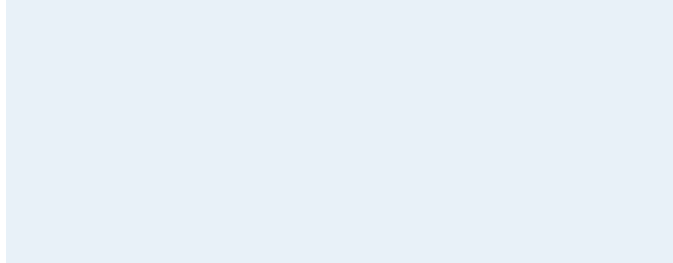
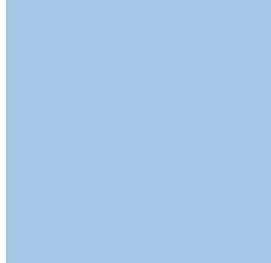


An Examination of Time Intervals in the  
Investigation and Prosecution of Murder and  
Rape Cases in Ireland from 2002 to 2004





# An Examination of Time Intervals in the Investigation and Prosecution of Murder and Rape Cases in Ireland from 2002 to 2004

FROM THE  
NATIONAL CRIME COUNCIL

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August, 2006

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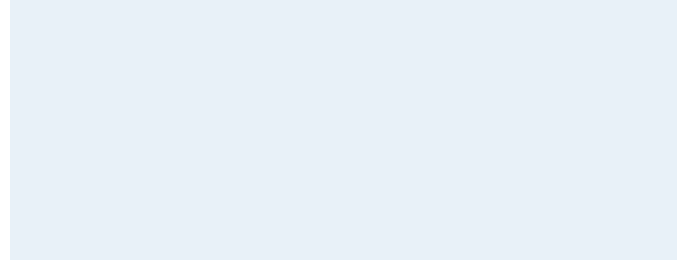
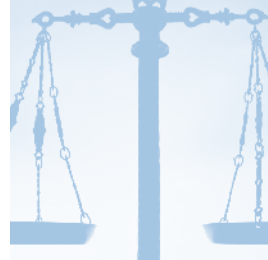
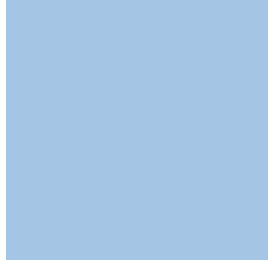
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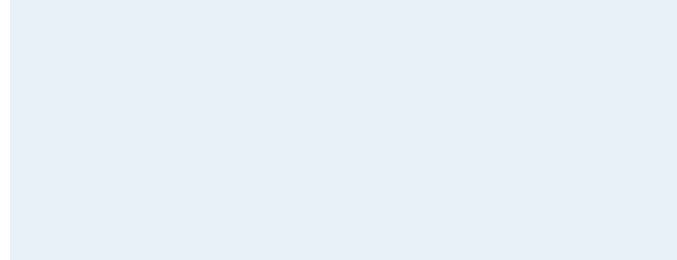
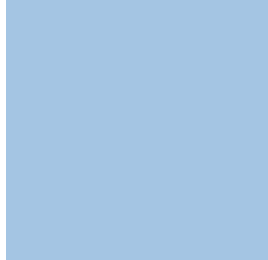
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Firstly, the Council wishes to thank the subgroup with whom responsibility for this project rested. The subgroup, chaired by Judge Michael Reilly, oversaw the entire project, from the development of the terms of reference to the revision of the draft report. Their immense support and involvement was crucial to the project. In addition to Judge Reilly, the other members of this subgroup were, Mr. Brendan Callaghan, Deputy Commissioner Peter Fitzgerald, Mr. Jack Marrinan, Mr. Fergus McCabe, Mrs. Rosemary Tierney and Dr. Dorothy Watson. Sincere thanks are also due to Ms. Mary Burke, former Director, and Ms. Anne O’Gorman, Director, National Crime Council for their commitment to the project and the support they provided to the Research Officer.

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Most sincere thanks must go to Commissioner Noel Conroy, An Garda Síochána and Mr. P.J. Fitzpatrick, C.E.O., Courts Service for the unprecedented access they granted to the Council and its staff for the duration of the project. Without their extraordinary support and commitment, this research could not have been completed. Their willingness to allow the Council access to their records and, in addition to this, to provide significant human resources to the Council to collect the necessary data is unparalleled in its generosity.

As well as collecting details of the cases themselves, the subgroup also held numerous meetings with key professionals and academics in order to obtain their views on factors which, they believed, affected the time taken to investigate and prosecute cases disposed of in the Central Criminal Court. These meetings were invaluable to the research and also served to inform the recommendations made. The Council therefore, is sincerely grateful to the following people who participated in these meetings: the Honourable Mr. Justice Joseph Finnegan, President of the High Court and the Honourable Mr. Justice Henry Abbott; Mr. James Hamilton, Director of Public Prosecutions and other staff from his Office, Mr. Michael Liddy, Director of Case Work, Ms. Claire Loftus, Chief Prosecution Solicitor and Mr. John Dolan, Prosecution Solicitor; from An Garda Síochána, Chief Superintendent Gerard Blake, Chief Superintendent Patrick Brehony and Chief Superintendent Joseph McGarrity; from the Bar Council, Ms. Mary Ellen Ring S.C., Chairman of the Criminal Bar Committee, Mr. Fergal Foley, B.L., Ms. Orla Crowe, B.L. and Ms. Pauline Walley, B.L.; from the Courts Service, Mr. P.J. Fitzpatrick, C.E.O., Mr. Diarmaid MacDiarmada, Director of Operations, Circuit and District Court, Ms. Nuala McLoughlin, Chief Registrar, Director of Operations, Supreme and High Court and Mr. Liam Convey, Registrar of the Central Criminal Court; from the Forensic Science Laboratory, Dr. Sheila Willis, Director and Dr. Sean McDermott, Head of Biology; from the Law Society, Mr. Patrick McGonigle, Chair of the Criminal Law Committee; Mr. Garrett Sheehan and Mr. Michael Staines, practising criminal law solicitors; Prof. John Jackson, Director of the Institute of Criminology and Criminal Justice, Queen’s University, Belfast; Dr. Ian O’Donnell, Director of the Institute of Criminology, University College Dublin and Prof. Dermot Walsh B.L., Director of the Centre for Criminal Justice, University of Limerick.

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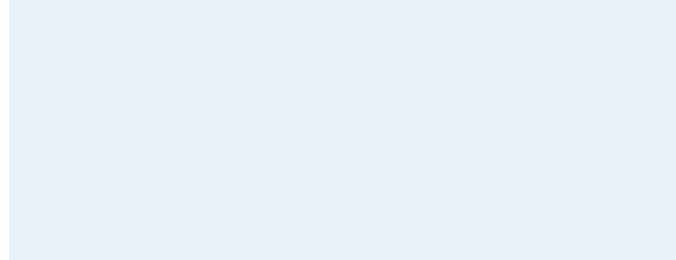
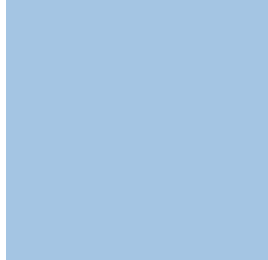
Furthermore, the Council is grateful to the many individual members of An Garda Síochána who were called upon to obtain details from their investigation files. On occasion, these files related to offences committed many years previously, but the members, nevertheless, completed a detailed summary of relevant information for the Council in addition to their regular duties. Similarly, the staff of the Dublin Circuit Criminal Court Office<sup>3</sup> in the Courts Service, particularly Darach Green and Claire Bryan, deserve thanks for their commitment to identifying and entering details of the cases included in the research on behalf of the Council.

The Council also wishes to express sincere thanks to Ms. Harriet McGarry, Administrative Assistant for the constant support she provided to the Council members and staff. It is thanks to her ongoing efforts, behind the scenes, that the Council is able to progress its work programme.

Finally, but by no means least, the Council wishes to express its gratitude to the Northern Ireland Office, the Northern Ireland Courts Service, the Crown Prosecution Service and the Department for Constitutional Affairs, London, for the additional information and guidance they were able to provide on their respective jurisdictions for inclusion in the report. The Department for Constitutional Affairs, in particular, Ben Pearce, kindly agreed to produce and supply data specifically for this project on foot of a request from the Research Officer. This provision of this data was of enormous benefit to the research.

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<sup>3</sup> Whilst the Central Criminal Court is a High Court, at the time of the data collection, all of their records were collated by the Dublin Circuit Criminal Court Office and hence, it was the staff of that Office who were tasked with assisting the Council.



## Executive Summary

1. This is a unique piece of research. It is the first ever study to examine the time intervals throughout the investigation and prosecution of serious criminal offences in Ireland. The research had three broad aims, namely to:

- establish the typical time intervals involved in the processing of criminal cases;
- identify any likely causes for delays; and
- examine best practice in other jurisdictions.

The research examined all 'murder'<sup>4</sup> and 'rape'<sup>5</sup> cases (over 300 cases) disposed of by the Central Criminal Court between 2002 and 2004. All of the cases were tracked from the date of the initial arrest of the suspect by the Gardaí and the report details the time the typical case took from such initial arrest until the disposal of the case by the Central Criminal Court. This executive summary contains the main findings and key recommendations arising from the research, additional findings and recommendations are contained in the main report.

2. **The Time Between Initial Arrest and Return for Trial**

In the typical<sup>6</sup> 'murder' case, the suspect was charged immediately after his/her arrest. It took 10 weeks for the Gardaí to complete their investigation file and forward it to the Office of the Director of Public Prosecutions (DPP). It then took a further 17 weeks before the case was returned for trial – this included the time taken for final written directions to be received from the Office of the DPP as well as for the preparation and service of the Book of Evidence. As a result, the defendant in the **typical 'murder' case** was returned for trial **just over six months (27 weeks)** after their initial arrest and charge. **The Council is recommending that, save in exceptional circumstances, defendants in all 'murder' cases should be returned for trial within six months of their initial arrest (p.19).**

When it comes to 'rape' cases, the research highlighted that, whilst the same procedures are followed, the order in which they occur differs in the typical 'murder' and 'rape' case. During the research period, in the typical 'rape' case, the suspect was arrested but not charged until 8 months (35 weeks) later. Prior to charging, the Gardaí had completed their investigation file and final directions had been received from the Office of the DPP.

During the research period, the defendant in the **typical 'rape' case** was returned for trial **over eleven months (50 weeks)** after their initial arrest. The Council recognises that the investigation of a rape case may be a more time consuming task for the Gardaí than a murder investigation. **Accordingly, the Council is recommending that, save in exceptional circumstances, defendants in all 'rape' cases should be returned for trial within six and half months of their initial arrest (p.20).**

In the meetings with professionals, it became apparent that the limited availability of sexual assault units outside of Dublin could have implications for the length of time it takes to complete a rape/sexual assault investigation. The Council is also aware that this can have negative implications for the complainant in these cases. **The Council recommends that the Department of Health and Children open additional sexual assault units in major regional hospitals. Any additional, regional units which may be opened should have adequately trained staff, with the necessary forensic and medical expertise, to deal with rape/sexual assault cases (p.15).**

**The Council recommends that the senior Garda Officer in charge of all murder and rape investigations and a nominated officer of the Office of the Director of Public Prosecutions should**

<sup>4</sup> 'Murder' includes charges of murder and attempted murder.

<sup>5</sup> 'Rape' includes charges of rape, attempted rape and aggravated sexual assault.

<sup>6</sup> The typical case is based upon the middle case. For example, in the range 5, 6, 6, 7, 8, 10, 15, the middle (median) case is 7. Hence, when one is considering time intervals, half of all cases would be completed within the typical time interval or less time and half of the cases would take longer than the typical time interval. As the middle (median) case is less influenced by extreme cases which took a very short or a very long time, it is the preferable value to use in relation to time intervals.

be responsible, in so far as is possible, for adherence to the recommended time intervals set out in the report from arrest to service of the Book of Evidence (p.20).

### 3. Time Taken in the Central Criminal Court

During the research period, the typical 'murder' trial commenced just over 14 months (63 weeks) after the defendant had been returned for trial. The typical 'rape' trial commenced just under 16 months (68 weeks) after the defendant had been returned for trial. In the cases examined for this research, the longest delay occurred between the listing day and the scheduled trial date.

The Council considers that, between return for trial and the start of the trial, 'murder' and 'rape' cases should be dealt with in comparable time intervals by the Central Criminal Court. **The Council recommends that, save in exceptional circumstances, all 'murder' and 'rape' trials should commence within six months of the return for trial (p.23).**

### 4. Council's Recommended Time Intervals

The tables below summarise the time intervals found in the typical case during the research period and the Council's recommended time intervals.

During the research period, the trial in the typical 'murder' case commenced almost 21 months (90 weeks) after the defendant was initially arrested by the Gardaí. **The Council recommends that, save in exceptional circumstances, the trial in all 'murder' cases should commence within 12 months (52 weeks) of the defendant's initial arrest (p.10).**

#### Typical and Recommended Time Intervals in 'Murder' Cases (Number of Weeks)

	<i>Arrest to Return For Trial</i>	<i>Return to Trial to Start of Trial</i>	<i>Total Time - Arrest to Start of Trial</i>
Typical Case During the Research Period	27	63	90
Council's Recommended Time Interval	26	26	52

During the research period, the trial in the typical 'rape' case commenced 27 months (118 weeks) after the defendant was initially arrested by the Gardaí. **The Council recommends that, save in exceptional circumstances, the trial in all 'rape' cases should commence within 12 and a half months (54 weeks) of the defendant's initial arrest (p.10).**

#### Typical and Recommended Time Intervals in 'Rape' Cases (Number of Weeks)

	<i>Arrest to Return For Trial</i>	<i>Return to Trial to Start of Trial</i>	<i>Total Time - Arrest to Start of Trial</i>
Typical Case During the Research Period	50	68	118
Council's Recommended Time Interval	28	26	54

Implementation of the Council's recommended time intervals would reduce considerably the time between arrest and trial commencement in 'murder' and 'rape' cases.

## 5. Improvements in the Central Criminal Court since the Research Period

As highlighted earlier, during the research period, the longest delay occurred between the listing day and the scheduled trial date. Since the research period, the situation with regard to the listing of cases for trial in the Central Criminal Court has improved significantly. In 2002, the waiting time between return for trial and trial was 18 months. By comparison, cases listed in March, 2006 were scheduled for trials to start on dates in October and November, 2006 (p.21).

## 6. Comparisons with England and Wales and Northern Ireland

The research examined time intervals in the Crown Courts in England and Wales and Northern Ireland as well as examples of best practice from these other jurisdictions. It was not possible to obtain comparable data for the times between initial arrest and return for trial but the Council did succeed in getting valuable information and insights on the phase between return for trial and disposal of the case. It is important to note that different processes are followed in these other jurisdictions and this may impact upon the time taken at different stages. This data comparison is based upon average durations, as opposed to median or typical case values, as figures are published in averages in the other jurisdictions. In addition to this, the average figure for Ireland is greater than for the typical case due to presence of a small number of cases which took a particularly long time.

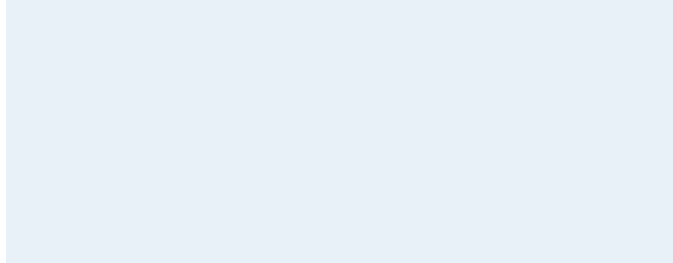
On average, during the research period, cases took significantly longer in Ireland (71 weeks) than in either England and Wales (26 weeks) or Northern Ireland (15 weeks) to progress between return for trial and the first main hearing<sup>7</sup>. If the Council's recommended time intervals were adhered to, the first main hearing would occur within six months (26 weeks) of the return for trial in the great majority of cases - this would be comparable to the time interval in England and Wales (p.40).

## 7. Other Key Findings and Recommendations

- (a) The research findings revealed that only five per cent of 'murder' cases and 32 per cent of 'rape' cases conformed to the statutory 42 day rule between first District Court appearance and service of the Book of Evidence. The time intervals recommended by the Council have implications for Rule 7(1) of the District Court (Criminal Justice) Rules, 1997, as amended. **The Council recommends that consideration be given to reviewing this Rule in line with the research findings and recommended time intervals (p.20).**
- (b) The professionals discussed the inadequacies of the criminal legal aid scheme as currently operated. In particular, they noted that Counsel are not paid for the early stages of preparation of the case (for, example, reading the brief, holding consultations with the defendant, providing advice). **The Council recommends that the scheme be reviewed by the Department of Justice, Equality and Law Reform with a view to providing payment for the early stages of preparation of the case (p.29).**
- (c) The Council notes the current practice whereby the Central Criminal Court sits in various provincial locations. **The Council recommends that this practice continue to be utilised as appropriate (p.24).**
- (d) The Council accepts the professionals' view that there could be benefits to dealing with certain issues through pre-trial hearings. In addition to this, the Council notes and endorses the findings of the Working Group on the Jurisdiction of the Courts (the Fennelly report) in relation to pre-trial hearings. **The Council is of the opinion that the introduction of pre-trial hearings would lead to shorter and possibly fewer jury trials and would assist in making the court process more efficient for all users. The Council recommends, therefore, that consideration be given to the introduction of pre-trial hearings (p.25).**

<sup>7</sup> The first main hearing is either the start of the trial or the hearing at which the defendant pleads guilty.

- (e) The research found that 71 per cent of jury trials commenced as scheduled. One of the reasons identified in the research that trials did not commence as scheduled was that no Court was available. **The Council recommends that there should always be sufficient judges with registrars and appropriate resources available to hear all criminal trials which have been scheduled to commence in the Central Criminal Court in a given week. The Council recognises that this may have resource implications for the non-criminal business caseload of the High Court (p.28).**
- (f) The data collection process for this research was a complex, resource intensive and lengthy exercise as the necessary data was not readily available electronically. **The Council recommends that all of the criminal justice agencies should ensure that key information, including statistics on their respective caseloads, is electronically collated, maintained and published. The information collated should, inter alia, allow for the production of overviews of caseloads and be capable of monitoring the time taken at each stage of the investigation and prosecution process (p.3).**
- (g) Through the meetings with professionals, as well as the data collection exercise, it became apparent that it can be difficult to identify a particular case due to the absence of any common numbering system across all criminal justice system agencies. The Council recognises the individual nature of many of the criminal justice agencies and the independent structures they operate under. **The Council recommends the introduction of a common case numbering system across all criminal justice agencies. This would facilitate communication and co-operation between the agencies (p.31).**



# 1 Introduction

## KEY ROLES OF THE NATIONAL CRIME COUNCIL

The National Crime Council was established in July, 1999 as a non-statutory body in order to facilitate broadly based, informed discussion on crime issues and to aid policy formulation. In establishing the Council, the then Minister for Justice, Equality and Law Reform listed the priority areas on which it should focus, as crime prevention and raising the awareness of crime. The key roles of the Council are to:

- focus on crime prevention, with particular emphasis on the underlying causes of crime and the development of partnerships and practical approaches which will be effective at community level;
- focus on raising public knowledge and awareness of crime;
- examine the 'fear of crime';
- undertake in-house research; and
- identify research priorities which could be commissioned by the Department of Justice, Equality and Law Reform.

## TERMS OF REFERENCE FOR THIS RESEARCH

The Minister for Justice, Equality and Law Reform requested that the Council undertake research examining the time intervals which occur in the investigation and prosecution of criminal offences. The terms of reference, outlined below, were agreed for this research in March, 2004.

"The National Crime Council will undertake research at the request of the Minister for Justice, Equality and Law Reform to:

- establish the average time intervals involved in the processing of criminal cases by examining the time intervals from the time when an individual is detained and ultimately charged with a criminal offence to the coming to trial and disposal of that case;
- identify the likely causes for the delays; and
- examine best practice in other jurisdictions.

This research needs to examine the roles and responsibilities of all key elements in the criminal justice system involved in the processing of such cases including An Garda Síochána, the Office of the Director of Public Prosecutions, the Courts and all other relevant bodies. It is accepted that this is a wide research brief. Accordingly, the research will initially concentrate on examining some specific offences such as murder, manslaughter and rape."

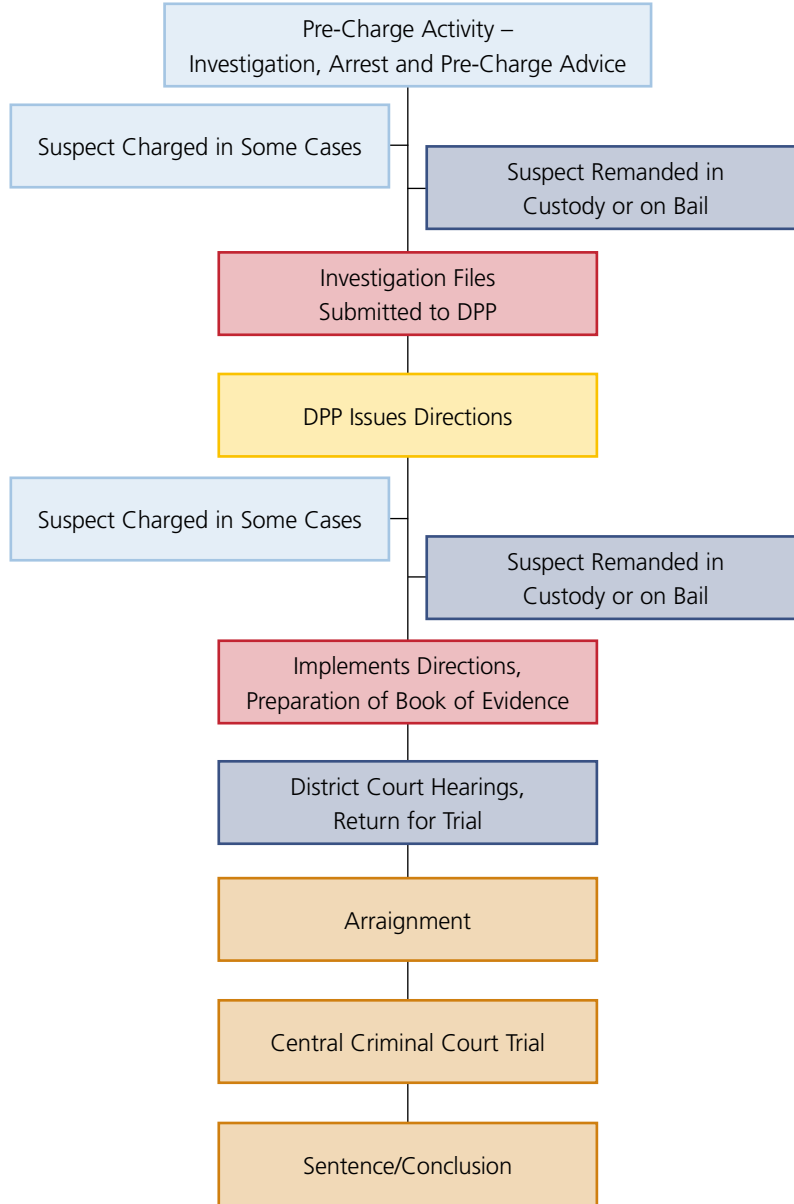
## THE CRIMINAL INVESTIGATION AND PROSECUTION PROCESS IN IRELAND<sup>8</sup>

The criminal trial courts are the District Court, the Circuit Court, the Central Criminal Court and the Special Criminal Court. Appeals from the District Court are heard by the Circuit Court. The Court of Criminal Appeal hears appeals from all other Courts. The Supreme Court is only involved in a very small number of cases.

Figure 1.1 below provides an outline of the criminal investigation and prosecution process for cases tried by the Central Criminal Court based upon information contained in the Annual Reports of the Director of Public Prosecutions. The different coloured boxes represent the different agencies responsible (or who take a lead role) for each stage of the process.

<sup>8</sup> A glossary of the legal and technical terms used in this report is set out on pages 59 to 60.

Figure 1.1: The Criminal Investigation and Prosecution Process in Ireland



Key to Lead Organisations:

Gardaí	Solicitor's Division, Office of the DPP	Directing Division, Office of the DPP	District Court	Central Criminal Court
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An Garda Síochána are responsible for the investigation, arrest and pre-charge activity. If a case is to be tried on indictment<sup>9</sup> (as are all those tried in the Central Criminal Court), the decision to prosecute is taken by the Directing Division of the Director of Public Prosecutions' (DPP's) Office. Communications between the Gardaí and the Office of the DPP are conducted via the Solicitor's Division of the Office of the DPP (if the offence was committed in Dublin) or the Local State Solicitor (if the offence was committed outside Dublin). The Gardaí provide the investigation files to the Solicitor's Division of the Office of the DPP. These **investigation files are then submitted to the DPP**. The decision as to the charge/s and whether or not to proceed with the **charge/s** in the most serious criminal cases is made by the Directing Division of the Office of the DPP. The decision to

<sup>9</sup> Trials on indictment are those tried by a judge and jury.

prosecute is based on a prima facie case, that is, there is evidence which could (though not necessarily would) lead a court or a jury to decide, beyond reasonable doubt, that the accused is guilty. The Gardaí may charge suspects with less serious offences without reference to the Director of Public Prosecutions. These cases will not be tried on indictment without a decision by the Director of Public Prosecutions to proceed.

The Directing Division of the Office of the DPP issues directions in relation to the initiation or continuation of a prosecution, nominates barristers to prosecute cases on indictment and provides ongoing instruction to the Solicitor's Division of the Office of the DPP/Local State Solicitor until the case is concluded. The directions are issued to the Solicitor's Division (if the offence was committed in Dublin) or to the Local State Solicitor (if the offence was committed outside Dublin). The Solicitor's Division/Local State Solicitor is responsible for the **implementation of the DPP's directions and the preparation of the Book of Evidence**. Once the Book of Evidence has been prepared, it is served on the accused by the Gardaí.

Criminal offence prosecutions begin in the District Court. In rape cases, the accused may be granted bail in the District Court. In murder cases, the accused can only be granted bail by the High Court. If an accused is remanded in custody, this cannot be for more than eight days in the first instance. Following this, an accused may be remanded in custody on subsequent appearances for a period of not more than 14 days without his consent or for a maximum of 28 days with his consent. As a case may not be dealt with for a number of months, there may be quite a number of remands (and hence appearances in the District Court). At the last appearance in the District Court, the accused will be **returned for trial** (sent forward) to the Central Criminal Court.

Once an accused has been returned for trial by the District Court, a date must be fixed for his/her trial by the Central Criminal Court. On one day a month in the Central Criminal Court, known as a 'listing day'<sup>10</sup>, all cases which have been returned for trial by the District Court in the preceding month<sup>11</sup> (or which otherwise require a trial date, for example, if a re-trial has been ordered or a trial has collapsed) are called and a trial date is fixed. The judge will generally allot each case to the next soonest appropriate trial date available<sup>12</sup>. At this stage, Counsel are free to argue for an earlier/later trial date.

At the **arraignment**, the defendant formally enters his/her plea to the charge/s. This hearing usually takes place on the day the trial has been scheduled to start. If the defendant has pleaded not guilty to the charge/s or the DPP does not accept a guilty plea to a lesser charge/s, the **Central Criminal Court trial** by jury commences. The **conclusion** (disposal) of the jury trial will be the date of **sentence** in cases where the defendant has been convicted. In cases where there has not been a conviction, the disposal date is the last day of the trial.

#### SCOPE OF THE RESEARCH

The Council established a Working Group to oversee and manage the research. The Working Group decided, with the approval of the Minister, that the Council's project would include all cases disposed of in the Central Criminal Court from 1st January, 2002 to 31st March, 2004<sup>13</sup>. The Registrar of the Central Criminal Court identified by name and Bill Number all of these cases. It was also decided that this research would be divided into two main sections, namely, the time interval from the initial arrest to the return for trial and the time interval from the return for trial to the disposal of the case.

This is a unique piece of research. It is the first ever study to examine the time intervals throughout the investigation and prosecution of serious criminal offences in Ireland. The research would not have been possible without the unprecedented access to case files provided by An Garda Síochána and the Courts Service.

The data collection process for this research was a complex, resource intensive and lengthy exercise as the necessary data was not readily available electronically. **The Council recommends that all of the criminal justice agencies should ensure that key information, including statistics on their respective caseloads,**

<sup>10</sup> The listing process does not require more than an hour of court time.

<sup>11</sup> Immediately after a recess, all cases in which defendants have been returned for trial since the last listing date will be scheduled for trial.

<sup>12</sup> See subsequent analysis of time interval between listing date and scheduled trial date, in Chapter 5 for further details.

<sup>13</sup> This time period follows on from the report on The Criminal Jurisdiction of the Courts (the Fennelly report) which looked at the outcomes of cases appearing before the Central Criminal Court between 1998 and 2001. See Appendix One for an outline of the research methodology.

is electronically collated, maintained and published. The information collated should, inter alia, allow for the production of overviews of caseloads and be capable of monitoring the time taken at each stage of the investigation and prosecution process.

The Central Criminal Court has exclusive jurisdiction in all murder and rape cases. Defendants, however, may be found guilty of less serious offences than these, such as manslaughter and sexual assault<sup>14</sup>. Treason, genocide, piracy and certain other offences also fall within the jurisdiction of the Central Criminal Court but are extremely rare and were not evident in the research.

#### WORKLOAD OF THE CENTRAL CRIMINAL COURT, 2000 TO 2005

##### Murder Cases

The number of new murder cases received<sup>15</sup> by the Central Criminal Court decreased each year between 2002 and 2004. There was an increase in the number of murder cases received in 2005. The number of murder cases disposed of increased each year between 2002 and 2004. There was a decrease in the number of murder cases disposed of in 2005. Each year since 2003, the Central Criminal Court disposed of more murder cases than it received. Table 1.1 details the murder case workload of the Central Criminal Court between 2000 and 2005.

**Table 1.1: Murder Cases in the Central Criminal Court, 2000 to 2005<sup>16</sup>**

Year	Cases Received	Cases Disposed
2000	42	33
2001	31	33
2002	55	48
2003	39	58
2004	28	59
2005	35	42

##### Rape Cases

The number of new rape cases received by the Central Criminal Court decreased each year between 2000 and 2004<sup>17</sup>. There was a slight increase in the number of rape cases received in 2005. Every year since 2001, a greater number of rape cases have been disposed of than were received. Between 2000 and 2003, 90 to 100 rape cases were disposed of each year. This fell considerably in 2004 to 72 cases (the lowest number of disposals of rape cases in any year between 2000 and 2005) and 75 cases in 2005. Table 1.2 below provides a summary of the rape case workload in the Central Criminal Court between 2000 and 2005.

**Table 1.2: Rape Cases in the Central Criminal Court, 2000 to 2005**

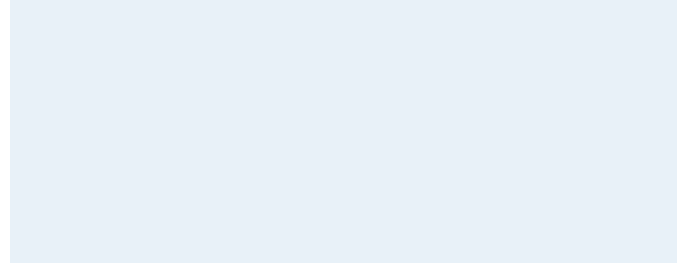
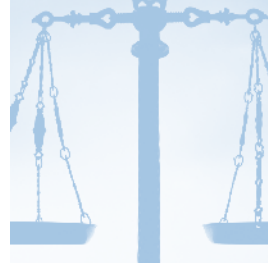
Year	Cases Received	Cases Disposed
2000	113	94
2001	92	98
2002	82	93
2003	52	100
2004	40	72
2005	44	75

<sup>14</sup> The Central Criminal Court only tries these offences where murder or rape are the most serious charge at the time the defendant is returned for trial.

<sup>15</sup> The number of murder cases received by the Central Criminal Court each year represents the number returned for trial from the District Court to the Central Criminal Court. As it may take a number of years to complete a murder investigation and commence criminal proceedings, there is no way to directly link the number of murder cases received by the Central Criminal Court to the Garda recorded murder rate in a given year. This also applies to rape cases received by the Central Criminal Court each year.

<sup>16</sup> Figures are taken from the Courts Service Annual Reports with the exception of the 2005 figures which were supplied to the Council in advance of the publication of the Courts Service Annual Report. It is important to note that there is a carry over of cases at the end of each year into the following year. This also applies to the figures for rape cases..

<sup>17</sup> Anecdotal evidence suggests that this decrease may be due to the decrease in 'historical' rape cases.



## 2 Overview of Cases

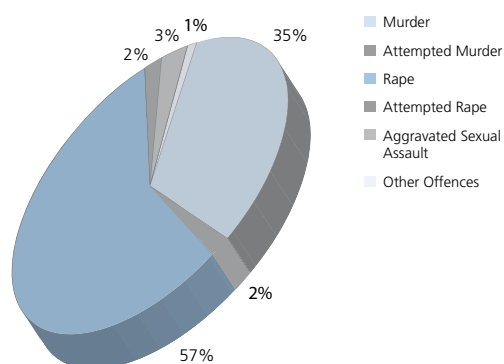
The project brief was to analyse the time taken from arrest to disposal for all cases disposed of by the Central Criminal Court. As previously stated, the Central Criminal Court has jurisdiction over all murder and rape cases. It also tries crimes involving serious violence against the person as well as serious sexual assaults provided the accused has been returned for trial to that Court for either murder or rape.

All cases disposed of in the Central Criminal Court between 1st January, 2002 and 31st March, 2004 were examined. During this time, a total of 322 cases were concluded. Ten cases had to be excluded from the research for a number of reasons which included insufficient data being available. Therefore, 322 cases<sup>18</sup> were available for inclusion in the final analysis.

Figure 2.1 below provides a summary of the cases which were disposed of by the Central Criminal Court during the research period. Of the 322 cases disposed of in the research period, 35 per cent involved murder, two per cent involved attempted murder, 57 per cent involved rape, two per cent involved attempted rape and three per cent involved aggravated sexual assault. One per cent (four cases) involved other offences.

**Figure 2.1: Cases Disposed of by the Central Criminal Court**

For the purposes of the research, charges of murder and attempted murder are grouped together as 'murder'. 'Murder' cases therefore account for a total of 37 per cent of disposals in the research period when murder and attempted murder cases are combined. 'Rape' includes charges of rape, attempted rape and aggravated sexual assaults. 'Rape' cases therefore account for a total of 62 per cent of disposals in the research period when rape and all other sexual offences are combined. Rape offences may have been committed against a woman or a man.



One hundred and twenty 'murder' cases and 198 'rape' cases were disposed of in the research period. Hence, there were 318<sup>19</sup> 'murder' and 'rape' cases in total. These 318 'murder' and 'rape' cases are the primary focus of the discussions in this report<sup>20</sup>.

All persons charged with murder are initially remanded in custody. Sixty nine per cent of those charged with 'rape' offences were granted bail at their first District Court appearance. By the time the defendants in the cases analysed were returned for trial to the Central Criminal Court, 31 per cent of 'murder' defendants and 78 per cent of 'rape' defendants were on bail.

### MULTIPLE TRIALS

Seventy three per cent of 'murder' cases and 44 per cent of 'rape' cases went to trial by jury. Hence, 27 per cent of 'murder' cases and 56 per cent of 'rape' cases were disposed of without the necessity of a jury trial, mainly because guilty pleas had been entered. Eighty two per cent of cases which went to trial by jury (144 cases) were disposed of after the first jury trial. Sixteen per cent had two jury trials (29 cases). The remaining two per cent (three cases) required three jury trials.

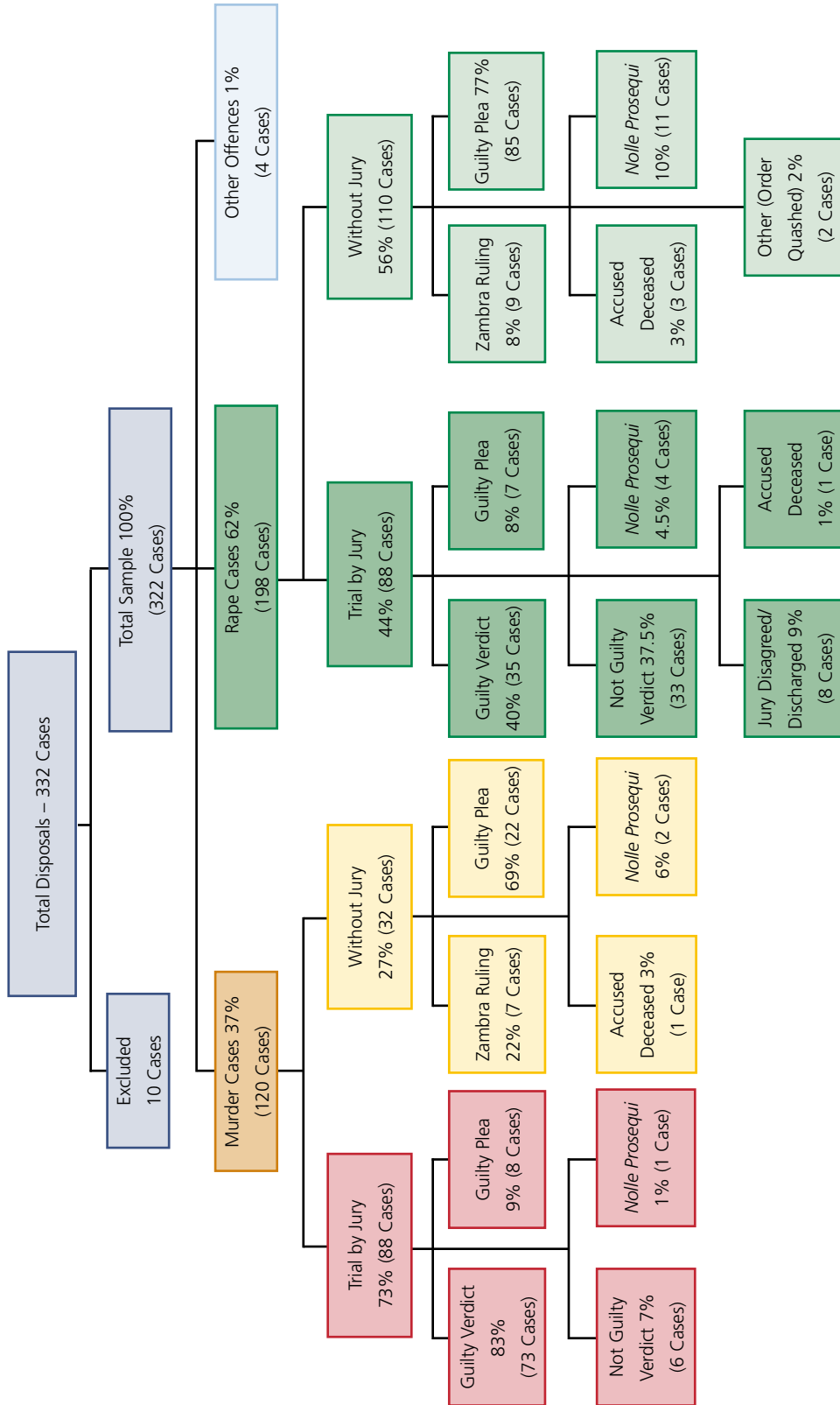
Figure 2.2 over summarises the outcomes of all 'murder' and 'rape' cases included in the research.

<sup>18</sup> One case does not necessarily equate to one defendant. Regard should be had to this point in instances where, for linguistic reasons, the terms 'cases' and 'defendants' may be used interchangeably.

<sup>19</sup> The total of 322 cases, referred to above, includes four cases involving other offences. These are discussed further on page 6.

<sup>20</sup> Due to missing data, the total number of cases included in tables and figures does not always equal 318 cases.

Figure 2.2: Final Disposal Outcomes of 'Murder' and 'Rape' Cases<sup>21</sup>



21 The four cases of 'other' offences include two cases where suspects were originally charged with murder and impeding a prosecution but the cases were ultimately dealt with in respect of the intent to impede apprehension or prosecution, one murder case which was dealt with as a case of possession of firearms and ammunition, and one rape case which was dealt with as a case of assault.

### OUTCOMES OF JURY TRIALS

Guilty verdicts were the outcome in 83 per cent of 'murder' cases and 40 per cent of 'rape' cases which involved a jury trial. Guilty pleas were entered during the jury trial in nine per cent of 'murder' trials and eight per cent of 'rape' trials. A not guilty verdict was the outcome in seven per cent of 'murder' trials and 37.5 per cent of 'rape' trials. A *nolle prosequi* was entered in one per cent of 'murder' trials and four and a half per cent of 'rape' trials. In nine per cent of 'rape' trials, the jury disagreed or were discharged. In one per cent of 'rape' cases which involved a jury trial, the accused is recorded as having died<sup>22</sup>.

### OUTCOMES OF CASES DISPOSED OF WITHOUT THE NECESSITY FOR A JURY

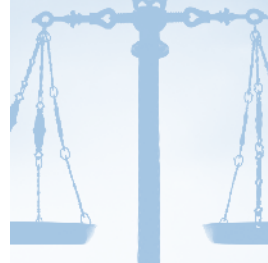
In cases disposed of without the necessity for a jury, guilty pleas were entered in 69 per cent of 'murder' cases (22 out of 32). In 12 of these cases, the accused pleaded guilty to a lesser charge. Guilty pleas were entered in 77 per cent of 'rape' cases (85 out of 110) disposed of without the necessity of a jury trial. In 26 of these cases, the accused pleaded guilty to a lesser charge. Other outcomes of cases disposed of without the necessity for a jury, were as follows. The Zambra ruling (see below) applied in 22 per cent of 'murder' cases and eight per cent of 'rape' cases disposed of without the necessity for a jury. The death of the accused occurred in three per cent of 'murder' cases and three per cent of 'rape' cases disposed of without the necessity for a jury. A *nolle prosequi* was entered in six per cent of 'murder' cases and 10 per cent of 'rape' cases disposed of without the necessity for a jury. The order for trial was quashed in two per cent of 'rape' cases disposed of without the necessity for a jury.

### THE ZAMBRA RULING

The Zambra ruling relates to a specific timeframe only and so will not be an issue again. The ruling relates to the manner in which defendants were returned for trial to the Central Criminal Court. Part 11 of the Criminal Procedure Act, 1967 sets out the procedures which apply when an accused stands charged before the District Court with an indictable offence or offences. New procedures were inserted in this part of the 1967 Act via a commencement order made in relation to sections 8 - 10 of the Criminal Justice Act, 1999. However, section 23 of the Criminal Justice Act, 1999 provided that if, before the commencement of sections 8 - 10 of the Criminal Justice Act, 1999, any steps had been taken under Part 11 of the Act of 1967 in relation to the prosecution of an accused person, the old procedures would continue to apply to all matters connected with or arising out of the prosecution of that accused. A subsequent ruling by the High Court in the case of *Zambra v. McNulty* (2002) found that the return for trial in that case had been made under the new procedures but that the old preliminary examination procedure should have been followed. This had the effect that, in this case and others where the incorrect procedure had been followed, the order for return for trial was quashed and the cases were remitted to the District Court in order that the correct procedure be followed.

<sup>22</sup> In this case there had been two previous jury trials. In one of these the jury were discharged. In the other the jury could not agree upon a verdict. The accused is recorded as having died whilst awaiting the third trial.





### 3 Overview of Time Taken between Arrest and Disposal

This chapter provides an overview of all the time intervals considered in the report. Chapters 4 and 5 examine these time intervals in greater detail.

#### Note on the Typical Case Values

The median value is equivalent to the middle value in a range. For example, in the range 5, 6, 6, 7, 8, 10, 15, the middle (median) case is 7. As the median is less influenced by extreme cases which took a very short or a very long time, it is the preferable value to use in relation to time intervals. To assist the reader, the median value is referred to as a 'typical case' throughout the following chapters.

It is important to note that median values for intervening time intervals will not add to the overall value as averages would. In some cases data was missing for one or more time intervals – this also affects the median value.

#### OVERVIEW OF ALL TIME INTERVALS IN 'MURDER' AND 'RAPE' CASES

Figures 3.1 and 3.2 provide details of the typical number of weeks taken for all time intervals between arrest and disposal in 'murder' and 'rape' cases<sup>23</sup>. During the research period, the typical 'murder' case was disposed of 21 months after the initial arrest and charge of the suspect. The typical 'rape' case was disposed of just over 28 months after initial arrest and just over 20 months after the suspect being charged. As shall be discussed later in the report, the order in which procedures were completed in the typical 'murder' and 'rape' case differed. In 'murder' cases, the suspect tended to be charged very shortly after his/her initial arrest. The tendency in 'rape' cases was that most of the investigation was completed prior to the suspect being charged.

Figure 3.1: Overview of Time Intervals in the Typical 'Murder' Case

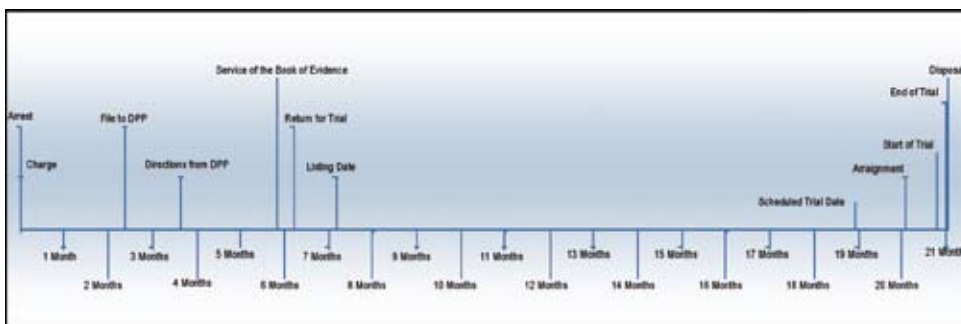
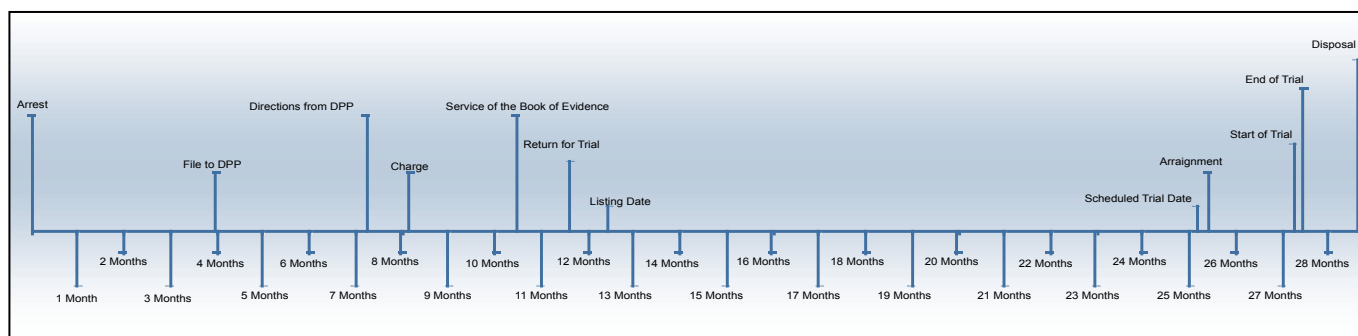


Figure 3.2: Overview of Time Intervals in the Typical 'Rape' Case



23 Whilst only details of the time intervals for the typical case are included in this chapter, detailed tables and figures outlining other values may be read in Appendix Two.

In addition to examining the time intervals in greater detail, Chapters 4 and 5 also present the Council's recommendations. These include recommended time intervals which should be adhered to, save in exceptional circumstances, in all 'murder' and 'rape' cases in the future. These are summarised below for ease of reference to the actual time intervals measured in the research period and also to show the significant improvements which would result if these recommended times were achieved.

As has been shown in Figures 3.1 and 3.2 above, during the research period, the trial in the typical 'murder' case commenced almost 21 months after the defendant was initially arrested and charged by the Gardaí. If adhered to, the Council's recommended time intervals (as discussed further in Chapters 4 and 5) would mean that, save in exceptional circumstances, the trial in all 'murder' cases should commence within 12 months of the defendant's initial arrest and charge. During the research period, the trial in the typical 'rape' case commenced 27 months after the defendant's initial arrest. Again, if adhered to, the Council's recommended time intervals would mean that, save in exceptional circumstances, the trial in all 'rape' cases should commence within 12 and a half months of the defendant's initial arrest.

#### JURY TRIALS AND CASES DISPOSED OF WITHOUT THE NECESSITY FOR A JURY

Whilst the arrest of a suspect represents their earliest involvement with the criminal justice system, it is not until a person has been charged<sup>24</sup> with a criminal offence that the prosecution process officially begins. The overall time taken between date of charge and the date of the disposal of the case will differ depending upon whether a case involved a jury trial or was disposed of without the necessity for a jury.

##### Time from Charge to First Disposal in All Jury Trials

There was a minimal difference between the number of weeks it took for 'murder' and 'rape' jury trials to be disposed of after the suspect was initially charged by the Gardaí. **The typical 'murder' case, involving a jury trial, took 101 weeks from date of charge to first disposal in the Central Criminal Court. The typical 'rape' case, involving a jury trial, took 98 weeks from date of charge to date of first disposal.**

##### Time from Charge to First Disposal in All Cases Disposed of without the Necessity for a Jury

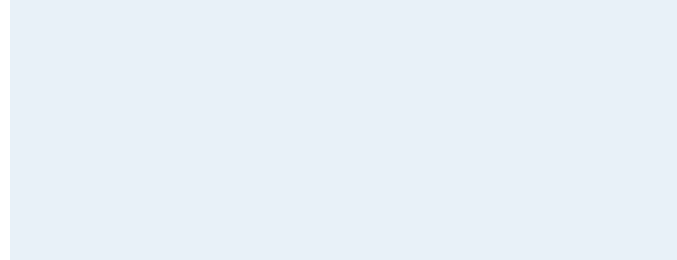
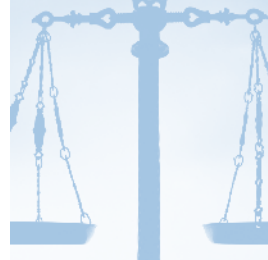
As shown earlier in Figure 2.2, guilty pleas accounted for the majority of these cases. 'Murder' cases were finally disposed of in less time after initial charge than 'rape' cases. **The typical 'murder' case, dealt with without the necessity for a jury, took 77 weeks from charge to disposal – 24 weeks less than those where a jury trial was required. The typical 'rape' case, dealt with without the necessity for a jury, took 84 weeks from charge to disposal - 14 weeks less than those where a jury trial was required.**

Table 3.1 below provides a summary of the cases discussed above. It details the number of weeks between charge and first disposal in typical 'murder' and 'rape' cases in which there was a jury trial, cases which were disposed of without the necessity for a jury and an overall figure for both of these groups of cases.

**Table 3.1: Number of Weeks between Charge and Disposal in the Typical 'Murder' and 'Rape' Case**

	Jury Trials	Cases Disposed without a Jury	All Cases
'Murder'	101	77	98
'Rape'	98	84	90

<sup>24</sup> Not all of those arrested in connection with an offence will be charged with that offence.



## 4 Time Taken between Arrest and Return for Trial

This chapter outlines the number of weeks a typical case<sup>25</sup> took between the date when a suspect was arrested and the date that the defendant was returned for trial from the District Court to the Central Criminal Court. Whilst only details of the time intervals for the typical case are included in this chapter, detailed figures and tables outlining other values may be read in Appendix Two<sup>26</sup>. Throughout the chapter, ‘murder’ and ‘rape’ cases are examined separately. The main themes, in relation to time intervals, which emerged from the meetings held with key professionals and academics, all referred to as ‘the professionals’, are discussed. In many cases, more than one factor was identified as contributing to the time taken.

For the purpose of this research, the Council looked at various time intervals from the arrest/charge of an accused to his/her return for trial to the Central Criminal Court. As can be seen from the illustration below, five different time intervals were identified. This research looks in detail at the first four of these time intervals between arrest and service of the Book of Evidence and then gives a short explanation of the time interval from the service of the Book of Evidence to the date of the return for trial.

Arrest to Charge	Charge to Full File to DPP	Full File to DPP to Final Written Directions	Final Written Directions to Service of the Book of Evidence	Service of the Book of Evidence to Return for Trial	Return for Trial to Listing Date	Listing Date to Scheduled Trial Date	Scheduled Trial Date to Arraignment	Arraignment to Start of Jury Trial	Start of Jury Trial to End of Jury Trial	End of Jury Trial to Sentence
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A typical murder investigation commences as soon as a body is found and the Gardaí suspect ‘foul play’. An incident room is set up in the Garda station. A Superintendent will be in charge and will have a team of detectives and uniformed officers. There will be daily briefings. In most cases, as soon as a suspect has been arrested, he/she is charged either with murder or some other holding charge. This is done after consultation with the Office of the Director of Public Prosecutions (DPP). At this stage, the Office of the DPP has not received the investigation file. The Garda investigation then continues and a file, having been prepared, is sent to the Office of the DPP in order that he may give final directions and in order that the Book of Evidence can be prepared.

When a rape is alleged, the Gardaí, as a preliminary issue, must first ascertain if, in fact, a crime has been committed before embarking on a full investigation. This is particularly so if the rape is alleged to have been committed some considerable time before. These preliminary investigations may take some time. This may have implications for the time intervals in the investigation process. In the typical ‘rape’ case, there will not, necessarily, be an incident room. The investigation will, in most cases, be carried out by a lesser number of Gardaí than a murder case. The investigation will be overseen by a Superintendent.

In murder and rape cases, the investigation file will have been completed by the investigating officers. The investigation file is then submitted to the Superintendent (the officer in charge of the case). Once the Superintendent is satisfied with the investigation file, it will be submitted to the Solicitor’s Division of the DPP (if the offence was committed in Dublin) or to the Local State Solicitor (if the offence was committed outside of Dublin). From there, the investigation file is submitted to the Directing Division of the Office of the DPP.

<sup>25</sup> For an explanation of the ‘typical case’ please see page 9.

<sup>26</sup> Other values contained in these figures and tables are: the average number of weeks of all cases, the minimum and maximum number of weeks of any case and the inter-quartile range (the middle 50 per cent) of all cases.

Directions will then be issued to the Gardaí in relation to the prosecution. It is the responsibility of the Solicitor's Division of the Office of the DPP (headed by the Chief Prosecution Solicitor) or the Local State Solicitor to prepare the Book of Evidence.

According to the research, in the typical 'murder' case, the suspect was charged immediately after his/her arrest. It then took some time for the Gardaí to complete their investigation file. The investigation file in the typical 'murder' case was forwarded to the Office of the DPP 10 weeks after charge. During the research period, in the typical 'rape' case, the suspect was arrested but not charged until some time later. Prior to charging, the Gardaí had completed their investigation file and final directions had been received from the Office of the DPP. The investigation file in the typical 'rape' case was forwarded to the Office of the DPP 18 weeks before the suspect was charged. The investigation of a rape case may be more time consuming for the Gardaí than a murder investigation. During the research period, the time between arrest and the investigation file being sent to the Office of the DPP in the typical 'rape' case was 17 weeks.

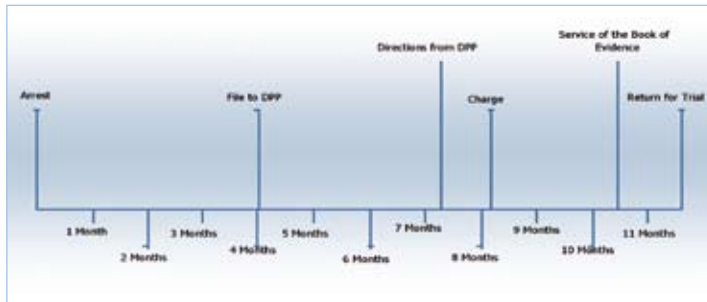
**SUMMARY OF TIME TAKEN BETWEEN ARREST AND RETURN FOR TRIAL**

The timelines in Figures 4.1 and 4.2 below provide a summary of all time intervals between arrest and return for trial in the typical 'murder' and 'rape' cases. It can be seen from these timelines that, in the typical 'murder' case, the suspect was charged soon after their arrest<sup>27</sup> whereas, in the typical 'rape' case, the suspect was not charged for over eight months from the time of his/her initial arrest. As noted above, this difference arises because whilst the same procedures were followed, the order in which they occurred differed in the typical 'murder' and 'rape' case.

**Figure 4. 1: Timeline of Typical 'Murder' Case between Arrest and Return for Trial**



**Figure 4. 2: Timeline of Typical 'Rape' Case between Arrest and Return for Trial**



<sup>27</sup> Not all of those arrested in connection with an offence will be charged in connection with that offence.

Figures 4.1 and 4.2 also show that generally:

- final written directions in the typical 'murder' case were issued by the Office of the DPP in half the time it took to issue final directions in the typical 'rape' case;
- the Book of Evidence was served more quickly in the typical 'murder' case than it was in the typical 'rape' case; and
- there was a short time interval between the service of the Book of Evidence and the return for trial in both 'murder' and 'rape' cases.

As can be seen from Figures 4.1 and 4.2, there was a significant difference in the time intervals from the arrest of a suspect to the file being sent to the Office of the DPP and from that time to the issue of final directions by the Office of the DPP in the typical 'murder' and 'rape' cases. The time difference from the issue of final directions to the return for trial, while different, was not of the same magnitude. This report will examine the reasons for this disparity.

The District Court (Criminal Justice) Rules 1997, as amended, stipulate that, save with the leave of the Court, the Book of Evidence shall not be served later than 42 days after the first appearance of the accused in the District Court (Rule 7(1)). **In the research period, the Book of Evidence was served within the 42 days in five per cent of 'murder' cases and 32 per cent of 'rape' cases. In the typical 'murder' case, the Book of Evidence was served 177 days after the first District Court appearance of the accused. In the typical 'rape' case, the Book of Evidence was served 63 days after the first District Court appearance of the accused.**

While it is clear from Figures 4.1 and 4.2 that the order of procedures differs for 'murder' and 'rape' cases, for the purpose of this research, the time interval from arrest/charge in 'murder' cases and from arrest in 'rape' cases to the service of the Book of Evidence and subsequent return for trial must be compared. **In the typical 'murder' case, the time interval was approximately six months. In the typical 'rape' case, this time interval was approximately 11 months.**

In recent times, there have been a number of high profile cases disposed of by the Central Criminal Court which are indicative of improvements in the time intervals since the research period. The expeditious nature of these cases indicates that it is possible for cases to be disposed of in far less time than was the case during the research period.

The Council notes that, in some cases, progress in relation to delays has been made by all the criminal justice agencies, throughout all stages of the investigation and prosecution process. The Council further believes that, if the recommendations in this report are implemented, it should be possible to ensure that, save in exceptional circumstances, all murder and rape cases are dealt with in an expeditious manner.

### Initial Arrest to Charge

Arrest to Charge	Charge to Full File to DPP	Full File to DPP to Final Written Directions	Final Written Directions to Service of the Book of Evidence	Service of the Book of Evidence to Return for Trial	Return for Trial to Listing Date	Listing Date to Scheduled Trial Date	Scheduled Trial Date to Arraignment	Arraignment to Start of Jury Trial	Start of Jury Trial to End of Jury Trial	End of Jury Trial to Sentence
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In the typical 'murder' case, the suspect was charged on the day of their arrest. In the typical 'rape' case, the suspect was charged 35 weeks after their initial arrest. As has been explained, this difference is largely due to the different order of procedures in 'murder' and 'rape' cases.

#### Charge to Full File Forwarded to the Office of the Director of Public Prosecutions (DPP)

Arrest to Charge	Charge to Full File to DPP	Full File to DPP to Final Written Directions	Final Written Directions to Service of the Book of Evidence	Service of the Book of Evidence to Return for Trial	Return for Trial to Listing Date	Listing Date to Scheduled Trial Date	Scheduled Trial Date to Arraignment	Arraignment to Start of Jury Trial	Start of Jury Trial to End of Jury Trial	End of Jury Trial to Sentence
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In the typical 'rape' case, the full investigation file was sent to the Office of the DPP 18 weeks *prior* to the suspect being charged. In the typical 'murder' case, the full investigation file was sent to the Office of the DPP 10 weeks *after* initial charge.

#### Factors which Contributed to the Time Taken between Arrest/Charge and the Full File being Forwarded to the Office of the Director of Public Prosecutions

In 29 per cent of cases, the Gardaí were awaiting the results of forensic and/or DNA analysis or reports. In 25 per cent of cases, the large number of witnesses and/or statements to be taken in the case meant that the file took longer than normal to prepare. Other witness and/or injured party (IP) difficulties, which affected 12 per cent of cases, included issues such as difficulty locating witnesses, witnesses residing outside of the jurisdiction and witnesses who required an interpreter or translator. Table 4.1 summarises these and other explanations for the time taken between the initial Garda arrest and the full file being forwarded to the Office of the DPP. These explanations were contained in the Garda case files examined as a part of the research. In many cases, more than one factor was identified as being responsible for contributing to the time taken.

**Table 4.1: Factors which Contributed to the Time Taken between Arrest and the Full Investigation File being Forwarded to the Office of the DPP**

	No. of Cases	% of Cases
Awaiting Forensic/DNA Reports	94	29
Number of Witnesses/Statements	80	25
Other Witness/IP Difficulties	40	12
Awaiting Medical Reports	30	9
Difficulties Locating Suspect	20	6
Reluctant Witness/IP	17	5
Involvement of Juveniles/Age of IP	11	3
Multiple Suspects	8	3
Awaiting Other Reports	7	2
Workload of Investigating Officer	5	2
Multiple IP	4	1

The Council recommends that the resources available to the Forensic Science Laboratory be reviewed to ensure they are sufficient to meet the demand from the Gardaí for forensic/DNA reports.

A number of professionals expressed views that other factors could lead to a delay in sending the file to the Office of the DPP. These included:

- the complexity of the case;
- the need to build up the case in a systematic fashion (including enquiries such as CCTV);
- the need for forensic evidence;
- issues concerning resources;
- the limited availability of sexual assault units outside Dublin;
- in rape cases where there could be a delay between the alleged rape and the complainant coming forward and the identification of the suspected perpetrator;
- the difficulty with 'historical' rape cases which often involve family members or the abuse of children where, for a variety of reasons, it may take many years for the injured party to report the crime.

The Council recommends that the Department of Health and Children open additional sexual assault units in major regional hospitals. Any additional, regional units which may be opened should have adequately trained staff, with the necessary forensic and medical expertise, to deal with rape/sexual assault cases.

The professionals consulted raised a number of related issues which might be relevant to this time interval as follows:

- the fact that the investigation file goes through a number of hands (internally within An Garda Síochána and through the Solicitor's Division of the Office of the DPP or the Local State Solicitors) before it gets to the Office of the DPP;
- there is no specific person whose duty it is to ensure that matters are progressed as quickly as possible.

Views were also expressed by the professionals as to the appropriate time interval after initial arrest to get the investigation file to the Office of the DPP. These ranged from one to four months.

#### **Full File Forwarded to the Office of the Director of Public Prosecutions (DPP) to Final Written Directions from the DPP**

Arrest to Charge	Charge to Full File to DPP	Full File to DPP to Final Written Directions	Final Written Directions to Service of the Book of Evidence	Service of the Book of Evidence to Return for Trial	Return for Trial to Listing Date	Listing Date to Scheduled Trial Date	Scheduled Trial Date to Arraignment	Arraignment to Start of Jury Trial	Start of Jury Trial to End of Jury Trial	End of Jury Trial to Sentence
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The DPP may raise queries with the Gardai in relation to the investigation file prior to issuing final directions. **Queries were raised in respect of 48 per cent of 'rape' case files and 41 per cent of 'murder' case files.** The time it takes to issue and respond to these queries has obvious implications for the time it takes for final written directions to be issued. Table 4.2 below details the number of queries made in relation to 'murder' and 'rape' case files.

**Table 4.2: Number of Occasions upon which Queries were Raised by the Office of the DPP in relation to Investigation Files**

	Number of Queries	% of Cases	No. of Cases
<b>Murder</b>	1	23.0	28
	2	8.0	9
	3	8.0	10
	4	.0	0
	5	2.0	2
	<b>Total</b>	<b>41.0</b>	<b>49</b>

<b>Rape</b>	1	31.0	62
	2	10.0	19
	3	3.5	7
	4	2.0	4
	5	1.0	2
	6	.0	0
	7	.0	0
	8	.0	0
	9	.0	0
	10	.5	1
	<b>Total</b>	<b>48.0</b>	<b>95</b>

Following receipt of the investigation file, final written directions were issued in the typical 'murder' case in less than half the time that they took to be issued in the typical 'rape' case (four weeks compared to 11 weeks).

The following views were expressed by the professionals as to factors which could influence this time period:

- the complexity of the case;
- the completeness of the investigation file submitted by the Gardaí;
- the availability of forensic analysis;
- queries being raised by the Office of the DPP.

Views were also expressed as to an appropriate time interval for the Office of the DPP to issue final directions. These ranged from 15 days to one month.

The high proportion of investigation files in which queries, and in some cases multiple queries, were raised by the Office of the DPP suggests that some files could be completed to a higher standard prior to their submission to the Office of the DPP. So as to ensure that all investigation files are completed to the required standard prior to their submission to the Office of the DPP, the Council recommends that there should be ongoing consultation between An Garda Síochána and the Office of the DPP. The Council further recommends that use be made of the latest information technology and that the transferring of investigation files directly to the Office of the DPP using secure electronic channels should be explored.

### Final Written Directions from the Office of the DPP to the Service of the Book of Evidence

Arrest to Charge	Charge to Full File to DPP	Full File to DPP to Final Written Directions	Final Written Directions to Service of the Book of Evidence	Service of the Book of Evidence to Return for Trial	Return for Trial to Listing Date	Listing Date to Scheduled Trial Date	Scheduled Trial Date to Arraignment	Arraignment to Start of Jury Trial	Start of Jury Trial to End of Jury Trial	End of Jury Trial to Sentence
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The Book of Evidence was served by the Gardai within one week of being received from the Office of the DPP in 84 per cent of cases analysed. In 12 per cent of cases analysed, the Book of Evidence was served within one month of receipt. In three per cent of cases analysed (eight cases), the Book was served between one and three months after receipt. In the remaining one per cent of cases analysed (two cases), there were extreme delays in the service of the Book of Evidence; 56 weeks in one case and 99 weeks in the other case. These related to suspects who had absconded.

The Book of Evidence was served shortly after its receipt in the vast majority of cases, hence, differences in the time taken between the issue of final written directions and the service of the Book of Evidence in the vast majority of cases were due to differences in the time taken to prepare the Book.

**In the typical 'murder' case, the Book of Evidence was prepared and served in half the time it took in the typical 'rape' case, seven weeks and 16 weeks respectively.**

The Book of Evidence must contain all statements of evidence that the prosecution would purport to rely on in the prosecution of the defendant. There are factors which could contribute to the time taken to prepare the Book of Evidence. These were identified by the professionals as being relevant to this time interval. Some of these were also relevant to other time intervals and have been referred to in earlier parts of this report. These factors are as follows:

- the complexity of the case;
- a large number of witnesses;
- the quality and completeness of the investigation file;
- queries being raised by the Office of the DPP;
- the fact that the investigation file may contain material not appropriate to the Book of Evidence;
- the fact that files have to go through many channels in this time interval.

Views were also expressed as to the appropriate amount of time required for the preparation of the Book of Evidence. These ranged from three days to three months. The former period presupposed that all information was included in the file and that the person preparing the Book of Evidence was concentrating on that task alone.

### Service of the Book of Evidence to Return for Trial

Arrest to Charge	Charge to Full File to DPP	Full File to DPP to Final Written Directions	Final Written Directions to Service of the Book of Evidence	Service of the Book of Evidence to Return for Trial	Return for Trial to Listing Date	Listing Date to Scheduled Trial Date	Scheduled Trial Date to Arraignment	Arraignment to Start of Jury Trial	Start of Jury Trial to End of Jury Trial	End of Jury Trial to Sentence
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The final stage in the initial investigation and prosecution process is the time from the service of the Book of Evidence to the return for trial from the District Court to the Central Criminal Court. This is the shortest time interval so far and 'murder' and 'rape' cases are similar in this regard. **The typical 'murder' case was returned for trial one week after the service of the Book of Evidence. The typical 'rape' case was returned for trial three weeks after the service of the Book of Evidence.**

#### Factors which Contributed to the Time Taken between the Service of the Book of Evidence and the Return for Trial

Whilst generally, there were few cases which took an excessive amount of time between the service of the Book of Evidence and the return for trial, there were, nevertheless, a minority of cases in which delays did occur. Table 4.3 provides an overview of the factors identified as contributing to the time taken at this stage. In 12 per cent of cases, the return for trial was affected by submissions and depositions being sought, predominantly by the defence. Depositions can now only be ordered by the trial judge (whereas previously they could be sought by either the prosecution or defence in the District Court prior to return for trial). In some cases, more than one factor was identified as being responsible for contributing to these delays.

**Table 4.3: Factors which Contributed to the Time Taken between the Service of Book of Evidence and the Return for Trial**

	No. of Cases	% of Cases
Submissions/Depositions	38	12
Defence Adjournments	16	5
Difficulties Related to the Suspect	9	3
Court Recess/Difficulty Getting Court Date	8	3
Court/Defence Consideration of the Book of Evidence	6	2
Zambra Case	5	2
Difficulties Related to the State Solicitor	4	1
Change of Legal Team	2	1

In five per cent of cases, the time taken between the service of the Book of Evidence and the return for trial was affected by adjournments being granted to the defence, in some cases on more than one occasion. Other difficulties included the accused having absconded after the service of the Book of Evidence and cases where the accused was certified as unfit to attend Court. Court vacation periods and the fact that some of the provincial District Courts only sit once a month, were also identified as factors contributing to the time taken in three per cent of cases.

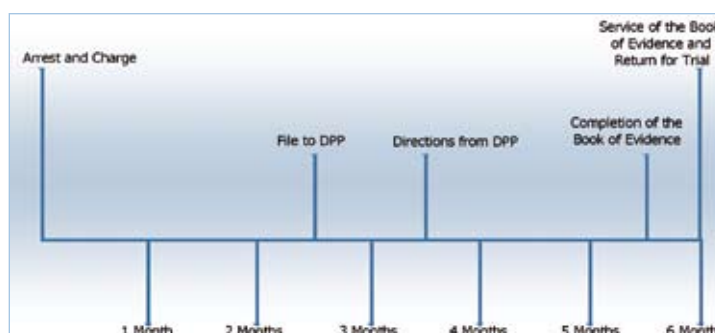
## RECOMMENDED TIME INTERVALS

Having considered the cases disposed of in the research period, the time intervals and practices in other comparable jurisdictions and the views of the professionals, the Council is in a position to make recommendations as to the time intervals within which the majority of cases should be returned for trial to the Central Criminal Court. The Council recommends that, in cases where the arrest and charge of the suspect occurs a short time after the offence and save in exceptional circumstances, the time intervals, as illustrated in Figures 4.3 and 4.4 below, should be adhered to in 'murder' and 'rape' cases.

### 'Murder' Cases

In 'murder' cases, the Council recommends that the full investigation file should be submitted to the Office of the DPP within two and a half months of the arrest and charge of the suspect. It should not take the Office of the DPP more than one month, from the time the investigation file has been received, to issue final directions in relation to the case. Following on from this, the Council recommends that the Book of Evidence should be prepared and be ready to be served within two months of the date final directions were issued by the Office of the DPP. The service of the Book of Evidence and the return for trial should occur at the same time or within a short period of time. This should happen within two weeks of the Book of Evidence being finalised or at the next scheduled appearance of the accused in Court.

Figure 4. 3: Recommended Time Intervals in 'Murder' Cases between Initial Arrest and Return for Trial



As outlined earlier, during the research period, the typical 'murder' case was returned for trial just over six months after the initial arrest and charge of the suspect. As the typical case represents the middle case, this means that, in half of the cases examined, the return for trial took more than six months. **The Council is recommending that, save in exceptional circumstances, defendants in all 'murder' cases should be returned for trial within six months of their initial arrest.**

### 'Rape' Cases

The Council recognises that the investigation of a rape case may be a more time consuming task for the Gardaí than a murder investigation. Accordingly, the Council is recommending that a period of three months should be sufficient time for the Gardaí to complete and submit their investigation file to the Office of the DPP following the arrest of the suspect in a 'rape' case. The Council recommends that the Office of the Director of Public Prosecutions issue final written directions in relation to 'rape' cases within one month of receipt of the investigation file. The Book of Evidence should be prepared and be ready to be served within two months of the final directions being issued by the Office of the DPP. The service of the Book of Evidence and the return for trial should occur at the same time or within a short period of time. This should happen within two weeks of the Book being finalised or at the next scheduled appearance of the accused in Court.

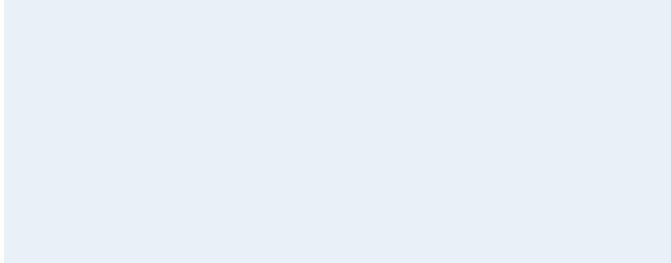
Figure 4. 4: Recommended Time Intervals in 'Rape' Cases between Initial Arrest and Return for Trial



As outlined earlier, during the research period, the typical 'rape' case was returned for trial just over eleven months after the initial arrest of the suspect. As the typical case represents the middle case, this means that, in half of the cases examined, the return for trial took more than eleven months. **The Council is recommending that, save in exceptional circumstances, defendants in all 'rape' cases should be returned for trial within six and a half months of their initial arrest.**

These recommended time intervals have implications for the 42 day rule (District Court (Criminal Justice) Rules, 1997 – Rule 7(1)) between the first District Court appearance of the defendant and the service of the Book of Evidence. As mentioned earlier, only a minority of 'murder' and 'rape' cases examined for this research conformed to the statutory 42 day rule. The Council does not envisage circumstances under which it would be possible for the majority of cases to conform to the 42 day rule. If future cases adhered to the time intervals recommended above, save in exceptional circumstances, the Book of Evidence would be served on all 'murder' suspects within 180 days of their first District Court appearance and within 60 days of the first District Court appearance of the majority of 'rape' suspects. **The Council recommends that consideration be given to reviewing Rule 7(1) of the District Court (Criminal Justice) Rules, 1997, as amended, in line with the research findings and recommended time intervals.**

The Council recommends that the senior Garda officer in charge of all murder and rape investigations and a nominated officer from the Office of the DPP should be responsible, in so far as is possible, for adherence to the recommended time intervals set out in the report from arrest to service of the Book of Evidence.



## 5 Time Taken in the Central Criminal Court

This chapter outlines the number of weeks the typical case took between the date when a defendant's case was returned for trial to the Central Criminal Court and the disposal of the case<sup>28</sup>. Throughout this chapter 'murder' and 'rape' cases are examined separately. The main themes, in relation to time intervals, which emerged from the meetings held with key professionals and academics, all referred to as 'the professionals', are discussed. In many cases, more than one factor was identified as contributing to the time taken.

Once a defendant has been returned for trial by the District Court, a date must be fixed for his/her trial by the Central Criminal Court. On one day a month in the Central Criminal Court, known as a 'listing day', all defendants who have been returned for trial by the District Court in the preceding month<sup>29</sup> (or which otherwise require a trial date, for example, if a re-trial has been ordered or a trial has collapsed) are called and a trial date is scheduled<sup>30</sup>. The judge will generally allot each case to the next soonest appropriate trial date available<sup>31</sup>. There are usually four judges allocated to the Central Criminal Court at any one time. Attempts are made to balance the court list with jury trials expected to conclude quickly and those which it is felt will take a longer time. No preference is given based on whether a defendant is being held in custody or on bail. Some pre-trial issues may be dealt with on the listing day, such as, requests for interpreters, applications and depositions.

In the cases examined for this research, the longest delay occurred between the listing day and the scheduled trial date. Since the research period, however, the situation with regard to the listing of cases for trial in the Central Criminal Court has improved significantly. This is, in part, due to a reduction in the number of cases being received by the Court each year up to 2004. It is also due to the efforts of the President of the High Court, the Honourable Mr. Justice Joseph Finnegan, who has allocated four judges to the Central Criminal Court since 2002. In addition, there has been very active management of the Court list by the Honourable Mr. Justice Paul Carney. As well as these, certain other factors have contributed to the reduction in waiting times for trial, that is, the time between the return for trial and the first court hearing. These are outlined further below.

July, 2003 was the first time in the history of the State that the Central Criminal Court sat outside of Dublin. Hearings were held in Limerick in an effort to reduce waiting times. This practice has continued since then and the Central Criminal Court has sat in locations such as Sligo, Ennis, Cork, Waterford and Castlebar. According to a report on the Central Criminal Court for 2005, "these sittings have been so successful that requests from the Gardaí and legal practitioners for more venues are now commonplace" (Courts Service, 2006: p.4).

In September, 2003, when the court would normally have been in recess, "the President of the High Court, in consultation with the judges of the High Court, arranged five additional sittings of the Central Criminal Court in Dublin" (Courts Service, 2004: p.47). Of the 25 cases listed for trial during that month, 24 were dealt with and this had a positive impact on the waiting time for a trial. Also in 2003, "additional registrars were assigned... to the Central Criminal Court...to assist with the additional courts. A training programme for High Court registrars took place in September to increase the number of registrars proficient in the operation of the Central Criminal Court" (Courts Service, 2004: p.47).

These factors have served to decrease the waiting time for trial. In 2002, the waiting time between return for trial and first court hearing was 18 months. In 2003, the waiting time was 12 months.

By comparison, cases listed in March, 2006 were scheduled for trials to start on dates in October and November, 2006.

<sup>28</sup> As previously, whilst only details of the time intervals for the typical case are included in this chapter, detailed figures and tables outlining other values may be read in Appendix Two. For an explanation of the 'typical case', please see page 9.

<sup>29</sup> Immediately after a recess, all cases which have been returned for trial since the last listing date will be scheduled for trial.

<sup>30</sup> Some cases will appear in the court list on more than one occasion before a trial date is scheduled.

<sup>31</sup> See subsequent analysis of the time interval between listing date and scheduled trial date for further details.

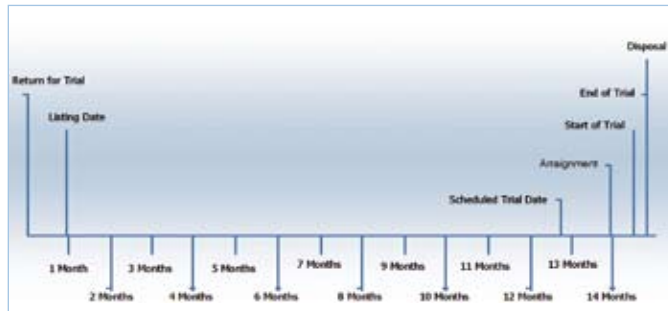
In 2005, there was an increase in the number of new cases received by the Central Criminal Court for the first time in three years. When compared with the 2004 figures, there was a 25 per cent increase in the number of murder cases received (from 28 to 35 cases) and a 10 per cent increase in the number of rape cases received (from 40 to 44 cases) in 2005. Nevertheless, in 2005, the Central Criminal Court continued to dispose of more cases than it received.

**Summary of Time Taken between Return for Trial and Disposal**

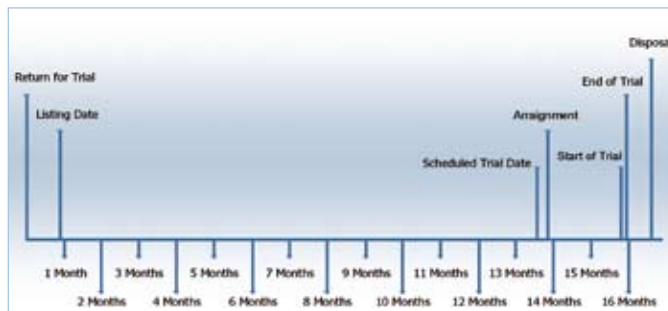
Arrest to Charge	Charge to Full File to DPP	Full File to DPP to Final Written Directions	Final Written Directions to Service of the Book of Evidence	Service of the Book of Evidence to Return for Trial	Return for Trial to Listing Date	Listing Date to Scheduled Trial Date	Scheduled Trial Date to Arraignment	Arraignment to Start of Jury Trial	Start of Jury Trial to End of Jury Trial	End of Jury Trial to Sentence
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Figures 5.1 and 5.2 below provide a summary of all time intervals between the date the defendant was returned for trial from the District Court to the Central Criminal Court and disposal in 'murder' and 'rape' cases. In 'murder' and 'rape' cases, the longest time interval was between the listing date and the scheduled trial date. Typical 'murder' and 'rape' cases had their trials scheduled to begin in the region of one year after the listing date.

**Figure 5.1: Timeline of Typical 'Murder' Case between Return for Trial and Disposal**



**Figure 5.2: Timeline of Typical 'Rape' Case between Return for Trial and Disposal**



Figures 5.1 and 5.2 also show that generally:

- the typical 'murder' and 'rape' cases were in the list to have a trial date fixed within one month of being returned for trial;
- whilst most trials began as originally scheduled, there were considerable delays in some cases between the original scheduled trial date and the actual trial start date. There tended to be a greater delay in 'rape' cases than in 'murder' cases;
- there was no delay between the end of the trial and sentencing in murder cases; there may be a longer time interval in cases where a defendant has been found guilty of a lesser charge, such as manslaughter.

#### Return for Trial to Disposal of *First Trial*

Seventy six per cent of all cases examined involved one trial<sup>32</sup>. In 22 cases, these first trials were disposed of earlier than the research period. In order to provide a realistic analysis of the time intervals, this chapter focuses on first trials only. **In cases in which there was only one trial, the typical 'murder' case took 65 weeks and the typical 'rape' case took 73 weeks to be disposed of after the defendant was returned for trial.** Cases dealt with very quickly in the Central Criminal Court were mainly those where the defendant pleaded guilty at a very early stage (often the listing date).

There were 20 'murder' cases and 21 'rape' cases in which more than one trial was held (of these, 32 cases involved more than one jury trial). The last of these trials was disposed of within the research period. Many of the cases in the research period could end up reappearing before the Central Criminal Court on subsequent occasions, for example, if re-trials are ordered by the Court of Criminal Appeal.

#### Factors which could Contribute to Delays between Return for Trial and Arraignment

A number of factors, which could contribute to delays between the defendant's return for trial and arraignment, were identified. These factors included, inter alia, the following:

- trial not reached;
- interpreter/ translator required for trial;
- application for separate trials if made at a late stage;
- late change Counsel/ solicitor;
- the accused failed to appear in Court.

#### RECOMMENDED TIME INTERVALS

During the research period, the typical 'murder' trial commenced just over 14 and a half months after the defendant had been returned for trial. The typical 'rape' trial commenced just under 16 months after the defendant had been returned for trial. As highlighted earlier (Chapter 4), the Council notes that there have been significant improvements in the time intervals in some murder and rape cases since the research period. The Council considers that, between return for trial and the start of the trial, murder and rape cases should be dealt with in comparable time intervals by the Central Criminal Court. **The Council recommends that, save in exceptional circumstances, all murder and rape trials should commence within six months of the return for trial. The Council believes that the recommendations contained in this chapter, if implemented, will serve to increase the overall efficiency of the Central Criminal Court and will also guard against any possible future build-up of cases. Hence, the Council does not wish to make any specific recommendations in relation to the time intervals for other stages within the Central Criminal Court process.**

<sup>32</sup> As will be discussed in greater detail later in this chapter (pages 26), 10 'murder' cases and 27 'rape' cases were disposed of prior to arraignment, and hence were disposed of without the need for any trial proceedings.

As discussed in Chapter 3, the typical 'murder' trial during the research period commenced almost 21 months after the suspect was initially arrested and charged by the Gardaí. If these recommended time intervals were adhered to in the future, it would mean that, save in exceptional circumstances, all 'murder' trials should commence within 12 months of the initial arrest and charge of the suspect. During the research period, the typical 'rape' trial commenced 27 months after the initial arrest of the suspect. Again, if the Council's recommended time intervals were adhered to in the future, it would mean that, save in exceptional circumstances, all 'rape' trials should commence within 12 and a half months of the initial arrest of the suspect.

The remainder of this chapter presents the time intervals as found during the research period. It is instructive to consider these findings to demonstrate the context of the Council's recommendations and because they allow for the identification of any potential sources of delay.

### Return for Trial to Listing Date

Arrest to Charge	Charge to Full File to DPP	Full File to DPP to Final Written Directions	Final Written Directions to Service of the Book of Evidence	Service of the Book of Evidence to Return for Trial	Return for Trial to Listing Date	Listing Date to Scheduled Trial Date	Scheduled Trial Date to Arraignment	Arraignment to Start of Jury Trial	Start of Jury Trial to End of Jury Trial	End of Jury Trial to Sentence
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The time interval between return for trial and listing in the typical 'murder' and 'rape' case was four weeks. Any delay in this time interval was mainly due to recess periods in the Central Criminal Court<sup>33</sup>. Six per cent of cases appeared in the list on more than one occasion before a trial date was first fixed. One case was listed on six occasions before a trial date was first fixed.

The Council notes that the listing of cases is a complex task and that the listing process cannot easily have rigid rules or regulations imposed upon it as it often has to respond to a variety of different issues in many different cases at once. The Council does not wish to make any specific recommendations in relation to the listing of cases. The Council does, however, suggest that it might be appropriate for the Courts Service to place the current best practice on a formal footing, to ensure that the list continues to be reviewed on a frequent basis. To assist judges, registrars and other courts personnel, it would also be beneficial if some general guidelines on the listing process could be drafted. The Council notes the current practice whereby the Central Criminal Court sits in various provincial locations. The Council recommends that this practice continue to be utilised as appropriate.

### Listing Date to Scheduled Trial Date

Arrest to Charge	Charge to Full File to DPP	Full File to DPP to Final Written Directions	Final Written Directions to Service of the Book of Evidence	Service of the Book of Evidence to Return for Trial	Return for Trial to Listing Date	Listing Date to Scheduled Trial Date	Scheduled Trial Date to Arraignment	Arraignment to Start of Jury Trial	Start of Jury Trial to End of Jury Trial	End of Jury Trial to Sentence
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<sup>33</sup> The Central Criminal Court is in recess for in the region of two weeks at each of Easter, Whitsun and Christmas. The long vacation is the months of August and September each year.

Generally, in the research period, cases had their trials scheduled to start one year after the date that they first appeared in the list to fix a trial date. In 12 cases, a trial date was never fixed as the defendants indicated their intention to plead guilty on the listing date or the Zambra ruling<sup>34</sup> applied. There were limited differences between ‘murder’ and ‘rape’ cases. **The typical ‘murder’ case was scheduled for trial 50 weeks after the listing date. The typical ‘rape’ case was scheduled for trial 53 weeks after the listing date.**

In some cases, defendants decided to plead guilty to the charges against them after their listing date but prior to their scheduled trial date. Where possible, these defendants were facilitated with an early arraignment.

#### Views of the Professionals - Pre-Trial Hearings

In talking to the professionals, the Council accepted that the question of pre-trial hearings needed to be examined. A range of views, as set out hereunder, were expressed by the professionals:

- many of the professionals believed there would be benefit in dealing with issues at a pre-trial stage. Other professionals pointed to the recommendations of the report of the Working Group on the Jurisdiction of the Courts (the Fennelly report) in relation to pre-trial issues which they believed should be implemented;
- if there were to be pre-trial hearings, these should only be heard by the trial judge as opposed to any judge;
- Counsel who deal with preliminary work must be the same as those who will be involved in the trial;
- pre-trial hearings would ensure that there could be greater certainty that trials would proceed as scheduled;
- pre-trial hearings would allow guilty pleas to be entered at the earliest possible date;
- some witnesses need not be called to give evidence at all if the prosecution and defence could agree to this prior to the trial<sup>35</sup>.

The Council accepts the professionals’ view that there could be benefits to dealing with certain issues through pre-trial hearings. In addition to this, the Council notes and endorses the findings of the Working Group on the Jurisdiction of the Courts (the Fennelly report) in relation to pre-trial hearings. **The Council is of the opinion that the introduction of pre-trial hearings would lead to shorter and possibly fewer jury trials and would assist in making the court process more efficient for all users. The Council recommends, therefore, that consideration be given to the introduction of pre-trial hearings.**

#### Scheduled Trial Date to Arraignment

Arrest to Charge	Charge to Full File to DPP	Full File to DPP to Final Written Directions	Final Written Directions to Service of the Book of Evidence	Service of the Book of Evidence to Return for Trial	Return for Trial to Listing Date	Listing Date to Scheduled Trial Date	Scheduled Trial Date to Arraignment	Arraignment to Start of Jury Trial	Start of Jury Trial to End of Jury Trial	End of Jury Trial to Sentence
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Defendants will usually be arraigned on the day their trial is scheduled to start. In some cases, it will have become apparent that, for a variety of reasons, the trial is not going to begin on the date originally scheduled. In these instances, if there is no possibility of the trial beginning within the days immediately following its original date, the case must go back into the list to have another trial date fixed. In order that judicial resources

<sup>34</sup> See the glossary for an explanation of the Zambra ruling.

<sup>35</sup> This would apply particularly to cases involving a number of witnesses whose testimony confirms the same fact or witnesses who confirm a point which is not being contested by either side anyway.

are not wasted, in these and other instances where a judge may be available but there is no criminal case ready to be heard, the judge will return to the High Court to hear other, non-criminal business.

The typical 'murder' and 'rape' accused was arraigned on the day his/her trial was originally scheduled to start. This means that the majority of defendants were, therefore, arraigned on or very close (within two weeks) to the date their trial was scheduled to start. In some cases, defendants signalled their intention to plead guilty and were arraigned earlier than their scheduled trial date. In other cases, there was a considerable amount of time between the scheduled trial date and the date on which the defendant was arraigned. Table 5.1 below provides a summary of the percentage of 'murder' and 'rape' cases in which arraignments were held early, as scheduled (or within two weeks) and later than scheduled.

**Table 5.1: Percentage of 'Murder' and 'Rape' Cases in which Defendants were Arraigned Earlier than, Later than or as Scheduled**

	Arraigned Earlier than Scheduled Trial Date (%)	Arraigned On or Very Close to Scheduled Trial Date (%)	Arraigned After Scheduled Trial Date (%)
'Murder'	12	56	32
'Rape'	17	58	25

The overall time taken up to this point in the Central Criminal Court system, that is, between the date when a case was returned for trial and the first arraignment<sup>36</sup> constitutes the time it took a case to 'get into court'. The typical 'murder' and 'rape' case took 60 weeks to 'get into court'.

#### Accused Persons who were Not Arraigned

In eight per cent of 'murder' cases (10 cases) and 14 per cent of 'rape' cases (27 cases), the defendant was not arraigned. In seven of the 'murder' cases, the Zambra ruling applied, in two cases, a *nolle prosequi* was entered by the prosecution and in the remaining case, the accused died prior to arraignment. In 11 of the 'rape' cases, the Zambra ruling applied<sup>37</sup>. In another 11 cases, a *nolle prosequi* was entered by the prosecution, in three cases, the accused died prior to arraignment and in the remaining two cases, the order for trial was quashed by the High Court.

#### Pleas Entered at Arraignment

A total of 110 'murder' defendants and 171 'rape' defendants were arraigned. In 26 per cent of 'murder' cases, the defendant pleaded guilty to one or more counts at their arraignment<sup>38</sup>. In 66 per cent of these 'murder' cases, the guilty plea was accepted by the prosecution. In the remaining 34 per cent of these cases, the prosecution decided to pursue the original charge rather than accepting the plea to the lesser charge. In 51 per cent of 'rape' cases, the defendant pleaded guilty to one or more counts at their arraignment<sup>39</sup>. In 91 per cent of these 'rape' cases, the guilty plea was accepted by the prosecution. In the remaining 9 per cent of these cases, the prosecution decided to pursue the original charge rather than accepting the plea to the lesser charge.

<sup>36</sup> As opposed to the arraignment immediately preceding the defendant's trial.

<sup>37</sup> This chapter focuses on the outcomes of the first set of trial proceedings only. Figure 2.2 details the final disposal outcome when all trials are considered and hence, only shows nine 'rape' cases (as opposed to 11) as having been finally disposed of by way of the Zambra ruling. This discrepancy arises because in two cases, defendants' cases were returned to the Central Criminal Court for a second time within the research period. In both these cases the outcome of these subsequent jury trials was a not guilty verdict.

<sup>38</sup> Not all of these defendants pleaded guilty to murder. In cases where defendants had more than one arraignment, a different plea may have been entered at the subsequent arraignment.

<sup>39</sup> Not all of these defendants pleaded guilty to rape. In cases where defendants had more than one arraignment, a different plea may have been entered at the subsequent arraignment.

### Cases in which there was More than One Arraignment

In some instances, a jury trial may have started and, during same, the defendant may decide to change his/her plea and is therefore, re-arraigned. In other cases, the defendant may have been arraigned but, for a variety of reasons, the trial did not commence as scheduled and hence the defendant will have to be re-arraigned prior to their next scheduled trial date<sup>40</sup>. Some cases may require more than one trial before they are finally disposed of, that is, a jury may have disagreed or been discharged or a retrial ordered. **In 28 per cent of 'murder' cases and 23 per cent of 'rape' cases, defendants were arraigned more than once.**

The Council notes that the arraignment is the first opportunity a defendant has to formally enter a guilty plea with the Court. **The Council endorses the current practice whereby every effort is made to facilitate those defendants who seek an early arraignment in order to enter a guilty plea and recommends that this practice continue.**

### First Arraignment to Start of Jury Trial

Arrest to Charge	Charge to Full File to DPP	Full File to DPP to Final Written Directions	Final Written Directions to Service of the Book of Evidence	Service of the Book of Evidence to Return for Trial	Return for Trial to Listing Date	Listing Date to Scheduled Trial Date	Scheduled Trial Date to Arraignment	Arraignment to Start of Jury Trial	Start of Jury Trial to End of Jury Trial	End of Jury Trial to Sentence
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**In the typical 'murder' and 'rape' case, the jury trial started as scheduled.** When delays did occur, there tended to be more of a delay in 'rape' cases than in 'murder' cases.

As was seen in the overview of cases (Chapter 2), 55 per cent (176 cases) of 'murder' and 'rape' cases actually proceed to trial by jury. There are many reasons why a jury trial will not begin as scheduled, such as:

- a case at hearing may have run for longer than anticipated and therefore neither a judge, a registrar or a court room is available;
- an application being made by the defence or the prosecution to delay the start of the trial (due, for example, to the unavailability of a witness); and
- the defendant may fail to appear in court, for example, if on bail the defendant may have absconded.

### Jury Trials which Did Not Commence as Scheduled

The number of jury trials which did not commence on the date that they had been scheduled contributes to delays. Where possible, these cases are 'held over' for a number of days, or put on standby, to be heard as soon as another trial slot becomes available<sup>41</sup>. Table 5.2 below, provides an analysis of jury trials which did not commence as scheduled during the research period. Cases which were held over and commenced within two weeks of the date originally scheduled are counted as having started as scheduled. Cases in which applications were made, either by the defence or the prosecution, before the scheduled trial date to move the trial date are counted as having started as scheduled also as the change was planned rather than unforeseen.

**Seventy one per cent of jury trials commenced as scheduled.** Twenty six per cent of jury trials did not commence as scheduled on one or more occasions. Data was not available for the remaining three per cent of jury trials.

<sup>40</sup> See later discussion for details of the reasons why trials did not commence as scheduled.

<sup>41</sup> For a trial to begin there must be a judge, a registrar and court room available in which to hear the case.

**Table 5.2: Jury Trials which Did Not Commence as Scheduled**

	No. of Cases	% of Cases
Trial Started Earlier, as Scheduled or Case Held Over for Trial	125	71
Trial Did Not Commence as Scheduled	46	26
Data Missing	5	3
Total	176	100

The proportion of trials which did not commence as scheduled remained relatively static over the research period.

In some cases, jury trials were ready to proceed - a jury had been sworn in and the defendant had been arraigned - but there was no judge or registrar or court room available to hear the case. This usually occurred because other trials were ongoing. In these instances, trials were classified as 'trial not reached'. During the research period, six per cent of jury trials were not reached.

The Council recommends that there should always be sufficient judges with registrars and appropriate resources available to hear all criminal trials which have been scheduled to commence in the Central Criminal Court in a given week. The Council recognises that this may have resource implications for the non-criminal business caseload of the High Court.

#### Views of the Professionals – Delays in Commencement of Trial Proceedings

The professionals identified a number of other factors which could contribute to trials being delayed. These included:

- a lack of judges, registrars and court rooms;
- the absence of any fast-tracking process for cases in which defendants (who have been fully briefed as to their rights) wish to plead guilty;
- the absence of any procedure to deal more effectively with trials which are not reached as scheduled (as opposed to these cases going back into the main list with all 'new' cases);
- Counsel not applying themselves to cases until they know the case is going to proceed;
- Counsel not getting paid for the early stages of preparation of the case (for, example, reading the brief, holding consultations with the defendant, providing advice);
- late changes in solicitor;
- in cases where Dublin based personnel have to travel to provincial courts, resources would be wasted if the trial did not proceed as scheduled.

The professionals stated that they did not believe trials did not commence as scheduled due to an absence of forensic evidence/reports<sup>42</sup>. They noted that a trial being delayed can be a contributory factor in the complainant deciding not to proceed in rape cases. The professionals also suggested that, if there was greater certainty that trials would proceed as scheduled, it would lead to an overall reduction in delays.

Views were also expressed by the professionals as to the amount of time it should take between the defendant being returned for trial and the beginning of trial proceedings. These ranged from three to six months.

The Council believes that, in general, it is undesirable for a defendant's case to go back into the list with all other 'new' cases if their trial does not commence as scheduled. This would particularly be so if there was a significant waiting time for trial amongst all cases in the list. **The Council recommends that cases which have to go back into the list be given priority in future listing.**

<sup>42</sup> As has been discussed in Chapter 4, if the Gardaí were awaiting the results of forensic and/or DNA analysis or reports this could contribute to the time taken to prepare and submit the investigation file to the Office of the DPP.

The professionals discussed the inadequacies of the criminal legal aid scheme as currently operated. The Council recommends that the scheme be reviewed by the Department of Justice, Equality and Law Reform with a view to providing payment for the early stages of preparation of the case.

#### Start of Jury Trial to End of Jury Trial

Arrest to Charge	Charge to Full File to DPP	Full File to DPP to Final Written Directions	Final Written Directions to Service of the Book of Evidence	Service of the Book of Evidence to Return for Trial	Return for Trial to Listing Date	Listing Date to Scheduled Trial Date	Scheduled Trial Date to Arraignment	Arraignment to Start of Jury Trial	Start of Jury Trial to End of Jury Trial	End of Jury Trial to Sentence
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The length of all jury trials ranged from less than one day up to three months. The typical 'murder' jury trial lasted eight days compared to four days for the typical 'rape' jury trial. The maximum jury trial length varied considerably between 'murder' and 'rape' cases; the longest 'murder' trial lasted 13 weeks whereas the longest 'rape' trial lasted for five weeks.

#### Number of Witnesses in Jury Trials

The number of witnesses called to give evidence has an influence on the length of time that a jury trial takes. The number of prosecution witnesses from whom statements had been taken and included in the Book of Evidence was noted in the Court records. Whilst not all of these witnesses will necessarily be called to give evidence, the number of witnesses listed gives an indication of the scale of the case and the likely length of a jury trial. The least number of witnesses was four, the maximum was 212. Generally, 'murder' cases involved a far greater number of witnesses than 'rape' trials. Table 5.3 provides a detailed analysis of the number of witnesses in 'murder' and 'rape' jury trials.

**Table 5.3: Number of Witnesses Listed in the Book of Evidence in 'Murder' and 'Rape' Trials**

	'Murder'	'Rape'
Typical Case	63	17
Least Witnesses	10	4
Most Witnesses	212	52

In the typical 'murder' case, 63 witnesses were listed in the Book of Evidence. In the typical 'rape' case, 17 witnesses were listed in the Book of Evidence.

#### End of Jury Trial to Sentence

Arrest to Charge	Charge to Full File to DPP	Full File to DPP to Final Written Directions	Final Written Directions to Service of the Book of Evidence	Service of the Book of Evidence to Return for Trial	Return for Trial to Listing Date	Listing Date to Scheduled Trial Date	Scheduled Trial Date to Arraignment	Arraignment to Start of Jury Trial	Start of Jury Trial to End of Jury Trial	End of Jury Trial to Sentence
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The existence of the mandatory life sentence for murder means that any defendant who is found guilty of murder will be sentenced on the date the verdict is returned. In cases, where the defendant is found guilty of manslaughter, the case is adjourned for sentence. All 'rape' cases in which there was a conviction during the research period were adjourned on the date of verdict for sentence at a later date. Often these adjournments are to allow time for the preparation of Probation and Welfare Service reports and/or victim impact reports.

**In 'murder' cases, where defendants were convicted of a lesser offence, the sentence was imposed a maximum of 19 weeks after the verdict. In the typical 'rape' case jury trial in which there was a conviction, sentence was imposed 11 weeks after the date of the verdict.**

#### Reasons for Delay between Conviction and Sentencing

As has been seen, generally there are not significant delays between the defendant being convicted and sentencing. The court records indicated that the following factors may contribute to the time taken:

- unspecified adjournments;
- victim impact/ Probation and Welfare/ other reports requested;
- legal argument.

#### Sentencing in Murder Cases

The professionals expressed the view that the mandatory life sentence in murder cases might discourage defendants from entering an early guilty plea. One group of professionals suggested that it might be more useful to have a minimum sentence for murder rather than the mandatory life sentence and that there should be more discretion for the judiciary in the range of penalties. This might serve to encourage more and earlier guilty pleas in murder cases.

**Given the forthcoming work of the Law Reform Commission on the arguments for and against a new system of internal classification for murder and manslaughter, the Council does not wish to make any recommendations in relation to the classification of the offence of murder and/or sentencing in murder cases.**

#### Views of the Professionals - Other Issues

The professionals also raised a number of other issues which they believed contributed to delays in the Central Criminal Court generally. These included:

- late changes of Counsel by the defence;
- the increasing number of cases involving foreign nationals who required interpretation services;
- judicial review.

Most of the professionals did not believe that the solution to reducing delays was to simply appoint more judges – although the allocation of judicial resources was a factor - but rather that procedures needed to be devised to make all cases run more efficiently.

The Council notes the comparatively high number of cases in the research period requiring interpretation services and believes that the demand for such services may have increased since the end of the research period. Furthermore, the need for such services may increase further in the future if, as predicted, increasing numbers of foreign nationals continue to come to live and work in Ireland. **The Council is pleased to note that the Courts Service has recently invited tenders for the provision of interpretation services on a nationwide basis.** The Council is aware that the provision of interpretation services is something which affects all of the criminal justice agencies, particularly An Garda Síochána and the Courts Service. **The Council recommends that all of the other criminal justice agencies give consideration as to how they can best service their interpretation requirements.**

### Case Management

One group of professionals believed that a system of case management should be introduced, somewhat similar to the case progression officers introduced in England and Wales in April, 2005<sup>43</sup>. This would involve one person being appointed as responsible for overseeing the progress of the case; all other parties involved in the case would be obliged to co-operate with this person to ensure the speedy processing of the case and to advise them of any potential delays and/or problems as and when they occurred.

### Identification of Cases

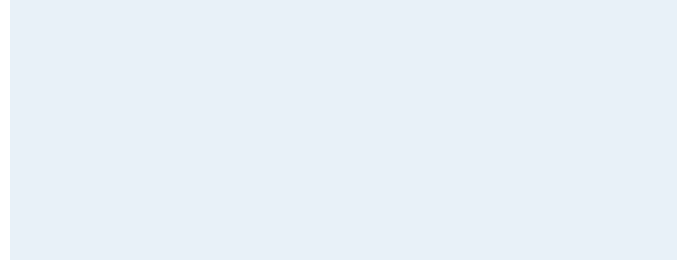
Finally, one group of professionals stated that it can be difficult for them to identify a particular case due to the absence of any common numbering system across all criminal justice system agencies. They believed there was a case for a more 'joined-up prosecution service' whilst acknowledging the need to maintain the independence of each agency.

The Council recognises the individual nature of many of the criminal justice agencies and the independent structures they operate under. **The Council recommends the introduction of a common case numbering system across all criminal justice agencies. This would facilitate communication and co-operation between the agencies.**

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<sup>43</sup> See Chapter 6 for further details.





## 6 Comparison with Other Jurisdictions

The terms of reference for the project required that the Council examine best practice from other jurisdictions. The Council decided that the most relevant jurisdictions to be examined in the project would be England and Wales and Northern Ireland. Some consideration would also be given to the situation in Scotland although this operates under a slightly less comparable structure to the other jurisdictions. The Courts Service also made available to the Council the material collected during the completion of 'The Criminal Jurisdiction of the Courts' report (the Fennelly report).

A request for data was made to the Department for Constitutional Affairs (DCA) in London which oversees the Courts in England and Wales. Following extensive consultation with the DCA, they agreed to calculate and provide data of a comparable nature to facilitate the Council's request for both the Crown Courts (nationwide) and the Central Criminal Courts (London). This required the DCA to write and run a dedicated data analysis specifically for this project for which the Council is immensely grateful.

On foot of a request made jointly to the Northern Ireland Office and the Northern Ireland Courts Service, some data, whilst not directly comparable, on various time intervals between the remand and disposal of defendants in the Crown Courts, was provided.

Whilst the criminal justice systems in all of these jurisdictions are adversarial in nature, the structures and processes through which they operate can vary quite notably. It is important, therefore, to consider the processes involved in the investigation and prosecution of suspects and the different agencies responsible for each stage of the process. To this end, a detailed outline of the investigation and prosecution process in England and Wales<sup>44</sup> is provided. A detailed outline of the process in Ireland has been provided in Chapter 1, hence, it is only summarised here.

There has been significant change in the last year in the procedures applicable to the criminal justice system in England and Wales. Lord Justice Auld's 'Review of the Criminal Courts in England and Wales' recommended the creation of a comprehensive criminal procedural code. The enactment of the 'Criminal Procedure Rules 2005' for England and Wales in April, 2005, is the first stage towards the creation of this code. A key aim of the legislation is that everyone who is involved in criminal prosecutions is made responsible for helping to make the case go ahead efficiently, under the supervision of the Court. These Criminal Procedure Rules form a consolidated version of all the previous rules governing practice and procedure in the criminal courts. The Rules were developed by a committee with representatives from throughout the criminal justice system including a number of judges. This meant that there was commitment and acceptance of the changes proposed amongst all the professions involved from the beginning of their development.

The second edition of the 'Criminal Case Management Framework' was published by the Lord Chief Justice of England and Wales in July, 2005. This document complements Part 3 of the legislation relating to case management; it provides guidance to practitioners as to what tasks need to be completed at each stage of the prosecution/trial process to ensure cases are concluded efficiently, with minimum delay and without adjournments. **In view of the evidence from the previous chapters, the Council recommends that consideration be given to producing guidelines, similar to the Criminal Case Management Framework, for use in Ireland.**

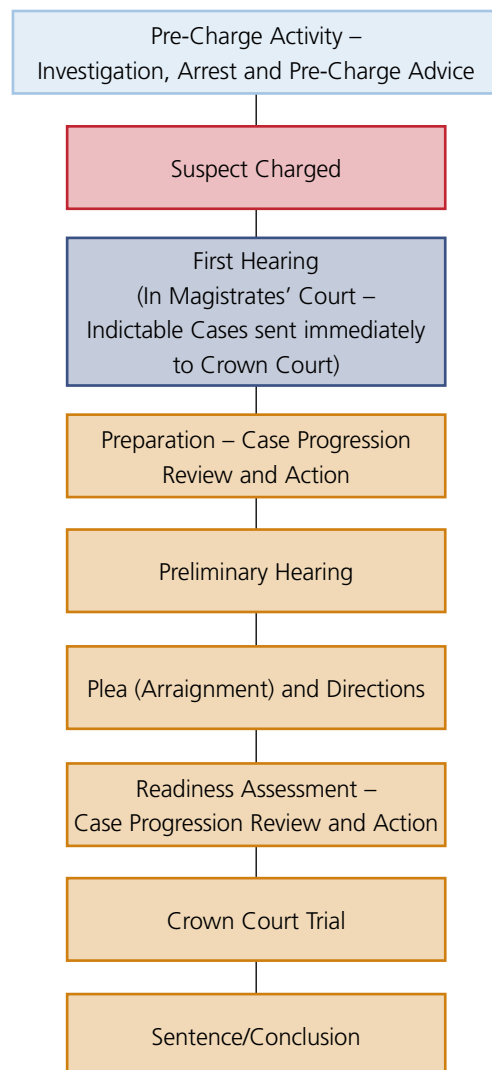
The Law Commission is an independent body, established by Parliament, to keep all the law of England and Wales under review and to recommend reform where it is needed. In December, 2005, the Law Commission, believing the current law to be unsatisfactory, published provisional proposals on the reform of the law on murder, specifically on the introduction of different tiers of culpability. The provisional proposals suggested that there be three tiers of homicide. First tier (murder) would be defined as cases in which there was an intention

<sup>44</sup> This outline is based upon the Criminal Procedure Rules, 2005, the second edition of the Criminal Case Management Framework and discussions with Crown Prosecution Service staff.

to kill. Second tier (murder) would be defined as killing through reckless indifference to causing death and intention to do serious harm but not to kill (this would include revised versions of provocation, diminished responsibility and duress). The third tier (manslaughter) would be cases of killing by gross negligence or intention to cause harm but not serious harm. The Law Commission expects to publish its final recommendations in August, 2006.

Figure 6.1 below provides an overview of the criminal investigation and prosecution process, as currently operates, in England and Wales. The different coloured boxes represent the different agencies responsible (or who take a lead role) for each stage of the process. Where possible, these have been matched to the comparable agencies in Ireland as outlined in Figure 1.1 and again here in Figure 6.2.

**Figure 6.1: The Criminal Investigation and Prosecution Process in England and Wales**



Key to Lead Organisations:



As illustrated in Figure 6.1 above, the police are the lead agency for all **pre-charge activity**, that is, the investigation and arrest of the suspect. It is the Crown Prosecution Service (CPS), headed by the Director of Public Prosecutions, who acts under the superintendence of the Attorney General, which provides advice to the police in relation to prosecutions. The CPS also reviews cases submitted by the police. In cases to be prosecuted, the CPS determines the **charge/s** (in all but the most minor cases), prepares cases for and present cases in Court. The police investigation will be or will almost be complete before the suspect is charged. The decision on whether or not to proceed with a prosecution is based upon two tests. The evidential test stipulates that there must be a 'realistic prospect of conviction', that is, it must be more likely than not that the defendant will be convicted. If the evidential test is passed, the CPS decides whether a prosecution is needed in the public interest; a prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour.

The Crown Prosecution Service operates in 42 geographical areas in England and Wales each of which are aligned to the 43 police forces (the London area CPS covers both London City and London Metropolitan Police Forces). Each area is headed by a Chief Crown Prosecutor, whilst responsibility for the efficient and effective administration of the area is with the Area Business Manager. There are dedicated CPS Duty Prosecutors in all major police stations nationwide during normal office hours to advise police officers and answer their queries in relation to charging and investigations. In addition to this, 'CPS Direct' provides an out-of-hours telephone service which allows prosecutors to work from their own home to provide the police with charging advice on an 24 hour, seven days a week basis<sup>45</sup>.

At the time a suspect is charged, they are given a leaflet explaining the court process and offering general advice including the fact that, generally, credit will be given for an early guilty plea. Following the charge, the suspect may be issued with a reminder card (additional to the leaflet) which details the first court hearing date and sets out the key messages including credit for guilty pleas. The Council believes that such information is invaluable to defendants and may lead to a greater number of and earlier guilty pleas. **The Council recommends that defendants in Ireland are fully informed, at the first available opportunity, of their rights, the legal process that they face and that credit may be given for entering a guilty plea.**

The case must then be allocated to the appropriate court for its **first hearing**. These are held in a Magistrates' Court, but the court session will depend upon the plea in the case. Guilty plea cases are allocated to an 'Early First Hearing' session whereas not guilty plea cases are allocated an 'Early Administrative Hearing' session.

The first appearance in the Magistrates' Court involves all indictable cases<sup>46</sup> being sent immediately to the Crown Court regardless of the plea. If a guilty plea is indicated, the Magistrates may fix a date for the formal entry of the plea in the Crown Court. A preliminary hearing in the Crown Court may also be necessary if there are issues over the basis or acceptability of the guilty plea. If a not guilty plea is indicated, or there is no indication of a plea, a preliminary hearing date may be fixed. Where there is no order for a preliminary hearing, a date for a plea and case management hearing will normally be fixed. The court may also give additional directions on the progression of the case.

At the first appearance in the Magistrates' Court, each party must also nominate an individual responsible for the progress of the case and tell the other parties and the court who this person is and how to contact them. A court officer must also be nominated to actively manage and progress the case, again the other parties must be informed of the person's contact details. The Criminal Procedure Rules, 2005 outline their duties:

"A case progression officer must - monitor compliance with directions; make sure that the court is kept informed of events that may affect the progress of that case; make sure that he can be contacted promptly about the case during ordinary business hours; act promptly and reasonably in response to communications about the case; and if he will be unavailable, appoint a substitute to fulfil his duties and inform the other case progression officers." (Criminal Procedure Rules, 2005: Part 3, S4(4)).

<sup>45</sup> Legal advice is also available to the Gardaí from the Office of the Director of Public Prosecutions on a 24 hour, seven day a week basis.

<sup>46</sup> Criminal offences are categorised in one of three groups in the Courts in England and Wales; summary cases are those which can only be tried in the Magistrates' Courts, indictable only cases are cases which can only be tried in the Crown Court and either way cases can be tried in either the Magistrates' Court or the Crown Court. Murder and rape are indictable only offences.

The Criminal Case Management Framework further outlines the detailed responsibilities of the prosecution and the defence case progression officers.

The number of Magistrates' Court hearings in indictable only offences has decreased since committal proceedings were replaced in England and Wales by Section 51 of the Crime and Disorder Act, 1998. The Act states that "where an adult appears or is brought before a Magistrates' Court charged with an offence triable only on indictment, the court shall send him forthwith to the Crown Court for trial" (Crime and Disorder Act, 1998, S51 (1)). The expectation of this legislation is that "while the time that indictable only cases spend in the Crown Court has increased, it is hoped that the overall time from arrest to sentence will decrease" (Judicial Statistics, Annual Report 2004: 2005, p. 84).

Preparation prior to the first Crown Court hearing takes place through an out of court process which addresses **case progression review and action** to ensure all parties are ready for the next hearing. An assessment is made of the requirements of the case in advance of the preliminary hearing; it is also an opportunity to ensure that all parties have completed the necessary preparatory work to allow the preliminary hearing to go ahead.

At the **preliminary hearing**, the Crown Court will determine the future progress of the case including fixing the date for a plea and case management hearing and/or a trial date. The purpose of the hearing is to secure an early plea, to ensure early case preparation by all parties, to ensure the progress of the case and to keep victims and witnesses informed of progress. This hearing also allows for the early identification of issues likely to affect the case.

The prosecution supplies the defence with a full outline of their case (equivalent to the Book of Evidence) prior to the defendant's first appearance in the Crown Court. Generally, the prosecution will serve their case on the defence within six weeks of charge in the most serious offences, that is, there is a six week time interval between charge and first Crown Court appearance. The prosecution must apply to the Crown Court judge if they require a longer period of time to prepare their case. After the evidence has been served on the defence and, in response to this, the defence have supplied an outline of their case, the plea and case management (**plea and directions**) hearing is held.

At the plea and case management hearing, the defendant enters his/her plea and is sentenced, if appropriate. This allows the court to take an early guilty plea, to ready the court to proceed to sentence and to ensure the court has the requisite information to sentence the offender. In not guilty plea cases, plea and case management may be dealt with at a hearing or by written procedure. The purpose of the hearing or written procedure is to give directions as to the future conduct of the case which may include fixing a trial date. It also provides the court with sufficient information to direct appropriate listing of the case for trial. All decisions on the listing of cases for trial are made by the judge on the basis of the details of the prosecution and the defence cases. Counsel include all relevant material in their case outlines to assist the judge in listing the case for court. Counsel are also given the opportunity to make representations to the court in relation to the trial date. The plea and directions hearing must be heard within four weeks of committal if the defendant is in custody and within six weeks if the defendant is on bail. Hence, this hearing (equivalent to the arraignment in the Central Criminal Court) is held within 13 weeks after the defendant was charged in most cases.

The **readiness assessment** is an out of court process to ensure that the case is ready for sentence or effective trial<sup>47</sup>. In guilty plea cases, its objective is to ensure that all parties know the hearing date, all the necessary reports have been completed and that these have been made available to all parties. In not guilty plea cases, the objective is to ensure that all parties are fully prepared, to identify and address any further risks to the effectiveness of the trial, to identify victim and witness needs and provide them with tailored interventions to ensure attendance at court.

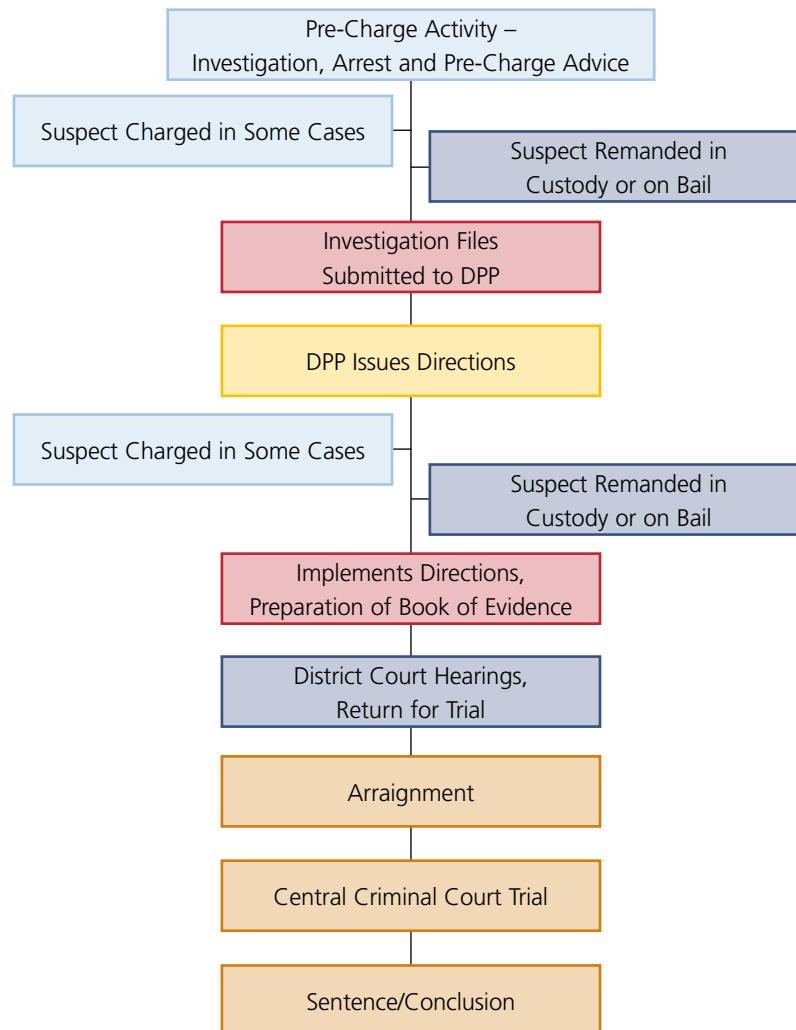
<sup>47</sup> An effective trial is one which goes ahead on the date it was listed to start. The term 'cracked' trial is used to refer to trials which do not proceed as originally scheduled in England and Wales.

Not guilty plea cases then progress to the main **Crown Court trial**. In all cases where an offender has pleaded or been found guilty, the case will then proceed to the final stage of **sentence**. The **conclusion** of the trial will be the date of sentence in guilty plea/verdict cases and the date of the verdict where defendants have been found not guilty. As previously, victims and witnesses are kept informed of progress at every stage of the process.

In summary, in England and Wales, the police are responsible for the first stage of the process – the investigation and arrest of suspected offenders. The Crown Prosecution Service makes charging decisions. Those charged with committing indictable offences are sent forward to the Crown Court on their first appearance in the Magistrates Court. The Crown Court is then responsible for the case until it has been disposed.

The structure of the criminal investigation and prosecution process in Ireland, as has been shown in Chapter 1, is broadly similar to that of England and Wales. A summary outline of the criminal investigation and prosecution process is repeated in Figure 6.2 for ease of reference.

**Figure 6.2: The Criminal Investigation and Prosecution Process in Ireland**



Key to Lead Organisations:

Gardaí	Solicitor's Division, Office of the DPP	Directing Division, Office of the DPP	District Court	Central Criminal Court
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### Differences between England and Wales and Ireland

The fact that cases are passed between two separate divisions within the Office of the Director of Public Prosecutions in Ireland differs from the more localised structure of the Crown Prosecution Service in England and Wales. As accused persons are only returned for trial after the Book of Evidence has been served in Ireland, cases are likely to have more appearances in and take longer to progress through the District Court than they do in the Magistrates' Courts in England and Wales. The absence of any out of court and/or preliminary hearings once a case has been returned to the Central Criminal Court is another notable difference.

Furthermore, there is more direct communication between the police and the Crown Prosecution Service in England and Wales than currently exists between the Gardaí and either the Solicitor's Division or the Directing Division of the Office of the Director of Public Prosecutions in Ireland.

The Central Criminal Court lists in Ireland are managed by the judge. Trial dates are mainly allocated on the basis of the earliest date available rather than the details of the individual case. There is limited input from Counsel to the extent that they may not be aware of all of the details of the case themselves at the listing date. Counsel may give an indication of how long they believe the trial will take. In England and Wales, Counsel have more input into the scheduling of trial dates. Both sides must fully outline their case to the Court to inform the fixing of a trial date. There is the opportunity to make representations to the Court as to how long the trial will take in both jurisdictions.

### TIME INTERVALS IN THE PROSECUTION OF CRIMINAL CASES IN OTHER JURISDICTIONS

Aside from these structural differences, in order to fully assess how expeditiously justice was delivered in Ireland, it is necessary to consider how quickly cases were progressed in these other jurisdictions. Unfortunately, no comparable data was available on the time intervals involved in the police investigation stage of the process for murder and rape cases. Data was available from both jurisdictions (England and Wales and Northern Ireland) for the court prosecution stage of the process.

The Central Criminal Court in Ireland predominantly tries the offences of murder and rape. The most comparable courts in Northern Ireland are the Crown Courts which try all indictable offences. The Northern Ireland Courts Service publishes figures on the time intervals involved in both scheduled and non-scheduled offences. Scheduled offences are those related to terrorist activity. Non-scheduled offences, the data included for analysis here, include murder, rape and serious sexual assaults as well as other serious offences. Hence, the data include some offences which are outside the jurisdiction of the Central Criminal Court in Ireland but are utilised here as they are the most comparable available. The Northern Ireland data for 2004 relate to the complete year (as opposed to the Irish Central Criminal Court data time period of the first quarter of 2004).

The Department for Constitutional Affairs (DCA) in London is responsible for the administration of all courts in England and Wales. In that jurisdiction, the Courts most comparable to the Irish Central Criminal Court are the Crown Courts (nationwide) and the Central Criminal Courts in London. These English and Welsh courts also try offences outside the jurisdiction of the Irish Central Criminal Court. However, the DCA was able to generate comparable data on foot of a request from the National Crime Council. Data for 2004 presented below includes only the first quarter of 2004, as with the Irish Central Criminal Court data. The data summarised below for England and Wales relates to all murder, manslaughter<sup>48</sup>, rape and serious sexual assault cases disposed of in the Crown Courts in England and Wales in the time periods in question.

Three time periods were considered when comparing this data. The overarching prosecution time interval was defined by the average number of weeks from when a defendant was returned for trial from the lower to the higher Court (referred to in Northern Ireland and England and Wales as the committal for trial) to the ultimate disposal of the case (verdict/sentence). This overall time interval was then considered in two segments, firstly, the

<sup>48</sup> Manslaughter was included in the data from England and Wales as so many of the cases in Ireland included charges of manslaughter (this could be in addition to a murder charge) originally or were finally found guilty of manslaughter. It also meant that all cases of a comparable nature tried in the Central Criminal Courts in London were included.

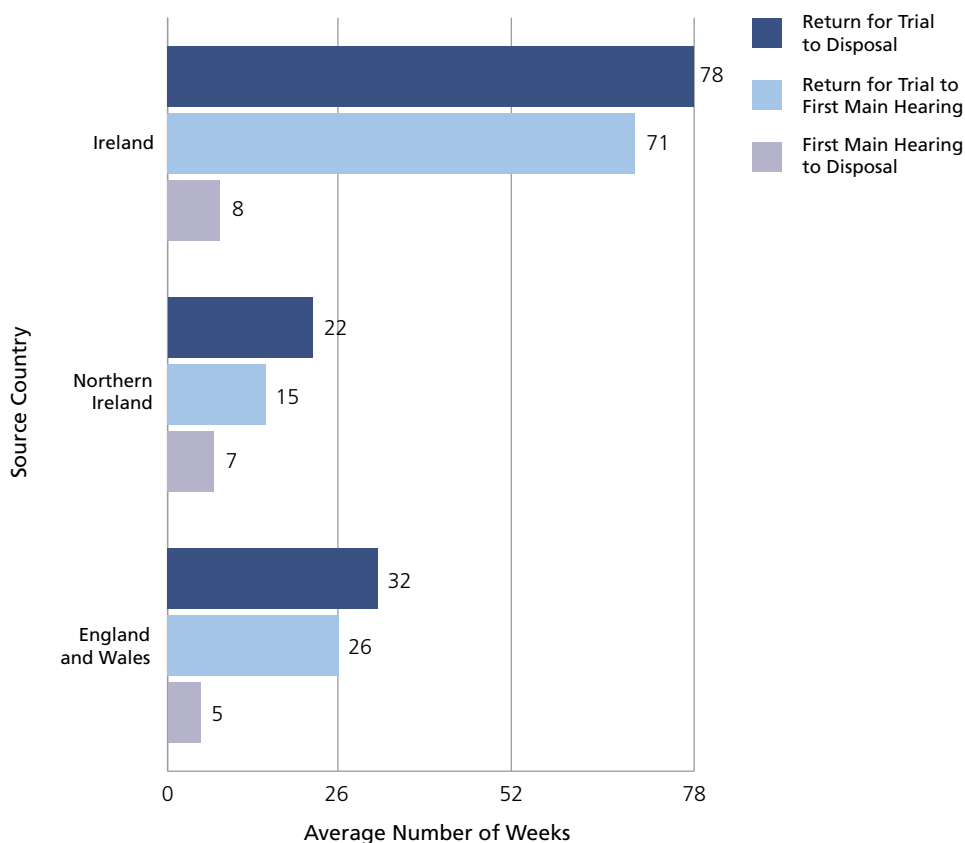
average number of weeks between the return for trial and first main hearing (either the start of the trial or the hearing at which the defendant pleads guilty), and secondly, the average number of weeks between the first main hearing and the ultimate disposal of the case. It is important to note that different processes are followed in these other jurisdictions and this may impact upon the time taken at different stages. Figure 6.3 below provides a summary for the three jurisdictions for each of these time intervals.

#### Note on the Comparison of Data

Averages, as opposed to median or typical case values, have been used in these sections as figures are published in averages in the other jurisdictions. This means that the average figures presented here cannot be directly compared to the typical case figures quoted in Chapter 5. As has been explained, the median is a more accurate measure of time intervals as it is less influenced by extreme values. The average figure for Ireland is greater than for the typical case due to presence of a small number of cases which took a particularly long time.

It is immediately apparent that, during the research period, these cases were taking significantly longer to be disposed of in Ireland than in either Northern Ireland (which was generally the quickest overall<sup>49</sup>) or in England and Wales. Figure 6.3 shows that, on average, cases in Ireland took 18 months from the time they had been returned for trial until the first trial was disposed of during the research period. Cases in England and Wales took, on average, seven and a half months and cases in Northern Ireland took, on average, five months from the time they had been returned for trial to the disposal of the case. To assist the reader in interpreting Figure 6.3, vertical lines have been added to indicate six monthly intervals.

**Figure 6.3: Average Number of Weeks between Return for Trial and Disposal in Ireland, Northern Ireland and England and Wales<sup>50</sup>**



<sup>49</sup> This may be related to the fact that cases for some less serious offences are also included in the Northern Ireland data.

<sup>50</sup> Averages for the intervening time intervals in Ireland do not add to the overall time from return for trial to disposal due to missing data.

On average, in all three jurisdictions, cases were disposed of between five and eight weeks after the first main hearing.

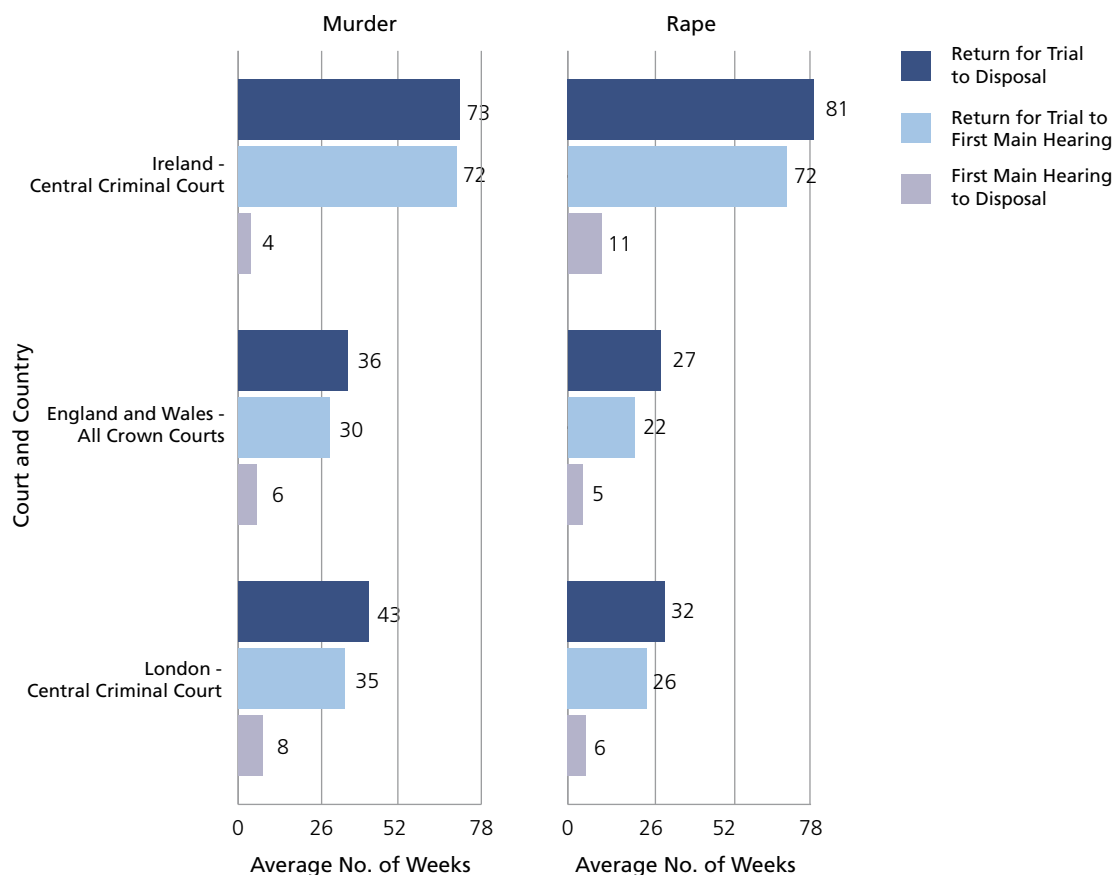
The time interval from return for trial to the first main hearing was much longer in all jurisdictions than the time between the first main hearing and disposal. The time from return for trial to first main hearing also incorporates a wider range of values, from 15 weeks to 71 weeks. **On average, during the research period, cases took significantly longer in Ireland (71 weeks) than in either England and Wales (26 weeks) or Northern Ireland (15 weeks) to progress between return for trial and the first main hearing.** However, as has been outlined in Chapter 5, there have been improvements in the time taken to process some cases through the Central Criminal Court since the research period – there is likely to be less of a difference between Ireland and the other jurisdictions now. Furthermore, if the Council's recommended time intervals were adhered to, it would mean that the first main hearing would occur within six months (26 weeks) of return for trial in the majority of cases. This would more than halve the time cases were taking during the research period and cases in Ireland would be taking a comparable time to those in England and Wales.

#### THE DISTINCTION BETWEEN MURDER AND RAPE CASES

As mentioned previously, the Department for Constitutional Affairs in London was able to provide more detailed information in respect of the time intervals involved in the prosecution of 'murder' and 'rape' cases. They also provided data for all Crown Courts and the Central Criminal Courts in London separately. This allowed for a more detailed comparison to be made between England and Wales and Ireland. Generally, only the most serious offences are tried in the Central Criminal Court in London. The data show that cases tried in the Central Criminal Court in London tend to take longer than those tried in the Crown Courts across England and Wales. Figure 6.4 below details the average number of weeks between return for trial and disposal of the first trial in 'murder' and 'rape' cases in both jurisdictions.

The same pattern was evident, with the number of weeks between the first main hearing and disposal being considerably shorter than the time between return for trial and first main hearing in both jurisdictions for 'murder' and 'rape' cases. **A notable difference was that, whilst in England and Wales 'murder' cases tended to take longer between return for trial and disposal, in Ireland it was 'rape' cases which tended to take longer.** This being said, during the research period, 'murder' and 'rape' cases took, on average, up to twice as long to progress from return for trial to disposal in Ireland as they did in England and Wales. Again, the most notable difference between the jurisdictions was the amount of time it took from when the defendant was returned for trial to the first main hearing. In Ireland, this took between two and three times longer than it did for the same cases in England and Wales. Again, however, it is important to remember that there have been improvements in the time cases take in the Central Criminal Court since the research period and that the Council's recommended time intervals would lead to greater comparability with the time intervals achieved in England and Wales. Figure 6.4 below illustrates these time intervals in both jurisdictions.

**Figure 6.4: Average Number of Weeks between Return for Trial and Disposal in 'Murder' and 'Rape' Cases in Ireland and England and Wales**



It is highly unlikely that there would be any significant difference between the overall features of cases disposed of in the two jurisdictions. The difference must, therefore, be explained by a difference in the procedures followed. If one reconsiders the earlier examination of the criminal investigation and prosecution process in both jurisdictions, it is possible to identify some likely causes for these differences. The likely reasons for the additional time taken in Ireland between return for trial and first main hearing are connected to the stage at which cases are returned for trial to the higher court and the overall case management procedures.

As has been highlighted earlier in the chapter, the Department for Constitutional Affairs acknowledges that the changes to committal proceedings (indictable offences are now sent straight to the Crown Court) has meant that cases take longer between committal (return for trial) and disposal but the overall time taken from arrest to sentence is reduced. Even so, they are taking considerably less time than is the case in Ireland. In addition to this, the Criminal Procedure Rules, 2005 introduced statutory time limits which stipulate that trials on indictment shall begin between 14 days<sup>51</sup> and 8 weeks after committal.

The Council is of the opinion that the presence of preliminary hearings and defined out of court processes increases the efficiency of these cases in England and Wales. Furthermore, the plea and directions hearing must take place within four weeks of committal if the defendant is in custody and within six weeks of committal if the defendant is on bail. As all parties are actively engaged in the management of the case, there is likely to be earlier identification of issues which will affect the progress of the case. This identification of issues may also serve to allow for more realistic scheduling of the trial date. In addition to this, the fact that there are more and earlier opportunities for the accused to plead guilty, undoubtedly serves to reduce the overall average time taken. These factors re-enforce the Council's earlier recommendation that consideration be given to the introduction of pre-trial hearings in Ireland.

<sup>51</sup> Trials may only begin less than 14 days after committal with the consent of both parties.





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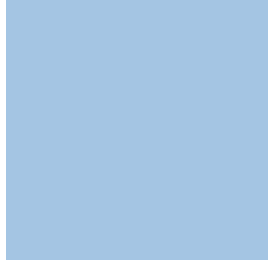
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## Appendices

### APPENDIX ONE - METHODOLOGY

#### Data Collection

The staff from the Organisational Development Unit (ODU) in Garda Headquarters were provided with the list of cases. The Council required verifiable evidence of the exact dates when different stages of the investigation and prosecution process (between initial arrest and the case being returned for trial from the District Court to the Central Criminal Court) were completed. In order to facilitate this process, a questionnaire was developed by ODU and approved by the Working Group of the Council. Following a successful pilot of the questionnaire, it was issued to all of the relevant Garda Divisions.

The details provided in the completed and returned questionnaires were then entered into a spreadsheet and checked by members of ODU staff. Data in respect of all cases of which the Gardaí were able to trace details had been entered into the spreadsheet and checked by early March, 2005. The Working Group and the Director then undertook the verification exercise. The Gardaí made all of their files available to the Working Group for this purpose. The verification involved a thorough inspection of each file, containing the questionnaire and supporting documentation, to check that all information relating to the various time intervals and/or delays had been entered. Where matters were unclear, questions were raised and answered to the satisfaction of the Working Group.

The Courts Service collected the relevant data on the identified cases from the date of return for trial to the final disposal of these cases. This information was entered by Courts Service personnel on a spreadsheet supplied by the Working Group. The collection of this data was completed by March, 2005. The verification of this data entailed a thorough examination, by the Working Group, of all the numerous, hand written court ledgers to ensure that all relevant details had been entered. Where matters were unclear, questions were raised and answered to the satisfaction of the Working Group. The Courts Service made all of their files available to the Council staff for verification purposes. This task was completed during July and August 2005.

Once all of the data had been collected and verified, it was necessary to combine the two spreadsheets so that the complete investigation and prosecution process could be considered together. This completed spreadsheet was transferred to a statistical software programme (SPSS) for analysis.

#### Obtaining the Views of Key Professionals and Academics

The Working Group considered that it would be beneficial if the views of key professionals working in the criminal justice system, as well as academics in the field were obtained. These key professionals and academics (listed below) met with the working group, having been advised of the terms of reference. The views of these professionals and academics were useful in formulating recommendations.

Meetings were held between the Working Group and the following key professionals:

- **The High Court** – the Honourable Mr. Justice Joseph Finnegan, President of the High Court and the Honourable Mr. Justice Henry Abbott.
- **The Office of the Director of Public Prosecutions** – Mr. James Hamilton, Director of Public Prosecutions, Mr. Michael Liddy, Director of Case Work, Ms. Claire Loftus, Chief Prosecution Solicitor and Mr. John Dolan, Prosecution Solicitor.
- **An Garda Síochána** – Chief Superintendent Gerard Blake, Chief Superintendent Patrick Brehony and Chief Superintendent Joseph McGarrity.

- **The Bar Council** – Ms. Mary Ellen Ring S.C., Chairman of the Criminal Bar Committee<sup>52</sup>, Mr. Fergal Foley, B.L., Ms. Orla Crowe, B.L. and Ms. Pauline Walley, B.L..
- **The Courts Service** – Mr. P.J. Fitzpatrick, C.E.O. of the Courts Service, Mr. Diarmaid MacDiarmada, Director of Operations, Circuit and District Court and Ms. Nuala McLoughlin, Chief Registrar, Director of Operations, Supreme and High Court.
- **The Courts Service** – Mr. Liam Convey, Registrar of the Central Criminal Court.
- **The Forensic Science Laboratory** – Dr. Sheila Willis, Director and Dr. Sean McDermott, Head of Biology.
- **The Law Society** – Mr. Patrick McGonigle, Chair of the Criminal Law Committee.
- **Practising Criminal Law Solicitors** – Mr. Garrett Sheehan and Mr. Michael Staines.

Further meetings were also held with the following academics in the field of criminal justice:

- **Prof. John Jackson**, Director of the Institute of Criminology and Criminal Justice, Queen's University, Belfast.
- **Dr. Ian O'Donnell**, Director, Institute of Criminology, University College Dublin<sup>53</sup>.
- **Prof. Dermot Walsh B.L.**, Director of the Centre for Criminal Justice, University of Limerick.

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<sup>52</sup> At time of writing, Mary Ellen Ring was no longer Chairman of the Criminal Bar Committee.

<sup>53</sup> Dr. O'Donnell was Deputy Director of the Institute of Criminology at the time of meeting with the Working Group.

APPENDIX TWO – DETAILED FIGURES AND TABLES

**Table A2. 1: Detailed Analysis of the Number of Weeks between Initial Garda Charge and First Central Criminal Court (CCC) Disposal in All ‘Murder’ and ‘Rape’ Cases**

**Murder - All Cases**

Weeks from Initial Garda Charge to Disposal

N	Valid	110
	Missing	10
Mean		107.513
Median		98.357
Minimum		29.7
Maximum		266.9
Percentiles	25	69.500
	50	98.357
	75	126.393

**Rape - All Cases**

Weeks from Initial Garda Charge to Disposal

N	Valid	173
	Missing	25
Mean		101.736
Median		90.143
Minimum		22.0
Maximum		314.3
Percentiles	25	63.786
	50	90.143
	75	127.857

**Table A2. 2: Detailed Analysis of the Number of Weeks between Initial Garda Charge and First CCC Disposal of All Jury Trials in ‘Murder’ and ‘Rape’ Cases**

**Murder - Jury Trials**

Weeks from Initial Garda Charge to Disposal

N	Valid	79
	Missing	9
Mean		113.591
Median		101.286
Minimum		29.7
Maximum		229.6
Percentiles	25	80.00
	50	101.286
	75	132.286

**Rape - Jury Trials**

Weeks from Initial Garda Charge to Disposal

N	Valid	77
	Missing	9
Mean		111.716
Median		98.429
Minimum		33.6
Maximum		245.4
Percentiles	25	71.000
	50	98.429
	75	138.857

**Table A2. 3: Detailed Analysis of the Number of Weeks between Initial Garda Charge and First CCC Disposal of all Trials without the Necessity for a Jury in ‘Murder’ and ‘Rape’ Cases**

**Murder Cases - Disposed without a Jury**

Weeks from Initial Garda Charge to Disposal

N	Valid	31
	Missing	1
Mean		92.023
Median		77.429
Minimum		30.3
Maximum		266.9
Percentiles	25	60.000
	50	77.429
	75	118.857

**Rape Cases - Disposed without a Jury**

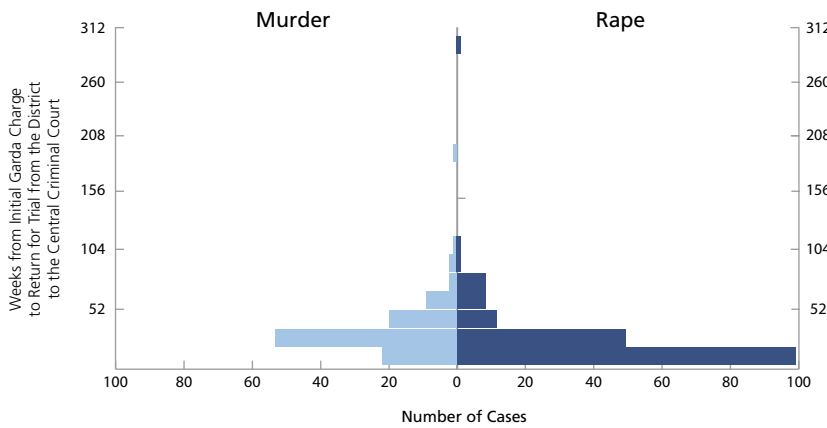
Weeks from Initial Garda Charge to Disposal

N	Valid	96
	Missing	16
Mean		93.731
Median		84.214
Minimum		22.0
Maximum		314.3
Percentiles	25	56.679
	50	84.214
	75	106.179

**Table A2. 4: Summary of Time Intervals between Arrest and Return for Trial in Typical ‘Murder’ and ‘Rape’ Cases**

Time Interval	Number of Weeks in Typical ‘Murder’ Case	Number of Weeks in Typical ‘Rape’ Case
Initial Arrest to Charge	0	35
Charge to Full File to the DPP	10	-18
Full File to the DPP to Final Written DPP Directions	4	11
Final Written DPP Directions to Service of the Book of Evidence	7	16
Service of the Book of Evidence to Return for Trial	1	3
Charge to Return for Trial	27	15

**Figure A2. 1: Number of Weeks between Charge and Return for Trial in ‘Murder’ and ‘Rape’ Cases**



**Table A2. 5: Detailed Analysis of the Number of Weeks between Charge and Return for Trial in ‘Murder’ and ‘Rape’ Cases**

**Murder**

Weeks from Initial Garda Charge to Return for Trial from the District to the Central Criminal Court

N	Valid	110
	Missing	10
Mean		32.294
Median		26.857
Minimum		1.0
Maximum		195.4
Percentiles	25	18.107
	50	26.857
	75	40.000

**Rape**

Weeks from Initial Garda Charge to Return for Trial from the District to the Central Criminal Court

N	Valid	173
	Missing	25
Mean		21.626
Median		14.857
Minimum		.0
Maximum		290.7
Percentiles	25	7.786
	50	14.857
	75	24.500

Figure A2. 2: Number of Weeks from Arrest to Charge in 'Murder' and 'Rape' Cases

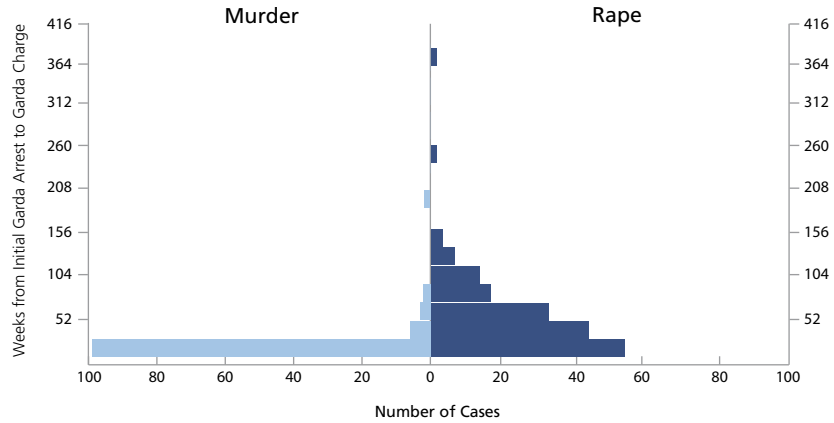


Table A2. 6: Detailed Analysis of the Number of Weeks between Arrest and Charge in 'Murder' and 'Rape' Cases

**Murder**

Weeks from Initial Garda Arrest to Garda Charge

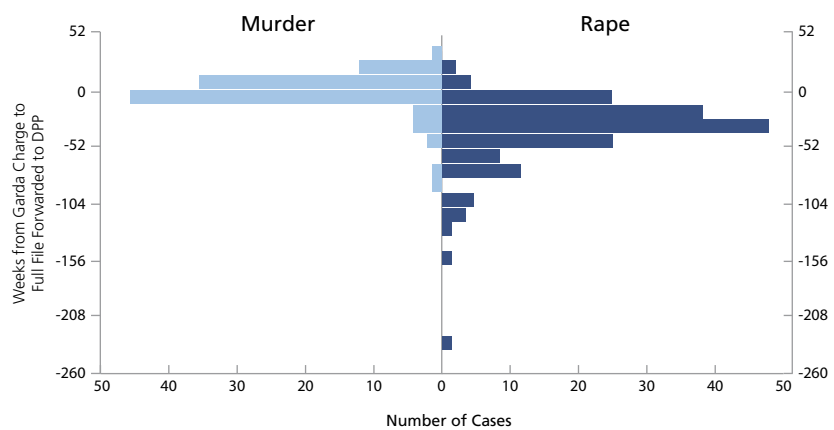
N	Valid	110
	Missing	10
Mean		6.617
Median		.143
Minimum		.0
Maximum		218.0
Percentiles	25	.000
	50	.143
	75	.286

**Rape**

Weeks from Initial Garda Arrest to Garda Charge

N	Valid	172
	Missing	26
Mean		41.343
Median		35.429
Minimum		.0
Maximum		371.6
Percentiles	25	10.964
	50	35.429
	75	59.107

Figure A2. 3: Number of Weeks between Charge and Full Investigation File being Sent to the Office of the DPP in 'Murder' and 'Rape' Cases



**Table A2. 7: Detailed Analysis of the Number of Weeks between Charge and Full Investigation File being Sent to the Office of the DPP in 'Murder' and 'Rape' Cases**

**Murder**

Weeks from Garda Charge to Full File Forwarded to DPP

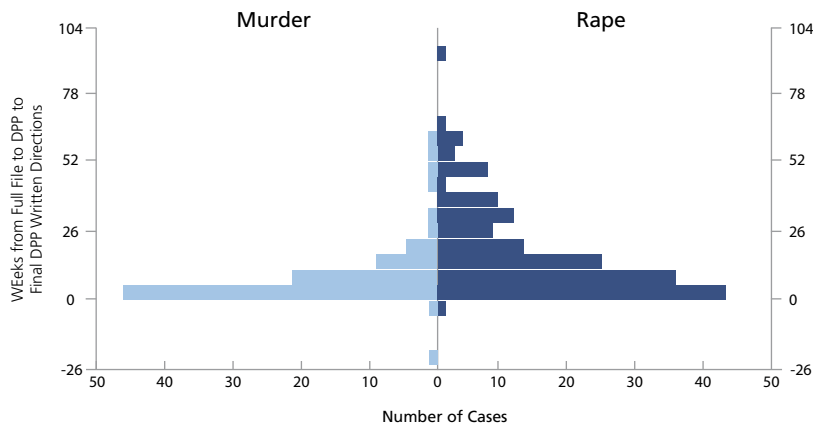
N	Valid	107
	Missing	13
Mean		9.247
Median		10.429
Minimum		-64.9
Maximum		40.1
Percentiles	25	5.429
	50	10.429
	75	18.000

**Rape**

Weeks from Garda Charge to Full File Forwarded to DPP

N	Valid	171
	Missing	27
Mean		-22.539
Median		-18.143
Minimum		-220.1
Maximum		32.7
Percentiles	25	-31.429
	50	-18.143
	75	-4.714

**Figure A2. 4: Number of Weeks between Full Investigation File to the Office of the DPP and Final DPP Written Directions in 'Murder' and 'Rape' Cases**



**Table A2. 8: Detailed Analysis of the Number of Weeks between Full Investigation File to the Office of the DPP and Final DPP Written Directions in 'Murder' and 'Rape' Cases**

**Murder**

Weeks from Full File to DPP to Final DPP Written Directions

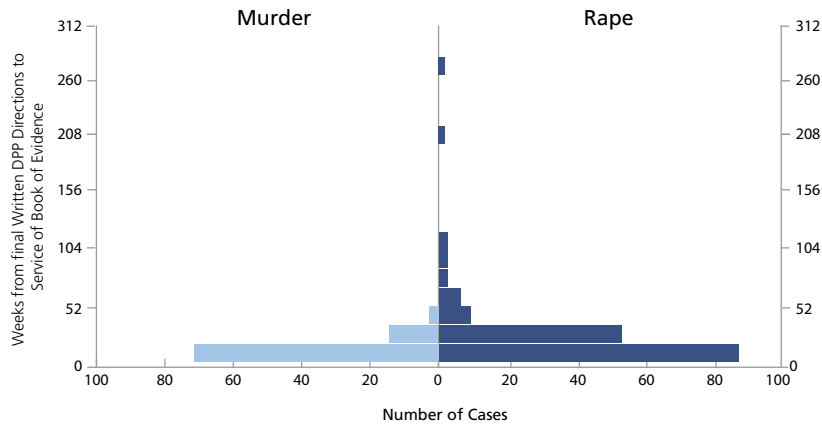
N	Valid	91
	Missing	29
Mean		7.328
Median		4.143
Minimum		-22.3
Maximum		51.9
Percentiles	25	1.857
	50	4.143
	75	8.857

**Rape**

Weeks from Full File to DPP to Final DPP Written Directions

N	Valid	169
	Missing	29
Mean		15.855
Median		10.857
Minimum		-2.4
Maximum		90.0
Percentiles	25	4.857
	50	10.857
	75	22.786

**Figure A2. 5: Number of Weeks between Final Written DPP Directions and Service of Book of Evidence in 'Murder' and 'Rape' Cases**



**Table A2. 9: Detailed Analysis of the Number of Weeks between Final Written DPP Directions and Service of Book of Evidence in 'Murder' and 'Rape' Cases**

**Murder**

Weeks from Final Written DPP Directions to Service of the Book of Evidence

N	Valid	90
	Missing	30
Mean		10.141
Median		7.286
Minimum		.0
Maximum		43.1
Percentiles	25	3.964
	50	7.286
	75	13.893

**Rape**

Weeks from Final Written DPP Directions to Service of the Book of Evidence

N	Valid	161
	Missing	37
Mean		22.680
Median		15.857
Minimum		.9
Maximum		275.3
Percentiles	25	8.500
	50	15.857
	75	24.071

**Table A2. 10: Detailed Analysis of the Number of Weeks between Service of Book of Evidence and Return for Trial in 'Murder' and 'Rape' Cases**

**Murder**

Weeks from Service of Book of Evidence to Return for Trial from the District to the Central Criminal Court

N	Valid	107
	Missing	13
Mean		6.292
Median		1.000
Minimum		-35.3
Maximum		137.1
Percentiles	25	.000
	50	1.000
	75	6.000

**Rape**

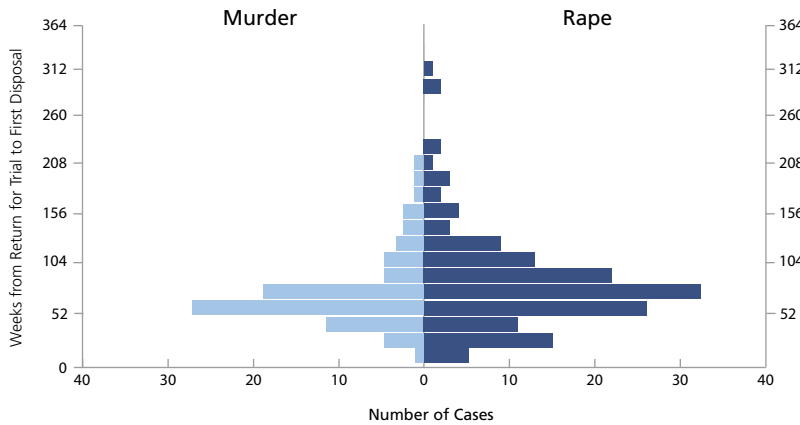
Weeks from Service of Book of Evidence to Return for Trial from the District to the Central Criminal Court

N	Valid	170
	Missing	28
Mean		6.187
Median		3.000
Minimum		-46.0
Maximum		69.9
Percentiles	25	.000
	50	3.000
	75	7.286

**Table A2. 11: Summary of Time Intervals between Return for Trial and Disposal in Typical ‘Murder’ and ‘Rape’ Cases**

Time Interval	Number of Weeks in the Typical ‘Murder’ Case	Number of Weeks in the Typical ‘Rape’ Case
Return for Trial to Listing Date	4	4
Listing Date to Scheduled Trial Date	50	53
Scheduled Trial Date to Arraignment	0	0
Return for Trial to Arraignment	60	60
Arraignment to Start of Trial	0	0
Start of Trial to End of Trial	1	1
End of Trial to Sentence	0	11
Arraignment to Disposal	2	9
Return for Trial to Disposal	64	72

**Figure A2. 6: Number of Weeks between Return for Trial and First Disposal in ‘Murder’ and ‘Rape’ Cases**



**Table A2. 12: Detailed Analysis of the Number of Weeks between Return for Trial and First Disposal in ‘Murder’ and ‘Rape’ Cases**

**Murder**

Weeks from Return for Trial from District to the Central Criminal Court to Disposal

N	Valid	120
	Missing	0
Mean		73.244
Median		64.000
Minimum		7.1
Maximum		204.7
Percentiles	25	46.929
	50	64.000
	75	90.214

**Rape**

Weeks from Return for Trial from District to the Central Criminal Court to Disposal

N	Valid	198
	Missing	0
Mean		81.124
Median		71.929
Minimum		5.6
Maximum		303.4
Percentiles	25	51.321
	50	71.929
	75	100.607

**Table A2. 13: Detailed Analysis of the Number of Weeks between Return for Trial and Listing Date in 'Murder' and 'Rape' Cases**

**Murder**

Weeks from Return for Trial to Date in List to Fix Trial Date

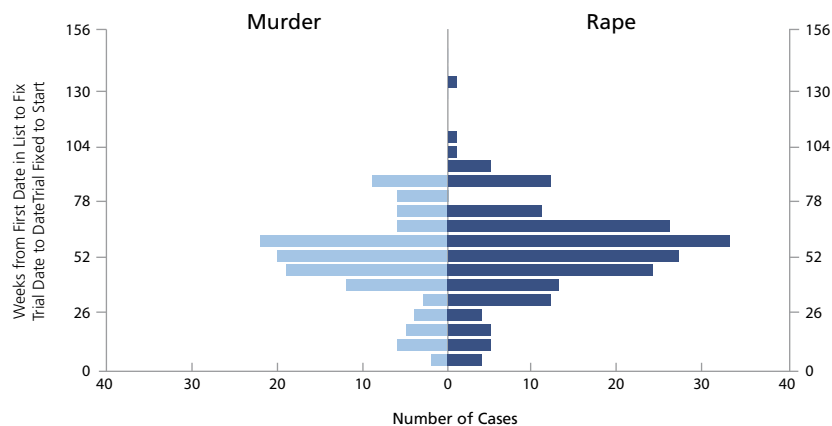
N	Valid	120
	Missing	0
Mean		5.338
Median		4.000
Minimum		.1
Maximum		28.3
Percentiles	25	2.143
	50	4.000
	75	6.143

**Rape**

Weeks from Return for Trial to Date in List to Fix Trial Date

N	Valid	197
	Missing	1
Mean		5.625
Median		3.857
Minimum		.3
Maximum		112.7
Percentiles	25	2.357
	50	3.857
	75	6.143

**Figure A2. 7: Number of Weeks between Listing Date and Scheduled Trial Date in 'Murder' and 'Rape' Cases**



**Table A2. 14: Detailed Analysis of Number of Weeks between Listing Date and Scheduled Trial Date in 'Murder' and 'Rape' Cases**

**Murder**

Weeks from First Date in List to Fix Trial Date to Scheduled Trial Date

N	Valid	118
	Missing	2
Mean		48.500
Median		49.571
Minimum		.0
Maximum		85.6
Percentiles	25	38.571
	50	49.571
	75	58.607

**Rape**

Weeks from First Date in List to Fix Trial Date to Scheduled Trial Date

N	Valid	186
	Missing	12
Mean		52.437
Median		52.714
Minimum		1.9
Maximum		136.6
Percentiles	25	41.571
	50	52.714
	75	63.607

**Table A2. 15: Detailed Analysis of the Number of Weeks between the Scheduled Trial Date and Arraignment in ‘Murder’ and ‘Rape’ Cases**

**Murder**

Weeks from Scheduled Trial Date to Initial Arraignment

N	Valid	108
	Missing	12
Mean		16.306
Median		.000
Minimum		-45.0
Maximum		139.0
Percentiles	25	.000
	50	.000
	75	26.250

**Rape**

Weeks from Scheduled Trial Date to Initial Arraignment

N	Valid	160
	Missing	38
Mean		14.562
Median		.000
Minimum		-83.9
Maximum		264.0
Percentiles	25	.000
	50	.000
	75	3.821

**Table A2. 16: Detailed Analysis of the Number of Weeks between Return for Trial and Arraignment in ‘Murder’ and ‘Rape’ Cases**

**Murder**

Weeks from Return for Trial to First Arraignment in the Central Criminal Court

N	Valid	110
	Missing	10
Mean		68.990
Median		60.214
Minimum		10.7
Maximum		200.6
Percentiles	25	48.321
	50	60.214
	75	84.429

**Rape**

Weeks from Return for Trial to First Arraignment in the Central Criminal Court

N	Valid	171
	Missing	27
Mean		66.780
Median		60.000
Minimum		2.9
Maximum		296.7
Percentiles	25	43.714
	50	60.000
	75	84.000

**Table A2. 17: Detailed Analysis of the Number of Weeks between Arraignment and Start of Jury Trial in ‘Murder’ and ‘Rape’ Cases**

**Murder**

Weeks from Arraignment to Start of Trial

N	Valid	87
	Missing	33
Mean		4.146
Median		.000
Minimum		.0
Maximum		73.0
Percentiles	25	.000
	50	.000
	75	.143

**Rape**

Weeks from Arraignment to Start of Trial

N	Valid	85
	Missing	113
Mean		9.024
Median		.000
Minimum		.0
Maximum		146.0
Percentiles	25	.000
	50	.000
	75	.286

**Table A2. 18: Detailed Analysis of the Number of Weeks between the Start and End of the Jury Trial in 'Murder' and 'Rape' Cases**

**Murder**

Weeks from Start of Trial to End of Trial

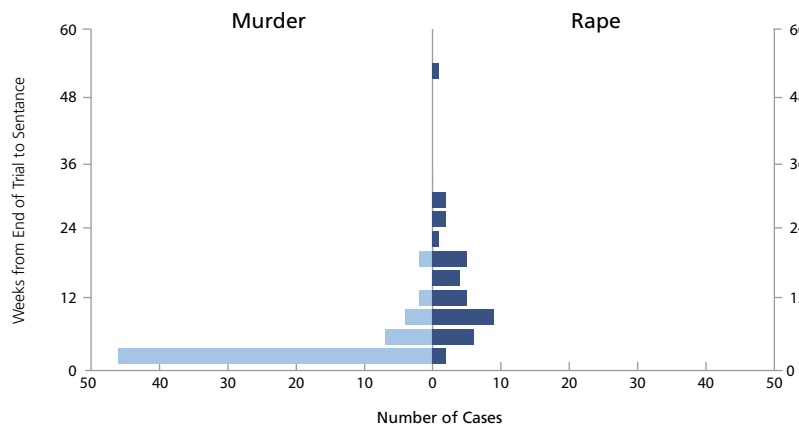
N	Valid	85
	Missing	35
Mean		1.566
Median		1.143
Minimum		.0
Maximum		12.9
Percentiles	25	.429
	50	1.143
	75	2.071

**Rape**

Weeks from Start of Trial to End of Trial

N	Valid	82
	Missing	116
Mean		.953
Median		.571
Minimum		.0
Maximum		5.4
Percentiles	25	.429
	50	.571
	75	1.143

**Figure A2. 8: Number of Weeks between End of Jury Trial and Sentence in 'Murder' and 'Rape' Cases**



**Table A2. 19: Detailed Analysis of the Number of Weeks between End of Jury Trial and Sentence in 'Murder' and 'Rape' Cases**

**Murder**

Weeks from End of Trial to Sentence

N	Valid	61
	Missing	59
Mean		2.415
Median		.000
Minimum		.0
Maximum		18.9
Percentiles	25	.000
	50	.000
	75	3.714

**Rape**

Weeks from End of Trial to Sentence

N	Valid	37
	Missing	161
Mean		13.467
Median		11.143
Minimum		2.4
Maximum		53.3
Percentiles	25	7.071
	50	11.143
	75	17.071

**Table A2. 20: Detailed Analysis of the Number of Weeks between Arraignment and Disposal in 'Murder' and 'Rape' Cases**

**Jury Trials - Murder**

Weeks from First Arraignment to First Disposal

N	Valid	88
	Missing	0
Mean		8.287
Median		2.071
Minimum		.0
Maximum		73.1
Percentiles	25	.857
	50	2.071
	75	7.321

**Jury Trials - Rape**

Weeks from First Arraignment to First Disposal

N	Valid	86
	Missing	2
Mean		17.279
Median		4.571
Minimum		.0
Maximum		171.4
Percentiles	25	.571
	50	4.571
	75	15.571

**Table A2. 21: Detailed Analysis of the Number of Weeks between Arraignment and Disposal in 'Murder' and 'Rape' Cases**

**Murder Cases without the Necessity for a Jury**

Weeks from First Arraignment to First Disposal

N	Valid	22
	Missing	10
Mean		5.182
Median		1.500
Minimum		.0
Maximum		18.1
Percentiles	25	.000
	50	1.500
	75	10.786

**Rape Cases without the Necessity for a Jury**

Weeks from First Arraignment to First Disposal

N	Valid	85
	Missing	25
Mean		16.822
Median		10.571
Minimum		.0
Maximum		291.4
Percentiles	25	7.214
	50	10.571
	75	14.286

GLOSSARY OF TERMS<sup>54</sup>

<b>Adjournment</b>	Postponement of a court hearing.
<b>An Garda Síochána</b>	The Irish Police Force (The Guardians of the Peace).
<b>Arraignment</b>	Procedure for calling an accused person before the Court to answer charges and to say whether he or she is guilty or not guilty.
<b>Bench Warrant</b>	A warrant issued by the Court for the arrest of an accused person who has failed to attend Court.
<b>Book of Evidence</b>	The statements of evidence to be given at the trial of an accused and the list of the exhibits.
<b>Central Criminal Court</b>	The High Court exercising its criminal jurisdiction is known as the Central Criminal Court. It deals with serious criminal offences such as murder and rape. Trials are heard by a judge and 12 person jury.
<b>Chief State Solicitor</b>	The function of the Chief State Solicitor is to act as the solicitor to Ireland, the Attorney General, Government Departments and Offices and State Agencies.
<b>Crown Court</b>	The Crown Courts in England and Wales deal with more serious criminal cases such as, murder, rape or robbery, some of which are on appeal or referred from Magistrates' Courts. Cases are heard by a judge and a 12 person jury.
<b>Crown Prosecution Service</b>	The Crown Prosecution Service (CPS) for England and Wales is a Government Agency. The CPS decides whether criminal proceedings, which have been started by the police, should progress to court. If they decide to proceed, the CPS will prepare and conduct the court proceedings for the prosecution.
<b>Dept. for Constitutional Affairs</b>	The Department for Constitutional Affairs of England and Wales was created in 2003. Its role is to drive forward the reform and improvement of the justice system for England and Wales as well as safeguarding the Constitution so it serves the public effectively.
<b>Depositions</b>	A statement by a witness made under oath.
<b>Director of Public Prosecutions</b>	The DPP holds statutory office and is an independent official, a lawyer who, inter alia, decides whether to prosecute in criminal cases and in whose name criminal prosecutions are taken.
<b>Disclosure</b>	There is a common law duty on the prosecution in criminal proceedings to disclose relevant evidence. This duty exists irrespective of any request and continues throughout the trial (see Book of Evidence also). There is no requirement for the accused to disclose his/her defence, except where he/she intends to raise the defence of an alibi.
<b>Disposal</b>	The conclusion of the criminal case, usually either on the date the verdict is delivered or, having been found guilty, the date on which the accused is sentenced by the Court.
<b>District Court</b>	First Court in the Irish judicial system, with power to deal with most minor criminal cases.
<b>Indictment</b>	Formal written accusation initiating the trial of a criminal offence before a jury.
<b>Injured Party</b>	The injured party or victim in a criminal case.

<sup>54</sup> These definitions are adapted from those supplied on the Courts Service website ([www.courts.ie](http://www.courts.ie)), from the National Adult Literacy Agency's publication 'A Plain English Guide to Legal Terms', from Murdoch's Dictionary of Irish Law and from the websites of the Crown Prosecution Service ([www.cps.gov.uk](http://www.cps.gov.uk)) and the Department for Constitutional Affairs for England and Wales ([www.dca.gov.uk](http://www.dca.gov.uk)).

<b>Local State Solicitor</b>	A solicitor who takes on State work on a contract basis for areas outside Dublin.
<b>Magistrates' Court</b>	The Magistrates' Court in England and Wales are similar to the District Courts in Ireland. They deal with 95% of criminal cases. Cases in the Magistrates' Courts are usually heard by a panel of three magistrates (Justices of the Peace) supported by a legally qualified Court Clerk. In addition, there are also about 130 District Judges who sit alone and deal with more complex or sensitive cases.
<b>Mean</b>	The average of a number of values.
<b>Median</b>	The middle value in a numerically ordered range of values.
<b>Mentions</b>	Instances where the case is listed for some matter to be clarified or other reason.
<b>Motions</b>	An application to a court or to a judge for an order directing something to be done in the applicant's favour.
<b><i>Nolle Prosequi</i></b>	The entering by the prosecution of a stay on criminal proceedings (not to be confused with an acquittal).
<b>Order</b>	Formal written direction by a judge.
<b>Pre-Trial Hearing</b>	A hearing held prior to the trial for the purposes of determining what matters are in dispute and what steps remain to be taken to prepare the case for trial.
<b>Probation and Welfare Report</b>	Background report on the accused prepared by a Probation and Welfare officer.
<b>Registrar</b>	An official responsible for compiling and keeping the records of the Court.
<b>Return for Trial</b>	The order returning an accused for trial. All that is required is that the return for trial indicate the sitting of the Court to which the accused is returned.
<b>Sex Offender Certificate</b>	A Court order made under Section 16 of the Sex Offenders Act, 2001 prohibiting a convicted sex offender from doing one or more things specified in the order. Whilst in the Court records this is referred to as a Certificate, in the legislation it is defined as an order.
<b>Submissions</b>	A District Judge is entitled to invite submissions on the issues raised before him/her and to direct that the submissions be in writing and exchanged between the parties.
<b>Victim Impact Report</b>	A report on the effect of a criminal offence upon the victim or the victim's family.
<b>Video Link Evidence</b>	Evidence given to the Court by means of a video recording/live television broadcast.
<b>Zambra</b>	The Zambra ruling relates to the manner in which defendants were returned for trial to the Central Criminal Court under a new procedure. A subsequent ruling by the High Court in the case of <i>Zambra v. McNulty</i> (2002) found that the return for trial in that case had been made under the new procedures but that the old preliminary examination procedure should have been followed. This had the effect that, in this case and others where the incorrect procedure had been followed, the order for return for trial was quashed and the cases were remitted to the District Court in order that the correct procedure be followed. See page 7 for further details.



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