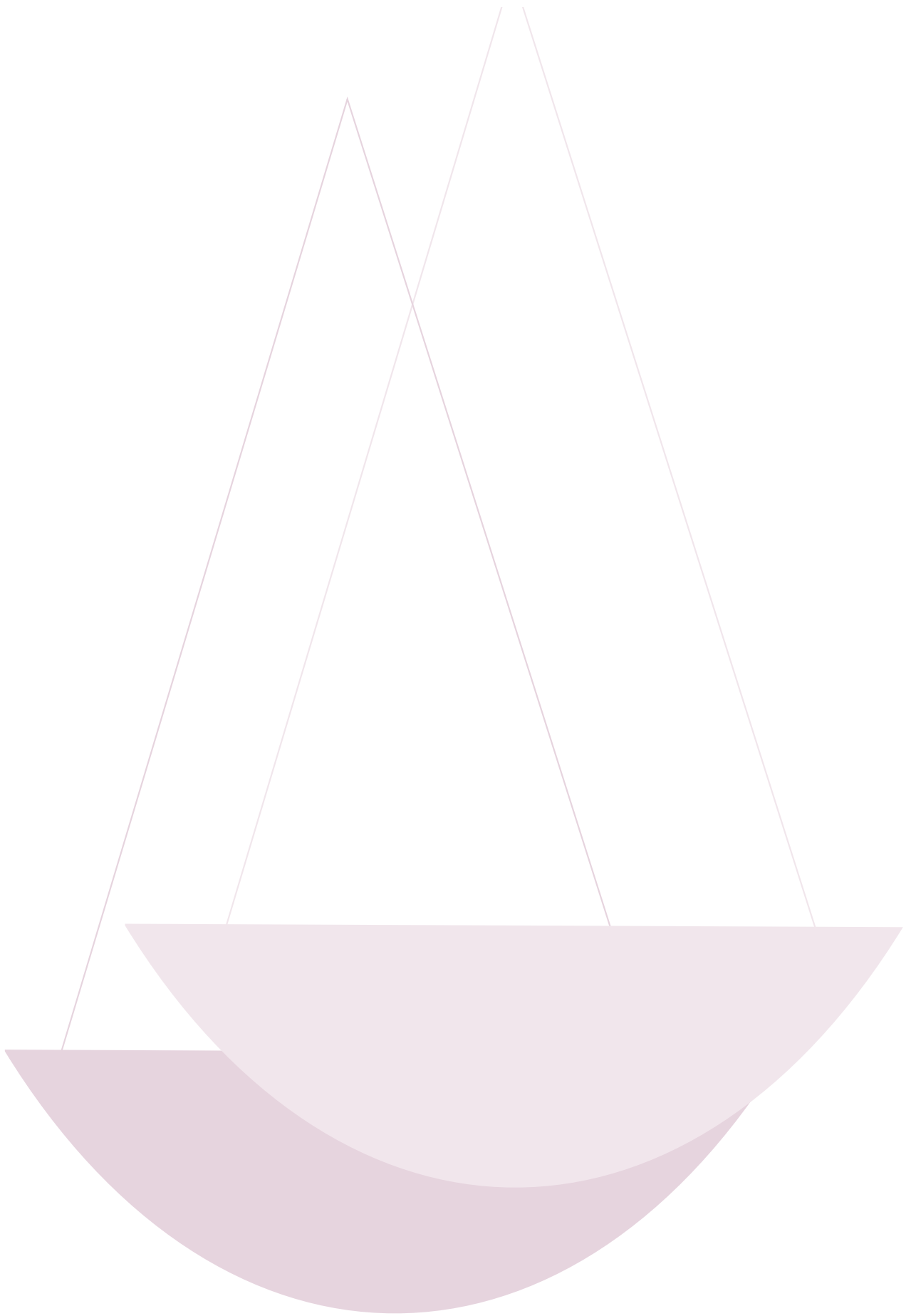


Oifig an  
Office of the



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

# Annual Report 2018



This Report is also available in the Irish Language

Office of the Director of Public Prosecutions  
Infirmarý Road  
Dublin 7  
D07 FHN8

Tel: +353 1 858 8500  
Fax: +353 1 642 7406  
Web: [www.dppireland.ie](http://www.dppireland.ie)

# CONTENTS

---

FOREWORD .....5

**PART 1: Overview of the Office**

1.1 Overview of the Office .....9

1.2 Outline of the Criminal Prosecution Process .....10

1.3 Organisation Structure .....11

**PART 2: Summary of Files Received and Outcomes**

2.1 Prosecution Files Received .....14

2.2 Results of Cases Prosecuted on Indictment .....21

2.3 Applications to the Courts .....33

2.4 Extradition Requests .....38

2.5 Mutual Legal Assistance .....39

**PART 3: Legal Developments**

3.1 Legal Developments 2018 .....42

3.2 Victims of Crime .....47

**PART 4: Office Administration**

4.1 Office Expenditure .....51

4.2 Extract from Appropriation Account 2017 .....54

4.3 Prompt Payment of Accounts Act, 1997 .....55

4.4 Freedom of Information .....56

4.5 Annual Energy Efficiency Report 2018 .....57

4.6 Irish Language Scheme .....58

# FOREWORD

I am pleased to present the Annual Report for 2018.

Statistics relating to prosecution files received in the Office and the outcomes of cases prosecuted on indictment during 2018 are set out in Part 2 of this report. The statistics show an increase of nearly nine per cent in files submitted to the Office in 2018 as compared to 2017.

The Office continues to adapt and develop in order to meet challenges that impact the way we do our business. In 2018 we commenced a project to carry out disclosure electronically, thus allowing defence solicitors and our own prosecution counsel to access all the relevant unused material in a case (relevant investigative material not proposed to be introduced as evidence) confidentially by secure file transfer. In times when the disclosure in a single case can be quite voluminous due to advances in technology and social media, this has made an enormous difference to the efficiency of the process. The system is well established now in all trial courts in Dublin.

Last year was the first full year of implementation of the Criminal Justice (Victims of Crime) Act 2017, although the Office had been complying with the terms of the EU Directive, which the Act transposed, since November 2015. Chapter 3.2 sets out in detail the work that the Office has done in complying with its obligations.

The victim now has a broader range of procedural rights during court proceedings. The Office has carried out training sessions for our prosecutors across the country on dealing with victims, and to raise awareness of the various special measures that might be appropriate in individual cases. The Act's requirements mean that all criminal justice agencies involved must ensure that these special measures and procedural rights are embedded nationwide. The Office will continue to work to achieve this.

As part of our efforts to improve the experience of victims as they go through the criminal justice system, last year I commenced analysis of the benefits of setting up a dedicated, integrated and specialised unit to deal



with sexual offences from decision to prosecute to the conclusion of the trial. Currently different stages of the prosecution process are managed within different units. This is very efficient, but it does mean a lack of continuity in handling very sensitive and complex cases. Staff bring a high level of commitment and dedication to their cases but I concluded that a change of approach would overall be to the benefit of victims.

Dealing with sexual offence cases within the specialised unit will be more resource intensive. I am pleased to say that the Office has received support from Government to commence the establishment of a specialised sexual offences unit during 2020, with full funding available for 2021. An additional ten posts, seven legal and three administrative, have been sanctioned to offset this more resource intensive approach. It is planned that all sexual offences prosecuted in the Central Criminal Court and in the Dublin Circuit Court will be managed from beginning to end within this new unit. Furthermore, the unit will make prosecutorial decisions on all sexual offence cases originating outside of Dublin, and will take the lead in setting policy for all aspects of the handling of these

## ANNUAL REPORT 2018

cases nationwide, and particularly all matters relating to the experience of victims in the process. I am optimistic that this reorganisation, which is a major change project for the Office, will enhance the service victims receive from us.

In addition to ensuring that the specialised unit has the requisite levels of staff, it is also important that all necessary supports be in place to minimise the risk of vicarious trauma for staff working in such a unit. Vicarious trauma is secondary trauma which may be experienced by individuals who are dealing with people who have had traumatic experiences, such as victims of crime. Last year the Office commissioned a study of vicarious trauma within the Office. The report was positive about the results of a survey of staff. A key finding was that in general moderate to low levels of vicarious trauma were reported with a small proportion reporting higher levels. The report nevertheless highlights the importance of building on the wide range of supports currently used by staff. Some of these supports, such as peer to peer support, have organically grown through a strong team culture.

While an important project in its own right, the vicarious trauma study is particularly relevant in the context of the establishment of the Specialised Sexual Offences Unit. The study made a number of recommendations covering a wide variety of supports which might be considered in the context of the potential for vicarious trauma. We have been working on these recommendations over the last number of months with a view to developing a multi-faceted support structure for staff. This will also assist staff in their interactions with victims and their families, thus I believe enhancing the service we provide.

The Office has also been represented on the group established by the Minister of Justice and Equality last year under the chairmanship of Tom O'Malley BL to examine protections for vulnerable witnesses in the investigation and prosecution of sexual offences and I look forward to seeing his report and recommendations when published.

As I mentioned in my speech to the 2018 Annual National Prosecutors' Conference, the Commission on the Future of Policing (COPFI) made recommendations which, if implemented in full, could have major implications for the Office. In December 2018 the Government accepted in principle recommendations

that the practice of the Garda Síochána presenting cases in the District Court should cease, and that all prosecution decisions should be taken away from the Garda Síochána. At present Gardaí at Inspector and Superintendent rank make a significant number of prosecutorial decisions in more minor matters on foot of a delegation by me under section 8 of the Garda Síochána Act 2005.

For the recommendations to be implemented in full, it would involve a major reorganisation of the prosecution service and a considerable expansion of the current staff complement. I welcome the intention of the Government to establish an expert group to examine the full implications of these recommendations, so as to establish the costs and benefits if implemented, in whole or in part. It will be very important that this group looks to the experience of other countries in operating this model of prosecution service.

Work has continued in our International Unit to prepare for the consequences of Brexit. Substantial effort has been put into planning for all eventualities. At time of writing, the date for Brexit has been pushed back again to 31 January 2020 at the latest before another extension would be required.

Finally, 2018 saw the enactment of the Data Protection Act effective from 24 May 2018. The Office appointed a Data Protection Officer who is key in ensuring our obligations under the Act are complied with.

In conclusion, I want to thank the staff in my Office, the State Solicitors around the country, and the many prosecution counsel who were involved in the operation of the prosecution service during 2018 for their continued commitment and hard work.



**Claire Loftus**  
**Director of Public Prosecutions**

**November 2019**

# PART 1:

## Overview of the Office

---

## **MISSION STATEMENT**

---

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



# 1.1 Overview of the Office

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

**1.1.2** The majority of cases dealt with by the Office of the Director of Public Prosecutions are received from the Garda Síochána, the primary national investigating agency. However, some cases are also referred to the Office by specialised investigative agencies including the Revenue Commissioners, Government departments, the Health 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 four divisions:

**i)** 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.

**ii)** 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 Criminal 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.

**iii)** The **Prosecution Support Services Division** incorporates the Prosecution Policy and Research Unit which provides legal and policy research, develops prosecution policies advises on legal policy documents referred to the Office and co-ordinates legal knowledge management for the Office - this includes the Library Unit which provides information and know-how services for both legal and administration staff; the Victims Liaison Unit which is responsible for ensuring that the Office meets its obligations in relation to the support and protection of victims of crime as set out under the Criminal Justice (Victims of Crime) Act 2017; and the International Unit which deals with areas of international criminal law, including extradition, European Arrest Warrants and requests for mutual legal assistance.

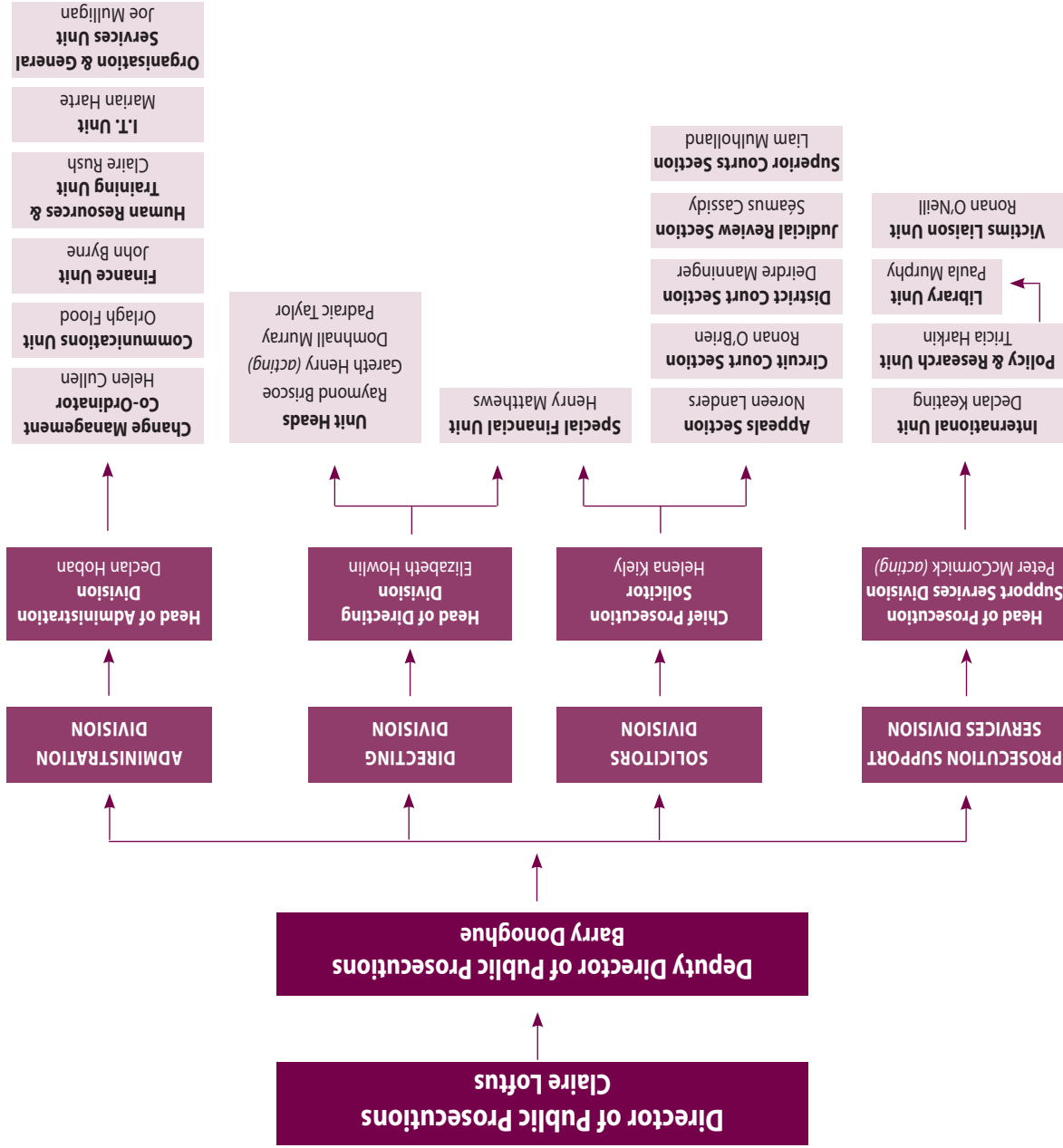
**iv)** The **Administration Division** provides the organisational, infrastructural, administrative and information services required by the Office and also provides support to the Directing, Prosecution Support Services and Solicitors Divisions.

# 1.2 Outline of the Criminal Prosecution Process



# 1.3 Organisation Structure

(AS OF NOVEMBER 2019)



# PART 2:

Summary of Files Received  
and Outcomes

---

# Explanatory note in relation to statistics

---

**2.1** Part 2 is broken down into five distinct sections:

- i)** Charts 2.1.1 to 2.1.5 (Part 2.1) relate to the receipt of files in the Office and include details on the types of directions made;
- ii)** Charts 2.2.1 to 2.2.5 (Part 2.2) provide details of the results of cases prosecuted on indictment by the Director in respect of files received in the Office between 2015 and 2017.
- iii)** Charts 2.3.1 to 2.3.4 (Part 2.3) 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.
- iv)** Chart 2.4.1 (Part 2.4) provides details of the preparation/issue of extradition requests, seeking the extradition of individuals who are not present in European Arrest Warrant member states.
- v)** Chart 2.5.1 (Part 2.5) provides details of requests for mutual legal assistance processed by the Office of the DPP.

**2.2** 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 2.2.1 to 2.2.5 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 2018 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.

**2.3** 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 May 2019.

**2.4** 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.

# 2.1 Prosecution Files Received

Chart 2.1.1 shows the total number of prosecution files received by the Office of the Director of Public Prosecutions from 2003 to 2018.

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 2.1.1: Total Prosecution Files Received**

YEAR	FILES
2003	14696
2004	14613
2005	14427
2006	15279
2007	15446
2008	16144
2009	16074
2010	15948
2011	16127
2012	15285
2013	13761
2014	14012
2015	14306
2016	13169
2017	13666
2018	14854

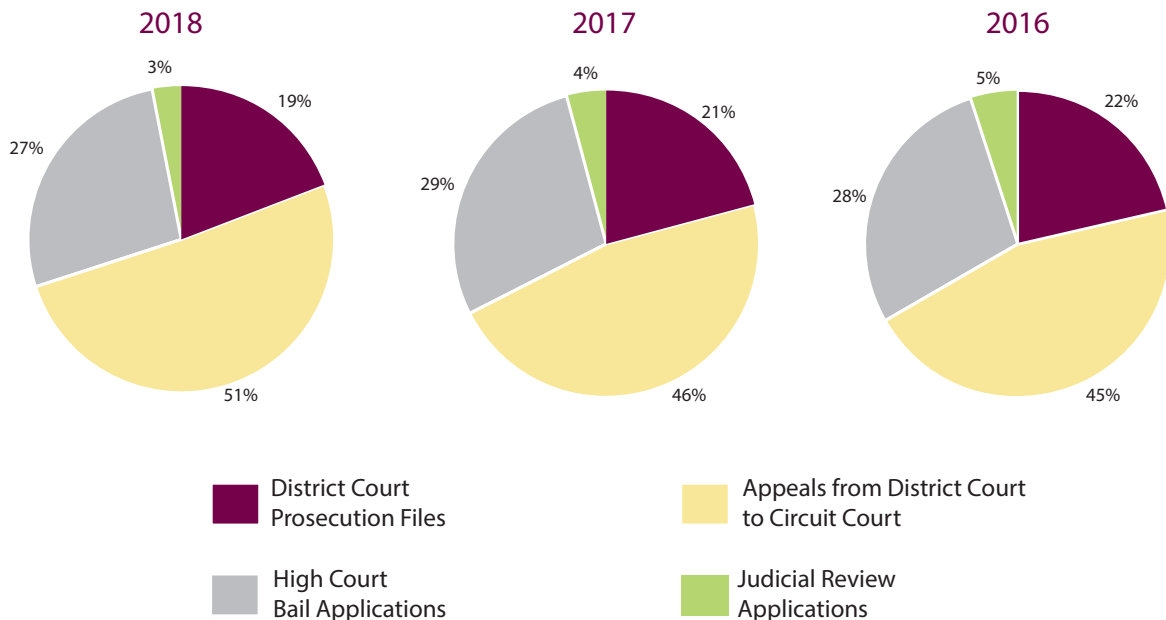
The Solicitors Division of the Office of the Director of Public Prosecutions provides a solicitor service to the Director and acts on her behalf. The division also deals with cases which do not require to be referred to the Directing Division for direction.

Chart 2.1.2 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 2.1.2: Files Dealt with by the Solicitors Division**

	<b>2018</b>	<b>%</b>	<b>2017</b>	<b>%</b>	<b>2016</b>	<b>%</b>
District Court Prosecution Files	1110	19%	1001	21%	945	22%
Appeals from District Court to Circuit Court	2947	51%	2229	46%	1995	45%
High Court Bail Applications	1559	27%	1360	29%	1246	28%
Judicial Review Applications	172	3%	192	4%	210	5%
<b>TOTAL</b>	<b>5788</b>		<b>4782</b>		<b>4396</b>	

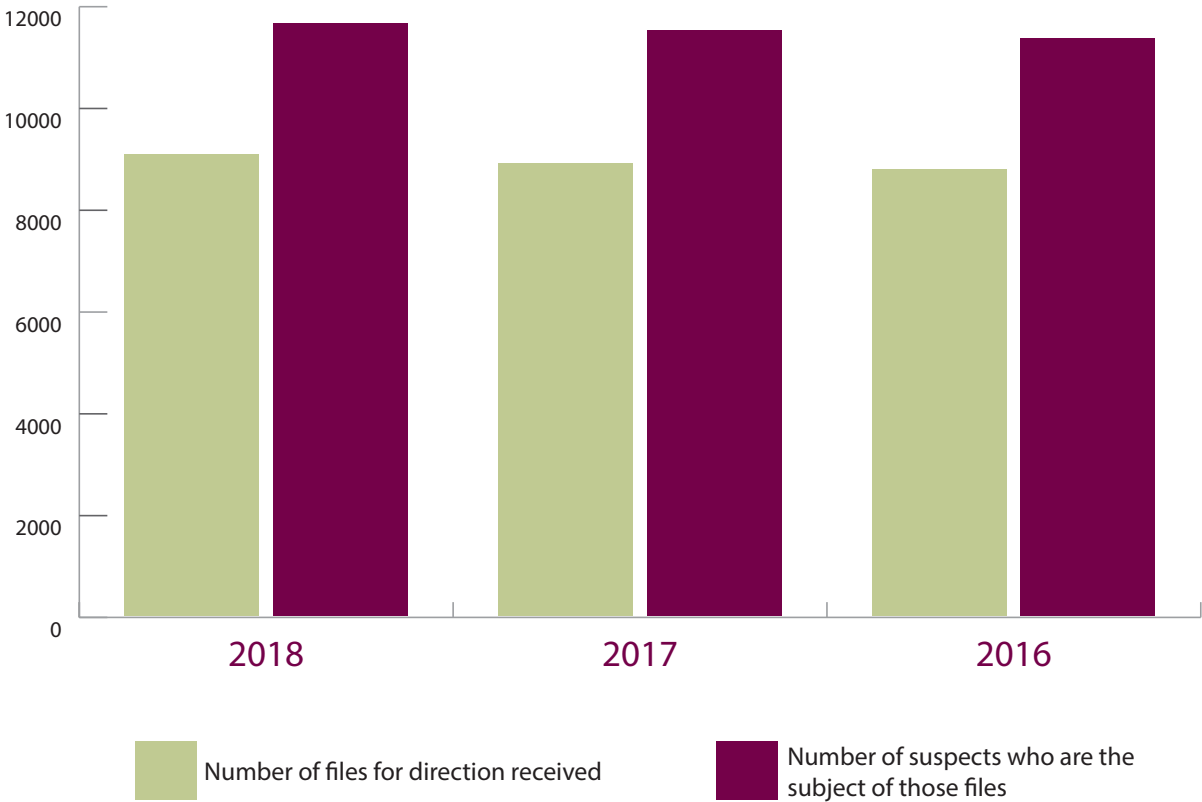


**ANNUAL REPORT 2018**

Chart 2.1.3 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. This is because many files relate to more than one suspect. It is important, therefore, to look at the total number of suspects as well as the total number of files.

**CHART 2.1.3: Breakdown of Files Received for Decision Whether to Prosecute**

	<b>2018</b>	<b>2017</b>	<b>2016</b>
Files received for decision whether to prosecute	9066	8884	8773
Number of suspects who are the subject of those files	11645	11512	11354





The following chart shows a breakdown of the disposal of files received in the Directing Division in 2016, 2017 and 2018 (as of May 2019). An 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.

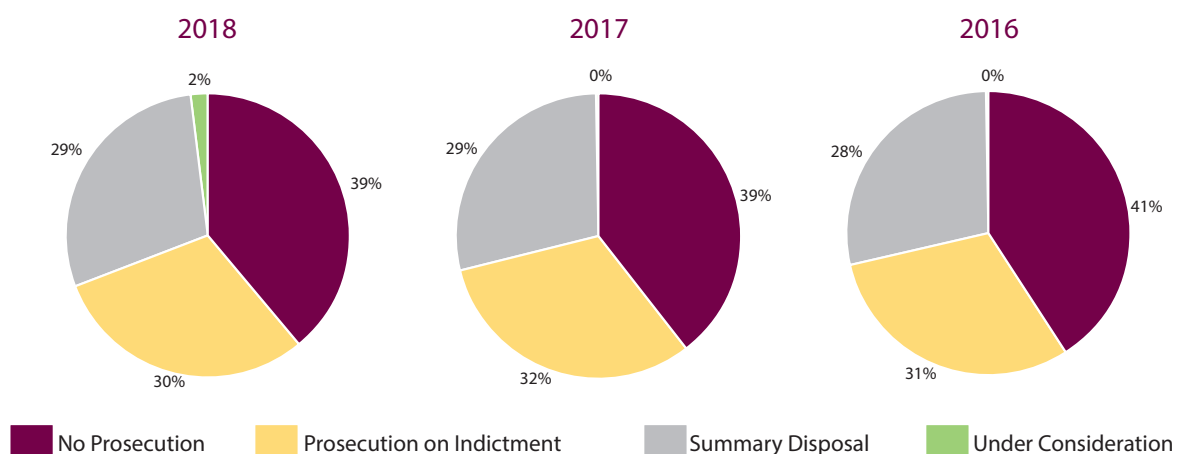
**Summary Disposal:** The offence is to be prosecuted in the District Court.

**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.

**NOTE:** The figures for 2016 and 2017 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 2.1.4: Disposal of Directing Division Files by Number of Suspects Subject of files Received**

Direction Made	2018	%	2017	%	2016	%
No Prosecution Directed	4555	39%	4545	39%	4652	41%
Prosecution on Indictment Directed	3511	30%	3662	32%	3483	31%
Summary Disposal Directed	3375	29%	3284	29%	3195	28%
<b>TOTAL OF FILES DISPOSED</b>	<b>11441</b>		<b>11491</b>		<b>11330</b>	
Under Consideration	204	2%	21	0%	24	0%
<b>TOTAL</b>	<b>11645</b>		<b>11512</b>		<b>11354</b>	



**ANNUAL REPORT 2018**

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 2.1.4a: Breakdown of Main Reasons for a Direction Not to Prosecute**

Main Reasons for No Prosecution	2018	%	2017	%	2016	%
Insufficient Evidence	3526	77%	3611	79%	3720	80%
Injured Party Withdraws Complaint	279	6%	310	7%	293	6%
Public Interest	81	2%	80	2%	87	2%
Adult Caution	68	2%	81	2%	93	2%
Juvenile Diversion Programme	60	1%	76	2%	62	1%
Time Limit Expired	28	1%	39	1%	34	1%
Undue Delay	20	0%	49	1%	43	1%
Sympathetic Grounds	0	0%	1	0%	3	0%
Other	493	11%	298	6%	317	7%
<b>TOTAL</b>	<b>4555</b>		<b>4545</b>		<b>4652</b>	

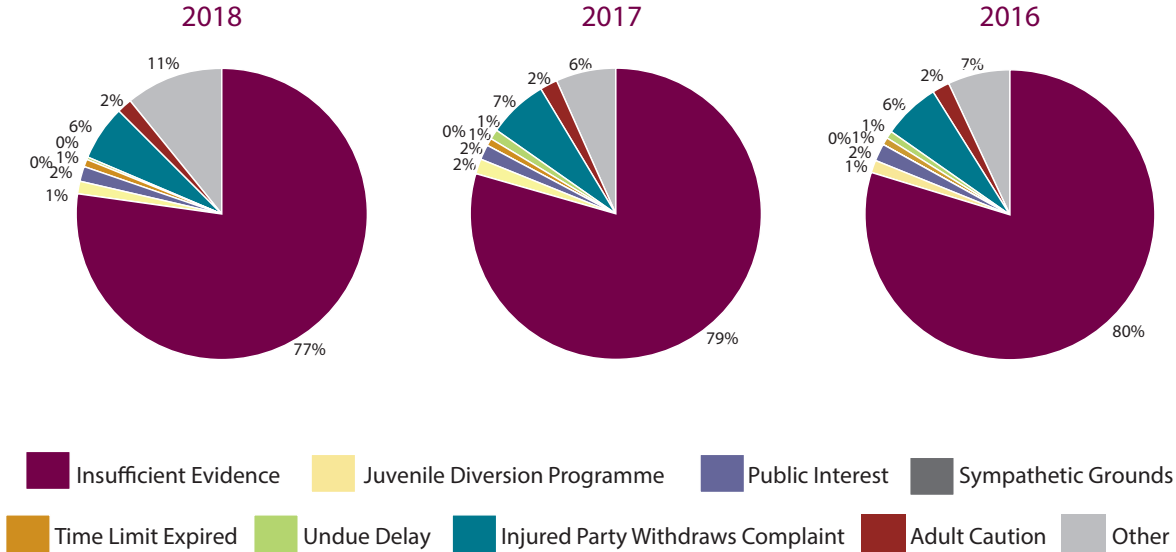


Chart 2.1.4b is a breakdown of directions to prosecute on indictment, by the county in which the offence was committed. It includes cases directed to be heard in the Circuit Criminal, Central Criminal and Special Criminal Courts. Please note that a number of cases are still 'under consideration' (see Chart 2.1.4). 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 2.1.4b: Breakdown of Number of Prosecutions on Indictment Directed per County of Offence**

	Population				Population				Population				Number of Prosecutions on Indictment Directed per County				Cases per 1,000 Persons				3 Year Rolling Average							
	2018*	2017*	2016*	2015*	2018*	2017*	2016*	2015*	2018*	2017*	2016*	2015*	2014*	2018	2017	2016	2015	2014	2018	2017	2016	2015	2014	2018	2017	2016	2015	2014
<b>Carlow</b>	58,057	57,489	56,932	55,613	55,405				35	50	42	28	47	0.60	0.87	0.74	0.50	0.85	0.74	0.70	0.70	0.70	0.74	0.70	0.70	0.70	0.70	0.70
<b>Cavan</b>	77,812	76,887	76,176	70,498	71,621				69	61	63	44	34	0.89	0.79	0.83	0.62	0.47	0.84	0.75	0.64	0.84	0.75	0.64	0.75	0.64	0.75	0.64
<b>Clare</b>	121,109	119,550	118,817	116,755	116,848				85	113	66	85	85	0.70	0.95	0.56	0.73	0.73	0.73	0.73	0.74	0.67	0.73	0.74	0.73	0.74	0.67	0.67
<b>Cork</b>	549,963	543,517	542,868	522,833	525,957				302	306	388	370	423	0.55	0.56	0.71	0.71	0.80	0.61	0.66	0.74	0.61	0.66	0.61	0.66	0.74	0.61	0.74
<b>Donegal</b>	162,610	160,677	159,192	155,225	157,697				64	57	74	55	51	0.39	0.35	0.46	0.35	0.32	0.40	0.39	0.38	0.40	0.39	0.40	0.39	0.38	0.40	0.38
<b>Dublin</b>	1,370,500	1,350,000	1,347,359	1,305,300	1,274,600				1427	1480	1325	1459	1261	1.04	1.10	0.98	1.12	0.99	1.04	1.07	1.03	1.04	1.07	1.04	1.07	1.03	1.04	1.03
<b>Galway</b>	260,673	257,484	258,058	245,106	246,006				143	152	126	98	141	0.55	0.59	0.49	0.40	0.57	0.54	0.49	0.49	0.49	0.54	0.49	0.49	0.49	0.49	0.49
<b>Kerry</b>	149,637	147,883	147,707	146,567	147,443				80	73	92	90	83	0.53	0.49	0.62	0.61	0.56	0.55	0.58	0.60	0.55	0.58	0.55	0.58	0.60	0.56	0.60
<b>Kildare</b>	230,045	226,925	222,504	218,356	216,574				105	88	101	88	94	0.46	0.39	0.45	0.40	0.43	0.43	0.43	0.43	0.43	0.43	0.43	0.41	0.43	0.41	0.43
<b>Kilkenny</b>	101,192	100,203	99,232	97,168	96,804				51	67	68	47	37	0.50	0.67	0.69	0.48	0.38	0.62	0.61	0.52	0.62	0.61	0.62	0.61	0.52	0.61	0.52
<b>Laois</b>	87,334	86,088	84,697	83,637	82,895				77	71	48	46	34	0.88	0.82	0.57	0.55	0.41	0.76	0.65	0.51	0.76	0.65	0.51	0.76	0.65	0.51	0.51
<b>Leitrim</b>	32,732	32,343	32,044	30,631	31,119				22	14	9	14	16	0.67	0.43	0.28	0.46	0.51	0.46	0.39	0.42	0.46	0.39	0.42	0.46	0.39	0.42	0.42
<b>Limerick</b>	198,659	196,102	194,899	191,088	191,239				176	193	188	190	131	0.89	0.98	0.96	0.99	0.69	0.94	0.98	0.88	0.94	0.98	0.94	0.98	0.88	0.94	0.88
<b>Longford</b>	42,145	41,544	40,873	40,490	40,131				31	37	39	22	25	0.74	0.89	0.95	0.54	0.62	0.86	0.71	0.71	0.86	0.80	0.80	0.71	0.86	0.71	0.71
<b>Louth</b>	133,251	130,087	128,884	118,388	120,274				121	136	104	84	103	0.91	1.05	0.81	0.71	0.86	0.92	0.85	0.79	0.92	0.85	0.85	0.79	0.92	0.85	0.79
<b>Mayo</b>	131,829	130,216	130,507	127,747	128,216				58	84	72	87	56	0.44	0.65	0.55	0.68	0.44	0.55	0.63	0.56	0.55	0.63	0.56	0.55	0.63	0.56	0.56
<b>Meath</b>	201,653	198,920	195,044	191,178	189,618				74	104	105	92	79	0.37	0.52	0.54	0.48	0.42	0.48	0.51	0.48	0.48	0.51	0.48	0.48	0.51	0.48	0.48
<b>Monaghan</b>	62,704	61,959	61,386	58,264	59,192				40	30	38	35	31	0.64	0.48	0.62	0.60	0.52	0.58	0.57	0.58	0.58	0.57	0.58	0.57	0.58	0.57	0.58
<b>Offaly</b>	80,388	79,241	77,961	79,617	78,911				48	42	33	34	43	0.60	0.53	0.42	0.43	0.54	0.52	0.46	0.47	0.52	0.46	0.47	0.52	0.46	0.47	0.47
<b>Roscommon</b>	65,198	64,400	64,544	62,647	62,877				31	25	39	31	24	0.48	0.39	0.60	0.49	0.38	0.49	0.50	0.49	0.49	0.50	0.49	0.50	0.49	0.50	0.49
<b>Sligo</b>	66,942	66,147	65,535	62,994	63,997				38	28	44	47	28	0.57	0.42	0.67	0.75	0.44	0.55	0.61	0.62	0.55	0.61	0.62	0.55	0.61	0.62	0.62
<b>Tipperary</b>	162,632	160,857	159,553	160,110	159,829				144	131	124	108	88	0.89	0.81	0.78	0.67	0.55	0.83	0.76	0.67	0.83	0.76	0.67	0.83	0.76	0.67	0.67
<b>Waterford</b>	118,471	117,313	116,176	115,881	115,447				92	81	83	84	100	0.78	0.69	0.71	0.72	0.87	0.73	0.71	0.77	0.73	0.71	0.77	0.73	0.71	0.77	0.77
<b>Westmeath</b>	91,533	90,227	88,770	89,456	88,663				55	100	68	70	61	0.60	1.11	0.77	0.78	0.69	0.83	0.89	0.75	0.83	0.89	0.89	0.89	0.89	0.89	0.75
<b>Wexford</b>	152,680	151,186	149,722	147,985	147,429				80	72	76	70	64	0.52	0.48	0.51	0.47	0.43	0.50	0.49	0.47	0.50	0.49	0.49	0.49	0.49	0.47	0.47
<b>Wicklow</b>	147,251	145,255	142,425	141,866	140,708				61	66	68	54	96	0.41	0.45	0.48	0.38	0.68	0.45	0.44	0.51	0.44	0.45	0.44	0.44	0.44	0.44	0.51
<b>TOTAL</b>	<b>4,857,000</b>	<b>4,792,500</b>	<b>4,761,865</b>	<b>4,635,400</b>	<b>4,609,500</b>				<b>3509</b>	<b>3661</b>	<b>3483</b>	<b>3432</b>	<b>3235</b>	<b>3.509</b>	<b>3.661</b>	<b>3.483</b>	<b>3.432</b>	<b>3.235</b>	<b>3.509</b>	<b>3.661</b>	<b>3.483</b>	<b>3.432</b>	<b>3.235</b>	<b>3.509</b>	<b>3.661</b>	<b>3.483</b>	<b>3.432</b>	<b>3.235</b>

\*Population figures for 2016 are taken from the census figures for that year. The 2014, 2015, 2017 and 2018 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 2014, 2015, 2017 and 2018.

**ANNUAL REPORT 2018**

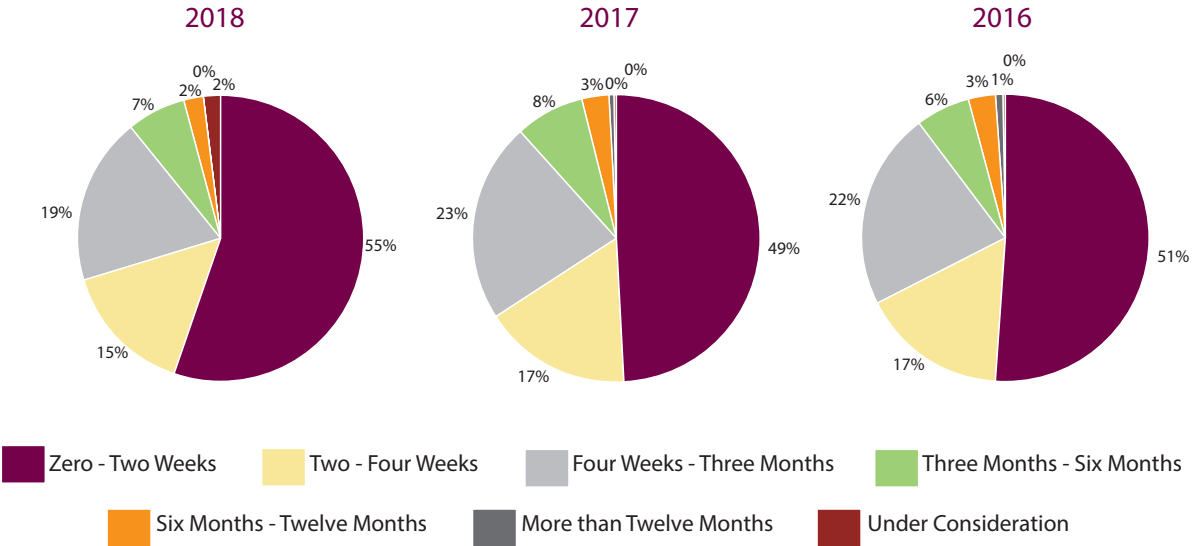
Chart 2.1.5 shows the time between the receipt of a completed prosecution file in the Office and the issuing of a direction as to whether a prosecution of a suspect should be taken or not. It has been decided to show this information by suspect rather than by file since in the case of files containing 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.

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 2.1.5: Time Taken to Issue Directions**

Time Taken	2018	%	2017	%	2016	%
Zero - Two Weeks	6441	55%	5664	49%	5806	51%
Two - Four Weeks	1762	15%	1922	17%	1870	17%
Four Weeks - Three Months	2180	19%	2591	23%	2516	22%
Three Months - Six Months	791	7%	915	8%	699	6%
Six Months - Twelve Months	259	2%	342	3%	361	3%
More than Twelve Months	8	0%	57	0%	78	1%
<b>TOTAL FILES DISPOSED</b>	<b>11441</b>		<b>11491</b>		<b>11330</b>	
Under Consideration	204	2%	21	0%	24	0%
<b>TOTAL</b>	<b>11645</b>		<b>11512</b>		<b>11354</b>	



# 2.2 Results of Cases Prosecuted on Indictment

**2.2.1** Charts 2.2.1 to 2.2.5 provide information for prosecutions on indictment taken by the Director in respect of files received in the Office between 2015 and 2017. 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.

**2.2.2** 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.

**2.2.3** 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 2.2.3a and 2.2.4a. Where a suspect is categorised as 'acquitted', this means that the suspect has been acquitted of all charges.

**2.2.4** 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.

**2.2.5** 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.

**ANNUAL REPORT 2018**

Chart 2.2.1 shows the results of prosecutions on indictment taken in relation to defendants in respect of whom prosecutions were commenced in the years 2015 to 2017 (as of May 2019). The figures relate to:

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

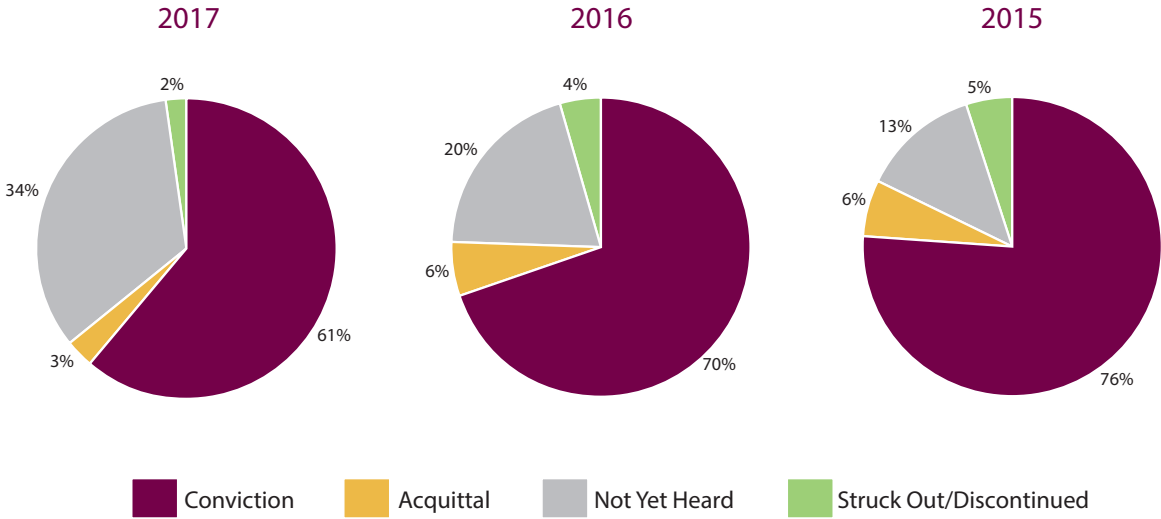
**Acquittal:** The defendant was acquitted on all charges.

**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 2018 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.

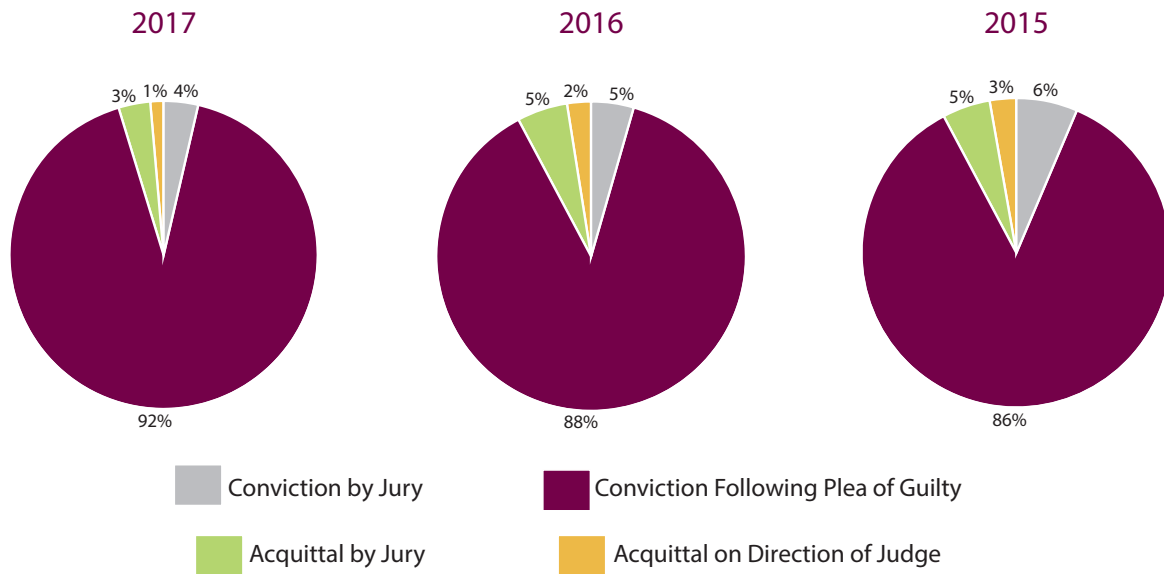
**CHART 2.2.1: Case Results - Prosecutions on Indictment**

Outcome	2017	%	2016	%	2015	%
Conviction	2246	61%	2437	70%	2614	76%
Acquittal	106	3%	201	6%	216	6%
Not Yet Heard	1229	34%	691	20%	433	13%
Struck Out/Discontinued	81	2%	154	4%	169	5%
<b>TOTAL</b>	<b>3662</b>		<b>3483</b>		<b>3432</b>	



**CHART 2.2.1a: Breakdown of Convictions and Acquittals** (excluding cases still to be heard)

	2017	%	2016	%	2015	%
Conviction by Jury	87	4%	123	5%	182	6%
Conviction Following Plea of Guilty	2159	92%	2314	88%	2432	86%
<b>TOTAL CONVICTIONS</b>	<b>2246</b>	<b>96%</b>	<b>2437</b>	<b>93%</b>	<b>2614</b>	<b>92%</b>
Acquittal by Jury	74	3%	136	5%	142	5%
Acquittal on Direction of Judge	32	1%	65	2%	74	3%
<b>TOTAL ACQUITTALS</b>	<b>106</b>	<b>4%</b>	<b>201</b>	<b>7%</b>	<b>216</b>	<b>8%</b>
<b>TOTAL</b>	<b>2352</b>		<b>2638</b>		<b>2830</b>	



## ANNUAL REPORT 2018

Chart 2.2.2 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 2.2.3 and 2.2.4. Where a trial results in a jury disagreement the case is treated as still being 'For Hearing', unless a *nolle prosequi* is entered.

**CHART 2.2.2: 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		
	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015
Fatal Accident at Work	6	5	2	0	0	0	2	3	2	0	1	0	0	0	0	0	0	0	4	1	0	0	0	0
Manslaughter	4	6	2	1	0	0	1	2	1	0	0	1	0	1	0	1	1	0	1	2	0	0	0	0
<b>TOTAL - FATAL OFFENCES</b>	<b>10</b>	<b>11</b>	<b>4</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>5</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>5</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Burglary	307	303	310	2	5	8	187	215	220	29	27	24	2	1	6	2	5	4	74	38	36	11	12	12
Fraud	42	50	41	1	2	0	19	27	27	3	2	3	0	3	0	0	2	1	18	9	10	1	5	0
Robbery	350	308	413	1	5	6	266	241	329	14	11	14	1	1	5	0	2	5	63	44	43	5	4	11
Theft	234	240	224	2	1	6	142	180	173	6	11	10	0	2	4	2	2	2	82	36	25	0	8	4
Other Offences Against Property	303	308	329	7	8	13	162	190	203	22	30	40	5	3	11	3	3	8	98	62	38	6	12	16
<b>TOTAL - OFFENCES AGAINST PROPERTY</b>	<b>1236</b>	<b>1209</b>	<b>1317</b>	<b>13</b>	<b>21</b>	<b>33</b>	<b>776</b>	<b>853</b>	<b>952</b>	<b>74</b>	<b>81</b>	<b>91</b>	<b>8</b>	<b>10</b>	<b>26</b>	<b>7</b>	<b>14</b>	<b>20</b>	<b>335</b>	<b>189</b>	<b>152</b>	<b>23</b>	<b>41</b>	<b>43</b>
Dangerous Driving Causing Death	24	28	19	0	1	2	13	16	7	1	4	1	0	1	1	0	0	4	10	6	2	0	0	2
Unauthorised Taking of Motor Vehicles	19	25	41	0	0	0	9	18	27	3	3	7	0	0	0	0	0	1	7	3	6	0	1	0
Other Road/Traffic Offences	89	90	93	3	0	2	32	43	52	12	17	15	3	5	7	0	3	4	39	20	10	0	2	3
<b>TOTAL - ROAD TRAFFIC OFFENCES</b>	<b>132</b>	<b>143</b>	<b>153</b>	<b>3</b>	<b>1</b>	<b>4</b>	<b>54</b>	<b>77</b>	<b>86</b>	<b>16</b>	<b>24</b>	<b>23</b>	<b>3</b>	<b>6</b>	<b>8</b>	<b>0</b>	<b>3</b>	<b>9</b>	<b>56</b>	<b>29</b>	<b>18</b>	<b>0</b>	<b>3</b>	<b>5</b>
Buggery	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0
Child Pornography	66	46	16	0	0	0	49	35	15	1	2	0	0	0	0	0	1	0	15	5	1	1	3	0
Sexual Assault	132	136	109	8	12	14	38	42	45	4	2	3	6	28	11	2	5	4	72	35	25	2	12	7
Defilement of a Child	17	25	25	0	1	1	6	11	12	0	2	1	0	0	2	0	0	0	11	9	4	0	2	5
Other Sexual Offences	54	71	55	6	3	9	13	20	28	1	1	0	2	5	7	1	2	0	28	38	5	3	2	6
<b>TOTAL - SEXUAL OFFENCES</b>	<b>269</b>	<b>279</b>	<b>205</b>	<b>14</b>	<b>16</b>	<b>24</b>	<b>106</b>	<b>108</b>	<b>100</b>	<b>6</b>	<b>7</b>	<b>4</b>	<b>8</b>	<b>33</b>	<b>20</b>	<b>3</b>	<b>8</b>	<b>4</b>	<b>126</b>	<b>88</b>	<b>35</b>	<b>6</b>	<b>19</b>	<b>18</b>
Drug Offences	530	493	442	0	0	3	184	177	172	220	225	213	3	2	5	0	3	2	119	81	43	4	5	4
Firearms and Explosives Offences	134	113	147	3	3	5	65	69	89	16	12	19	4	5	6	1	3	0	42	16	21	3	5	7
Non Fatal Offences Against the Person	777	746	690	16	22	23	370	405	390	47	44	69	33	51	42	13	21	27	275	151	85	23	52	54
Public Order Offences	281	185	184	2	1	1	100	97	99	40	35	15	4	6	12	3	7	11	117	35	34	15	4	12
Revenue Offences	21	32	30	1	0	0	12	21	18	0	0	1	1	0	2	0	0	0	7	9	8	0	2	1
Sea Fisheries	6	3	5	0	0	1	2	2	3	0	0	0	0	0	0	0	0	0	4	1	1	0	0	0
Other Offences	90	88	88	0	0	2	36	43	52	5	6	3	2	2	1	3	3	0	42	28	18	2	6	12
<b>GRAND TOTAL</b>	<b>3486</b>	<b>3302</b>	<b>3265</b>	<b>53</b>	<b>64</b>	<b>96</b>	<b>1708</b>	<b>1857</b>	<b>1964</b>	<b>424</b>	<b>435</b>	<b>439</b>	<b>66</b>	<b>116</b>	<b>122</b>	<b>31</b>	<b>63</b>	<b>73</b>	<b>1128</b>	<b>630</b>	<b>415</b>	<b>76</b>	<b>137</b>	<b>156</b>



**CHART 2.2.2a: Breakdown of 'Other Disposals' from Chart 2.2.2**

	2017	2016	2015
<i>Nolle Prosequi Entered</i>	64	123	135
Case Terminated and No Retrial	0	1	0
Judge Made Order to Permanently Stay the Indictment	0	1	5
Not Guilty by Reason of Insanity	3	2	9
Struck Out	1	0	2
Successful Application to Dismiss Charges	1	2	2
Suspect Deceased	2	6	2
Suspect Unfit to Plead	3	1	1
Taken into Consideration	2	1	0
<b>TOTAL</b>	<b>76</b>	<b>137</b>	<b>156</b>

**CHART 2.2.2b: Total Cases Finalised in the Circuit Criminal Court and Percentage of Convictions**

	TOTAL			Percentage of Convictions		
	2017	2016	2015	2017	2016	2015
Fatal Accident at Work	2	4	2	100%	100%	100%
Manslaughter	3	4	2	67%	50%	100%
<b>TOTAL - FATAL OFFENCES</b>	<b>5</b>	<b>8</b>	<b>4</b>	<b>80%</b>	<b>75%</b>	<b>100%</b>
Burglary	222	253	262	98%	98%	96%
Fraud	23	36	31	100%	86%	97%
Robbery	282	260	359	100%	99%	97%
Theft	152	196	195	99%	98%	97%
Other Offences Against Property	199	234	275	96%	97%	93%
<b>TOTAL - OFFENCES AGAINST PROPERTY</b>	<b>878</b>	<b>979</b>	<b>1122</b>	<b>98%</b>	<b>98%</b>	<b>96%</b>
Dangerous Driving Causing Death	14	22	15	100%	95%	67%
Unauthorised Taking of Motor Vehicles	12	21	35	100%	100%	97%
Other Road Traffic Offences	50	68	80	94%	88%	86%
<b>TOTAL - ROAD TRAFFIC OFFENCES</b>	<b>76</b>	<b>111</b>	<b>130</b>	<b>96%</b>	<b>92%</b>	<b>87%</b>
Child Pornography	50	38	15	100%	97%	100%
Sexual Assault	58	89	77	86%	63%	81%
Sex with an Underage Girl	6	14	16	100%	100%	88%
Other Sexual Offences	23	31	44	87%	77%	84%
<b>TOTAL - SEXUAL OFFENCES</b>	<b>137</b>	<b>172</b>	<b>152</b>	<b>92%</b>	<b>76%</b>	<b>84%</b>
Drug Offences	407	407	395	99%	99%	98%
Firearms and Explosives Offences	89	92	119	94%	91%	95%
Non Fatal Offences Against the Person	479	543	551	90%	87%	87%
Public Order Offences	149	146	138	95%	91%	83%
Sea Fisheries	14	21	21	93%	100%	90%
Revenue Offences	2	2	4	100%	100%	100%
Other Offences	46	54	58	89%	91%	98%
<b>GRAND TOTAL</b>	<b>2282</b>	<b>2535</b>	<b>2694</b>	<b>96%</b>	<b>93%</b>	<b>93%</b>

## ANNUAL REPORT 2018

Chart 2.2.3 outlines the result of cases directed for prosecution in the Special Criminal Court.

**CHART 2.2.3: 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				
	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015		
Assault Causing Harm	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Assisting an Offender	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0	0	
Conspiracy to False Imprisonment	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Conspiracy to Murder	3	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	1	0	0	
Criminal Damage	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	
Directing an Unlawful Organisation	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
False Imprisonment	0	3	5	0	0	0	0	0	0	0	5	0	2	0	0	1	0	0	0	0	0	0	
Firearms and Explosives Offences	10	7	1	0	0	0	8	2	1	0	2	1	0	2	0	0	0	0	0	2	3	0	
Membership of Unlawful Organisation & Related Offences	3	13	19	0	1	9	1	1	1	0	0	6	0	2	0	0	0	1	0	2	9	2	
Murder	1	8	0	0	1	0	0	1	0	0	1	0	0	0	0	0	0	0	1	0	1	5	0
Offences Against the State	0	2	2	0	0	2	0	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	
Threat to Kill	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	
<b>TOTAL</b>	<b>22</b>	<b>33</b>	<b>31</b>	<b>0</b>	<b>2</b>	<b>13</b>	<b>9</b>	<b>5</b>	<b>7</b>	<b>2</b>	<b>4</b>	<b>6</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>11</b>	<b>17</b>	<b>3</b>		

**CHART 2.2.3a: 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		
	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015
Conspiracy to Murder	2	0	0	2	0	0	0	0	0	2	0	0
False Imprisonment	0	2	0	0	2	0	0	2	0	0	0	0
Firearms and Explosives Offences	0	2	0	0	2	0	0	2	0	0	0	0
Membership of Unlawful Organisation & Related Offences	0	0	6	0	0	6	0	0	2	0	0	4
<b>TOTAL</b>	<b>2</b>	<b>4</b>	<b>6</b>	<b>2</b>	<b>4</b>	<b>6</b>	<b>0</b>	<b>4</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>4</b>

**CHART 2.2.3b: Breakdown of 'Other Disposals' from Chart 2.2.3**

	2017	2016	2015
<i>Nolle Prosequi</i> Entered	0	1	0
Suspect Deceased	0	1	1
<b>TOTAL</b>	<b>0</b>	<b>2</b>	<b>1</b>

**CHART 2.2.3c: Total Cases Finalised in the Special Criminal Court and Percentage of Convictions**

	TOTAL			Percentage of Convictions		
	2017	2016	2015	2017	2016	2015
Assault Causing Harm	0	0	1	N/A	N/A	100%
Conspiracy to Murder	2	0	0	100%	N/A	N/A
Directing an Unlawful Organisation	0	0	1	N/A	N/A	100%
False Imprisonment	0	3	5	N/A	67%	100%
Firearms and Explosives Offences	8	4	1	100%	100%	100%
Membership of Unlawful Organisation & Related Offences	1	4	16	100%	50%	100%
Murder	0	2	0	N/A	100%	N/A
Offences Against the State	0	1	2	N/A	100%	100%
<b>TOTAL</b>	<b>11</b>	<b>14</b>	<b>26</b>	<b>100%</b>	<b>79%</b>	<b>100%</b>

## ANNUAL REPORT 2018

Chart 2.2.4 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 2.2.4: 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				
	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015		
Murder	25	21	23	10	4	14	4	1	1	2	6	1	2	2	0	0	0	0	0	0	1	0	3	6	8	4
Attempted Murder	4	7	1	1	0	1	2	3	0	0	0	0	1	0	0	0	0	0	0	0	0	4	0	0	0	0
Rape	116	114	107	10	22	31	16	17	30	5	15	8	5	17	19	1	0	2	3	10	8	3	10	76	33	9
Attempted Rape	4	3	2	0	0	1	0	0	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0	3	2	0
Aggravated Sexual Assault	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1
Assisting an Offender	4	1	2	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	1	1
Sexual Assault	0	2	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0
<b>TOTAL</b>	<b>154</b>	<b>148</b>	<b>136</b>	<b>21</b>	<b>26</b>	<b>47</b>	<b>22</b>	<b>22</b>	<b>33</b>	<b>8</b>	<b>22</b>	<b>9</b>	<b>8</b>	<b>19</b>	<b>19</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>4</b>	<b>15</b>	<b>11</b>	<b>4</b>	<b>15</b>	<b>90</b>	<b>44</b>	<b>15</b>

CHART 2.2.4a: Breakdown of 'Convictions on Lesser Charge'

Primary Charge	Lesser Charge Convicted of	TOTAL			Conviction by Jury			Conviction on Plea		
		2017	2016	2015	2017	2016	2015	2017	2016	2015
Murder	Manslaughter	2	5	1	2	2	1	0	3	0
Murder	Production of article in the course of a dispute	0	1	0	0	1	0	0	0	0
Rape	Assault Causing Harm	0	1	2	0	0	1	0	1	1
Rape	False Imprisonment	0	0	1	0	0	1	0	0	0
Rape	Sex with an underage girl	2	6	1	0	0	0	2	6	1
Rape	Sexual Assault	2	7	4	0	2	3	2	5	1
Rape	Other Sexual Offences	1	0	0	0	0	0	1	0	0
Rape	Indecent Assault	0	1	0	0	1	0	0	0	0
Attempted Rape	Threat to kill	1	0	0	0	0	0	1	0	0
Attempted Rape	Sexual Assault	0	1	0	0	0	0	0	1	0
<b>TOTAL</b>		<b>8</b>	<b>22</b>	<b>9</b>	<b>2</b>	<b>6</b>	<b>6</b>	<b>6</b>	<b>16</b>	<b>3</b>

## ANNUAL REPORT 2018

**CHART 2.2.4b: Breakdown of 'Other Disposals'**

	2017	2016	2015
<i>Nolle prosequi</i> entered	3	9	7
Suspect deceased	0	2	2
Struck out	0	1	0
Not guilty by reason of insanity	1	3	2
<b>TOTAL</b>	<b>4</b>	<b>15</b>	<b>11</b>

**CHART 2.2.4c: Total Cases Finalised in the Central Criminal Court and Percentage of Convictions**  
(Including Convictions on a Lesser Charge)

	TOTAL			Percentage of Convictions		
	2017	2016	2015	2017	2016	2015
Murder	18	13	16	89%	85%	100%
Attempted Murder	4	3	1	75%	100%	100%
Rape	37	71	90	84%	76%	77%
Attempted Rape	1	1	2	100%	100%	100%
Assisting an offender	0	0	1	N/A	N/A	100%
Sexual Assault	0	1	0	N/A	100%	N/A
<b>TOTAL</b>	<b>60</b>	<b>89</b>	<b>110</b>	<b>85%</b>	<b>79%</b>	<b>81%</b>

Chart 2.2.5 breaks down the case verdicts for each Circuit Criminal Court. Unlike Chart 2.2.2, 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 2.2.5: 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		
	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015
Carlow	33	35	18	0	0	1	20	30	12	10	2	4	3	3	0	0	0	1
Cavan	43	51	33	1	0	0	41	49	29	1	2	3	0	0	1	0	0	0
Clare	87	52	69	1	2	2	77	38	49	7	5	9	1	7	5	1	0	4
Cork	219	316	318	7	7	14	175	228	251	24	47	33	6	12	11	7	22	9
Donegal	32	44	38	1	3	3	27	31	26	4	3	4	0	7	1	0	0	4
Dublin	928	955	1122	7	17	15	687	684	790	214	219	258	16	25	43	4	10	16
Galway	68	81	72	2	1	5	47	62	53	17	11	9	2	6	3	0	1	2
Kerry	52	68	84	2	0	4	42	57	70	6	6	3	1	4	7	1	1	0
Kildare	58	81	65	5	5	2	35	57	42	13	15	10	5	3	4	0	1	7
Kilkenny	42	59	40	3	1	0	31	27	35	7	19	2	1	8	3	0	4	0
Laois	32	32	35	0	0	3	28	24	19	3	7	7	1	1	2	0	0	4
Leitrim	9	5	11	0	0	0	7	2	9	1	3	1	1	0	0	0	0	1
Limerick	107	117	152	2	0	8	87	103	125	16	8	14	1	4	5	1	2	0
Longford	24	25	18	2	0	1	16	22	12	5	3	5	0	0	0	1	0	0
Louth	66	67	62	3	3	4	54	52	45	9	8	6	0	3	4	0	1	3
Mayo	57	57	72	4	3	3	41	46	56	11	6	9	0	2	4	1	0	0
Meath	64	64	72	2	2	9	38	46	54	13	12	4	6	2	3	5	2	2
Monaghan	6	6	19	0	0	0	6	5	16	0	0	3	0	1	0	0	0	0
Offaly	34	29	27	2	1	0	21	22	22	9	6	3	1	0	1	1	0	1
Roscommon	18	30	24	2	1	0	12	25	18	2	3	2	2	0	2	0	1	2
Sligo	21	34	33	0	3	1	14	18	28	3	6	2	2	4	2	2	3	0
Tipperary	87	94	90	3	4	5	60	62	58	16	23	19	4	5	5	4	0	3
Waterford	64	66	78	1	5	7	50	51	46	9	2	10	4	4	4	0	4	11
Westmeath	49	55	50	0	0	2	39	40	39	10	3	2	0	1	1	0	11	6
Wexford	43	64	53	2	5	3	30	49	34	4	5	11	6	4	4	1	1	1
Wicklow	38	48	39	0	1	2	24	27	28	9	11	6	2	6	3	3	3	0
<b>TOTAL</b>	<b>2281</b>	<b>2535</b>	<b>2694</b>	<b>52</b>	<b>64</b>	<b>94</b>	<b>1709</b>	<b>1857</b>	<b>1966</b>	<b>423</b>	<b>435</b>	<b>439</b>	<b>65</b>	<b>112</b>	<b>118</b>	<b>32</b>	<b>67</b>	<b>77</b>

## ANNUAL REPORT 2018

CHART 2.2.5a: Total Cases Finalised and Percentage of Convictions

	TOTAL			Percentage of Convictions		
	2017	2016	2015	2017	2016	2015
Carlow	33	35	18	91%	91%	94%
Cavan	43	51	33	100%	100%	97%
Clare	87	52	69	98%	87%	87%
Cork	219	316	318	94%	89%	94%
Donegal	32	44	38	100%	84%	87%
Dublin	928	955	1122	98%	96%	95%
Galway	68	81	72	97%	91%	93%
Kerry	52	68	84	96%	93%	92%
Kildare	58	81	65	91%	95%	83%
Kilkenny	42	59	40	98%	80%	93%
Laois	32	32	35	97%	97%	83%
Leitrim	9	5	11	89%	100%	91%
Limerick	107	117	152	98%	95%	97%
Longford	24	25	18	96%	100%	100%
Louth	66	67	62	100%	94%	89%
Mayo	57	57	72	98%	96%	94%
Meath	64	64	72	83%	94%	93%
Monaghan	6	6	19	100%	83%	100%
Offaly	34	29	27	94%	100%	93%
Roscommon	18	30	24	89%	97%	83%
Sligo	21	34	33	81%	79%	94%
Tipperary	87	94	90	91%	95%	91%
Waterford	64	66	78	94%	88%	81%
Westmeath	49	55	50	100%	78%	86%
Wexford	43	64	53	84%	92%	91%
Wicklow	38	48	39	87%	81%	92%
<b>TOTAL</b>	<b>2281</b>	<b>2535</b>	<b>2694</b>	<b>96%</b>	<b>93%</b>	<b>93%</b>



## 2.3 Applications to the Courts

Charts 2.3.1 to 2.3.4 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 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 2.3.1 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 2.3.1: 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
January - December 2017	49	138	42	49	278
January - December 2018	53	178	45	46	322
<b>TOTAL</b>	<b>215</b>	<b>712</b>	<b>183</b>	<b>221</b>	<b>1,331</b>

**ANNUAL REPORT 2018****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 2.3.2 below details the number of applications lodged in the last ten years.

Chart 2.3.2a outlines the results of applications by the year in which the application was heard.

**CHART 2.3.2: Applications for Review of Sentence on Grounds of Undue Leniency**

Year of Application	Number of Applications Lodged
2009	57
2010	54
2011	55
2012	21
2013	32
2014	31
2015	38
2016	56
2017	49
2018	49

**CHART 2.3.2a: Results of Applications by Year Heard**

Year of Application Heard	Successful	Refused	Applications Struck Out or Withdrawn	TOTAL
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
2017	30	18	3	51
2018	26	10	3	39

## 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, 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 DPP provides advice and support to prosecution practitioners in relation to confiscation and forfeiture applications. The Office also participates with other departments and agencies in reviewing the procedures and structures for criminal asset seizure in the State.

Asset seizing files received in the Office under the Criminal Justice Act 1994 ranged from forfeiture order cases to confiscation order cases. The total number of cases opened in 2018 is set out in Chart 2.3.3 below:

**CHART 2.3.3: Asset Seizing Files Opened in 2018**

Asset Seizing Files Opened 2018	
Section 39 Forfeiture Applications (Revenue and Gardai)	49
Section 61 Forfeiture Applications	12
Section 4 Confiscation Applications	3
Section 9 Confiscation Applications	1
<b>TOTAL</b>	<b>65</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 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 can be done 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 4 Confiscation Orders:** Under the provisions of section 4 of the Act, 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 or she 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.

**ANNUAL REPORT 2018**

Details of Confiscation and Forfeiture Orders granted by the courts in 2018, to a total value of €2,182,303.51, are outlined in chart 2.3.3a below.

**CHART 2.3.3a: Confiscation of Criminal Assets in 2018**

<b>Orders</b>	<b>Number</b>	<b>Amount</b>
Section 39 Forfeiture Orders (Revenue and Gardai)	58	€1,562,140.33
Section 61 Forfeiture Orders	3	€119,272.71
Section 4 Confiscation Orders	3	€37,955.00
Section 9 Confiscation Orders	2	€462,935.47
<b>TOTAL</b>	<b>65</b>	<b>€2,182,303.51</b>

## EUROPEAN ARREST WARRANTS

The European Arrest Warrant Act, 2003 came into operation on 1 January 2004. A European Arrest Warrant (EAW) is a warrant, order or decision of a judicial authority in one member state of the EU addressed to 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 (the full definition of a European Arrest Warrant is included in section 2 of the Act).

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 and 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 an EAW 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 twelve months or more. Alternatively, if the person requested has been convicted of an offence, an EAW 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 four months. The offences for which EAWs have been sought cover a wide range of serious offences including murder, sexual offences, drugs offences, thefts and serious assaults.

Chart 2.3.4 below outlines the number of European Arrest Warrants dealt with in the years 2016, 2017 and 2018. 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 includes 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 2.3.4: European Arrest Warrants**

Year	EAW Files Received from Gardaí	EAWs Issued	Persons Surrendered
2016	67	81	36
2017	63	67	31
2018	89	103	54

# 2.4 Extradition Requests

Requests for the preparation/issue of Extradition Requests (seeking the extradition of individuals who are not present in EU 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, Australia and Hong Kong. Additionally, Ireland has ratified the European Convention on Extradition (Paris 1957).

In 2018, the Office of the Director of Public Prosecutions received five files from An Garda Síochána seeking the completion and issue of Extradition Requests.

Five Extradition Requests were issued in 2018, of which two were transmitted to Australia and three to the United States of America.

**CHART 2.4.1: Extradition Requests 2018**

Country Request Transmitted to:	Number of Extradition Requests Issued
Australia	2
United States of America	3
<b>TOTAL</b>	<b>5</b>

## 2.5 Mutual Legal Assistance

Under the Criminal Justice (Mutual Assistance) Act 2008, Ireland can provide mutual legal assistance to, and ask for mutual legal assistance from, other countries in criminal investigations or criminal proceedings. For example, the Gardaí might want to ask the relevant authorities in another country to interview witnesses, or to provide details about an individual involved in a criminal investigation. These details might include:

- bank records
- police records
- emails
- social media posts of an individual involved in a criminal investigation

The Gardaí or Revenue Commissioners send requests for mutual legal assistance to the International Unit in the Office of the DPP for approval. Once finalised and signed, these requests are then sent to the Central Authority in the Department of Justice and Equality, which then sends them to the relevant country.

Chart 2.5.1 outlines the total number of requests dealt with by this Office seeking mutual legal assistance from other countries (outgoing requests) in 2018, 2017 and 2016.

**CHART 2.5.1: Requests dealt with by this Office seeking Mutual Legal Assistance from other countries**

	2018	2017	2016
Number of Requests	559	526	394

**CHART 2.5.1a: Breakdown of countries that were the subject of requests dealt with by this Office seeking mutual legal assistance from other countries in 2018**

Country	2018
EU Member States (excluding United Kingdom)	144
United Kingdom	151
United States of America	192
Canada	16
Other	56
<b>TOTAL</b>	<b>559</b>

**ANNUAL REPORT 2018****CHART 2.5.2: Countries to which Requests for Mutual Legal Assistance were sent in 2018**

<b>Country</b>	<b>Number of Outgoing Requests</b>
EU Member States (excluding United Kingdom)	130
United Kingdom	142
United States of America	161
Canada	13
Other	42
<b>TOTAL</b>	<b>488</b>



# PART 3:

## Legal Developments

---

# 3.1 Legal Developments 2018

## 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 2018, 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.

## APPLICATION TO SET ASIDE GUILTY PLEA (Judicial Review)

***R v. Director of Public Prosecutions [2018] IECA 301, Court of Appeal, Hedigan J, 1 October 2018***

- 3.1.2** The applicant was charged with an offence of assault causing serious harm. During the Circuit Court trial, the applicant entered a guilty plea. The applicant subsequently sought to set aside the guilty plea. Having heard evidence and submissions, the trial judge refused the application. The hearing afforded in the Circuit Court was a fair one which the Court of Appeal noted had afforded the applicant every opportunity to make her case and the decision of the trial judge to refuse the application was upheld.

## COMMITTAL WARRANT (Judicial Review)

***Forde v. Director of Public Prosecutions [2018] IECA 382, Court of Appeal, Birmingham J, 5 December 2018***

- 3.1.3** The applicant had pleaded guilty in the Circuit Court to an offence of attempted evasion of excise duty. He was fined approximately €39,500, given 12 months to pay and the sentence provided for one year's imprisonment in default of payment. No part of the fine was paid. A committal

warrant issued which was signed by the County Registrar. The High Court granted an order quashing the warrant and held that an employee of Court Services had issued the warrant *ultra vires*. The Director appealed to the Court of Appeal. The Court of Appeal allowed the Director's appeal and set aside the High Court Order. The Court of Appeal held that the action of the Court Services official in drawing up the warrant was merely giving effect to the judge's decision and order.

## CONDITIONAL STAY ON TRIAL (Article 34 Appeal)

***Director of Public Prosecutions v. DH [2018] IESC 32, Supreme Court, O'Malley J, 17 July 2018***

- 3.1.4** The DPP appealed an order from the Central Criminal Court which had stayed a trial pending further investigation where there were perceived inconsistencies relating to the complaint. The Supreme Court held that the Central Criminal Court order had intervened in the prosecutorial role, allowed the appeal and lifted the stay imposed on the trial.

## CONTRARY TO PUBLIC DECENCY (Judicial Review)

***Bita v. Director of Public Prosecutions [2018] IEHC 385, High Court, Ní Raifeartaigh J, 25 June 2018***

- 3.1.5** The High Court upheld the constitutionality of section 5 of the Summary Jurisdiction (Ireland) Amendment Act 1871. That section created the offence of committing an act contrary to public decency in a public place. The High Court held that the concept of "indecent" is well understood and there is no real difference between the concept of "indecent" and "contrary to public decency."

---

### DISCHARGE OF LEGAL TEAM (Conviction Appeal)

---

**Director of Public Prosecutions v. WM [2018] IECA 150, Court of Appeal, Edwards J, 15 May 2018**

- 3.1.6** The appellant's convictions for aggravated sexual assault and causing serious harm were upheld in circumstances where the appellant had sacked his legal team towards the end of his trial. When the appellant had discharged his legal team he had been advised of his options by the trial judge. The Court of Appeal held there was no unfairness in the trial judge's decision to refuse to discharge the jury.

---

### DRINK DRIVING – 20 MINUTE OBSERVATION PERIOD (Case Stated)

---

**Director of Public Prosecutions v. O'Neill, Brady, Farrell, Rothwell, Cooling [2018] IEHC 46, High Court, O'Regan J, 31 July 2018**

- 3.1.7** The Director brought a case stated in each of these cases. The High Court held that there was no unlawfulness in an overlap between the observation period prior to administering the intoxilyzer test and the processing of the accused including the reading of his rights.

---

### DRINK DRIVING – DISQUALIFICATION PERIOD (Case Stated)

---

**Director of Public Prosecutions v. McTigue [2018] IECA 390, Court of Appeal, McCarthy J, 11 December 2018**

- 3.1.8** The appellant was prosecuted for an offence under section 12(3)(a) of the Road Traffic Act 2010 – refusing or failing to comply with a requirement for a specimen of blood/urine. The Garda had incorrectly stated to the appellant that the disqualification period applicable was "up to four years" whereas the applicable disqualification period is "not less than four years". The Court of Appeal held that there is no obligation on the Garda to inform an accused of anything pertaining to the disqualification period.

---

### DRINK DRIVING – ROADSIDE BREATH TEST (Case Stated)

---

**Director of Public Prosecutions v. McGovern [2018] IEHC 577, High Court, McDermott J, 9 October 2018**

- 3.1.9** The District Court judge was of the view that the arresting Garda did not have the requisite opinion required to ground a lawful arrest for drink driving, in circumstances where the Garda's opinion has been solely based on the results of the roadside breath test. The High Court held that a Garda is entitled to form the requisite opinion based solely on the result of the roadside breath test.

---

### EVIDENCE (Section 29 Courts of Justice Act 1924 Appeal)

---

**Director of Public Prosecutions v. Wilson [2018] 1 ILRM 1, Supreme Court, Clarke J, Dunne J, O'Malley J, 19 July 2018**

- 3.1.10** The evidence in the case consisted of DNA evidence which connected items seen to be discarded by the gunman, with DNA taken from cigarette butts which were used and discarded by the accused when he was in Garda custody. The Supreme Court held that there was no breach of the constitutional right to privacy. The DNA evidence from the cigarette butts was admissible evidence at trial and affirmed the murder conviction.

---

### EVIDENCE (Conviction Appeal)

---

**Director of Public Prosecutions v. Moran [2018] IECA 176, Court of Appeal, Hedigan J, 20 June 2018**

- 3.1.11** The accused's conviction for murder was upheld. Significant evidence in the case had been derived from Facebook and from telephonic evidence, and the accused challenged the trial judge's rulings admitting that evidence. The Court of Appeal held that properly certified Facebook records were admissible as real evidence, rejected the challenges to both the Facebook evidence and the telephonic evidence and dismissed the appeal.

## ANNUAL REPORT 2018

---

### EXTRADITION (Judicial Review)

---

***Damache v. Director of Public Prosecutions & Others [2018] IECA 130, Court of Appeal, Hedigan J, 12 April 2018***

- 3.1.12** The applicant was sought by the USA for prosecution in relation to terrorism related offences. The Supreme Court had granted leave to bring judicial reviews and had specified the grounds for those judicial reviews. The Court of Appeal held that part of the High Court decision had been made without pleadings or submissions having been sought on the particular issue in question and that part of the judgment was set aside.

---

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

---

***Director of Public Prosecutions v. Pires, Corrigan and Gannon [2018] IESC 52, Supreme Court, Dunne J, 23 October 2018***

- 3.1.13** The appellants contended that being handcuffed on being arrested for drink driving rendered the arrests unlawful. The Supreme Court held that the applicable test was subjective, did the arresting Garda genuinely believe it was necessary to apply handcuffs in a particular case? The Supreme Court ruled that the arresting Garda should be afforded latitude and the courts should avoid using the benefit of hindsight.

---

### IDENTIFICATION PARADE AND CCTV (Conviction Appeal)

---

***Director of Public Prosecutions v. Folliard [2018] IECA 139, Court of Appeal, Birmingham J, 10 May 2018***

- 3.1.14** The appellant's conviction for sexual exploitation of a child was upheld. A ground of appeal against the conviction was the failure of the Gardaí to hold an identification parade. The CCTV footage in the case put the complainant and appellant in close proximity in terms of time and place. The Court of Appeal held that an identification parade was not required as there was significant CCTV footage in the case.

---

### INVOLUNTARY STATEMENT ADMISSIBLE (Case Stated)

---

***Director of Public Prosecutions v. Burke [2018] IEHC 554, High Court, Binchy J, 3 October 2018***

- 3.1.15** The accused was prosecuted for two counts of dangerous driving. Following a demand made under section 107 of the Road Traffic Act - which pertains to the duty to give information on demand to a Garda - the accused admitted driving the vehicle on a certain occasion. The High Court held that section 107 required the owner of a vehicle to state who was driving a vehicle on a particular occasion and no more, the infringement on the constitutional right to silence was proportionate to the objective, being public safety on the road. The High Court held that the statement or answer provided by a person pursuant to a statutory demand by a Garda is an involuntary statement or answer which is admissible in subsequent criminal proceedings.

---

### JURISDICTION TO PROSECUTE (Judicial Review)

---

***Bennett v. Director of Public Prosecutions [2018] IECA 237, Court of Appeal, Birmingham J, 9 July 2018***

- 3.1.16** The case concerned a challenge to the power of the DPP to prosecute offences contrary to section 12 of the Water Services Act 2007. The appellant had contended that summary proceedings under that section could only be brought by the water services authority. The Court of Appeal held that the general jurisdiction of the DPP to initiate prosecutions in respect of crimes is so well established that it would require very clear language to oust that jurisdiction. No such language was present in the statutory provision concerned and the Court of Appeal dismissed the challenge.

---

## RETURN FOR TRIAL (Judicial Review)

---

***Director of Public Prosecutions v. Keogh* [2018] IEHC, High Court, Meenan J, 9 February 2018**

- 3.1.17** The return for trial order contained errors. An application under the 'slip rule' was made and the return for trial order was amended. The Circuit Court judge having heard submissions concluded that he had no jurisdiction over the charges and made no order. The DPP brought judicial review proceedings seeking an order of *mandamus* directing the Circuit Court judge to accept jurisdiction over the case and a declaration that the case was properly before the Circuit Court. The High Court held that the 'slip rule' was correctly applied, no new order sending the respondent forward to trial was required, the bail bond originally entered into at the original return for trial had not expired, and granted the reliefs sought by the DPP.

---

## RIGHT TO SILENCE (Article 34.5.3 Appeal)

---

***Director of Public Prosecutions v. KM* [2018] IESC 2, Supreme Court, O'Malley J, 21 March 2018**

- 3.1.18** The appellant had furnished a written prepared statement. In response to questions in interview with Gardai the appellant stated that he had nothing to say other than what was written in his statement. Those responses were adduced at trial. The Supreme Court held that the context in which the appellant waived the right to silence ought to be considered, the constitutional right to silence cannot be waived by implication and quashed the conviction.

---

## RTA – SERVICE AND RECEIPT OF A FIXED CHARGE PENALTY NOTICE (Judicial Review)

---

***Kinsella v. Director of Public Prosecutions* [2018] IEHC 474, High Court, McDermott, 20 July 2018**

- 3.1.19** The applicant was convicted of minor road traffic offences following a failure to pay fixed charge penalty notices. At the hearing, the applicant's solicitor had sought to introduce evidence that his client had not received the

fixed charge penalty notices. The District Court judge dismissed the issue as an irrelevant administrative matter. The High Court held that the trial judge is required to hear the evidence and consider the submission. In this case the failure to permit the applicant to address the issue deprived the solicitor for the applicant of the opportunity to defend the applicant to the fullest extent. The High Court quashed the convictions and remitted the matter back to the District Court for hearing.

---

## RTA – SERVICE AND RECEIPT OF A FIXED CHARGE PENALTY NOTICE (Case Stated)

---

***Director of Public Prosecutions v. Brown* [2018] IEHC 471, High Court, Burns J, 30 July 2018**

- 3.1.20** The case concerned whether service for a fixed charge penalty notice required factual receipt of postal dispatch. The High Court held that fixed penalty notices pursuant to section 103 of the Road Traffic Act 1961 as amended did not require proof of receipt. If non-receipt of a fixed charge penalty notice arises in evidence, it is a matter that the court can and should have regard to.

---

## SECTION 16 - APPLICATION TO ADMIT STATEMENTS (Conviction Appeal)

---

***Director of Public Prosecutions v. Ward* [2018] IECA 162, Court of Appeal, Mahon J, 31 May 2018**

- 3.1.21** Statements were admitted into evidence during the trial pursuant to section 16 of the Criminal Justice Act 2006. That section provides for circumstances where a pre-trial statement may be admitted into evidence if the witness refuses to give evidence, denies making the statement or gives evidence which is materially inconsistent with it. The Court of Appeal held that these statements were required to be strictly assessed in accordance with the statutory provision and to satisfy the requirements of that section. The trial judge must consider an extensive list of factors and the Court of Appeal held that it was not possible to determine if that had occurred in the instant case and allowed the appeal.

## ANNUAL REPORT 2018

---

### SENTENCING (Undue Leniency Appeal)

---

***Director of Public Prosecutions v. Casey and Casey [2018] IECA 121, Court of Appeal, Birmingham J, 26 April 2018***

- 3.1.22** The Court of Appeal allowed the Director's appeal where the accused had been sentenced in relation to a burglary spree of domestic dwellings and had relevant previous convictions. The trial court had imposed a four and a half year sentence with the final year suspended. The Court of Appeal substituted that sentence for a sentence of six years and four months. The Court of Appeal set out factors that judges should take into account when sentencing in domestic burglary cases and also provided guidance in relation to sentencing where there are multiple burglary charges.

---

### SPENT CONVICTIONS (Case stated)

---

***Director of Public Prosecutions v. Petrovici [2018] 734 IEHC, High Court, Noonan J, 27 November 2018***

- 3.1.23** The case concerned the applicability of the defendant's previous convictions in a criminal case considering the provisions of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016. The High Court held that nothing in the Act prevents the admission of a person's spent previous convictions in criminal proceedings where the person is a party to the proceedings.

---

### TELEPHONE DATA (Plenary Action)

---

***Dwyer v. Commissioner for An Garda Síochána [2018] IEHC 685, High Court, O'Connor J, 6 December 2018 and 11 January 2019***

- 3.1.24** Following a conviction where telephonic data was a central part of the evidence, a challenge was taken to provisions in the Communications (Retention of Data) Act 2011. The challenge was in relation to the retention of telephone data and access to such data by An Garda Síochána for the purpose of fighting serious crime. The High Court found that the relevant section (section 6(1)(a)) of the 2011 Act is inconsistent with EU law and the European Court of Human

Rights. The Court found that the 2011 Act provides for retention of data which is general and indiscriminate, and this is precluded by EU law. It also found that access to data that is retained should only be granted by an independent administrative authority with adequate safeguards. The High Court issued a declaration that the relevant section is inconsistent with EU law and placed a stay on the enforcement of the declaration.

---

### TRESPASS – EVIDENCE FROM OWNER/OCCUPIER (Case stated)

---

***Director of Public Prosecutions v. Connors [2018] IECA 134, Court of Appeal, Mahon J, 15 May 2018***

- 3.1.25** The appellant was prosecuted for trespass contrary to section 11 of the Criminal Justice (Public Order) Act 1994. The case concerned whether it was a necessary proof that the appellant had entered the premises as a trespasser and whether the prosecution had to adduce evidence from the owner or occupier of the premises in relation to absence of permission to be on the premises. The Court of Appeal confirmed that proof that the appellant was a trespasser is required, and held that it is not necessary in every case to have evidence from the owner or occupier in relation to the absence of permission.

## 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** The EU Directive was transposed into Irish law with the enactment of the Criminal Justice (Victims of Crime) Act 2017 on 27 November 2017.

**3.2.3** Under the Act, victims now have specific rights to information. They also have procedural rights during court proceedings. A victim is defined in the Act 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.

**3.2.4** 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.

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>

**3.2.5** Since the coming into effect of the Victims Directive and subsequent Criminal Justice (Victims of Crime) Act 2017, victims have the right to a summary of the reason for the decision not to prosecute in all cases where the decision was made on or after 16 November 2015, subject to some limited

exceptions. A victim can also 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.

**3.2.6** The Victims Liaison 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 Criminal Justice (Victims of Crime) Act 2017.

**3.2.7** 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 prosecution decisions' and 'How to request reasons and reviews'. Both booklets - along with others that may be of assistance to victims of crime - are available on the 'Victims and Witnesses' section of our website, [www.dppireland.ie](http://www.dppireland.ie).

**3.2.8** Now that the Criminal Justice (Victims of Crime) Act 2017 is in place, this Office will continue to review its 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.

**ANNUAL REPORT 2018**

**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 in 2018, 2017 and 2016 and the categories of offences which were the subject of those requests.

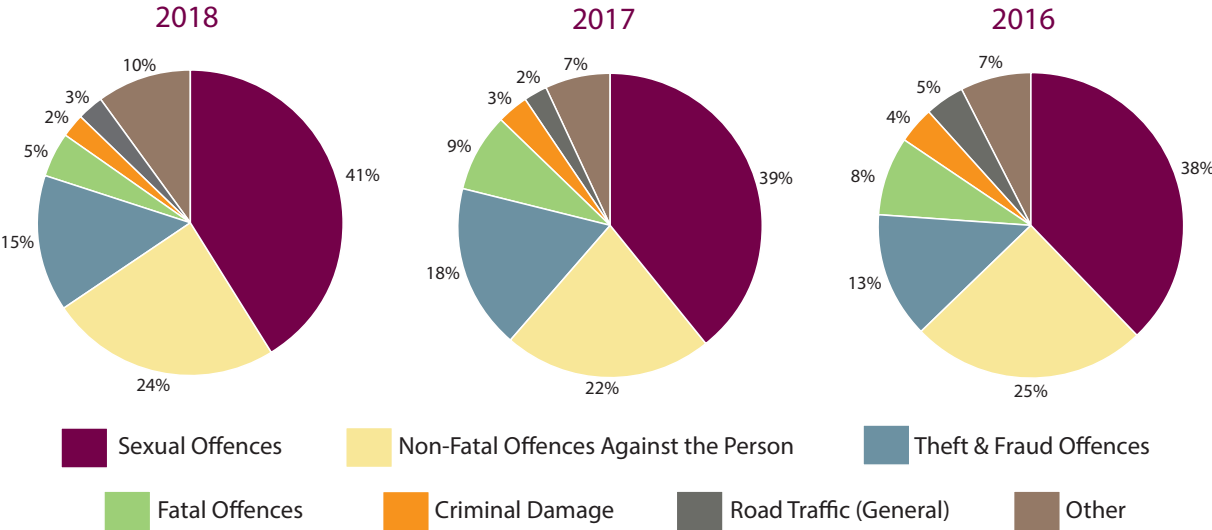
**CHART 3.2.1 Requests for summary of reasons**

	2018	2017	2016
Reasons given	551	577	529
Reasons refused	49	57	80
Pending	6	4	0
<b>TOTAL requests for reasons received</b>	<b>606</b>	<b>638</b>	<b>609</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**

Categories of Offences	2018	2017	2016
Sexual Offences	250	251	231
Non Fatal Offences Against the Person	148	141	153
Theft and Fraud Offences	87	112	81
Fatal Offences	30	54	50
Criminal Damage	14	21	23
Road Traffic (General)	18	15	27
Other	59	44	44
<b>TOTAL</b>	<b>606</b>	<b>638</b>	<b>609</b>





Charts 3.2.3 and 3.2.4 below set out the number of requests for review received in 2018, 2017 and 2016 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**

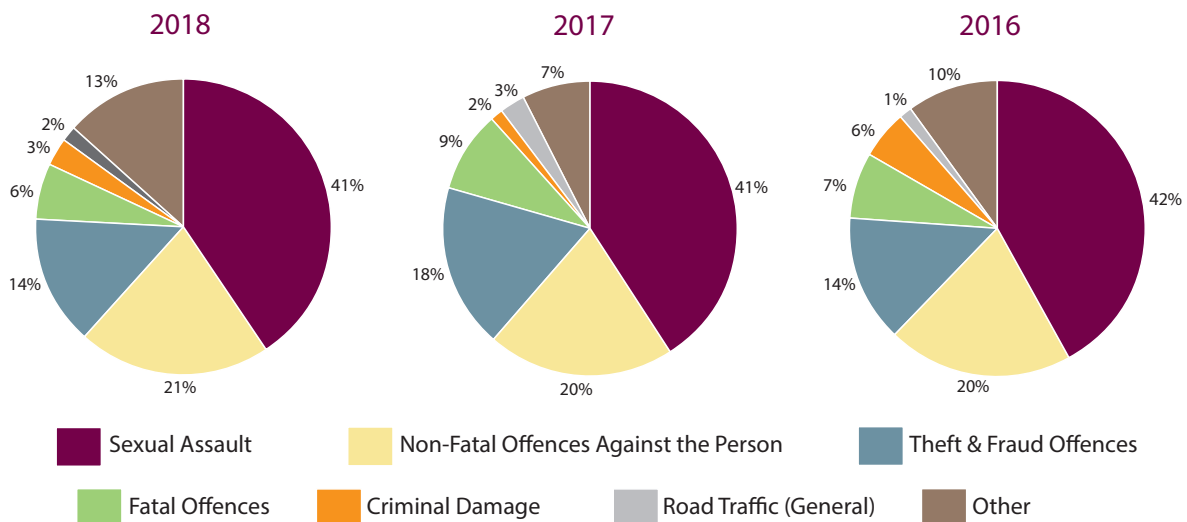
	2018	2017	2016
Decision Upheld	182	190	200
Decision Overturned	5 *	8	4 **
Invalid Request	4	19	19
Pending	5	2	0
<b>TOTAL requests received for review of a decision</b>	<b>196</b>	<b>219</b>	<b>223</b>

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.

\* Two decisions related to two complainants in the one case.  
\*\* 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**

Categories of Offences	2018	2017	2016
Sexual Offences	80	90	94
Non Fatal Offences Against the Person	41	45	45
Theft and Fraud Offences	28	39	31
Fatal Offences	12	20	16
Criminal Damage	6	3	12
Road Traffic (General)	3	6	3
Other	26	16	22
<b>TOTAL</b>	<b>196</b>	<b>219</b>	<b>223</b>



# PART 4:

## Office Administration

---

# 4.1 Office Expenditure

Chart 4.1.1 shows the breakdown of office expenditure for 2018, 2017 and 2016

**Salaries and Wages:** This represents the cost of salaries of staff employed in the Office. The total staff complement at 1 January 2018 was 202.

**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 amounts agreed by contract with 32 State Solicitors in private practice who are contracted to this Office to represent the Director in courts outside Dublin.

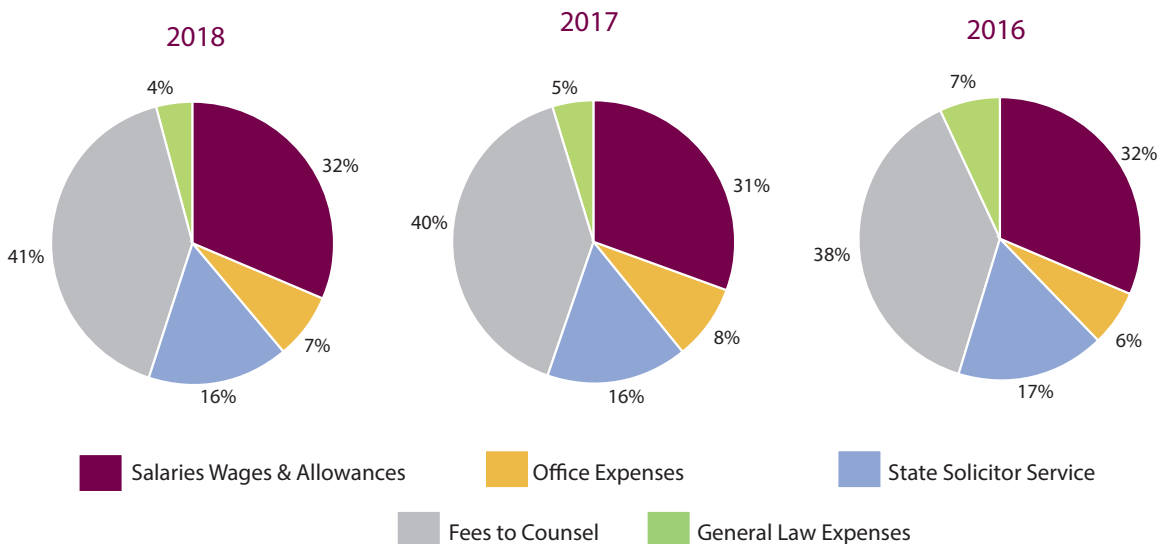
**Fees to Counsel:** These are fees paid to the barristers who prosecute cases on behalf of the Director in the various criminal courts. Fees are set within the parameters set by the Minister for Public Expenditure and Reform.

**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 4.1.1. for Salaries, Wages & Allowances and Office Expenses are net of pension-related deductions and Appropriations-in-Aid respectively.

**CHART 4.1.1: Office Expenditure**

	2018 €	%	2017 €	%	2016 €	%
Salaries Wages & Allowances	13,453,646	32%	12,602,745	31%	12,198,630	32%
Office Expenses	3,187,616	7%	3,450,709	8%	2,417,507	6%
State Solicitor Service	6,848,584	16%	6,561,453	16%	6,547,058	17%
Fees to Counsel	17,391,679	41%	16,406,056	40%	14,857,921	38%
General Law Expenses	1,677,859	4%	1,883,220	5%	2,604,944	7%
<b>TOTAL</b>	<b>42,559,384</b>		<b>40,904,183</b>		<b>38,626,060</b>	



**ANNUAL REPORT 2018**

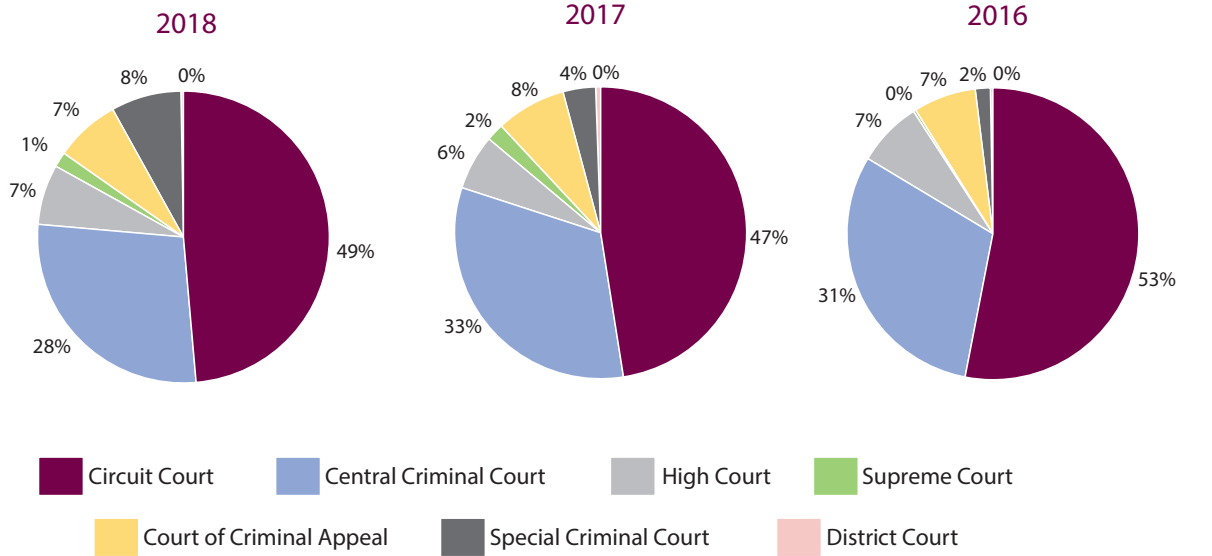
Charts 4.1.2 & 4.1.3 show a breakdown of expenditure on fees to counsel in the various criminal courts and by region in respect of the Circuit Criminal Court.

Fees paid to counsel in the Circuit, Central and 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.

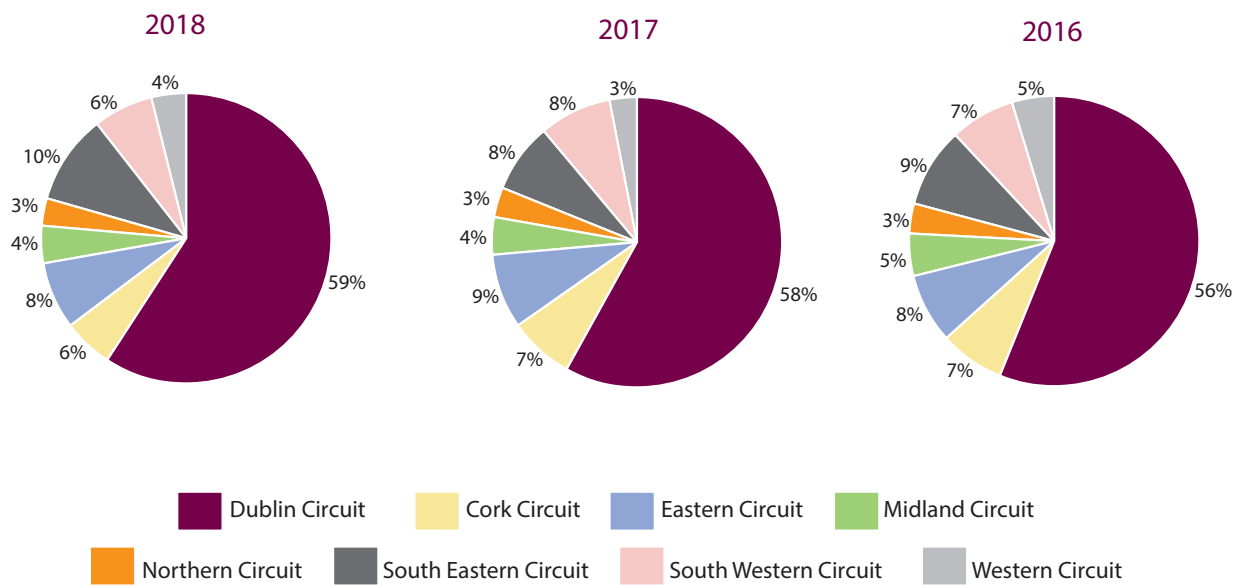
**CHART 4.1.2: Fees to Counsel Paid by Court**

	<b>2018</b>	<b>%</b>	<b>2017</b>	<b>%</b>	<b>2016</b>	<b>%</b>
	<b>€</b>		<b>€</b>		<b>€</b>	
Circuit Court	8,482,806	49%	7,799,284	47%	7,885,210	53%
Central Criminal Court	4,809,819	28%	5,360,531	33%	4,561,132	31%
High Court	1,198,836	7%	1,005,532	6%	1,070,952	7%
Supreme Court	253,819	1%	318,151	2%	48,892	0%
Court of Appeal	1,259,052	7%	1,240,827	8%	1,013,359	7%
Special Criminal Court	1,355,457	8%	636,149	4%	243,982	2%
District Court	31,890	0%	45,582	0%	34,394	0%
<b>TOTAL</b>	<b>17,391,679</b>		<b>16,406,056</b>		<b>14,857,921</b>	



**CHART 4.1.3: Fees to Counsel Paid by Circuit**

	<b>2018</b>	<b>%</b>	<b>2017</b>	<b>%</b>	<b>2016</b>	<b>%</b>
	<b>€</b>		<b>€</b>		<b>€</b>	
Dublin Circuit	5,030,155	59%	4,537,399	58%	4,435,009	56%
Cork Circuit	480,538	6%	559,609	7%	579,824	7%
Eastern Circuit	618,041	8%	649,440	9%	601,443	8%
Midland Circuit	367,777	4%	330,925	4%	365,235	5%
Northern Circuit	260,705	3%	258,350	3%	271,210	3%
South Eastern Circuit	839,518	10%	618,330	8%	711,779	9%
South Western Circuit	565,245	6%	627,967	8%	560,802	7%
Western Circuit	320,827	4%	217,264	3%	359,908	5%
<b>TOTAL</b>	<b>8,482,806</b>		<b>7,799,284</b>		<b>7,885,210</b>	



# 4.2 Extract from Appropriation Account 2017

Account of the sum expended in the year ended 31 December 2017, 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.

			<u>2017</u>	<u>2016</u>
		Estimate Provision €'000	Outturn €'000	Outturn €'000
<b>PROGRAMME EXPENDITURE</b>				
<b>A.</b>	<b>Provision of Prosecution Service</b>			
	<i>Original</i>	41,588		
	<i>Supplementary</i>	260	41,848	39,417
	<b>Gross Expenditure</b>		<b>41,848</b>	<b>39,417</b>
	<i>Deduct</i>			
<b>B.</b>	<b>Appropriations-in-Aid</b>			
	<i>Original</i>	912		
	<i>Supplementary</i>	(158)	<b>754</b>	<b>791</b>
	<b>Net Expenditure</b>			
	<i>Original</i>	40,676		
	<i>Supplementary</i>	418		
			<b>41,094</b>	<b>38,626</b>
<b>Surplus for Surrender</b>				
The surplus of the amount provided over the net amount applied is liable for surrender to the Exchequer				
			<u>2017</u>	<u>2016</u>
	<b>Surplus to be Surrendered</b>		<b>€189,816</b>	<b>€259,940</b>

# 4.3 Prompt Payment of Accounts Act, 1997

## Late Payments in Commercial Transactions Regulations 2002

### OPERATION OF THE ACT IN THE PERIOD 1 JANUARY 2018 TO 31 DECEMBER 2018

**4.3.1** 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.

**4.3.2** In the period in question, the Office made 7 late payments in excess of €317.50. The value of these payments was €13,437. The total value of late payments in the year amounted to €13,744 out of total payments of €3.4 million and interest thereon came to €557.58.

### Statement of the Accounting Officer

**4.3.3** 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.

**4.3.4** 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.

**4.3.5** 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  
May 2019

# 4.4 Freedom of Information

**4.4.1** 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.

**4.4.2** 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.

**4.4.3** 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.

**4.4.4** 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.

**4.4.5** During 2018 a total of 31 requests were submitted to the Office. 18 requests were granted/part granted, 12 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.

**4.4.6** 14 of the requests were submitted by journalists, two were submitted by business/interest groups, while the other 15 requests were made by the general public.

**4.4.7** In the 12 cases where requests were refused, only one of the requesters sought an internal review of the original decision. The original

decision was upheld in this case. The same requester then appealed to the Information Commissioner who also upheld the original decision.

## Requests Received 2018

Requests Granted / Part Granted	18
Requests Refused	12
Withdrawn / Dealt with outside of FOI	1
<b>TOTAL REQUESTS</b>	<b>31</b>

## Requesters 2018

Journalists	14
General Public	15
Business / Interest Groups	2

## Reviews 2018

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



# 4.5 Annual Energy Efficiency Report 2018

## Overview of Energy Usage in 2018

**4.5.1** In 2018, the Office of the Director of Public Prosecutions consumed 1221.40MWh 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.

This figure is compiled as follows:

- 535.93MWh of Electricity
- 685.47MWh of Natural Gas

The relocation of staff in June 2017 from an air-conditioned building at North King Street to naturally ventilated buildings at Infirmary Road resulted in a significant reduction in energy consumption over the whole of 2018. Specific energy saving measures implemented in late 2018 accounted for additional savings, notably in electricity consumption.

## Actions Undertaken in 2018

**4.5.2** During 2018, energy efficiency monitoring continued in collaboration with external consultants and maintenance contractors. Actions taken during 2018 included the following:

- Monitoring of existing energy management systems continued and gas boilers were switched off for extended periods over the summer.
- New boiler systems were provided together with an upgrade to heating system controls by September 2018.

- The installation of a new computerised Building Management System at Infirmary Road was completed by the Office of Public Works (OPW) by October 2018.
- A major lighting upgrade project got underway in October 2018 aimed at significantly reducing electricity consumption in all buildings on the site.
- The Office facilitated an Energy Audit of its buildings by the OPW.

## Actions Planned for 2019

**4.5.3** Actions planned for 2019 include the following:

- Complete the lighting upgrade programme of work at all buildings on the site.
- Progress additional insulation measures carried over from 2018.
- Continuation of awareness campaign using signage and posters.
- Examine and develop proposals for further reduction in energy consumption arising from the energy audit results and recommendations.

## 4.6 Irish Language Scheme

---

**4.6.1** The 4<sup>th</sup> Irish Language Scheme for the Office was confirmed by the Minister for Culture, Heritage and the Gaeltacht in May 2018. This scheme took effect from 28 May 2018 and shall remain in force for a period of three years from that date (2018–2021).

**4.6.2** During 2018 the Office had no requirement to deal with any court cases in Irish. We received one letter in the Irish language, which was responded to in Irish.

**4.6.3** The Office produced three publications during 2018:

- i)** Annual Report 2017
- ii)** Releasing My Counselling Records (information booklet)
- iii)** Making a Victim Impact Statement (information booklet - revised edition)

All publications were produced bilingually.

**4.6.4** 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. During 2018, the total number of page views on the Irish version of our website was 1,172. This represents 0.81% of all page views. Apart from the Irish homepage, the most visited Irish pages were:

- Guidelines for Prosecutors
- Contact Us
- Making a Victim Impact Statement

**4.6.5** Our Training Unit continues to promote Irish Language training courses to ensure that the Office can fulfil its obligations under the Official Languages Act. During 2018, one member of the legal staff attended a week long intensive Irish course with Oideas Gael.



