



WORKING GROUP  
ON A  
COURTS COMMISSION

FIRST REPORT

MANAGEMENT AND FINANCING  
OF THE COURTS

April, 1996

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The Working Group on a Courts Commission was established by the Minister for Justice, Nora Owen, T.D.

1. *To review, (a) the operation of the Courts system, having regard to the level and quality of service provided to the public, staffing, information technology, etc; (b) the financing of the Courts system, including the current relationship between the Courts, the Department of Justice and the Oireachtas in this regard; (c) any other aspect of the operation of the Courts system which the Group considers appropriate.*
2. *In the light of the foregoing review, to consider the matter of the establishment of a Commission on the Management of the Courts as an independent and permanent body with financial and management autonomy (as envisaged in the December 1994 document entitled "A Government of Renewal").*
3. *To have investigative, advisory and recommendatory functions and to make a report (and any interim reports and recommendations as they see fit) to the Minister for Justice on the foregoing matters.*

The Working Group on a Courts Commission consists of:

Mrs. Justice Susan Denham, Judge of the Supreme Court.  
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Judge Kevin O'Higgins, Judge of the Circuit Court.  
Judge Catherine McGuinness, Judge of the Circuit Court.  
Judge Peter Smithwick, President of the District Court.  
Mr. Justice Anthony J. Hederman, Chairman of The Law Reform Commission.  
Mr. Ken Murphy, Director General of The Law Society.  
Mr. James Nugent, Senior Counsel, Chairman of The Bar Council.  
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# Table of Contents

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<b>Foreword</b>	<i>Page</i> 9
<b>CHAPTER 1</b>	
<b>Introduction</b>	
<b>A.</b> Establishment and Terms of Reference of the Working Group	13
<b>B.</b> Working arrangements and acknowledgements	14
<b>C.</b> The primary question	14
<b>CHAPTER 2</b>	
<b>Fundamental Principles</b>	
<b>A.</b> The Constitution	16
<b>B.</b> The need for efficiency	17
<b>C.</b> The historical background	18
<b>D.</b> The separation of powers	18
<b>E.</b> The workload of judges	19
<b>CHAPTER 3</b>	
<b>How the Courts are Managed</b>	
<b>A.</b> The Department of Justice	20
<b>B.</b> The Courts' staff	20
<b>C.</b> Court Accommodation	22
<b>D.</b> Legal Aid	23
(i) Criminal Legal Aid	23
(ii) Civil Legal Aid	23
<b>E.</b> The administrative infrastructure of the Courts	24

## **CHAPTER 4**

### **How the Courts are Financed**

<b>A.</b>	The cost of the Courts system	25
<b>B.</b>	The income from the Courts system	28
<b>C.</b>	Analysis of the financial resources of the Courts	34

## **CHAPTER 5**

### **Problems in the System**

<b>A.</b>	The problems identified	35
<b>B.</b>	Multi-Group administration: An urgent issue	36
<b>C.</b>	The problem of delay	36
	(i) In general	36
	(ii) Statistical difficulties	36
	(iii) The Supreme Court	37
	(iv) The High Court	37
	(v) Criminal Trials in the Central Criminal Court	38
	(vi) Family Law cases in the High Court	38
	(vii) The Circuit Court: general	38
	(viii) The Dublin Circuit Court	39
	(ix) The District Court	39
<b>D.</b>	Conclusions	40

## **CHAPTER 6**

### **Options for Change**

<b>A.</b>	The options in general	42
<b>B.</b>	Option 1: A multifunctional Department of Justice	42
<b>C.</b>	Option 2: A single functional Department of the Courts	43
<b>D.</b>	Option 3: A Judicial Commission	43
<b>E.</b>	Option 4: An independent agency: The Courts Service	45
<b>F.</b>	Option 4 elaborated	45
	(i) Functions of the Courts Service	45
	(ii) Chief Executive Officer of the Courts Service	46
	(iii) Composition of the Courts Service Board	46
<b>G.</b>	Model proposed by the Working Group	48
<b>H.</b>	The future status of the Courts staff	49
<b>I.</b>	Political accountability of the new body	49
<b>J.</b>	Chief Executive Officer	50
<b>K.</b>	A single step	50

## **CHAPTER 7**

### **Recommendations**

<b>A.</b>	The primary issue: Recommendation	51
<b>B.</b>	Recommendation: Communication	53
<b>C.</b>	Recommendation: The Four Courts	53
<b>D.</b>	Recommendation: Statistics Unit	53





# Foreword

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The Irish system of justice is confronting the gravest problems it has encountered since the establishment of the Courts in 1924. There has been an enormous increase in civil and criminal litigation in recent decades and, in addition, some of the Courts now must cope on a regular basis with cases of a length and complexity virtually unknown in earlier times. Yet the administrative infrastructure of the Courts has remained unchanged since 1924. The Working Group responsible for this First Report has no doubt that this has been a major factor in the glaring defects now evident throughout the Courts system.

The litigant in Ireland today is enmeshed in a process that is costly, complex and subject to delays which are the cause of, at best, unnecessary stress and anxiety and, at worst, grave injustice. It is a process conducted by over-burdened and poorly organised staff in buildings which are sometimes in a ruinous state of disrepair and which almost invariably lack the basic facilities essential to mitigate what even in the best of circumstances is a stressful experience. These ills bear heavily on all concerned but most of all on the ordinary citizens who usually have recourse to the Courts as a reluctant last resort.

This is wholly unacceptable in any democracy which accords the rule of law its proper priority. It cannot be remedied simply by the appointment of additional judges, however welcome the recent and projected increases are. What is urgently required is a radical reappraisal of the administrative structure of the Courts system with the objective of eliminating as far as possible the gross defects to which it at present contributes so significantly.

**The primary recommendation of this report is that there should be established by statute as a matter of urgency an independent and permanent body to manage a unified Court system.**

The legislation establishing the body should provide that:

- (1) The body, to be described as 'the Courts Service', should consist of a Board, Chief Executive Officer and Staff.

- (2) The Courts Service should be an Agency of the State.
- (3) The functions of the Courts Service should be, inter alia,
  - (i) the management of the Courts system;
  - (ii) the preparation of its own budget for submission to the Minister for Justice;
  - (iii) the management of its budget with regard to economy, efficiency and effectiveness;
  - (iv) the provision of the necessary support services to the judiciary, including secretarial and research services;
  - (v) the provision of administrative back-up necessary for an efficient Courts Service;
  - (vi) the provision of an effective communications system between staff and judges;
  - (vii) the provision of information on the Court system to the public;
  - (viii) the provision, management and maintenance of suitable Court buildings, including a discretion to determine Court venues in accordance with specific criteria.
- (4) The Chief Executive Officer should have the rank of a Secretary of a Department and be appointed by the Courts Service Board.
- (5) The staff of the Courts Service should be Civil Servants of the State.
- (6) The Courts Service Board should be composed of:—
  - (i) The Chief Justice (ex officio), or a member of the Supreme Court nominated by him or her;
  - (ii) A judge of the Supreme Court;
  - (iii) The President of the High Court (ex officio), or a member of the High Court nominated by him or her;
  - (iv) A judge of the High Court;
  - (v) The President of the Circuit Court (ex officio), or a member of the Circuit Court nominated by him or her;
  - (vi) A judge of the Circuit Court;
  - (vii) The President of the District Court (ex officio), or a member of the District Court nominated by him or her;
  - (viii) A judge of the District Court;

- (ix) A nominee of the Bar Council of Ireland;
  - (x) A nominee of the Law Society of Ireland;
  - (xi) A representative of the Department of Justice to be appointed by the Minister for Justice;
  - (xii) An elected representative of the Court staff;
  - (xiii) A representative of Court users to be appointed by the Minister for Justice;
  - (xiv) A nominee from the Irish Congress of Trade Unions;
  - (xv) A nominee of a body representative of business and management.
- (7) The Chairperson of the Board to be the Chief Justice or a judge of the Supreme Court nominated by him or her.



# Introduction

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## **A. ESTABLISHMENT AND TERMS OF REFERENCE OF THE WORKING GROUP**

This Working Group was established in October 1995 by the Minister for Justice, Mrs. Nora Owen, T.D., to carry out a wide-ranging review of the operation of the Courts system in Ireland as envisaged in the December 1994 document entitled “A Government of Renewal”. The first meeting was held on 2nd November, 1995 at which the Group was addressed by the Minister. The Working Group includes representatives of each branch of the legal profession of governmental departments and of a number of bodies who are concerned in different ways with how the Court system operates. The names of the members of the Working Group are set out in Appendix A.

The Terms of Reference of the Group are as follows:—

1. To review
  - (a) the operation of the Courts system, having regard to the level and quality of service provided to the public, staffing, information technology, etc;
  - (b) the financing of the Courts system, including the current relationship between the Courts, the Department of Justice and the Oireachtas in this regard;
  - (c) any other aspect of the operation of the Courts system which the Group considers appropriate.
2. In the light of the foregoing review, to consider the matter of the establishment of a Commission on the Management of the Courts as an independent and permanent body with financial and management autonomy (as envisaged in the December 1994 document entitled “A Government of Renewal”).

3. To have investigative, advisory and recommendatory functions and to make a report (and any interim reports and recommendations as they see fit) to the Minister for Justice on the foregoing matters.

## **B. WORKING ARRANGEMENTS AND ACKNOWLEDGEMENTS**

It was decided initially to assemble as much information as possible as to the manner in which the Court system is operating at present. To that end information, much of it statistical, was obtained from the relevant government departments (principally, but not exclusively, the Department of Justice). Advertisements were published in the national Press inviting submissions from interested parties. Sixty one informative and helpful written submissions were received and in some cases those responsible attended meetings of the Group with a view to elaborating and discussing their proposals for change in the present system. A list of the persons and groups from whom submissions were received is set out in Appendix B.

In addition, the Group initiated a wide-ranging investigation of the operation of the Courts systems elsewhere. That inquiry, which naturally included, but was not confined to, the European Court of Justice and the neighbouring jurisdictions in Northern Ireland, England, Wales and Scotland, is continuing, as is the process of examining the submissions received and consulting with interested parties. We wish to record our appreciation of those who have travelled to Dublin, presented papers and partook in discussions which were of immense value. A list of these persons is set out at Appendix C.

## **C. THE PRIMARY QUESTION**

During the deliberations of the Group it soon became obvious that the first question which the Group should address was the current relationship between the Courts, the Department of Justice and the Oireachtas and whether an independent body enjoying financial and management autonomy should be established to perform the functions relating to the Courts at present primarily performed by the Department of Justice. There were many reasons for this. The issue was prominently identified in the Terms of Reference and any conclusions which the Group might reach on the question would have implications for other matters within its remit.

In addition, it became obvious that there was an impressive consensus, among the members of the Group itself and those who made submissions on the topic, that fundamental changes were required.

In response to the Minister for Justice this Group is making an historic recommendation. It is proposing a development of government to complete a process commenced in the 1920s. It is a radical document suggesting changes which will make justice more accessible to the people.

While this First Report to the Minister deals with the vitally important question of a Courts Commission, it must be emphasised that there are other matters of great significance which will be the subject of later reports. In this First Report we have indicated some additional matters which in our view can be dealt with immediately, where the cost implications to the State are either minimal or non-existent. We are aware that the Presidents of the different Courts are already adopting measures to improve the quality of the administration of justice, including the introduction of more efficient systems of case management. These topics will be the subject of later reports and recommendations.

# Fundamental Principles

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## A. THE CONSTITUTION

In considering the Terms of Reference the Group was conscious of the provisions of the Constitution. The Constitution delineates the powers of the legislative, executive and judicial arms of government. Article 6 states:—

- “6.1 All powers of government, legislative, executive and judicial, derive, under God, from the people, whose right it is to designate the rulers of the State and, in final appeal, to decide all questions of national policy, according to the requirements of the common good.
- 2 These powers of government are exercisable only by or on the authority of the organs of State established by this Constitution.”

The powers of the individual arms of government are spelt out in detail. Article 34 relates to the Courts. Thus, the judiciary administer justice:

Article 34.1:—

“Justice shall be administered in courts established by law by judges appointed in the manner provided by this Constitution, and, save in such special and limited cases as may be prescribed by law, shall be administered in public.”

Judges shall be independent in their judicial functions and subject only to the Constitution and the law.

The legislature regulates certain matters by law. These include, in Article 36:—



“....

- i. the number of judges of the Supreme Court, and of the High Court, the remuneration, age of retirement and pensions of such judges,
- ii. the number of the judges of all other Courts, and their terms of appointment, and
- iii. the constitution and organization of the said Courts, the distribution of jurisdiction and business among the said Courts and judges, and all matters of procedure.”

The Government’s role includes finance. Thus, Article 28.4 states:—

- “1° The Government shall be responsible to Dail Eireann.
- 2° The Government shall meet and act as a collective authority, and shall be collectively responsible for the Departments of State administered by the members of the Government.
- 3° The Government shall prepare Estimates of the Receipts and Estimates of the Expenditure of the State for each financial year, and shall present them to Dail Eireann for consideration.”

The Comptroller and Auditor General controls on behalf of the State all disbursements and audits all accounts of moneys administered by or under the authority of the Oireachtas: Article 33.

In considering the place of an independent body with financial and management autonomy to manage the Courts Service these and other fundamental constitutional structures must be borne in mind.

## **B. THE NEED FOR EFFICIENCY**

An efficient management system is of the utmost importance for the Courts and the State. An effective Court system should provide a high level and quality of service to the public with the minimum waste and effort.

The service which is provided in the Court system is the means by which the public obtain justice. An inefficient service impedes justice.

In addition the Courts Service is of importance in commerce and the business community. Commerce is at a disadvantage if the system is inefficient or ineffective.

### **C. THE HISTORICAL BACKGROUND**

This is the first major review of the management of the Court system since the foundation of the State. Indeed, it is clear that in the 1920s there was no careful analysis made of the type of administrative infrastructure necessary for the Courts in the State. Rather, while the structure headed by the Lord Chancellor was dispensed with and the administration of the Courts was given, inter alia, to the Department of Justice and certain powers to some judges, the system continued to reflect its historical roots. However, the major difference was that while the Lord Chancellor of England and Wales is a judge with a legislative, executive and judicial role in government and thus judicial input exists at the highest level, the Minister for Justice is a member of the executive and legislature only, and the judiciary are separate from the legislature and executive.

In the Constitution of the Irish Free State the judicial power of the State was vested in judges in the established Courts. Thereafter, there followed the Courts of Justice Acts in 1924, 1926, 1927, 1928 (two), 1929, 1931 (two) and 1936.

The Constitution of Ireland 1937 established an independent judiciary to administer justice in Courts established by law. There then followed Courts Acts in 1946, 1947, 1949, 1953, 1959, 1961 (two), 1962, 1964 (two), 1968 (two), 1971, 1973, 1977, 1979, 1981 (two), 1985, 1986 (three), 1988 (two), 1991 (three) and 1995. (See Appendix D).

### **D. THE SEPARATION OF POWERS**

An efficient, cost-effective Court system must comply with constitutional principles. The Constitution establishes a distribution of power between the legislative, the executive and the judicial arms of government. Whilst not absolute, the separation of powers is a fundamental constitutional concept. The principle is that there should be independence for each organ of Government within a system of checks and balances. The powers of government are distributed: no one organ of government should be paramount.

Alongside the concept of the separation of powers is the related principle of the independence of the judiciary. This is an independence in the exercise of judicial duties and responsibilities. In principle there should be provided an adequate infrastructure to the judiciary to carry out their functions. If the functions of the judiciary are limited by an absence of adequate administrative infrastructure and resources there

is an impingement on the capacity of the judiciary to exercise these functions.

The independence of the judicial process is an important part of the protection of democracy and the rights of the citizen. Thus, while steps are being considered to make the administration of the Courts system more efficient and expeditious it is essential that the independence of the judiciary is safeguarded.

## **E. THE WORKLOAD OF JUDGES**

Justice is administered in Courts by judges. As a result of the Courts and Court Officers Act, 1995, the full complement of the judiciary will be 8 Supreme Court judges, 19 High Court judges, 24 Circuit Court judges and 50 District Court judges.

Owing to the increased number of cases and the complexity of litigation the Courts in recent decades have been carrying an ever increasing burden. This has resulted in judges being required to work routinely late into the night and over weekends. In the High Court and Supreme Court especially there are many documents to be read pre-trial, not infrequently amounting to thousands of pages per case. In addition, reading and researching law must take place before, during and after cases are heard. Thereafter time is needed to reflect, read, research and draft judgments. If a judge is sitting each day in Court this aspect of work must, by necessity, be done in the evening, at weekends and during the time that the Courts are not sitting. Given the number of judges and the pressure of work the whole system would have ground to a halt entirely if there was not the time, when the Court does not formally sit, to write judgments and prepare for cases. It is because Irish judges come from a profession where it is usual to work long hours that the judiciary have managed to keep the current system functioning at all.

It may be that there is a need for more judges to be appointed. The recent increase in the number of judges will go some way to alleviating the current problems.

However, the Court system requires a much more fundamental analysis and development. Combined with the increase in workload there has been very little development of a modern infrastructure to the Courts. An efficient management of the Courts and support structures for the judiciary are essential to serve the needs of Ireland today.

# How the Courts are Managed

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## A. THE DEPARTMENT OF JUSTICE

At present the management of the Court system is centralised in the Department of Justice, a multifunctional Department whose administrative responsibilities include the Gardai, the prisons, and the Courts. Staff therein, including those working on the management of the Courts, work to the Minister for Justice. The Minister for Justice, who is a member of the executive, the Cabinet, has responsibility for the provision and central management of services for the Courts.

There is one division in the Department of Justice which deals solely with the administration of the Courts: the Courts Division. Other divisions deal with matters relating to the Courts as the need arises eg., Law Division, Information Technology Division, Salaries Section. In general there are approximately 48 people in the Department of Justice involved in the administration of the Court system. (See Appendix E). The relevant financial, personnel and administrative functions, exercised by the Department of Justice are broadly sketched out in Appendix F.

## B. THE COURTS' STAFF

Other staff in the administration of the Court system are located within the Courts. The total number of staff serving the Courts in January 1996 was 790.5. (See Appendix G. This figure is broken down in Appendix H.) If one adds the staff in the Department (48) to those attached to specific Courts (790.5) the total number of personnel involved in managing the Courts in the State is 838.5.

All Court staff are Civil Servants. However, the Courts staff of the District and Circuit Court are "general service" grade, whereas the staff in the High and Supreme Court are employed in "departmental grades" peculiar to them. This difference in grading structure precludes free transfer between the two services.

The fact that Circuit and District Court staff are “general service” grade Civil Servants has the advantage that it is open to them to compete for promotion or seek transfer to posts in the Department of Justice or in the wider Civil Service. It appears that this is availed of by some grades, especially in rural areas, but personnel in the higher and more specialised grades do not, in practice, find it possible to transfer out of the Courts’ service, and such transfers are rare. Because of the divided system, such staff cannot be promoted into High Court and Supreme Court posts.

Circuit and District Court staff are directly answerable to the Minister and the Department.

Certain statutory officers of the Courts are stated to be subject to dual control by both the Minister for Justice and the head of the relevant Court jurisdiction. Thus, the Registrar of the Supreme Court has superintendence and control of the office of the Supreme Court. In the exercise of such superintendence and control the Registrar is subject to the general directions of the Minister for Justice in regard to all matters of general administration and to the directions of the Chief Justice in regard to all matters relating to the conduct of that part of the business of the Supreme Court which is for the time being required by law to be transacted by or before one or more of the judges of the Court: Section 18(1) Court Officers Act, 1926. Similarly, in the High Court the officer managing the Central Office has the general superintendence and control of the offices attached to the High Court. In the exercise of such superintendence and control he is subject to the general direction of the Minister in regard to all matters of general administration and to the directions of the President of the High Court in regard to all matters relating to the conduct of that part of the business of the High Court which is for the time being required by law to be transacted by or before one of the judges of the High Court: Eighth Schedule, Courts (Supplemental Provisions) Act, 1961, Section 7.

In addition to the principal officers in the High and Supreme Court, in the Central Office, Taxing Masters’ Office, Probate Office, Office of the Official Assignee in Bankruptcy, Examiner’s Office, Accountant’s Office, Office of the Registrar of the Supreme Court and Office of Wards of Court, there are employed such officers, clerks, messengers, criers and servants as the Minister for Justice from time to time determines with the sanction of the Minister for Finance after consultation with the President of the High Court or the Chief Justice, as appropriate. All officers (other than principal officers) clerks, messengers, criers and servants employed in any of the offices are interchangeable amongst

such offices and are liable to serve in any of those offices as the Minister from time to time directs after consultation with the President of the High Court or the Chief Justice, as appropriate: Courts (Supplemental Provisions) Act, 1961, Eighth Schedule, Section 22.

The reality of the current system is that certain Court officers have dual responsibility roles and operate in a bifurcated managerial system. This creates its obvious tensions and complexities. The Civil Servants who work for the Minister for Justice quite reasonably can see their first responsibility as being to the Minister and not to the judiciary. It is important in order to preserve the independence of the judicial function that on judicial issues the Court staff be responsible to the Court. The system has developed on an ad hoc basis, is inadequate and needs to be modernised.

### **C. COURT ACCOMMODATION**

The Courts Division of the Department of Justice has had responsibility for Court accommodation for the past few years. Good work has been done in recent years in Waterford, Galway and elsewhere. However, much of the Court accommodation is seriously inadequate and the necessary facilities for persons coming before the Courts are lacking. Budgetary constraints, combined with the fact that it was the responsibility of the Local Authority to provide for and maintain the courthouses, have resulted in large numbers of courthouses in need of reconstruction work. The Courts Division is now responsible for coordinating, funding and implementing a building refurbishment and maintenance programme for courthouses. The Division has been examining existing Court accommodation in order to identify buildings which need replacement, refurbishment and/or maintenance. Approximately £45m is needed to be spent on the buildings to bring them up to standard.

A budget of £5.755m for capital projects involving the renovation and refurbishment of provincial courthouses has been allocated for expenditure in 1996. Since courthouses (excluding the Four Courts) are Local Authority owned, the supervision of building projects involves close liaison between the Courts Division, the Office of Public Works and the Local Authority. Each project involves the production of specifications, planning, tendering, supervision and administration. Despite some recent improvements Court accommodation is in a state of crisis. There is an inadequate number of Courts in certain areas including the Four Courts, and Courts' maintenance is grossly deficient

in many areas. The structure and facilities of many Courts are deplorable. Any review of the Courts accommodation must also consider the issue of rationalisation of venues. This is of importance in an overall plan to improve the Courts themselves.

The administration of justice is a solemn act of government. It should take place in dignified, suitable and fully equipped buildings. The current deplorable state of many courthouses is the most striking visible manifestation of the absence of adequate funding over the last 70 years to provide the necessary resources for the administration of justice.

#### **D. LEGAL AID**

This section is included to complete the description of the work of the staff in the Department of Justice which is directly connected to the Courts.

##### **(i) Criminal Legal Aid**

The functions of the Department of Justice include the operation of the Criminal Legal Aid Scheme. Criminal Legal Aid is granted by the Courts and operated by solicitors and barristers who are in private practice. The Department of Justice is responsible for overseeing the operation of the scheme. The scheme is based on the Criminal Justice (Legal Aid) Act, 1962 and Regulations made under the Act. The total cost of the scheme in 1995 was £7.988m. The projected cost of the scheme for 1996 is £9.322m.

##### **(ii) Civil Legal Aid**

Civil legal aid is provided through the Civil Legal Aid Board which was originally set up on a non-statutory basis under the Department of Justice in December, 1979. The Department of Equality and Law Reform was then established (S.I. No. 20 of 1993). The Civil legal aid function was transferred to that Department (Justice (Transfer of Departmental Administration and Ministerial Functions) Order, 1993 (S.I. No. 34 of 1993)). Since 1993 the scheme has expanded considerably and the Board was set up on a statutory basis by the Civil Legal Aid Act, 1995. Civil legal aid is administered through law centres staffed by salaried solicitors. The administrative and support staff are civil servants. Legal aid solicitors instruct Counsel who are paid on an hourly basis under the scheme. In 1994 the cost of civil legal aid was £4,972,000.

## **E. THE ADMINISTRATIVE INFRASTRUCTURE OF THE COURTS**

Analysis of the current administrative infrastructure for the Courts shows that the Courts are not managed by a single central body. In practice the administration of the Courts is operated by eight groups, albeit with links to the Department of Justice. The eight sectors are:—

- (1) The Department of Justice.
- (2) The Presidents of each Bench of judges.
- (3) Twenty-six Circuit Court Registrars and 46 District Court Clerks and the Chief Clerk of the Dublin Metropolitan District.
- (4) The High Court personnel, Registrars, etc.
- (5) The Supreme Court personnel, Registrars etc.
- (6) The Office of Public Works.
- (7) The County Councils and Dublin Corporation.
- (8) The Sheriffs.

These diverse structures within the Court system are centred loosely around the Minister for Justice. The organisation has not been modernised so as to enable decision-making to be undertaken in an efficient manner. It is a cumbersome, unwieldy and outmoded fabric. In fact, it is a series of organisations which are not inter-connected adequately and which are not appropriately linked to that which they are purporting to manage. Also there is an inadequate system of communication between personnel within the operation of the Court system, between Civil Servants and the judiciary, and between the people working within the Court system and the public. These inadequacies cause tension.



# How the Courts are Financed

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It is a matter of the highest priority that the State provide adequate resources to support the administration of justice. Judges neither enter the political arena nor engage in industrial disputes. The duty rests squarely on the executive and the legislature to make adequate provision.

## **A. THE COST OF THE COURTS SYSTEM**

The cost of the Courts cannot be assessed from a single document. It is rather to be gleaned from a variety of sources.

- The salaries of the permanent judiciary and pensions of retired judges are paid from Central Fund.
- The salaries of all Courts staff and the general operating costs of the Courts are paid out of the Courts Vote.
- The costs of the Department of Justice headquarters staff dealing with central management of Court Services, of criminal legal aid and of payments to the Incorporated Council of Law Reporting are borne on the Vote of the Office of the Minister for Justice.
- Since 1993 the grant to the Civil Legal Aid Board is met from the Vote of the Minister for Equality and Law Reform.
- Certain witnesses' expenses (almost wholly in criminal cases) are paid from the Garda Síochána Vote.
- The Vote for the Office of the Public Works contains provisions for new works, alterations and additions to Dublin City Centre Courts (but not for routine maintenance).

- Local Authorities provide such services to courthouses as heating, lighting, furniture and minor maintenance. However, not all of these services are provided by Local Authorities. Some Local Authorities have leased premises for use as Court accommodation and offices. As it is not possible to estimate the cost of expenditure by Local Authorities on courthouse accommodation, the expenditure figures below do not include any sum for this service.
- Owing to the variety of factors involved it is only possible to estimate the total cost/expenditure of the Court system. Accordingly, the total expenditure of the Court system from 1990 to date is estimated as:—

Year	Estimated Expenditure
1990	£24,737,794
1991	£27,332,776
1992	£31,804,000
1993	£33,833,000
1994	£42,596,000
1995*	£46,772,000

\*1995 figures based on the provisional out-turn as of January 1996.

## 1994

The cost of the Court system in 1994 (£42,596,000) is compiled as follows:—

<i>Courts Vote</i>	
Salaries	£14,074,000
Non-pay operating costs	£3,054,000
Capital work (courthouses)	£4,065,000
<i>Central Fund</i>	
Judges salaries/pensions	£6,179,000
<i>Office of the Minister for Justice</i>	
Departmental administration (estimate)	£750,000
Criminal Legal Aid	£7,044,000
Law Reporting	£32,000
<i>Equality and Law Reform</i>	
Civil Legal Aid	£4,972,000

<i>Office of Public Works</i>	
Capital Works	£424,000
Maintenance work	£1,480,000
Rent	£110,000
<i>Garda Vote</i>	
Witnesses' expenses	£412,000
<b>TOTAL</b>	<b>£42,416,000</b>

(The day-to-day costs of providing and maintaining Court accommodation outside Dublin is not available and consequently is not included in the above amounts. It would be difficult to compile accurate figures since in many areas the accommodation is shared between Courts and other users).

## 1995

The provisional estimate of the cost of the Court system for 1995 is as follows:

<i>Courts Vote</i>	
Salaries	£14,779,000
Non-pay operating costs	£3,062,000
Capital Works (Courthouses)	£5,390,000
<i>Central Fund</i>	
Judicial Salaries/pensions	£7,416,000
<i>Office of the Minister for Justice</i>	
Departmental administration (estimate)	£900,000
Criminal Legal Aid	£7,989,000
Law Reporting	£24,000
<i>Equality and Law Reform</i>	
Civil Legal Aid	£6,200,000
<i>Office of Public Works</i>	
Capital Works	£100,000
Maintenance Works	£372,000
Rent	£150,000
<i>Garda Vote</i>	
Witnesses' expenses	£390,000
<b>TOTAL</b>	<b>£46,772,000</b>

(As stated previously the day-to-day costs of providing and maintaining Court accommodation outside Dublin is not available and consequently is not included in the above amounts. It would be difficult to compile

figures since in many areas the accommodation is shared between the Courts and other users).

## B. THE INCOME FROM THE COURTS SYSTEM

There are varying sources of income from the Court system. The income has remained remarkably static over the last five years.

1990	Appropriations in Aid	£1,085,836
	Court fees	£9,542,025
	Court percentages	£303,150
	TOTAL	£10,931,011
1991	Appropriations in Aid	£1,162,716
	Court fees	£9,451,521
	Court percentages	£10,000
	TOTAL	£10,624,237
1992	Appropriations in Aid	£1,321,190
	Court fees	£10,293,826
	Court percentages	£19,000
	TOTAL	£11,634,016
1993	Appropriations in Aid	£1,658,051
	Court fees	£9,104,300
	Court percentages	£15,000
	TOTAL	£10,777,351
1994	Appropriation in Aid	£1,875,747
	Court fees	£9,307,763
	Court percentages	£52,800
	TOTAL	£11,236,310
1995 (Provisional)	Appropriation in Aid	£1,340,000
	Court fees	£9,000,000
	Court percentages	£40,000
	TOTAL	£10,380,000

### Court Percentages

Court percentages are graduated annual charges payable out of the Estates of all persons who are Wards of Court. The amount to be paid by each Ward is assessed by the Registrar of the Wards of Court and is based on the income of the Ward in the preceding tax year. Wards whose nett annual income does not exceed £600.00 are exempt. The charge for those liable is calculated as follows:

£600 — £1,500	@ 2.5%
£1,500 — £3,000	@ 3.0%
£3,000 and greater	@ 4.0%

The maximum annual charge in any one case is £500. The statutory basis for the charge is Section 109, Lunacy Regulations (Ireland) Act, 1871 and the method of calculation is set out in the 1989 Fees Order.

There follows a breakdown of the fees collected by the Courts which relate to Revenue, Land Registry and Court fees.

**Breakdown of Fees Collected by the Courts**

Revenue	Land Registry	Refunds	Court Fees	Total
1990 3,996,817	100,135	152,383	9,542,025	13,791,360
1991 4,221,705	100,000	125,181	9,451,521	13,898,407
1992 4,364,595	100,000	207,175	10,293,826	14,965,596
1993 5,927,720	100,000	218,895	9,104,300	15,350,916
1994 5,831,010	100,000	161,201	9,307,763	15,399,974

As can be seen the amount of Court fees did increase marginally in 1992 but decreased in 1993 and 1994 to pre-1992 levels. The main factor in the increase from 1990 to 1994 is the increase in the Revenue fees.

**Fines**

As a result of Court decisions fines are imposed. A breakdown in the amount of fines collected include Road Traffic, Revenue and Fisheries fines in addition to Court fines and it will be seen that they do not concur with the figures set out in "Income from the Court System" under the heading of Appropriations-in-Aid. The attached figures represent receipts for the calendar year January-December, while the figures in the "Cost of the Court System", which are taken from the Appropriation Account, are for the year from September to September. The reason for this, apparently, is that the figures for the last quarter of the year in question are not usually completed and available at the time of completion of the Appropriations Accounts. Regarding the year 1994, it is understood that a fifth quarter was included inadvertently in the Appropriation Account which will be offset in 1995.

### Breakdown of Fines

Motor	Court fines	Revenue	Fisheries	Total
1990 5,077,730.25	959,805.14	133,874.50	943,320.28	7,114,730.17
1991 4,663,847.63	858,098.34	99,595.00	720,439.71	6,341,980.71
1992 5,607,629.87	1,238,383.76	141,100.09	1,558,513.72	8,545,627.44
1993 5,873,796.36	1,337,494.42	229,423.07	1,155,263.59	8,595,977.44
1994 6,104,326.08	1,257,199.81	224,833.21	407,638.60	7,993,997.70

There are no figures available on the uncollected fines. Nor are there statistics on the monies that are paid into the "Poor Box".

From the above figures it is seen that because of a variety of factors involved it is only possible to estimate the total expenditure and income of the Court system. Accordingly, the total expenditure and income of the Court system from 1990 to 1995 with the estimated nett cost of the Court system is as follows:—

Year	Estimated Expenditure	Estimated Income	Estimated Nett Cost of Court System
1990	£24,737,794	£10,931,011	£13,806,783
1991	£27,332,776	£10,624,237	£16,708,539
1992	£31,804,000	£11,634,016	£20,169,984
1993	£33,833,000	£10,777,351	£23,055,649
1994	£42,596,000	£11,236,310	£31,359,690
1995*	£46,772,000	£10,380,000	£36,392,000

\*1995 figures based on the provisional out-turn as of January 1996.

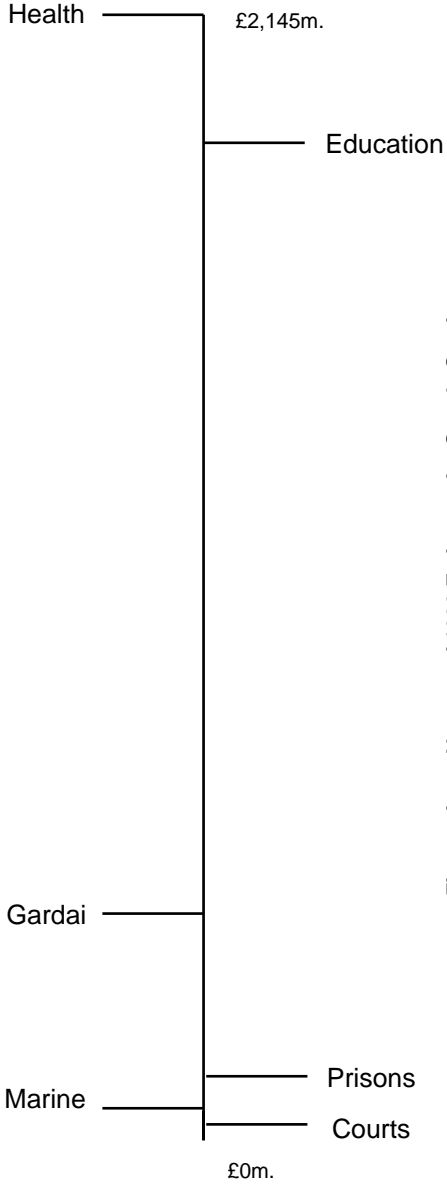
For the purpose of this study the global figure for the nett cost of the Court system is taken at £40 million. This sum is a very small percentage of the national budget. In the Estimates for Public Services 1996 the total of 1996 nett estimates for supply services is:—

Non-capital services	£9,372,332,000
Capital services	£1,280,481,000
<b>TOTAL</b>	<b>£10,652,813,000</b>

Total government expenditure is calculated by the addition of the Central Fund services, non-capital supply services, and Exchequer financed capital expenditure. Total government expenditure for 1996 is estimated at £14,017,000,000. The £40m estimate as the expense of the Court Service is 0.28% of total government expenditure.

For a summary of the estimate of funds to be allocated to the Courts and other areas see Appendix I. The expenditure on the Courts relative to some other departments for the year 1995 can be seen on the following diagrams.

Line Graph of certain Expenditure for year 1996



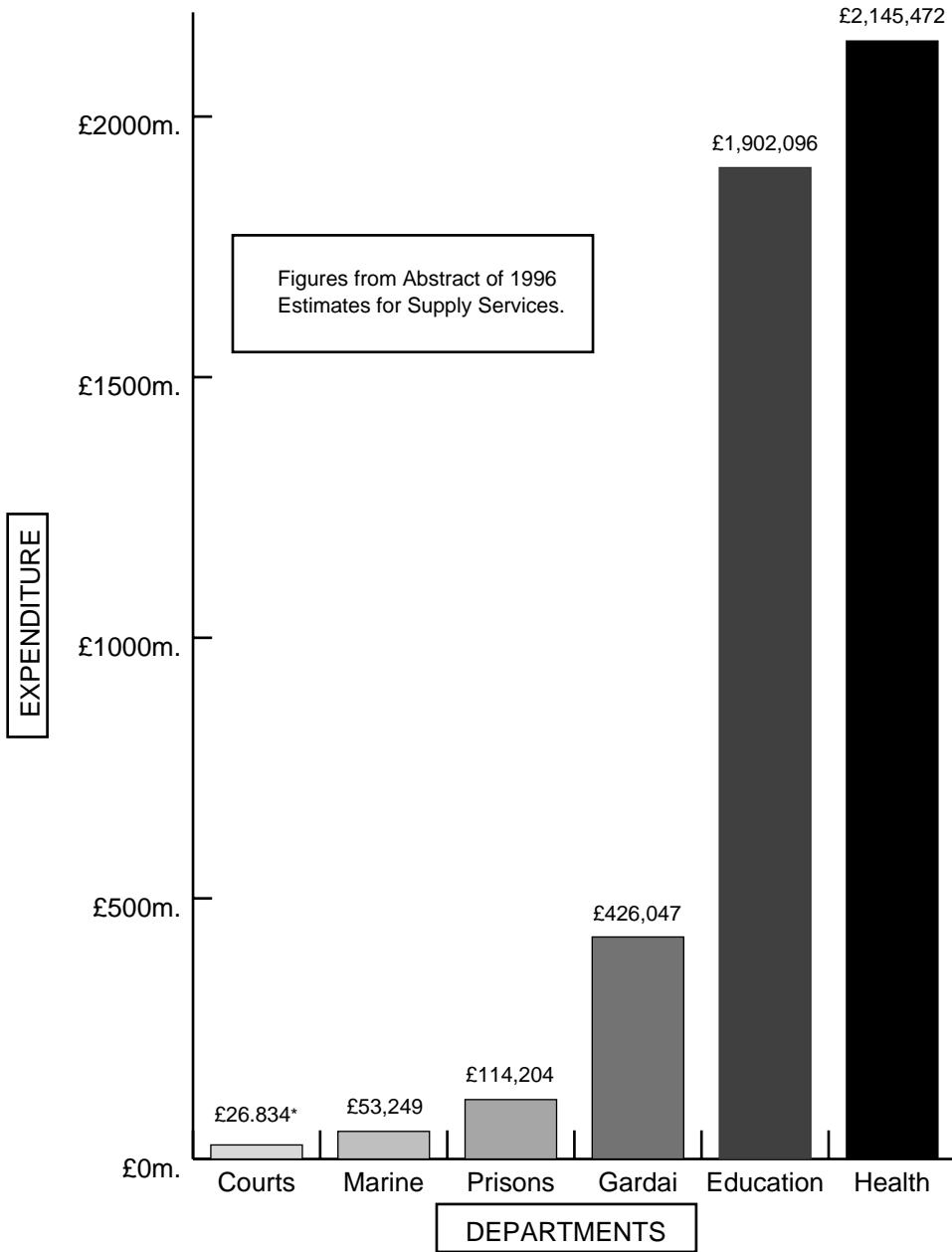
Figures from Abstract of 1996 Estimates for Supply Services.

Department	Expenditure (£000)	Prisons (£000)	Gardai (£000)	Education (£000)	Health (£000)
Marine	£53,249	£114,204	£426,047	£1,902,096	£2,145,472

\*A global figure of £40 million to include judicial salaries and the cost of court buildings was used to represent expenditure in the graph.



### Courts' Expenditure Relative to other Departments (1996)



\*A global figure of £40 million to include judicial salaries and the cost of court buildings was used to represent expenditure in the graph.

### **C. ANALYSIS OF THE FINANCIAL RESOURCES OF THE COURTS**

- (a) Given the number of personnel involved (approximately 1,000), the global figure (£40m) of expenditure and the general circumstances, it is clear that the State receives a remarkably good service from the people who run the Courts. The dedication of all personnel in face of the situation is to be applauded.
- (b) However, the system, stretched as it is to breaking point, is in crisis.
- (c) At issue here is not an insignificant product. Rather it is a question of part of the government of the State. There are three arms of government — legislative, executive and judicial — three sisters. It is the administrative infrastructure for the third sister which is the subject of this analysis.
- (d) With more efficient management of the Courts more income would be generated by the Courts for the State.
- (e) In view of the Constitution and the right of access to the Courts a policy of self-financing by the Courts is not appropriate. However, it is possible that there are certain reforms which would not only increase efficiency in the administration of justice but which at the same time would generate a monetary reward for the State. For example, a Commercial Court managed by judges with specially trained Registrars could enable more speedy litigation which would in turn aid business and commerce and bring an increased level of fees to the State.
- (f) As a matter of principle the Courts should be appropriately resourced. Good management will enable resources to be applied further.
- (g) Ultimately, it is the elected representatives of the people in the legislature and the executive who determine the allocation of public monies and the proportion of those monies to be used to finance the Courts.

# Problems in the System

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## A. THE PROBLEMS IDENTIFIED

It is clear that there are fundamental problems in the current management system. These include the following:—

- (1) There is no clear management structure with accountability and responsibility.
- (2) There is no clear reporting structure with regular channels of communication between the various constituencies.
- (3) There are no adequate performance measurements; no objectives and minimum planning beyond day-to-day procedure matters.
- (4) There is poor understanding or implementation and lack of innovation in the use of information technology.
- (5) There is a fragmentation of administration systems between each of the Courts.
- (6) There is minimum training and development of staff, identification of needs, job descriptions or performance standards for staff to follow.
- (7) There is a lack of professional management to support any of the above requirements in the current structures.
- (8) The structures for responding to initiatives for change are cumbersome.
- (9) There is apparent remoteness of the administrative system from the judiciary.

- (10) There is an inadequate organisational relationship between the Department of Justice and Court staff. The result has been a lack of basic empowerment or decision-making.
- (11) There is a lack of structure to enable responsiveness to the views of Court users.
- (12) There is a lack of financial information on the Courts available in an understandable format.
- (13) There is a lack of statistical information on the Courts.
- (14) There are no Annual Reports.
- (15) There is no strategic plan.
- (16) There is a lack of dignified and adequate courthouses.
- (17) There is no information service to the public.

## **B. MULTI-GROUP ADMINISTRATION: AN URGENT ISSUE**

The Working Group are of the opinion that the current administrative system is one of the causes of the critical situation in the Courts. As such it is an urgent issue in the government of the State and should be dealt with immediately.

## **C. THE PROBLEM OF DELAY**

### **(i) In General**

The critical situation in the Courts can be illustrated by a number of matters, one of which is the delay in processing litigation in parts of the Court system at the moment. This is detrimental to the parties, expensive and poses other problems. For example, delay in pending criminal trials raises special problems.

The current delay in getting cases on for trial depends on the jurisdiction and location of the Court. The situation is illustrated by some statistics.

### **(ii) Statistical Difficulties**

The Group has encountered difficulties in obtaining comparable statistics in this and other areas. This is not the fault of any individual or body. However, it highlights the necessity for a statistics unit in the Courts with modern information technology. Figures available vary and

may be based on different criteria. For example, in considering delay one may approach from the first document in a case, the first appearance in Court, or from when the case is listed as ready to be heard. The Group is of the opinion, from its own experience, and from information available, that the delays in certain areas may be considerably more than is apparent on the face of the existing statistics.

### **(iii) The Supreme Court**

In the Supreme Court there is a long list of cases to be heard. Of the first twenty cases listed in February, 1996 for fixing a date for hearing later in the year the length of time already from the High Court hearing varied from approximately  $2\frac{1}{2}$  years to 8 years. (See Appendix J which sets out the said first twenty cases listed with the relevant dates). The length of time from the date when each appeal was certified ready for hearing in the Supreme Court was from 2 to 3 years.

### **(iv) The High Court**

#### **Personal Injuries in The High Court**

In the High Court there is a waiting list for personal injury actions. In Dublin there is an average delay of  $35\frac{1}{2}$  months between the setting down of a case and determination. (See Appendix K). The fact that most cases ultimately do not go to trial indicates the benefits which may accrue in having an earlier hearing date in Court.

Personal injury actions represent a considerable volume of the work of the High Court and thus merit special management attention. Such case management would be at two levels. A more active approach at both the judicial level (the President of the High Court has already commenced new measures) and at the administrative level would aid the situation.

The percentage of cases set down for hearing which are personal injury actions has remained relatively static. In 1992/3 of 8,193 plenary summonses issued 5,432 personal injury actions were set down for trial being 87% of the actions commenced by plenary summons which were set down for trial. (See Appendix L). In 1993/4 of 7,594 plenary summonses issued 5,023 personal injury actions were set down for trial being 86% of the actions commenced by plenary summons which were set down for trial. (See Appendix M). In 1994/5 of the 9,603 plenary summonses issued 5,453 were set down for trial of which 4,682 were personal injury actions representing 86% of the actions set down for trial. (See Appendix N).

These figures do not reveal the increasing complexity and length of many cases, such as medical negligence cases and cases involving paraplegia or other seriously disabling injuries. However, they do show the consistent percentage of actions commenced by plenary summons which relate to personal injury and which are set down for trial. As such they illustrate a specific volume of cases which would benefit from modern case management and modern technology.

These figures do not include cases of other kinds heard in the High Court eg., Special and Summary Summonses, Judicial Reviews, Cases Stated and Circuit Appeals.

#### **(v) Criminal Trials in the Central Criminal Court**

There is a waiting list for criminal trials in the High Court at the Central Criminal Court. In December 1995 sixteen murder trials were listed. Eight were adjourned, three adjourned with priority, two were listed for trial and three had provisional trial dates fixed. The delay from the date of return for trial varies from five years nine months<sup>1</sup>, two years nine months, down to two months. There were forty rape trials listed. Twenty nine were adjourned. Seven had dates fixed for trial and two had provisional trial dates set. Two were arraigned. (See Appendix O). The absence of judges and resources to proceed with these trials have serious repercussions within our society.

#### **(vi) Family Law Cases in The High Court**

On 12th January, 1996 when dates were fixed for the hearing of family law cases the period between the date when the case was ready for hearing and the trial date fixed varied from one week to six months. (See Appendix P).

#### **(vii) The Circuit Court: General**

The volume and variety of the work of the Circuit Court has increased immensely over the last 10 years as is shown by the review of the Limerick Circuit Court Lists for four weeks ending 8th December, 1995 at Appendix Q.1. This was the list for the single Circuit Court judge for that area. As can be seen there were 145 family law cases listed at special sittings on 6th, 7th and 8th December 1995. (See Appendix Q.2).

The increased jurisdiction and volume of work in the Circuit Court has resulted in delays throughout the Circuit Court system. The Group has

<sup>1</sup>The delay of five years and nine months relates to one case where the accused was imprisoned previously on other charges.

particular concern about the inherent value of the statistics available on the delay in this jurisdiction. Delays appear to be longer than is apparent from the statistics. That said even the statistics paint a sorry picture. They indicate that in the Civil Circuit Court lists the delay is three years in Cork, two years in Clonmel, Limerick, Galway, Dublin, Waterford, Wexford and Portlaoise. There is a delay of between a year and two years in Carlow, Kilkenny, Wicklow, Tralee, Sligo, Dundalk, Mullingar and Ennis. While there is apparently virtually no delay in criminal trials there is a delay indicated in family law cases of between three months in Sligo and eighteen to twenty four months in Carlow. (See Appendix R).

#### **(viii) The Dublin Circuit Court**

There is a two year waiting list for the hearing of civil cases in the Dublin Circuit Court. Cases set down for hearing in March 1996 are likely to be heard in March, 1998. In the family law list there is a delay of some 15 to 18 months between the issue of an application for judicial separation and the hearing of the action. (The 10 months' delay set out in Appendix R is out of date). This delay is despite the fact that in the Dublin Circuit there is one judge sitting full-time, five days a week, to deal with family law and from time to time additional judicial time is made available to assist with the backlog.

The long delay in hearings gives rise to a multiplicity of urgent interim applications — up to 80 to 100 cases in the one day per week available for these applications. The position will be made even more difficult when the Family Law Act, 1995 comes into force on 1st August, 1996 since it enlarges the jurisdiction of the Circuit Court to include nullity.

#### **(ix) The District Court**

In general in the District Court delays may not seem as dramatic as in other Courts but this does not mean there are no problems. In Dublin civil cases take about five months to reach a hearing. Family law cases are listed six weeks from the issuing of proceedings. Summary cases such as road traffic may take up to eight months from issue of summons. Criminal trials where the accused is in custody are held without any delay at all. Where the accused is on bail the dates for hearing are at present five months ahead.

This is not satisfactory. The absence of arrears in family law is bought at the price of overlong lists and a consequent danger that each case

is given insufficient time. Road traffic cases ideally need a quick solution while memories are fresh. A delay of five months in summary criminal trials usually leaves the accused out on bail for this duration which may have negative effects.

In country districts arrears do build up in family law and civil matters, and in some districts criminal cases as well. The solution is to send down an extra judge for a day or a week to clear arrears. Also, judges will sit early and continue beyond 5 o'clock. This, however, may be dangerous as the judge, the counsel and solicitors and even the parties may become tired after a long day and the quality of the hearing may be impaired.

Baldly setting out the above statistics on the delay existing in some Courts does not, however, make clear the human misery and tragedy caused by such delay. Such consequences can be seen daily in our society.

Apart from the question of delay, there are other issues which render the situation in the Courts critical. These include matters of communication, management of resources and planning.

#### **D. CONCLUSIONS**

To meet the "delay" issue and the necessities of a modern Court process the Group suspect that even with the judicial appointments under the Courts and Court Officers Act, 1995 that there are not a sufficient number of judges in the short term. However, no final decision can be made on this issue until a proper system of managing the Courts is in place. Thereafter the necessary management information will be available to enable informed opinion on the number of judges required.

The problem in the Court system is not one related solely to the number of judicial personnel. It is also one concerned with the management and infrastructure of the Courts system.

The current Court management system is grossly inefficient. It fails to deliver an adequate infrastructure to the administration of justice. It is not the function of this Group to apportion blame for this. Indeed, were it to endeavour to do that, it would have to start in 1922 and assign some degree of responsibility to each successive government and to the judiciary, the professions, local authorities and the Civil Service. It is a fact that the diversity of bodies, each with little administrative power, with no centralised unifying body, with inadequate systems of communication, with no system for obtaining necessary management information, carrying dual lines of responsibility, cannot meet the needs



of this arm of government. The present structures create confusion and muddle.

The current system of Court management should not be continued for reasons of principle and practice. A more efficient and responsive structure should be established in its place. The principle of the separation of powers requires that the judicial arm of government be independent of the executive. In putting in place a management structure for the Courts system due regard should be had to this principle.

A judicial input to such issues as budgeting, planning and management of the Courts Service would be in conformity with the basic principle of the separation of powers. This judicial input is especially critical if a centralised powerful administrative machine is established to run the Courts. If such a machine became too large and powerful it runs the danger of interfering with the judicial process.

# Options for Change

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## **A. THE OPTIONS IN GENERAL**

The Working Group considered certain structures as options to manage the Courts system. Four basic alternatives were considered:—

- (1) A multifunctional Department of Justice.
- (2) A separate Department for the Courts.
- (3) A Commission run by the judiciary with an administrative structure thereto.
- (4) An independent statutory Agency of the State with a Chief Executive Officer.

## **B. OPTION 1: A Multifunctional Department of Justice**

The first option considered was the development and improvement of the current Courts Division of the Department of Justice. However, this model would retain many of the problems of the current system. The Courts would continue to compete with other interests within the Department for funding. In addition, there would be the danger that necessary changes would not take place if this approach were taken.

Option 1 is not recommended. It would, in effect, merely adjust somewhat the current system in a busy Department which has a wide range of responsibility. It would not succeed in principle or practice in meeting the needs of the Courts in Ireland today. It would not have the intrinsic dynamism to bring about the necessary changes.

The Group advise that the management of the Courts Service be taken out of the Department of Justice and that a unique body be established to take over these functions.

### **C. OPTION 2: A Single Functional Department of the Courts**

The second option is that of a separate Department of the Courts. This would be a single function Department to administer the Courts. This choice would have the advantage that it would not have to compete for funds, within the framework of the Department, with requirements from other areas eg., gardai, prisons. It would have an exclusive function. It would have the benefit of not being too far removed from the current system.

However, because it is so similar to the current structure it would not appear also to have the intrinsic dynamism that another model might offer. It would retain the essential structure which has given rise to the current situation, and thus would be fundamentally an organisation of a kind which has raised concerns both in principle and practice. In addition, such a department would be unlikely to become the exclusive responsibility of a Government Minister. It is better to look elsewhere.

### **D. OPTION 3: A Judicial Commission**

The third option — an independent Commission run by the judiciary with an administrative infrastructure — is fundamentally sound in principle. This clear approach in principle is to be found in other democratic systems.

This is a judicially autonomous system of governing the administration of the third arm of government. It is a system which complies with the principle of the separation of powers. It enables an independent judiciary to administer the Courts with professional management structures. It is a system somewhat akin to that of the European Court of Justice which is an institution of about 950 staff and 40 judges. In that Court, until 1989, internal administration was carried out by the full European Court. Thereafter the administrative functions were delegated. There is now a classic pyramid structure headed by the European Court of Justice with an Administrative Committee which has delegated its administrative function to the Registrars. The budgetary requirements are drawn up by the Court. The Registrar responsible for administration then follows this through at the European Parliament.

This option throws up some matters for careful consideration. It is necessary that there be financial accountability within our democratic process. To preserve judicial independence, it is not advisable that the person so accounting be a judge. This matter could be met adequately by a Chief Executive Officer of the Commission being the Accounting Officer, who could appear before any necessary body such as the Public

Accounts Committee, to answer for the financial management of the Courts by the Commission. Thus, on this issue, the Commission concept is feasible in principle and practice.

However, there is another important matter which must be considered. In a democracy of the type established in Ireland it is appropriate that there be political accountability: not, of course, in respect of the content of judicial decisions, but rather for the operation of the Court system. The financial and administrative infrastructure of the Courts are matters which enter the political equation for accountability. In some jurisdictions judges engage in the political arena on these issues. In other jurisdictions politicians perform that task. It is the considered opinion of the Working Group that it would not be appropriate for Irish judges to enter the political arena. Thus, this option has an inherent difficulty which is not easy to overcome.

In an informal structure such as this there may be difficulty establishing an appropriate and clear line of political accountability to the Dail. It may be that a link could be forged from such a Commission to a Minister. If the Attorney General were a member of the Oireachtas perhaps he could be considered as a person to be politically accountable for the Commission. However, the Attorney General (while he may be) is not required to be a member of the Oireachtas.

If there was no need for a system of political accounting for the administration of the Courts, then Option 3 has advantages. However, as a matter of principle in a democracy such as exists in Ireland, and as a matter of practice (the need to have a strong voice in Cabinet to protect and promote the financial interests of the administration of the Courts) it is considered that this option has a serious deficiency. For, while it is a priority for a State in a free democracy to provide adequate resources to allow for the administration of justice, including the provision of appropriate accommodation, resources, personnel, budgets, etc., the reality must be recognised that this will not be done unless a member of Cabinet fights for these resources. In addition such a model lacks the advantage of outside expertise in administration and management systems. Furthermore, it does not reflect a public interest dimension. Therefore, we do not recommend this option.

## **E. OPTION 4: An Independent Agency: The Courts Service**

The fourth option considered is that of an independent body or agency. This would be a unique agency.

Such an agency would be established by statute and would be a corporate body called the Courts Service. Its functions and constituents would be established clearly. It would centralise the financial and management administration of the Courts in a unified system.

### **Aims**

This should lead to:—

- Improved access to justice.
- Delivery of an efficient and effective system of justice.
- Elimination of undue delay.
- Clear focus on objectives to be achieved.
- Streamlining of organisational structures.
- More clearly defined lines of authority and responsibility.
- Co-ordination of management systems through an integration of planning, financial management and human resource management.

In addition it would create an atmosphere of co-operation. Judges would have a greater say in the Court system. It would allow Court staff a greater sense of freedom.

## **F. OPTION 4: Elaborated**

### **(i) Functions of the Courts Service**

The functions of the Courts Service should be set out clearly and should include the following:—

- (i) the management of the Courts system;
- (ii) the preparation of its own budget for submission to the Minister for Justice;
- (iii) the management of its budget with regard to economy, efficiency and effectiveness;
- (iv) the provision of the necessary support services to the judiciary, including secretarial and research services;

- (v) the provision of administrative back-up necessary for an efficient Courts Service;
- (vi) the provision of an effective communications system between staff and judges;
- (vii) the provision of information on the Court system to the public;
- (viii) the provision, management and maintenance of suitable Court buildings, including a discretion to determine Court venues in accordance with specific criteria.

The functions of this Service do not include the administration of justice. Thus, it is appropriate for judges to work with others on issues such as the Courts Service budget, Courts accommodation and the management system.

**Accountability for the provision of these Aims and Functions would be maintained through the publication of the following Reports and Informations:—**

- The preparation of a three year plan for the Courts Service based on agreed budget criteria.
- The publication of an annual report on the performance of the Courts Service, with statistical information on the effectiveness of the Courts Service.
- The preparation and presentation of information to the public and Court users on an ongoing basis including the provision of education material to schools, jurors and Court users.
- The publication of a 'charter' for Court users.

**(ii) Chief Executive Officer of the Courts Service**

There would be a Chief Executive Officer of the Courts Service with the rank of Departmental Secretary, who would carry on the day-to-day business of the Courts Service, implementing the policy of the Board and who would be appointed by the Courts Service Board.

**(iii) Composition of the Courts Services Board**

The Courts Services Board should consist of a majority of judges in light of the constitutional parameters involved in creating this unique body. The Courts Service Board should be composed of:—

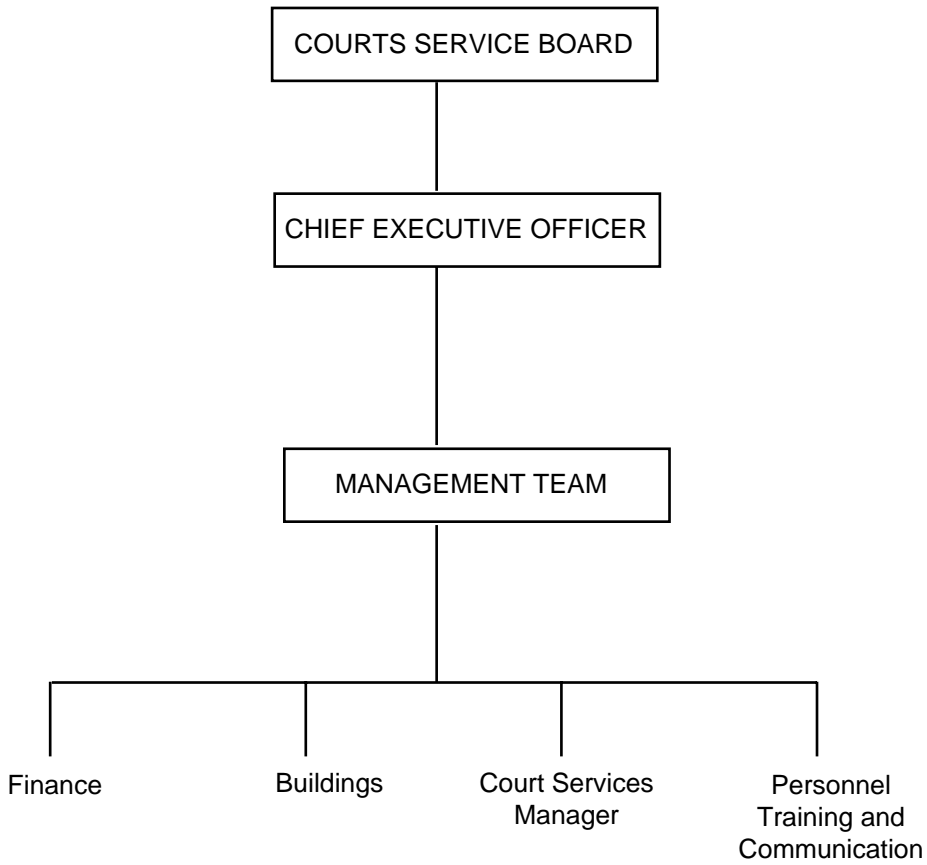
- (i) the Chief Justice (ex officio), or a member of the Supreme Court nominated by him or her;
- (ii) a judge of the Supreme Court;
- (iii) the President of the High Court (ex officio), or a member of the High Court nominated by him or her;
- (iv) a judge of the High Court;
- (v) the President of the Circuit Court (ex officio), or a member of the Circuit Court nominated by him or her;
- (vi) a judge of the Circuit Court;
- (vii) the President of the District Court (ex officio), or a member of the District Court nominated by him or her;
- (viii) a judge of the District Court;
- (ix) a nominee of the Bar Council of Ireland;
- (x) a nominee of the Law Society of Ireland;
- (xi) a representative of the Department of Justice to be appointed by the Minister for Justice;
- (xii) an elected representative of the Court staff;
- (xiii) a representative of Court users to be appointed by the Minister for Justice;
- (xiv) a nominee from the Irish Congress of Trade Unions;
- (xv) a nominee of a body representative of business and management.

Those who are judicial members of the Board, ex officio, should retain their positions thereon whilst holding the relevant office and should not be removable from the Board whilst so in office by the Executive or any branch or member thereof. They may appoint a nominee.

The judicial members, other than those who are members ex officio, should be elected in secret ballot by the members of their respective Bench and should serve for a term of not more than five years. They should not be removable from the Board by the executive during their term of office. The Chairperson of the Board should be the Chief Justice or a judge of the Supreme Court nominated by him or her.

**G. MODEL PROPOSED BY THE WORKING GROUP**

**THE COURTS SERVICE**



*Supreme Court* Registers etc.

*High Court* Registrars etc.

*Circuit Court* Chief Clerk, Registrars, etc.

*Disctirct Court* Chief Clerk, etc.



## **H. THE FUTURE STATUS OF THE COURTS STAFF**

The Court staff at present, in difficult circumstances, with few resources, give a remarkably good service to the State. Often this is not acknowledged. In addition, they are sometimes blamed for matters such as delays which do not lie in their area of responsibility. The fact that the Courts have managed to function as well as they have heretofore is due to the dedication of people over the last 70 years in operating the judicial arm of government.

In view of the unique nature of the Courts Service it should be a unified system staffed by Civil Servants of the State. This situation should be achieved by negotiation. Unification should not be imposed but be negotiated and agreed after detailed consultation in the industrial relations context. It is anticipated that ultimately a unified Courts Service would be to the advantage not only of an efficient Court system but also to the personnel on the staff.

Such a unified Court system would reflect the importance of trained staff and develop the expertise required in certain areas of highly skilled staff. The special knowledge and learning now acquired and required by senior Court staff which enables lists to be case managed, thus reducing the courtroom time involved in litigation, is a portent of the future.

There will be many changes necessary which we believe after consultation and joint proposals with staff will result in providing the public with a modern and effective Courts Service. To aid this future consultation process one seat on the Board of the Courts Service should be allocated to a representative of the staff.

## **I. POLITICAL ACCOUNTABILITY OF THE NEW BODY**

The Courts Service would not be accountable for judicial decisions. Political accountability of the service would be for financial and administrative matters within the system.

The distinction between the functions of the Minister for Justice as the Minister accountable for law and its amendment or the jurisdiction of the Courts etc., is stressed. These are matters of policy for the Minister.

In view of the fact that public monies would be expended on the Courts Service it is appropriate in our constitutional democracy that there be political accountability for the finance and administration. In view of the unique nature of the functions of the Courts Service this type of accountability is a matter to be established very clearly.

Thus, while the budget would be prepared by the Courts Service the

conduit to the government and the Oireachtas would continue to be the Minister for Justice. Accountability for the operation of the Courts Service is not an erosion of judicial independence. It is accountability for that part of the Courts Service which does not affect the judges' necessary independence.

In some States judges enter the political arena and are accountable to Parliament. The Working Group advises that this step should not be taken in Ireland and that political accountability for the Courts Service should continue to rest with the Minister for Justice. Clear lines of communication would have to exist between the Board and the Chief Executive Officer to the Minister and the Department of Justice to enable exchange of information to take place in an open relationship on a day-to-day basis. This would enable the Minister to exercise his or her responsibility to the Dail.

#### **J. CHIEF EXECUTIVE OFFICER**

It is anticipated that on behalf of the Courts Service the Chief Executive Officer would prepare an annual report for the Oireachtas on financial and administrative matters, and would be available to the Committees of the Oireachtas on administrative and financial matters. The Comptroller and Auditor General would play his constitutional role in relation to the Courts Service. It is proposed that this scheme should exist beside the format of political accountability which should remain with the Minister for Justice.

#### **K. A SINGLE STEP**

The Group considers that partial implementation of the primary recommendation (e.g. confined to one or two of the Court jurisdictions) would not be appropriate. A key problem at the moment is the multiplicity of structures and lack of cohesion. A partial implementation of this recommendation would on the one hand continue current problems while at the same time establish a wholly uncertain interim structure where lines of authority and communication could become even more chaotic.

# Recommendations

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## A. THE PRIMARY ISSUE: RECOMMENDATION

- (1) The Working Group on a Courts Commission recommends that there should be established an independent and permanent body to manage a unified Court system.
- (2) The said body should be known as the Courts Service.
- (3) The Courts Service should be created by statute.
- (4) The Courts Service should be an Agency of the State.
- (5) The functions of the Courts Service should include the following:—
  - (i) the management of the Courts system;
  - (ii) the preparation of its own budget for submission to the Minister for Justice;
  - (iii) the management of its budget with regard to economy, efficiency and effectiveness;
  - (iv) the provision of the necessary support services to the judiciary, including secretarial and research services;
  - (v) the provision of administrative back-up necessary for an efficient Courts Service;
  - (vi) the provision of an effective communications system between staff and judges;
  - (vii) the provision of information on the Court system to the public;

- (viii) the provision, management and maintenance of suitable Court buildings, including a discretion to determine Court venues in accordance with specific criteria.
- (6) There should be a Chief Executive Officer of the Courts Service with the rank of Departmental Secretary who should be appointed by the Courts Service Board.
- (7) The Courts Service Board should be composed of:—
- (i) the Chief Justice (ex officio), or a member of the Supreme Court nominated by him or her;
  - (ii) a judge of the Supreme Court;
  - (iii) the President of the High Court (ex officio), or a member of the High Court nominated by him or her;
  - (iv) a judge of the High Court;
  - (v) the President of the Circuit Court (ex officio), or a member of the Circuit Court nominated by him or her;
  - (vi) A judge of the Circuit Court;
  - (vii) the President of the District Court (ex officio), or a member of the District Court nominated by him or her;
  - (viii) a judge of the District Court;
  - (ix) a nominee of the Bar Council of Ireland;
  - (x) a nominee of the Law Society of Ireland;
  - (xi) a representative of the Department of Justice to be appointed by the Minister for Justice;
  - (xii) an elected representative of the Court staff;
  - (xiii) a representative of Court users to be appointed by the Minister for Justice;
  - (xiv) a nominee from the Irish Congress of Trade Unions;
  - (xv) a nominee of a body representative of business and management.
- (8) The Chairperson of the Board to be the Chief Justice or a judge of the Supreme Court nominated by him or her.

## **B. RECOMMENDATION: COMMUNICATION**

- B.1 It is essential that there be adequate communication between the people and their Courts. Fundamentally, this is done by holding the vast majority of cases in open Court. However, in addition there should be alternative methods of communication.

There is, in our Court system, an absence of adequate systems for communicating information. This would be a matter for the Courts Service. In the interim the Working Group makes the following recommendations.

- B.2 There should be located in Courts an Information Desk where people may obtain information on all aspects pertaining to the Courts.
- B.3 There should be appointed an Executive Legal Officer to the Chief Justice whose duties would be administrative. However, a portion of his/her duties would be to organise information for the media.
- B.4 Steps should be taken to improve the P.A. system in Courts so that people attending can hear what is going on.

## **C. RECOMMENDATION: THE FOUR COURTS**

- C.1 The buildings of the Four Courts are an important part of our national heritage.
- C.2 The centralisation of the Courts at the Four Courts, Dublin, is important for functional and other reasons.
- C.3 It is recommended that there be established a long term plan for the site.

## **D. RECOMMENDATION: STATISTICS UNIT**

There is an absence of adequate statistics on the Court system. It will not be feasible to have complete statistics until modern information technology has been introduced in the Courts. However, on an interim basis, and to aid the changes in management, it is recommended that a Statistics Unit, adequately resourced, be established in the Courts.



# Appendices

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- A Membership of the Working Group on a Courts Commission.
- B List of persons from whom submissions were received.
- C Acknowledgements.
- D Courts of Justice Acts.
- E Staff in the Department of Justice involved in the Administration of the Courts.
- F A broad sketch of the current management system of the Courts in the Department of Justice.
- G Total number of staff serving in the Department of Justice - Courts 1986-1996.
- H Analysis of the staff serving in Department of Justice — Courts, 1996.
- I Summary of Supply Services — nett estimates.
- J Analysis of first twenty cases in the Supreme Court list.
- K Statistics on the waiting list for Personal Injury Actions in the High Court.

- L The High Court 1992/1993 Plenary Summonses.
- M The High Court 1993/1994 Plenary Summonses.
- N The High Court 1994/1995 Plenary Summonses.
- O Central Criminal Court List for December 1995.
- P The High Court — Family Law cases.
- Q.1 Review of Limerick Circuit Court lists.
- Q.2 Michaelmas 1995 Sittings of the Circuit Family Court at Limerick.
- R Circuit Court delays — 29/9/95.



# Members of the Working Group

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- (1) Mrs. Justice Susan Denham, Judge of the Supreme Court.
- (2) Mr. Justice Ronan Keane, Judge of the Supreme Court.
- (3) Judge Kevin O'Higgins, Judge of the Circuit Court.
- (4) Judge Catherine McGuinness, Judge of the Circuit Court.
- (5) Judge Peter Smithwick, President of the District Court.
- (6) Mr. Justice Anthony J. Hederman, Chairman of The Law Reform Commission.
- (7) Mr. Ken Murphy, Director General of The Law Society.
- (8) Mr. James Nugent, Senior Counsel, Chairman of The Bar Council.
- (9) Mr. Ken Wright, Management Consultant.
- (10) Mr. John Rogers, Senior Counsel.
- (11) Ms. Roisin McDermott, Chairwoman of Women's Aid.
- (12) Mr. Kevin Duffy, Assistant General Secretary, Irish Congress of Trade Unions.

## **Departmental Representatives**

Mr. Caoimhín Ó hUiginn, Department of Justice.  
Mr. Colm Breslin, Department of Finance.  
Mr. Richard Barrett, Attorney General's Office.

## **Secretariat**

Mr. Noel Synnott, Department of Justice.  
Ms. Niamh O'Donnell, Department of Justice.

# Submissions

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## RECEIVED BY THE WORKING GROUP ON A COURTS COMMISSION

- (1) Association of Higher Civil Servants (*Written and Oral*)
- (2) Aoibhneas Women's Refuge
- (3) Branigan & Matthews, Solicitors
- (4) Bray Women's Refuge
- (5) C.A.R.I. Foundation
- (6) N.T. Chambers, District Court Clerk (*Written and Oral*)
- (7) The Society of Chartered Surveyors
- (8) Child and Adolescent Section,  
Royal College of Psychiatrists (Irish Division)
- (9) The Commissioner of An Garda Síochána
- (10) Coolock Community Law Centre
- (11) Court Stenographers
- (12) Mel Cousins
- (13) Family Lawyers' Association
- (14) Commission of the Status of People with Disabilities
- (15) Dockrell Farrell, Solicitors
- (16) The Dublin Solicitors' Bar Association
- (17) Ann Fetton
- (18) Free Legal Advice Centres Limited
- (19) Grandparents Obliterated
- (20) Impact (*Written and Oral*)
- (21) Irish Insurance Federation
- (22) Legal Aid Board
- (23) Longford Bar Association
- (24) McCann Fitzgerald, Solicitors
- (25) Sean McElligott
- (26) Robert McKee
- (27) Noonan Linehan Carroll, Solicitors

- (28) Gregory O'Connor, Archivist
- (29) Liam O Gogain
- (30) Provincial Newspapers Association of Ireland
- (31) Public Service Executive Union (*Written and Oral*)
- (32) Kevin Reilly
- (33) RTC Tallaght
- (34) Sligo Social Service Council Limited
- (35) University College Galway
- (36) Victim Support
- (37) Michael Williams
- (38) Consumers' Association of Ireland
- (39) Patrick J. Farrell, Solicitors
- (40) F.U.G.E. (*Written and Oral*)
- (41) High Court/Supreme Court Press Reporters
- (42) Mr. Justice Barr
- (43) Mr. Justice Budd
- (44) Mr. Justice Blayney
- (45) Mr. Justice Geoghegan
- (46) Mr. Justice Johnson
- (47) Mr. Justice Kinlen
- (48) Mr. Justice Murphy
- (49) Mr. Justice O'Flaherty
- (50) Pierse & Fitzgibbon, Solicitors
- (51) Women's Aid
- (52) Mr. Ray Managh on behalf of Court Reporters
- (53) Conradh na Gaeilge
- (54) Threshold
- (55) Bord na Gaeilge
- (56) Mark Costigan, Network Radio News
- (57) Robert Sheehan, Chief State Solicitor's Office
- (58) Civil and Public Service Union (*Written and Oral*)
- (59) The Bar Council
- (60) The Law Society of Ireland
- (61) The Department of Justice (*Written and Oral*)

# Acknowledgements

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We wish to record our appreciation to the following persons who travelled to Dublin, presented papers and partook in discussions which were of immense value:—

Mr. T. L. Cranfield, Deputy Registrar of the European Court of Justice.

The Lord Chief Justice of Northern Ireland, Sir Brian Hutton.

Mr. E.A. Simpson, Director of the Northern Ireland Court Service.

Lady Brenda Sheil.

Sir Thomas Legg KCB, QC, Permanent Secretary to the Lord Chancellor and Clerk of the Crown in Chancery, England.

Mr. Michael Huebner, Chief Executive of the English Court Service Agency.

# Courts of Justice Acts

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## **Constitution of the Irish Free State 1922**

Courts of Justice Act, 1924  
Courts of Justice Act, 1926  
Courts of Justice Act, 1927  
Courts of Justice Act, 1928  
Courts of Justice (No. 2) Act, 1928  
Courts of Justice Act, 1929  
Courts of Justice Act, 1931  
Courts of Justice (No. 2) Act, 1931  
Courts of Justice Act, 1936

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## **Constitution of Ireland, 1937**

Courts of Justice (District Court) Act, 1946  
Courts of Justice Act, 1947  
Courts of Justice (District Court) Act, 1949  
Courts of Justice Act, 1953  
Courts of Justice Act, 1959  
Courts (Establishment and Constitution) Act, 1961  
Courts (Supplemental Provisions) Act, 1961  
Courts (Supplemental Provisions) (Amendment) Act, 1962  
Courts Act, 1964  
Courts (Supplemental Provisions) (Amendment) Act, 1964  
Courts (Supplemental Provisions) (Amendment) Act, 1968  
Courts (Supplemental Provisions) (Amendment) (No. 2) Act, 1968  
Courts Act, 1971  
Courts Act, 1973  
Courts Act, 1977  
Courts Act, 1979

Courts Act, 1981  
Courts (No. 2) Act, 1981  
Courts Act, 1985  
Courts Act, 1986  
Courts (No. 2) Act, 1986  
Courts (No. 3) Act, 1986  
Courts Act, 1988  
Courts (No. 2) Act, 1988  
Courts Act, 1991  
Courts (No. 2) Act, 1991  
Courts (Supplemental Provisions) (Amendment) Act, 1991  
Courts and Court Officers Act, 1995

# Staff in the Department of Justice Involved in the Administration of the Courts

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Courts Division—	—	1 Principal Officer 3 Assistant Principal Officers 1 Chief Examiner 5 Higher Executive Officers 4 Executive Officers 3 Clerical Officers 4 Clerical Assistants 1 Building Officer
Personnel Division—	—	Principal Officer ( $\frac{1}{3}$ ) 1 Assistant Principal Officer 1 Higher Executive Officer 2 Executive Officers 4 Clerical Assistants
Finance Division—	—	Assistant Principal Officer ( $\frac{1}{3}$ ) 1 Higher Executive Officer 2 Executive Officers 1 $\frac{1}{2}$ Staff Officers 6 $\frac{1}{2}$ Clerical Officers 2 $\frac{1}{2}$ Clerical Assistants
Internal Audit Unit—	—	Accountant ( $\frac{1}{5}$ ) 1 Higher Executive Officer
Information Technology Division	—	1 Assistant Principal Officer 1 Higher Executive Officer

Law Division— — 1 Principal Officer ( $\frac{1}{2}$ )  
1 Assistant Principal Officer ( $\frac{1}{2}$ )

Conciliation and Arbitration Division — 1 Assistant Principal Officer ( $\frac{1}{2}$ )  
1 Administrative Officer ( $\frac{1}{2}$ )  
1 Executive Officer ( $\frac{1}{2}$ )  
1 Clerical Assistant ( $\frac{1}{2}$ )



# A Broad Sketch of the Current Management System of the Courts in the Department of Justice

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The Minister for Justice has responsibility through the Department of Justice for the provision and central management of services for the Courts. These include:—

- Organisation arrangements, office procedures and equipment, staffing, internal audit and monetary control in court offices, personnel function for Court staff and judiciary.
- Financial control/policy in relation to the Courts including overseeing of Courts vote and Court fees.
- Distribution of business between different Court areas.
- Adequacy and quality of Court accommodation.
- Initiation and preparation of Courts legislation.
- Related statutory orders.
- Administration of the Criminal Legal Aid Scheme.
- Arranging for vacancies for judges both in the domestic and European Courts and for vacancies for County Registrars and Sheriffs to be brought to the notice of the Government for filling.

One Division and a number of sections in the Department of Justice deal with the Courts:—

- Courts Management Division.

- Courts Personnel Section in the Personnel Division, and
- The Criminal Legal Aid Payments Section in the Department's Finance Division.

There are a number of other Divisions which deal with matters relating to the Courts as the need arises, ie., Law Division which is involved in the preparation of legislation relating to Court issues; Conciliation and Arbitration Section which deals with claims by Staff Unions; Information Technology Division which is involved in the implementation of computerisation in the Courts; Salaries Section in the Department's Finance Division which issues salary cheques and the Civil Claims Section in the Department's Finance Division which processes all claims for payments relating to the Courts; and the Internal Audit Unit which assesses systems of both management and financial controls in place of the Courts.

### **Staff**

A list of the staff involved in the Administration of the Courts in the Department of Justice is to be found in Appendix E. An attempt has been made where staff are not involved solely with the administration of the Courts to quantify the level of their involvement and to reflect this in the numbers shown. In a general sense it may be said that there are approximately 48 people in the Department of Justice involved in the administration of the Courts system. These staff are Civil Servants and their responsibility is to the Minister for Justice, not the judiciary.

### **Personnel Functions**

Courts Personnel Section has responsibility for performing personnel functions in relation to Courts' staff and the judiciary. This includes the preparation of memoranda for Government on vacancies that arise for County Registrars, Sheriffs, Taxing Masters and Master of the High Court.

There are staff for the High Court and Supreme Court and a different stream of staff for the Circuit Court and the District Court. The staff for the District Court and the Circuit Court are Civil Servants. The staff for the High Court and the Supreme Court are officers of the Court and subject to the directions of the judges. There is thus even within this narrow area a dichotomy of structure: See Petty Sessions Act, 1852 and Court Officers Act, 1926. There is an isolation of staff within certain

branches of the Court system, with inadequate prospects of advancement. In addition there is no real movement of personnel into other areas of the Civil Service from the Court system.

### **Finance Division**

The Finance Division of the Department of Justice performs the following functions in relation to the administration of the Courts —

- (1) Processing of salaries including allowances and overtime payments to Courts' staff.
- (2) Processing of general accounts payable from the Courts' vote including criminal legal aid payments.
- (3) Preparation and co-ordination of annual estimates, estimate debate briefing material, the Secretary's brief for attendance at the Public Accounts Committee and replies to Comptroller and Auditor General audit queries. Monitoring, controlling and reporting on expenditure and maintenance of the Financial System database. Preparation of the annual Appropriation Account.
- (4) Issuing income tax certificates to Courts staff and to the Revenue Commissioners.
- (5) Arranging regular payment of payroll deductions to the various relevant bodies, e.g., Revenue Commissioners, insurance companies, staff unions, etc.
- (6) Printing, enveloping and posting of all payable orders.
- (7) Calculation and authorisation of pensions and gratuities for unestablished Courts staff.
- (8) Operating the Fines Account and the Court Fees Account. The Fines Account averages approximately £6m per annum and the Court Examiners are responsible for its effective management. The Court Fees Account averages approximately £10m per annum.
- (9) Inspection of Court Offices. The inspection of District Court Offices and Circuit Court Offices to ensure compliance with proper procedures and work practices is carried out by Court Examiners and by the Department of Justice's Internal Audit Unit.

## **Courts Division — Administrative Functions**

The Minister for Justice, through Courts Division, has the responsibility to provide the Courts with the resources required to function as efficiently and effectively as possible. In addition the Courts Division has functions as set out below:—

- (a) Preparation of Government Memoranda in relation to:—
  - (i) judicial appointments to the Special Criminal Court, and
  - (ii) judicial appointments to European Courts (Irish judges), and
  - (iii) approval to introduce legislation to increase the number of judges in any of the Courts.
- (b) Preparation of the Annual Estimate of Expenditure in all areas in the Courts. All briefing material for the Minister, e.g., speeches, notes etc. in relation to the Estimates is prepared.
- (c) Preparation of material for the Secretary of the Department for use in his annual meeting with the Public Accounts Committee.
- (d) Preparation of briefing material for the Minister on the Courts.
- (e) Examining Government Memoranda circulated by other Government Departments and supplying observations where the subject matter of the Memoranda may involve the Courts.
- (f) Collecting and compiling Court statistics both for use within the Division and for other Departments or outside organisations.
- (g) Monitoring, processing and approving sundry claims for expenses received from the judiciary and Court staff in connection with travel, both foreign and domestic, removal expenses where an officer is transferred, overtime, etc.
- (h) Organising accommodation for High Court judges and their Ushers when hearing cases or appeals in provincial venues.
- (i) Monitoring, reviewing and assessing the staffing needs of the Courts and where additional staff are required, seeking Department of Finance sanction for the creation of new posts by submitting to that Department a full and detailed analysis of the particular Court office, the workload experienced, the allocation of present staff and the problems being experienced as a result of inadequate staff levels.

- (j) Making of statutory instruments.
- (k) Authorising the appointment of Deputy Court Officers e.g., Deputy Taxing Master, Deputy Master of the High Court, Deputy County Registrar.
- (l) Prior to the Courts and Court Officers Act, 1995 arranging for the temporary assignment of judges of the District Court by the Minister.
- (m) Drafting replies for the Minister to Parliamentary Questions and Dail and Seanad Motions and briefing the Minister on the matters raised.
- (n) Advising the staff in the provincial Court Service on practice and procedures.
- (o) Management of temporary staffing needs as they arise in Court offices.
- (p) Purchase and supply of office equipment and supplies in accordance with the budgetary allocation.
- (q) Purchase and supply of stationary.
- (r) Purchase and supply of Government publications.
- (s) Processing claims in respect of judicial expenses.

# Total Number of Staff Serving in the Department of Justice — Courts January 1986 to January 1996

Numbers Serving January 1986 — January 1996

DATE	NUMBER SERVING	ACTUAL CHANGE	% CHANGE
Jan '86	661		
Jan '87	673	12	1.82%
Jan '88	688	15	2.23%
Jan '89	684	-4	-0.58%
Jan '90	690.5	6.5	0.95%
Jan '91	684.5	-6	-0.87%
Jan '92	691	6.5	0.95%
Jan '93	715	24	3.47%
Jan '94	736	21	2.94%
Jan '95	759.5	23.5	3.19%
Jan '96	790.5	31	4.08%

APPENDIX H

# Analysis of the Staff Serving in the Department of Justice — Courts 1996

Department	Grade	Nos. Serving	Nos. Serving	Actual Change
		01/01/95	01/01/96	
Justice — Courts	Master Central Office	1.0	1.0	0.0
	Temporary Judge	0.0	0.0	0.0
	Chief Registrar	1.0	1.0	0.0
	Registrar Supreme and High Court	1.0	1.0	0.0
	Registrar Wards of Court	1.0	1.0	0.0
	County Registrar — Dublin	1.0	1.0	0.0
	Taxing Master	2.0	2.0	0.0
	County Registrar — Cork	1.0	1.0	0.0
	Official Assignee	1.0	1.0	0.0
	Temporary District Justice	0.0	0.0	0.0
	Registrar 1	1.0	1.0	0.0
	County Registrar other than Dublin	24.0	24.0	0.0
	Principal	0.0	1.0	1.0
	Registrar 2	5.0	5.0	0.0
Assistant Probate Officer 1	1.0	1.0	0.0	

Department	Grade	Nos. Serving 01/01/95	Nos. Serving 01/01/96	Actual Change
	Assistant Registrar 1 Wards of Court	1.0	1.0	0.0
	Assistant Examiner 1	1.0	1.0	0.0
	Probate Officer	1.0	1.0	0.0
	Examiner	1.0	1.0	0.0
	Accountant	1.0	1.0	0.0
	General Solicitor	1.0	1.0	0.0
	Chief Clerk	0.0	0.0	0.0
	Assistant Principal — Higher Scale	2.0	1.0	-1.0
	Registrar 3	10.0	10.0	0.0
	Assistant Registrar	1.0	1.0	0.0
	Chief Stenographer	0.0	1.0	1.0
	Assistant Principal	18.0	22.0	4.0
	Chief Clerk	0.0	0.0	0.0
	Assistant Registrar 2 Wards of Court	1.0	0.0	-1.0
	Assistant Probate Officer 2	1.0	1.0	0.0
	Assistant Registrar	8.0	8.0	0.0
	Chief Clerk Accountant's Office	1.0	1.0	0.0
	Deputy Solicitor	1.0	1.0	0.0
	Stenographer	8.0	8.0	0.0
	HEO — Standard Scale	73.0	85.0	12.0
	District Court Clerk Class B	0.0	0.0	0.0
	Court Clerk	19.0	20.0	1.0
	Senior Clerk Taxing Masters Office	2.0	0.0	-2.0



Department	Grade	Nos. Serving 01/01/95	Nos. Serving 01/01/96	Actual Change
	Assistant Solicitor	1.0	1.0	0.0
	Executive Officer — Standard Scale	132.5	119.5	-13.0
	Legal Clerk	2.0	2.0	0.0
	Staff Officer	33.0	31.5	-1.5
	Staff Officer Superintendent of Typist	1.0	1.0	0.0
	Junior Clerk	12.0	11.0	-1.0
	Estates Officer	0.0	0.0	0.0
	Law Clerk	1.0	0.0	-1.0
	Clerical Officer	113.0	113.5	0.5
	Clerical Officer — Programmer	1.0	1.0	0.0
	Clerical Officer Supervisor of Typists	0.0	0.0	0.0
	Court Record Clerk	0.0	0.0	0.0
	Bankruptcy Inspector	1.0	1.0	0.0
	Court Messenger	28.0	28.0	0.0
	Head Services Officer	0.0	0.0	0.0
	Usher	22.0	21.0	-1.0
	Criers to Circuit Court Judge	18.0	18.0	0.0
	Paperkeeper	6.0	6.0	0.0
	Services Officer	15.0	19.0	4.0
	Services Attendant	1.0	1.0	0.0
	Clerical Assistant	43.0	32.5	-10.5
	Clerical Assistant — Shorthand Typist	7.0	8.0	1.0
	Clerical Assistant — Typist	112.0	117.5	5.5
	Clerical Assistant — Data Entry	3.0	3.0	0.0

Department	Grade	Nos. Serving	Nos. Serving	Actual Change
		01/01/95	01/01/96	
	Clerical Assistant Temporary Clerical	0.0	0.0	0.0
	Nightwatchman	0.0	0.0	0.0
	Superintendent of Cleaners	1.0	1.0	0.0
	Cleaner	15.0	15.0	0.0
	District Court Clerk — Part-Time Class	0.0	0.0	0.0
	EO — Standard Scale — Full PRSI	0.0	1.0	1.0
	Junior Clerk — Full PRSI	0.0	3.0	3.0
	Usher — Full PRSI	0.0	1.0	1.0
	Clerical Assistant — Full PRSI	0.0	7.0	7.0
	Clerical Assistant — Typist Full PRSI	0.0	12.0	12.0
	Cleaner — Full PRSI	0.0	3.0	3.0
	Building Officer	0.0	1.0	1.0
	Temporary Librarian	0.0	1.0	1.0
	Senior Research Assistant	0.0	1.0	1.0
	Temporary Research Assistant	0.0	3.0	3.0
	Total	759.5	790.5	31.0

# APPENDIX I

**TABLE 1**  
**SUMMARY OF SUPPLY SERVICES — NETT ESTIMATES\***

Vote No.	Service	1995 Estimate	1996 Estimate	Increase/ Decrease	Increase/ Decrease
1	President's Establishment	£000 656	<b>£000</b> <b>685</b>	£000 29	% —
2	Houses of the Oireachtas and the European Parliament	29,793	<b>30,849</b>	1,056	4%
3	Department of the Taoiseach	154,513	<b>17,412</b>	(137,101)	-89%
4	Office of the Tanaiste	1,542	<b>1,448</b>	(94)	-6%
5	Central Statistics Office	13,719	<b>23,804</b>	10,085	74%
6	Office of the Minister for Finance	38,515	<b>31,025</b>	(7,490)	-19%
7	Superannuation and Retired Allowances	92,653	<b>91,717</b>	(936)	-1%
8	Comptroller and Auditor General	2,657	<b>2,636</b>	(21)	-1%
9	Office of the Revenue Commissioners	141,387	<b>134,139</b>	(7,248)	-5%
10	Office of Public Works	134,563	<b>142,078</b>	7,515	6%
11	State Laboratory	2,279	<b>2,263</b>	(16)	-1%
12	Secret Service	270	<b>520</b>	250	93%
13	Office of the Attorney General	11,342	<b>12,080</b>	738	7%
14	Office of the Director of Public Prosecutions	3,505	<b>4,180</b>	675	19%
15	Valuation and Ordnance Survey	9,084	<b>8,926</b>	(158)	-2%
16	Civil Service Commission	3,312	<b>2,999</b>	(313)	-9%
17	Office of the Ombudsman	1,232	<b>1,278</b>	46	4%
18	Transport, Energy and Communications	140,140	<b>116,522</b>	(23,618)	-17%
19	Office of the Minister for Justice	23,905	<b>27,914</b>	4,009	17%
20	Garda Síochána	412,654	<b>426,047</b>	13,393	3%
21	Prisons	111,568	<b>114,204</b>	2,636	2%
<b>22</b>	<b>Courts</b>	<b>27,056</b>	<b>26,834</b>	<b>(222)</b>	<b>-1%</b>
23	Land Registry and Registry of Deeds	14,180	<b>15,708</b>	1,528	11%
24	Charitable Donations and Bequests	213	<b>210</b>	(3)	-1%
25	Environment	902,895	<b>950,126</b>	47,231	5%
26	Office of the Minister for Education	100,003	<b>101,428</b>	1,425	—
27	First Level Education	650,034	<b>673,542</b>	23,508	4%
28	Second-Level and Further Education	759,787	<b>773,425</b>	13,638	2%
29	Third-Level and Further Education	434,280	<b>455,129</b>	20,849	5%
30	Marine	50,413	<b>53,249</b>	2,836	6%

\*1996 Estimates for Public Services (Abridged Version)

Vote No.	Service	1995 Estimate	1996 Estimate	Increase/ Decrease	Increase/ Decrease
		£000	<b>£000</b>	£000	%
31	Agriculture, Food and Forestry	294,076	<b>322,384</b>	28,308	10%
32	Flood Relief	1,750	<b>700</b>	(1,050)	-60%
33	Equality and Law Reform	12,299	<b>11,958</b>	(341)	-3%
34	Enterprise and Employment	449,544	<b>641,830</b>	192,286	43%
35	Tourism and Trade	77,448	<b>74,132</b>	(3,316)	-4%
36	Defence	373,662	<b>386,857</b>	13,195	4%
37	Army Pensions	52,945	<b>54,232</b>	1,287	2%
38	Foreign Affairs	48,118	<b>55,676</b>	7,558	16%
39	International Co-Operation	76,020	<b>86,809</b>	10,789	14%
40	Social Welfare	2,473,931	<b>2,514,004</b>	40,073	2%
41	Health	2,160,548	<b>2,145,472</b>	(15,076)	-1%
42	An Roinn Ealaíon Cultúir agus Gaeltachta	64,835	<b>70,023</b>	5,188	8%
43	National Gallery	1,740	<b>1,859</b>	119	7%
44	An Chomhairle Ealaíon	16,250	<b>18,500</b>	2,250	14%
45	Increases in Remuneration and Pensions	25,000	<b>26,000</b>	1,000	—
	<b>Total</b>	<b>10,396,316</b>	<b>10,652,813</b>	<b>256,497</b>	<b>2%</b>

# Analysis of First Twenty Cases in Supreme Court List<sup>1</sup>

Delay since date of High Court Order		Period case Certified	Record No.
Years	Mths.	Mths.	
8	0	33	65/88
6	3	27	3/90
5	7	34	291/90
5	2	34	406/90
3	10	31	153/92
3	9	30	301/92
3	8	27	214/92
3	7	39	239/92
3	6	31	317/92
3	6	36	303/92
3	4	36	333/92
3	2	30	13/93
3	2	29	52/93
3	0	27	133/93
2	9	30	183/93
2	9	30	192/93
2	9	28	237/93
2	8	28	228/93
2	8	28	222/93
2	7	27	268/93

<sup>1</sup>February, 1996. These are the first twenty cases in the list which had not been assigned a date for hearing.

Figures supplied by Mr. J. Comerford, Supreme Court Registrar.

February 1996

# The High Court Personal Injuries Actions Waiting Time on List

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	Months
Dublin .....	35 $\frac{1}{2}$
Cork.....	33
Limerick .....	34 $\frac{1}{2}$
Galway .....	36
Sligo .....	20
Dundalk .....	9
Waterford.....	11
Kilkenny .....	10 $\frac{1}{2}$

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High Court Statistics furnished by the Chief Registrar of the High Court,  
Mr. John Delahunty.

# The High Court

## 1992/1993

### Plenary Summonses

		In proportion to Plenary Summonses issued	Proportion of Actions set down
(1) Plenary Summonses issued	8,193	100%	
(2) Actions set down			
(a) P.I.A.	5,432	66%	87%
(b) Non-Jury	430	5%	7%
(c) Chancery	198	2%	3%
(d) Jury	113	1%	2%
(e) TOTAL	6,173	75%	100%

High Court Statistics furnished by the Chief Registrar of the High Court,  
Mr. John Delahunty.

# The High Court

## 1993/1994

### Plenary Summonses

		In proportion to Plenary Summonses issued	Proportion of Actions set down
(1) Plenary Summonses issued	7,594	100%	
(2) Actions set down			
(a) P.I.A.	5,023	66%	86%
(b) Non-Jury	393	5%	7%
(c) Chancery	280	4%	5%
(d) Jury	138	2%	2%
(e) TOTAL	5,834	77%	100%

High Court Statistics furnished by the Chief Registrar of the High Court,  
Mr. John Delahunty.



# The High Court

## 1994/1995

### Plenary Summonses

		In proportion to Plenary Summonses issued	Proportion of Actions set down
(1) Plenary Summonses issued	9,603	100%	
(2) Actions set down			
(a) P.I.A.	4,682	49%	86%
(b) Non-Jury	344	4%	6%
(c) Chancery	336	3%	6%
(d) Jury	91	1%	2%
(e) TOTAL	5,453	57%	100%

High Court Statistics furnished by the Chief Registrar of the High Court,  
Mr. John Delahunty.

# Central Criminal Court List for December 1995

MURDER <i>Total Number of Cases = 16</i>	DELAY FROM RETURN DATE	
	Yrs	Mths
8 Adjourned	2	9
	1	5
	1	1
	1	—
	1	—
	1	10
	1	6
	—	4
3 Adjourned with priority	5	9 <sup>1</sup>
	—	11
	—	6
2 Trial	—	8
	—	5
3 Trial provisionally	1	1
	—	3
	—	2

<sup>1</sup>DPP v. O'Connell (accused previously imprisoned on other charges).

RAPE <i>Total Number of Cases = 40</i>	DELAY FROM RETURN DATE	
	Yrs	Mths
29 Adjourned	3	9
	2	8
	2	2
	1	9
	1	1
	—	11 <sup>(x2)*</sup>
	—	10
	—	9
	—	8 <sup>(x5)</sup>
	—	7
	—	6 <sup>(x6)</sup>
	—	5 <sup>(x8)</sup>
	—	4 <sup>(x3)</sup>
	—	3
7 Trial	—	3 <sup>(x2)</sup>
	—	8 <sup>(x3)</sup>
	—	10
	—	5
2 Trial provisionally	—	4
	—	11
2 Arraignment	—	5
	—	1

\*Denotes number of cases with same time delay.

Statistics furnished by Mr. P. M. Morrissey, Central Criminal Court Registrar.

# The High Court

## Family Law Cases

### Waiting Time on List

Waiting period*	Dates fixed	Time estimate
1 wk	26/01/1996	1 hour
1 mth	23/02/1996	1 hour
3 mths	25/04/1996	$\frac{1}{2}$ day
3 mths	30/04/1996	$\frac{1}{2}$ day
3 mths	30/04/1996	$\frac{1}{2}$ day
4 mths	01/05/1996	$\frac{1}{2}$ day
4 mths	01/05/1996	$\frac{1}{2}$ day
4 mths	01/05/1996	$\frac{1}{2}$ day
4 mths	02/05/1996	1 day
4 mths	02/05/1996	$\frac{1}{2}$ day
4 mths	07/05/1996	$\frac{1}{2}$ day
4 mths	08/05/1996	$\frac{1}{2}$ day
4 mths	09/05/1996	1 day
4 mths	09/05/1996	1 day
4 mths	14/05/1996	1 day
4 mths	15/05/1996	$\frac{1}{2}$ day

\*Period between date when case ready for hearing and trial date fixed.

Waiting period*	Dates fixed	Time estimate
4 mths	15/05/1996	$\frac{1}{2}$ day
4 mths	16/05/1996	1 day
4 mths	16/05/1996	1 day
4 mths	21/05/1996	2 days
4 mths	21/05/1996	2 days
4 mths	23/05/1996	$\frac{1}{2}$ day
5 mths	05/06/1996	$\frac{1}{2}$ day
5 mths	05/06/1996	2 days
5 mths	05/06/1996	$\frac{1}{2}$ day
5 mths	11/06/1996	2 days
5 mths	11/06/1996	2 days
5 mths	18/06/1996	2 days
5 mths	25/06/1996	2 days
6 mths	02/07/1996	2 days

\*Period between date when case ready for hearing and trial date fixed.

Figures supplied by Mr. Peadar Nugent, High Court Registrar.

# Review of Limerick Circuit Court Lists

## 4 weeks ending 8th December 1995

Week ending	Business	Cases Listed	Heard	Settled	Adjourn
17th Nov	Criminal Indictments	30	15*	—	15
24th Nov	Motions	255	182	—	73
	Licensing	8	7	—	1
	<i>Ex parte</i> Motions	6	6	—	—
	Criminal Appeals	41	33	—	8
	Civil Appeals	4	1	3	—
	Civil Actions	15	2	3	10
1st Dec	Civil Actions	27	5	17	5
	Criminal Appeals	166	106	—	60
8th Dec	Family Law	140			
	Civil Appeals	21	3	6	12

\*No jury trials.

# Michaelmas 1995 Sittings of the Circuit Family Court at Limerick on Tuesday 6th, Wednesday 7th and Thursday 8th December 1995

Matters Listed		Matters Determined	
Judicial Separation Applications	98	Decrees Granted	14
		Otherwise disposed of	3
District Court Appeals	9	Appeals determined	14
Applications ancillary to Judicial Separation Orders	9	Ancillary Orders made	3
Ex-parte Applications	2	Ex-parte Orders	2
Other Applications (e.g. Maintenance, Guardianship, Declarations)	7	Other Applications determined	2
		Adjournments	107*
Total	145	Total	145

\*Interim Orders made before matters adjourned — 12.

## Circuit Court Delays — 29/9/95

Court	Civil	Family	Criminal
Cork	3 years	6 months	No delay
Clonmel	2 years	1 year	No delay (2 years in D.C. Appeals)
Limerick	2 years	6 months	No delay
Galway	2 years	6 months	No delay
Dublin	2 years	10 months	5 months
Waterford	2 years	1 year (contested cases)	6 months — 1 year
Wexford	2 years	1 year (contested cases)	No delay
Portlaoise	2 years	1 year	No delay
Carlow	18 to 24 months	18 to 24 months (contested cases)	No delay
Kilkenny	18 months	1 year (contested cases)	No delay (1 year in D.C. Appeals)
Wicklow	18 months	1 year	No delay
Tralee	18 to 24 months	18 to 24 months	No delay
Sligo	18 months	3 months	
Dundalk	9 to 12 months	10 months	No delay
Mullingar	12 months	6 months	No delay
Ennis	13 months	12 months	No delay

Figures supplied by Department of Justice.