

Oifig an
Office of the



Stiúrthóra Ionchúiseamh Poiblí
Director of Public Prosecutions

Annual Report 2013



This Report is also available in the Irish Language

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FOREWORD

I am pleased to present the Annual Report for 2013.

As outlined in chapter 4, the overall number of prosecution files submitted to my Office during 2013 decreased. The fall off related partly to summary cases involving offences that are prosecuted in the District Court. This reduction should be viewed against the reduced staff ceiling set by the Government and the increase in complexity and size of files submitted in more serious offence categories. Some of these cases are, on an individual basis extremely resource intensive. Indeed 2013 saw a number of lengthy trials, some related to fraud and white collar crime, which are costly both in terms of counsels fees and staff resources. This trend is set to continue in the future with further very lengthy trials likely in the coming years relating to matters currently before the courts.

I would add however that figures for the first half of 2014 indicate an increase of about 6% in files received for direction on prosecution. This is the first increase since 2011 when we recorded the highest number ever of such files received. It remains to be seen whether this trend will be maintained for the rest of the year.

Pressure on our budget can result from costs being awarded against this Office. This usually arises in Judicial Review cases but can also arise where a case on indictment results in an acquittal. In 2013 we continued to achieve savings through the operation of a robust costs settlement policy. The total amount expended on Law Costs was €2.4 million in 2013, thus returning expenditure levels to approximately those in 2011. While 2012 was an exceptional year involving three particularly costly cases, there is an ever present risk of the Office having significant awards of costs made against it.

The most significant development during the year affecting the future work of the Office was the passing by referendum of the Constitutional



amendment establishing a new Court of Appeal. This is an extremely important development in the history of the courts in this State.

This is also very welcome given the backlog of criminal appeals. The Office estimates that, even sitting on a more or less permanent basis to deal with criminal appeals, it will take the new Court of Appeal a considerable time to dispose of all of the cases awaiting hearing at present. This includes appeals against conviction, severity of sentence and prosecution reviews of sentence. The jurisdiction of the new court will also include other forms of appeal previously dealt with by the Supreme Court. This will also have the welcome effect of reducing the lead in time until cases are heard in the Supreme Court.

I understand that the Government intends that this new Court would be operational by October this year. The Office is committed to supporting this new initiative. Until such time as the court is operational it is difficult to be definitive as to the level of resources that will be required to staff it on behalf of the prosecution. However, if the criminal division is to sit on a more regular basis than the Court of Criminal Appeal does currently, it is clear that resources will indeed be an issue.

I want to highlight two other initiatives which were commenced in 2013. Memoranda of Understanding which were entered into with various agencies

providing counselling and other services to victims are working well. They have streamlined the process of seeking counselling and other records for disclosure in criminal cases. This has meant that disclosure issues in most cases have been identified at an earlier stage and delays, with consequent upset for the complainant, have been alleviated. I am pleased to say that the Office is currently in constructive discussions with other agencies. I am hopeful that better understanding can thus be promoted, which will be of benefit to all parties working within the criminal justice system.

The pre-trial procedures introduced in 2013, are similarly working well. In Dublin this takes the form of a pre-trial hearing. While these hearings have not resulted in a very significant increase in the number of early guilty pleas, they have acted as a very effective case management tool, requiring parties to address issues well in advance of the trial date. This means that if it is clear that any issue will prevent the trial proceeding on the planned date it can be adjourned and another trial replace it to utilise that court time. This has resulted in significant efficiencies. My Office remains committed to supporting this initiative.

On the matter of accommodation while we have still not achieved our objective of bringing all Office staff into our new headquarters at Infirmary Road next to the Criminal Courts of Justice, we are gradually reaching that goal. Additional staff from our North King Street Office will join us at Infirmary Road in the autumn when accommodation now vacated by another agency is ready for occupation. I am still hopeful that the full complement of staff will be accommodated on the Infirmary Road site in early 2015.

We continued work during the year on examining the resource and other implications for the Office of the EU Directive dealing with victims of crime. Progress has been made in our preparations for the legislation which is required to be passed by November 2015. We are liaising with the Garda Síochána who will also have a significant role to play in giving effect to the Directive.

I want to reiterate something which I mentioned in last year's foreword concerning the risks of pre-trial publicity interfering with the right of an accused person to a fair trial. It is absolutely critical that

nothing is published or broadcast, concerning events the subject matter of charges or other matters prejudicial to the conduct of a fair trial, which might constitute a contempt of court or result in a defendant successfully arguing that publicity is such that a trial should be postponed for a long period or even indefinitely.

I would like to take this opportunity to announce that the Office has been successful in a bid to bring the Annual Conference and General Meeting of the International Association of Prosecutors to Ireland in 2016. The conference, which is typically attended by approximately 500 prosecutors representing about 100 countries, is the most significant international meeting of prosecutors held each year. I am very honoured to be hosting this conference which addresses important issues for prosecutors and promotes best practice internationally.

Finally, I want to thank the various groups who are involved in the operation of an effective prosecution service. These include the very dedicated staff in my Office, the State Solicitors around the country and the many members of the Bar who contribute towards the provision of a prosecution service on behalf of the People of Ireland.



Claire Loftus
Director of Public Prosecutions
July 2014

MISSION STATEMENT

To provide on behalf of the People of
Ireland a prosecution service that is
independent, fair and effective

PART 1:

GENERAL WORK OF THE OFFICE

1.1 GENERAL WORK OF THE OFFICE

1.1.1 The fundamental function of the Director of Public Prosecutions is the direction and supervision of public prosecutions and related criminal matters.

1.1.2 The majority of cases dealt with by the Office of the Director of Public Prosecutions are received from the Garda Síochána, the primary national investigating agency. However, some cases are also referred to the Office by specialised investigative agencies including the Revenue Commissioners, Government departments, the Health & Safety Authority, the Competition Authority, the Office of the Director of Corporate Enforcement, the Garda Síochána Ombudsman Commission, the Environmental Protection Agency and local authorities.

1.1.3 The Office of the Director of Public Prosecutions has three divisions:

The Directing Division determines, following an examination of an investigation file, whether there should be a prosecution or whether a prosecution commenced by the Garda Síochána should be maintained. The direction which issues indicates the charges, if any, to be brought before the courts. In some cases further information and investigation may be required before a decision can be made. To prosecute there must be a *prima facie* case - evidence which could, though not necessarily would, lead a court or a jury to decide, beyond reasonable doubt, that the person is guilty of the offence.

The Solicitors Division, headed by the Chief Prosecution Solicitor, provides a solicitor service to the Director in the preparation and presentation of cases in the Dublin District and Circuit Courts, the Central Criminal Court

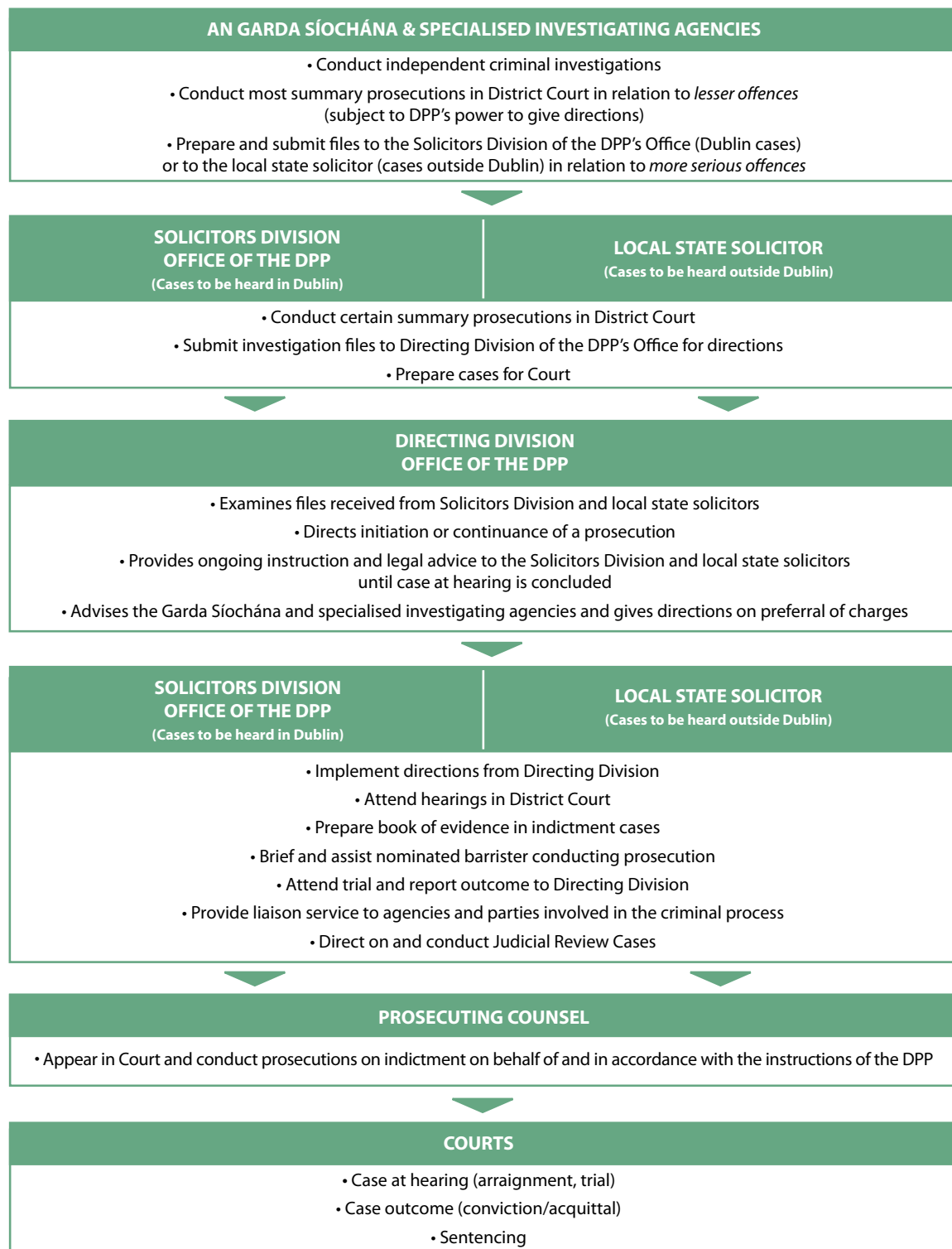
and Special Criminal Court, the Court of Criminal Appeal and the High and Supreme Courts. Outside the Dublin area 32 local state solicitors, engaged on a contract basis, provide a solicitor service in the Circuit Court and in some District Court matters in their respective local areas.

The Administration Division provides the organisational, infrastructural, administrative and information services required by the Office and also provides support to both the Directing and Solicitors Divisions.

The three divisions are supported in their work by:

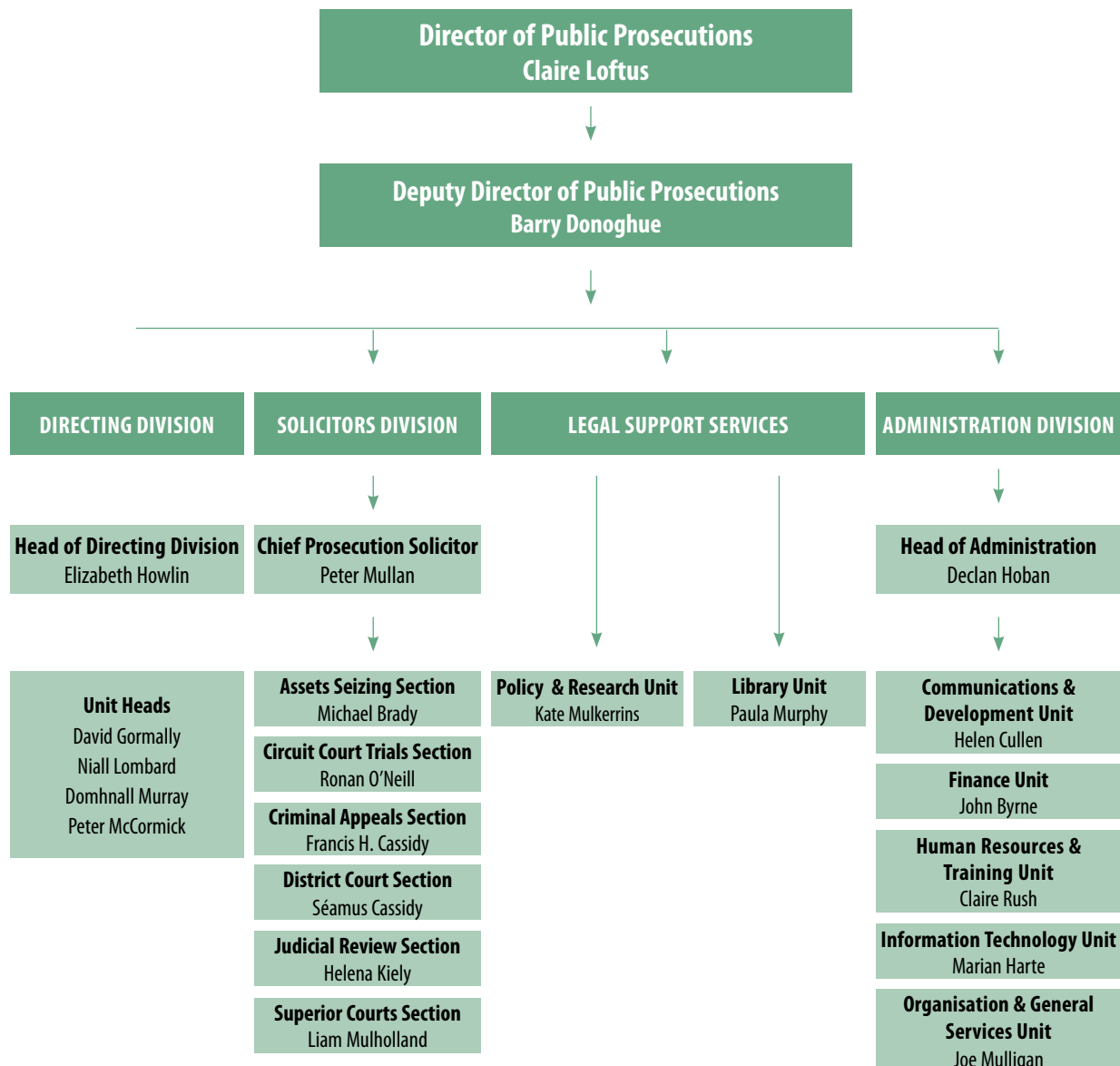
- the Policy and Research Unit which provides legal and policy research, develops prosecution policies and advises on legal policy documents referred to the Office for consideration.
- the Library Unit which provides information and know-how services for both legal and administration staff.

1.2 OUTLINE OF THE CRIMINAL PROSECUTION PROCESS



1.3 ORGANISATION STRUCTURE

(AS OF JUNE 2014)



PART 2:

2013 IN REVIEW

2.1 2013 IN REVIEW

Introduction

2.1.1 The year 2013 marked the first year of implementation of the 2013 - 2015 Strategic Plan for the Office of the Director of Public Prosecutions. The strategic plan identifies the key priorities and challenges for the Office and sets out the strategies we will employ for the three year period to ensure the delivery of an effective and efficient prosecution service.

2.1.2 This chapter looks at the main developments during 2013 in achieving the goals and objectives set out in our strategic plan.

Strategic Management

2.1.3 A key element of the strategic management of the prosecution service is our continued commitment to public service reform. In common with other public sector organisations this Office must operate in an environment of significantly reduced expenditure and staff numbers. At the same time we must continue to provide a prosecution service which is of the highest professional standard. Achieving this in the face of complex demands has become increasingly difficult.

191
Number of staff employed in
the Office of the DPP

2.1.4 The staff ceiling set by Government for the Office of the Director of Public Prosecutions for 2013 was 192 staff. The Office operated within this ceiling for 2013 with a total staff complement of 191.4 fulltime equivalents at 1 January 2013.

2.1.5 The Office also engages 32 state solicitors on a contract basis to represent the Director in Circuit Courts outside Dublin. In addition the Office draws from panels of barristers who are briefed on a case by case basis to prosecute cases on behalf of the Director in the various criminal courts.

€36.1m

Cost of the
Prosecution Service

2.1.6 The total cost of running the prosecution service for 2013 was €36.1m. This represents a reduction of €2.7m on the cost of the service in the previous year. The amount paid in legal costs awarded by the courts in legal proceedings against the Director in 2012 had increased significantly because of settlements made in three exceptionally expensive cases in that year. The reduction in the cost of the service for 2013 is therefore mainly due to the fact that there were no such comparable cases in 2013. With the exception of 2012 therefore, the overall cost of the prosecution service has otherwise decreased year on year since 2009 when total office expenditure was €44.7m.

2.1.7 Fees paid to counsel accounted for 36% of the total cost of the service in 2013. Another 34% was paid in salaries and wages to staff in the Office. The State Solicitor Service accounted for 17%, a further 7% represented the amount paid in legal costs awarded by the courts and 6% was spent on general office administration costs.

2.1.8 The Office of the Director of Public Prosecutions continually strives to meet the challenges of providing an effective

prosecution service within the confines of the financial restraints imposed by the current economic climate. This Office does not have discretion over the work that it performs nor can we control the number of criminal investigation files that we receive. However, notwithstanding this the Office has, in recent years, achieved significant savings in our two most costly areas of expenditure – legal costs and fees paid to prosecution counsel.

- 2.1.9** The savings in legal costs were achieved through the operation of a robust Costs Settlement Policy which involves negotiating with the defence in cases where costs fall to be paid with a view to settling the question of costs without the necessity of having the matter determined by the Taxing Master. The savings in fees to counsel were achieved by a reduction totalling 26% in the rate of fees paid to prosecution counsel in recent years.

Training & Development

- 2.1.10** The legal environment in which we operate is continuously evolving. The Office must constantly keep abreast of legal developments, both nationally and internationally, and take account of the ongoing increase in complexity of criminal law and practice. It is therefore imperative that we ensure our legal staff are provided with continuous professional development opportunities so that they are conversant with the latest developments in criminal law.

€286,943
Amount invested
in staff training

- 2.1.11** A total of 2.2% of payroll costs was invested in staff training and development in 2013, amounting to €286,943 in total. This expenditure included €28,278 on legal training; €19,874 on other courses and events; and €59,969 on the Refund of Educational Fees.

- 2.1.12** While the overall training budget for the Office has been reduced considerably in recent years, our Legal Training Steering Group has developed a legal training programme for staff with a strong focus on in-house development opportunities, utilising both internal and external expertise in areas of criminal law. This, together with restructuring of internal section meetings so as to include a training element, has provided significant development opportunities for staff in a more cost effective manner.

- 2.1.13** During 2013 the Office facilitated 6 Legal Network training sessions for staff which covered: the Exclusionary Rule and Search Warrants; Costs; Dealing with Victims; Criminal Enforcement of Regulatory Law in Ireland; White Collar Crime; and The Special Criminal Court.

2,944

CPD points awarded to
professional staff

- 2.1.14** All professional staff reached their Continuous Professional Development (CPD) requirements in 2013, accumulating a total of 2,944 CPD points. This represents an increase of 19% on the number of CPD points awarded in 2012.
- 2.1.15** In addition to undertaking continuous professional development themselves, staff from the Office of the Director of Public Prosecution also deliver training to external agencies in relation to prosecutorial matters.
- 2.1.16** During 2013 staff from this Office delivered training to members of An Garda Síochána and to trainee solicitors in the Law Society of Ireland. Topics covered during the training included: Role of the Office of the DPP; Advocacy; Evidence; Regulatory Matters; Criminal Law Civil Litigation; Criminal Procedure; Victims; Assets; Judicial Review; and Bails. The Office carried out an evaluation of the training delivered to An Garda Síochána which showed high satisfaction levels.

Legal Procedures

- 2.1.17** The Office continues to work with other stakeholders in the criminal justice system in an effort to streamline procedures with a view to making the most efficient and effective use of resources.
- 2.1.18** From the 1 January 2013 a new procedure was introduced in the Dublin District Court whereby on the day of the Return for Trial an accused is remanded to a specific day in the Circuit Court not less than three weeks later. On that date the accused could enter a guilty plea or alternatively the matter would be remanded to an arraignment date on which the accused would be expected to indicate a plea. As the accused is remanded to a specific date an Garda Síochána no longer need to advise the accused in person that they are required in court, thereby allowing savings for an Garda Síochána.
- 2.1.19** Our Office introduced new disclosure procedures at the same time and in the majority of cases disclosure will be delivered to the defence solicitors prior to the first mention date in the Circuit Court and certainly by the arraignment date. This new procedure has reduced the number of mention dates in the Dublin Circuit Court and reduced the time in which an accused has to indicate a plea.
- 2.1.20** Simultaneously a new pre-trial procedure was introduced in the Dublin Circuit Court in respect of all new cases returned to the Circuit Court for trial from 1 January 2013. This pre-trial hearing is attended by the accused and the legal representatives for both the prosecution and defence and takes place between 4 and 6 weeks prior to the trial. At the pre-trial hearing miscellaneous procedural matters and issues in relation to witness availability, the use of technology in court, and interpreters are dealt with to ensure that when a matter is listed for trial it will proceed. The purpose of this new procedure is to reduce unnecessary delays in criminal proceedings and to facilitate the commencement of trials on the date allocated.

- 2.1.21** Similar pre-trial procedures were put in place in the Midlands and South Eastern Circuits, although in those Circuits the pre-trial matters are dealt with by way of questionnaire.

Interaction with Other Agencies

- 2.1.22** The Office of the Director of Public Prosecutions is one of a number of agencies working within the criminal justice system. It is essential to the work of this Office that we continuously strive to enhance relationships with individual stakeholder groups and develop initiatives to improve delivery of service.
- 2.1.23** In 2013 the Office again hosted the Annual State Solicitors' Seminar and the Annual National Prosecutors' Conference. Both these events have proved to be extremely beneficial in bringing those involved in the prosecution of crime on a national level together to discuss topical issues and new legal developments. They are also a very cost effective means of providing customised Continuing Professional Development training to the broader cohort of prosecutors.
- 2.1.24** The Office continues to participate in and contribute to various inter-agency groups including: the Criminal Law Committee of the Law Society of Ireland; the Advisory Committee on the Interviewing of Persons in Garda Custody; an Inter-departmental Group to examine the issue of people with mental illness coming into contact with the criminal justice system; a liaison group comprising representatives from this Office and An Garda Síochána to discuss the implications of the EU Victims of Crime Directive; various Courts Service User Groups; and the Victims Services Liaison Group.
- 2.1.25** The Office contributed to the development of criminal law at an international level and participated in a number of initiatives involving international organisations. We also continued to contribute to the work of international bodies and organisations including EUROJUST; GRECO; OLAF; the

International Association of Prosecutors; and the International Society for the Reform of Criminal Law.

- 2.1.26** From 1 January to 30 June 2013 Ireland held the Presidency of the European Union. During that period the Director, Claire Loftus, was invited to take over the role of President of the Consultative Forum of Prosecutors General and Directors of Public Prosecution of the member states of the European Union. This culminated in a meeting of the Consultative Forum in The Hague in April 2013 which was hosted by the Director and attended by senior prosecutors from the EU member states.

Victims of Crime

- 2.1.27** The prosecution service Victims' Charter sets out the rights and entitlements of victims to services provided by various State agencies, including the Office of the DPP. The Charter clearly states the services that victims of crime can expect from this Office.

17
Requests for reasons for
decisions not to prosecute

- 2.1.28** During 2013 this Office, in compliance with the Victims' Charter, delivered the following:

- When requested by a victim, we reviewed decisions we had made in relation to prosecution cases whenever possible;
- The Office dealt with 17 requests for reasons for decisions not to prosecute received from victims' families during 2013;
- Through induction training and mentoring programmes, the Office ensures that all staff are aware of their obligations to treat victims/witnesses with respect and take account of their personal situation, rights and dignity;
- Staff in the Office of the DPP continuously work with the Garda Síochána to ensure victims are kept informed about their case;

- Pre-trial meetings between victims and the prosecution team were offered in all appropriate cases in Dublin Circuit and Central Criminal Court during 2013;
- Applications for review of sentences considered to be unduly lenient were lodged in 32 cases during 2013.

32
Unduly lenient
sentence reviews lodged

- 2.1.29** The EU directive establishing standards on the rights, support and protection of victims of crime must be transposed into Irish law by November 2015. There are a number of provisions in the directive which will have a direct impact on this Office, including the right of victims to receive information in relation to any decision not to prosecute the suspect. Currently this Office provides reasons for decisions not to prosecute in cases involving a fatality only.

- 2.1.30** During 2013 an internal working group was established to examine the implications for this Office when the directive becomes law. Representatives from the Office are also participating on an external liaison group with members of An Garda Síochána in preparation for the implementation of the victims' directive with a view to addressing any cross-organisational issues which may arise.

- 2.1.31** In July 2013 a user-friendly guide to assist victims of crime in the preparation of Victim Impact Statements was launched. This guide was developed by a group comprising representatives from this Office, An Garda Síochána, and the Victims of Crime Office. This collaborative approach involving the three agencies proved to be very beneficial and will ultimately provide victims of crime with very useful information in a clear and concise format. A copy of the leaflet is included at Appendix I of this report.

2013 IN PICTURES



Annual State Solicitors' Seminar in January 2013



Visit of Ms. Fatou Bensouda, Chief Prosecutor, International Criminal Court, to the Office of the DPP during her visit to Ireland in December 2013.



14th Annual National Prosecutors' Conference in October 2013



Launch of the 'Making a Victim Impact Statement' leaflet in Garda Headquarters in July 2013



DPP's Office organising committee at the EU Consultative Forum in the Hague in April 2013.



Barra McGrory QC, Director of Public Prosecutions Northern Ireland, and Claire Loftus Director of Public Prosecutions at the 14th Annual National Prosecutors' Conference in October 2013



Members of staff from the Office of the DPP pictured with members of An Garda Síochána at a training session in Garda Headquarters

2.2 OFFICE EXPENDITURE

Chart 2.2.1 shows the breakdown of office expenditure for 2013, 2012 and 2011

Salaries & Wages: This represents the cost of salaries of staff employed in the Office. The total staff complement at 1 January 2013 was 191.4.

Office Expenses: This relates to general office administration costs including purchase and maintenance of office equipment, office supplies, library costs, office premises maintenance, travel and other incidental expenses. Increased expenditure in 2013 arose primarily from costs associated with moving to new accommodation.

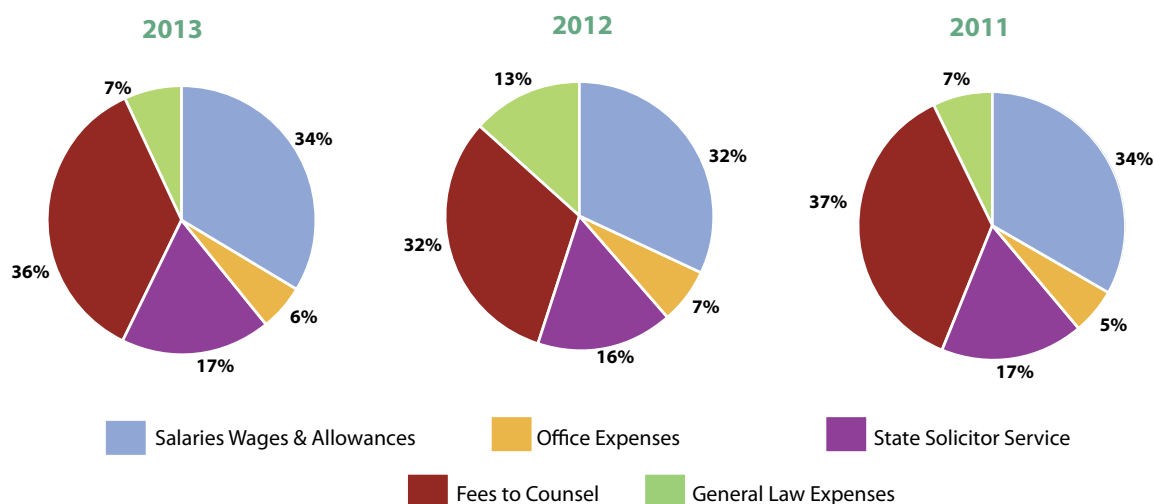
State Solicitor Service: This refers to payment of salaries and expenses to the 32 State Solicitors in private practice who are contracted to this Office to represent the Director in courts outside Dublin.

Fees to Counsel: These are fees paid to the barristers who prosecute cases on behalf of the Director in the various criminal courts. Fees are set within the parameters set by the Minister for Public Expenditure and Reform.

General Law Expenses: This refers to the payment of legal costs awarded by the courts in legal proceedings against the Director.

CHART 2.2.1: OFFICE EXPENDITURE

	2013 €	%	2012 €	%	2011 €	%
Salaries Wages & Allowances	12,154,661	34%	12,433,570	32%	12,357,035	34%
Office Expenses	2,065,636	6%	2,581,245	7%	1,994,473	5%
State Solicitor Service	6,499,799	17%	6,436,710	16%	6,302,448	17%
Fees to Counsel	13,016,063	36%	12,277,163	32%	13,501,066	37%
General Law Expenses	2,412,643	7%	5,118,017	13%	2,622,289	7%
TOTAL	36,148,802		38,846,705		36,777,311	



Charts 2.2.2 & 2.2.3 show a breakdown of expenditure on fees to counsel in the various criminal courts and by region in respect of the Circuit Criminal Court.

Fees paid to counsel in the Circuit, Central & Special Criminal Courts cover advising on proofs, drafting indictments, holding consultations, arraignments, presentation of the case and other necessary appearances e.g. for sentence.

Expenditure on fees in the High Court covers mainly bail applications and the preparatory work and hearings associated with judicial reviews.

CHART 2.2.2: FEES TO COUNSEL PAID BY COURT

	2013 €	%	2012 €	%	2011 €	%
Circuit Court	7,501,518	58%	6,832,055	56%	7,440,212	55%
Central Criminal Court	3,490,017	27%	3,389,493	28%	3,614,669	27%
High Court	1,182,939	9%	1,097,662	9%	1,389,815	10%
Supreme Court	157,760	1%	207,376	2%	124,711	1%
Court of Criminal Appeal	433,760	3%	415,389	3%	695,512	5%
Special Criminal Court	230,029	2%	324,105	3%	228,126	2%
District Court	20,040	0%	11,083	0%	8,021	0%
TOTAL	13,016,063		12,277,163		13,501,066	

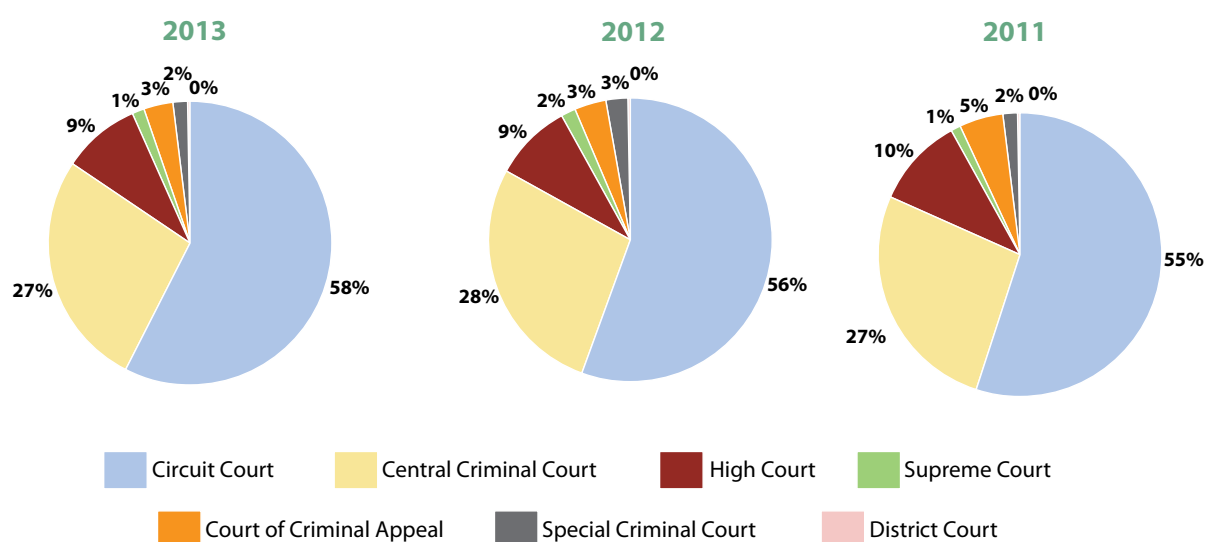
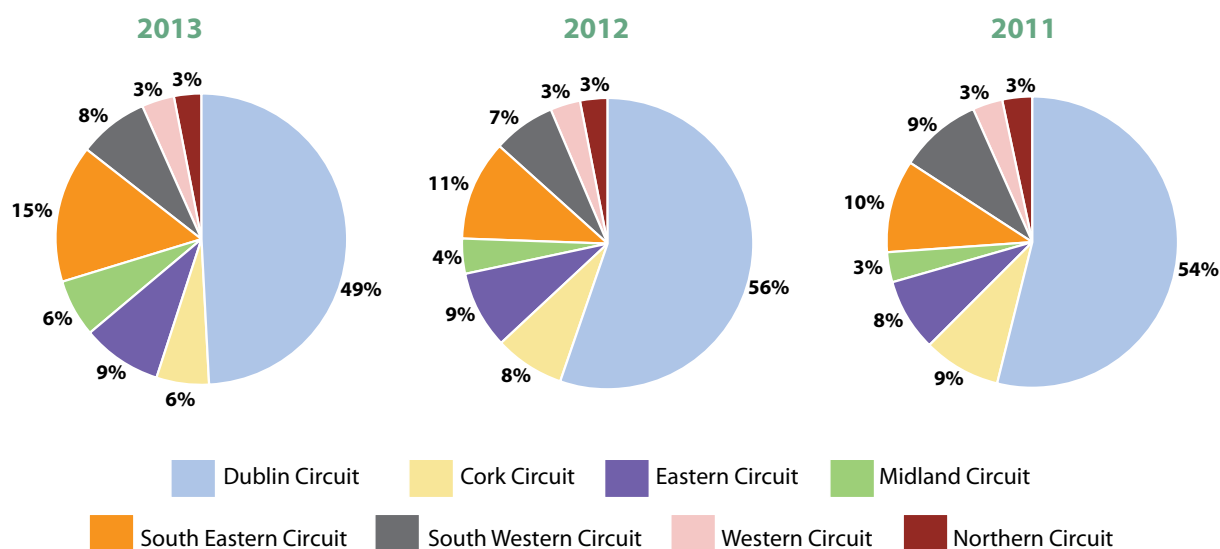


CHART 2.2.3: FEES TO COUNSEL PAID BY CIRCUIT

	2013 €	%	2012 €	%	2011 €	%
Dublin Circuit	3,703,814	49%	3,793,304	56%	4,012,452	54%
Cork Circuit	437,232	6%	516,238	8%	638,650	9%
Eastern Circuit	659,969	9%	587,581	9%	607,674	8%
Midland Circuit	483,444	6%	268,423	4%	244,022	3%
South Eastern Circuit	1,140,316	15%	764,846	11%	767,844	10%
South Western Circuit	591,107	8%	478,994	7%	675,173	9%
Western Circuit	259,606	3%	230,683	3%	257,192	3%
Northern Circuit	226,030	3%	191,986	3%	237,205	3%
TOTAL	7,501,518		6,832,055		7,440,212	



2.3 EXTRACT FROM APPROPRIATION ACCOUNT 2012

Account of the sum expended in the year ended 31 December 2012, compared with the sum granted and of the sum which may be applied as appropriations-in-aid in addition thereto, for the salaries and expenses of the Office of the Director of Public Prosecutions.

	Estimate Provision €'000	2012 Outturn €'000	2011 Outturn €'000
PROGRAMME EXPENDITURE			
A. Provision of Prosecution Service	40,528	39,890	37,820
Gross Expenditure	40,528	39,890	37,820
<i>Deduct</i>			
B. Appropriations-in-Aid	975	1,043	1,043
Net Expenditure	39,553	38,847	36,777
Surplus for Surrender			
The surplus of the amount provided over the net amount applied is liable for surrender to the Exchequer			
		2012	2011
Surplus to be Surrendered		€706,295	6,485,688
Analysis of Administration Expenditure			
	Estimate Provision €'000	2012 Outturn €'000	2011 Outturn €'000
I. Salaries, Wages and Allowances	13,750	13,321	13,230
II. Travel and Subsistence	109	97	101
III. Training and Development and Incidental Expenses	1,106	955	850
IV. Postal and Telecommunications Services	270	287	241
V. Office Equipment and external IT Services	841	607	438
VI. Office Premises Expenses	802	747	509
VII. Consultancy Services and Value for Money & Policy Reviews	37	34	25
	16,825	16,058	15,394

2.4 PROMPT PAYMENT OF ACCOUNTS ACT, 1997

Late Payments in Commercial Transactions Regulations 2002

OPERATION OF THE ACT IN THE PERIOD 1 JANUARY 2013 TO 31 DECEMBER 2013

- 2.4.1** The Office of the Director of Public Prosecutions makes payments to suppliers after the goods or services in question have been provided satisfactorily and within 30 days of the supplier submitting an invoice. In the case of fees to counsel, while invoices are not generated, the practice of the Office is to pay counsel's fees within 30 days of receipt of a case report form in each case.
- 2.4.2** In the period in question, the Office made 3 late payments in excess of €317.50. The value of these payments was €3,764. The total value of late payments in the year amounted to €4,370 out of total payments of €2.27million and interest thereon came to €77.14.

Statement of the Accounting Officer

- 2.4.3** The Office of the Director of Public Prosecutions is one of the organisations which are subject to the terms of the Prompt Payment of Accounts Act, 1997 and the Late Payments in Commercial Transactions Regulations 2002. The Act came into force on 2 January 1998, and since that time the Office has complied with the terms of the Act.
- 2.4.4** All invoices from suppliers are date stamped on receipt. Invoices are approved and submitted for payment in a timely manner to ensure that payment is made within the relevant period. When the invoices are being

paid the date of receipt and the date of payment are compared, and if the relevant time limit has been exceeded, an interest payment is automatically generated. In cases where an interest payment is required, the matter is brought to the attention of management so that any necessary remedial action can be taken.

- 2.4.5** The procedures which have been put in place can only provide reasonable and not absolute assurance against material non-compliance with the Act.

Barry Donoghue
Accounting Officer
June 2014

2.5 FREEDOM OF INFORMATION

2.5.1 Section 46(1)(b) of the Freedom of Information (FOI) Act, 1997 provides a right of access only with regard to records which relate to the general administration of the Office. This in effect means that records concerning criminal prosecution files are not accessible under the FOI Act.

2.5.2 The Office continues to make FOI information available as readily as possible. Our section 15 and 16 Reference Book is available on our website, www.dppireland.ie. This publication outlines the business of the Office including the types of records kept.

2.5.3 During 2013 a total of thirteen requests were submitted to the Office. Four requests were granted and one request was withdrawn. Eight of the requests were refused under the Act. The reason for the refusals was that the records sought did not relate to the general administration of the Office.

2.5.4 Two of the requests were submitted by journalists, while the other 11 requests were made by the general public.

2.5.5 In the eight cases where requests were refused, only one of the requesters sought an internal review of the original decision. In this case, the original decision was upheld. This same requester then appealed the decision to the Information Commissioner but this appeal was subsequently withdrawn.

Requests Received 2013

Refused under section 46(1)(b)	8
Withdrawn / dealt with outside of FOI	1
Requests Granted	4
TOTAL REQUESTS	13

Requesters 2013

Journalists	2
General Public	11

Reviews 2013

Requests for Internal Review	1
Requests to the Information Commissioner for Review	1

2.6 ANNUAL ENERGY EFFICIENCY REPORT 2013

Overview of Energy Usage in 2013

2.6.1 In 2013, the Office of the Director of Public Prosecutions consumed 1,900.37MWh of energy. This represents an overall increase of 16.37 % on our energy usage in 2012. The increase reflects a full year occupancy of state owned listed buildings on their own grounds at Infirmary Road. These buildings are less energy efficient by virtue of the period in which they were constructed. Most of the rooms and common areas have a greater cubic volume when compared with standard modern office accommodation. Additional energy costs also arose due to the need for further improvements to external lighting on the grounds of Infirmary Road. There was an increase in energy usage at North King Street which arose from remedial works associated with flood damage, adaptation works for new tenants and a subsequent increase in space occupancy rates. The total energy consumption is in respect of space heating, air conditioning, hot water, lighting, computer systems and other office equipment at our office buildings in Infirmary Road and North King Street.

This figure is compiled as follows:

- 1021.87 MWh of Electricity
- 878.50 MWh of Natural Gas

Actions Undertaken in 2013

2.6.2 During 2013, energy efficiency monitoring continued in collaboration with external consultants and maintenance contractors. Actions taken during 2013 included the following:

- Monitoring of the computerised Building Management System (BMS) continued and the gas boilers were switched off for extended periods over the summer resulting in some savings.
- Ongoing implementation of energy awareness campaign.
- External lighting was upgraded in Infirmary Road with more energy efficient fittings and building insulation measures were implemented where feasible.

Actions Planned for 2014

2.6.3 Actions planned for 2014 include the following:

- Examination of potential for greater use of the BMS system in managing energy consumption.
- Continuation of awareness campaign using signage and posters.
- Information sessions to be arranged for staff using the services of the OPW appointed energy management consultant.
- Review of water heating controls and night time electricity usage.

2.7 OFFICIAL LANGUAGES ACT 2003

2.7.1 The 2nd Irish Language Scheme for the Office of the DPP was effective from April 2010 to April 2013. During 2013 the Office dealt with 1 Special Criminal Court case in which Irish language interpretation was required and 1 District Court case which was conducted in the Irish language. The Irish Language Officer also received requests for Irish translation in relation to 2 letters and 4 e-mails. A staff member on our in-house Irish Language Panel dealt with 1 telephone call in the Irish language. All publications produced by the Office are bilingual and the Office website is fully bilingual.

2.7.2 The 3rd Irish Language Scheme for the Office of the Director of Public Prosecutions was approved by the Minister for Arts, Heritage and the Gaeltacht, and came into effect in January 2014. It is available on our website at www.dppireland.ie.

Report of An Coimisinéir Teanga on Implementation of the 2nd Irish Language Scheme for the Office of the DPP from April 2010 to April 2013

2.7.3 Compliance in relation to implementation of the 2nd Irish Language Scheme over its 3 year lifetime was monitored and investigated by An Coimisinéir Teanga. The content of his report is summarised below.

2.7.4 An Coimisinéir Teanga reported that:

"Based on the evidence supplied to this Office, it is clear that the Office of the Director of Public Prosecutions is successfully

implementing the language scheme. The Office carried out a lot of work during the first language scheme to make material and services available in Irish. This approach was continued during the second scheme.

During the lifetime of this scheme an Irish Language Officer and the Communications and Development Unit played an active role in promoting the commitments of the scheme and the provisions of the Act."

Demand for services through Irish

2.7.5 During the lifetime of the 2nd Scheme, the Office dealt with:

- 10 letters in Irish
- 17 emails in Irish
- 3 District Court cases
- 13 High Court cases
- 4 Supreme Court cases

Staff available to provide Irish language services

2.7.6 Irish speaking staff members are distributed throughout the various divisions, including:

- 3 solicitors in the District Court Section
- 1 solicitor in the Judicial Review Section
- 1 solicitor in the Superior Courts Section
- 3 professional officers in the Directing Division
- 1 staff officer in the Books of Evidence Unit

Receptionists

- 2.7.7** Receptionists give the name of the Office in both Irish and English. Staff are given regular training to enable them to use basic greetings in both official languages. New staff members undertaking these duties were given training during 2011 and again during 2013. Switchboard operators have a list of staff identified as being able to provide services through Irish.

Irish Language Officer

- 2.7.8** The role of Irish Language Officer is still operational in the organisation. The Officer deals with translation of letters and emails as well as supporting the promotion of Irish within the organisation. Large documents and website material are sent to an external translator. The Irish Language Officer has a supporting role in assisting staff when services through Irish are requested, although staff themselves are often able to deal with the original contact.

Communications & Development Unit

- 2.7.9** The Communications & Development Unit has an active role in the implementation of the language scheme. The Unit reports on implementation of the scheme to senior management, rather than to the Partnership Committee, as was stated in the language scheme. This is not seen as a dilution of commitments insofar as a report is made to senior management on an annual basis.
- 2.7.10** The Unit maintains an inventory of the demand for services through Irish in partnership with relevant participants.
- 2.7.11** Staff training requirements are identified via the PMDS system and staff have the opportunity to identify their Irish language training requirements at this stage. Receptionists were given general training in April 2010. Refresher training was provided in October 2010 and training was given to new reception staff in May 2011 and again in January 2013.

Library and Information Service

- 2.7.12** The Library and Information Service maintains a directory of resources available in Irish and this material was added to during the lifetime of this scheme.

Office Website

- 2.7.13** The Irish language version of the website is kept up-to-date. Any new English text is forwarded to a translation company before being uploaded onto the website. Any new material or amendments to current text is uploaded to the website simultaneously in both official languages.

Stationery

- 2.7.14** All Office stationery complies with Regulation requirements.

Signage

- 2.7.15** The Office is aware of Regulation requirements and those requirements are met when new signage is erected. Some sections of the Office relocated to accommodation in Infirmary Road in July 2012. Some existing signage in this new site is in English only and needs to be revised. The Office is taking steps to ensure that all signage on this site will comply with regulations.

PART 3:

LEGAL DEVELOPMENTS

3.1 LEGAL DEVELOPMENTS

2013

INTRODUCTION

- 3.1.1** This chapter gives a brief outline of some of the Court decisions during the past year which are important or interesting or have precedent value for prosecution work. Space does not permit a comprehensive review of all the case law from 2013 but the cases mentioned should give the reader an idea of some of the issues which arise from time to time in the prosecution of offences.

CRIMINAL DAMAGE

Kenneth Cullen v. Judge McHugh and the DPP [2013] IEHC 444, Hedigan J., 16 April 2013

- 3.1.2** The applicant was convicted in the District Court of criminal damage to a door, the property of a particular person who was named on the charge sheet. The owner of the damaged door did not give evidence during the trial of the matter. However, the Gardaí had witnessed the criminal damage occurring and had given evidence in court identifying the applicant as the person who caused the criminal damage to the door. The applicant brought a judicial review in the High Court seeking to quash his conviction on a number of grounds.
- 3.1.3** In the High Court, the applicant claimed that the prosecution should have called the owner of the damaged door to give evidence. He also claimed that since the charge sheet stated that the damage amounted to €20, the prosecution was required to prove this actual level of damage. The High Court rejected both

propositions. The High Court stated that the presumption in section 7(2) of the Criminal Damage Act 1991 that the property belonged to another, is mandatory and that the fact that the charge nominates an owner doesn't change the presumption. On the second point the court ruled that the act criminalises any damage to the property of another. The fact that the charge sheet specifies the level of damage, where such specificity is not necessary, does not change the substance of the charge. In addition, the applicant gave evidence that he was aware he was not welcome there. The Court ruled that the mere fact that he rented the property could not rebut the presumption in section 7(2)(b) of the Criminal Damage Act 1991 that he had no authority to damage the property.

DEPOSITIONS

James Kennedy v. His Honour Judge Martin Nolan and the DPP [2013] IEHC 115, Hogan J., 19 March 2013

- 3.1.4** The applicant appeared before the Circuit Criminal Court charged with criminal offences. He applied to the court for an order under section 4F(2) of the Criminal Procedure Act 1967 as amended allowing him to have a prosecution witness deposed before the District Court in advance of the trial. The Circuit Court refused the application holding that the test to be applied by a trial court when considering such an application was that such an order should only be made where there was a real risk that an applicant for deposition would not otherwise obtain a fair trial. The applicant brought a judicial review in the

High Court. The High Court examined the purpose of the legislation and the correct test to be applied by a court of trial when considering an application to call deposition evidence.

- 3.1.5** The High Court quashed the order of the Circuit Court on the basis that the test applied by the Circuit Court was too restrictive. The High Court held that where an applicant can establish reasonable grounds to justify the making of the order and the court of trial is satisfied that the application is not prompted by some collateral or ulterior purpose, then in principle the order directing deposition evidence ought to be made.

DIGITAL AUDIO RECORDING CASELAW

Gerard Hudson v. District Judge Anthony Halpin and the DPP [2013] IEHC 4, Hogan J., 15 January 2013

- 3.1.6** The applicant was convicted in the District Court of a breach of a safety order. He brought a judicial review seeking to quash his conviction. During the course of his judicial review proceedings the applicant sought a production order from the High Court in relation to the digital audio recording of his district court trial.
- 3.1.7** The High Court held that as the judicial review involved the resolution of a factual issue which was absolutely central to the case, the just method of determining the matter would be to direct the production of a transcript of the District Court hearing. The Court noted that the District Court Judge had provided the High Court with a detailed account and response to the judicial review proceedings and had also indicated that he had objection to the production of the digital audio recording. The High Court also noted that there would be cost implications as a result of its order and said that an order of this kind must nonetheless be regarded as an exceptional measure.

DIGITAL AUDIO RECORDING RULES

Statutory Instrument No 99 of 2013 – District Court (Recording of Proceedings) Rules 2013

- 3.1.8** These Rules insert a new Order 12B into the 1997 District Court Rules to provide for the procedure regulating the making of, and application for access to, a record made of court records of proceedings. These 'records' could include for example handwritten or typed notes of the proceedings, transcripts produced by stenographers, recordings both visual and audio recordings such as the digital audio recording.
- 3.1.9** The Statutory Instrument was commenced on 8 April 2013, and provides that a party requesting a copy of the records must first lodge an affidavit and notice of motion on the other party with at least 7 days notice before the hearing date. The Respondent can lodge a replying affidavit if the application is being opposed.

JUDICIAL NOTICE OF RESOLUTIONS

Anthony Mitchell v. Member in Charge of Terenure Garda Station [2013] IEHC 221, Hogan J., 3 May 2013

- 3.1.10** The applicant had been detained under section 30 of the Offences Against the State Act 1939 on suspicion of having committed a scheduled offence. Section 10 of the Offences Against the State (Amendment) Act 1998 amended the 1939 Act by authorising a District Court Judge to extend the detention of arrested persons for a further 24 hours. Section 18 of the 1998 Act provides that section 10 shall cease to be in operation from June 2000 unless a resolution has been passed by each House of the Oireachtas resolving that the section shall continue in operation. At the conclusion of an application in the District Court by the Gardaí to extend his detention for a further 24 hours the applicant's counsel submitted to the court that the application was defective as the Gardaí had not formally

proven that the resolutions had been passed. The Judge then rose to consider the position. He returned to the bench and stated that he had consulted the Oireachtas website and was taking judicial notice of the fact that the resolutions had been passed. The applicant detention was then extended by the District Court.

- 3.1.11** The applicant then challenged the legality of his detention on the basis that the Gardaí did not formally prove that the Oireachtas had passed the resolutions. The High Court held that the Judge was entitled to consult the Oireachtas website as this was consulting a public document which was *prima facie* evidence that the resolutions had been passed as if they had been formally proven in court.

REFUSAL OF JURISDICTION

Shane Sweeney v. Judge Lindsay and the DPP [2013] IEHC 210, Peart J., 16 May 2013

- 3.1.12** The applicant and a co-accused were being prosecuted together in the District Court for an offence of assault causing harm. At the start of the case, the applicant indicated that he was pleading guilty and the co-accused pleaded not guilty. During the trial of the co-accused, the Judge indicated that he was mindful to refuse jurisdiction but on being told that jurisdiction was previously accepted by a different judge, he then allowed the trial to continue. After hearing the case of the co-accused he acquitted him. The applicant's case was then called. An outline of the facts was given to the judge so that he could consider jurisdiction. The judge then stated that having seen the CCTV and medical evidence during the trial of the co-accused he was now refusing jurisdiction in the applicant's case. The applicant brought judicial review proceedings seeking to quash this order. He submitted that there was a breach of fair procedures in that he was treated differently than the co-accused. He also contended that the judge should

not have used the information he had received in the co-accused's trial to decide jurisdiction in the applicant's case.

- 3.1.13** The High Court rejected the submissions and ruled that the case turned on when the facts of the applicant's case had been outlined to the judge. The High Court held that if the District Court judge had accepted the plea and heard facts, accepted jurisdiction, and then left over sentencing of the applicant until after the trial of the co-accused, he could not later have refused jurisdiction. But, what occurred was the first time the judge heard facts was after the trial of the co-accused and at that stage he was entitled to reach his own view of jurisdiction based on the knowledge he had from that trial. The Court held that the District Court judge was also entitled to take the view that the involvement of the applicant was different in degree from the acquitted co-accused, and that the offence alleged against him was non-minor in nature.

SERVICE OF SUMMONS

Stephen Moroney v. Judge Finn and the DPP Ex-tempore Judgement, Hedigan J., 8 May 2013

- 3.1.14** The applicant was summonsed to appear before the District Court in relation to criminal offences. He did not appear in court but his solicitor was present to represent him on his behalf. His solicitor wanted to raise with the court as a preliminary issue the mode of service of the summons on his client as he was submitting that his client had not been properly served with the summons. The summons was endorsed as to service but the applicant's solicitor wanted to submit that his client was not served with the summons because he had emigrated to Australia before the summons could be personally served on him. It was the case that the summons was served on his family home on two occasions. The District Court judge declined to allow an enquiry to take place on this issue and instead issued a bench warrant for the applicant's arrest.

3.1.15 The applicant brought judicial review proceedings seeking to quash the bench warrant. The High Court ruled that the bench warrant should not have issued. In this case there was a valid dispute as to the validity of the service of the summons and where any such objection is raised the court is under an obligation to enquire. The High Court said that, in this case, to issue a bench warrant in the absence of an enquiry as to service would be disproportionate. It was important to determine if the applicant had a new abode. If the move to Australia was not to evade service of the summons then the issue of a bench warrant could have serious implications for the applicant in terms of visa extensions and any new visa.

ROAD TRAFFIC CASES

James Power v. Circuit Court Anthony Hunt and the DPP [2013] IEHC 174, O'Malley J., 18 April 2013

3.1.16 Facts: The applicant was convicted of a 'drug driving' offence. Two section 19 certificates from the Medical Bureau of Road Safety (MBRS) had been provided to the Gardaí, one indicating nil alcohol and the other recording the presence of cocaine. The second certificate was relied upon by the prosecution at the hearing. The applicant brought a judicial review arguing that section 19 of the Road Traffic Act 1994 only allowed the prosecution to rely on the first certificate as this was the only valid certificate. They argued that a strictly literal reading of the applicable provisions meant that the MBRS were effectively *functus officio* after their initial analysis for alcohol.

Question: Were the prosecution entitled to rely on the second section 19 certificate or was the first section 19 certificate the only valid one?

Answer: The High Court held that there was nothing wrong with having two certificates relating to the procedures adopted. Each certificate established compliance with the statutory requirements in so far as it was

necessary to ground its own admissibility as to the truth of its contents. The first certificate cannot be set up in opposition to the admissibility of the certificate relating to cocaine unless it in some way contradicts that certificate.

DPP v. Maresa Cagney [2013] IESC 13, Clarke J., 11 March 2013

3.1.17 Facts: The defendant was convicted in the District Court for an offence of failing to provide a breath sample, contrary to section 13 of the Road Traffic Act 1961, as amended. She appealed the conviction to the Circuit Court. The Circuit Court judge accepted medical evidence that her refusal to provide a breath sample was due to a transient medical condition which prevented her from doing so despite a genuine effort having been made. It was also accepted by the Circuit Court judge that the defendant was asked by the Gardaí whether or not she had any medical conditions which would prevent her from providing a specimen and that she had replied "none". The Circuit Court judge noted that the defendant was not then asked by the Gardaí to provide a blood or urine sample after failing to provide a breath sample. The Circuit Court judge agreed to state a consultative case to the Supreme Court as follows:

Question (1): Was I correct on the facts found by me in holding that a special and substantial reason existed for the failure of the accused to provide a sample of breath?

Answer (1): Yes.

Question (2): If the answer to (a) is Yes is the accused entitled to an acquittal in the absence of a requirement pursuant to section 13(1)(b) of the Road Traffic Act 1994 by a member of An Garda Síochána following a failure to provide the required specimens pursuant to section 13(l)(a) of the Act.

Answer (2): The Supreme Court held, in a decision of Clarke J. as follows:

"The true answer to the second question is that an accused who satisfies the trial judge that he or she has a special and substantial reason for failure or refusal to provide a breath sample is entitled to an acquittal in the event that the accused concerned is not warned or informed by a member of An Garda Síochána that a failure to offer a blood or urine sample will preclude such person from being able to rely on a defence of having a special and substantial reason for failure or refusal. For the avoidance of doubt such warning or information can be given as part of a general warning in advance of the requirement to provide a breath sample being made in the first place or can be made subsequent to a failure or refusal to provide the breath sample concerned. For the avoidance of doubt it should be emphasized that the absence of such warning or information does not entitle an accused to an acquittal unless the accused has first satisfied the trial judge of the existence of a special and substantial reason for failure or refusal."

Question (3): Is the accused under an obligation in order to avail of a defence under section 23 of the 1994 Act to establish that they offered voluntarily to provide a specimen of blood or urine but were not called upon to comply?

Answer (3): The substance of the third question is also dealt with by the answer to the second question just given.

COURT OF CRIMINAL APPEAL CASES

Admission of Statements as Evidence

DPP v. Brian Rattigan [2013] IECCA 13

- 3.1.18** The appellant challenged the admission by the trial judge of written statements previously made by witnesses who either refused to give evidence at trial or gave evidence which was materially inconsistent with those statements. It was contended that, as the statements had been made prior

to the enactment of the provision (section 16 of the Criminal Justice Act 2006), their use contravened the presumption against retrospectively.

- 3.1.19** The Court held the provision itself to be a significant distance from the concept of retroactive penalisation which underpins both the constitutional prohibition (Article 15.5.1) and the common law principle of statutory interpretation. Also, on its face the legislation acts prospectively as it only applies when, during a trial, a witness refuses to give evidence, denies making the statement or gives evidence which is materially inconsistent with the statement previously given. This triggering event can only occur at some time in the future i.e. after the coming into force of the Act. Finally, the legislative change is properly characterised as procedural and evidential in nature. Purely procedural and evidential changes should apply from the moment when the law is enacted to proceedings which are currently pending before the courts. The prospect of two different rules as to the admissibility of hearsay evidence applying simultaneously in law, dependent on the date of commencement of proceedings, is not attractive, no more attractive is the prospect of simultaneous applicability of alternative codes of practice.

- 3.1.20** In addressing another submission, the court also noted it is permissible for the trial judge to make comments on the evidence, if made in the course of a fair and balanced charge. Such comments must be appropriate for a judge and should not be the "stuff of advocacy". The function of a trial judge in this regard is to attempt to present what is to be considered by the jury in an ordered, comprehensible and intelligible way.

Corroborative Evidence

DPP v. Daniel Foley [2013] IECCA 90

- 3.1.21** The Court of Criminal Appeal had to consider whether or not the upset demeanour of the complainant and words spoken by her in the ambulance on the way to hospital while semiconscious, as detailed by the

accompanying Garda, were capable in law of being corroboration of the complaint. The Court noted that for evidence to be corroborative it must tend to implicate the accused, be independent of the evidence that makes corroboration desirable and be credible evidence in itself. Corroboration has received definitions and characterisations which, while largely following English precedent, are replete with nuanced differences. What constitutes corroboration must depend on the facts and circumstances of each particular case, on the defence set up by the accused and on the nature of the question to be determined by the jury.

- 3.1.22** It is clear that the complainant's physical reaction and accompanying words were capable of being treated as involuntary and spontaneous by virtue of her emotional and semiconscious condition, in other words, independent of her conscious will.
- 3.1.23** It was open to the jury to treat her distressed state as being inconsistent with any suggestion of her having recently participated in a consensual sexual encounter, which undermined the applicant's defence that she had willingly participated in the sexual acts and therefore tended to implicate him in the offence.
- 3.1.24** The Court concluded that such evidence, given by the Garda, was capable of being treated as corroborative of the complainant's own account of what happened.

J.S. v. DPP [2013] IECCA 41

- 3.1.25** The Court of Criminal Appeal acknowledged that false statements made by an accused, if they are found to be lies, may in certain circumstances be corroborative of guilt. However, where such evidence is to be presented a warning, known as the Lucas warning, must be given to the jury.

"To be capable of amounting to corroboration the lie told out of court must first of all be deliberate. Secondly it must relate to a material issue. Thirdly the motive for the lie must be a realisation of guilt and a fear of the truth. The jury

should in appropriate cases be reminded that people sometimes lie, for example, in an attempt to bolster up a just cause, or out of shame or out of a wish to conceal disgraceful behaviour from their family. Fourthly the statement must be clearly shown to be a lie by evidence other than that of the accomplice who is to be corroborated, that is to say by admission or by evidence from an independent witness."

- 3.1.26** The lie in this case related to whether or not the accused had been involved in the baling of hay, or instead had bought it in, during the year in question.
- 3.1.27** Counsel contended the judge should have specifically warned the jury that the appellant may have been mistaken in identifying the year and they should give the appellant the benefit of the doubt. The Court of Criminal Appeal noted the judge had indicated that a person might tell untruths out of "panic" or "misjudgement" or "confusion" or "indignation" and saw no real distinction between what counsel contends should have been stated, and what the judge actually stated.
- 3.1.28** The Court emphasised that it is not its function to lay down precise or definitive terms in which a Lucas warning, if required, should be given. This must be a matter for the trial judge to decide on the facts of each case. Obviously, it should be contextualised to the degree that is necessary.
- 3.1.29** The appellant had been very explicit in his denial, even to the extent of advancing reasons. No evidential basis was established as to how or why the appellant might have been mistaken. The judge specifically addressed the issue of the benefit of the doubt and it is not necessary for each point to be repeated by a judge in a manner which would favour the accused over the prosecution.
- 3.1.30** There has been no error in principle or misdirection to the jury in this regard.

Cases Following *Damache v. AG*

DPP v. Michael McKevitt [2013] IECCA 22

3.1.31 Michael McKevitt had instigated proceedings to overturn his conviction as being a miscarriage of justice, which the Director sought to strike out as being an abuse of process. Section 2 of the Criminal Procedure Act 1993 permits an application be made to the Court to quash a conviction on the basis that a newly discovered fact or facts shows that there has been a miscarriage of justice.

3.1.32 Mr. McKevitt had been convicted in the Special Criminal Court some 10 years previously on the basis of evidence, which included the product of a search pursuant to a warrant issued under section 29 of the Offences Against the State Act. Subsequently, the Supreme Court held this provision to be unconstitutional (*Damache v. AG*). At no point during the trial was any challenge, or intimation of a challenge, made as to the validity of the section 29 warrant itself.

3.1.33 The question to be determined was whether the substantive application under section 2 of the Act was “bound to fail”. An application is bound to fail if the very basis for it does not come within the statutory remit of the section said to permit it. The Court noted that an objective analysis of the authorities demonstrates the limited range of matters captured by section 2. The Court expressed the view that a Supreme Court judgment delivered in 2012 cannot on any tenable basis be characterised as a “newly discovered fact”, appertaining to the trial or the prosecution of that trial such as would render the conviction a “miscarriage of justice”.

3.1.34 The Court concluded the argument was not tenable or stateable as decisions subsequent to *Damache* have made clear the limited range of instances where the decision may be found to have a “retrospective” effect. The Court of Criminal Appeal had permitted applicants in other cases to benefit from the finding in *Damache* only on the basis

that those applicants had raised the validity of the section 29 warrant utilised in their prosecutions at their trials, and had appeals pending.

3.1.35 In the judgment of the Court of Criminal Appeal in *O’Brien*, Hardiman J. distilled the relevant points from the decisions in *Kavanagh* and *Cunningham*. These were:

- i) that the matter had been raised at the court of trial and that the applicant had not taken any steps which might suggest that he had acquiesced or waived the point, for example by pleading guilty; and
- ii) that the criminal proceedings against the appellant had not been “finalised”; that is that a trial or an appeal from a conviction arising from a trial was still pending.

3.1.36 The Court noted that in the instant case, not only can it be said that the proceedings in relation to the applicant had been finalised, they have been finalised for many years past. The Special Criminal Court conviction in 2003 could not even come within the range of retrospectivity, even if hypothetically there had actually been a challenge to the constitutional validity of the warrant issued under section 29 of the Act.

3.1.37 The Court finally raised a caution that the jurisdiction to strike out an application brought under section 2 of the Act of 1993 is one which must be exercised sparingly. There must be a high threshold. Yet the invocation of the jurisdiction, conferred by section 2, must be framed on the terms of that section itself. If facts and circumstances of the case are such as to render an application unstateable, it is the duty of the court to dismiss the application.

3.1.38 The Court acceded to the application brought on behalf of the Director and struck out the section 2 application as unstateable and unarguable.

DPP v. Liam Bolger [2013] IECCA 6

3.1.39 This case also raised the question as to whether the appellant could rely on the Supreme Court judgement in *Damache*. The Court, in refusing, noted:

- Finality is a most important element in our legal system.
- An appeal is a review of a trial, the run of the trial, and the decisions taken during that trial. It is not a hearing *de novo*.
- Thus, while the proceedings are not yet finalised, they proceed as an appeal and not as a trial *de novo*.
- The general rule is that an applicant may not raise new issues not raised and determined at a trial.
- However, as stated in *Cronin* (No. 2), the Court could intervene if it were of the view that a fundamental injustice had been done or there was a reasonably explained substantial error leading to an apprehension of real injustice.
- The applicant did not raise the *Damache* issue at his trial, as was done in *Cunningham* and *Kavanagh* and *O'Brien*.

the Director was entitled to notice of an intention to rely on a report by the Inspector of Prisons as to the conditions the convicted person was likely to suffer while in prison. The Court also concluded that the trial judge was in error in considering such a report as issues of such a nature, where they exist, are a matter for a different remedy and different Court.

General

DPP v. Patrick Hegarty [2013] IECCA 67

3.1.40 The trial judge had discharged one member of the jury, who admitted having researched on the Internet elements of the evidence which had been presented to the Court. The discharge of that member was necessary as a jury must try the case exclusively on the evidence it hears within the trial court itself. A submission that the entire jury should have been discharged was dismissed by the Court of Criminal Appeal as it was clear that the said jury member had not communicated her findings with the other members of the jury.

3.1.41 When considering a review of the sentence, brought by Director of Public Prosecutions the Court of Criminal Appeal acknowledged

PART 4:

STATISTICS

STATISTICS

Explanatory Note in Relation to Statistics

- 4.1** Part 4 is broken down into five distinct sections:
- Charts 1 to 5 (Part 4.1) relate to the receipt of files in the Office and include details on the types of directions made;
 - Charts 6 to 10 (Part 4.2) provide details of the results of cases prosecuted on indictment by the Director in respect of files received in the Office between 2010 and 2012.
 - Charts 11 to 13 (Part 4.3) relate to applications to the Courts for review of sentence on grounds of undue leniency; confiscation and forfeiture of criminal assets; and European Arrest Warrants.
 - Chart 14 (Part 4.4) provides details of the preparation/issue of Extradition Requests (seeking the extradition of individuals who are not present in European Arrest Warrant member states).
 - Chart 15 (Part 4.5) provides details of requests for mutual legal assistance processed by the Office of the DPP.
- 4.2** All the yearly demarcations in the statistical tables refer to the year the file was received in the Office. The reason for going back so far in charts 6 to 10 is to take account of the time difference between a decision to prosecute being made and a trial verdict being recorded. If statistics were to be provided in respect of 2013 case outcomes, a large proportion of the cases would still be classified as 'for hearing' and the statistics

would have little value. Cases heard within a short period of being brought are not necessarily representative.

- 4.3** In this report we have attempted in most instances to include updated versions of the data set out in previous Annual Reports in order to give a fuller account of the progress made since that data was previously published. Because of the continuous change in the status of cases - for example, a case which was pending at the time of a previous report may now have concluded - information given in this report will differ from that for the same cohort of cases in previous reports. In addition, data from two different years may not be strictly comparable because as time goes on more cases are completed so that information from earlier years is necessarily more complete than that from later years. Unless otherwise stated, data included in these statistics was updated in June 2014.
- 4.4** Caution should be exercised when comparing these statistics with statistics published by other organisations such as the Courts Service or An Garda Síochána. The statistics published here are based on our own classification and categorisation systems and may in some cases not be in line with the classification systems of other organisations.

4.1 PROSECUTION FILES RECEIVED

Chart 1 shows the total number of prosecution files received by the Office of the Director of Public Prosecutions from 2002 to 2013.

The chart does not include work undertaken by the Office in relation to other matters not directly related to criminal prosecution files such as: requests for legal advice from the Garda Síochána, local state solicitors or other agencies; policy related matters; or queries of a general nature.

CHART 1: TOTAL PROSECUTION FILES RECEIVED

YEAR	FILES
2002	14,586
2003	14,696
2004	14,613
2005	14,427
2006	15,279
2007	15,446
2008	16,144
2009	16,074
2010	15,948
2011	16,127
2012	15,289
2013	13,763

The Solicitors Division of the Office of the Director of Public Prosecutions provides a solicitor service to the Director and acts on her behalf. The division also deals with cases which do not require to be referred to the Directing Division for direction.

Chart 2 represents the number of cases dealt with solely within the Solicitors Division and includes District Court prosecution files, appeals from the District Court to the Circuit Court and High Court bail applications. The figure for District Court Appeals represents the number of files held, not the number of individual charges appealed. One defendant may have a multiplicity of charges under appeal.

The Solicitors Division also deals with judicial review applications. While some of these applications are dealt with solely within the Solicitors Division, others require to be forwarded to the Directing Division for direction. However, because the dedicated Judicial Review Section is based in the Solicitors Division the total number of judicial review applications dealt with are included in this chart. Judicial reviews may be taken by the Director or be taken against her.

CHART 2: FILES DEALT WITH BY SOLICITORS DIVISION

	2013	%	2012	%	2011	%
District Court Prosecution Files	1157	22%	1328	21%	1733	25%
Appeals from District Court to Circuit Court	1790	33%	2433	38%	2306	34%
High Court Bail Applications	2104	39%	2418	37%	2545	37%
Judicial Review Applications	338	6%	293	5%	264	4%
TOTAL	5389		6472		6848	

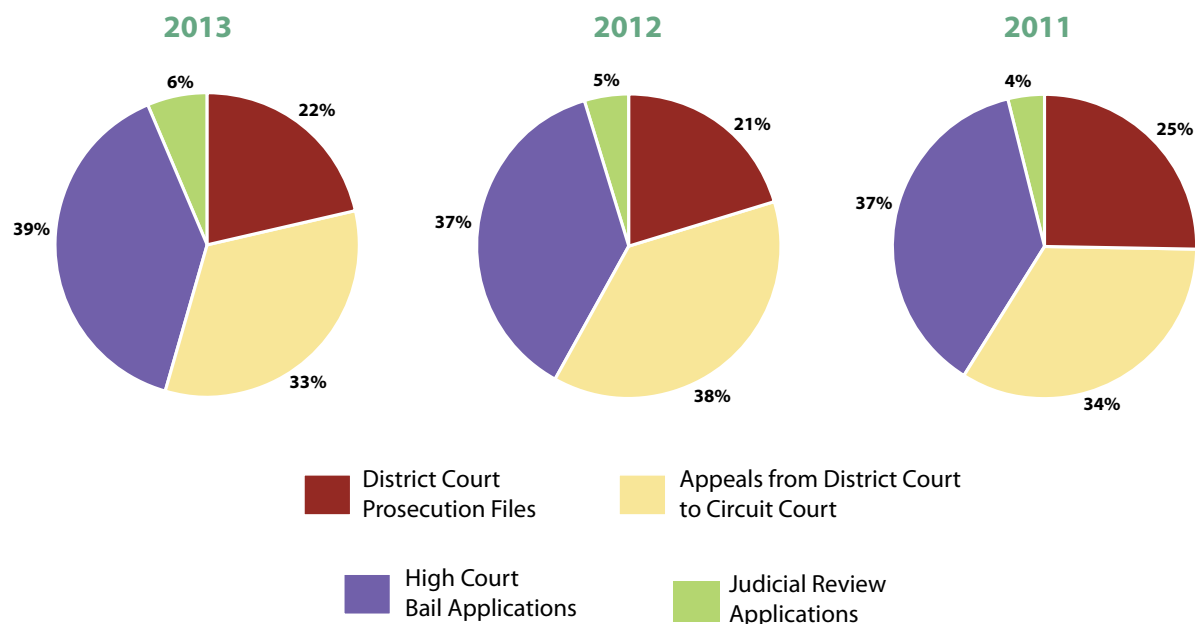
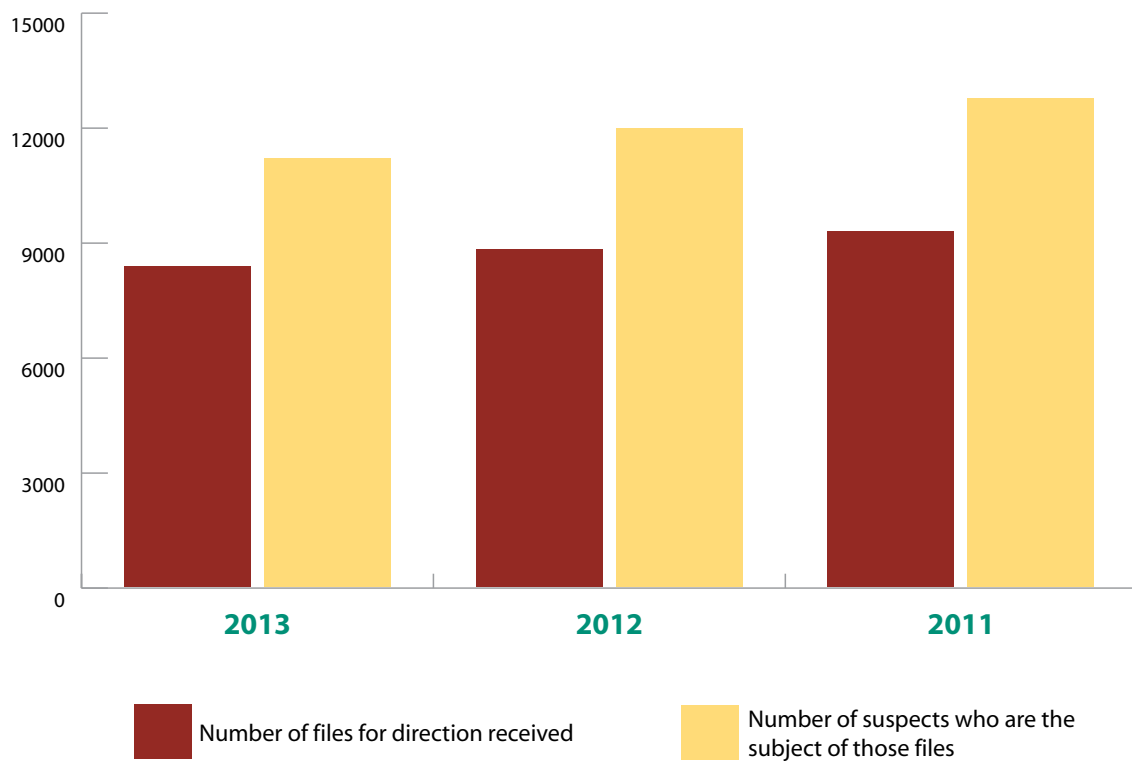


Chart 3 represents the number of files received in which a decision to prosecute or not to prosecute must be taken. The chart compares the number of files received with the number of suspects who are the subject of those files. Many files relate to more than one suspect and to treat such a file as a single case can give a misleading impression of the workload of the Office. It is important, therefore, to look at the total number of suspects as well as the total number of files.

CHART 3: BREAKDOWN OF FILES RECEIVED FOR DECISION WHETHER TO PROSECUTE

	2013	2012	2011
Files received for decision whether to prosecute	8374	8817	9279
Number of suspects who are the subject of those files	11172	11974	12734



The following chart shows a breakdown of the disposal of files received in the Directing Division in 2011, 2012 and 2013 (as of June 2014). The Garda Síochána and specialised investigating agencies submit files either directly to our Solicitors Division or to the local state solicitor, for a direction whether or not to prosecute. Depending on the seriousness of the offence and the evidence disclosed in the file, a decision will be taken as follows:

No Prosecution: A decision not to prosecute is made. The most common reason not to prosecute is because the evidence contained in the file is not sufficient to support a prosecution. The figures however include all decisions not to prosecute.

Prosecute on Indictment: It is decided to prosecute in the Circuit, Central or Special Criminal Courts.

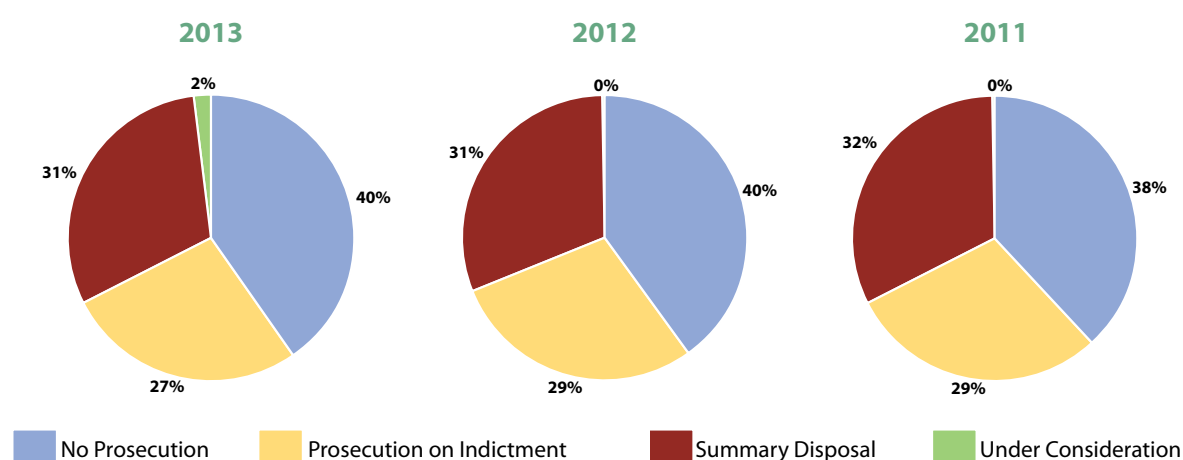
Summary Disposal: The offence is to be prosecuted in the District Court.

Under Consideration: Files in which a decision has not been made. This figure includes those files in which further information or investigation was required before a decision could be made. Further information is sought more often than not to strengthen the case rather than because of any deficiency in the investigation.

NOTE: The figures for 2011 and 2012 have been updated since the publication of previous Annual Reports. The reduction in the files 'Under Consideration' figures compared with those given in previous years reflect developments on those files since then. 'Prosecutions on Indictment' include those cases in which defendants elected for trial by jury and cases where the judge of the District Court refused jurisdiction, even though the Director initially elected for summary disposal.

CHART 4: DISPOSAL OF DIRECTING DIVISION FILES BY NUMBER OF SUSPECTS SUBJECT OF FILES RECEIVED

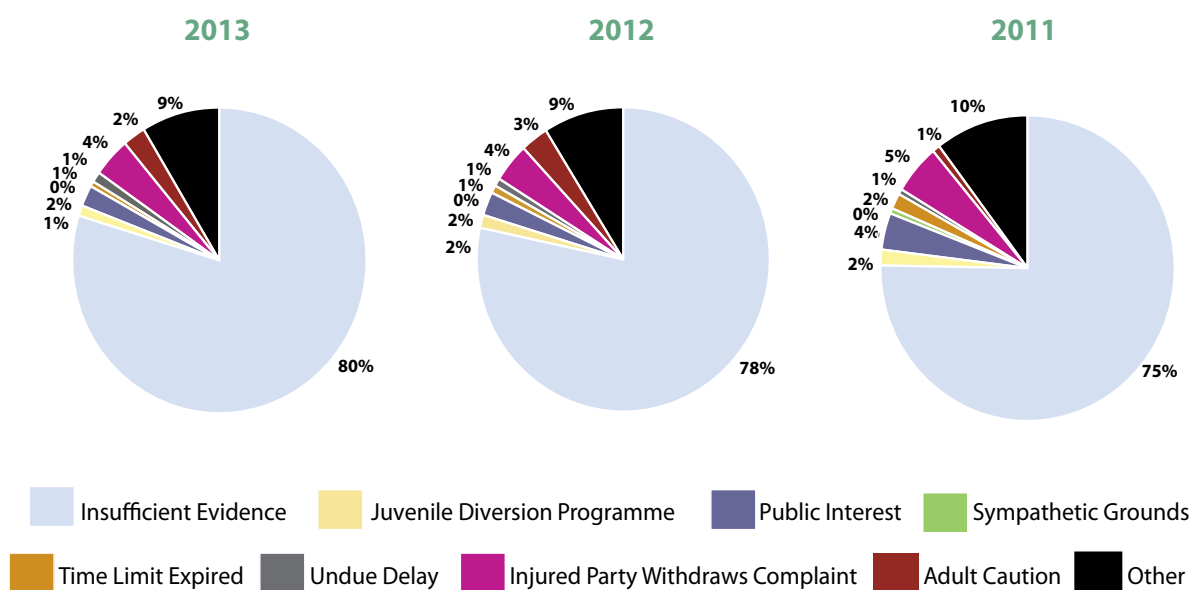
Direction Made	2013	%	2012	%	2011	%
No Prosecution Directed	4408	40%	4791	40%	4873	38%
Prosecution on Indictment Directed	3035	27%	3470	29%	3746	29%
Summary Disposal Directed	3413	31%	3695	31%	4105	32%
TOTAL OF FILES DISPOSED	10956	98%	11956	100%	12724	100%
Under Consideration	216	2%	18	0%	10	0%
TOTAL	11172		11974		12734	



A decision may be made not to prosecute in relation to a particular file for a variety of reasons other than the main reasons set out in this chart. The death or disappearance of the suspect, the death or disappearance of the complainant or the refusal of a complainant to give evidence are some examples. These are referred to as 'other' in the chart below.

CHART 4A: BREAKDOWN OF MAIN REASONS FOR A DIRECTION NOT TO PROSECUTE

Main Reasons for No Prosecution	2013	%	2012	%	2011	%
Insufficient Evidence	3596	80%	3758	78%	3672	75%
Juvenile Diversion Programme	53	1%	73	2%	80	2%
Public Interest	100	2%	119	2%	195	4%
Sympathetic Grounds	5	0%	1	0%	21	0%
Time Limit Expired	27	1%	37	1%	87	2%
Undue Delay	43	1%	39	1%	30	1%
Injured Party Withdraws Complaint	189	4%	205	4%	258	5%
Adult Caution	107	2%	138	3%	31	1%
Other	388	9%	421	9%	499	10%
TOTAL	4508		4791		4873	



In October 2008 the Director announced a change in policy on the giving of reasons for prosecutorial decisions not to prosecute. The policy was introduced on a pilot basis whereby reasons for a decision not to prosecute in a case involving a death are given to the family or household of a victim at their request. Prior to this change in policy, reasons for decisions not to prosecute were given to the Garda Síochána or State Solicitor but were not made public. The policy applies to decisions not to prosecute, or to discontinue a prosecution made in respect of offences involving a death where the alleged offence occurred on or after 22 October 2008.

Since the introduction of the policy a total of 60 requests were received, 66.7% of which related to fatal road traffic cases. The following chart outlines the outcomes of those requests.

CHART 4B: BREAKDOWN OF REQUESTS FOR REASONS RECEIVED FROM OCTOBER 2008 TO JUNE 2014

Granted	Declined	Withdrawn	Pending	TOTAL
51	4	1	4	60

Chart 4D is a breakdown of directions to prosecute on indictment, by the county in which the offence was committed. It includes cases directed to be heard in the Circuit Criminal, Central Criminal and Special Criminal Courts. Please note that a number of cases are still 'Under Consideration' (see Chart 4). These include cases where a file was received but further information was required. It is not possible to determine how many of these cases may eventually result in a direction to prosecute on indictment.

CHART 4D: BREAKDOWN OF NUMBER OF PROSECUTIONS ON INDICTMENT DIRECTED PER COUNTY OF OFFENCE

	Population				Population 2009 *	Number of Prosecutions on Indict- ment Directed per County								Cases per 1,000 Persons					3 Year Rolling Average		
	2013*	2012 *	2011 *	2010 *		2013	2012	2011	2010	2009	2013	2012	2011	2010	2009	2011- 2013	2010- 2012	2009- 2011			
Carlow	55,438	54,966	54,612	54,868	54,245	27	37	44	49	37	0.49	0.67	0.81	0.89	0.68	0.66	0.79	0.79			
Cavan	72,431	72,616	73,183	68,420	68,598	49	29	40	45	42	0.68	0.40	0.55	0.66	0.54	0.54	0.53	0.58			
Clare	116,786	117,435	117,196	115,121	114,937	60	86	100	115	108	0.51	0.73	0.85	1.00	0.37	0.70	0.86	0.74			
Cork	523,770	520,333	519,032	502,193	502,116	370	333	402	392	443	0.71	0.64	0.77	0.78	0.22	0.71	0.73	0.59			
Donegal	159,482	159,888	161,137	157,427	157,836	55	58	59	98	72	0.34	0.36	0.37	0.62	2.81	0.36	0.45	1.27			
Dublin	1,262,400	1,262,900	1,273,069	1,207,300	1,211,500	1243	1388	1573	1700	1749	0.98	1.10	1.24	1.41	0.06	1.11	1.25	0.90			
Galway	246,457	246,175	250,653	240,630	241,245	95	124	101	97	110	0.39	0.50	0.40	0.40	7.25	0.43	0.44	2.69			
Kerry	146,830	145,867	145,502	145,907	145,884	83	115	130	93	111	0.57	0.79	0.89	0.64	0.75	0.75	0.77	0.76			
Kildare	214,158	213,881	210,312	209,360	205,989	92	135	125	137	133	0.43	0.63	0.59	0.65	0.54	0.55	0.63	0.60			
Kilkenny	96,861	96,037	95,419	95,417	94,334	41	47	68	64	60	0.42	0.49	0.71	0.67	1.41	0.54	0.62	0.93			
Laois	82,353	81,868	80,559	72,824	72,105	38	76	59	31	35	0.46	0.93	0.73	0.43	0.83	0.71	0.70	0.66			
Leitrim	31,471	31,552	31,798	30,948	31,028	10	8	14	9	26	0.32	0.25	0.44	0.29	1.13	0.34	0.33	0.62			
Limerick	191,138	192,200	191,809	190,974	190,668	160	119	169	210	166	0.84	0.62	0.88	1.10	0.14	0.78	0.87	0.71			
Longford	39,869	39,634	39,000	37,348	36,979	27	41	43	68	28	0.68	1.03	1.10	1.82	4.49	0.94	1.32	2.47			
Louth	121,634	121,944	122,897	118,946	119,255	65	121	103	101	75	0.53	0.99	0.84	0.85	0.23	0.79	0.89	0.64			
Mayo	128,451	128,304	130,638	128,629	128,958	73	92	74	85	95	0.57	0.72	0.57	0.66	0.58	0.62	0.65	0.60			
Meath	187,503	187,260	184,135	182,952	180,006	70	63	83	86	64	0.37	0.34	0.45	0.47	0.53	0.39	0.42	0.48			
Monaghan	59,861	60,014	60,483	59,862	60,017	33	34	34	41	33	0.55	0.57	0.56	0.68	1.07	0.56	0.60	0.77			
Offaly	78,395	77,933	76,687	76,961	76,200	25	64	44	27	34	0.32	0.82	0.57	0.35	0.43	0.57	0.58	0.45			
Roscommon	62,992	62,921	64,065	61,041	61,197	22	21	17	20	19	0.35	0.33	0.27	0.33	0.56	0.32	0.31	0.38			
Sligo	64,721	64,886	65,393	65,097	65,266	45	47	40	48	22	0.70	0.72	0.61	0.74	0.29	0.68	0.69	0.55			
Tipperary	159,845	159,470	158,754	159,195	158,056	123	123	109	89	131	0.77	0.77	0.69	0.56	0.14	0.74	0.67	0.46			
Waterford	115,515	114,532	113,795	117,651	116,316	63	88	98	90	118	0.55	0.77	0.86	0.76	1.13	0.72	0.80	0.92			
Westmeath	88,083	87,564	86,164	86,168	85,316	47	82	71	71	75	0.53	0.94	0.82	0.82	1.38	0.76	0.86	1.01			
Wexford	147,517	146,261	145,320	143,574	141,944	48	76	61	74	89	0.33	0.52	0.42	0.52	0.53	0.42	0.48	0.49			
Wicklow	139,139	138,959	136,640	141,788	139,505	70	62	84	83	80	0.50	0.45	0.61	0.59	0.64	0.52	0.55	0.61			
TOTAL	4,593,100	4,585,400	4,588,252	4,470,601	4,459,500	3034	3469	3745	3923	3955											

* Population figures for 2011 are taken from the census figures for that year. The 2009, 2010, 2012 & 2013 figures are based on a proration of the estimated regional population figures as published in the Central Statistics Office's Population and Migration Estimates issued in 2009, 2010, 2012 & 2013

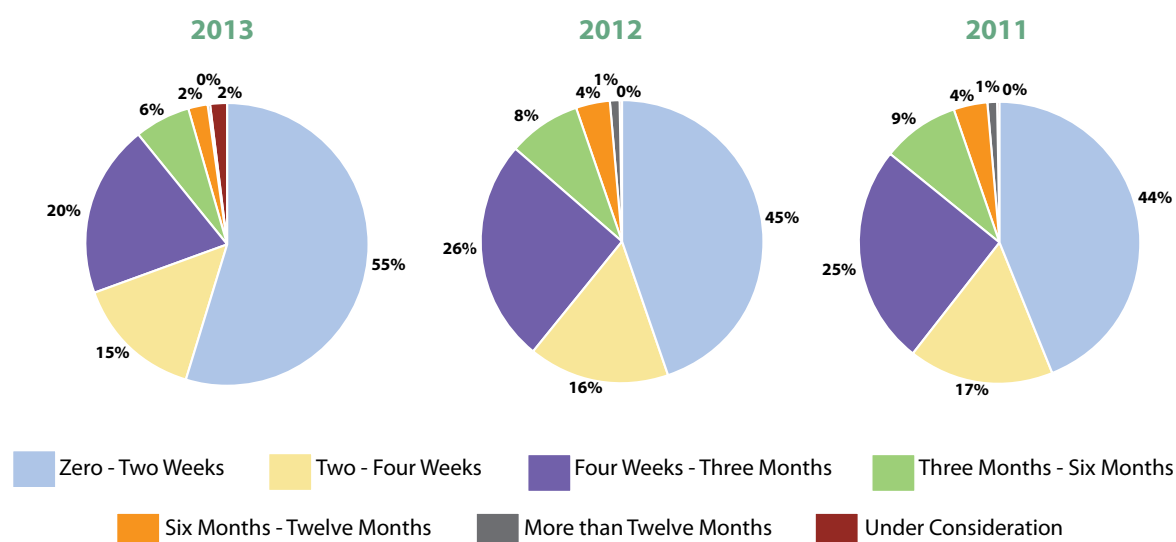
Chart 5 shows the time between the receipt of a completed prosecution file in the Office and the issuing of a direction as to whether a prosecution of a suspect should be taken or not. It has been decided to show this information by suspect rather than by file since in the case of files containing multiple suspects, decisions in respect of all suspects may not be made at the same time.

Files vary in size and complexity. Also, in some cases, further information or investigation was required before a decision could be made. Further information may be sought to enhance the proofs in a case and does not necessarily imply any deficiency in the investigation.

The time taken to issue directions is calculated on the basis of only those files which have been disposed of. Files still under consideration are therefore shown as a separate category in the table below.

CHART 5: TIME TAKEN TO ISSUE DIRECTIONS

Time Taken	2013	%	2012	%	2011	%
Zero - Two Weeks	6120	55%	5378	45%	5602	44%
Two - Four Weeks	1646	15%	1919	16%	2125	17%
Four Weeks - Three Months	2223	20%	3074	26%	3219	25%
Three Months - Six Months	704	6%	1004	8%	1146	9%
Six Months - Twelve Months	238	2%	449	4%	478	4%
More than Twelve Months	25	0%	132	1%	154	1%
TOTAL FILES DISPOSED	10956	98%	11956	100%	12724	100%
Under Consideration	216	2%	18	0%	10	0%
TOTAL	11172		11974		12734	



4.2 RESULTS OF CASES PROSECUTED ON INDICTMENT

4.2.1 Charts 6 to 10 provide information for prosecutions on indictment taken by the Director in respect of files received in the Office between 2010 and 2012. As referred to in the initial explanatory note, care should be taken before a comparison is made with figures provided by any other organisation, as they may be compiled on a different basis.

4.2.2 The figures in these charts relate to individual suspects against whom a direction has been made to prosecute on indictment. Statistics are provided on a suspect-by-suspect basis rather than on the basis of files received. This is because directions are made in respect of each suspect included within a file rather than against the complete file as an entity in itself. Depending on the evidence provided, different directions are often made in respect of the individual suspects received as part of the same file. References in these charts to 'cases' refer to such prosecutions taken against individual suspects. Although individual suspects on a file may be tried together where a direction is made to prosecute them in courts of equal jurisdiction, each suspect's verdict will be collated separately for the purpose of these statistics.

4.2.3 Statistics are provided on the basis of one outcome per suspect; this is irrespective of the number of charges and offences listed on the indictment. Convictions are broken down into: conviction by jury, conviction on plea, and conviction on a lesser charge. A conviction on a lesser charge indicates that the suspect was not convicted for the primary or most serious offence on the indictment. The offence categorisation used in the main charts is by the primary or most serious offence on

the indictment. Therefore, if a defendant is convicted of a lesser offence, the offence or offences they are convicted for may be different from that under which they are categorised in the charts. For example, a suspect may be charged with murder but ultimately convicted for the lesser offence of manslaughter or charged with aggravated burglary but convicted of the lesser offence of burglary. A breakdown of convictions on a lesser charge is given in respect of cases heard in the Special and Central Criminal Courts in charts 8A and 9A. Where a suspect is categorised as 'acquitted', this means that the suspect has been acquitted of all charges.

4.2.4 It should also be noted that statistics set out in these charts relate to what happened in the trial court only and not in a subsequent appeal court. In other words where a person is convicted and the conviction is subsequently overturned on appeal, the outcome of the trial is still shown in these statistics as a conviction.

4.2.5 Care should be taken in relation to interpreting the rates of conviction and acquittal in respect of recent years, as a higher number of cases will not have reached a conclusion. The picture furnished by these statistics will be less complete and therefore less representative than those in respect of earlier years. Cases heard relatively early may not necessarily be a representative sample of the whole.

Chart 6 shows the results of prosecutions on indictment taken in relation to defendants in respect of whom prosecutions were commenced in the years 2010 to 2012 (as of June 2014). The figures relate to:

Conviction: A conviction was obtained in respect of at least one of the charges brought in the case.

Acquittal: The defendant was acquitted on all charges.

Not Yet Heard: These are cases in which a decision to prosecute has been taken and the matter is before the courts.

NOTE: Figures have not been included for 2013 as the great majority of these cases have yet to be dealt with by the courts and the outcomes for the few cases where results are available may not be representative of the final picture covering all the cases.

CHART 6: CASE RESULTS - PROSECUTIONS ON INDICTMENT

Outcome	2012	%	2011	%	2010	%
Conviction	1788	51%	2126	57%	2634	67%
Acquittal	88	3%	127	3%	148	4%
Not Yet Heard	1519	44%	1371	37%	982	25%
Struck Out/Discontinued	75	2%	122	3%	159	4%
TOTAL	3470	100%	3746	100%	3923	100%

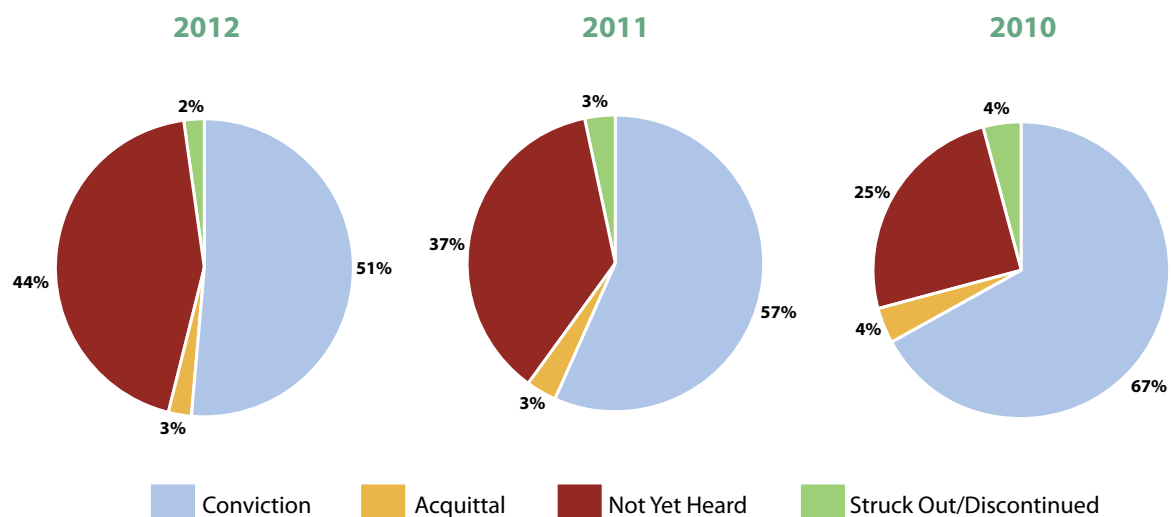


CHART 6A: BREAKDOWN OF CONVICTIONS AND ACQUITTALS
(EXCLUDING CASES STILL TO BE HEARD)

	2012	%	2011	%	2010	%
Conviction by Jury	78	4%	98	4%	111	4%
Conviction Following Plea of Guilty	1710	91%	2028	90%	2523	91%
TOTAL CONVICTIONS	1788	95%	2126	94%	2634	95%
Acquittal by Jury	56	3%	72	3%	99	3%
Acquittal on Direction of Judge	32	2%	55	3%	49	2%
TOTAL ACQUITTALS	88	5%	127	6%	148	5%
TOTAL	1876		2253		2782	

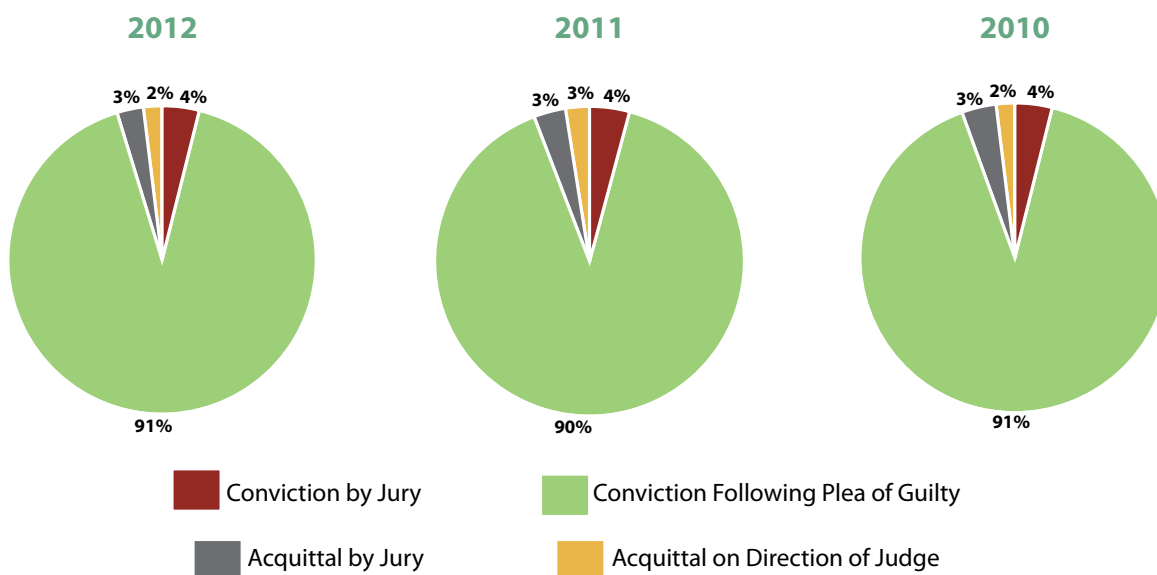


Chart 7 breaks down the prosecutions directed on indictment to be heard in the Circuit Court. The cases categorised as 'For Hearing' are those for which a verdict has not yet been recorded. In some of these cases, a trial may have begun but proceedings have been halted by a Judicial Review application. In other cases the defendant may have absconded before the trial and a bench warrant and/or extradition proceedings may be in process. Other cases, especially those of a complex nature, may not yet have come to trial. The greater proportion of cases 'For Hearing' makes the figures in more recent years less representative. This provision is also applicable to Charts 8 and 9. Where a trial results in a disagreement the case is treated as still being 'For Hearing' unless a *nolle prosequi* is entered.

CHART 7: OUTCOMES OF CASES PROSECUTED IN THE CIRCUIT CRIMINAL COURT

	TOTAL			Conviction by Jury			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Jury			Acquittal by Direction of Judge			For Hearing			Other Disposals		
	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010
Fatal Accident at Work	6	11	5	0	0	0	2	2	2	0	0	0	0	0	0	0	1	2	4	8	1	0	0	0
Manslaughter	12	11	15	0	0	2	5	4	6	0	1	6	1	0	0	0	1	0	6	5	1	0	0	0
Other Fatal Offences	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0
TOTAL - FATAL OFFENCES	18	23	20	0	0	2	7	6	8	0	1	6	1	0	0	0	2	2	10	14	2	0	0	0
Burglary	310	376	376	3	1	3	157	207	225	16	18	29	4	4	3	4	5	1	123	130	104	3	11	11
Fraud	30	48	31	0	0	0	9	22	18	0	2	2	0	0	0	0	0	1	21	24	9	0	0	1
Robbery	474	525	629	2	2	4	292	326	472	14	15	17	2	7	4	3	4	3	150	149	119	11	22	10
Theft	189	191	157	2	2	5	85	84	94	12	10	3	2	3	1	1	3	4	86	82	44	1	7	6
Other Offences Against Property	321	362	323	1	3	2	152	173	189	14	25	21	5	5	8	4	7	3	141	135	86	4	14	14
TOTAL - OFFENCES AGAINST PROPERTY	1324	1502	1516	8	8	14	695	812	998	56	70	72	13	19	16	12	19	12	521	520	362	19	54	42
Buggery	1	0	3	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0
Child Pornography	16	14	16	0	0	0	6	11	12	1	0	0	0	0	0	0	0	0	9	3	3	0	0	1
Sexual Assault	83	83	93	2	7	5	29	29	43	1	0	2	1	6	6	0	1	1	50	39	26	0	1	10
Defilement of a child	27	34	20	0	0	1	10	17	6	0	0	1	0	0	0	0	2	0	17	14	10	0	1	2
Other Sexual Offences	49	54	52	0	5	0	21	21	20	0	0	1	2	2	3	0	0	1	25	25	24	1	1	3
TOTAL - SEXUAL OFFENCES	176	185	184	2	12	6	66	78	83	2	0	4	3	8	9	0	3	2	102	81	64	1	3	16
Dangerous Driving Causing Death	18	26	37	1	0	1	9	11	19	0	0	3	0	2	3	0	3	1	8	10	9	0	0	1
Unauthorised Taking of Motor Vehicles	34	51	60	0	2	0	14	30	39	5	8	3	0	0	1	0	0	0	15	10	13	0	1	4
Other Road Traffic Offences	49	54	43	2	1	0	16	20	21	6	5	7	1	4	3	1	2	1	22	22	10	1	0	1
TOTAL - ROAD TRAFFIC OFFENCES	101	131	140	3	3	1	39	61	79	11	13	13	1	6	7	1	5	2	45	42	32	1	1	6
Drug Offences	573	591	644	2	5	3	148	192	314	170	188	154	1	3	0	2	0	5	237	198	157	13	5	11
Firearms and Explosives Offences	130	133	190	1	3	0	75	57	110	13	21	20	0	2	4	2	3	2	33	37	50	6	10	4
Non Fatal Offences Against the Person	670	729	756	18	14	19	247	330	386	38	37	61	28	23	50	9	14	16	312	283	184	18	28	40
Public Order Offences	196	187	182	2	1	1	68	54	82	10	17	26	2	3	2	4	4	0	105	99	58	5	9	13
Revenue Offences	37	38	36	0	1	0	9	13	14	2	1	0	0	0	0	0	0	0	26	23	21	0	0	1
Sea Fisheries	18	5	9	0	0	0	2	2	5	0	0	0	0	0	0	0	0	0	15	2	4	1	1	0
Other Offences	64	99	81	0	3	0	18	40	37	4	5	3	1	1	0	0	1	1	41	48	36	0	1	4
GRAND TOTAL	3307	3623	3758	36	50	46	1374	1645	2116	306	353	359	50	65	88	30	51	42	1447	1347	970	64	112	137

CHART 7A: BREAKDOWN OF 'OTHER DISPOSALS' FROM CHART 7

	2012	2011	2010
<i>Nolle Prosequi</i> Entered	59	101	131
Struck Out	2	3	2
Taken Into Consideration	1	2	3
Terminated by Judicial Review	0	2	0
Unfit to Plead	0	0	0
Not Guilty by Reason of Insanity	2	4	1
TOTAL	64	112	137

CHART 7B: TOTAL CASES FINALISED AND PERCENTAGE OF CONVICTIONS

	TOTAL			Percentage of Convictions		
	2012	2011	2010	2012	2011	2010
Fatal Accident at Work	2	3	4	100%	67%	50%
Manslaughter	6	6	14	83%	83%	100%
Other Fatal Offences	0	0	0	N/A	N/A	N/A
TOTAL - FATAL OFFENCES	8	9	18	88%	78%	89%
Burglary	184	235	261	96%	96%	98%
Fraud	9	24	21	100%	100%	95%
Robbery	313	354	500	98%	97%	99%
Theft	102	102	107	97%	94%	95%
Other Offences Against Property	176	213	223	95%	94%	95%
TOTAL - OFFENCES AGAINST PROPERTY	784	928	1112	97%	96%	97%
Buggery	0	0	2	N/A	N/A	100%
Child Pornography	7	11	12	100%	100%	100%
Sexual Assault	33	43	57	97%	84%	88%
Sex with an Underage Person	10	19	8	100%	89%	100%
Other Sexual Offences	23	28	25	91%	93%	84%
TOTAL - SEXUAL OFFENCES	73	101	104	96%	89%	89%
Dangerous Driving Causing Death	10	16	27	100%	69%	85%
Unauthorised Taking of Motor Vehicles	19	40	43	100%	100%	98%
Other Road Traffic Offences	26	32	32	92%	81%	88%
TOTAL - ROAD TRAFFIC OFFENCES	55	88	102	96%	88%	91%
Drug Offences	323	388	476	99%	99%	99%
Firearms and Explosives Offences	91	86	136	98%	94%	96%
Non Fatal Offences Against the Person	340	418	532	89%	91%	88%
Public Order Offences	86	79	111	93%	91%	98%
Sea Fisheries	11	15	14	100%	100%	100%
Revenue Offences	2	2	5	100%	100%	100%
Other Offences	23	50	41	96%	96%	98%
GRAND TOTAL	1796	2164	2651	96%	95%	95%

Chart 8 outlines the result of cases directed for prosecution in the Special Criminal Court.

CHART 8: OUTCOMES OF CASES PROSECUTED ON INDICTMENT IN THE SPECIAL CRIMINAL COURT																						
	TOTAL			Conviction by Judges			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Judges			Other Disposals			For Hearing			
	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	
Membership of Unlawful Organisation & Related Offences	13	4	13	2	3	5	1	1	0	6	0	4	1	0	2	0	0	2	3	0	0	
Firearms and Explosives Offences	9	10	17	3	0	5	1	7	6	0	0	5	2	0	1	3	2	0	0	1	0	
Murder	5	0	1	1	0	1	1	0	0	0	0	0	0	0	0	0	0	0	3	0	0	
Burglary	0	0	2	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Blackmail	0	0	5	0	0	0	0	0	4	0	0	0	0	0	1	0	0	0	0	0	0	
Threat to Kill	0	2	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Violent Disorder	0	0	3	0	0	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	
Possession of Mobile Phone in Prison	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	
Counterfeiting	0	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	0	0	0	
TOTAL	27	17	45	6	5	13	3	9	13	6	0	9	3	0	4	3	2	6	6	1	0	

CHART 8A: BREAKDOWN OF 'CONVICTIONS ON LESSER CHARGE' FOR PERSONS CHARGED WITH MEMBERSHIP OF UNLAWFUL ORGANISATION AND RELATED OFFENCES

Primary Charge	Lesser Charge Convicted of	TOTAL			Conviction by Judges			Conviction on Plea		
		2012	2011	2010	2012	2011	2010	2012	2011	2010
Membership of Unlawful Organisation & Related Offences	Firearms and Explosives Offences	6	0	4	1	0	2	5	0	2
Firearms amd Explosives Offences	Membership of Unlawful Organisation	0	0	1	0	0	1	0	0	0
Firearms amd Explosives Offences	False Imprisonment	0	0	4	0	0	4	0	0	0
TOTAL		6	0	9	1	0	7	5	0	2

CHART 8B: BREAKDOWN OF 'OTHER DISPOSALS' FROM CHART 8

	2012	2011	2010
<i>Nolle Prosequi</i> Entered	3	2	6
TOTAL	3	2	6

CHART 8C: TOTAL CASES FINALISED AND PERCENTAGE OF CONVICTIONS

	TOTAL			Percentage of Convictions		
	2012	2011	2010	2012	2011	2010
Firearms and Explosives Offences	6	7	17	67%	100%	94%
Membership of Unlawful Organisation & Related Offences	10	4	11	90%	100%	82%
Other Offences	2	3	11	100%	100%	91%
TOTAL	18	14	39			

Chart 9 outlines the result of cases directed for prosecution in the Central Criminal Court and breaks down all cases by the most serious charge directed against the defendant. Supplementary charts break down the 'convictions on a lesser charge' and the 'other disposals' outcomes.

CHART 9: OUTCOMES OF CASES PROSECUTED ON INDICTMENT IN THE CENTRAL CRIMINAL COURT

	TOTAL			Conviction by Jury			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Jury			Acquittal by Direction of Judge			Other Disposals			For Hearing		
	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010
Murder	37	31	38	15	17	17	0	1	2	6	6	11	0	0	0	0	1	2	5	0	1	11	6	5
Attempted Murder	3	0	4	1	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	2	0	0
Rape	84	71	71	9	12	13	15	17	17	5	9	12	4	7	8	1	3	2	2	8	14	49	15	5
Attempted Rape	7	3	3	0	1	0	2	0	2	1	0	0	0	0	1	0	0	0	0	0	0	4	2	0
Aggravated Sexual Assault	2	1	2	1	0	0	0	0	1	0	1	1	1	0	0	0	0	0	0	0	0	0	0	0
Assisting an Offender	2	0	2	2	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Burglary	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0
TOTAL	136	106	120	28	30	32	17	18	23	12	16	24	5	7	9	0	4	4	8	8	17	66	23	11

CHART 9A: BREAKDOWN OF 'CONVICTIONS ON LESSER CHARGE'

Primary Charge	Lesser Charge Convicted of			TOTAL			Conviction by Jury			Conviction on Plea		
	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010
Murder				5	6	11	1	2	2	4	4	9
Murder							0	0	0	1	0	0
Rape				1	0	1	0	0	0	1	0	1
Rape				2	2	0	1	2	0	1	0	0
Rape				0	0	1	0	0	0	0	0	1
Rape				0	0	1	0	0	1	0	0	0
Rape				0	3	3	0	1	1	0	2	2
Rape				0	3	6	0	0	3	0	3	3
Rape				0	1	0	0	1	0	0	0	0
Rape				2	0	0	0	0	0	2	0	0
Rape				0	0	1	0	0	0	0	0	1
Aggravated Sexual Assault				0	0	1	0	0	0	0	0	1
Aggravated Sexual Assault				0	1	0	0	0	0	0	1	0
Attempted Murder				1	0	0	0	0	0	1	0	0
TOTAL	12	16	24	2	6	7	10	10	17	10	10	17

CHART 9B: BREAKDOWN OF 'OTHER DISPOSALS'

	2012	2011	2010
<i>Nolle Prosequi</i> Entered	4	7	14
Suspect Deceased	0	0	2
Struck Out	0	1	0
Not Guilty by Reason of Insanity	4	0	1
TOTAL	8	8	17

**CHART 9C: TOTAL CASES FINALISED AND PERCENTAGE OF CONVICTIONS
(INCLUDING CONVICTIONS ON A LESSER CHARGE)**

	TOTAL			Percentage of Convictions		
	2012	2011	2010	2012	2011	2010
Murder	21	25	32	100%	96%	94%
Attempted Murder	1	0	2	100%	N/A	100%
Rape	33	48	52	88%	79%	81%
Attempted Rape	3	1	3	100%	100%	67%
Aggravated Sexual Assault	2	1	2	50%	100%	100%
Assisting an Offender	2	0	1	100%	N/A	100%
TOTAL	62	75	92	92%	85%	86%

Chart 10 breaks down the case verdicts for each Circuit Criminal Court. Unlike Chart 7, it does not include cases 'for hearing' or cases where the outcome is other than conviction or acquittal. Please note that in some cases, a trial may be held in a circuit court for a county other than that in which the offence was committed.

CHART 10: OUTCOMES OF CASES PROSECUTED ON INDICTMENT IN THE CIRCUIT CRIMINAL COURT BY COUNTY

	TOTAL			Conviction by Jury			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Jury			Acquittal by Direction of Judge		
	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010
Carlow	4	20	23	0	2	1	3	11	21	1	7	1	0	0	0	0	0	0
Cavan	15	25	29	0	0	0	13	21	24	1	4	3	1	0	1	0	0	1
Clare	30	23	53	2	1	2	19	17	38	8	1	7	1	4	4	0	0	2
Cork	148	216	269	6	7	6	114	173	228	21	23	18	4	5	11	3	8	7
Donegal	24	27	55	0	1	1	23	23	43	0	0	10	1	2	0	0	1	1
Dublin	995	1167	1313	7	17	9	760	890	1035	205	228	225	12	18	27	11	14	17
Galway	52	29	45	1	2	5	31	19	34	17	6	1	1	0	5	2	2	0
Kerry	29	55	49	1	4	2	24	41	45	4	2	0	0	8	2	0	0	0
Kildare	63	67	100	3	2	1	53	53	81	4	10	8	2	0	3	1	2	7
Kilkenny	18	30	39	1	1	1	12	22	36	3	6	0	2	0	2	0	1	0
Laos	40	19	18	0	2	0	29	12	18	3	4	0	7	1	0	1	0	0
Leitrim	3	8	3	0	0	0	2	6	2	0	2	1	1	0	0	0	0	0
Limerick	41	83	123	3	1	1	32	67	101	6	11	17	0	3	4	0	1	0
Longford	20	28	48	0	0	2	20	28	24	0	0	18	0	0	4	0	0	0
Louth	32	37	41	0	0	0	29	27	30	2	8	5	0	0	5	1	2	1
Mayo	31	44	68	3	1	1	24	28	53	3	7	12	1	4	2	0	4	0
Meath	29	44	60	1	1	0	21	27	48	4	10	5	0	4	2	3	2	5
Monaghan	5	3	13	0	0	0	5	2	13	0	0	0	0	0	0	0	1	0
Offaly	30	27	21	0	1	0	24	20	19	1	3	1	5	3	1	0	0	0
Roscommon	9	13	16	1	1	1	7	11	13	1	1	0	0	0	2	0	0	0
Sligo	30	29	35	0	2	2	17	24	26	3	2	6	6	1	1	4	0	0
Tipperary	43	39	48	4	1	3	32	24	37	7	5	5	0	3	3	0	6	0
Waterford	37	48	56	1	2	4	24	33	49	5	3	3	5	4	0	2	6	0
Westmeath	31	24	48	2	1	2	25	19	42	2	4	2	1	0	1	1	0	1
Wexford	18	11	30	0	0	1	16	8	21	2	1	3	0	2	5	0	0	0
Wicklow	18	48	47	0	0	1	15	39	35	2	5	8	0	3	3	1	1	0
TOTAL	1795	2164	2651	36	50	46	1374	1645	2116	305	353	359	50	65	88	30	51	42

CHART 10A: TOTAL CASES FINALISED AND PERCENTAGE OF CONVICTIONS

	TOTAL			Percentage of Convictions		
	2012	2011	2010	2012	2011	2010
Carlow	4	20	23	100%	100%	100%
Cavan	15	25	29	93%	100%	93%
Clare	30	23	53	97%	83%	89%
Cork	148	216	270	95%	94%	93%
Donegal	24	27	55	96%	89%	98%
Dublin	995	1167	1313	98%	97%	97%
Galway	52	29	45	94%	93%	89%
Kerry	29	55	49	100%	85%	96%
Kildare	63	67	100	95%	97%	90%
Kilkenny	18	30	39	89%	97%	95%
Laois	40	19	18	80%	95%	100%
Leitrim	3	8	3	67%	100%	100%
Limerick	41	83	123	100%	95%	97%
Longford	20	28	48	100%	100%	92%
Louth	32	37	41	97%	95%	85%
Mayo	31	44	68	97%	82%	97%
Meath	29	44	60	90%	86%	88%
Monaghan	5	3	13	100%	67%	100%
Offaly	30	27	21	83%	89%	95%
Roscommon	9	13	16	100%	100%	88%
Sligo	30	29	35	67%	97%	97%
Tipperary	43	39	48	100%	77%	94%
Waterford	37	48	56	81%	79%	100%
Westmeath	31	24	48	94%	100%	96%
Wexford	18	11	30	100%	82%	83%
Wicklow	18	48	47	94%	92%	94%
TOTAL	1795	2164	2651	96%	95%	95%

4.3 APPLICATIONS TO THE COURTS

Charts 11 to 13 provide details of applications made to the Courts in relation to reviews of sentence on grounds of undue leniency, confiscation and forfeiture of criminal assets, and European Arrest Warrants.

APPLICATIONS FOR REVIEW OF SENTENCE ON GROUNDS OF UNDUE LENIENCY

Section 2 of the Criminal Justice Act, 1993 provides that the Director of Public Prosecutions may apply to the Court of Criminal Appeal to have a sentence imposed by the trial court reviewed, if it appears that the sentence imposed was in law unduly lenient.

Chart 11 below details the number of applications made since the introduction of the Act.

Chart 11A outlines the results of applications, in the last 10 years, by the year in which the application was heard.

CHART 11: APPLICATIONS FOR REVIEW OF SENTENCE ON GROUNDS OF UNDUE LENIENCY

Year of Application	Number of Applications Lodged	Year of Application	Number of Applications Lodged
1994	2	2004	21
1995	2	2005	37
1996	3	2006	41
1997	4	2007	42
1998	12	2008	58
1999	34	2009	57
2000	31	2010	54
2001	23	2011	55
2002	23	2012	21
2003	26	2013	32

CHART 11A: RESULTS OF APPLICATIONS BY YEAR HEARD

Year of Application Heard	Successful	Refused	Applications Struck Out or Withdrawn	TOTAL
2004	13	8	1	22
2005	18	9	2	29
2006	33	15	2	50
2007	30	6	3	39
2008	30	14	3	47
2009	15	13	3	31
2010	27	27	3	57
2011	22	18	3	43
2012	15	10	3	28
2013	16	6	4	26

CONFISCATION AND FORFEITURE OF CRIMINAL ASSETS

Taking away the assets of convicted criminals, as provided for under the provisions of the Criminal Justice Act 1994 (as amended), has proved to be an effective tool available to the Prosecution in diminishing the proceeds that are obtained from criminal activity. The Office of the Director of Public Prosecutions established a dedicated Assets Seizing Section in 2007 which co-ordinates and monitors all applications brought under the Act. The section liaises on an ongoing basis with An Garda Síochána, State Solicitors, the Criminal Assets Bureau and the Revenue Commissioners, to ensure best practice in the area of confiscation and forfeiture of criminal assets.

Asset seizing files received in the Office under the Criminal Justice Act 1994 ranged from forfeiture order cases, to confiscation order cases, to freezing order applications. The total number of cases opened in 2013 is set out in chart 12 below.

Since 1 August 2011, the Director of Public Prosecutions, pursuant to the Prosecution of Offences Act 1974, section 4(1)(a), directed that the Principal Prosecution Solicitor in charge of the Asset Seizing Unit of the DPP's Office may, among other Professional Officers, give directions to bring applications under section 39 of the Criminal Justice Act 1994 as amended under section 20 of the Proceeds of Crime Act 2005. The Assets Seizing Unit is in the Solicitors Division of the DPP's Office

From 1 January 2013 to 31 December 2013, 28 directions were issued by the Head of the Unit on section 39 files received from the Gardaí and Revenue Solicitors. This delegation of decision making authority has helped in reducing the number of such cases that would otherwise have to be considered by Professional Officers in the Directing Division of the DPP's Office. The decision making function in relation to such cases is now centralised in the Asset Seizing Unit.

CHART 12: ASSET SEIZING FILES OPENED IN 2013

Asset Seizing Files Opened 2013	
Section 39 Applications	6
Section 39 (Revenue Solicitor) Applications	21
Sections 4 and 9 Applications	15
Section 61 Applications	14
Section 24 Applications	2
TOTAL	58

Section 39 Forfeiture Orders: Under section 39 of the Act a Judge of the Circuit Court may order the forfeiture of any cash which has been seized under section 38* of the Act if satisfied that the cash directly or indirectly represents the proceeds of crime.

* [Section 38 of the Act authorises the seizure of cash where a member of An Garda Síochána or an officer of Customs and Excise has reasonable grounds for suspecting that the cash (including cash found during a search) represents any person's proceeds from criminal conduct. The cash seized by a Garda or an officer of Customs and Excise may not be detained for more than 48 hours unless the further detention of the cash is authorised by a Judge of the District Court. Applications can be made to Court to continue to detain the cash for periods of up to two years.]

Section 4 Confiscation Orders: Under the provisions of section 4 of the Criminal Justice Act 1994 (as amended), once a person has been convicted on indictment of a drug trafficking offence and sentenced, the Court of trial must determine whether the convicted person has benefited from drug trafficking, the extent to which he has benefited, and the amount that is realisable to discharge a Confiscation Order. The Court can then make a Confiscation Order for that figure.

Section 9 Confiscation Orders: Section 9 of the Act allows the confiscation, on conviction, of the benefit an accused person has gained from any indictable offence other than drug trafficking offences. An inquiry may be held by the Circuit Court into the benefit gained after the person is sentenced. The Prosecution must prove that benefit generated is directly related to the offence with which the accused is charged.

Section 61 Forfeiture Orders: Section 61 of the Act allows for forfeiture of any property used to commit, or to facilitate any offence, in either the District Court or Circuit Court. This Office brings applications under the section in relation to a wide variety of assets, such as cars used to transport criminals to and from crime scenes, as well as money and instruments of crime such as drug preparation equipment found at the crime scene, or near to it.

Section 24 Freezing Orders: Section 24 of the Act provides for applications to the High Court by the DPP for freezing orders where a person is charged, or a decision has been taken to charge that person, with an indictable offence. The freezing order can cover all property identified both in Ireland or abroad belonging to the accused person. Freezing orders are designed to prevent the dissipation of assets prior to a confiscation inquiry being conducted by the trial court if the accused is convicted on indictment of the offence charged.

Details of Confiscation and Forfeiture Orders granted by the courts in 2013, to a total value of €1,251,528 are outlined in chart 12A below. This figure does not include an order for restitution of misappropriated money for the sum of €38,625 to the injured parties from whom it was stolen, granted under section 56 of the Criminal Justice (Theft and Fraud Offences) Act 2001.

CHART 12A: CONFISCATION OF CRIMINAL ASSETS

Orders	Number	Amount
Forfeiture Orders	12	€97,833
Section 4 Confiscation Orders	6	€228,014
Section 9 Confiscation Orders	1	€262,404
Section 39 Forfeiture Orders (Gardaí)	7	€225,034
Section 39 Forfeiture Orders (Revenue Solicitor Applications)	17	€384,865
Confiscation Co-operation Orders	2	€53,378
TOTAL	45	€1,251,528

EUROPEAN ARREST WARRANTS

The European Arrest Warrant Act, 2003 came into operation on 1 January 2004. Section 2 of the Act defines the European Arrest Warrant (EAW) as a Court decision in one member state of the EU addressed to a Court in another member state of the EU for the purpose of “conducting a criminal prosecution or the execution of a custodial sentence in the issuing member state”.

Requests for the preparation of EAWs are submitted to the Office of the Director of Public Prosecutions by the Extradition Unit of the Garda Síochána. Applications for EAWs are normally made to a Judge of the High Court sitting in Dublin by a solicitor from the Office and when issued by the High Court, the EAW is dispatched to the Department of Justice & Equality for transmission to the country where it is believed the requested person is residing. Section 33 of the European Arrest Warrant Act 2003 provides that a European Arrest Warrant can be issued by a Court if the person requested would, if convicted of the offence (the subject matter of the EAW), be potentially liable to serve a term of imprisonment of 12 months or more. Alternatively, if the person requested has been convicted of an offence, a European Arrest Warrant can be issued in respect to that offence, if the requested person is required to serve as a sentence, a term of imprisonment of at least 4 months. The offences for which EAWs have been sought covered a wide range of serious offences including murder, sexual offences, drugs offences, thefts and serious assaults.

Chart 13 below outlines the number of European Arrest Warrants dealt with in the years 2011, 2012 and 2013. It should be noted that the issue of the EAW and the surrender of the person will not necessarily correspond to the year the file is received. The total files received include 84 files where an application is pending or where either no application for an EAW was made, or the issued EAW was withdrawn because the DPP had so directed, the requested person was arrested in Ireland, or the requested person or complainant had died.

CHART 13: EUROPEAN ARREST WARRANTS

Year	EAW Files Received from Gardaí	EAWs Issued	Persons Surrendered
2011	69	55	30
2012	61	70	50
2013	74	50	38

4.4 EXTRADITION REQUESTS

Requests for the preparation/issue of Extradition Requests (seeking the extradition of individuals who are not present in European Arrest Warrant member states) are submitted to the Office of the Director of Public Prosecutions by the Extradition Unit of An Garda Síochána.

Once completed, these Extradition Requests are issued by forwarding the requests to the Central Authority in Ireland, namely the Department of Justice & Equality. The Extradition Requests are then transmitted via diplomatic channels by the Department of Foreign Affairs and Trade.

At present Ireland has bi-lateral Extradition Treaties with the United States of America and Australia. Additionally, Ireland has ratified the European Convention on Extradition (Paris 1957).

In 2013, the Office of the Director of Public Prosecutions received 16 files from An Garda Síochána seeking the completion and issue of Extradition Requests.

12 Extradition Requests were issued in 2013, of which 1 was transmitted to Brazil, 8 were transmitted to Australia and 3 were transmitted to the United States of America.

CHART 14: EXTRADITION REQUESTS 2013

Country request transmitted to	Number of extradition requests issued
Brazil	1
Australia	8
USA	3
TOTAL	12

4.5 MUTUAL LEGAL ASSISTANCE

Under the provisions of the Criminal Justice (Mutual Assistance) Act 2008, Ireland can provide mutual legal assistance to and ask for mutual assistance from other countries in criminal investigations or criminal proceedings. All such requests are dealt with by the Central Authority for Mutual Assistance in the Department of Justice and Equality.

Requests for mutual assistance to other countries are forwarded to the Office of the Director of Public Prosecutions by the Central Authority for assessment and legal advice, before transmission to other countries.

Chart 15 outlines the total number of requests for mutual legal assistance dealt with by this Office.

CHART 15: REQUESTS FOR MUTUAL LEGAL ASSISTANCE

	2013	2012	2011
Number of Requests	181	223	152

APPENDIX 1:

LEAFLET ON MAKING A VICTIM IMPACT STATEMENT

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This leaflet tries to answer the questions that people ask most often about making a Victim Impact Statement. It does not deal with every possible situation and it does not give you legal advice. If you need legal advice you should talk to a solicitor.

1. What is a Victim Impact Statement?

If you are the victim of a crime you may make a Victim Impact Statement in certain circumstances. A Victim Impact Statement is an account in your own words of the effect that the crime has had on you. You may, for example, have suffered a physical injury, be affected psychologically, or be at a loss financially.

2. Why is it important?

The Statement helps the judge understand the impact the crime has had on you. The judge can then take that into account when deciding what sentence to give the offender.

3. Who can make a Victim Impact Statement?

The following people can make a victim impact statement:

- the victim of the crime
- a family member of a victim who has died, is ill or is incapacitated because of the crime
- a victim who is less than 14 years of age or their parent or guardian
- a victim who has a mental disorder or a family member on their behalf

A parent, family member or guardian of the victim in the case, who has been convicted of the offence against the victim, cannot make a Victim Impact Statement on their behalf.

4. Is a Victim Impact Statement allowed in all criminal cases?

No. The law states that a Victim Impact Statement can be made in cases involving sexual offences or violent crime, once the offender is found guilty. Violent crime includes cases involving the threat of violence. A Victim Impact Statement may also be allowed in other cases if the judge thinks it appropriate, for example a fatal road traffic incident.

5. Do I have to make a Victim Impact Statement?

If you are entitled to make a Victim Impact Statement you can choose whether you want to make one or not. If you decide not to make a Victim Impact Statement, the judge will not take this to mean that the crime had no effect on you.

6. When do I make my Victim Impact Statement?

You make your Victim Impact Statement after the offender has been found guilty in court but before the judge decides on the sentence.

7. What can I say in my Victim Impact Statement?

The Victim Impact Statement is your chance to tell the court how the crime has affected you. It may be helpful to consider:

- any physical or psychological injury you have suffered

- if you feel vulnerable or intimidated
- if you no longer feel safe
- the impact on your family
- how your quality of life has changed on a day-to-day basis
- any financial loss that you have suffered as a result of the crime

You should not include your thoughts or feelings about the offender or tell the judge what sentence you think the offender deserves.

8. Can I get someone to help me to make the Victim Impact Statement?

The Victim Impact Statement is your chance to say in **your own words** how the crime has affected you. It is important that nobody else influences what you say in your Statement or writes the Statement for you. The information in this leaflet should help you to prepare your Statement.

9. How do I make a Victim Impact Statement?

There is no set form of Victim Impact Statement. You can write or type the Statement. When it is finished you should give it to the Gardaí. You can also keep a copy for yourself.

10. What happens to my Victim Impact Statement?

Once you give your Statement to the Gardaí it becomes part of the evidence in the case. This means that your Victim Impact Statement can be seen by the prosecution team, the defence, the Gardaí, and the court. Copies of your Victim Impact Statement are not given to anyone else. However, details of the contents of your statement may be reported in the media, unless the judge restricts publication.

11. Can I be asked about my Victim Impact Statement?

Yes. If you make a written Victim Impact Statement the court or the defence may ask you questions about the content of the Statement to clarify certain points. If

you are making an oral Victim Impact Statement, the court, the prosecution or the defence may also ask you questions about what you say.

12. Can the Court ask for a professional opinion about how the crime has affected me?

Yes. The court may request that you be assessed by a professional person, for example a psychologist. This would happen only in some cases, such as sexual offence cases. If the court made such a request in your case the Gardaí would explain the procedure to you. This professional person will meet with you to talk about the effect the crime has had on you. Then they write a **Victim Impact Report** for the court in which they give their opinion of the impact of the crime on your life. This is separate from the Victim Impact Statement that you make yourself.

MORE INFORMATION

If you would like to know more about Victim Impact Statements you can look at section 4 of the Criminal Procedure Act 2010, as amended, which you can access on the Irish Statute Book website at www.irishstatutebook.ie.

