two controversies we are here today to discuss. Those mistakes and wrongdoings are unacceptable in policing terms, unacceptable in ethical terms, unacceptable in terms of public trust, and, most critically, unacceptable to the advocacy and support groups involved in road safety and to those who were wrongly brought to Court. They have raised serious issues about how we managed the service, how certain Gardaí operated on the ground and their supervision. Given the scale of these issues, they can't simply be blamed on one individual or one area. It is a collective failure. From top down to bottom up. We all take responsibility for this, and all take responsibility for establishing how this happened and ensuring it cannot happen again."

3. Service required

The Authority requires a professional service firm to carry out an independent systems audit of (a) the reporting of breath tests and MAT checkpoints and (b) the issuing of FCNs and summonses in respect of FCN offences. The service provider will be required to report to the Authority within **eight weeks** of the commencement date of the audit.

The Authority requires the systems audit to incorporate all 6 Regions of the Garda Síochána and requests the Tenderer to outline their proposed sampling methodology in order to provide reports and assurances to the Policing Authority in accordance with the table below.

The purpose of the audit is to understand the processes involved, how these issues occurred, any failure to identify problems at an earlier stage and what took place once the issues came to light. The audit will consider any weaknesses in the control and governance environment that facilitated the issues occurring. The audit will examine the measures put in place to prevent a recurrence of these issues and consider whether any further changes or actions are required in order for the

Authority to be assured in its oversight role that robust measures have been put in place to prevent future failures of this nature.

Please note that the Preferred Tenderer's proposed project team will be subject to conflict of interest checks and security clearance as follows:

Conflicts of interest

Each member of the Preferred Tenderer's proposed project team will be required to declare any potential or perceived conflict of interest that they may have in regard to the proposed contract.

The Authority reserves the right to request the replacement of any member of the project team arising from the nature of such a conflict.

The Tenderer should indicate how they tackled the identification of conflicts in proposing their team.

Security Clearance

Each member of the Preferred Tenderer's proposed project team will be required to promptly complete and return to the Policing Authority a Garda vetting form. This form will be forwarded to the Garda Síochána for security checks on all addresses at which they resided. If, following this clearance process, any of the proposed team members are considered unsuitable for this project the Preferred Tenderer will be required to propose replacement team members in their places.

The following table shows the reporting timelines for each part of the service to be undertaken by the Service Provider:

Part	Required of the Service Provider	Reporting
One	<ul style="list-style-type: none"> a) Examine and assess the adequacy of the new control environment (systems, processes, governance etc.) put in place by the Garda Síochána in relation to (a) the reporting of breath tests and MAT checkpoints and (b) the issuing of FCNs and summonses in respect of FCN offences; b) Identify any control weaknesses in the new control environment, including but not limited to systems, processes or governance and make recommendations for change; and c) Report and give assurance to the Authority that the new control environment implemented addresses and mitigates the risk of recurrence of these issues. 	Interim report within three weeks of the commencement date
Two	<ul style="list-style-type: none"> e) Review and assess the process employed and the outcomes of each of the investigations conducted by Assistant Commissioner O'Sullivan; f) Review and assess the process employed and the outcomes of any work done by the internal audit service on these matters; g) Assess whether the quality of the internal work done is such that it may be relied upon by the service 	Interim report within four weeks of the commencement date

Part	Required of the Service Provider	Reporting
	<p>provider as a key source of data and information; and</p> <p>h) Identify what further information or steps are required in order to facilitate the service provider's completion of part three below.</p>	
Three	<p>a) Understand the relevant processes and identify how and why the issues occurred;</p> <p>b) Assess and confirm the scale of the issues;</p> <p>c) In relation to FCN, identify whether the Garda Síochána have identified all cases where a summons was incorrectly sent to a member of the public;</p> <p>d) Identify why the issues did not come to light sooner and any deficiencies in the way in which the issues were dealt with when they did come to light;</p> <p>e) Examine why in the case of MAT, the distribution of this occurrence varied significantly across Divisions, identifying the particular factors, if any, which account for that distribution;</p> <p>f) Examine whether in the case of FCN, there is a variance in distribution of the issue across Divisions, identifying the particular factors, if any, which account for that distribution;</p> <p>g) Assess and report as to whether the reasons identified might also be likely to impact on the recording and reporting of data in other areas of policing in the Garda Síochána;</p> <p>h) The assessment as to how and why the issues occurred should at least include consideration of the following:</p> <ul style="list-style-type: none"> – The role of behaviour on the part of various ranks; – The supervisory environment and the role played by the various supervisory ranks; – Manner in which the procedures and protocols around these activities are put in place, documented and communicated; – The level, standard and frequency of relevant training; – IT systems related to the issue; 	Final report within eight weeks of the commencement date

Part	Required of the Service Provider	Reporting
	<ul style="list-style-type: none"> – Governance arrangements related to the issue; – Internal communications arrangements; and – any culture issues. <p>i) Make any further recommendations for change or for action arising out of the audit, including recommendations relating to the overall management of road traffic policing.</p>	