

Oifig an
Office of the



Stiúrthóra Ionchúiseamh Poiblí
Director of Public Prosecutions

Annual Report 2011

This Report is also available in the Irish Language

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Foreword

This is the first Annual Report which I have presented since my appointment as Director of Public Prosecutions in November 2011. I am honoured to have been entrusted with this very important position.

I am fortunate to have inherited a prosecution service which has undergone major modernisation and reform. However, I am not in the least complacent about the further changes which face the prosecution service, particularly in a time of severe financial constraints.

2011 saw the commencement of a period of considerable change for the management of the Office during which new personnel were appointed to three of the most senior legal roles. I took up office as Director in November 2011, while the new Chief Prosecution Solicitor and Head of Directing Division took up their roles in June 2012.

The Office continues, like all State agencies, to operate in difficult economic circumstances. This has had a significant impact on our resources. The Office of the DPP differs from most Government Offices and Departments in that it has just one core function, the prosecution of crime. It does not have discretionary programmes which it can decide to discontinue.

The Office has made clear previously that our resources are fully stretched, having regard to the increasingly large and complex files which we are required to consider and subsequently present in court when a decision is made to prosecute. As the statistics show, we have largely managed to maintain the same overall rate of throughput as achieved in 2010 and 2009. I am increasingly concerned however that it will not be possible to sustain this in the coming years.



The expenditure of the Office is essentially demanded as we do not have control over the level of crime or the number of prosecutions we must bring.

Notwithstanding this, during 2011 my Office managed to make significant savings particularly under the heading of Legal Costs. In 2011 also the Office implemented a further cut to professional fees of 10 per cent which affected fees paid to barristers who prosecute on my behalf. This brings to 26 per cent the accumulated cuts to counsels' fees since March 2009.

There have been developments at European level which are more than likely to have implications for the resources of this Office. A European Union Directive is under negotiation which is intended to establish minimum standards on the rights, levels of support and protection that victims of crime can expect throughout the European Union. While it is

not finalised, at this stage it is important to point out that among the rights proposed to be granted to victims is the right to receive reasons for the decision of the prosecution not to prosecute in most cases, subject to certain limited exceptions. We have already learned by experience that the process of giving reasons in cases involving a fatality which has been ongoing since 2008 has proved to be very resource intensive and this will be a significant factor in any expansion of this work, which is required under this directive, in the future.

A major step forward was achieved recently by the securing of a single headquarters building for my Office adjacent to the Criminal Courts of Justice on Infirmary Road. A commitment had been given to my predecessor by the Minister of State at the Department of Public Expenditure and Reform with special responsibility for Public Service Reform and the Office of Public Works, Brian Hayes, TD, for this project to proceed. The Office recently took over the majority of the accommodation which formerly housed the Department of Defence in Infirmary Road, Dublin 7. In doing so we vacated our premises in Merrion Street freeing it for immediate occupation by a Government department. The Directing Division and two sections of the Solicitors' Division are now located in Infirmary Road.

There is also a commitment for this Office to take over the remaining accommodation on the site currently occupied by other agencies. Apart from being of enormous strategic benefit to this Office, this will deliver further significant savings on overheads. Until this happens the Solicitors' Division, headed by the Chief Prosecution Solicitor, will have to be split over two locations which is far from ideal. However, despite this hopefully short term inconvenience, there are benefits which can be immediately achieved by having certain of the solicitors' staff adjacent to the directing staff who make the decisions to prosecute in the majority of

cases. In the context of the Croke Park Agreement and the current economic constraints, the Office has for some time been implementing reforms aimed at delegating certain decision making to the Solicitors' Division, where appropriate, so the duplication of effort by lawyers can be avoided. It is intended that further progress will be made on this initiative.

Finally in my first year as Director I want to pay tribute to the various groups who contribute to the operation of an effective prosecution service. I want to thank the very dedicated staff in my Office, the State Solicitors around the country and the many members of the Bar who contribute towards the provision of a prosecution service on behalf of the People of Ireland. I appreciate that a high level of service has been maintained notwithstanding the various cuts to salaries and fees which have been imposed.



Claire Loftus
Director of Public Prosecutions
October 2012

MISSION STATEMENT

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

PART 1:

GENERAL WORK OF THE OFFICE

1.1 GENERAL WORK OF THE OFFICE

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

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

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

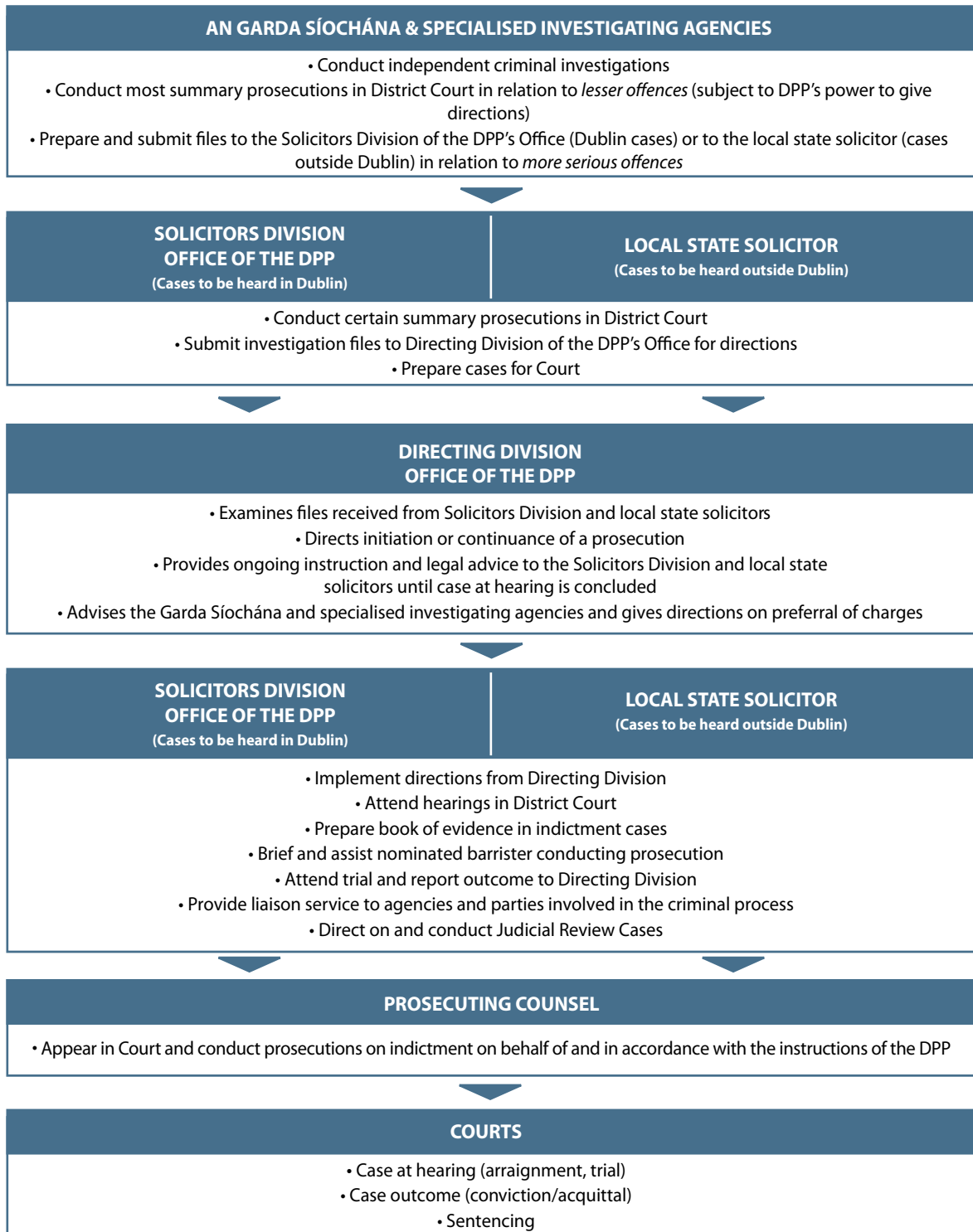
The Directing Division determines, following an examination of an investigation file, whether there should be a prosecution or whether a prosecution commenced by the Garda Síochána should be maintained. The direction which issues indicates the charges, if any, to be brought before the courts. In some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

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

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

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

1.2 OUTLINE OF THE CRIMINAL PROSECUTION PROCESS



PART 2:

YEAR IN REVIEW

2.1 YEAR IN REVIEW

2.1.1 This chapter reviews the performance of the Office during 2011 in relation to the management of the prosecution service in line with the objectives set out in our Strategy Statement 2010 - 2012.

STRATEGIC MANAGEMENT

2.1.2 During a time of significant reductions in public spending a major challenge for the Office is to ensure that the prosecution of serious crime is not compromised and that available resources are allocated as effectively as possible.

2.1.3 In January 2011 the total staff complement of the Office of the DPP was 191.4 full-time equivalents - down from 194.3 in January 2010.

2.1.4 In addition to directly employed staff, the Office engages the State Solicitor Service on a contract basis. This comprises 32 solicitors in private practice who are contracted to the Office of the DPP to represent the Director in Circuit Courts outside Dublin. The Office also draws from a panel of 155 barristers who are briefed on a case by case basis to prosecute cases on behalf of the Director in the various criminal courts.

2.1.5 The total cost of running the prosecution service for 2011 was approximately €36.7m. Fees paid to counsel who prosecute cases on behalf of the Director in the various criminal courts account for 37% of this amount, while 34% is paid in salaries & wages to staff in the Office of the DPP. A further 7% represents the amount paid in legal costs awarded by the courts.

2.1.6 The cost of the prosecution service for 2011 was approximately €4.3m less than in 2010. This is a reflection of the initiatives implemented by the Office under the terms of the Public Service Agreement to achieve greater efficiencies and savings. A 10% reduction in the rate of fees paid to counsel from 1 October 2011, together with the cumulative effect of two 8% reductions imposed in March 2009 and April 2010, resulted in a reduction of approximately €1.8m on fees paid to counsel. Significant savings were also achieved during 2011 in relation to the payment of legal costs awarded by the courts. Legal costs paid in 2011 were approximately €3.5m less than those paid in 2010. A significant contributory factor in this reduction was the pro-active role taken by this Office in seeking to reduce the amount paid in costs through implementation of a robust costs settlement policy. The Office will continue to vigorously implement this initiative. However, there are factors outside our control which may at any stage adversely impact on the level of costs which we must pay. A number of recent decisions in the Court of Criminal Appeal may result in the Office having a greater exposure to costs.

2.1.7 In the interests of improving business processes across the organisation in order to gain efficiencies, the Office continued during 2011 to develop the devolution of decision-making initiative. Under this initiative responsibility for deciding whether prosecutions should be taken is delegated from staff in the Directing Division of the Office to solicitors in our Solicitors Division in certain circumstances. During the year 78 files were processed in the District Court Section of the Solicitors Division without reference to the Directing Division. A total of 127 judicial

review applications were directed on by the Head of the Judicial Review Section without reference to the Directing Division. This restructuring of work has served to reduce duplication of effort between the two legal divisions of the Office.

- 2.1.8** The review of our computerised Case, Document Management and File Tracking System, commenced in 2010, continued throughout 2011. The system was first introduced in 2008 and provides managers and staff across the organisation with a single point of access for all prosecution files. The review resulted in further enhancements to the system in order to better meet the business needs of the Office.
- 2.1.9** The Civil Service Performance Management & Development System (PMDS) continued to play a key role in providing both managers and staff with an opportunity to evaluate performance against agreed targets. This assisted in ensuring that files were dealt with in a timely manner and agreed deadlines were met. The system also promoted staff development through mentoring and structured training programmes.
- 2.1.10** Implementation of the Staff Mobility Programme, first introduced in 2010, resulted in 27 staff being re-assigned during the year - 13 of which were cross-divisional re-assignments. This programme offers staff opportunities to expand their work experience, in addition to providing the Office with a means of sharing knowledge and expertise across the two legal divisions of the Office. This has proved to be a very successful initiative from the point of view of both management and staff.

LEGAL ENVIRONMENT

- 2.1.11** The legal environment in which we operate is continuously evolving. We need to constantly keep abreast of legal developments, both nationally and internationally, and to take account of the ongoing increase in complexity of criminal law and practice.
- 2.1.12** One of the key objectives for this Office in delivering a quality prosecution service is to ensure that staff understand the law and context of operation of the Office. While the overall training budget for the Office has been reduced considerably in the last three years, it is imperative that we ensure the continued professional development of staff.
- 2.1.13** A total of €258,671 was invested in staff training during 2011. This comprised an allocation of €19,200 to legal-specific training while €41,634 was invested in attendance at seminars, conferences and training courses. A further €69,569 was allocated to staff who availed of opportunities under the Refund of Fees Scheme covering both legal and management courses at various levels.
- 2.1.14** In an effort to further reduce the amount spent on legal training, legal section meetings were restructured to include a training element which qualified for Continuing Professional Development (CPD) points. The Office utilised internal legal expertise to facilitate this training. This resulted in a decrease in reliance on external training in order to fulfill CPD requirements and ultimately a saving for the Office.
- 2.1.15** During 2011 the Office also organised two Legal Network meetings for staff in the two legal divisions of the Office. The meetings were facilitated by both internal and external lawyers with expertise in particular areas of criminal law. Topics covered included Statutory Interpretation; the Role of Expert Witnesses; and Criminal Law Updates. These meetings provided an opportunity for staff development at no cost to the Office. In addition, all legal staff undertook an in-house mandatory training course in Regulatory Training during the year.
- 2.1.16** The Office again organised the Annual State Solicitors' Seminar in January 2011 and the 12th Annual National Prosecutors' Conference in May 2011. Both these events have proved to be extremely beneficial in providing opportunities for staff of this Office and those involved in the prosecution of crime on a national level to come together on an annual

basis to discuss topical issues and new legal developments. They are also a very cost effective means of providing customised Continuing Professional Development training to the broader cohort of prosecutors.

- 2.1.17** Our Library and Research service plays a key role in ensuring that up-to-date information on legal developments is made available in a timely manner and also provides a research service to support the work of legal staff. Staff have desktop access to all electronic library resources, including our internal collection of scanned judgments, Garda Síochána circulars, internal circulars, research documents and counsel opinions. The Library hardcopy collection comprises criminal law text books, journals, legislation and hardcopy knowledge.
- 2.1.18** During the year the Library staff also facilitated an in-house training programme for staff on the use of electronic library resources.
- 2.1.19** The Prosecution Policy Unit continued work on the development of policy guidelines on specific legal issues. The guidelines will provide a comprehensive resource for professional staff and will ensure a consistency of approach in dealing with particular areas of criminal law.
- 2.1.20** The Unit also undertook a number of internal research projects for the purpose of providing information which will inform future internal Office policy and procedures. The projects focused on sample cases over a 6 month period involving child victims of rape/sexual assault and defilement; a category of manslaughter cases for a 10 year period; and a review of all recent applications for review of sentence on the grounds of undue leniency.

GOVERNANCE

- 2.1.21** One of the factors that underpins the reliability of the information provided by the Office of the DPP is the extent to which we have developed internal control and governance procedures. The Office places great importance on having an Audit Committee with independent members, to plan and oversee internal audits.

- 2.1.22** The Committee met three times during 2011. Three internal Audit Reports were completed during the year covering Financial Reporting; Review of Systems of Internal Control; and Procurement of Barrister Services. In addition, two reports were presented to the Audit Committee on the status of recommendations from previous internal Audit Reports. All Audit Reports were sent to the Comptroller & Auditor General, together with the Annual Report for the Management Advisory Committee prepared by the Audit Committee.
- 2.1.23** The Audit Committee also discussed Risk Management at each of their meetings. Risk Registers for the Office were updated during 2011.
- 2.1.24** An Implementation Body was set up by Government in July 2010 to oversee and verify progress by public sector organisations in implementing the provisions of the Public Service Agreement (also known as the Croke Park Agreement). During 2011 this Office submitted two progress reports to the Implementation Body outlining progress made on delivering the commitments made in our Action Plan. Progress focussed mainly on streamlining services through devolution of decision-making across the legal divisions of the Office; reduction in legal costs through pursuit of a robust costs policy; and more efficient processing of payments through automation of financial systems. Copies of progress reports are available on our website at www.dppireland.ie.
- 2.1.25** In April 2010 the 2nd Irish Language Scheme for the Office of the DPP came into effect. Progress in relation to delivery on the commitments set out in the Scheme is monitored by Oifig an Choimisinéara Teanga. In September 2011 this Office submitted a progress report at the request of an Choimisinéar Teanga, followed by a meeting with a representative from his office in November 2011. The following is an extract from the final report of an Choimisinéar Teanga:

"Based on the evidence supplied to us during the monitoring process, it is our opinion that continuous and satisfactory progress is being made by the Office of the Director of Public Prosecutions in implementing the second language scheme

Overall it is clear to us that the Office of the Director of Public Prosecutions accommodates the Irish language in its activities, via the Language Scheme, and we commend them on their continuous work."

INTERACTION WITH OTHER AGENCIES

- 2.1.26** The Office of the Director of Public Prosecutions is one of a number of agencies working within the criminal justice system. It is essential to the work of this Office that we continuously strive to enhance relationships with individual stakeholder groups and develop initiatives to improve delivery of service.
- 2.1.27** On a day-to-day basis the Office of the Director of Public Prosecutions works with a number of investigative agencies from whom we receive investigation files. The vast majority of these files are submitted to this Office by An Garda Síochána. We therefore work closely with An Garda Síochána in the area of legal developments. During 2011 staff from this Office delivered training to members of An Garda Síochána on a variety of topics including File Preparation; District Court Practice & Procedure; Fraud; Proceeds of Crime Act; Criminal Justice Act 1994, Disclosure; and Forensic Evidence. In addition, during the year An Garda Síochána facilitated two educational visits to Garda Headquarters and the Forensic Science Laboratory for staff from the Office of the DPP.
- 2.1.28** In the interests of ensuring a more effective and efficient prosecution service our Prosecution Policy Unit continued during 2011 to engage with a number of agencies on the development of service level agreements. The agreements will assist in streamlining the submission of materials to this Office in relation to the prosecution of criminal offences and the disclosure obligations arising in such prosecutions. The agencies involved in this initiative are the Health & Safety Authority; Clinical Assessment Units in Temple Street and Crumlin Children's Hospitals; the Garda Síochána Ombudsman Commission; and the Dublin Rape Crisis Centre.
- 2.1.29** The Office has also facilitated students from a number of our national universities under the Student Internship Programme and other programmes, including the University of Tulsa Summer School and the NUI Galway Clinical Placement Programme. The Programme is co-ordinated and managed by the Prosecution Policy Unit. A total of 6 students took up placements of varying lengths in the Office during the year. These initiatives provide the students with valuable practical work experience and also enable the Policy Unit to enhance its research capacity.
- 2.1.30** The Office also participates in the training of trainee solicitors. During 2011 staff from this Office delivered 81 hours training to students in the Law Society of Ireland on topics such as criminal litigation; criminal advocacy; road traffic legislation; judicial review; indictable offences; and evidence.
- 2.1.31** The Office continues to participate in and contribute to various inter-agency groups including: The Criminal Law Advisory Committee; Advisory Group on Interviewing of Suspects; the DPP/Garda Liaison Group; the Advisory Group on Crime and Criminal Justice Statistics; various Courts Service User Groups; the Intergovernmental Support for Victims of Crime Project Advisory Group; the Criminal Justice Act Steering Group; the Victims Services Liaison Group; the Working Group to identify and report on efficiencies in the Criminal Justice System of the Courts; and the Expert Group - McFarlane Article 13 ECHR Implementation.
- 2.1.32** In 2011 the Office continued to contribute to the development of criminal law at an international level and participated in a number of initiatives involving international organisations. We also continued to contribute to the work of international bodies

and organisations including EUROJUST; GRECO; OLAF; Eurojustice; the International Association of Prosecutors; the International Society for the Reform of Criminal Law; and the International Bar Association.

2.1.33 The former Director of Public Prosecutions, Mr. James Hamilton, served his second year as President of the International Association of Prosecutors during 2011. His term of office continues until September 2013. The Association provides a forum for exchange of information and experience between prosecutors on a worldwide basis.

PUBLIC EXPECTATIONS OF SERVICE

2.1.34 One of the most significant initiatives in relation to public expectations of the prosecution service was the introduction in 2008 of the Office policy on giving reasons for decisions not to prosecute in cases involving a death. During 2011 the Office received 12 requests for reasons. A more detailed breakdown is outlined in chapter 4.1 of this report. This new policy represents a departure from previous practice whereby reasons for decisions not to prosecute were given only to the Gardaí or other investigators, but not to families of the deceased. It is hoped that in giving reasons in such cases it may assist families in understanding why a prosecution could not be brought.

2.1.35 The Office website continues to provide victims of crime, witnesses, and the public generally with a wide range of information on the work of the Office and the criminal justice system in general. The website was enhanced in 2009 to incorporate a user-friendly Brief Guide to the Criminal Justice System and a dedicated section for Victims and Witnesses. There were a total of 23,191 unique visitors to the site during 2011 - an increase of 15% from the previous year. After the Homepage, the Brief Guide to the Criminal Justice System is the most visited page on the site accounting for 16,198 pageviews during the year in review. The Victims and Witnesses section is also among the top ten most visited pages on the site. The Office will continue to monitor

traffic on the website so that we can continue to provide as full an information service as possible to victims of crime and the public generally.

2.1.36 The Victims' Charter published in July 2010 by the Victims of Crime Office, Department of Justice, Equality and Defence, sets out the rights and entitlements of victims to services provided by various State agencies, including the Office of the DPP. The Charter clearly states the services that victims of crime can expect from this Office.

2.1.37 Our Case, Document Management and File Tracking System provides us with some of the information necessary to enable us to monitor delivery of the commitments set out in the Charter. The system, as stated earlier in this chapter, is under review and is continuously being enhanced to better meet the business needs of the Office. The information currently available in relation to compliance with the Victims Charter is as follows:

- When requested by a victim, we reviewed decisions we had made in relation to prosecution cases whenever possible;
- The Office dealt with 12 requests for reasons for decisions received from victims' families during 2011;
- Through induction training and mentoring programmes, the Office ensures that all staff are aware of their obligations to treat victims/witnesses with respect and take account of their personal situation, rights and dignity;
- Staff in the Office of the DPP continuously work with the Gardaí to ensure victims are kept informed about their case;
- Pre-trial meetings between victims and the prosecution team were offered in all appropriate cases in Dublin Circuit and Central Criminal Court cases during 2011;
- Applications for review of sentences considered to be unduly lenient were lodged in 55 cases during 2011.

2.1.38 The 2nd Irish Language Scheme for the Office was published in April 2010 and is available on our website at www.dppireland.ie. The scheme builds on the commitments set out in the previous scheme published under the Official Languages Act 2003. All publications produced by the Office are bilingual and the Office website is fully bilingual. During 2011 the Office dealt with 10 High Court cases in the Irish language and 4 Supreme Court cases. The Office also dealt with 1 letter and 5 e-mails in Irish during the year. There were no telephone calls received during the year that required to be dealt with by staff on our in-house Irish Language Panel.

2.2 OFFICE EXPENDITURE

Chart 2.2.1 shows the breakdown of office expenditure for 2011, 2010 and 2009.

Salaries & Wages: This represents the cost of salaries of staff employed in the Office. The total staff complement at 1 January 2011 was 191.4.

Office Expenses: This relates to general office administration costs including purchase and maintenance of office equipment, office supplies, library costs, office premises maintenance, travel and other incidental expenses.

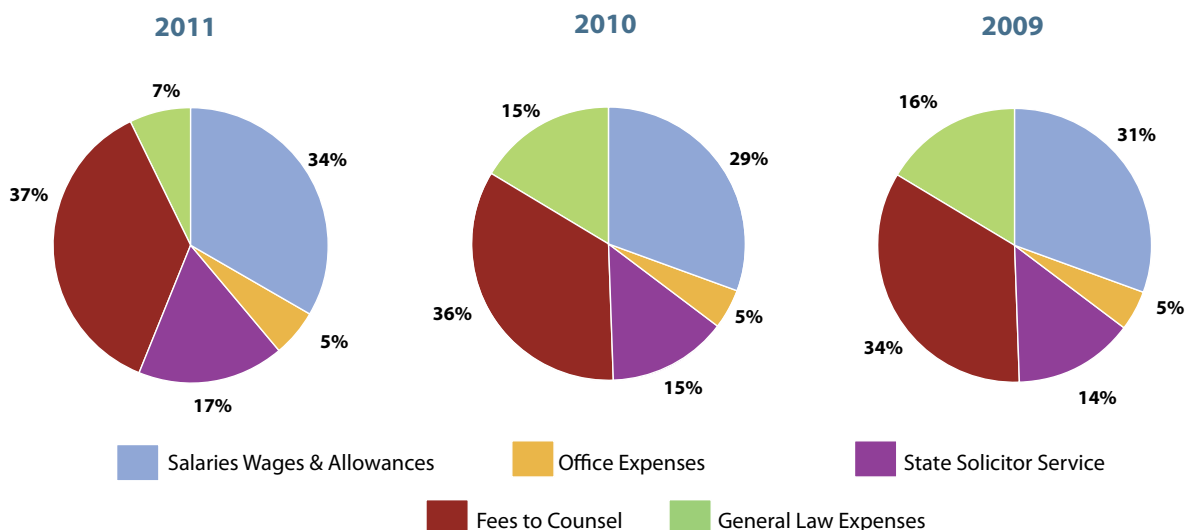
State Solicitor Service: This refers to payment of salaries and expenses to the 32 State Solicitors in private practice who are contracted to this Office to represent the Director in courts outside Dublin.

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

General Law Expenses: This refers to the payment of legal costs awarded by the courts in judicial review matters and other applications connected to legal proceedings against the Director.

CHART 2.2.1: OFFICE EXPENDITURE

	2011	%	2010	%	2009	%
	€		€		€	
Salaries Wages & Allowances	12,357,035	34%	12,082,779	29%	13,685,992	31%
Office Expenses	1,994,473	5%	2,085,318	5%	2,158,818	5%
State Solicitor Service	6,302,448	17%	6,321,857	15%	6,368,245	14%
Fees to Counsel	13,501,066	37%	14,734,046	36%	15,283,338	34%
General Law Expenses	2,622,289	7%	6,078,790	15%	7,289,469	16%
TOTAL	36,777,311		41,302,790		44,785,862	



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

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

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

CHART 2.2.2: FEES TO COUNSEL PAID BY COURT

	2011	%	2010	%	2009	%
	€		€		€	
Circuit Court	7,440,212	55%	7,596,660	52%	9,109,899	60%
Central Criminal Court	3,614,669	27%	4,338,447	29%	3,843,990	25%
High Court	1,389,815	10%	1,542,024	10%	1,303,317	9%
Supreme Court	124,711	1%	362,573	2%	208,140	1%
Court of Criminal Appeal	695,512	5%	518,596	4%	532,581	3%
Special Criminal Court	228,126	2%	341,533	2%	276,530	2%
District Court	8,021	0%	34,213	0%	8,881	0%
TOTAL	13,501,066		14,734,046		15,283,338	

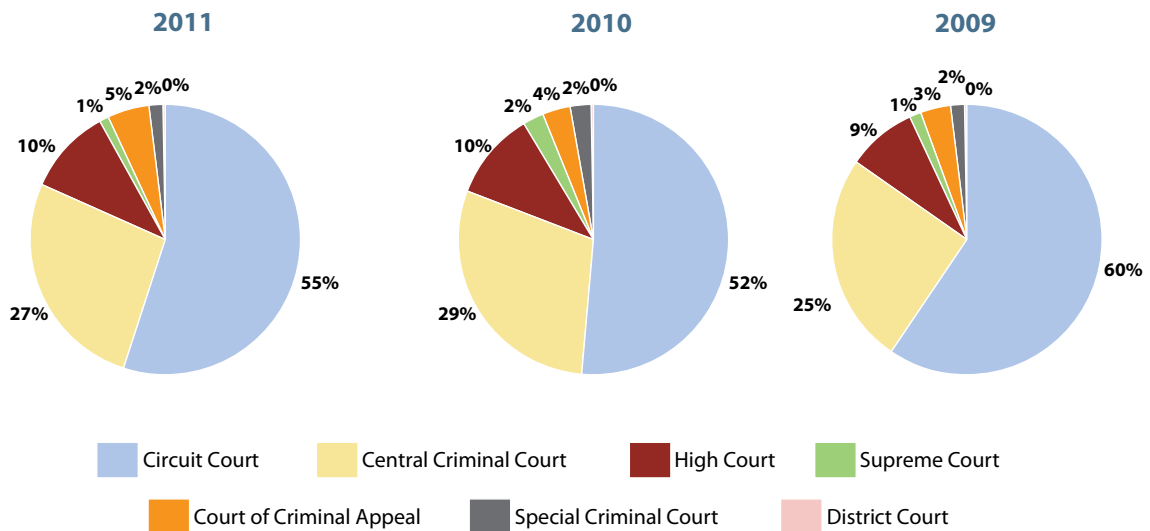
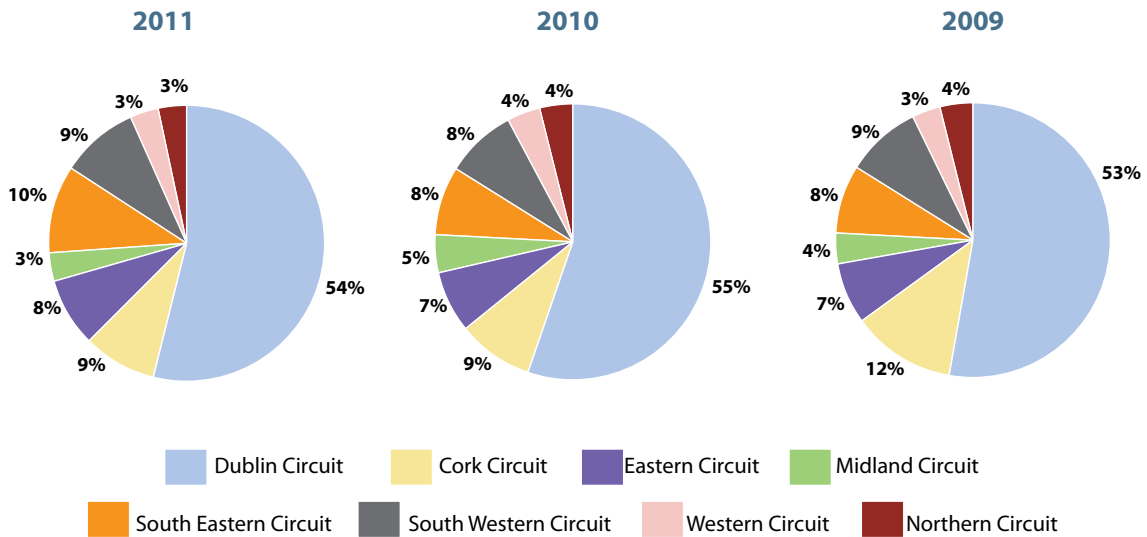


CHART 2.2.3: FEES TO COUNSEL PAID BY CIRCUIT

	2011	%	2010	%	2009	%
	€		€		€	
Dublin Circuit	4,012,452	54%	4,202,177	55%	4,824,375	53%
Cork Circuit	638,650	9%	692,302	9%	1,113,821	12%
Eastern Circuit	607,674	8%	539,473	7%	661,256	7%
Midland Circuit	244,022	3%	346,800	5%	328,395	4%
South Eastern Circuit	767,844	10%	603,052	8%	738,698	8%
South Western Circuit	675,173	9%	630,816	8%	795,015	9%
Western Circuit	257,192	3%	305,835	4%	305,913	3%
Northern Circuit	237,205	3%	276,205	4%	342,426	4%
TOTAL	7,440,212		7,596,660		9,109,899	



2.3 EXTRACT FROM APPROPRIATION ACCOUNT 2010

Account of the sum expended in the year ended 31 December 2010, 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.

Service	2010 Estimate Provision	2010 Outturn	2009 Outturn
	€'000	€'000	€'000
ADMINISTRATION			
A.1. Salaries, Wages and Allowances	13,257	12,928	13,686
A.2. Travel and Subsistence	145	97	90
A.3. Incidental Expenses	1,185	937	1,041
A.4. Postal and Telecommunications Services	320	270	343
A.5. Office Machinery and Other Office Equipment and Related Expenses	996	494	1,012
A.6. Office Premises Expenses	630	523	574
A.7. Value for Money & Policy Reviews	5	-	-
OTHER SERVICES			
B. Fees to Counsel	14,342	14,734	15,283
C. General Law Expenses	7,000	6,079	7,290
D. Local State Solicitor Service	5,974	6,322	6,368
Gross Expenditure	43,854	42,384	45,687
<i>Deduct -</i>			
E. Appropriations-in-Aid	614	1,031	901
Net Expenditure	43,240	41,353	44,786
Surplus to be Surrendered		€1,887,211	€335,138

2.4 PROMPT PAYMENT OF ACCOUNTS ACT, 1997

Late Payments in Commercial Transactions Regulations 2002

OPERATION OF THE ACT IN THE PERIOD 1 JANUARY 2011 TO 31 DECEMBER 2011

2.4.1 The Office of the Director of Public Prosecutions makes payments to suppliers after the goods or services in question have been provided satisfactorily and within 30 days of the supplier submitting an invoice. In the case of fees to counsel, while invoices are not generated, the practice of the Office is to pay counsel's fees within 30 days of receipt of a case report form in each case.

2.4.2 In the period in question, the Office made two late payments in excess of €317.50. The value of these payments were €1,866. The total value of late payments in the year amounted to €1,866 out of total payments of €2.232 million and interest thereon came to €15.42.

STATEMENT OF THE ACCOUNTING OFFICER

2.4.3 The Office of the Director of Public Prosecutions is one of the organisations which is subject to the terms of the Prompt Payment of Accounts Act, 1997 and the Late Payments in Commercial Transactions Regulations 2002. The Act came into force on 2 January 1998, and since that time the Office has complied with the terms of the Act.

2.4.4 All invoices from suppliers are date stamped on receipt. Invoices are approved and submitted for payment in a timely manner to ensure that payment is made within the relevant period. When the invoices are being paid the date of receipt and the date of payment are compared, and if the relevant

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

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

Barry Donoghue
Accounting Officer
August 2012

2.5 KEY OUTPUTS

2.5.1 The fundamental function of the Office of the Director of Public Prosecutions is the direction and supervision of public prosecutions and related criminal matters. The majority of cases dealt with by the Office are received from An Garda Síochána, the primary national investigating agency. However, some cases are also referred to the Office by specialised investigative agencies including the Revenue Commissioners, Government departments, the Health & Safety Authority, the Competition Authority, the Office of the Director of Corporate Enforcement, the Garda Síochána Ombudsman Commission, the Environmental Protection Agency and local authorities.

2.5.2 The high level goal of the Office is to provide on behalf of the People of Ireland a prosecution service that is independent, fair and effective. To do this the Office must ensure that criminal investigation files submitted to the Office are dealt with in a timely manner in accordance with the published *Guidelines for Prosecutors*.

2.5.3 In 2011 the Estimates for a number of Votes were restructured on a Strategic Programme basis so that they included certain performance information regarding the outputs and impacts of Programme expenditure. The purpose of the restructuring was to hold public sector organisations accountable for the proposed allocation and effective utilisation of public funds.

2.5.4 This Performance Budgeting approach was adopted by the Office of the Director of Public Prosecutions in the preparation of Estimates 2011-2012. Charts 2.5.1 and 2.5.2 overleaf set out the key outputs for the Office together with the context and impact indicators.

NOTE: Statistics quoted in the charts reflect the work done on prosecution files and legal proceedings during the years specified whether the files were received in those years or in previous years. For this reason the statistics quoted are not directly comparable to statistics quoted in Part 4 of this report which are compiled on the basis of the year the file was received in the Office.

CHART 2.5.1: KEY OUTPUTS

Key Outputs	2011 Outputs	2012 Output Targets
Public Service Activity: Issue directions in relation to suspects on files submitted by investigation agencies	Issued Directions in relation to 14,014 suspects	Issue Directions in relation to 13,500 - 14,000 suspects
Deal with court proceedings on indictment arising out of directions to prosecute	Dealt with 3,862 new court proceedings against suspects together with ongoing prosecutions	Deal with 3,500 - 4,000 new court proceedings against suspects together with ongoing prosecutions
Directly deal with Dublin District Court prosecution files	Dealt with 1,824 files	Deal with 1,500 - 2,000 files
Handle District Court appeals, including appeals in cases prosecuted by the Garda Síochána under delegated authority	Dealt with 2,307 appeal files	Deal with 2,000 - 2,500 appeal files
Deal with High Court Bail applications and Judicial Review cases	Dealt with 2,546 Bail applications and 264 Judicial Review cases	Deal with about 2,500 Bail applications and 250 - 300 new Judicial Review cases

CHART 2.5.2: CONTEXT & IMPACT INDICATORS

Context & Impact Indicators	2009	2010	2011
Staff employed at year end	195.9	194.4	195.5
Average time per suspect within which directions are issued (from receipt of prosecution files)	2 weeks - 42% 4 weeks - 62% 3 months - 84%	2 weeks - 44% 4 weeks - 61% 3 months - 84%	2 weeks - 44% 4 weeks - 61% 3 months - 85%
Fees paid to Counsel (% change over previous year)	€15.283 million (+ 11%)	€14.734 million (- 4%)	€13.501 million (- 8%)
Law costs awarded against the DPP's Office (% change over previous year)	€7.290 million (+ 23%)	€6.079 million (- 17%)	€2.622m (- 57%)

2.6 FREEDOM OF INFORMATION

- 2.6.1** Section 46(1)(b) of the Freedom of Information (FOI) Act, 1997 provides a right of access only with regard to records which relate to the general administration of the Office. This in effect means that records concerning criminal prosecution files are not accessible under the FOI Act.
- 2.6.2** The Office continues to make FOI information available as readily as possible. Our section 15 and 16 Reference Book is available on our website, www.dppireland.ie. This publication outlines the business of the Office including the types of records kept.
- 2.6.3** The FOI Unit can be contacted by telephone at 01 858 8500.
- 2.6.4** During 2011 a total of eleven requests were submitted to the Office. Five of the requests were refused under the Act and two requests were withdrawn / dealt with outside of FOI. Four requests were granted/part granted. The reason for the refusals was that the records sought did not relate to the general administration of the Office.
- 2.6.5** Four of the requests were submitted by journalists, one by staff and one by a business/interest group, while the other five requests were made by the general public. Six of the eleven requests received related (in total or in part) to criminal files.
- 2.6.6** In the five cases where requests were refused, only one of the requesters sought an internal review of the original decision. In this case, the original decision was upheld. No requester appealed a decision to the Information Commissioner.

Requests Received 2011

Refused under section 46(1)(b)	5
Withdrawn / dealt with outside of FOI	2
Requests Granted / Part Granted	4
TOTAL REQUESTS	11

Requesters 2011

Journalists	4
General Public	5
Staff	1
Business/Interest Group	1

Reviews 2011

Requests for Internal Review	1
Requests to the Information Commissioner for Review	0

2.7 ANNUAL ENERGY EFFICIENCY REPORT 2011

OVERVIEW OF ENERGY USAGE IN 2011

2.7.1 In 2011, the Office of the Director of Public Prosecutions consumed 1,567.55 MWh of energy. This represents an overall reduction of almost 20% on our energy usage in 2010. (The actual percentage reduction is 18.6% of 1,927.30 MWh). The energy consumed is in respect of space heating, air conditioning, lighting, hot water, computer systems and other office equipment at both our office buildings in Merrion Street, Dublin 2 and North King Street, Dublin 7.

This figure is compiled as follows:

- 921.48 MWh of Electricity
- 646.07 MWh of Natural Gas

ACTIONS UNDERTAKEN IN 2011

2.7.2 During 2011, the Office continued to work closely with maintenance contractors and external consultants appointed by OPW to help improve the energy efficiency of both of the buildings assigned to this Office. Actions taken during 2011 include the following:

- The computerised Building Management System (BMS) was adjusted at the start of the year to take account of various official holidays throughout the year ensuring that the heating and ventilation system was not operational on these days.
- The information campaign which commenced in 2010 continued with a poster campaign alerting staff to a variety of ways of reducing energy usage both in the office and at home.

- Upgrade works to the boiler system in the Merrion Street office were completed. The new boiler system is more efficient resulting in reduced energy consumption and therefore cost savings.
- Two members of the facilities management staff completed a three day Diploma Course in Energy Management under the guidance of the SEAI. The staff concerned can use the skills gained through this course to continue to achieve reductions in energy usage, reductions in carbon emissions and reductions in costs.
- The switch to energy efficient light bulbs commenced in 2011 and will be an ongoing initiative.
- Regular maintenance of the HVAC system was completed as scheduled thus ensuring maximum efficiency of the system.

ACTIONS PLANNED FOR 2012

2.7.3 Actions planned for 2012 include the following:

- All water heaters to be controlled by timers or connected up to the BMS thus ensuring they are operating for the minimum periods necessary.
- Continuation of the awareness campaign for staff using signage and posters.
- Energy Awareness Information Sessions to be provided for all staff by the OPW appointed consultant.
- Gas boilers in the North King Street building will be switched off for the Summer season.
- Examination of night time electricity usage in consultation with the Office IT Unit.

PART 3:

LEGAL DEVELOPMENTS

3.1 LEGAL DEVELOPMENTS

2011

INTRODUCTION

- 3.1.1** The purpose of this chapter is to give a brief review of the more important or interesting decisions and developments in the area of criminal law in 2011. As in previous years, the cases are chosen to give a flavour of the type of legal issues which arise in the area of criminal law. This chapter is not intended to give a comprehensive review of all developments in criminal law during the year. The areas of law where sample decisions have been chosen are judicial review cases, court of criminal appeal cases, drink driving cases, *habeas corpus* and bail applications.

JUDICIAL REVIEW CASES

CRITERIA FOR GRANTING LEGAL AID

- 3.1.2** In *David Joyce v. Director of Public Prosecutions* [2011] IESC 36 the appellant was charged in the District Court with stealing €287 from a supermarket. He had no previous convictions. When considering an application for legal aid the District Judge concluded that the appellant was not “*at risk*” of a custodial sentence if convicted and declined to grant him legal aid. The High Court declined to quash the decision not to grant legal aid. The decision was appealed to the Supreme Court. The Court held that the issue of whether or not an accused is “*at risk*” of a custodial sentence is not the only criteria for deciding if an accused should be granted legal aid. The issue in every case is whether a trial of the accused without legal representation would be a fair trial. Even if an accused was not at risk of a prison sentence a court should consider whether (a) the factual or legal complexity of the case; (b) the consequences of a conviction for the

accused; or (c) any other factor in the case, means that it is appropriate to grant legal aid to ensure a fair trial.

JURISDICTION OF HIGH COURT TO MEASURE COSTS

- 3.1.3** In *Patrick Taaffe v. Director of Public Prosecutions and Others* [2011] IESC 408 the issue to be resolved was the jurisdiction of the High Court to measure costs. The applicant had sought to quash the issue of a bench warrant for his arrest which related to his non appearance in the District Court for a public order charge. The respondents were not objecting to the application and the only issue to be resolved was the level of costs to be paid to the applicant. The applicant contended that the High Court had no jurisdiction to measure costs in the absence of an agreement to that effect except by reference to a proportion of a taxed sum. The respondents contended that the Court did possess such a jurisdiction and that it was one which may be properly exercised in cases of this nature, thereby avoiding unnecessary inconvenience and additional expense to the State and the taxpayer. The High Court found that it had jurisdiction to measure costs in uncontested *habeas corpus* or judicial review proceedings where, following the granting of leave, the respondents in any given case indicate that no opposition will be raised to the making of a *habeas corpus* order or the quashing by way of certiorari of some order of the District or Circuit Court. The Court derived its jurisdiction to measure costs from Order 99(5)(2)(a) of the Rules of the Superior Courts.

OFFENCE OF UNLAWFUL CARNAL KNOWLEDGE UNCONSTITUTIONAL

- 3.1.4** In *ZS v. Director of Public Prosecutions* [2011] IESC 49, the Supreme Court ruled that the offence of unlawful carnal knowledge with a female under the age of 17 years was inconsistent with the Constitution. The offence was created by section 2(1) of the Criminal Law Amendment Act 1935. The section was held to be unconstitutional by reason of the fact that it was a strict liability offence which precluded an accused from raising the defence of reasonable mistake as to the victim's age. Section 1 of the Criminal Law Amendment Act 1935 which applied to girls under the age of 15 was found to be unconstitutional for the same reason in the earlier case of *CC v. Ireland* [2006] IESC 33.

SECTION 12 OF THE IMMIGRATION ACT 2004 UNCONSTITUTIONAL

- 3.1.5** In *Ebere Dokie v. Director of Public Prosecutions* [2011] IR 110 the High Court ruled that section 12 of the Immigration Act 2004 was inconsistent with the Constitution. The offence created by section 12 was committed where a non-national failed to produce relevant identity papers on demand by the authorities. The applicant had arrived from Nigeria at Dublin Airport and was asked to produce her identity papers. When she failed to do so she was arrested and charged with an offence contrary to section 12 of the Immigration Act 2004. The charge alleged that she, being a non-national, failed to produce on demand to an immigration officer or Garda a valid passport or other equivalent document which established her identity and nationality. The charge also alleged that she failed to give a *satisfactory explanation* of the circumstances which prevented her from doing so. The applicant sought a declaration from the High Court that the offence was unconstitutional on the grounds that the wording purporting to create the criminal offence was too vague and imprecise and that it also offended the principle that a person is not obliged to incriminate themselves. The High Court agreed and struck down the

section. The Court held that a person must be able to ascertain what conduct is prohibited before they can be subject to the criminal law. The failure to define in the legislation the term *satisfactory explanation* gave rise to vagueness and uncertainty.

NOTE: New sections 11 and 12 were inserted into the Immigration Act 2004 by section 34 of the Civil Law (Miscellaneous Revisions) Act 2011.

JUDICIAL REVIEW APPLICATION TO PROHIBIT FOURTH TRIAL REFUSED

- 3.1.6** In *AP v. Director of Public Prosecutions* [2011] IESC 2 the appellant was charged with a number of counts of indecent assault alleged to have been committed in the mid 1970s. He pleaded not guilty and went on trial. A trial commenced on three separate occasions, but on each occasion the trial judge acceded to an application by the appellant's counsel to discharge the jury because the jury had heard evidence from a witness which was considered to be inadmissible or prejudicial to the appellant. When the case was listed for a fourth trial the appellant applied to the High Court for an order prohibiting his trial. He limited his grounds for judicial review submitting that a fourth trial *per se* would amount to an abuse of process and a breach of his right to a fair trial. Both the High Court and Supreme Court dismissed the application for judicial review. The Supreme Court held that there was no rule of law which limited the number of retrials which may occur. Each case was required to be considered on its own facts to determine if a further prosecution would be constitutional. A fourth trial is not *per se* prohibited. In considering a case to determine whether a retrial would be constitutional, the main factors the court should consider are the seriousness of the offences, any prosecutorial delay which has a prejudicial effect on an accused, the length of time a case is in the legal system and issues of stress and anxiety.

COMPANY EMPLOYEES CAN BE PROSECUTED FOR PRICE FIXING EVEN IF THE COMPANY HAS NOT BEEN CHARGED OR CONVICTED

- 3.1.7** In *Director of Public Prosecutions v. Pat Hegarty* [2011] IESC 32, the accused was the manager of an oil company. He was charged with entering into an agreement on behalf of the company to fix the price of gas oil with other oil companies. The company had not been charged or convicted for its role in the price fixing cartel. The accused submitted that it was necessary for the company to be convicted of the offence before he could be found guilty. The trial judge rejected the proposition and agreed to refer the case to the Supreme Court by way of case stated. The Supreme Court held that the true meaning of section 3(4) of the Competition Act 1996 was that the company did not have to be convicted of an offence before a manager or director was convicted. While it was not necessary to prosecute and convict the company in order to find the accused guilty, it was an essential ingredient of the offence that the jury was satisfied that the company itself must have committed the offence in order for the accused to be ultimately convicted.

COURT REJECTS CLAIM THAT LAW PROVIDING FOR DISMISSAL OF CRIMINAL CHARGES IS UNCONSTITUTIONAL

- 3.1.8** In *Noel Brohoon v. Director of Public Prosecutions* [2011] IEHC 74, the High Court rejected the plaintiff's submission that section 4E of the Criminal Procedure Act 1967 was unconstitutional. Section 4E of the Criminal Procedure Act 1967 provides that an accused may apply to the trial court to dismiss one or more of the charges against him if it appears to the trial court that there is not a sufficient case to put the accused on trial. If a charge is dismissed the Director can appeal against the dismissal to the Court of Criminal Appeal. In this case the plaintiff complained that there was no corresponding right of appeal for an accused against a trial judge's decision not to dismiss a charge. The High Court rejected his arguments. The Court held that where an

application by an accused person to dismiss charges in the Circuit Criminal Court was unsuccessful, the accused had a number of options including judicial review, a case stated to the Supreme Court on a point of law and, in the event of conviction, an appeal on the point to the Court of Criminal Appeal. The need of the prosecution, based on its different role and situation, for such a right was clear and self-evident. A decision by the Circuit Court to dismiss a prosecution under section 4E would mean that the prosecution would not have any recourse to the Court of Criminal Appeal were it not for section 4E, as the prosecution would have terminated.

DEFINITION OF THE WORD 'DETAINED' IN FORFEITURE OF CASH CASE

- 3.1.9** In *Director of Public Prosecutions v. David Anthony England* [2011] IESC 16 the Supreme Court held that the Circuit Court had no jurisdiction to make a forfeiture order under section 39 of the Criminal Justice Act 1994 in respect of cash seized once an order detaining the cash seized under section 38 of the Criminal Justice Act 1994 had expired. It was plain from the statutory provisions cited that the jurisdiction created by section 39 to order forfeiture of cash seized under section 38 required that an application for such forfeiture be made while the cash was 'detained' under the said section 38.

COURT OF CRIMINAL APPEAL

SENTENCE UNDULY LENIENT IN AGGRAVATED BURGLARY CASE

- 3.1.10** In *Director of Public Prosecutions v. Kieran Barry*, 4 July 2011 (ex tempore), the respondent had pleaded guilty in the Circuit Court to the offence of aggravated burglary. The trial judge sentenced him to two years imprisonment. The Director sought a review of the decision to the Court of Criminal Appeal on the grounds that the sentence was unduly lenient. The facts of the case were that the respondent had forcibly entered the house of the victim late at night and threatened to slit her throat with a knife he had in his possession. The

Court of Criminal Appeal ruled that there was an error of principle in sentencing. The sentence was insufficient as it failed to take into consideration the severity of the case. The Court increased the sentence from two years imprisonment to four years imprisonment. The only mitigating factor in the case was that the respondent had pleaded guilty. An important aggravating factor in the case was that the offence was committed while the respondent was on bail awaiting sentence in respect of other offences. The Court held that the sentence was unduly lenient, having regard to the nature of the offence, the circumstance in which it was committed and the maximum sentence an accused could receive in respect of the offence which was life imprisonment.

SUSPENDED SENTENCE INCREASED IN ARSON CASE

- 3.1.11** In *Director of Public Prosecutions v. Patrick Harcourt*, 17 October 2011 (ex tempore), the respondent had pleaded guilty in the Circuit Court to the offence of arson. The trial judge sentenced him to a term of imprisonment of three years, the entirety of the term being suspended. The Director sought a review of the sentence to the Court of Criminal Appeal on the grounds, that the sentence was unduly lenient. The facts of the case were that the respondent had driven a man to a garage and that man then set fire to the garage and motor vehicles. The damage to the garage premises and vehicles amounted to €284,000. The Court of Criminal Appeal ruled that there was an error of principle in sentencing in one respect only. The sentencing error was that the starting point adopted by the trial judge of three years was too low for such a serious offence. The Court increased the sentence to five years imprisonment but suspended the entirety of that five year term as it agreed with the trial judge that the respondent had changed his life since the offence and there was a very real prospect of rehabilitation. He had not come to the notice of the Gardaí since he committed the offence in 2007 and the Probation Services report described him as being at a moderate risk of re-offending.

COURT RULES THAT SEARCH WARRANT WAS NOT INVALID

- 3.1.12** In *Director of Public Prosecutions v. Gareth Mallon* [2011] IECCA 29 the respondent's home was searched and controlled drugs were found in his premises. He was then charged with drug offences and went on trial in the Circuit Court. The search warrant which was issued had mistakenly described the premises as *4 Marrowbone Close, Dublin 8*. The correct address for the warrant should have been *4 Marrowbone Lane Close, Dublin 8*. The respondent argued that the warrant had been issued for a premises which did not exist and the search was therefore illegal. The Circuit Court agreed and dismissed the case pursuant to section 4E of the Criminal Procedure Act 1967 ruling that the warrant was invalid. The Director then appealed the decision to the Court of Criminal Appeal. The Court allowed the appeal ruling that the warrant was not invalid in that the recitation of the incorrect address of the premises to be searched constituted a mere misdescription and was not calculated to mislead. Not every error in a search warrant will lead to invalidation of the warrant. The misdescription was not a deliberate and conscious violation of the respondent's constitutional rights.

ROAD TRAFFIC CASES

OPINION OF GARDA WHEN ARRESTING ACCUSED

- 3.1.13** In *Director of Public Prosecutions v. Anthony Reddy* [2011] IEHC 40 the prosecuting Garda had received a call from Garda command relating to a crash which had been observed by an off-duty Garda. The prosecuting Garda testified that it was clear when he arrived at the scene that the car had crashed as there was damage to the side of the vehicle and it eventually had to be towed away. The District Judge dismissed the case on the ground that since the prosecuting Garda had not actually seen the accused drive the car, he could not have reasonably formed the opinion for an arrest as required by section 49(8) of the Road Traffic Act 1961 as amended. The Director

appealed the decision to the High Court by way of case stated. The High Court held that the Judge was wrong to dismiss the case. A requirement that the arresting Garda observe the defendant to be actually driving a motor vehicle in such a manner as to give rise to reasonable opinion was to add something which the relevant statute simply did not provide. The critical test is that the opinion formed by the Garda is a *bona fide* one. The opinion can derive from either his or her own observations or from reports received from third parties.

GARDA ENTITLED TO REFER TO LEGISLATION IN COURT

- 3.1.14** In *Director of Public Prosecutions v. Aidan Bailey* [2011] IEHC153 the accused was charged with the offence of drink driving. The prosecuting Garda gave evidence in court that he had advised the accused of the obligation under section 13 of the Road Traffic Act 1994 to provide two samples of breath for analysis. The Garda said that he warned the accused that if he failed to give a breath sample he would be committing an offence. When giving his evidence the Garda referred to an extract of the statute which contained the wording of the warning contained in section 13. The accused's solicitor objected to this. The accused was subsequently convicted of the drink driving offence and then applied to the High Court for a judicial review of the decision to convict him. The High Court refused the application for judicial review ruling that there was no reason why the Garda should be required to memorise the precise words of the section and recite by heart when giving evidence. There was no evidence that the warning was not given to the accused. Once the Garda had stated that he gave the section 13 warning to the accused, it seemed reasonable that he should be then allowed to read from the text of the Act. The Court noted that the applicant had not sworn an affidavit claiming that he was not given the section 13 warning. Neither did the accused give any evidence in court to rebut the claim by the Garda that the section 13 warning was given to him.

HUMIDITY LEVEL OUTSIDE THE RECOMMENDED RANGE

- 3.1.15** In *Director of Public Prosecutions v. Michael Nash* [2011] IEHC 418 the accused had been charged with a drink driving offence. During the course of the trial the District Judge heard evidence from the prosecuting Garda that the humidity level of the room where the sample of breath was taken was 26%. This was outside the recommended range as the guideline recommended that the Intoxilyser should optimally be used with a humidity level of between 30% and 90%. The Garda advised the Court that the humidity figures were merely guidelines and that he was satisfied that the Intoxilyser was working properly before the breath samples were analysed. He said that if the temperature and humidity of the room were such as to affect the accuracy of the reading then the Intoxilyser would not have printed the section 17 certificate as it did. The Judge dismissed the case and agreed to refer the case to the High Court by way of case stated. The High Court held that the District Judge was wrong to dismiss the case. There was no requirement either in the legislation or in the regulations that the temperature and humidity be noted, much less that they be requirements for a conviction. Evidence that the humidity fell outside the guideline levels did not rebut the presumption that the section 17 certificate was accurate.

HABEAS CORPUS & BAIL APPLICATIONS

JUDGE SHOULD NOT HAVE RELIED ON HEARSAY EVIDENCE WHEN REVOKING BAIL

- 3.1.16** *Richard McCann v. Governor of Castlereagh Prison* [2011] I.E.H.C 294. During the course of a bail application the District Court admitted hearsay evidence from a Garda that the applicant was involved in ongoing serious criminal activity and that he had been involved in an incident with certain members of a family which was antagonistic to the applicant and his family. The District Court then revoked the applicant's bail relying on this hearsay evidence. The

applicant then applied to the High Court for his release pursuant to Article 40.2 of the Constitution. The High Court released him from custody ruling that his detention was unlawful. The Court held that there was no recognised legal basis for the admission of the hearsay evidence in the circumstances of the case. The consequence of this was that the District Court had made a fundamental error in admitting the hearsay evidence and that this error vitiated the legality of the applicant's detention.

The District Court had acted lawfully in admitting the hearsay evidence and had acted lawfully in refusing bail.

JUDGE ACTED LAWFULLY IN ADMITTING HEARSAY EVIDENCE WHEN REFUSING BAIL

- 3.1.17** In *Mark Clarke v. Governor of Cloverhill Prison* [2011] I.E.H.C 199, the applicant was charged with a drugs offence and was then remanded on bail by the District Court. A member of the Gardaí was subsequently approached by a confidential informant known to him who told him that the applicant was to be given a passport and money to enable him to leave the State. The Garda then applied to the District Court for a warrant authorising the arrest of the applicant under section 6(5) of the Bail Act, 1997. He then applied to revoke the applicant's bail on the ground that the circumstances had changed since the applicant was first admitted to bail and that there was now a real risk that the applicant would flee the jurisdiction. The District Court admitted the Garda hearsay evidence that a confidential source had informed him that the applicant was to be given a passport and money to enable him to flee the State. The applicant sought an order of *habeas corpus*. The applicant argued that the District Court had not exercised an independent judgement regarding the issue of whether the applicant was a flight risk. The applicant also argued that the District Court had exceeded its jurisdiction by admitting hearsay evidence. The High Court refused the relief sought. The Court held that the District Court had exercised an independent judgement in respect of the allegation that the applicant was a flight risk and there was a recognised evidential basis for the admission of hearsay evidence in this case, i.e. informer privilege.

PART 4:

STATISTICS

STATISTICS

EXPLANATORY NOTE IN RELATION TO STATISTICS

- 4.1** The statistics outlined in this report have been compiled from the Office's electronic Case, Document Management and File Tracking system which went live in the Office at the end of October 2008.
- 4.2** The system operates on an integrated basis where all elements of a case, from the initial direction process to an appeal in the Court of Criminal Appeal, have the same case reference, providing a snapshot picture of all the different elements of a case at one glance.
- 4.3** As part of the implementation process data from the previous IT systems was migrated onto the new system. The previous systems consisted of numerous non-compatible databases, and the data migration processes involved a significant level of data matching and data cleansing. Because of this, there may be some slight discrepancies between statistics produced from the new system and data outlined in previous reports.
- 4.4** Part 4 is broken down into three distinct sections:
- Charts 1 to 5 (Part 4.1) relate to the receipt of files in the Office and include details on the types of directions made;
 - Charts 6 to 10 (Part 4.2) provide details of the results of cases prosecuted on indictment by the Director in respect of files received in the Office between 2008 and 2010.
 - Charts 11 to 13 (Part 4.3) relate to applications to the Courts for review of sentence on grounds of undue leniency; confiscation and forfeiture of criminal assets; and European Arrest Warrants.
- 4.5** All the yearly demarcations in the statistical tables refer to the year the file was received in the Office. The reason for going back so far in charts 6 to 10 is to take account of the time difference between a decision to prosecute being made and a trial verdict being recorded. If statistics were to be provided in respect of 2011 case outcomes, a large proportion of the cases would still be classified as 'for hearing' and the statistics would have little value. Cases heard within a short period of being brought are not necessarily representative.
- 4.6** 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 August 2012.
- 4.7** Caution should be exercised when comparing these statistics with statistics published by other organisations such as the Courts Service or An Garda Síochána. The statistics published here are based on our own classification and categorisation systems and may in some cases not be in line with the classification systems of other organisations.

4.1 PROSECUTION FILES RECEIVED

Chart 1 shows the total number of files received by the Office of the Director of Public Prosecutions from 1976 to 2011.

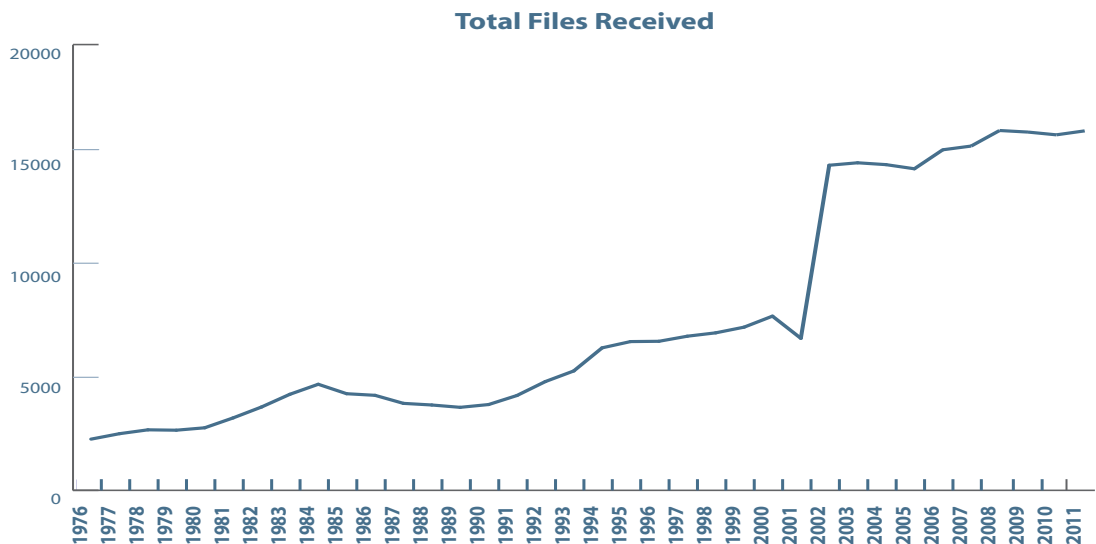
The vast majority of files received in the Office relate to the prosecution of criminal cases. The remainder deal with general queries, applications for judicial review or requests for legal advice from the Garda Síochána or local state solicitors. The number of files received, and the complexity of the issues that have to be addressed, has increased generally since the establishment of the Office.

The significant drop of over 1,000 files from 2000 to 2001 was the result of a change in administrative arrangements authorising the prosecution of certain offences by the Garda Síochána without the necessity for the prior submission of files to this Office for directions. The sharp increase in figures from 2001 to 2002 is due to the transfer of the Criminal Division of the Chief State Solicitor's Office to the Office of the Director of Public Prosecutions in December 2001 to form the Solicitors Division of the Office.

* **NOTE:** The figures for 2006 onwards do not include the number of other legal files received in the Office. These are files which relate to legal issues such as requests for legal advice from the Garda Síochána and local state solicitors. Because they do not relate to individual criminal prosecution files, it was considered more appropriate not to include them for statistical purposes.

CHART 1: TOTAL FILES RECEIVED

Year	Files	Year	Files	Year	Files
1976	2,298	1988	3,829	2000	7,815
1977	2,542	1989	3,724	2001	6,821
1978	2,715	1990	3,849	2002	14,586
1979	2,698	1991	4,255	2003	14,696
1980	2,806	1992	4,880	2004	14,613
1981	3,249	1993	5,356	2005	14,427
1982	3,738	1994	6,393	2006	* 15,279
1983	4,309	1995	6,674	2007	* 15,446
1984	4,759	1996	6,687	2008	* 16,144
1985	4,335	1997	6,915	2009	* 16,074
1986	4,263	1998	7,066	2010	* 15,950
1987	3,902	1999	7,321	2011	* 16,128



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

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

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

CHART 2: FILES DEALT WITH BY SOLICITORS DIVISION

	2011	%	2010	%	2009	%
District Court Prosecution Files	1737	25%	1979	29%	1969	28%
Appeals from District Court to Circuit Court	2306	34%	2178	32%	2572	37%
High Court Bail Applications	2545	37%	2316	34%	2037	30%
Judicial Review Applications	264	4%	308	5%	328	5%
TOTAL	6852		6781		6906	

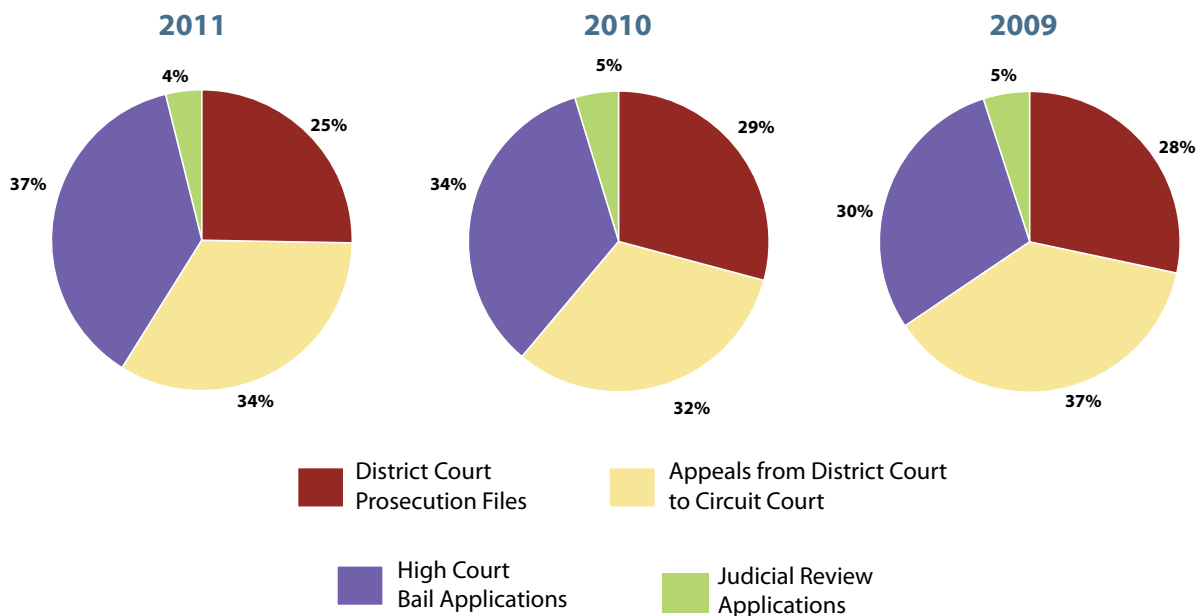
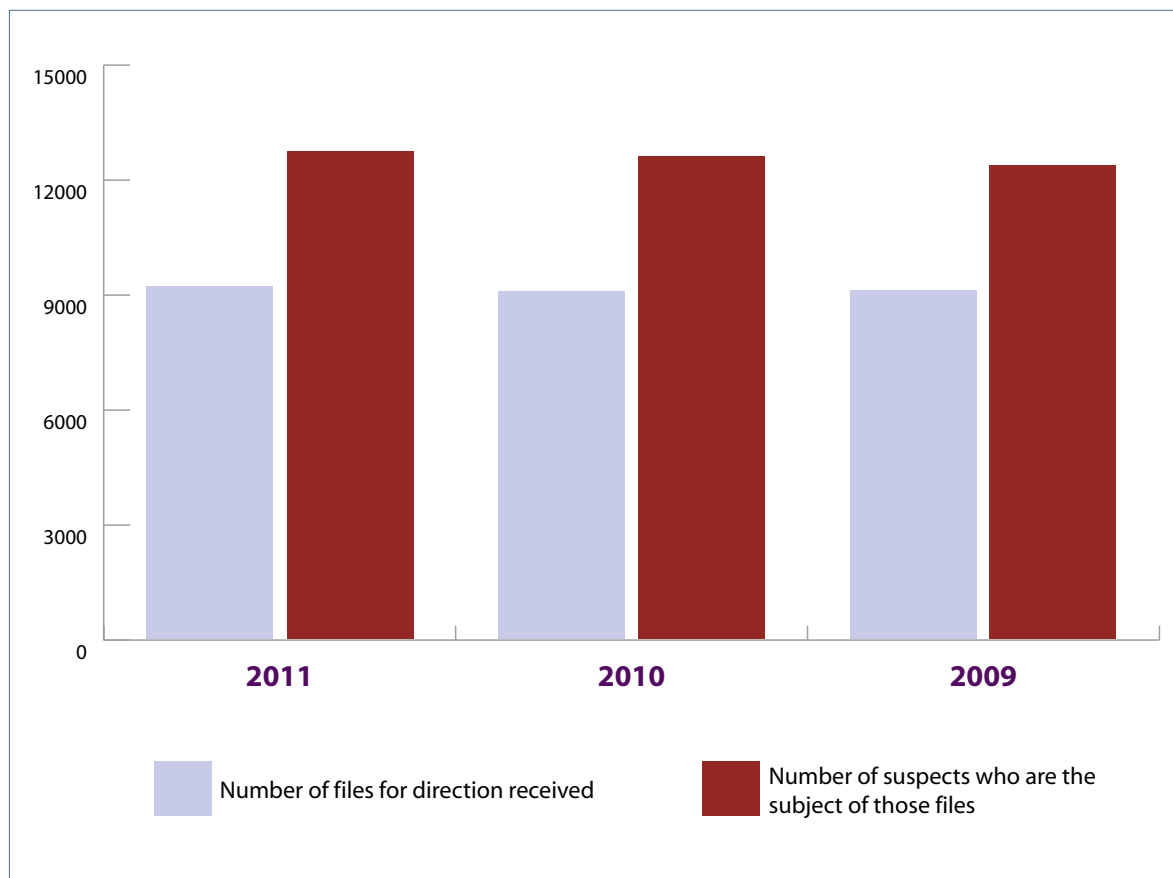


Chart 3 represents the number of files received in which a decision to prosecute or not to prosecute must be taken. The chart compares the number of files received with the number of suspects who are the subject of those files. Many files relate to more than one suspect and to treat such a file as a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

In 2008 the Office introduced, on a pilot basis, an initiative whereby responsibility for deciding whether a prosecution should be taken is, in certain circumstances, delegated from legal staff in the Directing Division to legal staff in the Solicitors Division. The purpose of the initiative is to ensure more efficient use of resources.

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

	2011	2010	2009
Number of files received in Directing Division	9198	9062	9102
Number of files received in Solicitors Division under delegated function	78	107	66
TOTAL files received for decision whether to prosecute	9276	9169	9168
Number of suspects who are the subject of those files	12728	12577	12344



The following chart shows a breakdown of the disposal of files received in the Directing Division in 2009, 2010 and 2011 (as of August 2012). The Garda Síochána and specialised investigating agencies submit files either directly to our Solicitors Division or to the local state solicitor for a direction whether or not to prosecute. Depending on the seriousness of the offence and the evidence disclosed in the file, a decision will be taken as follows:

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

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

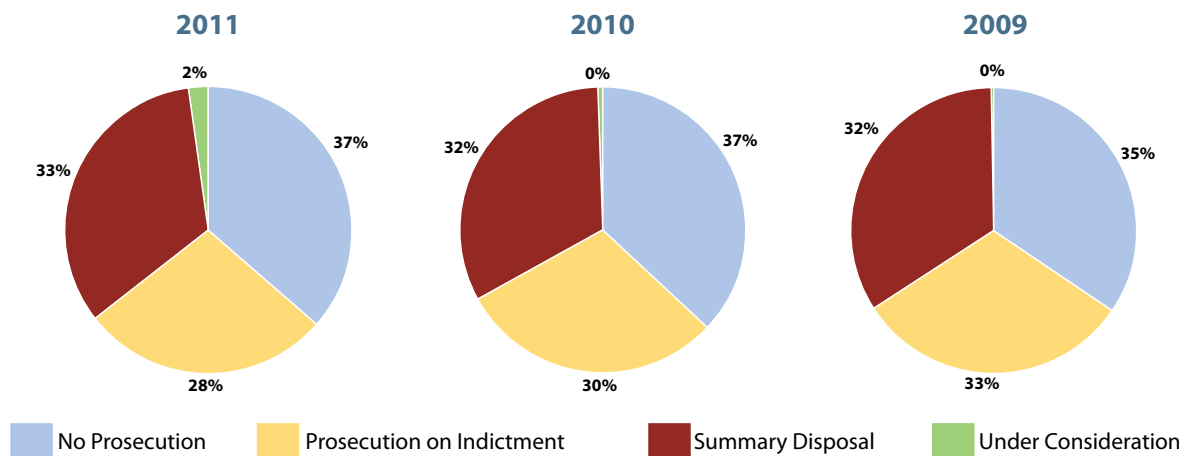
Summary Disposal: The offence is to be prosecuted in the District Court.

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

NOTE: The figures for 2009 and 2010 have been updated since the publication of previous Annual Reports. The reduction in the files 'Under Consideration' figures compared with those given in previous years reflect developments on those files since then. 'Prosecutions on Indictment' include those cases in which defendants elected for trial by jury and cases where the judge of the District Court refused jurisdiction, even though the Director initially elected for summary disposal.

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

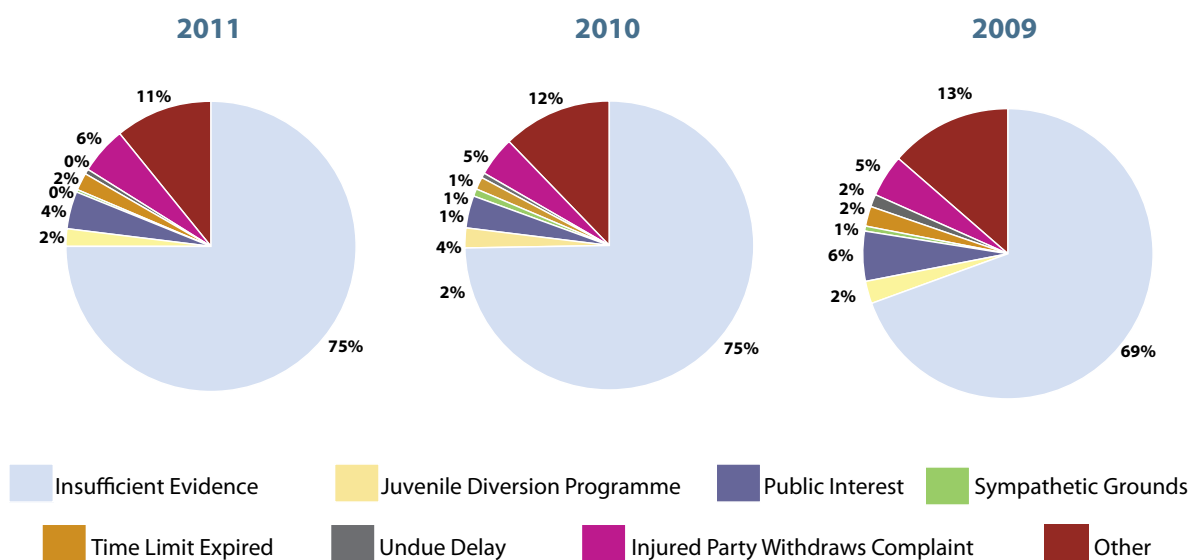
Direction Made	2011	%	2010	%	2009	%
No Prosecution Directed	4751	37%	4668	37%	4266	35%
Prosecution on Indictment Directed	3611	28%	3793	30%	3891	33%
Summary Disposal Directed	4231	33%	4071	32%	4159	32%
TOTAL OF FILES DISPOSED	12593	99%	12532	100%	12316	100%
Under Consideration	135	1%	45	0%	28	0%
TOTAL	12728		12577		12344	



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 (referred to as 'other' below). 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.

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

Main Reasons for No Prosecution	2011	%	2010	%	2009	%
Insufficient Evidence	3583	75%	3496	75%	2969	69%
Juvenile Diversion Programme	79	2%	94	2%	101	2%
Public Interest	194	4%	179	4%	236	6%
Sympathetic Grounds	21	0%	37	1%	30	1%
Time Limit Expired	87	2%	61	1%	97	2%
Undue Delay	28	0%	31	1%	62	2%
Injured Party Withdraws Complaint	247	6%	210	5%	200	5%
Other	512	11%	560	12%	571	13%
TOTAL	4751		4668		4266	



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

Since the introduction of the policy a total of 30 requests were received, 79% of which related to fatal Road Traffic cases. The following chart outlines the outcomes of those requests.

CHART 4B: BREAKDOWN OF REQUESTS FOR REASONS RECEIVED FROM OCTOBER 2008 TO AUGUST 2012

Detailed reasons given	Request for Reasons Declined	Request Withdrawn	Pending	TOTAL
24	5	1	3	33

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

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

	Population				Population				Population				Number of Prosecutions on Indictment Directed per County				Cases per 1,000 Persons			3 Year Rolling Average		
	2011*	2010*	2009*	2008*	2009*	2008*	2007*	2007*	2011	2010	2009	2008	2007	2011	2010	2009	2008	2007	2009-2011	2008-2010	2007-2009	
Carlow	54,612	54,868	54,245	53,295	51,820	51,820	51,820	51,820	44	49	37	38	15	0.81	0.89	0.68	0.71	0.29	0.79	0.76	0.56	
Cavan	73,183	68,420	68,598	67,300	65,769	65,769	65,769	65,769	34	45	41	44	29	0.46	0.66	0.60	0.65	0.23	0.57	0.64	0.49	
Clare	117,196	115,121	114,937	114,291	112,109	112,109	112,109	112,109	98	109	108	77	72	0.84	0.95	0.94	0.67	0.26	0.91	0.85	0.62	
Cork	519,032	502,193	502,116	499,481	489,950	489,950	489,950	489,950	389	386	441	381	372	0.75	0.77	0.88	0.76	0.15	0.80	0.80	0.60	
Donegal	161,137	157,427	157,836	154,849	151,328	151,328	151,328	151,328	61	90	71	87	116	0.38	0.57	0.45	0.56	2.46	0.47	0.53	1.16	
Dublin	1,273,069	1,207,300	1,211,501	1,217,800	1,210,300	1,210,300	1,210,300	1,210,300	1500	1621	1704	1738	1605	1.18	1.34	1.41	1.43	0.10	1.31	1.39	0.98	
Galway	250,653	240,630	241,245	238,282	234,535	234,535	234,535	234,535	98	92	107	89	76	0.39	0.38	0.44	0.37	6.84	0.41	0.40	2.55	
Kerry	145,502	145,907	145,884	145,119	142,350	142,350	142,350	142,350	129	91	112	65	69	0.89	0.62	0.77	0.45	0.53	0.76	0.61	0.58	
Kildare	210,312	209,360	205,989	201,677	194,622	194,622	194,622	194,622	121	130	134	90	81	0.58	0.62	0.65	0.45	0.35	0.62	0.57	0.48	
Kilkenny	95,419	95,417	94,334	92,681	90,116	90,116	90,116	90,116	62	63	60	45	44	0.65	0.66	0.64	0.49	0.90	0.65	0.59	0.67	
Laois	80,559	72,824	72,105	71,092	69,334	69,334	69,334	69,334	58	31	35	31	33	0.72	0.43	0.49	0.44	0.63	0.54	0.45	0.52	
Leitrim	31,798	30,948	31,028	30,441	29,749	29,749	29,749	29,749	13	9	26	17	13	0.41	0.29	0.84	0.56	1.11	0.51	0.56	0.84	
Limerick	191,809	190,974	190,668	189,598	185,978	185,978	185,978	185,978	165	208	165	156	155	0.86	1.09	0.87	0.82	0.07	0.94	0.93	0.59	
Longford	39,000	37,348	36,979	36,459	35,557	35,557	35,557	35,557	42	67	28	30	24	1.08	1.79	0.76	0.82	4.36	1.21	1.12	1.98	
Louth	122,897	118,946	119,255	116,998	114,337	114,337	114,337	114,337	101	101	74	100	97	0.82	0.85	0.62	0.85	0.21	0.76	0.77	0.56	
Mayo	130,638	128,629	128,958	127,373	125,370	125,370	125,370	125,370	73	82	92	68	60	0.56	0.64	0.71	0.53	0.77	0.64	0.63	0.67	
Meath	184,135	182,952	180,006	176,238	170,072	170,072	170,072	170,072	82	83	64	69	68	0.45	0.45	0.36	0.39	0.35	0.42	0.40	0.37	
Monaghan	60,483	59,862	60,017	58,881	57,542	57,542	57,542	57,542	33	41	33	37	37	0.55	0.68	0.55	0.63	1.18	0.59	0.62	0.79	
Offaly	76,687	76,961	76,200	75,130	73,272	73,272	73,272	73,272	40	27	34	28	21	0.52	0.35	0.45	0.37	0.50	0.44	0.39	0.44	
Roscommon	64,065	61,041	61,197	60,445	59,495	59,495	59,495	59,495	16	20	19	26	26	0.25	0.33	0.31	0.43	0.35	0.30	0.36	0.36	
Sligo	65,393	65,097	65,266	64,031	62,574	62,574	62,574	62,574	39	47	22	29	21	0.60	0.72	0.34	0.45	0.42	0.55	0.50	0.40	
Tipperary	158,754	159,195	158,056	156,101	152,365	152,365	152,365	152,365	102	89	125	96	89	0.64	0.56	0.79	0.61	0.14	0.66	0.65	0.51	
Waterford	113,795	117,651	116,316	114,227	111,115	111,115	111,115	111,115	97	90	117	154	101	0.85	0.76	1.01	1.35	0.80	0.87	1.04	1.05	
Westmeath	86,164	86,168	85,316	84,118	82,037	82,037	82,037	82,037	70	70	72	142	56	0.81	0.81	0.84	1.69	1.23	0.82	1.11	1.25	
Wexford	145,320	143,574	141,944	139,457	135,598	135,598	135,598	135,598	59	73	90	48	53	0.41	0.51	0.63	0.34	0.41	0.52	0.50	0.46	
Wicklow	136,640	141,788	139,505	136,585	131,806	131,806	131,806	131,806	84	79	80	76	74	0.61	0.56	0.57	0.56	0.40	0.58	0.56	0.51	
TOTAL	4,588,252	4,470,601	4,459,501	4,421,999	4,339,100	4,339,100	4,339,100	4,339,100	3611	3793	3891	3762	3407	0.82	0.82	0.82	0.82	0.82	0.82	0.82	0.82	0.82

* Population figures for 2011 are taken from the census figures for that year. The 2007, 2008, 2009 & 2010 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 2007, 2008, 2009 & 2010.

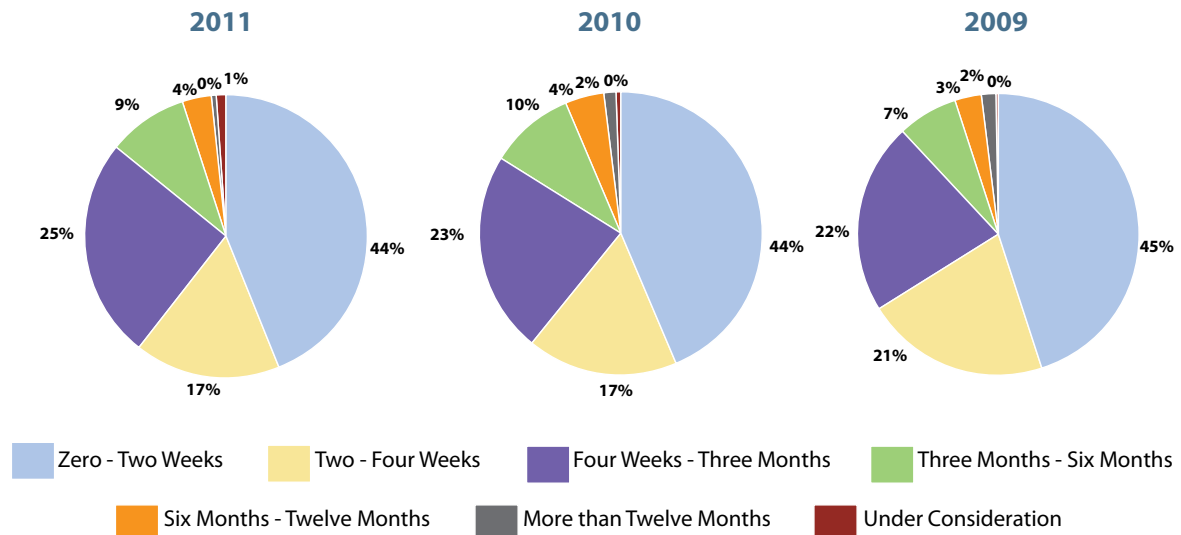
Chart 5 shows the time between the receipt of a completed prosecution file in the Office and the issuing of a direction as to whether a prosecution of a suspect should be taken or not. It has been decided to show this information by suspect rather than by file since in the case of files containing multiple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

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

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

CHART 5: TIME TAKEN TO ISSUE DIRECTIONS

Time Taken	2011	%	2010	%	2009	%
Zero - Two Weeks	5603	44%	5498	44%	5565	45%
Two - Four Weeks	2126	17%	2164	17%	2613	21%
Four Weeks - Three Months	3220	25%	2893	23%	2696	22%
Three Months - Six Months	1147	9%	1237	10%	859	7%
Six Months - Twelve Months	452	4%	551	4%	390	3%
More than Twelve Months	46	0%	189	2%	193	2%
TOTAL FILES DISPOSED	12593	98%	12521	100%	12316	100%
Under Consideration	135	1%	45	0%	28	0%
TOTAL	12728	100%	12577	100%	12344	100%



4.2 RESULTS OF CASES PROSECUTED ON INDICTMENT

4.2.1 Charts 6 to 10 provide information for prosecutions on indictment taken by the Director in respect of files received in the Office between 2008 and 2010. As referred to in the initial explanatory note, care should be taken before a comparison is made with figures provided by any other organisation, as they may be compiled on a different basis.

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

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

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

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

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

Chart 6 shows the results of prosecutions on indictment taken in relation to defendants in respect of whom prosecutions were commenced in the years 2008 to 2010 (as of August 2012). The figures relate to:

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

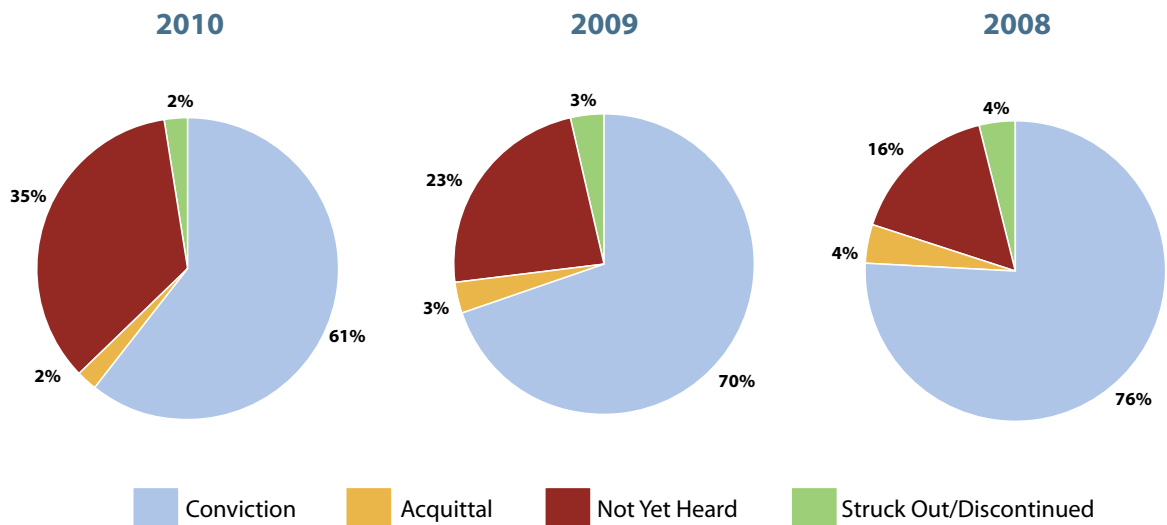
Acquittal: The defendant was acquitted on all charges.

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 2011 as the great majority of these cases have yet to be dealt with by the courts and the outcomes for the few cases where results are available may not be representative of the final picture covering all the cases.

CHART 6: CASE RESULTS - PROSECUTIONS ON INDICTMENT

Outcome	2010	%	2009	%	2008	%
Conviction	2303	61%	2719	70%	2863	76%
Acquittal	88	2%	125	3%	154	4%
Not Yet Heard	1314	35%	914	23%	606	16%
Struck Out/Discontinued	88	2%	133	3%	139	4%
TOTAL	3793		3891		3762	



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

	2010	%	2009	%	2008	%
Conviction by Jury	75	3%	96	3%	119	4%
Conviction Following Plea of Guilty	2228	93%	2620	92%	2744	91%
TOTAL CONVICTIONS	2203	96%	2719	95%	2863	95%
Acquittal by Jury	59	3%	70	3%	63	2%
Acquittal on Direction of Judge	29	1%	55	2%	91	3%
TOTAL ACQUITTALS	88	4%	125	5%	154	5%
TOTAL	2391		2844		3017	

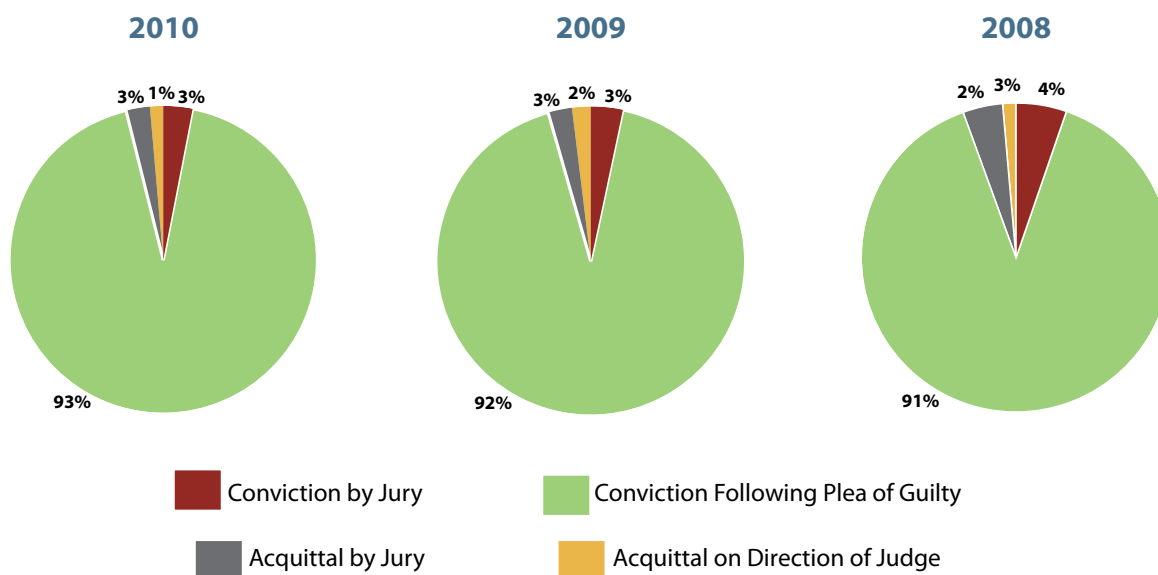


Chart 7 breaks down the prosecutions directed on indictment to be heard in the Circuit Court. The cases categorised as 'For Hearing' are those for which a verdict has not yet been recorded. In some of these cases, a trial may have begun but proceedings have been halted by a Judicial Review application.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

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

	TOTAL			Conviction by Jury			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Jury			Acquittal by Direction of Judge			For Hearing			Other Disposals					
	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008			
Fatal Accident at Work	5	13	13	0	0	1	1	6	9	0	0	0	0	1	0	0	0	0	0	0	1	6	3	0	0	0	
Manslaughter	15	17	8	2	0	0	5	8	4	4	4	1	1	1	1	0	0	2	4	4	0	0	0	0	1	0	
Other Fatal Offences	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
TOTAL - FATAL OFFENCES	20	30	21	2	0	1	5	14	13	4	4	1	1	2	1	2	0	2	5	10	3	5	10	3	0	1	0
Burglary	371	418	458	2	2	10	208	302	354	25	13	11	2	0	3	1	0	6	126	84	36	126	84	36	7	17	5
Fraud	31	49	45	0	1	1	16	34	32	2	1	0	0	0	1	0	0	0	13	13	11	13	13	11	0	0	0
Robbery	615	452	514	2	1	6	432	345	424	17	13	2	2	0	1	0	4	6	157	81	63	157	81	63	5	8	12
Theft	150	165	126	3	1	4	84	101	88	2	3	1	1	0	0	1	2	5	55	48	25	55	48	25	4	10	3
Other Offences Against Property	313	279	207	1	0	3	171	166	147	17	15	5	4	2	1	1	5	4	112	76	38	112	76	38	7	15	9
TOTAL - OFFENCES AGAINST PROPERTY	1480	1363	1350	8	5	24	911	948	1045	63	45	19	9	2	6	3	11	21	463	302	206	463	302	206	23	50	29
Buggery	3	1	3	0	0	1	1	0	1	0	0	0	0	0	1	0	0	0	2	1	0	2	1	0	0	0	0
Child Pornography	16	11	12	0	0	0	10	11	9	0	0	1	0	0	0	0	0	0	5	0	2	5	0	2	1	0	0
Sexual Assault	90	60	98	4	4	7	40	23	46	1	2	1	3	5	5	1	1	3	38	21	25	38	21	25	3	4	11
Sex with an Underage Person	20	28	11	1	0	0	4	20	5	1	1	0	0	1	1	0	1	0	14	5	3	14	5	3	0	0	2
Other Sexual Offences	48	32	21	0	2	1	14	13	12	0	1	0	0	2	1	1	0	1	32	12	5	32	12	5	1	2	1
TOTAL - SEXUAL OFFENCES	177	132	145	5	6	9	69	67	73	2	4	2	3	8	8	2	2	4	91	39	35	91	39	35	5	6	14
Dangerous Driving Causing Death	36	33	43	1	2	2	17	15	25	1	6	3	3	2	7	1	0	4	13	6	2	13	6	2	0	2	0
Unauthorised Taking of Motor Vehicles	59	65	105	0	0	1	37	48	85	3	2	2	1	0	1	0	0	0	15	12	14	15	12	14	3	3	2
Other Road Traffic Offences	42	57	40	0	1	1	16	36	29	6	5	3	2	1	2	1	0	0	16	14	4	16	14	4	1	0	1
TOTAL - ROAD TRAFFIC OFFENCES	137	155	188	1	3	4	70	99	139	10	13	8	6	3	10	2	0	4	44	32	20	44	32	20	4	5	3
Drug Offences	635	827	767	3	2	14	285	477	583	145	166	39	1	2	4	3	6	11	191	159	105	191	159	105	7	15	11
Firearms and Explosives Offences	183	167	148	0	1	2	102	99	117	18	20	4	2	1	4	0	3	0	59	41	14	59	41	14	2	2	7
Non Fatal Offences Against the Person	726	793	757	14	21	23	337	435	464	38	43	12	30	39	45	14	25	15	270	190	140	270	190	140	23	40	58
Public Order Offences	152	171	190	0	1	2	50	75	142	23	21	2	1	2	0	0	1	2	72	66	40	72	66	40	6	5	2
Revenue Offences	32	23	15	0	0	0	10	6	5	0	0	0	0	0	0	0	0	0	22	17	10	22	17	10	0	0	0
Sea Fisheries	9	19	0	0	1	0	5	3	0	0	0	0	0	0	0	0	0	0	4	15	0	4	15	0	3	5	2
Other Offences	81	86	68	0	4	0	32	43	31	2	5	0	0	1	2	0	3	4	44	25	29	44	25	29	3	5	2
GRAND TOTAL	3632	3766	3649	33	44	79	1876	2266	2612	306	321	87	52	60	80	26	51	63	1266	895	602	1266	895	602	73	129	126

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

	2010	2009	2008
<i>Nolle Prosequi</i> Entered	65	114	110
Struck Out	4	6	4
Taken Into Consideration	3	1	1
Terminated by Judicial Review	0	0	1
Unfit to Plead	0	1	0
Not Guilty by Reason of Insanity	1	7	10
TOTAL	73	129	126

CHART 7B: TOTAL CASES FINALISED AND PERCENTAGE OF CONVICTIONS

	TOTAL			Percentage of Convictions		
	2010	2009	2008	2010	2009	2008
Fatal Accident at Work	3	7	10	33%	86%	100%
Manslaughter	11	13	8	100%	92%	63%
Other Fatal Offences	0	0	0	N/A	N/A	N/A
TOTAL - FATAL OFFENCES	14	20	18	86%	90%	83%
Burglary	238	317	384	99%	100%	98%
Fraud	18	36	34	100%	100%	97%
Robbery	453	363	439	100%	99%	98%
Theft	91	107	98	98%	95%	95%
Other Offences Against Property	194	188	160	97%	96%	97%
TOTAL - OFFENCES AGAINST PROPERTY	994	1011	1115	99%	99%	98%
Buggery	1	0	3	100%	N/A	67%
Child Pornography	10	11	10	100%	100%	100%
Sexual Assault	49	35	62	92%	83%	87%
Sex with an Underage Person	6	23	6	100%	91%	83%
Other Sexual Offences	15	18	15	93%	89%	87%
TOTAL - SEXUAL OFFENCES	81	87	96	94%	89%	88%
Dangerous Driving Causing Death	25	32	41	83%	92%	73%
Unauthorised Taking of Motor Vehicles	41	50	89	98%	100%	99%
Other Road Traffic Offences	25	43	35	88%	98%	94%
TOTAL - ROAD TRAFFIC OFFENCES	89	118	165	91%	97%	91%
Drug Offences	437	653	651	99%	99%	98%
Firearms and Explosives Offences	122	124	127	98%	97%	97%
Non Fatal Offences Against the Person	433	563	559	90%	89%	89%
Public Order Offences	74	100	148	99%	97%	99%
Sea Fisheries	10	6	5	100%	100%	100%
Revenue Offences	5	4	0	100%	100%	N/A
Other Offences	34	56	37	100%	93%	84%
GRAND TOTAL	2293	2742	2921	97%	96%	95%

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

CHART 8: OUTCOMES OF CASES PROSECUTED ON INDICTMENT IN THE SPECIAL CRIMINAL COURT

	TOTAL		Conviction by Judges		Conviction on Plea		Conviction on Lesser Charge		Acquittal by Judges		Other Disposals		For Hearing	
	2010	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008
Membership of Unlawful Organisation & Related Offences	13	2	4	1	0	0	0	2	2	1	0	2	0	0
Firearms and Explosives Offences	16	6	3	2	2	5	4	9	1	0	0	0	0	0
Murder	1	0	1	0	0	0	0	0	0	0	0	0	0	0
Burglary	2	0	2	0	0	0	0	0	0	0	0	0	0	0
Blackmail	5	0	0	0	0	4	0	0	1	0	0	0	0	0
Threat to Kill	0	0	0	0	1	0	0	0	0	0	0	0	0	0
Violent Disorder	3	0	0	0	0	3	0	0	0	0	0	0	0	0
Counterfeiting	4	0	0	0	0	0	0	0	0	0	0	4	0	0
TOTAL	44	8	10	3	3	12	4	11	4	1	0	6	0	0

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

Primary Charge	Lesser Charge Convicted of		TOTAL		Conviction by Judges		Conviction on Plea			
	2010	2009	2010	2008	2010	2009	2008	2010	2009	2008
Membership of Unlawful Organisation & Related Offences	3	0	3	0	2	0	0	1	0	0
Firearms and Explosives Offences	1	0	1	0	1	0	0	0	0	0
Membership of Unlawful Organisation	4	0	4	0	4	0	0	0	0	0
False Imprisonment	8	0	8	0	7	0	0	1	0	0
TOTAL	16	0	16	0	14	0	0	1	0	0

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

	2010	2009	2008
<i>Nolle Prosequi</i> Entered	6	0	4
TOTAL	6	0	4

CHART 8C: TOTAL CASES FINALISED AND PERCENTAGE OF CONVICTIONS

	TOTAL			Percentage of Convictions		
	2010	2009	2008	2010	2009	2008
Firearms and Explosives Offences	14	6	11	93%	100%	100%
Membership of Unlawful Organisation & Related Offences	9	2	2	78%	50%	100%
Other Offences	11	0	1	91%	N/A	100%
TOTAL	34	8	14			

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

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

	TOTAL			Conviction by Jury			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Jury			Acquittal by Direction of Judge			Other Disposals			For Hearing		
	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008
Murder	37	45	39	11	19	14	4	4	9	8	12	12	0	1	0	0	1	0	1	2	4	13	6	1
Attempted Murder	4	3	4	0	1	1	0	1	2	0	1	0	0	0	0	0	0	0	0	2	0	2	0	0
Rape	70	58	51	8	13	12	15	16	18	7	7	2	6	6	11	0	2	0	5	2	4	29	12	4
Attempted Rape	4	2	0	0	0	0	2	2	0	0	0	0	1	0	0	0	0	0	0	0	0	1	0	0
Aggravated Sexual Assault	2	1	1	0	0	0	1	0	0	1	0	0	0	0	1	0	0	0	0	0	0	0	1	0
Assisting an Offender	1	6	1	0	0	0	1	5	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0
TOTAL	118	115	96	19	33	27	23	28	30	16	20	14	7	8	12	0	3	0	8	4	9	45	19	4

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

Primary Charge	Lesser Charge Convicted of			TOTAL			Conviction by Jury			Conviction on Plea		
	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008
Murder				8	9	10	2	6	3	6	3	7
Murder				0	3	0	0	1	0	0	2	0
Murder				0	0	2	0	0	0	0	0	2
Rape				1	0	1	1	0	1	0	0	0
Rape				4	2	1	1	1	0	3	1	1
Rape				1	1	0	0	1	0	0	1	0
Rape				0	1	0	0	0	0	0	0	0
Rape				0	3	0	0	3	0	0	0	0
Rape				1	0	0	0	0	0	1	0	0
Aggravated Sexual Assault				1	0	0	0	0	0	1	0	0
Attempted Murder				0	1	0	0	0	0	0	1	0
TOTAL				16	20	14	4	12	4	12	8	10

CHART 9B: BREAKDOWN OF 'OTHER DISPOSALS'

	2010	2009	2008
<i>Nolle Prosequi</i> Entered	6	1	4
Suspect Deceased	1	1	1
Suspect Absconded & Not Expected to Return	0	0	2
Not Guilty by Reason of Insanity	1	2	2
TOTAL	8	4	9

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

	TOTAL			Percentage of Convictions		
	2010	2009	2008	2010	2009	2008
Murder	23	37	35	100%	95%	100%
Attempted Murder	0	3	3	N/A	100%	100%
Rape	36	44	43	83%	82%	74%
Attempted Rape	3	2	0	67%	100%	N/A
Aggravated Sexual Assault	2	0	1	100%	N/A	0%
Assisting an Offender	1	6	1	100%	83%	100%
TOTAL	65	92	83	89%	88%	86%

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

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

	TOTAL			Conviction by Jury			Conviction on Plea			Conviction on Lesser Charge			Acquittal by Jury			Acquittal by Direction of Judge		
	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008	2010	2009	2008
Carlow	19	25	34	0	0	0	18	24	32	1	1	1	0	0	1	0	0	0
Cavan	20	26	34	0	1	0	18	18	34	2	6	0	0	0	0	0	1	0
Clare	39	88	60	2	1	1	30	65	51	3	11	0	2	2	5	2	9	3
Cork	260	331	324	6	7	14	223	279	285	15	31	4	9	5	6	7	9	15
Donegal	43	40	60	1	3	2	34	34	51	7	1	1	0	0	2	1	2	4
Dublin	1136	1282	1356	3	10	23	919	1061	1243	195	184	57	13	16	19	6	11	14
Galway	41	58	65	5	3	5	29	50	51	2	3	4	5	2	2	0	0	3
Kerry	47	71	55	2	1	1	43	62	47	0	5	1	2	3	6	0	0	0
Kildare	83	97	71	1	1	2	70	80	62	5	7	2	1	3	3	6	6	2
Kilkenny	31	36	36	0	0	0	31	34	31	0	1	1	0	1	3	0	0	1
Laois	17	27	23	0	0	3	17	24	20	0	3	0	0	0	0	0	0	0
Leitrim	3	19	12	0	0	0	2	15	12	1	4	0	0	0	0	0	0	0
Limerick	104	101	110	1	3	3	87	84	97	14	9	2	2	4	6	0	1	2
Longford	44	26	23	1	2	0	23	22	21	17	2	1	3	0	1	0	0	0
Louth	32	41	62	0	3	1	25	31	54	5	3	2	1	4	2	1	0	3
Mayo	66	70	58	1	2	5	51	52	47	12	9	1	2	6	3	0	1	2
Meath	46	45	52	0	0	3	37	40	44	4	3	1	1	1	3	4	1	1
Monaghan	13	17	28	0	0	0	13	13	27	0	4	1	0	0	0	0	0	0
Offaly	21	24	21	0	0	1	19	20	18	1	2	0	1	2	2	0	0	0
Roscommon	16	15	24	1	0	1	13	11	22	0	3	1	2	1	0	0	0	0
Sligo	26	18	21	0	2	1	20	14	20	5	1	0	1	1	0	0	0	0
Tipperary	39	72	74	2	0	4	32	56	58	5	14	3	0	1	5	0	1	4
Waterford	47	83	111	3	3	2	41	65	96	3	4	2	0	4	5	0	7	6
Westmeath	36	42	124	2	0	1	33	38	119	1	3	1	0	0	2	0	1	1
Wexford	25	41	29	1	2	2	18	35	27	3	2	0	3	2	0	0	0	0
Wicklow	39	48	53	1	0	4	30	39	43	5	5	1	3	4	2	0	0	3
TOTAL	2293	2743	2920	33	44	79	1876	2266	2612	306	321	87	51	62	78	27	50	64

CHART 10A: TOTAL CASES FINALISED AND PERCENTAGE OF CONVICTIONS

	TOTAL			Percentage of Convictions		
	2010	2009	2008	2010	2009	2008
Carlow	19	25	34	100%	100%	97%
Cavan	20	26	34	100%	96%	100%
Clare	39	88	60	90%	88%	87%
Cork	260	331	324	94%	96%	94%
Donegal	43	40	60	98%	95%	90%
Dublin	1136	1282	1356	98%	98%	98%
Galway	41	58	65	88%	97%	92%
Kerry	47	71	55	96%	96%	89%
Kildare	83	97	71	92%	91%	93%
Kilkenny	31	36	36	100%	97%	89%
Laois	17	27	23	100%	100%	100%
Leitrim	3	19	12	100%	100%	100%
Limerick	104	101	110	98%	95%	93%
Longford	44	26	23	93%	100%	96%
Louth	32	41	62	94%	90%	92%
Mayo	66	70	58	97%	90%	91%
Meath	46	45	52	89%	96%	92%
Monaghan	13	17	28	100%	100%	100%
Offaly	21	24	21	90%	92%	90%
Roscommon	16	15	24	88%	93%	100%
Sligo	26	18	21	96%	94%	100%
Tipperary	39	72	74	100%	97%	88%
Waterford	47	83	111	100%	87%	90%
Westmeath	36	42	124	100%	98%	98%
Wexford	25	41	29	88%	95%	100%
Wicklow	39	48	53	92%	92%	91%
TOTAL	2293	2743	2920	97%	96%	95%

4.3 APPLICATIONS TO THE COURTS

OUTCOMES OF APPLICATIONS MADE TO THE COURTS

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

APPLICATIONS FOR REVIEW OF SENTENCE ON GROUNDS OF UNDUE LENIENCY

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

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

In Annual Reports prior to 2004 the results of applications made were set out according to the year in which they were lodged. However not all applications lodged in the year for which the Annual Report was reporting were heard by the date of publication of the Annual Report and the results for such applications were listed as pending. It was therefore decided, from the year 2003 onwards, to set out the results of applications according to the year in which they were heard.

Chart 11A outlines the results of applications, from the years 1994 to 2002, by the year in which the application was lodged (as appeared in previous Annual Reports).

Chart 11B outlines the results of applications, from the year 2003 onwards, by the year in which the application was heard.

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

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

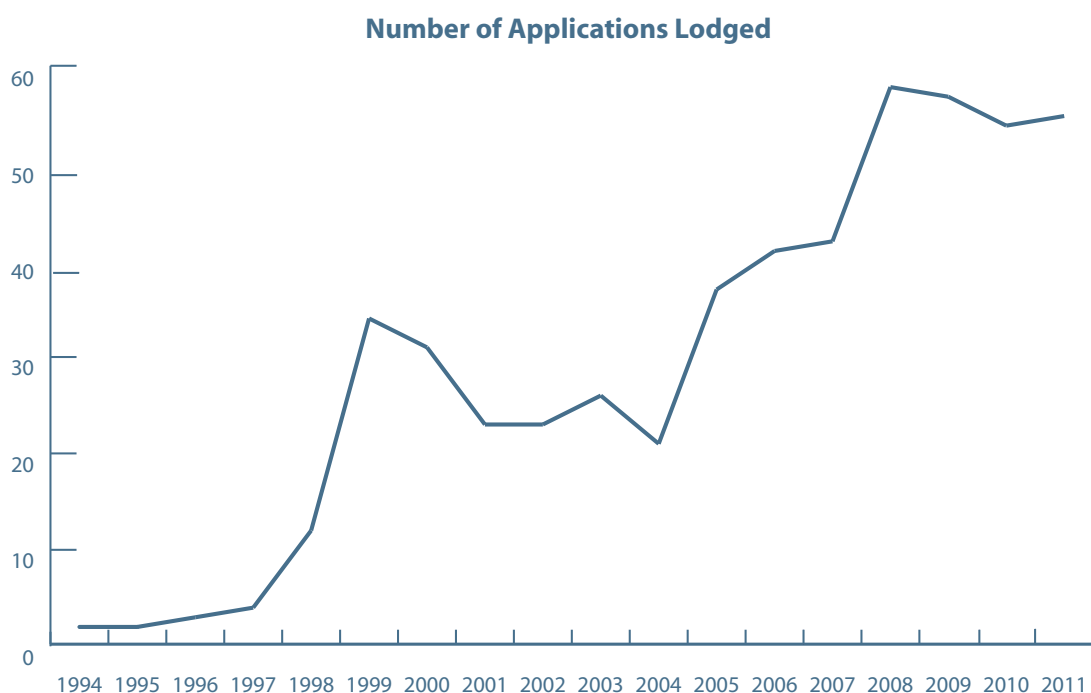


CHART 11A: RESULTS OF APPLICATIONS BY YEAR LODGED

Year of Application Lodged	Successful	Refused	Applications Struck Out or Withdrawn	TOTAL
1994	-	1	1	2
1995	-	1	1	2
1996	1	1	1	3
1997	2	2	-	4
1998	6	3	3	12
1999	17	16	1	34
2000	15	13	3	31
2001	17	3	3	23
2002	14	9	-	23

CHART 11B: RESULTS OF APPLICATIONS BY YEAR HEARD

Year of Application Heard	Successful	Refused	Applications Struck Out or Withdrawn	TOTAL
2003	11	8	1	20
2004	13	8	1	22
2005	18	9	2	29
2006	33	15	2	50
2007	30	6	3	39
2008	30	14	3	47
2009	15	13	3	31
2010	27	27	3	57
2011	23	18	2	43

CONFISCATION AND FORFEITURE OF CRIMINAL ASSETS

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

The total number of asset seizing files under the Criminal Justice Act 1994 opened in the Office for 2011 was 102, ranging from forfeiture order cases, to confiscation order cases, to freezing order applications. The total number of confiscation and forfeiture cases opened in the Office of the DPP in 2011 is set out in chart 12.

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

From 1 August to 31 December 2011, 9 directions were issued by the Head of the Unit on section 39 files received from the Gardaí and Revenue Solicitors. This delegation of decision making authority has helped in reducing the number of such cases that would otherwise have to be considered by Professional Officers in the Directing Division of the DPP's Office. The delegated function is part of the ongoing efficiencies implemented under the Croke Park Agreement as it affects the Office. The Decision making function in relation to such cases is now centralised in the Asset Seizing Unit.

CHART 12: ASSET SEIZING FILES OPENED IN 2011

Asset Seizing Files Opened 2011	
Section 39 Applications	20
Section 39 (Revenue Solicitor) Applications	23
Sections 4 and 9 Applications	18
Section 61 Applications	38
Section 24 Applications	3
TOTAL	102

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 or is intended to be used by any person for use in drug trafficking.

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

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

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

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

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

Details of Confiscation and Forfeiture Orders granted by the courts in 2011, to a total value of €2,010,645 are outlined in chart 12A below.

CHART 12A: CONFISCATION OF CRIMINAL ASSETS

Orders	Number	Amount
Forfeiture Orders	28	€620,707
Section 4 Confiscation Orders	15	€176,310
Section 39 Forfeiture Orders	8	€199,900
Section 39 Forfeiture Orders (Revenue Solicitor Applications)	17	€1,013,728
TOTAL	68	€2,010,645

EUROPEAN ARREST WARRANTS

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

Requests for the preparation of EAWs are submitted to the Office of the Director of Public Prosecutions by the extradition unit of the Garda Síochána. Applications for EAWs are normally made to a Judge of the High Court sitting in Dublin by a Solicitor from the Office and when issued by the High Court, the EAW is dispatched to the Department of Justice & Equality for transmission to the country where it is believed the requested person is residing. Section 33 of the European Arrest Warrant Act, 2003 permits an EAW to be issued only if the offence carries on conviction a term of imprisonment of at least 12 months or, where the requested person is a convicted person, a term of 4 months imprisonment has been imposed. The offences for which EAWs have been sought covered a wide range of serious offences including murder, sexual offences, drugs offences, thefts and serious assaults.

The chart below outlines the number of European Arrest Warrants dealt with in the years 2009, 2010 and 2011. It should be noted that the issue of the EAW and the surrender of the person will not necessarily correspond to the year the file is received. The total files received include 38 files where an application is pending or where either no application for an EAW was made, or the issued EAW was withdrawn because the DPP had so directed, the requested person was arrested in Ireland, or the requested person or complainant had died.

CHART 13: EUROPEAN ARREST WARRANTS

Year	EAW Files Received from Gardaí	EAWs Issued	Persons Surrendered
2009	40	31	28
2010	61	49	27
2011	68	51	28
TOTAL	169	131	83

