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Minister's Office  
Department of Justice and Equality

Cliona,  
Ballymakellett,  
Ravensdale,  
Dundalk,  
Co. Louth  
Date:

Ms Helen McEntee T.D.  
Minister for Justice & Equality,  
51 St. Stephens Green,  
Dublin 2.

Dear Minister

Re: Garda Fixed Charge Processing System – FCPS Cancelling Policy Oversight Authority

I enclose herewith my Sixth Annual Report for your consideration

Yours Sincerely

  
Matthew Deery

Former President of the Circuit Court

Ms. Helen McEntee T.D.

Minister for Justice & Equality

51 St. Stephen's Green

Dublin 2

Re: Garda Fixed Charge Processing System (FCPS) Cancellation Policy Oversight Authority

- 1) This is my Sixth Report following my appointment as the sole Independent Oversight Authority of the above title on the 27<sup>th</sup> January 2015.
- 2) For convenience I have set out my terms of reference hereunder:
  - a. Review and monitor the cancellation of FCPS notices by An Garda Síochana with a view to ensuring compliance with Garda policy on the cancellation of FCPS notices,
  - b. Communicate any matters he considers appropriate to the Commissioner of An Garda Síochana,
  - c. Communicate any matters he considers appropriate to the Minister and report to the Minister annually on his findings and on the discharge of his functions,
  - d. Examine and report on any specific matters relevant to the operation of the FCPS at the request of the Minister, should this be required.
- 3) The Fixed Charge Processing System Policy and Procedures Manual Fourth Edition which took effect on the 16<sup>th</sup> June 2014 provides the basis for the present system. The decision making process is centralised at the Fixed Charge Processing System Office (FCPO) in Thurles, Co. Tipperary, which comes within the remit of the Garda National Traffic Bureau (GNTB) and the following are authorised as sole cancelling Authorities:
  - i. Chief Superintendent GNTB
  - ii. Superintendent GNTB
  - iii. Superintendent Fixed Charge Processing System Office, Thurles

Since February 2015 all application for exemption under Section 87 of Road Traffic Act 2010 as amended by Section 23 of the RTA 2014 in respect of members of An Garda Síochana driving their private vehicles are referred to the Director of Public Prosecutions who directs whether the exemption applies.

- 4) The Garda Professional Standards Unit and the Garda Internal Audit Section continue to carry out examinations of random samples of decisions of the Cancellation Authority.
- 5) The staff in Thurles are continuing to provide excellent service. The Members of the Gardaí authorised as sole Cancelling Authorities namely Chief Superintendent Ray McMahon, Superintendent Bláithín Moran and Superintendent Tom Murphy have approached this task with considerable expertise.

- 6) As in previous years I have reviewed the Cancellations by choosing a random sample of a week in each three or four week period in keeping with my role as an Oversight Authority. I have examined files where the Cancelling Authority used their discretion and I would not disagree with the manner of the exercise of this discretion. Supporting documentation was provided where necessary.
- 7) It remains necessary for a Garda who is driving a private vehicle in the course of duty to satisfy the Director of Public Prosecutions that:
  - a. The driving or use of the vehicle by the member was in performance of his/her duties,
  - b. Such use did not endanger the safety of road users.
- 8) When a Garda is driving an official vehicle the application is made to the Cancelling Authority and the two items of proof required are namely:
  - a. That he/she was driving in the course of duty
  - b. That such driving did not endanger the public

I remain uneasy about a Member driving excessively fast and claiming the exemption for example in circumstances where the Member was attending a Consultation in the Four Courts or where the Member was bringing persons in custody back to the Garda Station. An amendment to S. 87 of the R.T.A. 2010 as amended should be considered where in addition to the two requirements specified a further one should be added to require the Member to show why it was necessary to exceed the speed limit.

- 9) There is substantial number of FCPN's returned "Undelivered-Gone Away" or "Unknown" at this address. Three additional Regional Enforcement Units have been established with the aim of providing additional information to aid in the decision making process. The suspension of the statutory time limit of 28 days in circumstances where FCPN's are returned "Undelivered - An Post" has not yet occurred. In addition the Gardaí have to rely on the National Vehicle File from the Department of Transport, Tourism and Sport to identify the registered owner of vehicles, which does not always have the information necessary. Overall the establishment of these units has resulted in a degree of compliance with the system. The Enforcement Units are also centrally involved in the examination and review of the nomination procedure.
- 10) I have reviewed the Fixed Charge Processing System and the Cancellation System thereunder and I am satisfied that there has been substantial compliance with the Fixed Charge Processing System Policy and Procedures Manual Fourth Edition.

11) This is my report to you for year 2020.

Dated: 9/2/2021

Signed: Matthew Deery

Matthew Deery

Former President of Circuit Court