



**AN ROINN DLÍ AGUS CIRT AGUS COMHIONANNAIS  
DEPARTMENT OF JUSTICE AND EQUALITY**

**Report of the Working Group on Efficiency  
Measures in the Criminal Justice System -  
Circuit and District Courts**

**November 2012**

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## **Part 1 Introduction and Summary**

### **Introduction**

1.1 The Working Group on Efficiency Measures in the Criminal Justice System - Circuit and District Courts - was established in November 2011 at the request of the Chief Justice, the Hon. Mrs Justice Susan Denham, and the Minister for Justice and Equality, Mr Alan Shatter TD.

1.2 The remit of the Group was to identify and report on how greater efficiencies and cost reduction measures could be achieved in the operations of the Circuit and District Courts, with particular emphasis on how the agencies in the sector interact with the courts and with each other. The Working Group, chaired by the Department of Justice and Equality, included a judge each from the Circuit and District Courts, as well as senior representatives from the Courts Service, An Garda Síochána, the Irish Prison Service, the Probation Service, the Office of the Director of Public Prosecutions, the Office of the Attorney General and the Legal Aid Board. The inclusion of representatives of the judiciary and senior representatives of the relevant agencies provided the necessary scope to ensure that the proposals developed would be put into operation and embedded in work practices. The Group met on eleven occasions. See Appendix I for full details of membership.

1.3 The Working Group established two sub-groups which concentrated on initiatives in the Circuit and District Courts, respectively. An Interim Report was submitted to the Chief Justice and the Minister for Justice and Equality on 16 May 2012. The response made to the Interim Report has been taken into account by the Group in this Report.

1.4 It will be clear from this Report that many of the initiatives considered are either pilot projects or involve the on-going operation of new arrangements by the various agencies in the criminal justice system. These initiatives will have to be evaluated in due course or reviewed on an on-going basis. The Working Group regards this Report as the conclusion of the first phase of this work but members believe that there is a vital on-going role for the Group to monitor and sustain progress in implementing the measures set out in this Report, to table new ideas for reform and to maintain the general impetus for future change.

1.5 While there are a number of specific recommendations in this Report to the effect that the benefits and savings of particular initiatives should, as far as possible, be identified and costed, the Group is aware that, across the range of interactions between the various agencies, there is a need to assess the effects and details of the costs saved and/or avoided which arise from the measures proposed by the Group. This could also be regarded as part of the next phase of the work, which can only be assessed after a reasonable period of time.

1.6 The joint Working Group invited representatives of the Bar Council, the Law Society and the Criminal Law Practitioners Organisation to attend a number of its meetings in the form of an Advisory Panel. The practitioners attended two such meetings and a number of sub-group meetings.

1.7 The Working Group recommends that it should continue to meet on a regular basis, in an appropriate format, to review progress and ensure momentum is maintained (cf paragraphs 1.4 and 1.5 above) and that the practitioners could continue to be invited to meetings, where necessary, as an Advisory Panel, so that their views can be taken into account: that arrangement worked well during the year, particularly in the context of developing the Pre-Trial procedure (discussed in detail later in the Report).

1.8 The remainder of this Report is set out as follows:

Part 2 The Working Group’s findings in respect of progress on District Court matters since the Interim Report

Part 3 Matters of relevance to the Circuit Court

Part 4 Matters of relevance to both the District and Circuit Courts.

Where the Group considered it necessary, recommendations are made in relation to follow up or further action required.

### **Summary**

1.9 The Working Group can report that good progress has been made over the course of its work since November 2011. Most significantly, the Pilot Pre-Trial Procedure, which will commence in the Dublin and Midland Circuits, is an innovation which, although recommended previously by the *Committee on Pilot Preliminary Hearings* (2005), had not been implemented. It has the potential to assist all concerned with the speedier processing of cases through the criminal justice system. The Group would like to record the invaluable work undertaken during the year by Judge Tony Hunt in consultation with the former President of the Circuit Court, the Hon Mr. Justice Matthew Deery and his successor, the Hon Mr. Justice Raymond Groarke, in leading the implementation work necessary. The contribution and co-operation of the legal practitioners and other contributing parties is much appreciated by the Group. The Pre-Trial procedure is dealt with in detail in paragraphs 3.1 – 3.11.

1.10 Also, the Group would like to record its appreciation for the work undertaken by Judge Mary Collins in relation to a number of initiatives in the District Court. These are dealt with in more detail in paragraphs 2.1 – 2.19.

1.11 In addition to the Pilot Pre-Trial Procedure, the Working Group developed measures which ensured that progress was achieved in relation to a range of matters such as:

- reducing time spent in court by members of An Garda Síochána and the Irish Prison Service through revised arrangements for escorting prisoners or seeking permission to be excused by the Court when no longer required;
- greater use of video links between the courts and the prisons (in particular for remand hearings) and between practitioners and their clients;
- the provision, where appropriate, of same-day Pre-Sanction Reports by the Probation Service in the District Court;
- developing revised arrangements for offender assessment reports in the Circuit Court;
- maximising the use of the Criminal Courts of Justice building;
- centralising custody cases in a single court location in each District; and
- increased use of “alternative” court locations within the meaning of section 5 of the Criminal Justice (Miscellaneous Provisions) Act 1997.

1.12 The Group would also like to express its appreciation for the presentation given to the Group on 22 October 2012 by Judge William Hamill in relation to the demands placed on court time arising from the administration of warrants in road traffic cases. Further details are provided at paragraphs 2.21 and 2.22 below.

**Chairperson’s acknowledgement**

1.13 As Chairperson of the Working Group, I would like to thank all of the Members for their open and energetic participation in the work of the Group. Their hard work and enthusiasm has led to the development and implementation of the initiatives outlined in the Group’s Interim Report and the present Report which, we hope, will continue to have a lasting impact on the work of the Justice agencies concerned.

1.14 I would particularly like to record, on behalf of the Working Group, our thanks to Dave McGrath, who provided the Secretariat support to the Group. Dave was unfailingly supportive and helpful to me as Chairperson and to the Members of the Working Group. He has made a huge contribution to the completion of this Report.

Deirdre O’Keeffe

Chairperson

30 November 2012



## **Part 2        District Court**

2.1     The District Court Sub-Group has progressed implementation of measures identified in the Interim Report (May 2012). The sub-group recently held a briefing session (11 October 2012) attended by the President of the District Court, Her Honour Judge Rosemary Horgan, and Judge Mary Collins, along with representatives of the Courts Service, An Garda Síochána, Irish Prison Service, Probation Service and the Chief Prosecution Solicitors Office. A more detailed note on the briefing session is set out at paragraphs 4.1 and 4.2 below.

2.2     The following paragraphs report on the progress made in relation to the issues referred to in the Interim Report and explain what further action has been or will be taken by the Group, where necessary.

2.3     The District Court Sub-Group concentrated initially on a number of areas where early progress could be made. These were:

- centralising custody cases in a single court location in each District;
- increased use of “alternative” court locations within the meaning of section 5 of the Criminal Justice (Miscellaneous Provisions) Act 1997; and
- increased use of video links between the courts and prisons, in particular for remand hearings.

These matters are explained in greater detail in the following paragraphs.

### **Centralising Custody Cases**

2.4     As stated in the Interim Report, the Group noted that the system in Limerick District Court, where custody cases have been dealt with for some time on one nominated day per week, has operated efficiently and reduced public

safety risks from having large numbers of prisoners being transported to and from court and present in court. It was agreed that such a centralised, co-ordinated arrangement for dealing with custody cases could contribute significant savings. A pilot programme was introduced in May/June 2012 in four court Districts – Letterkenny, Ennis, Gorey and Trim. It was agreed that the pilot would run for five months i.e. to end October 2012.

2.5 The sub-group reported that the pilot had been successfully implemented in each of the four pilot areas and that savings were being achieved for the Irish Prison Service and the Courts Service by the centralisation of custody cases. It was also noted that there were benefits from the pilots particularly in the areas of prisoner management security and security within courtrooms. A review of the data provided by the Courts Service and the Irish Prison Service will be undertaken to assist in assessing the actual financial savings arising from reduced prisoner transports. Also, the views of the relevant District Court judges will be sought on their experience of the pilots to date.

2.6 A key aspect of the Group's work has been to ensure that measures that give rise to savings for one agency do not give rise to increased costs elsewhere in the system or, if this occurs, that an overall reduction is achieved across the system. An interim review of the centralised District pilots from a Garda Síochána perspective indicates that the pilot is cost neutral in respect of travel and subsistence expenses. The centralisation of custody cases has reduced the number of occasions per week when An Garda Síochána were required to escort prisoners and this has facilitated increased availability of members for other operational duties. In many instances it has been reported that the prisoner escorts have been free to leave at lunch time, which has resulted in a saving on Garda overtime and represents a welcome change from previous practice.

**2.7** The Working Group notes that there are benefits and savings arising from the pilot programme and recommends that the scale of the savings should be identified and that the Irish Prison Service, in particular, should monitor the impact which the centralising of custody cases is having in terms of the demand on its resources.

#### **Use of Alternative Courts**

2.8 The Interim Report referred to the potential for greater use of the court facilities at both Cloverhill and Harristown. This is a matter which is the subject of on-going consideration by the Courts Service and the Irish Prison Service.

2.9 Also of relevance to this initiative was the action pursued by An Garda Síochána. A primary objective of the Garda GRACE programme was to reduce the number of prisoner escorts by the four prisoner escort centres - Cork, Limerick, Castlerea and Ronanstown. The goal was to reduce the number of escorts by 20% by the end of 2011 through the increased use of section 5 of the Criminal Justice (Miscellaneous Provisions) Act 1997 and the introduction of a tracking form.

2.10 A decrease of 24% in prison escorts was recorded when the numbers of prisoners transported during November and December 2011 were compared with the same period in 2010. In order to determine if this decrease was sustained, a further review was conducted which compared the numbers of prisoners transported during June and July 2012 against the same period in 2011. The review revealed that the reduction was sustained and had increased to 31% (317 prisoners escorted in June/July 2012 compared with 461 prisoners escorted in June/July 2011). This represents significant savings and efficiencies in manpower, court time and transport. As three Gardaí were typically involved in each of these escorts, with associated overtime, subsistence and transport costs, the costs avoided by An Garda Síochána from the reduction in Garda escorts for the two

months of 2012 compared with the same two months of 2011 are estimated at €210,880<sup>1</sup>. Moreover, the Gardaí involved can be redeployed to other duties.

2.11 The decrease can be attributed primarily to the relevant Garda HQ Directive and the introduction of a tracking form which compels Superintendents and Inspectors to provide reasons for not making section 5 Criminal Justice (Miscellaneous Provisions) Act 1997 applications.

2.12 In relation to the Group’s earlier recommendation that the court venues proximate to Cork and Limerick prisons could also be used to reduce the number of prisoners requiring escorts for transfer, to the benefit of the relevant agencies, the Courts Service has commenced detailed consultation and planning with local District Court judges, the Prison Service, An Garda Síochána and other interested parties with a view to having the new arrangements implemented as soon as possible.

**2.13 The Working Group recommends that these discussions be pursued and that the issue be considered further in due course in light of the outcome of the discussions.**

#### **Video Links between Prisons and Courts**

2.14 The District Court Sub-Group found that there was scope to expand further the use of video conferencing facilities between prisons and various court locations, noting that it would be necessary for the attending representative of An

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<sup>1</sup> The estimate of the cost of a typical Garda prisoner escort, calculated based on a number of assumptions about numbers of Gardaí involved, distance travelled, etc is as follows

3 Gardaí (8 hours ordinary and 4 hours overtime) -	€1,068.48
Subsistence -	€95.97
Transport costs -	€ 300.00
<b>Total Cost -</b>	<b>€1,464.45</b>

Garda Síochána or the Office of the Director of Public Prosecutions to make application to the Court to ensure that the next subsequent remand in each case was dealt with via video conferencing. Garda HQ has since issued a written instruction to relevant personnel and a more general directive will issue later in the year to all members.

2.15 Video conferencing facilities are now installed in all prisons and in the main relevant courthouses. This maximises the potential to create significant savings for the Prison Service and An Garda Síochána. The technology which has been used is such that the risk of breakdowns in video connections is kept to a minimum and the logistics of ensuring that the facilities are used to the maximum extent possible are being resolved.

2.16 The Working Group welcomes the significant developments undertaken by the Prison Service and the Courts Service in this respect. It also notes that legislative amendments are being developed which will facilitate even greater use of this technology.

2.17 See paragraph 4.6 below for reference to use of video links for consultations between legal practitioners and clients in custody.

### **Probation Reports**

2.18 For over a year the Probation Service has been providing same-day assessment reports to District Courts around the country in relation to offenders on whom the Court is considering imposing a Community Service Order as an alternative to a custodial sentence. This has been working very well, in particular reducing the 'waiting time' for preparation of such assessment reports from several weeks to one day, as well as eliminating the need for court adjournments for the preparation of the reports. In 2012, the Probation Service introduced a similar pilot scheme in the Criminal Courts of Justice (CCJ) to provide same-day

Pre-Sanction ('Probation') Reports, with similar objectives and targeting improved efficiency. This pilot is running in the CCJ up to the end of 2012, at which stage it will be evaluated, and consideration given to its wider implementation, if and as appropriate.

2.19 The Working Group provided a forum through which judges and practitioners could be informed of the availability of this facility and welcomed the initiative of the Probation Service to operate a pilot scheme in the CCJ. The outcome of the arrangement can be considered further in the light of experience and outcomes, as reported in due course by the Probation Service.

#### **Other Procedural Issues**

2.20 A number of other procedural issues which affect both the District and Circuit Court were considered by the Working Group and these are dealt with in Part 4 below.

2.21 On 22 October 2012, District Judge William Hamill gave a presentation to the Working Group, drawn from his experience in the District Court dealing with the administration of warrants in road traffic cases. Considerable avoidable costs and inefficiencies result from invalid warrants which need to be cancelled and re-issued or where valid warrants are issued but are not executed. Contributing causes include a lack of appropriate powers to seek proof of identity, including date of birth, and vehicles which are improperly or incompletely registered. The judge referred to a solution previously suggested by the Courts Service that consideration be given to adding outstanding road traffic fines to the motor tax bill for a vehicle, rather than involving highly trained Gardaí and the courts system in the ongoing work, including administrative work, associated with trying to collect such fines. It was noted that the Gardaí already have the power to seize untaxed cars.

2.22 The Working Group agreed that, given the volume of road traffic offences dealt with by the District Court annually (313,565 offences in 2010; 280,257 in 2011 representing 71% of the court's total caseload), these matters needed to be examined in detail to ensure that, to the maximum extent possible, valuable court time and the efforts of the prosecuting agencies are not wasted on unenforceable warrants. The Group recognised that some developments are currently under examination but was of the view that these matters should be explored with the Department of Transport, Tourism and Sport which has responsibility for road traffic legislation, to ensure that the law supports the most efficient administrative and co-ordination arrangements between all the agencies involved. The Department of Justice and Equality will raise this matter with the Department of Transport, Tourism and Sport and the Group considered that progress on any developments in this area should be monitored on an ongoing basis.

## **Part 3      Circuit Court**

### **Pilot Pre-Trial Procedure**

3.1      The main focus of the Circuit Court Sub-Group concerned the development of a Pre-Trial procedure to operate in the Dublin Circuit Criminal Court and the Midland Circuit Court. The Working Group concluded that a pilot Pre-Trial Procedure should be introduced as follows:

- (i) for all cases listed for trial in the Dublin Circuit as and from 1 December 2012 and all new cases returned to the Court for trial in this circuit from 1 January 2013;
  
- (ii) for all cases listed for trial in the Midland Circuit from 1 January 2013.

3.2      Taking as its starting point the draft text prepared by the *Committee on Pilot Preliminary Hearings* (2005), the sub-group proceeded to develop further the proposed pilot procedure in the light of the views of the Group members and of the legal practitioners who participated in meetings with the Group. The Working Group wishes to acknowledge the valuable input and co-operation of the practitioners in that respect as this measure has the potential to make an important contribution to the speedy and efficient processing of cases through the criminal justice system.

3.3      The Practice Directions/Questionnaire setting out how the procedure will operate in each Circuit are attached at Appendix II. The arrangements differ between the Dublin and the Midland Circuits. Under the pilot, a Pre-Trial hearing will be introduced in the Dublin Circuit Court and in the Midland Circuit a Questionnaire will be introduced to assess progress in a case. The reason for this difference in approach is that the continuous scheduling of sittings in Dublin allows



for a Pre-Trial hearing, an approach that would not work in the provincial circuit where the Court is not sitting in a single location.

3.4 It should be noted that the pilot procedure in the Dublin Circuit Criminal Court includes an arrangement that a Pre-Trial hearing will be held on a Friday at least four weeks prior to the fixed trial date. This hearing will be attended by the accused and a legal representative of both prosecution and defence (where applicable).

3.5 In the Midland Circuit, the pilot procedure will apply in respect of all cases listed for trial in this circuit from 1 January 2013. It will operate by way of a Questionnaire which must be returned to the Circuit Court Office for the county in which the proceedings are listed for trial and a copy served on the other side not later than one month before the date fixed for trial.

3.6 It should be noted that no additional fee is payable to legal representatives for the prosecution or the defence in respect of the completion of the Questionnaire or for attendance at the Pre-Trial Hearing. Rather than giving rise to any additional work for either side, the Pre-Trial procedure requires elements of the existing work, which are currently being completed at a later stage, to be concluded earlier in the process. Furthermore, the Group believes that the absence of an additional fee is appropriate in the context of the potential to significantly reduce unnecessary delays in criminal proceedings and facilitate the commencement of trials at the time and date appointed which will be of benefit to all involved with the trial process.

3.7 By streamlining dates, the Pre-Trial procedure removes superfluous mention dates, which will lead to earlier arraignment dates for an accused to enter a plea of guilty or to get a trial date. Moreover, the Pre-Trial hearing date will facilitate an assessment of the readiness of cases on an earlier date than at

present. The Pre-Trial hearing should also ensure that all parties are ready to proceed to trial, thereby reducing unnecessary adjournments on the actual trial date.

3.8 The Group recognised that it may be difficult to quantify the benefits from the introduction of the Pre-Trial procedure although it was expected to generate savings and efficiencies across the criminal justice system. Notwithstanding this, the pilot will be evaluated to assess, insofar as possible, the impact it has on the progress of cases and to ascertain where, if any, the pilot has achieved cost savings or other efficiencies in the system. The criteria for evaluation should allow for a comparison between cases dealt with in the pilot areas and non-pilot areas and between the progress of cases, historically, within the pilot areas themselves. An analysis framework is being developed in conjunction with the relevant agencies involved which will be used to evaluate progress over the twelve months of the pilot. The operation of the pilot and its evaluation will be useful in developing any future statutory process.

3.9 The Working Group believes that this initiative has the potential to significantly assist all parties involved in the criminal justice process in terms of managing cases and of moving cases through the system and recommends that it should operate for an appreciable time, preferably a full year, in order to allow for a full assessment of its impacts.

3.10 In addition to the Pre-Trial procedure, a new process will be introduced with effect from 1 January 2013 in the Dublin District Court whereby on the day of return for trial from the District Court, cases will be assigned a first mention date for a specified Friday not less than three weeks later, to which the accused will be remanded from the District Court. Guilty pleas will be accepted on the first mention date. On that date, the Court will fix a date for arraignment not less than eight weeks later, by which time all usual pre-arraignment matters must be dealt

with, a plea must be entered or a trial date requested. A longer period before arraignment will be assigned only where required by specific and unusual circumstances, such as the complexity of the case. No further mention dates or adjournments will be permitted, except in exceptional circumstances. As the accused is bailed to a particular day upon their remand from the District Court, efficiencies are created as the Courts Service and An Garda Síochána are no longer required to ensure the accused is notified of the date and any uncertainty over whether they are aware of their mention date in the Circuit Court is eliminated.

3.11 To reduce the number of applications for remands arising from the accused's legal representatives at the first mention date in the Circuit Court making applications for a Section 56 order for the videotapes of interview and Disclosure, the DPP as a matter of course now makes an application at the return for trial stage for the videotapes of interview to be released to the accused's solicitor. The DPP also aims to have a new disclosure procedure in place by 1 January 2013 when the Practice Direction takes effect.

3.12 The Circuit Court Sub-Group also reviewed a number of areas where further efficiencies could be achieved in order to save costs and/or contribute to the speedy progress of cases. These are set out in the following paragraphs.

#### **Pilot on Pre - Sanction Reports and Community Service Reports**

3.13 A pilot project to introduce a differentiated system for making requests for Pre-Sanction ('Probation Reports') and Community Service Reports commenced in the Midland Circuit in October 2012. The goal of the pilot is to make the best use of Probation Service resources and expertise, to reduce reoffending and ensure compliance with Court orders, and to be of maximum assistance to the Court in determining sanction in particular cases. It would also be expected to create savings and efficiencies by minimising the numbers of such reports required to be completed by the Probation Service on behalf of the Court and improving the

speed of their delivery. The pilot will operate by providing the judge, from the outset, with proposed parameters outlining the circumstances in which it would likely be useful to seek either a Pre- Sanction or Community Service Report and the circumstances in which it would most likely not be useful. However, whether or not to seek a Pre-Sanction or Community Service Report in any case would ultimately remain the prerogative of the trial judge. Additional efficiencies will arise from the introduction of a same day reporting facility on agreed days during each sitting, with a view to finalising community service, or very straightforward, matters without the need for adjournments.

**3.14 The Working Group welcomes this initiative which will be of assistance to the courts and reduce the burden on the Probation Service. The Group recommends that the Service should monitor developments and report accordingly.**

#### **Video links for “mentions”**

3.15 The sub-group agreed that a pilot project to increase the use of video links for “mention” dates in the Circuit Criminal Court should be introduced in the Criminal Courts of Justice building and in Tullamore. It is intended that the pilot will be assessed during the course of 2013.

**3.16 The Working Group recommends that the Courts Service should monitor this and report on developments.**

#### **Scheduling**

3.17 While acknowledging the independence of the judiciary in this area, the Group’s discussions highlighted the potential for costs and time savings which could result from adjustments in the way in which cases are scheduled. The Group concluded that listing of cases for “trial” in the Circuit Court should be reserved for cases where there is a real likelihood of the case proceeding as there are

significant costs attached to that designation for all agencies and the criminal legal aid scheme. The Pre-Trial procedure will assist in determining the readiness, or otherwise, of a case. The Group accepted that it would, of course, be reasonable for a Court list, on any particular day, to include a small number of cases for trial to cover the eventuality that one or more may not go ahead for hearing.

3.18 The Group noted that there was merit in considering designating a specific day for sentencing. This would ensure the attendance of all relevant parties so as to enable the Court to finalise cases expeditiously. However, the Group also noted that there could be quite a heavy resultant workload and capacity issues may arise in some Circuits. The Prison Service and An Garda Síochána would benefit from such a proposal but the Group agreed, on balance, to consider the matter further before making any definitive recommendation.

3.19 Consideration was also given to a recommendation in the *Report of the Task Force on Cost Reductions in Criminal Legal Aid* for legislative change which would confer statutory responsibility on the Courts Service for court lists and scheduling in the District and Circuit Courts. There was agreement that many of the measures taken to date have helped to alleviate some of the coordination problems which had given rise to this recommendation. The Group agreed that this should be kept under review.

#### **Irish Prison Service officers remaining in Court during trials**

3.20 The Group agreed that it was unnecessary and wasteful to have prison officers in Court at all times during a trial in the expectation that a custody warrant would be issued. This arises particularly where a defendant may be on bail during the trial but IPS officers must attend to take him into custody in the event of an unexpected guilty plea during the trial. The Group felt that arrangements must change to dispense with unnecessary attendance but the Court must be assured that an officer will be in attendance when needed.

**3.21 The Group recommends that the Irish Prison Service should monitor this arrangement closely to ensure that an appropriate balance is struck between minimising the time which officers spend in court and ensuring that an officer will be available to the Court when required.**

## **Part 4        Issues affecting both District and Circuit Courts**

### **Use of the Criminal Courts of Justice (CCJ) Building**

4.1     The Interim Report of the Working Group referred to the need to optimise the usage of the capacity available in the Criminal Courts of Justice building. All the agencies have significant resources invested in the building and it is agreed that, after three years in operation, a comprehensive review of all relevant services and procedures should be undertaken. In the context of the desirability of maximising the use and capacity of the CCJ building and the commitment contained in the Interim Report to consider this issue, the District Court Sub-Group considered the matter in the first instance and recently held a briefing session (11 October 2012) attended by the President of the District Court, Her Honour Judge Rosemary Horgan, and Judge Mary Collins along with representatives of the Courts Service, An Garda Síochána, Irish Prison Service, Probation Service and the Chief Prosecution Solicitors Office.

4.2     There was general agreement that a comprehensive review of the delivery of court services in the greater Dublin area should be undertaken and that it was essential to have a common understanding of the needs and goals of the key participants. Also, there was a requirement to identify the issues for each organisation in terms of the delivery of services. These matters will be explored further by the sub-group.

4.3     The direct reception of custody prisoners in the Criminal Courts of Justice building commenced on 3 September 2012. Previously the procedure required that all custody prisoners for the CCJ be processed in the Bridewell Garda Station before being transported in a cellular vehicle to court. They were then handed over by An Garda Síochána to the Irish Prison Service personnel who have sole

responsibility for prisoner management in the CCJ. The procedure was resource intensive for An Garda Síochána.

4.4 The processing of the prisoners is now carried out at the Garda Station of origin and the prisoners are transported direct to the CCJ. Prisoners arrested in the Bridewell area are still processed under the previous procedure. Although definitive figures are not yet available, early indications are that the introduction of this initiative has resulted in the release of at least three Gardaí and one civilian driver for other duties from Monday to Friday each week.

4.5 The Working Group acknowledges the on-going work of the Courts Service in maximising use of the CCJ building. This will be pursued on a continuous basis and the review of overall needs and goals of all participants in the process should facilitate progress. The Working Group notes the efficiencies achieved for An Garda Síochána from the revised custody arrangements.

#### **Video Links between Legal Practitioners and Clients**

4.6 In tandem with the video conferencing developments linking the prisons and the courts (cf paragraphs 2.14 to 2.16 above), the Working Group has been keen to promote arrangements which would allow legal practitioners to consult with their clients in detention via video link. Progress has been made in this respect. Meetings with the practitioners have recorded significant enthusiasm for the initiative and discussions between the Department, the Irish Prison Service and the practitioners took place on 1 October 2012 to agree the next steps towards achieving progress. The meeting was briefed on revised, simplified software which can be made available to practitioners by the Prison Service and a protocol aimed at facilitating the greater use of video links between practitioners and their clients was put forward by the Prison Service. The protocol will, when agreed, set down procedures for arranging a video conference and will aim to resolve previous



difficulties which prevented the video link going ahead. The protocol will assist in the smooth and efficient operation of the arrangement.

### **Calling Custody Cases First**

4.7 The Group agreed that there is merit in ensuring that the long standing practice whereby custody cases are called first is adhered to as much as possible. The Circuit Court Sub-Group suggested that this include an arrangement that, when a case is dealt with, there would follow a short recess to deal with the drawing up and transmission of warrants to ensure that the matter is dealt with accurately and immediately. This proposed arrangement would allow for a more efficient disposal of cases.

### **Court Presenters**

4.8 The Group agreed that having a single Garda court presenter on any particular day in Court would assist in moving cases along rather than the Court waiting for different presenters to be present. Further discussions on this matter are required with An Garda Síochána and the State Solicitors' Association before a definitive position can be reached. On a related matter, Garda management will ensure that Gardaí request to be excused from Court after giving evidence in order to return to duty as quickly as possible and this measure will continue to be monitored.

### **Warrants**

4.9 Following discussion regarding a number of issues in relation to warrants, the Working Group recommends that the procedures in respect of warrants should be examined, updated and codified.



## Appendix I

### Members of Joint Working Group

Dr. Deirdre O’Keeffe, Department of Justice and Equality - Chairperson  
Judge Tony Hunt, Circuit Court\*  
Judge Mary Collins, District Court  
Assistant Commissioner Dónall Ó Cualáin, An Garda Síochána\*\*  
Ms. Ruth Fitzgerald, Office of the Attorney General  
Mr. Noel Rubotham, Courts Service  
Mr. John Coyle, Courts Service  
Dr. Moling Ryan, Legal Aid Board  
Mr. Peter Mullan, Office of the Director of Public Prosecutions\*\*\*  
Mr. Vivian Geiran, Probation Service  
Mr. Martin Mullen, Irish Prison Service  
Mr. Andrew Munro, Criminal Law Division, Department of Justice and Equality  
Ms. Oonagh McPhillips, Courts Policy Division, Department of Justice and Equality  
Mr. Terry Lonergan, Courts Policy Division, Department of Justice and Equality  
Mr. Dave McGrath, Courts Policy Division, Department of Justice and Equality - Secretary

### Practitioner Representatives

Mr. Conal Boyce, Solicitor,  
Mr. Remy Farrell, S.C.  
Mr. Michael Kelleher, Solicitor.

\* Judge Tony Hunt replaced Judge Yvonne Murphy as the Circuit Court nominee on the Group following Judge Murphy’s retirement in February 2012.

\*\* Assistant Commissioner Dónall Ó Cualáin replaced Assistant Commissioner Michael Feehan on the Group following Assistant Commissioner Feehan’s retirement in February 2012. Superintendent Dermott Mann also attended as an alternate.

\*\*\* Mr. Peter Mullan, Chief Prosecution Solicitor, replaced Mr. Barry Donoghue in July 2012.



## Appendix II

### The Circuit Criminal Court

Dublin Circuit

County of the City of Dublin

#### Practice Direction

1. With a view to avoiding unnecessary delays in criminal proceedings, identifying cases in which pleas may be entered in advance of a trial date and facilitating the commencement of trials in criminal proceedings in the Circuit Court at the time and date appointed, the practice referred to in this Direction will be introduced on a pilot basis in respect of all cases listed for trial in this circuit from the 1<sup>st</sup> day of December 2012 and all new cases returned to the Court for trial in this circuit from the 1st day of January 2013.

2. A pre-trial hearing will be held on a Friday at least four weeks prior to the trial date fixed. This shall be attended by the accused and a legal representative of both prosecution and defence (where applicable).

3. At this hearing, the accused will be required to enter a formal plea before the Court. If it is intended to proceed to trial at that stage, a plea to one count without prejudice will suffice.

4. The prosecution will be required to be in a position to specify the following matters to the Court:-

a) Proof by written statement (section 21, Criminal Justice Act, 1984)

- i. Whether any signed written statement(s) has/have been served by the Prosecution proposing to tender it in evidence for the purposes of Section 21 of the Criminal Justice Act, 1984. If so, a list should be furnished with reference to the person making each statement and the date of the statement, together with any notice of objection served on the Prosecution within the prescribed period.
- ii. Whether the parties or their solicitors have agreed that any written statement(s) be tendered in evidence under section 21, and/or whether application is being made to require a person(s) making a statement for the purpose of section 21 to attend to give evidence in court. If so, details of the relevant statement(s)/witness(es) should be furnished;

b) Proof by formal admission (section 22, Criminal Justice Act, 1984)

Whether any admission(s) as to fact has/have been made by the Prosecution for the purposes of Section 22 of the Criminal Justice Act, 1984. If so, a list of admissions and the date of the making of admission should be furnished;

c) Video link, video recorded and CCTV evidence

- i. Whether it is intended to apply for leave to have a witness give evidence through a live television link in accordance with Section 39 of the Criminal Justice Act, 1999.
- ii. Whether it is intended that any person give evidence through a live television link under Part III of the Criminal Evidence Act, 1992.
- iii. Whether it is intended to seek the appointment by the Court of an intermediary through which questions would be put to a witness under Part III of the Criminal Evidence Act, 1992.
- iv. Whether it is intended to have admitted as evidence a video recording of any evidence.
- v. Whether an application will be made to allow the use of tape or disk playback equipment during the trial, or if it is proposed to seek to use any other courtroom technology at the trial;

If any of the above applies, details must be provided, and it must be confirmed that the hardware and software concerned will be tested in advance;

d) Legal representation for complainant (section 4A , Criminal Law (Rape) Act, 1981)

Whether it is anticipated that legal representation for the complainant will be required;

e) Witnesses

- i. A list of witnesses and addresses intended to be called by the prosecution at the trial (for jury panel information purposes) should be provided.
- ii. Confirmation should be provided that all witnesses have been contacted and have indicated availability for the trial date. If not, known details of any potential witness difficulty **must** be specified to the Court at this stage.
- iii. Any particular requirements or details pertinent to the likely order of evidence at trial should be identified;

f) Interpreters

Whether the Prosecution require the use of an interpreter(s), and if so, to document the witness(es) for whom and language for which interpretation is required.

g) Prosecution disclosure

On the basis of the information available at the date of the hearing, confirmation should be provided that the Prosecution is in compliance with disclosure obligations, and that no defence requests are outstanding at that time;

h) Interviews (Please note: this item is confined to the specific contents of the interview, and is not concerned with general issues of admissibility);

Where the papers served by the prosecution include a memorandum/memoranda of an interview/interviews with the accused and/or voluntary or cautioned statement/statements by the accused, confirmation should be provided that the memorandum/memoranda and/or statement/statements have been reviewed by the prosecution with a view to editing and producing an agreed version of the contents of same and/or identifying issues which may require subsequent determination by the Court.

If a review has not taken place, an explanation for this will be required.

**Please note: The Court requires that**

**(a) discussions between the defence and the prosecution on any such issue be completed before the date fixed for trial and**

**(b) agreed memoranda and/or statements be available for use without delay, or issues arising be identified and ready for immediate determination.**

5. The defence will be required to be in a position to notify the Court as to:
- a) whether any factors exist affecting the ability of the trial to proceed on the date fixed;
  - b) whether any disclosure or other pre-trial issues are outstanding;
  - c) whether the defence require the use of an interpreter(s), and if so, to document the witness(es) for whom and language for which interpretation is required, and
  - d) whether there are any requirements for the running and presentation of the defence case which need to be addressed by the Court or the Courts Service in advance.

In the absence of such notification, it will be assumed that the defence has completed all necessary preparations for trial by that time. The defence are under the same obligation as the prosecution as set out above to ensure that any technology to be used has been or will be ready for use on the trial date.

6. The solicitor and counsel for the prosecution and defence shall be obliged to consult with and obtain the necessary instructions from their respective clients for the purpose of complying fully with paragraphs 3, 4 and 5 of this direction (as applicable).

7. Where a date has been fixed for trial, to enable the defence to prepare for trial, the prosecution shall, save for good and sufficient reason, furnish an indictment to the defence within 4 weeks of the fixing of a trial date.

**Cases returned to the Circuit Court and first listed for trial after 1<sup>st</sup> January 2013**

8. In addition to the foregoing provisions, these cases will be processed in the following manner:-

- a) On the day of return for trial from the District Court, cases will be assigned a specific first mention date for a Friday not less than 3 weeks later, to which the accused will be remanded from the District Court.
- b) Guilty pleas will be accepted on the first mention date. On that date, the Court will fix a date for arraignment not less than eight weeks later, by which time all usual pre-arraignment matters must be dealt with and plea must be entered or a trial date requested.
- c) A longer period before arraignment will be assigned only where required by specific and unusual circumstances, such as the complexity of the case, where an appropriate additional period will be allowed. No further mention dates or adjournments will be permitted, save in exceptional circumstances.

9. The effectiveness of the practices aforementioned will be reviewed after the 1<sup>st</sup> day of January 2014, in consultation with representatives of practitioners, the Chief Prosecution Solicitor, the Office of the Director of Public Prosecutions and the Courts Service.

Dated this ..... day of ..... 2012

President of the Circuit Court



**The Circuit Criminal Court**

**Midland Circuit**

**Practice Direction**

1. With a view to avoiding unnecessary delays in criminal proceedings, identifying cases in which pleas may be entered in advance of a trial date and to facilitate the commencement of trials in criminal proceedings in the Circuit Court at the time and date appointed, the practice referred to in this Direction will be introduced on a pilot basis in respect of all cases listed for trial in this circuit from the 1<sup>st</sup> day of January 2013.
2. A pre-trial questionnaire (“questionnaire”) shall be completed and signed –
  - (1) by counsel and the solicitor for the Prosecution in Form 1 annexed to this Direction,
  - (2) by counsel and the solicitor for the accused in Form 2 annexed to this Direction,
3. The completed questionnaires shall be returned to the Circuit Court Office for the county in which the proceedings are listed for trial and a copy served on the other side not later than one month before the date fixed for trial.
4. The solicitor and counsel for the prosecution and defence shall be obliged to consult with and obtain the necessary instructions from their respective clients for the purposes of completing fully the applicable questionnaire.
5. The effectiveness of the practice aforementioned will be reviewed after the 31<sup>st</sup> day of December 2013, in consultation with representatives of practitioners, the State Solicitor and the Office of the Director of Public Prosecutions.

Dated this ..... day of ..... 20..

Judge of the Circuit Court  
for the above-mentioned Circuit

**FORM 1**

**The Circuit Criminal Court**

**Midland Circuit .....**

**County of .....**

**Pre Trial Questionnaire completed on behalf of the Prosecution**

**Bill No xx/yy**

**Director of Public Prosecutions**

**vs.**

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**1. Proof by written statement (section 21, Criminal Justice Act, 1984)**

(a) Has/have any signed written statement(s) been served by the Prosecution proposing to tender it in evidence for the purposes of section 21 of the Criminal Justice Act, 1984?

**Yes.... No....**

If yes, a list should be furnished with reference to the person making each statement and the date of the statement, together with any notice of objection served on the Prosecution within the prescribed period.

(b) Whether the parties or their solicitors agreed that any written statement(s) be tendered in evidence under section 21, and/or whether application is being made to require a person making a statement for the purpose of section 21 to attend to give evidence in court.

If yes, furnish details of relevant statements/witnesses.

**2. Proof by formal admission (section 22, Criminal Justice Act, 1984)**

Has/have any admission(s) as to fact been made by the Prosecution for the purposes of section 22 of the Criminal Justice Act, 1984?

**Yes.... No....**

If yes, furnish a list of admissions and the date(s) thereof.

### 3. Video link, video recorded and CCTV evidence

**Indicate -**

(a) Whether it is intended to apply for leave to have a witness give evidence through a live television link in accordance with section 39 of the Criminal Justice Act, 1999.

**Yes.... No.....**

(b) Whether it is intended that any person give evidence through a live television link under Part III of the Criminal Evidence Act, 1992.

**Yes.... No.....**

(c) Whether it is intended to seek the appointment by the Court of an intermediary through whom questions would be put to a witness under Part III of the Criminal Evidence Act, 1992.

**Yes.... No.....**

(d) Whether it is intended to have admitted as evidence a video recording of any evidence.

**Yes.... No.....**

(e) Whether an application will be made to allow the use of tape or disk playback equipment during the trial, or if it is it proposed to seek to use any other courtroom technology at the trial.

**Yes.... No.....**

If yes applies to any of the above, details must be provided, and it must be confirmed that all hardware, software and operatives necessary to adduce evidence will be in place at the appropriate time and place, and that such equipment will be tested in advance.

### 4. Legal representation for complainant (section 4A , Criminal Law (Rape) Act, 1981)

Is it anticipated that legal representation for the complainant will be required?

**Yes.... No.....**

**5. Witnesses**

(a) Attach a list of witnesses intended to be called by the prosecution at the trial (for jury panel information purposes).

(b) Confirm that all witnesses have been contacted and have indicated availability for the trial date. If not, known details of any potential witness difficulty **must** be specified at this stage.

**Yes.... No.....**

(c) Are there any particular requirements or details pertinent to the likely order of evidence at trial?

**Yes.... No.....**

If yes, furnish details.

**6. Interpreters**

Indicate whether the Prosecution require the use of an interpreter(s).

**Yes.... No.....**

If yes, document the witness(es) for whom and language for which interpretation is required.

**7. Prosecution disclosure**

On the basis of the information available at the date of completion of the questionnaire, confirm that the Prosecution is in compliance with disclosure obligations, and that no defence requests are outstanding at that time.

**Yes.... No.....**

**8. Interviews (Please note: this item is confined to the specific contents of the interview, and is not concerned with general issues of admissibility).**

Where the papers served by the prosecution include a memorandum/memoranda of an interview/interviews with the accused and/or voluntary or cautioned statement/statements by the accused -, confirm that the memorandum/memoranda and/or statement/statements have been reviewed by the prosecution with a view to editing and producing an agreed version of the contents of same and/or identifying issues which may require subsequent determination by the Court.

Yes.... No.....

[If a review has not taken place, please explain concisely why not:

.....]

**Please note: The Court requires that**

**(a) discussions between the defence and the prosecution on any such issue be completed before the date fixed for trial and**

**(b) agreed memoranda and/or statements be available for use without delay, or issues arising be identified and ready for immediate determination.**

**9. Indictment**

Where a date has been fixed for trial, to enable the defence to prepare for trial and to complete the defence questionnaire, the prosecution shall, save for good and sufficient reason, furnish an indictment to the defence within 4 weeks of the fixing of a trial date. Accordingly, please confirm the date of compliance with this requirement, or the reasons for non-compliance:

.....

Dated.....

Signed: .....  
Solicitor for the prosecution

Signed: .....  
Counsel for the prosecution

**FORM 2**

**The Circuit Court**

**Midland Circuit**

**County of .....**

**Pre Trial Questionnaire completed on behalf of the accused**

**Bill No xx/yy**

**Director of Public Prosecutions**

**vs.**

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**Counsel for the accused .....**

1. Is a jury still required for this case? If a plea has been indicated to and accepted by the prosecution, please confirm details of same. In such circumstances, it is not necessary to complete the balance of this questionnaire.

**Yes.... No....**

2. Are there any factors known to the accused or his/her legal advisers on the date of completion hereof that affect the ability of the trial to proceed on the date fixed?

**Yes.... No....**

If yes, furnish details. A negative answer will treated as confirmation by or on behalf of the accused that the trial is ready to proceed on the date fixed on the basis of the information available to them at the date of completion hereof.

If it is intended as of the date of completion of this document to seek an adjournment where a trial date has been fixed, please furnish the grounds of such intended application.

3. On the basis of matters known to the accused or his/her legal advisers on the date of completion hereof, are there any disclosure or other pre-trial issues outstanding?

Yes.... No.....

4. **Interviews (Please note: this item is confined to the specific contents of the interview, and is not concerned with general issues of admissibility).**

Where the papers served by the prosecution include a memorandum/memoranda of an interview/interviews with the accused and/or voluntary or cautioned statement/statements by the accused - confirm that the memorandum/memoranda and/or statement/statements have been reviewed by the defence with a view to editing and producing an agreed version of the contents of same and/or identifying issues which may require subsequent determination by the Court.

Yes.... No.....

[If a review has not taken place, please explain concisely why not:

.....]

**Please note: The Court requires that**

**(a) discussions between the defence and the prosecution on any such issue be completed before the date fixed for trial and**

**(b) agreed memoranda and/or statements be available for use without delay, or issues arising be identified and ready for immediate determination.**

5. Indicate whether the defence require the use of an interpreter(s).

Yes.... No.....

If yes, document the witness(es) for whom and language for which interpretation is required.

6. Are there any requirements for the running and presentation of the defence case that need the assistance of the Court or the Courts Service in advance of trial?

**Yes.... No.....**

In the absence of such notification, it will be assumed that the defence has completed all necessary preparations for trial by that time. The defence are under the same obligation as the prosecution to ensure and confirm that all hardware, software and operatives necessary to adduce evidence will be in place at the appropriate time and place, and that such equipment will be tested in advance.

7. Confirm that solicitor and counsel have consulted with the accused in connection with pre-trial matters and the completion of this questionnaire.

**Yes..... No....**

If not, provide an explanation for the absence of consultation.

Dated.....

Signed: .....  
Solicitor for the accused

Signed: .....  
Counsel for the accused

Signed: .....  
The accused\*

.....

\* Applies where the accused is representing himself/herself