

**JUSTICE
EQUALITY
&
LAW REFORM**

**IMPLEMENTATION AND
PROGRESS REPORT**

NOVEMBER 2004

INTRODUCTION

Since my appointment as Minister for Justice Equality and Law Reform in June 2002, I have embarked upon a major programme of reform in my area of political responsibility.

The Agenda which I have set and am implementing is without precedent in this Department in terms of its breadth and depth.

With the help of the officials of the Department and agencies under its policy responsibility, and with the help of partners in Government and in civil society, I have undertaken a massive agenda of legal, administrative, and policy reform. This programme is based on and builds on the targets set in the Programme For Government agreed by the Progressive Democrats and Fianna Fail in June 2002.

As Minister with direct responsibility for the Justice and Home Affairs portfolio at EU level, I have also presided over the JHA Council at the crucial period in which the measures agreed at Tampere and in the Amsterdam Treaty for the creation of an area of freedom, security and justice have been fulfilled. Ireland's presidency in the JHA as in other areas was hugely successful. Furthermore, it fell to me to ensure that the interests of Ireland in the JHA area were fully taken into account and protected in the process of drafting the EU Constitutional Treaty.

At a point halfway in the life of the Dail which approved my appointment, I consider it appropriate to formally record the implementation of that challenging Agenda of change and reform.

I am confident that the full implementation of that Agenda can be accomplished in the lifetime of the 29th Dail and I want to thank all who are working with me for the achievements to date and for their commitment to securing the full delivery of our ambitious, challenging but achievable goals.

Minister for Justice, Equality & Law Reform

25 November 2004

AN GARDA SIOCHANA

Over the last two and a half years, the human and financial resources allocated to An Garda Síochána have risen to unprecedented levels. Minister McDowell has provided the force with an operational budget of over €1.1 billion, and the membership of the force is at its highest level in the history of the State. He is pushing the major Garda Síochána Bill through the Oireachtas at present.

Strength of the Force

The Programme for Government commitment in relation to Garda numbers says, “*We will complete the current expansion of the Garda Síochána and increase recruitment so that the numbers will increase by a further 2,000*”.

- Despite a freeze put on recruitment to the public service by the Minister for Finance in 2002, Minister McDowell increased the force from 11,750 in June 2002 to 12,200 in November 2004 – an increase of 450 officers.
- The strength of the Garda had been allowed to **fall** in the period of the Rainbow Government from 1994 to 1997. It rose from 10,850 to 11,750 in the period 1997 to 2002.
- The Minister has now received Government approval to implement *Phase 2* of his recruitment programme commitment to increase the force to **14,000** officers over the next 3 years. An action plan has been drawn up to facilitate the recruitment. The Garda College in Templemore is to be expanded and in-service training will be outsourced to create room for the recruitment and training of **1,100** new officers that will be recruited in each of the next **3** years.
- As part of the recruitment drive the Minister asked the Garda Commissioner to examine the eligibility criteria to join the force. Arising from this, and as a first step, the Minister has extended the age limit for entry to the force from 26 years of age to **35 years of age**. The Minister is anxious to attract recruits from the ethnic minority communities in Ireland and he will announce his plans to facilitate such recruitment on receipt of the Commissioner’s final report on eligibility criteria.
- On 23 November the Minister announced the establishment of the Garda Traffic Corps – a commitment of the Government under the Agreed Programme for Government 2002 – 2007. An additional Assistant Commissioner in charge of all aspects of road traffic law will be appointed and will head up the Traffic Corps from early January 2005. The Corps will have its own staff and ring-fenced budget. The number of Gardai assigned to the Traffic Corps will rise from approximately 530 today to 1,200 in 2008. Forty divisional units each with 24 personnel will be established throughout the country.

Resources

The Minister has steadily increased the Garda budget by €198m (+21%) – from €42m in 2002 to more than €1.139 billion in 2005.

The Minister provided the Gardaí with a further €4m to fund 140,000 hours of overtime for visible Garda operations during the last 8 weeks of 2004. An increase in the levels of dedicated foot and mobile patrols are being focused on operations in areas of identified vulnerability, such as West Dublin and isolated communities throughout the country.

Garda Reform

Minister McDowell published the Garda **Síochána Bill, 2004**, on 17 February, 2004. The Bill represents the most comprehensive reform of the law relating to the Garda Síochána in its history. Among other things, the Bill will:

- replace the Garda Síochána Acts 1924 to 1989 with a **comprehensive, modern statute**;
- for the first time establish in law the functions and objectives of the Garda Síochána and re-define the relationship between the Garda Commissioner and both the Minister for Justice, Equality and Law Reform and the Government. This follows on from the *Report on Performance and Accountability in the Garda Síochána*, published in 2002, which recommended significant reform in this regard.
- establish a fully independent **Garda Síochána Ombudsman Commission** to deal with complaints against members of the Garda Síochána, and examine practices and procedures of the Force, under new mechanisms designed to secure and maintain public confidence.
- establish a **Garda Inspectorate**, which would be able to review and report to the Minister of the day on practice, standards and performance across the Force, benchmarked to comparable international police experience. The Minister believes that this would meet the key challenge identified by the Morris report of ensuring oversight of the changes that are needed, and crucially would buttress and support public confidence in the Garda Síochána.
- establish **Local Policing Committees**, with Garda and local authority representation so that Garda and local authorities can co-operate and work together to address local policing and other issues. The Minister has already provided for local authority input in the Intoxicating Liquor Act, 2003, whereby local representatives can decide the opening times of licensed premises in their communities.
- Provide for a Garda reserve. Volunteer members will have the same powers, duties, immunities and privileges as members appointed as Gardai.

CRIME

Michael McDowell was appointed Minister for Justice, Equality and Law Reform, in June, 2002, at a time when crime had been rising over the previous 18 months. Headline crimes such as murder and assault causing harm had increased significantly. Public order offences had also increased.

The Minister tackled the upward trend in violent street crime head-on. He swiftly enacted the **Criminal Justice (Public Order) Act, 2003** and the **Intoxicating Liquor Act, 2003** to tackle assaults, street crime and public order. He increased the size of the Gardaí and ensured they are adequately resourced.

As a result of this decisive action over the last 2 years the upward trend in crime has been reversed with significant decreases being recorded in both headline and non-headline crime. The number of murders, serious assaults and public order offences has decreased significantly.

Traditionally the Garda crime statistics were published on an annual basis, up to 18 months in arrears. For the first time in the history of the State, Minister McDowell introduced the publication of **quarterly crime statistics** in January 2003, to be published within days of receipt in his Department. To date there have been 7 quarterly reports, each recording a decrease in headline crime.

Crime Statistics

- **The number of crimes recorded for 2003 compared to 2002 decreased by over 3,000 (-3%) headline crimes and over 48,000 (-14%) non-headline crimes.**
- **This downward trend has continued with the number of crimes recorded in the first 9 months of 2004 compared to the same period in 2003 decreasing by over 4,500 headline crimes (-6%).**
- **The Expert Group on Crime Statistics established by the Minister reported to him in July. The Minister accepted the Group's recommendations and decided that the Central Crime Statistics Unit which the Group recommended be established to compile and publish crime statistics should be located within the Central Statistics Office. Work is underway, in conjunction with the CSO and the Garda authorities, on this.**

Murder

- **There were 7 fewer murders in 2003 compared to 2002 (45 compared to 52) and there were 7 fewer murders for the first 9 months of this year compared to the same period last year (28 compared to 35).**

Assault & Public Order

- Almost 1,100 (-22%) fewer people were the victims of serious assaults and over 2,300 (-23%) fewer people were the victims of minor assaults in 2003 compared to 2002. This trend has continued for the first 9 months of 2004 with 225 (-7%) fewer serious assaults compared to the same period in 2003.
- There were almost 2,000 (-22%) fewer criminal damage cases and 2,400 (-4%) fewer public order offences in 2003 compared to 2002.

Sexual Offences

- There were 698 fewer sexual offences in 2003 compared to 2002 and 202 fewer sexual offences for the first 9 months of 2004 compared to the same period last year.

Theft and Robberies

- There were 310 (-1%) fewer thefts in 2003 compared to 2002 and 2,540 (6%) fewer thefts for the first 9 months of this year compared to the same period last year.
- There were 145 (-5%) fewer robberies in 2003 compared to 2002 and 180 (-8%) fewer robberies for the first 9 months of this year compared to the same period last year.

Tackling Drugs & Organised Crime

- The Garda Síochána continues to achieve considerable success in relation to the drug supply reduction targets set out in the National Drugs Strategy.
- Garda drug seizures doubled in 2003 compared to 2002 – from €49m in 2002 to €100m in 2003. The Customs & Excise drug seizures for 2003 were €21m.
- A co-ordinating framework linking Garda District, Divisional and National Drug Policing Plans was put in place during 2004 by the Garda Authorities. The Garda Síochána Bill 2004 makes provision for the development of Joint Policing Committees at City and County Development Board level and for the establishment of local policing fora in designated areas under the umbrella of such committees.

Criminal Assets Bureau

- Minister McDowell considers the Criminal Assets Bureau as a vital weapon in the fight against crime.
- In 2003 the CAB obtained interim orders to the value of over €3 million and Interlocutory Orders (“final” restraint orders) to the value of €70,816; Demanded taxes and interest in excess of €7 million with approximately €10 million collected and; Secured social welfare savings amounting to €109,654.
- Since its statutory inception in October, 1996 up to 31 December, 2003 the Bureau has obtained interim and “final” restraint orders to the value of over €1 million and €2 million, respectively. In the same period, taxes and interest demanded were in excess of €78 million, with over €6 million collected. In addition, social welfare savings amounted to over €1.5 million.

Criminal Justice Bill 2004

The Criminal Justice Bill 2004 presents a comprehensive package of anti-crime measures which will enhance the powers of the Gardaí in the investigation and prosecution of offences and generally provide for improvements to the operation of the criminal justice system.

The Bill has its origins in the report of the Expert Group chaired by the late Eamonn Leahy S.C. and which was appointed to consider changes in the criminal law as recommended in the Report of the Steering Group on the efficiency and effectiveness of the Garda Síochána. However, the Minister has also added a number of provisions over and above those recommended by the Expert Group to take account of developments since that report was published in November, 1998.

When enacted it will provide for:

- a statutory power to preserve a crime scene;
- a general power in relation to the issue of search warrants;
- increased detention powers up to 24 hours for arrestable offences;
- some amendments to the Criminal Justice (Forensic Evidence) Act, 1990, in particular to reclassify saliva and mouth swabs as non-intimate samples;
- extending the power of the prosecution to appeal in limited circumstances, in particular in relation to points of law;
- general provisions, mostly of a technical nature, to improve efficiency in the prosecution of offences;
- provision on the admissibility of statements by witnesses, who subsequently refuse to testify or retract their original statements;

- provision for a fixed penalty procedure in respect of certain lesser public order offences; and
- amendment of the Firearms Acts to require applicants for firearms certificates to satisfy the Garda Superintendent that they have provided secure accommodation for the firearm.
- provisions creating criminal offences in relation to participation in criminal organisations;
- proposals to strengthen the provisions on the imposition of the 10 year minimum mandatory sentence for drug trafficking;
- creation of minimum mandatory sentences for certain firearms provisions;
- further amendments to the Firearms Acts concerning the control of firearms, certification for possession, use and carriage of firearms and ammunition, an appeal procedure in relation to decisions on certification and penalties for certain types of offences relating to firearms.

The Minister is also considering bringing forward further amendments to the Bill during its passage through the Houses of the Oireachtas.

They are

- new offences of supplying drugs to prisoners;
- a new offence of possession of an article connected with certain offences;
- provisions in relation to electronic tagging of offenders
- providing a Statutory basis for suspended or partially suspended sentences and broad powers for the Courts to impose conditions in relation to such suspensions [including the making of drug treatment orders]
- the establishment of a Criminal Law Codification Advisory Group to ensure the drawing up of a criminal code and its ongoing implementation
- new provisions enabling Courts to deal with anti-social behaviour by making Anti-Social Behaviour Orders.

Northern Ireland

- The Minister has played a key role in inter-Governmental and cross-party talks, building on the progress achieved following the Good Friday Agreement, and aimed at securing an enduring settlement of outstanding differences, based on a total cessation of violence and the ending of all paramilitary activity.
- The **Independent Monitoring Commission** was established on 7 January 2004, following the signing of an international agreement by the British Ambassador and the Minister on behalf of the Irish Government on 25 November 2003. The Commission's role, provided for in the **Independent Monitoring Commission Act, 2003**, is to report on paramilitary activity, security normalisation and participation in the political institutions in Northern Ireland. The Minister regards the IMC as playing a crucial role in the efforts to bring about political progress and stability in the North. The IMC has to date made two reports to both Governments on paramilitary activity.
- The Minister and his counterpart in Northern Ireland have encouraged and developed, with the respective Police Forces, enhanced co-operation in the fight against crime on an all Ireland basis.
- The **Garda Síochána (Police Co-operation) Act, 2003** gives effect to Articles 1 and 2 of the Agreement made in April 2002 between the British and Irish Governments to implement cross border aspects of the Patten Report.

The Act provides that

- members of each police service will be eligible to apply for certain posts in the other police service, and
- members of each police service can be seconded with full police powers to the other police service for periods not exceeding 3 years.

The **Criminal Justice (Joint Investigation Teams) Act, 2004** is to give effect to the requirements of an EU Council Framework Decision. It provides for

- setting up of joint investigation teams by mutual consent of Member States for a specific purpose and limited period.
- The teams will carry out criminal investigations with a cross border dimension in one or more of the Member States setting up the team.

In May, 2003 a seminar on cross border organised crime jointly organised by Minister McDowell's Department and the Northern Ireland Office, with the involvement of the Garda Siochana and the Police Service of Northern Ireland, was held. Following the success of this seminar, which led to a number of joint operations, a second seminar was held in September, 2004.

- The first ever joint threat assessment in relation to cross border organised crime was launched at the second seminar and work was also commenced on developing the operational/tactical response to the risks identified in the threat assessment report.

Remembrance Fund and Commission

- The Remembrance Commission is now fully functioning. To date it has received 57 applications and approved assistance totalling €514,000 in respect of thirty six applications and €1.4 million in respect of two organisations (Justice for the Forgotten and the Northern Ireland Memorial Fund).

LEGISLATION

The Minister has been responsible for introducing nearly **one-third** of the Government's legislative programme since June 2002. He has enacted legislation dealing with such diverse policy areas as

- **law and order,**
- **personal injury claims,**
- **commissions of investigation,**
- **asylum and immigration**
- **equality**

He is currently guiding legislation through the Houses of the Oireachtas dealing with reform of An Garda Síochána, important criminal justice initiatives and citizenship.

- The Minister has **published 34 Bills** since he came to office, representing over **33%** of Bills published by this Government.
- He has successfully overseen the **enactment of 23 Bills** which represents **25%** of the Bills enacted under this Government.
- The Minister has **11 Bills currently before the Dáil/Seanad**. These include the Garda Síochána Bill, 2004 and the Criminal Justice Bill, 2004.
- An additional **6 Bills** are currently being drafted in his Department under the Minister's direction. Before the end of 2004, the Minister will bring his proposals to Government for legislation dealing with **Judicial Conduct, Licensing and Defamation**, including the establishment of a Press Council.
- The Minister established an **Expert Group on the Codification of Criminal Law** in January 2003, to advise on the scope of the proposed codification of criminal law into a single Crimes Act. The Minister has recently received the report of the Expert Group which he will publish on 29th November 2004. He now proposes to establish a Criminal Law Codification Advisory Committee on a statutory footing to oversee the full implementation of codification of the criminal law.

Legislation Enacted

The following are the Bills enacted since Minister McDowell took up Office:

2002

1. **Domestic Violence (Amendment) Act 2002**

2003

2. **Data Protection (Amendment) Act 2003**
3. **Criminal Justice (Public Order) Act 2003**
4. **Criminal Justice (Illicit Traffic by Sea) Act 2003**
5. **Garda Síochána (Police Co-operation) Act 2003**
6. **European Convention on Human Rights Act 2003**
7. **Intoxicating Liquor Act 2003**
8. **Immigration Act 2003**
9. **Criminal Justice (Temporary Release of Prisoners) Act 2003**
10. **Courts and Court Officers (Amendment) Act 2003**
11. **Independent Monitoring Commission Act 2003**
12. **European Arrest Warrant Act 2003**

2004

13. **Immigration Act 2004**
14. **Private Security Services Act 2004**
15. **Tribunals of Enquiry (Evidence) (Amendment) Act 2004**
16. **Child Trafficking and Pornography (Amendment) Act 2004**
17. **Twenty seventh Amendment of the Constitution Act 2004**
18. **Criminal Justice (Joint Investigation Teams) Act 2004**
19. **Commissions of Investigation Act 2004**
20. **Equality Act 2004**
21. **Maternity Protection (Amendment) Act 2004**
22. **Civil Liability and Courts Act 2004**
23. **Intoxicating Liquor Act, 2004**

Bills on Dail and Seanad Order Paper

1. **Criminal Law (Insanity) Bill 2002**
2. **Proceeds of Crime (Amendment) Bill 1999**
3. **Criminal Justice (Terrorist Offences) Bill 2002**
4. **International Criminal Court Bill 2003**
5. **Transfer of Execution of Sentences Bill 2003**
6. **Gárda Síochána Bill 2004**
7. **Adoptive Leave Bill 2004**
8. **Criminal. Justice Bill 2004**
9. **Disability Bill 2004**
10. **Irish Nationality and Citizenship Bill 2004**

Bills expected to be published during the autumn session

- ? Criminal Justice (International Co-operation) Bill
- ? Parental Leave (Amendment) Bill
- ? Registration of Deeds and Title Bill

Bills in respect of which heads have been agreed and texts are being drafted

- ? Criminal Justice (Protection of Confidential Information) Bill
- ? Defamation Bill
- ? Prisons Bill

Law Reform

The Minister has embarked on an unprecedented programme of law reform since taking up office. For example, he has enacted legislation providing for a more efficient and cost effective means of investigating matters of significant public concern and he has enacted legislation to deal with exaggerated and fraudulent personal injury claims.

Before the end of 2004 the Minister will bring his proposals to Government for legislation dealing with Judicial Conduct, Licensing and Defamation, including the establishment of a Press Council.

Commissions of Investigation Act 2004

- The Act provides for the establishment and operation of Commissions of Investigation to investigate into matters of significant public concern. Commissions of Investigation provide a new and additional means of carrying out such investigations. They are designed to be most cost effective and timely and will facilitate witnesses in their co-operation with a Commission.
- A Commission will have a full range of powers available to it under the Act to ensure compliance with its directions, access to information etc.

Civil Liability and Courts Act 2004

- The primary purpose of the Civil Liability and Courts Act 2004 is to introduce changes in the law on civil liability. The Act amends the Statute of Limitations (Amendment) Act 1991 by reducing the limitation period for personal injuries actions to two years.
- The Act also introduces new penalties for fraudulent and exaggerated claims and provides for major procedural changes in personal injuries actions to reduce the time taken and costs involved in processing such actions.

- In addition, the Act amends the in camera rule, provides for the disposal of part of the funds of suitors vested in the Accountant of the Courts of Justice and makes provision in relation to the jurisdiction of the Circuit Court in proceedings relating to land.
- The civil liability elements of this Bill, together with the Personal Injuries Assessment Board (PIAB) Act 2003, which was introduced by the Minister in conjunction with the Tanaiste, are part of the Government's legislative response to the problem of the "compensation culture".
- From the 1st of June 2004 all personal injury claims arising from workplace accidents, where an employee is seeking compensation from his/her employer, must be referred to the Personal Injuries Assessment Board before legal proceedings are issued. As of the 22nd of July 2004 the same applies to all motor liability and public liability claims.
- Prior to the coming into operation of the PIAB, and particular the provisions relating to motor liability and public liability claims, between January and July 2004 figures indicate that almost **14,000** personal injury summons were submitted to Central Office of the High Court. In the five days leading up to 22 July 2003 the High Court received 5,000 personal injury summons.
- Since the establishment of the PIAB to mid November approximately **1,347** applications for assessment have been made, broken down as follows: 538 employer liability applications, 374 public liability applications, and 435 motor accident applications.

Bills in Preparation

Codification of the liquor licensing laws

- Subject to the approval of the Government for its drafting, it is intended to publish shortly the details of proposals for a Bill to codify the liquor licensing laws.
- The proposed Bill will repeal the Licensing Acts 1833 to 2003 and related licensing provisions in other statutes (about 100 statutes in total) and replace them with updated provisions geared to modern conditions. It will, in particular, include updated provisions relating to public houses, off-licences, hotels, nightclubs and theatres. It will also contain provisions relating to the supply of intoxicating liquor in registered clubs which will replace the Registration of Clubs Acts 1904 to 2003.

Defamation

- The Minister intends to bring a proposal to Government shortly to provide for reform of the law on defamation in Ireland (the current Act dates from 1961). His proposal will draw on the Report of the Legal Advisory Group on Defamation (LAG) in their Report of March 2004, which brought forward a series of sensible reforming measures which have received wide support. These would include for example:
- the ability to make a lodgement in Court in a defamation case without admission of liability,
- the availability of the defence of reasonable publication, (though this would be conditional on membership of a recognised Press Council),
- Regarding a Press Council, the Minister will not be following the prescriptive approach, as to the composition, organisation, membership and conduct, set out in the Legal Advisory Group Report. He does not intend to have a Government appointed Press Council,
- rather, his model will involve providing statutory recognition, by way of a resolution to be moved in the Oireachtas, for an independent organisation, which might formally request the Minister to do so, for recognition as the Press Council for the purposes of the Defamation Act,
- however, the Minister will have to be satisfied, as to certain considerations, such as the composition and funding of, and adherence to a proper code of conduct or principles, by such an organisation, before moving an order for recognition. The Minister has been in continuing contact with representatives of the Irish print media and they have made certain proposals for an independent Press Council. He is awaiting further proposals from them on a proposed Code of Conduct,
- one of the primary benefits of a recognised Press Council would be that absolute privilege would attach to its reports and decisions or of a subsidiary body, such as a Press Ombudsman,
- also, subscription to the Press Council, and adherence to its Code of Conduct, by a publication would entitle a publication to avail of the defence of reasonable publication. (Non-members would be required to have in place an equivalent “fairness” regime, or operate an equivalent and publicised code of conduct, to avail of the defence.

Judicial Conduct

- Work on drafting the Scheme of a Judicial Council Bill is well advanced. The Bill aims to provide effective remedies for complaints about judicial misbehaviour and its provisions will include lay participation in the investigation of complaints.
- The work follows broadly the recommendations of the Committee on Judicial Conduct and Ethics (which was chaired by the then Chief Justice Keane, and on which the Minister, as then Attorney General sat); it takes as its basis a draft Bill to implement the Committee's recommendations prepared by Judge Denham with assistance from Law Reform Commission staff.

Its features will include:

- a Council representative of the judiciary of all the courts
- Council will have responsibility for developing and disseminating a Code of Judicial Conduct and Ethics
- Committee of the Council, including lay participants, will supervise investigations of incidents of alleged judicial misconduct and questions of the condition of health, either physical or mental, of a judge.
- Investigative tribunals set up for specific incidents to have lay membership also
- Council to managing judicial studies, including the publication of Bench Books, the provision of training of judges and the establishing and maintenance of a database on sentencing.

- Work on the development of a Scheme is well advanced. It is expected that a Scheme can be submitted to Government either late this year or early next year, with publication in the first half of next year. The Minister intends to publish the Scheme when ready for consideration by the Joint Oireachtas Committee on Justice in advance of publication of the Bill.

Land Law Reform

The Department of Justice, Equality and Law Reform has undertaken an ambitious joint project with the Law Reform Commission with a view to reforming and modernising our land law and conveyancing law. The aims of the joint project will be to:

- simplify land and conveyancing law and improve its presentation in order to make it more easily understood and accessible for practitioners and the public alike;
- update the law in order to accommodate changing social, demographic and economic needs, including new forms of property ownership; and
- make the conveyancing of property easier and faster with a view to reducing burdensome costs and delays.
- On 28 October last, the Minister launched a Law Reform Commission Consultation Paper entitled "Reform and Modernisation of Land Law and Conveyancing Law" which contains over 90 draft recommendations designed to update and streamline this important area of law. Publication of the Paper completes the first stage of the project and it is being followed by the consultation stage which will run until 31 December. The third stage will involve the drafting of a Bill (or Bills) in order to give legislative effect to recommendations for reform.
- It is intended to bring forward draft legislation to give effect to the Commission's final recommendations next July. The new legislation will repeal about 150 pre-1922 statutes - the earliest of which date back to the 13th century - and replace them with a modern law of property that will meet the needs of the 21st century. The ultimate objective of this project is to facilitate the introduction of an electronic conveyancing system as soon as possible.

Private Security

The private security industry has grown rapidly in recent years and now encompasses an extensive range of occupations and activities, including security guards and consultants, suppliers and installers of security equipment, door supervisors, private investigators and specialised cash-in-transit services. It represents an important area of economic activity with an estimated turnover of some €250 million annually, involving some 400 companies and employing some 14,000 individuals on a full-time basis. There are also many more employed in part-time work across this spectrum.

On taking up office the Minister identified the need to provide a sound regulatory environment for the private security industry as a matter of extreme public interest. He successfully enacted the Private Security Services Act, 2004 to regularise the industry not just in the context of promoting consumer confidence in a growing industry, but also to combat low standards and unacceptable behaviour that has become an unfortunate feature of some aspects of the industry, and which the industry as a whole roundly condemns.

The **Private Security Services Act** provides for the establishment of the Private Security Authority. The Private Security Authority will be independent in the exercise of its functions, which are set out in Section 8 of the Act. These functions include :

- Controlling and supervising persons providing security services and maintaining and improving standards in the provision of those services.
- Granting and renewing of licences
- Issuing identity cards to licensees
- Suspending and revoking licences
- Establishing and maintaining a register of licensees
- Specifying standards to be observed in the provision of security services
- Specifying qualifications or requirements for the grant of licences
- Undertaking or commissioning research projects and activities necessary for the planning, development and provision of those services
- Investigating security services being provided by any person
- Establishing and administering a system of investigation and adjudication of complaints
- Monitoring the provision of private security services generally
- Liaising with licensees
- Advising the Minister on any matters relating to the above functions and keeping the Minister informed of developments that would assist in developing policy.

On the 28 October the Minister launched the Private Security Authority in Tipperary Town. The Authority includes representatives from the legal profession, Security Industry Employers and Employees, Government Departments, An Garda Síochána, FÁS and the Security Institute of Ireland.

PRISONS PROBATION & WELFARE

Since taking up office the Minister has initiated a radical reform of the Irish Prison Service. This will give Ireland a modern, efficient and humane prison service in 3 to 4 years time.

- The Minister announced that he is replacing Mountjoy Prison and Cork Prison with new state of the art prison complexes in the Greater Dublin region and Spike Island, Co. Cork, respectively.
- Up to 800 additional new prison places will be provided in these prisons, including provision of separate facilities for both male and female young offenders between 16 and 17 years of age.
- The Minister has increased the Irish Prison Services budget by 18% - from €13m in 2002 to €68.996m in 2005.
- The Minister has tackled the decade's chronic problem of **excessive prison overtime** and will achieve savings of approximately €15m in overtime in 2004 compared to 2003. Talks with the Prison Officers' Association (POA) in relation to the introduction of the proposed **annualised hours system and elimination of overtime** working are almost complete, with some aspects have been referred to Arbitration.
- In line with the Programme for Government, the Minister will shortly implement his **Drugs Free** policy for Irish Prisons. To facilitate this new prison rules will be published in December 2004. The new rules will provide, inter alia, for mandatory drug testing of prisoners. It is intended that this policy will be introduced in the Prison Service in early 2005.
- The Minister recently opened 6 new observation cells in Cloverhill Prison which will replace the use of the old style padded cell. These types of observation cells will be installed in all other prisons in 2005, thereby completely **abolishing the use of traditional padded cells in Irish prisons**.
- In-cell television sets have been provided throughout the prison service. **All cells in closed prisons now have a TV set.**
- A **Prison Bill**, which will, inter alia, provide for the video-conferencing of certain pre-trial hearings, has been drafted and is expected to be published shortly.
- Funding of €45.439m has been provided for the **Probation and Welfare Service** in 2005, compared to €38.269 in 2002; an increase of 19%.
- The Government provided €8m through the NDP for training for offenders in custody.

- Homeless Offenders Strategy Team (HOST) was established during 2002 with the Probation and Welfare Service as the lead agency. HOST is a specialist multi-agency accommodation directorate; its role is to bring a strategic focus and direction to measures to address homelessness among offenders in the community and in custody.
- On 29 July, 2004, Sections 78 - 87 of the Children Act, 2001 were commenced. These sections provide for the Court directed Family Conference which is convened by the Probation and Welfare Service.

Immigration and Asylum

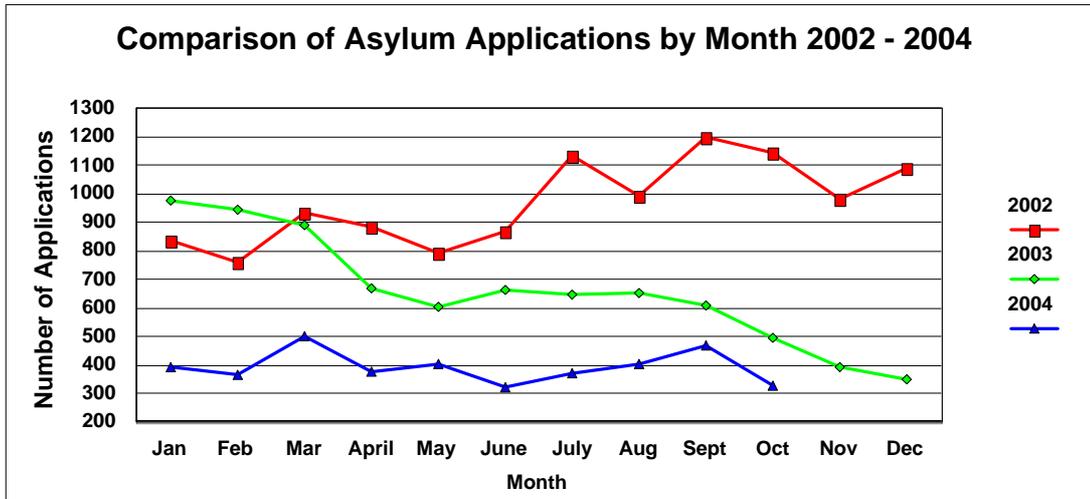
The Minister has made substantial progress in modernising the law, the procedures and the governance of asylum and immigration matters in Ireland. In 2002 over 11,400 claims for asylum were received, 90% of which were found to be groundless after an independent assessment of the claims. Thanks to the Minister's initiatives the projected number of asylum seekers for 2004 is declining towards 4,000 – a decrease of nearly 2/3rds. Ireland's asylum processing system fully complies with our international obligations and ensures every asylum seeker is treated fairly and humanely.

At the same time the number of legal immigrants coming to Ireland to work, study or visit has increased since he became Minister – from 36,000 in 2001 to almost 50,000 in 2004. The Minister is now initiating a process to modernise our residency and immigration law and procedures.

- 2005 Estimates allocation provides over €125.4m for asylum and immigration issues including €1.1m for provision of accommodation. Spending across Departments now over €300 million.

Asylum

- **Asylum determination system** compares with the best in the world in terms of fairness, decision making, determination structures and support services for asylum seekers including access to legal advice and assistance. **Comprehensive services are also provided for applicants** including health, social welfare and translation services.
- **Three separate offices have been put in place to deal with all aspects** of asylum applications from initial decision to appeal and to co-ordinate accommodation and other support needs of asylum seekers - the Office of the Refugee Applications Commissioner, Refugee Appeals Tribunal and the Reception and Integration Agency.
- The **waiting time** for refugee application determination has been reduced from years in the mid 1990s to weeks. Prioritised applications now receiving an interview and decision at first instance within six weeks of application.
- There has been a **45% decrease** in the number of **asylum applications** received in the first 10 months of 2004 (**3,927**) as compared to the same period in 2003 (**7,158**). 7,900 applications were received in 2003, representing a 32% reduction as compared to 2002.



- Since April 2000, over **35,000 applicants have been accommodated** directly by the State under direct provision arrangements.
- The **Immigration Act, 2003**, inter alia, streamlined the asylum process by the designation of safe countries of origin; required applicants to co-operate more actively with the asylum process or have their applications deemed withdrawn and enabled the Minister to prioritise applications by, for example, country of origin.

Immigration

- Policies have led to some 47,551 non-nationals entering the State legally in 2003 to take up jobs through the **work permit system** as compared to over 40,000 in 2002, 36,000 in 2001 and 18,000 in 2000. In 2004 (to 31/10) some 28,827 work permits have been issued.
- **Work in ongoing in preparing new *Immigration and Residence Bill*. A discussion document will be produced in the coming months and draft legislation will be produced during 2005.** As part of this, proposals are being prepared for the establishment of an **Immigration Service within the Department which will incorporate the work of the work permits section of the Department of Enterprise, Trade and Employment and the visa section of the Department of Foreign Affairs.** This will aim to provide a streamlined admission application process for customers and improve customer service.
- **The *Irish Nationality and Citizenship Bill, 2004*, which implements the decision of the people in last June's citizenship referendum, was published on 28 September, 2004 and will begin Committee stage in Dáil Éireann this week.** The Bill also contains a provision designed to ensure that the former scheme of investment-based naturalisation cannot be re-instituted.

- In relation to applications from parents of Irish Born Children to remain in the State at present on hands, **a separate unit has been established to handle the sensitive task of examining each case individually on its own merits. Proposals for the handling of the remaining IBC cases are currently being developed. These will take account of the new situation which will apply after the enactment and implementation of the Irish Nationality and Citizenship Bill 2004.**
- *A draft Scheme of a Bill to*, inter alia, *streamline the deportation process* has been developed and is with the Office of the Attorney General for advice.
- *A comprehensive fingerprinting system is being developed for non-EEA nationals* on registration in the State, which **will also include an electronic fingerprinting system for asylum seekers. An integrated IT strategy for asylum and immigration related aspects is also being developed** which will be extended, in due course, to the immigration area generally.
- Improvements in **customer service in the visa, citizenship and general immigration areas** will take place with the computerisation of the visa system and the transfer of additional resources to these areas.

Anti-Racism

- The Government's National Anti-Racism Awareness Programme (Know Racism) completed its three year term (2001-2003) last December. The programmes' activities included national advertising campaigns, publicity events, support for local anti-racism awareness initiatives, partnership ventures and research. Total expenditure under the KNOW Racism Programme was €4.75 million over the 3 year term.
- Minister McDowell will shortly bring to Government his proposals for a new comprehensive National Action Plan Against Racism (NPAR).
- The Minister is anxious that people from Ireland's ethnic minority community join An Garda Síochána. In that light he has asked the Garda Commissioner to look at eligibility criteria for joining the force to be reviewed.

Controls/Deportations

- We resourced the Garda Síochána to tackle the very real problem of illegal immigration and people trafficking by enabling it to establish the **Garda National Immigration Bureau** including provision of significant additional staff
- Increasing the **number of deportations** including by the use of charter flights and voluntary returns of persons without protection needs or otherwise illegally in the State.

Deportation Statistics

2002	521
2003	590
2004	456 to end of October

Voluntary Returns

2002	506
2003	762
2004	528 to end of October

EQUALITY MEASURES

Disability

- The Disability Bill 2004, published by the Department of Justice, Equality and Law Reform as part of the National Disability Strategy. (currently at second Stage in the Dail).
- Since 1997 there has been significantly increased investment in disability services, in particular in the areas of health and education. The 2005 Estimates provide over **€2.8billion** for disability specific services – an increase of 11% on the 2004 figure. **The comparable figure under the Fine Gael/ Labour/Democratic Left Rainbow Government in 1997 was €0.8 billion.**
- This does not include income supports and services provided by the Department of Social and Family Affairs or mainstream services accessed by people with disabilities, such as speech and language therapy, physiotherapy and other similar key services.
- **European Year of People with Disabilities, 2003** - the Minister's Department oversaw the successful programme which supported disability awareness projects throughout the country during 2003. The success of the programme can be measured by a Eurobarometer survey which concluded that Ireland displayed by far the highest disability awareness in any EU State during the European Year.
- The Government has given approval for a **National Disability Study** in conjunction with the next Census in 2006. The Department, supported by the National Disability Authority will work with the Central Statistics Office to produce the first national survey of disability in this country. The outcome of the survey will inform disability service planning.

Childcare

- The Equal Opportunities Childcare Programme 2000 - 2006 is the key instrument to develop childcare in Ireland. **The funding provision for the Programme has increased to €149.3m** (from €136.7m). Funding is available for capital developments, supports towards staffing costs for childcare facilities targeting disadvantage and supports to enhance quality of childcare places throughout Ireland.
- The grant programme to Childcare providers aims to increase by at least 50% or 28,300 places the number of centre based childcare places available nationally.
- Commitments to date under the Programme will, when fully drawn down, **lead to the establishment of about 31,200 new childcare places (20,500 of which have already been created under the Programme) and will support a further 28,056 existing places.** The balance of some capital funding yet to be committed will lead to a further significant increase in childcare places.
- **Since 2000, the Minister has approved 1,253 applications for capital grant assistance of over €120m and 997 applications for staffing grant assistance totalling €103m.** Almost €15m has been allocated for quality projects.

Gender Equality

- Ireland submitted its Report to the UN on the National Plan for Women 2002 to the United Nations in October, 2002. The Report describes in detail Ireland's commitments to advancing the status of women in Irish society.
- The Department also published the Report entitled "Aspirations of Women collected in the course of the Consultation Process on the National Plan for Women 2002: Towards a National Women's Strategy".
- Each Government Department has been requested to take account of the Report to the United Nations and note the views of women and women's organisations as articulated in the Aspirations of Women report when formulating and reviewing policy and legislation and in implementing programmes and measures.
- Work is ongoing in relation to the development of a five year National Women's Strategy which will be completed during 2005.

Employment Equality

- The Equality Act 2004 was enacted on 18 July, 2004 and provided for amendments to both the Employment Equality Act 1998 and the Equal Status Act 2000 to give effect to three EU equality Directives (the Race Directive, the Framework Employment Directive (grounds of religion or belief, disability, age or sexual orientation) and the Gender Equal Treatment Amendment Directive).
- The Maternity Protection (Amendment) Act 2004, commenced on 18 October 2004, implements the outstanding recommendations of the PPF Maternity Review Group.
- The Adoptive Leave Bill 2004 was published on 2 April, 2004 and is expected to be enacted by the end of the year.
- Adoptive leave attracting payment of benefit by the Department of Social and Family Affairs was increased by 2 weeks to 16 weeks on 22 October, 2004 in advance of the enactment of the Adoptive Leave Bill. The increase is being implemented in this manner so that adopting parents can avail of the increased leave provisions at an earlier date to roughly coincide with the commencement of the Maternity Protection (Amendment) Act 2004.
- Work is underway on a new Bill amending the Parental Leave Act 1998 in order to implement the agreed recommendations of the Working Group on the Review of the Parental Leave Act 1998. The Bill which will be published during the current Dáil session, will include the following:-
 - Raising the maximum age of the eligible child from 5 to 8 years;
 - an increase in the maximum age of the eligible child to 16 years in the case of children with disabilities;
 - extension of parental leave entitlements to persons acting in loco parentis in respect of an eligible child; and
 - a statutory entitlement to take the 14 weeks parental leave in separate blocks.

Courts

- There are 126 judicial positions in the State. The State now has more sitting Judges than any other time in its history.
- Since June, 2002 the Government has created ten additional judicial posts:
- Two (2) High Court judges under the provisions of the Courts and Court Officers (Amendment) Act 2003.
- Eight (8) new positions were created by the Civil Liability and Courts Act, 2004. (Three in the High Court, three in the Circuit Court, and two in the District Court. Eight persons have been nominated by the Government for appointment by the President.)
- **Funding of €6.716m has been provided for the Courts Service** in 2005, compared to €4.911 in 2002, an increase of 14%.
- The Minister has provided **capital funding of €60m** to the Courts Service from 2002 to 2004.
- The following Court projects have been completed and opened by the Minister:
- **Dundalk (fully refurbished)**
Limerick (fully refurbished)
Navan (new District Court facilities)
Tubbercurry (new courthouse as part of 'one-stop-shop, developed jointly with County Council)
New Commercial Court in Bow Street.
Castlebar
Ennis
- The following projects are in progress:
Washington Street, Cork - due to be opened in January 2005
Nenagh
Ballyshannon
- The Minister has increased the budget for the **Legal Aid Board** by 16% for 2005 compared to 2004. This will enable the Board to make very significant inroads in tackling legal aid waiting lists. It will also facilitate the extension of the private practitioner scheme to the Circuit Court which is a very cost effective approach to tackling waiting lists.

- The Minister has secured approval for a new **Criminal Court Complex**. Construction will begin in 2005. The Criminal Courts Complex will be a state of the art criminal justice facility suited to the administration of criminal justice in twenty first century Ireland.
- The building will be designed to concentrate all central Dublin criminal business in one serviced location. This will involve the transfer of Courts and administrative offices from three jurisdictions – District, Circuit and Central – to the new facility.
- The building of this facility will result in a much improved service to all stakeholders - public, witnesses, jurors, judiciary, professionals and staff. In particular, the facilities currently available for victims, witnesses, jurors, the public and prisoners fall short of those required to facilitate all groups who use the courts.

The European Union & Ireland's Presidency of the Council of the European Union

- The Minister represents Ireland at Justice and Home Affairs Councils which generally take place each month.
- The Minister and Department inform the Oireachtas and National Forums on Justice and Home Affairs developments in European Union as significant issues arise. Most recently the Minister addressed the Institute of European Affairs on the Hague Programme.
- He was involved in the development of the new Hague Programme. This Programme deals with all aspects of policies relating to the area of freedom, security and justice and sets out the priorities of the European Union in the JHA area over the next five years.
- Department officials continue to represent Ireland at EU and Council of Europe fora.

Presidency

- The Irish Presidency of the Justice and Home Affairs (JHA) Council came at a crucial time in the creation of an area of freedom, security and justice as foreseen by the Amsterdam Treaty.
- We can point to a significant body of achievements;
- agreement reached on more than 20 legislative measures – Regulations, Directives, Decisions – on which discussions were still ongoing on 1 January leading to either formal adoption of the measure in question or political agreement on the content;
- agreement also reached on a similar number of non-legislative instruments such as Council Conclusions and Recommendations directed to specific aspects of the agenda;
- adoption of specified measures to establish that area of freedom, security and justice by the 1 May 2004 deadline set by the Amsterdam Treaty;
- taking forward and conclusion of a number of the outstanding commitments from the Tampere programme - the ambitious five-year programme launched by the European Council in 1999 and updated by subsequent European Councils - which came to a conclusion in 2004;

- successful promotion of operational co-operation, particularly in relation to police and customs, and an emphasis on the fight against organised crime and drugs against that broader background.
- Key achievements spanned the entire JHA agenda and include:

Terrorism

- The European Council Declaration on Combating Terrorism, which represents an important political restatement of the Union's priorities and future direction and which provides a framework for a programme of action, including a revised EU plan of action and the re-establishment of the Counter Terrorism Task Force at Europol, was adopted.

Asylum

- Formal adoption of the Asylum Qualifications Directive and the political agreement reached on the Asylum Procedures. These proposals were the final elements in the first phase of the establishment of a Common EU Asylum System.

Immigration

- Adoption of the Council Directive on the residence permit issued to victims of trafficking in human beings or to third country nationals who have been the subject of an action to facilitate illegal immigration, who co-operate with the competent authorities,
- Political agreement reached on the Council Directive on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service,
- Adoption of both the Council Directive on the obligations of carriers to communicate passenger data and the Council Decision on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are the subject of individual removal orders and
- Political agreement reached on the Council Regulation on the establishment of a European Border Management Agency.

Civil Law

- Adoption of the Regulation on a European Enforcement Order for Uncontested Claims, and the adoption of the Council Directive relating to compensation to crime victims.

Criminal Law

- General agreement was reached on the Framework Decision on the mutual recognition of Confiscation Orders which was a key outstanding element of the Tampere criminal law programme.

Police and Customs Co-operation

- Agreement was reached on Council Conclusions which endorsed a work programme to combat football-related violence and on a new strategy for Customs co-operation in the Third Pillar and a related work plan for the period 2004 to 2006.

Madrid Atrocity and Response

- Ireland's Presidency coincided with the tragic events in Madrid on March 11th. The terrorist attacks in Madrid demanded a response at the level of the Union. The Irish Presidency and the JHA Council took the lead in providing that response, The Declaration on Combating Terrorism, drafted by the Irish Presidency and adopted by the European Council in March, set out the response of the Union on a range of fronts, including the legislative and the operational.
- The Department developed, in conjunction with the Department of Foreign Affairs, a comprehensive Action Plan/Roadmap to combat terrorism which was subsequently adopted by the Council. Following Ireland's Presidency, the European Council is now to review progress in this area twice yearly, beginning this December.

Enlargement

- The Enlargement of the EU which took place on 1st May 2004 also impacted on the work of the JHA Council and a smooth transition from 15 to 25 Member States occurred under our Presidency.

Number of Council Meetings

- During the six month period the Minister chaired 6 meetings of the JHA Council. The Department had responsibility for chairing 25 + Council level groups which met more than 135 times over 165 working days. 14 senior level meetings and conferences were held in Ireland.