

Oifig an  
Office of the



**Stiúrthóra Ionchúiseamh Poiblí**  
**Director of Public Prosecutions**

**Annual Report 2016**

This Report is also available in the Irish Language

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## FOREWORD

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I am pleased to present the annual report for 2016.

The Court of Appeal had its second full year of operation in 2016 and continued to devote considerable resources to criminal appeals. The Central Criminal Court also saw a large increase in the number of cases disposed of by that court, with a corresponding increase in fees paid to Counsel for the cases heard. While the increased disposal of cases was welcome, this placed pressure on staff resources dealing with this work. The second Special Criminal Court had its first full year of operation and contributed to a reduction in the backlog in that court.

There was a very significant fall off in the number of bail appeals to the High Court. This was largely responsible for the reduction in the numbers of files dealt with by the Office as outlined in Chapter 4. Following an increase over the previous three years, there was also a small drop in the number of files submitted to the Office for decisions on prosecution.

The Office continued to implement the European Union Directive on the Rights, Support and Protection of Victims of Crime during 2016. At time of writing, the Act transposing this directive into Irish law has been passed by the Oireachtas. I welcome this development. As is set out in Chapter 3.2 of the report, we will be carrying out a review of our current structures and procedures to ensure they comply with the legislation. I am hopeful that public awareness of the rights and supports available to victims will continue to grow.

In 2016 the remit of the Special Financial Unit set up in 2011 to deal with the cases arising out of the banking crisis was broadened out to encompass



other financial crime cases. There is ongoing close liaison with the Garda National Economic Crime Bureau (GNECB) in relation to such cases.

Chapter 3.3 describes the holding of the Annual Conference of the International Association of Prosecutors (IAP) in Dublin in September 2016. It was a great honour for Ireland and this Office to host almost 550 prosecutors from 89 countries.

The theme of the conference – the relationship between the prosecutor and the investigator – is a very important one and was examined on many different levels throughout the four days of sessions. The IAP also renewed its commitment to raise prosecutorial standards worldwide. I was honoured to be elected to the Executive Committee of the IAP at the Dublin Conference and I am committed to supporting its mission in any way I can.

The conference identified certain challenges facing prosecutors globally, including threats to their independence from political interference. The role of the prosecutor in Ireland is underpinned by the Guidelines for Prosecutors, the fourth edition of which was published in October of 2016. This edition of the Guidelines, first published in 2001, constitutes an extensive revision in light of various

legal developments, for example, the EU Victims Directive mentioned above. The Guidelines can be found on our website [www.dppireland.ie](http://www.dppireland.ie).

I am pleased to report that the long planned re-location of all staff into one corporate headquarters was completed in June of this year. We had already commenced an organisational review to ensure we could fully capitalise on this welcome development. The review is ongoing but significant progress has been made to ensure the readiness of the Office to meet challenges in the future. These include the ever increasing international work reported on pages 58 to 60, and the impact on our work of EU data protection instruments from May next year.

Looking to the future I welcome the Government's announcement of the prioritisation of the Criminal Procedure Bill in order to deal with, amongst other things, procedures prior to criminal trials. The final form of the provision on pre-trial hearings remains to be seen but I hope it will have sufficient robustness to make a meaningful difference to the processing of all indictable cases through the courts. While the savings can be most obvious in very lengthy and complex cases, there is also a need for effective disposal of issues prior to trial in

less complex cases. These are of great importance to the participants and it can be particularly traumatic for victims if delays and adjournments occur.

I want to conclude by thanking all the staff of the Office, our State Solicitors and the many independent counsel who represent the prosecution, for their continued commitment and hard work. They are challenged on a daily basis to prosecute without fear or favour in accordance with the Guidelines for Prosecutors. It is thanks to them that we can deliver on our mission – to provide on behalf of the people of Ireland a prosecution service that is independent, fair and effective.



**Claire Loftus**  
**Director of Public Prosecutions**  
November 2017

## **MISSION STATEMENT**

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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

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# 1.1 GENERAL WORK OF THE OFFICE

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**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 and Safety Authority, the Competition and Consumer Protection Commission, 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 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.

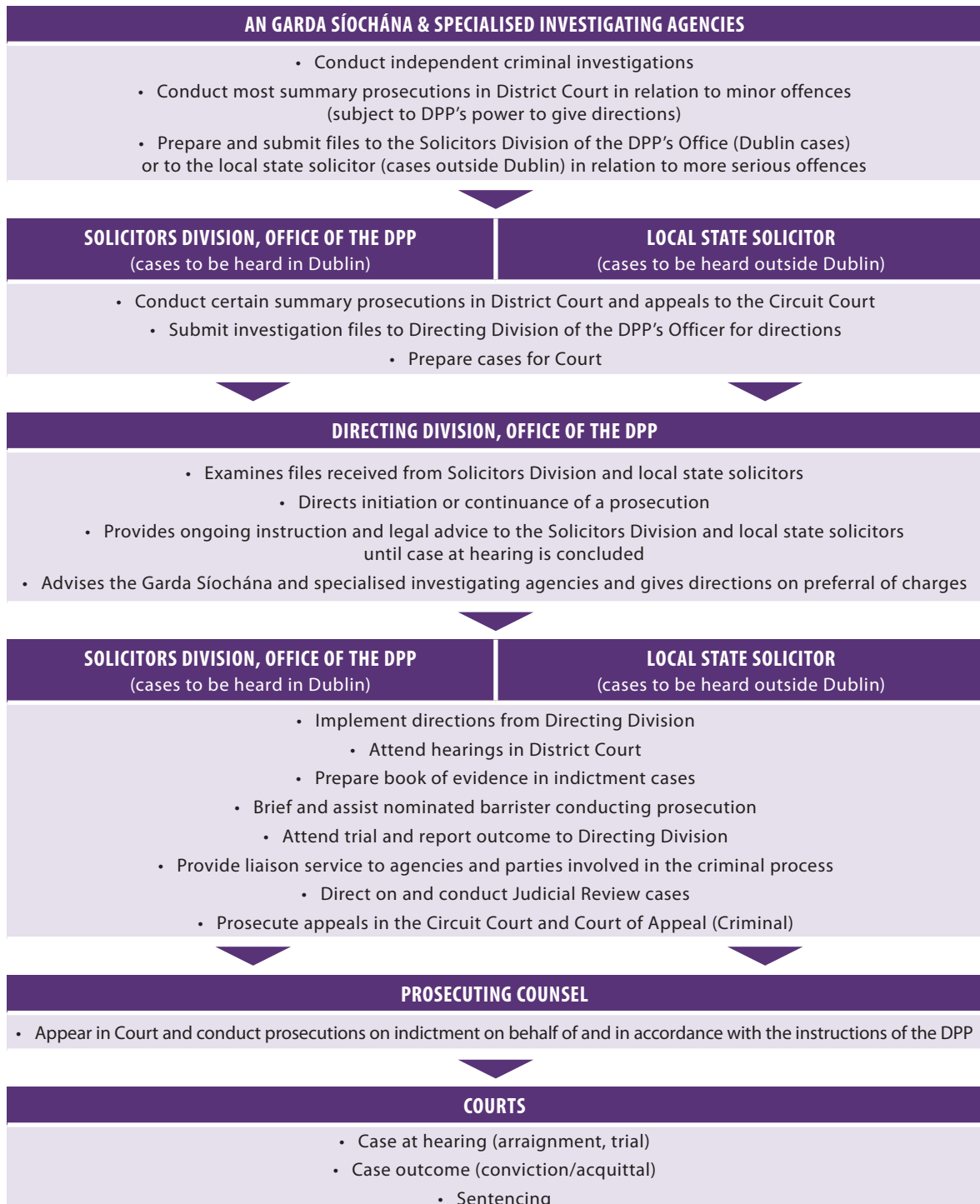
The Administration Division provides the organisational, infrastructural, administrative and information services required by the Office and also provides support to both the Directing and Solicitors Divisions.

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.
- The Communications and Victims Liaison Unit which is responsible for ensuring that the Office meets its obligations as set out in EU Directive 2012/29/EU, establishing minimum standards on the rights, support and protection of victims of crime.

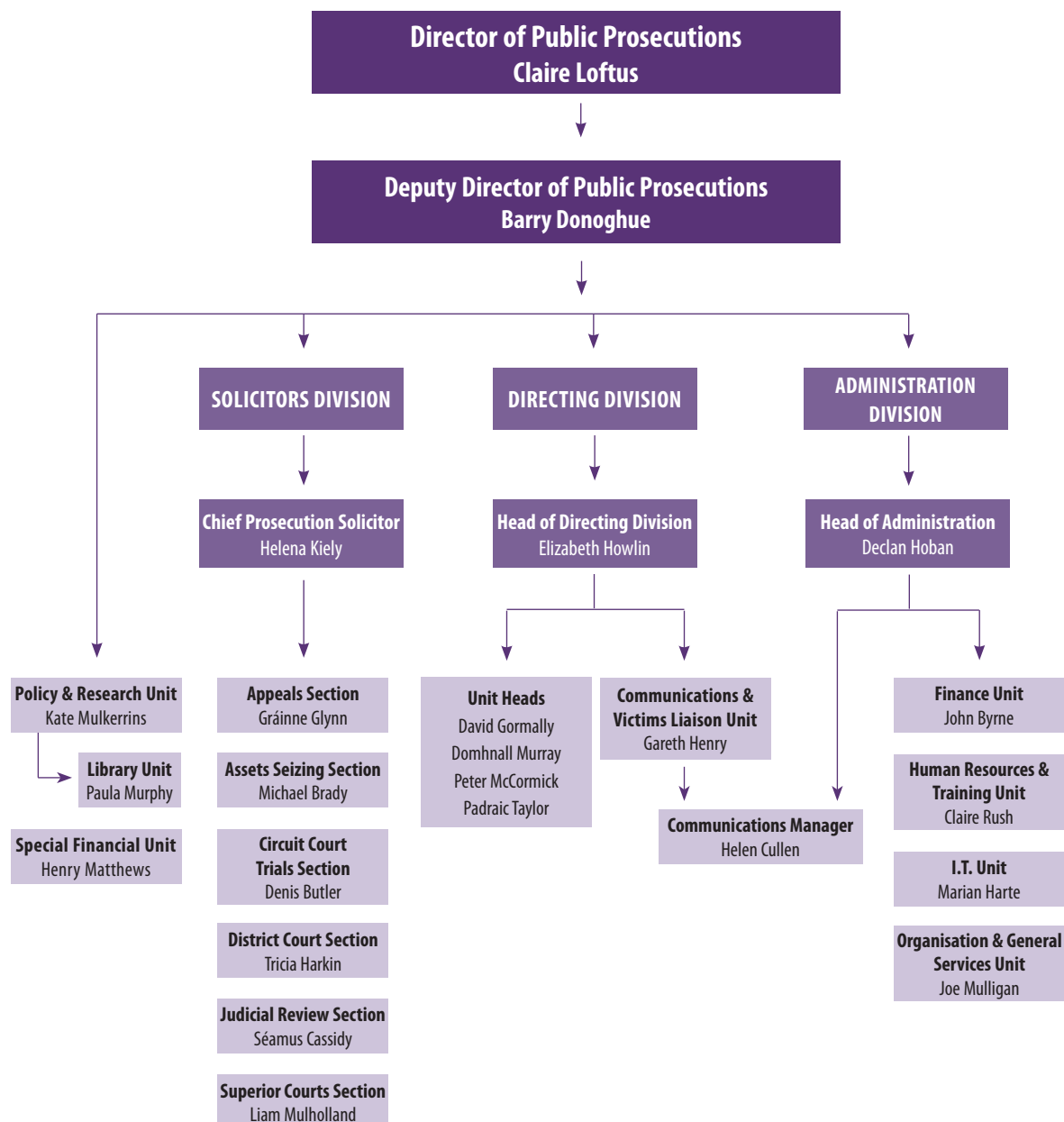


# 1.2 OUTLINE OF THE CRIMINAL PROSECUTION PROCESS



# 1.3 ORGANISATION STRUCTURE

(AS OF SEPTEMBER 2017)



# PART 2:

## OFFICE ADMINISTRATION

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# 2.1 OFFICE EXPENDITURE

Chart 2.1.1 shows the breakdown of office expenditure for 2016, 2015 and 2014

**Salaries & Wages:** This represents the cost of salaries of staff employed in the Office. The total staff complement at 1 January 2016 was 186.

**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.

**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.

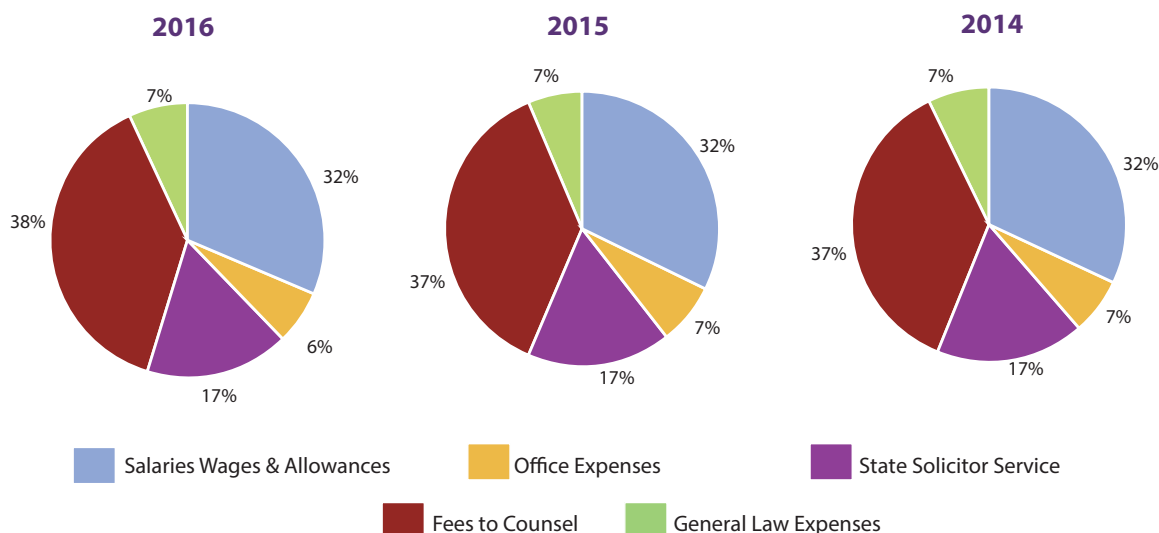
**Fees to Counsel:** These are fees paid to the barristers who prosecute cases on behalf of the Director in the various criminal courts. Fees are set within the parameters set by the Minister for Public Expenditure and Reform.

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

**NOTE:** The amounts outlined in Chart 2.1.1. for Salaries, Wages & Allowances and Office Expenses are net of pension-related deductions and Appropriations-in-Aid respectively.

CHART 2.1.1 Office Expenditure

	2016 €	%	2015 €	%	2014 €	%
Salaries Wages & Allowances	12,198,630	32%	12,150,357	32%	11,825,780	32%
Office Expenses	2,417,507	6%	2,744,842	7%	2,427,721	7%
State Solicitor Service	6,547,058	17%	6,433,605	17%	6,401,954	17%
Fees to Counsel	14,857,921	38%	14,022,032	37%	13,399,223	37%
General Law Expenses	2,604,944	7%	2,318,369	7%	2,647,470	7%
<b>TOTAL</b>	<b>38,626,060</b>		<b>37,669,205</b>		<b>36,702,148</b>	



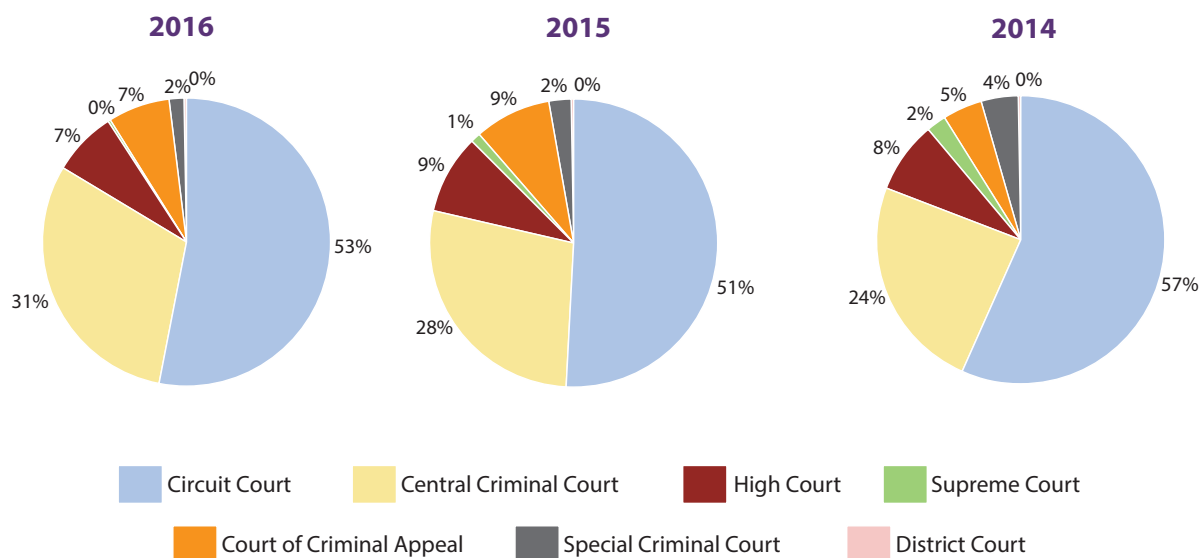
Charts 2.1.2 & 2.1.3 show a breakdown of expenditure on fees to counsel in the various criminal courts and by region in respect of the Circuit Criminal Court.

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.

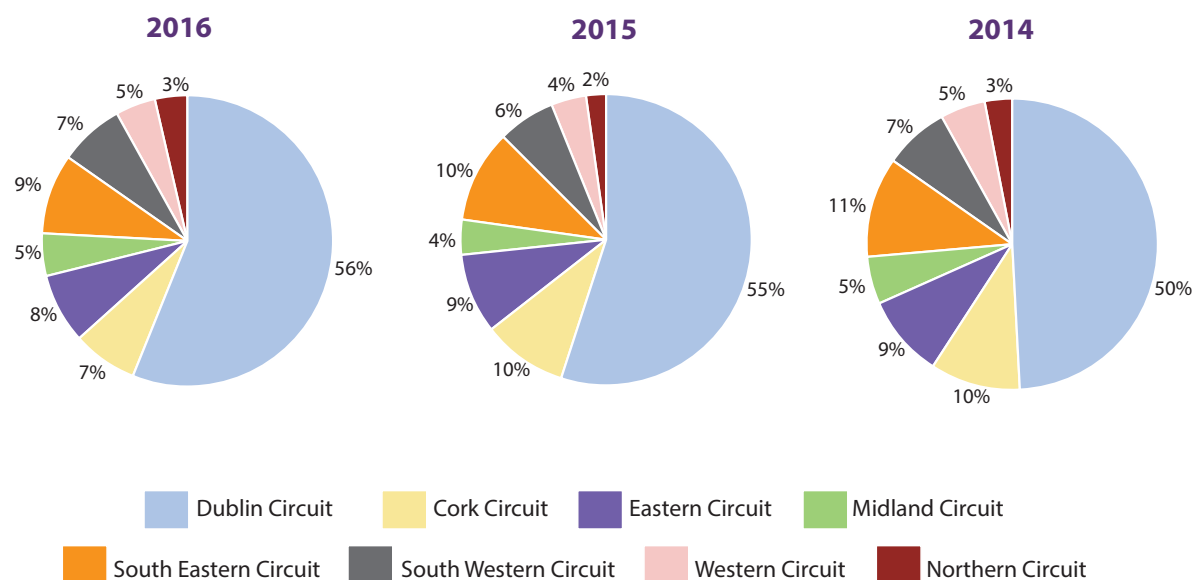
**CHART 2.1.2 Fees to Counsel Paid by Court**

	2016 €	%	2015 €	%	2014 €	%
Circuit Court	7,885,210	53%	7,133,793	51%	7,615,411	57%
Central Criminal Court	4,561,132	31%	3,911,612	28%	3,252,484	24%
High Court	1,070,952	7%	1,246,587	9%	1,043,487	8%
Supreme Court	48,892	0%	150,056	1%	311,567	2%
Court of Appeal	1,013,359	7%	1,204,331	9%	583,240	5%
Special Criminal Court	243,982	2%	354,910	2%	578,904	4%
District Court	34,394	0%	20,743	0%	14,130	0%
<b>TOTAL</b>	<b>14,857,921</b>		<b>14,022,032</b>		<b>13,399,223</b>	



**CHART 2.1.3 Fees to Counsel Paid by Circuit**

	<b>2016</b>	<b>%</b>	<b>2015</b>	<b>%</b>	<b>2014</b>	<b>%</b>
	<b>€</b>		<b>€</b>		<b>€</b>	
Dublin Circuit	4,435,009	56%	3,935,526	55%	3,752,005	50%
Cork Circuit	579,824	7%	680,537	10%	754,179	10%
Eastern Circuit	601,443	8%	632,113	9%	707,131	9%
Midland Circuit	365,235	5%	268,629	4%	402,754	5%
South Eastern Circuit	711,779	9%	736,032	10%	844,631	11%
South Western Circuit	560,802	7%	459,927	6%	557,258	7%
Western Circuit	359,908	5%	263,531	4%	380,445	5%
Northern Circuit	271,210	3%	157,498	2%	217,007	3%
<b>TOTAL</b>	<b>7,885,210</b>		<b>7,133,793</b>		<b>7,615,410</b>	



# 2.2 EXTRACT FROM APPROPRIATION ACCOUNT 2015

Account of the sum expended in the year ended 31 December 2015, 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	2015 Outturn €'000	2014 Outturn €'000
<b>PROGRAMME EXPENDITURE</b>			
<b>A.</b> Provision of Prosecution Service	38,839	38,622	37,675
<b>Gross Expenditure</b>	<b>38,839</b>	<b>38,622</b>	<b>37,675</b>
<i>Deduct</i>			
<b>B.</b> Appropriations-in-Aid	1,005	953	973
<b>Net Expenditure</b>	<b>37,834</b>	<b>37,669</b>	<b>36,702</b>
<b>Surplus for Surrender</b>			
The surplus of the amount provided over the net amount applied is liable for surrender to the Exchequer			
		<b>2015</b>	<b>2014</b>
Surplus to be Surrendered		€164,795	€135,853
<b>Analysis of Administration Expenditure</b>			
	Estimate Provision €'000	2015 Outturn €'000	2014 Outturn €'000
<b>I.</b> Salaries, Wages and Allowances	13,826	12,963	12,648
<b>II.</b> Travel and Subsistence	109	91	103
<b>III.</b> Training and Development and Incidental Expenses	991	1,139	1,188
<b>IV.</b> Postal and Telecommunications Services	250	219	201
<b>V.</b> Office Equipment and External IT Services	808	422	469
<b>VI.</b> Office Premises Expenses	792	983	597
<b>VII.</b> Consultancy Services and Value for Money & Policy Reviews	37	30	20
	<b>16,813</b>	<b>15,847</b>	<b>15,226</b>

## 2.3 PROMPT PAYMENT OF ACCOUNTS ACT, 1997

### Late Payments in Commercial Transactions Regulations 2002

#### OPERATION OF THE ACT IN THE PERIOD 1 JANUARY 2016 TO 31 DECEMBER 2016

- 2.3.1** 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 counsels' fees within 30 days of receipt of a case report form in each case.
- 2.3.2** In the period in question, the Office made 7 late payments in excess of €317.50. The value of these payments was €11,434. The total value of late payments in the year amounted to €11,790 out of total payments of €2.7 million and interest thereon came to €46.37.

#### Statement of the Accounting Officer

- 2.3.3** The Office of the Director of Public Prosecutions is one of the organisations which is 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.
- 2.3.4** 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.

- 2.3.5** 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  
July 2017



## 2.4 FREEDOM OF INFORMATION

**2.4.1** The Freedom of Information (FOI) Act 2014 asserts the right of members of the public to obtain access to official information, including personal information, to the greatest extent possible consistent with the public interest and the right to privacy of individuals.

**2.4.2** Section 42(f) of the Act 2014 provides a right of access only with regard to records which relate to the general administration of the Office of the DPP. This in effect means that records concerning criminal prosecution files are not accessible under the FOI Act.

**2.4.3** The Office continues to make FOI information available as readily as possible. Our Freedom of Information Publication Scheme is available on our website, [www.dppireland.ie](http://www.dppireland.ie). This publication outlines the business of the Office including the types of records kept.

**2.4.4** The FOI unit can be contacted by telephone on (01) 858 8500 or by e-mail at [foi@dppireland.ie](mailto:foi@dppireland.ie). This e-mail address can be used to submit a Freedom of Information request, but cannot be used when requesting an internal review where an application fee is required.

**2.4.5** During 2016 a total of 31 requests were submitted to the Office. Seven requests were granted/part granted, 23 requests were refused and one was dealt with outside of FOI. The reason for the refusals was that the records sought did not relate to the general administration of the Office.

**2.4.6** Six of the requests were submitted by journalists, four were submitted by business/interest groups, while the other 21 requests were made by the general public.

**2.4.7** In the 23 cases where requests were refused, only two of the requesters sought an internal review of the original decision. The original decision was upheld, in both these cases.

### Requests Received 2016

Requests Granted / Part Granted	7
Requests Refused	23
Withdrawn / Dealt with outside of FOI	1
<b>TOTAL REQUESTS</b>	<b>31</b>

### Requesters 2016

Journalists	6
General Public	21
Business / Interest Groups	4

### Reviews 2016

Requests for Internal Review	2
Requests to the Information Commissioner for Review	0

# 2.5 ANNUAL ENERGY EFFICIENCY REPORT 2016

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## Overview of Energy Usage in 2016

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**2.5.1** In 2016, the Office of the Director of Public Prosecutions consumed 1,755.84MWh of energy.

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:

- 759.57 MWh of Electricity
- 996.27 MWh of Natural Gas

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## Actions Undertaken in 2016

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**2.5.2** During 2016, energy efficiency monitoring continued in collaboration with external consultants and maintenance contractors. Actions taken during 2016 include the following:

- Monitoring of the computerised Building Management System (BMS) continued and gas boilers were switched off for extended periods over the summer.
- Secured a commitment to upgrade monitoring facilities to include installation of a new BMS system at Infirmary Road.
- Developed and progressed proposals for insulation measures in key areas of buildings where heat loss was significant.
- Progressed proposals for major window repair/replacement programme.

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## Actions Planned for 2017

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**2.5.3** Actions planned for 2017 include the following:

- Complete water heating controls improvements.
- Installation for a new BMS system to manage energy consumption at Infirmary Road.
- Implement insulation measures progressed in 2016.
- Continue with window repair/replacement programme.
- Continuation of awareness campaign using signage and posters.
- Advance proposals for upgrade of controls and boiler systems at Infirmary Road.

## 2.6 IRISH LANGUAGE SCHEME

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**2.6.1** 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 in January 2014. A copy of the Scheme is available on our website at [www.dppireland.ie](http://www.dppireland.ie). The Scheme was effective for the three year period from 2014 to 2016.

**2.6.2** During 2016 the Office dealt with 2 High Court cases in Irish. We received 2 letters and 6 emails in the Irish language, all of which were responded to in Irish. A member of our panel of Irish speakers dealt with 1 telephone call in Irish during 2016.

**2.6.3** The Office produced three publications during 2016: the Annual Report 2015; the Strategy Statement 2016 - 2018; and a revised version of our Guidelines for Prosecutors. All publications were produced bilingually.

**2.6.4** The Office website is maintained and updated in bilingual format. Updates to the Irish version of the website are translated by external translators. Changes are then published simultaneously on the Irish and English versions of the website.

**2.6.5** During 2016 the total number of page views on the Irish version of our website was 886. This represents 0.6% of all page views. Apart from the Irish homepage, the most visited Irish pages were: Information Booklets, Guidelines for Prosecutors and Latest Vacancies.

**2.6.6** Our Training Unit continues to promote Irish Language training courses to ensure that the Office can fulfil its obligations under the Official Languages Act. In particular, for the second year running, an in-house course in

Legal Irish was arranged by the Training Unit. The course, which commenced in February 2016, comprised four modules and was attended by a number of our legal staff. The topics covered included: Legal Terminology; Making applications in the District and High Courts; Examining / Cross-examining witnesses through Irish; and Making brief submissions in the Irish language.

# PART 3:

## LEGAL DEVELOPMENTS

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# 3.1 LEGAL DEVELOPMENTS 2016

## 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 2016, 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.

## INTERCEPTION OF POST (Section 34 Criminal Procedure Act 1967 Appeal)

***DPP v. BA* [2016] IESC 22 ( Charleton J, O'Donnell J, 10 May 2016)**

- 3.1.2** The Supreme Court held that the Gardaí were entitled to intercept in Germany and open in Ireland a parcel containing drugs which had been addressed to a house in Dublin. A controlled delivery was then conducted. The "interception" by authorities in Germany was not in the "course of post" as defined under the relevant legislation and therefore did not require Ministerial authorisation.

## DURESS NOT A DEFENCE TO MURDER (Section 29 Appeal)

***Jonathan Dunne v. DPP* [2016] IESC 24 (O'Malley J, 12 May 2016)**

- 3.1.3** The Supreme Court confirmed the common law principle that duress cannot be raised as a full or partial defence to murder. The court held that a change to the common law exclusion of murder from the defence of duress would be so fundamental that it could only be introduced by way of legislation.

## MISUSE OF DRUGS ACTS (AG/DPP Appeal from Court of Appeal)

***Bederev v. DPP* [2016] IESC 34 (Charleton J, MacMenamin J, 22 June 2016)**

- 3.1.4** The Supreme Court overturned the judgment of the Court of Appeal which had declared as unconstitutional section 2(2) of the Misuse of Drugs Act 1977 which had delegated to the Government the power to declare categories of drugs as "controlled" drugs. The Court noted that the 1977 Act provided the Government with guidance when considering which drugs to declare as "controlled" and the Oireachtas could still annul the delegated legislative authority the Government had been given in the Act to designate drugs as "controlled" drugs.

## MENS REA FOR OFFENCE OF RAPE (Article 34.4 Appeal from Court of Appeal)

***DPP v. CO'R* [2016] IESC 64 ( Charleton J, 16 November 2016)**

- 3.1.5** The Supreme Court examined the mental element of rape and held that, if an accused genuinely believed, albeit unreasonably, that a woman was consenting to sexual intercourse, even though she did not consent, he is not guilty of rape. However, that defence requires genuine belief and a jury can use common-sense and objective criteria when deciding whether or not to believe the accused's claim of mistaken belief.

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## DEFINITION OF CHILD PORNOGRAPHY (Conviction Appeal)

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***Director of Public Prosecutions v. Mulligan* [2016] IECA 79 (Mahon J, 18 February 2016)**

- 3.1.6** The Court of Appeal ruled that the verbal contents of a Skype conversation which was stored on the appellant's computer could constitute "child pornography" within the meaning of the Child Trafficking and Pornography Act, 1998 even though the appellant was not aware that the conversation was being stored. The Court also ruled that a search warrant issued under section 10 of the Criminal Justice Act, 2007 was a valid warrant even though it did not specify the "arrestable offence" for which it had been issued.

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## DRINK DRIVING CERTIFICATES (Case Stated)

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***The Director of Public Prosecutions v. Avadenei* [2016] IECA 136 (Sheehan J, 10 May 2016)**

- 3.1.7** The Court of Appeal ruled that a statement, produced by the Evidenzer machine, was "duly completed" within the meaning of section 13 of the Road Traffic Act 2010 notwithstanding that it deviated from the form set out in the relevant Regulations which stated that the statement be produced in Irish and English. The Court relied on section 12 of the Interpretation Act 2005 and stated that the deviation from the format did not materially affect the substance of the form and that what was omitted was merely the repetition of the information in Irish.

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## EVIDENCE (Conviction Appeal)

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***Director of Public Prosecutions v. Harty* [2016] IECA 142 (Sheehan J, 10 May 2016)**

- 3.1.8** The applicant claimed that the admission into evidence, during his prosecution for an offence of dangerous driving causing death, of a toxicology report relating to the level of alcohol in his blood breached his constitutional right to privacy. The

Court of Appeal ruled that this claim was defeated by an overriding public interest in the Gardaí properly investigating suspected serious crime. Such an investigation was a proportionate interference with the right to privacy.

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## EXCLUSION OF EVIDENCE (Conviction Appeal)

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***Director of Public Prosecutions v. Flanagan* [2016] IECA 180 (Mahon J, 14 June 2016)**

- 3.1.9** The appellant was convicted of murder and submitted on appeal that the trial court should have excluded certain evidence, including items seized and statements made by him and obtained by the Gardaí after they had entered a property where the appellant was staying. The Court of Appeal rejected the contention that there was a breach of the appellant's constitutional rights as the property was not his usual or regular place of residence and while the appellant was a suspect at the time, there was no intention to arrest him, and hence he was not required to be cautioned.

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## EXCLUSION OF JURORS (Conviction Appeal)

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***Director of Public Prosecutions v. Warren* [2016] IECA 198 (Mahon J, 04 July 2016)**

- 3.1.10** The Court of Appeal upheld the decision of a trial judge to exclude from a panel of potential jurors those who resided in areas of Dublin with which the appellant, and many other persons involved in the trial, were associated.

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## "DRIVING WITHOUT INSURANCE" DISQUALIFICATION (Case Stated)

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***Director of Public Prosecutions v. Skillington* [2016] IECA 289 (Birmingham J, 13 October 2016)**

- 3.1.11** The appellant was convicted of driving without insurance and disqualified from driving for two years. He appealed the severity of the disqualification and argued

that the impairment to his livelihood was a special reason not to disqualify him, which was permitted under the law. The Court of Appeal, however, stated that difficulties relating to employment will of themselves, and in isolation, rarely amount to a special reason not to disqualify.

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## **DURESS** **(Conviction Appeal)**

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***Director of Public Prosecutions v. Gleeson* [2016] IECA 332 (Mahon J, 14 November 2016)**

- 3.1.12** The appellant was convicted on five counts of possession of controlled drugs. He claimed that the trial judge misdirected the jury on the defence of duress. The Court of Appeal stated that the appropriate test of whether the duress complained of is sufficient to acquit is neither entirely objective, nor entirely subjective. It has to include an element of both test types in order to take into account the particular circumstances of the person seeking to invoke the defence. The appellant's conviction was quashed. The Director is seeking leave to appeal this judgment to the Supreme Court.

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## **DPP GIVING REASONS NOT TO PROSECUTE** **(Judicial Review)**

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***Marques v. Director of Public Prosecutions* [2016] IECA 373 (Peart J, 12 December 2016)**

- 3.1.13** The appellant sought orders to quash the decision of the Director not to prosecute him and to oblige the Director to give reasons for this decision in circumstances where a prosecution in Ireland would act as a bar to his extradition to the United States to face charges. The Court of Appeal ruled that the Director's decision not to prosecute Mr. Marques was not reviewable and that the Director was not obliged to give reasons for her decision.

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## **HANDCUFFING OF DRINK DRIVING SUSPECTS** **(Case Stated)**

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***DPP v. Pires, Corrigan, Gannon* [2016] IECA 413 (Mahon J, 21 December 2016)**

- 3.1.14** The appellants argued that their handcuffing on being arrested for "drunk driving" rendered their arrests unlawful. The Court of Appeal disagreed. It held that the correct test was one of subjective reasonableness, that the District Court Judge needed to be satisfied that the arresting Garda had made a genuine, albeit subjective, assessment as to what the exigencies of the situation required and had acted on the basis of that assessment and not on foot of some blanket policy to use handcuffs.

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## **INSURANCE** **(Judicial Review)**

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***Ighovojah v. DJ Smith* [2016] IEHC 505 (Noonan J, 7 April 2016)**

- 3.1.15** The applicant's conviction for driving without insurance was upheld in circumstances where his insurance policy had been obtained without him disclosing that he was a disqualified driver. The insurance policy was issued subject to the proviso that the person applying for it must hold a valid driving licence. The High Court found that the policy of insurance did not operate to insure the applicant as it could not be an "approved" policy of insurance under section 56 of the Road Traffic Act 1961, as the insurance company was not obliged to indemnify him.

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## **SECTION 2A BAIL ACT 1997** **(Habeas Corpus)**

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***McDonald v. Governor of Cloverhill Prison* [2016] IEHC 292 (MacEochaidh J, 27 April 2016)**

- 3.1.16** The High Court confirmed that section 2A of the Bail Act 1997, which allows a Chief Superintendent to provide opinion evidence, was constitutional. The section provides that while "opinion" evidence of a Chief Superintendent is permitted in a bail hearing,

the court can either accept or reject such evidence. The Court noted that the section would be unconstitutional if it permitted a court to refuse bail exclusively on privileged information, forming the basis of the Chief Superintendent's opinion and in respect of which no cross-examination was possible.

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### SENTENCE IN ABSENTIA (Judicial Review)

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***White v. DPP* [2016] IEHC 258 (Barrett J, 26 May 2016)**

- 3.1.17** The applicant had been convicted of road traffic offences. His case was adjourned on a number of occasions for sentence. He was aware of the court dates but failed to attend court and offered no explanation for this failure. He was then sentenced to a term of imprisonment in his absence. He argued that a bench warrant should have issued. The High Court refused to quash the sentence because he had been afforded every opportunity to attend his sentencing hearing. This case was distinguished from the case of *Jason O'Brien v. DPP* [2016] IESC 4, (Charleton J, 11 February 2016) on its facts.

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### SECTION 99 - NO RETROSPECTIVE BENEFIT (Habeas Corpus)

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***Foley v. Governor of Portlaoise Prison* [2016] IEHC 334 (McDermott J, 14 June 2016)**

- 3.1.18** The applicant sought to rely on the *Moore v. DPP* [2016] IEHC 244 (Moriarty J, 19 April, 2016) decision which had struck down section 99(9) and (10) of the Criminal Justice Act 2006. He had his suspended sentence revoked by the Court of Appeal as a result of a subsequent District Court conviction. The High Court refused the application applying the principle in *A v. Governor of Arbour Hill Prison* [2006] 4 IR 88. The applicant was not entitled to the retrospective benefit of the legislation which had been held as unconstitutional. The High Court also noted that the applicant had pleaded guilty to the District Court offences. The decision in *Clarke*

*v. Governor of Mountjoy Prison* [2016] IESCDT 122 (Denham CJ, Charleton and O'Malley JJ) was applied.

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### SENTENCE IN ABSENTIA (Habeas Corpus)

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***Sandra Maguire v. Governor of Dochas Centre* [2016] IEHC 378 (Eager J, 30 June 2016)**

- 3.1.19** The High Court held that a District Court Appeal Judge was entitled to strike and affirm the applicant's District Court conviction and sentence as a result of her failure to prosecute her appeal. The applicant had appeared in the Circuit Court on the first mention date but failed to appear on subsequent dates. The High Court held that in the circumstances of this case a de novo sentencing hearing was not required and neither was the Circuit Court judge required to consider a community service as an option to imprisonment.

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### PROHIBITION REFUSED - DELAY (Judicial Review)

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***JH v. DPP* [2016] IEHC 509 (White J, 29 July 2016)**

- 3.1.20** The applicant was charged with nine counts of indecent assault alleged to have occurred between 1972 and 1987. He sought to prohibit his trial on pre-complaint delay grounds. His application was refused. The High Court held that an allegation of general prejudice based on delay was not a ground for prohibition. It also stated that the trial judge was best placed to deal with any specific prejudice which was being alleged as a result of the delay. The trial judge could, for example, withdraw the case from the jury if necessary.

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### PROHIBITION REFUSED (Judicial Review)

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***B.S. v. DPP* [2016] IEHC 548 (McDermott J, 7 October 2016)**

- 3.1.21** The applicant was charged with rape offences alleged to have occurred in 1970 when he was 16 years of age. He sought an order of prohibition arguing that he would not



receive a fair trial as three key witnesses were deceased. His application was refused. The High Court was not convinced that the missing witnesses were relevant. The trial judge could deal with this issue by giving appropriate directions to the jury or stopping the trial if, during its course, the Judge perceived there was a risk of an unfair trial as a result of the missing witnesses.

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## **NO INSURANCE (Case Stated)**

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### ***DPP v. Opach* [2016] IEHC 583 (Twomey J, 25 October 2016)**

- 3.1.22** The appellant was charged with being the owner of a vehicle which was being driven by another and such vehicle was not covered by an “approved policy of insurance”. The High Court confirmed, by way of case stated, that the appellant was guilty of the charge in circumstances where the user of the vehicle (his son) was driving under a forged licence. The insurance policy required that only a valid licence holder could drive the vehicle. As the user did not have a valid licence, the appellant too did not have an approved policy of insurance as required by section 56(1) of Road Traffic Act 1961 (as amended) as the insurance company was not legally bound to indemnify the appellant.

## 3.2 VICTIMS OF CRIME

**3.2.1** On 16 November 2015 EU Directive 2012/29 came into effect. The Directive establishes minimum standards on the rights, support and protection of victims of crime.

**3.2.2** Under the Directive, victims now have specific rights to information. They also have procedural rights during court proceedings. A victim is defined in the Directive as a person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence, or a family member of a person whose death was directly caused by a criminal offence and who has suffered harm as a result of that person's death.

**3.2.3** Prior to the coming into effect of the Victims' Directive this Office had, since October 2008, given reasons for decisions not to prosecute, on request, to the families of victims in fatal cases only. A total of 97 requests were received between October 2008 and November 2015. Of those 97 requests, 64% related to fatal road traffic incidents.

Requests for Reasons in Fatal Cases	
October 2008 to November 2015	
Granted	92
Declined	4
Withdrawn	1
Pending	0
<b>TOTAL</b>	<b>97</b>

**3.2.4** Since the coming into effect of the Victims' Directive, victims now have the right to a summary of reasons for a decision not to prosecute in all cases where the decision was made on or after 16 November 2015, subject to some limited exceptions. The Directive

also entitles a victim to ask for a review of a decision not to prosecute. The review is carried out by a lawyer who was not involved in making the original decision. Charts 3.2.1 to 3.2.4 outline the number of requests for reasons and reviews received since 16 November 2015 and the main categories of offences which were the subject of those requests.

**3.2.5** A Communications and Victims Liaison Unit was set up by this Office in July 2015. The Unit is primarily responsible for ensuring that the Office meets its obligations in respect of the rights, support and protection of victims as set out in the Directive.

**3.2.6** The Unit deals with all requests for reasons and reviews received from victims of crime. Staff in the Unit also provide an information service for victims who contact the Office by telephone. The Unit has produced two information booklets for victims on 'How we make decisions' and 'How to request reasons and reviews'. Both booklets are available on the 'Victims and Witnesses' section of the Office website at [www.dppireland.ie](http://www.dppireland.ie).

**3.2.7** At the time of writing, the directive has not as yet been transposed into national law. When legislation is in place, this Office will review current structures and procedures to ensure that they comply with the legislation and that we are in a position to provide victims of crime with the standards and quality of service to which they are entitled.

## IMPLEMENTATION OF EU DIRECTIVE

EU Directive 2012/29 came into effect on 16 November 2015. Under the Directive victims have the right to a summary of reasons for a decision not to prosecute in cases where the decision was made on or after 16 November 2015. Victims also have a right to ask for a review of a decision not to prosecute.

Charts 3.2.1 and 3.2.2 below set out the number of requests for a summary of reasons received since the Directive came into effect, and the categories of offences which were the subject of those requests.

**CHART 3.2.1 Requests for Summary of Reasons**

November 2015 to October 2017	
Reasons given	977
Reasons refused	136
Pending	67
<b>TOTAL requests for reasons received</b>	<b>1,180</b>

Examples of instances in which requests are refused would include requests relating to decisions made prior to 16 November 2015, or where giving a reason may prejudice a future court case.

**CHART 3.2.2 Categories of Offences which were the subject of Requests for Reasons**



Charts 3.2.3 and 3.2.4 below set out the number of requests for review received since the Directive came into effect, and the categories of offences which were the subject of those requests.

**CHART 3.2.3 Requests for Review of a Decision Not to Prosecute**

November 2015 to October 2017	
Original decision upheld	344
Original decision overturned	8 *
Invalid request	34
Pending	32
<b>TOTAL requests for review received</b>	<b>418</b>

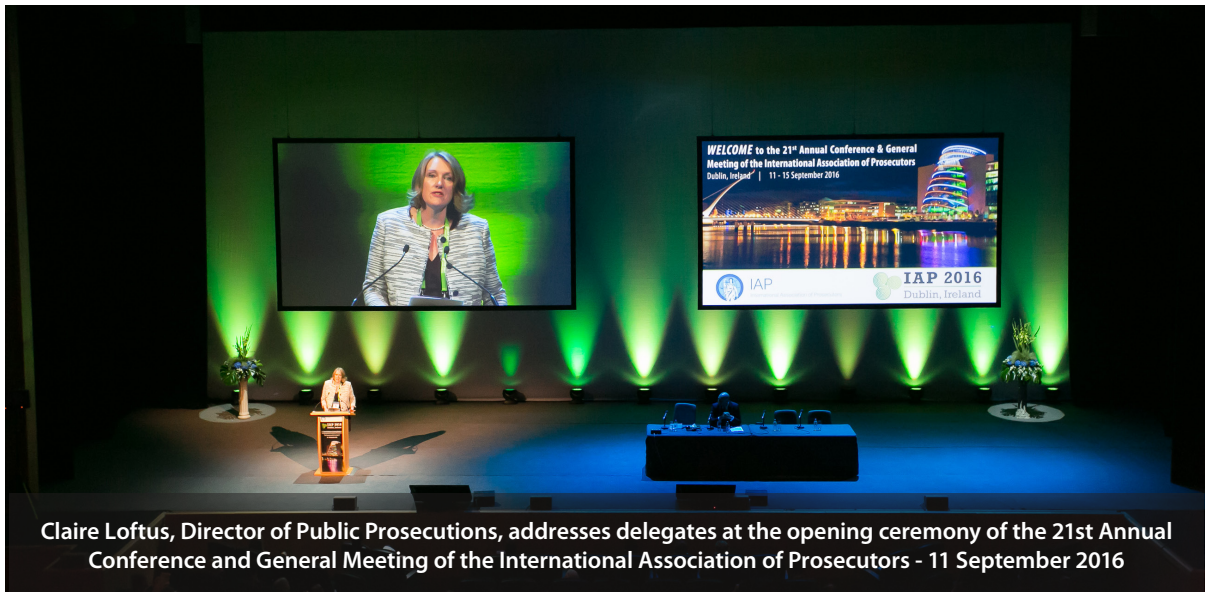
An invalid request would include, for example, a request to review a decision not to prosecute made by An Garda Síochána and not by the Office of the DPP.

\* Three decisions related to three complainants in the one case.

**CHART 3.2.4 Categories of Offences which were the subject of Requests for Reviews**



## 3.3 21<sup>st</sup> ANNUAL CONFERENCE AND GENERAL MEETING OF THE IAP



**3.3.1** The International Association of Prosecutors (IAP) is the only worldwide organisation of prosecutors. It was established in 1995 and now has more than 172 organisational members from over 171 different countries, as well as many individual members. The Office of the Director of Public Prosecutions in Ireland is an organisational member of the IAP. In September 2016 the Director, Claire Loftus, hosted the 21st Annual Conference and General Meeting of the IAP in the Convention Centre Dublin. This was a very prestigious event, both for this Office and for Ireland, with almost 550 delegates from around the world in attendance.

**3.3.2** The theme of the conference was 'The Prosecutor and the Investigator'. This is a topic that is of great importance to prosecutors across the globe and the conference provided an opportunity to examine relationships between prosecutors and investigators in different jurisdictions and share experiences. The General Counsel of the IAP, Mr. Rasmus Wandall, produced an Outcome Report on

completion of the conference which outlines the outcome of discussions at the conference and the goals that the Association will pursue into the future as a result.

### **OUTCOME REPORT OF THE 21<sup>ST</sup> ANNUAL CONFERENCE AND GENERAL MEETING OF THE IAP**

**3.3.3** *The main purpose of the 21<sup>st</sup> Annual Conference and General Meeting of the IAP in Dublin was to bring together prosecutors, prosecution services and prosecution associations in a global examination of the relationships between prosecutors and investigators. Over the course of five days, with plenary sessions and keynote speeches, workshops and special interest group meetings, 544 prosecutors from 89 countries from six continents of the world joined together in a constructive comparative discussion of this often complex relationship between the investigator and prosecutor and the many substantive areas of criminal law in*

which it is practiced. A record 102 prosecutors and other professionals contributed actively to the professional conference programme. The available reports and contributions to the conference sessions are available on the IAP website.

### THE RELATIONSHIP BETWEEN THE INVESTIGATOR AND PROSECUTOR

**3.3.4** We would do well to remind ourselves of the size and the diversity of our global community. Covering more than 175 jurisdictions, our discussions on what is at stake in the relationship between investigators and prosecutors, how to best structure these relationships, how to organise daily practice domestically and transnationally, and how to ensure that standards of human rights are observed from investigation through to trial, necessarily involves a complex comparative element. Every major legal tradition of the world is involved, as are prosecution services that are organised under markedly diverse political cultures. This is a condition that all prosecutors know well. Our daily work across borders increasingly involves questions with a lot of unknowns. So, of course, it is a significant output of the conference that so many highly skilled prosecutors from every corner of the world came together for five days of sessions to discuss the relationship between the prosecutor and investigator from the point of view of their many and diverse domestic and international experiences.

**3.3.5** There are both specific and general lessons to take from the conference's presentations and discussions. Each delegate surely returned home with his or her own lessons from the conference. Here, we will mention four general points which the IAP has taken from the conference discussions and will be incorporating into its work in the coming years.

- i) First, in our professional programmes, we should do more to include the point of view of investigators and the relationship between prosecutors and investigators. This concerns our programmes in the spheres of domestic, transnational and international criminal justice.
- ii) Second, regardless of which organisational framework is employed, there is real scope for improvement in all substantive criminal law areas in securing a constructive collaboration between the prosecutor and the investigator – but one which simultaneously allows for institutional checks and balances and the safeguard of human rights during the investigation in particular.
- iii) Third, in both the investigation and the prosecution of cases, there is in many jurisdictions the continuing difficult task of ensuring that these functions remain independent from political pressure. No matter how the organisational frameworks are designed, the prosecutor has a particularly central role in dealing with this challenge.
- iv) Fourth, there continues to be a need for rapid cross-border collaboration between prosecutors, and more energy must be invested into supporting effective Mutual Legal Assistance processes. Particular attention should be placed on ensuring more efficient processes to request legal assistance from regional and global communication providers – providers who today hold significant amounts of intelligence and evidence which is necessary to advance criminal cases. It



Claire Loftus, Director of Public Prosecutions, with Gerhard Jarosch, President of IAP at the Conference Closing Ceremony



*will be necessary to work out better rights-based ways of working with these many communication providers.*

## OTHER PRACTICAL RESULTS OF THE CONFERENCE

**3.3.6** *The conference also hosted many specialised networks and communities, each dedicating high level workshop sessions on cutting edge challenges and best practices. These included:*

- *Forum for International Criminal Justice (FICJ)*
- *Prosecution of Conflict Related Sexual Violence (PSV)*
- *Global prosecutors E-crime Network (GPEN)*
- *Network for Anti-Corruption Prosecutors (NACP)*
- *Counter-Terrorism Prosecutors network (CTPN)*
- *Trafficking of Persons Platform (TIPP)*
- *Network of Associations of Prosecutors*
- *Prosecutors Exchange Programme (PEP)*
- *Military Prosecution Network (explorative)*
- *Environmental Prosecution Network (explorative)*

**3.3.7** *The attendance of these special interest group workshops was overwhelming. Each specialised network welcomed many new members into their global networks. In the NACP, a strong governing board set the direction of work for the coming year. Furthermore, the Scottish Crown Office and Procurator Fiscal presented the outcome of a comparative survey of domestic best practices in asset recovery. The CTPN hosted a special morning session to advance its aim to build a global supporting system to increase the efficiency of Mutual Legal Assistance in counter-terrorism investigations and prosecutions, and legal assistance requests*



*made to private communication providers. The project is a collaboration with the United Nations Counter-Terrorism Executive Directorate (UNCTED) and the United Nations Office on Drugs and Crime (UNODC). For the first time the military prosecutors of the world met to discuss cutting edge global issues of shared concern and to explore the possibilities of formalising a professional network under the framework of the IAP. Finally, for the first time the IAP hosted a meeting of prosecutors specialised in environmental crime to explore the possibilities of formalising such a global network. Both explorations had a positive outcome.*

**3.3.8** *Safety and Security of prosecutors is at the very heart of IAP's activities and Dublin marked an important milestone. Carl Prophet (Canada), introduced by Paula Llewellyn (Jamaica), presented the 2016 pilot survey of prosecutors' perception of their safety and security to the plenary.*

**3.3.9** *The conference also marked the signing of the first Memorandum of Understanding between the IAP and the African Prosecutors Association (APA), with a view to strengthening our collaboration towards our shared goals.*

**3.3.10** *The IAP also observed with great satisfaction that the conference was used to facilitate bilateral meetings between prosecution services from all regions of the world. It has become an extremely important part of the annual meeting and conference to facilitate these bilateral meetings and the high number of formal and informal bilateral meetings was, in and of itself, an important outcome for the IAP.*

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### **HOW ARE THESE OUTCOMES REFLECTED IN THE IAP WORK-PROGRAMME FOR THE COMING YEAR?**

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**3.3.11** *In the coming three years, 2016-2018, the IAP will pursue three overall goals in its programmes:*

- *Connect prosecutors globally*
- *Raise the Standard of Prosecution Practice globally*
- *Bring the IAP standards to life*

**3.3.12** *Many of the outcomes of the Dublin conference speak directly to these central goals. The full agenda of 2016-2018 with priorities for 2017 can be found online on the IAP website. While I encourage you to review the full professional programme, the following concrete goals are highlighted here:*

- *The IAP will implement a more efficient system to routinely update the IAP contact database and will update the current database and its contact information. The goal is to complete 25% of the full update by September 2017.*
- *The IAP will expand and strengthen the specialized networks and communities which have been shaped over the last four years. We aim to have established governing boards for all operative specialised networks and communities and to expand the membership basis for the three newest networks: CTPN and NACP and the Military Prosecution Network.*

- *The IAP will facilitate the finalisation of the Mutual Legal Assistance best practice manual by September 2017.*
- *The IAP will present a programme for a new specialised course for prosecutors to the Executive Committee by September 2017.*
- *Reflecting the importance of the individual safety and security of prosecutors and the need to develop tools that are based on the actual needs of prosecutors and prosecution authorities to safeguard prosecutors, the IAP will, based on the lesson learned in the pilot study in 2016, carry out a survey of the safety and security of prosecutors in all regions of the world. These results will be presented at the Annual Conference in Beijing in September 2017.*
- *The IAP will continue to target the challenge of political interference with prosecutors and prosecution services. The IAP will commence the development of best practice guidelines, addressing how best to deal with these challenges and secure political independence and legal accountability in prosecution practice.*

**Rasmus H. Wandall**  
**General Counsel of IAP**



# PART 4:

## STATISTICS

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# STATISTICS

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## Explanatory Note in Relation to Statistics

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- 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 2013 and 2015.
  - Charts 11 to 14 (Part 4.3) provide details of applications made to the Courts in relation to appeals in criminal cases, reviews of sentence on grounds of undue leniency, confiscation and forfeiture of criminal assets, and European Arrest Warrants.
  - Chart 15 (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 16 (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 2016 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 September 2017.

- 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 2016.

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	15,285
2013	13,761
2014	14,012
2015	14,311
2016	13,180

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 the Solicitors Division**

	2016	%	2015	%	2014	%
District Court Prosecution Files	956	22%	1008	19%	1135	22%
Appeals from District Court to Circuit Court	1995	45%	2030	38%	1712	33%
High Court Bail Applications	1246	28%	2060	39%	1999	39%
Judicial Review Applications	210	5%	246	4%	316	6%
<b>TOTAL</b>	<b>4407</b>	<b>100%</b>	<b>5344</b>	<b>100%</b>	<b>5162</b>	<b>100%</b>

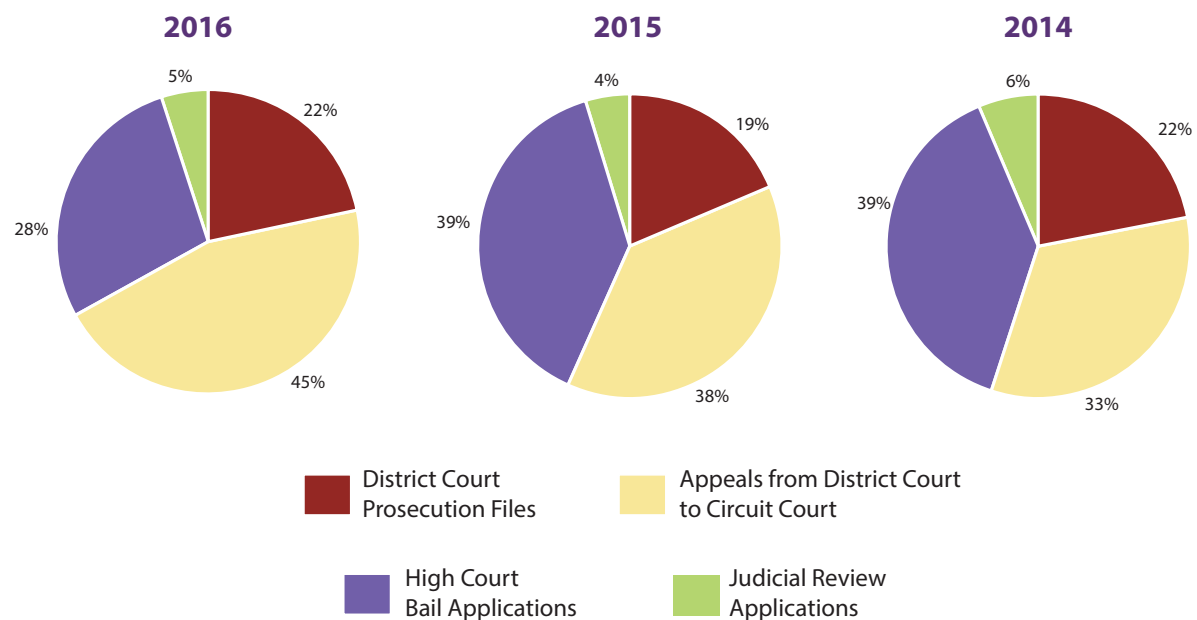
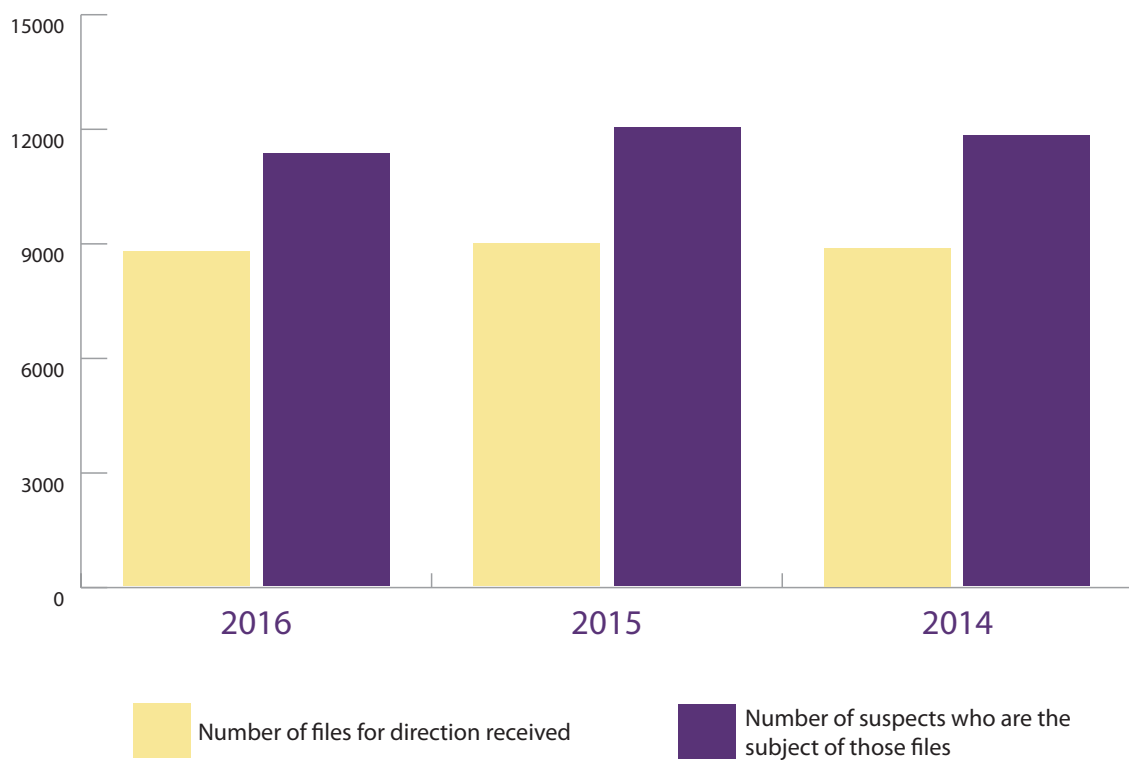


Chart 3 represents the number of files received in which a decision to prosecute or not to prosecute must be taken. The chart compares the number of files received with the number of suspects who are the subject of those files. Many files relate to more than one suspect and to treat such a file as a 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**

	2016	2015	2014
Files received for decision whether to prosecute	8773	8967	8850
Number of suspects who are the subject of those files	11337	12008	11805



The following chart shows a breakdown of the disposal of files received in the Directing Division in 2014, 2015 and 2016 (as of September 2017). The Garda Síochána and specialised investigating agencies submit files either directly to this office 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.

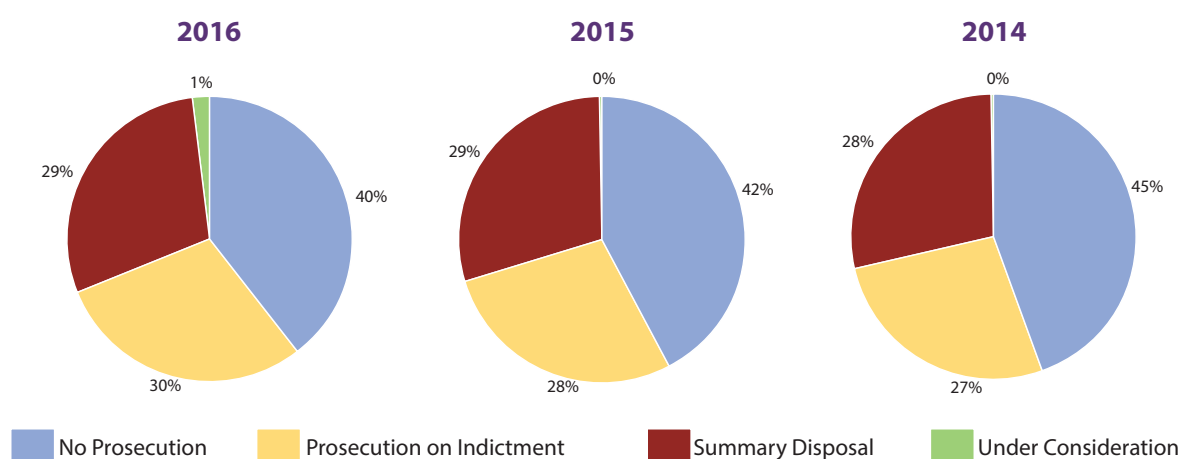
**Summary Disposal:** The offence is to be prosecuted in the District Court.

**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 2014 and 2015 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	2016	%	2015	%	2014	%
No Prosecution Directed	4567	40%	5076	42%	5275	45%
Prosecution on Indictment Directed	3398	30%	3381	28%	3175	27%
Summary Disposal Directed	3259	29%	3527	29%	3346	28%
<b>TOTAL OF FILES DISPOSED</b>	<b>11224</b>		<b>11984</b>		<b>11796</b>	
Under Consideration	113	1%	24	0%	9	0%
<b>TOTAL</b>	<b>11337</b>		<b>12008</b>		<b>11805</b>	



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	2016	%	2015	%	2014	%
Insufficient Evidence	3660	80%	3964	78%	4198	80%
Juvenile Diversion Programme	62	1%	66	1%	58	1%
Public Interest	87	2%	84	2%	93	2%
Sympathetic Grounds	3	0%	7	0%	5	0%
Time Limit Expired	34	1%	42	1%	31	1%
Undue Delay	41	1%	75	2%	64	1%
Injured Party Withdraws Complaint	281	6%	274	5%	267	5%
Adult Caution	93	2%	112	2%	121	2%
Other	306	7%	452	9%	438	8%
<b>TOTAL</b>	<b>4567</b>		<b>5076</b>		<b>5275</b>	

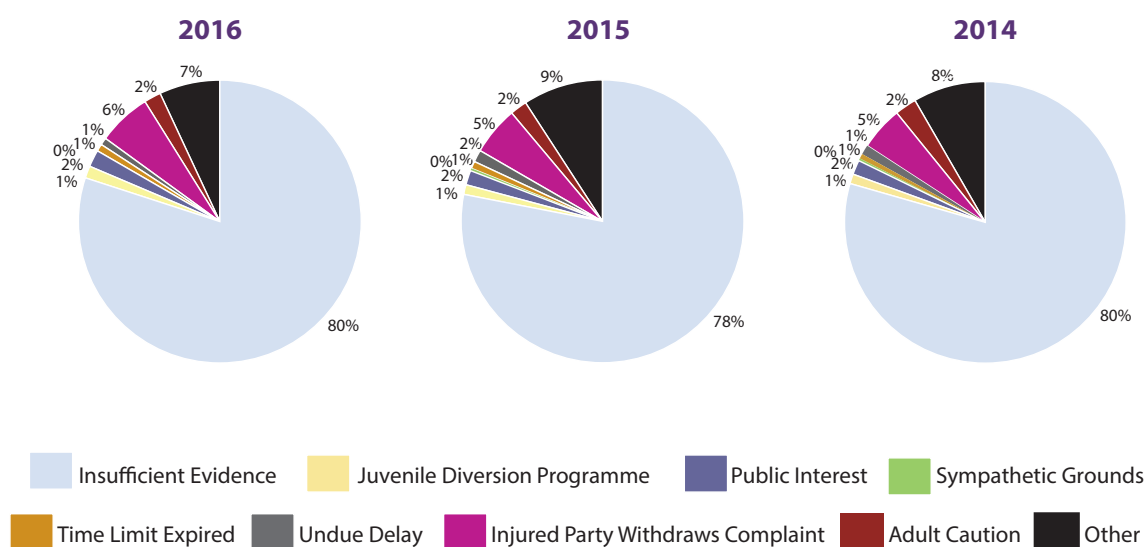


Chart 4B is a breakdown of directions to prosecute on indictment, by the county in which the offence was committed. It includes cases directed to be heard in the Circuit Criminal, Central Criminal and Special Criminal Courts. Please note that a number of cases are still 'Under Consideration' (see Chart 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 4B: Breakdown of Number of Prosecutions on Indictment Directed per County of Offence**

	Population				Population				Number of Prosecutions on Indictment Directed per County						Cases per 1,000 Persons					3 Year Rolling Average		
	2016*	2015*	2014*	2013*	2016*	2015*	2014*	2013*	2016	2015	2014	2013	2012	2011	2016	2015	2014	2013	2012	2014	2013	2015
<b>Carlow</b>	56,932	55,613	55,405	55,438	54,966				42	28	47	28	37		0.74	0.50	0.85	0.51	0.67	0.70	0.62	0.68
<b>Cavan</b>	76,176	70,498	71,621	72,431	72,616				63	44	34	53	29		0.83	0.62	0.47	0.73	0.40	0.64	0.61	0.54
<b>Clare</b>	118,817	116,755	116,848	116,786	117,435				65	84	85	59	85		0.55	0.72	0.73	0.51	0.72	0.66	0.65	0.65
<b>Cork</b>	542,868	522,833	525,957	523,770	520,333				375	368	420	384	334		0.69	0.70	0.80	0.73	0.64	0.73	0.75	0.72
<b>Donegal</b>	159,192	155,225	157,697	159,482	159,888				71	54	47	60	60		0.45	0.35	0.30	0.38	0.38	0.36	0.34	0.35
<b>Dublin</b>	1,347,359	1,305,300	1,274,600	1,262,400	1,262,900				1291	1427	1231	1260	1380		0.96	1.09	0.97	1.00	1.09	1.01	1.02	1.02
<b>Galway</b>	258,058	245,106	246,006	246,457	246,175				120	99	140	94	124		0.47	0.40	0.57	0.38	0.50	0.48	0.45	0.48
<b>Kerry</b>	147,707	146,567	147,443	146,830	145,867				91	89	82	84	116		0.62	0.61	0.56	0.57	0.80	0.59	0.58	0.64
<b>Kildare</b>	222,504	218,356	216,574	214,158	213,881				101	87	93	93	134		0.45	0.40	0.43	0.43	0.63	0.43	0.42	0.50
<b>Kilkenny</b>	99,232	97,168	96,804	96,861	96,037				68	46	37	41	48		0.69	0.47	0.38	0.42	0.50	0.51	0.43	0.44
<b>Laois</b>	84,697	83,637	82,895	82,353	81,868				48	46	34	47	74		0.57	0.55	0.41	0.57	0.90	0.51	0.51	0.63
<b>Leitrim</b>	32,044	30,631	31,119	31,471	31,552				9	14	16	11	8		0.28	0.46	0.51	0.35	0.25	0.42	0.44	0.37
<b>Limerick</b>	194,899	191,088	191,239	191,138	192,200				185	189	130	156	119		0.95	0.99	0.68	0.82	0.62	0.87	0.83	0.71
<b>Longford</b>	40,873	40,490	40,131	39,869	39,634				39	22	23	29	41		0.95	0.54	0.57	0.73	1.03	0.69	0.61	0.78
<b>Louth</b>	128,884	118,388	120,274	121,634	121,944				103	84	99	69	119		0.80	0.71	0.82	0.57	0.98	0.78	0.70	0.79
<b>Mayo</b>	130,507	127,747	128,216	128,451	128,304				71	87	55	75	91		0.54	0.68	0.43	0.58	0.71	0.55	0.56	0.57
<b>Meath</b>	195,044	191,178	189,618	187,503	187,260				104	89	76	75	63		0.53	0.47	0.40	0.40	0.34	0.47	0.42	0.38
<b>Monaghan</b>	61,386	58,264	59,192	59,861	60,014				34	35	31	33	34		0.55	0.60	0.52	0.55	0.57	0.56	0.56	0.55
<b>Offaly</b>	77,961	79,617	78,911	78,395	77,933				32	34	43	25	65		0.41	0.43	0.54	0.32	0.83	0.46	0.43	0.57
<b>Roscommon</b>	64,544	62,647	62,877	62,992	62,921				39	31	24	23	21		0.60	0.49	0.38	0.37	0.33	0.49	0.41	0.36
<b>Sligo</b>	65,535	62,994	63,997	64,721	64,886				42	47	26	45	47		0.64	0.75	0.41	0.70	0.72	0.60	0.62	0.61
<b>Tipperary</b>	159,553	160,110	159,829	159,845	159,470				121	106	86	125	121		0.76	0.66	0.54	0.78	0.76	0.65	0.66	0.69
<b>Waterford</b>	116,176	115,881	115,447	115,515	114,532				82	84	100	72	88		0.71	0.72	0.87	0.62	0.77	0.77	0.74	0.75
<b>Westmeath</b>	88,770	89,456	88,663	88,083	87,564				65	69	61	48	82		0.73	0.77	0.69	0.54	0.94	0.73	0.67	0.72
<b>Wexford</b>	149,722	147,985	147,429	147,517	146,261				69	66	62	52	78		0.46	0.45	0.42	0.35	0.53	0.44	0.41	0.44
<b>Wicklow</b>	142,425	141,866	140,708	139,139	138,959				68	52	93	74	62		0.48	0.37	0.66	0.53	0.45	0.50	0.52	0.55
<b>TOTAL</b>	<b>4,761,865</b>	<b>4,635,400</b>	<b>4,609,500</b>	<b>4,593,100</b>	<b>4,585,400</b>				<b>3398</b>	<b>3381</b>	<b>3175</b>	<b>3115</b>	<b>3460</b>									

\*Population figures for 2016 are taken from the census figures for that year. The 2012, 2013, 2014 & 2015 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 2012, 2013, 2014 & 2015.



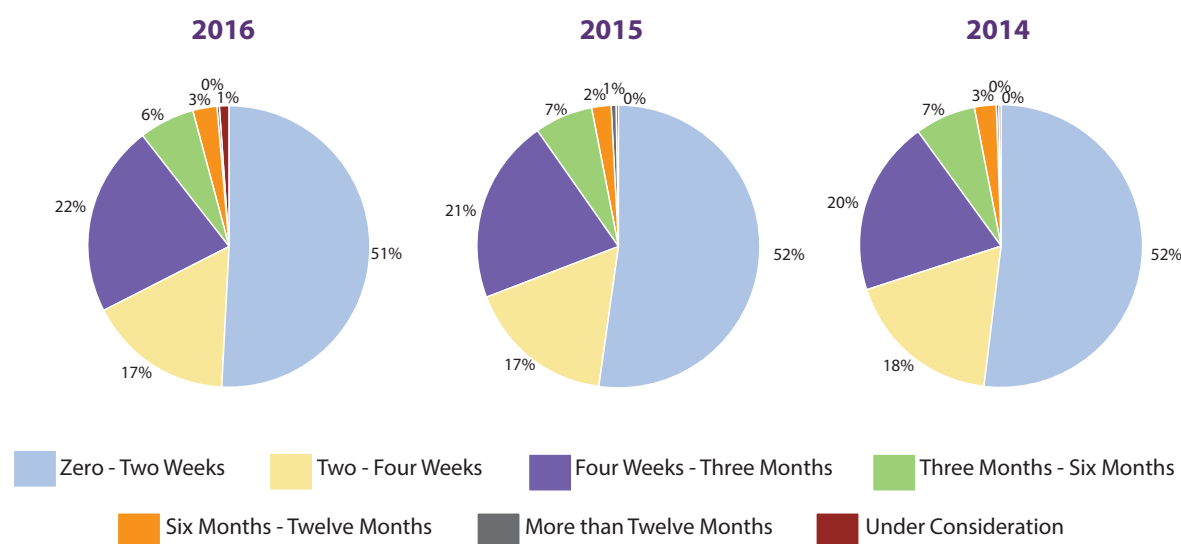
Chart 5 shows the time between the receipt of a completed prosecution file in the Office and the issuing of a direction as to whether a prosecution of a suspect should be taken or not. It has been decided to show this information by suspect rather than by file since in the case of files containing multiple 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	2016	%	2015	%	2014	%
Zero - Two Weeks	5786	51%	6283	52%	6155	52%
Two - Four Weeks	1870	17%	2044	17%	2123	18%
Four Weeks - Three Months	2514	22%	2526	21%	2366	20%
Three Months - Six Months	696	6%	812	7%	814	7%
Six Months - Twelve Months	336	3%	256	2%	297	3%
More than Twelve Months	22	0%	63	1%	41	0%
<b>TOTAL FILES DISPOSED</b>	<b>11224</b>		<b>11984</b>		<b>11796</b>	
Under Consideration	113	1%	24	0%	9	0%
<b>TOTAL</b>	<b>11337</b>		<b>12008</b>		<b>11805</b>	



## 4.2 RESULTS OF CASES PROSECUTED ON INDICTMENT

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**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 2013 and 2015. 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 2013 to 2015 (as of September 2017). The figures relate to:

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

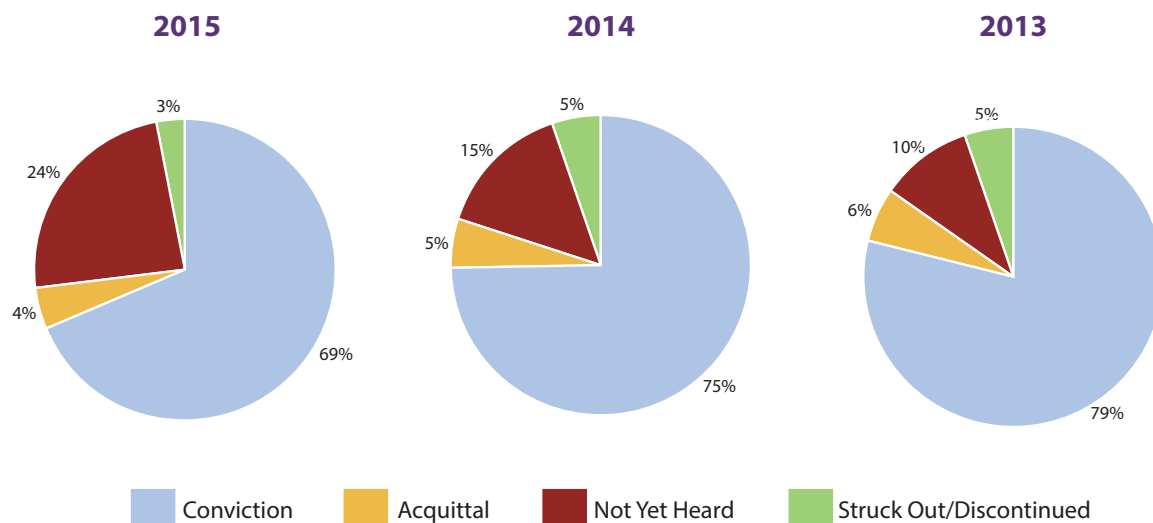
**Acquittal:** The defendant was acquitted on all charges.

**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 2016 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	2015	%	2014	%	2013	%
Conviction	2323	69%	2377	75%	2461	79%
Acquittal	148	4%	169	5%	183	6%
Not Yet Heard	810	24%	464	15%	314	10%
Struck Out/Discontinued	100	3%	165	5%	158	5%
<b>TOTAL</b>	<b>3381</b>		<b>3175</b>		<b>3116</b>	



**CHART 6A: Breakdown of Convictions and Acquittals** (excluding cases still to be heard)

	2015	%	2014	%	2013	%
Conviction by Jury	126	5%	126	5%	129	5%
Conviction Following Plea of Guilty	2197	89%	2251	89%	2332	88%
<b>TOTAL CONVICTIONS</b>	<b>2323</b>	<b>94%</b>	<b>2377</b>	<b>94%</b>	<b>2461</b>	<b>93%</b>
Acquittal by Jury	88	4%	86	3%	108	4%
Acquittal on Direction of Judge	60	2%	83	3%	75	3%
<b>TOTAL ACQUITTALS</b>	<b>148</b>	<b>6%</b>	<b>169</b>	<b>6%</b>	<b>183</b>	<b>7%</b>
<b>TOTAL</b>	<b>2471</b>		<b>2546</b>		<b>2644</b>	

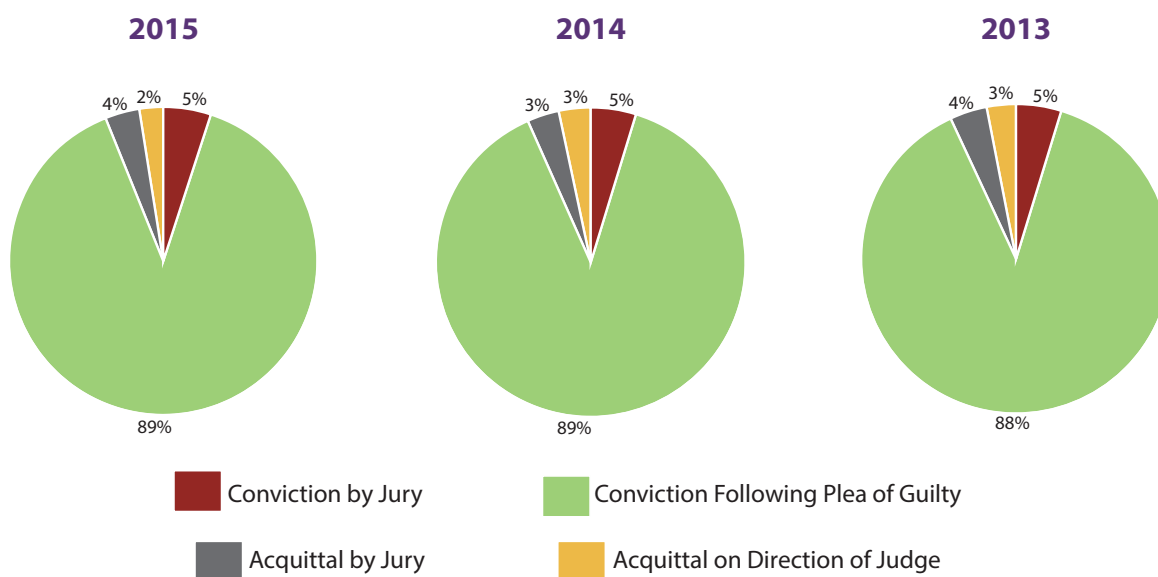


Chart 7 breaks down the prosecutions directed on indictment to be heard in the Circuit Court. The cases categorised as 'For Hearing' are those for which a verdict has not yet been recorded. In some of these cases, a trial may have begun but proceedings have been halted by a Judicial Review application. 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 jury 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		
	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013
Fatal Accident at Work	2	4	6	0	0	0	2	3	2	0	0	1	0	0	0	0	0	0	0	1	2	0	0	1
Manslaughter	2	6	4	0	1	0	1	4	2	0	0	0	0	0	1	0	0	1	1	0	0	0	1	0
Other Fatal Offences	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL - FATAL OFFENCES</b>	<b>4</b>	<b>10</b>	<b>10</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>7</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>1</b>
Burglary	308	295	303	7	2	4	206	212	244	19	25	15	5	0	7	4	2	7	57	34	19	10	20	7
Fraud	41	65	35	0	1	1	27	43	24	3	0	2	0	0	0	0	0	0	11	20	7	0	1	1
Robbery	408	424	383	4	3	2	316	351	312	14	16	18	2	3	1	5	5	7	58	40	32	9	6	11
Theft	221	186	148	4	6	1	162	130	113	10	11	12	4	3	1	2	5	3	38	25	13	1	6	5
Other Offences Against Property	318	293	293	10	7	6	181	194	202	38	20	19	7	2	4	4	6	6	68	43	40	10	21	16
<b>TOTAL - OFFENCES AGAINST PROPERTY</b>	<b>1296</b>	<b>1263</b>	<b>1162</b>	<b>25</b>	<b>19</b>	<b>14</b>	<b>892</b>	<b>930</b>	<b>895</b>	<b>84</b>	<b>72</b>	<b>66</b>	<b>18</b>	<b>8</b>	<b>13</b>	<b>15</b>	<b>18</b>	<b>23</b>	<b>232</b>	<b>162</b>	<b>111</b>	<b>30</b>	<b>54</b>	<b>40</b>
Buggery	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Child Pornography	16	16	13	0	0	0	13	11	10	0	1	1	0	0	0	0	0	1	3	3	1	0	1	0
Sexual Assault	108	88	79	11	8	5	37	35	38	2	4	3	8	10	12	1	4	4	45	21	6	4	6	11
Defilement of a Child	23	11	14	0	0	0	9	7	12	0	0	0	1	1	0	0	0	0	12	3	1	1	0	1
Other Sexual Offences	52	52	42	7	2	2	21	24	25	0	1	0	2	0	3	1	3	2	20	14	8	1	8	2
<b>TOTAL - SEXUAL OFFENCES</b>	<b>199</b>	<b>167</b>	<b>148</b>	<b>18</b>	<b>10</b>	<b>7</b>	<b>80</b>	<b>77</b>	<b>85</b>	<b>2</b>	<b>6</b>	<b>4</b>	<b>11</b>	<b>11</b>	<b>15</b>	<b>2</b>	<b>7</b>	<b>7</b>	<b>80</b>	<b>41</b>	<b>16</b>	<b>6</b>	<b>15</b>	<b>14</b>
Dangerous Driving Causing Death	19	36	22	2	0	1	7	21	15	1	6	2	0	3	1	4	1	0	4	5	3	1	0	0
Unauthorised Taking of Motor Vehicles	41	31	23	0	0	0	27	21	16	6	4	4	0	0	0	1	0	0	7	5	3	0	1	0
Other Road Traffic Offences	92	61	56	1	2	2	41	33	36	16	8	9	4	2	2	4	0	0	25	16	6	1	0	1
<b>TOTAL - ROAD TRAFFIC OFFENCES</b>	<b>152</b>	<b>128</b>	<b>101</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>75</b>	<b>75</b>	<b>67</b>	<b>23</b>	<b>18</b>	<b>15</b>	<b>4</b>	<b>5</b>	<b>3</b>	<b>9</b>	<b>1</b>	<b>0</b>	<b>36</b>	<b>26</b>	<b>12</b>	<b>2</b>	<b>1</b>	<b>1</b>
Drug Offences	435	481	536	2	6	8	159	186	221	192	211	236	0	0	3	1	4	7	76	54	36	5	20	25
Firearms and Explosives Offences	145	88	90	4	1	4	83	50	51	18	16	19	2	2	2	0	1	1	35	15	11	3	3	2
Non Fatal Offences Against the Person	683	602	655	13	18	23	352	358	409	57	49	44	32	42	53	23	30	23	173	65	54	33	40	49
Public Order Offences	182	179	171	1	0	6	97	90	109	11	25	16	4	3	3	13	14	0	50	40	32	6	7	5
Revenue Offences	28	35	34	0	2	0	13	18	19	1	0	1	2	1	0	0	5	0	12	8	12	0	1	2
Sea Fisheries	5	5	12	1	0	1	3	1	8	0	0	0	0	0	1	0	0	0	1	4	0	0	0	2
Other Offences	88	68	56	2	5	3	36	20	30	4	6	6	1	0	1	0	6	0	40	26	13	5	5	3
<b>GRAND TOTAL</b>	<b>3217</b>	<b>3026</b>	<b>2975</b>	<b>69</b>	<b>64</b>	<b>69</b>	<b>1793</b>	<b>1812</b>	<b>1898</b>	<b>392</b>	<b>403</b>	<b>408</b>	<b>74</b>	<b>72</b>	<b>95</b>	<b>63</b>	<b>86</b>	<b>62</b>	<b>736</b>	<b>442</b>	<b>299</b>	<b>90</b>	<b>147</b>	<b>144</b>

**CHART 7A: Breakdown of 'Other Disposals' from Chart 7**

	2015	2014	2013
<i>Nolle prosequi</i> entered	79	119	115
Struck out	1	9	6
Taken into consideration	0	2	4
Successful application to dismiss charges	1	3	1
Suspect absconded and not expected to return	0	2	11
Jury discharged and permanent stay on indictment	0	0	1
Suspect deceased	1	3	0
Suspect unfit to plead	1	3	0
Not guilty by reason of insanity	7	6	6
<b>TOTAL</b>	<b>90</b>	<b>147</b>	<b>144</b>

**CHART 7B: Total Cases Finalised in the Circuit Criminal Court and Percentage of Convictions**

	TOTAL			Percentage of Convictions		
	2015	2014	2013	2015	2014	2013
Fatal Accident at Work	2	3	3	100%	100%	100%
Manslaughter	1	5	4	100%	100%	50%
Other Fatal Offences	0	0	0	N/A	N/A	N/A
<b>TOTAL - FATAL OFFENCES</b>	<b>3</b>	<b>8</b>	<b>7</b>	<b>100%</b>	<b>100%</b>	<b>71%</b>
Burglary	241	241	277	96%	99%	95%
Fraud	30	44	27	100%	100%	100%
Robbery	341	378	340	98%	98%	98%
Theft	182	155	130	97%	95%	97%
Other Offences Against Property	240	229	237	95%	97%	96%
<b>TOTAL - OFFENCES AGAINST PROPERTY</b>	<b>1034</b>	<b>1047</b>	<b>1011</b>	<b>97%</b>	<b>98%</b>	<b>96%</b>
Buggery	0	0	0	N/A	N/A	N/A
Child Pornography	13	12	12	100%	100%	92%
Sexual Assault	59	61	62	85%	77%	74%
Sex with an Underage Girl	10	8	12	90%	88%	100%
Other Sexual Offences	31	30	32	90%	90%	84%
<b>TOTAL - SEXUAL OFFENCES</b>	<b>113</b>	<b>111</b>	<b>118</b>	<b>88%</b>	<b>84%</b>	<b>81%</b>
Dangerous Driving Causing Death	14	31	19	71%	87%	95%
Unauthorised Taking of Motor Vehicles	34	25	20	97%	100%	100%
Other Road Traffic Offences	66	45	49	88%	96%	96%
<b>TOTAL - ROAD TRAFFIC OFFENCES</b>	<b>114</b>	<b>101</b>	<b>88</b>	<b>89%</b>	<b>94%</b>	<b>97%</b>
Drug Offences	354	407	475	100%	99%	98%
Firearms and Explosives Offences	107	70	77	98%	96%	96%
Non Fatal Offences Against the Person	477	497	552	88%	86%	86%
Public Order Offences	126	132	134	87%	87%	98%
Sea Fisheries	16	26	20	88%	77%	100%
Revenue Offences	4	1	10	100%	100%	90%
Other Offences	43	37	40	98%	84%	98%
<b>GRAND TOTAL</b>	<b>2391</b>	<b>2437</b>	<b>2532</b>	<b>94%</b>	<b>94%</b>	<b>94%</b>

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		
	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013
Membership of Unlawful Organisation & Related Offences	20	14	26	5	3	3	1	1	3	6	10	2	0	0	15	1	0	1	7	0	2
Firearms and Explosives Offences	1	3	3	0	1	0	1	1	2	0	0	0	0	0	0	0	0	0	0	1	1
Murder	0	0	9	0	0	2	0	0	1	0	0	0	0	0	0	0	0	1	0	0	5
Providing Assistance to Unlawful Organisation	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0
False Imprisonment	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	0	0
Threat to Kill	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Assault Causing Harm	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>29</b>	<b>17</b>	<b>38</b>	<b>6</b>	<b>4</b>	<b>5</b>	<b>2</b>	<b>2</b>	<b>6</b>	<b>6</b>	<b>10</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>15</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>13</b>	<b>1</b>	<b>8</b>

**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 After Trial			Conviction on Plea		
	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013
Membership of Unlawful Organisation & Related Offences	6	7	2	6	7	2	2	5	0	4	2	2
Membership of Unlawful Organisation & Related Offences	0	1	0	0	1	0	0	0	0	0	1	0
Membership of Unlawful Organisation & Related Offences	0	1	0	0	1	0	0	0	0	0	1	0
Membership of Unlawful Organisation & Related Offences	0	1	0	0	1	0	0	0	0	0	1	0
<b>TOTAL</b>	<b>6</b>	<b>10</b>	<b>2</b>	<b>6</b>	<b>10</b>	<b>2</b>	<b>2</b>	<b>5</b>	<b>0</b>	<b>4</b>	<b>5</b>	<b>2</b>

**CHART 8B: Breakdown of 'Other Disposals' from Chart 8**

	2015	2014	2013
<i>Nolle prosequi</i> entered	0	0	2
Suspect deceased	1	0	0
<b>TOTAL</b>	<b>1</b>	<b>0</b>	<b>2</b>

**CHART 8C: Total Cases Finalised in the Special Criminal Court and Percentage of Convictions**

	TOTAL			Percentage of Convictions			Percentage of Acquittals		
	2015	2014	2013	2015	2014	2013	2015	2014	2013
Firearms and Explosives Offences	1	2	2	100%	100%	100%	0%	0%	0%
Membership of Unlawful Organisation & Related Offences	12	14	23	100%	100%	35%	0%	0%	65%
Other Offences	2	0	3	50%	N/A	100%	50%	N/A	0%
<b>TOTAL</b>	<b>15</b>	<b>16</b>	<b>28</b>	<b>93%</b>	<b>100%</b>	<b>46%</b>	<b>7%</b>	<b>0%</b>	<b>54%</b>



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		
	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013
Murder	22	52	27	10	15	14	0	3	3	1	17	7	0	1	1	0	0	1	3	11	1	8	5	0
Attempted Murder	1	4	2	0	0	1	1	1	1	0	1	0	0	0	0	0	0	0	0	2	0	0	0	0
Rape	107	65	67	24	17	12	22	16	12	4	3	19	10	10	7	0	0	1	3	5	8	44	14	8
Attempted Rape	2	6	2	0	0	0	1	4	1	0	2	1	0	0	0	0	0	0	0	0	0	1	0	0
Aggravated Sexual Assault	1	0	2	0	0	0	0	0	1	0	0	0	0	0	1	0	0	0	0	0	0	1	0	0
Assisting an Offender	2	2	1	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	2	1	0
Sexual Assault	0	0	2	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1	0	0	0
Assault causing harm	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Competition Law	0	2	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>135</b>	<b>132</b>	<b>103</b>	<b>34</b>	<b>32</b>	<b>27</b>	<b>24</b>	<b>28</b>	<b>19</b>	<b>5</b>	<b>23</b>	<b>28</b>	<b>10</b>	<b>11</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>6</b>	<b>18</b>	<b>10</b>	<b>56</b>	<b>20</b>	<b>8</b>

CHART 9A: Breakdown of 'Convictions on Lesser Charge'

Primary Charge	Lesser Charge Convicted of	TOTAL			Conviction by Jury			Conviction on Plea		
		2015	2014	2013	2015	2014	2013	2015	2014	2013
Murder	Manslaughter	1	14	6	1	5	3	0	9	3
Murder	Assault Causing Serious Harm	0	0	1	0	0	1	0	0	0
Murder	Assisting An Offender	0	1	0	0	0	0	0	1	0
Murder	Violent Disorder	0	1	0	0	0	0	0	1	0
Murder	Possession of Article with Intent Unlawfully to Cause Injury	0	1	0	0	0	0	0	1	0
Rape	Aggravated Sexual Assault	0	1	0	0	0	0	0	1	0
Rape	Assault Causing Harm	1	1	2	0	1	2	1	0	0
Rape	Attempted Rape	0	0	1	0	0	1	0	0	0
Rape	False Imprisonment	1	0	0	1	0	0	0	0	0
Rape	Sex with an Underage Girl	0	0	5	0	0	1	0	0	4
Rape	Sexual Assault	2	0	6	1	0	3	1	0	3
Rape	Theft	0	0	1	0	0	0	0	0	1
Rape	Indecent Assault	0	1	4	0	0	4	0	1	0
Attempted Murder	Possession of Firearms with Intent to Endanger Life	0	1	0	0	0	0	0	1	0
Attempted Rape	Sexual Assault	0	2	1	0	0	0	0	2	1
Sexual Assault	Child Neglect/Cruelty	0	0	1	0	0	1	0	0	0
<b>TOTAL</b>		<b>5</b>	<b>23</b>	<b>28</b>	<b>3</b>	<b>6</b>	<b>16</b>	<b>2</b>	<b>17</b>	<b>12</b>

**CHART 9B: Breakdown of 'Other Disposals'**

	2015	2014	2013
<i>Nolle prosequi</i> entered	2	2	8
Suspect unfit to plead	0	2	1
Suspect deceased	2	2	1
Successful application to dismiss charges	0	1	0
Struck out	0	2	0
Not guilty by reason of insanity	2	9	0
<b>TOTAL</b>	<b>6</b>	<b>18</b>	<b>10</b>

**CHART 9C: Total Cases Finalised in the Central Criminal Court and Percentage of Convictions**  
(Including Convictions on a Lesser Charge)

	TOTAL			Percentage of Convictions		
	2015	2014	2013	2015	2014	2013
Murder	11	36	26	100%	97%	92%
Attempted Murder	1	2	2	100%	100%	100%
Rape	60	46	51	83%	78%	84%
Attempted Rape	1	6	2	100%	100%	100%
Aggravated Sexual Assault	0	0	2	N/A	N/A	50%
Sexual Assault	0	0	1	N/A	N/A	100%
Competition Law	0	2	0	N/A	100%	N/A
Assisting an Offender	0	1	1	N/A	100%	N/A
<b>TOTAL</b>	<b>73</b>	<b>93</b>	<b>85</b>	<b>86%</b>	<b>89%</b>	<b>87%</b>

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		
	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013	2015	2014	2013
Carlow	18	34	22	1	3	1	12	23	12	4	4	6	0	3	2	1	1	1
Cavan	32	27	36	0	1	0	28	18	26	3	6	8	1	0	2	0	2	0
Clare	63	74	46	1	0	2	45	48	32	9	24	9	5	1	1	3	1	2
Cork	306	366	345	13	10	9	245	291	268	30	52	46	10	6	10	8	7	12
Donegal	28	36	49	2	2	2	19	21	43	3	13	3	1	0	1	3	0	0
Dublin	984	915	1017	9	12	19	713	691	745	233	180	198	18	15	33	11	17	22
Galway	61	102	75	4	3	7	44	78	50	9	16	6	2	2	7	2	3	5
Kerry	75	55	69	2	0	3	65	46	53	3	7	11	5	2	2	0	0	0
Kildare	49	73	70	0	3	5	32	52	50	9	7	9	1	4	3	7	7	3
Kilkenny	33	30	34	0	3	1	29	21	25	2	5	6	2	1	0	0	0	2
Laois	29	27	34	2	0	0	16	19	27	7	5	4	2	2	2	2	1	1
Leitrim	11	9	8	0	0	1	9	4	5	1	2	2	0	0	0	1	3	0
Limerick	141	98	131	8	1	2	119	84	116	12	11	11	2	2	2	0	0	0
Longford	15	19	29	1	0	0	10	13	21	4	5	8	0	0	0	0	1	0
Louth	50	67	51	1	2	2	41	49	38	3	4	8	2	0	1	3	12	2
Mayo	67	39	64	2	3	2	52	28	44	9	4	13	4	4	5	0	0	0
Meath	64	50	50	8	7	0	49	33	41	4	4	8	3	4	0	0	2	1
Monaghan	12	18	13	0	0	0	9	14	10	3	4	2	0	0	0	0	0	1
Offaly	25	26	18	0	0	1	21	18	13	3	5	1	0	1	3	1	2	0
Roscommon	17	17	21	0	0	0	15	9	14	1	3	5	1	3	2	0	2	0
Sligo	30	23	38	1	1	0	26	13	33	1	3	3	2	1	1	0	5	1
Tipperary	83	68	109	5	3	4	55	48	76	15	12	17	5	3	7	3	2	5
Waterford	73	83	64	5	1	4	44	58	48	9	9	6	4	9	5	11	6	1
Westmeath	49	44	43	1	0	1	39	36	33	2	3	4	1	1	3	6	4	2
Wexford	43	58	40	2	1	0	31	46	28	8	8	10	1	1	1	1	2	1
Wicklow	33	79	56	1	8	3	25	51	47	5	7	4	2	7	2	0	6	0
<b>TOTAL</b>	<b>2391</b>	<b>2437</b>	<b>2532</b>	<b>69</b>	<b>64</b>	<b>69</b>	<b>1793</b>	<b>1812</b>	<b>1898</b>	<b>392</b>	<b>403</b>	<b>408</b>	<b>74</b>	<b>72</b>	<b>95</b>	<b>63</b>	<b>86</b>	<b>62</b>

**CHART 10A: Total Cases Finalised and Percentage of Convictions**

	TOTAL			Percentage of Convictions		
	2015	2014	2013	2015	2014	2013
Carlow	18	34	22	94%	88%	86%
Cavan	32	27	36	97%	93%	94%
Clare	63	74	46	87%	97%	93%
Cork	306	366	345	94%	96%	94%
Donegal	28	36	49	86%	100%	98%
Dublin	984	915	1017	97%	97%	95%
Galway	61	102	75	93%	95%	84%
Kerry	75	55	69	93%	96%	97%
Kildare	49	73	70	84%	85%	91%
Kilkenny	33	30	34	94%	97%	94%
Laois	29	27	34	86%	89%	91%
Leitrim	11	9	8	91%	67%	100%
Limerick	141	98	131	99%	98%	98%
Longford	15	19	29	100%	95%	100%
Louth	50	67	51	90%	82%	94%
Mayo	67	39	64	94%	90%	92%
Meath	64	50	50	95%	88%	98%
Monaghan	12	18	13	100%	100%	92%
Offaly	25	26	18	96%	88%	83%
Roscommon	17	17	21	94%	71%	90%
Sligo	30	23	38	93%	74%	95%
Tipperary	83	68	109	90%	93%	89%
Waterford	73	83	64	79%	82%	91%
Westmeath	49	44	43	86%	89%	88%
Wexford	43	58	40	95%	95%	95%
Wicklow	33	79	56	94%	84%	96%
<b>TOTAL</b>	<b>2391</b>	<b>2437</b>	<b>2532</b>	<b>94%</b>	<b>94%</b>	<b>94%</b>

# 4.3 APPLICATIONS TO THE COURTS

Charts 11 to 14 provide details of applications made to the Courts in relation to appeals in criminal cases, reviews of sentence on grounds of undue leniency, confiscation and forfeiture of criminal assets, and European Arrest Warrants.

## APPLICATIONS TO THE COURT OF APPEAL (CRIMINAL)

The new Court of Appeal was established in October 2014 following the 33<sup>rd</sup> Amendment to the Constitution and the enactment of the Court of Appeal Act 2014. The Court sits between the High and Supreme Courts and took over the existing appellate jurisdiction of the Supreme Court in civil matters and the Court of Criminal Appeal in criminal matters. The first criminal appeal case was heard on 10 November 2014.

Chart 11 below details the number of appeals lodged since the establishment of the new Court. The 'Appeal by DPP' column outlines the number of cases in which the Director was an applicant, including, for example, undue leniency, acquittal, and fitness to plead appeals. The remaining columns set out the number of cases in which the Director was a respondent and relate to severity of sentence and conviction appeals.

**CHART 11: Appeals to the Court of Appeal (Criminal) since November 2014**

Year	Appeal by DPP	Severity of Sentence	Conviction	Conviction and Severity	TOTAL CASES
November - December 2014	10	37	9	13	69
January - December 2015	44	195	40	54	333
January - December 2016	59	164	47	59	329
<b>TOTAL</b>	<b>113</b>	<b>396</b>	<b>96</b>	<b>126</b>	<b>731</b>

## 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 Appeal (Criminal) to have a sentence imposed by the trial court reviewed, if it appears that the sentence imposed was in law unduly lenient.

Chart 12 below details the number of applications lodged in the last ten years.

Chart 12A outlines the results of applications by the year in which the application was heard.

**CHART 12: Applications for Review of Sentence on Grounds of Undue Leniency**

Year of Application	Number of Applications Lodged
2006	41
2007	42
2008	58
2009	57
2010	54
2011	55
2012	21
2013	32
2014	31
2015	38
2016	56

**CHART 12A: Results of Applications by Year Heard**

Year of Application Heard	Successful	Refused	Applications Struck Out or Withdrawn	TOTAL
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
2014	23	11	2	36
2015	36	10	5	51
2016	16	13	6	35

## 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 2016 is set out in Chart 13 below.

**CHART 13: Asset Seizing Files Opened in 2016**

Asset Seizing Files Opened 2016	
Section 39 Applications (Revenue and Gardaí)	35
Sections 4 and 9 Applications	3
Section 61 Applications	0
Section 24 Applications	1
<b>TOTAL</b>	<b>39</b>

**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 56 Restitution Orders:** Under the provisions of the 2001 Criminal Justice Theft and Fraud Offences Act, an order may be made by the court restoring funds or property to injured parties in relation to offences committed under that act.



**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 2016, to a total value of €960,910.96 are outlined in chart 13A below.

**CHART 13A: Confiscation of Criminal Assets**

Orders	Number	Amount
Forfeiture Orders	2	€4,800.00
Section 4 Confiscation Orders	4	€138,100.00
Section 9 Confiscation Orders	2	€201,045.57
Section 39 Forfeiture Orders (Gardaí)	2	€57,405.00
Section 39 Forfeiture Orders (Revenue Solicitor Applications)	14	€519,560.39
Section 56 Restitution Order (Criminal Justice [Theft & Fraud Offences] Act 2001)	1	€40,000.00
<b>TOTAL</b>	<b>25</b>	<b>€960,910.96</b>

## 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. 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 14 below outlines the number of European Arrest Warrants dealt with in the years 2014, 2015 and 2016. 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 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 14: European Arrest Warrants**

Year	EAW Files Received from Gardaí	EAWs Issued	Persons Surrendered
2014	74	48	30
2015	106	60	21
2016	66	84	34

## 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 2016, the Office of the Director of Public Prosecutions received 10 files from An Garda Síochána seeking the completion and issue of Extradition Requests.

Nine Extradition Requests were issued in 2016, of which one was transmitted to South Africa, seven to Australia and one to the United States of America.

**CHART 15: Extradition Requests 2016**

Country Request Transmitted to:	Number of Extradition Requests Issued
South Africa	1
Australia	7
USA	1
<b>TOTAL</b>	<b>9</b>

## 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 An Garda Síochána or the Revenue Commissioners for assessment and legal advice, before transmission to other countries.

Chart 16 outlines the total number of requests for mutual legal assistance dealt with by this Office.

**CHART 16: Requests for Mutual Legal Assistance**

	2016	2015	2014
Number of Requests	395	268	201

