

Office of the Director of Public Prosecutions

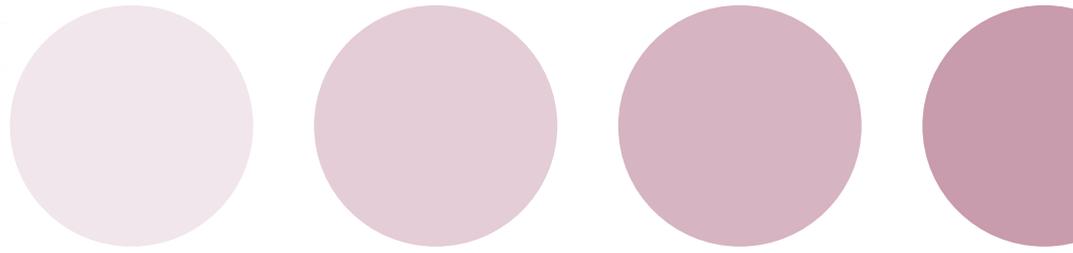


Annual Report 2001

Office of the Director of Public Prosecutions

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# FOREWORD



**James Hamilton**  
*Director of Public Prosecutions*

It is my pleasant duty to introduce the Fourth Annual Report of the Office of the Director of Public Prosecutions which covers the calendar year 2001.

The most significant event for the Office in 2001 was the transfer of responsibility for the Criminal Division of the Chief State Solicitor's Office from the Attorney General to me to form the Solicitor Division of this Office headed by the Chief Prosecution Solicitor, Ms Claire Loftus.

This transfer represents the implementation of the key recommendations of the Report of the Public Prosecution System Study Group which was chaired by former Government Secretary General, Dermot Nally. The actual transfer of responsibility took place on 3

December 2001 and the Solicitor Division moved into their new accommodation in Chapter House, Upper Abbey Street on 25 January 2002.

This move means that both I and the legal professional officers responsible for giving directions in respect of criminal cases now have a much more direct connection to the conduct of cases in court. Essentially, the transfer improves the communication between these officers and the solicitors who are responsible for ensuring that directions given in the Office are translated into the conduct of the prosecution case in Court.

Naturally this transfer did not take place without a good deal of hard work. I would like to thank the staff of the Office of Public Works for their efficiency and helpfulness. I would also like to say a particular thank you to all the staff involved in the move, including those who remained with the Chief State Solicitor, for putting up with a good deal of disruption without complaint.

This Office has now moved from a very small office of almost 40 staff to approximately 170 in a short space of time. Handling the organisational needs of this expansion at a time of rapid change in the public service as a whole will be a major task for some time to come.

Another development in 2001 which I want to mention was the publication of the Statement of General Guidelines for Prosecutors. This is available on the Office website at [www.dppireland.ie](http://www.dppireland.ie). The Guidelines aim to give general guidance to prosecutors on the factors to be taken into account at the different stages of a prosecution so that a fair, reasoned and consistent policy underlies the prosecution process. The publication of the Guidelines is also intended to contribute to a better understanding of the prosecution process by the People of Ireland on whose behalf prosecutions are brought.

One of the consequences of the publications of Guidelines is a change in the nature of the Office's Annual Report. The Office's first Report in 1998 provided for the first time a descriptive account of the work of the Office. That account is now largely superseded by the more detailed Guidelines. It is obviously inappropriate to repeat this description in every Annual Report and this and future Reports will concentrate more on the production of detailed statistical information about the criminal prosecution system. With the continuing development of the Office's computerised case-tracking system that information is more comprehensive than it used to be and it is intended to develop it further in the future.

It remains for me to thank, once again, those whose work interacts with that of my Office in the course of the prosecution of crime, notably members of the Garda Síochána, the Forensic Science Laboratory, the State Pathologists, the Courts Service and Victim Support. I would also like to acknowledge the invaluable professional expertise of counsel and the local state solicitors who act on my behalf in Court. Last but not least, I want to acknowledge the dedication and professionalism of my own staff, whether legal, technical, or administrative, on whose hard work and efficiency depends the achievement of the Office's aim to provide on behalf of the People of Ireland a prosecution service which is independent, fair and effective.

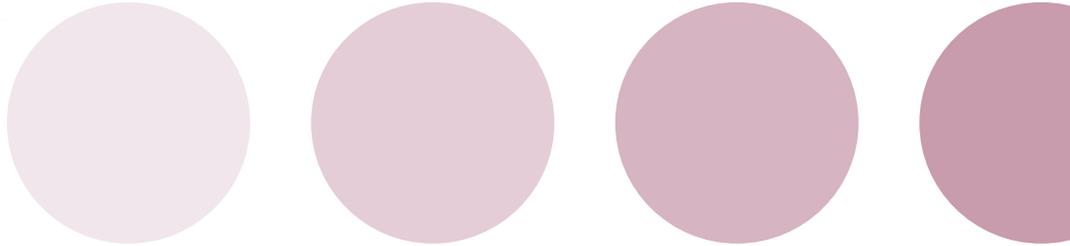


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**James Hamilton**

*Director of Public Prosecutions*

October 2002



## MESSAGE



**Claire Loftus**  
*Chief Prosecution Solicitor*

It is a great honour to be the first person to hold the office of Chief Prosecution Solicitor. The two years since my appointment have been extremely challenging as we implemented the changes which the Director has previously mentioned.

At time of writing recruitment for the expansion of the Chief Prosecution Solicitor Division is almost complete. However the process of internal change will continue as I work with my management team to devise the best structural response to a caseload of increasing complexity. As the Director's solicitor, I am mindful that my function is to

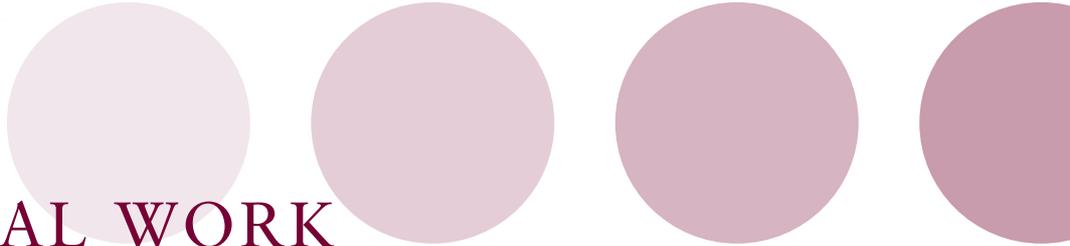
provide a prosecution service of the highest excellence and effectiveness for the People of Ireland. To this end one critical objective is to enhance communications with all the other actors in the criminal justice system including the Garda Síochána, Victim Support and the Courts Service.

I look forward to working with my Division to achieve our objectives in the year ahead.

A handwritten signature of Claire Loftus in black ink. The signature is written in a cursive style. Below the signature is a horizontal line.

**Claire Loftus**  
*Chief Prosecution Solicitor*





# 1: GENERAL WORK OF THE OFFICE

**1.1** The mission of the Office is “to provide on behalf of the People of Ireland a prosecution service which is independent, fair and effective”. Article 30.3 of the Constitution provides that indictable prosecutions are prosecuted in the name of the Attorney General or some other person authorised by law. Section 9(1) of the Criminal Justice (Administration) Act 1924 provides that indictable prosecutions be brought in the name of the Attorney General. Section 3(1) provides that the Director is to perform all the functions of the Attorney General in relation to criminal matters. The principal functions of the Director of Public Prosecutions are to decide whether or not to prosecute an individual for an alleged commission of a criminal offence, and to ensure the proper conduct of public prosecutions. The manner in which these functions are exercised is set out in more detail in the recently published Statement of General Guidelines for Prosecutors as well as in Chapter 2 of the Annual Report for 1999. Both these documents can be accessed on the Office’s website at

**[www.dppireland.ie](http://www.dppireland.ie).**

**1.2** The Office of the DPP works closely with the Garda Síochána and with

other specialised investigating agencies including the Revenue Commissioners, the Director of Corporate Enforcement, An Post, The Competition Authority, the Health & Safety Authority, as well as with other State agencies and local authorities on occasion. However, in making prosecution decisions the Director and his Office are independent of the investigating agency concerned.

**1.3** There are a considerable number of ancillary tasks carried out by the Office in the exercise of its principal functions. Many aspects of this work are summarised in detail at Chapter 3.2 of the Annual Report for 1999. They include the drafting or settling of documents necessary for requests for extradition into the State as well as the making of requests for international mutual assistance in criminal matters. The Office serves on committees and attends meetings relating to prosecutions and criminal law and procedure. It also organises prosecutorial conferences on an annual basis.

**1.4** The Director exercises an important function concerning the prosecution of offences pursuant to the Offences Against the State Act, 1939. He has particular powers and duties as

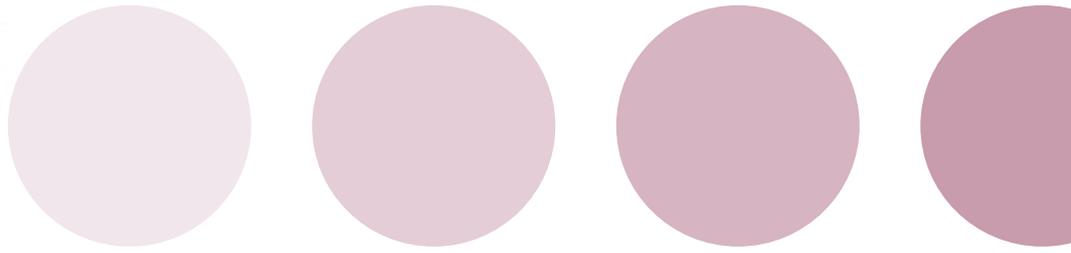
provided by sections 45 to 48 of that Act. These powers and duties concern the restriction in particular cases of the general constitutional right to trial by jury. In such cases persons may be tried in a non-jury Special Criminal Court rather than in the ordinary Courts and the Director has specific functions in the issuing of directions and certificates where he forms the opinion that the ordinary Courts are inadequate to secure the effective administration of justice.

- 1.5** There are other functions concerning the prosecution of offences which are performed by the Director such as the issuing of consents enabling certain indictable offences to be dealt with summarily. These functions are summarised at Chapter 3.4 of the 1999 Annual Report.
- 1.6** The Director also exercises certain other miscellaneous functions including functions in relation to election and referendum petitions and under the Companies Acts.
- 1.7** As part of his function in ensuring the proper conduct of criminal prosecutions the Director has the responsibility for the nomination and instruction of Counsel in the various trial Courts as well as the High and Supreme Courts and the Court of

Criminal Appeal. The Office also determines (within the parameters set by the Minister for Finance) and discharges the fees of Counsel who are instructed to act on behalf of the Director.

## **INDEPENDENCE**

- 1.8** The independence of the Director of Public Prosecutions is a key value of the Office. The Supreme Court has recognised that the prosecutorial functions of the Attorney General, provided for in the Constitution, were to be exercised independently of Government. These functions were transferred to the Director of Public Prosecutions by the Prosecution of Offences Act, 1974.
- 1.9** Section 2(5) of the Prosecution of Offences Act, 1974 states that “the Director shall be independent in the performance of his functions”. Section 6 of the 1974 Act protects the Director’s independence by obliging the Director and his officers to refuse to entertain a communication or representation if it constitutes an improper interference in the discharge of their functions.

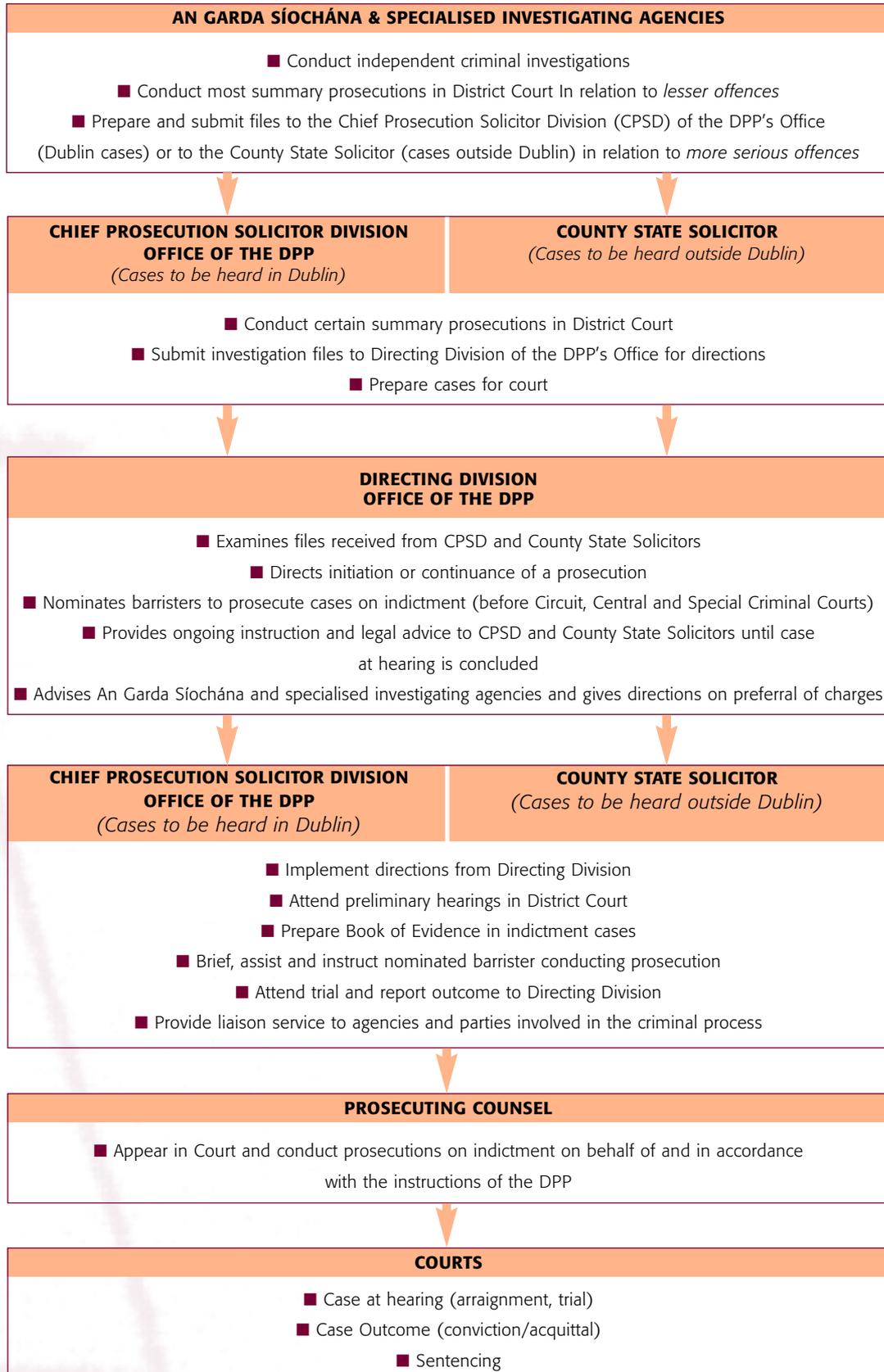


## **REPRESENTATIONS AND COMMUNICATIONS**

**1.10** It is unlawful to communicate with the Director for the purpose of influencing a decision to withdraw or not to initiate a prosecution, pursuant to section 6 of the Prosecution of Offences Act, 1974 or to communicate with the Director for the purpose of influencing a decision in relation to an application to the Court of Criminal Appeal for review of a sentence on grounds of undue leniency, pursuant to section 2(4) of the Criminal Justice Act, 1993. This prohibition does not apply to interested parties, who include a complainant, a suspect or accused, or their legal or medical advisor, social worker or a member of their family.



## 2: OUTLINE OF THE CRIMINAL PROSECUTION PROCESS



## 3: ORGANISATIONAL DEVELOPMENTS

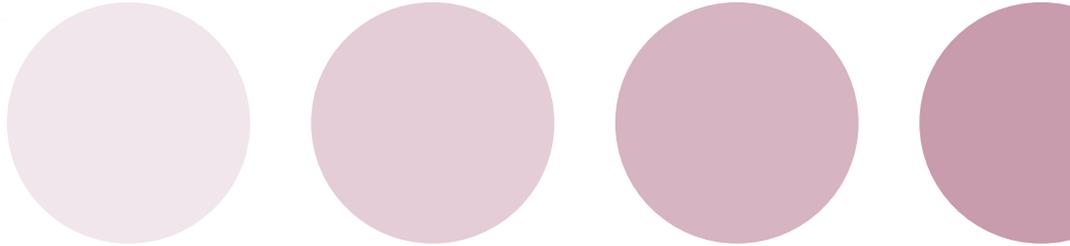
### INTRODUCTION

- 3.1** During the year under review the Office of the Director of Public Prosecutions underwent the most fundamental re-organisation of the Office since its establishment in 1975. This re-organisation took place on foot of a decision of Government to implement the recommendations of the report of the Public Prosecution System Study Group. The principal recommendation was that the criminal prosecution function of the Chief State Solicitor's Office should be transferred to the Office of the Director of Public Prosecutions. This resulted in the creation of the post of Chief Prosecution Solicitor within the Office of the DPP and the transfer of functions of all criminal divisions in the Office of the Chief State Solicitor to the Office of the DPP. The purpose of the re-structuring is to improve the co-ordination and effectiveness of the prosecution system.
- 3.2** Given the fundamental nature of the re-organisation and also the significant increase in its size and complexity it was decided to augment the management skills available to the Office. In August 2001 a professional manager was recruited to the post of Head of Administration to take a lead role in directing and overseeing a re-

structuring and modernisation programme for the Office.

### RE-STRUCTURING

- 3.3** The implementation of the Government decision had enormous implications for the administrative functions of the Office during the year. Within an eight month period 62 staff were transferred from the criminal division of the Office of the Chief State Solicitor to the Office of the DPP comprising 43 solicitors and legal technical staff, and 19 administrative staff. In addition to that 50 new staff were recruited mainly through open competitions conducted by the Civil Service & Local Appointments Commissioners but some through interdepartmental competitions. Appointments have been made in a range of grades including Prosecution Solicitor – both at senior and entry level, Librarian, Assistant Librarian, Legal Executive, Systems Analysts (IT), Higher Executive Officer and a number of other legal and general administrative grades. Staff numbers for the Office increased by 240% to a total complement of 170. Recruitment remains ongoing with a further open competition required to fill a small number of vacancies at Prosecution Solicitor level.



**3.4** New office accommodation was acquired in Chapter House, Lower Abbey Street for the Chief Prosecution Solicitor Division of the Office. In a review of organisational structures in the Merrion Street office it was also decided that the Human Resources Unit, together with sections of the Organisation & Services and IT Units, would transfer from Merrion Street to the Abbey Street premises. A Working Group was established to oversee and drive the accommodation project which was a major undertaking for the Office during the year. Planning and organising the transfer of personnel and re-location of casework files, the fit-out of the new premises, the acquisition of office furniture and equipment, the installation of IT systems and equipment, and putting in place of essential services, was successfully completed in January 2002 with minimum disruption to services.

#### **MODERNISATION PROGRAMME**

**3.5** While the concentration of resources was focused mainly on the implementation of the Government decision during the year, there were also significant developments in the modernisation programme for the Office.

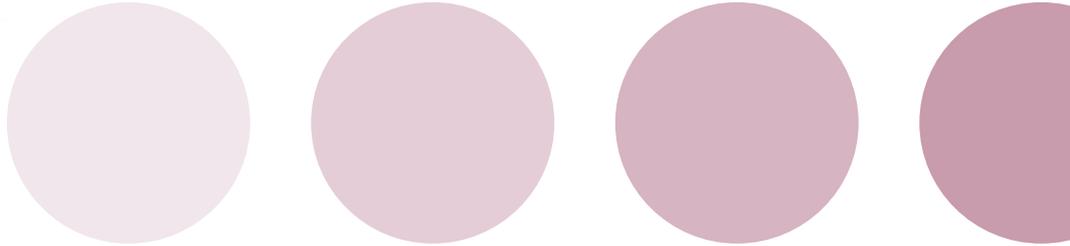
**3.6** A Law Librarian was appointed in May 2001 to develop and modernise the library service in Merrion Street and to establish a new library for the Abbey Street premises. During the year the existing library was relocated to newly refurbished accommodation in Merrion Street and a new library facility was put in place in Abbey Street. The print collection was increased and expanded to cater for new areas of development. Electronic information resources have been acquired to allow increased access to external information and new databases have been created to allow more effective access to internal information. New staff have been recruited to support the Library service and procedures have been put in place to increase the efficiency and effectiveness of the service across the organisation. The Library is now firmly placed to provide a timely and relevant information service and developments during the year have created a solid basis for expansion of the service in 2002.

**3.7** Significant improvements were made in the internal information technology network during the year. New Office Information and Library databases were created and our case management system continues to be reviewed and updated. Computer

equipment has been upgraded to cope with our requirements and the Euro changeover project was undertaken and completed. The introduction of external e-mail facilities across the organisation has promoted a more integrated and effective communications network. The establishment of the Office Website (**[www.dppireland.ie](http://www.dppireland.ie)**) in September 2001 offers an invaluable facility to the Office to inform members of the public and other interested parties about the role of the Office and how it discharges its functions.

**3.8** Given the increase in staff numbers and the Office's commitment to training and development of both new and existing staff, it was decided to establish a dedicated Training Unit for the Office. A Training Officer was appointed and has responsibility for overseeing the training and development needs of the new organisation. Since its establishment the Unit has been instrumental in arranging extensive training courses and attendance at conferences for staff at all levels. The Unit will also play a key role in driving the PMDS initiative within the Office.

**3.9** The Office also recognised the need for a dedicated Unit to oversee and drive the Civil Service Modernisation Programme across the organisation and in April 2001 the Communications & Development Unit was established. The Unit has responsibility for driving the Business Planning process, the Partnership process, and the Customer Service initiative. The implementation of the Business Planning process and the setting up of a new expanded Partnership Committee were deferred until the establishment of the new office in January 2002. Since that date tremendous progress has been made. A Business Planning training programme has been completed by all those involved in the process and business plans are in the final stages of completion. The development of business plans proved to be an extremely beneficial exercise for both management and staff in the new expanded office and provided a timely opportunity both to plan for the new organisation and to promote more integrated consultation at all levels.



**3.10** A new expanded Partnership Committee has been established and a facilitator was engaged to provide specialised training to members of the Committee. The expansion and enhancement of the Partnership Committee will greatly assist the consultation and integration process at all levels in the new organisation and the Office will continue to promote and support the process.

**3.11** In seeking continuously to develop and enhance the delivery of service the Office is committed to developing the customer service initiative at all levels within the Office. The publication during the year of the Annual Report 2000 and the Strategy Statement 2001 - 2003 underpin our commitment to the principles of openness, transparency and accountability. In keeping with these principles the Office also undertook the innovative project of developing and publishing a Statement of General Guidelines for Prosecutors in order to promote a fair, reasoned and consistent prosecution policy for prosecutors and to contribute to an increased understanding of the prosecution process by the citizens of Ireland. The statement sets out in general terms principles which should

guide the initiation and conduct of prosecutions in Ireland. The Statement of General Guidelines was launched on 21 November 2001 in Dublin Castle by the Director with keynote addresses given by the then Attorney General, Mr. Michael McDowell, SC, and the Commissioner of An Garda Síochána, Mr. Patrick Byrne. The Statement, which is available on our website, will be kept under continuous review and will be revised as necessary. The Office will continue its commitment to the development of initiatives which promote a better understanding of the role of the Office by the public generally.

**3.12** The importance of regular interaction with and feedback from our stakeholders was emphasised with the hosting of both the 3rd Annual State Solicitors' Seminar and the 3rd Annual National Prosecutors Conference. The State Solicitors' Seminar was attended by 80% of all those involved in the State Solicitor Service and provides a forum for exchange of views and an opportunity for interaction between members of this Office and those involved in the State Solicitor Service around the country. The National Prosecutors Conference was attended by 200 delegates and included

members of the Bar, the State Solicitor Service, members of An Garda Síochána, members of the judiciary and representatives from organisations within the criminal justice system and related agencies. The theme of the conference was *The European Convention on Human Rights* and the keynote address was given by Mr. Justice Donal Barrington, first President of The Irish Human Rights Commission. The Conference provides a tremendous opportunity for the sharing of knowledge in relation to legal developments, both nationally and internationally, and facilitates informed debate on matters of mutual interest. The conference and seminar have proved to be extremely successful and the Office will continue this initiative for the foreseeable future.

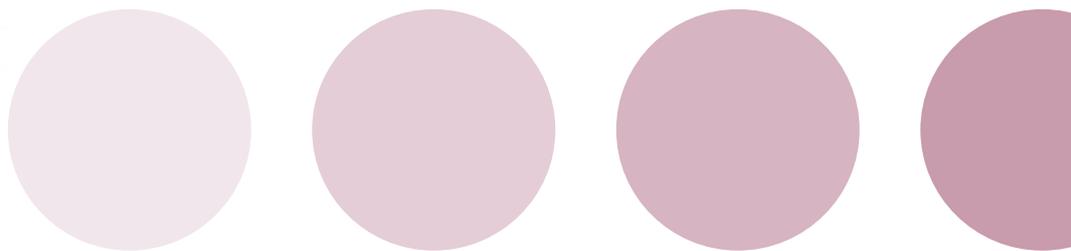
### **CONCLUSION**

**3.13** While remarkable change has taken place in the Office of the Director of Public Prosecutions in 2001 there are still tremendous challenges ahead for the coming year. Some recommendations of the Report of the Public Prosecution System Study Group remain to be implemented. Chief among these is the assignment of the contracts of local State

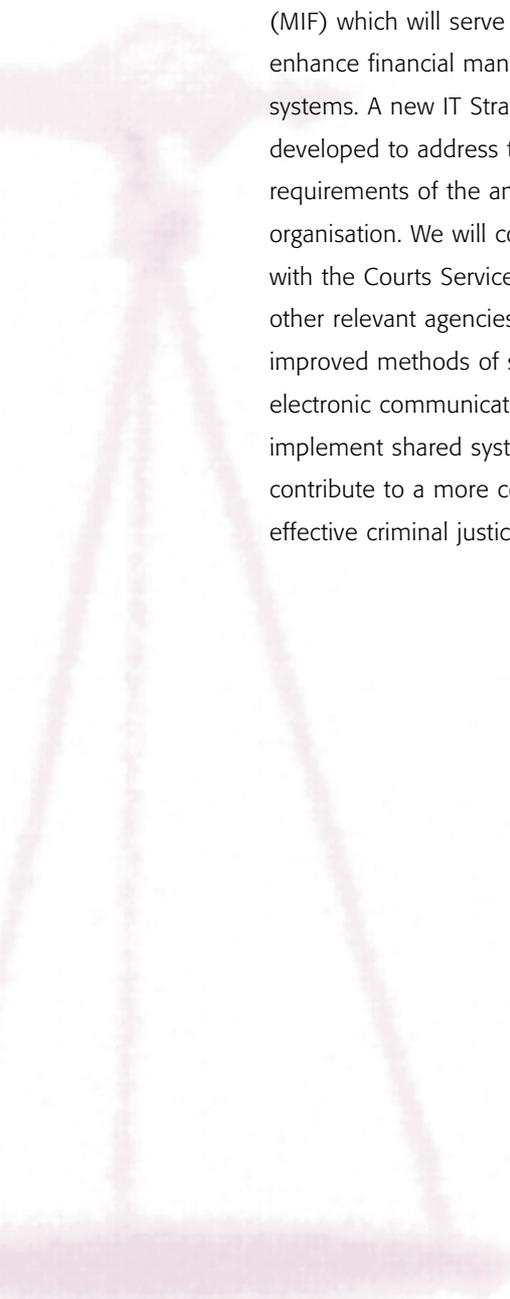
Solicitors from the Attorney General to the Director. State Solicitors are private practitioners contracted to carry out all State legal business in the counties outside Dublin. The vast bulk of this business is criminal work. Legislation is required to effect this part of the re-organisation and it is hoped that such legislation will be introduced in the near future.

**3.14** It is also intended to review the organisational structure of the solicitor services within Dublin with a view to re-structuring the Chief Prosecution Solicitor Division. This re-structuring will be aimed at the optimum management of the work of the Division and of the people within it. With the additional resources provided special attention will be paid to particularly complex and protracted cases.

**3.15** The Office plans to invest considerable resources in rolling out the modernisation programme during 2002. This investment will focus on Business Planning, Partnership, Performance Management Development System (PMDS) and Quality Customer Service (QCS) across the organisation. We will continue to promote a transformation towards the modern human resource

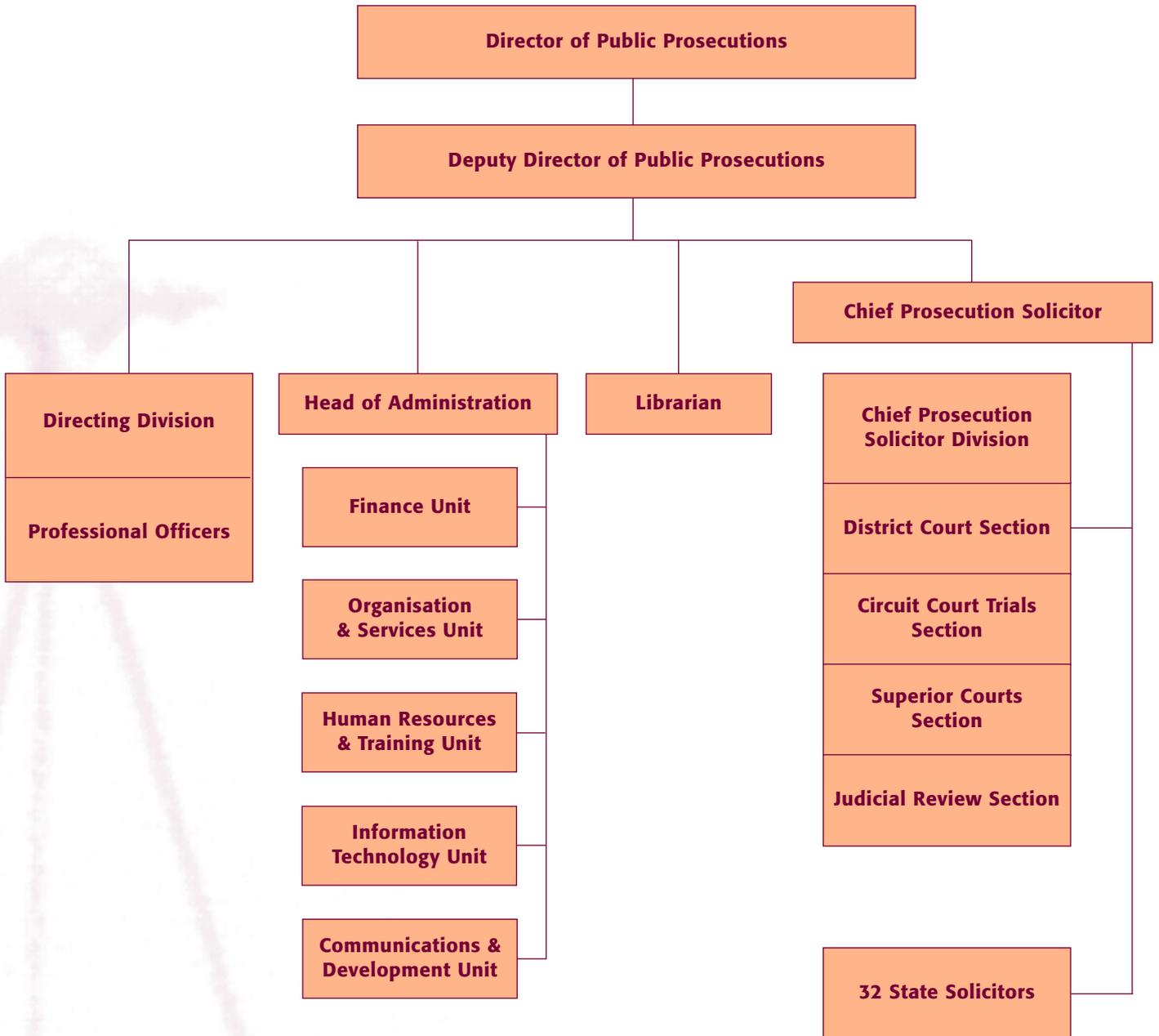


management approach with the planned development of the civil service Human Resource Management system in 2002. We will also be planning for the introduction of the Management Information Framework (MIF) which will serve to further enhance financial management systems. A new IT Strategy will be developed to address the requirements of the amalgamated organisation. We will continue to liaise with the Courts Service, Gardaí and other relevant agencies to develop improved methods of secure electronic communication and implement shared systems that will contribute to a more co-ordinated and effective criminal justice system.





# 4: ORGANISATION CHART



## 5: LEGAL DEVELOPMENTS

**5.1** Law offices operate in a constantly changing environment. Not least among the changes which a law office has to deal with are changes in the law itself. The purpose of this chapter is to give a bird's eye view of some of the more important changes which took place in the sphere of criminal law, evidence and procedure in 2001. It does not purport to be comprehensive or a detailed analysis and readers who wish to know in more detail about any of the cases referred to should consult the case reports themselves.

Amongst the many interesting cases decided in the course of 2001 were those on the following topics.

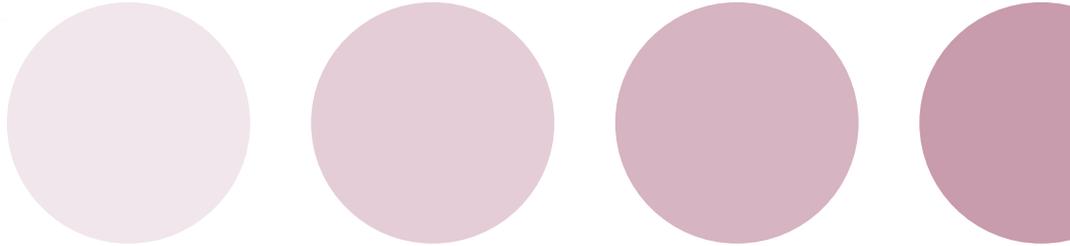
### **BAIL**

**5.2** The procedure whereby a person accused of an offence is released pending his trial is known as bail. Normally, a person is entitled to bail unless there is evidence to suggest that the accused will abscond or interfere with witnesses or evidence. In addition, an accused charged with a serious offence may be refused bail if he is likely to commit another serious offence, pursuant to the Bail Act 1997. Different considerations apply where a person has been convicted of an offence and has appealed.

The Supreme Court reiterated the principles governing the granting of bail pending an appeal to the Court of Criminal Appeal in *People (Director of Public Prosecutions) v Patrick Corbally* [2001] 1 IR 180, indicating that it should be granted where the interests of justice so require; the appeal has a reasonable chance of success; there is a possibility of the sentence having been served before the appeal is heard; but bail should only be granted for compelling reasons. This was applied in *People (Director of Public Prosecutions) v John Quinn* C.C.A. (Denham J.) 15/2/01 and the notion of a fresh application in the absence of a change in circumstances by prosecution or defence was refuted in *People (Director of Public Prosecutions) v Stephen Doherty* S.Ct. (Keane C. J.) 30/7/01 and *People (Director of Public Prosecutions) v Horgan* S.Ct. (Keane C. J.) 21/12/01.

### **TIME LIMIT**

**5.3** Many time limits are set by statute or regulation defining the period within which certain things must be done. The setting of time limits is intended to ensure that the procedures concerned progress at a reasonable rate.



Those who thought a statutory time limit was cast in stone would have forgotten *Attorney General v Shivanan* S.Ct. [1970] IR 66 and *Director of Public Prosecutions (Daniel Murphy) v Michael Regan* H.Ct. (O'Hanlon J.) [1993] ILRM 335. Finnegan J. in the High Court did not, when he held in *Director of Public Prosecutions v Gregory Conlon* H.Ct. (Finnegan J.) 20/12/01 that where a statutory time limit was adopted by the rules of Court, a power in the rules for the court to extend the time applied.

## DISCOVERY

- 5.4** Discovery is a process whereby one party to a legal proceeding may seek to inspect documents, relevant to the proceeding, and which are held by another party. Until recently it was considered that discovery was available in the course of a criminal prosecution.

Geoghegan J. held in *People (Director of Public Prosecutions) v Derek Sweeney* S.Ct. [2002] 1 ILRM 532 that the rules concerning discovery, in particular third party discovery, are not available in criminal trials. This does not apply in Judicial Reviews arising from criminal trial where discovery is still available (*Robert Burke v Director of Public Prosecutions* S.Ct. [2001] 1 IR 760). In an earlier case the

Supreme Court held that documents must be in the possession, power or procurement of the relevant party, by way of enforceable legal right, before disclosure can be ordered. The Supreme Court refused an order against the Church of Scientology in Dublin relating to documents held by the branch of that church in London (*Mary Johnston v Church of Scientology & Others* S.Ct. [2001] 1 IR 689). There must be strict compliance with the discovery rules in SI 233/99, order 31 rule 12 (*Michael Swords v Western Proteins Limited* H.Ct. [2001] 1 IR 324) and (*Thomas Hannigan v Director of Public Prosecutions and His Honour Judge Peter Smithwick* S.Ct. [2001] 1 IR 378).

## DRUNK DRIVING

- 5.5** Most people know that it is an offence to drive whilst drunk. It is also an offence to be drunk in charge of a motor vehicle when attempting or intending to drive it.

Kearns J. held that a motor cyclist detained for a drugs search may nevertheless be in charge of his motorcycle for the purposes of section 49 of the Road Traffic Acts, 1961-1995 (*Director of Public Prosecutions v Jamie Stewart* H.Ct. (Kearns J.) 6/4/01). A driver involuntarily asleep

in his car with lights and ignition on, can be in charge of that car with intent to drive within the meaning of section 50 of the Acts (*Director of Public Prosecutions v Edward Byrne* S.Ct. [2002] 2 ILRM 68).

#### **CASE STATED**

- 5.6** A case stated is a procedure whereby a court may seek a clarification on a point of law from a higher court.

Kearns J. in *Brian Fitzgerald v Director of Public Prosecutions, Ireland and the Attorney General* H.Ct. [4/5/01] held unconstitutional a provision of section 4 of the Summary Jurisdiction (Ireland) Act, 1857, enabling a District Court Judge to refuse to state a case on the grounds that it is frivolous or vexatious on the basis that there was no such prohibition in relation to an application for case stated made by the Director.

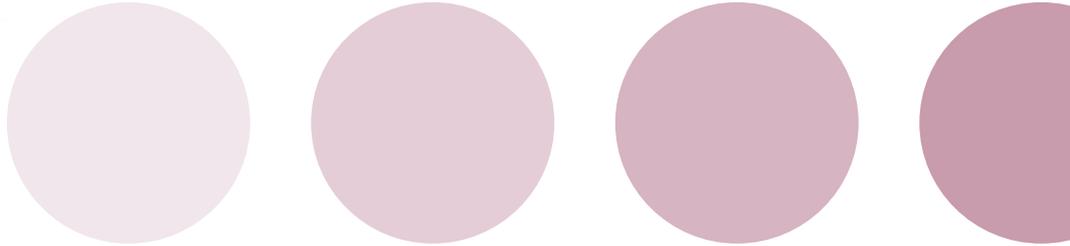
#### **ISSUE ESTOPPEL**

- 5.7** Issue estoppel is a legal principle which prevents a court adjudicating on a particular issue where that issue has previously been decided by a final judgement in earlier proceedings between the same parties. It was not previously considered that issue estoppel applied to decisions made in the course of a trial subsequently set aside on appeal.

In *People (Director of Public Prosecutions) v Keith O'Callaghan* [2001] 2 ILRM 184, Hardiman J. the Court of Criminal Appeal departed from the 1988 decision in *Michael Ryan v Director of Public Prosecutions* H.Ct. [1988] IR 232 in holding that issue estoppel in relation to the admissibility of evidence at a first trial could bind the court in the event of a second trial for the same offence.

#### **PRESERVATION OF EVIDENCE**

- 5.8** Most people would understand the obligation of the Gardaí not to destroy evidence secured by them and relevant to the commission of a criminal offence. In *Daniel Braddish v Director of Public Prosecutions and His Honour Judge Haugh* S.Ct. [2002] 1 ILRM 151, the failure to preserve a video of a robbery from which still photographs had been taken, was judged fatal to the prosecution. This was reinforced by the same court in *Robert Dunne v Director of Public Prosecutions* [2002] 2 ILRM 241 which held that where it was anticipated that a video recording from a surveillance camera would have shown the robbery, the Gardaí should secure the video evidence.



## HEARSAY

- 5.9** Hearsay is a rule of evidence which prevents one witness giving evidence of what another person other than the accused said. It can sometimes be difficult to identify what is and is not hearsay evidence.

A document completed by one person, but verified and signed by the witness, is not hearsay of that witness (*People (Director of Public Prosecutions) v Michael Byrne* C.C.A. [2001] 2 ILRM 134).

## IRISH LANGUAGE

- 5.10** Under Article 8 of the Constitution the Irish language, as the national language, is the first official language. The English language is recognised as a second official language. There have been various decisions of the courts clarifying the degree to which parties are entitled or obliged to use the Irish language.

The constitutional protection afforded to the Irish language was further reinforced when the Supreme Court held that the State had a duty to provide the District Court Rules in Irish within a reasonable time (*Seamus O'Beolain v Mary Fahy Breitheamh den Chúirt Dúiche, An Stiúrthóir Ionchúiseamh Poiblí, An tAire Dlí, Cirt,*

*Comhionannais agus Athchóirithe Dlí, Éire agus an tArd-Aighne* S.Ct. [2001] 2 IR 279).

## HABEAS CORPUS

- 5.11** Habeas Corpus is a procedure whereby the High Court can demand the presence of a person in custody so as to ascertain that the custody is lawful. Often the courts will decline to entertain an application where the purpose of the application has been overtaken by events, for instance in a Habeas Corpus application where the person has already been released.

Keane C. J. felt that the court may, if the case involved a matter of real concern, entertain an appeal to the Supreme Court even where the decision would have no practical significance (*Philip Clarke v Member in Charge of Terenure Garda Station* S.Ct. [2002] 2 ILRM 11).

## PRELIMINARY EXAMINATION

- 5.12** The right to call depositions in the course of preliminary examination is not unlimited and the District Court Judge may refuse an application to do so for good reason (*O'Shea v Judge O'Buachala* S.Ct. (Denham J.) 24/5/01).

## PROSECUTOR

**5.13** The Director of Public Prosecutions is generally the person with the sole right to prosecute indictable cases which are normally held before a jury. Other agencies are sometimes given statutory powers to prosecute summary cases in the District Court. On occasion the courts have had to clarify the powers of those agencies.

Those who can distinguish a power to prosecute summarily from a power to initiate a summary proceeding will understand how Fingal County Council were held a competent prosecutor in *TDI Metro Ltd and Patrick Halligan v District Judge Sean Delap, Fingal County Council and the Attorney General* S.Ct. [2001] 1 ILRM 338.

## PROVOCATION

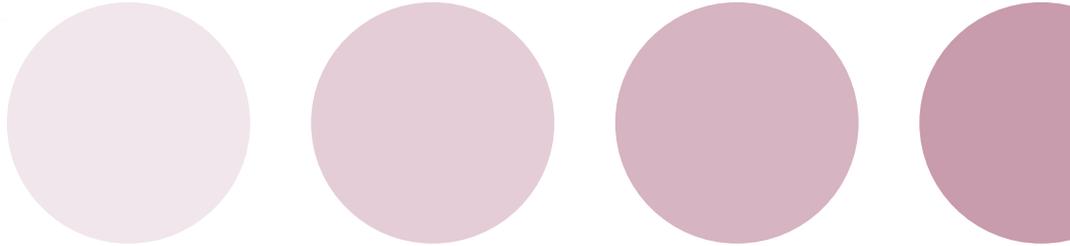
**5.14** Provocation, in addition to its colloquial meaning, also denotes a legal defence which may be claimed by a person accused of murder. If the defence is accepted it will reduce a charge of murder to one of manslaughter.

Hardiman J. dwelt on the elements of provocation in the Court of Criminal Appeal in *People (Director of Public Prosecutions) v Stephen Davis* [2001] 1 IR 146, indicating that for the defence to succeed, the accused had

to act under the provocation; regard had to be had to the accused's temperament, character and circumstances; there had to be a total loss of control; the force used had to be reasonable (having regard to the temperament, character and circumstances of the accused and probable effect of the force); and there had to be no cooling off time. Evidence must be introduced of those elements in order to raise the defence. The notion of the 'reasonable man' remains as a test of credibility. The case was followed in *People (Director of Public Prosecutions) v James McDonagh* C.C.A. [2002] 1 ILRM 225.

## REASONS FOR DECISIONS

**5.15** A defendant if he is convicted may appeal against that conviction. In addition, he may apply to a higher court for clarification of a point of law which he feels was misinterpreted by the Judge or where he feels the Judge had no power to behave as he did. A defendant may ask the judge for a ruling, called a direction, that the prosecution case is insufficiently strong to convict, without the necessity for the defendant to give evidence.



A District Court Judge must rule on each submission made by the defence for a direction so as to enable a defendant consider his options (*Aidan O'Mahony v Judge Thomas Ballagh and Director of Public Prosecutions* S.Ct. (Murphy J.) 13/12/01).

### RETROSPECTION

**5.16** One of the principles of criminal law is that an offence or the penalty for an offence may not be created retrospectively. Statutes dealing with the creation or abolition of offences or penalties can sometimes have unforeseen consequences.

The fact that criminal law provisions other than those creating an offence or a penalty may be changed with retrospective effect was confirmed by Geoghegan J., when he found that the provisions providing that a person's spouse is a compellable witness in section 21(1)(b) Criminal Evidence Act, 1992 operated in respect of an offence committed before 1992 (*People (Director of Public Prosecutions) v Vincent McKenna* C.C.A. (Geoghegan J.) 19/10/01).

The offences of common assault and assault occasioning actual bodily harm were abolished by section 28 of the Non-Fatal Offences Against the Person Act, 1997. This had the effect of

preventing prosecutions for those offences in being at the time of abolition (*Padraig Grealis v Director of Public Prosecutions, Ireland and Attorney General and Emmet Corbett v Director of Public Prosecutions, Ireland and Attorney General* [2002] 1 ILRM 241).

The Supreme Court held that the offence of indecent assault was not abolished by section 28 of the Non-Fatal Offences Against the Person Act, 1997 (*S.O.C. v Governor of the Curragh Prison, Director of Public Prosecutions and His Honour Judge Haugh* S.Ct. (Hardiman J.) 13/7/01).

### SECTION 4 CRIMINAL JUSTICE ACT, 1984

**5.17** A person arrested for a serious offence may be questioned initially for 6 hours in a Garda station after his arrest. The court has clarified from time to time the limits of that power of detention, conscious that it may be exercised on suspicion only.

A person must be brought to the station following an arrest. In the case *Director of Public Prosecutions v John Cleary* C.C.C. (Herbert J.) 29/11/01, 7/12/01 the suspect was arrested at home. He was detained at home for thirty minutes while his home was searched. He made admissions during that detention. The court ruled those

admissions inadmissible because he had not been taken to the station promptly. However, the temporary absence on legitimate business from the station did not invalidate the lawfulness of a suspect's section 4 detention (*Philip Clarke v Member in Charge of Terenure Garda Station* S.Ct. [2002] 2 ILRM 11).

#### **SEARCH WARRANT**

**5.18** Many statutes provide for the issue of search warrants to enter private property and search for various things. The courts have, from time to time, clarified the procedures which must be complied with for the proper issue of the search warrant. Where a search warrant has not been properly issued it may have the effect of preventing the admission in a trial of the evidence obtained in the course of the search.

There is no need for a Peace Commissioner to recite his jurisdiction on the face of a warrant which he grants (*Director of Public Prosecutions v James Edgeworth* S.Ct. [2001] 1 IR 131).

#### **SILENCE**

**5.19** Most people are aware of the right to silence. The right is, in essence, the right of a suspect or an accused person not to incriminate him/herself. It is not a right in all circumstances to refuse to speak or disclose information. Many statutes provide for an obligation to disclose information in a person's possession about a particular matter. The common thread joining those provisions is that the information thereby disclosed may not be used to prosecute the person making the disclosure.

That the right to silence was not a general right, but rather a right against self-incrimination, was touched on in *Carlos Salinas de Gortari v Judge Peter Smithwick, the Minister for Justice, Equality and Law Reform* H.Ct. [2001] 1 ILRM 354).



## 6: MUTUAL ASSISTANCE IN CRIMINAL MATTERS

### **EUROJUST**

- 6.1** EUROJUST is a newly established network of European Union prosecutors which was established in December 2001. It replaced Pro-EUROJUST, which was a provisional judicial cooperation unit established in December 2000. It consists of one member from each member state of the European Union. The Irish member is Mr. Micheál Mooney, a Professional Officer of the Director of Public Prosecutions.
- 6.2** EUROJUST's remit covers serious multi-jurisdictional organised crime. Its objectives are for increased co-operation between member states in the investigation and prosecution of relevant offences and in the provision of information and assistance by one member state to another in relation to such prosecutions, and the more effective co-ordination of the institutions in member states dealing with such matters, one with the other.
- 6.3** EUROJUST may formally request that an investigation take place and that a prosecution be undertaken. In the event that neither takes place, EUROJUST may request a reason.
- 6.4** Appropriate procedures, which may necessitate legislation, will be established so as to ensure that decisions of EUROJUST will have force in each member state.
- 6.5** The advantages of EUROJUST over the previous arrangements for cooperation include the reduction of language difficulties, the concentration of national experts familiar with the law and procedures of their own country under one roof, enabling the informal exchange of local information as to national judicial and bureaucratic procedures, and facilitating the resolution of difficulties arising.
- 6.6** EUROJUST provides a forum for general discussion of cases and legal policies, for the provision of facilities or information to advance a particular prosecution or investigation and for the formation of multi-national investigative or prosecutorial teams to advance a case.
- 6.7** The functions of EUROJUST are complementary. The investigative and prosecutorial processes of member states are not affected. The central authorities and other institutions currently dealing with mutual assistance matters continue to function.



# 7: TRIBUNALS OF INQUIRY AND THE INVESTIGATIVE AND PROSECUTORIAL PROCESS

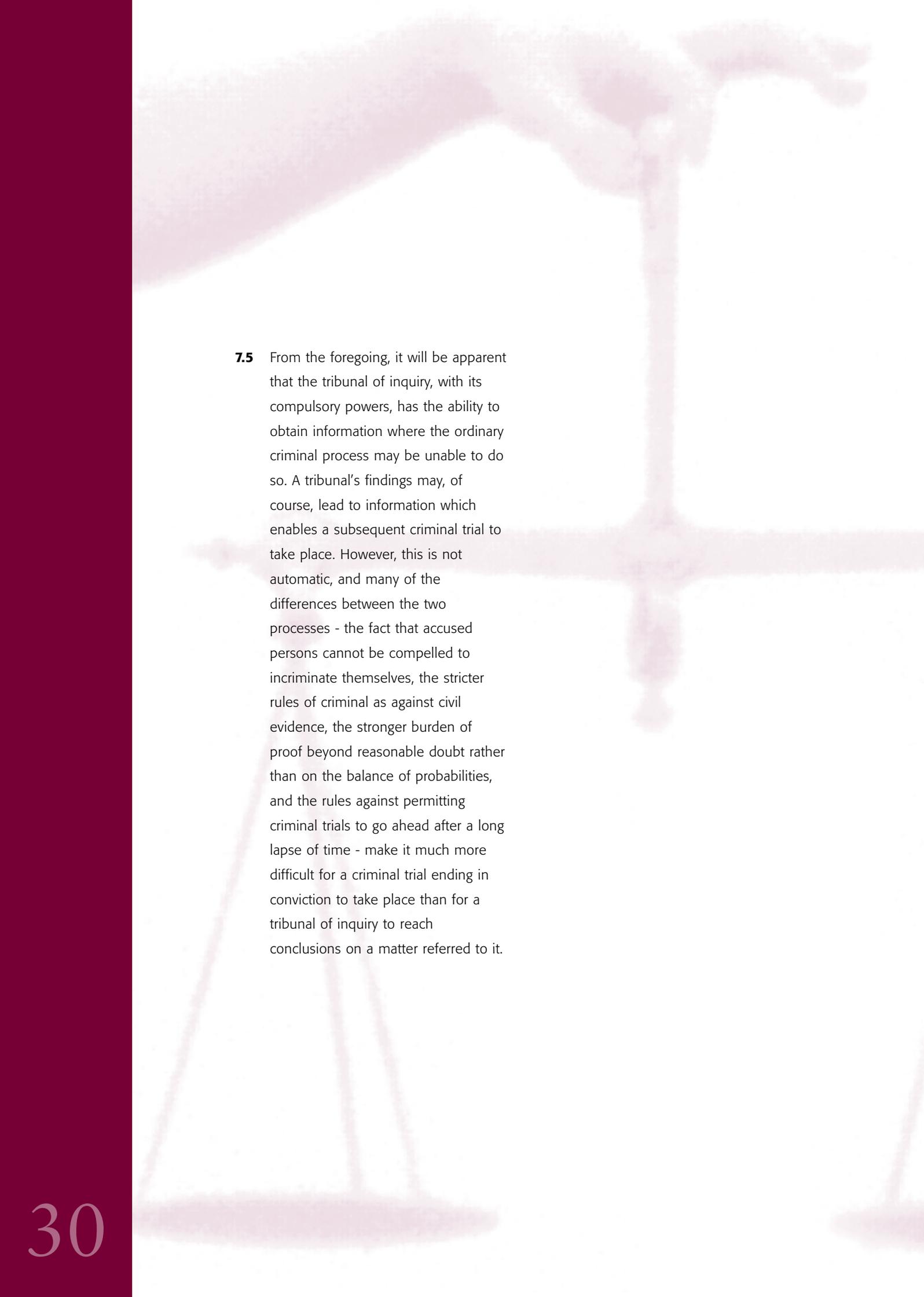
**7.1** Members of the public frequently question the relationship between tribunals of inquiry and the criminal law. There is an expectation that revelations at tribunals will lead to criminal proceedings. The question is also asked why tribunals are necessary and why criminal cases were not brought in the first place. The purpose of this chapter is to make some comment on the differences between tribunals of inquiry and the criminal process.

**7.2** The purpose of a tribunal of inquiry is very different from that of a criminal trial. As a result, the rules and procedures of the two are very distinct.

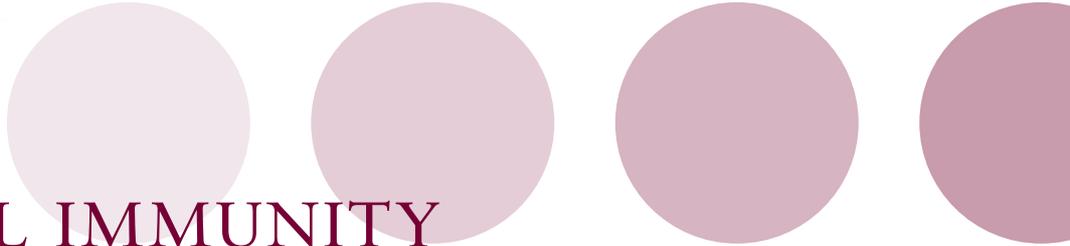
**7.3** The purpose of a tribunal of inquiry under the Tribunals of Inquiry (Evidence) Act, 1921 is to enquire into a matter which the Oireachtas has decided is a matter of urgent public importance. Its objective is to enquire into all the relevant surrounding circumstances of that matter and to make recommendations. An enquiry is not as such a contest between parties, although parties may be allowed representation if their interests are likely to be affected. The tribunal itself has wide investigative powers, including the power to compel witnesses to attend and give evidence

of their own wrongdoing. Where this happens, however, the evidence given on compulsion cannot be used against the witness in a subsequent criminal trial.

**7.4** A criminal trial, on the other hand, is an adversarial proceeding in which the prosecution alleges that the accused has committed a criminal offence. The prosecution must prove its case beyond a reasonable doubt. An accused who does not wish to give evidence is not required to do so. The court itself has no investigative powers but holds the ring between the two parties, the prosecution and the accused. The court is concerned only with one issue – the guilt or innocence of the accused – and is not concerned with other surrounding circumstances unless they are relevant to guilt or innocence. A criminal court does not make recommendations. A criminal case may not, therefore, be a suitable mechanism for finding out the whole truth about a complex matter. Its purpose is solely that of determining whether it can be shown beyond a reasonable doubt that a named person has committed a specified offence.



**7.5** From the foregoing, it will be apparent that the tribunal of inquiry, with its compulsory powers, has the ability to obtain information where the ordinary criminal process may be unable to do so. A tribunal's findings may, of course, lead to information which enables a subsequent criminal trial to take place. However, this is not automatic, and many of the differences between the two processes - the fact that accused persons cannot be compelled to incriminate themselves, the stricter rules of criminal as against civil evidence, the stronger burden of proof beyond reasonable doubt rather than on the balance of probabilities, and the rules against permitting criminal trials to go ahead after a long lapse of time - make it much more difficult for a criminal trial ending in conviction to take place than for a tribunal of inquiry to reach conclusions on a matter referred to it.

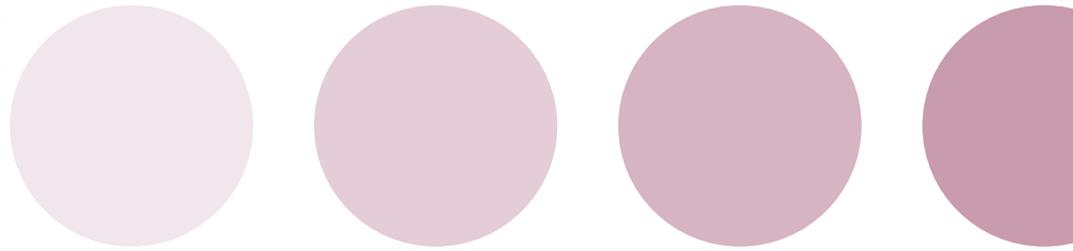


## 8: CARTEL IMMUNITY PROGRAMME

- 8.1** The Cartel Immunity Programme was introduced on 20 December 2001 by the Competition Authority in conjunction with the Director of Public Prosecutions.
- 8.2** Immunity under the programme, operated by the Competition Authority, may be granted to a party that has not played *the* lead role in an illegal cartel and who agrees to make full disclosure to the authority, co-operate with the authority in its investigation, and, in due course, withdraw from the cartel.
- 8.3** The text of the programme may be found in the Annual Report 2001 of the Competition Authority. It may also be accessed at **[www.tca.ie](http://www.tca.ie)**.
- 8.4** The European Competition Authorities, following lengthy negotiations between member states, met in Dublin in September 2001 and agreed a set of Principles for Leniency Programmes. Those principles are also to be found on the Competition Authority's website. The principles agreed reflect the experience of Competition Authorities in other jurisdictions.
- 8.5** That experience suggested that there were significant economic benefits to be gained from the effective prevention of the formation and operation of cartels. Effective investigation of cartels, by their nature secretive and conspiratorial, was greatly facilitated by programmes providing for lenient treatment to certain participants in return for full disclosure. Knowledge of the existence of such programmes was found also to deter the initial formation of such cartels.

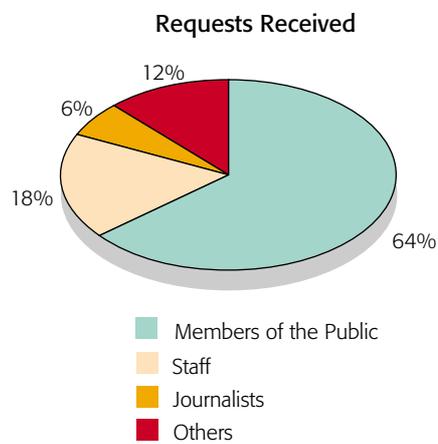
## 9: FREEDOM OF INFORMATION

- 9.1** In the year 2001, the third complete year of the operation of the Freedom of Information (FOI) Act, 1997, the Office of the Director of Public Prosecutions received seventeen requests which is the same number as the previous year. In 1999, the first full year of the FOI Act, the Office received twenty one requests.
- 9.2** The greatest proportion of requests received by the Office, some 53%, relate to records concerning our criminal case files. This is a continuation of the trend since the introduction of the FOI Act. Records concerning criminal case files are not accessible under the FOI Act because they are subject to the restriction at section 46(1)(b). Given the comparative small number of requests overall received by the Office, steps to heighten the public's awareness of the section 46(1)(b) restriction would not appear to be warranted. Nine of the eleven requests refused were refused on the basis that the records sought were subject to the section 46(1)(b) restriction.
- 9.3** In its section 15 & 16 FOI publication the Office explains that records held or created by the Office, other than those concerning the general administration of the Office, are restricted under section 46(1)(b) of the FOI Act. Records, therefore, which concern criminal case files are not subject to the FOI Act.
- 9.4** In the year 2001 only one request was the subject of a review by the Information Commissioner. The decision of the Office in that request was affirmed by the Information Commissioner. The decision of the Information Commissioner is legally binding and can only be appealed in the High Court on a point of law.
- 9.5** The Director intervened in one High Court case - *The Courts Service (appellant) v The Information Commissioner (respondent) and Patrick Rodgers, The Minister for Justice, Equality & Law Reform and the DPP (notice parties)* Finnegan J., H.Ct. 14/3/01. The Information Commissioner had ordered disclosure by the Courts Service of a Book of Evidence. The Director submitted that the Book of Evidence was a "record held or created by the Director of Public Prosecutions or the Office of the Director of Public Prosecutions". Therefore section 46(1)(b) applied to it and accordingly it was exempt from disclosure. This submission was upheld.
- 9.6** The Office continues to expand the range of information available to the public through our website ([www.dppireland.ie](http://www.dppireland.ie)) and through the publication of Annual Reports, Strategy Statements and most recently the Statement of General Guidelines for Prosecutors. Our sections 15 and 16 FOI guide is currently being revised and will be ready for publication in the near future.

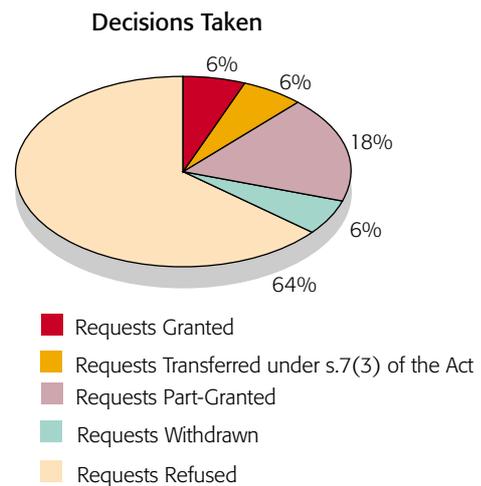


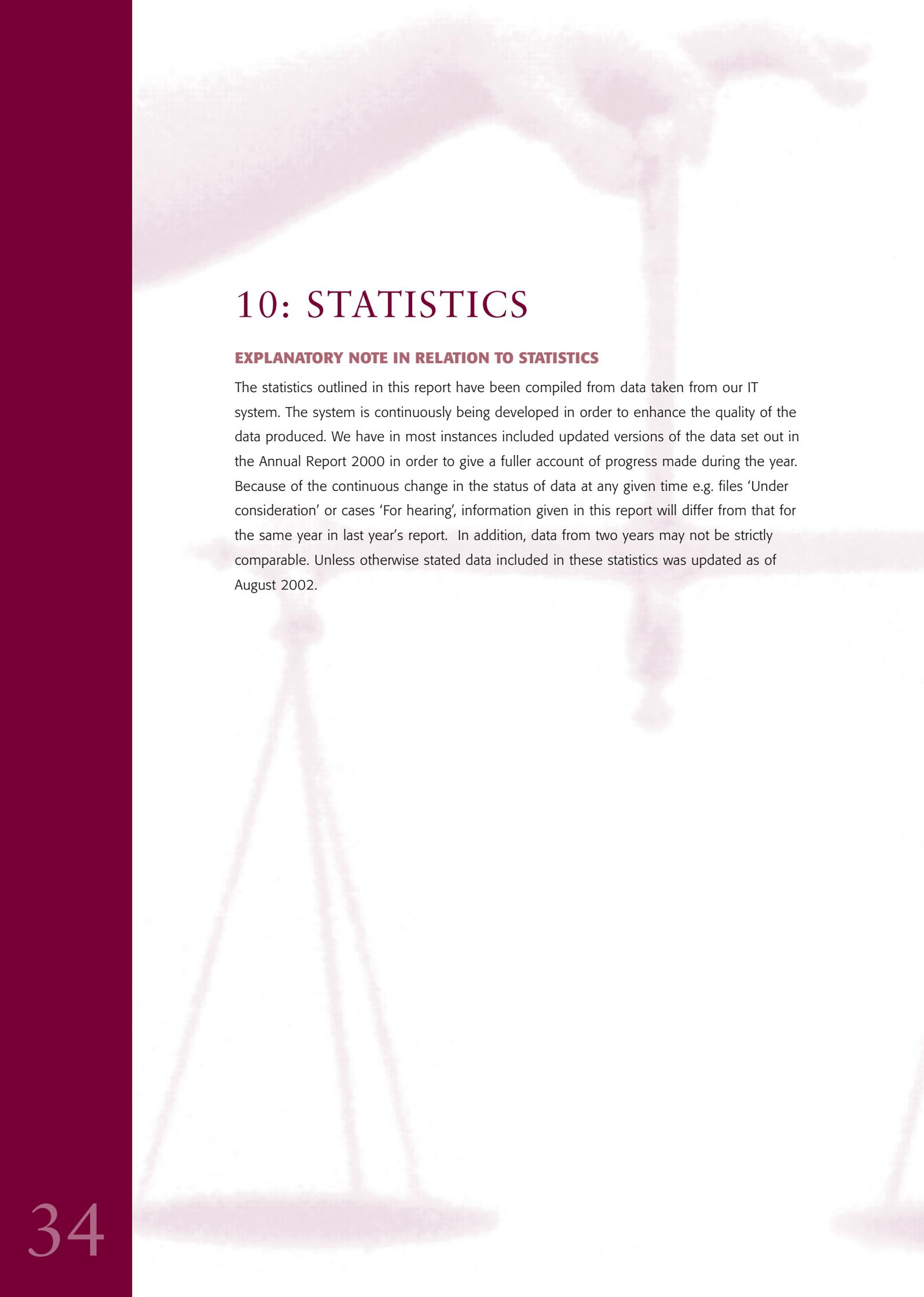
**A BREAKDOWN OF THE FOI REQUESTS RECEIVED AND DECISIONS TAKEN IN THE YEAR 1 JANUARY 2001 TO 31 DECEMBER 2001 IS SHOWN IN THE CHART BELOW:**

Members of the Public	11
Staff	3
Journalists	1
Others	2
<b>TOTAL</b>	<b>17</b>



Requests Granted	1
Requests Transferred under s.7(3) of the Act	1
Requests Part-Granted	3
Requests Withdrawn	1
Requests Refused	11
<b>TOTAL</b>	<b>17</b>





## 10: STATISTICS

### **EXPLANATORY NOTE IN RELATION TO STATISTICS**

The statistics outlined in this report have been compiled from data taken from our IT system. The system is continuously being developed in order to enhance the quality of the data produced. We have in most instances included updated versions of the data set out in the Annual Report 2000 in order to give a fuller account of progress made during the year. Because of the continuous change in the status of data at any given time e.g. files 'Under consideration' or cases 'For hearing', information given in this report will differ from that for the same year in last year's report. In addition, data from two years may not be strictly comparable. Unless otherwise stated data included in these statistics was updated as of August 2002.

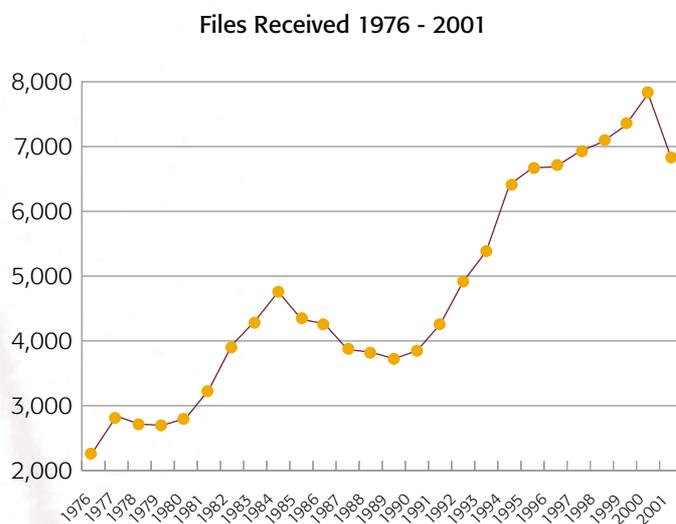
## TOTAL FILES RECEIVED

Chart 10.1 shows the number of files received by the Office from 1976 to 2001. The vast majority of files relate to the investigation of crime. The remainder deal with general queries, matters for judicial review or requests for legal advice from the Garda Síochána or state solicitors. The caseload has increased generally on a year on year basis since the establishment of the Office, both in terms of numbers of files received and in the complexity of the issues which have to be addressed.

A significant drop of over 1000 files can be seen in the figures from 2000 to 2001. This is due to a change in administrative arrangements authorising the prosecution of certain specified but relatively minor offences by the Garda Síochána without the necessity for the prior submission of files to this Office for directions.

**CHART 10.1**

Year	Files	Year	Files	Year	Files	Year	Files
1976	2,298	1983	4,309	1990	3,849	1997	6,916
1977	2,839	1984	4,759	1991	4,255	1998	7,068
1978	2,715	1985	4,335	1992	4,917	1999	7,319
1979	2,698	1986	4,263	1993	5,386	2000	7,815
1980	2,806	1987	3,866	1994	6,408	2001	6,820
1981	3,249	1988	3,829	1995	6,673		
1982	3,938	1989	3,724	1996	6,687		

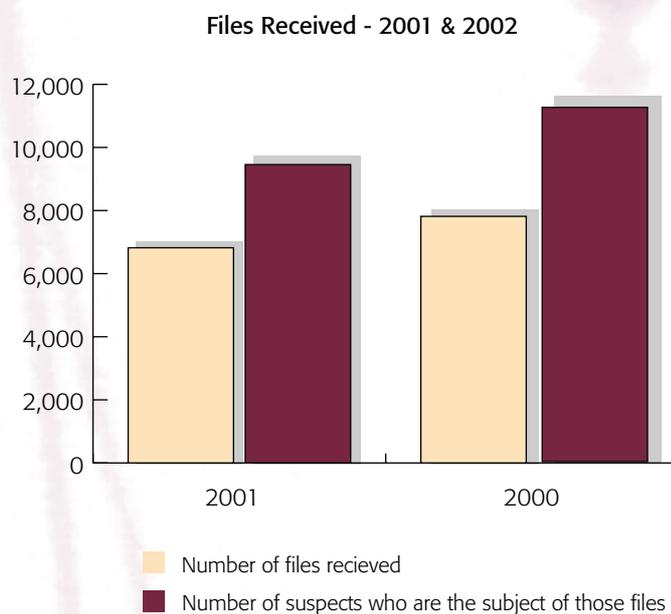


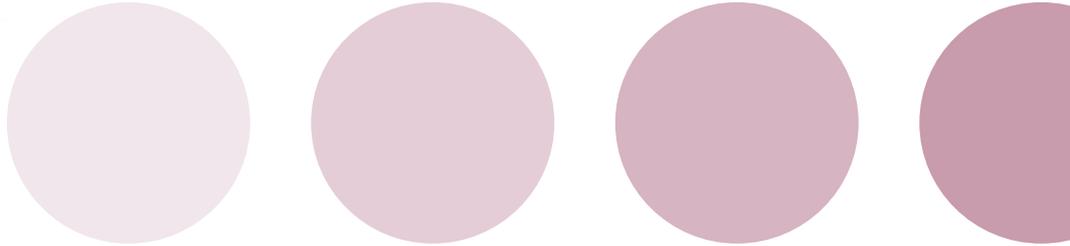
## FILES RECEIVED - NUMBER OF SUSPECTS

This chart compares the number of files received in the relevant year to the number of suspects who are the subject of these 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 also at the total number of suspects as well as the total number of files.

**CHART 10.2**

	<b>2001</b>	<b>2000</b>
Number of files received	6,820	7,815
Number of suspects who are the subject of those files	9,456	11,225





## DISPOSAL OF FILES

The following charts show a breakdown of files disposed of in 2000 & 2001. The Garda Síochána and specialised investigating agencies submit files to this Office via the Chief Prosecution Solicitor Division or the County 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:

**Prosecute on Indictment:** The offence should be prosecuted in the Circuit, Central or Special Criminal Courts.

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

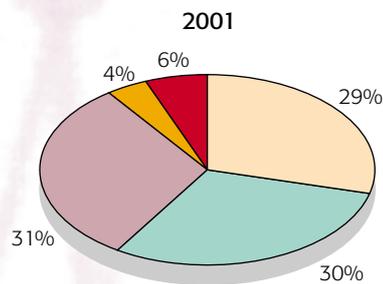
**No Prosecution:** A decision not to prosecute is made most commonly because the evidence contained in the file is not sufficient to support a prosecution.

**Non-Prosecution File:** Typically these files relate to requests for legal advice from the Garda Síochána, state solicitors and other agencies.

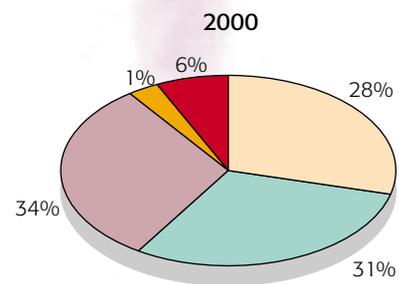
**NOTE:** The figures for 2000 have been updated since the publication of last year's Annual Report. The reduction in the files "Under Consideration" figure reflects the number of directions taken in those files. Prosecutions on Indictment include those cases in which defendants elected for trial and cases where the District Judge refused jurisdiction, notwithstanding the fact that this Office initially elected for summary disposal. A non prosecution file is reclassified as a prosecution file when a Garda investigation file is furnished.

**CHART 10.3**  
**DISPOSAL OF FILES BY NUMBER OF FILES RECEIVED.**

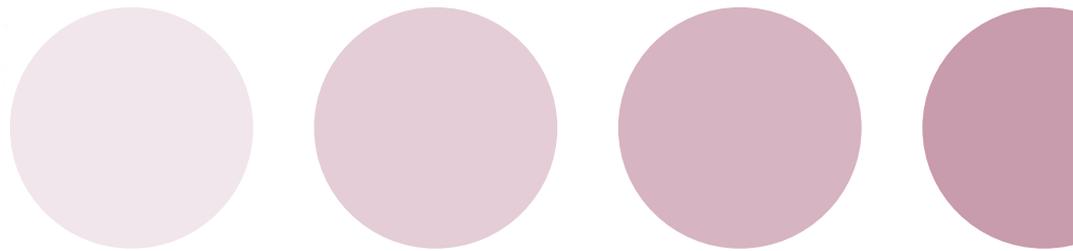
<b>Direction Made</b>	<b>2001</b>	<b>2000</b>
No Prosecution	1,944	2,207
Prosecution on Indictment	2,078	2,423
Summary Disposal	2,127	2,684
Under Consideration	239	45
Non Prosecution Files	432	456
<b>TOTAL</b>	<b>6,820</b>	<b>7,815</b>



- No Prosecution
- Prosecution on Indictment
- Summary Disposal
- Under Consideration
- Non Prosecution Files

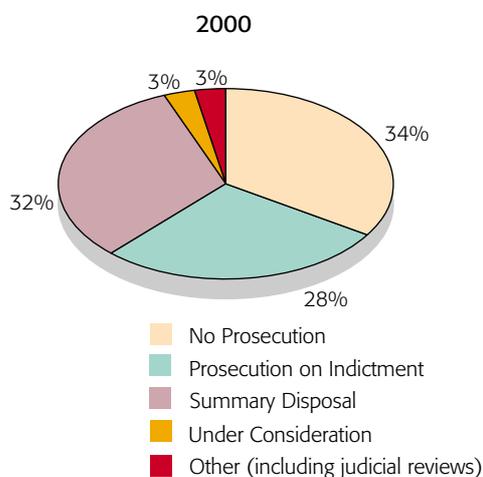
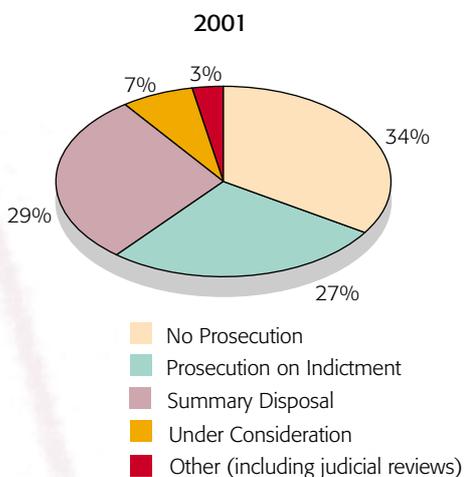


- No Prosecution
- Prosecution on Indictment
- Summary Disposal
- Under Consideration
- Non Prosecution Files



**CHART 10.4**  
**DISPOSAL OF FILES BY NUMBER OF SUSPECTS SUBJECT OF FILES RECEIVED**

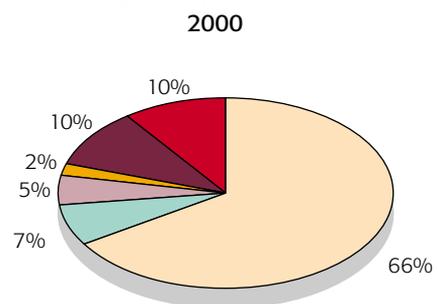
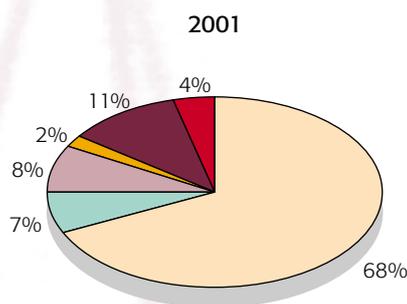
Direction Made	2001	2000
No Prosecution	3,141	3,742
Prosecution on Indictment	2,558	3,141
Summary Disposal	2,752	3,633
Under Consideration	698	318
Other (including judicial reviews)	307	391
<b>TOTAL</b>	<b>9,456</b>	<b>11,225</b>



**CHART 10.5**  
**BREAKDOWN OF MAIN REASONS FOR NO PROSECUTION BY SUSPECT**  
**AS SET OUT IN CHART 10.4**

A prosecution may not result in relation to a particular file for a variety of reasons other than the main reasons set out in this chart (referred to as “not categorised” below). Delay, 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.

<b>Main Reasons for No Prosecution</b>	<b>2001</b>	<b>2000</b>
Insufficient Evidence	2,135	2,439
Juvenile Diversion Programme	230	278
Public Interest	261	190
Sympathetic Grounds	49	78
Time Limit Expired	354	381
Not Categorized	112	376
<b>TOTAL</b>	<b>3,029</b>	<b>3,366</b>



- Insufficient Evidence
- Juvenile Diversion Programme
- Public Interest
- Sympathetic Grounds
- Time Limit Expired
- Not Categorised

- Insufficient Evidence
- Juvenile Diversion Programme
- Public Interest
- Sympathetic Grounds
- Time Limit Expired
- Not Categorised

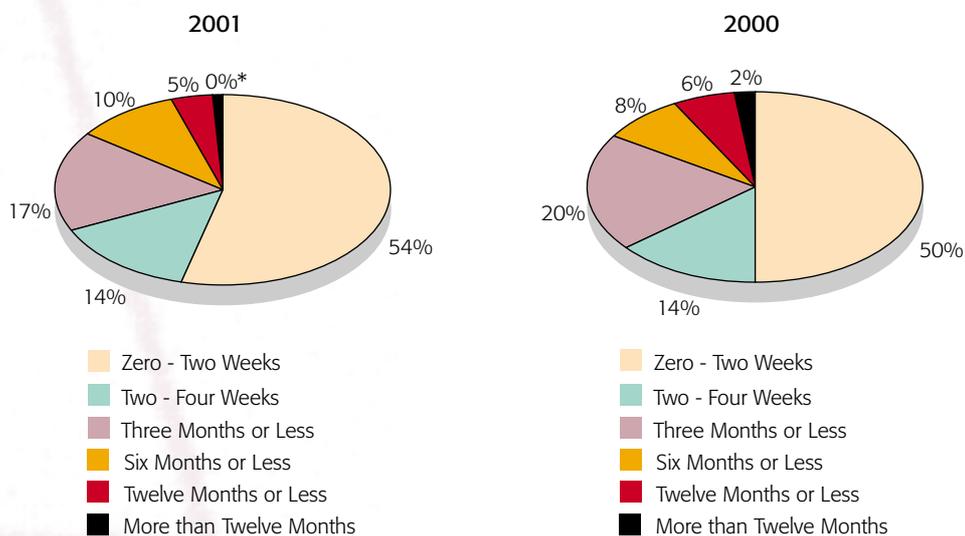
## TIME TAKEN TO ISSUE DIRECTIONS

Chart 10.6 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 should be taken or not. In a number of cases further information or investigation was required before a decision could be made. Files vary in size, number of suspects and complexity. Further information is sought more often than not to strengthen the case rather than because of any deficiency in the investigation.

In order to give a more meaningful figure, the files in which further information is sought, files which are under consideration and files not relating to prosecutions have been excluded from the figures below. The total therefore is less than the total number of files received (6,820 - as set out in Chart 10.1).

**CHART 10.6**  
**TIME TAKEN TO ISSUE DIRECTIONS**

Time Taken	2001	2000
Zero - Two Weeks	3,422	3,702
Two - Four Weeks	891	1,034
Three Months or Less	1,100	1,529
Six Months or Less	628	635
Twelve Months or Less	314	417
More Than Twelve Months	16	165
<b>TOTAL</b>	<b>6,371</b>	<b>7,482</b>



\* 0% denotes a percentage of less than 1.

## CASE RESULTS - PROSECUTIONS ON INDICTMENT

Chart 10.7 shows the results of prosecutions on indictment taken in relation to files received in 2000.

**Conviction:** A conviction was obtained in respect of one or more of the defendants in the case.

**Acquittal:** All of the defendants in the case were acquitted.

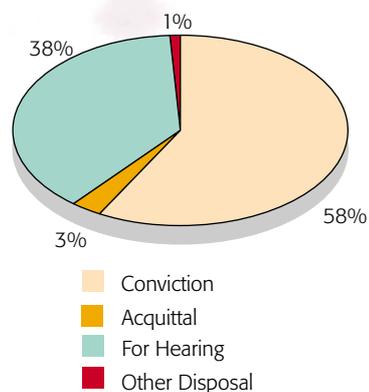
**Other Disposals:** These are cases which were struck out or discontinued e.g. where state witnesses were unavailable.

**For Hearing:** 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 2001 as few of these cases have yet been dealt with by the courts, and the cases that have been dealt with are not necessarily a representative sample of the whole.

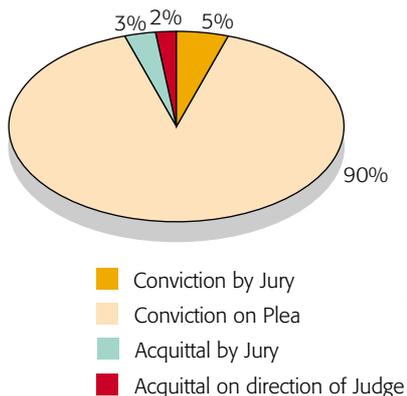
**CHART 10.7**  
**CASE RESULTS - PROSECUTIONS ON INDICTMENT**

Outcome	2000
Conviction	1,812
Acquittal	101
For Hearing	1,187
Other Disposal	41
<b>TOTAL</b>	<b>3,141</b>



**CHART 10.8**  
**BREAKDOWN OF CONVICTIONS AND ACQUITTALS FROM 10.7 ABOVE**

Breakdown	2000
Conviction by Jury	95
Conviction on Plea	1,717
Acquittal by Jury	58
Acquittal on direction of Judge	43
<b>TOTAL</b>	<b>1,913</b>



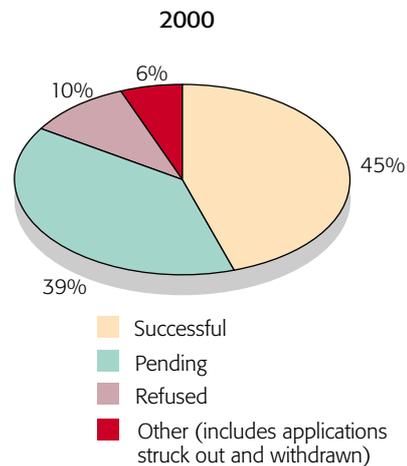
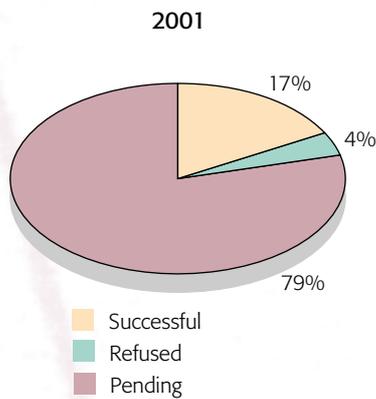
## SECTION 2 OF THE CRIMINAL JUSTICE ACT 1993

In the 12 months covered by this report 23 applications were made to the Court of Criminal Appeal seeking to review sentences imposed by the trial court as being unduly lenient. The results of those applications heard during that period are set out below.

**Note:** The figures for 2000 have been updated since the publication of last year's Annual Report.

**CHART 10.9**  
**OUTCOME OF APPEALS AGAINST LENIENCY OF SENTENCE**

Outcome of Appeals Against Leniency of Sentence	2001	2000
Successful	4	14
Refused	1	12
Pending	18	3
Other (includes applications struck out and withdrawn)	0	2
<b>TOTAL</b>	<b>23</b>	<b>31</b>



## OFFICE EXPENDITURE

Chart 10.10 shows the breakdown of office expenditure for 2000 & 2001.

**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 determined within the parameters set by the Minister for Finance.

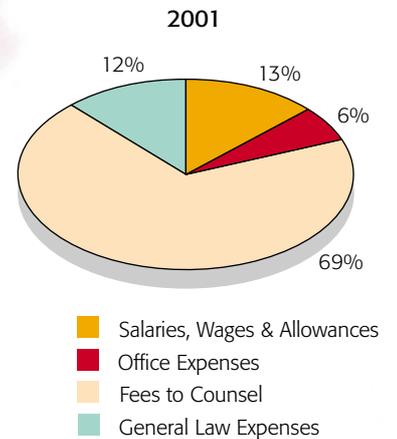
**General Law Expenses:** This refers to the payment of legal costs awarded by the courts in judicial review matters and other applications connected to legal proceedings.

**Salaries & Wages:** This represents the cost of salaries of staff employed in the Office. The total staff complement at 1 January 2001 was 39.

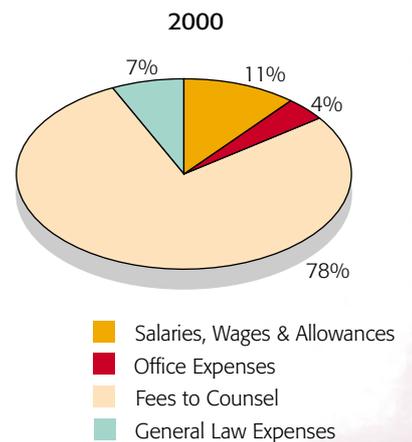
**Office Expenses:** This relates to general office administration costs e.g. purchase and maintenance of office equipment, office supplies, library costs, office premises maintenance, travel and other incidental expenses.

**CHART 10.10**  
**OFFICE EXPENDITURE**

	<b>2001</b> <b>IR€</b>	<b>2001</b> <b>€</b>
Salaries, Wages & Allowances	1,686,000	2,140,778
Office Expenses	742,000	942,146
Fees to Counsel	8,876,000	11,270,195
General Law Expenses	1,512,000	1,919,844
<b>TOTAL</b>	<b>12,816,000</b>	<b>16,272,963</b>



	<b>2000</b> <b>IR€</b>	<b>2000</b> <b>€</b>
Salaries, Wages & Allowances	1,151,000	1,461,468
Office Expenses	396,000	502,816
Fees to Counsel	7,890,000	10,018,233
General Law Expenses	726,000	921,830
<b>TOTAL</b>	<b>10,163,000</b>	<b>12,904,347</b>



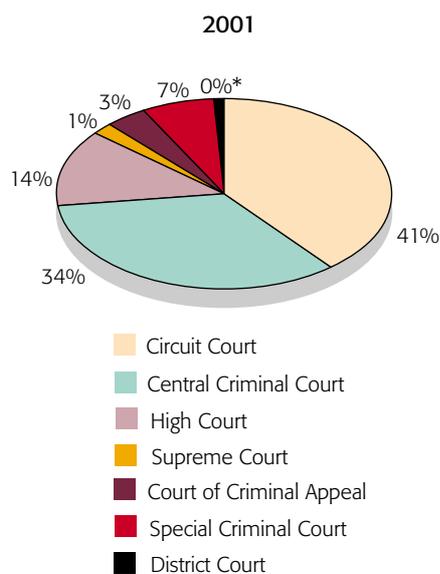
## FEES TO COUNSEL

Charts 10.11 and 10.12 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 Central, Special & Circuit Criminal Courts cover advising on proofs, drafting indictments, holding consultations, arraignments, presentation of the case and other necessary appearances e.g. for sentence.

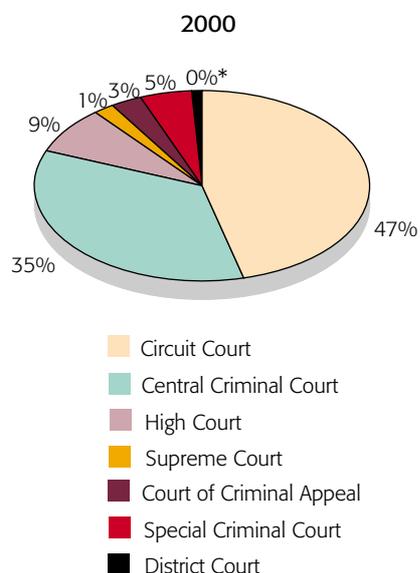
Expenditure on fees in the High Court covers mainly bail applications and the preparatory work and hearings associated with judicial reviews.

**CHART 10.11**  
**FEES TO COUNSEL BY COURT**

Court	2001 IRE	2001 €
Circuit Court	3,594,000	4,563,439
Central Criminal Court	3,019,000	3,833,339
High Court	1,243,000	1,578,284
Supreme Court	124,000	157,448
Court of Criminal Appeal	289,000	366,954
Special Criminal Court	604,000	766,922
District Court	3,000	3,809
<b>TOTAL</b>	<b>8,876,000</b>	<b>11,270,195</b>



Court	2000 IRE	2000 €
Circuit Court	3,721,000	4,724,695
Central Criminal Court	2,789,000	3,541,299
High Court	707,000	897,705
Supreme Court	66,000	83,803
Court of Criminal Appeal	222,000	281,882
Special Criminal Court	377,000	478,691
District Court	8,000	10,158
<b>TOTAL</b>	<b>7,890,000</b>	<b>10,018,233</b>

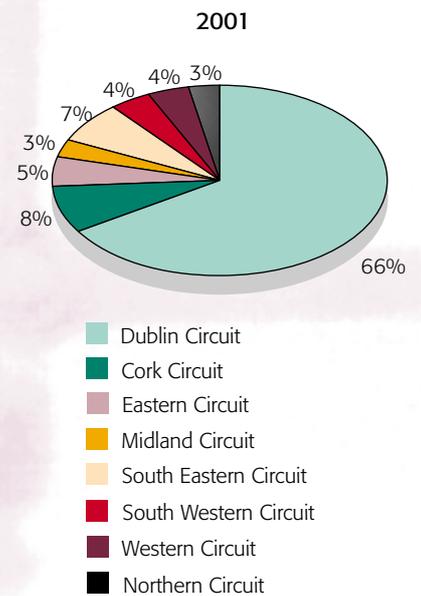


\*0% denotes a percentage less than 1

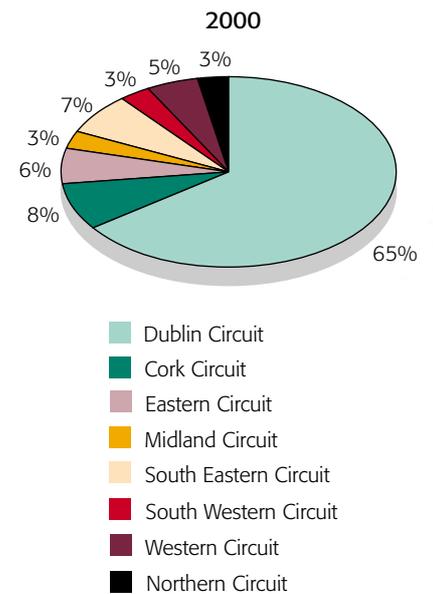
## FEEES TO COUNSEL CIRCUIT COURT

**CHART 10.12**  
**FEEES TO COUNSEL CIRCUIT COURT**

Court	2001 IRE	2001 €
Dublin Circuit	2,341,000	2,972,457
Cork Circuit	294,000	373,303
Eastern Circuit	188,000	238,711
Midland Circuit	110,000	139,671
South Eastern Circuit	250,000	317,435
South Western Circuit	147,000	186,651
Western Circuit	161,000	204,428
Northern Circuit	104,000	132,053
<b>TOTAL</b>	<b>3,595,000</b>	<b>4,564,708</b>



Court	2000 IRE	2000 €
Dublin Circuit	2,375,000	3,015,628
Cork Circuit	315,000	399,967
Eastern Circuit	240,000	304,737
Midland Circuit	110,000	139,671
South Eastern Circuit	254,000	322,513
South Western Circuit	120,000	152,369
Western Circuit	180,000	228,553
Northern Circuit	127,000	161,257
<b>TOTAL</b>	<b>3,721,000</b>	<b>4,724,695</b>



# 11: EXTRACT FROM THE APPROPRIATION ACCOUNT 2000

The following is an extract from the Annual Report of the Comptroller and Auditor General and Appropriation Accounts 2000.

## Office of the Director of Public Prosecutions Vote 14

ACCOUNT of the sum expended, in the year ended 31 December 2000, 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	Estimate Provision £'000	Outturn £'000	Closing Accruals £'000
<b>ADMINISTRATION</b>			
A.1. Salaries, Wages and Allowances	1,522	1,151	-
A.2. Travel and Subsistence	51	48	2
A.3. Incidental Expenses	123	102	12
A.4. Postal and Telecommunications Services	44	35	2
A.5. Office Machinery and Other Office Supplies	94	109	10
A.6. Office Premises Expenses	182	135	5
<b>OTHER SERVICES</b>			
B. Fees to Counsel	7,650	7,890	1,875
C. General Law Expenses	680	726	405
<b>Gross Total</b>	<b>10,346</b>	<b>10,196</b>	<b>2,311</b>
<b>Deduct -</b>			
D. Appropriations in Aid	5	33	-
<b>Net Total</b>	<b>10,341</b>	<b>10,163</b>	<b>2,311</b>
<b>SURPLUS TO BE SURRENDERED</b>	<b>£177,980</b>	<b>€225,988</b>	

# 12: PROMPT PAYMENT OF ACCOUNTS ACT, 1997

## APPENDIX 6: PROMPT PAYMENT OF ACCOUNTS ACT, 1997

### Operation of the Act in the Period 1 January 2001 to 31 December 2001

- 12.1** 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 45 days of the supplier submitting an invoice. In the case of fees to counsel, while invoices are not generated, the practice of the Office is to pay counsels' fees within 45 days of receipt of the state solicitor's report in each case.
- 12.2** In the period in question, the Office made 27 late payments in excess of £250 (€317.43). The total value of these payments was £58,122.63 (€73,800.52). The total value of late payments in the year amounted to £59,254.90 (€75,238.20) out of total payments of £800 thousand (€1.016 million) and interest thereon came to £1,354.83 (€1,720.28). Most of the payments were to another government agency.

### Statement of the Accounting Officer

- 12.3** 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. The Act came into force on 2 January 1998, and since that time the Office has complied with the terms of the Act.
- 12.4** 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.
- 12.5** The procedures which have been put in place can provide only reasonable and not absolute assurance against material non-compliance with the Act.

Barry Donoghue  
Accounting Officer

August 2002