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## Report of Mr John Olden on the Management of the Sentences of Thomas Murray, Life Sentenced Prisoner

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### NOTE FROM THE MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM

When I appointed Mr. Olden to conduct this inquiry I undertook to lay his report before the Houses of the Oireachtas. This I am now doing together with the observations of the Director General of the Prison Service which I received on 4 July 2001. I also undertook to inform the late Mrs. Nolan's family of the contents of the report. This I have also done.

I would like to take this opportunity to again express regret at the tragic consequences of this release and my sympathy to the Nolan family on the death of their mother.

The report and the observations are extensive in dealing with this issue which goes back to March 1995 and beyond. From my perspective, as Minister for Justice, Equality and Law Reform, the paramount consideration in any release of this kind is the risk which the release poses for the safety of the public. That risk has to be assessed as carefully and thoroughly as possible but a risk there will always be in such cases. Unfortunately in this case, despite all the efforts of the agencies involved, it went badly wrong in the end. As Mr. Olden points out it would be a mistake not to take any risk ever, if the goal of rehabilitation is to have any meaning at all.

The report does illustrate some weaknesses in the system and makes recommendations to deal with those. The Director General has accepted the findings of the report. I have told the Director General to implement all the recommendations of the report and to take whatever other steps are necessary to improve procedures and the risk assessment.

For my part, I have established recently a new Parole Board on an administrative basis and it is my intention to put it on a statutory basis as soon as possible. The Board will have, inter alia, the task of advising me in regard to releases of the kind which is the subject of this report. The Board will be representative of the general public as well as the relevant professional services which are available.

Finally, I wish to point out that two sentences have been omitted, with the agreement of the author, from Appendix 1 of Mr. Olden's report. Both sentences relate to an allegation made by the prisoner, Thomas Murray, against his original victim, William Mannion, which Thomas Murray subsequently withdrew.

Mr John O'Donoghue,  
Minister for Justice,  
Equality and Law Reform  
72-76 St. Stephen's Green  
Dublin 2.

Dear Minister,

I submit herewith my Report on the Thomas Murray case. I hope that it will be of some assistance in the administration of cases of life imprisonment.

Some of the information in the historical summary is of a sensitive nature and that aspect will have to be considered in the context of the publication of the Report.

It may be remarked that I did not attempt to probe the difference between Prisons Headquarters and the administration of Castlerea Prison as to what had been decided in regard to the temporary release of Thomas Murray from the end of September, 1999. If an attempt to establish the "facts" in that regard had been thought to be worthwhile (and, in all the circumstances, that may be doubted), that attempt could have been made by an internal inquiry.

I think I should say that I do not propose to make any comments or to get into any discussions in public about any aspect of the matter.

I wish to thank all who were interviewed by me in connection with this case and those who checked for accuracy, the facts recorded by me. I particularly wish to thank Mr Denis Griffin of the Prisons Transition Team who assisted me in making arrangements for interviews and in other ways.

Yours sincerely,

Signed on original: John Olden

2 April, 2001

THOMAS MURRAY

REVIEW OF THE MANAGEMENT OF HIS LIFE SENTENCE

I was appointed to review the handling of the case of prisoner Thomas Murray with the following terms of reference:-

"in light of this offender's conviction on 5 December, 2000, for a second murder committed on 14 February while on temporary release from Castlerea Prison -

- (i) To review and report on the management of his sentences up to that time;
- (ii) Specifically to report on the procedures followed and their adequacy leading to granting / revocation of periods of temporary release to this prisoner;
- (iii) To make any observations and recommendations considered appropriate."

I was supplied with a copy of the Departmental / Prison Headquarters **file** and of the local prison **file** on this prisoner and I subsequently had sight of Probation & Welfare Service files also. I wish to record that I got full co-operation with my enquiries. This murder offence, the killing of Mrs Nolan was an appalling and unprovoked act. Her untimely death was an occasion of great grief to her family and locally.

Attached as Appendix 1 is a historical summary of the case from the initial offence for which Mr. Murray was charged, convicted and sentenced to life imprisonment in 1981/2 to the second murder offence of which he was convicted in December, 2000.

The policy in regard to persons sentenced to life imprisonment for the kind of offence for which Mr. Murray was convicted is to work towards their eventual reinsertion in the community after a period of imprisonment the minimum of which currently in such cases would be about 10 years. This policy is in line with modern penal policy. Of course, every case has to be taken on its individual merits and that has been Departmental practice. Since 1990 all such cases have come under the aegis of the Sentence Review Group once the prisoner has served seven years in custody. For convenience, I attach at Appendix 11 an information leaflet that is available in relation to that group.

It would be normal, following consideration by the Sentence Review Group, that a programme leading to eventual release into the community would be approved by the Minister and implemented though of course, some prisoners would not be considered suitable for such concessions.

There is a Departmental instruction to the effect that persons in the category in question are not to be granted temporary release by Departmental officials unless the Minister or higher authority has already explicitly approved a general temporary release programme for them.

Cases like Mr. Murray's are reviewed by groups which meet in the relevant prison from time to time, normally under the chairmanship of the Governor. They typically consist of a member or members of the Probation & Welfare Service and a member or members from the Department of Justice, Equality and Law Reform/Prisons Service. Other persons such as a psychiatrist, a teacher, the medical officer of the prison, a chaplain, may also attend.

As will be seen from the historical summary, Mr. Murray got a good deal of attention from the relevant services, in particular from the Probation & Welfare Service. By way of illustration, a return furnished to me by Mr. Kieran Connolly, Probation & Welfare Officer attached to Castlerea Prison, shows that in the period between 4th August 1998 and 24 February, 2000, he had 73 meetings with Thomas Murray including 8 meetings each in the months of November 1998 and January 1999 (including escorting him to the funeral and burial of his mother).

It is quite clear from reading the papers and talking to the persons who had dealt with him professionally that, like many other persons who have committed murder, Thomas Murray had a difficult personality and would need a lot of attention before he could be safely released back into the community. On the other hand the psychiatrists and the Chief Psychologist who interviewed him during the period of his sentence considered that he was not

mentally ill.

Having spoken to various persons who were familiar with Thomas Murray's behaviour while in prison, I conclude that he would be generally regarded as being socially inadequate but that on the other hand none of the staff, including the female staff, were afraid of him. In fact, he has never got into any serious trouble in the whole 19 years of his imprisonment so far.

Significantly, he appears never to have engaged in violent behaviour while in custody.

The Governor's remark, as recorded in the record of the Minutes of the Local Review Meeting on 27th October 1998 that, if released Thomas Murray would kill again, has to be construed in the light of the fact that the Governor chaired subsequent meetings at which a programme (i) of temporary release for Thomas Murray was discussed and (ii) the Governor's subsequent verbal assurance to me that he was not in opposition to such a programme but that he had thought at the time that before Thomas Murray was granted continuous temporary release (that is to stay at home) there ought to be a full clinical review of the case.

In the matters of the developments from mid-October 1999, to the date of the murder of Mrs. Nolan, a difference in the appreciation of what had been decided (or not decided) in relation to outings for Murray as between the local Prison records and the Departmental (Prison Headquarters) records is to say the least disturbing. I think, however, it is clear that even if Thomas Murray had not been accorded visits home unaccompanied for several days in the period (on the last of which he killed Mrs. Nolan), it would appear almost certain that such a programme would have been approved after a relatively short time in any case at Departmental level. Looking at the affair now in hindsight, it must be assumed that there would have been a risk to people at any time while he was on release.

On the general question of the prediction of violence it would appear from relevant literature that I have looked at and from my discussions with psychiatrists and others that it is a particularly difficult exercise. In many cases it is possible to say that a person is likely to commit violent acts in the future. However, the prediction of extreme violence leading to loss of life is always difficult save in the rarest of cases. On his record as a prisoner, Thomas Murray would not have been regarded by the prison authorities in Castlerea or Dublin as likely to commit an extremely violent attack on a neighbour during an afternoon temporary release in the company of his father.

Appendix III is an extract from a book entitled "Seminars in Practical Forensic Psychiatry" which is part of the College Seminars Series published on behalf of the Royal College of Psychiatrists by Gaskell. It consists of an abbreviated case history of one of a number of what are called vignettes and is to be found on pages 235 and 236 of the volume.

It appears to me that the case in question has some similarities with the Murray case and it is significant that the conclusion of the relevant psychiatrist was that a phased release programme leading to release on licence was not contraindicated.

I think that the following measures and comments are indicated by the facts of the case and on general consideration of the temporary release process in this jurisdiction.

#### **1. Early Formal Review Meetings**

A person in Mr. Murray's category (namely a person who has committed an apparently motiveless murder) and indeed other cases ought to be the subject of close attention by the "therapeutic services" from the very beginning of incarceration, certainly soon after conviction, not as at present when he approaches the 7 year mark in his time in custody. If there has not been a satisfactory clinical assessment already the prisoner should be offered one on the basis that it is in his own interest. The case ought to be the subject of consideration at formal review meetings of the services concerned including, of course, the custodial service at fairly regular intervals (three or four times a year) and the views of all concerned given at each meeting and recorded. This recommendation may have implications both for procedures in the Prisons Service and staffing levels in terms of the Probation and Welfare Service and Prisons Service generally. It should be a distinct responsibility of the proposed Director of Prison Regimes to ensure that the programme for such prisoners is implemented.

#### **2. Referral Back to Sentence Review Group 1 Parole Board**

A person who is following a programme recommended by The Sentence Review Group (or in the future the Parole Board) and is in significant breach of his temporary release conditions (such as in this case the indecent exposure committed by Thomas Murray) creates sufficient doubt as to his reliability to warrant the case being taken aboard again by the Review Group/Parole Board. A formal appraisal of his case, including clinical reports should be carried out before any further temporary release is allowed.

### **3. Formal Records and Levels of Decision-Making**

Formal rules should be made relating to the recording of measures proposed at review meetings in the prisons. Decisions as to any programme involving release from the prison on any basis or any significant change in a programme ought to be made at a relatively high level (at least the level of Principal Officer) and the decision should be conveyed in its written form to the Governor of the prison concerned.

### **4. Staffing Arrangements at Headquarters Level and in Support of the Sentence Review Group / Parole Board**

The administration of sentence in relation to this category of prisoner at Department of Justice, Equality and Law Reform / Prisons Headquarters level has to be treated as a very important matter unavoidably fraught with certain risks. Accordingly, great care should be taken in assigning the staff to do the work and, if at all possible, persons should have experience of the operation of the prisons and the problems of prison management before being assigned to that particular work. The rotation of staff in and out of such delicate areas of operation ought to be minimised. It is certainly an area where the number and quality of staff ought not to be skimped on. I say this not because of any observed deficiencies on the part of staff but in order to emphasise the importance and sensitive nature of the work.

I think that it is important for the smooth operation of the, system that the staff who are working for the Sentence Review Group/Parole Board should be full time and distinct from the Departmental staff working in the Prisons Division / Prisons Headquarters.

### **5. Prospective Dangerousness/Risk Assessments**

While, as I have said, the prediction of future behaviour is a very difficult matter, I do think that the Department/Prisons Service ought to avail itself in the future of the formal tools increasingly becoming available, tentative and imperfect though they may be, of assessing prisoners in relation to their prospective dangerousness. The Department of Justice, Equality and Law Reform Library now contains a number of studies in that regard. Taken in conjunction with what I have already said about the monitoring of prisoners in this particular category from the outset of their sentence, those tools ought to be availed of to enable an objective set of criteria to be established which can be applied to the progress or lack of it of the individual prisoner is making in the course of his incarceration and to the likely outcome if he is released.

### **6. General Conclusions**

It has been pointed out in newspaper articles and elsewhere that the Gardai especially at local level were very much opposed to the release of this man. I think that it is safe to say that the Gardai, quite understandably having regard to their own preoccupations and the views of the population with which they work are generally opposed to and critical of decisions to release persons in to the community who have committed very serious crimes. My understanding is that it is quite normal for the Gardai to oppose the release of persons who are broadly in the same situation as Thomas Murray. The prison administration, in endeavouring to give effect to the policy of reintegrating people where possible into the community, while taking on board the Garda views, must be prepared to take the risk of releasing persons about whose behaviour there must always be some doubt.

I think that in the context of this case there will have to be a tightening up on procedures for managing life sentenced prisoners and a general review of the practice in relation to the release of prisoners who have committed violent crimes. I also think it would be a reversal of policy and a real mistake to take the easy way out and say that no risk will be taken in the future. That essentially would be a political decision but one with serious consequences. The vast majority of persons sentenced to life imprisonment do not seriously offend after release. Prisoners without any "hope of early release" pose special problems and if the numbers of these prisoners increased because of over cautious policies, very serious incidents within the prisons would become

much more likely. Unfortunately, there will always be some prisoners for whom that prospect, punctuated perhaps by periods in the Central Mental Hospital, is unavoidable.

John Olden  
2 April, 2001

## APPENDIX 1

### HISTORICAL SUMMARY

#### **A. FROM COMMITTAL TO REVIEW BY SENTENCE REVIEW GROUP**

- 1) On 19 July, 1981, William Mannion was brutally murdered with a knife. Thomas Murray, then aged 17 years and 8 months, was interviewed on 28 July and next day was admitted to hospital having being found unconscious in bed; according to the Garda Report, it was clear that he had taken a drug overdose, probably by means of tablets which were prescribed for his brother. On 2 September, 1981, Murray made a statement to the Gardai admitting that he had killed Mr Mannion and he was charged.
- 2) It would appear that there was some element of premeditation in this as the knife used, according to his statement, had been hidden in a field. Later on the same day, he told the Gardai that he had planned the crime but "not for too long" and said that he would not do it again.
- 3) Murray was remanded to St. Patrick's Institution on 3 September, 1981.
- 4) According to the Garda Report to the D.P.P, of 5 October, 1981, Murray was not thought to be bright and had come under adverse notice both at primary and secondary school (which he attended for approximately a year) and was a "strong suspect" for such things as puncturing his classmates bicycles and prodding them in the classroom with a compass.
- 5) The report goes on to say that he had taken a dislike to a female neighbour, had sent obscene letters to her and was the suspect for an attempt to burn her car. He was charged in 1981 with unlawfully using language towards her calculated to cause a breach of the peace. The case was struck out when both parties agreed to shake hands.
- 6) On the recommendation of the medical doctor at St. Patrick's he was transferred to the Mater Hospital on 5 November, 1981, for EEG treatment
- 7) A liaison meeting on 19 November, 1981, discussed the case of Thomas Murray, who it was said, had been in the base of the institution since November but at that stage there was no longer "any signs of his harming himself". He was described as emotionally immature with a surprisingly low level of intelligence and as being borderline psychotic with some element of schizophrenia. The meeting was attended inter alia by Dr. J. McCormack, Psychiatrist of the Eastern Health Board and Mr E. McElduff, Psychologist of the Department of Justice.
- 8) On 14 December, 1981, the medical officer recommended Murray's transfer to the Central Mental Hospital.
- 9) The next item on the file is an order directing Murray's return to the Central Mental Hospital after his appearance in the Court on 15 February, 1982.
- 10) This appear to have been preceded by an earlier order dated 11 February, 1982, for his transfer to the Central Mental Hospital. The order was repeated following his appearances in Court in the course of February.
- 11) He was convicted on 22 February, 1982, and sentenced to life imprisonment. He had pleaded guilty and gave no evidence.

- 12) It would appear that he was in the Central Mental Hospital until 13 April, 1983. The only clue on the file as to his condition is the single word "depression". On the 15 April, he was taken from the Central Mental Hospital to Mountjoy Prison.
- 13) On 7 March, 1984, his transfer to Arbour Hill Prison was ordered.
- 14) In October 1985, he was accused of refusing to obey the instructions of an officer who had ordered him not to spit on the floor of the woodcraft shop in which he was working. The Governor's remarks are that "his conduct cannot be tolerated. This prisoner is serving a life sentence and has genuine psychiatric problems; however, he knew what he was doing". He was ordered to forfeit evening recreation for 14 days.
- 15) Murray was transferred to Mountjoy Prison on 26 November, 1985.
- 16) On 28 -May, 1986, the Governor of Mountjoy Prison was asked by the Prison Section of the Department to arrange that Murray be psychiatrically assessed and a written assessment forwarded to the Department as soon as possible.
- 17) On 9 October, 1986, his case was considered at a "liaison meeting" at Mountjoy Prison, which was attended inter alia by Drs. Hardiman and Gunne, Psychiatrists from the Central Mental Hospital, Mr D. O'Sullivan, Senior Probation and Welfare Officer at the Prison, Mrs E. Hanna, Probation and Welfare Officer also at the Prison and Dr. Hynes, the Medical Officer of the Prison.
- 18) At this meeting it was said that Murray had an interest in a transfer to Loughan House open prison but that, considering the nature of his offence and other factors, including the fact that he had completed only 6 years of a life sentence, it was thought that this was not a realistic option at that stage. The Welfare Service undertook to ascertain the local community attitude to the offender and to supply an up to date social inquiry report for the next meeting of the liaison group. The psychiatrists explained that they did not wish to be identified by offenders as the individuals responsible for a programme being approved or not. They felt that the Department should request assessments in writing and indicate for what purpose the report was required. Invariably the permission of the offender would have to be sought by the psychiatrists for written reports. Dr Hardiman considered that the offender should be told that similar reports were being sought from a number of different sources (Welfare Service and prison staff, for example). While the psychiatrists were in a position to indicate whether they considered an offender to be sane or not, the question of whether the offender was likely to be a danger to the community at large was one for a multidisciplinary forum with access to e.g. The Book of Evidence, etc..
- 19) On 17 October, 1986, Dr. Charles Smith, Medical Director of the Central Mental Hospital, wrote to Dr Hynes, the Medical Officer at Mountjoy Prison in a letter marked 'Private & Confidential not to be read in open court or in public without permission of the addressor'.
- 20) In this letter, Dr. Smith said that he had known Murray and looked after him while he was a patient in the Central Mental Hospital from September, 1981 to April, 1983, and was briefed thoroughly in regard to the circumstances of the murder. Dr Smith says that

"there is nothing psychiatric at this interview nor was there at any stage while he was with us so there are no medical contra-indications to any phased release programme". He also says that he could see no reason why Murray should not be moved on to an open prison and that presumably he would be there for some years to come. When it came to final discharge, he would need a lot of supervision.

- 21) At a liaison meeting in Mountjoy dated 6 November, 1986, at which 3 psychiatrists from the Central Mental Hospital and 4 Probation and Welfare Officers attended, Dr. Smith indicated that he could find no serious objection to a programme being drawn up in Murray's case. He is quoted as saying that, while the offender had dangerous potential if confronted again, he, Dr. Smith, considered that he was unlikely to get into trouble again provided he was kept under close supervision. After a discussion, it was agreed to recommend an escorted outing to meet his family in March and September, 1987, and a transfer to the Training Unit in October, 1987, and that this could possibly be followed by a transfer to Loughan House after a year, leading to his eventual release under supervision. There was a note on the

file that the recommendation was refused by the Minister when it was submitted after the meeting.

- 22) At a liaison meeting in Mountjoy Prison on 10 September, 1987, it was agreed that Murray should be told that it was unlikely that he would be granted any concessions for the foreseeable future.
- 23) On 19 November, 1987, he was placed in a padded cell because of a refusal to go to the exercise yard, "shouting and roaring and being in a distressed state". The file does not indicate how long he was kept in the padded cell. The prison file indicates that he was to forfeit three weeks evening recreation as a punishment.
- 24) There is a letter on file from Murray dated 23 March, 1987, (probably rectius 1988) in which he quotes paragraph 43 of the Whitaker Report, which deals with the question of the early release of prisoners.
- 25) Murray kept applying for transfer to an open prison with a view to his release and TDs enquired on his behalf.
- 26) In a letter dated 7 June, 1989, to a TD, it was said that the Minister had given every consideration but was not prepared to authorise a transfer of Mr Murray to an open centre at that stage.
- 27) A further letter to the same TD dated 15 February, 1990, was to the same effect but it went on to say that his case now fell to be considered by the Sentence Review Group.
- 28) In February, 1990, Murray applied to the High Court complaining that he was getting nowhere with his enquiries about what programme was envisaged for him.

#### **B. REVIEW BY SENTENCE REVIEW GROUP**

- 29) Mr Murray's case was considered by the newly established Sentence Review Group in May, 1990.
- 30) Among the documents that were before the Sentence Review Group was a report from Dr. Hardiman dated 18 May, 1990, the report of a review meeting held on 18 May, 1990,

a report from the Deputy Governor, a report from Ms. Miriam Tallon, Probation & Welfare **Officer**, the Garda Report which had been sent to the DPP in October, 1981, and a short (presumably newly prepared) Garda Report.

- 31) Dr Hardiman in his letter dated 18 May, 1990, says that on occasions when Murray was admitted to the Central Mental Hospital, he was not considered to be suffering from a mental illness and that at his recent interview with himself there was no evidence of any such illness. In light of that he felt that he had no particular recommendation or contribution to make but that it would be worthwhile for the Welfare Service to look in to the family/community situation as this could have an important bearing on any possible release.
- 32) The Deputy Governor in his report dated 24, May, 1990, said that in earlier years, Murray had appeared on several disciplinary reports mostly for failing to obey orders and that, while one could not possibly tolerate that kind of behaviour, he gave an impression that he had genuine psychiatric problems at that stage. On the other hand, when he got a change of employment he changed immediately and started to show an interest and all the unsettled temperament of the past years seemed to have vanished.
- 33) The report of the Review Meeting of 18 May, 1990, in Mountjoy Prison which was attended by a deputy governor, probation & welfare officers, teacher, chaplain and an officer of the Department indicated that a discussion had taken place in particular on the fact that there was no apparent motive for the murder.
- 34) There was general agreement at the meeting of 18 May, 1990, that Murray was of such a low mental ability and he would need support and supervision. It was also agreed that there was a need for some change in his circumstances now, a change that would indicate to him that he was making some progress towards eventual release and to the possibility of a transfer to the Training Unit with psychological and or psychiatric care that would, inter alia, tease out the reasons for the crime. Should



progress be made there over the period of perhaps 6 to 12 months, consideration should be given to a transfer to Shelton Abbey for perhaps two years prior to release.

- 35) Ms Miriam Tallon, Probation & Welfare Officer, ended a longish report by concluding that Murray was very open to suggestion and could be easily led and said that she believed he would respond to any suggestion made to him by an authority figure.
- 36) The (new) Garda Report said that Murray was a person of extremely violent nature and that unless he had changed, his release would constitute a threat to the community.
- 37) The Sentence Review Group appears to have decided to postpone consideration of the case and there is on file a note dated the 16 April, 1991, indicating that they had decided "last year" that they would review the case in a year and that in the interim had recommended that he be transferred to the Training Unit for social skills training, which should include a component on social interaction with women and for training in a trade, which would bolster his employment prospects, that he would spend a period in Shelton Abbey as part of a programme for the preparation of his release, and that during the year, the Probation & Welfare Service would closely monitor his progress and his family's circumstances.
- 38) On 3 May, 1991, the Governor of Mountjoy Prison was informed by the Department of Justice, Prisons Division, that the Minister had authorised Murray's transfer to the

Training Unit and that his case would be kept under review in the light of his progress there.

- 39) In their review of the case in November, 1991, the Sentence Review Group under the Chairmanship of Dr Ken Whitaker had the benefit of the reports previously mentioned as being available for their 1990 review plus a report dated 25 October, 1991, by Mr Des O'Mahony, Head Psychologist of the Prisons Psychological Service, a report dated 24 August, 1991, by Mr Des Kilroy, Probation & Welfare Officer, a report of a "review meeting" in the Training Unit on 5 September, 1991, between the Governor, Chief Officer, a member of the Probation & Welfare Service and an officer of the Department of Justice and a note from the Governor dated 29 August, 1991.
- 40) Mr O'Mahony says that he had met Murray on four occasions in the Training Unit in October and that he presented as a man of low intelligence and that he, Mr O'Mahony, agreed with Dr. Hardiman that there is now "no evidence of serious psychological problems". Mr O'Mahony concluded that he would see him going to an open prison, preferably Loughan House, and thereafter he would return to manage the family farm. The outcome might not be without its problems, but it was, in his view, the one most likely to succeed.
- 41) Mr Kilroy in his report said that he had seen Murray on a regular basis especially over the previous two months. He had also read the previous probation and welfare reports which mentioned, inter alia, Murray's obsessive concentration on being released. Mr Kilroy also said that he had referred Murray to a psychologist for assessment. Mr Kilroy says that he was aware that Murray had had a number of epileptic seizures when young and that, while in prison, he had spent some time in the Central Mental Hospital but that he, Mr Kilroy, had not had sight of medical or psychiatric reports. Mr Kilroy considered that if Murray were to be released he would need to have a graduated introduction into the community which could take the form of short shopping visits and meeting his parents in the company of a welfare officer outside the Training Unit. Mr Kilroy said that returning home seemed a reasonable long term plan "pending confirmation of local opinion" and that Murray would need a great deal of support and supervision if released.
- 42) The meeting of the "review group" on 5 September, 1991, concluded that it would not be safe to release Murray back into the community at the present time. It was suggested that psychological assessment might be of assistance in deciding on his future and it was thought that, subject to whatever might be revealed in a psychological assessment, he should be transferred to either Loughan House or Shelton Abbey where he might be more at home in rural surroundings and where he could engage in farm work.
- 43) The Governor in his note indicated that Murray had not had any contact with the Psychiatric or

Psychological services since the last review of his case, that his conduct had been good since his transfer to the Training Unit and that he needed constant supervision for safety reasons.

- 44) A letter dated 12 November, 1991, from Dr. T.K. Whitaker conveyed the recommendation of the Sentence Review Group. It recited the criteria laid down for the group and indicated that the group gave particular attention to the following questions:-
- (i) Whether the release of the prisoner would pose a threat to the community.
  - (ii) Whether the prisoner had the disposition and capacity to be a law abiding member of the community and if so what support he/she might need.
  - (iii) Whether there are any compassionate grounds which warrant special consideration.

Without further elaboration the group recommended "the following carefully staged programme":-

- (i) That Mr Murray is seen by a psychologist for any necessary clinical counselling over the coming weeks.
- (ii) That on completion of (i) he be transferred to Loughan House for a period of 12 months as part of a resocialisation programme and to facilitate more frequent visits from his parents.
- (iii) That he be allowed occasional day outings e.g. A trip to the cinema, local shops, etc. In order to become acclimatised to spending money and purchasing items.
- (iv) That he be allowed weekends with his parents every six weeks building up to once a month in the second six months at Loughan House.
- (v) That he be encouraged to participate in a woodwork programme at Loughan House.
- (vi) That he be granted daily temporary release for community work projects from March, 1992, with particular reference to his utilisation of carpentry skills.
- (vii) That he be granted renewable temporary release to his parents home, to assist his father on the farm, from September, 1992, if he responds to the aforementioned programme.

C. FROM THE REVIEW TO THE WITHDRAWAL OF TEMPORARY RELEASE, JULY 1996.

- 45) In an undated report but probably about this time, Mr David Murray, Senior Probation & Welfare Officer, Athlone, stated that in view of the negative attitudes prevalent in the community, a release programme for Thomas Murray would require sensitive management. The garda view appears to have been that, unless Murray had changed, his release would constitute a threat to the community.
- 46) A case was submitted to the Minister on the basis that the recommendations of the Sentence Review Committee Review Group be accepted but that the question of his suitability for "continuous release" be reviewed in six months in the light of his progress and any views from the sentencing judge (the latter when approached said that he had forgotten the case).
- 47) A "case conference" was held on 9 March, 1992, in Loughan House. This meeting was attended by Mr Martin Tansey, Principal Probation & Welfare Officer and three other members of that service. It was also attended by Mr Des O'Mahony, Head of the Psychological Service. It concluded that the resettlement of Mr Murray in the community would require a considerable amount of planning. It was agreed that he needed to be given an opportunity to work on community project from Loughan House. It was agreed that self development and independence would be important and that opportunities should be given to him over a period to shop locally by himself. This should be monitored, in that receipts should be obtained and discussions with him as to how he spent the cash given to him. It was agreed that accompanied outings home would serve no useful purpose but that when his adjustment developed, his father could convey him home and back on a day's temporary

release. It was concluded that there should be no weekend or overnight temporary release for a period of six months.

- 48) According to the report of the meeting there was already a difference of view in the Gardai; the Superintendent in the area recognising and acknowledging that Murray's family are anxious that Murray return home, and that he, the Superintendent, does not have a difficulty there but the local Sergeant had his reservations. It was also concluded that the resettlement should be over a period of 12 months and the possibility of Mr Murray being placed in the training workshop in Ballinasloe should be explored, in which case accommodation would be obtained for him in Ballinasloe from Monday to Friday.
- 49) Over the next months he was granted accompanied outings, including visits home.
- 50) A manuscript note on file indicates that his case had been reviewed in Loughan House on 14 October, 1992, and that he had made some progress since his transfer to that prison. He had been home several times and had worked on community work. As Murray had not met neighbours while on temporary release, local reaction to him was difficult to judge. A programme for releases including two weekends in November and December was agreed.
- 51) A report dated 27 November, 1992, by Mr David Murray, Senior Probation and Welfare Officer indicated that while the Gardai locally continued to be apprehensive about his return to the area, reflecting the fears communicated to their members by neighbours who reside there, the local parish priest had undertaken to assist in any way possible with his return to the area and that the requirement that he report daily to the Garda Station assisted in alleviating some of the fear. It was agreed at a meeting in Loughan House on the same date that a midweek and weekend temporary release be granted to Mr Thomas Murray before Christmas, that a meeting between him, his brother, a rehabilitation social worker and Mr David Murray be arranged, that David Murray would recommend temporary release for Christmas, that Thomas Murray would continue to get one weekend and one midweek period of temporary release from January to go to the Ballinasloe workshop, that Thomas Murray be counselled on his relationship with women and that there be a further review of the case in February, 1993.
- 52) An incident at Loughan House on November 30, 1992, when Murray had, in rather intimidatory circumstances, sought a kiss from a female teacher was settled by his apologising.
- 53) On 17 December, 1992, he was given permission by the Minister for 7 days temporary release at Christmas and in the submission on file the reasons cited were length of sentence served, his excellent conduct, his having abided by the conditions of all temporary releases granted to date and this recommendation was made in the light of the quoted opposition of the Gardai to his early release.
- 54) In February, 1993, a programme of releases proposed by the Loughan House authorities for the months of February and March for attendance at the workshop in Ballinasloe was approved by the Department.
- 55) At about this time, he and his family were pressurising for him to be allowed to abandon the workshop in Ballinasloe so that he could return to work on the family farm.
- 56) A submission on the file dated 14 March, 1995, says that Item No. 7 of the programme recommended by the Sentence Review Group in 1991 had not been accepted by the Minister on the basis that it would be re-submitted when release was envisaged. It also indicates that the temporary release programme had been stopped on two occasions. The first time related to an occasion when he applied for a full driving licence when he was only entitled to a provisional one and the second was after the murder of Philomena Gillane, when local people began to fear his presence in the area.
- 57) The submission goes on to refer to a case conference that had been held in Loughan House in the latter part of 1994 attended, inter alia, by the Probation and Welfare Service and by Sergeant Moynihan of Ballygar Garda Station. It says that the Garda felt that it would be necessary for Murray's movements to be monitored when he was on temporary release; that it was agreed to start with a programme of temporary release of one week in Loughan House and one week at home; that when at home, Murray would have to call to the Garda Station every day and that a curfew of 11 o'clock pm should be imposed on him. It went on to say that this arrangement went well and that before Christmas 1994, it was decided

to increase the temporary release back to its "original format" of 10 days at home and 4 days in Loughan House. It was also decided that he should call to the Garda Station only every second day and that the curfew be put back to 12 midnight at the weekends.

- 58) The submission goes on to say that a meeting in Loughan House in January, 1995, it was decided that nothing more could be gained by keeping Murray in prison and that it was recommended, subject to Garda review that he be released on fortnightly renewable temporary release; that there had been no complaints from locals in the last 9 months and that they seemed to have accepted the fact that he could be released at any time. Gardai are quoted as saying that they have no objection to his release as long as he reports to them on a regular basis and that the curfew still stands.
- 59) The recommendation that he be released on fortnightly renewable temporary release on the above conditions was approved in March, 1995. This was conveyed to the Governor in a letter from Mr Sean Aylward Principal Officer. The letter went on to say that the conditions may be revised depending on how Mr Murray progresses over the next 6 months.
- 60) At what was described as a local review meeting in Loughan House on 16 June, 1995, it was agreed that there be no change to the conditions of Mr Murray's temporary release at that stage.
- 61) An incident late in January, 1996, in which Murray was assaulted by his father led to a temporary rift in the family but the issue was resolved by the intervention of Mr David Murray, Senior Probation and Welfare Officer.
- 62) Temporary release was not renewed on 14 September, 1996. The immediate cause of this was the fact that Murray was suspected of setting fire to hay and other materials belonging to a member of the Gardai in the area. In the report asked for by the Department and submitted by Sergeant Moynihan of Ballygar, it was stated that there had been other incidents including breaches of the curfew and that there were reports of Murray making lewd gestures towards young girls.
- 63) The Garda report went on to say that there is a constant and real fear of Murray in the local community and that there was a belief that he would kill again. It mentions that before the murder in 1981 a cock of hay had been burnt in the locality also.
- 64) A file in the relation to the burning of hay etc. was sent to the District Garda **Office** in Roscommon but it was concluded that there was not enough evidence to sustain a prosecution against Mr Murray.
- 65) Mr Murray was transferred to Mountjoy Prison on **20 September, 1996**, and at a later date to the Training Unit.
- 67) It was recommended by a "review of sentence" group in the Training Unit on 5 December, 1996, that he be transferred to Loughan House for the Christmas Period.
- 68) He was transferred to Castlerea Prison in December, 1996, and received temporary release for a number of weekends on the condition of keeping the curfew and reporting to the Gardai.
- 69) A report dated 28 April, 1997, from Mr David Murray indicates that at that stage Murray had secured temporary work in Galway which was being closely monitored by David Murray.
- 70) A letter dated 12 May, 1997, from Mr Tom Maguire of the Prisons Division to Mr David Murray told him that Murray would continue to be granted temporary release on a fortnightly basis. He asked Mr David Murray to keep him regularly informed of his progress and in any event to have an up to date report on him in 3 months. The conclusion arrived at and set out in a report from Mr David Murray dated 11 September, 1997, is as follows:-

"Since Mr Thomas Murray was granted temporary release in April, 1997, he has developed an additional range of employment and social skills. He has gained additional self confidence in his ability to sustain himself away from the prison and family setting. He is now confident that given the possibility of long term employment he would

be able to maintain and develop his independence while cognisant of the fact that he will remain under probation and welfare supervision and of the conditions imposed by his temporary release. The 6 month period that he spent when returned to prison for his breach of the curfew conditions is a salutary and ever present reminder of his need to comply fully with all of the conditions of the order.

Thomas Murray has co-operated fully with the programme of reintegration over the past period. He and his family maintain close contact with the Probation and Welfare Service. He is now committed to further employment with Mr Hughes which should ensure continuity of work for the next number of months during which time he will further increase his skills base in the construction industry.

His social integration is affected by the 11 o'clock curfew condition and perhaps consideration could be given to extending these hours particularly during the nights when he resides in Galway. His long hours of heavy manual work will place a natural constraint on his social activity. Thomas Murray at present has a high level of reporting. He signs on at the local Garda Station in Ballygar twice weekly. He returns to Castlerea Prison twice monthly and is seen by the Probation and Welfare Service for an extensive interview on a weekly basis. This level of reporting would appear to be excessive in the view of the fact that he is maintaining full employment while also working at the family farm at the weekends. This schedule of reporting demands that he has to take time from his work to make the necessary travel arrangements".

- 71) The report was made to the Governor of Castlerea Prison, who forwarded it to the Department and said that an extension of temporary release from fortnightly to monthly and a reduced curfew would be appreciated.
- 72) In a reply from the Department to the Governor dated 24 September, 1997, it was stated that Murray need only sign on at Castlerea Prison once a month and that he may stay out until 12 midnight on the nights he stays in Galway; that the frequency of his supervisory meetings with the Probation and Welfare Service was a matter for that service and that the department had no objection on the basis of the report made to the reduction in the frequency of the occasions that Mr Murray was seen from once a week to twice a month.

**D. FROM THE WITHDRAWAL OF TEMPORARY RELEASE IN JULY 1998 TO DATE.**

- 73) Following an incident on 15 July, 1998, where Murray was alleged to have committed and was subsequently convicted of indecent exposure in Galway his temporary release was not renewed as and from 31 July, 1998, and reports were requested from the Gardai and the Probation and Welfare Service.
- 74) A review report by Mr David Murray dated 26 August, 1998, stated that Thomas Murray's employer had ceased work with the result that Murray was made redundant. He endeavoured to find other employment in the building industry but was not successful.

He had denied vehemently that he had committed the said offence and said that he was endeavouring to find employment in the construction industry in Galway and Athlone. Mr David Murray said, however, that females had found Thomas Murray's behaviour and attitudes towards them inappropriate on occasion.

- 75) At a meeting in Castlerea Prison on 7 September, 1998, attended by the Governor, Deputy Governor, Mr Kieran Connolly, Probation and Welfare Officer, the Chaplain and two officers of the Department of Justice, the Governor is quoted as saying that he was of the opinion that if released, Mr Murray would kill again.
- 76) On 5 October, 1998, Thomas Murray sought a transfer to the domestic part of Castlerea Prison and a meeting with the Sentence Review Group.
- 77) A note on file dated 27 October, 1998, refers to the Governor's opinion given at the meeting on 7 September, 1998, that Murray was not now "a candidate for Unit A and that if released he would kill again". The note goes on to say that some form of psychological assessment might be appropriate before a decision on his release.

- 78) Murray's request for a transfer was referred to the Department and he was told that it had been seen by the Sentence Review Group and had been discussed with its Chairman but that it was agreed that there would be no useful purpose in his meeting with the Group and that the management of his case was best dealt with by the Department at that stage. He was also advised to commence work with the therapeutic services; that the question of renewal of his temporary release would be a matter for the Minister for Justice and that a positive engagement with the therapeutic services would be needed to reassure the Minister that he was a suitable candidate for re-release at some stage in the future.
- 79) In reply, Murray said that he was not aware of any therapeutic services in the Prison but that he was attending the Welfare Officer on a weekly basis.
- 80) On 21 January, 1999, he was approved for accompanied outings to visit his Mother, who was reported to be dying and also to attend the funeral.
- 81) At a meeting on 27 May, 1999, in Castlerea Prison attended, inter alia, by the Governor, two members of the Probation and Welfare Service, the visiting psychiatrist, an officer of the Department and the Medical Doctor, it was indicated that one of the probation and welfare officers (Mr Kieran Connolly) was going through the recent court case with Murray; that he was meeting him on weekly basis and that it was intended to increase the number of those sessions. It goes on to say that Murray did appear to have a kink in his personality in relation to women. However, it was proposed that in order to give him some incentive towards the work that he was doing with the Probation and Welfare Service, he should be considered for unaccompanied temporary release in September, depending on good progress. It would initially be on an am/pm basis and would require his father to collect him and bring him back. An extension of temporary release to overnight and weekends would be considered in the light of progress made.
- 82) His solicitors were informed on 19 July, 1999 in response to representations from them on his behalf, that Thomas Murray currently received an accompanied outing to visit his father once a month and that consideration of any increase from this level of temporary release to unaccompanied overnight, weekends, etc., would be dependent on his progress with the therapeutic services available to him in Castlerea Prison.
- 83) In a memo dated 26 August, 1999, regarding a request for overnight temporary release, Mr Kieran Connolly Probation and Welfare Officer at the prison said, inter alia, that it is becoming clearer that Thomas Murray's thinking is highly distorted in his personal relationships and that the vindictive and petty side of him frequently seen in prison is tied directly to his offending.
- 84) Mr Connolly also felt that there needed to be an in depth examination of the view of the local community before further release was indicated.
- 85) At a meeting in Castlerea Prison on 27 September, 1999, attended, inter alia, by the Governor, the Assistant Governor, a Chief **Officer**, a probation and welfare officer, and one **officer** from the Department, it was indicated, according to the Department's **file**, that Thomas Murray continued to get outings with the Probation **Officer** or the Chaplain to visit his father. It was stated that he was greatly feared in the locality and that any overnight stay there would cause a panic. This was in relation to his original murder offence and in relation to his more recent offence of indecent exposure.
- 86) A record of that meeting held in the Prison says that it was decided that if his father would collect and return him he could go out on temporary release for a day every two weeks.
- 87) in a memo to the Governor of Castlerea Prison dated 6 December, 1999, Mr Kieran Connolly, Probation and Welfare Officer, indicated that Martin, Thomas Murray's brother, would be on leave from residential care at the family home over Christmas and the New Year. He went on to say that he believed that there was a serious risk of conflict and perhaps violence if both brothers were in the same place for an extended period without supervision. He said that he would advise against Thomas Murray being allowed to stay in the family home overnight on any of the nights in question. He said that they (presumably meaning himself and the social worker dealing with Martin Murray's case) were currently working together on a rehabilitation plan for the two but that it was by no means complete at the time.

- 88) The Assistant Governor of the Prison forwarded this note to the Department and added a manuscript note saying that, in view of the report from Mr Connolly, he recommended that Mr Murray be released for 3 single days am/pm, that is Christmas Day, New Year's Day and a day to be agreed over the Christmas period.
- 89) The Department approved two am/pms temporary release on Christmas Day and New Years Day on the basis that he would be collected and returned by his father and on condition that the second release was contingent on his good behaviour on the Christmas Day release. This was conveyed to the Governor by letter dated 17 December from Mr Tony Flynn.
- 90) A manuscript letter from the Governor dated 22 February, 2000, says that following a review on September 27, 1999, Murray was granted an am/pm temporary release once every week to be collected and returned by his father and that the arrangement continued from October 18, 1999, up to and including February 14, 2000, when Mrs Nolan was murdered (of which offence Murray was later convicted).
- 91) A return dated 25 April, 2000, from the Deputy Governor of the Prison listed details of temporary release granted to a number of prisoners. It shows that between 18 October, 1999, and 14 February, 2000, Thomas Murray had got am/pm temporary release on 20 occasions, on 19 of which he was unaccompanied but was collected and returned by his father.
- 92) The Governor had, in fact, noted in the prison **file** that on 9 October, 1999, Murray was approved for an outing once a week to be collected and returned **by** his father. The Department say that there is no record on their file in headquarters of any decision relating to this prisoner being taken on 9 October, 1999. On 7 October, 1999, the section in headquarters had approved by phone an outing for the prisoner in the company of his father which took place on 19 October, 1999.
- 93) A submission from Mr J. Kenny, Principal Officer in the Prisons Operations Division dated 23 February, 2000, was seen by the Secretary General of the Department and the Director General of Prisons. It stated that there was a difference in interpretation of the frequency of the agreed accompanied and unaccompanied outings for Mr Murray between the Governor's Report and Prisons Division's Record. It goes on to say that "in cases like this once the decision is made to grant periods of unaccompanied temporary release as part of a structured programme (for recommitted life sentence prisoners) the precise details in relation to dates, times of return etc. are often left to Prison Management to arrange and that this was necessary in view of a need to contact relatives, inform Gardai, consult Probation and Welfare Services, etc. The Director General on 23 February, 2000 minuted the submission from Mr Kenny to the effect that, notwithstanding the difference between local records and the headquarters file, "we would have agreed to day release for Mr Murray on the day in question had prior approval been sought". The Director General informs me that he is still of the view that, in the prevailing circumstances and on the basis of the information then available, the prison authorities at headquarters level would have responded favourably to such a request from the Prison Governor.

**John Olden**  
2 April, 2001.

#### APPENDIX 11

#### SENTENCE REVIEW GROUP INFORMATION LEAFLET

This information leaflet is designed to explain to you the main features of the Sentence Review Group and to help you to avail of the opportunity to have your sentence reviewed.

#### **What is the Sentence Review Group?**

It is an advisory Group established by the Minister for Justice, Equality and Law Reform to

advise him/her in relation to the administration of long-term prison sentences.

The Group reviews the cases of individual offenders who have served 7 years or more of a current sentence including life sentences but excluding offenders serving sentences for capital murder. Following review, recommendations are made to the Minister advising him/her of an offender's progress to date, the degree to which that offender has engaged with the various therapeutic services available, and how best to proceed with the future administration of that offender's sentence.

The Group may make any one of a number of recommendations including, for example; facilitation/maintenance of family contacts, commitment to engage with therapeutic services, education, work training, transfer to another institution, etc, and eventually recommendations in relation to temporary release leading to full temporary release.

### **Who is on the Group?**

The Group is chaired by an independent Chairperson and may include members representative of the following categories:-

- (a) Persons with experience of working with ex-prisoners and their families;
- (b) A representative of the medical/psychiatric profession;
- (c) A senior officer of the Probation and Welfare Service;
- (d) A representative of the Department of Justice, Equality and Law Reform.

You may write to the Group at the following address; The Secretary, Sentence Review Group.  
Department of Justice, Equality and Law Reform, 72-76 St Stephen's Green. Dublin 2.

### **Who can have their cases reviewed by the Group?**

All offenders who have served a term of seven years or more of a current sentence including life sentences are eligible to have their cases reviewed by the Group. Offenders serving sentences for capital murder are excluded. The seven year term is calculated from the commencement date of the sentence (as stated on the Order for Imprisonment) and does not take time spent on remand into account. Offenders who are on a determinate sentence must have a viable portion of their sentence left to serve when they reach the seven year stage.

Why should an offender have his/her case reviewed by the Group?

The sentence review process provides offenders with an opportunity to discuss their individual concerns, their offending behaviour, their ambitions for the future, and if deemed suitable, to prepare for their eventual release and reintegration into the community. *It should be pointed out that the Minister makes all decisions regarding release.* The Group can offer practical advice and support to assist offenders in coping with their sentences and their preparation for release. Offenders are strongly encouraged to become actively involved in this process,

### **Can an offender opt out of this review procedure?**

Yes. The Group will not consider the case of an offender who indicates at any stage that he/she does not want his/her case reviewed by the Group. Any offender who wishes to opt out of the review procedure may write to the Secretary of the Group accordingly.

### **Will an offender be able to make their case to the Group?**

Offenders will be advised as to when and how their case will be reviewed. If the offender is to meet with the Group he/she will have the opportunity to discuss any issues relevant to their case. Such meetings are conducted in a relatively relaxed and informal manner. Legal representation is not allowed before the Group, however, written submissions from the legal representative of the offender is allowed.

The Group may decide to consider cases further and monitor individual progress solely on the basis of reports



from the various services which the offender is engaged with. Full consideration is still given to the offender's case and the only difference is that the offender does not meet with the Group.

In any event, an offender may write to the Secretary of the Group setting out any points which he/she wishes the Group to take into account.

### **How often can cases be reviewed?**

The Group will always meet with offenders being reviewed for the first time. It is then open to the Group to decide if and when a further review is merited. A period of not more than 3 years will elapse in any case between one review and the next.

### **How long will the review take?**

Each case is reviewed on its own individual and particular merits and the time taken to complete the actual process can vary as a result. Usually the meeting will last in the region of 30 minutes. An offender will, in most cases, know the outcome of his/her review in 2-3 months.

### **What factors will the Group take into account in reviewing cases?**

While each case is different and will be considered on its own individual and particular merits, specific consideration may be given to such factors as:-

- (1) Has the offender engaged constructively with the relevant therapeutic services including the Probation and Welfare Service, the Psychological and Psychiatric services, Educational and Work Training services, Substance Abuse, Alcoholics Anonymous, and, if so, what progress has been made,
- (2) Has the offender done any work in relation to addressing the circumstances/nature of his offence, participated in any therapeutic or rehabilitative programmes and, if so, what progress has been made. Programmes might include for example the Sex Offenders Treatment programme, Aftercare programme, Cognitive Skills course, Pre-release programme etc. **The value of the Programmes for Sex Offenders would be considered in terms of relevance to the individual's offending behaviour for example if the offence was of a sexual nature or if there was a sexual element to the offence.**
- (3) In the case of an offender being reviewed for a second or subsequent time the success of the previous programme of recommendations will be examined.

While the Minister will consider in full the Group's recommendations, it should be noted that he/she may decide to accept them in their entirety, in part, or reject them completely. *The final decision in all cases is made by the Minister.*

### **What is the position as regards recommending temporary release?**

The Group may, in some cases, make recommendations to the Minister for some form of temporary release to be granted. The following factors must be taken into account when assessing cases for temporary release:-

- (1) Would release constitute a threat to the community?
- (2) Is it reasonable to grant some form of release at this particular stage in view of the nature of the crime committed?
- (3) Does the offender merit some form of release having regard to behaviour while in prison?
- (4) Are there any compassionate grounds which merit special consideration?

**Note:** These factors can by their nature only be considered in conjunction with those referred to previously. *Again, the Minister will make all decisions in this regard.*

### **What can the Group recommend to the Minister?**

Following review, the Group will - having given full consideration to all relevant factors - present its recommendations to the Minister. Recommendations may include any or all of the following:-

- (1) Programme of possible short term release leading to full temporary release,
- (2) Transfer to a more suitable prison including a prison in a different location, a less secure institution, or an open prison.
- (3) Structured programme advising that the offender should participate in one or more of the following areas.-
  - (a) Therapy - Encourage the offender to work with particular therapeutic services, attend particular programmes, be referred for psychiatric reports etc.
  - (b) Education - Participate in educational and training **services**.
  - (c) Work Training - Release for work training, for example at Prisoners Aid through Community Effort (PACE) or other suitable bodies.
  - (d) Resocialisation - Measures to reduce the effects of institutionalisation.
  - (e) Outings- Escorted/Accompanied outings to aid familiarisation with the outside world, meet with family or relatives..

### APPENDIX III

Extract (Pages 235 - 236) from Seminars in Practical Forensic Psychiatry. the Royal College of Psychiatrists. published by Gaskell

#### **Case example 4**

A 27 year old man has served 12 years of a life sentence imposed when he was 15 for the murder of a 14-year-old girl. He had strangled her in a field and then inserted twigs in her vagina and mouth. A psychiatrist has been asked to provide a psychiatric report for a parole review.

The man was the oldest of three children in a stable middle-class family. He had no history of delinquency, contact with psychiatric services or substance abuse. He was of average academic ability, but had few friends at school. At the time of the murder he had never had a girlfriend or any sexual experience. He has progressed through his sentence without disciplinary problems. Early in his sentence he saw a psychiatrist monthly for one year; he had been referred by the prison medical officer in view of the nature of the crime. For two years he has been attending a college of further education two days weekly for a course in electrical engineering. His parents remain supportive and visit him regularly. He corresponds with a female pen-friend.

*Task: Consider suitability for release on life licence.*

There emerges nothing to suggest premeditation of the crime, pathological sexual adjustment, or any preoccupations with violent themes. He seems to be more socially competent than he was 12 years ago, and his contrition for the crime seems genuine. He would live with his family and there are sensible proposals for aftercare. The psychiatrist concludes that: (1) there is no evidence of any psychiatric disorder or psychosexual abnormalities; (2) there are no psychiatric factors which contraindicate a phased release programme leading to release on licence; and (3) there is no indication for psychiatric follow-up on release.

### APPENDIX IV

## List of Persons Spoken to in the course of the Review

Mr Thomas Murray

### Department of Justice, Equality and Law Reform 1 Prisons Service

Mr Sean Aylward, Director General of the Prisons Service  
Mr Michael Mellett, Assistant Secretary  
Mr John Kenny, Principal Officer (and member of Sentence Review Group)  
Mr Des O'Mahony, Head of Prisons Psychology Service  
Mr Anthony Flynn, Assistant Principal Officer  
Mr Declan Brennan, Assistant Principal Officer

### Prisons Service

Mr Daniel Scannell, Governor, Castlerea Prison  
Dr Geraghty, Visiting Psychiatrist, Castlerea Prison

### Probation & Welfare Service

Mr Martin Tansey, Principal Probation and Welfare Officer, (and member of Sentence Review Group)  
Mr John Kilcommins, Assistant Principal Probation and Welfare Officer  
Mr David Murray, Senior Probation and Welfare Officer  
Mr Kieran Connolly, Probation and Welfare Officer

### Central Mental Hospital

Dr. C. Smith. Medical Director, (and member of Sentence Review Group)

### Garda Siochana

Detective Garda, Basil Johnson, Roscommon Garda Station

## Observations on Olden Report by Director General of the Irish Prisons Service

### **1. Introduction**

I welcome Mr. Olden's report which clarifies many issues about the Murray case. Mr. Olden is satisfied, as am I, that all the known facts of the case have been provided to him and that all relevant aspects of the case have been examined. I endorse all of Mr. Olden's recommendations which are concerned with enhancing offender management in the life sentence and long term sentence category.

### **2. Background to decision-making.**

At the outset, an explanation of the procedures involved in granting temporary release to life sentenced prisoners would be useful. As explained by Mr. Olden, from 1990 up until June of this year, all long term prisoners including life sentenced prisoners were eligible to have their cases scrutinised by the Sentence Review Group (SRG). The SRG have recently been replaced by a Parole Board which has a wider remit.

The SRG would either meet a prisoner to discuss his progress in addressing the issues associated with his/her offence or conduct a review solely on the basis of reports. The reports would be sought from all agencies within

the prison system which would have had dealings with the prisoner. The views of the Gardai and reports of the offence would also be considered. Community attitudes towards the offender would normally be ascertained through the Gardai and via Probation and Welfare sources. In both cases, whether the Group met with the prisoner or conducted the review through reports only, the reports mentioned would be reviewed by the SRG.

Following the review the SRG would make recommendations to the Minister. Where the Sentence Review Group had recommendations to make regarding a programme with some form of temporary release component, a significant change to a programme or recommendations for eventual release then a specific submission would be put to the Minister together with the comments and advice of senior officials of the Department/Prison Service. His approval was required prior to the implementation of the SRG recommendations. In cases where the recommendations would not entail major changes involving release decisions but would have significant regime implications for the prisoner (like a move to another prison) either I or the Head of Operations who reports to me had to approve the practical implementation of the recommendations once they had been approved in principle by the Minister.

Once a programme had been agreed by the Minister it would be supervised by prison service officials at Headquarters level. Any significant change to that programme would be referred back to the Head of Operations at minimum, prior to approval being granted. A significant change would include an acceleration of a programme. The Minister would be reverted to in all cases where either a series of releases was proposed or a change in the structure of a series of releases was sought. However, in cases where an offender had previously been the recipient of the entire range of temporary releases, (i.e. escorted in handcuffs with a prison officer; accompanied by an officer, unrestrained; accompanied by either a Chaplain, Probation and Welfare officer or approved person; and unaccompanied temporary release) then the practice has been not to refer back to the Minister on individual day release arrangements. It was also the practice that where a person serving a long-term sentence was returned to prison, due to a breach of conditions or conviction of an offence attracting a short sentence, that after an appropriate interval the management of his sentence, including decisions on temporary release, was continued by prison service officials at Headquarters level in consultation with local prison management, without further referral back to the Minister or to the Sentence Review Group. The seniority of the officer making such decisions would depend on the particular case but it would always be at the Assistant Principal grade at a minimum.

In cases of offenders on long sentences where the Sentence Review Group, for whatever reason, had not been involved at any stage a similar procedure applied, except that the input of the Group was obviously not available.

### **3. Decision-making in Murray Case.**

The Olden report makes clear that the Murray case was not referred to the Minister of the day since 14 March, 1995 when the then Minister, Mrs. Nora Owen, first approved fortnightly renewable temporary release for him, subject to strict reporting and curfew restrictions. The subsequent significant decisions (i.e. his return to prison in September, 1996 for reasons of reported breaches of conditions; the renewal of his temporary release programme in April 1997; his return to prison following charges relating to indecent exposure; his continued detention following completion of the sentence imposed for that offence; and his slow progress through the penal system to occasional temporary releases) were not referred back to the Minister of the day. At no stage was this case referred to the current Minister for decision or information. This was in line with the prevailing practice as set out in paragraph 2 above.

The management of Thomas Murray's sentence from July, 1998, when he was returned to prison following charges of indecent exposure, demonstrate the quite detailed and close attention given to his case. Concessions approved for Mr. Murray followed the programme for him previously recommended by the Sentence Review Group. Mr. Olden's report confirms that Mr. Murray had no less than 73 sessions with the Probation and Welfare Officer in Castlereagh in a 19 month period up to

February, 2000.

On resumption of his life sentence, following reports of the indecent exposure incident in July 1998, Mr Murray received no further temporary release until the completion of his sentence of 6 months for this offence. A subsequent series of accompanied temporary releases, of a few hours duration each, were approved by a senior Department official (Assistant Principal level) on 21 January, 1999 for compassionate humanitarian reasons; to visit his mother in hospital as she was critically ill. He then received two temporary releases on 27 and 28 January, 1999 in order to attend the removal and burial of his mother in the company of a Probation and Welfare officer. A series of monthly temporary releases to his father, accompanied by either the Chaplain or a Probation and Welfare Officer, was then approved by the same senior Department official. These began in late February, 1999 and continued up to the middle of October, 1999.

The releases were granted for two reasons, the first being humanitarian, to provide Mr. Murray and his father an opportunity to support and console each other following the death of Mrs. Murray. The second reason was to encourage Mr. Murray in his work with the Probation and Welfare Service in developing positive interpersonal relationships and coping with the problems which full release, if granted, might bring.

The extension of the programme of accompanied temporary releases in this case was discussed at a Local Review meeting in Castlereagh Prison on 27 May, 1999. This meeting was chaired by the Governor and attended by a Higher Executive Officer from the Prison's Division of the Department, the Assistant Governor and the senior Chief Officer from the prison, two Probation and Welfare Officers, the prison's visiting psychiatrist, the prison's medical doctor, the Head Teacher from the prison's Education Unit and a clerk. The proposed extension to the programme involved Mr. Murray being granted temporary release to the company of his father from morning to evening for one day per month. This was to be contingent on Mr. Murray senior both collecting his son from the prison and returning him to the prison again. The purpose of the proposed extension to the programme was to further encourage Mr. Murray's work with the Probation and Welfare Service and again for humanitarian reasons, to allow him to assist his elderly father on the family farm. It was agreed that he should be considered for this concession the following September, depending on his progress and conduct in the meantime.

I agree with Mr. Olden's observation that "the difference in the appreciation of what was decided (or not decided)" at the Local Review meeting in Castlereagh in September, 1999 is disturbing. It represents a serious system failure. At the Minister's request I have further enquired into this particular issue to seek an explanation.

The Department official at the September meeting, a Higher Executive Officer, did not believe that he had the authority to approve such an extension (and he was totally correct in this belief). He has since reconfirmed that he did not convey approval to any enhancement to the programme at the September, 1999 meeting but merely recorded that the proposal had not progressed. However, the impression of the Governor who presided at the meeting in question was that the proposal to extend the programme was subsequently agreed. The minutes of the meeting prepared by a prison clerk who attended the meeting recorded that decision. These minutes were not forwarded to the Department for agreement subsequent to the meeting.

I cannot reconcile the two accounts. I also cannot reconcile the differences in the accounts of the official and the Governor regarding the outing or outings approved over the telephone in early October. Comments and responses by both parties on this point are at appendices 1 and 2. This conflict of record and recollection demonstrates a procedural deficit which I have acted on (see section 6 below). However, I am convinced that, on the basis of information then available and in the prevailing circumstances, had specific approval for the programme extension been directly sought by the Governor from myself or any other authorised officer at HQ level, then it would have been so granted and I have always held to this view.

#### **4. Referral to Sentence Review Group.**

It should be noted that in this case a request by Thomas Murray on 5 October, 1998 to meet with the Sentence Review Group was put to the then Chairperson of the Group. This request was

declined on the grounds that no useful purpose would be served by his meeting with the Group and that the management of his case was best dealt with by the Department/Prison Service at that stage. This decision was entirely within the discretion of the Sentence Review Group who were following precedent and long established practice in the matter. In retrospect it might have been preferable had the Sentence Review Group agreed to meet him when asked to be seen by Mr. Murray. Having said that, however, I am not convinced that, had the Sentence Review Group re-examined this case, the outcome would have been any different in any material respect. I feel that the Sentence Review Group believed they had deliberated fully on the case and given their advice (which included the granting of renewable temporary release) in November 1991. For the future, however, I would agree with Mr. Olden that such cases, where a breakdown occurs in the prisoner's release programme, should automatically be referred back to the Parole Board (which will shortly replace the Sentence Review Group) for consideration.

## 5.    **Early Formal Review Meetings.**

In addition Mr. Olden recommended that formal reviews of cases such as Mr. Murray's should take place at regular intervals and that the "therapeutic services" should play close attention to these offenders from the very beginning of sentence. I must say that, while formal reviews covering all prisoners, do take place in all prisons at regular intervals and that the "therapeutic services" in the prisons are available to all prisoners, there can often be a problem in terms of delays in accessing the services required. However, I am confident that our plans for the implementation of positive sentence management with the formulation of sentence planning for all prisoners but especially long term prisoners will address this recommendation. We propose to elaborate on these plans in the forthcoming Strategy Statement for the Prison Service, 2001-2005. Mr. Olden's recommendations and the new proposed positive sentence management approach has significant staff implications for our Prison Psychology Service and the Probation and Welfare Service.

## 6.    **Revised Procedures.**

I have taken steps to ensure that all concerned in the decision making process are now aware that any progression of a long term prisoner's programme involving temporary releases must be referred to the Head of Prisons Operations Division at the minimum and that a local review, unless it involves the Head of Operations, cannot approve such changes to a prisoner's sentence management. In addition, all prisoners in the long-term category who are returned to prison due to serious breaches of conditions must have their cases referred to me and prior to any further release being granted the Minister must be referred to. The Head of Operations has issued a circular to all prison Governors and heads of sections outlining the precise procedures to be followed (appendix 3). This circular followed an entirely different incident involving a prisoner from Arbour Hill who absconded while on an outing to meet his mother earlier in the year. I support and have already taken on board Mr. Olden's recommendation concerning the recording of measures proposed at review meetings in prisons and that decisions concerning any programme involving release from prison be conveyed in writing to the Governor.

The system failures which have been exposed by this tragic occurrence have been addressed. This does not mean that the implementation of these procedures would have changed the outcome in this case. Mr. Olden has noted that over the years of his imprisonment, a number of psychiatrists had examined Mr. Murray and none of them considered him to be mentally ill. Neither did the Psychology Service see him as having serious psychological problems. Mr. Olden has also concluded that while Thomas Murray may be regarded as being socially inadequate he had never engaged in violent behaviour in 19 years of imprisonment. Indeed while reports from the local community through the Probation and Welfare Service and the local Gardai did indicate a general fear of him and also reported a number of incidences about his behaviour, none of the reports mentioned any behaviour of a violent nature. I cannot find any explanation for the actions of Thomas Murray on that day, nor indeed

can any person dealing with him over the years.

## **7. Governor's Comments.**

Mr. Olden has dealt with the comment attributed to the Governor on 7 September, 1998 that "Thomas Murray would kill again". This extempore remark was logged without comment in a computerised record made by one of our HQ staff of a review meeting held in the prison but was not put on the offender's file. It was found by us when doing a "trawl" for Mr. Olden's review of all references in Department and prison records of this prisoner. The Governor was asked by Mr. Olden what he meant by this reported remark. Given that the Governor subsequently supported and approved a series of outings for the prisoner, this was a reasonable query. The Governor, in reply, indicated that his comment was intended to reflect his view that a full clinical review should take place before extended release or renewable temporary release to the community was approved. The Governor did not take the view, nor did anyone else in the prison service, that significant risk would arise in relation to the occasional releases which were being granted with the Governor's support. The series of releases which Mr. Murray was granted would have formed a valuable background for a clinical assessment of that type. A clinical assessment of a persons likely behaviour on release must always be more valid when a history of behaviour while on such temporary releases is available. The Governor has elaborated on this point in his letter to me dated 22 June, 2001 at Appendix 2.

## **8. General Commentary on reintegration of long term prisoners.**

Mr. Olden has commented on the policy of reintegrating long-term prisoners back into the community. This policy is consistent with modern penal policy throughout Western Europe and has been advocated in a number of documents including the report of the Committee of Enquiry into the Penal System (the Whitaker Report) in 1985 and the Council of Europe Resolution (76) 2 on the management of Long Term Sentenced Prisoners published in 1976 (Appendix 4). There is risk associated with this policy (see section 10). The responsibility of the authorities is to manage that risk to ensure that it is reduced to the level where the safety of the public is protected to the greatest extent possible. It is not an exact science but great care is taken in clinically assessing the suitability of persons being considered for release.

There are currently 80 life sentenced and long term prisoners on temporary release in the community in this jurisdiction. Of these, 24 have been fully released under agreements relating to the Northern Ireland peace process. The remaining 56 offenders remain under the supervision of the Probation and Welfare Service and are also required to return to a prison at least once a year in order to renew their grant of temporary release. If they come to the notice of the Gardai or are otherwise reported as being in breach of the conditions of their temporary release they may be returned to prison immediately without further court proceedings or may not have their temporary release renewed on their return to prison. If they fail to return to prison on or before the appointed date they are deemed to be unlawfully at large and are liable for immediate apprehension and return to prison.

Conditions imposed on offenders on temporary release vary but may include reporting at regular intervals to the Gardai, restrictions on where they may work and live, restrictions on who they may associate with and/or directions regarding consuming alcohol, attending counselling or continuing medication regimes. While a small number of these people do return to prison due to breaches of conditions, the vast majority of them do not reoffend and become successfully reintegrated in society.

## **9. Risk Assessment.**

Mr. Olden has cited the development of tools for assessing the prospective dangerousness of prisoners. A number of risk matrices exist for offenders internationally. My understanding is that they generally tend to focus on factors such as the following:

- A) Sexual aberrations/Record of physical attacks on people - Lowest risk score is for persons who have only one recorded aberration or offence;
- B) Criminal Court Appearances/Convictions - Lowest risk score is for persons with less

than 5 appearances before the criminal courts;

- C) Known major substance abuse history --Does not arise at all in this case.

It is worth noting that at the time of his original approved release on renewable temporary release on the 14th of March, 1995 Thomas Murray would have been scored at the lower end of the level of risk spectrum on such indices and that he would have been assessed by the same methodology as being at a very low level of risk even on the 14th of February 2000 when he was released in the company of his father for the day on which he committed a savage, unprovoked and fatal attack on Mrs. Nolan.

The use of such formal risk assessment instruments is currently not commonplace in the Irish criminal justice system. Indeed such instruments could never be relied on exclusively in any penal system. It is, I think, fair to say, however, that most decision makers in the justice area have taken on board and internalised the well known risk factors and behavioural constituents in the risk profile of offenders being considered for either a change in regime or early or temporary release. Lifers in particular are very closely watched and observed in our system and the reports held on them tend to be voluminous. The application of a formal risk matrix approach as recommended by Mr. Olden is an additional discipline which could bring further rigour to our consideration in future and to the consideration by the new Parole Board of prisoners' cases.

## **10. Risk Assessment in Murray Case.**

In Thomas Murray's case, we had a relatively low risk profile prisoner in this particular offender category (murder). His was a "once-off" impulse driven offence, albeit with grave consequences. It appears to have arisen from an agrarian dispute with a neighbour which was committed at an impressionable age). His case was nonetheless actually managed extremely conservatively by both national and international standards over the period from his original conviction.

Tragically, despite the conservative management of his case (virtually no outings until he was over 10 years into his life sentence) Thomas Murray went on to commit an appalling and unprovoked murder when on day release on 14 February 2000. Many lessons have been drawn from this case and they are set out very clearly and fully in Mr. Olden's report.

It has to be said, however, that even with perfect hindsight and through applying established risk matrix approaches, Murray's risk profile would not have been flagged as presenting the real possibility he would suddenly commit a cold blooded murder whilst on a one day release in the company of a responsible adult. While Mr. Olden acknowledges that the tools available for assessing prospective dangerousness may be tentative and imperfect, I agree that we should avail of the best of them and they will be taken on board.

## **11. Staffing Arrangements at HQ and the Parole Board.**

I strongly endorse Mr. Olden's comments about the necessity for continuity in key staffing positions in offender management. Given that there is large staff turnover across the whole public service at present, difficulties in this area are very real. It is imperative that personnel policy reflects the necessity for lengthy assignments to such positions to be the norm. The establishment of the Prison Service as an independent agency is a key policy development which will present an opportunity to implement such recommendations. The recent announcement of the establishment of the Parole Board to be resourced presumably with a full time Secretariat also presents an opportunity to meet this objective. In addition, the Parole Board will be in a stronger position, if adequately resourced, to reappraise the cases of those prisoners whose renewable temporary releases have been terminated due to breaches of conditions. The staffing strengths of both the Probation and Welfare Service and the Prison Psychology Service have been looked at and efforts continue to recruit staff to fill vacant posts. However, in my view Mr. Olden's report recommendations now make a fresh staff requirements review imperative for both services and I strongly recommend same.

## **12. Conclusion.**



The tragedy which occurred while Thomas Murray was on temporary release is a stark reminder of the potential consequences of any positive decision taken in the area of offender management. The Irish penal system as predicated at present takes a rehabilitation approach which involves risk taking and risk management at every level. I agree emphatically with Mr. Olden's observation that it would be a reversal of policy and a real mistake to take the easy way out and say that no risk will be taken in this area in the future. Our prisons are increasingly populated by offenders serving long sentences. Should the possibility of early release be ruled out for such offenders, especially lifers, serious issues would arise for our prison system. We would have an increasing proportion of prisoners without prospect of release or hope for the future. The ultimate consequences of such an approach would be considerable.

As I have said at the outset, I endorse all of Mr. Olden's recommendations. I have taken steps, which I have outlined above, to ensure that the procedural deficits which occurred in this case do not recur. In addition, the establishment of the Parole Board and the Prisons Service with the required levels of resources will address other concerns raised by Mr Olden.

Sean Aylward  
**Director** General,  
Irish Prison Service

**July, 2001**

**Appendices:** - 1) Report by Higher Executive Officer, 2) Comments by Governor, 3) Circular issued by Head of Operations re Temporary Releases. 4) Council of Europe, Resolution 76 (2) of Committee of Ministers.

#### **APPENDIX 1**

##### **Olden Report of the Management of Thomas Murray's Life Sentence**

Mr Kenny, Prisons Operations,

I refer to our recent discussion and your request that I gave my views on the meetings held in Castiorea on 27 May, 1999 and 27 September, 1999 which pertained to Mr Murray and which were mentioned in Appendix 1, Section D of the above Report.

Paragraph 81, Appendix 1, Section D deals with the meeting of 27 May, 1999.

I was the only officer from Prisons Operations at the meeting.  
The meeting discussed all of the Sentence Review Group (SRG) offenders in Castlerea.  
I took notes of the salient points of the meeting about each offender.  
I subsequently referred to my notes to prepare my report on the meeting.  
The details of my report which are included in paragraph 81 are accurate.

Paragraph 85 deals with the meeting of 27 September, 1999.

I was the only officer from the Department at the meeting  
The meeting was similar to above in that I took notes on all of the SRG offenders in Castiorea and subsequently referred to my notes to prepare my report. The details of my report which are included in paragraph 85 are accurate. I did not have the authority to approve the change in Mr Murray's temporary release programme from outings accompanied by the Probation and Welfare Officer/Chaplain to weekly outings in the company of his father and I did not approve this enhancement at the, meeting of 27

September 1999.

You also requested my comments with regard to a note on Mr. Murray's prison file of an approval for unaccompanied outings conveyed by way of a telephone conversation between myself and Governor Scannell in early October, 1999.

My recollection of that conversation is that I agreed to one outing of the type discussed in May and September, 1999 (unaccompanied day release, collected and returned by his father) and my note to the Department file reflects that decision. The normal procedure would have been for me to have discussed the request with my Assistant Principal and to have sought his approval to proceed and I believe that is what I did on the date in October, 1999.

Declan Brennan  
3rd July, 2001.

#### APPENDIX 2

Comments of Governor, Castlerea Prison.

Tel: (0907) 25219 / 21227  
Fax: (0907) 25221

The Director General Irish Prison Service, 72\76 St. Stephen's Green, Dublin 2.

Governor's Office,  
Castlerea Prison,  
Harristown,  
CASTLEREA,  
Co. Roscommon.  
6th June 2001.

Director General,

I refer to the Olden report on the Thomas Murray case. I especially want to make my observations on three aspects of this report :-

- 1 The granting of temporary release to Thomas Murray.
- 2 Comments attributed to me that Thomas Murray would kill again.
- 3 A general observation.

Thomas Murray had been on temporary release for varying periods from April 1992. He was recalled to prison on 31st July 1998 following a charge and subsequent conviction for indecent exposure. Upon his return to prison he was engaged in intensive therapy with Mr. Connolly, Probation and Welfare Officer, to accept and redress behavioural deficiencies which were identified. He was responding positively to this therapy and it was felt that that in order to progress this development he should get some accompanied periods of temporary release to visit his family both in the home setting and in Galway where his retarded brother is in care.

On the 21st January 1999 he was approved for an accompanied outing to visit his terminally ill mother accompanied by prison staff. He later attended her funeral accompanied by the Probation and Welfare Officer. On the 8th February 1999 he was approved for temporary release every three to four weeks to be accompanied by either the Chaplain or Welfare Officer.

A proposal from a case conference on May 27th 1999 resulted in Thomas Murray being granted accompanied outings once every two weeks. A further review on the 27th September 1999 recommended that if his father was

willing to collect and return him to the prison he should be so released one day per week. It is important to note that follow up programmes for prisoners are granted per telephone in many instances following an initial written approval. Case review conferences are not decision making fora: recommendations are made, referred back to a decision making authority at central office and then conveyed to the prison for implementation if approved. This is also what happened in this instance and the recommendation of Sept. 27th review was approved by telephone call to me personally on 9th October. This approval along with many previous approvals and alterations to this programme is noted in his file under my hand. I enclose a copy of the meeting of September 27th 1999 and also a copy of my note conveying the approval for **temporary release**.

The remark that is attributed to me that he would kill again has to be taken in context.

I have had contact with Thomas Murray since 1980. During his sentence psychiatric and psychological assessments were carried out.. These assessments did not reveal any metal or psychological abnormalities . Never the less a number of problem areas were identified and efforts were made to address these . His conviction for indecent exposure highlighted some of these areas of concern. Through a lengthy process of engagement with the Probation and Welfare Officer these concerns were further reduced .

It has been the practice in the management of life sentence prisoners that small amounts of liberty would be granted under rigorous conditions so as to test out the response. This is what was done. While I concurred with the temporary release programme granted to Mr. Murray it would need much more monitoring and evaluation before I would recommend full temporary release.

By way of general comment on the overall report it is generally accepted that any prediction of specific future offending is notoriously difficult . There are many actuarial models that have been developed for predicting human behaviour involving offending history and biographical information. These are static models based solely on past behaviour. In this particular case the pre-imprisonment behaviour and his behaviour in prison indicated a positive cognitive construction. I am satisfied that this case received all the appropriate attention and very carefully considered decisions were applied. It is a most regrettable incident involving an unprovoked attack on a defenceless lady resulting in her death and consequent trauma inflicted on her family relations and friends.

Yours sincerely.

Daniel J Scannell  
Governor.

Tel: (0907) 25219 / 21227

Fax: (0907) 25221

The Director General Irish Prison Service, 72\76 St. Stephen's Green, Dublin 2.

Director General

Re. Prisoner Tommy Murray.

Governor's Office,  
Castlerea Prison,  
Harristown,  
CASTLEREA,

**22nd June 2001.**

I refer to your communicate of the 19th June **2001**.

In relation to same I **do** not wish nor indeed have I any necessity to "Re-constitute" my observations **of** June 6th.

On examination of my diary the 9th of October 1999 is an incorrect date insofar as I was off duty. I see this as a typographical error. It does not in any way detract from the accuracy of my contemporaneous note recording the authorisation conveyed to me personally per telephone by Declan Brennan. My record and that of the Prisons Division concur broadly. Is Mr Brennan saying that the approval was never conveyed or that he simply has no recollection of conveying it. I am satisfied that he did convey it and that he conveyed it to me personally on or about the date in question.

As regards my observation that " he would kill again", as stated previously that were some concerns about some aspects of Murray's behavioural disorders. The act of indecent exposure may reveal that the perpetrator may have cognitive, sexual, social or biological imbalances. He had intensive therapy to deal with these imbalances and one of the most accurate and reliable means of evaluating a response is by observation. So as to have this observation wide ranging he had to be presented to as many challenges as possible, hence the recommendation for accompanied temporary release. The reports from Mr. Connolly, Probation and Welfare Officer, indicated a positive response.

As stated previously I would have difficulty in recommending renewable temporary release for Thomas Murray at that time without much more structured behavioural observations.

In conclusion I am requesting that all of my submissions are presented in the final report issued.

Yours **Sincerely**.

Signed on original:

Daniel J Scannell

## Appendix 3

1. Mr O'Neill
2. Mr McDermott
3. Mr Flynn

Authorisation of Prisoner Concessions  
(Temporary Release, Escorted and Accompanied Outings, Transfers to Open  
Centres)

In light of the fall-out from the Martin Farrell escape, previous verbal or written instructions in relation to granting temporary release, outings (escorted or otherwise) and transfers to open centres are now replaced by the following:

no temporary release should be authorised by you for male prisoners unless you are satisfied that there is a negligible or zero risk of breach. You will have to trust your own judgement but if in doubt refuse the application or submit it to me. for female prisoners you will need to continue to take release decisions in times of severe overpopulation in both Mountjoy and Limerick in the certain knowledge that some will breach by reoffending or failing to return. Exercise caution with this group and keep me informed.

similarly, with respect to transfers to open centres, if you have any doubt regarding the suitability of a prisoner you should either refuse the application or refer it to me.

applications for escorts to neutral venues, to visit relatives in hospital or at home, to funeral homes, etc should be treated with extreme caution. No such escorts for prisoners in the categories below should be approved by you, refuse all but if there is particular merit or exceptional circumstances then refer them to me. All previously approved prisoner programmes which include concessions should be maintained unless you have particular concerns, in which cases you should resubmit these to me.

From now on I will take personal responsibility for accounting for incidents to the Director General so **be** careful and keep me informed.

**Excluded prisoner categories (in terms of current or previous offences)** with respect to concessions are:

- 1 . Lifers and others convicted for an offence which **led to loss of life**
2. **Sex** offenders
3. Drugs offences whether possession, supply or importation
4. Armed robbery including syringe attacks
5. Attacks on the elderly
6. Domestic disputes
7. Other violent offences
8. Persistent joyriders
9. Prisoners serving sentences over 5 years or with over 2 years to serve

These cases should all be referred upwards for decision.

John Kenny  
Principal Officer  
Prison (Operations) Division

2 March 2001

cc Director General All Governors Operations Division Staff

APPENDIX 4

Council of Europe

Resolution 76(2) on the Treatment of Long-Term Prisoners

## RESOLUTION (76) 2 ON THE TREATMENT OF LONG-TERM PRISONERS

*[Adopted by the Committee of Ministers on 17 February 1976  
at the 254th meeting of the Ministers' Deputies]*

The Committee of Ministers,

Considering that offenders who have committed serious crimes or are recidivists who have repeatedly committed serious crimes are at present condemned to long-term sentences

Considering that the enforcement of long-term sentences may have adverse effects on the prisoner and his dependants ;

Considering that the enforcement of long-term sentences and the provision of appropriate rehabilitation is a difficult task for institutions and their staff ;

Considering that on account of numerous other tasks, society is not always ready to devote the necessary attention and financial resources to the enforcement of long-term sentences ;

Taking into account Resolution (73) 5 on the Standard Minimum Rules for the Treatment of Prisoners,

1. Recommends that the governments of the member states :

1. pursue a criminal policy under which long-term sentences are imposed only if they are necessary for the protection of society ;
2. take the necessary legislative and administrative measures in order to promote appropriate treatment during the enforcement of such sentences;
3. apply stringent measures of security only in those places where genuinely dangerous prisoners are detained ;
4. provide in prison opportunities for appropriate work and an adequate system of remuneration;

1 - When it was adopted, the Representative of Greece, referring to Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies, reserved his government's right to comply with the text of the resolution or not.

5. encourage all education and vocational training by providing an adequate system of remuneration for these activities also;
6. encourage a sense of responsibility in the prisoner by the progressive introduction of systems of participation in all appropriate areas
7. reinforce the contacts of the prisoners with the outside world, particularly by encouraging work outside the institution
8. grant periods of leave from prison not as a relief from detention but as an integral part of the programme of treatment;
9. ensure that the cases of all prisoners will be examined as early as possible to determine whether or not a conditional release can be granted;
10. grant the prisoner conditional release, subject to the statutory requirements relating to time served, as soon as a favourable prognosis can be -formulated; considerations of general prevention alone should not justify refusal of conditional release;
11. adapt to life sentences the same principles as apply to long-term sentences;
12. ensure that a review, as referred to in 9, of the life sentence should take place, if not done before, after eight to fourteen years of detention and be repeated at regular intervals
13. improve the training of prison staff of all ranks with reference to the special problems of long-term prisoners and provide staff adequate to ensure deeper understanding, personal contacts and continuity in the treatment of prisoners ;
14. promote studies by multidisciplinary teams, comprising inter alia psychiatrists and psychologists, on the effects of long-term sentences on the prisoner's personality, having particular regard to the effects of diverse

prison conditions ;

15. take all steps to ensure a better understanding by the general public of the special problems of long-term prisoners, thereby creating a social climate favourable to their rehabilitation;

11. Invites the governments of member states to inform the Secretary General of the Council of Europe every five years of the steps they have taken to implement this resolution: