

Tirana

14-15 March 2007

**Brendan Flanagan
Detective Sergeant**

**Criminal Assets Bureau
Ireland**

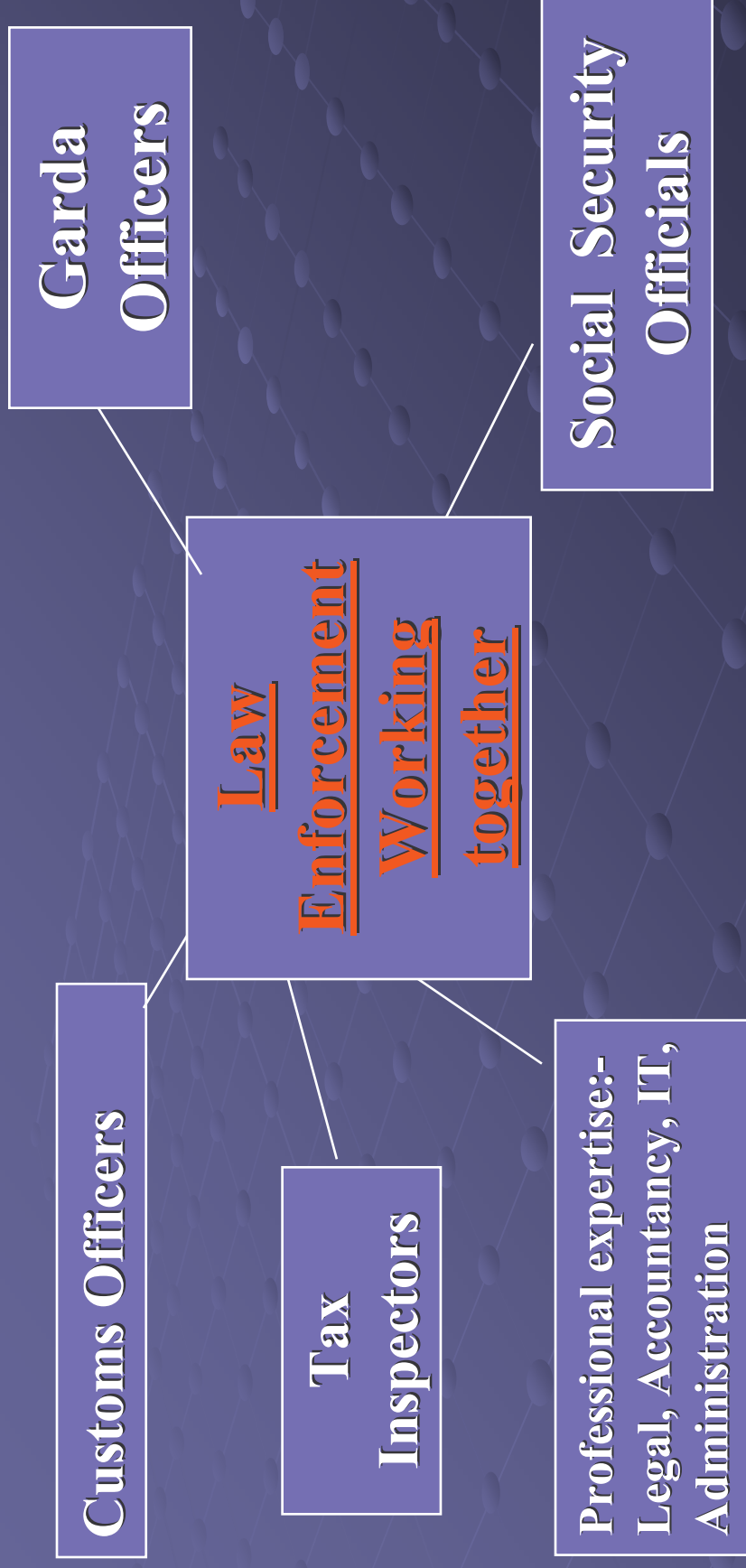
Presentation Tirana

14/3/2007

- Outline of Presentation
- Structure Of Criminal Assets Bureau
- Strategy of Bureau
- Legislation
- Case Study

Criminal Assets Bureau

Post 1996 Multi-agency – working as one

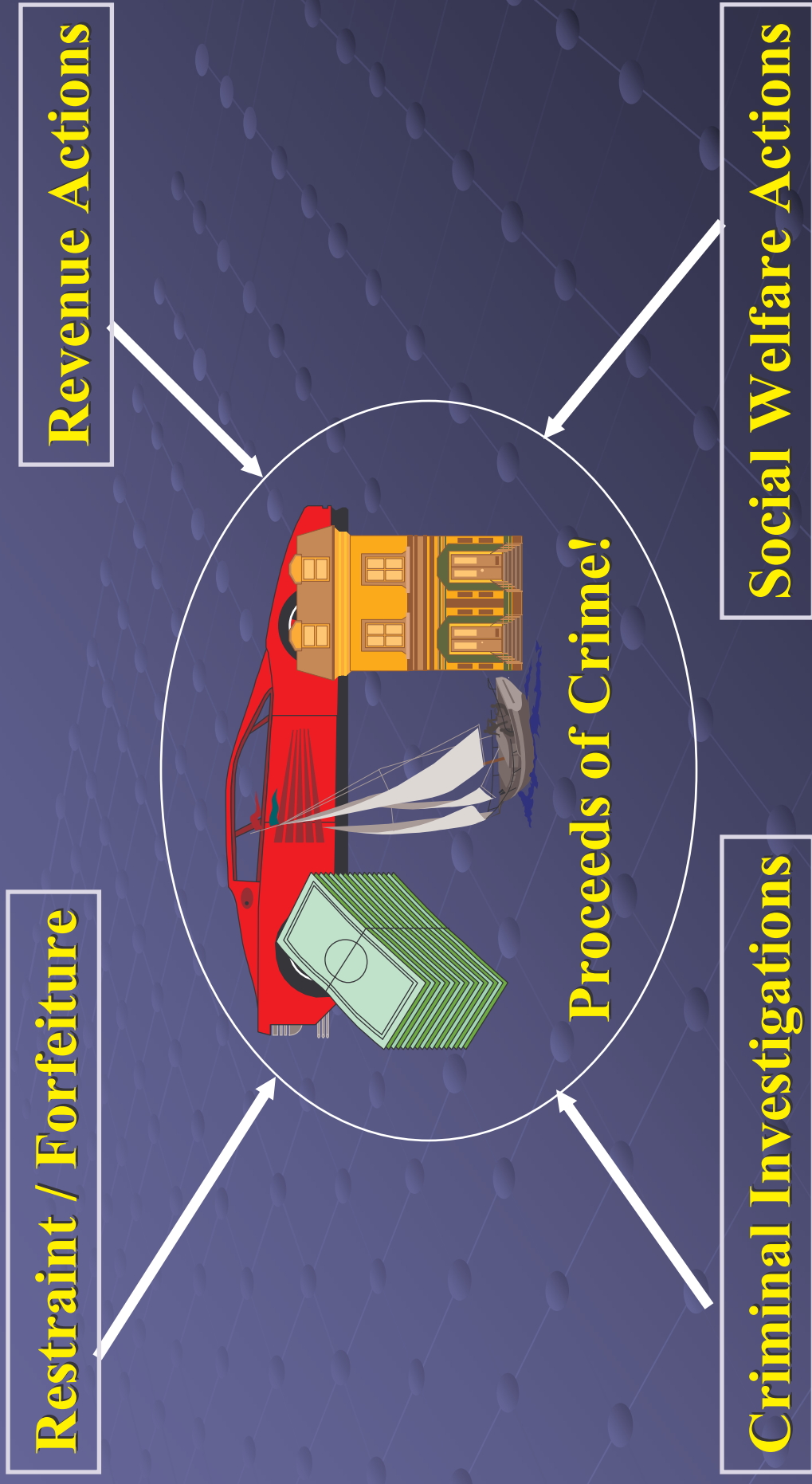


All Bureau Officers in one office
Co-operation, Co-operation, Co-operation
Sharing of intelligence and information

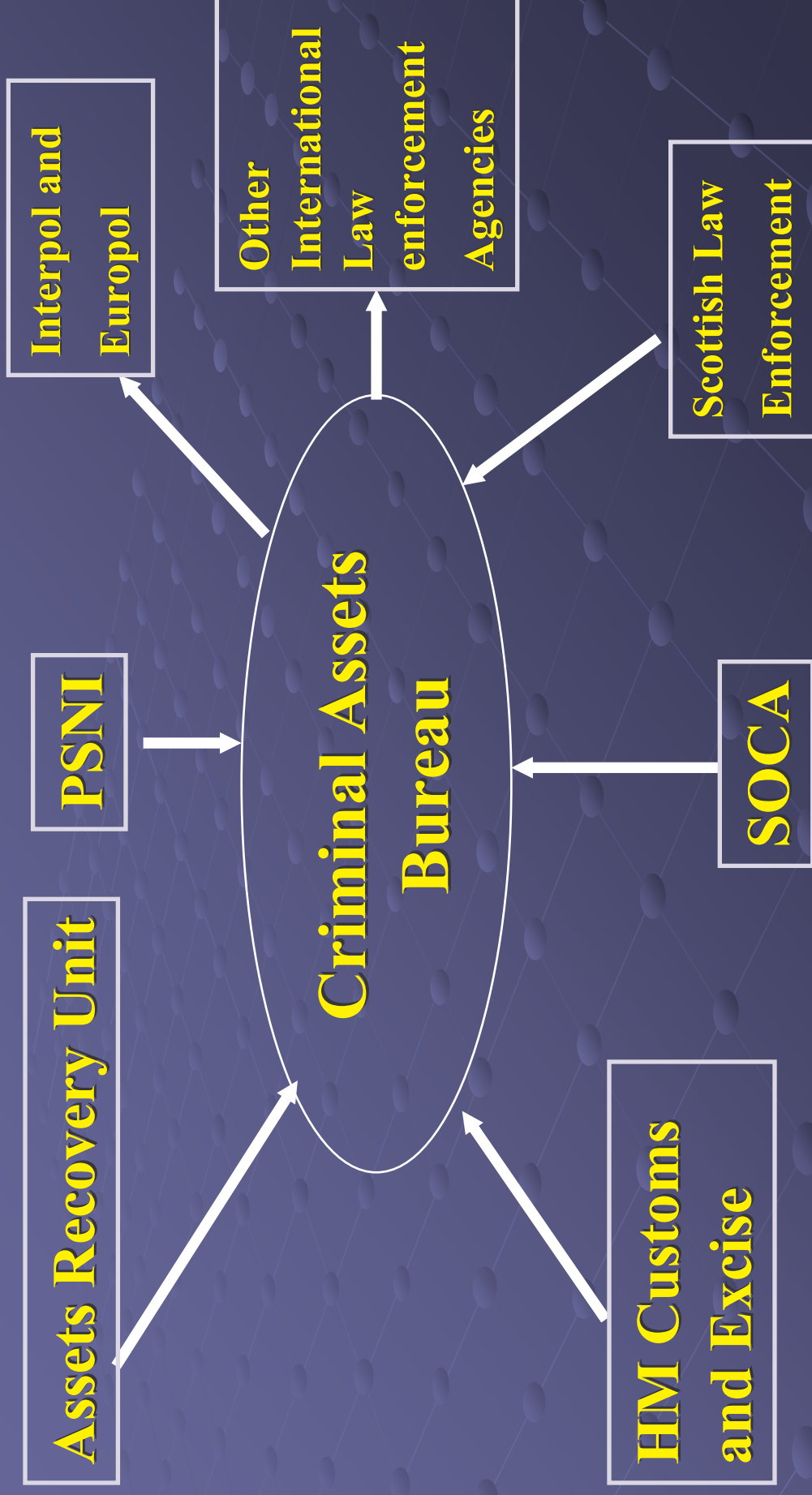
Current Structure

- Chief Bureau Officer
- Bureau Legal Officer
- 3 Senior Gardai (Police)
- Senior Tax, Social Welfare and Customs Personnel
- Office Manager and Administration Staff (Administration of Budget)
- 2 Forensic Accountants, Computer Analyst
- 5 Teams comprising of 1 Sergeant 4 Detectives 1 Tax, 1 Social Welfare, 1 Customs.
- Two Special Investigation Teams
- State Solicitors are also present within the Bureau

Strategy of the Bureau



International Co-Operation



Criminal Assets Bureau Act 1996-2005

- Statutory Body- Objectives and Functions
- Legal, Accounting and IT Expertise
- Centrally funded through Dept of Justice
- Warrant to Search for evidence
- Production Order
- Anonymity
- Intimidation / Obstruction
- Bureau Officers retain individual powers
- Annual Report

Criminal Assets Bureau

Statutory Objectives

- (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

- The taking of all necessary actions, through its Bureau Officers
 - (a) Garda Functions - confiscation, restraint of use, freezing, preservation or seizure of assets deriving from criminal activity
 - (b) Under the Revenue Acts, ensure proceeds of criminal activity are subjected to tax - Revenue Acts are fully applied.
 - (c) Under Social Welfare Acts and at request of Minister, investigation and determination of claims etc
 - (d) And such actions include co-operation with police, tax authority or Social Security Authority of any other State

Section 14 CAB Warrant

A Garda Bureau Officer may apply to the District Court for a warrant to search any place for evidence of or relating to assets or proceeds deriving from criminal conduct, or to their identity or whereabouts;

A CAB Garda Superintendent may grant the warrant in cases of urgency;

The warrant holder is not restricted in whom he may bring on the search;

A Garda Bureau Officer may arrest any person obstructing the search;

A Warrant will not cover material subject to legal privilege

(only useful if physical evidence exists)

Section 14A Production Order

A Garda Bureau Officer may apply to the District Court for a Production Order to uplift evidence of or relating to assets or proceeds deriving from criminal conduct.

Issued to Garda Bureau Officers only.

An order will not cover material subject to legal privilege

Proceeds of Crime Act 1996

- Belief of Chief Superintendent that the asset represents in hold or in part the proceeds of criminal conduct.
- Section 2 and 3 Orders (Restraint and Confiscation)
- €13,000 threshold
- Receiver - subject to court directions (Sec 7)
- Civil standard of proof of criminal activity
- No conviction needed
- Shifts burden of proof
- Ad-hoc legal aid scheme in place
- Property “frozen” for seven years (defendant can consent to immediate disposal Sec 4A)
- Disposal orders / Money to Central Fund

Proceeds of Crime (Amendment Act) 2005

Introduced important amendments to enhance cooperation.

Section 1, Deals with the proceeds of Foreign Criminality uncovered in our Jurisdiction by way of reference to *Criminal Conduct* which now includes “*where the conduct occurs outside the state, constitutes an offence under the law of the state or territory concerned and would constitute an offence or more than one offence if it occurred within the state*”

Section 15, Amends Section 5 1996 Act by insertingcooperation with any police force or any authority, being “*an authority with functions related to the recovery of proceeds of crime*”

Revenue Enforcement (Taxes and Customs)

- “Disclosure Act” 1996, permits exchange of information.



Chief
Superintendent

Authorised
Officer



- Bureau authorised by statute to assess, charge and demand tax in the name of the Bureau
- Bureau obliged by statute to “fully apply” Revenue Acts to the proceeds or suspected proceeds of criminal activity
- Revenue Officers appointed as Bureau Officers and act under direction and control of Chief Bureau Officer
- Profits or gains from unlawful source or activity are subject to tax under Irish Law
- Ordinary powers and procedures under Revenue Acts are available to the Bureau for collection and enforcement

Tax Cases

- Investigation (multi agency)
- Assessment of Tax liabilities
 - Appeal procedures before Appeal Commissioner within 30 days
- Demand
- Debt becomes “Final and Conclusive” (30days)
- Enforcement of Debt
 - Judgement, Sheriff collection, Notice of Attachment, Judgement Mortgage, Sale of Property

There are further appeal procedures available before the courts to the person targeted against any decisions made by the Bureau

Social Welfare Enforcement

- Officials from Department of Social & Family Affairs are appointed Bureau Officers and act under the Direction and Control of the Chief Bureau Officer
- Determinations are made dis-entitling persons engaged in criminal activity to benefit
- Court proceedings to recover overpayments of benefit
- Social Welfare personnel provide speedy access to highly relevant information
- Assist in Criminal Investigations.

Arrest

A Garda Bureau Officer has power of arrest under section 16 of the CAB Act, 1996 in cases of

Obstructing, intimidating or assaulting a Bureau Officer
or
Suspected revenue Offences (Sec 1078, TCA, 1997)

Most common Revenue Offences:-

- Non-submission of returns
- submission of incorrect returns
- non-remittance of VAT / PAYE
- Aiding, abetting, assisting, inciting
- Conspiracy to defraud the Revenue

Maximum detention period is 12 hours (6 + 6)

Director of Public Prosecutions Directs Prosecutions

High Court 1999, Justice McCracken

- “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 for the purpose of ensuring that persons should not benefit from any assets acquired by them from their 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 it is not a police authority.”

Case Study

- Thomas Homan - Cork

Background

- Local Target
- Drug Seizures
- Not hands on – no direct contact with drugs
- Lavish lifestyle

POC Actions by Bureau

- Establish Criminality
- Identify assets for seizure
- Prepare file for use in High Court

Criminality

- Liaise with local units
- Intelligence from GBFI, NCIU, NBCI, GNDU
- Pulse
- International Agencies



Assets

● How we identify Assets?

- Addresses
- Vehicles
- Bank Accounts
- Travel
- Intelligence



Assets - Property

- Legal searches
- Search Warrants
- Interview previous owners / builders
- Mortgages

Assets – Other

- Bank account details – How identified?
- Vehicles
- Other assets – Helicopter?
Boats? Paintings? Jewelry?
Antiques?

Link Assets to Criminality

- Bank Court orders
- Search Warrants
- Intelligence
- Interviewing professionals linked to assets – builders etc.,
- Lifestyle

The High Court

- Affidavits by CAB Officers and others
- Orders under Section 2 / 3 / 7 / 4 Proceeds of Crime Act 1996.
- Disposal of Property?

Contact Information

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