

**Report of**

**THE WORKING GROUP**

**ON THE OUTSTANDING RECOMMENDATIONS OF PUBLIC**

**PROSECUTION SYSTEM STUDY GROUP**

**20 November 2002**

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## Chapter 1 - Introduction

1.1 The Public Prosecution System Study Group (PPSSG) was appointed by the Government in October 1998 under the auspices of the Office of the Attorney General. The PPSSG submitted its report in June 1999.

1.2 On the 5 October 1999 the Government considered the Report and

- (1) agreed to the publication of the Report of the Public Prosecution System Study Group and to its presentation to the House of the Oireachtas;
- (2) accepted in principle subject to (4) below, the Study Group's conclusions and recommendations that the present prosecution system should not be replaced by a unified system but should be enhanced to improve co-ordination and effectiveness;
- (3) agreed to implement the recommendations of the Study Group as set out at paragraph 5.10 of the Report, on the basis that the necessary steps would be agreed by the Attorney General with the Minister for Finance, including arrangements for
  - (a) the transfer of the criminal division of the CSSO to the Office of the Director of Public Prosecutions, as set out in paragraph 5.10.6 of the Report, and
  - (b) the transfer of responsibility for the State Solicitors from the Attorney General to the DPP, as set out in paragraph 5.10.4 of the Report; and
- (4) agreed that further consideration should be given by the Taoiseach and the Attorney General to the recommendation concerning the appointment of State Solicitors as set out in paragraph 5.10.5 of the Report. (Government Decision S250/10/17/0003)

1.3 The principal task was the transfer of functions of the criminal division of the CSSO to the Office of the Director of Public Prosecutions. The organisational issues involved in this transfer were significant and priority was given to these over the other recommendations in the Report. This transfer of functions took place on 3 December 2001 and the new solicitor's division in the Office is headed by the Chief Prosecution Solicitor. When this transfer was effected a working group, as recommended at paragraph 5.11 of the PPSSG Report, was established to examine and report on the implementation of the other recommendations of the Report including the recommendation to transfer responsibility of the State Solicitors to the DPP. This working group had representatives from the Departments of Justice, Equality and Law Reform and Finance, the Offices of the Attorney General, the Director of Public Prosecutions and the Chief State Solicitor, and the Garda Síochána and met

under the chairmanship of the Director of Public Prosecutions. Membership of the working group is shown at Appendix 1.

- 1.4 The working group met on a number of occasions. This report sets out the current position regarding the implementation of the PPSSG recommendations.
- 1.5 Criminal prosecution is a key element in the State's response to crime. The working group considers it important to highlight the importance of providing adequate resources for the prosecution function so as to ensure that the significant investment which has been made in the prosecution system in furtherance of the recommendations of the PPSSG Report and which is being made elsewhere in the criminal justice system will produce the benefits which are anticipated.

## **Chapter 2 - Staffing Related Recommendations**

### **Independent counsel – (Paragraph 5.6 at page 48) (Recommendation 5.10.3)**

2.1 The PPSSG Report recommended that the current practice of retaining barristers in independent practice to prosecute on behalf of the Director should continue. This recommendation is being implemented in full.

### **State Solicitors - (Paragraph 5.7 at page at p.49) (Recommendations 5.10.4 and 5)**

2.2 The PPSSG Report noted that 80% of the work of State Solicitors is prosecution work for the DPP. Having regard to this it recommended that responsibility for the State Solicitor service should be transferred from the Attorney General to the Director of Public Prosecutions.

2.3 In order to facilitate this recommendation an amendment to the Ministers and Secretaries Act, 1924 will be required. The PPSSG considered that provision should also be made for the DPP to delegate powers under the Prosecution of Offence Act 1974, to State Solicitors. The Attorney General's Office has made a request to the Department of the Taoiseach with a view to determining which member of Government should sponsor the necessary legislation so that the matter can be progressed.

### **Status of Solicitors Employed in the Office of the Chief Prosecution Solicitor – (Paragraph 5.7.4 at page 50) (Recommendation 5.10.6)**

2.4 The PPSSG Report recommended that solicitors employed in the Office of the Chief Prosecution Solicitor should be made professional officers of the DPP, by legislation if necessary. The recommendation is in contradiction with paragraph 5.7.9 of the PPSSG Report which correctly states that following the transfer the legal staff would be professional officers of the DPP. The working group, under the chairmanship of the DPP, discussed this matter and agreed that legislative amendment is not required. The working group is satisfied that the transferred solicitors are now professional officers of the DPP within the meaning of section 4(1)(a) of the Prosecution of Offences Act, 1974, to whom functions may be delegated. (The Act provides that “professional officer” of the Director means an officer who is a barrister or solicitor: section 1).

### **Common Pool of Staff Within Legal Offices for Promotion and Transfer Purposes – (Paragraph 5.7.7 at page 51) (Recommendation 5.10.7)**

2.5 The PPSSG report recommended that *“a common pool of staff, who would be entitled to apply for transfer and promotion among the various legal*

*offices in accordance with accepted civil service procedures, should be established after appropriate consultations. (Paragraph 5.7.7)*

- 2.6 The working group, under the chairmanship of the DPP, considered this recommendation. It was agreed that it would not be possible to put in place common transfer and promotion procedures covering every post in all legal offices involving both solicitors and barristers without legislative change. This is because, under existing law, a barrister may not be employed to do the work of a solicitor, except in the case of the Office of the Revenue Solicitor: section 86 of the Solicitors Act, 1954. However, it was agreed that procedures to establish a common pool could be put in place between Offices with significant numbers of solicitors. To this end a joint proposal issued by the Chief State Solicitor's Office and the Office of the Director of Public Prosecutions to the Union representing Solicitor and Legal Executive Staff, is currently being discussed with the Union. However, while accepted in principle by all sides, early indications are that it will take some further time before the details of the operation of the common pool are agreed.

**Delegation of decisions by the DPP to the Chief Prosecution Solicitor (Paragraph 5.7.9 at page 52) (Recommendation 5.10.8)**

- 2.7 The Director now has the right to make such delegations but so far has not exercised this option.

## Chapter 3 - Alternatives To Prosecution

### **On the Spot Fines – (Paragraph 5.8.3 at page 54) (Recommendation 5.10.9)**

- 3.1 While recognising that, under the Constitution, justice must be administered by the courts, the PPSSG recommended the extension of the existing practice of summarily imposing fines should be considered to the extent that the right to due process is not infringed.
- 3.2 The Road Traffic Act, 2002 (enacted on 10 April 2002) provides for the introduction of a system of penalty points and a new scheme of fixed charges – the latter will replace the current “on-the-spot fine” system. It is proposed to devise and implement the new fixed charges system in the coming year. The Department of Justice, Equality and Law Reform have no definite plans at present for on the spot fines other than in relation to carriers’ liability. This will be dealt with in the proposed Immigration Bill 2002 which is waiting to be passed in the Seanad. The Department will, however, give consideration to this matter in the context of future legislative proposals in potentially suitable areas such as for example after hours drinking and public order offences. Section 109 of the Company Law Enforcement Act, 2001, provides for a system whereby a person may avoid an intended prosecution for summary offences under the Companies Act by paying a prescribed amount following the delivery of a notice by the Director of Corporate Affairs.

### **Cautioning by An Garda Síochána – (Paragraph 5.8.6 at page 55) (Recommendation 5.10.10)**

- 3.3 As a further measure to reduce the volume of cases prosecuted through the courts the PPSSG recommended that a system should be introduced whereby an offender would, in certain circumstances, be issued with a warning or caution rather than being prosecuted. It was considered that such an alternative would have the twin advantages of deflecting the offender from the path of crime and reducing the pressure on the prosecution and courts systems. The PPSSG was of the opinion that the DPP should issue detailed guidelines setting out the type of situation in which such an approach should be used.
- 3.4 Discussions between the DPP’s Office and the Garda Síochána are ongoing regarding how such a system would operate in practice. It is intended that at the conclusion of these discussions a detailed set of guidelines will be issued by the DPP.

## **Chapter 4 - An Garda Síochána**

### **Role in Summary Prosecutions – (Paragraph 5.5.14 at page 48) (Recommendation 5.10.2)**

4.1 While the PPSSG were of the opinion that the Garda Síochána should continue to prosecute in summary trials they recommended that steps should be taken to:

- extend the court presenter system;
- further improve Garda training;
- formalise and standardise safeguards within Garda stations which prevent the abuse of the prosecution initiative by an investigating garda;
- restrict the right of gardaí to initiate a prosecution as a common informer where the case involves the garda's function as a member of the Garda Síochána; and
- accelerate the introduction of recording of garda interviews of suspects.

### **Extension of the Court Presenter System – (Paragraph 5.5.5 at page 44) (Recommendation 5.10.2)**

4.2 The PPSSG recommended that the court presenter system be extended to all Districts. The necessary legislative framework is in place and its operation is a matter, in the first instance, for the Garda Authorities.

4.3 The Garda Síochána have submitted a report setting out the current position with regard to extending the court presenter system. This is attached at Appendix 2. The Garda Síochána have also indicated that they have prepared for the improvement and further development of the existing court presenter system. These proposals are concerned with linking the system to the Garda PULSE network and involve substantial expenditure. The question of securing the financial resources required to meet the costs of the relevant project is currently being examined by the Department of Justice, Equality and Law Reform.

### **Further Improve Prosecution Training For Gardaí - (Paragraph 5.5.2 at page 42) (Recommendation 5.10.2)**

4.4 While the PPSSG was impressed by the training received by Garda Síochána to ensure that Garda prosecutors are well equipped to cope with both practical and legal issues it recommended that this training be further improved systematically. The Director of Public Prosecutions Office will increase its involvement in Garda training by including solicitors from its



solicitors division in training programmes and this process has already commenced. It is intended to establish in the near future a working group to oversee development in this area.

**Formalise Safeguards To Prevent Abuse of The Prosecution Initiative By An Investigating Garda - (Paragraph 5.5.5 at page 44) (Recommendation 5.10.2)**

- 4.5 This recommendation dealt with arrangements in place within the Garda Síochána – someone other than the investigating officer – is involved in the decision to prosecute and presents the case in court. The introduction of this second layer was described as “a safeguard against excessive zeal” and “a protection against personal bias”.
- 4.6 The arrangements in question are, firstly, the necessity for an arrest and detention to be justified to the member-in-charge of a Garda Station, and in relation to prosecutions in court, in Dublin, the court presenter system, and outside Dublin, the presentation of the case by a Garda Inspector or supervisor. The Nally Committee considered that these arrangements seemed to work well in practice but considered that they should be developed formally as a standard set of safeguards.
- 4.7 These arrangements have now been formalised by an instruction issued by Garda Headquarters. The Statement of General Guidelines for Prosecutors, published by the Director in October 2001, addresses the issue of the circumstances in which a Garda prosecuting in the Director’s name requires the express consent of the Director before initiating a prosecution. These guidelines are kept under review and the role of the Garda Síochána as prosecutor acting on the Director’s behalf is the subject of ongoing consideration and review by both organisations.
- 4.8 The Group is, of course, confined to examining the implementation of the Nally recommendations. Any consideration of whether there is a case for safeguards going beyond those recommended by Nally is outside the remit of the Group.

**Restrict The Right Of A Garda To Initiate A Prosecution As A Common Informer - (Paragraph 5.5.12 at page 47) (Recommendation 5.10.2)**

- 4.9 The PPSSG Group recommended that action be taken to restrict by internal disciplinary action the right of gardaí to initiate a prosecution as a common informer where the case involves the garda’s functions as a member of the Garda Síochána. The Garda Síochána Code refers to the possible drawbacks for a Garda prosecuting on his own initiative as a common informer but does not, however, go so far as to prohibit him or her from

doing so (see paragraph 12.40 of the Garda Síochána Code reproduced as Appendix 3).

**Video Recording Of Interviews - (Paragraph 5.5.13 at page 47)  
(Recommendation 5.10.2)**

4.10 The PPSSG recommended that steps be taken accelerate the introduction of the recording of garda interviews of suspects. The Garda Authorities have reported that 220 Garda Stations are to be equipped with video recording equipment throughout the country. To date 211 interview rooms in 214 stations have been fitted out. This project is scheduled for completion during 2003.

**Preparing Books of Evidence 5.8.7 – 5.8.9 (at p.56)  
(Recommendation 5.10.11)**

4.11 The PPSSG recommended that consideration should be given to amending the legislation to provide a less cumbersome method of meeting the requirements of the accused than the present book of evidence.

4.12 Having considered this matter the working group formed the opinion that books of evidence continue to serve a useful purpose in the effective administration of trial preparation. The working group were unable to suggest any useful amendment to legislation to recommend at this time. The matter should, however, be kept under review. The system of preliminary examination has recently been amended by statute.

**Codifying and Consolidating Instructions for Garda Síochána - (Paragraph 5.9.3 at page 58) (Recommendation 5.10.15)**

4.13 The PPSSG recommended that DPP's Office should codify and consolidate the instructions on prosecution matters given to the Garda Síochána so that they form a coherent and constantly updated set of guidelines, which should remain confidential within the prosecution system.

4.14 A small working group comprising representatives from DPP's Office and the Garda Síochána are currently undertaking this task.

## **Chapter 5 - Acquisition, Analysis And Dissemination Of Information**

### **Publication Of Reports By The DPP - (Paragraph 5.9.1 at page 57) (Recommendation 5.10.12)**

- 5.1 The PPSSG welcomed the publication of the first Annual Report, in respect of the year 1998, of the Office of the Director of Public Prosecution and recommended that such reports be published annually. Since then Annual Reports in respect of the 1999 and 2000 have been published. The Annual Report in respect of 2001 is nearing completion.
- 5.2 In 2001 the Office of the Director of Public Prosecutions published its Strategy Statement for the period 2001 – 2003. This sets out the major management issues and key objectives which will face the Office in the period.
- 5.3 In 2001 the Office also published a Statement of General Guidelines for Prosecutors. The purpose of this documents was to set out in general terms principles which should guide the initiation and conduct of prosecutions in the State and to provide general guidance to prosecutors so that a fair, reasoned, and consistent policy underlies the prosecution process. A further objective of publishing this document was to contribute to an increased understanding of the prosecution process by the citizens on whose behalf prosecutions are brought.

### **Assembly And Analysis Of Information (Paragraph 5.9.2 at page 57) (Recommendation 5.10.13)**

- 5.4 The PSSG recommended that the DPP's office should be the focal point for the assembly and analysis of information on the operation of the prosecution system. However, the National Crime Council Report of September 2001 recommended that an expert group on crime statistics be established and that the Department of Justice, Equality and Law Reform should carry out this function.
- 5.5 The working group considers that it is essential that there should be a focal point for the assembly and analysis of statistical information on crime statistics and that it is essential that there should be coordination of the activities of the different agencies, the DPP's Office, the Garda Síochána, the Courts Service, and the Department of Justice, Equality and Law Reform in this area. The working group did not express any preference as between the solutions preferred by the PPSSG and the National Crime Council Report.

5.6 The Minister for Justice, Equality and Law Reform has recently received approval to establish an Expert Group on Crime Statistics and it is envisaged that the Director of Public Prosecutions will be asked to nominate someone to the Group. At this stage it is difficult to elaborate on the relationship between the various agencies involved and detailed consideration will have to be given in due course as to the nature and classification of the statistics and the flow of information between the different agencies. The raw data for all of these statistics will be much more readily available from the IT systems now under development than heretofore. The existence of a common data model would allow some linkages between the levels of detection, prosecution, court outcomes etc. Approval was also given to the Minister for Justice, Equality and Law Reform to carry out biennial national crime victimisation surveys starting in 2004.

**Establishment of a unit in the DPP's Office with responsibility for research, statistics, planning, library and information technology (paragraph 5.9.2 page 57) (Recommendation 5.10.14)**

5.7 As recommended in the PPSSG Report the DPP's Office has established an IT Unit and a Library Service. It has recruited a professional manager as Head of Administration and has also established a policy development unit. The research function is as yet under-developed and there is a need to employ a number of researchers in the Office. Sanction has been received from the Department of Finance to recruit two legal researchers on a contract basis and this will be advertised shortly.

**Co-ordination Of Information Technology Systems - (paragraph 5.9.4 at page 58) (Recommendation 5.10.16)**

5.8 The PPSSG recommended that existing and projected information technology systems in the Garda Síochána, the Courts, the Department of Justice, Equality and Law Reform and DPP's Office should be developed in a co-ordinated way to enable cases to be tracked and monitored by all elements of the criminal justice system and to facilitate continuous evaluation of the operation and effectiveness of the prosecution system.

5.9 The Department of Justice, Equality and Law Reform is committed to ensuring compatible development of IT systems in the criminal justice system and has developed a strategy to achieve this. The initial infrastructural work on this project has commenced. The Department has committed itself in its Strategy Statement 2001 - 2004 to resume work both on the Shared Criminal History Repository Project and on the delivery of

integration in the day-to-day workings of the organisations in the criminal justice system.

5.10 The first priority is to have fully developed and nationally deployed IT systems in the Gardaí, Courts and Prisons which can communicate between one another. The next step will be to extend that to other bodies outside the direct remit of the Department of Justice, Equality and Law Reform and including, in particular, the Office of the DPP. The Department is of the opinion that recent technical developments suggest that it may be possible to establish a mechanism to improve links with such bodies in advance of full integration.

5.11 In the context of integration of information technology systems between the various criminal justice agencies, the following has already taken place:

- An Garda Síochána has signed a policy document committing the organisation to electronic integration with the Department of Justice, Equality and Law Reform, the Courts and Prisons Services. The document was signed at Secretary General, Commissioner and Chief Executive level.
- The Department of Justice, Equality and Law Reform had established a Project Board to advance integration. An Garda Síochána were represented on this Board by Chief Superintendent, Information Technology, their Head of Information Technology Planning. This Board was allowed to lapse as the Department could not secure resources (personnel funding) to advance the project.
- ACCENTURE have completed a recent study to scope the requirements and identify the potential benefits of integration. This report was forwarded to the Department of Justice, Equality and Law Reform in February, 2001. The study was funded under the Information Society Action Plan.
- It has been agreed that the PULSE Person Identifier will be the common identifier to track persons across the criminal justice agencies. With the implementation of PULSE Release 1 C the PULSE Person Id. is recorded on charge sheets and summonses generated from PULSE. Both the Courts and Prisons Services have agreed to record the PULSE Person Id. on their respective databases and to include this identifier on:
  - Committal warrants being sent from the Courts to the Prison Service.
  - files from the Prison Service to An Garda Síochána in relation to prisoner movements.

A back record conversion is nearing completion on the Prisons Database to ensure that the PULSE Person Id. is recorded for all persons currently in prison custody.

- The Department of Justice, Equality and Law Reform sought funding in the 2002 Garda Estimate in respect of integration. No funding was allocated by the Department of Finance.

5.12 As a general comment, the working group felt that there is considerable scope to improve coordination and cooperation between the different agencies of the State working in the criminal justice field without compromising their independence. The possibility of establishing regular coordination meetings might be considered, possibly along the lines of the Criminal Justice Board in Northern Ireland

# APPENDIX 1

## **Members of Working Group**

Mr James Hamilton, Chair  
Director of Public Prosecution

Mr Barry Donoghue,  
Office of the Director of Public Prosecutions

Ms Claire Loftus,  
Chief Prosecution Solicitor

Mr Declan Hoban,  
Office of the Director of Public Prosecutions

Mr Matthew Feely,  
The Office of the Attorney General

Mr John Corcoran  
Chief State Solicitor's Office

Mr James Martin,  
Department of Justice, Equality and Law Reform

Mr Jim O'Farrell,  
Department of Finance

Mr Diarmuid MacDiarmada,  
The Courts Service

Chief Supt. Gerry Blake,  
An Garda Síochána

Secretary – Ms Janet Buckley, Office of the Director of Public Prosecution

## **APPENDIX 2**

### **Expansion of the Garda Court Presenters Service**

Previous reports in this matter have been submitted and the purpose of this report is merely to update the position in so far as the Court Presenter's Service is operating in certain District Courts in the Dublin Metropolitan Region.

It is clear to all concerned that a Pulse based computer solution is the ideal manner in which to progress this 'pilot' system. The possibility of Pulse based solution being provided in the short term, along with the associated costs and timings of same are outlined in this paper. The actual and envisaged financial savings, which may accrue to the Garda Vote with the full implementation of this system, are also discussed, as are other real benefits which will accrue with full implementation.

#### **'Pilot' System**

Following on from the introduction of the Criminal Justice (Miscellaneous Provisions) Act, 1997 in March of that year, a legislative framework was provided for which negated the attendance of individual Gardaí to present personally in the District Court, in most proceedings taken there-

To give effect to this legislation provision, a Court Presenters Office was established at the Bridewell Garda Station to initially service District Court 44 and 46 located there; This system was introduced by the Garda Commissioner on a 'pilot' basis in September, 1997 and was extended, still on a 'pilot basis, over the following months.

While the 'pilot' system is operable in a number of Garda areas, for the purpose of estimating the potential cost savings it is prudent to examine the operation at the Bridewell Garda Station and Tallaght Garda Station, Dublin. These two systems cover seven of the busier Garda Stations and these are the areas where the highest level of savings will occur. The stations covered are: - Store St., Pearse St., Bridewell, Crumlin, Sundrive Rd., Tallaght and Rathfarnham.

#### **Direct Cost Savings**

In the year 1999 the Court Presenters Office at the Bridewell dealt with a total of 19,077 individual prosecutions in District Court 44 & 46, resulting in a total of 16,193 Garda appearances not required

In 2000, the CPO at the Bridewell dealt with 29,202 individual prosecutions resulting in a total of 24,015 Garda appearances not required

In the same period, the CPO at Tallaght dealt with 4,053 individual prosecutions resulting in 3,502 Garda appearances not required.



Since its introduction, the CPO at the Bridewell and Tallaght have dealt with 52,332 individual projects, with a resulting 43,706 Garda appearances not required.

Summary of cases dealt with by CPO, Bridewell & Tallaght for 1999 & 2000

	<i>Cases dealt with</i>	<i>No. Of Gardaí.</i>
<i>Ct. 44&amp; 46-1999</i>	1.9077	16193
<i>Ct. 44 - 2000</i>	19177	15499
<i>Ct. 46- 2000</i>	10025	8512
<i>Tallaght</i>	4053	3502
<i>Totals</i>	52332	43706

On the basis that 25% of Gardaí who attend District Courts are working on any given day, it can be reasonably assumed that the remaining 75% would have been employed on overtime to attend Court.

There is a direct financial cost to employing Gardaí on overtime and for Court appearances this is calculated at a minimum cost of three hours (it is not possible to claim a lesser amount and invariably the actual hours incurred are more).

There is also an opportunity cost where working Gardaí are required to attend Court, to the detriment of the service provided in their 'home' Districts. In some cases, replacement Gardaí are employed on overtime to provide cover for those working members attending Court. This consequential overtime does not feature in the following calculations,

*Summary of Estimated Costs Savings. "-  
Bridewell & Tallaght Courts 1999 and 2000*

No of Gardaí who would have been required to attend Court	43706	
Assuming 25% were working	<u>16930</u>	
@ a minimum of three hours each	50790 hours	
@ a cost of £13.71 per hour approx.		£696,330
Assuming 75% were resting and employed on overtime	<u>32779</u>	
@ a minimum of three hours each	98338 hours	
@ a cost of £20.56 per hour approx.		<u>£2,021,829</u>
<b><u>Total Direct Financial Cost Saving to date:</u></b>		<b><u>£2,718,159</u></b>

The figure of £2,718,159 represents the estimated savings by the introduction of the Court Presenters Office at the Bridewell, Dublin dealing with Dublin District Courts 44 & 46 and at Tallaght Garda Station dealing with the Tallaght District Court for the years 1999 and 2000.

Taking the same rationale for one full year (2000) in these three Courts the estimated annual savings would be £1,555,638 -as per calculation table below

*Summary of Estimated Costs/Savings for year 2000  
for Bridewell & Tallaght Courts:*

No. of Gardaí not required to attend Court 44	15499	
No. of Gardaí not required to attend Court 46	8512	
No. of Garda not required to attend Tallaght Court	<u>3502</u>	27513
Assuming 25% were working	6878	
@ a minimum of three hours each	20634	
@ a cost of £13.71 per hour approx.		£282,892
Assuming 75% were resting and employed on overtime		20634
@ a minimum of three hours each	<u>61904</u>	
@ a cost of £20.56 per hour approx.		<u>£1,272,746</u>
<i><u>Total Direct Financial Cost/Saving for 2000:</u></i>		<u>£1,555,638</u>

The above calculations do not take account of the potential cost savings which would accrue on the implementation of the Court Presenters Service to all other Courts in the Dublin Metropolitan Region. However, as stated earlier, the bulk of the savings are represented by these three Court Areas and the potential savings elsewhere would be considerably less.

**Ancillary Cost Savings**

The provision of the Court Presenters System has additional identified further savings and/or increased efficiencies elsewhere in the Criminal Justice System and while these have not been costed, they do represent savings. The primary areas include: ~

In the vast majority of cases dealt with in these Courts legal representation is provided through the Free Legal Aid Scheme. An initial appearance attracts a fee to the Solicitor of £130, with each additional appearance attracting fee of £40. Since the introduction of the CPO service, the number of remands or appearance in each case has reduced considerably and there is a consequential saving to the Department in this regard.

The CPO Service has improved the *credibility* of An Garda Síochána with both the Judiciary and the legal profession generally as the Sergeants attached to the Office have broadened their knowledge of the criminal law, with a consequential improvement in the standard of presentation.

The experience of the 'pilot' scheme has indicated that with fewer remands, the passage of an individual case dealt with either summarily or on indictment is speeded up considerably, reflecting in a more efficient and timely criminal justice system.

The reduced number of appearances before final determination has reduced demands on the Courts Service generally.

The high level of continuity and consistency achieved through the CPO Service has also led to an increase in the number of Bench Warrants executed. During the period of the 'pilot' in 1999 in Court 44 & 46, an increase of 60% of Bench Warrants executed was achieved.

### **Computer support for 'pilot'**

The current administration of the 'pilot' is managed at the Bridewell by two stand-alone personal computers, operating on an *Excel* application. Records for each of the two Courts are held on separate computers which are not networked. A back-up facility was recently installed to ensure preservation of the data stored. However, manual cross checking is required and this is time consuming and cumbersome.

### **PULSE based computer solution.**

The requirement for the development of computer applications to support the Court Presenters emerged in 1997 following implementation of the Criminal Justice (Miscellaneous Provisions) Act, 1997. This requirement was not in the initial scope of the PULSE systems. Following meetings between IT Centre staff, Deputy Commissioner, Operations and Assistant Commissioners Finance Services & Community Relations and Dublin Metropolitan Region, it was agreed that the IT Centre would raise a Change Control Notice to extend the contract with Andersen (formerly Andersen Consulting) to have this requirement included in Release 2 of PULSE. It was also agreed that when the estimated cost of this development was known the IT Centre would seek sanction for the additional expenditure from the Departments of Justice, Equality & Law Reform and Finance. This approach was approved by the PULSE Project Board.

The functional and technical Gt: Sig11 of the CPO system was undertaken as part of the functional and technical design of the R2 systems. This enabled an estimated costing for the development of the CPO system to be calculated. The estimated cost of the additional work was £63,1k plus VAT.

The Department of Finance refused sanction for the extension of the contract with Andersen Consulting and indicated that a separate procurement should be undertaken for the development of the Court Presenters system. Because of commitments to the PULSE project, the IT Centre were unable to undertake a separate procurement for the development of the CPO system in parallel with the development of PULSE. Work on the CPO system was terminated and the development of the remaining R2 systems continued. Senior Garda management and the PULSE Project Board were advised of the situation.

With this stage in the development of PULSE systems nearing completion, the IT Centre could undertake a separate procurement to identify a supplier to develop and implement CPO systems, subject to resources being available. However, a key factor is the availability of a time slot, for the implementation of the system in the

organisation. Appendix ' A ' is a high level plan showing the implementation schedules for current and proposed projects being undertaken by the IT Centre. This plan would indicate that the first available time slot for implementation of the CPO system would be September to November 2003. The projects ahead of the CPO on the plan are all high priority projects viz. the national fixed penalty system (including penalty points) and phase 1 of Computer Aided Dispatch (replacement of the Command & Control system in the DMR.) and their priorities are unlikely to be reduced.

## APPENDIX 3

### Excerpts from An Garda Síochána Code Chapter 12 – Prosecution and Evidence

#### **12.40 Right of Individual Members of the Garda Síochána to Prosecute in Their Own Name**

The Criminal Justice Administration Act, 1924, Section 9(2) preserves the right of an individual citizen, including a member of the Garda Síochána, to prosecute in his/her own name. (*Wedick v Osmond*, (1935) IR.820).

The right of the Gardaí to prosecute as common informers has long been recognised and upheld by the Supreme Court in:

- *The People v Roddy* (1977) I.R.
- *The State (Collins) v Ruane* (1984) I.R. 105.

However, in a High Court decision, *the State (D.P.P.) v Owen Kennedy* 1985 (Unreported), it was held that the Circuit Court has power to make an award of costs in any case coming before it. This means that a Garda, prosecuting in his/her own name in the District Court, where such member is protected by the District Court Rules from an award of costs against such member, would lose this protection on appeal.

The following are extracts from a letter received from the Office of the Director of Public Prosecutions:

*"Reading these three decisions together, the following would appear to be among the consequences for a Garda prosecuting as common informer both from the point of view of the law and from the point of view of the Controller and Auditor General:*

- (1) The Director cannot pay costs awarded against a Garda in a District Court Appeal.*
- 2) The Director cannot provide the services of Counsel to a Garda prosecuting in his own name in the District Court.*
- (3) The Director cannot take over a private Garda prosecution in order to exercise his right to insist on an appeal by way of case stated.*
- (4) The Director cannot show cause on the State-side when conditional orders e.g. of certiorari are made in private Garda prosecutions.*

*In view of the matters adverted to above, in the interests of uniformity in the administration of the criminal law, and in accordance with the recommendations made by the Supreme Court in *Roddy* (Griffin J. at page 190) the Director considers that prosecutions brought by a member of the Garda Síochána, acting as such should henceforth be brought in the name of the Director of Public Prosecutions.*

While the law entitles a Garda to prosecute in his own name, any Garda doing so henceforth will necessarily be in a very exposed situation in the event of a District Court Appeal. a stateside order or an appeal by way of case stated by the Defendant or where such person wishes to be represented in any case by the Director's Counsel".

For the formula appropriate to a summons or a charge in a public prosecution, see Code Section 12.3(3) of this chapter.