

An Garda Síochána

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An Garda Síochána
Páirc an Fhionnaisce
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Office of the Commissioner
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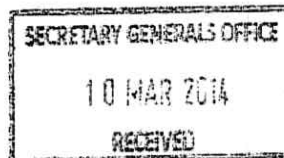
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CONFIDENTIAL

Secretary General
Department of Justice and Equality
94, St. Stephen's Green
Dublin 2



**RE: Recording of Telephone Conversations made and retained in Garda Stations.
Data Protection Acts – Retention of Data.**

Dear *Secretary General,*

I wish to bring the following to the Minister's attention in accordance with Section 41 (d) of the Garda Síochána Act 2005.

During the discovery process in the current civil proceedings being taken by Mr. Ian Bailey and his partner, Ms Catherine Jules Thomas, for wrongful arrest and under other headings, further material has come to light that is relevant to discovery in those proceedings. This material relates to tapes of telephone conversations which took place on various dates during 1997 between members of An Garda Síochána at Bandon Garda Station and other serving members of An Garda Síochána and also with Ms Marie Farrell and in other cases with journalists who were contacting An Garda Síochána seeking information. These tapes are currently being reviewed as part of the Discovery process and will be listed in an Affidavit of Discovery which must be sworn by An Garda Síochána before the 25th March 2014.

As you are aware, An Garda Síochána and your Department are currently dealing with an order for Discovery which was made by Mr. Justice Hedigan on 17 May 2013.

[REDACTED]

[REDACTED] A copy of these transcripts has previously been forwarded to the Chief State Solicitor's Office for review by Senior Counsel and I understand, following receipt of advices from Counsel a copy of those transcripts has also been forwarded to the Attorney General's Office and to your Department.

Ráiteas Misin / Mission Statement:

Ag obair le Pobail chun iad a chosaint agus chun feastal orthu / Working with Communities to Protect and Serve

The analysis of remaining recordings is continuing at present which includes inter alia recordings of telephone calls between members of An Garda Síochána at Bandon Garda Station and journalists contacting An Garda Síochána [REDACTED]

It has since transpired following enquiries that systems would appear to have been installed during the 1980's, in Garda Stations to allow for the recording of incoming and outgoing telephone calls from designated extensions. The rationale behind this was the recording of Garda radio traffic to and from control rooms, 999 calls and the gathering of evidence around calls made to Garda stations regarding bomb threats and other code word messages. This practice has continued in some stations over the years with the relevant recordings being retained within the station itself. The original recorders were replaced with Dictaphone recorders during the 1990's and further replaced by NICE recorders which were installed in 2008.

I have since directed that the routine recording of non 999 Emergency calls to Garda stations cease and confirm that all recordings save those made on dedicated 999 lines were fully stopped nationally on 27 November 2013.

The only calls currently being recorded are 999 calls to the ECAS service where, since the legislation underpinning it in 2007 was enacted, a member of the public gives up their right to privacy when they ring the 999 service. BT ECAS record these calls from start to finish and An Garda Síochána record them from the point where they are handed over to it.

I await written confirmation from each Divisional Officer that all audio recordings that were stored at each of the Divisional HQ's outside of the Dublin Metropolitan Region are collected and are now stored securely in Garda Headquarters pending finalisation of legal advice. The total amount of tapes collected to date is 2,485.

The issue now is what action I as Data Controller should take in relation to the tapes which have been collected. I am very conscious in my role as Data Controller under section 2(1) (c) the Data Protection Act 1988 and 2003 and of my responsibilities which are as follows:

- 2(1) *A data controller shall, as respects personal data kept by him or her, comply with the following provisions:*
- (c) *the data -*
 - (i) *shall have been obtained only for one or more specified, explicit and legitimate purposes.*
 - (ii) *shall not be further processed in a manner incompatible with that purpose or those purposes.*
 - (iii) *shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are collected or are further processed, and*
 - (iv) *shall not be kept for longer than is necessary for that purpose or those purposes.*

I consulted with the Attorney General's Office on this issue on 11 November 2013 and also established a Working Group who will be in a position to report to me once they have further liaised with the Attorney General's Office in respect of all recordings which have been collated to date. It is the case I expect that consultation with the Office of the Data Protection Commissioner will be necessary which I will consider following further advices from the Attorney General.

Ráiteas Misin / Mission Statement:

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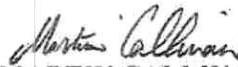
The Attorney General's Office advises at this time that all the outstanding recordings should be brought together and some inventory made of them, identifying them by station, date of recording and if they are in a condition which can be played or not. The recordings are being stored carefully and under secure conditions. An inventory of those recordings collated to date has now been compiled and has been furnished to the Attorney General's Office.

From a cursory examination of some of the tapes there is evidence of mould which would indicate decay of the magnetic tapes which may render the tapes unplayable. It is also the case that the only machines which are capable to playing these tapes are also quite fragile and dated.

I have no doubt that when the Discovery process is completed and if copies of the tape recordings are disclosed to the plaintiff in the Ian Bailey civil proceedings that this issue will very much come into the public domain and I am anxious to resolve any data protection issues as quickly as possible. You will note however that as soon as this issue came to my attention I took immediate steps to regularise the position and continue to do so.

A meeting has been arranged for Monday 10 March 2014 between Counsel, Attorney General's Office and An Garda Síochána, which I understand Assistant Commissioner Michael Flahive will attend, where this matter and other pertinent issues will be discussed.

Yours sincerely


MARTIN CALLINAN
COMMISSIONER OF
AN GARDA SÍOCHÁNA

10th March 2014