

# Annual Report

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# 2020

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

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

[www.cab.ie](http://www.cab.ie)  
[www.anbiúroumschómhainnícoiriúla.ie](http://www.anbiúroumschómhainnícoiriúla.ie)

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# Letter forwarding report from the Garda Commissioner to the Minister for Justice

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 2020 Annual Report of the Criminal Assets Bureau.

2020 was a very busy year for the Bureau. Despite the challenges of Covid-19, the Bureau brought thirty one new proceeds of crime cases before the High Court.

I note that the Bureau conducted fifty four search operations consisting of one hundred and seventy one searches in twenty counties and obtained High Court orders under the Proceeds of Crime Act 1996 in respect of assets in sixteen 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 cooperation with locally trained Divisional Asset Profilers. The Bureau continues to foster links with local communities and supports local Garda management in enhancing the role of the Divisional Asset Profiler 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 2020, the Bureau focused on all crimes involving wealth acquisition and returned in excess of €4.2 million to the Exchequer.

I note that the Bureau also returned €5.4 million to the Nigerian Government following the signing of a Memorandum of Understanding between Ireland and the Federal Republic of Nigeria in October 2020.

I also wish to note the Bureau returned in excess of €1 million to the Department of Public Expenditure and Reform under section 24 of the Criminal Justice Act 1994 legislation.

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

Yours sincerely



**J A Harris**  
**COMMISSIONER**  
**AN GARDÁ SÍOCHÁNA**

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

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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 25<sup>th</sup> Annual Report of the Criminal Assets Bureau for the calendar year 2020. This report is submitted for presentation to the Minister for Justice 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.

2020 brought a new challenge to the functioning of the Bureau in the form of Covid-19. The Bureau reacted quickly and adopted new work practices ensuring the work of the Bureau continued whilst ensuring the safety of Bureau Officers and staff. The flexibility, resilience and professionalism exhibited by all personnel attached to the Bureau is to be commended.

During the year, the Bureau continued to focus on the development of the Divisional Asset Profiler Network through the liaison with Divisional Asset Profilers. Due to the Covid-19 pandemic, the Bureau was unable to conduct the Divisional Asset Profiler course in 2020. An online version of this course has been developed for delivery in 2021.

The Bureau recognises the contribution of locally trained Divisional Asset Profilers in the early identification of suitable targets for action by the Bureau.

During 2020, thirty one new applications were brought before the High Court under the Proceeds of Crime legislation. The Bureau recognises that this figure remains the same as the 2019 figure. Whilst being faced with new ways of working due to Covid-19, court hearings were held both remotely and in person to facilitate the Bureau reaching this target.

Once again, the majority of these actions related to drug trafficking cases. Other frequent crime types relate to thefts, burglary, fraud and money laundering. 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 2020, the value of assets under the new proceeds of crime cases commenced by the Bureau ranged in value from €5,348 to €0.846m.

Proceeds of crime actions, together with actions under the Revenue and Social Protection provisions, yielded in excess of €4.2 million to the Exchequer in 2020.

On the 12<sup>th</sup> August 2020, the Minister for Justice, Helen McEntee, T.D., signed a Memorandum of Understanding with the Federal Republic of Nigeria to facilitate the return of funds misappropriated by the late former Nigerian President, General Sani Abacha.

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

In October 2020, in excess of €5.4 million was returned by the Bureau to the Nigerian Government. This was the first time Ireland had taken such an action and demonstrates the continuation of Ireland's commitment to international cooperation in the fight against corruption and to assisting countries which have been adversely affected by corruption in the past.

In December 2020, in excess of €1 million was also returned to the Exchequer under section 24 of the Criminal Justice Act 1994. This was the first time the Bureau had taken such an action.

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 Social Protection and the Department of Justice.

During 2020, 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 continued to participate in the two Joint Investigation Team (JIT) agreements that Ireland joined in 2019.

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 would like to acknowledge the professional assistance provided to the Bureau by the Garda Press Office.

Staff of the Bureau continue to develop a significant social media presence through Facebook and Twitter resulting in the promotion of the activity of the Bureau and securing valuable information from members of the public. I want 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 Social Protection, the Department of Justice, 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.

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

The Bureau recognises the increased output of activities over the past four years which 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 would like to also 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.

I am pleased that the Bureau has obtained financial approval from the Department of Public Expenditure and Reform to increase the number of Bureau Officers by six.

During 2020 the Bureau, in conjunction with the University of Limerick, successfully launched the Post Graduate Diploma in Proceeds of Crime and Asset Investigation (POCAI) course. This course commenced in September 2020 consisting of five modules and was delivered online due to the Covid-19 pandemic.

I wish to thank Course Director Prof. Shane Kilcommins, Head of the School of Law at the University of Limerick for his determination, knowledge, advice, professionalism and dedication in successfully bringing this course to fruition in 2020. The Bureau looks forward to continuing its working relationship with the University of Limerick in the delivery of POCAI.

I wish the former Chief Bureau Officer, Assistant Commissioner Patrick Clavin, every success for the future.

Finally, as this is my first report as Chief Bureau Officer, I would like to take this opportunity to acknowledge the high level of professionalism, dedication and commitment demonstrated by all Bureau Officers and staff. The nature of their work is such that, in many instances, it cannot be publicly acknowledged due to the necessity for anonymity and security requirements.

Yours sincerely



**MICHAEL GUBBINS**  
**DETECTIVE 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 25<sup>th</sup> Annual Report on the activities of the Criminal Assets Bureau (hereinafter referred to as “the Bureau”) and covers the period from 1st January 2020 to 31st December 2020 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 outlining its activities during the year 2020.

## Foreword

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## Part One

# *Overview of the Criminal Assets Bureau, its Officers and Staff*

### The Bureau

On the 15<sup>th</sup> 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 of State Bodies as adapted to its structure.

The Bureau sets out its goals and commitments for the year in its annual Business Plan 2020. This plan took cognisance of the Statement of Strategy 2020-2023.

The Department of Justice'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.

An Oversight Agreement between the Bureau and the Department of Justice has been signed and covers the period 2020 – 2022. 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.

A separate but related Performance Delivery Agreement has also been signed for the year 2020.



Former Chief Bureau Officer Pat Clavin with Mr John O'Callaghan, former Head of Criminal Justice Governance Section, Dept. of Justice

### 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

## Part One

### Overview of the Criminal Assets Bureau, its Officers and Staff

Energy Performance Officer for the Bureau.

The Bureau will continue to 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).

In November 2020, the Bureau completed the "Green Business Tool for Resource Efficiency" Survey which enables the Bureau to reduce costs and help to reduce our environmental impacts.

During 2020, the Bureau replaced 20% of ageing PC's in order to ensure PC's are more energy efficient and eco-friendly. Most modern desktop PC's and laptops use approx 70% less power and meet an Energy Star<sup>(R)</sup> 4.0 standard with up to 87% efficient power supplies.

Other such energy efficient initiatives introduced by the Bureau during 2020 include:

- Server replacements with the new power efficient model.
- Increase of air-conditioning temperatures at night in the communications server room saving considerable power annually.
- Recycling initiatives introduced via bins specifically for used toners.
- Sleep mode on all photocopiers and printers when not in use.
- CCTV cameras with night vision to avoid the necessity of lights.

- Motion sensor lights in all WC facilities.
- The Bureau continues to increase the number of hybrid vehicles in its fleet.

Plans for 2021:

- Automatic shutdown of PC's at night saving an additional 25% power consumption.

## Finance

During the course of the year the Bureau expended monies provided to it by the Oireachtas, through the Minister for Justice, 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 2019 / 2020

| Year | Description | Amount €         |             |
|------|-------------|------------------|-------------|
|      |             | Budget Provision | Total Spent |
| 2019 | Pay         | 8,152,000        | 7,712,000   |
|      | Non-pay     | 1,701,000        | 2,148,000   |
|      | Total       | 9,853,000        | 9,860,000   |
| 2020 | Pay         | 7,389,000        | 8,600,000   |
|      | Non-pay     | 1,701,000        | 1,801,000   |
|      | Total       | 9,090,000        | 10,401,000* |

*\* Awaiting Audit – Subject to Change*

*The increase in overall expenditure relates mainly to increased operational activity costs and the assignment of a number of temporary staff to the Bureau during 2020. The Bureau received a supplementary provision of €1.3m to provide for this expense.*

## 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 persons 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 Michael Gubbins who was appointed on 5<sup>th</sup> May 2020.

A special thank you to our former Chief Bureau Officer Patrick Clavin who was promoted to Assistant Commissioner in May 2020. The Criminal Assets Bureau wish him the very best in his new position.

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 was appointed on 19<sup>th</sup> July 2019.

## 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 1<sup>st</sup> 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*

## Part One

### Overview of the Criminal Assets Bureau, its Officers and Staff

*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.

## 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 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 nine.

Following promotions and retirements during 2020, twelve staff vacancies

remain at the Bureau on 31<sup>st</sup> December 2020.

These vacancies include seven Detective Garda vacancies, two IT vacancies, one Forensic Accountant vacancy and two Clerical Officer vacancies in the Administration Office. The Bureau is liaising with the relevant bodies and it is anticipated that these vacancies will be filled by Quarter 3, 2021.

### Authorised Staffing Levels

Interagency & multi-disciplinary authorised levels

|                                                                                     |    |
|-------------------------------------------------------------------------------------|----|
|   | 53 |
|  | 8  |
|  | 21 |
|  | 17 |

The Bureau would like to acknowledge the assistance of the Department of Public Expenditure and Reform, the Department of Justice and the Department of Social Protection for the increase in the allocation to the Bureau of

two additional Social Welfare Bureau Officers. This brings the Social Welfare Bureau Officer staff complement from six officers in 2019 to eight officers in 2020.

### 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. Its 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 increase in cases is best illustrated by the number of cases submitted to the Bureau for consideration i.e., from 500 cases in 2016 to in excess of 1,700 cases in 2020.

Once these cases are assessed they are formally submitted to an Admissions



## Part One

### *Overview of the Criminal Assets Bureau, its Officers and Staff*

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.

### 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.

### Asset Management Training

The Bureau recognises that continuous training is required in order to maintain best practice in the area of asset management. In 2020, a Bureau Officer assigned to this area, participated in an online training course as part of studying towards a Certificate in Asset Management, which is awarded by the Institute of Asset Management (IAM).

### Presentations made by AMO

#### Balkan Asset Management Inter-Agency Network (BAMIN)

The BAMIN network is an "informal" network of experts and practitioners in the field of asset management. Its aim is to improve domestic practice and international cooperation among asset management offices, law enforcement and judicial agencies, which in turn provide a more effective method of managing assets. Its primary objective is to improve mutual knowledge on

## Part One

### *Overview of the Criminal Assets Bureau, its Officers and Staff*

methodologies and techniques in this area on a practical operational level.

The need to effectively manage the proceeds derived from crime is recognised as the key to providing any substantial value for forfeiture or confiscation during an investigation and prosecution.

In 2020, a Bureau Officer attached to AMO, made a presentation to the BAMIN on the topic of cryptocurrency management.

The practical experience of Bureau Officers attached to AMO and the recent training courses undertaken in this area, assisted several jurisdictions in the western Balkans to establish their own policy and procedures on this issue.



#### Cayman Islands

A presentation was given virtually on the 29<sup>th</sup> July 2020, by a Bureau Officer attached to AMO, to staff of the Cayman Islands Official Receivers Office, officers from the Cayman Islands Director of Public Prosecutions Office and police officers attached to the Royal Cayman Islands Police Service on research carried out and the Irish approach in the area of the management and disposal of virtual assets.

#### Interpol

A Bureau Officer, attached to the AMO, gave a presentation to Interpol members from the Middle East on the topic of the

Irish perspective for the management and disposal of high value / high risk assets. This presentation was made online on the 9<sup>th</sup> November 2020.

#### CAB Bespoke Online Auctions

Over the last number of years, the Bureau has seen an increase in the seizure of luxury goods purchased with the proceeds of crime and continues to target these ill-gotten gains.

In this regard and in order to realise the value of these luxury assets, the assets are put to auction by various auction houses throughout the country.



Louis Vuitton Suitcases

During 2020, and due to the large volume of luxury assets over which a section 4 or 4a order of the PoC Act had been granted, the Bureau engaged the services of an Auction House who, on behalf of the Bureau, held online bespoke timed auctions, the first two of which was held in October 2020.

The types of assets sold at these auctions were jewellery, watches, a drone, Bitcoin, a boat engine, designer handbags / luggage, designer clothing, designer footwear and a number of high end vehicles.

Following the success of the first two online auctions, the Bureau again

## Part One

### *Overview of the Criminal Assets Bureau, its Officers and Staff*

engaged the services of an Auction House who, on behalf of the Bureau, held a further CAB bespoke timed auction over a 24hr period in December 2020.

To comply with Covid-19 restrictions, this auction was held online to discourage the unnecessary travelling to view or inspect the assets. All viewings were held online and full itemised inspection reports were made available to potential bidders / purchasers.

The types of assets sold were Bitcoin, watches, jewellery, designer clothing, designer footwear, designer handbags / luggage and an aircraft.

Due to the success of these auctions, the Bureau realised a total value of €280,515.46.



Calidus Gyro Aircraft

#### e-Discovery Solution

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.

Following a procurement competition in 2019, the Bureau successfully installed a full eDiscovery solution in 2020 which is now available to assist in the collection, processing, analysis and review of electronic evidence collected as part of ongoing investigations.

The Bureau Analysis Unit (BAU) provided training to Bureau Officers in the use of this new eDiscovery Solution. This new system is saving the Bureau considerable man-hours in analysing data.

#### Chief State Solicitor's Office

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

The CAS represents the Bureau in both instituting and defending litigation in all court jurisdictions primarily, but not exclusively, with the assistance of Counsel.

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*Overview of the Criminal Assets Bureau, its Officers and Staff*

In addition, the CAS provides representation for all tax and social welfare matters both before the respective appeal bodies and in the Circuit and Superior Courts.

Furthermore, the CAS 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 2020, the CAS was staffed as follows:

- 1 Principal Solicitor
- 3 State Solicitors
- 1 Assistant Principal Legal Executive
- 1 Executive Officer
- 2 Clerical Officers

While the work of the CAS 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 and increased service demands in proceeds of crime cases and other areas of Bureau work.

The Bureau recognises the need for an increase in CSSO staff to support the higher volume of matters submitted for legal services to the CAS by the Bureau.

### Divisional Asset Profilers

In 2020 the Bureau was unable to deliver training in this area due to the Covid-19 pandemic.

An online version of this training course has been developed for delivery in 2021.

At year end, the total number of Divisional Asset Profilers stood at four hundred and seventy one, which included:

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

In 2020, two hundred and thirty five asset profiles were received from Divisional Asset Profilers throughout Ireland as compared to two hundred and twenty two asset profiles received in 2019. Ongoing contact and close cooperation was maintained both Regionally and Divisionally throughout 2020.

During 2020, 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 2021 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 in Tipperary, the Bureau

## Part One

### *Overview of the Criminal Assets Bureau, its Officers and Staff*

conducted an investigation into the assets of a UK based individual who was suspected to be part of an Organised Crime Group (OCG) involved in the cultivation, sale and supply of cannabis through a network of grow houses.

This investigation was referred to the Bureau after local Gardaí in Tipperary discovered fully operational grow houses as part of local investigations into the sale and supply of controlled drugs in Counties Tipperary and Cork.

The Bureau's investigation resulted in the granting of an order under section 2 of the PoC Act over a residential property in Co. Tipperary, a residential property in Co. Cork, a residential property in Dublin 15 and €43,680.00 held in a financial account.



Grow House

### Case 2

The Bureau obtained orders pursuant to section 3 and 7 of the PoC Act over a residential property in North Dublin, €372,000 in cash, €192,000 held in financial accounts and three high value watches, including Rolex and Tag Heuer.

The subject of this investigation, a drug dealer in the Dublin North area, was referred to the Bureau by a local Divisional Assets Profiler attached to the

Garda Dublin Metropolitan Region North Division.

## Presentations

### CAB Presentations

During the course of 2020, the Bureau assisted the Crime Training Faculty at the Garda College in Templemore in the provision of Detective Training.

The Bureau delivered presentations to the Detective Garda Training Programme on three occasions during 2020.

### Irish League of Credit Unions on 10<sup>th</sup> & 11<sup>th</sup> March 2020

Detective Superintendent Egan was invited by the Irish League of Credit Unions to speak at their conference on 10<sup>th</sup> – 11<sup>th</sup> March 2020 entitled *“Tackling Financial Crime – Threats and Responses for Credit Unions”*.

This conference was attended by Money Laundering Reporting Officers (MLROs), CEOs / Managers and Compliance and Risk Officers attached to Irish Credit Unions nationwide.

Detective Superintendent Egan gave two presentations over the course of two days in both Portlaoise and Cavan on the *“Identification and Recovery of Proceeds of Crime”*.



Presentation of Detective Superintendent Egan

**AMLCFU on 9<sup>th</sup> September 2020**

The Bureau is pleased to be able to support the Northern Ireland Co-operation Overseas (NI-CO) EU funded Anti Money Laundering and Countering the Financing of Terrorism Project by way of online lectures in the area of civil forfeiture and asset recovery.

These lectures and associated training will be delivered to law enforcement and asset recovery agencies across Europe. It will also provide additional support via places on the Divisional Asset Profilers Course and the Criminal Assets Bureau: Postgraduate Diploma in the Proceeds of Crime and Asset Investigation (POCAI) Course.





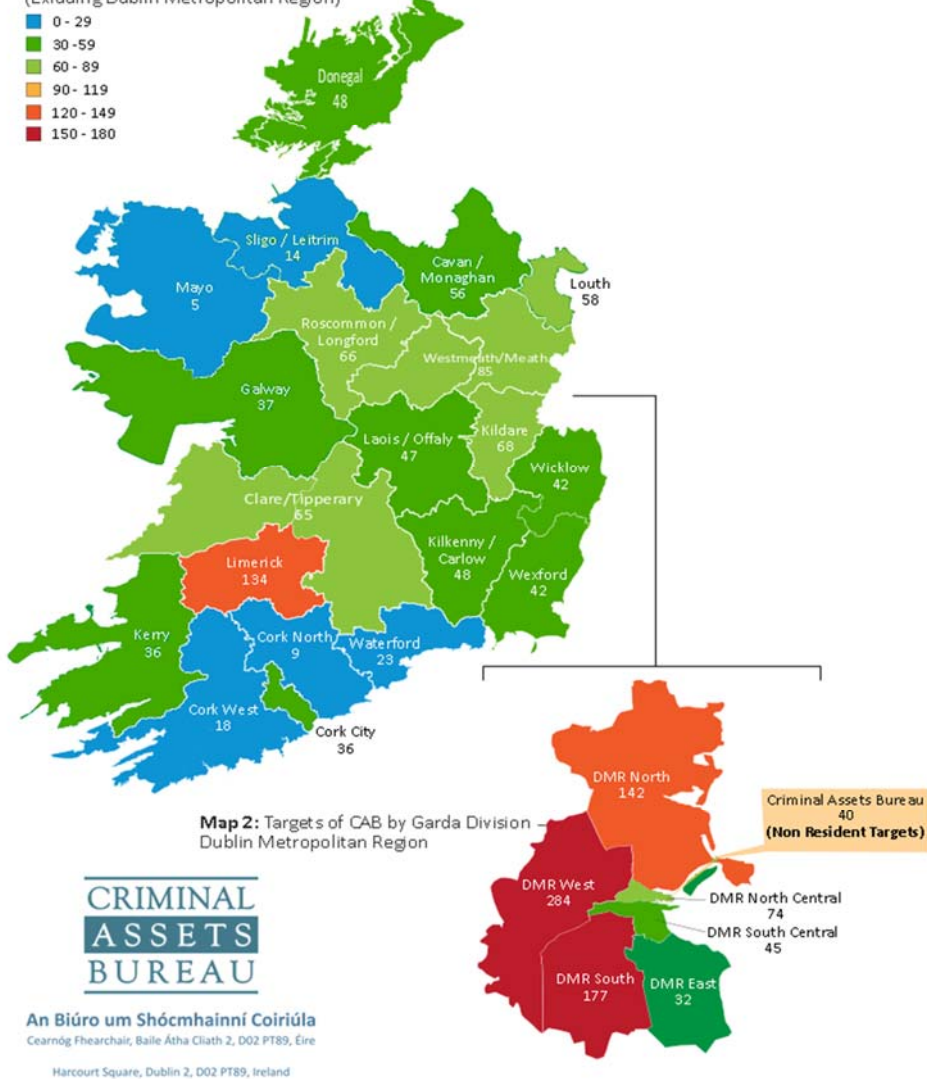
## Part One

### 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 2020)

**Total: 1731**

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



## Training and Development

### Proceeds of Crime & Asset Investigation (POCAI)

(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, the Bureau currently provides national and international assistance and education to other law enforcement / regulatory agencies and State bodies including Interpol, Europol, Cayman Islands Official Receivers Office, Polish Ministry of Justice and the Swedish National Police.

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 and following approval, the course was jointly launched by staff from the University of Limerick and the Bureau on the 26<sup>th</sup> February 2020.



Launch of POCAI at the University of Limerick

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.

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



## Part One

### *Overview of the Criminal Assets Bureau, its Officers and Staff*

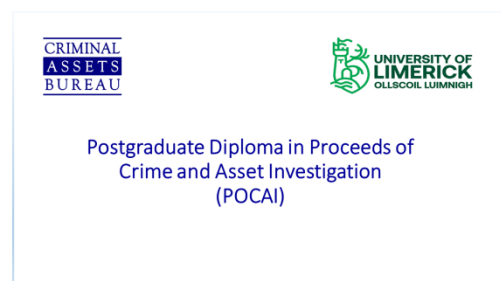
Investigation, Law, Procedure,  
Policy and Practice

#### 5. The Experiential Learning Module

The course commenced in September 2020 but due to the Covid-19 pandemic, the programme was delivered online under Course Director Professor Shane Kilcommins, Head of the School of Law at the University of Limerick.

This delivery of the course was supported by subject matter experts within the Bureau and external experts in areas such as proceeds of crime procedures, white-collar crime, bribery and corruption, evidence and international cooperation.

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



## Staff Training

During 2020, 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
- Asset Management, Institute of Asset Management
- Corporate, Regulatory & White Collar Crime, Kings Inn
- Forensic Computing and Cyber Crime Investigation, UCD
- Proceeds of Crime and Asset Investigation (POCAI), CAB & University of Limerick

In addition, a number of awareness briefings took place virtually throughout 2020 to all staff of the Bureau on relevant topics including:

- Cryptocurrency – Coinbase
- eDiscovery
- Wellbeing and Stress Management
- Interpol – Money Laundering & Terrorist Financing
- Wellbeing – Civil Service Employee Assistance Officer
- Register of Beneficial Owners Presentation

## Virtual Currencies

The Bureau continues to maintain its level of knowledge and investigative ability in the field of cryptocurrencies 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

## Part One

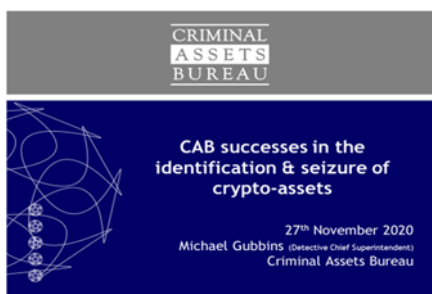
### Overview of the Criminal Assets Bureau, its Officers and Staff

exploit the characteristics of cryptocurrencies to generate and launder the proceeds of crime.

Through its investigations, the Bureau has made a number of seizures of various forms of cryptocurrencies including Bitcoin and Ethereum. The Bureau's seizure of the cryptocurrency Ethereum was the first of its kind by any law enforcement agency worldwide.

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 cryptocurrencies, the Chief Bureau Officer gave a presentation to Blockchain Ireland on the recent successes of the Bureau in relation to the seizure of cryptocurrency and the proceeds of crime.

The Chief Bureau Officer also attended and gave an online presentation to the Euro IT Counsel Meeting in respect of cryptocurrencies and the Bureau's successes to date in the seizure and realisation of virtual currencies.



These forums allow the Bureau to share and enhance its knowledge in

this area and generate global expert contacts in this field which will benefit future Bureau investigations.

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 the proceeds of criminal conduct.

#### 4<sup>th</sup> Global Conference on Criminal Finances and Cryptocurrencies

On 18<sup>th</sup> and 19<sup>th</sup> November 2020, a Garda Bureau Officer represented the Bureau at a conference entitled "4<sup>th</sup> Global Conference on Criminal Finances and Cryptocurrencies".

This conference was jointly hosted by Interpol, Europol and the Basel Institute on Governance and was delivered online due to the Covid-19 pandemic. Presentations were delivered by colleagues from Europol, Interpol and several member countries.

The following topics were discussed:

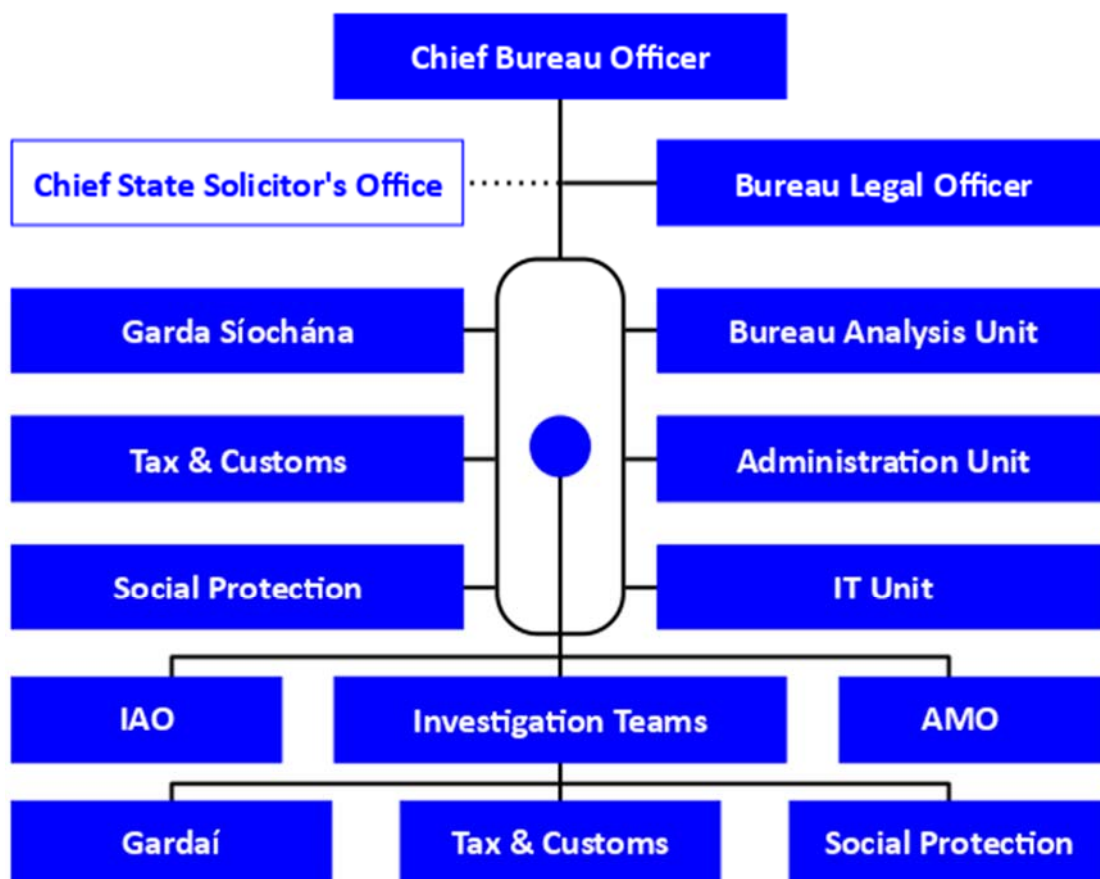
- Cryptocurrency Crime – Trends and Investigations
- Dark Market Trends
- FATF Recommendations – Global Compliance Efforts
- Money Laundering via Virtual Assets



## Part One

### Overview of the Criminal Assets Bureau, its Officers and Staff

Diagram: Organisation of the Bureau



## Part Two

### *Criminal Assets Bureau investigations*

#### Investigations

During 2020, 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 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 14A of the CAB Act, as amended.

The Bureau conducted its investigations throughout 2020 with the cooperation and assistance of Garda personnel from Garda Divisions and also from Garda National Units attached to Organised and Serious Crime (OSC) including Special Tactics and Operations Command (STOC) and the Garda National Crime and Security Intelligence Service (GNCSIS). Investigations were also supported by the Office of the Revenue Commissioners.

The Bureau continued to cooperate with the Special Investigation Units of the Department of Social Protection in respect of their investigations in 2020.

This continued assistance has been critical to the success in targeting the

proceeds of criminal conduct during 2020.

#### 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 2020, 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 deems necessary, including persons who are technically and/or professionally qualified people, to assist him/her in the search.

## Part Two

### Criminal Assets Bureau investigations

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

During 2020, the Bureau executed one hundred and sixty seven warrants in targeting organised crime groups. In particular, the Bureau targeted a known organised crime group based in the Midlands. 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 to uplift 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 who are believed to possess assets which represent, directly or indirectly, the proceeds of crime.

During 2020, the Bureau executed four hundred and seventy five orders pursuant to section 14A.

### Applications made during 2020

The table below outlines the number of applications made under section 14 and 14A of the CAB Act, as amended.

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

| Description                                                                       | Applications |      |
|-----------------------------------------------------------------------------------|--------------|------|
|                                                                                   | 2019         | 2020 |
| Search warrants under section 14 CAB Act, 1996 & 2005*                            | 227          | 167  |
| Orders to make material available under section 14A of the CAB Act, 1996 & 2005** | 396          | 475  |

\*The reduction in the number of search warrants issued during 2020 is attributed to the restrictions imposed with the Covid-19 pandemic.

\*\* The increase in Section 14A orders can be attributed to the increase in investigations conducted during 2020.

## 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 2020, the Bureau obtained such orders on nine hundred and thirty five occasions. These orders were obtained in respect of seventy six 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 €4,528,374, £76,760 Sterling and \$13,000 AUD Dollars.

The making of a 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

As part of the Bureau's investigation into the provision of falsified documents to the Bureau by a person involved in the used motor trade industry, an individual was convicted before the Circuit Court of an offence contrary to section 26 of the Criminal Justice (Theft and Fraud Offences) Act 2001.

The Bureau has persons charged before the courts, pending trial in respect of:

- Offences of Money Laundering, contrary to section 7 of the Criminal Justice (Money Laundering & Terrorist Financing) Act 2020
- Possession of controlled drugs for the purpose of sale and supply, contrary to section 15 of the Misuse of Drugs Act 1977/84
- Threat / Intimidation of a CAB Officer, contrary to section 13 of the CAB Act (Intimidation of Bureau Officers)
- Possession of stolen property, contrary to section 18 of the Criminal Justice (Theft and Fraud Offences) Act 2001.





## Selection of Unusual Assets Seized



Metal Detector

CRIMINAL  
ASSETS  
BUREAU



Miniature Mobile Phone



Boat Engine



Boat



Power Washers

## Part Three

### *Actions under the Proceeds of Crime Act 1996 to 2016*

#### Introduction

The Proceeds of Crime Act 1996 to 2016 ("PoC Act") enables the High Court, as respects the Proceeds of Crime, to make orders for the preservation and, where appropriate, the disposal of the property concerned and to provide for related matters.

The PoC Act further allows 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 2020, 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 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). This was done on one occasion in 2020.

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



### Part Three

#### *Actions under the Proceeds of Crime Act 1996 to 2016*

hearing that the asset represents, directly 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 PoC 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 PoC 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.

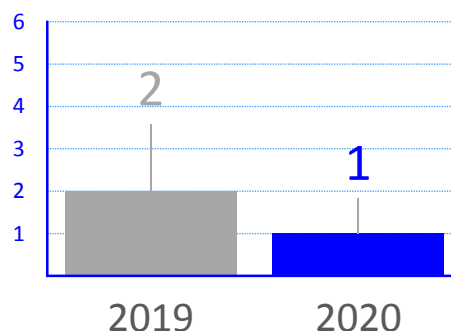
The Chief Bureau Officer may, during the twenty four hour period, authorise the

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 2020, the Bureau invoked its powers under section 1A of the PoC Act on one occasion, details are set out overleaf.

Number of cases which section 1A orders made



**Example:**

The Bureau took possession of an Audi RS3 motor vehicle in July 2020 belonging to an individual involved in the sale and supply 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 sections 2 and 7 of the PoC Act.



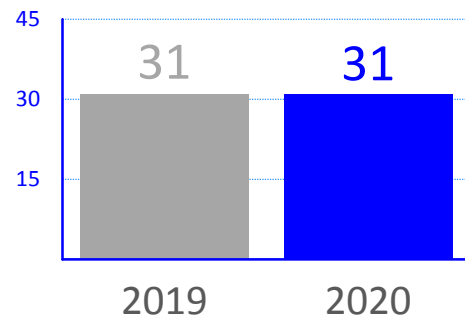
Audi RS3

**Cases commenced**

Thirty one new cases commenced during 2020. Of these, thirty cases were initiated by issuing proceedings by way of originating motion under section 2 and one case was initiated by way of section 3 of the PoC Act.

The Bureau has been engaged in extensive work in preparing these investigations to allow it to bring these cases in 2020.

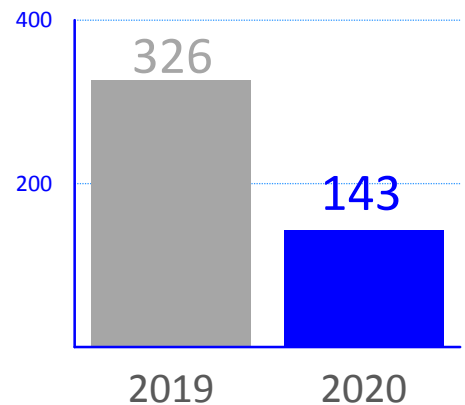
New POC cases brought before the High Court



**Section 2(1) Review**

When analysed, the number of assets over which an order was obtained under section 2(1) decreased in comparison to 2019 from three hundred and twenty six assets in 2019 to one hundred and forty three assets in 2020.

Assets over which section 2(1) Orders made



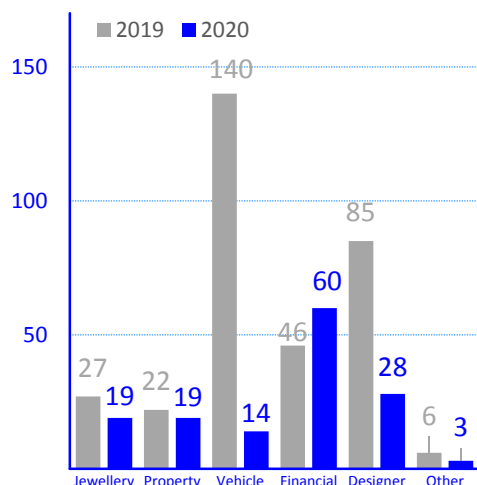
The Bureau notes the significant decrease in the number of assets over which section 2(1) orders were made. This is mainly due to the large seizure of vehicles in one case during 2019.

### Part Three

#### Actions under the Proceeds of Crime Act 1996 to 2016

During 2020, 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



### Valuation Breakdown

The value of the one hundred and forty three assets frozen under section 2 of the PoC Act during the year 2020 was €5,814,206. A breakdown of this figure is detailed in the table below.

Analysis of section 2 order by Asset Type

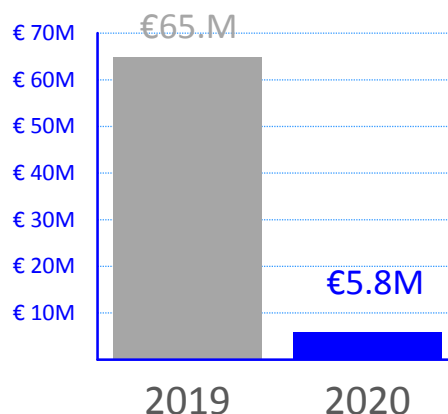
| Description    | €                |
|----------------|------------------|
| Property       | 3,798,716        |
| Financial      | 1,430,739        |
| Vehicle        | 254,687          |
| Jewellery      | 226,520          |
| Other          | 54,200           |
| Designer Goods | 49,344           |
| <b>Total</b>   | <b>5,814,206</b> |



Hybrid Bicycle

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.

Value of assets frozen under section 2(1)



The results for 2020 compared to 2019 show the value of assets frozen under section 2(1) has decreased by €59 million from the previous year where the value was €64,985,550. This unusual variance is largely due to a significant seizure of cryptocurrency in 2019 to the value of €53,023,140.

The value of assets fluctuates in each case depending on whether high value assets to low value assets are targeted. The value of such orders range from €5,348 to €846,581.

Rolex Ladies Watch



### Section 3 Review

A section 3(1) order 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.



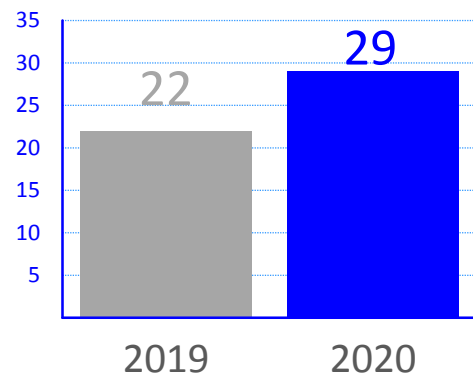
Versace Sliders

During 2020, twenty nine cases before the High Court, to the value of

€57,688,693.21, had orders made under section 3(1).

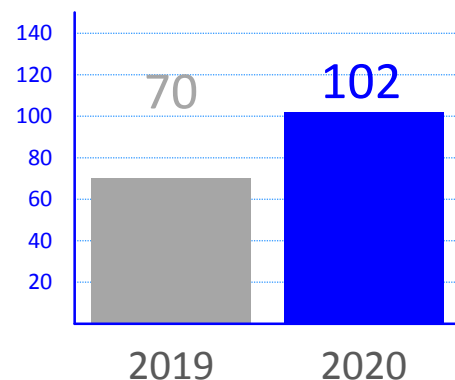
The Bureau notes the increase in the number of cases that were heard in 2020. Due to the Covid-19 pandemic, hearings were conducted virtually.

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



The number of assets over which orders were made by the High Court pursuant to section 3(1) increased from seventy assets in 2019 to one hundred and two assets in 2020. This is a reflection of the increase in section 2 cases in 2019.

Assets over which section 3(1) orders made.

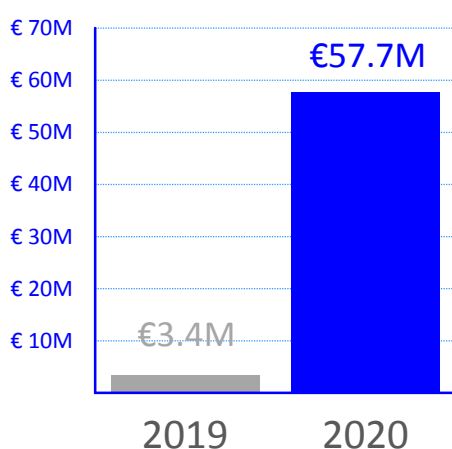


## Part Three

### Actions under the Proceeds of Crime Act 1996 to 2016

The results for 2020 compared to 2019 show the value of assets frozen under section 3(1) has increased by €54 million from the previous year where the value was €3,374,696.

Value of assets frozen under section 3(1)



This unusual variance is largely due to a significant seizure of cryptocurrency in 2020 to the value of €53m.

The value of the one hundred and two assets over which section 3 orders were granted during the year 2020 was €57,688,693.21. A breakdown of this figure is detailed in the below table.

Analysis of section 3 order by Asset Type

| Description  | €                    |
|--------------|----------------------|
| Jewellery    | 162,700.00           |
| Property     | 984,916.71           |
| Vehicle      | 287,218.12           |
| Financial    | 56,167,834.39        |
| Luxury Items | 19,274.00            |
| Other        | 66,749.99            |
| <b>Total</b> | <b>57,688,693.21</b> |

## 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 propriety 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. Three such orders were made under section 3(3) of the PoC Act during 2020.



"Frozen Assets" – Cash found in freezer

## Geographical Breakdown

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

During 2020, the Bureau obtained orders over assets in respect of proceeds of

crime in all of the large urban areas and rural communities.

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 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.



Cash located in vehicle glove box

### 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.

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 of being able to remain in the property and thereby benefit from the proceeds of crime.

### Vehicles

The Bureau continues to note the interest of those involved in serious organised crime in high value vehicles. During 2020 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.

Examples of the types of vehicles seized by the Bureau under section 2(1) and section 3(1) of the PoC Act during the year 2020 was:

- Audi A3, A4, A6, RS3 and Q7
- Ford Transit
- Honda Blackbird CBR motorcycle
- Land Rover Discovery SUV
- Mercedes Benz
- Volkswagen Passat
- Volkswagen Golf
- Volkswagen Arteon



Vehicles seized



## Part Three

### *Actions under the Proceeds of Crime Act 1996 to 2016*

#### Luxury Goods

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



Designer footwear

#### Case 1

The individual in this case came to the attention of the Bureau following the seizure by local Gardaí of cash, a vehicle, a number of high value watches and a quantity of designer goods.

The Bureau's investigation established that the seized items had been in possession of the individual at a time when they did not have the legitimate income to match the expenditure on the items.

The Bureau's investigation resulted in the granting of orders under sections 2, 3, 4A and 7 of the PoC Act over assets with an estimated value of €136,000.

The assets include a diamond encrusted Audemars Piquet Watch valued at €22,100, a Rolex Watch valued at €16,000, a ladies Rolex Oyster Perpetual Watch valued at €21,750, an Audi A6 valued at €30,000, designer goods valued

circa €10,000 and cash to the value of €36,405.

Rolex Oyster Perpetual Watch



The High Court found the assets in this case were derived from the proceeds of criminal conduct, namely the sale and supply of controlled drugs.

#### Case 2

The individual in this case came to the attention of the Bureau on a second occasion following the seizure by local Gardaí of cash, a Rolex Day Date Watch valued at €37,900 and a selection of designer Louis Vuitton accessories.

The Bureau's investigation established that the seized items had been in the possession of the individual at a time when he did not have the legitimate income to match the expenditure on the items.

The Bureau's investigation resulted in the granting of an order under section 2 of the PoC Act over the assets.



Gold Bracelet



### Case 3

The individuals in this case came to the attention of the Bureau due to their involvement in the sale and supply of controlled drugs. During the search of a property linked to the individuals, €20,875 cash and six high value designer jackets (Canada Goose and Moncler Morvan) were seized.

The Bureau's investigation established that the seized items had been in possession of the individuals at a time when they did not have the legitimate income to match the expenditure on the items.

The Bureau's investigation resulted in the granting of orders under sections 2 and 7 of the PoC Act over the jackets and cash.



Selection of designer jackets

### 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.

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.



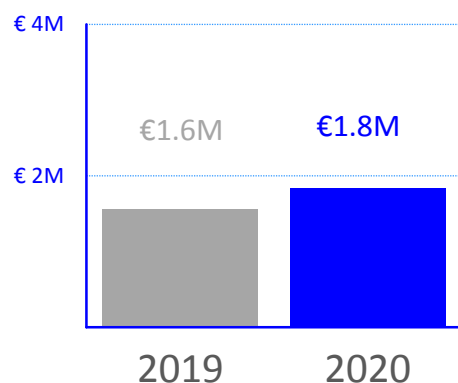
An Roinn Caiteachais  
Phoiblí agus Athchóirithe  
Department of Public  
Expenditure and Reform

This was introduced in the 2005 PoC Act and, in essence, removes the requirement for the Bureau to wait seven years before remitting funds to the Exchequer.

Twenty two cases were finalised and concluded under section 4(1) and 4A in 2020.

During 2020, a total of €1,838,507 was transferred to the Minister for Public Expenditure and Reform under the PoC Act arising from section 4(1) and 4A disposals.

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



## Part Three

### Actions under the Proceeds of Crime Act 1996 to 2016

#### Section 4(1) & 4A Breakdown

| Description  | No. of Cases 2019 | € 2019              |
|--------------|-------------------|---------------------|
| Section 4(1) | 4                 | 357,887.84          |
| Section 4A   | 13                | 1,201,838.47        |
| <b>Total</b> | <b>17</b>         | <b>1,559,726.31</b> |

| Description  | No. of Cases 2020 | € 2020              |
|--------------|-------------------|---------------------|
| Section 4(1) | 4                 | 541,555.51          |
| Section 4A   | 18                | 1,296,951.74        |
| <b>Total</b> | <b>22</b>         | <b>1,838,507.25</b> |

While the Bureau's activity continues to increase, the yield to the Exchequer may fluctuate on any given year.

This is 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

The Bureau obtained an order under section 4A of the PoC Act over cash seized to the value of €564,480 by local Gardaí in Meath in August 2017. The cash was discovered when Gardaí searched a car in Slane, Co. Meath.

The section 2 order in this case was granted in July 2019, with the section 3 and 4A orders granted in July 2020.

The granting of the section 4A order finalises the Bureau's action in this case.

## Other monies returned to the Minister for Public Expenditure and Reform outside of PoC legislation

#### Case 1

The assets of this individual were investigated by the Bureau in line with its statutory remit.

In this case, the Bureau made an application to the Office of the Director of Public Prosecutions (DPP) seeking that all assets seized be forfeited under section 4 of the Criminal Justice Act 1994 (except 6,000 Bitcoin which were the subject of an application under the PoC Act).

Section 4 of the Criminal Justice Act 1994 provides for a confiscation order where a person has been convicted on indictment for a drug trafficking offence and the court determines the person convicted has benefitted from drug trafficking.

In October 2019, an order was granted by Wicklow Circuit Court under section 24 of the Criminal Justice Act 1994.

In December 2020, Wicklow Circuit Court made an order quantifying the realisable amount and directed that it be paid to the Minister for Public Expenditure and Reform.

In December 2020, €1,099,041 was transferred to the Minister for Public Expenditure and Reform.

## Other monies returned to the Federal Republic of Nigeria

### Case 1

General Sani Abacha was a military officer in Nigeria who assumed the office of the President of the Federal Republic of Nigeria through a military coup on 17<sup>th</sup> November 1993. He held the office of President until his death on 8<sup>th</sup> June 1998.

General Abacha's son, Mohammed Sani Abacha, received and helped to launder the criminal proceeds of his father's conduct throughout the world.

It is estimated that Mohammed Sani Abacha laundered more than USD \$700 million in cash, stolen directly from Nigeria's public funds.

In 2014, the Asset Forfeiture and Money Laundering Section of the US Department of Justice contacted the Bureau and provided information arising from investigations they conducted.

As a result of the investigation by the Bureau, an order pursuant to section 2 of the PoC Act was granted on the 28<sup>th</sup> October 2014 over USD \$6.5 million held in a financial institution. A further order pursuant to section 3 of the PoC Act was granted on the 16<sup>th</sup> March 2015.

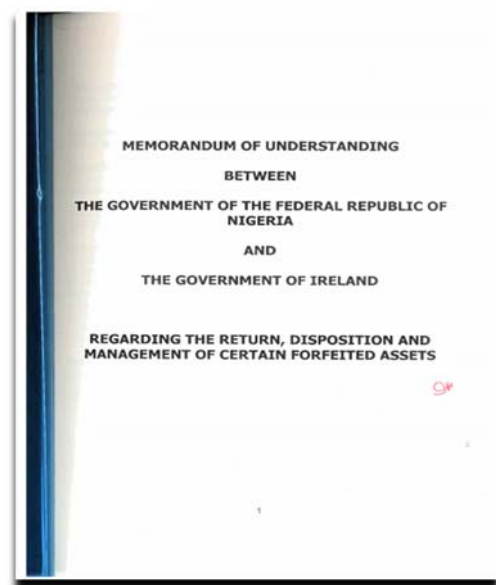
Following an application by the Nigerian Authorities in 2019, the High Court made an order providing for the return of these assets to Nigeria.

On 12<sup>th</sup> August 2020, the Minister for Justice, Helen McEntee, T.D., signed the Memorandum of Understanding

between Ireland and the Federal Republic of Nigeria.

Upon signing the Memorandum of Understanding, the Minister for Justice, Helen McEntee, T.D., stated *"The return of these assets will be the first time that Ireland has taken such action and will be a concrete demonstration of Ireland's commitment to international cooperation in the fight against corruption and to assisting countries which have been adversely affected by corruption in the past, and is in line with our international obligations as a signatory to the UN Convention Against Corruption"*.

The Minister concluded *"This very welcome outcome has been achieved by significant multi-agency collaboration in Ireland. In addition to the work of the CAB and my own Department, the Department of Foreign Affairs and Trade has worked closely with the authorities in Nigeria in relation to this matter."*



## Part Three

### *Actions under the Proceeds of Crime Act 1996 to 2016*

On 2<sup>nd</sup> October 2020, the Bureau returned €5,494,743 to the Federal Republic of Nigeria.

| Total Monies returned by CAB                                                             |                       |
|------------------------------------------------------------------------------------------|-----------------------|
| Returned under CAB remit i.e., Proceeds of Crime, Revenue and Social Welfare legislation | € 4,293,743.82        |
| Returned to the Federal Republic of Nigeria by virtue of the Memorandum of Understanding | €5,494,743.71         |
| Returned to DPER under Section 24 of the Criminal Justice Act 1994                       | €1,099,041.62         |
| <b>Totals</b>                                                                            | <b>€10,887,528.15</b> |

## 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 to:

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

During 2020, two such orders were made to the value of €31,940.00.

## 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 2020, the Bureau obtained receivership orders in regard to 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, luxury items, 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.



Various cash currency

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

Statement of Receivership Accounts

|                                                                                           | <b>Euro€</b>  | <b>Stg£</b> | <b>US\$</b> |
|-------------------------------------------------------------------------------------------|---------------|-------------|-------------|
| Opening balance receivership accounts 01/01/2020                                          | 12,929,477.98 | 208,047.64  | 657,030.56  |
| Amounts realised, inclusive of interest and operational advances                          | 4,127,151.60  | 2.26        | 1,501.35    |
| Payments out, inclusive of payments to Exchequer and operational receivership expenditure | 8,553,281.59  | 0.00        | 779.35      |
| Closing balance receivership accounts 31/12/2020                                          | 8,503,347.99  | 208,049.90  | 657,752.56  |

### 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.

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 2020, 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 appeals, including a number of legacy cases. The Bureau continues to positively engage with the TAC with a view to progressing all open tax appeals.

#### Tax Functions

The following is a summary of actions taken by the Bureau during 2020 and an update of the status of appeals made on foot of tax assessments and decisions made by the Bureau.

Revenue Tables 1 and 2 located at the end of this chapter summarise the appeal activity for 2020.

#### 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.

At 1<sup>st</sup> January 2020, sixty cases were before the TAC for adjudication. During the year, the TAC notified the Bureau of the receipt of an additional thirteen appeal applications. The TAC were notified accordingly in any case where the Bureau considered that an application failed to satisfy the statutory requirements of a valid appeal.

During 2020, a total of forty five individuals and corporate entities were assessed under the provisions of the Tax Acts, resulting in a total tax figure of €10.447m.

The TAC admitted eight appeals, refused six appeals in their entirety and partly refused a further two appeals. No appeal hearings took place, however, a number of case management conferences were held during 2020. Determinations were issued in relation to two appeal hearings held during previous years.

#### Appeals to the Tax Appeals Commission

The Tax Appeals Commission (TAC) was established on 21<sup>st</sup> March 2016 as an independent statutory body, the main function of which is hearing, determining

As of 31<sup>st</sup> December 2020, there were a total of forty nine cases awaiting adjudication by the TAC.



## Part Four

### *Revenue actions by the Bureau*

As of 1<sup>st</sup> January 2020, two appeals in respect of cases where appeals had been refused, were awaiting decision. These two appeal applications were refused by the Bureau prior to 21<sup>st</sup> March 2016.

As of 31<sup>st</sup> December 2020, one appeal continued to await adjudication by the TAC.

### Significant Revenue Determinations

#### *J.S.S. & ors v. Tax Appeals Commission & anor [2020] IECA 73*

In the matter of J.S.S & ors v. Tax Appeal Commission & anor [2020] IECA 73, the Court of Appeal considered the High Court trial Judge's refusal to grant an order of certiorari in respect of a series of decisions made by an Appeal Commissioner of the Tax Appeals Commission. The central complaint in the judicial review proceedings was that the applicants were prejudiced by an alleged failure by the Appeals Commissioner to give adequate reasons for his decision to reject their appeals.

The Appeal Commissioner rejected the appeals in respect of certain years in which either no tax returns had been filed and / or the resulting tax liabilities had not been paid.

The appellants are a father and his four sons who are members of the Irish Travelling community. Counsel for the appellant's submitted that on account of their nomadic lifestyle, the appellants spend little time in Ireland. Their time is spent working as tarmacadam contractors in various locations abroad. As such, they have no charge to tax in

Ireland and are not required to submit tax returns.

The appellants provided no documentary evidence and were not called to provide oral evidence to show the Commissioner that they were not tax resident in Ireland.

Their Counsel put forward a legal argument as to why the appellant's were not required to submit returns in support of their tax appeal.

The Court of Appeal allowed the appeal on the basis that the Commissioner failed to adequately explain his reasons for rejecting the legal arguments put forward by the appellants. The tax appeal was referred back to the Tax Appeals Commission in order that a determination would issue that addressed the legal arguments made and for the provision of an explanation as to why said arguments were rejected.

### 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 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 2020 amounted to €2.138m from sixty four individuals or corporate entities.

Again during 2020, 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.

## Demands

During 2020, tax demands (inclusive of interest) served in accordance with section 960E TCA 1997 in respect of twenty six individuals and corporate entities amounted to €8.732m.

## Settlements

During the course of 2020, ten individuals settled outstanding tax liabilities with the Bureau by way of agreement in the total sum of €1.742m.

## Recovery Proceedings

High Court proceedings for the recovery of tax and interest in the sum of €2.208m were initiated in three cases.

| Respondent   | Amount<br>Euro      |
|--------------|---------------------|
| Case 1       | 1,408,789.14        |
| Case 2       | 708,364.16          |
| Case 3       | 90,630.12           |
| <b>Total</b> | <b>2,207,783.42</b> |

## Judgments

No High Court judgments were obtained during 2020.

## Judgment Mortgages

No Judgment Mortgages were registered during 2020.

## Investigations

### Theft and Fraud

During 2020, in support of Operation Thor and other anti-crime strategies employed by partner agencies, the Bureau made tax assessments on fourteen individuals connected with theft and fraud offences. The total amount of tax, excluding interest, featured in the assessments amounted to €3.361m.

In addition to assessments made, tax and interest of €0.450m was collected from fifteen individuals and one corporate entity who generated profits or gains from theft and fraud offences.

### Money Laundering in Used Car Trade

In 2020, 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 €0.669m excluding interest on two individuals suspected of laundering the proceeds of criminal conduct through businesses involved in the sale of used cars.

The Bureau made collections amounting to €0.092 million from six individuals and two corporate entities involved in the motor trade.

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

## Part Four

### *Revenue actions by the Bureau*

trade through compliance visits and other interventions.

#### *VAT and Payroll Fraud*

The Bureau made assessments in 2020 on five individuals deemed to have benefited from profits or gains derived from VAT fraud and two individuals deemed to have benefited from profits or gains derived from payroll fraud.

The VAT fraud investigations focused on abuse of the VAT margin scheme by individuals involved in the sale of used cars. Tax assessments totalling €2.236m were made in the VAT fraud investigations while tax assessments totalling €1.190m were made in the payroll fraud investigations.

During 2020, the Bureau collected €0.043m by way of enforcement and other methods of collection from three individuals associated with VAT fraud.

#### *Sale and Supply of Illegal Drugs*

The Bureau made assessments in 2020 on eighteen individuals deemed to have benefited from profits or gains derived from the sale and supply of illegal drugs. Tax assessments totalling €2.541m excluding interest were made in these investigations.

During 2020, the Bureau collected €1.187m, by way of enforcement and other methods of collection, from twenty nine individuals and one corporate entity associated with the sale and supply of illegal drugs.

Other significant tax investigations conducted by the Bureau in 2020 focused

on profits or gains derived from extortion and intellectual property theft.

There were significant amounts of tax collected by the Bureau during 2020 from persons involved in fuel laundering and intellectual property theft.

### *Customs & Excise Functions*

The Customs and Excise functions of the Bureau support all investigations by identifying any issues of relevance within the broad range of Customs related legislation, intelligence and operational support.

The Bureau exercises a broad range of Customs powers and functions including passenger interceptions, import / export control and examination of goods, VRT enforcement, excise licence control and all associated detentions and seizures.

Serious and organised crime groups in every jurisdiction attempt to violate Customs 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.

#### *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.

## Part Four

### *Revenue actions by the Bureau*

Once again throughout 2020, a growing number of criminals and their associates were monitored and intercepted by, or on behalf of, the Bureau as they travelled through ports and airports. The Bureau also intercepted a number of freight vehicles and commercial consignments entering the jurisdiction to businesses with criminal associations.

#### *Motor Trade*

The Bureau continues to investigate the infiltration of the used-car trade by organised crime groups. Throughout 2020, the Bureau continued to identify used-car outlets operated by, or on behalf of, organised crime groups and conducted a number of inspections of used-car outlets to enforce VRT legislation, including the detention of vehicles under the provisions of section 140, Finance Act 2001.

The used-car trade remains the subject of close cooperation between the Bureau, 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.

#### *National Briefings & Operational Support*

The Bureau welcomes the operational assistance provided by specialist areas within Revenue's Customs Service throughout the year, including search teams at ports and airports, X-Ray Scanner Vehicles and Marked Mineral Oil Detection Teams. The level of support is best demonstrated by one particularly large and successful search operation in the Midlands in July 2020, when a variety of specialist Customs Units assisted the

Bureau, including forty specialist Customs search officers.



*Customs assisting the Bureau during search*

The Bureau would like to acknowledge, in particular, the 24hr support given by the Customs Dog Units throughout the year on twenty one separate large search operations, each involving multiple search sites throughout the country.



*Customs Dog "Bill" who assisted in a number of CAB searches during 2020*

The expert service provided to the Bureau by the Disclosure Office of Revenue Customs Service is greatly appreciated.

In 2020, the Bureau continued to provide operational intelligence to partner agencies, identifying a number of potential smuggling attempts, including

## Part Four

### *Revenue actions by the Bureau*

the detection of consignments of counterfeit electronic devices and identification of suspect PPE.

#### *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. Regular and important exchange of criminal intelligence between the Bureau and HMRC continued during 2020 on a number of live investigations. Every aspect of mutual assistance legislation, whether it be Customs to Customs or Police to Police, is utilised by the Bureau.

In November 2020, the Chief Bureau Officer and the Senior Customs Bureau Officer were requested to contribute to a webinar on *"The Investigation of Financial Crime"* hosted by the UK National Crime Agency at the British Embassy, Dublin at which the Chief Bureau Officer was a keynote speaker.



Table 1: Outcome of tax appeals

| Description                    | No. of Cases |
|--------------------------------|--------------|
| Open Appeals as at 01/01/2020  | 60           |
| Appeals referred from TAC      | 13           |
| Appeals Admitted by TAC        | 8            |
| Appeals Refused by TAC         | 6            |
| Appeals Withdrawn by Appellant | 14           |
| Appeal Determined by TAC       | 2            |
| Open Appeals as at 31/12/2020  | 49           |

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

| Description                   | No. of Cases |
|-------------------------------|--------------|
| Open Appeals as at 01/01/2020 | 2            |
| Appeals Refused by TAC        | 1            |
| Open Appeals as at 31/12/2020 | 1            |

Table 3: Tax Assessments

| Taxhead                       | Tax €M 2019   | Tax €M 2020   | No. of Assessments 2019 | No. of Assessments 2020 |
|-------------------------------|---------------|---------------|-------------------------|-------------------------|
| Income Tax                    | 8.013         | 7.651         | 291                     | 250                     |
| Capital Gains Tax (CGT)       | 0.006         | 0.645         | 1                       | 3                       |
| Value Added Tax (VAT)         | 3.595         | 2.000         | 48                      | 16                      |
| PAYE/PRSI                     | 0.020         | -             | 4                       | -                       |
| Capital Acquisition Tax (CAT) | 0.095         | 0.151         | 6                       | 5                       |
| Corporation Tax (CT)          | 0.001         | -             | 1                       | -                       |
| <b>Totals</b>                 | <b>11.730</b> | <b>10.447</b> | <b>351</b>              | <b>274</b>              |

Part Four

Revenue actions by the Bureau

Table 4: Tax and Interest Collected

| Taxhead                 | Tax €M<br>2019 | Tax €M<br>2020 | No. of<br>Collections<br>2019 | No. of<br>Collections<br>2020 |
|-------------------------|----------------|----------------|-------------------------------|-------------------------------|
| Income Tax              | 1.413          | 1.249          | 74                            | 50                            |
| Capital Gains Tax       | 0.133          | 0.600          | -                             | 1                             |
| Corporation Tax         | 0.001          | 0.001          | 1                             | 1                             |
| PAYE / PRSI             | 0.083          | 0.005          | 2                             | 1                             |
| Value Added Tax         | 0.200          | 0.230          | 5                             | 13                            |
| Capital Acquisition Tax | 0.169          | -              | 1                             | -                             |
| Local Property Tax      | 0.027          | 0.053          | 42                            | 91                            |
| <b>Totals</b>           | <b>2.026</b>   | <b>2.138</b>   | <b>125</b>                    | <b>157</b>                    |

Table 5: Tax and Interest Demanded

| Taxhead       | Tax €M       |              | Interest €M  |              | Total €M     |              | No. of Cases |           |
|---------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|-----------|
|               | 2019         | 2020         | 2019         | 2020         | 2019         | 2020         | 2019         | 2020      |
| Income Tax    | 2.696        | 4.782        | 1.731        | 3.153        | 4.427        | 7.935        | 23           | 23        |
| CGT           | 0.006        | 0.595        | 0.002        | 0.061        | 0.008        | 0.656        | 1            | 1         |
| CAT           | 0.004        | 0.084        | 0.001        | 0.046        | 0.005        | 0.130        | 1            | 1         |
| VAT           | 1.200        | 0.009        | 0.197        | 0.002        | 1.397        | 0.011        | 2            | 1         |
| <b>Totals</b> | <b>3.906</b> | <b>5.470</b> | <b>1.931</b> | <b>3.262</b> | <b>5.837</b> | <b>8.732</b> | <b>27</b>    | <b>26</b> |



## 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 Department of Social Protection may be subject to threats or other forms of intimidation. During 2020, there were three new cases referred to the Bureau under section 5(1)(d).

The total monetary value of €2,495,985 was achieved as a direct result of investigations conducted by SWBOs in 2020. This can be broken down as follows:

#### Savings

Following investigations conducted by SWBOs in 2020, total savings as a result of termination and cessation of payments to individuals, who were not entitled to payment, amounted to €466,676. 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(s) of time to which they have no entitlement or reduced entitlement and accordingly, any payments received in respect of the claim(s) result in a debt to the Department of Social Protection.

During 2020, overpayments assessed and demanded amounted to €1,712,072. 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 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 Social Welfare Officials the power to

## Part Five

### *Social Welfare actions by the Bureau*

attach amounts from payments held in financial institutions or owed by an employer to a person who has a debt to the Department of Social Protection.

As a result of actions by SWBOs, a total sum of €317,236 was returned to the Exchequer in 2020, 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 1<sup>st</sup> 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 applicant directing the applicant 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*

An individual living in the West of Ireland had his Social Welfare payments investigated. This individual was in receipt of Disability Allowance for the period 2008 to 2020. When reviewed by a Social Welfare Bureau Officer, it

transpired that the individual has been involved in significant self employment which was not declared to the Department of Social Protection.

This individual also had undeclared financial accounts with substantial activity in operation and was the owner of two undisclosed properties. During this period, the individual was also renting a house from the local County Council.

Following the review, the individual's social welfare payments were terminated and he was assessed with an overpayment of €119,000. This overpayment has now been demanded and repayment will be pursued.

#### *Case 2*

A family of four brothers in the East of the country had their social welfare claims investigated by a Social Welfare Bureau Officer. All payments were means tested and were subject to review.

Levels of undeclared self employment were identified which included buying and selling of motor vehicles, power washing and external house maintenance. The activities were not disclosed to the Department of Social Protection.

The investigation showed a large number of undisclosed financial accounts and the frequent purchase of high spec motor vehicles for personal use. The accounts displayed a lifestyle which was not in keeping with

individuals who were in receipt of means tested social welfare payments.

As a result of the investigations, all social welfare payments were terminated and overpayments covering a period of ten years were assessed against this family totalling €750,000.

No appeals have been received in respect of these individuals.

#### *Case 3*

An individual in the North of the country in receipt of Jobseekers Allowance was investigated by a Social Welfare Bureau Officer. This individual was in receipt of this means tested payment for a period of seven years.

The investigation uncovered levels of employment in excess of the previously declared income. It also uncovered an undisclosed 50% shareholding in a business. When questioned regarding the source of his income, the individual was unable to satisfy the investigating officer as to its true source.

As a result of this review, an overpayment to the value of €112,000 was assessed and demanded.

The individual is not currently in receipt of any social welfare payments and has since lodged an appeal against this overpayment, which is being processed.

#### *Case 4*

A woman in the Dublin area had her social welfare payments reviewed by a Social Welfare Bureau Officer.

This individual was in receipt of a means tested payment for a thirteen year period. During this thirteen year period, this individual had only declared a small insignificant amount of work to the Department of Social Protection.

During the course of the investigation, it transpired that this individual had been living with a partner and this was undeclared to the Department of Social Protection.

The individual's lifestyle was not in keeping with individuals who are in receipt of means tested social welfare payments.

The individual had in her possession luxury watches to the value of €40,000, had purchased a high end sports vehicle and was in a position to insure and tax this vehicle and had availed of fourteen foreign holidays for herself and her children during a four year period.

The individual was working on a self employed basis, undeclared to the Department of Social Protection.

Following the review of her entitlements, the individual's social welfare payments were stopped and she was assessed with an overpayment of €133,633 which was delivered and demanded in 2020.

No appeals have been received against this decision.

## Part Five

### Social Welfare actions by the Bureau

Table 1: Social Welfare Savings

| Scheme Type               | 2019 Saving<br>€  | 2020 Saving<br>€  |
|---------------------------|-------------------|-------------------|
| Child Benefit             | 14,280.00         | 38,080.00         |
| Carers Allowance          | 14,892.00         | 14,892.00         |
| Disability Allowance      | 26,928.00         | 105,753.60        |
| Jobseekers Allowance      | 186,112.40        | 47,304.40         |
| One-parent family payment | 186,569.60        | 135,369.00        |
| Other                     | 12,731.40         | 125,277.00        |
| <b>Totals</b>             | <b>441,513.40</b> | <b>466,676.00</b> |

Table 2: Social Welfare Overpayments

| Scheme Type               | 2019 Overpayment<br>€ | 2020 Overpayment<br>€ |
|---------------------------|-----------------------|-----------------------|
| Carers Allowance          | -                     | 37,318.01             |
| Disability Allowance      | 558,659.40            | 418,824.80            |
| Jobseekers Allowance      | 749,192.49            | 803,973.88            |
| One-parent family payment | 225,751.33            | 394,009.75            |
| Other                     | 37,257.80             | 57,946.08             |
| <b>Totals</b>             | <b>1,570,861.02</b>   | <b>1,712,072.52</b>   |

Table 3: Social Welfare Recovered

| Scheme Type               | 2019 Recovered<br>€ | 2020 Recovered<br>€ |
|---------------------------|---------------------|---------------------|
| Child Benefit             | 1,200.00            | 1,200.00            |
| Carers Allowance          | 18,893.89           | 24,408.12           |
| Disability Allowance      | 44,213.30           | 46,181.50           |
| Jobseekers Allowance      | 175,455.53          | 169,016.40          |
| One-parent family payment | 79,371.22           | 57,584.81           |
| Other                     | 4,921.79            | 18,845.74           |
| <b>Totals</b>             | <b>324,055.73</b>   | <b>317,236.57</b>   |

## Part Six

### *Notable investigations of the Bureau*

#### Introduction

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

During 2020, no files were submitted to the DPP for direction.

#### 2020 Investigations

##### Case 1

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 in 2020 under sections 3, 4 and 7 of the PoC Act over €21,940 cash, a Tag Heuer Watch valued at €2,900 and €62,136 held in a Betting Account. The section 2 order in this case was granted in 2019.



Tag Heuer Watch

##### Case 2

The Bureau, with the assistance of the Garda Emergency Response Unit (ERU), the Garda National Immigration Bureau (GNIB), the Garda Stolen Motor Vehicle Investigation Unit (SMVIU), the Garda Technical Bureau and the Revenue Customs Dog Unit, conducted a search operation in Co. Tipperary targeting the assets and activities of an international Organised Criminal Group (OCG) suspected of laundering the proceeds of mandate fraud through a used car outlet.

The Bureau’s investigation centred on a UK based OCG involved in mandate fraud, where stolen funds laundered through various different bank accounts in the UK was used to purchase vehicles in the UK, which in turn were being sold in the used car outlet in Co. Tipperary.

This investigation was referred to the Bureau by the Economic Crime Unit based at West Midlands Police, UK. Eighty five vehicles were seized as part of this investigation.



Vehicles seized during search operation

The Bureau’s search operation coincided with an arrest and search operation conducted in the UK by West Midlands Police and demonstrates the

## Part Six

### *Notable investigations of the Bureau*

Bureau's close working relationship with other law enforcement agencies.

#### Case 3

In targeting the assets of a suspected member of the Kinahan OCG, the Bureau obtained an order under section 2 of the PoC Act over two residential properties, two plots of land, four motor vehicles, one motor cycle, €16,850 cash, four high value watches (including Rolex, Breitling and Cartier) and one diamond ring.



Rolex Watch

#### Case 4

The Bureau obtained orders under sections 3 and 7 of the PoC Act over 126.8 Bitcoin valued at circa €1.2m.

Following a criminal investigation conducted by the Garda National Drugs and Organised Crime Bureau, the respondent in this case was convicted of Money Laundering and Theft Offences in November 2020, for his part in the theft of cryptocurrency across the globe.

The subject of the investigation was referred to the Garda National Drugs and Organised Crime Bureau by Homeland Security in the United States, when he was identified by US Federal Officials as a member of an "online group" who were conspiring via online platforms in the theft of cryptocurrency from unsuspecting persons.

The Bitcoin subject of this section 3 order was found to have been derived from criminal activity, namely the theft of cryptocurrency.



Trezor Crypto Wallet

#### Case 5

The Bureau's investigation into the assets of an individual involved in unlicensed money lending in Co. Clare and the wider Munster area resulted in the granting of orders pursuant to section 3 of the PoC Act over two residential properties in Co. Clare.



#### Case 6

In targeting the assets of an individual involved in the sale and supply of controlled drugs in the Drogheda area, the Bureau obtained orders under sections 2, 3 and 7 of the PoC Act over two Audi A6 motor vehicles and two Mobile Homes.



*Mobile Home*

#### Case 7

In this case, the Bureau was granted orders pursuant to sections 3 and 7 of the PoC Act over Bitcoin with a value circa €54 million. The Bureau's investigation was focused on the assets of an individual involved in the cultivation, sale and supply of cannabis in the Dublin, Wicklow and Galway areas.



This case represents the largest freezing of Bitcoin by the Bureau to date. A confiscation order pursuant to section 4 of the Criminal Justice Act 1994 was granted by Wicklow Circuit Court over other assets in this case. The case received widespread coverage in both national and international media.

#### Case 8

The Bureau obtained orders under sections 3 and 7 of the PoC Act over €226,487 held in a financial account, as part of the investigation into a Doctor who qualified in the United States, but was struck off the medical register in the US in 1994.

Gardaí in Ennis, Co. Clare commenced a criminal investigation in 2004, when it was discovered this Doctor had been treating cancer patients in Ireland during the period 2000 – 2004. Alternative treatment was offered to cancer patients who were terminally ill, with the cost of treatments starting at €5,000 and progressed to €20,000.

None of the patients who received the treatments recovered from their illness. The High Court concluded that this Doctor had obtained money by deception by offering treatments to people with incurable ailments. This individual was not registered as a Medical Practitioner in Ireland.



*Cash located in suitcase and seized*



## Part Six

### *Notable investigations of the Bureau*

#### Case 9

The Bureau with the assistance of the Garda Emergency Response Unit (ERU), the Garda National Immigration Bureau (GNIB) and the Revenue Customs Dog Unit conducted a search operation in Counties Dublin and Wicklow targeting the assets and activities of an International OCG involved in money laundering.

A total of thirteen locations were searched which resulted in the seizure of €711,610 cash, £20,000 Sterling cash and in the restraint of €301,594 in financial accounts.

The money laundering and proceeds of crime investigation in this case remain ongoing.



Diamond  
encrusted  
Audemars  
Piquet  
Watch

#### Case 10

This investigation is focused on the assets of an OCG based in the Midlands who are suspected to be involved in the sale and supply of controlled drugs and subsequent money laundering activities.

A search operation targeting the assets of this OCG resulted in the seizure of €110,000 cash, £24,500 sterling cash, twelve motor vehicles, four high value watches, including a Rolex and a Tag Heuer, a quantity of designer accessories, four caravans and the restraint of in excess of €98,000 held in financial accounts.

Proceeds of Crime, Revenue and Social Welfare actions against members of this OCG remain ongoing.



Breitling  
Watch

#### Case 11

In this case, an injured party in a complex international fraud was successful in moving a motion pursuant to section 3(3) of the PoC Act which resulted in the repatriation of €926,725.

The section 3 order initially granted in 2016 over these funds held in Irish Bank accounts followed the Bureau's investigation into the assets of the individual perpetrating the fraud.

A criminal investigation conducted by the Garda National Economic Crime Bureau resulted in the conviction in 2019 of the perpetrator for offences

under the Criminal Justice (Theft and Fraud Offences) Act 2001 and the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010.

#### Case 12

The Bureau obtained orders pursuant to section 2 of the PoC Act over two properties in Co. Carlow, €61,600 held in financial accounts and €3,850 cash.

The respondents in this case are suspected to be involved in incidents of burglary, theft and fraud across the country.



Cash seized

#### Operation Thor

Operation Thor was launched on the 2<sup>nd</sup> 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 2020, the Bureau continued its activities in support of Operation Thor by identifying and seizing assets suspected of being derived from criminal activity as well as pursuing actions pursuant to Taxation and Social Welfare legislation.



Bureau Officers during search operation

Part Six

*Notable investigations of the Bureau*

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## Part Seven

### *Significant Court Judgments during 2020*

During 2020, written judgments were delivered by the courts. Hereunder are examples of such cases:

1. Criminal Assets Bureau v Paul Gray and Kevin Gray Junior
2. Criminal Assets Bureau v John McCormack
3. Criminal Assets Bureau v Patrick Casey and Ellen Cawley Casey
4. Criminal Assets Bureau v Dean Russell
5. Komisia za protivodeystvie na korpusiyata I za otnemane na nezakonno pridobitoto imushtestvo v. BP and Ors

#### Criminal Assets Bureau –v- Paul Gray and Kevin Gray Junior

High Court Record No. 2019 No. 8 CAB

Written High Court – Delivered by Mr Justice Owens on the 21<sup>st</sup> February 2020.

##### Summary

The application sought *inter alia* orders pursuant to section 3 of the PoC Act in respect of a house and property in Rialto and a luxury Hublot watch which the Bureau claimed was in the possession and control of the first named respondent Mr Paul Gray.

The Bureau claimed that Mr Paul Gray was a key participant in the Kinahan Organised Crime Group (OCG) involved in the sale and supply of controlled drugs operating in the south inner city of Dublin. It was the Bureau's case that the Rialto property was acquired by Paul Gray from a criminal associate in satisfaction of a €40,000 drug debt and subsequently

refurbished through the proceeds of crime.

##### Held:

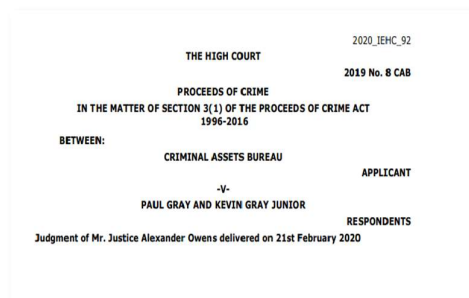
The court, after first finding that the Chief Bureau Officer's belief evidence to be reasonably grounded, granted the substantive order pursuant to section 3 of the PoC Act. The court made the following comments regarding the considerations needed to be made regarding extensive renovations made to property which on balance are funded from the proceeds of crime;

*"10. Is an improvement of a property which has been already acquired an "acquisition" within the 1996 Act? The Act gives a wide definition of the concept of property and in my view, an acquisition of property includes anything which might give value to property or a claim on property, including accretions to property such as extensions and refurbishments, even if they are to the property of another. For instance, a gift of an extension funded by the proceeds of crime adds a value to an existing property. The resulting property interest or claim of whatever nature, and whether or not the item improved by such works was acquired with the proceeds of crime, partly represents the proceeds of crime. The same goes for property paid for with a loan under an arrangement that the loan be paid off by use of proceeds of crime. That is sufficient connection with property constituting the proceeds of crime*

## Part Seven

### Significant Court Judgements during 2020

*for the purposes of s. 3 (1) (a) of the 1996 Act which catches all these types of arrangements.”*



## Criminal Assets Bureau –v- John McCormack

High Court Record No. 2018 No. 32 CAB

High Court written judgment delivered by Mr Justice Owens on 20<sup>th</sup> July 2020.

Neutral Citation: [2020] IEHC 32

### Summary

Since the 1990s the respondent, Mr McCormack has been involved as a leader in organised criminal activities which have included the sale and supply of large quantities of controlled drugs, dealing in stolen goods and organising cash in transit robberies.

The application sought *inter alia* an order pursuant to section 3 of the PoC Act in respect of three properties, two of which are located in Clare and one in Limerick, which the Bureau contended were funded with the proceeds of crime or assets derived from the proceeds of crime. In particular, the Bureau claimed that rents and profits yielded over the relevant years were the proceeds of crime because the underlying assets being properties and businesses from

which these rents and profits derived were themselves funded with the proceeds of crime.

Furthermore, the Bureau made the case that income from any business activities of Mr McCormack was associated with criminal breaches of provisions of the Taxes Consolidation Act 1997 and that benefits flowed to him from the filing of false or absent tax returns and from his failure to pay tax on income and to make genuine estimates of preliminary tax payable. The Bureau claims that assets accumulated during this period of tax non-compliance should be treated as the proceeds of crime.

### 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 over all three properties and in doing so stated as follows:

*“14. I am satisfied that Mr McCormack has been involved as a senior figure in the serious criminality which Detective Sergeant O’Hagan described in his affidavit and oral evidence. I accept the evidence that by 1999 the respondent was featuring as a major player in criminality, albeit that he was not questioned or convicted in relation to these activities. Mr McCormack gave evidence that he left Ireland and resided in the Canary Islands during a period from May of 1999 to 2000. This coincides with evidence of Detective Sergeant O’Hagan that Mr McCormack had*

*to depart for a period for his own safety after a confrontation with other criminals.*

15. *The fact that Mr McCormack had the means to emigrate in this way points to him having resources beyond those disclosed on examination of his credit union accounts and his tax returns. ...*

16. *It is clear from the evidence that there is reliable confidential intelligence going back years which associates the respondent with a management role in serious criminal activities such as large-scale importation of drugs, plotting cash-in-transit robberies and handling stolen goods.*

20. *The criminal activities which I am satisfied that Mr McCormack engaged in for a number of years were of the sort which yielded substantial benefits. There is ample material to support the belief evidence on these general issues. There is also ample material presented by the Bureau which persuades me that I must reach a provisional conclusion under s.3(1) of the 1996 Act that each of the three Irish assets targeted by the Bureau was acquired in whole or in part, with or in connection with property that, directly or indirectly, constituted proceeds of crime."*

With regards to the interaction between the PoC Act and the revenue offences the court said the following:

"29. *In the course of legal argument counsel for the Bureau suggested that because there was no evidence of tax returns or payments referable to non-criminal income during this period, it must inevitably follow that even if the income streams open to Mr McCormack were legitimate but he failed to pay tax, any savings or benefits which he accumulated were in part the proceeds of crimes arising from failure to make tax returns and failure to pay taxes.*

30. *I am not in full agreement with this analysis. The argument advanced is that unpaid tax on income received may give rise to retained wealth and that anything which is retained or acquired using wealth which should have been used to pay tax by a person who commits offences of failing to make proper returns and pay tax is property which in whole or in part "indirectly" constitutes the proceeds of crime within s.2(1)(a), (i) and (ii) and s.3(1)(a), (i) and (ii) of the 1996 Act.*

31. *If this reasoning was correct it would mean that the combined effect of the definition of "proceeds of crime" in s. 1(1) and the wording "...and that property constitutes, directly or indirectly, proceeds of crime" and "... property that, directly or indirectly constitutes proceeds of crime," in s.2(1)(a), (i) and (ii) and s.3(1)(a), (i) and (ii) is that a person who receives money*

Part Seven  
Significant Court Judgements during 2020

*or other property which could not be said to be the proceeds of any criminal offence or connected with a criminal offence at the time of the initial receipt, would later find that his or her general assets would become the “proceeds of crime” because of a criminal failure to make a tax return or pay tax or bring an item which the tax code considers to be a receipt into consideration in making a return.*

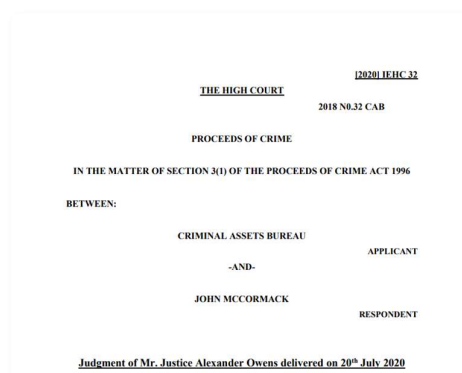
32. ... In my view, conduct by a recipient of property such as earnings or payments which takes place after receipt of that property and which involves criminal offences such as failing to make tax returns or payments cannot, without more, convert that property or the general assets of that person into “the proceeds of crime.”

After raising several concerns over the credibility of Mr McCormack’s evidence in rebuttal, the court concluded as follows:

122. In my view, the evidence establishes that any business which Mr McCormack and his wife engaged in over the years were side-lines financed by his criminal activities and that his main business and the source of finance for these side-lines and much of his wealth was crime. The acquisitions of the three properties at Purcell Park, Cloontra West and Claughan Fort were funded from the proceeds of crime and I must make

*interlocutory orders under s.3(1) of the Proceeds of Crime Act 1996 in relation to each of the three properties. In the light of my findings as set out in this judgment, there is no basis on which I could be satisfied that there is a serious risk of injustice to Mr McCormack and his family by the making of these orders.*

It should be noted that the above Judgment and resulting orders are the subject matter of an appeal.



## Criminal Assets Bureau –v- Patrick Casey and Ellen Cawley Casey

High Court Record No. 2019 No. 10CAB

Written High Court – Delivered by Mr Justice Owens on the 7<sup>th</sup> October 2020.

Neutral Citation: [2020] IEHC 499

### Summary

The application sought *inter alia* orders pursuant to section 3 of the PoC Act in respect of two plots of land located in the Ballycummin and Annacotty areas of Limerick which were purchased by the



respondents for €100,000 and €40,000 respectively. It was accepted by the Bureau that just over three quarters of the funds used to purchase latter property emanated from legitimate sources.

The Bureau claimed that Mr Casey was involved in serious organised criminal activity in conjunction with Limerick and Eastern European OCGs in the sale and supply of illegal drugs and participation in serious assaults. Criminal intelligence sources has placed Mr Casey in connection with possession of weapons and ammunition going back a number of years. Moreover, more recent Garda intelligence placed him behind an extortion racket which involved the payment of protection money by contractors building residential schemes in the Limerick area. Mr Casey denied criminality and disputed the associations claimed by the Bureau.

The case was heard the 3<sup>rd</sup> September 2020.

#### **Held**

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

*“29. I have come to the conclusion that the explanation for all of this is that contended for by the Bureau. The only credible inference which I can draw is that Patrick Casey was in receipt of substantial cash as proceeds of crime for years and that since 2007 he has no longer*

*been using the bank accounts to launder money...*

*30. I have also concluded that any business activities, other than the business of crime, which Patrick Casey engaged in were financed directly or indirectly by proceeds of crime and that any assets which he generated through these activities are derived from crime. An additional element of criminality which may have freed up reserves available to be deployed in acquisition of assets, such as stock in trade of his car business, was failure to pay tax on any taxable activity. All modes of conducting trade or business with a view to cheating the Revenue out of tax or duty and all conspiracies and arrangements to commit these types of fraud are criminal contraventions of s. 1078 (1A) of the Taxes Consolidation Act 1997, as inserted by Section s.142 of the Finance Act 2005. The value of any benefit which is obtained or received as a result of or in connection with this tax evasion constitutes proceeds of crime. This applies to all trades or businesses and it does not matter whether the business conducted is legal or illegal.”*

In assessing the correct methodology to be employed in analysis of the financial accounts in such an application, the court stated as follows at paragraph 37:

*“The first-in, first-out principle and other rules attributing assets with*

*sources of funding are used in insolvency and trust litigation. In these disputes policy considerations of preventing unjust enrichment are relevant. Sometimes investments can be associated with payments in determining ownership of assets or their application in insolvency. Some of these considerations may not be relevant to assessment of whether funds are derived from proceeds of crime. Many proceeds of crime cases involve money-laundering by substitution. When the first-in, first-out rule is applied, an assumption is made that the operator of an account intends that funds be paid out in the order in which they have been paid in. This inference may be displaced by evidence of a contrary intention. The circumstances may be such as to make it more appropriate to identify funds by reference to the last-in, first out principle which associates payments out of a fund with those most recently paid into that fund."*

The court went on to make the following conclusions in relation to the Ballycummin property:

*"40: I am satisfied that the remaining funding for the purchase of Ballycummin which was introduced into the bank accounts of Ellen Cawley Casey by these lodgements of cash and a bank draft was derived from proceeds of crime. The evidence advanced by the Bureau establishes that proceeds*

*of crime was the likely source of this funding and the evidence tendered by Patrick Casey and Ellen Cawley Casey is not sufficient to persuade me that this conclusion is incorrect."*

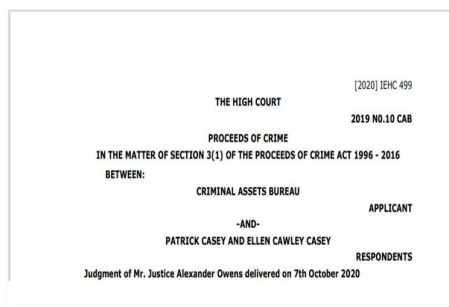
However the court went on to say the following in respect of the Annacotty property:

*"41. The evidence is insufficient to persuade me to take a prima facie view that Annacotty was bought with money derived from proceeds of crime.*

*50. The source of the lodgement of €9,500 to Patrick Casey's Bank of Ireland deposit account in 2010 is unknown. This may have made a small contribution to the purchase of Annacotty. This value came into the account via a credit transfer. There is no evidence that the effects which constituted the credit consisted of cash.*

*51. I am not prepared to infer that this credit represented proceeds of crime or that the car was an asset derived from proceeds of crime as there is insufficient evidence to enable me to come to prima facie conclusions adverse to Patrick Casey and Ellen Cawley Casey on these issues. The evidence presented is also insufficient to enable me to conclude that these items represented proceeds of crime as a result of money-laundering by substitution."*

It should be noted that this judgment is the subject of an appeal by the respondents and a cross-appeal by the Bureau which, at the time of writing, awaits a hearing date before the Court of Appeal.



## Criminal Assets Bureau v. Dean Russell

Supreme Court Record No. S:AP:IE:2020:000057

High Court Record No. 2010 No. 3 CAB

Date of Determination: Thursday, 16<sup>th</sup> July 2020 –  
Composition of Court: Clarke C.J., MacMenamin J.,  
Dunne J.

Neutral Citation: [2020] IESCDet 87

### Summary

On 14<sup>th</sup> April 2010, Feeney J. made an order in terms of section 2 of the PoC Act over a number of assets including a property in Clonsaugh. Thereafter motions seeking interlocutory orders and the appointment of a receiver pursuant to sections 3 and 7 of the PoC Act were made returnable for 26<sup>th</sup> April 2010.

Those motions were heard by Feeney J. on 9<sup>th</sup> and 10<sup>th</sup> July 2013 but sadly Feeney J. died before judgment could be delivered. The matters were then re-listed for hearing on 12<sup>th</sup> November 2013

in the circumstances that Mr Russell did not consent to them being dealt with on the basis of the transcripts.

It was against this background that Birmingham J. (as he then was) made his first order on 12<sup>th</sup> November 2013 in the form of an interlocutory order in similar terms to the interim order of Feeney J.

In that order, the High Court declared certain properties described in the first schedule to be the proceeds of crime and on the 9<sup>th</sup> April 2014, appointed a receiver over the Clonsaugh property.

The Court of Appeal, in delivering judgment considered the following grounds of appeal in relation to the first order: that the respondent was not present at the hearing and was not represented, that the assets were not the proceeds of crime and that the court should not have appointed a receiver over the assets.

In relation to the second order, the Court of Appeal considered the following grounds of appeal: that the finding that the premises in Clonsaugh were the proceeds of crime was wrong in fact and law and that the appointment of a receiver over his principal private residence was not appropriate.

The Court of Appeal declined to uphold any of the grounds of appeal and said at paragraph 87 that:

*“I am of the view that the trial judge adequately and fully considered the various factors which fell for consideration in the making of a s. 7 order. The trial*

## Part Seven

### Significant Court Judgements during 2020

*judge did give due regard to the fact that the premises was a principal private residence and was occupied by Mr Russell and, at least, one of his children on a full-time basis and another child or children on a regular but not full-time basis. He gave adequate consideration to the need to preserve the property ultimately for the benefit of the CAB process."*

Furthermore, at paragraph 92, the Court of Appeal said:

*"I see no basis on which the trial judge's determination of the s. 7 application could be set aside. His weighing of the discretionary factors was consistent with the approach suggested by the authorities and Mr Russell has not persuaded me that other factors might have been but were not engaged or that the manner by which the trial judge dealt with the application wrongly applied the principles and failed to have due regard to his interests."*

The appeals were, in those circumstances, dismissed.

Mr Russell sought leave to appeal to the Supreme Court and on the contention that the case raises matters of general public importance that meet the Constitutional threshold for a Supreme Court appeal.

Mr Russell only sought to appeal against limited aspects of the orders and judgment made by the Court of Appeal

which relate to him being prohibited from disposing of or otherwise diminishing the value of the Clonsaugh property. He appealed against the order of costs, the appointment of the receiver and the directions given to him in relation to the property situated at 125 Riverside Park. Mr Russell confirmed that there was no insurance over the property in question and that the mortgage was in arrears. In those circumstances, the Bureau submits that while the property is uninsured it is at risk of damage which would reduce its value, as would the continued accrual of arrears on the mortgage.

The respondent argued that the following were issues of general public importance which warranted acceptance by the Court of the Appeal pursuant to:

1. The case impacts his constitutional rights to family life.
2. This case is a matter of general public importance in that it impacts on the constitutional rights of children. Mr Russell also argued that this case involves the question as to whether or not there is an onus upon the Court of Appeal to consider and explore matters that are set out in the Notice of Appeal but are not pursued by a respondent in person who is not legally represented.

He says *inter alia* that it would be in the interests of justice for him and his family not to be deprived of their family home without

what he describes as due and proper consideration.

He also contends that it would be in the interests of justice that proper consideration be given to the personal circumstances and contributions made towards the purchase of the family home by him.

3. Thirdly, he contended that leave to appeal should be granted in this particular case because one ground of appeal put forward by him was not explored by the Court of Appeal. He points to the circumstances that in the Court of Appeal he represented himself.

#### Held

In its direction refusing the Appeal the Supreme Court stated:

- “18. *This Court agrees with the CAB’s submissions that this case does not meet the threshold justifying an appeal to this Court. In the circumstances the factors relevant to Mr Russell’s case have been thoroughly assessed and taken into consideration in the making of the orders by both the High Court and the Court of Appeal. The orders made in the High Court were made following a number of hearings in the course of which Mr Russell had ample opportunity to put his case on affidavit and indeed, filed some 15 affidavits on his own behalf. The decisions of the High Court and, in turn, that of the Court of Appeal*

*involved the application of well-established principles. There is no need having regard to the facts of this case to provide further clarification to the principles engaged in such proceedings.*

*Mr Russell has availed of the opportunity to appeal his case in the ordinary way and no further right of appeal exists given that this Court is not persuaded that the case raises matters of general public importance, or that it would be in the interests of justice to grant leave to appeal to this Court.*

19. *As such, leave to appeal to this Court is not granted.”*



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

Case C234/18 - European Court of Justice

Judgment of the Court (Third Chamber) delivered on 19 March 2020

#### Summary:

Part Seven  
*Significant Court Judgements during 2020*

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 in 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.

After first deeming the preliminary ruling as admissible, the court determined 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 pointing to the fact that misappropriation of funds does not constitute one of the offences covered by Article 3 of the said Directive.

In conclusion the European Court of Justice determined that the question must be answered as follows:

*"Framework Decision 2005/212 must be interpreted as not precluding legislation of a Member State which provides that confiscation of illegally obtained assets is ordered by a national court following proceedings which are not subject either to a finding of a criminal offence or, a fortiori, the conviction of the persons accused of committing such an offence."*

## Part Eight

### *National and International developments*

#### 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 attended a meeting held in Brussels on the 17<sup>th</sup> February 2020 to discuss the work and cooperation of the Asset Recovery Offices.

During 2020, the Bureau received one hundred and twenty one requests for assistance. The Bureau was able to provide information in respect of all these requests. The requests were received from twenty nine countries worldwide.

During 2020, the Bureau sent one hundred and fourteen requests to thirty one 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



## Part Eight

### *National and International developments*

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 four 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 2020.

## 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.

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 2020, the Bureau actively participated in the CARIN Network. Due to Covid-19, the Annual General Meeting was held online over the course of one day and was chaired by Belgium on 17<sup>th</sup> November 2020.

## 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.

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

In late 2019 and early 2020, the ALEFA Steering Group, with Bureau membership, had been planning a conference at the Policia Judiciaria in Lisbon, Portugal over two days in April 2020.



The Bureau provided support towards the running of the conference whose theme was based on *"The Usage of Forensic Accounting Techniques in Investigating Corruption and Fraud"*.

As with many other such events, the conference was postponed due to Covid-19 and may be rescheduled in 2022, circumstances permitting.

### Cullen Commission of Inquiry

During 2020, the Bureau received a request from the Canadian Authorities to assist in the Cullen Commission of Inquiry.



The purpose of the commission is to enquire into and report on money laundering in British Columbia and to make recommendations. Following an interview conducted with Counsel for the Inquiry, the Chief Bureau Officer agreed to facilitate the request from the Canadian Authorities.

The Commission's aim is to make formal recommendations on the completion of the process and to this end testimony from the Bureau has been provided to discuss and assess the success of the Irish model of non-conviction based asset forfeiture.

As a result, the Bureau Legal Officer and a Detective Inspector attached to the Criminal Assets Bureau provided sworn testimony to the Cullen Commission on 16<sup>th</sup> December 2020 via Zoom.

### 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

## Part Eight

### *National and International developments*

forthcoming year. The conference provides the opportunity to exchange knowledge and experience and identify best practice in any particular area of collaboration.

In 2020, the Chief Bureau Officer and the Detective Superintendent virtually attended the Cross Border Organised Crime Conference webinar.

#### Joint Investigation Teams Policing (JITS)

In 2020, the Bureau continued its involvement 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 20<sup>th</sup> April 1959.

#### Case 1

The Bureau facilitated investigations in the United Kingdom, Belgium, France and the Republic of Ireland, as a member of a Joint Investigation Team, into events following the discovery of the bodies of thirty nine people in a lorry in Essex, United Kingdom on the 23rd of October 2019.

The Bureau continued the investigation into the assets of persons suspected to be involved in facilitating illegal immigration and related money laundering.

#### Case 2

The Bureau, as a member of a Joint Investigation Team, facilitated 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 continued the 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.

#### 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 Joint Agency Task Force consists of a Strategic Oversight Group which identifies and manages the strategic priorities for combatting 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 Joint Agency Task Force brings together the relevant law enforcement agencies in both jurisdictions to better coordinate

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*National and International developments*

strategic and operational actions against cross border organised crime gangs. The Task Force comprises Senior Officers from An Garda Síochána, Police Service of Northern Ireland, Revenue Customs, Her Majesty's Revenue and Customs, the Bureau and the National Crime Agency (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 participated remotely in two operational meetings in 2020 in relation to the Joint Agency Task Force and are involved in a number of investigations being conducted under the Joint Agency Task Force.

**Polish Ministry of Justice**

On the 10<sup>th</sup> October 2016, the Bureau was invited to make a presentation at a conference in Warsaw in Poland entitled *"Extended Confiscation – A Modern Approach towards Fighting against Organised Crime"*.

A Bureau Officer attended this conference and gave a presentation to a diverse audience from several jurisdictions consisting of Government Officials, Public Prosecutors and Senior Police personnel.

As a result of that presentation, the Bureau Officer was again invited to speak at a conference hosted by the

Polish Ministry of Justice on the 13<sup>th</sup> November 2020 entitled *"Confiscation in rem – a modern method to combat organised crime"*.



Due to Covid-19 travel restrictions, this conference was conducted through an online platform. The presentation included a brief synopsis of the structure and functions of the Bureau. The Bureau Officer detailed an investigation conducted by the Bureau which captured both non conviction based forfeiture and the *in rem* nature of Bureau proceedings.

**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 2020, the Bureau was the co-leader of Operational Action 6.2 (2020). The operational action was led by the Netherlands and also co-led by the United Kingdom.

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### *National and International developments*

It was responsible for connecting all the EMPACT priorities through the coordination and sharing of information on financial enablers and methodologies who provide services and / or instruments to launder money for organised crime groups.

This action aims to allow future joint operational activities targeting those involved in enabling the activities of organised crime groups.

### Visits to the Bureau

The success of the Bureau continues to attract international attention. During 2020, 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 online conferences, where it provided various presentations:

### Foreign Delegations

#### His Excellency Michael Mutea, Ambassador for Kenya on 23<sup>rd</sup> January 2020

On 23<sup>rd</sup> January 2020, the former Chief Bureau Officer Patrick Clavin and Detective Superintendent Egan hosted the newly appointed Ambassador of Kenya – His Excellency Mr Michael Mutea.



Former CBO Pat Clavin, His Excellency Michael Mutea and D/Supt Egan

#### Swedish National Police Visit on 13<sup>th</sup> February 2020

The Bureau hosted a visit from the Swedish National Police on 13<sup>th</sup> February 2020. The former Chief Bureau Officer Patrick Clavin briefed the delegation on Ireland's experience with non-conviction based asset forfeiture.

## High Level Meetings

### Visit of Garda Commissioner Drew Harris on 7<sup>th</sup> May 2020

On 7<sup>th</sup> May 2020, the Commissioner of An Garda Síochána, Drew Harris visited Bureau Offices to wish the new Chief Bureau Officer, Detective Chief Superintendent Michael Gubbins, well in his new appointment.



Chief Bureau Officer, Michael Gubbins and  
Garda Commissioner Drew Harris

### 5<sup>th</sup> Annual Roundtable Meeting on 16<sup>th</sup> September 2020

The Chief Bureau Officer represented the Bureau at the Department of Justice 5<sup>th</sup> Annual Roundtable meeting hosted by the Minister for Justice, Helen McEntee, T.D., and the Minister of State for Law Reform, James Browne, T.D.



5<sup>th</sup> Annual Roundtable Meeting

### Online Meeting with Minister for Justice, Helen McEntee, T.D., on 3<sup>rd</sup> December 2020.

On 3<sup>rd</sup> December 2020, the Chief Bureau Officer and the Senior Management Team met online with the Minister for Justice, Helen McEntee, T.D.

The Minister for Justice was briefed on the operation and functions of the Bureau.



Due to the Covid-19 pandemic, the Bureau was unable to facilitate further visits and conferences were held online.

## Part Eight

### *National and International developments*

#### Media Interviews

To further raise the profile of the Bureau, the Chief Bureau Officer, Michael Gubbins gave interviews to numerous national newspapers and also participated in a Virgin Media documentary, details of which are listed below:

- 24<sup>th</sup> July 2020 - Stephen Breen, Irish Sun entitled *“Criminal Assets Bureau get €9.1m cash injection to fight crime as ‘Strategic Plan’ unveiled for next three years”*.
- 4<sup>th</sup> October 2020 - Maeve Sheehan, Irish Independent on entitled *“CAB swoops as criminals stash the cash in lockdown”*.
- 29<sup>th</sup> October 2020 - Francesca Comyn, The Currency on entitled *“Money Laundering Archives”*.
- 28<sup>th</sup> December 2020 - Ken Foy, Irish Independent on entitled *“CAB to crack down on rural criminals after exceeding its goals in 2020”*.
- The Chief Bureau Officer, Michael Gubbins also participated in a Virgin Media documentary which aired on 14<sup>th</sup> December 2020 entitled *“John Gilligan – the end of the line”*. The Chief Bureau Officer gave details in respect of the establishment of the Bureau in 1996 and how it took over 21 years to dispose of all the Gilligan assets due to lengthy court battles.



## 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 30<sup>th</sup> 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 31<sup>st</sup> December 2020.

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*Protected Disclosures Annual Report*

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## Part Ten

### Conclusions

In 2020, the Bureau exercised its statutory remit to pursue the proceeds of criminal conduct. In order to do this, the Bureau utilises 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, burglary, diesel laundering, money laundering and human trafficking.

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 cryptocurrency for asset transfer and international fraud.

Throughout 2020, 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 €4.2m forwarded to the Central Fund, which can be broken down as follows:

- €1.838 million under the Proceeds of Crime legislation.
- €2.138 million was collected in Revenue and

- €317,000 in Social Welfare recoveries.

In addition to the €4.2 million, the Bureau also returned a further €5.494 million to the Nigerian Government following a Memorandum of Understanding signed by the Minister for Justice, Helen McEntee, T.D., and the Federal Republic of Nigeria.

The Bureau also returned in excess of €1 million to the Minister for Public Expenditure and Reform (DPER) by utilising, for the first time, legislation under the Criminal Justice Act 1994.

In conclusion, the Bureau returned monies in excess of €10 million, the breakdown of which can be seen in the table below:

| Total Monies returned by CAB                                                             |                       |
|------------------------------------------------------------------------------------------|-----------------------|
| Returned under CAB remit i.e., Proceeds of Crime, Revenue and Social Welfare legislation | € 4,293,743.82        |
| Returned to the Federal Republic of Nigeria by virtue of the Memorandum of Understanding | €5,494,743.71         |
| Returned to DPER under Section 24 of the Criminal Justice Act 1994                       | €1,099,041.62         |
| <b>Totals</b>                                                                            | <b>€10,887,528.15</b> |

At an international level, the Bureau has maintained strong links and has continued to liaise with law enforcement

## Part Ten

### Conclusions

and judicial authorities throughout Europe and worldwide.

During 2020, 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, 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 Social Protection and the Department of Justice 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 2020, the formal Admissions Group, established in 2018, continued to support the work of the Intelligence and Assessment Office (IAO) in advising the Chief Bureau Officer on the selection of targets for full investigation. The heart 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 2020, a computerised Asset Financial Management System (AFMS) was implemented.

One of the key strengths of the Bureau is its collaboration with 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 Organised and Serious Crime (OSC), 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 Social Protection assist the Bureau in matters of mutual interest.

Officials from the Department of Justice provide excellent advice and support to the Bureau in terms of finance, governance, audit and risk. The Department takes 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 the Department of Justice officials throughout the year. In addition, the

Part Ten  
*Conclusions*

Bureau participated in the weekly “Covid Business Continuity Call”, hosted by the Department of Justice which provided support and exchange of information and ideas to the various agencies under the remit of the Department of Justice.

Part Ten  
Conclusions

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# 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 be subject



## Appendix A

### *Objectives & functions of the Bureau*

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 for information.

I confirm that a Oversight Agreement between the Bureau and the Department of Justice covering the years 2020 – 2022 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.

#### 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 31<sup>st</sup> December 2020 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 has in place a Bureau Audit and Risk Committee (ARC). The ARC of the Bureau met on four occasions during the year 2020.

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, as far as 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 ARC on a quarterly basis. The outcome of these assessments is used to plan and

## Appendix B

### *Statement of Internal Controls*

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 equipment systems;
- systems 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 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 2020 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 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 2020 the Internal Audit Unit of the Department of Justice conducted an audit at the Criminal Assets Bureau on financial and other controls, in line with their annual programme of audits to provide assurance to the Audit Committee of Vote 24 (Justice). The next internal audit of the Bureau's financial and other controls is due to take place in early 2021.

During 2020 the Comptroller and Auditor General carried out an audit on the 2019 Financial Statements. No material issues were reported. During 2021, the Comptroller and Auditor General will conduct an audit on the 2020 Financial Statements.

### Internal Control Issues

No weaknesses in internal control were identified in relation to 2020 that require disclosure in the Financial Statements.

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**Michael Gubbins**  
**Chief Bureau Officer**  
**31<sup>st</sup> May 2021**

Appendix B  
*Statement of Internal Controls*

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## Notes

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