

*Third Annual Report of the  
Inspector of Prisons and  
Places of Detention  
for the Year  
2004 - 2005*

# **Role of the Irish Inspector of**

## **Prisons and Places of Detention**

The Office of the Inspector was established by an order signed by the Minister for Justice, Equality and Law Reform on the 21st February 2002. There is a statutory provision in the forthcoming Prisons Authority Bill for the establishment of a Prisons Inspectorate. The following are the terms of reference for the Inspector of Prisons and Places of Detention.

### **TERMS OF REFERENCE**

To -

- (a) Inspect and report, as the Inspector considers appropriate, to the Minister on prisons and places of detention under the aegis of the Department of Justice, Equality and Law Reform.
- (b) Report in particular on conditions in those institutions and on the regimes in place for prisoners and detainees.
- (c) Investigate and report on any specific issue referred to the Inspectorate by the Minister.
- (d) Submit to the Minister an Annual Report on the activities of the Inspectorate.

### **GUIDELINES**

In carrying out an inspection of any prison or place of detention the Inspector will, in general terms, have regard to such matters as:

- (a) the quality of the regime
- (b) the attitude of staff and inmates
- (c) the health, safety and well-being of prisoners
- (d) the condition of the buildings
- (e) questions of humanity and propriety
- (f) any general pattern which may indicate possible inadequacies in the management of the prison.

As the terms of reference provide, the Minister may also request the Inspector to investigate and report on specific issues or incidents connected with the running of any prison or place of detention. Furthermore, the Inspector may raise issues of concern, arising out of an investigation or an inspection, either with local management, the Director General of the Prisons or the Minister. To facilitate the

Inspector in carrying out his functions, he may consider complaints from prisoners but only to the extent that such complaints are relevant to the functions of the Inspector. The Inspector will, not later than four months following the end of each calendar year, submit a written report to the Minister on his activities during the year.

It is intended that the annual report will be published. The Inspector will also furnish the Minister with such information relating to his activities as the Minister may require from time to time.

The functions outlined above will also apply to any child-detention centres and remand centres designated by the Minister under Section 150 of the Children Act, 2001.

These terms of reference may be further refined in the forthcoming Prisons Bill in the light of the experience gained in the interim. The Inspector will also be entitled to report and make recommendations, in the light of experience gained, on the contents of the legislation which will eventually make statutory provision for the Prisons Inspectorate.

Any enquiries or comments about the inspectorate should be directed in the first instance to:

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## 1. Introduction

April 2005

Michael McDowell  
Minister of Justice, Equality and Law Reform  
84 St. Stephen's Green  
Dublin 2

Dear Minister

I enclose my third annual report which I hope you will publish shortly. Much of my report is repetition of points made in my two previous reports.

I want my office made statutory and totally independent. This is essential to the existence of my office. However a senior official has told me more than once that there is no political will to make my office independent. I would like immediate clarification on this point. At the moment I do not have my own independent website and I am quite prepared to use the Department's website. However all the reports which I send to the Department should be placed on the website in a time space of a maximum of six weeks. The reports should not be altered by anyone save on security grounds and then only with consent of the Inspector.

There is no real communication between the Department of Justice, Equality and Law Reform or indeed with the Irish Prison Service. The result is that the Inspectorate, which gets great assistance in prisons from the newest prisoner to the Governor and all the professional people, the POA and many NGO bodies, cannot use the Irish Prison Service or Department as a sounding board properly to evaluate information coming from other sources.

In England the last two Prison Inspectors had to write books to shame the mindset of Ministers and officials. I do get your replies to the question in the Oireachtas but little else. However I must give full credit for the openness and frankness of my discussion with everyone I meet in prisons. I do not set out to be liked. I set out to ascertain the facts. In order to test the facts I need co-operation which is conspicuously absent. In a Dail reply you said you hoped I would be satisfied. Alas, I must report that I am extremely dissatisfied and to phrase it another way I am less than grunted! I realise that the two persons in charge of the prison section in your Department and the IPS have recently taken up office and are finding their way. I also realise that they have a lot of problems. However, I would like some liaison person to meet me at regular intervals. I trust that is not an unreasonable request.

I am also gravely concerned about statements made on your behalf by your Department and by your spokesperson as reported in the "Irish Times" and discussed in this report. It clearly emanated from your office. You are responsible for it. Much of it is inaccurate and possibly defamatory. If you are not responsible for these statements, the matter becomes sinister. I suggest that you investigate the provenance of these statements. I look forward to continuing my work. In April I inspected the Training Unit which is a shining example of what can and should be done for rehabilitation of prisoners. It is undoubtedly the best prison in the system but it is limited to 96 people incarcerated at any one time. It is the only drugs- free prison in the entire

system. I hope very shortly to revisit Loughan House and then to do a full inspection of the Midlands Prison. That will leave only Shelton Abbey which I hope to inspect in the autumn as well as re-inspecting Wheatfield, Castlerea, Cloverhill and Cork but not necessarily in that order.

I sincerely hope that you will employ an outside business consultant to advise on whether the taxpayer is getting value for money whether the present structures need to be increased or decreased and whether they are presently sufficient for the needs of the Irish people and the Irish Government.

Respectfully and sincerely yours

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The Hon. Mr Justice Kinlen  
The Inspector of Prisons and  
Places of Detention

**2. The programme of the Inspector of Prisons and Places of Detention  
from the 1st May 2004 to 30th April 2005**

In May I attended the POA A.G.M dinner in Ennis, County Clare as guest of the POA.

I deposited my second Annual Report with the Minister during first week in May. An edited edition was published in April 2005.

First two weeks in June inspection of Castlerea Prison.

10th June met Minister for Justice at funeral. He told me he sent the annual report to the Attorney General for advice on whether or not it was defamatory.

I told him that I would defend any action for defamation and would plead justification and indeed qualified privilege. He said he would not wish to be sued as the publisher.

In that report I have drafted a bill to establish on a statutory basis this inspectorate. I suggest so as to save embarrassment for any Minister of Justice it should be sent by the Inspector to him in the first instance and then six weeks later it should be sent by the Inspector to the Dail and the Seanad and placed in their respective libraries and thus made available to the media. The Minister would thereby not be involved in publication at all. The Tanaiste has said that I have shown independence without any statute. Recently the Minister has said that he is looking into the matter. I look forward to the draft bill on which I must be consulted in early course.



I wrote suggesting that the report be sent direct to the Oireachtas.

Subsequently that idea was adopted in the publication of the Travers Report.

The Minister has rejected the idea. I must report annually to him unlike the situation in Northern Ireland.

I prepared talk on the start of diplomatic relations 28 years ago between China and Ireland and delivered it to the Irish Chinese Cultural Society. I prepared and finished report on Castlerea and despatched it to the Governor. He was informed that I would revisit Castlerea to discuss whether all the facts were correct but not to discuss the nature of the report or its recommendations.

17th July I went to my suboffice in Sneem, County Kerry with two trunks of papers to be read. Some of that reading will be included in this report.

Early August Fr Paul Andrews who is Chaplain to a number of prisons in Russia stayed with me and we had very interesting discussions. He told me that drugs were not a real problem in Russian prisons. If drugs were found prisoners are then charged in Court with a criminal offence and will get an addition to their sentence. It is not done by the Governor or the Government but is tried in the local Court. He said that this is very effective. Other visitors during August included Prof. McCuthcheon (one of my volunteer inspectors), who is the Head of the Law School at Limerick University and John Ward of the POA.

In August I also returned to Castlereagh to check that facts in the report were accurate. Unfortunately the amiable Governor was temporarily indisposed (but now thankfully recovered). However his management staff were extremely helpful. I made a few minor amendments to the report. I sent it to the Minister. It should be available on the Department of Justice website under Inspector of Prisons. However it was not published until January 2005 which was unsatisfactory. They returned it after four months. I now employ a professional proofreader.

In September we did a full inspection on Cork Prison which is a disaster. However the Governor and his staff are coping well despite the appalling condition of premises and despite financial cutbacks. There is waste of money here as elsewhere. There is gross overcrowding in inadequate premises. There is nothing to occupy half of the prisoners. Free time is spent in the yard where they sit on the ground because there are no benches. There is, of course, slopping out.

Also food is eaten in all cells and apparently this is regarded as acceptable hygiene (as I'm informed it has been so passed by two different appropriate inspectors) although I think it is disgusting that you have to eat in a public lavatory which is basically what is happening. I have heard rumours that there is an English case pending on this point in Europe.

There are just six cells in a new extension with any sort of in-cell sanitation. It is for disruptive prisoners sent there from other prisons! Cork prisoner can also be placed there if disruptive.

I attended as a guest of honour the Irish Lawyers Dinner in London. I also attended the Law Mass for the beginning of the law year and the Lord Chancellor's Breakfast. Also I dined with the Director of Communications in Prisons, Lord Justice Thomas.

The Judges of the Irish High Court hosted a dinner for my colleague, Mr. Justice Barr, and myself and made a presentation to each of us.

I attended a seminar at the Law Society organised by the Law Society and the Human Rights Commission. I dined with the Chief Executive of Hong Kong (where they have excellent prisons which I have visited) and the Hong Kong Ambassador to EU Nations hosted by the Minister for Enterprise and Employment. I was invited to return to Hong Kong.

I received Rick Lines of the Irish Penal Reform Trust. He presented a report of which he is co-author on international experience in sharing needles not merely for drug addicts but also to reduce the possibility of HIV or Hepatitis infection.

I attended IASD conference in Cavan.

This conference dealt with "alternatives to prison". It is a matter on which I have very strong views. It costs a fortune to run the Prison Service and it is expanding presently and has plans for further expansion. In their annual report they have a schedule of how many people are employed in other jurisdictions in administration. Recently 120 were going to Longford; now it has reached a figure of 159. Many of the senior people in the present prison administration will not move to Longford so it means other Civil Servants who wish to go to Longford (many of whom will have no experience in prisons) will fill up the Directorates and become Directors and Managers in the pyramid structure of the Irish Prison Service. I am glad to see that now at last one of the Directors is an experienced bright and comparatively young Prison Governor. It was an extremely interesting conference. However there were a lot of lessons to be drawn from it. I have already in previous reports dealt with wonderful work done by Sean Moriarity, the then head of the Probation Service in Limerick. He delighted in bringing Judges around to see all the work which his people were doing on the ground in Limerick. He also went to the local District Judge and said, "Give me your worst case and just see how I get on." The experiment was a success. The judge became a convert. I strongly suggest that the Irish Probation and Welfare Service should be a separate statutory body working with but not under the Irish Prison Service. They should be encouraged to provide feasible alternatives to prison. Judges should not send people to prison save as a very last resort. Despite the tough stance of many Ministers here and in the United Kingdom the reality is that for most prisoners prison does not work. Prison has three explanations or roots. Firstly it is punishment. This is to deprive someone of his/her liberty but to

keep them in humane and reasonable conditions. Secondly it is to remove from society people who are a threat to society temporarily. Thirdly and most importantly (and most neglected) is rehabilitation. I have highlighted in my reports how in Cork, for example, only 50% of prisoners have any occupation. In St. Patrick's which I remember in 1970 had 18 workshops now has none! St Patrick's is dealing with a very volatile uneducated group of young men at a most formative stage in their development. The bulk of them would certainly graduate with the passage of time to Mountjoy and other main prisons. We are failing them in a most shameful way. Of course there is little sympathy for prisoners but if they are rehabilitated they can become valuable members of society and may even become taxpayers. The cost of prisons is astronomical. The cost of probation is only a small portion of "the huge prison" budget of which the then Director General so frequently spoke. Judges without interfering with their independence should make it a habit to explain why prison is the only appropriate sanction available in a particular case. It was very sad that at this conference there were so few judges. The President of the High Court opened it and Mr. Justice Moriarity, who is the Patron of IASD, made the concluding remarks. The bulk of prisoners are sentenced by Circuit Court and District Court Judges. There was no Circuit Judge at this conference and there was only one District Judge namely the man who was converted by Mr. Moriarity in Limerick and who has been responsible for the successful "Nenagh experiment" which has now spread to Mayo. The Probation authority should be independent and should strive to keep all judges informed about feasible options and alternatives to prison. One of the most interesting lectures at the conference was by a Finnish Professor with a

very impressive CV who told us that in the Nordic countries while crime is on the increase the amount of incarceration is declining steadily. In this country everyone wants to build big new prisons for an ever-expanding prison population. In fact many people would lock criminals up and throw away the key irrespective of cost. At present 7 out of 10 prisoners reoffend! Do we want to follow the USA and United Kingdom in building more and bigger prisons or the Nordic example of reducing the incarcerated? Neither system by itself seems to reduce crime. The Government will have to decide immediately which course to follow.

I am not trying to close all prisons. Prisons are necessary but not for every small offence. Also in this day and age surely fines can be deducted from wages, a small part of their social welfare or some other method rather than send the person into prison? If a prisoner is working why not imprison him at weekends? Also why should the state collect debts? If I am owed money why should I put a person who is in default into prison? After he has served the appropriate sentence he comes out still owing me the money. He has been incarcerated at fantastic expense to the taxpayer in the hope that the prison experience might coax him to pay his debt. Also prisoners may default in their rent payment because they are "in prison" and thus become homeless. While there is some effort to cope with this problem, in practice it only adds to the homeless people who leave prison and depend on charitable hostels and the Simon Community to keep them alive and sheltered. The Probation Service should sell to the judiciary and the legal professions what they have on offer as an alternative to prison. They must have total

independence. They are depending on the 1907 Act. That service for a very long time (as I have pointed out in previous reports) didn't see itself in prison at all. Now they are deeply involved in prison although occasionally criticised for their work or lack of it in the prisons and in the aftercare of prisoners particularly. We should seriously consider following the Nordic experience. We have had young men working in farms and in the fresh air all day in Coolamber, County Longford, but sadly that is now closing. It is run by "rehab" for recovering drug addicts including graduates of Mountjoy. They must also learn computer skills there. I have done a report on it. It is under Health, not Justice.

The 2003 report of the Irish Prison Service makes very interesting reading. It has about three pages dealing with my first published annual report. It points out several times that some of my points were made by the Prisons Authority Interim Board which included two extremely eminent civil servants. I was supposed to have a meeting with this body but it never materialised so therefore I don't know whether they are correct or not. Assuming that they are correct, it means that I have come to the same conclusion, as they did, without any help from them. The more people who come to a similar conclusion the better in the "hope", that it just might influence political opinion. In my job one has to be addicted to "hope" no matter how depressing "the reality" may be. The report is also extremely defensive and impliedly justified a greater increase in bureaucrats to run the prisons.

I have strongly suggested that an outside agency should look at the cost of running prisons and the fact that there are two organisations each headed by an assistant secretary, one in the department and the other in an allegedly independent but as yet non-statutory prison service. While the prison service can point to other countries such as the United Kingdom where they have imposed another layer of bureaucracy in that the Director General of the Prison Service was elevated to a correctional layer of which he is now Director General, the mantra throughout the entire service should be OPENNESS, TRANSPARENCY, EFFICIENCY, and ACCOUNTABILITY.

With the greatest respect to the Prison Service they are the last persons who should decide that matter. I suggest that an outside organisation such as the Smurfit's Business School should check the whole Prison Service and its costs. One Clerk Grade I told me that the figure regarding the price of a prisoner in a prison includes a substantial amount of headquarters expense. He added that when you look at the figures you should always remember the dictum "lies, damn lies and statistics". Is the Irish taxpayer getting value for money? Why do judges send so many people to prison? Why don't they use alternatives? Is prison really effective? It is urgently needed to have the whole structure evaluated by an outside business consultancy. There is no doubt that there should be at least a 10-year plan. The scandal of follies being built and then left idle (as illustrated in this report) should be avoided. Also is it necessary for senior civil servants to traverse the world (first class if available) when efficient businesses use such junkets as an incentive reward but their business is now conducted by videolink as being equally effective and much much cheaper?



No one should be able to prevent the publication of an Inspector's report for fear of being sued. I resent being told my criticism is "unjust". If it is, I must be so persuaded publicly and I'll apologise and withdraw the comment.

The Inspector wrote three times to the Minister asking whether it was true (as a senior official informed him) that there was no political will to make his office independent. The Tanaiste had said it wasn't necessary as I was clearly independent anyway which was flattering but not quite accurate. However I am glad to say that I have been informed indirectly ("hearsay") that I am to be made statutory. The sooner the better as far as I am concerned. It is supposed to be the last step in the programme for government. If it is not independent, it is a charade!

At the request of the visiting committee of Mountjoy Prison the Inspector attended one of their monthly meetings and was very impressed by their knowledge and dedication.

In late January the Inspector and his special adviser returned to Mountjoy Prison (including the Dochas) to see how the prison was proceeding and how many if any of his recommendations had been implemented and how much of the business plan had been realised. The threatened closure of Mountjoy has, of course, impeded the implementation of some recommendations. However a lot has been done. Only some toilets in B wing have been done; showers have not been done. Only the reception office at the main gate in the Dochas has been improved.

### **3. Mental Health**

I have been concerned about the Mental Health situation since 1970. In my report on Portlaoise I comment:- " The issue regarding prisoners with mental problems still exists although the recent arrangement with the Central Mental Hospital when operational may help. The fact that there is a psychiatric hospital within a few hundred yards from the prison is still being ignored and it is an amazing waste of taxpayers' money to bring prisoners up and down to Dublin-based psychiatric hospitals". Dr Harry Kennedy, Consultant Forensic Psychiatrist and Director of the Central Mental Hospital, whom I greatly respect, has written to me regarding the foregoing quotation. He tells me that his colleague is now providing a weekly clinic in Portlaoise. This is great news. He continues:- "All those in Portlaoise prison are serving long sentences. All have a history either of serious violence or of links with groups who could co-ordinate attempts to escape or abscond. None of those in Portlaoise could possibly be treated in any local psychiatric hospital. All require conditions of special security whenever they are to be treated in a psychiatric hospital. I enclose an academic review of the therapeutic uses of security. Tables 6 and 8 set out a system for assessing those who need conditions of special security. In Ireland, only the Central Mental Hospital offers medium security and high security as defined within the terms of this article. Table 7 offers a counterbalance concerning how one might move an individual from high, to medium, to low security based on clinical criteria. I think it would be extremely unusual to find any inmate in Portlaoise Prison, or for that matter in the Midlands Prison, who would meet the criteria for transfer

to the open wards at St. Fintan's Hospital, Portlaoise or even to a low secure unit, if there were one available".

However the problems still exist. I was concerned about a local judge asking for a psychiatric report. This entails the prisoner being brought from one of the prisons in Portlaoise to Dundrum for a short assessment by possibly three prison officers with overtime and there is a perfectly adequate and good psychiatric service I understand available right opposite the prison. Surely it would make economic sense to put a secure unit into the local hospital or prison if it were necessary to leave a prisoner overnight? However that might be too expensive!! The article cited by Dr. Kennedy of which he is the author is a most useful and interesting one. However it seems to me that there are two important issues involved in mental health in this country. One is the distinction between insanity and personality disorder. Psychiatrists will have nothing to do with the latter. In England they are now all under the Department of Health. Certainly to put people who have either mental illness or personality disorder in prison is no good to anyone. It doesn't cure them. It will almost certainly make them worse. It puts an impossible burden on Governors and prison staff and indeed on fellow prisoners (see later). People with personality disorders should not be put into prison. It certainly makes life impossible for everyone else in prison.

If the CMH is inadequate (as seems to be the case) then it should be expanded or replaced. There is space in the grounds and there are parts of the building which seem to me to be underutilised. However it now appears a

new and expanded criminal mental hospital is to be built beside the new Mountjoy. This may be helpful. However it will be a hospital not an asylum.

Where do you put people with personality disorders?

Why not have a secure medical unit in one of the local prisons serviced by the local psychiatric hospitals and with security provided by the prison service? (cf. my report on a Spanish prison as reported in my first annual report.)

Mental Hospitals are closing. Persons with personality disorders are dumped into a "caring" society! Their antisocial behaviour frequently means they end in a prison which cannot cope. The Central Mental Hospital refuses to take them because they are not treatable and are "a management problem". This problem of where to put people who are not insane but have personality problems is not being addressed. In the old days they were lodged in mental "asylums". Now mental hospitals will not take them. They are returned to prisons as "management problems". They are certainly not suitable for prison. They can be dangerously disruptive. They are being degraded and denied their human rights by a society and a Government who just want them hidden - out of sight and out of mind (in every sense).

### *Disturbed Prisoner*

My office was notified anonymously about a prisoner who was about 28 days in a padded cell screaming his head off and urinating and defecating all over the place. As a result the other prisoners could not sleep and the staff were under great pressure trying to cope with this unfortunate man. When I got the information I contacted the Governor who told me what I had been told was

correct. With Governor Woods I visited the man in his cell. He was a pathetic figure sitting on the floor talking both Irish and English but not making sense in either language. Since there was a medical strike at the time he was not seen by any doctors. That week indeed two doctors had come on two separate days but they merely dealt with new committals. One doctor came from the naval base in Haulbowline and had to return there later at night. There was an excellent prison officer dealing with this man who had a calming effect and persuaded him to have a cup of tea after our interview. I immediately wrote to the Minister. He, as ever hyperactive, arranged for this prisoner and two other prisoners to be moved. Seven weeks afterwards he was transferred to the Central Mental Hospital.

I had received a letter from the Catholic Chaplain in Castlerea with a copy letter he had sent to the Minister about a similar patient who was in the padded cell in Castlerea. He pointed out that the Medical Director of the Irish Prison Service would not certify him until there was a bed available in Dundrum. This is an outrageous denial of Human Rights. However the Minister had a prisoner from Cork and from Castlerea and from Dublin moved to the Central Mental Hospital. Although I am expressly forbidden from taking up the cudgels on behalf of individual prisoners I thought it appropriate to check what happened to these three unfortunate men.

The prisoner in Castlerea prison is still in custody and is not due for release for another six years. He has been transferred to the CMH on a few occasions since midsummer 2004 and returned after a short period on each

occasion. He has inflicted bites and severe cuts to himself since and has been both an inpatient and an outpatient at Roscommon General Hospital on several occasions arising from self-inflicted injuries. He is deemed "a management problem".

The prisoner held in Mountjoy was transferred on the 26th August 2004 having spent long periods in and out of the special cells prior to his transfer. (He was visited by me on the 7th July in the special cell.) He was due for release on the expiration of his sentence on the 27th August (next day after his transfer to the C.M.H). The C.M.H. Authorities transferred him to St. Brendan's Hospital, Grangegorman, on the 27th August and the prison authorities have not heard of him since.

The prisoner in Cork was serving seven and a half years and is due for release in about a year and a half. He was treated in the special cell (by the prison psychiatrist) for 18 days and towards the end of this treatment he was assessed by a member of staff of the C.M.H. but was not transferred to the hospital. He was transferred back out into the general prison population within Cork prison and has been seen regularly by the psychiatrist. He is presently in Portlaoise Prison where he requested a transfer to go "for a break" as he knows the Chief Officer there who served in Cork Prison previously.

I have already recommended that the Minister of Justice and the Minister for Health get together urgently and resolve this ridiculous impasse which is a disgrace to all concerned.

I attended the launch of "Mental Health - your views" a report on stakeholder consultation on the quality of mental health services and also a copy of their annual report for 2003. Minister Tim O'Malley showed great enthusiasm and determination to support the Commission and to implement its recommendations. The Inspector is naturally concerned with the question of managing dangerous people with severe personality disorder. In England it is known as DSPD. In England in December 2000 the Department of Health and the Home Office published the White Paper "Reforming the Health Act". It sets out how the Government will modernise the mental health legislation. It indicated that there should be new legislation making explicit provision for the application of compulsory powers to people who pose a significant risk of serious harm to others or themselves as a result of a mental disorder including personality disorder. People with a personality disorder including those assessed as DSPD will be dealt with under exactly the same powers and processes and have access to the same safeguards as other mental health patients. There will be no separate provisions for those diagnosed with personality disorders. This is now an urgent task in Ireland. Hopefully Minister O'Malley and the Mental Health Commission in consultation with other interested parties will study the English experience and possibly produce similar legislation. However the present unseemly, not to say obscene, treatment of these unfortunate people who can be a menace to

others and to themselves should be resolved rapidly in any so-called civilised society. In the old days they were lodged in an asylum. However this is now gone. Dundrum is not an asylum but is a clinical mental hospital (and, even as that, it is antiquated and inadequate).

#### **4. New Inspector of Prisons in Northern Ireland**

I, as Inspector, received great co-operation from my Scots and English counterparts. Indeed the Scots Chief Inspector invited me to Stirling prison where he was launching his annual report. He does not seem to have the same restraints as those that are imposed on the Irish non-statutory Inspector. In Belfast they have established a Criminal Justice inspection team for Northern Ireland. The Chief Inspector is Kit Chivers. His office under statute came into existence officially on the 1st October 2004. He has a much wider remit than I do. He has a team of at least 10 persons as inspectors together with a small support staff. He can and does inspect the following : -

- \* The police service of Northern Ireland
  
- \* Forensic Science in Northern Ireland
  
- \* State Pathology Department
  
- \* Public Prosecution Service for Northern Ireland



- \* Probation Board for Northern Ireland
  
- \* Northern Ireland Prison Service
  
- \* Youth Justice agents
  
- \* Compensation Agency
  
- \* Police Ombudsman for Northern Ireland
  
- \* Belfast Harbour and Airport Police

He also has power to inspect the following but only in relation to Criminal Justice aspects of its work namely:-

Health and Social Service Boards and Trusts

North of Ireland Child Support Agency

Department of Enterprise, Trade and Investment

Department of the Environment

Health and Safety Executive

Northern Ireland Tourist Board

Northern Ireland Social Security Agency

*The Royal Mail Group*

The Inspectorate does not wish to be confrontational. Its aim is improvement. Its inspections will examine the strengths and weaknesses of organisation and may make recommendations designed to help an organisation to improve in any aspect of its performance. Patently the inspectorate wishes to work in partnership with those involved in administration and criminal offenders.

Inspections in Northern Ireland are based on a so-called common core of standards (which I strongly believe should be the same in the Republic). The standards are:

- a) Openness and accountability (which I have discussed in another part of this report)
- b) Partnership with other agencies in a criminal justice system
- c) Promotion of equality and human rights
- d) Being a learning organisation responsive to customers and the community

e) Delivering results in relation to the Government's objectives.

(I would like to see each organisation in the Criminal Justice System assessing itself against the common core framework identified in the past.)

As honestly as possible, it should underline its own strengths and weaknesses, not to be used against it but as a token of its commitment to inspection as an aid to improvement.

"Undertaking honest critical assessment is not easy for a public organisation which is used to being defensive about their practices and their performances. (emphasis added) There might usefully be a day or two seminar for senior executives to help them to prepare themselves for self assessment."

Useful material has been provided by Dr. Dyson, an acknowledged expert in the field, which can be obtained free of charge from the Criminal Justice Inspection (Northern Ireland) [info@ckini.gov.uk](mailto:info@ckini.gov.uk). The Chief Inspector in Northern Ireland wrote in his covering letter with the newsletter: "I read your first annual report with great interest I was impressed that you had got off to such a strong start with such limited resources. I am just starting up here with a rather wider remit but one in which the Prison Service is very important". There are three prisons in Northern Ireland.

I may have been insensitive dealing with Civil Servants mired in traditional systems. I would hope my ignorance will be forgiven. I would love to help in their self-assessment as they must become transparent, efficient, and accountable and forget and eradicate their traditional ways. I accept and realise it will be difficult but it will ultimately improve the quality of their work. It must be led by the Minister. I will be glad to be involved but since some few officials may feel I am "an untamed bull in a china shop" I do not see my participation as essential!

#### **5. St. Brigid's Parish Resource Centre Killester Opening**

On the 21st September 2004 the Inspector and his special adviser, former Governor Woods, and personal assistant, Martin McCarthy, went to Killester.

In Mountjoy Prison in 1978 the community works party was initiated under Prison Officer Niall McGroary. A small work party of prisoners refurbished a training centre in Rathfarnham. Since then 21 other projects have been completed including day centres, training centres, scout halls and community centres. The three main objectives of a community works party are:

1. To allow prisoners to make a positive contribution to local communities.
2. To allow them to experience the value and therapy of working in a positive environment.
3. To place them in positions of trust.

As the Governor of Mountjoy, Mr. John Lonergan, stated:- "After 26 years I can now confidently state that all three objectives have been fully achieved. Over 2,000 individual prisoners have participated in the various projects. 99% have fully honoured the conditions attached to their release and many local communities have benefited from the hard work of the work party. It is a quite remarkable success story. Enormous credit is due to Niall McGroary who has been with the group since its inception and is still its inspiration. Also to Officer Paddy Maloney who joined the project in 1981 and has made a huge contribution to it and who has now retired." While I as Inspector have been very critical of Mountjoy and particularly its physical condition I must salute the wonderful work done particularly by Messrs. Lonergan, McGroary and Maloney. They are the unsung heroes of the Irish Prison Service. The media frequently produce critical assessments of prisons and of those who work in them. However this is a gleaming example of what can be done. It benefits the prisoners enormously. It helps them to be reintegrated into society. Also the public cease to fear ex-prisoners. There was an official opening by the President of Ireland, Mrs. Mary McAleese, and it was blessed by Archbishop Diarmuid Martin. There were a lot of speeches. Then there was a reception for everybody, provided by female prisoners. This is a great piece of news generating from a prison. The Inspector met there a number of parish priests who are very keen to get the prisoners working in their respective parishes!!!

## **6. Separate Prisons from Probation Service**

As I have quoted in a previous annual report:-

"The Minister stated at a debate in the Seanad as follows: - We need a new statute for prisons. In case members of the Seanad think I am delaying on this subject there were proposals that the Prison Service be put on a statutory basis and there was an internal debate as to whether the Probation and Welfare Service should be set up as part of the same statutory series of bodies or be entirely separate. The view previously expressed was that the Probation and Welfare Service should be separate. I am not so convinced about that. No matter how good people's intentions are, if one sets up bodies under statute and gives them functions, they are inclined to be careful of their own patch. There is, to some extent, a public interest in wedding the Probation Service with the Prison Service rather than making them become competitors at the exchequer trough. When money is put into the general areas of rehabilitation it should not be the subject of undue competition between two separate agents. It cannot coordinate their activities to their best extent.

This is not to say I propose to subjugate the Probation and Welfare Service to the Prison Service which is larger. It is merely to say there is an argument to be made for looking at them as two bodies whose activities should be coordinated with a common intelligence driving their activities rather than having two separate organisation structures and two separate sets of promises, one for incarceration and the other devoted to rehabilitation in the aftermath of punishment."

With the greatest respect the idea of one snout at the trough rather than two is folksy but unsound. The Probation Service is the Cinderella of the various bodies involved. It is, of course, dealing with people after they have been punished or as an alternative to prison. However their function is far wider and more important than that. Firstly they have a huge remit amongst the ordinary citizens in dealing with problems such as the breakup of marriage, the care of children, care of the elderly and liaising with social welfare and housing authorities. They are also looked upon by the Judiciary, and very correctly, as independent. Also both structures are directly under the Minister for Justice who can provide "the common intelligence".

Since the Judiciary are supposed to regard prison as a very last resort they depend on the probation service to provide them with alternatives. Some judges seem to think that they have only two remedies, namely prison or a fine. Since most of the clients appearing in the Courts come from impoverished people, the second option is rarely available. However there are far more fields in which the probation service do fantastic work.

Unfortunately judges and lawyers do not seem to be aware of what is happening. Also the media can whip up public opinion rapidly but seldom publish the wonderful work done by the probation service.

## **7. PRIVATE PRISONS**

Unfortunately there were scandals in privately run prisons in the United States. However it seems to me that private prisons may be essential for the further development of prisons. The best prison in England according to the

Home Office is a privately run one. I have already cited people like the Chief Justice of England in praise of private prisons. Of course, their shareholders expect to be paid a dividend but if they are run efficiently and well the dividend is secure. Private prisons have been very inventive. I visited Lowdham on the Grange in Nottinghamshire and they were so proud of their achievements there they asked me to invite the Minister of Justice and his officials to visit them. It would be no harm if they did so. There has been another benefit. The prison service now has to compete against at least four companies to keep control of prisons. Last year the Prison Service regained a prison which had been taken over by the private sector. The private sector build and maintain and run at their own expense their own prisons. While the figures differ there is no doubt that the private prison, if it is efficiently run, costs less than state prisons. Also although the POA still have members who are working in private prisons the management of such prisons do not recognise the POA. There is a different union the PSU (The Prison Service Union) which is less militant and which represents everyone working in the prison not merely the prison officers. I strongly recommend that the Minister should open at least one prison to private companies. The contract should be made between the Minister and the private company not the Prison Service (who will be the competitors for contracts with the Minister) Such prison should like all other prisons in the state be subject to inspection by an independent statutory inspector who should not be a civil servant.



## **8. Beladd Training School for Prison Officers**

On Wednesday the 23rd June 2004 the Governors' group invited the Inspector and his special Adviser, Governor Jim Woods, and his Personal Assistant, Martin McCarthy, to the launch of the "Catering Quality System for the Irish Prison Service" at Beladd House, Beladd Park, Portlaoise, County Laois at 1.00pm sharp. Governor McDermott received us with a warm welcome. There are two large buildings which are very modern. We were brought upstairs where there was a great spread of food. There were all sorts of savoury dishes of an extremely high standard. There were also mini eclairs, decorated with various kinds of sugars, and cheesecakes and strawberries and cream. Tea and coffee was readily available. It was a most impressive spread. It had all been done on the premises. The Governor told us he has accommodation for 40 trainee prison officers. He recently commissioned 20 and he presently has about 13. A number of persons who start on the course do not complete it. They are hoping they will have another 20 starting shortly. When I queried the demand for prison officers, he said there was a continuous demand because there was so much wastage due to retirement. So despite cutbacks this training college will be in action for many years to come. Then we went to a magnificent indoor sports hall where the Director General of the Prison Service spoke about "the compassionate ideal of the Prison Service"! Then other speakers spoke about the courses which had been provided and how the standards of hygiene and food presentation and diets had all been very substantially improved after consultation with various experts, staff and prisoners. After more tea and refreshment we left in a midsummer deluge for Dublin.

## 9. The Visiting Committees

A Quaker lady and the Catholic chaplain were extremely concerned about the aftercare of prisoners so they founded an organisation called PACE (Prisoners Aftercare Community Effort). I immediately joined it. They purchased a house in the country called Priorswood. It is now a part of the new suburb of Coolock. That was over 55 years ago.

On behalf of the organisation I visited Mountjoy and St. Patrick's regularly to interview potential clients who were anxious to have shelter when they left, and would try to reintegrate into normal society.

The then Minister for Justice wrote to PACE and asked them to nominate suitable persons to serve on the visiting committee of St. Patrick's. Two names were sent forward. The official in charge of prisons knew the other nominee so I was appointed! The Visiting Committee now operates under the 1925 Visiting Committees Rules (they, of course, are out of print and out of date). In answer to a 1947 Prison Rules Dail question the current Minister stated in January 2004 a list of ancillary documents in which he was concerned. Number one was the new "Prison Rules". Some members of the POA complain that while most of the Rules are inapplicable they are still used occasionally to deal with allegedly unruly behaviour of the POA. As I have already indicated in previous annual reports the Visiting Committee powers (such as they were) are gone because of alleged "conflict of interest". The Minister explained to the CPT that now all Chairpersons of Visiting Committees would meet to discuss matters of mutual concern and that there

could be an appeal from any decision of the Governor in accordance "with the Rules". That is Section 19 of the 1997 Act. Of course, there are no rules under that Act.

Visiting Committees used to visit some other prison in the system to compare conditions with what occurred in their prison. This has also been abolished. Most prisoners don't know about the Visiting Committee or what, if any, powers they have. Certainly people aren't appealing decisions of the Governor. Frequently the punishment is inflicted and served before the matter could even get to a Visiting Committee. However, if and when it gets to that body, there is absolutely nothing they can do. They can, of course, record it in their minutes. The reports (which would include minutes of the Visiting Committees under the 1925 Act) are available free from the Department. In other words the media or any citizen could apply for the reports which would include the minutes of the meetings of the Visiting Committee. They make most interesting reading. The Minister who appointed me also appointed a few other people. We were shocked to find that in previous years the Visiting Committee concentrated on two points in their reports. Firstly they congratulated the Governor on the garden (such as it is!) and the Chaplain on the great attendance at the annual retreat. We set up a subcommittee to revise the rules and to give the Visiting Committees more powers. We wrote to the Northern Ireland Office, the British Home Office and the Cambridge Institute of Criminology. All of them replied and were very helpful. We wrote to our own Department and they did not even reply. Under the Act persons can be appointed for one to three years.

However we were appointed for just one year and always towards the end of May postdated to the 1st January. This effectively meant that the prison was without any Visiting Committee for five months each year.

We sent our suggested amended Rules to the Minister (which the Department should still have). I waited until May and then went to St. Patrick's expecting that I had been re-appointed for the year from the previous January. However a very embarrassed Governor told me that I had not been re-appointed and indeed none of the people on the subcommittee had been re-appointed. The Catholic Chaplain was also removed. He unfortunately was not allowed to go into the Institution to collect his papers or his coat. He was informed that his successor would bring them out to him. I was distressed because I was appointed by a charity in which I was deeply involved, namely PACE. (The Headquarters of PACE was rent free for years, in my home.) I went to the Minister. He didn't even realise that I had been dropped. I was re-appointed. The other members of the Committee who had been dropped just shrugged their shoulders and said "so be it". One went on to be a Chairperson of RTE and the Catholic Chaplain went on to be a Bishop. I remained on the committee until my appointment to the High Court Bench.

As Lord Acton once famously remarked:- "Power tends to corrupt and absolute power corrupts absolutely." The obsession of some few in the Department to adhere to the principle of POWER, CONTROL AND SECRECY is long established. Indeed, if one looks at Dickens, Volume 1 Chapter 10 " of "Little Dorrit" one sees the importance to a Government of the

"Department of Circumlocution". Nothing can be done unless it goes through appropriate channels. On another occasion the Visiting Committees had to produce three years' annual reports over a weekend because of threatened legal action by a politician. The same politician wanted to see some reports. The Superintendent of Prisons directed the Governor of Mountjoy to allow this man in to see them but they were to be on the wall quite high up and he was not allowed to bring in a camera or a recorder or to take notes. That unfortunate gentleman is now a spokesperson on Justice for an opposition party in the Dail. It is with that background and experience that I make the suggestion that an external qualified body report on the structure of the Prison Service. No one can defend the fact that we have more prison officers than prisoners. Some of the overtime payments problems are allegedly resolved. However I can see very stormy seas ahead. In St. Patrick's the decision is "a disaster". However the same can be said about other aspects of the prisons. There are extremely dedicated and devoted people working in the prison service and who believe in openness, transparency, efficiency and accountability. That should be the real motto of the Prison Service. In the annual report of the Prison Board they attempt to justify the large numbers in the administration and point out that other countries have a high ratio. I wonder who actually wrote that and why? The Prison Board are clearly in favour of building the bureaucracy and increasing the cost of the Prison Service.

Why should anyone oppose an independent inspection by a qualified organisation into the cost of the prison service including the ever-growing

bureaucracy? They accept there will be an increase. 120 were to be transferred to Longford. It has now reached 159. I may be wrong in my reading of the situation: however the argument put forward by the prison board in their annual report is not very convincing. As a senior official explained to me when I was questioning the cost of each prison place, in Loughan House it is €54,000; in Portlaoise it is quarter of a million euro per prisoner per year. However it was explained to me that part of the cost of headquarters is included in all of these figures and one must look at them with some question marks in one's mind. He pointed out that there were "lies, damn lies, and statistics". Take one example. In one country in Europe a prison officer works 48 hours and in another country a prison officer works only 35 hours. Normally they are not comparable. Also I pointed out that it is ridiculous to send senior officials right around the world. If you are extremely senior you must travel first class (if available). Members of the Oireachtas go steerage and until recently so did judges. However, efficient businesses in the real world now do consultations by videolink. Junkets can be given as a reward for successful incentives. In England private prisons are some of the best in the country and are cheaper to run. However the English Prison Service now (having a competitor) have to bid. They have won back at least one prison from the private sector. Naturally the present beneficiaries of our present system will oppose any alteration to it or even an independent examination of it.

However, it will be depending on the Government whether we will need more prisons, more prison officers and more general prison staff and, of course,

another board above the prison board, like in England, "a correctional board". We have a large number of civil servants and a few public servants who want to move to Longford. However, of the existing employees only 37 will be moving. The others will presumably move into other departments. People from the other departments who will want to go to Longford will be moved into the Department of Justice and will thereby be "deemed" to be experts on prisons. As already pointed out, none of the seven directors originally appointed had any prison experience. The prison board seem to be all in favour of empire building and expansion. The Government has to make up its mind as to the direction of penal sanctions in the future. Do we go the English American route or the Nordic route?

#### **10. DO PRISONS WORK?**

The British Tory Party leader Michael Howard when he was Home Secretary said, "Prisons work." All politicians in England and Ireland seem to agree that "prisons work". However that is simply not true. It works for some. 70% of the people going into Mountjoy will re-offend. The Governor there states that he has three generations one after the other coming to stay as his guests. There are such things as criminal families. Of course, people who have suffered at the hands of criminals want to see them punished. That is perfectly reasonable and understandable. If your bedroom is burgled you can not re-enter the room without a shudder. One feels somehow violated. If there were physical damage such as personal injury it is certainly something you will never forget. Many people who have suffered would like to see the miscreant locked away forever. In the old days people exulted when criminals

were thrown to the lions or bears or were hanged, drawn and quartered.

Several Chinese officials when I was visiting prisons in that great country told me that the public demand the death penalty. If Ireland follows the tradition in England and the United States of America we will want more prisons, more staff and naturally several layers of bureaucracy. However, if 70% do not learn from prison and become good citizens, it seems a terrible waste of money. I would certainly not recommend it.

What is the alternative? Reduce the number of people in prison. Allow the Probation Service to be totally independent of the Prison Service and allow it and the judiciary and the lawyers involved to try alternatives. They have been frequently extremely successful. They have 70 or more different activities. They are much more effective than prisons and much more cost effective. It costs far less for community service or some other routine. The Probation Service should cease to be subservient to the Department. They depend on a totally inadequate 1907 Act. They should be in competition with the Prison Service and they should let the public know of the work that they do. I am not suggesting that the prisons should be abolished but the intake of prisoners can be substantially reduced. Judges should explain why (if prison is the last resort) it is used in each case. Short sentences do not help rehabilitation. The cost to the taxpayer is enormous and will continue to rise with no great results. The present Minister is one of the few "hands on" Ministers in the history of the State. He has pointed out that he has produced a huge raft of legislation. Indeed far more than his predecessors. However, he seems particularly slow in grasping the nettle of making my office independent totally



and making the Probation and Welfare service a separate body with its own inspectorate, and giving over at least one prison to a private profit/making company, and substantially reducing the bringing of prisoners to courts instead of using the videolink. If they must go to Court he should get the contract price from a private security firm. It may be better value and will provide equal security to that of the present prison service. All of the above suggestions will be opposed with varying degrees of intensity by various vested interests.

The visiting committees should be brought up to full strength and given real powers. They should all be living within 50 kilometres of the inspected Institution. However, we are now mercifully in the age of accountability. Every bureaucratic organisation starting with the United Nations and working downwards are finding it essential to be "open, efficient and accountable" and that "power, control and secrecy" should be gone forever.

#### **11. Prisons Headquarters**

Joe O'Keffee TD asked the Minister about "the position in relation to the proposed transfer of the Headquarters of the Prison Service to Longford, the present staff numbers involved in Headquarters, the number who have indicated a wish to relocate to Longford and the arrangements in place for a building in Longford to house the service". He got a written reply dated 9th November 2004 as follows:- "As announced by my colleague the Minister for Finance, on 3rd December 2003 the Irish Prison Service Headquarters will be decentralised to Longford. It is anticipated that up to 178 jobs currently

assigned to various Dublin locations including 130 staff of the Prison Service employed at its current Headquarters together with other elements of prison management including the building services, purchasing services and a number of contract IT support staff will decentralise. The legal formalities relating to the acquisition from Longford County Council of the site selected for a new headquarters building are nearing completion. Based on the decentralisation central applications facility (CAF) data, 17th November 2004, 37 employees of the Irish Prison Service together with another 8 civil servants and 5 public servants have nominated Longford as their first preference for relocation.

As the deputy is aware the CAF continues to be open for the receipt of applications until such time as the decentralisation programme has been implemented in full".

## **12. The McBride Report**

A commission of inquiry into the Irish penal system was set up by the Prisoners' Rights Organisation and the Irish Jesuits. It was a commission to inquire into the Irish penal system. It was chaired by Mr Sean McBride and the editor of the report was the Rev. Micheal MacGreil, S.J., Ph. D., a lecturer in Sociology at St. Patrick's College, Maynooth. It was published in November 1980. Sean McBride was a former Minister of External Affairs. He was also formerly a Secretary General of the International Commission of Jurists. He was President of the International Peace Bureau of Geneva,

recipient of the Nobel Peace Prize (1974) and the Lenin Peace Prize (1977) and of the American Medal of Justice (1978).

Co-chairman of the public areas was Dr. Louk Hulsman, Professor of Criminology in the University of Erasmus, Holland, and Chairman of the Committee on Decriminalisation of the Council of Europe. The members of the commission were :-

Michael D Higgins, Chairman of the Labour Party and Lecturer in Sociology University College, Galway; Senator Gemma Hussey, member of Seanad Eireann and representing the National University of Ireland constituency; Michael Keating TD, Fianna Gael spokesman on Human Rights and Law Reform and former chairman of the Visiting Committee of St Patrick's Institution 1974 - 1978;

Dr. Mary McAleese, Professor of Criminal Law at Trinity College, Dublin, and member of current affairs programming of RTE and now the President of Ireland;

Patrick McEntee then and now a leading Senior Counsel at the Irish Bar specialising in Criminal Law.

Rev. Dr. Micheal MacGreil SJ, Lecturer in Sociology at St. Patrick's College, Maynooth, and Vice-President of the National Youth Council of Ireland and the editor of the report;

Matt Merrigan, General Secretary of the amalgamated Transport and General Workers Union and President of the Socialist Labour Party;

Muireann O'Briain Barrister at Law and secretary of the Association of Irish Jurists;

Mrs Una O'Higgins O'Malley, Solicitor, Council member of the Glencree Reconciliation Centre; Independent Human Rights Dail candidate; Catriona Lawlor, Secretary of the Commission, subsequently the public voice of the Irish branch of Amnesty International.

There had been growing concern in Ireland about the increasing number of prisoners and the increasing cost. It queried:- "Is this vast expenditure serving any useful purpose or is it merely perpetuating a system which breeds recidivism?"

*(emphasis added by the Inspector)*

It asks:- "What should be the objective of our prison system? Retribution? Punishment? Reform? Rehabilitation? Reintegration into society? Is custodial incarceration the most effective form of treatment? Would community service not be more effective and less wasteful? "These are some of the questions which the members of the commission have sought to examine. It is not claimed that we have found solutions for the many problems that beset our penal system. Many of them arise from structural defects in our society - poverty, unemployment, bad housing, lack of parental responsibility. Others arise from moral, physical, or educational handicaps affecting some would be offenders. Whatever the causes, society has a duty to attempt to rehabilitate and so reintegrate into society those who have transgressed its rules. It should also be remembered that prevention is better than cure.

"We have sought I trust with objectivity and in a constructive spirit to analyse the problems involved and suggested some remedies."

I hope that the Government will receive this report as a serious contribution to the solution of what is a grave problem. We had hoped that the Minister for Justice and the Commissioner of the Gardai would have been prepared to meet with the Commission to discuss the problems under examination. They both declined.

The Commission held 21 meetings. Over 50 submissions were made to the Commission from experts and other persons in a position to provide relevant information. A major contributor was Dr. Mary Robinson, subsequently President of Ireland and more recently Commissioner of Human Rights in the United Nations. The correspondence between the Chairman and the Minister and the Commissioner of the Gardai is appended to the report of the McBride Commission which gave a history of the establishment by the PRO and by the Jesuits of the Commission. They had finished their hearings and were considering their conclusions but would like to obtain the personal views of the Minister who has been dealing with these many problems. The meeting was to be confidential and informal. After the initial letter dated the 1st May the then Minister of Justice replied on the 5th May 1980 as follows: "Perhaps you would let me know to whom your commission is to report and what its terms of reference are and what precisely are the "problems" to which you refer. I would also be interested in knowing what persons or bodies have given evidence and whom you would have in mind to look for evidence from.

What kind of a meeting do you envisage? Do you perceive it as being measurably in weeks or merely in hours? Would you envisage meeting, for example basic grade of prison staff and specialist staff such as welfare staff and teacher" Mr McBride replied on the 19th May 1980.

A brief summary of the high points of that letter are as follows:-

"The Commission in the first instance will address its report to you, to the Minister for Health, the Minister for Education and to the Prisoners' Rights Organisation. The terms of reference to the Commission were as indicated in my letter of the 1st May.

As to the problems which the Commission has been addressing, they are many and I feel certain they are already well known to you. They have frequently been discussed in the press and have been the subject of many representations to the Government and its agencies from numerous non-governmental organisations.

In brief the major problem is the escalation in offences being committed in our society, the effectiveness or inadequacy of the rehabilitation process, and, in particular, the problems arising from juvenile delinquency. There is, as you are no doubt aware, some considerable doubt as the effectiveness of the existing methods for dealing with offenders..... At the moment we are not contemplating inviting any other persons to give evidence or make submissions to the Commission other than your goodself and the Commissioner of the Gardai and such other officials or prison staff as you

might care to suggest..... I do not expect it (the meeting) would take more than half a day or an evening. It would be for the purpose of discussing with you informally and confidentially possible remedies to the problems which undoubtedly exist. The aim of the Commission is to try and find constructive solutions to some of the problems which exist. It is not the aim of the Commission to indulge in destructive criticism. Therefore the Commission would greatly welcome any views or advice which you might be able to give to the Commission in regard to all or any of the problems under consideration".

That information was provided in a subsequent letter by Mr. McBride. Finally on the 25th June 1981 the Minister replied:- " I have your further letter. I was interested in the information given by you in reply to my queries as to whom the commission is to report and as to those who have given evidence.

I do not wish by agreeing to any of your suggestions to be put in a position of appearing to give some form of official approval for an exercise prompted by the organisation referred to in your reply and to which the Commission intends to report".

The Garda Commissioner wrote on the 30th May:- "As Commissioner of An Garda Siochana and with responsibility for law enforcement it does not come within my area of competence to discuss or otherwise comment on the prison system or the treatment of prisoners. Accordingly I don't feel that it is appropriate that I or any of my officers should attend as requested by your letter."

The Commission therefore got no assistance from the Department or An Gardaí, although it was a very responsible body. In the report the introduction states: "The laws of society are for the most part the expression of the dominant group. This inevitably leads to the existence of subcultures i.e groups whose values or norms are at variance with the dominant group. A high proportion of offenders are likely to come from such subcultures. Therefore the existence of a normally high crime rate amongst the members of a particular group may be due more to a failure in education and learning than to an innate propensity for crime or even behaviour in the group. This failure is often due to social, cultural, and familiarised economic deprivation; such deprivation is ultimately the responsibility of society as a whole."

However the McBride Report did get extensive coverage in the media. It is still well worth reading and there is a great deal of useful discussion on all alternatives to prison and on rehabilitation and restitution. I recommend that the Minister and the Department, the Prison Board, the Prison Service and the media should read it.

The attitude of the Minister and of his officials is possibly understandable in that they regarded the Prisoners' Rights Organisation as being subversive. Perhaps they may have the same view of the Jesuits! However it confirms the view that they were obsessed with "power control and secrecy". However two years later they set up the Whittaker Commission. It had an equally good list of Commissioners. They made a report which was made public. Some of the recommendations have been implemented. Others such as the



suggestion that St. Patrick's should be closed down and that no amount of money should be spent on it to improve it because it was basically inadequate and could not be improved and should be closed were ignored.

Dr Whitaker and Mr. Justice Henchy tell me that this official commission was badly treated by the then Minister and his Department and that a helpful official was punished and penalised. Other significant reports which should be considered were the Costello Report and the O'Briain J. Report and a report of 1946 which was published by four member of the Labour Party and is very depressing. (Report on Certain Aspects of Prison Conditions in Portlaoise Convict Prison 1946) This visit was permitted by the Minister. After the publications the rules were updated or replaced by the Government with Prison Rules 1947 - still in force but most are obsolete and seldom fully enforced. A departmental committee was set up in 1964 under the chairmanship of the Department of Justice to enquire into prevention of crime and punishment. It was never published.

### **13. The CONNECT Project**

The CONNECT project was launched with great publicity a few years ago. I was very concerned about the CONNECT project. This had huge potential. It was set up in a blaze of publicity. The National Training and Development Institute (NTDI) was an integral part of CONNECT. Apparently €60 million was being provided by the EU. I do not know how much if anything was drawn down out of this €60 million allocated by the EU or how it was spent. The EU were responsible for the first two years and then under the National

Development Plan it was to be €47 million p.a. from the State. The NTDI have withdrawn completely from the CONNECT project. It was to spread to all other prisons by the end of 2003. There were a number of very dedicated people who believed in its potential and worked hard to make it flower. The CONNECT Project is still working in a restricted way in the Dochas and also very well in the Training Unit and is "sort of starting" in Limerick. Interestingly enough in the annual report of the Prison Service it is not mentioned at all. It was a great idea. It was greeted with great enthusiasm and was to spread through the entire service by the end of 2003 but now it is being "forgotten". I think one is entitled to ask why. What has happened to Connect? What happened to this money? How was it spent? If not spent, where is it? This might usefully be a subject of a report on my recommendation by an external body which should investigate the whole of the prison costs and staffing and waste of money (if any) A similar scheme in England and Wales is called PS plus. It is an employment project funded by the European Social Fund and the Prison Service. It helps prisoners to get employment, training, education and accommodation on release: "UNLOCK your potential DISCOVER your future".

Recently CONNECT has reached Limerick. It is established but is not yet fully "up and running". I deal with it in a report on my revisit to Limerick which has not yet been sent to the Minister.

It is interesting that many of the recommendations that I have made are duplicated in the report of the Catholic chaplains and in the reports of the various visiting committees. However the Prison Service in their annual report

seemed to ignore both of them. I am flattered that they have given my report such attention but sad that they have ignored these excellent, independent assessments of the prisons and their problems.

#### **14. Videolinking**

Mrs Justice Denham of the Supreme Court chaired a committee to advise the Government on Videolinking. The Commission came out very strongly in favour of it. I, as Inspector of Prisons, attended the handing over of the Commission's Report by Mrs. Justice Denham to the Minister. The Minister was very supportive of the idea. It will certainly reduce the cost of escorting people to courts. It also means that vulnerable people such as minors do not have to undergo the trauma of appearing in court. It is planned in the immediate future to expand videolinking to key centres of population. This is to be encouraged. It can be used not merely for court appearances but also for interviews between clients and their lawyers. It already exists in Cloverhill Remand Prison. This is a great achievement. It should be very cost effective and reduce trauma. My first case as a High Court Judge was where a minor client made a complaint of sexual assault. Counsel for the Defendant insisted that his client was entitled to meet his accuser "eyeball to eyeball". I queried the accuracy of that statement. I suggested that blind people would not have that option. However I followed a dissenting judgment of the American Supreme Court. With the assistance of the Bar I investigated how the system worked. I was horrified to find that it was defective. Firstly the child was brought into a friendly room with a friendly female court usher. There were

bean bags and toys of various description in the room. In the corner was a soundproof chamber or cell from which the complainant could be seen in the court by the jury, the judge, the accused and the lawyers involved. However the lawyers and myself found out that the transmission did not show the whole of the little cell and that it would be quite possible for a prompter or any even innocent person to be hidden totally out of sight inside that private cell. Also it was not soundproofed so the conversation of officials in the main room could clearly be heard in the court room. I made inquiries and had evidence that in fact officials travelled around the world to get the most perfect equipment. The one in Dublin was an amalgamation from three continents! In my written judgment I suggested that in future the lawyers should test out the videolink before they consent to its use in a trial. Initially there will be a pilot project videoconferencing in five courts in four prisons. The five courts are to be the Central Criminal Court in Dublin, a High Court in Dublin, Cloverhill Courthouse, a Circuit Court in Dublin and a District Court in Cork. The prisons are Cloverhill Remand Prison, Limerick Prison, Cork Prison and Castlerea Prison.

**15. The Method of Inspection of Individual Institutions.**

After I inspect a prison I send my report firstly to the Governor. After a short period I return to the prison and ensure that the figures and facts are correct. They do not enter into a discussion on what future plans may be or indeed into any of my conclusions or recommendations. My report is suppose to be a snapshot of what I and my team found at the time of our inspection. This is then proofread and then sent to the Minister. He should put it on the Internet

not later than six weeks after he receives it. It is intended that he should use that time to prepare a demurrer or riposte. The report and the demurrer or riposte (if any) should be put on to the Internet within six weeks of the receipt of the report by the Minister. It should not (as happened with the Castlereau Report) take longer than six weeks, without the consent of the Inspector. It cannot be altered by the Minister, or any, member of his staff, without the consent of the Inspector and only then for security reasons. In England the annual report of HM Inspector of Prisons for England and Wales is presented pursuant to Act Eliz. II 1952 S5A(5) to The House of Commons who order it to be printed and it is published from the stationery Office in London. The statement of purpose in the English annual report is as follows:- "To provide independent scrutiny of the conditions for and treatment of prisoners and other detainees, promoting the concept of healthy prisons where staff work effectively to support prisoners and detainees to reduce re-offending and to achieve other agreed outcomes."

## **16. Visit to Prison**

I welcome independent qualified people who will give of their services to the Inspectorate. A newcomer to the team is expected to attend for a least one day and preferably one more for an inspection. He/she will soon get the feel of the inspection. Primarily the Inspector has to investigate all aspects of the prison. However he is not allowed to take up individual cases. Normally he and some of his team get briefed by the Governor and interview any prisoners who wish to see him. However it must be explained to prisoners that the Inspector cannot take up the cudgels of a particular prisoner about his particular grievances. He must inspect the education, welfare, medical

(including dental) facilities and the persons who provide them and the chaplains and the P.O.A. and any other persons and premises that he/she deems appropriate. The team will enjoy the same lunch as the prisoners are getting on the day of the visitation. The team will inspect the entire premises and pay particular regard to welfare and safety and fire precautions. The new inspector can be allocated the notetaking in relation to a particular person or group and is required to produce a short statement of the main points raised during the interview. If the new inspector feels that he/she has a special expertise, he/she should request the inspector to allow them to deal with particular aspects of the inspection. The Inspector or his special adviser, Governor Woods, are available at all times during the inspection to assist new inspectors to understand their role and assist them in achieving their goals.

## **17. Money has been wasted**

1. Planning seems to be "ad hoc". It is essential that the Minister and his mandarins produce a minimal 10-year plan rather than ministers raising a folly in the grounds of Cork Prison by a now useless 5 million euro-costing wall. There are many examples. Another one that comes to mind is "Chateau Kelly" which has never been fully used in St. Patrick's Institution. There seems to be no real forward planning. The poor tax-payer will continue to pay for these "white elephants" accompanied by burgeoning expensive pyramid-building bureaucracy. There has to be an independent, detailed and urgent assessment of "the huge prison budget". We must progressively get rid of the old idea of power, control and secrecy. That should be replaced totally by openness, transparency, accountability and efficiency.

Cork Prison is on a fine site on one of the hills on which Cork is built.

However it is blatantly over-crowded. Slopping out in this day and age is demeaning to everyone involved.

2. I have strongly urged that a bridge be built to Spike Island. I am glad to see that in a reply to a question the Minister states that his officials are talking with the Board of Works. They should also be talking with the County Council and the Harbour Board. The matter should be given priority for any proper ten-year plan.
3. However the money spent on Cork may not be totally wasted. It could be retained as a remand prison. It is easy to access prisoners. Their families, solicitors, and police can visit the prison. When many of the prisoners are from Cork City, it will be a long journey from Cork through Ringaskiddy to (Spike) Fort Mitchel.

What I have described as "the folly" (that's namely the 5 million euro wall) might in fact be useful. The prison should be much smaller than it presently is. There is no justification for its present appalling existence which demeans the prisoners and those who work there. It is a disaster. The site could be used for a juvenile prison (as long as there is space for playing games) or a remand prison or a female prison. In other words it should be used but for a far smaller group of prisoners. I also hope that the bridge to Spike will be expedited as the potential there is enormous. I do not believe that "big" is

necessarily better and it might be possible to develop different types of prisons on that island. It certainly has great potential.

4. I am gravely concerned about the allegations made particularly against the G.P in Cork Prison. I feel that the head of the medical services in the IPS should discuss his alleged attitude to prisoners with him. The Governor is pleased with the service he provides. None of the prisoners who spoke to us spoke well of him. Patients must have faith in their doctor.
  
5. I was gravely concerned about the injuries to a man in "D" wing of Cork Prison. The Gardai were requested to investigate this matter by the Visiting Committee at my suggestion. Investigations of allegations by prisoners should not be carried out by the Department or the IPS (see quotation in appended article by Fr. Peter McVerry, S.J.). They should not be judges, in their own cases. I was informed that he did not wish to speak to the Gardai when they arrived to interview him.

I was informed that the new prison rules will apparently be available "before Christmas 04". I have a set of the earlier ones but have not as yet been consulted about how the draft might be. Under my so-called contract I do have an interest so far as the rules deal with Visiting Committees and the Inspector (if they do!) As a matter of great urgency the Inspectorate should be set up as a separate body as recommended in my two previous annual reports and in the various reports and in the submissions to the CPT in



Strasbourg by the Irish Government and their own programme for Government.

I hope when this report is published (if it is) that all the reports I have done on prisons and places of detention are available and can be downloaded from the Department's website. "Prisoners have no rights," said a famous Minister. Now they have but I am forbidden to look after their interests. The officials look after all problems. There should be a Prisoners' Ombudsman who should be an independent lawyer just as they now have in Northern Ireland.

I have drafted a bill which is included in my second just published report. I would amend it by requiring my annual report be made not to the Minister but to the Oireachtas as was done with the Travers Report.

## **18. Individual Inspections**

### *St. Patrick's Institution*

There was a borstal in Clonmel. As far as I know it was run by the Department of Education. Young men were sentenced there for a minimum of two years and a maximum of four years. One famous judge described it as providing a good secondary education at no cost to parents. That was certainly the intention though I think it was far from the reality. However it was closed and the inmates transferred to the former female prison in Mountjoy. It was called an Institution so that no one need say they were in prison. However it is a prison in every way. The distinction is merely semantic. At the time of my inspection the boys were aged between 17 and 20 and it could

take boys up to the age of 21. When I was on the visiting committee in 1970 there were 18 workshops including an excellent workshop where boys were taught to be mechanics and where the officers had their cars serviced. Also boys were taught how to drive and some of them passed their driving test which enabled them to drive. Some of them still do drive heavy lorries from Dublin as far as Moscow. There were 18 workshops. Now because of cutbacks there are NONE. There are plans to open two. It will be better than nothing. To leave young men locked up for seventeen or eighteen hours by themselves in their respective cells (admittedly with television) and then leave them with nothing to do is a recipe for disaster. It certainly does nothing to rehabilitate them. It certainly punishes them. They walk around dreary yards and there is a great deal of bullying and assaults amongst themselves. It almost certainly ensures that they will graduate to Mountjoy Prison within a short time of their release. The Minister and the Oireachtas should be ashamed of treating our young citizens in this way which ensures they will never be rehabilitated.

Part of the ad hoc and knee jerk reaction of the Minister and his Department has resulted in a colourful new building which is in an open space in St. Patrick's. I nicknamed it "Chateau Kelly" after a High Court Judge who was rightly appalled at there being no place for young persons who are out of control. To put such an institution into a prison seems the height of bad planning. However it was built and will now never be used for the purpose for which it was built and this is another example of bad forward planning. It cost €11 million. I recommend that St. Patrick's should be destroyed immediately.

The Whittaker report pointed out 20 years ago that it was totally unsuitable and that no money spent on it would be justified because it was incapable of being a juvenile prison. However one must accept that it exists. Apparently it is planned as a separate institution (at the proposed new prison on a greenfield site). It should not be in a prison. It should not be run by Justice but by the Department of Education. The aim should be minimum time in cell and the rest of the time in fresh air, exercise and serious and prolonged rehabilitative education and work. As it presently stands it is an indictment of the Irish people. However the staff are undoubtedly very dedicated and work hard with the tools with which society (through the Minister and his officials) have provided. The full report on the visitation which took place from the 15th-19th November 2004 can be downloaded under the Department of Justice, Equality and Law Reform under the heading "publications". In summary, it should be replaced immediately. Until that is feasible workshops should be provided immediately. "Idleness" should be abolished. Remand prisoners should be kept separate from convicted inmates. There should be immediate and total separation. All new committals should be interviewed by the head teacher or someone acting on his behalf to make them aware of the educational facilities available and to establish the educational requirements for new arrivals. Many children both inside and outside of St. Patrick's do not like school and do not want to go to school. However young prisoners should be given an inducement such as a small daily honorarium or even a reduction in their sentence to get them to follow a planned rehabilitative course. To get rid of illiteracy may require almost certainly one-to-one teaching.

Staff refresher training in B.A and C & R should be undertaken as a matter of urgency and the instructors recertified so as to enable them to give instructions in these particular areas. Emergency exit signs and assembly point signs should be erected in the appropriate locations. The management and staff should be more actively involved in the elimination of bullying and harassment amongst the inmates. The current Minister may blame his dispute with POA for the retrograde steps which he has taken but the result is that St. Patrick's is now nothing but a "warehouse". The inmates will naturally deteriorate in such a system. Additional facilities coming on stream next year may be a benefit to the Institution; however, these promised extra facilities are dependent on approval of additional funding plus agreement from the POA. I agree with Whittaker. St. Patrick's should be closed and no more money be wasted on it.

I am also concerned about the number of prisoners who appear on (P.19) reports for smuggling drugs or similar offences. While the standard of hygiene is good and the inside of the Institution was also acceptable, the exercise yards are very dull and dreary. I want to thank the Governor and all the staff without exception for being receptive, helpful and courteous. I also want to thank the outside consultants for giving time and expertise and insights. They include of course my special adviser, former Governor Jim Woods, Professor William Binchy, Dr. Maurice Manning, President of the Commission of Human Rights, Dr. Owen Carey and Mr. Patrick Keane, S.C.

**19. Recommendations arising from the revisit of Limerick Prison on the 17th and 18th February 2004**

The Inspector has already inspected and reported on Limerick Prison. The reader should download and read this report. This revisit report is also on the Internet and the Visiting Committee is quoted extensively in relation to a number of problems. The Visiting Committee are obviously very active within their extremely restricted remit. They are very concerned that no new members have been appointed to replace those who have completed their terms of office. The explanation given to them is that the Minister is going to revise the law regarding visiting committees. However in the opinion of the Inspector this is a matter of great urgency. The reasoning behind the furthering restriction by Section 19 of the 1997 Act about the Visiting Committee allegedly because of "a conflict of interest" is not tenable. The Visiting Committee should be given far more extensive powers and more heed paid to their reports. They should be an effective watchdog with real powers. I repeat; there should be a lawyer (not from the Civil Service) Ombudsman for prisoners immediately.

The major change on entering Limerick Prison from our previous full inspection is the new "C" wing which has just been commissioned. On our last full visit it was merely a building site surrounded by hoarding. The newly rebuilt wing appears to be built to a high standard and gives a good impression of the prison on entering from the main gate area. The removal of

the temporary office accommodation and the installation of the proposed water feature will further add to its appearance.

There were nine recommendations made arising from the first inspection and on this inspection three had been fully implemented i.e. additional punch bags, bullying being kept under review by the Governor and fire drill training exercises. They are working on facilities for visitors arriving early to protect them from the rain for which Limerick is notorious, while the expansion of the library area providing a new medical area with waiting room and extra educational facilities within the one area hopefully will be provided with the proposed new wing but this apparently could take another two years before completion. I will be doing a short revisit in the near future. The value for vouchers for work done above the norm has not been unified across the services by headquarters. The psychiatric care is still not on a par with that provided in the general community. This is sad because if you cross Gaol-house Lane you reach the regional mental hospital. The report of the visiting committee is cited in full on this revisit and I am also really concerned about the lack of structure, particularly in dealing with the drug problem.

The conclusion of the full inspection report highlighted some concerns such as the design of the dignity screen in the cells of the female prisoners which has not changed. The Visiting Committee members and the Probation and Welfare staff now meet, which had not happened previously. In fact I introduced them to each other during the formal visit. The food served to prisoners is now distributed on delph plates as I had criticised the paper

plates which they had previously used. Refurbishment work on C & E gate lodge is now almost completed. The staff morale does not appear to have improved and may have got worse with the budgetary cutbacks and the uncertainty of their future role within the service. A number of staff are seconded from Fort Mitchel hopefully temporarily.

The business plans for this prison for the years 2001 to 2003 contain 26 targets outlined from 2.1 to 28.1 and from these 15 were completed on time and targets met. Four were partly completed while seven others were not reached.

This highlights a practically universal practice of outlining targets, setting time scales and completion dates on a considerable number of issues which have not been reached. So realistic targets should be set and those responsible for their implementation should show reasons as to why such is not happening. If targets are not met, business plans are a waste of time and energy and money and can only be justified under a branch of "Parkinson's Law". The prison was clean. The newly refurbished sections are a wonderful improvement in the new buildings and there are great plans for future improvements which is very encouraging. There is an urgent need to refurbish the A & B divisions.

There are concerns regarding the outcome of the industrial relations which have taken place between the POA and the Minister. In fact the "POA roadshow" is, I understand, visiting Limerick. It will visit all the prisons and places of detention and then there will be a ballot. I hope the ballot is decisive as it will create many problems for the future if it is indecisive. The cutbacks

in the budgetary allowance being implemented at present will have a knock-on effect on programmes for prisoners which were it to happen would be a pity. The sooner an agreement is reached the better for all concerned. I want to thank the Governor and staff for their welcome. The hospitality was much appreciated also. The proposed agreement with the Minister and the POA seems to me defective. I see lots of problems even if it is decisively accepted. I sincerely hope I am wrong.

## **20. Revisitation of Portlaoise Prison on 17th and 18th May 2004**

Accompanied by former Governor Jim Woods I revisited Portlaoise. The purpose of the visit was to follow up on points of note and recommendations made arising from the full inspection of the prison on the 9th - 11th September 2002. It was also to examine any significant changes in the meantime and to look at the prison's business plans for the years 2001 - 2003 to see if targets set within them had been achieved or completed. It was not to inspect the whole regime, facilities, services or management of the prison and the revisit is not to be taken as a full inspection. The Inspector intends to revisit in a year or two all prisons and places of detention which have had a full inspection carried out and to establish if the findings or recommendations of the full inspection have been ignored or implemented.

The Governor showed us plans for an elaborate new building. A stand alone prison building which is under the Governor of the Midlands is being transferred to Portlaoise to which it is in fact closer. A museum is to be developed. There is now a more satisfactory psychiatric service as Dr. H. Kennedy, the Director of the Central Mental Hospital has agreed that a



forensic psychiatrist from his staff will provide a service to the prison. Also a husband-and-wife medical team provide a 24 hour medical cover. There is now a psychologist one day per fortnight and it is hoped that this will become a half-day per week service. He is based in Limerick Prison. The Governor believes that the half-day a week will be sufficient in this prison. It has now got five qualified state-registered nurses, one of whom was a former medical orderly. I had recommended an increase to the Probation and Welfare staff. This has not been implemented. However the Governor says that new committals are seen by the Probation and Welfare within three days of arrival at the prison. The Governor was asked about accommodation for prisoners leaving the prison. It was stated that out of the Governors Fund together with what they might have earned nobody left without at least €100 at their disposal. He has also commenced a pre-release course which is run by the head teacher and is operating successfully. This is a new programme for prisoners since the last inspection. There are efforts to try to prevent "hooch" making but it is still being manufactured. No one has ever been hospitalised from drinking it. Staff are now in the process of receiving hepatitis vaccines. The treatment is not yet complete but it is on-going. The kitchen has achieved a hygiene mark for the first time this year. The method of serving food has also been dramatically changed. There is now a universal 28-day cycle of menus in all prisons. We then went through all the recommendations set out in the full formal inspection. There was no progress made and there was a suggestion that the Irish Prison Service headquarters were to set up a meeting with other Government agencies responsible for housing and social welfare issues regarding prisoners' entitlements. This is something which has

concerned me for over 30 years. When Frank Cluskey was Minister of Social Welfare over thirty years ago he, despite advice from his civil servants that he couldn't do it provided the dole for every prisoner leaving prison on the day of his release. When that inspired Minister left, the old regime was restored.

Now we have "an examination of the whole thing in progress". This is reprehensible. The answer to our recommendation was "no progress made in this area". We objected to the doctor wasting his time giving out certificates for runners, toothpaste and duvets. Now the doctor has been relieved of these duties. They are dealt with directly by management. The doctor can of course change diet for medical reasons but otherwise diets are the standard approved for the service. We suggested that an appointment of a doctor/psychologist, updating of files, and facilities, and supply of medicine at weekends be expedited immediately. This has all been done. A local doctor and a psychologist have been appointed and are available. Medicines at the weekend are available from a local chemist. On-call files are updated. Medical records system is now on computer. It is operated by nurses or medical orderlies only. We also asked for a further telephone. An additional hand phone has become available. The number of prisoners has decreased since the previous inspection and we were told that the demand for phones is not so great.

There was a problem with a gate which I suggested should be examined by the local trades staff. If found faulty it should be replaced. The result was that an outside contractor renovated the gate and it is now working perfectly.

I recommended that the Irish Prison Service Headquarters address the issue of prisoners with mental problems being detained in hospital. New arrangements with the Central Mental Hospital may improve the situation but they are not up and running yet but should come into operation in the next few weeks. I recommended that the management have the toilet/shower facilities in the exercise yard brought up to an acceptable level of hygiene.

Repair/replacement work needs to be carried out immediately. I was informed that the toilets have been renovated and that the showers are not in use as the showers in the prison are sufficient. The shower cubicles in the yard are now permanently closed.

I recommended that Headquarters examine the situation about staff training in general (especially B.A. Training) in view of the age profile of the staff involved. The answer is that staff resources did not allow for staff training and in view of the recent cutbacks the situation is even worse.

I recommended that a decision should be made immediately by the Irish Prison Service Headquarters concerning the future use of "E" block and if it is to continue (against my advice) as cellular accommodation that a smoke extractor system should be installed. I was informed that it was not feasible to be adopted. The Governor is awaiting a decision from Headquarters this year regarding its future use.

In view of the age and condition of the prison, consideration should be given to rebuilding the whole premises. The Inspector strongly recommended the

demolition of the prison. The redevelopment of the prison has recommenced and is likely to take up to seven years to complete fully.

I recommended that a provision of an adequate and complete CCTV system immediately. I was told that it is going into the new gate block and being extended to the various areas within the prison and should be completed within two years from now (ie 18th May 2004).

The balance of this report on this revisit can be seen if one downloads from the web from the Department of Justice, Equality and Law Reform under "publications".

This revisit presented an entirely different scene to our full inspection in December 2002. There are outside contractors working flat out and much of the work is on target. The new facility is under the direct sole control of the contractor and is not due to be handed over to the Prison Authorities until the work is completed which is expected to be next September or October. I look forward to my revisit. The handball alley as pointed out in the report is very important for the many prisoners who feel as strongly about its retention as do I.

## **21. Miscellaneous**

During the last year the Secretary General of the Department of Justice, Equality and Law Reform, Mr. Jim Dalton, resigned on reaching the age of retirement. I had always assumed that Cork produced all our Senior Civil

Servants. However I was informed by a priest who had taught classics in St. Brendan's seminary in Killarney that more than half the Secretary Generals in the Irish Civil Service were graduates of that centre of learning. He described Tim Dalton as the most brilliant student he had ever had. Also Martin Mansergh in the "Irish Times" paid a most powerful tribute to the great contribution he had made in the Irish Peace talks in Northern Ireland. I certainly wish him a long and healthy and happy retirement. He has been replaced by the former Director General of the Prison Service, Mr Sean Aylward, to whom I have written expressing my good wishes. Mr. Dalton will be a hard act to follow but I wish him well.

I want to thank my small staff who have worked very hard all year. Firstly I want to thank former Governor Jim Woods who has great insights into prisons and their workings. He is a superb liaison man.

Ms. Pauline Kearney is my secretary. She is an extremely dedicated hard working person. She is always a cheerful member of the team. Unfortunately occasionally she is grossly overworked.

I want to praise my excellent personal assistant Martin McCarthy. Pauline Kearney and Martin McCarthy have been seconded to my office from the Courts Service. Martin used to participate in inspections particularly on the sports side but now has been confined in his duties to being my driver. In practice he does a great deal of work for me. He is a very loyal and very good-humoured member of staff and has great diplomatic skills. I am of course, greatly dependent on volunteers who include Professor William Binchy of Trinity College Dublin; Dean Caroline Fennell of the Law Faculty of

University College Cork; Professor Paul McCutcheon, Head of the Law School at Limerick University; Dr. Maurice Manning, President of the Human Rights Commission; Patrick Keane, Senior Counsel; John Smyth, formerly Registrar of the Courts of Human Rights in Strasbourg and then Assistant to the Director General of the Council of Europe; Dr. Owen Carey; Dr. Jim Ledwith; Dr Anne Smyth; Paul Ward of the University College Law Department Dublin. I hope that in the coming year that I will have the same people to help and additional volunteers.

When I emerged one evening from the Training Unit Martin McCarthy told me that the OECD had been on the phone to know if I would sit as a Judge in Paris the following week. It was very short notice. However I got Martin McCarthy to work hard so that I could do some prison work. He immediately got to work. I would like to thank his Excellency the French Ambassador to Ireland, M. Fredric Racid Grasset, for his immediate and helpful intervention. Martin then got in touch with M. Patrice Molle who is Head of the Prisons Directorate in France and Mde Blandine Froment, Inspector of Prisons, who is my French equivalent. I got a very warm reception and I hope established a good friendship with my French equivalent. I am also grateful to the Irish Ambassador to the OECD, Mr. Rowan, and particularly to his ever cheerful good-humoured secretary Edel Quinlan. I promised Mde Froment that I would send her copies of all my reports to date and she will send me her reports. We are both anxious to have further discussions. She works in the Ministry. She insists that she is totally independent and is so regarded by the other people in the Ministry. I met with the Irish Ambassador to the OECD, and Mde Froment, Inspector of Prisons, Jean Massot President of my Court in the

OECD, Colin McIntosh, the Tribunal Registrar, and Martin McCarthy. We celebrated St. Patrick's Day at a most informative lunch party. I am in postal communication with Mde Froment and hope to learn more about the office and duties of Inspectors of Prisons in other countries. I have received a number of invitations to visit them but as presently advised I do not have time. I have chosen to make my so-called "part-time" job one in which I work much harder than I did on the Bench or at the Bar! We should be tough on crime but that does not necessarily mean prison.

We should be tough on causes of crime. Abolish poverty would be a fantastic step forward instead of dividing society into the "haves" and the "have nothings"! In St. Patrick's many inmates come from Dublin 2, none from Dublin 4 or 6.

On Thursday the 31st March 2005 an article appeared in the "Irish Times" written by Liam Reid, political reporter. It is headed "Libel Fears Hold up Second Report on Prisons". I know that the Minister is anxious to publish my second annual report. So am I. I have been in correspondence with the Minister, which correspondence I believed to be confidential. We both wanted to resolve a perceived problem. However the Minister has now purported to reveal all. However the information in the article supplied by the Minister is partially true and in parts is totally wrong. I suggest since he has used our confidential correspondence that he publish the correspondence in full. The Department never actually asked me to amend the sections considered defamatory by the Attorney General. Firstly I do not believe the Attorney

General has found any part defamatory. I suspect he stated that part of the report could be construed as defamatory. It would of course be a matter for a jury to decide as to whether in the circumstances it was defamatory or not. I asked for the opinion of the Attorney General and was refused it for understandable reasons. I was never asked to consent to the publication of the report with the sections omitted from it. I did not know what the corrections would be I did not know who was going to delete the sections. I did not refuse to agree to the publication of the report with sections omitted from it because that proposition was never put to me. I did suggest that he should appoint a "Dr. Bowdler" of his own to "purify" my text. He felt this would interfere with the independence of my office! He is probably right. However he suggested that he get an independent senior counsel to prepare a redraft. I have stated that I will consider a redraft and that I may or may not sign off on it. I realise that I am the first Inspector of Prisons since 1835. I am gravely concerned about the independence of my office and certainly my reports will not be censored just because officials don't like it and threaten to take proceedings. I told the Minister I would gladly defend any proceedings in respect of my reports. He has the Department of Finance behind him and I doubt if the Department of Finance would protect me. I am not even statutory. However I do understand the attitude of public servants and civil servants who have been brought up in a protective cocoon for generations and who have evolved a great deal of power in the Department owing partly to the fact that most Ministers are part time from remote constituencies. The article continues:- "An independent barrister has redrafted the sections in question and Mr. Justice Kinlen is considering the redraft." He may well be redrafting



the report. I have said that I will consider it but I want to see the case to Counsel sent to the Senior Counsel. It is essential to know the question before you read the answer. Since I wrote that letter I have received a redraft but I have not got the case to Counsel. I am not asked to "sign off" or comment. It was amended and in that form has been published. The previous paragraphs I have indicated are only partially true. I would ask the Minister to publish our correspondence fully as they are no longer confidential. The article continues "spokesperson for the Minister for Justice, Mr. Michael McDowell, said that he was "keen to receive and publish a fair professional report as the Inspector is mandated to do but is constrained from publishing elements which he is advised by the Attorney General are defamatory". I doubt if the Attorney General said anything was defamatory. He probably said that certain statements might be construed as defamatory. I am not afraid of being sued although I might have to meet the decree from my own assets but it is essential that this office be properly established at its initiation. I am prepared to make the sacrifice to achieve it. The Minister has accused me of being unjust and has suggested that my report is not fair, professional or in accordance with my mandate. I wonder would the Attorney General agree with me that possibly those statements could be construed as defamatory? I certainly do not wish to sue the Minister for defamation but if I have to do so for the future of my independent inspectorate I certainly will do so.

## **22. Recommendations**

1. Establish immediately by statute the office of the "Inspector General of Prisons and Places of Detention" or "Chief Inspector".
2. Provide in the Bill that his/her annual report will be published by submitting it to the Oireachtas by the Inspector on or before the 30th of April each year.
3. Individual reports by the Inspector should be put on the Department's website not later than six weeks from the date it is sent to the Minister.
4. All reports including the annual report must be published without alteration unless such alterations are made with the consent of the Inspector and will be made only on security grounds.
5. Engage a prominent external group to examine and assess the whole prison budget and its bureaucratic structure. Is it efficient and transparent? Is the taxpayer getting value for money?
6. Establish by statute a separate and independent Probation and Welfare Service in charge of all their present duties and activities, and give them special roles in dealing with prisoners, their problems and particularly their aftercare.

They should specialise in providing alternatives to prison and should inform fully judges, lawyers and the public about what is available to punish and rehabilitate. This service should have its own totally independent Inspector General.

7. Close St. Patrick's Institution immediately and replace it elsewhere.
8. Children should be kept in totally separate accommodation well away from prisons. All prisoners under the age of 16 years should be in the care of the Department of Education and not the Department of Justice.
9. The Government must decide whether to follow the USA and the UK as to whether to build new and bigger prisons or to follow the example of the Nordic countries by reducing incarceration and using real alternatives to prison in lieu.
10. Since the February 2005 Northern Ireland has had an Ombudsman for prisoners. At the moment here the prisoners have no real opportunity to make complaints. The Visiting Committees insofar as they have any power have been neutered and the Inspector of Prisons is specifically forbidden to act on any complaint by any prisoner. The Ombudsman should be a human rights lawyer who does not come from the public service. He/she will provide added assurance about the treatment of prisoners and ex-prisoners about the treatment they received in prison and provide prison staff with added protection against vexatious complaints.

11. The Government must address the problem of how to cope with people (including prisoners) who have personality problems but now have no asylums. They should not be put into prison. They should be under the Department of Health rather than Justice. They are presently treated unjustly and despite individual efforts to cope they are placed in an impossible and disgraceful situation which is unfair to them, to Governors and staff, and fellow prisoners by incarcerating them in a prison.
  
12. Give over one prison to a private security company for a specified period. It should be subject to the same inspection as our State prisons. If successful all prisons public, and private, should compete for contracts every five years. (At the moment the prisoners have no real rights and no person or persons to intervene to protect or promote such rights which they have under international law and EU law and as well as Irish laws. I am specifically prohibited from taking up the cudgels on behalf of individual prisoners. A prisoner has a right of appeal to the Governor and he can seek judicial review in the High Court (in both cases they are seldom realistic option).

The Oireachtas should

- (a) Restore visiting committees and not only greatly restore their original powers but grant them additional powers. Preferably they should live within an hour's drive. They should be capable of being rapidly convened if needed. There is a prisoners' Ombudsman in England, Scotland and, since February of this year, in Northern Ireland. It is something we should certainly emulate rather than the present tendency to reduce and ignore external supervision.

On occasions the Minister replies to questions in the Oireachtas and makes me wonder if we are talking about the same prisons. On the third of March this year he was asked about the rehabilitative programmes for prisoners provided over the last ten years. In the course of that reply he states:- "Each prison and place of detention has in place a range of prisoner rehabilitation programmes catering for its particular prison population. Across all of the prisons the array and content of such prisoner rehabilitation programmes continue to evolve with additional elements to take account of changing needs". (emphasis added) I would refer the Minister and the general reader to read my reports including Cork and St. Patrick's. After the recommendations I have added as an appendix to this report an article entitled "A look inside Our Prisons" by Reverend Peter McVerry S.J published in The Redemptorist magazine "Reality". It deals with my first annual report. I am publishing it with the consent of the author and the editor of the magazine in which it first appeared. It was written two years ago. Nothing much has changed. In particular I would emphasise Fr. McVerry's statement that the existing complaints system is "worse than useless". Officials have nothing to fear if they come out of their bunkers and if they are open and transparent, efficient and accountable.

In the same answer to the same question the Minister states:- "I would advise the deputy that I obtained a budget for the Irish Prisons Service of €369 million for 2005. This compares to a budget of €180 million provided for

prisons in 1997". He also now has very valuable properties to sell and supplement his "huge budget".

The Training Unit should be relocated in the City of Dublin. Roughly one third of the prisoners there go out daily on temporary release to courses or to employment. Thornton Hall is unsuitable for such prisoners as it is too far away from where they are employed. It is not near frequent bus, Luas or Dart services.

## Appendix 1

# A look inside our prisons

Two reports on Irish prisons highlight the major problems that exist within the prison system, writes Fr Peter McVerry, S.J.



FROM THE SHOULDER

It may not have told us anything we didn't know before, but it was probably the most interesting report I've ever read, and certainly the most entertaining. It's not often that an official report, published by the government, brings a smile to your face, but the first Annual Report of the Inspector of Prisons was like no other.

Since 1985, reports on prisons in Ireland have repeatedly called for the appointment of an independent Inspector of Prisons. (An Inspector of Prisons had been appointed in England and Wales in 1980 and in Scotland in 1981.) Ireland, late as always, finally appointed Mr Justice Kinlen as Inspector of Prisons in April 2002. However, he had no office, no

staff, and no money! Nor did he feel wanted.

"I was quite satisfied," he says, "that neither the Department of Justice, Equality and Law Reform, nor the Prison Service Senior Personnel in Headquarters welcomed my appointment, although they undoubtedly paid 'lip service' to the idea."

On appointment, the Department of Justice suggested to him that he take six months off to go on a tour of Western Australia and New Zealand.

"While many interpretations will be put on these offers, I took them as meaning I was not to do any real work."

Six months later, in October 2002, he was, at last, given his own office. But it had no equipment,

such as telephones, fax machines, computers or cleaners. Another six months passed before his new office finally became operational, in March 2003.

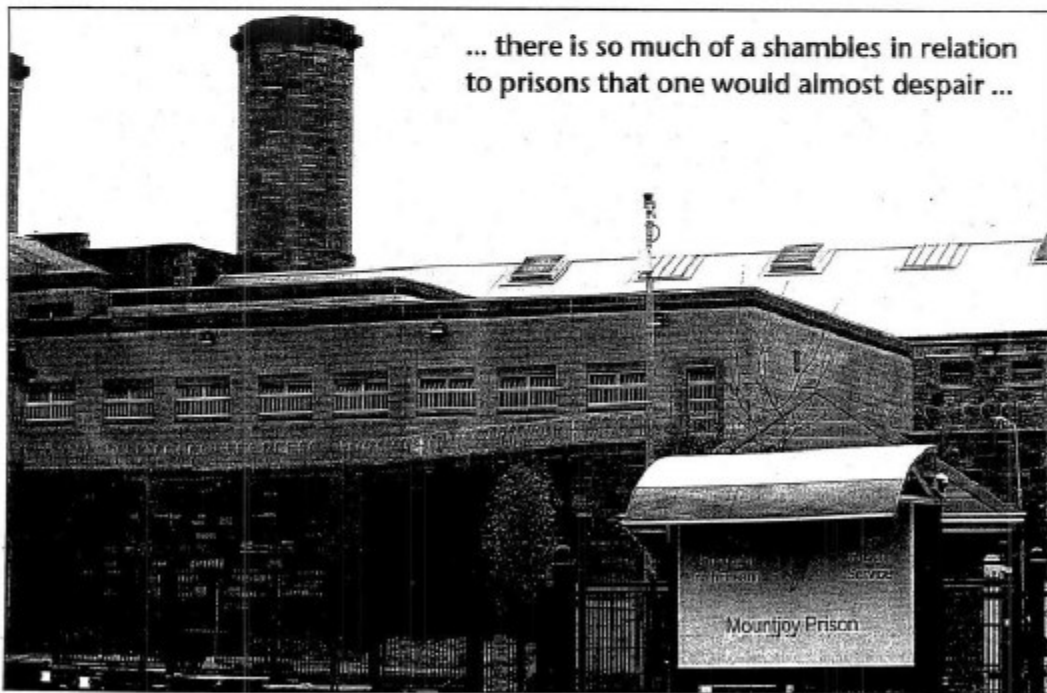
Now he had an office but no money.

"I was told that I could not spend a penny piece or employ anyone without the consent of the Prison Authorities. I WAS APPALLED (his emphasis). The smarminess was replaced by ignorant arrogance."

Not only had he no money, he couldn't get any real information out of the Prison Service. He was refused information which "was already available to the Public Press, the Prison Officers' Association and the Chaplains."

Having vented his frustration on

... there is so much of a shambles in relation to prisons that one would almost despair ...





the Department of Justice and the Prison Service, he then turns to the prisons themselves.

#### Thirty-year investigation

He reports that a delegation from the Visiting Committee in St Patrick's Institution (for young offenders) had gone to see the Minister for Social Welfare. Their concern was that prisoners were being released with little money, not even enough to get a bed in a

**"Moreover, the records examined at Mountjoy Prison showed that inmates who did complain of having been physically ill-treated often subsequently withdrew those complaints."**

hostel for the night. That was 30 years ago!

The newly appointed Inspector raised this issue with the Prison Authorities. He was informed that the matter was being investigated!

"It is fantastic that after thirty years or more, the whole matter is now 'being investigated'...it is a scandal ... there is so much of a shambles in relation to prisons that one would almost despair ... the fact is that we as a State are prepared to spend in the region of €1,300 per week to retain an offender in prison but are unwilling to offer any adequate financial support on release."

On drugs in prison: "Some efforts were being made (to deal with the problem) but there was no serious attempt to address the underlying causes. In fact 'clean' prisoners are exposed to drugs and become addicts in prison."

On sex offenders in prison: "There is no real attempt to help them address their problem."

On homelessness: "For some, homelessness is a reality to be faced after a long and painful prison sentence...it will be remembered that 11 women refused to leave prison for Christmas because

they had nowhere to go."

On prisoners with psychiatric problems: "(Prisoners with psychiatric problems) should certainly not be dumped by an uncaring society into a prison to cause further deterioration to an already inadequate system. There is no doubt that there is a great deal of (mental) disability in prison...I am concerned that in prison, people's human rights are being denied by an uncaring society implemented by feuding government departments!"

In appointing Mr Justice Kinlen to the post of Inspector of Prisons, the government may have thought that they were appointing someone who would not 'rock the boat.' I suspect they are not looking forward to the next four years of his term of office. I will await, with eager anticipation, his next four reports - if they are published!

#### More bad news

However, there was further bad news for the government over its prisons. In May 2002, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (a title mercifully shortened to CPT) visited Ireland, as it had done in 1993 and 1998. The committee visited Cloverhill Remand Prison, Cork Prison and Mountjoy Prison.

"Many of the inmates interviewed by the delegation indicated that they had reasonably good and constructive relations with most of the prison staff."

"However, in all three prisons visited, the delegation heard complaints of verbal abuse. In Dublin, it also heard complaints of physical ill-treatment (kicks, slaps and rough treatment) of prisoners by staff, frequently relating to placements in the padded cells - in Cloverhill Prison - or cell searches - in Mountjoy Prison for men."

They also noted with concern an assault on a prisoner in Mountjoy in 1999 in which his jaw was broken in two places. They noted that the five prison officers who witnessed the assault had failed to

report it, and then subsequently attempted to conceal the assault.

While the committee reported that senior management were determined to take action when allegations of ill-treatment by staff came to their attention, they noted with concern that:

"Prisoners appeared to have very little confidence in the complaints system. The delegation found that, notwithstanding the allegations of ill-treatment received by it, very few prisoners actually filed a complaint. Moreover, the records examined at Mountjoy Prison showed that inmates who did complain of having been physically ill-treated often subsequently withdrew those complaints."

In their response to the CPT report, the Department of Justice noted that in 2001 and 2002, there had been 47 complaints of ill-treatment by prison officers. Of these, four were still ongoing. In every one of the other 43 complaints, the Department noted that "the investigation carried out found that the allegation was not substantiated."

#### Worse than useless

As someone who is in daily contact with prisoners and ex-prisoners, and who regularly hears of allegations of ill-treatment by prison staff, this confirms for me that the existing complaints system is worse than useless.

Even more worrying is the comment by the CPT that prisoners often withdraw their complaint. The lives of prisoners, and every moment of their day, are controlled by the same prison officer against whom the prisoner has made a complaint and by that prison officer's colleagues, in total seclusion from the outside world. There is enormous psychological pressure - and allegations are made that the pressure is more than psychological! - on the prisoner to withdraw his complaint.

It is urgent that a new and credible complaints process is introduced into Irish prisons. One more task for the new Inspector of Prisons. ■