

Criminal Assets Bureau
Harcourt Square
Harcourt Street
Dublin 2
D02 PT89
Ireland

Tel: +353 1 666 3266
Email: info@cab.ie
Twitter: [criminalassets](https://twitter.com/criminalassets)
Facebook: www.facebook.com/criminalassetsbureau

www.cab.ie
www.anbiúroumschómhainnícoiriúla.ie

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Letter forwarding report from the Garda Commissioner to the Minister for Justice and Equality

Dear Minister

In accordance with the provisions of section 21 of the Criminal Assets Bureau Act 1996, I am pleased to present to you the 2019 Annual Report of the Criminal Assets Bureau.

2019 was a very busy year for the Bureau. The Bureau brought thirty one new proceeds of crime cases in 2019, the highest number in its twenty four year history.

I note that the Bureau conducted fifty seven search operations consisting of two hundred and twenty seven searches in twenty counties and obtained High Court orders under the Proceeds of Crime Act 1996 in respect of assets in fourteen counties.

The unprecedented number of search operations is evidence of excellent co-operation between the Criminal Assets Bureau and all Garda Divisions

The Bureau has refocused its efforts towards strong co-operation with locally trained Garda Asset Profilers and continues to foster links with local communities and supporting local Garda management in enhancing the role of the Divisional Asset Profilers Network.

In addition, I recognise its extensive co-operation with law enforcement agencies in Northern Ireland, including the Police Service of Northern Ireland (PSNI), Her Majesty's Revenue and Customs (HMRC) and the National Crime Agency (NCA).

Internationally, the Bureau continues to liaise and conduct investigations with law enforcement and judicial authorities throughout Europe and worldwide and is effective at international level as the designated Asset Recovery Office (ARO) in Ireland.

The Bureau has promoted its activities through the Garda Press Office and social media and has demonstrated the utmost professionalism in this area which is welcomed by both the local communities and the media.

During 2019, the Bureau focused on all crimes involving wealth acquisition and returned in excess of €3.9 million to the Exchequer.

I wish the Criminal Assets Bureau every success in the future.

Yours sincerely



J A Harris
COMMISSIONER
AN GARDA SÍOCHÁNA

Letter forwarding report from the Garda Commissioner to
the Minister for Justice and Equality

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Letter forwarding report from Chief Bureau Officer to the Commissioner of An Garda Síochána

Dear Commissioner

It is my pleasure to deliver the 24th Annual Report of the Criminal Assets Bureau for the calendar year 2019. This report is submitted for presentation to the Minister for Justice and Equality pursuant to the provisions of section 21 of the Criminal Assets Bureau Act, 1996. In compliance with its statutory obligations, the report sets out the activities of the Bureau throughout the year in targeting the proceeds of crime.

During the year, the Bureau has continued to focus on the development of the Divisional Asset Profiler Network. The Bureau recognises the contribution of locally trained Asset Profilers in the early identification of suitable targets for action by the Bureau.

During 2019, thirty one new applications were brought before the High Court under the Proceeds of Crime legislation. This compares with thirty such applications in 2018 and marks a period of sustained growth in new cases being brought before the High Court by the Bureau since 2017.

Once again, the majority of these actions were taken arising from the proceeds of drug trafficking. The second most frequent crime type relates to frauds and thefts of various categories. The Bureau will commence an investigation that relates to any criminal conduct which involves the acquisition of wealth.

Under legislation introduced in 2016, the threshold for invoking the Proceeds of Crime Act reduced from €13,000 to

€5,000. In 2019, the value of assets under the new proceeds of crime cases commenced by the Bureau ranged in value from €5,010 to €51.2 million. Proceeds of crime actions, together with actions under the Revenue and Social Protection provisions, yielded in excess of €3.9 million to the Exchequer in 2019.

The Bureau co-ordinates its activities in a manner which takes cognisance of the Policing Plan of An Garda Síochána and the strategies of the Office of the Revenue Commissioners, the Department of Employment Affairs and Social Protection and the Department of Justice and Equality. During 2019, the Bureau continued to support the nationwide anti-burglary initiative known as Operation Thor.

Many of the Bureau's investigations have an international dimension and involve co-operation with law enforcement agencies in other jurisdictions. The Bureau is currently participating in the first two Joint Investigation Team (JIT) agreements that Ireland has joined.

The Bureau continues to develop its relationships with Interpol, Europol and the Camden Assets Recovery Inter-Agency Network (CARIN) and continues to represent Ireland on the platform of the Asset Recovery Offices.

At all times, the Bureau receives excellent support from legislators, members of the public and the media. I wish to acknowledge the professional assistance provided to the Bureau by the Garda Press Office.

Letter forwarding report from Chief Bureau Officer to the Commissioner of An Garda Síochána

Staff of the Bureau have developed a significant social media presence through Facebook and Twitter resulting in the promotion of the activity of the Bureau and valuable information from members of the public. I wish also to personally acknowledge the efforts of the Bureau staff in promoting its work through social media.

In addition, the support and cooperation afforded to the Bureau throughout the year by An Garda Síochána, the Office of the Revenue Commissioners, the Department of Employment Affairs and Social Protection, the Department of Justice and Equality, the Department of Finance, the Department of Public Expenditure and Reform, the Office of the Attorney General and the Office of the Director of Public Prosecutions is greatly appreciated.

Likewise, I would also like to acknowledge the expertise and commitment of the solicitors and staff allocated by the Chief State Solicitor to the work of the Bureau. The value of in-house independent legal advice and support cannot be over emphasised in contributing to the success of the Bureau.

I am conscious that the increased activity of the Bureau over the past three years, in particular, has put extra pressure on the staff of the Chief State Solicitor's Office co-located within the Bureau.

The Bureau recognises the increased output of activities has resulted in significantly more demands on the services of the Chief State Solicitor's Office. We therefore support, by way of

a joint business case, a request for an increase in staffing levels in that Office.

In addition, I want also to acknowledge the contribution of legal counsel engaged by the Bureau.

During the year, there were many personnel changes within the Bureau arising from the departure of a number of personnel on promotion, retirement and transfer. This is an inevitable reality given the structure of the Bureau and as a result it has given rise to an emphasis on maintaining a strong and well-resourced system for staff training which has been put in place in recent years.

The Bureau is committed to the continuous professional development of all personnel.

During 2019, considerable progress was made in obtaining approval for a Post Graduate Diploma in Proceeds of Crime and Asset Investigation. The Bureau has entered a strategic partnership with the University of Limerick and plans are in place to deliver the course in the academic year commencing in Autumn 2020.

I welcome our new Bureau Legal Officer, Mr Kevin McMeel, who took up his appointment on the 19th July 2019 and wish him luck in the new position.

I also wish to thank our previous Bureau Legal Officer, Mr Declan O'Reilly and our former Detective Superintendent Gearóid Begley for their hard work, commitment and dedication to the Bureau for the last number of years. I

Letter forwarding report from Chief Bureau Officer to
the Commissioner of An Garda Síochána

would like to take this opportunity to wish them both every success for the future.

I am pleased that the Bureau has obtained approval for increased resources in 2019 with an increase in Social Welfare Bureau Officers from six to eight.

Finally, I wish to acknowledge the dedication and hard work of all personnel attached to the Bureau past and present. The nature of the work is such that, in many instances, it cannot be publicly acknowledged due to the necessity for anonymity and security requirements for the personnel concerned relating to their work.

Yours sincerely



PATRICK CLAVIN
D/CHIEF SUPERINTENDENT
CHIEF BUREAU OFFICER

Letter forwarding report from Chief Bureau Officer to
the Commissioner of An Garda Síochána

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Foreword

Section 21 Report

This is the 24th Annual Report on the activities of the Criminal Assets Bureau (hereinafter referred to as “the Bureau”) and covers the period from 1st January 2019 to 31st December 2019 inclusive.

The Criminal Assets Bureau Act 1996 and the Proceeds of Crime Act 1996 have both been amended on a number of occasions but most substantially by way of the Proceeds of Crime (Amendment) Act, 2005.

For the purpose of this report, the Criminal Assets Bureau Act 1996 to 2005 will hereinafter be referred to as “the CAB Act” and the Proceeds of Crime Act 1996 to 2016 will hereinafter be referred to as “the PoC Act”. The 1996 CAB Act, together with the 2005 and 2016 Acts, provide a collective title of amendments governing the powers and functions of the Bureau.

This report is prepared pursuant to section 21 of the CAB Act which requires the Bureau to present a report, through the Commissioner of An Garda Síochána, to the Minister for Justice and Equality outlining its activities during the year 2019.

Foreword

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Part One

Overview of the Criminal Assets Bureau, its Officers and Staff

The Bureau

On the 15th October 1996, the Bureau was formally established by the enactment of the CAB Act. The CAB Act provides for (among other matters):

- the objectives of the Bureau;
- the functions of the Bureau;
- the Chief Bureau Officer;
- Bureau Officers;
- staff of the Bureau;
- the Bureau Legal Officer;
- anonymity of staff of the Bureau;
- offences and penalties for identifying staff of the Bureau and their families;
- offences and penalties for obstruction and intimidation;
- CAB search warrants;
- CAB production orders.

Governance

The interagency and multi-disciplinary structure of the Bureau, together with its multi-stranded governance and accountability pathways, means that the Bureau does not fall within the traditional definition of a State Body within the meaning of the Code of Practice for the Governance of State Bodies. The Bureau does, however, apply the Code of Practice for the Governance State Bodies as adapted to its structure.

The Bureau sets out its goals and commitments for the year in its annual Business Plan 2019. This plan took cognisance of the Statement of Strategy 2017–2019. An updated Strategic Plan covering the years 2020–2023 is currently being drafted.

The Department of Justice and Equality's Internal Audit Unit provides support to the Bureau in monitoring and reviewing the effectiveness of the Bureau's arrangements for governance, risk management and internal controls.

The Internal Audit Unit conducts an independent audit of the Bureau's procedures and processes on an annual basis.

A "Corporate Governance Assurance Agreement" has been signed between the Chief Bureau Officer and the Department of Justice and Equality covering the years 2017 - 2019. This Agreement sets out the broad governance and accountability framework within which the Bureau operates and defines key roles and responsibilities which underpin the relationship between the Bureau and the Department.

An Oversight Agreement between the Bureau and the Department of Justice and Equality is being drafted and will cover the period 2020 – 2022. A separate but related Performance Delivery Agreement is also being drafted for the year 2020.

Environmental and Energy Issues

As set out in the requirements of the Public Sector Energy Efficiency Strategy 2017, the Chief Bureau Officer appointed Detective Superintendent Gerard Egan as Energy Performance Officer for the Bureau.

Part One

Overview of the Criminal Assets Bureau, its Officers and Staff

The Bureau will participate, progress, promote and report on all initiatives in relation to environmental and energy issues by year end in accordance with S.I. 426 of 2014 (European Union (Energy Efficiency) Regulations).

Finance

During the course of the year the Bureau expended monies provided to it by the Oireachtas, through the Minister for Justice and Equality, in order to carry out its statutory functions and to achieve its statutory objectives.

All monies provided by the Oireachtas as outlined in the table are audited by the Comptroller and Auditor General, as is provided for under Statute.

Comparison of Accounts for years 2018 / 2019

Year	Description	Amount €	
		Budget Provision	Total Spent
2018*	Pay	7,247,000	7,257,000
	Non-pay	1,701,000	1,575,000
	Total	8,948,000	8,832,000
2019*	Pay	8,152,000	7,712,000
	Non-pay	1,701,000	**2,148,000
	Total	9,853,000	9,860,000

* Awaiting Audit – Subject to Change

** The excess expenditure in the Non Pay area relates mainly to the procurement of a long awaited digital forensics / eDiscovery tool which, when fully operational, will save considerable Bureau man-hours in analysing data.

Objectives and Functions

The objectives and functions of the Bureau are respectively set out in sections 4 and 5 of the CAB Act. These statutory objectives and functions are set

out in full at Appendix A and may be summarised as:

1. Identifying and investigating the proceeds of criminal conduct;
2. Taking actions under the law to deny and deprive people of the benefits of assets that are the proceeds of criminal conduct by freezing, preserving and confiscating these assets;
3. The taking of actions under the Revenue Acts to ensure that the proceeds of criminal activity are subjected to tax;
4. Investigating and determining claims under the Social Welfare Acts.

Chief Bureau Officer

The Bureau is headed by the Chief Bureau Officer, appointed by the Commissioner of An Garda Síochána from among its members of the rank of Chief Superintendent. The current Chief Bureau Officer is Detective Chief Superintendent Patrick Clavin who took up his appointment on 4th August 2016.

The Chief Bureau Officer has overall responsibility, under section 7 of the CAB Act, for the management, control and the general administration of the Bureau. The Chief Bureau Officer is responsible to the Commissioner for the performance of the functions of the Bureau.

This section also provides for the appointment of an Acting Chief Bureau Officer to fulfil the functions of the Chief

Bureau Officer in the event of incapacity through illness, absence or otherwise.

Bureau Legal Officer

The Bureau Legal Officer reports directly to the Chief Bureau Officer and is charged under section 9 of the CAB Act with assisting the Bureau in the pursuit of its objectives and functions.

The current Bureau Legal Officer is Kevin McMeel who took up his appointment on 19th July 2019 following the departure of Declan O'Reilly who returned to the Chief State Solicitor's Office.

A Body Corporate

The Bureau exists as an independent corporate body as provided for under section 3 of the CAB Act. The status of the Bureau was first considered in 1999 by the High Court in the case of *Murphy -v- Flood* [1999] IEHC 9.

Mr Justice McCracken delivered the judgment of the High Court on the 1st of July 1999. This judgment is pivotal to understanding the nature of the Bureau.

The court set out:

"The CAB is established as a body corporate with perpetual succession. While the Chief Bureau Officer must be appointed from members of An Garda Síochána of the rank of Chief Superintendent, nevertheless the CAB is independent of An Garda Síochána, although it has many of the powers normally given to that body.

...

The CAB is a creature of Statute, it is not a branch of An Garda Síochána. It was set up by the Oireachtas as a body corporate primary for the purpose of ensuring that persons should not benefit from any assets acquired by them from any criminal activity. It is given power to take all necessary actions in relation to seizing and securing assets derived from criminal activity, certain powers to ensure that the proceeds of such activity are subject to tax, and also in relation to the Social Welfare Acts. However, it is not a prosecuting body, and is not a police authority. It is an investigating authority which, having investigated and used its not inconsiderable powers of investigation, then applies to the Court for assistance in enforcing its functions.

The Oireachtas, in setting up the CAB, clearly believed that it was necessary in the public interest to establish a body which was independent of An Garda Síochána, and which would act in an investigative manner. However, I do not think it is the same as An Garda Síochána, which investigates with an aim to prosecuting persons for offences. The CAB investigates for the purpose of securing assets which have been acquired as a result of criminal activities and indeed ultimately paying those assets over [to] the State."

Structure of the Bureau

The interagency and multi-disciplinary structure of the Bureau, which draws together various skill sets from the personnel involved, has the benefit of enhancing investigative capabilities in pursuit of the Bureau's statutory remit. This is possible under section 5 of the CAB Act detailing the functions of the Bureau.

Part One

Overview of the Criminal Assets Bureau, its Officers and Staff

Bureau Officers and staff

Section 8 of the CAB Act provides for the appointment of officers of the Bureau. Members of staff of the Bureau are appointed under section 9 of the CAB Act. Officers of the Bureau are:

- A. Members of An Garda Síochána;
- B. Officers of the Revenue Commissioners;
- C. Officers of the Department of Employment Affairs and Social Protection.

Officers are seconded from their parent agencies. Bureau Officers continue to be vested with their powers and duties notwithstanding their appointment as Bureau Officers.

Members of staff of the Bureau consist of:

- The Bureau Legal Officer;
- Professional members;
- Administrative and technical members.





The authorised staffing level at the Bureau comprising Bureau Officers and other staff stands at ninety three.

Following promotions and retirements during 2019, eight staff vacancies remain at the Bureau at 31st December 2019.

These vacancies include three Sergeant vacancies, two IT vacancies and one Forensic Accountant vacancy. The Bureau is liaising with the relevant bodies and it is anticipated that these vacancies will be filled by Quarter 2, 2020.

Authorised Staffing Levels

Interagency & multi-disciplinary authorised levels

	47
	8
	21
	17

Anonymity

In order to ensure the safety of certain Bureau Officers and staff, anonymity for those members is set out under section 10 of the CAB Act. Under this section, officers and staff of the Bureau execute their duties in the name of the Bureau.

Section 11 of the CAB Act provides for criminal offences relating to the identification of certain Bureau Officers, staff and their families.

The prohibition of identification does not extend to the Chief Bureau Officer, an Acting Chief Bureau Officer, the Bureau Legal Officer or the Bureau Officers who are members of An Garda Síochána.

Intelligence & Assessment Office

The Intelligence and Assessment Office (IAO) was established in July 2017. Their remit is to analyse the ever increasing volume of business that the Divisional Asset Profilers submit for assessment and consideration.

The IAO is serviced by Bureau Officers covering all agencies within the Bureau. Since the creation of the IAO, the 2019 increase in cases is best illustrated by the number of cases submitted to the Bureau for consideration i.e., from 500 cases to in excess of 1,200 cases.

Once these cases are assessed they are formally submitted to an Admissions Group, serviced by the management of each agency and either accepted or declined as CAB targets based on the merits of each case. Should they be accepted as targets, they will be assigned to a team room for multi-agency investigation.

All operational team rooms receive new cases based on this selection process on a weekly basis. The higher the volume of cases processed through the IAO, the greater the number of cases that make their way into each operational team room.

Additional Gardaí have been allocated to the IAO to deal with the increased referrals.

Asset Management Office

The Asset Management Office (AMO) was also established in 2017 in order to manage all assets under the control of the Bureau. The diverse range of assets over which the Bureau has responsibility necessitates the deployment of considerable resources to ensure each asset is managed to maintain its value, to fulfil the Bureau's legal obligations and to ensure the optimum value is realised when remitted to the Exchequer.

The AMO now fully manages the recovery of assets for all agencies within the Bureau. The increase in proceeds of crime cases has resulted in an increase in assets which this team has to manage.

The PoC Act requires that an asset is retained for a seven year period following the decision of the High Court (unless agreement is received from the parties involved for immediate disposal). In practice, this period can be considerably longer due to appeals and challenges to such orders. In the case of certain assets, such as properties, this can involve ongoing resources to maintain the property, including in some instances, the Bureau acting as landlord.

In addition to tangible assets retained by the Bureau, there are also considerable assets in respect of tax debts and repayment of social welfare claims which are payable to the Bureau. These debts are also managed by the AMO with a view to realising their worth. This office provides a higher level of governance for assets under the control of the Bureau.

Part One

Overview of the Criminal Assets Bureau, its Officers and Staff

Asset Financial Management System (AFMS)

The Bureau introduced an Asset Financial Management System that records, manages, reports and monitors assets which have come under the control of the Bureau as a result of operational activities. The primary function of the system is to assist the AMO within the Bureau to efficiently and effectively manage and monitor assets of the Bureau.

A fundamental aspect to this system is the financial function which assist the AMO in the maintenance of Receivership Accounts.

The AMO are required to produce a final financial report on each asset, which once approved, will allow the remittance of funds to the Exchequer. The financial function also allows the reporting of movements of all Receivership bank accounts held by the Bureau.

eDiscovery Project

The volume of data stored on digital devices has increased dramatically in the last ten years and the burden on investigators to effectively and efficiently review potentially millions of documents in a single case has become a major challenge.

In the same timeframe, the size and volume of cases taken on by the Bureau has increased substantially and has led to the Bureau collecting more and more digital devices and large amounts of paper documentation during investigations.

In order to address these challenges, the Bureau tendered to procure a digital forensics / eDiscovery tool that is capable of taking all of the information from digital items seized during an investigation, combining it with all of the paper documentation seized and presenting it to investigators in a coherent, searchable and easy to use format. This new system will save the Bureau considerable man-hours in analysing data.

The equipment has been purchased, the software is being installed and it is expected that the new eDiscovery tool will be operational in Quarter 1, 2020.

Chief State Solicitor's Office

The Criminal Assets Section of the Chief State Solicitor's Office (hereinafter referred to as "the CSSO") provides legal advice and solicitor services to the Bureau.

The CSSO represents the Bureau in both instituting and defending litigation in all court jurisdictions primarily, but not exclusively, with the assistance of Counsel. In addition, the CSSO provides representation for all tax and social welfare matters both before the respective appeal bodies and in the Circuit and Superior Courts.

Furthermore, the CSSO provides general legal advice and solicitor services at all stages of case progression from investigation to disposal, including the provision of both contract drafting and conveyancing services.

During 2019, the CSSO was staffed as follows:

- 3 Solicitors
- 1 Legal Executive
- 2 Clerical Officers

While the work of the CSSO is integral to the success of the Bureau, it is noted that the authorised staffing complement is no longer sufficient to maintain increasing Bureau outputs as evidenced in part by the increase in proceeds of crime cases in 2019.

The Bureau recognises the need for an increase in CSSO staff to support the higher volume of cases being proposed by the Bureau.

Divisional Asset Profilers

In 2019, the Bureau continued its programme of engagement with Divisional Asset Profilers. During the year the Bureau trained an additional one hundred and five Garda Divisional Asset Profilers to fill vacancies within various Garda Divisions which arose from retirements and promotions. At year end, the total number of Divisional Asset Profilers stood at four hundred and seventy three, which included:

- 448 Gardaí
- 17 Officers of the Revenue Commissioners engaged in Customs and Excise duties;
- 8 Officers of the Department of Employment Affairs and Social Protection

In addition, representatives from the following agencies attended the Divisional Asset Profiler Courses:

- The Anti-Money Laundering Compliance Unit (AMLCU)
- The Competition and Consumer Protection Commission (CCPC)
- Her Majesty's Revenue and Customs (HMRC)
- The Police Service of Northern Ireland (PSNI)
- Health Products Regulatory Authority (HPRA)
- National Crime Agency (NCA)
- Policing Authority
- Department of Agriculture, Food and the Marine

As part of the development of the course, a Divisional Asset Profiler who had been previously trained and is experienced in submitting profiles on local targets has been utilised to give presentations on the course. This initiative received very positive feedback from participants.

Presentations

In 2019, the Bureau provided a number of talks and training presentations to local District Detective Units and the Divisional Drug Unit in the Limerick Garda Division.

CPD Event

A seminar was provided on the 17th June 2019 at the University of Limerick held by The Centre of Crime, Justice and Victim Studies on *“Investigating and Prosecuting White Collar Crime”*. The Chief Bureau Officer and the Bureau Legal Officer both gave presentations.

Part One

Overview of the Criminal Assets Bureau, its Officers and Staff

CAB Presentations

During the course of 2019, the Bureau assisted the Crime Training Faculty at the Garda College in Templemore in the provision of Detective Training.

The Bureau delivered presentations to Garda personnel attending the Detective Garda Training Programme and the Senior Investigating Officer's Programme.

The Bureau delivered presentations to the Detective Garda Training Programme on nine occasions during 2019.

The Senior Investigating Officer's Programme was delivered twice over the course of 2019 and on each occasion, the Bureau attended and delivered a presentation.

In 2019, two hundred and twenty two asset profiles were received from Divisional Asset Profilers throughout Ireland as compared to one hundred and eighty four asset profiles received in 2018. Ongoing contact and close co-operation will be maintained both Regionally and Divisionally throughout 2020.

The engagement with Divisional and Regional management was followed up by a number of refresher training courses throughout the country.

Throughout 2019, Divisional Asset Profilers from the various Regions have continued to engage with the Bureau to develop and progress investigations that have significant financial impact on local criminals and, in turn, provide positive feedback within local communities

suffering from the activities of these criminals.

The Divisional Asset Profiler Network will continue to be developed in 2020 through the training of additional Divisional Asset Profilers.

The following cases provide examples of Bureau investigations that originated from Divisional Asset Profilers:

Case 1

Following a referral by a local Divisional Asset Profiler, the Bureau commenced an investigation into the assets of an individual in the Dublin 11 area who was suspected to be involved in the sale and supply of controlled drugs.

The Bureau's investigation resulted in the granting of an order under section 3 of the PoC Act over €72,450 cash, a residential property in Dublin 11 valued at €250,000 and an apartment in Bulgaria valued at €25,000.



Case 2

Following a referral by a local Divisional Asset Profiler, the Bureau commenced an investigation into the assets of an organised crime group (OCG) suspected

to be involved in the commission of burglaries.

During the Bureau's investigation, it was further discovered that the OCG was involved in extortion of monies from building contractors building social housing in the Dublin 10 area. The individuals involved had set up a Security and Fence Maintenance company as a cover for the receipt of monies from two building contractors.

Several incidents of criminal damage and intimidation occurred at two building sites following which the building contractors employed the services of the individuals involved.

The Bureau's investigation resulted in the granting of an order under section 3 of the PoC Act over €259,352.95 held in bank accounts linked to the individuals, a mobile home valued at €12,000 located in Co. Wexford and an Ifor Williams Horse Box valued of €1,500.

Revenue actions were also used against the individuals.



Mobile Home



Ifor William Horse Box

Part One

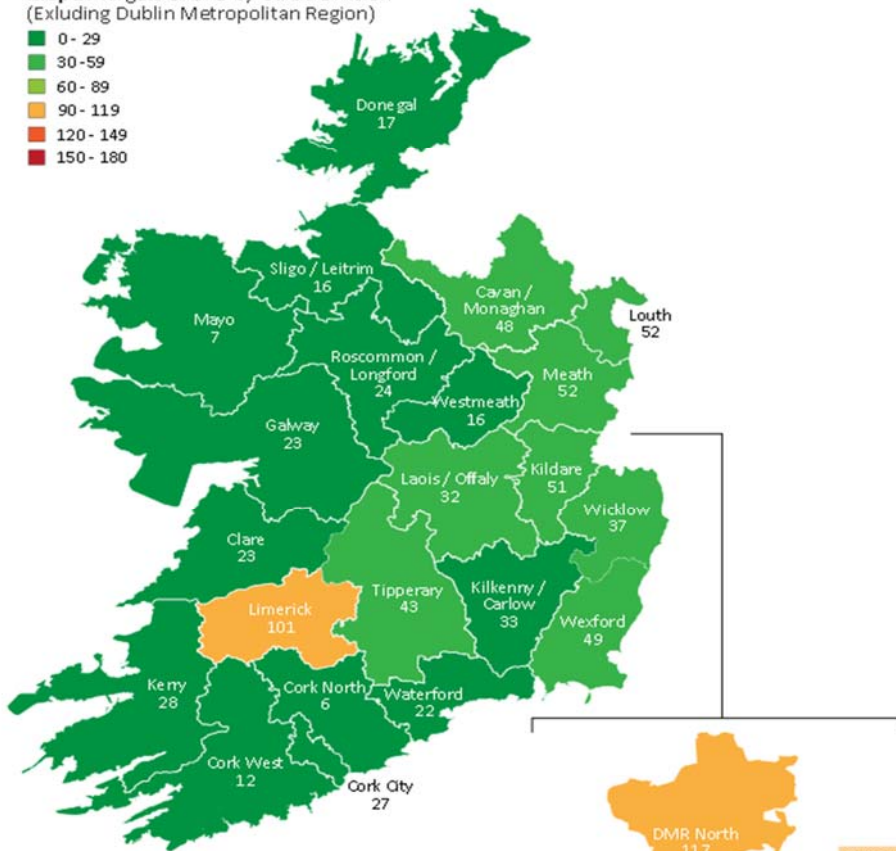
Overview of the Criminal Assets Bureau, its Officers and Staff

Geographical Distribution of Targets under investigation by the Criminal Assets Bureau (Persons & Organisations - end December 2019)

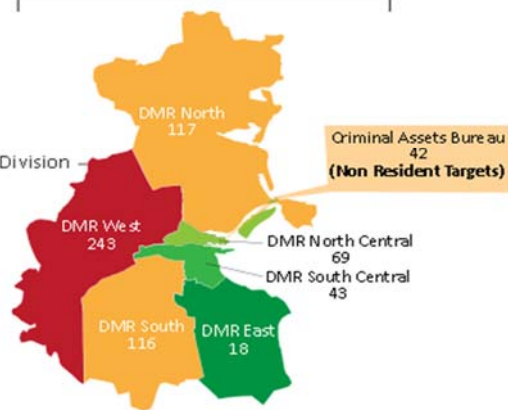
Total: 1367

Map 1: Targets of CAB by Garda Division (Excluding Dublin Metropolitan Region)

- 0 - 29
- 30 - 59
- 60 - 89
- 90 - 119
- 120 - 149
- 150 - 180



Map 2: Targets of CAB by Garda Division - Dublin Metropolitan Region



An Búro um Shócmhainní Coiriúla
 Cearnóg Fhearchair, Baile Átha Cliath 2, D02 PT89, Éire
 Harcourt Square, Dublin 2, D02 PT89, Ireland

Training and Development

Proceeds of Crime & Asset Investigation (POCAÍ)

(Formerly known as TACTIC (The Asset Confiscation and Tracing Investigator's Course))

Since its establishment in 1996, the Bureau's multi-agency structure is recognised as the most powerful tool in the State's armoury in tackling organised crime groups and criminals and is the envy of law enforcement worldwide.

As a part of its prescribed statutory function, it currently provides national and international assistance and education to other law enforcement / regulatory agencies and State bodies, including the European Union Agency for Law Enforcement Training, the Federal Bureau of Investigation (FBI), the National Cyber Investigative Joint Task Force (NCIJTF) of the United States of America, the Australian Federal Police (AFP) and the National Agency of Ukraine for Finding, Tracing and Management of Assets derived from Corruption and Other Crime.

The development of training in the field, which is multi-agency in orientation, is now regarded as critical for the delivery of an effective and professional service, both nationally and internationally.

Following the success of the Asset Confiscation and Tracing Investigator's Course (TACTIC), the Bureau recognised that Bureau Officers do not currently possess an academically recognised qualification for their skill set in this area.

Bureau Officers undertook the significant task of drafting a submission to the University of Limerick for the Level 9 Accreditation of this skill set.

As a result, *the Criminal Assets Bureau: Postgraduate Diploma in Proceeds of Crime & Asset Investigation* was drafted and submitted to the University of Limerick in December 2019. The resulting training programme will upskill appointed Bureau Officers and provide them with an academically recognised qualification for their skill set in the area of proceeds of crime investigation, asset identification, seizure, confiscation and recovery.

This programme will be delivered by internal experts from the Bureau and by external experts in areas such as proceeds of crime procedures, white-collar crime, bribery and corruption, evidence and international co-operation.

The Postgraduate Diploma in Proceeds of Crime & Asset Investigation is an accelerated programme which will be delivered in five modules of learning namely:

1. Multi-agency Proceeds of Crime Investigation
2. Dark-Net & Open Source Intelligence
3. Forensic Accounting
4. National and International Best Practice in Proceeds of Crime Investigation, Law, Procedure, Policy and Practice
5. The Experiential Learning Module

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Overview of the Criminal Assets Bureau, its Officers and Staff

This new programme will be delivered by the Bureau in conjunction with the University of Limerick in September 2020 and it is expected that the programme will be run from the University of Limerick's School of Law under Course Director Professor Shane Kilcommins.

The Bureau wishes to extend its sincere thanks to the University of Limerick's President, Dr Des Fitzgerald and to Professor Shane Kilcommins for their support, advice and determination in securing the programme's successful inclusion in the 2020 curriculum.

Study Visit: Moldovan Asset Recovery Office

The Bureau hosted a study visit for Officers from the Moldovan Asset Recovery Office on 13th May 2019. The Moldovan delegation set up their Asset Recovery Office in 2018.



Chief Bureau Officer, Pat Clavin and Detective Inspector Barry Butler with colleagues from the Moldovan Asset Recovery Office

UN Interregional Crime and Justice Research Institute (UNICRI)

The Bureau gave a presentation to the Prosecutors and Judges from Tunisia, Libya and Egypt in respect of a training course organised and run by the UNICRI on 11th September 2019 in Tunis, Tunisia.

The purpose of the presentation was to increase awareness among the participants of the options available to them in respect of the identification, freezing and recovery of criminal assets, mainly originating from corruption and theft from national Governments. Presentations were also given by the National Crime Agency and the Bulgarian Authorities.



Training course organised UNICRI

Study visit: Judiciary from Ukraine – High Anti-Corruption Court (HACC)

The Bureau hosted a study visit from the High Anti-Corruption Court on the 11th December 2019 in order that they might learn about the work of the Bureau. The mandate of the HACC is to adjudicate in confiscation proceedings where the respondent is alleged to be in possession of the proceeds of crime.



Chief Bureau Officer, Pat Clavin and Detective Superintendent Ger Egan with colleagues from the High Anti-Corruption Court, Ukraine

Staff Training

During 2019, the Bureau continued to upgrade and enhance the training needs of Bureau Officers and staff. In this regard, the Bureau provided funding for staff participation in the following courses:

- Accounting and Finance, Griffith College
- Applied and Professional Ethics
- Corporate, Regulatory & White Collar Crime, Kings Inn
- Corporate Sector Training on Company Law, UCD
- Forensic Computing and Cyber Crime Investigation, UCD
- Penetration Testing, Kali Linua
- Social Media and Media Law, Kings Inn
- The Strategic Command Course, College of Policing, UK

In addition, a number of awareness briefings took place throughout 2019 to all staff of the Bureau on relevant topics including Search of Premises training; Court Room Evidence; Health and Wellbeing; FIU Money Laundering Trends and recent legislative changes – Terrorist Financing – new STR reporting database; FMS Business One, Central Register Training, Garda Síochána Interview Model (GSIM) – Level 2 and Level 3, CBD1 Driving, Performance, Accountability and Learning Framework (PALF) and Serious Crime at the University of Limerick.

Virtual Currencies

The Bureau continues to maintain its level of knowledge and investigative ability in the field of crypto-currencies

and their use in criminal conduct worldwide. The Bureau is one of the foremost law enforcement agencies to have identified the potential for criminals to exploit the characteristics of crypto-currencies to generate and launder the proceeds of crime.



Through its investigations, the Bureau has made a number of seizures of various forms of crypto-currencies including 'Bitcoin' and 'Ethereum'. The Bureau's seizure of the crypto-currency 'Ethereum' is the first of its kind by any law enforcement agency worldwide.

In 2019, the Bureau assisted the U.S. Department of Homeland Security in a multi-million dollar crypto-currency theft investigation and was successful in the recovery of a significant portion of the stolen funds.

In order to maintain the Bureau's position as one of the foremost recognised law enforcement agencies in its ability to investigate, seize, retain and dispose of crypto-currencies, the Chief Bureau Officer sanctioned the attendance of a Bureau Officer at a CEPOL Asset Recovery and Confiscation training forum at Lido Di Ostia (Rome) in July 2019, which focused on crypto-currency and the Darknet.

These forums allow the Bureau to share and enhance their knowledge in this area and generate global expert contacts in

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Overview of the Criminal Assets Bureau, its Officers and Staff

this field which benefit future Bureau investigations.

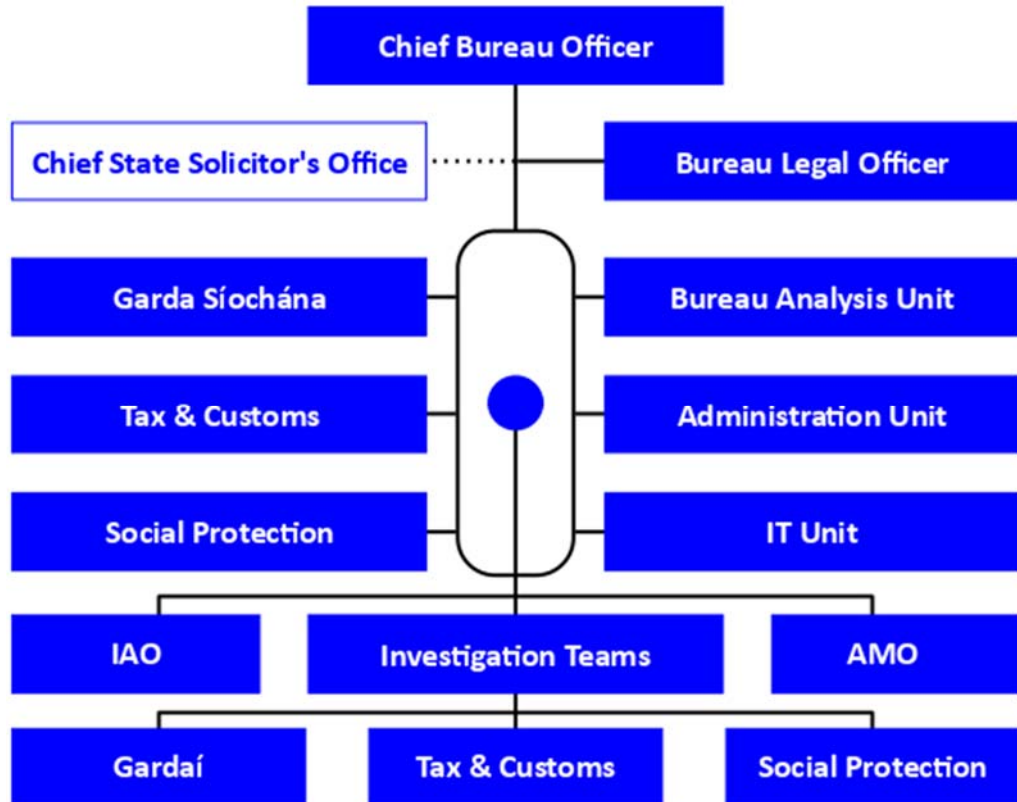
The Bureau has provided a number of training presentations and seminars through the Garda College to members of An Garda Síochána and other associated agencies in 2019. These include:

- The training of student Gardaí at the Garda College
- Divisional Asset Profiler Courses
- Specialised Units attached to Special Crime Operations
- The National Drugs Strategy Training Programme

The Bureau is committed to maintaining its position as a globally recognised investigative agency in this area through its knowledge and its ability to deny and deprive criminals of its benefits.



Diagram: Organisation of the Bureau



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Overview of the Criminal Assets Bureau, its Officers and Staff

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Part Two

Criminal Assets Bureau investigations

Investigations

During 2019, Bureau Officers continued to exercise the powers and duties vested in them under section 8 of the CAB Act.

It is important to note that this section emphasises that Bureau Officers retain the duties and powers conferred on them by virtue of membership of their respective parent organisations.

In addition to these powers, the Bureau has particular powers available to it namely:

1. CAB search warrants;
2. Orders to make material available to CAB.

These powers are contained within section 14 and section 14A of the CAB Act and the PoC Act, respectively.

The Bureau conducted its investigations throughout 2019 with the cooperation and assistance of Garda personnel from Garda Divisions and also from Garda National Units such as the Garda National Economic Crime Bureau (GNECB), the Garda National Drugs and Organised Crime Bureau (GNDOCB), the Garda National Bureau of Criminal Investigation (GNBCI), the Emergency Response Unit (ERU), the Special Detective Unit (SDU) and the Security and Intelligence Section, Garda Headquarters. Investigations were also supported by the Office of the Revenue Commissioners.

The Bureau continued to co-operate with the Special Investigation Units of the Department of Employment Affairs and

Social Protection in respect of their investigations in 2019.

This continued assistance has been critical to the success in targeting the proceeds of criminal conduct during 2019.

Section 14

Section 14 of the CAB Act provides for CAB search warrants. Under section 14(1), an application may be made by a Bureau Officer, who is a member of An Garda Síochána, to the District Court for a warrant to search for evidence relating to assets or proceeds deriving from criminal conduct.

Section 14(2) & (3) provides for the issue of a similar search warrant in circumstances involving urgency whereby the making of the application to the District Court is rendered impracticable. This warrant may be issued by a Bureau Officer who is a member of An Garda Síochána not below the rank of Superintendent.

During 2019, all applications under section 14 were made to the District Court and no warrants were issued pursuant to section 14(2).

A section 14 search warrant operates by allowing a named Bureau Officer, who is a member of An Garda Síochána, accompanied by other such persons as the Bureau Officer deems necessary, to search, seize and retain material at the location named. This is noteworthy in that it allows the member of An Garda Síochána to be accompanied by such other persons as the Bureau Officer

Part Two

Criminal Assets Bureau investigations

deems necessary, including persons who are technically and/or professionally qualified people, to assist him/her in the search.

These warrants are seen as an important tool which allows the Bureau to carry out its investigations pursuant to its statutory remit.

During 2019, the Bureau executed two hundred and twenty seven warrants in targeting organised crime groups. In particular, the Bureau targeted a known organised crime group based in the North of the country. The section 14 warrants were used to search numerous private residences as well as professional offices and other businesses. This led to the seizure of large amounts of cash and vehicles.

Section 14A

Section 14A was inserted by the PoC Act 2005. This section provides for applications to be made by a Bureau Officer, who is also a member of An Garda Síochána, to apply to the District Court for an order directed to a named person to make material available to the Bureau Officer.

The section 14A Production Orders have been used primarily in uplifting evidence from a number of financial institutions within the State. The material obtained relates to banking details, and in many instances, the transfer of large amounts of money between accounts.

As a result of the information gleaned, the Bureau has been able to use this

evidence in ongoing investigations into a number of individuals which were believed to have possession of assets which represent, directly or indirectly, the proceeds of crime.

During 2019, the Bureau executed three hundred and ninety six orders pursuant to section 14A.

Applications made during 2019

During 2019, the following number of applications were made under section 14 and 14A of the CAB Act and the PoC Act, respectively:

Applications under section 14 & 14A CAB Act, 1996 & 2005

Description	Applications	
	2018	2019
Search warrants under section 14 CAB Act, 1996 & 2005	171	227
Orders to make material available under section 14A of the CAB Act, 1996 & 2005	275	396

Section 17

Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010

Section 17(2) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 allows for members of An Garda Síochána to obtain orders through the District Court to restrain the

movement of money held in bank accounts.

During 2019, the Bureau used this order on five hundred and forty six occasions. These orders were obtained in respect of forty two separate targets currently under investigation by the Bureau.

Such orders remain in force for a period of four weeks which allows time for the investigating member to establish if this money is in fact being used in respect of any money laundering or terrorist financing offences. After such time, that order will either lapse or can be renewed by the investigating member in the District Court.

The total amount of funds currently restrained under this provision is in excess of €1,820,978,61, £85,647.00 Sterling and \$13,000 US Dollars.

The making of section 17(2) order by the District Court may be challenged in that court by making an application pursuant to section 19 or 20 of the 2010 Act.

Criminal Prosecutions

Case 1

During a Bureau search operation in County Limerick, Bureau Officers located a quantity of controlled drugs. Two individuals were arrested.

An investigation file was prepared and submitted to the Office of the Director of Public Prosecutions (DPP). Charges were directed and two individuals are currently before the Circuit Court charged with

offences under the Misuse of Drugs Act 1977 & 1984.

Case 2

The Bureau commenced a criminal investigation into threats / intimidation of a Bureau Officer during the course of their work. An individual was arrested for an offence contrary to section 13 of the CAB Act (Intimidation of Bureau Officers). This individual was detained under the provisions of the Criminal Justice Act 1984, as amended.

An investigation file was prepared and submitted to the DPP, charges were directed and one individual was brought before the District Court charged with two offences contrary to section 13 of the CAB Act (Intimidation of Bureau Officers).

Case 3

The Bureau commenced a criminal investigation into the provision of falsified documents to the Bureau by an individual involved in the used motor trade industry.

An investigation file was prepared and submitted to the DPP, charges were directed and one individual was brought before the District Court and subsequently the Circuit Court charged with offences contrary to section 6, section 26 and section 29 of the Criminal Justice (Theft and Fraud Offences) Act 2001 and section 2(d) of the TCA 1997.

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Criminal Assets Bureau investigations

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Part Three

Actions under the Proceeds of Crime Acts 1996 to 2016

Introduction

The Proceeds of Crime Act, 1996 to 2016 (“PoC Act”) provides for the mechanism under which the Bureau can apply to the High Court to make an order (“an interim order”) prohibiting a person / entity from dealing with a specific asset, or in other words, freezes the specified asset.

The PoC Act further allows for the High Court to determine, on the civil burden of proof, whether an asset represents, directly or indirectly, the proceeds of criminal conduct.

In 2005, the PoC Act was amended to allow the proceedings to be brought in the name of the Bureau instead of its Chief Bureau Officer. Consequently since 2005, all applications by the Bureau have been brought in the name of the Bureau.

The High Court proceedings are initiated by way of an application under section 2(1) of the PoC Act which is always grounded upon an affidavit sworn by the Chief Bureau Officer. Other affidavits are sworn by relevant witnesses including Bureau Officers and members of staff of the Bureau, member of An Garda Síochána from outside the Bureau including Divisional Asset Profilers and in some instances, by officers from law enforcement agencies from outside the jurisdiction.

The PoC Act provides that the originating motion may be brought ex-parte. This means that the Bureau makes its application under section 2(1) of the PoC Act without a requirement to notify the affected person (the respondent). The section 2(1) order lasts for twenty one

days unless an application under section 3 of the PoC Act is brought within that period.

Section 2 of the PoC Act also provides that the affected person should be notified during this time.

During 2019, section 3 proceedings were initiated in all cases brought by the Bureau where a section 2(1) order was made. Section 3 of the PoC Act allows for the longer term freezing of assets. It must be noted that proceedings under the PoC Act may be initiated in the absence of a freezing order under section 2(1) by the issuing of an originating motion pursuant to section 3(1).

While section 3 cases must be initiated within twenty one days of a section 2 order, in practice, it may take some considerable time before the section 3 hearing comes before the High Court. The affected person (the respondent) is given notice of the section 3 hearing and is entitled to attend the hearing and challenge the case in respect of the specified asset.

In cases where the respondent has insufficient means to pay for legal representation, the respondent may apply to the court for a grant of legal aid under a Legal Aid Scheme in place for this purpose. This ensures access to legal representation in cases involving the Bureau, provided the necessary criteria for the scheme, have been met.

If it is ultimately shown to the satisfaction of the High Court following a section 3 hearing that the asset represents, directly

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Actions under the Proceeds of Crime Act 1996 to 2016

or indirectly, the proceeds of criminal conduct then the court will make an order freezing the asset. This order lasts a minimum of seven years during which the respondent or any other party claiming ownership in respect of the property can make applications to have the court order varied in respect of the property.

At the expiration of the period of seven years, the Bureau may then commence proceedings to transfer the asset to the Minister for Public Expenditure and Reform or other such persons as the court determines under section 4 of the CAB Act. During these proceedings, all relevant parties are again notified and may make applications to the court.

Where the period of seven years has not expired, a Consent Disposal Order under section 4A of the CAB Act may be effected with the consent of the respondent and the court.

Section 1A Review

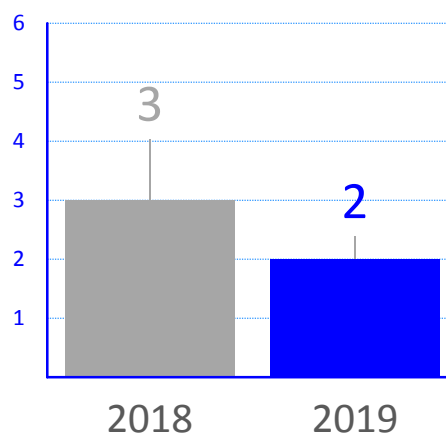
The PoC Act was amended by the PoC (Amendment) Act, 2016. This amendment provides that where a Bureau Officer is in a public place, or in another place where he is authorised or invited, or is carrying out a search, and finds property that he believes to be the proceeds of crime with a value not less than €5,000, then that Officer may seize the property for a period not exceeding twenty four hours.

The Chief Bureau Officer may, during the twenty four hour period, authorise the detention of the property for a period of up to twenty one days, provided he/she:

- a) Is satisfied that there are reasonable grounds for suspecting that the property, in whole or in part, directly or indirectly, constitutes the proceeds of crime,
- b) Is satisfied that there are grounds for suspecting that the total value of the property is not less than €5,000,
- c) Is satisfied that the Bureau is carrying out an investigation into whether or not there are sufficient grounds to make an application to the court for an interim order or an interlocutory order in respect of the property and,
- d) Has reasonable grounds for believing that the property, in whole or in part, may in the absence of an authorisation, be disposed of or otherwise dealt with, or have its value diminished, before such an application may be made.

During 2019, the Bureau invoked its powers under section 1A of the PoC Act on two occasions, an example of which is set out below.

Number of cases which section 1A orders made



Example:

The Bureau took possession of two vehicles (191 Volkswagen Arteon and a 151 Volkswagen Passat valued at approx €60,000 in total) in October 2019 belonging to members of an organised crime group based in the Waterford City area who are involved in distribution of controlled drugs. Within the twenty one day period of detention, the Bureau made an application to the High Court and was successful in obtaining orders under section 2 & 7 of the PoC Act.

The matter was then listed before the High Court and an order was subsequently made pursuant to section 3 of the PoC Act in respect of the vehicles.



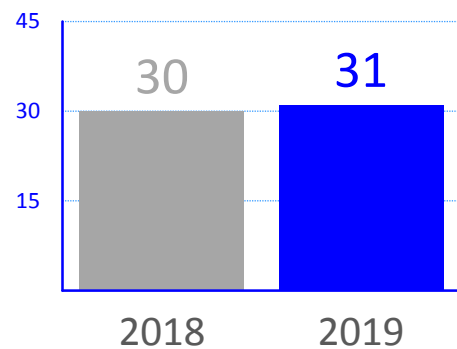
Cases commenced

Thirty one new cases commenced during 2019. Of the cases commenced, all cases were initiated by issuing proceedings by way of originating motion under section 2 of the PoC Act.

The Bureau notes that this is the largest number of proceeds of crime cases commenced in a single year since the inception of the Bureau. The Bureau has

been engaged in extensive work in preparing these investigations to allow it to bring these cases in 2019.

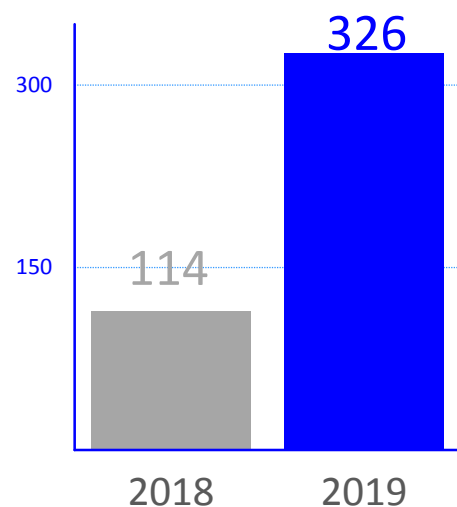
New POC cases brought before the High Court



Section 2(1) Review

When analysed, the number of assets over which an order was obtained under section 2(1) increased in comparison to 2018 from one hundred and fourteen assets in 2018 to three hundred and twenty six assets in 2019.

Assets over which section 2(1) Orders made

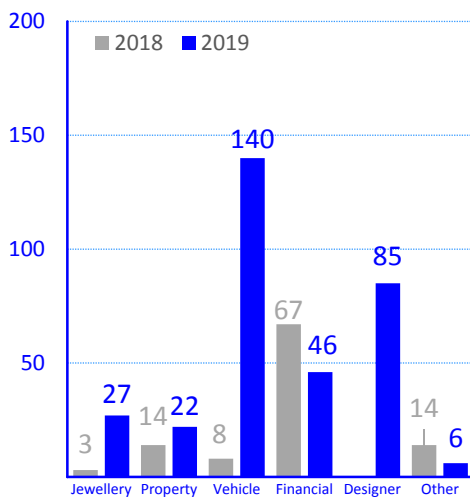


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Actions under the Proceeds of Crime Act 1996 to 2016

During 2019, the Bureau took proceedings in respect of a variety of asset types. For profiling purposes, the assets are broken down into jewellery, property, vehicles, financial, designer goods and other.

Assets over which section 2(1) orders made
Breakdown of assets by asset type

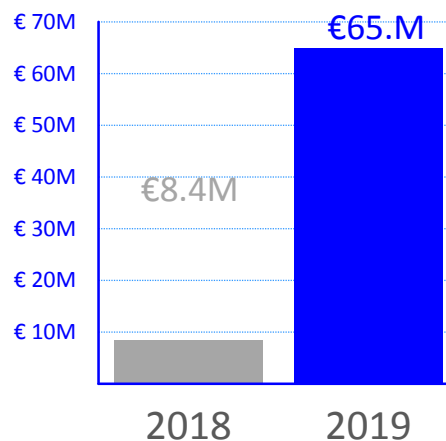


The figures in respect of jewellery, property, vehicles, designer goods and other are based on the estimated value placed by the Bureau on the asset at the time of making the application under section 2(1) of the PoC Act.

Valuation Breakdown

The value of the three hundred and twenty six assets frozen under section 2 of the PoC Act during the year 2019 was €64,985,550.30. This figure may be broken down in the table below.

Value of assets frozen under section 2(1)



Analysis of section 2 order by Asset Type

Description	€
Jewellery	185,730.00
Property	7,844,133.77
Vehicle	1,838,798.12
Financial	54,650,943.92
Designer Goods	58,875.00
Other	407,069.49
Total	64,985,550.30

The results for 2019 compared to 2018 show the value of assets frozen under section 2(1) has increased by €56 million from the previous year where the value was €8,393,582.30. This large increase is due to the granting of a freezing order over cryptocurrency to the value of €53,023,140.

The value of assets fluctuates in each case depending on whether high ranging assets to low ranging assets are targeted. The value of such orders range from €5,010 to €51.2million.

The reduction of the threshold under the new legislation in 2016 contributed to the seizure of an additional 186% of assets in 2019 over 2016.

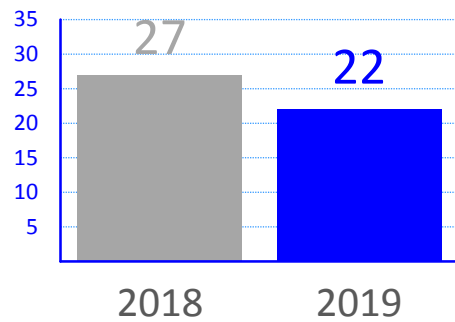


Section 3 Review

A section 3(1) orders is made at the conclusion of the hearing in which the High Court has determined that a particular asset or assets represent the proceeds of criminal conduct. As such, the date and duration of the hearing is a matter for the High Court and not within the direct control of the Bureau.

During 2019, twenty two cases before the High Court, to the value of €3,374,696.23, had orders made under section 3(1).

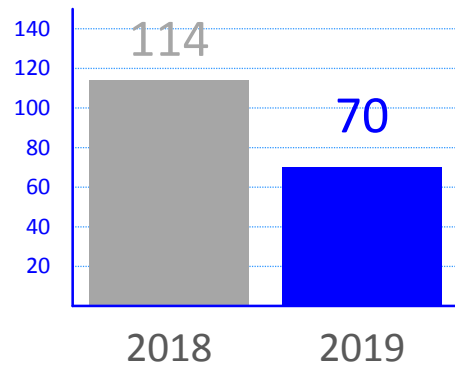
Number of cases in which section 3(1) orders made.



The Bureau notes the decrease in the number of cases that were heard in 2019.

The number of assets over which orders were made by the High Court pursuant to section 3(1) decreased from one hundred and fourteen assets in 2018 to seventy assets in 2019.

Assets over which section 3(1) orders made.



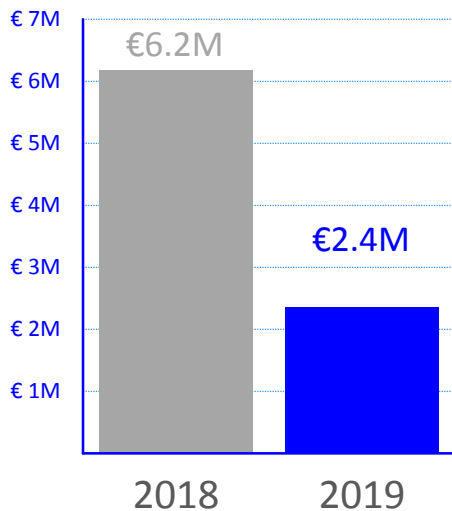
Analysis of section 3 order by Asset Type

Description	€
Jewellery	25,000.00
Property	1,840,200.00
Vehicle	177,750.00
Electronics	920.00
Financial	1,302,826.23
Other	28,000.00
Total	3,374,696.23

Part Three

Actions under the Proceeds of Crime Act 1996 to 2016

Value of assets frozen under section 3(1)



Geographical Breakdown

The Bureau's remit covers investigation of proceeds of crime cases irrespective of the location of the assets.

During 2019, the Bureau obtained orders over assets in respect of proceeds of crime in all of the large urban areas, rural communities and foreign jurisdictions.

The Bureau remains committed to actively targeting assets which are the proceeds of criminal conduct, wherever they are situated to the fullest extent under the PoC Act.

The Bureau is further developing its national coverage through the Commissioner of An Garda Síochána's revised policy on the Tasking of Divisional Asset Profilers. This will ensure that there is a focus on local criminal targets throughout the State for action by the Bureau.

Property

The statutory aims and objectives of the Bureau require that the Bureau take appropriate action to prevent individuals, who are engaged in serious organised crime, benefiting from such crime.

Section 3(3)

Section 3(3) of the PoC Act provides for the varying or discharge of an existing section 3(1) order. An application pursuant to section 3(3) can be made by the respondent in a case taken by the Bureau or by any other person claiming ownership of the property. While section 3(3) largely contemplates the bringing of an application by a respondent in a case, it can also provide an opportunity for victims of crime, demonstrating a proprietary interest in the asset frozen, to make an application for the return of same.

Section 3(3) also provides an opportunity for those interested persons to vary or discharge a section 3(1) order where it can be established, to the satisfaction of the court, that the asset in question is not the proceeds of criminal conduct. No such orders were made under section 3(3) of the PoC Act during 2019.

In cases where it is shown that the property is the proceeds of criminal conduct, the statutory provision whereby an individual enjoying the benefit of those proceeds may be deprived or denied that benefit, includes that he/she should be divested of the property.

This policy of the Bureau may require pursuing properties, notwithstanding the fact that in some cases the property remains in negative equity.

This is designed to ensure that those involved in serious organised crime are not put in the advantageous position by being able to remain in the property and thereby benefit from the proceeds of crime.

- Mercedes E Class
- Peugeot Partner



Vehicles

The Bureau continues to note the interest of those involved in serious organised crime in high value vehicles. However, during 2019 the Bureau targeted a number of mid-range to upper-range valued vehicles. This is, in part, a response to actions being taken by those involved in crime to purchase lower valued vehicles in an attempt to avoid detection.

An example of the types of vehicles seized by the Bureau under section 2(1) and section 3(1) of the PoC Act during the year 2019 was:

- Audi A4, A6, Q7
- Ford Transit
- Citroen Berlingo
- Volkswagen Passat
- BMW 520, X5

Luxury Goods

The Bureau is continuing to target ill-gotten gains through the purchase of high end luxury goods such as mobile homes, designer handbags, store cards, designer clothing and footwear, examples of which are shown hereafter.

Case 1

The individual in this case was referred to the Bureau by the Special Crime Task Force, following the seizure of €22,720 cash during the course of a search of a residential premises in West Dublin in September 2016, as part of an investigation into the sale and supply of controlled drugs. The individual in this case and the immediate members of his family displayed a lavish lifestyle, despite them being on social welfare.

Part Three

Actions under the Proceeds of Crime Act 1996 to 2016

During a search operation conducted by the Bureau, a 131 Audi A5 valued at €20,000; a 141 Audi A4 valued at €14,000; a 2011 Volkswagen Polo valued at €6,000 and assorted designer luxury goods valued at €46,190 were seized.

The Bureau's investigation resulted in the granting of an order under section 2 of the PoC Act over €22,720 cash, a 131 Audi A5 valued at €20,000; a 141 Audi A4 valued at €14,000; a 2011 Volkswagen Polo valued at €6,000 and assorted designer luxury goods valued at €46,190.



Case 2

The individual in this case came to the attention of the Bureau following an investigation by the Bureau into members of his extended family. The Bureau's investigation identified that the individual was displaying a lavish lifestyle at a time when they had limited legitimate income.

The Bureau's investigation resulted in the granting of an order under section 2 of the PoC Act over a residential property in West Dublin valued at €240,000; €146,945 held in eight financial accounts; four motor vehicles with cumulative value of €77,000; €12,500 cash and

associated designed luxury goods valued at €63,000.



Section 4(1) and 4A

Section 4(1) provides for the transfer of property to the Minister for Public Expenditure and Reform. This section refers to assets which have been deemed to be the proceeds of criminal conduct, for a period of not less than seven years, and over which no valid claim has been made under section 3(3) of the PoC Act.

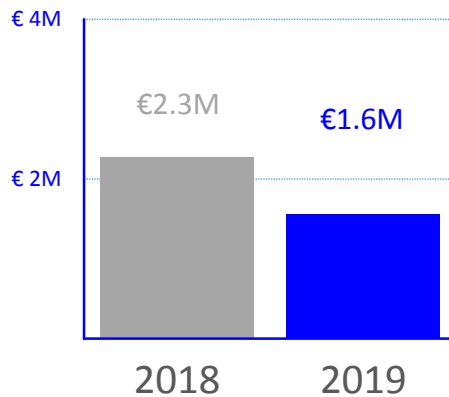


An Roinn Caiteachais
Phoiblí agus Athchóirithe
Department of Public
Expenditure and Reform

Section 4A allows for a consent disposal order to be made by the respondent in an application pursuant to the PoC Act, thus allowing the property to be transferred to the Minister for Public Expenditure and Reform in a period shorter than seven years. This was introduced in the 2005 PoC Act.

Seventeen cases were finalised and concluded under section 4(1) and 4A in 2019.

Value of assets frozen under section 4(1) and 4A



During 2019, a total of €1,559,726.31 was transferred to the Minister for Public Expenditure and Reform under the PoC Act arising from section 4(1) and 4A disposals.

Section 4(1) & 4A Breakdown

Description	No. of Cases 2018	€ 2018
Section 4(1)	3	184,005.98
Section 4A	19	2,087,793.94
Total	22	2,271,799.92

Description	No. of Cases 2019	€ 2019
Section 4(1)	4	357,887.84
Section 4A	13	1,201,838.47
Total	17	1,559,726.31

While CAB activity continues to increase, the yield to the Exchequer may be down on any given year. This is also due in part to the obligation to wait seven years for conclusion of section 4 PoC order, if a Consent Order under section 4A is not forthcoming prior to the seven years.

Case 1

Criminal Assets Bureau –v- Routeback Media AB t/a Local Mart and Harry Zeman - Record Number 2018 No. 1 CAB

The Bureau obtained an order under section 4 of the PoC Act over \$651,447.85 and continuing interest held in a bank account. The section 3 order in this case was granted by the late Mr Justice Feeney on the 20th January 2011.

The Bureau’s case, which was accepted by the High Court in 2011 in the original proceedings pursuant to section 3 of the PoC Act, was that the funds represented wholesale online credit card fraud by the first named respondent, a Swedish company under the direction of the second named respondent back in 2002.

The fraud comprised of the illegal charging of \$9.95 to over ninety thousand credit cards, many of which were lost or stolen. The company, in its defence, claimed it was providing email services to its customers.

After initiating the section 4 proceedings, the second named respondent made an application pursuant to section 3(3) of the PoC Act seeking to set aside the 2011 order. Both applications were consolidated and heard by Ms Justice Stewart on the 3rd December 2019. The court reserved judgment and indicated it would deliver judgment on a later date.

Case 2

The Bureau obtained an order under section 4 of the PoC Act over €50,000 cash seized by local Gardaí from Dundalk in November 2007. The cash was contained in a plastic sack when Gardaí

Part Three

Actions under the Proceeds of Crime Act 1996 to 2016

searched a car at the Carrickdale Hotel in Dundalk. The driver who is a resident of Northern Ireland, was involved in cigarette smuggling and in the sale and supply of controlled drugs in Northern Ireland.

The section 2 order in this case was obtained in 2008, with the section 3 order obtained in 2011. The granting of the section 4 order finalises the Bureau's action in this case.

Section 6

Section 6 provides for the making of an order by the court during the period whilst a section 2(1) or 3(1) order is in force to vary the order for the purpose of allowing the respondent or any other party:

1. A discharge of reasonable living or other necessary expenses; or
2. Carry on a business, trade, profession or other occupation relating to the property.

During 2019, four such orders were made to the value of €11,292.

Section 7

Section 7 provides for the appointment, by the court, of a Receiver whose duties include either to preserve the value of, or dispose of, property which is already frozen under section 2 or section 3 orders.

In 2019, the Bureau obtained receivership orders in regard to one hundred and eighty four assets. In every case the receiver appointed by the court was the Bureau Legal Officer. These cases involved properties, cash, money in financial institutions, motor vehicles, electronics, jewellery and watches. In some receivership cases, the High Court made orders for possession and sale by the Receiver. A receivership order cannot be made unless a section 2 or section 3 order is already in place.

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Actions under the Proceeds of Crime Act, 1996 to 2016

Statement of Receivership Accounts

	Euro€	Stg£	US\$
Opening balance receivership accounts 01/01/2019	12,417,452.57	208,045.48	655,167.27
Amounts realised, inclusive of interest and operational advances	3,180,464.24	2.16	2,866.60
Payments out, inclusive of payments to Exchequer and operational receivership expenditure	2,668,438.83	0.00	1,003.31
Closing balance receivership accounts 31/12/2019	12,929,477.98	208,047.64	657,030.56

Part Three
Actions under the Proceeds of Crime Act 1996 to 2016

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Part Four

Revenue actions by the Bureau

Overview

Revenue Bureau Officers perform duties in accordance with the Taxes Consolidation Act 1997, Value-Added Tax Consolidation Act 2010, Capital Acquisitions Tax Consolidation Act 2003, the Stamp Duties Consolidation Act 1999, Local Property Tax Act 2012 as amended (hereinafter referred to as the Tax Acts) to ensure that the proceeds of crime or suspected crime, are subject to tax. This involves the gathering of all available information from our partner agencies under the provisions of section 8 of the CAB Act.

Tax Functions

The following is a summary of actions taken by the Bureau during 2019 and an update of the status of appeals made on foot of tax assessments and decisions made by the Bureau.

Tax Assessments

Revenue Bureau Officers are empowered to make assessments under section 58 of the Taxes Consolidation Act 1997 (hereinafter referred to as the TCA 1997) - the charging section.

During 2019, a total of fifty individuals and corporate entities were assessed under the provisions of the Tax Acts, resulting in a total tax figure of €11.7m.

Appeals to the Tax Appeal Commissioners

The Tax Appeals Commission (TAC) was established on 21st March 2016 as an independent statutory body, the main function of which is hearing, determining and disposing of appeals against

assessments and decisions of the Bureau and the Revenue Commissioners concerning taxes and duties in accordance with relevant legislation.

During 2019, there was a further increase in the level of engagement between the TAC and the Bureau. The increased engagement resulted in the progression of a substantial number of new appeals in addition to a number of legacy cases. The Bureau continues to positively engage with the TAC with a view to progressing all open tax appeals.

Revenue Tables 1 and 2 located at the end of this chapter summarise the appeal activity for 2019.

At 1st January 2019, thirty nine cases were before the TAC for adjudication. During the year, thirty one appeal applications were referred by the TAC to the Bureau for observations regarding the satisfaction of the statutory requirements for a valid appeal.

The TAC admitted twenty one appeals, refused five appeals in their entirety and partly refused a further three appeals. Three appeal hearings took place during 2019 and determinations were issued in relation to two appeal hearings.

As at of 31st December 2019, there were a total of sixty cases awaiting hearing, determination or adjudication regarding their validity.

As of 1st January 2019, two appeals in respect of cases where appeals had been refused, were awaiting decision. These

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Revenue actions by the Bureau

two appeal applications were refused by the Bureau prior to 21st March 2016.

As at 31st December 2019 both cases continued to await adjudication by the TAC.

Significant Revenue Determinations

Criminal Assets Bureau v. Martin Foley [2019] IECA 287

In the matter of the Criminal Assets Bureau v. Martin Foley [2019] IECA 287, the Court of Appeal considered the previous decision of the High Court granting liberty to the Bureau to enter final judgment in a sum comprising of €178,510.85 tax plus €738,449.27 statutory interest.

The appeal focused on the issue of the additional €738,449.27 claimed for interest which the appellant resisted on the basis of undue prejudice which he claimed arose, on foot of, what he alleged was the inordinate and inexcusable delay in applying for liberty to enter judgment.

The Court of Appeal dismissed the case on the basis that the passage of time involved had no bearing on the tax being owed. In delivering the judgment of the court, Mr Justice Edwards stated that it was *“a matter of public policy that people should pay their taxes in a timely manner”* and there was no statute of limitations restricting the timeframe in which the Bureau could commence proceedings to recover the tax and any interest accruing on foot of late payment of said taxes.

The learned Judge went on to say that the appellant *“well knew that interest was accruing”* on his outstanding tax bill and

it was within his power *“to stop the interest clock from running”* by paying the outstanding amount of tax.

Accepting that delay in the Bureau’s collection action was arguably inordinate, Mr Justice Edwards stated that the onus of establishing that delay has been both inordinate and inexcusable lay with the party seeking to dismiss and oppose a continuance of the proceedings as stipulated in *Primor Plc v Stokes Kennedy Crowley [1996] 2 IR 459*. Mr Justice Edwards said he was not satisfied that Mr Foley had discharged this onus *“particularly in circumstances where there manifestly had been... a relevant Criminal Assets Bureau investigation”*.

Name Redacted v. Criminal Assets Bureau - Tax Appeals Commission Determination – 23TACD2019

In the matter of *Name Redacted v. Criminal Assets Bureau*, the TAC considered an appeal against assessments made by the Bureau on the basis that the appellant was not tax resident and had no source of income in this jurisdiction for the periods in question. In submitting the appeal, the appellant asserted they were not chargeable to tax in this jurisdiction and therefore not subject to the provisions of Section 959AH of the TCA 1997. As such, the appellant did not file a tax return in support of the appeal.

Having adduced evidence during the hearing that the appellant had Irish source income chargeable to tax during the periods in question, the TAC determined that the quantum of the assessments be reduced by way of

apportionment based on time spent in the jurisdiction for each period assessed.

The Bureau has made both an application to the High Court to bring judicial review proceedings in respect of this determination and requested that the TAC state and sign a case for the opinion of the High Court. At the time of writing this report, both matters remain before the courts.

Sheridan Senior & ors v. Tax Appeals Commission & anor [2019] IEHC 266

In the matter of *Sheridan Senior & ors v. Tax Appeals Commission & anor [2019] IEHC 266*, the High Court judicial review considered whether the applicants were prejudiced by an alleged failure by the Appeals Commissioner to give reasons for his decision to reject their appeals.

Mr Justice Twomey stated that the applicants must have known why the Appeal Commissioner found against them on the basis that they provided no evidence to support their argument. The Appeal Commissioner had to decide whether the applicant's bare assertions made without "*a scrap of supporting evidence*" regarding their tax residency should be accepted or not.

Acknowledging that the Appeal Commissioner could have made it more clear by stating that he rejected the applicant's argument because there was no evidence to support it, Mr Justice Twomey went on to state that such an improvement could be made to any decision with the benefit of hindsight.

The High Court refused to grant the order for certiorari of the Appeal Commissioner's decision. It should be noted that this decision was subsequently overturned by the Court of Appeal on the 13th March 2020 (Record Number: 2019/222).

Collections

Revenue Bureau Officers are empowered to take all necessary actions for the purpose of collecting tax liabilities as they become final and conclusive. Revenue Bureau Officers hold the powers of the Collector General and will pursue tax debts through all available routes. Collection methods include:

- The issue of demands – Section 960E TCA 1997;
- Power of attachment – Section 1002 TCA 1997;
- Sheriff action – Section 960L TCA 1997; and
- Civil proceedings – Section 960I TCA 1997.

Recoveries

Tax recovered by the Bureau during 2019 amounted to €2.026m from seventy five individuals or corporate entities.

Demands

During 2019, tax demands (inclusive of interest) served in accordance with Section 960E TCA 1997 in respect of twenty three individuals and corporate entities amounted to €5.8m.

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Revenue actions by the Bureau

Settlements

During the course of 2019, seven individuals settled outstanding tax liabilities with the Bureau by way of agreement in the total sum of €0.6m.

Recovery Proceedings

High Court proceedings for the recovery of tax and interest in the sum of €5m were initiated in eight cases.

Respondent	Amount Euro
Case 1	595,705.52
Case 2	171,764.98
Case 3	1,317,171.64
Case 4	535,563.25
Case 5	614,562.76
Case 6	266,753.78
Case 7	863,416.18
Case 8	691,667.00
Total	5,056,605.11

Judgment

A High Court judgment was obtained against one individual for a tax liability of €281,938.72.

Respondent	Amount Euro
Tom Casey	281,938.72
Total	281,938.72

Judgment Mortgages

A Judgment Mortgage was registered against property in the beneficial ownership of one individual.

Respondent	Amount Euro
Jason Macken	103,428.65
Total	103,428.65

Investigations

Theft and Fraud

During 2019, in support of Operation Thor and other anti-crime strategies employed by partner agencies, the Bureau made tax assessments on thirteen individuals connected with theft and fraud offences. The total amount of tax, excluding interest, featured in the assessments amounted to €3m.

In addition to assessments made, tax and interest of €0.9m was collected from seventeen individuals and four corporate entities who generated profits or gains from theft and fraud offences.

Money Laundering in Used Car Trade

In 2019, the Bureau continued to target those seeking to conceal the proceeds of criminal conduct within businesses trading in used cars. Tax assessments were made for €3.3m excluding interest on six individuals and four corporate entities involved in the sale of used cars.

The Bureau made collections amounting to €145,000 from three individuals and four companies involved in the motor trade. The seizure of vehicles by Revenue sheriffs, under the provisions of Section 960L TCA 1997, proved particularly effective in enforced collection actions taken by the Bureau in 2019.

In addition to the making of assessments and enforcing the collection of taxes, the Bureau identified and addressed a number of emerging risks in the motor trade through the imposition of security bonds, compliance visits and other interventions.

Sale and Supply of Illegal Drugs

The Bureau made assessments in 2019 on twenty five individuals deemed to have benefited from profits or gains derived from the sale and supply of illegal drugs. Tax assessments totalling €3.9m excluding interest were made in these investigations.

During 2019, the Bureau collected €0.9m, by way of enforcement and other methods of collection, from thirty three individuals associated with the sale and supply of illegal drugs.

Other significant tax investigations conducted by the Bureau in 2019 focused on profits or gains derived from smuggling and brothel keeping.

Customs & Excise Functions

Serious and organised crime groups in every jurisdiction attempt to violate Customs and Excise regulations in their attempts to make substantial profits and evade EU and national controls. These activities have a negative impact on society by depriving the Exchequer of funds and diverting those funds towards enrichment of criminal lifestyles.

The Bureau implements a broad range of Customs functions, comprising legislation, regulations, information and intelligence, to identify any issue of relevance in support of our investigations.

Points of Entry / Exit in the State

Customs functions at ports and airports, in particular, support the Bureau's investigations into the cross – jurisdictional aspects of crime and

criminal profits. The Bureau uses all available powers to prevent the proceeds of crime, in any form, being moved by criminals through ports and airports.

Throughout 2019, a number of criminals and their associates were monitored and intercepted by or on behalf of the Bureau. One particular operation of significance, undertaken by the Bureau in November 2019 at Dublin Port, resulted in the interception of two articulated trucks and commercial trailers, which were seized as part of an on-going investigation. The Bureau also intercepted a number of unaccompanied commercial importations which were consigned to businesses with criminal associations, including three horse-drawn carriages and separately, fairground attractions.

Motor Trade

Throughout 2019, the Bureau continued to identify used-car outlets operated by, or on behalf of, organised crime groups and continued to enforce VRT legislation, effecting seizures of vehicles with a value in excess of €250,000 under the provisions of Section 141, Finance Act 2001. The Bureau also secured conviction under the Criminal Justice (Theft and Fraud Offences) Act 2001 against one motor trader who had provided falsified documentation to Officers. The individual subsequently received a two year sentence (suspended) at the Dublin Circuit Criminal Court.

The Bureau continues to investigate the infiltration of the used-car trade by organised crime groups. Following on

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Revenue actions by the Bureau

from seizures, revocation of VRT authorisations, enforcement actions and cross-border work undertaken in 2017/2018, the Bureau hosted a conference in July 2019, attended by the Police Service of Northern Ireland (PSNI), Her Majesty's Revenue & Customs (HMRC), the UK National Crime Agency (NCA), An Garda Síochána and the Revenue Commissioners. This forum highlighted a number of issues of concern and concluded by recommending legislative change to the Vehicle Registration Tax (VRT) regime.

In addition to the continued focus of law enforcement agencies on both sides of the border, the Chief Bureau Officer also hosted meetings with a number of representatives from within the motor industry to discuss matters of mutual concern.

National Briefings & Operational Support

The Bureau welcomes the operational assistance provided by specialist areas within Revenue's Customs Service on a number of large CAB operations throughout 2019 and in particular, the 24 hour support given by Customs Dog Units on twenty two separate search sites throughout the country.

In May 2019, the Bureau conducted separate briefing sessions in relation to current trends and items of mutual interest with Customs Frontier Management Units at Dublin Port, Rosslare and Waterford. The Bureau wishes to acknowledge the support shown to Bureau Officers at those locations.

The Bureau was pleased to provide positions on our Divisional Assets Profiler Training Course to four Officers from Revenue's Customs Service in 2019.

In 2019, the Bureau continued to provide operational intelligence in relation to a number of separate smuggling attempts involving alcohol products and substitute diesel products. In September 2019, the Bureau uncovered an oil laundering facility during a search of premises in Co. Monaghan. Following liaison with Revenue's Customs Service, charges are being pursued against those involved.

Her Majesty's Revenue & Customs (HMRC)

Fighting organised crime groups operating across jurisdictions requires close cooperation among competent authorities on both sides of the border. The Bureau has a traditionally strong liaison with HMRC and in particular, the HMRC Fiscal Crime Liaison Officer based in Dublin. Close co-operation with HMRC took many forms in 2019. The Chief Bureau Officer was a keynote speaker at the HMRC '*Fiscal Crime Liaison Officer (FCLO) Annual Conference*' in Northampton in May and again at the HMRC '*Proceeds of Crime Operations Conference*' in Birmingham in September. The Bureau again participated in this year's Annual Cross Border Organised Crime Conference in September. Two senior HMRC Officers attended our Divisional Asset Profiler Training Course in 2019, which is another important development in our working relationship with HMRC.

All of the above has served to strengthen the very regular and important exchange of criminal intelligence between the Bureau and HMRC. Every aspect of mutual assistance legislation, whether it be Customs to Customs or Police to Police, is utilised by the Bureau.

The Bureau notes the end of assignment of one particular, very successful FCLO in Dublin during 2019 and wishes him well on his departure from Ireland. The Bureau marked the occasion with a special presentation to him, among his colleagues, at the FCLO conference in Northampton in May.

Part Four

Revenue actions by the Bureau

Table 1: Outcome of appeals at Appeal Commissioner Stage

Description	No. of Cases
Opening Appeals as at 01/01/2019	39
Appeals referred from TAC	31
Appeals Admitted by TAC	21
Appeals Refused by TAC	5
Appeals Withdrawn	3
Appeal Determined by TAC	2
*Open Appeals as at 31/12/2019	60

*Excludes appeals admitted by TAC as this figure is included in the figure for appeals referred from TAC.

Table 2: Outcome of appeals refused by the Bureau (prior to 21/03/2016)

Description	No. of Cases
Opening Appeals as at 01/01/2019	2
Appeals Withdrawn	0
Open Appeals as at 31/12/2019	2

Table 3: Tax Assessments

Taxhead	Tax €M 2018	Tax €M 2019	No. of Assessments 2018	No. of Assessments 2019
Income Tax	9.341	8.013	324	291
Capital Gains Tax (CGT)	0.058	0.006	1	1
Value Added Tax (VAT)	1.346	3.595	11	48
PAYE/PRSI	-	0.020	-	4
Capital Acquisition Tax (CAT)	0.018	0.095	2	6
Corporation Tax (CT)	-	0.001	-	1
Totals	10.763	11.730	338	351

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Revenue actions by the Bureau

Table 4: Tax and Interest Collected

Taxhead	Tax €M 2018	Tax €M 2019	No. of Collections 2018	No. of Collections 2019
Income Tax	2.585	1.413	42	74
Capital Gains Tax	-	0.133	-	-
Corporation Tax	-	0.001	-	1
PAYE / PRSI	0.033	0.083	2	2
Value Added Tax	0.445	0.200	5	5
Capital Acquisition Tax	0.034	0.169	1	1
Local Property Tax	0.027	0.027	44	42
Totals	3.124	2.026	94	125

Table 5: Tax and Interest Demanded

Taxhead	Tax €M		Interest €M		Total €M		No. of Cases	
	2018	2019	2018	2019	2018	2019	2018	2019
Income Tax	8.003	2.696	5.202	1.731	13.205	4.427	36	23
CGT	-	0.006	-	0.002	-	0.008	-	1
CAT	0.049	0.004	0.002	0.001	0.051	0.005	2	1
VAT	1.493	1.200	0.241	0.197	1.734	1.397	7	2
Totals	9.545	3.906	5.445	1.931	14.990	5.837	45	27

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Revenue actions by the Bureau

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Part Five

Social Welfare actions by the Bureau

Overview

The role of Social Welfare Bureau Officers (SWBOs) is to take all necessary actions under the Social Welfare Consolidation Act 2005, pursuant to its functions as set out in section 5(1)(c) of the CAB Act. In carrying out these functions, SWBOs investigate and determine entitlement to social welfare payments by any person engaged in criminal activity.

SWBOs are also empowered under section 5(1)(d) of the CAB Act to carry out an investigation where there are reasonable grounds for believing that officers of the Minister for Employment Affairs and Social Protection may be subject to threats or other forms of intimidation. During 2019, there were two new cases referred to the Bureau under section 5(1)(d).

As a direct result of investigations conducted by SWBOs, a number of individuals had their payments either terminated or reduced in 2019. These actions resulted in a total savings of €2,336,430.15. This can be broken down as follows:

Savings

Following investigations conducted by SWBOs in 2019, total savings as a result of termination and cessation of payments to individuals who were not entitled to payment amounted to €441,513.40. The various headings under which these savings were achieved are listed at the end of this chapter.

Overpayments

The investigations conducted also resulted in the identification and assessment of overpayments against individuals as a result of fraudulent activity. An overpayment is described as any payment being received by an individual over a period or periods of time to which they have no entitlement or reduced entitlement and so accordingly, any payments received in respect of the claim or claims, result in a debt to the Department of Employment Affairs and Social Protection.

As a result of investigations carried out by SWBOs, demands were issued against a number of individuals for the repayment of social welfare debts ranging in individual value from €3,670.80 to €308,861.00.

During 2019, overpayments assessed and demanded, amounted to €1,570,861.02. A breakdown of which is listed at the end of this chapter.

Recoveries

SWBOs are empowered to recover overpayments from individuals. An overpayment is regarded as a debt to the Exchequer. The Bureau utilises a number of means by which to recover debts which includes payments by way of lump sum and / or instalment arrangement.

Section 13 of the Social Welfare Act 2012 amended the Social Welfare Consolidation Act 2005 in relation to recovery of social welfare overpayments by way of weekly deductions from an

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Social Welfare actions by the Bureau

individual's ongoing social welfare entitlements. This amendment allows for a deduction of an amount up to 15% of the weekly personal rate payable without the individual's consent.

The Bureau was instrumental in the introduction of additional powers for the recovery of debts by way of Notice of Attachment proceedings. The Social Welfare and Pensions Act 2013 gives the Department of Employment Affairs and Social Protection the power to attach amounts from payments held in financial institutions or owed by an employer to a person who has a debt to the Department.

As a result of actions by SWBOs, a total sum of €324,055.73 was returned to the Exchequer in 2019, a breakdown of which is listed at the end of this chapter.

Appeals

The Bureau was actively involved in driving change on behalf of the SWBOs with regard to an amendment to the Social Welfare Acts.

An enactment of section 7 of the Social Welfare Act 2019 came into effect on 1st November 2019. This amendment directed that when a person appeals a decision made by a Social Welfare Bureau Officer, the Chief Appeals Officer of the Social Welfare Appeals Office shall cause a direction to be issued to the person who has submitted the appeal directing the person to submit the appeal not later than 21 days from receipt of the direction to the Circuit Court.

The effect of this amendment to the Social Welfare Act is that all CAB (Social Welfare Decisions) Appeals will now be heard at the Circuit Court.

Section 5(1)(c) of the CAB Act 1996

Case 1

A family in Dublin claimed means tested Social Welfare payments between 2012 and 2017. During this period of time, lodgements in excess of €1.9 million were lodged into bank accounts held by them.

A review was undertaken and payments were stopped. An overpayment was assessed and demanded to the value of €122,000. An appeal was lodged and will be heard in the Circuit Court.

Case 2

A woman in the Dublin area was in receipt of means tested Social Welfare payments (Unmarried Mothers Allowance / One Parent Family Payments / Jobseekers Allowance) during the period 1984 to 2016. She failed to declare that she got married in 2005. She further failed to declare a second mortgage free property in her spouse's name.

A review of her Social Welfare payments was undertaken. She was assessed and an overpayment demanded to the value of €147,000. No appeals were lodged in respect of all decisions made.

Case 3

A man living in the Dublin area, in receipt of Disability Allowance, had his entitlement reviewed. He was in receipt

of this means tested payment for fourteen years. During this period, he purchased a property in Co. Kildare and had lodgements in excess of €190,000 into his bank account. He was also working as a taxi driver. This information was not declared to the Department of Employment Affairs and Social Protection.

The individual was unable to account for his actions and failed to make a full and frank statement as to his financial affairs over the fourteen years of his claim. His claim was disallowed and an overpayment was assessed and demanded to the value of €308,000. No appeals were lodged in respect of all decisions made.

Case 4

A family living in the West of Ireland, in receipt of means tested payments during the period 2009 to 2015 had their entitlements reviewed. During this period, lodgements in excess of €229,000 were made to their bank accounts, separate to the Social Welfare payments. This money was not declared to the Department of Employment Affairs and Social Protection. The family were unable to account for receipt of or lodgements to bank accounts.

Revised decisions were made with regard to these payments and an overpayment was raised to the value of €107,000. This payment has been demanded and no appeal against this demand has been received.

Increased Resources

In 2019, the Bureau was successful in its application to the Department of Public Expenditure and Reform for an increase in the number of SWBOs. Sanction was granted to increase its cadre by two officers. The importance of additional staff was deemed necessary due to the expansion of the Bureau and increased workload. In addition, the following issues were highlighted:

- The change in legislation reducing the minimum threshold for invoking the PoC Act from €13,000 to €5,000.
- The successful expansion of the nationwide Divisional Asset Profiler Training Programme.
- The creation of a dedicated Intelligence and Assessment Office and also an Asset Management Office.

The newly allocated SWBOs are expected to take up their positions in early 2020.

CEPOL Training

In 2019, a SWBO was invited to attend the CEPOL (European Union Agency for Law Enforcement Training) training seminar in Asset Recovery and Confiscation. The course hosted participants from all Member States attending the Economic and Financial Police School in Rome.

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Social Welfare actions by the Bureau

The course was administered by Guardia di Finanza. The aim of the course is to intensify contacts within the EU to improve law enforcement co-operation and information exchange related to asset recovery, the Darknet and all aspects of crypto-currency.

The Bureau was very pleased to accept the invitation and to share the value of a multi-agency approach with its EU colleagues.

Table 1: Social Welfare Savings

Scheme Type	2018 Saving €	2019 Saving €
Child Benefit	14,280.00	14,280.00
Carers Allowance	-	14,892.00
Disability Allowance	111,642.40	26,928.00
Jobseekers Allowance	112,656.40	186,112.40
One-parent family payment	35,577.60	186,569.60
*BASI	68,848.00	-
Other	-	12,731.40
Totals	343,004.40	441,513.40

Table 2: Social Welfare Overpayments

Scheme Type	2018 Overpayment €	2019 Overpayment €
Child Benefit	-	-
Carers Allowance	165,258.40	-
Disability Allowance	21,020.00	558,659.40
Jobseekers Allowance	1,131,001.68	749,192.49
One-parent family payment	88,347.60	225,751.33
*BASI & Other	148,453.34	37,257.80
Totals	1,554,081.02	1,570,861.02

Table 3: Social Welfare Recovered

Scheme Type	2018 Recovered €	2019 Recovered €
Child Benefit	1,100.00	1,200.00
Carers Allowance	11,887.36	18,893.89
Disability Allowance	37,153.62	44,213.30
Jobseekers Allowance	165,874.24	175,455.53
One-parent family payment	90,117.20	79,371.22
Other	16,952.04	4,921.79
Totals	323,084.46	324,055.73

*A Basic Supplementary Welfare Allowance (commonly referred to as BASI) provides a basic weekly allowance to eligible people who have little or no income.

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Social Welfare actions by the Bureau

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Part Six

Notable investigations of the Bureau

Introduction

Arising from investigations conducted by the Bureau, pursuant to its statutory remit, a number of criminal investigations were conducted and investigation files were submitted to the Director of Public Prosecutions (hereinafter referred to as “the DPP”) for direction as to criminal charges.

During 2019, six files were submitted to the DPP for direction.

2019 Investigations

Case 1

The Bureau with the assistance of the Garda Emergency Response Unit (ERU), the Garda National Drugs and Organised Crime Bureau (GNDOCB), the Garda Stolen Motor Vehicle Investigation Unit (SMVIU), the Garda Technical Bureau and the Garda Dog Unit conducted a search operation in counties Limerick, Tipperary and Dublin targeting the assets and activities of an organised crime group based in the Limerick City and County areas.

The Bureau’s investigation centred on an organised crime group involved in the sale and supply of controlled drugs in the Munster region who were laundering the proceeds of their criminal conduct through a used car sales outlet in Limerick City. One hundred and fifteen motor vehicles were seized along with €43,000 in cash and assorted financial documentation.

The Bureau’s investigation resulted in the granting of an order under section 2 and 7 of the PoC Act over one hundred and fourteen motor vehicles.



Case 2

In targeting the assets and activities of an organised crime group comprising of members of an extended family involved in the commission of theft, fraud, deception and intimidation in the Munster Region, the Bureau conducted a

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Notable investigations of the Bureau

search operation which resulted in the seizure of nine vehicles, nine Rolex watches, four diamond rings, a selection of designer handbags and in excess of €34,000 in cash.

Proceeds of Crime, Revenue and Social Welfare actions against members of this organised crime group remain ongoing.



Case 3

In targeting the assets and activities of an individual involved in the sale and supply of controlled drugs in the Dublin area, the Bureau obtained orders under section 2, 3 and 4A of the PoC Act over €44,000 cash, a 2011 Audi A4 valued at €6,000 and a 152 Citroen Van valued at €6,000.

Case 4

In targeting the assets of an individual referred to the Bureau by the Special Investigation Unit of the DMR Roads Policing Unit during their investigation into Insurance Fraud, the Bureau obtained orders under section 2, 3 and 4A of the PoC Act over €21,940 cash, a Tag Heuer Watch valued at €2,900 and €62,136 held in a Ladbrokes Betting Account.

Case 5

2019 saw the Bureau obtain an order under section 4 of the PoC Act over €31,889.73 held in one bank account and €19,850 held in a second bank account belonging to an individual who was murdered in 2006.

An order under section 3 of the PoC Act was obtained over these bank accounts in 2010. The granting of the order under section 4 of the PoC Act finalised the Bureau's case.

Case 6

The Bureau with the assistance of the Emergency Response Unit (ERU), the Garda National Drugs and Organised Crime Bureau (GNDOCB) conducted a search operation in Counties Dublin and Kildare targeting the assets of an individual member of the Kinahan Organised Crime Group involved in the sale and supply of controlled drugs.

A total of eighteen searches were conducted. Two high value vehicles, twelve Rolex Watches, assorted designer clothing, €1,000 cash, mobile phones, electronic storage devices, financial documentation and documentation in respect of the ownership of property were seized. In excess of €70,000 has been restrained in financial institutions. The proceeds of crime action against this individual remains ongoing.

Case 7

The Bureau with the assistance of the Emergency Response Unit (ERU), the Garda Stolen Motor Vehicle Investigation Unit (SMVIU) and Revenue Customs Dog Unit conducted a search

operation targeting the assets and activities of an organised crime group involved in the theft of ATMs across Meath, Cavan and Monaghan during 2019. A total of ten locations were searched which resulted in a number of vehicles, including plant and machinery, being seized with more than €410,000 in cash. In excess of €200,000 was also restrained in financial institutions.

Proceeds of Crime, Revenue and Social Welfare actions against members of this organised crime group remain ongoing.



Case 8

In targeting the assets and activities of an organised crime group comprising of members of an extended family involved in the commission of theft, fraud, extortion, deception and intimidation of elderly persons in the Munster Region, the Bureau obtained orders under section 2, 3 and 4A of the PoC Act over a 151 Volkswagen Passat valued at €30,900, a 161 BMW 520 valued at €25,000, a 171 Mercedes E-Class valued

at €49,500, €15,500 held in financial institutions and €98,660 in cash.

Case 9

In targeting the assets and activities of an individual involved in the sale and supply of controlled drugs in the Dublin area, the Bureau obtained orders under section 3 and 4A of the PoC Act over €33,705 cash, €25,973 held in financial institutions, a 2012 Volkswagen Passat valued at €10,000, a 2005 BMW X5 valued at €4,000, a Breitling Watch valued at €13,800 and a mobile home located in Co. Wexford valued at €24,000.



Case 10

The Bureau successfully opposed an application brought by a respondent for the return of monies in the High Court on 25th January 2019.

On the 2nd December 2011, the High Court had found that monies in the case represented the proceeds of crime pursuant to section 3 of the PoC Act. The case involved a sum of approximately €4.65 million generated in connection with a *Ponzi scheme.

*A Ponzi scheme is a fraudulent investing scam promising high rates of returns to investors. The Ponzi scheme generates returns for early investors by acquiring new investors. This is similar to a pyramid scheme.

Part Six

Notable investigations of the Bureau

The application by one of the respondents brought under section 3(3) of the PoC Act, in which they sought the return of approximately €556,000, was withdrawn by the respondent following 2½ days of hearing in the High Court.

The 2½ day hearing was taken up with legal argument followed by the cross examination of the forensic accountant engaged by the respondent. An order for measured costs to the amount of €15,000 was made against the respondent.

In connected proceedings, a liquidator for the companies had been appointed and there was also an application to pay out monies frozen by the Bureau by way of distribution to creditors. This application was not opposed by the Bureau who approved the action to recoup some of the funds to those caught up in the Ponzi scheme.

This action demonstrates the ability of the Bureau to deny and deprive people of the proceeds of crime.

Operation Thor

Operation Thor was launched on the 2nd November 2015 as an anti-crime strategy by An Garda Síochána. The focus of Operation Thor is the prevention of burglaries and associated crimes throughout Ireland, using strategies which are adapted for both rural and urban settings.

The Bureau's Intelligence and Assessment Office is assigned as the liaison point for Operation Thor.

Throughout 2019 the Bureau continued its activities by identifying and seizing assets suspected of being derived from criminal activity as well as pursuing actions pursuant to Taxation and Social Welfare legislation.

Part Seven

Significant Court Judgments during 2019

During 2019, written judgments were delivered by the courts in the following cases:

1. Criminal Assets Bureau –v- Daragh Ó hEidirsceoil, David Reilly and Tara Kershaw
2. Criminal Assets Bureau –v- John Power (aka John Boylan) and Leonie Kinsella
3. Timothy Cunningham v. The Commissioner of An Garda Síochána, the Criminal Assets Bureau, the Director of Public Prosecutions (Notice Party) and Danske Bank (Notice Party)
4. Komisia za protivodeystvie na korputsiyata i za otnemane na nezakonno pridobitoto imushtestvo v. BP and Ors.

Criminal Assets Bureau –v- Daragh Ó hEidirsceoil, David Reilly and Tara Kershaw

[High Court Record No. 2018 No. 30 CAB](#)

[High Court Ex Tempore judgment delivered by Ms Justice Stewart on 8th October 2019.](#)

Summary

The proceedings comprised three consolidated applications for relief pursuant to section 3 of the PoC Act over a total of six assets in the possession or control of the respondents namely, a horse box, a mobile home and the balance held in four bank accounts in the name of the respondents totalling the sum of approximately €272,852. The Bureau contended that the first and third named respondents had, for a significant period of time, been involved in

organised crime more particularly, the sale of supply of controlled drugs in the Ballyfermot and wider Dublin area.

The Bureau contended that the assets, the subject matter of the application, were acquired on foot of that criminality and more particularly, that the balances held in the four bank accounts, the subject matter of the application, were the proceeds of the extortion of building contractors working on three identified residential development sites in the Ballyfermot and Cherry Orchard areas.

Held

The court, in granting the substantive order pursuant to section 3 of the PoC Act, stated as follows:

“...the Court is in absolutely no doubt but that the manner and the reason why the monies came to be handed over had its origins in criminality in that unless the company involved had no choice but to pay these sums in order to acquire protection, safety, security for their site and to allow them to continue to do the legitimate work that they were contracted for. I am satisfied that that was not an appropriate or valid or lawful manner in which or reason to request payment from those companies.”

With regards to the application on behalf of the first and third named respondents to offset their Revenue liabilities pursuant to sections 6 or 4A of the PoC Act, the court said in refusing the applications:

“...that it would seem to the court that that would be almost rewarding activity

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Significant Court Judgements during 2019

in what the court is satisfied constitutes the directly or indirectly acquired proceeds of crime could then be used to offset a tax debt which otherwise would remain due and owing...”

Criminal Assets Bureau –v- John Power (aka John Boylan) and Leonie Kinsella

No. 11 CAB 2018 and 2018 No. 1929P

Written High Court – Delivered by Ms Justice Stewart on the 25th October 2019.

Summary

The application comprised the consolidation of three separate applications for *inter alia* orders pursuant to section 3 of the PoC Act in respect of a total of five assets namely the Racehorse Labaik, the balance held in a Horse Racing Ireland bank account, a Mercedes motor vehicle, a mobile home and a residential property in Rathcoole, Co. Dublin together with plenary proceedings issued by John Power against the Bureau for damages as a result of an injury sustained by the said racehorse in a race after the section 2 order was made over it.

The Bureau claimed that John Power (aka Boylan) was a leading and directing member of an organised crime group based in the West Dublin area specifically involved in armed robbery and the sale and supply of controlled drugs in the Foxdene and Neilstown areas of Dublin.

The case proceeded on the 1st April 2019 and was heard over the course of four days. After the Bureau opened its case, Counsel for John Power (aka Boylan) cross-examined Detective Garda

McHugh, Detective Garda Petrie and Detective Chief Superintendent Clavin of the Bureau. John Power (aka Boylan) and Leonie Kinsella were then cross-examined and finally racehorse trainer Gordon Elliot was called by the Bureau, cross-examined by Counsel for the respondent and then re-examined by Counsel for the Bureau.

Held:

The court, after first finding that the Chief Bureau Officer’s belief evidence to be reasonably grounded, granted the substantive order pursuant to section 3 of the PoC Act, stated as follows:

“...There has been limited engagement to the extent that there has been no substantial engagement with the financial details of this case by and on behalf of the respondents. It amounts to little more than a denial. The legitimate income such as it is had been fully taken account of in the analysis conducted by Detective Garda Nigel Petrie. There remains a substantial shortfall which leads this court the inescapable conclusion that the assets the subject of these proceedings were acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes the proceeds of crime and further that the property constitutes directly or indirectly the proceeds of crime. I am not satisfied that the respondents have discharged the burden of proof which rests upon them and I am further satisfied that there will be no serious risk of injustice if the court was to make the orders sought by the Bureau.”

With regards to the plenary proceedings for damages taken on behalf of the first named respondent, the court said in refusing the claim:

“With regards to the plenary proceedings the Court observes at this juncture that perhaps if information with regard to the decision to enter “Labaik” in a race meeting at Punchestown on the 28th April, 2017 had been forthcoming at an earlier stage that this matter may not have proceeded in the manner and to the extent to which it did. It was not until, and during, cross-examination of the witnesses called on behalf of the Bureau that it was established in evidence before this court that the decision to enter the horse in the race was effectively taken by the trainer Mr Elliott and that this decision was then facilitated by members of the Bureau, from Detective Garda McHugh’s discussion with her colleagues in the team room to the Chief Bureau Officer’s involvement. I found Mr Elliott to be a truthful witness and a candid witness. He stated in his evidence that as the trainer of the horse, which was placed with him for the purpose of being so trained, that he would make the decision in relation to the selection of a suitable race meeting. The 28th April 2017 was in his view a suitable race. I also accept the evidence of the Chief Bureau Officer in relation to the balancing exercise with which he was required to engage in order to decide whether or not the passport should be returned to Mr Elliott for the purpose of allowing the horse to be run in a race at the meeting at Punchestown.

... It was a matter of concern to the court that at the time of the moving of the s. 2

application in respect of the HRI account on 3rd May, 2017 that no reference was made to, and no information put before the court in relation to, the fact that the horse had in fact been run in the preceding week and had suffered an injury. However, I am satisfied with the explanation that has been proffered by and on behalf of the Bureau in that regard. I am satisfied that no disrespect towards this court was intended. I am satisfied that the officers and in particular the Chief Bureau Officer at all times acted in the best interest of the Bureau and in the best interest of protecting and preserving the value of the asset with which it was charged pursuant to the s. 2 order.”



It should be noted that the orders arising from this judgment have been subsequently appealed to the Court of Appeal and that appeal remains to be heard.

Timothy Cunningham v. The Commissioner of An Garda Síochána, the Criminal Assets Bureau, the Director of Public Prosecutions (Notice Party) and Danske Bank (Notice Party)

High Court Record No. 2018 28 JR

Written High Court Judgment – delivered 14th February 2019 by Ms Justice O’ Regan

Neutral Citation: [2019] IEHC 104

Summary

On the 16th February 2005, the applicant’s home was searched under section 29 of the Offences against the State Act 1939 on foot of which STG £2.4 million was seized. On the 27th March 2009, the applicant was convicted of ten counts connected to the colloquially known Northern Bank Robbery. On the 23rd February 2012, section 29 warrants were found by the Supreme Court to be repugnant to the Constitution and the applicant successfully applied to have the 2009 conviction quashed.

On the 18th February 2014, the applicant was retried on nine remaining counts and pleaded guilty to two counts and on the 27th February 2014, he was sentenced and an order was made confiscating and/or forfeiting the said monies pursuant to section 61 of the Criminal Justice Act 1994 which order for forfeiture was not furnished to the applicant until the 14th May 2018.

In his judicial review application, the applicant sought an order of mandamus compelling the first named respondent to provide a detailed and comprehensive

report setting out the statutory provision and all orders of the court under which his monetary property was seized, detained and distributed together with orders relied upon by the first named respondent to search, detain, forfeit and distribute the monies being the documents presented in a pre-action letter of the 4th August 2017.

In addition, an order of mandamus compelling the second named respondent to compile a report setting out the statutory provisions under which his monetary property was seized, detained and distributed as set out in a pre-action letter of the 21st July 2017 was sought. In addition, an application for a declaration that the applicant’s monies were unlawfully seized by the first named respondent was made together with a declaration that the applicant’s property rights under Article 40.3 of the Constitution have been infringed.

Held:

The applicant failed to establish any basis to secure an enlargement of time to maintain the within judicial review proceedings and indeed no formal application was made to the court. In addition, the application has failed to discharge the onus on him to establish that the relevant monies belonged to him - in particular post the making of the forfeiture order and in the circumstances, all of the reliefs claimed by the applicant were refused.

It should be noted that the orders arising from this judgment have been subsequently appealed and the Court of Appeal dismissed that appeal by

judgment of Birmingham P., Edwards J. and Baker J. dated 5th June 2019.

Leave to appeal to the Supreme Court was subsequently sought and refused by determination of the Chief Justice, O'Malley J. and Irvine J. on the 14th October 2019.

Komisia za protivodeystvie na koruptsiyata i za otnemane na nezakonno pridobitoto imushtestvo v. BP and Ors.

Case C234/18 - European Court of Justice

Opinion of Advocate General Sharpston delivered on 31 October 2019

Summary:

BP, the Chair of the supervisory board of a Bulgarian bank was subject to criminal proceedings for having incited others, from December 2011 to June 2014, to misappropriate funds belonging to that bank in the sum of approximately €105 million. While the criminal proceedings were pending, independent civil proceedings were taken by the Bulgarian Commission for the combating of corruption and for the confiscation of assets (the Bulgarian equivalent of CAB) before the Sofia City Court in Bulgaria.

This case was a request for a preliminary ruling from that court to the European Court of Justice seeking guidance as to how to interpret several provisions of EU law on confiscation of crime-related proceeds, the means by which offences are committed ('instrumentalities') and property. The context of the within case is confiscation proceedings under

national law before a civil court that are unrelated to a criminal conviction and whether such proceedings are compatible with EU Law. The particular question posed to the European Court of Justice had significant implications for the ongoing compatibility of non-conviction based forfeiture provisions such as has been provided for in the PoC Act. It was as follows:

- Is Article 1(1) of Directive 2014/42..., which provides for the establishment of "minimum rules on the freezing of property with a view to possible subsequent confiscation", to be interpreted as meaning that it permits Members States to adopt provisions on civil-law confiscation that is not based on a conviction?
- Given the context and scope of the guidance sought by the European Court of Justice, an adverse finding had the potential to significantly undermine the legality of the PoC Act under which the Bureau operates.

In answering this question the Advocate General found that Framework Decision 2005/212/JHA and not Directive 2014/42 was the applicable EU law framework which should apply to the case in hand.

In concluding the Advocate General suggested the European Court of Justice should answer the questions as follows:

"Framework Decision 2005/212/JHA of 24th February 2005 on Confiscation of Crime Related Proceeds, Instrumentalities and Property does not preclude confiscation proceedings such as those

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pending before the national court, where those proceedings are not ‘in relation to a criminal offence’ and their issue does not depend upon a criminal conviction.”

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The International Perspective

As a front line agency in the fight against criminality, the Bureau's capacity to carry out this function, together with its success to date is, to a large degree, based on its interagency and multi-disciplinary approach, supported by a unique set of legal principles. The Bureau continues to play an important role in the context of law enforcement at an international level.

Asset Recovery Office (ARO)

As stated in previous reports, the Bureau is the designated Asset Recovery Office (ARO) in Ireland. Following a European Council Decision in 2007, Asset Recovery Offices were established throughout the European Union to allow for the exchange of intelligence between law enforcement agencies involved in the investigation, identification and confiscation of assets deemed to be the proceeds of criminal conduct.

As part of its commitment as an Asset Recovery Office, the Bureau has attended a meeting held in Brussels to discuss the work and cooperation of the Asset Recovery Offices.

During 2019, the Bureau received ninety nine requests for assistance. The Bureau was able to provide information in respect all of these requests. The requests were received from seventeen different countries within the European Union. The Bureau itself sent fifty one requests to thirty six different countries worldwide from which it has received replies.

International Operations

From an operational perspective, the Bureau continues to be involved in a number of international operations. The Bureau's engagement in such operations can vary depending on the circumstances of the case. It may include providing ongoing intelligence in order to assist an investigation in another jurisdiction. More frequently, it will entail taking an active role in tracking and tracing individual criminal targets and their assets in conjunction with similar agencies in other jurisdictions.

Europol

The Bureau continues in its role as the lead Irish law enforcement agency in a number of ongoing international operations which are being managed by Europol. These operations target the activities of transnational organised crime groups, who recognise no borders and attempt to exploit the opportunities presented by freedom of movement across international frontiers in their criminal activity.

Interpol

Interpol is an agency comprised of the membership of police organisations in one hundred and ninety countries worldwide. The agency's primary function is to facilitate domestic investigations which transcend national and international borders. The Bureau has utilised this agency in a number of investigations conducted in 2019.

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CARIN

In 2002, the Bureau and Europol co-hosted a conference in Dublin at the Camden Court Hotel. The participants were drawn from law enforcement and judicial practitioners.

Logo of CARIN



The objective of the conference was to present recommendations dealing with the subject of identifying, tracing and seizing the profits of crime. One of the recommendations arising in the workshops was to look at the establishment of an informal network of contacts and a co-operative group in the area of criminal asset identification and recovery. The Camden Assets Recovery Inter-agency Network (CARIN) was established as a result.

The aim of CARIN is to enhance the effectiveness of efforts in depriving criminals of their illicit profits.

The official launch of the CARIN Network of Asset Recovery agencies took place during the CARIN Establishment Congress in The Hague, in September 2004.

The CARIN permanent secretariat is based in Europol headquarters at The Hague. The organisation is governed by

a Steering Committee of nine members and a rotating Presidency.

During 2019, the Bureau remained as a member of the Steering Group and attended the Annual General Meeting which was held in Bucharest from the 4th – 7th November 2019.

ALEFA

(Association of Law Enforcement Forensic Accountants)

The ALEFA Network is a European funded project which has been established to develop the quality and reach of forensic accountancy throughout law enforcement agencies so as to better assist the courts, victims, witnesses, suspects, defendants and their legal representatives in relation to the investigation of alleged fraud, fiscal, financial and serious organised crime.

Logo of ALEFA



The ALEFA Network involves all of the EU Member States and invites participation from the USA, Canada and Australia.

In March 2019, the ALEFA Network published its *“Trafficking in Human Beings, Financial Investigation Handbook”*, thereby completing the 2017 – 2019 EU Internal Security funded project *“Financial Investigation as a means to combat Trafficking in Human Beings”*. The final report was submitted

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to the European Commission which assessed the project implementation as excellent.

Throughout the second half of 2019, the Steering Group, with Bureau membership, was involved in preparing a self-funded conference on “Use of Forensic Accounting techniques in investigating Fraud and Corruption” and due to be hosted by the Policia Judiciara in Lisbon in April 2020.

Relationship with External Law Enforcement Agencies

The Bureau has a unique relationship with the authorities in the UK, given the fact that it is the only country with which Ireland has a land frontier and the relationship has developed between the two jurisdictions over the years.

Cross Border Organised Crime Conference

The Cross Border Organised Crime Conference provides an opportunity for all law enforcement agencies from both sides of the border to get together and review activities that have taken place in the previous year, as well as planning for the forthcoming year. The conference provides the opportunity to exchange knowledge and experience and identify best practice in any particular area of collaboration.

In 2019, Senior Bureau Officers attended the Cross Border Organised Crime Conference which was held in Co. Cavan.

As part of the Cross Border cooperation, Senior Officers from the National Crime Agency (NCA) visited the Bureau in 2019.

Similarly, Senior Bureau Officers visited the National Crime Agency’s offices in Northern Ireland in 2019.

HMRC Fiscal Crime Liaison Officer’s Annual Conference, Northampton

On 3rd May 2019, at the invitation of Her Majesty’s Revenue & Customs (HMRC), the Chief Bureau Officer and Senior Customs Bureau Officer attended the “Fiscal Crime Liaison Officer (FCLO) Annual Conference” at Northampton, UK.

There are forty seven FCLO’s deployed around the world by HMRC and the Chief Bureau Officer was invited to address this global network of senior enforcement officers on the subject of the statutory functions and objectives of the Bureau, as well as trends and cases of mutual interest. A strong and productive working relationship exists between the Bureau and HMRC’s Fiscal Crime Liaison Officer based in Dublin.



HMRC, Proceeds of Crime Operations Conference, Birmingham

On 24th September 2019, at the invitation of Her Majesty’s Revenue & Customs (HMRC), the Chief Bureau Officer and Senior Customs Bureau Officer attended the “Proceeds of Crime

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Operations 2019 Conference” in Birmingham, UK. The Chief Bureau Officer provided a keynote address to a forum of over 300 senior officers on the subject of confiscating the proceeds of criminal conduct and depriving criminals of lifestyle and wealth.

Cross Border Joint Agency Task Force (JATF)

The establishment of the Cross Border Joint Agency Task Force was a commitment of the Irish and British Governments in the 2015 *Fresh Start Agreement* and the Task Force has been operational since early 2016.

This JATF consists of a Strategic Oversight Group which identifies and manages the strategic priorities for combating cross-jurisdictional organised crime and an Operations Coordination Group which coordinates joint operations and directs the necessary multi-agency resources for those operations.

The Cross Border JATF also brings together the relevant law enforcement agencies in both jurisdictions to better co-ordinate strategic and operational actions against cross border organised crime groups. The Task Force comprises Senior Officers from An Garda Síochána, the Police Service of Northern Ireland (PSNI), Revenue Customs, Her Majesty’s Revenue & Customs (HMRC), the Bureau and the National Crime Agency (NCA) (who have the primary role in criminal assets recovery).

On occasion, other appropriate law enforcement services are included, (such

as environmental protection agencies and immigration services) when required by the operations of the Task Force.

The Bureau attended two operational meetings in 2019 in relation to the JATF and are involved in a number of operations currently being conducted under the JATF.

Fiscalis 2020 EU Co-operation Programme, Tax Residence Issues Workshop, Barcelona, Spain

In March 2019, the Bureau participated in an international workshop on ‘*Tax Residence Issues*’ in Barcelona, Spain.

The workshop was part of the Fiscalis 2020 EU co-operation programme. The programme’s objectives and priorities are to support the fight against tax fraud, tax evasion and aggressive tax planning. The workshop provided an opportunity to national officials from across Europe to establish networks and exchange information and expertise.

[Logo of Fiscalis](#)



Institute of International and European Affairs (IIEA)

The Chief Bureau Officer gave a presentation to the IIEA's Justice Group on the 18th October 2019 entitled *"Denying and Depriving local, national and international criminals of their ill-gotten gains"*.



Chief Bureau Officer, Pat Clavin with Vice President of the IIEA, Nora Owen and former Minister for Justice and Equality,

Joint Investigation Teams Policing (JITS)

In 2019, the Bureau was included as a member in two separate Joint Investigation Teams (JIT's) established in accordance with Article 20 of the Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters of the 20th April 1959.

Case 1

The Bureau is a member of a Joint Investigation Team established to facilitate investigations in the United Kingdom, Belgium, France and the Republic of Ireland into events leading to the bodies of thirty nine human beings in a lorry in Essex, United Kingdom on the 23rd October 2019.

The Bureau is conducting an investigation into the assets of two individuals suspected to be involved in

facilitating illegal immigration and related money laundering.



Case 2

The Bureau is a member of a Joint Investigation Team established to facilitate investigations in the Republic of Ireland and Northern Ireland into events leading to criminal damage, assault causing harm, false imprisonment, blackmail and extortion against the directors of a company with business interests both sides of the border.

The Bureau is conducting an investigation into the assets of the individuals involved, in support of the criminal investigation being conducted by An Garda Síochána and the Police Service of Northern Ireland (PSNI).

EMPACT (European Multidisciplinary Platform against Criminal Threats)

The Bureau is a participant in the EU Policy Cycle called EMPACT under the crime priority Criminal Finances, Money Laundering and Asset Recovery.

During 2019, the Bureau was the lead organisation for Operation Act 6.2. This operational action was responsible for the design and drafting of a document entitled *"To collect and correlate all*

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existing templates / checklists used by Member States for the purpose of creating a comprehensive / master check list for use / reference by Member States for non-financial investigators”.

Over the twelve months of 2019, the Bureau gathered information from all participating countries under this operational action. A guidance document was drafted and distributed throughout Europe to assist non-financial investigators when encountering financial crimes. This action was developed so as to assist and strengthen the co-operation between Member States, the law enforcement officers and agencies within each State. Through the design and publication of this document, it is envisaged that the actions taken by the first responder to financial crimes, or another crime where there is a financial aspect involved, will now be strengthened and knowledge improved.

This document has now been distributed to twenty three different countries for use as well as the EU Commission, Europol and CEPOL.

In 2019, the Bureau attended four operational meetings under the EMPACT Criminal Finances, Money Laundering and Assets Recovery Priority.

Visits to the Bureau

The success of the Bureau continues to attract international attention. During 2019, the Bureau facilitated visits by foreign delegations covering a range of disciplines, both national and international.

The Bureau’s continued involvement in investigations having an international dimension presents an opportunity to both contribute to and inform the international law enforcement response to the ongoing threat from transnational organised criminal activity. In addition, this engagement provides an opportunity for the Bureau to share its experience with its international partner agencies.

The Bureau welcomed agencies and also attended at conference / agencies, where it provided various presentations as follows:

- EU Asset Recovery Offices (ARO) in Brussels on 16th January 2019
- Training to Officers from 14 countries from the Southern African Region, Cape Town on 28th March 2019
- European Parliament on the experiences of the Bureau in tackling crime on 3rd April 2019
- Dublin City Centre Business Forum on 9th May 2019
- Independent Reporting Commission on 14th June 2019
- Garda Inspectorate on 4th July 2019
- Compliance Ireland Conference on 27th July 2019
- Proceeds of Crime Conference in Aston Villa Football Club on 24th September 2019
- A&L Goodbody Corporate Crime and Regulation Summit on 27th November 2019
- International Association of Chiefs of Police (IACP) on 13th December 2019

Visit of Norwegian Ministry of Justice and Public Security on 26th September 2019

On Thursday 26th September 2019, the Bureau received a delegation from the Norwegian Ministry of Justice and Public Security to include the Norwegian Minister for Justice and Immigration, Mr Jøran Kallmyr.

The delegation received a briefing from the Chief Bureau Officer and Bureau Legal Officer on the workings of the Bureau, the interagency aspect of the Bureau and the legislation associated with it.

The Norwegian delegation were accompanied by their main TV news-program “Dagsrevyen”. This news story, featuring the Chief Bureau Officer and Mr Kallmyr is available to view at <https://tv.nrk.no/serie/dagsrevyen/2019/09/NNFA03092919/avspiller>.



Chief Bureau Officer, Pat Clavin; Bureau Legal Officer, Kevin McMeel and Detective Inspector Barry Butler with Norwegian Minister for Justice and Immigration, Mr Jøran Kallmyr

Visit of Secretary General and Deputy Secretary General of the Department of Justice and Equality on 13th November 2019.

On Wednesday 13th November 2019, the Secretary General of the Department of Justice and Equality, Mr Aidan O’ Driscoll and the Deputy Secretary, Ms Oonagh McPhillips visited the Bureau offices.

Mr O’ Driscoll and Ms McPhillips met with the Chief Bureau Officer, Bureau Legal Officer, Bureau Officers, staff of the Bureau and staff of the Chief State Solicitors Office co-located at the Bureau’s offices.

The Secretary General and Deputy Secretary General was briefed on the operation of the Bureau and engaged in a walk-through of the offices where they engaged with all officers and staff.



Chief Bureau Officer, Pat Clavin; Bureau Legal Officer, Kevin McMeel with Secretary General Aidan O’Driscoll and Deputy Secretary General Oonagh McPhillips

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Media Interviews

To further raise the profile of the Bureau, the Chief Bureau Officer, Pat Clavin took part in a number of interviews on radio and TV.

Claire Byrne Live

On 1st April 2019, the Chief Bureau Officer gave an interview on the Claire Byrne Live Show on RTE 1 and brought along a number of high value watches, jewellery and high end designer handbags to show viewers.

The Chief Bureau Officer stated *“we are finding a lot of criminals have high value vehicles, we are finding some of the motor trade being penetrated by criminals... lots of criminals like their cars, they like their fancy SUVs and their high powered cars, they understand cars so they like to have maybe their spouse or their girlfriend showing off bringing their kids to school in a nice looking car. In some instances we find that criminals are swapping cars so that there is no cash actually changing hands at all, so if somebody is selling drugs and for a €60,000 debt they will give them maybe a high value vehicle, it’s a way of transferring wealth...”*

“People that have too much money and throw it into assets like watches and jewellery and bags and other things because maybe if they went in and lodged it into a bank, it might be suspicious or it might be less suspicious to throw it into goods like these [watches, jewellery etc]...”

This full interview is available on the Bureau’s social media pages (Facebook: @criminalassetsbureau) and (Twitter: @criminalassets).

Richard Curran, The Business on RTE Radio 1

On the 22nd June 2019, the Chief Bureau Officer was interviewed by Richard Curran of The Business on RTE Radio 1. Topics covered in the interview included an outline of assets seized by the Bureau including cash, money held in financial institutions, crypto-currency, jewellery, watches, vehicles, property and luxury goods such as high end handbags and clothing. He went on to explain crypto-currency as a virtual currency and how the Bureau has trained digital specialists who have the capability to seize and take control of the crypto-currency.

Also mentioned in the interview was that the Bureau is recognised as one of the foremost law enforcement agencies with its ability to investigate, seize, retain and dispose of crypto-currencies. The Bureau’s trained digital specialists have been called upon to help other law enforcement agencies throughout Europe and beyond.

The Chief Bureau Officer detailed what to look out for in identifying persons who may be benefiting from the proceeds of crime, i.e., modest homes having bullet proof windows and doors fitted, CCTV and alarms fitted, luxury vehicles, exotic holidays etc. Information was provided on how the public can report such information to the Bureau.

For full details of this interview, please visit the Bureau's social media pages on Twitter and Facebook.

Pat Kenny, Newstalk

On 20th September 2019, the Chief Bureau Officer spoke live on the Pat Kenny Show, on Newstalk.

He outlined the establishment of the Bureau in 1996 and gave details of the authorised staffing levels within the Bureau.

On speaking about the 2016 legislation allowing the Bureau to target a lower threshold, the Chief Bureau Officer explained how the new legislation allows the Bureau target the lower ranking criminals in an effort to inhibit their progression in the criminal world.

He also spoke on how the Bureau targets individuals and organised groups involved in criminal conduct in its function to deny and deprive the criminal of their assets.

For the full interview, please visit <https://newstalk.com/podcasts/highlights-from-the-pat-kenny-show/discussing-role-criminal-assets-bureau>

National Newspapers

The Chief Bureau Officer also gave interviews to journalists of the National Newspapers including the Irish Independent, Sunday Independent, Irish Times, Irish Examiner and the Journal.

Part Eight
National and International developments

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Part Nine

Protected Disclosures Annual Report

Protected Disclosures Act 2014

Section 22 of the Protected Disclosures Act 2014 requires every public body to prepare and publish a report, not later than the 30th June, in relation to the preceding year's information, relating to protected disclosures.

No protected disclosures were received by the Bureau in the reporting period up to the 31st December 2019.

Part Nine
Protected Disclosures Annual Report

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Part Ten

Conclusions

In 2019, the Bureau exercised its statutory remit to pursue the proceeds of criminal conduct. In order to do this, the Bureau has drawn on the provisions of the Proceeds of Crime Act 1996 as amended, together with Revenue and Social Welfare legislation.

The Bureau continued to target assets deriving from a variety of suspected criminal conduct including drug trafficking, fraud, theft, laundering / smuggling of human beings.

The Bureau continues to target emerging trends such as the use of the motor trade to conceal criminal assets as well as the use of crypto-currency for asset transfer and international fraud.

Throughout 2019, the Bureau placed particular emphasis on targeting the criminal groups engaged in serious and organised crime, as well as property crime, such as burglaries and robberies. A particular focus of the Bureau's activities centres upon rural crime and a number of the Bureau's actions were in support of law enforcement in regional locations.

The investigations conducted by the Bureau and the consequential proceedings and actions resulted in sums in excess of €3.9m forwarded to the Central Fund:

- €1.559 million under the Proceeds of Crime legislation.
- €2.026 million was collected in Revenue and
- €324,000 in Social Welfare recoveries.

At an international level, the Bureau has maintained strong links and has continued to liaise with law enforcement and judicial authorities throughout Europe and worldwide.

During 2019, the Bureau was involved in a number of investigations relating to criminal conduct by organised crime groups along the border with Northern Ireland.

The Bureau continues to develop its relationship with a number of law enforcement agencies with cross-jurisdictional links, most notably, Interpol, Europol, Her Majesty's Revenue & Customs (HMRC), the National Crime Agency in the UK and the CARIN Network.

As the designated Asset Recovery Office (ARO) in Ireland, the Bureau continues to develop law enforcement links with other EU Member States.

In pursuing its objectives, the Bureau continues to liaise closely with An Garda Síochána, the Office of the Revenue Commissioners, the Department of Employment Affairs and Social Protection and the Department of Justice and Equality in developing a coherent strategy to target the assets and profits deriving from criminal conduct. This strategy is considered an effective tool in the overall fight against organised crime.

During 2019, the Intelligence and Assessment Office (IAO) was further developed through the establishment of a formal Admissions Group that advises the Chief Bureau Officer on the selection of targets for full investigation. The heart

Part Ten

Conclusions

of the CAB model continues to be the multi-disciplinary team where professionals work together for the common purpose of denying and depriving criminals of their ill-gotten gains.

The Asset Management Office (AMO) continues to evolve and during 2019, a computerised Asset Financial Management System (AFMS) was procured.

One of the key strengths of the Bureau is its reach into other organisations to support its activities. The Bureau could not undertake its activities without the support of many sections of An Garda Síochána, including units under the Special Crime Operations, the Emergency Response Unit, Regional Armed Support Unit and local Divisional personnel.

In addition, the Bureau receives excellent assistance from many sections of the Office of the Revenue Commissioners, including the Disclosure Office and Customs Units. Officers from various sections of the Department of Employment Affairs and Social Protection assist the Bureau in matters of mutual interest. For this reason, the Bureau extends its reach.

Officials from the Department of Justice and Equality provide excellent advice and support to the Bureau in terms of finance, governance, audit and risk. The Department take on board suggestions for legislative and policy changes in support of the statutory remit of the Bureau. The Bureau wishes to acknowledge the expertise and guidance

provided to Bureau Officers and staff by Department of Justice and Equality officials throughout the year.

In 2019, the Department of Justice and Equality underwent extensive organisational change in response to the recommendations of the Independent Effectiveness and Renewal Group (ERG) established by Government in January 2018 to identify the changes necessary to enable the Department to meet the changed demands of the environment. The Bureau would like to take this opportunity to wish to Department of Justice and Equality well in their new set up and will continue to work alongside the Department in the years to come.

Appendix A

Objectives & functions of the Bureau

Objectives of the Bureau: Section 4 of the Criminal Assets Bureau Act 1996 & 2005

4.—Subject to the provisions of this Act, the objectives of the Bureau shall be—

- (a) the identification of the assets, wherever situated, of persons which derive or are suspected to derive, directly or indirectly, from criminal conduct,
- (b) the taking of appropriate action under the law to deprive or to deny those persons of the assets or the benefit of such assets, in whole or in part, as may be appropriate, and
- (c) the pursuit of any investigation or the doing of any other preparatory work in relation to any proceedings arising from the objectives mentioned in paragraphs (a) and (b).

Functions of the Bureau: Section 5 of the Criminal Assets Bureau Act 1996 & 2005

5.—(1) Without prejudice to the generality of Section 4, the functions of the Bureau, operating through its Bureau Officers, shall be the taking of all necessary actions—

- (a) in accordance with Garda functions, for the purposes of the confiscation, restraint of use, freezing, preservation or

seizure of assets identified as deriving, or suspected to derive, directly or indirectly, from criminal conduct

- (b) under the Revenue Acts or any provision of any other enactment, whether passed before or after the passing of this Act, which relates to revenue, to ensure that the proceeds of criminal conduct or suspected criminal conduct are subjected to tax and that the Revenue Acts, where appropriate, are fully applied in relation to such proceeds or conduct, as the case may be,
- (c) under the Social Welfare Acts for the investigation and determination, as appropriate, of any claim for or in respect of benefit (within the meaning of Section 204 of the Social Welfare (Consolidation) Act, 1993) by any person engaged in criminal conduct, and
- (d) at the request of the Minister for Social Welfare, to investigate and determine, as appropriate, any claim for or in respect of a benefit, within the meaning of Section 204 of the Social Welfare (Consolidation) Act, 1993, where the Minister for Social Welfare certifies that there are reasonable grounds for believing that, in the case of a particular investigation, Officers of the Minister for Social Welfare may

Appendix A

Objectives & functions of the Bureau

be subject to threats or other forms of intimidation,

and such actions include, where appropriate, subject to any international agreement, co-operation with any police force, or any authority, being an authority with functions related to the recovery of proceeds of crime, a tax authority or social security authority, of a territory or state other than the State.

(2) In relation to the matters referred to in subsection (1), nothing in this Act shall be construed as affecting or restricting in any way—

- (a) the powers or duties of the Garda Síochána, the Revenue Commissioners or the Minister for Social Welfare, or
- (b) the functions of the Attorney General, the Director of Public Prosecutions or the Chief State Solicitor.

Appendix B

Statement of Internal Controls

Scope of Responsibility

On behalf of the Criminal Assets Bureau I, as Chief Bureau Officer, acknowledge responsibility for ensuring that an effective system of internal control is maintained and operated. This responsibility takes account of the requirements of the Code of Practice for the Governance of State Bodies (2016).

I confirm that a business plan is agreed annually by the Senior Management Team (SMT) and is submitted to the Assistant Secretary, Department of Justice and Equality for information.

I confirm that a Corporate Governance Assurance Agreement between the Bureau and the Department of Justice and Equality covering the years 2017 – 2019 is in place and is subject to ongoing review.

I confirm, that the Annual Report and Compliance Statement has been submitted to the Minister for Justice and Equality.

Purpose of the System of Internal Control

The system of internal control is designed to manage risk to a tolerable level rather than to eliminate it. The system can therefore only provide reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded and that material errors or irregularities are either prevented or detected in a timely manner.

The system of internal control, which accords with guidance issued by the Department of Public Expenditure and Reform has been in place in the Criminal Assets Bureau for the year ended 31st December 2019 and up to the date of approval of the financial statements.

Capacity to Handle Risk

The Criminal Assets Bureau reports on all audit matters to the Internal Audit Unit in the Department of Justice and Equality and has in place a Bureau Audit and Risk Committee (ARC). The ARC of the Bureau met on four occasions during the year 2019.

The ARC has developed a risk management policy which sets out its risk appetite, the risk management processes in place and details the roles and responsibilities of staff in relation to risk. The policy was issued to all Managers within the Bureau who were advised of the necessity to alert management of emerging risks and control weaknesses and to assume responsibility for risk and controls within their own area of work.

Risk and Control Framework

The Criminal Assets Bureau implemented a Risk Management System which identified and reported key risks and the management actions taken to address, and to the extent possible, to mitigate those risks.

A Risk Register is in place in the Criminal Assets Bureau which identifies the key risks facing the Bureau and these are identified, evaluated and graded according to their significance. The register is reviewed and updated by the

Appendix B

Statement of Internal Controls

ARC on a quarterly basis. The outcome of these assessments is used to plan and allocate resources to ensure risks are managed to an acceptable level. The Risk Register details the controls and actions needed to mitigate risks and responsibility for operational controls assigned to specific staff.

In respect of the Bureau, I confirm that a control environment containing the following elements is in place:

- procedures for all key business processes are documented;
- financial responsibilities are assigned at management level with corresponding accountability;
- an appropriate budgeting system is in place, with an annual budget which is kept under review by senior management;
- systems aimed at ensuring the security of the information and communication technology systems are in place;
- systems are in place to safeguard the Bureau's assets;
- the National Shared Services Office provide Payroll Shared Services to the Bureau

Ongoing Monitoring and Review

During the period covered by this Financial Statement, formal procedures were implemented for monitoring and control processes and control deficiencies were communicated to those responsible for taking corrective action and to management, where relevant, in a timely way. I confirm that the following monitoring systems were in place in respect of the Criminal Assets Bureau:

- key risks and related controls have been identified and processes have been put in place to monitor the operation of those key controls and report any identified deficiencies;
- an annual audit of financial and other controls has been carried out by the Department of Justice and Equality's Internal Audit Unit;
- reporting arrangements have been established at all levels where responsibility for financial management has been assigned;
- regular reviews by senior management of periodic and annual performance and financial reports take place, which indicate performance against budgets/forecast.

Procurement

I confirm that the Criminal Assets Bureau has procedures in place to ensure compliance with current procurement rules and guidelines and that during the year 2019 the Criminal Assets Bureau complied with those procedures.

Review of Effectiveness

I confirm that the Criminal Assets Bureau has procedures in place to monitor the effectiveness of its risk management and control procedures. The Bureau's monitoring and review of the effectiveness of the system of internal control was informed by the work of the internal ARC, the Internal Audit Unit of the Department of Justice and Equality and the Comptroller and Auditor General. The ARC, within the Criminal Assets Bureau, is responsible for the

development and maintenance of the internal control framework.

During 2019 the Internal Audit Unit of the Department of Justice and Equality conducted an audit at the Criminal Assets Bureau on financial and other controls, in line with its annual programme of audits, to provide assurance to the Audit Committee of Vote 24 (Justice).

Internal Control Issues

No weaknesses in internal control were identified in relation to 2019 that require disclosure in the Financial Statements.



Patrick Clavin
Chief Bureau Officer
9th April 2020

Appendix B
Statement of Internal Controls

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