

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

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1. Introduction

The Inspector is delighted to present his fourth annual report for year ending April 2006.

The Inspector and his office staff prepared and finalised his annual report for the year 2004-2005 and submitted it to the Minister. As happened to the first annual report, it was published the day before the Oireachtas recessed for the Summer vacation (after it had been translated into Irish at considerable expense).

The highlights were my very critical report on St. Patrick's where, allegedly for economic reasons, all the workshops were closed. The place was a training ground for criminality. Young men aged seventeen to twenty-one were locked up in practical terms for 17 to 18 hours per day. Then they have access to dreary yards, inadequate schooling and no workshops at all. There used to be eighteen different workshops, 20 years earlier when the Inspector was on the Visiting Committee of that institution. Dr. Whitaker's report over 20 years ago said that St. Patrick's should be closed immediately and no more money wasted on it. The Minister's reaction was that everything was being transferred to Thornton Hall, which is the new panacea. Meanwhile, the Inspector is strongly of the opinion that the view of Dr. Whitaker and himself should be implemented. Unfortunately, Shanganagh, the only open prison for young offenders was closed and most of it sold. The present situation is a continuing disaster. This is not in

anyway critical of the staff who are doing the best they can. However, the prisoners do have human rights and do have addictions. Although that is not the view of some of our Ministers and other public figures.

Sincerely yours

Dermot Kinlen
Inspector of Prisons and
Places of Detention

2. Prisons/institutions inspected

Training Unit

The Inspectorate did a favourable report on the training unit, which I hope will not be transferred to Thornton Hall, even when and if that is constructed and running. Nearly half the people in the Training Unit go out every morning to schools, colleges, or a job, or some formal and beneficial arrangement. It would be totally impractical to put these people miles from where they work. It has an excellent range of workshops and educational facilities and is a drug-free prison. Prisoners who successfully complete a drug-treatment programme in other prisons are transferred there, as well as non-drug-abusers. There is a strong emphasis on rehabilitation at this centre. The entire report on our inspection of the Training Unit can be seen on the Internet, which was published on the 11 October 2005.

Midlands Prison

In June the Inspector did a full inspection of the Midlands Prison. The report on this visitation was reasonably favourable, it was published in 2005 and is on the Internet. It is a new prison and there are many positive things about it. However, the Inspector is still very concerned about the lack of activity for a number of inmates.

A prisoner in the Midlands, under the guidance of his creative-writing teacher, wrote a play and played the lead role. It was a powerful but depressing play. All parts were played by prisoners, it was called *The*

Masterpiece. It was put on in Mountjoy prison as part of the fringe activities of the Dublin Theatre Festival. I brought Mr. Justice and Lady Butterfield of the English High Court to see the play. Mr. Justice Butterfield asked, “Will we get in to Mountjoy?” as he had heard the reputation of it being overcrowded. I promised him I would get him in. His next concern was whether I could get him out, I gave him reassurance. It was a marvellous evening. Lady Butterfield insisted on buying the painting produced by the chief actor (which was the ‘masterpiece’). Money which she is giving for it, will be used for a prisoner charity. Drama should be an important part of every prison, particularly the large ones. It gives actors some confidence and definitely helps rehabilitate them.

The Inspector then went to his sub office in Kerry to read and write for the Summer.

Shelton Abbey

In the Autumn the Inspector did an official visit to Shelton Abbey, which was suffering from deep depression because of the uncertainty of its future. It is now being revitalised. It is a place of great potential, but there is much to be done. The report on this visitation is completed and has been sent to the Minister and subsequently will appear on the Internet.

Cloverhill Prison

In November the Inspector and his team carried out a full inspection of Cloverhill Prison. The findings and full report will be with the Minister by end

of March. It is a remand prison whereby the prisoners are committed directly from the Courts and when sentenced are sent to other prisons. There are fifty sentenced prisoners there, mostly for work purposes, such as kitchens, cleaning, grounds work, etc. It is a very clean prison, but like some of the other prisons, it has very little work or other activities to engage them while out of their cells. There is absolutely no education there even though the classrooms have been provided, these classrooms have been taken-over by the prison transport corps. This is supposed to be a temporary arrangement and the transport corps are to move into other buildings when they become available. The present arrangement is just deplorable. Is there no other accommodation available other than to take over the education facilities of the prisoners? It is a very busy prison with a turnover of over 4,000 prisoners per year coming and going. The population is very transient and there are over 100 foreign nationals held there, some for extradition, others for deportation, while some are charged with criminal offence. The full report on the inspection of this prison will be on the Internet in due course.

Loughan House

A return visit to Loughan House was completed early in 2006 and a report on this visitation sent to the Minister in March. The visitation mainly checked on any new developments since the full inspection was carried out in 2003, and to check if any progress was made regarding the recommendations of that full inspection. There were fifteen recommendations arising from the full inspection of which, eight are fully

completed, one partly completed and six were not acted upon. The bedrooms, toilets and shower areas have been renovated and upgraded. The old prefab building at the entrance has been demolished and replaced with a new two story building, which accommodates new workshops, visitor's visiting room, and office accommodation. The upstairs section of this new building consists of offices and a boardroom. This building has been a great improvement on the old prefab, which was there previously. However, there are no counselling services, no psychology services, no psychiatry services, and no Probation and Welfare Officer for the centre's residents.

The number of prisoners detained there has increased but professional services have decreased, which is a worrying aspect of the centre. Again, this report will be on the Internet in due course.

3. Fire Hazards

The Inspector was the leading counsel for the Dublin Corporation in the traumatic Stardust Inquiry. Also his home was saved, from a very destructive fire, by the Donnybrook Fire Brigade. He was also in an hotel in Llandudlo, Wales, on the top floor when there was a mercifully false fire alarm. He is therefore particularly interested in fires and in their prevention. When he visited Edinburgh prison he was told that the Fire Authorities had taken over responsibility for the prisons in relation to fire prevention. This is not so in all the prisons in Scotland, but only in some. He therefore sought the assistance of the Dublin Fire Brigade. On two separate occasions

obviously qualified inspectors were sent to assist the Prisons Inspectorate. I was aware that both impressive gentlemen made reports, but was told, "They had gone upstairs.". I suspected that the Fire Brigade, who are apparently under-resourced, may not want extra responsibility. That is perfectly understandable. However, I have now (2006) received the reports of both of the inspections, one of which reads as follows:-

Mountjoy

"The following findings are a non-exhaustive list and were noted on a brief visual survey of the main prison at Mountjoy prison on the 29 January 2003.

Fire safety systems for prisons may be summarised under the following headings:

1. Ignition control
2. Fuel control
3. Occupant protection
4. Detection and suppression activities
5. Planning and training of operations.

1. Ignition Control

A number of portable heaters existed in such areas as the doctor's rooms and attached dressing rooms. These heaters may be unsuitable for use in such areas in term of fire safety.

2. Fuel Control

Certain areas of high risk may not be sufficiently separated from the rest of the circulation areas in the prison for example the kitchen and linen stores.

3. Occupant Protection

With regard to provision of reliable evacuation to a secure area it is noted that:-

The system of security/locking system throughout Mountjoy Prison is heavily dependent on lock and individual key. Individual key locks have proven in prisons to be most unreliable for the following reasons:

Locking systems must function reliably in emergencies

The time required to unlocking each door

The loss of keys during an emergency

Key breakage during an emergency

Heat and smoke prohibiting entry into a cell-block
Confusion due to the number of keys required.

With regard to evacuation to a secure area it is noted that use of both horizontal and vertical escape routes may not be ideal to aid escape. This is due in many cases to the fact that the prison was designed and built in a time when fire safety would not have been considered.

In a number of areas throughout the prison escape routes in many cases may be through areas where there is little or no protection from the effects of a fire that may have developed in the prison.

4. Detection and suppression

Fire detection/alarm and suppression systems should include the following:

- Provision of early warning detection
- Provision of reliable alarm system
- Provision of reliable suppression
- Provision of manual suppression

Detection and suppression activities are summarised as:

Detecting a fire presence, sounding an alarm to alert occupants, and inhibiting fire growth by active fire suppression.

To achieve this, an early warning fire detection system, a reliable alarm system, and a reliable fire suppression system is required.

Fire detection system findings:

It was noted that detectors were not zoned in a number of areas and control-indicating panels may require relocation in a number of situations. Individual cells do not have any form of detection within them.

Although a detection system has been fitted within Mountjoy Prison it may require further upgrading.

Suppression system:

Because of the nature of the building the first aid fire fighting apparatus should be available to all areas of the prison. Certain facilities exist on each floor of each wing however because of the layout of the prison further first-aid facilities may be required throughout the facility.

5.0 Planning and training operations

Inmate education plan

Fire evacuation training given to prison staff and prisoners should be updated regularly and each new prisoner should be given training in this area shortly after entering the prison.

6.0 Recommendation

There were a number of deficiencies noted in terms of fire safety within the prison. Based on the summary inspection it is recommended that a Fire Safety Consultant be employed and that an in-depth survey be undertaken.”

I am grateful to the Fire Brigade for this most useful report which I have set out above in full. However this is something that should apply to all prisons and not merely to Mountjoy. It will be remembered in another prison when a Prison Officer had a heart attack it was not possible to bring a stretcher to the top floor to assist in his evacuation. Also, under the Fire Regulations, there should be an alternative method of escaping. If there is only one stairwell it means that people in the upper floors may have their only exit blocked by smoke, flames, or both. It is a matter of great urgency, the Inspector recommends a fire consultant report on all prisons. The Inspector has since received the report by an engineer in the Dublin Fire Department on Wheatfield Prison which will be incorporated into the Revisit to Wheatfield Report which will be submitted to the Minister in a few months time.

4. Revisits/unannounced visits to prisons

The Inspector in February 2006 received from the Secretary of the POA a set of two photographs showing a large number of men in the holding cells in Mountjoy Prison. These cells were never designed for either sleeping or eating. They were accompanied by a note including a report from the POA about alleged breaches of human rights. The Inspector was very concerned as three years earlier he had a similar complaint about the same area. As a

result of his report three years ago, which was not disputed by anyone, the ground floor in A wing had been reopened. The whole of A wing had been closed by Ministerial order, so the Governor had to put people, who arrived late in the evening on a warrant addressed to him, into these rooms.

The Inspector was at a conference entitled "The Common Good in an Unequal World", held in the Hogan mezzanine in Croke Park, Dublin on 2nd March in 2006. The conference was addressed by An Taoiseach, Bertie Ahern, TD, and was opened inter alia by the author of the compendium of the social doctrine of the Catholic Church, namely Cardinal Renato Martino. Other interesting speakers included Lord Chris Patton, Archbishop Diármuid Martin, Archbishop Séan Brady, Dr. John Bowman, Syliva Thompson, Prof. Ray Kinsella, Nuala O'Loan, David Begg, Deirdre Carroll, Prof. William Binchy, and Sister Joan Reddy, and the organiser Bishop Raymond Field, a former Prison Chaplain. Archbishop Martin had talked about the similarity of problems between Northern Ireland and the Republic. The Inspector used that mention to point out that there is a huge difference between human rights in Northern Ireland and the position in the Republic of Ireland. In that in the Republic we were denying people basic human rights and we were also in breach of the Belfast Agreement. He gave a short interview to a representative of "The Voice", and a well known Irish Times journalist. He also provided copies of photographs of the holding cells to the journalist and to Archbishop Martin of Dublin, who stated he would bring them to the attention of the Minister.

The next day the Inspector got anecdotal evidence about conditions in the basement of Mountjoy, so he went on an unannounced visit to Mountjoy where he was very graciously received by a Deputy Governor and a Chief Officer, who brought him down to see the two basement cells. In one there was a prisoner who had just come from the Mater Hospital having being severely slashed across the face by fellow prisoners. The Inspector inquired as to whether the Gardaí had been notified about it, he was informed that they had but that the prisoner did not wish to co-operate with the Gardaí and would not make any statement. It was apparently some group from Limerick who were involved in this vicious attack. In the other cell was a prisoner who wanted to see the Governor to try to get transferred to Wheatfield. However, there was 'a misunderstanding' as a result of which he was restrained and put into this cell. The Governor accompanying the Inspector said he would deal with the matter that afternoon. The Inspector expressed the hope that this matter could be adjusted and he is confident that it was. The Inspector's advent was only notified about ten minutes before he arrived. The cells were in acceptable condition. There were ten mattresses heaped one on top of the other. While they were not the spring mattresses that a former Minister of Justice claimed every prisoner got. They were the usual mattresses that were covered in a fire resistant cover and looked acceptable if jaded. The Inspector also looked at the duvet covers, which were in two large bins, but although he had been informed by more than one source that they were unacceptable he did not find anything objectionable with the ones shown to him. He then went to the reception area where on his previous visitation at night prisoners were sleeping in a

most unsuitable place. The Governor showed the bag that is given to each new prisoner, which includes his duvet cover. On return to the first floor he visited what was the old tuck shop. There were several more mattresses stacked there as spare mattresses. He discovered that the second and third floor of the 'A' wing were still closed and was informed that they had deteriorated very badly. He was also shown the new cooling off cells, which were not quite finished. He asked where the bell was to attract attention, but it is not yet marked but is part of the wall, which will be covered in a red circle. A prisoner will press there and a light will show over the door. Then there are holding cells with steel toilet and steel wash-hand basin and rubber type cladding on the walls. He also inspected the records which showed that there were at least on occasions thirty people in these baserooms, the average seems to be considerably less, but they were still definitely in use. On some nights there was only one or two involved. The Governor who accompanied the Inspector promised to let us have the average over the previous six months of people in the base-cells, which should never be used for eating or indeed for sleeping. The official capacity of the prison is 464, but on this date there were 501. The accompanying Governor sent a breakdown of the numbers held in the base for the last six months. The average for the period was just 2.5 persons. However, these cells were never designed nor suitable for such occupation.

Unannounced visit to St. Patrick's Institution

The Inspector has been very concerned about St. Patrick's Institution. Indeed from the time when he was first appointed to the Visiting Committee as representing PACE, of which he was a very early member. Over 12

million Euro had been spent on building a new unit to contain even younger people. It has never been used for that purpose and now will be demolished, or at least sold for some secular purpose. The Inspector was assured that there would be two workshops opened by last January. On the 15 March 2006 the Inspector visited St. Patrick's and he was informed that the total number of inmates was 198. 31 of whom were in school. There was no real incentive to encourage people to go to school. Most of them came from backgrounds where school did not impinge. There were no workshops 'up-and-running', however they hoped to have workshops fully equipped and running by the end of April of this year. They hoped to have metal, woodwork, arts and crafts, industrial cleaning and laundering (which presently exists but brought to the standard where graduates get a certificate). As the Inspector has pointed out, as many, many people previously have pointed out, rehabilitation should be the cornerstone on our official full inspection. It was clear that the Minister was merely using St. Patrick's (which had originally been a school in Clonmel) as a warehouse for young people who learnt the finer points of criminality in St. Patrick's which almost certainly guaranteed their progression into the 'university' of Mountjoy. It was a shameful exercise. It certainly was not treating the younger generation with equality. One could certainly understand if hope was destroyed on entering its portals. An Assistant Governor and a Chief Officer were very open and helpful at this visit. The Inspector visited the shells of the workshops that were being developed.

The contractor has not completed his work, but the work done is impressive. Firstly, there is now a lot of natural light in what the Inspector remembers as the female wing of Mountjoy Prison. The gloomy room in which ex-President Mrs. Robinson attended Little Christmas Day Mass celebrations is now full of large windows and natural light. Now there are showers so that people in the gym and others can shower after exercise or work. Also there are now doors which can be opened out whenever the weather is appropriate to allow sunshine and fresh air. There is certainly great effort being made at the moment, even though extremely tardily.

It is appalling that in this day and age the only place for juvenile offenders in the entire country is now confined to St. Patrick's Institution, which Dr. Whitaker pointed out is totally unsuitable for its present purpose. It now means that young persons from Buncrana, Castletownbear, Ballyferriter, etc. seldom if ever had visits from their families because the distance and the cost is too great and this adds to the sense of despair.

The day before the Inspector arrived there had been trouble. Three offenders noticed that drugs and mobile phones were caught in the netting over the yard. The three of them went onto the netting to retrieve and use the drugs. However, they were talked down and in fact none of them appear to have any recollection of the incident the following day. He visited the gym where there is now arrangement for showers. The Inspector was the first person to use the recently provided toilet off the gym.

The closure of Shanganagh which was an open centre to which inmates of St. Patrick's could aspire was an appalling response to rehabilitation. The closure of Fort Mitchell, (Spike Island) until and if a bridge is built means that young prisoners from Munster were denied the educational and rehabilitating facilities that that institution (sorry, prison) could offer to the young people of Munster.

The Inspector was very grateful for the conducted tour of the slowly progressing provision of some sort of workshops. The Minister, who had other 'priorities', should certainly put rehabilitation at the top of his list. If he does not do it, one hopes that his successor will do so. Otherwise the Minister should consider doubling the size of his proposed panacea at Thornton Hall. The Inspector would warn that big does not necessarily mean better. The Inspector promised to return (D.V.) at the end of April. It will be appreciated that there are 198 persons in St. Patrick's and only 31 go to school. No wonder the 'Dubs' and 'Culchies' attack each other, there is not much else to do in this home of boredom. These young energetic men or boys could be used as an out-source to do some of the building work, however the trade unions could object and certainly the civil servants will object. It will be remembered that in Spain many young prisoners were employed full-time in productive work and their outside employers paid them the full industrial wage and their Social Welfare Stamps. However, the visionary approach (now sadly lacking) in dealing with criminology, the hope of the Inspector, will return to revitalise the humane treatment of our young citizens. Hope must be the driving force in an Institution like St. Patrick's, although it would have to withstand the intransigence and infecting mindset

of the current Minister and some few of his Officials. The tragedy is that the current Minister has the capacity and the ability to introduce and sustain a visionary approach to criminology, One can but hope!

5. Meetings and functions attended.

The Inspector attended the conferring of an Honorary Doctorate on Gordon Holmes, Chairman of the Parole Board and Chairman of the Garda Complaints Board, in Limerick University. The Inspector availed of the opportunity to find out whether the 'Connect' project was in fact working in Limerick prison, as the Minister stated it was. There are three staff assigned to run it when 'the room is built'. In other words part of it is there, but it is not in fact active.

The Inspector stayed for a weekend at Farmleigh to meet other member of Middle Temple and judges and practitioners at the English, Scots, Welsh, Northern Ireland and Irish Bar. He was one of the founders of this organisation. It was attended by many distinguished speakers including the Minister for Justice, Equality and Law Reform. It was a very interesting and useful meeting.

The Inspector attended an interesting, but poorly attended IASD conference in the Law Library on sex offenders. He was a guest of the Prison Officers Association's annual conference held in Castlebar, Co. Mayo.

The Inspector attended a very well attended restorative justice Mass at the Church of St. Francis Xaviour, Gardiner Street, Dublin. This Mass was attended by many ex-prisoners and their families and there was a most interesting homily given by the presiding concelebrating Prison Chaplain.

The Inspector attended in Kilkenny, an IASD conference and procured the excellent speeches on "Imprisonment and Penal Policy in Ireland", by Ian O'Donnell, Deputy Director of Criminology, Faculty of Law, University College Dublin. This was an article which was published in the *Howard Journal*, Vol. 43, no. 3, in July 2004 while he also spoke at the conference on "Putting prison in its place" and "The principal deficit in non-custodial sections", papers by Prof. Dermot Walsh of the School of Law at the University of Limerick. These are all extremely useful papers, which should be read by all persons interested in penal reform, but particularly the Minister and his Department.

Various persons doing theses and other persons interested in our prison system called during the year to see the Inspector and to discuss their concerns. Everyone is very welcome. He had lunch at the office with the president of the Human Rights Commission, Dr. Maurice Manning. He also had lunch with the new Assistant Secretary in charge of the Prison Policy Section Mr. Jimmy Martin, the new Principal Officer in that section Ms Burke and the ever helpful Mr. Flynn.

Mr. Rick Lines, of the Irish Penal Reform Trust, Professor Ivana Bacik, of Trinity College lunched with the Inspector. Mr. Lines was concerned that I suggested the idea of private prisons. There was an implied suggestion that the Minister and the Inspector were of like mind. We conferred, combined and conspired to produce that line. This suggestion is totally without foundation. The Inspector learned about private prisons when he attended a seminar at Nottingham university as Chairman of the Visiting Committee of Mountjoy over twenty years ago. Judge Tumin the then Inspector in England and Wales, spoke at length to the current Irish Inspector about the importance of competition. This has been borne out by the English experience. The Inspector visited a private run prison by 'Premier' in England, he quoted from Lord Chief Justices Wolf and Mr Niary the then Head of Prison Service and from the Inspector's own experience of Lowdham in the Grange Prison in Nottinghamshire. He also met two senior officials in the Home Office in London. They confirmed that the best prison in England was privately run. Also, now that they had competitors, the Prison Service was becoming more cost conscious and more efficient. In fact the Prison Service had won back a prison in the tendering process against a private prison company. There are four, at least, private companies running prisons in England. The mere fact that shareholders get dividends for their investment does not in anyway denigrate from the quality of the service rendered. The contract is not made with the Prison Service but with the Home Office. All of these prisons whether public or private is subject to rigorous examination by the English Inspector of Prisons, who has over a hundred inspectors working full-time. She and her office have

been extremely helpful to me. I explained to Professor Bacik that there was absolutely no collusion between the Minister and myself and in fact he seemed to be opposed to the idea of a private prison or competition.

6. The case of the two carbuncles.

The present ever active and performing Minister has certainly produced a large quantity of legislation and is threatening more. His predecessor successfully eradicated the limited powers and rules of the Visiting Committee under the 1925 Act and 1925 Rules. The current Minister then took on the first great carbuncle, the Prison Officers' Association. There were more officers than there were prisoners. The amount spent on overtime was frightening. The cost of keeping a prisoner varies from one institution to another but is phenomenal. It goes from roughly €67,000 to over a quarter of a million per prisoner! (2003 figures) That is a lot of taxpayers money. Particularly since the tendency nowadays is to build bigger prisons and incarcerate more people in prison.

I have pointed out that we are apparently following the tradition of America and England which sees the continuous rise, with no end in sight, of the prison population as distinct from the Nordic experience where the number of prisoners is declining (although, sadly crime rate is not significantly declining.). But there is an alternative. The bulk of prisoners are dealt with alternatively, more effectively and at greatly reduced cost. Prisons on the

whole do not work. Longer sentences without any real rehabilitation do nothing to reduce recidivism.

The Minister in his folksy style does not want the Probation Service, to be, as it should be, an independent opposition to the prison system. In the opinion of the Inspector it should be a totally independent structure offering real alternatives to prison. Almost certainly it will be considerably less costly and should be at least as effective as the prison system. Judges think that they have only two options. District justice Michael O'Reilly started a very successful system in entering into a contract with suitable first-time offenders in Nenagh. This experiment is gradually expanding to other areas. It seems to be very successful. The British Home Secretary has now stated that he wants to reduce the number of prisoners in custody. It normally appears to be approximately 20 years at least before we follow the British example. We will have it eventually, but in a slightly different version to show original thought by a parliamentary draughtsman!!

7. Staffing levels within the Public Service (the second carbuncle).

The Government put a cap on the increase of Civil Servants in the year 2002. This has been clearly breached by the Justice Minister and his Department. In England they have put a new layer of bureaucracy over the prison system, I denounced it in one of my annual reports. The Prison Board which advises the Minister and contains several senior public servants took issue with the report on that point and obviously are in favour of another layer of bureaucracy. The Minister has his own special advisors.

He has an Assistant Secretary in charge of the Prison Section (policies, etc.) in the Department. He has the Advisory Group of excellent people giving him advice. He then has the Prison Board he has also the Director General of the Prison Service, who has at least seven directors under him, most of whom have two sub-directors, most of whom have two managers then two sub-managers and so on right down the line. There used to be 120 Civil Servants involved, but I gather this number has now increased substantially since the 'capping' by the Government. I am not in a position to ascertain however whether this is economic sense or justified, I am merely suggesting that an external expert should look at it and see is it necessary? Or is it merely pyramid building? Is the taxpayer getting adequate return for the money provided? Or is merely an expensive example of Parkinson's Law. Is it accountable and if so, to whom?

8. Commissions

A commission was set up by the Prisoners' Rights Organisation and the Jesuits, at Milltown Park in Dublin, in 1982. It was chaired by Sean MacBride who was the Nobel and Lenin peace prize winner. He was also deeply involved in Amnesty International and the International Commission of Jurists. The commission included distinguished Jesuits and professor Mary McAleese (now President of Ireland). The then Minister and his Department refused (as did the Garda Commissioner) to co-operate with the commission or offer any assistance. They also refused to accept the report. They obviously treated the people involved as subversive. However, the report got national coverage from the media. The present Minister seems to

have a similar biased view of the media. The Inspector has issued only one press release in the last four years. It is appendix 2 of this report.

The Minister and his Department in 1984 set up their own committee of inquiry into the penal system under one of Ireland's greatest public servants, namely Dr. Ken Whitaker, assisted *interralia* by the Honourable Mr. Justice Seamus Henchy of the Supreme Court and the great expert on alcoholism, Dr. John Cooney, (author of the seminal book *Under the Weather*). The Minister accepted the report. Indeed the Department and some Ministers quote it. However, Dr. Whitaker and Mr. Justice Henchy both told the Inspector that the report was coldly received and that they were never thanked. It was very critical. The Inspector has cited it in his report on St. Patrick's Institution which they regarded as totally unsuitable for its purposes and that no further money should be spent on it. The Inspector has adopted the views of Dr. Whitaker.

9. The media and the Inspector.

The senior civil servants when discussing the terms of the Inspector's office, they were anxious that he would not become the darling of the media such as judge Tumin or as Sir David Ramsbotham had done in England. The Inspector had accepted that there were already two spokespersons and he would not wish to interfere with their Tam ratings. However, his real reason was to preserve the total independence of the office. It was not to become a political football. It was agreed that he would inspect all matters relating to prisons and prisoners which he thought 'appropriate'. However, he was

specifically forbidden to take up individual cases of prisoners. The fact that the Department has appealed a High Court decision taken by the IPRT re mentally ill prisoners confirms the pathetic mindset of the Department. It would confirm what Sir David Ramsbotham asks for in the title of his seminal book: "Prisons gate and the need for a visionary approach to prisons". This is a book which everyone interested in prisons should read. It is a damning indictment of several Home Secretaries and senior officials at the Home Office in England.

I know the current Minister well having sat beside him for many years. He is a hyperactive Minister. I have been delighted with most of the media coverage of my reports, which I have written in what I hope is a readable form and not a civil service style which is frequently a 'turn off'.

However, the Inspector is very concerned about the matters which suggest that the Minister is subsumed into the traditional mindset of his predecessors and department. It is 'us' against 'them', 'Transparency and accountability' are practically dirty words.

It was originally mooted that the Inspector's annual report would be submitted to the 'Minister/Oireachtas' and published only with deletions for reasons of security. The current Minister was afraid that if he published my second annual report the civil servants might sue him as the publisher. I stated that I would certainly defend any action and plead privilege and justification. I asked him to bowdlerise my draft but I did not see anything

defamatory in my report. He wanted 'to protect the tax payer'. I suggested that someone should go through my draft and suggest deletions. He asked the Attorney General to nominate a senior counsel to do the needful. The previous year the Minister had asked the Inspector to delete a certain person's name because he had suffered a bereavement. The Inspector gladly did so. He expected similar treatment for the second annual report. He expected to get a copy of the case to counsel and the opinion of counsel. He expected to be asked to approve the sanitised version of his report. Because he has to work with the system he wants to be on good terms as far as practicable with the Minister and his Department. He would have considered proposed deletions and possibly decided to amend the report if appropriate. However, the Minister did not even ask the Inspector, as he did the previous year. He published his amended draft with an admission that it had been edited. It was sent to the Inspector with a statement that it would be published in a week. A civil servant is the Minister's servant so the Minister is judge in his own case. The deletions were not for 'security reasons'.

The well known mantra of the late lamented Maureen Potter:- "I am a civil servant. I am permanent, I am pensionable and I am unsackable." should have added, "and cannot be criticised."

10. Establishment of an independent Inspector of Prisons.

The Government has told the CPT in Strasbourg three times and in its Programme for Government it repeated, that it would make statutory

provision for an independent prisons Inspector. I was told that I would be made statutory and that I would contribute to the draft Bill. I have asked in all my three annual reports published that the Government do as it promised. Now it emerges that the Minister has 'other priorities'. This is outrageous and practically unbelievable.

In my reports I have submitted several drafts of Bills. Some Bills need only be about two to three sections, which could be added to one of the Minister's many Bills. The Opposition in western Australia pushed through a strong Act giving their Inspector great independence. In fact it makes it a criminal offence to obstruct the independent Inspector. West Australia, England, Scotland and Northern Ireland all have statutory Inspectors. In Spain there are full-time judges independently and continuously visiting prisons as well as a strong inspectorate. A famous Minister for Justice, with much the same background as the current Minister, said, "prisoners have no rights." That ethos seems to be omni present.

The Minister has purported to alter unilaterally my contract by prison rules. I have made it clear that it is totally inappropriate to deal with the Inspector's office by prison rules. The Inspector had reasonable expectation, (as had Strasbourg (CPT) and the people of Ireland had from the Programme for Government) that the Inspector would be independent and statutory. At the moment the Inspector is neither. He has made it clear that he does not accept the so called rules. They are not binding on the Inspector. He is not a party to them. He will not comply with them. He is determined to be

totally independent. (Since writing this paragraph I have been informed by a senior Civil Servant that the section dealing with prisons inspectorate has been removed from the proposed new Prison Rules.) However the purported rules are still on the departments internet.

In the *Irish Times* 14th January, 2006 there is a long article by Conor Lally about the new Garda Ombudsman Commission which should begin operating next year. Three persons were appointed and the three people will be formalised to their positions by the Oireachtas before formal approval by the President. "The commission's independent status meant it would decide on all aspects of its own work. It would decide on staffing levels, how it was to investigate complaints and it would be responsible for the hiring of staff and selecting of permanent office. Mr. Joe Costello, TD, Labour spokesman on Justice said, 'It was incredible that nearly a full year had been set aside preparing the ombudsman commission.' Fine Gael's justice spokesman Mr. Jim O'Keeffe, TD, said, 'he was surprised and disappointed by the delay. It requires a full explanation from the Minister for Justice.' The ombudsman commission will have the power to conduct its own investigations. On the 24th April 2006 the 4th anniversary of his appointment the Minister had the gal to write confirming it was part of his legislative plans to make the Inspectorate statutory but even now no date is given.

The promised Inspector of prisons has been there since it was first mooted by Dr. Whitaker over twenty years ago. It is quite clear that the Minister, the

Government and the Department had no intention of establishing a statutory inspectorate. If public opinion forced them so to do, then they would do their best to ensure that the Inspector does not have the powers to fulfil the requirements of the office. Not merely are they denying human rights to prisoners and prison staff, they are also breaking their own law. Human Rights Commission has expressed concern as has the Commissioner of Freedom for Information about the way their respective briefs are being handled. In Northern Ireland there is an ombudsman dealing with prisoners complaints. There is none in the Republic. There is also an Inspector who has a huge remit with ten inspectors, which includes the three prisons in Northern Ireland and gets assistance from the English Inspector and her team when they do a prison inspection. There are supposed to be similar sanctions in Northern Ireland and in the Republic. The North of Ireland has an ombudsman for prisoners and has totally independent inspectors covering a great deal of territory, not just prisons. However, in the Republic neither of these offices do exist nor is there a will for them to exist. It seems at first look that there may well be a case of denying human rights and also there may be a breach of the Belfast Agreement.

Why are things so good in Northern Ireland and why is everything so retrograde in the Republic? Surely, we should have inspectors who are more independent investigating everything like my counterpart in Belfast. Surely, the Belfast Agreement should be honoured by the Irish Government. It is with great sadness I am writing this report. I think it is fair to ask, what are the Minister and his Department hiding? Of what are they afraid?

Actually, I believe they have nothing to fear if they were only transparent, efficient and open. I urge the Minister, (1) to implement the promises made and establish the inspectorate as totally independent or else abolish it since it is only a facade; (2) the Government must decide whether to follow the English and American tradition of building more and more prisons, or follow the Nordic countries who have alternatives to prison run in competition with prisons. (3) The probation service should be totally independent of the prison service and in competition with it; (4) get a business consultant to report on the continuous growth of the Prison Service structures and the Justice's Department staff. Is the taxpayer getting value for money? What about the Government's policy of controlling bureaucracy. It was law since 2002 that Civil Service staffing levels be capped but it is now a rather sick and expensive joke? (5) provide rehabilitation for prisoners and close down St. Patrick's immediately as recommended over twenty years ago in the Whitaker Report. Set up an ombudsman for prisoners and an independent prisons inspectorate using statutes applicable to Northern Ireland at least. The present attitude is frightening and fascist.

11. Parole Board/Rehabilitation/Prisoners' Ombudsman

On the visitation to various prisons the Parole Board is mentioned. The Inspector cannot take up the cudgels on behalf of individual prisoners. In fact as pointed out elsewhere in this report, prisoners have no adequate complaints procedure. This is a serious indictment of the Minister and his Department. It is possibly against the Human Rights Act. It is certainly against the spirit of the Belfast Agreement.

Although it is disputed by the Parole Board, the Inspector is quite satisfied insofar as the Parole Board relates to prisons and prisoners, it is within his remit. He can investigate anything which he regards as 'appropriate'. The Parole Board plays a very important part in prisoners lives. The latest annual report of the Parole Board highlights rightly this disagreement.

The prisoners spoke about the Board in the Training Unit and complained about it. I am merely recording or mirroring the views of prisoners as regards the prison and all matters pertaining thereto. I am not making a value judgement. Mr Gordon Holmes (Chairman of the Parole Board and also Chairman of the Garda Complaints Board) has written to the Inspector a very strong letter. In other prisons there have been complaints about the long delay in getting a decision from the Parole Board. This problem is actually addressed in the Annual Report of the Parole Board. Prisoners in this jurisdiction are precluded from a proper or adequate complaints system. However, the frustration is on occasions due to the irrational fury of prisoners and is part of the ethos of prison. It will be an interesting question for the Courts to decide whether prisoners are being denied their human rights.

I am genuinely sorry to have upset Mr Holmes and his Board whom I greatly respect. I know Mr. Holmes is a very honourable man and have strongly defended him and his board. They have frequently told sex offenders to engage with the present inadequate courses provided. I have suggested in previous reports that there should be some incentive to encourage prisoners

to undertake these courses. I am glad to note in the public press that the Minister and Mr. Holmes have now publicly stated that they will do exactly what I suggested. Unfortunately, there will be still prisoners who will be entirely in denial and are unsuitable for the course offered. The course is only available in Arbour Hill, but not in any other prison which houses sex offenders. One psychologist in Arbourhill has now left the prison.

The Parole Board should be made statutory with executive powers. There should be an appeal from their decisions to the High Court. It should not be (as it presently is the case) a political decision. It is not fair particularly for long-sentence prisoners. It should be a judicial not a political decision. Prisoners should know if 'Life' presently means what the Minister says it means. If they co-operate with prison authorities what is meant by a life-sentence? Political decisions are frequently media driven. In England, Judges can order that a prisoner should serve a minimum period such as twenty-five or thirty years or other period before being considered for parole. This is not the situation here. The Parole Board can make recommendations in very restricted cases, but it is ultimately a political not a judicial decision.

The Parole Board is also a concern of the Irish Catholic Prison Chaplains as outlined in their latest annual report, which should be read by all members of the Oireachtas and indeed of all concerned people. To ignore the present lamentable state of the Irish prisons is an inexcusable indictment not merely

of the Minister and the department, but it should be the concern of all citizens even if only for selfish reasons.

“The better the actual state of our prisons is known and understood the more clearly will all men see the necessity of these arrangements by which they can be rendered schools of industry and virtue instead of the very nurseries of crime.”

The above is a quotation from *Notes of a visit to some prisons* by Elizabeth Fry the great Quaker reformer and her fellow Quaker John Gurney. That was published in 1819. It is equally apposite nearly two hundred years later. It is in the interests of all society that her remarks, very belatedly, be implemented.

Mr. Martin Narey, Director General of HM Prisons Service, February 2001 [then promoted to being Head of the Correctional Board which is a further layer of bureaucracy over HM Prisons Service in England and Wales and now head of the Dr. Barnardo Charity] stated: “We need a prisons system which has a chance of reforming its inmates and reducing the crime rate.”

This is a noble aspiration. It is certainly not on the priority list of the current Minister and his Department. The reader should refer to the Reports of the Inspector particularly on St. Patrick’s and Cork prison. These were certainly extreme cases. However, most prisons are failing to fulfil the aim of the Prison Service which states: “To keep prisoners securely; to treat them humanely; while helping them lead useful and law abiding lives in prison and on release.” Rehabilitation is low on the list of priorities. The whole

system needs a radical, visionary fundamental change which should be power driven from the top. [emphasis added]

The Minister now appears to be breaking the Belfast Agreement. Prisoners now in the North have a proper statutory Inspector (see last year's annual report) and a prisoners' ombudsman. We have neither here. Is that equality? Of what is the Minister and his department afraid? What are they hiding? I keep asking.

I imagine that in fact, if they were open and transparent that they are hiding nothing and have nothing of which to be afraid. The Minister is a fine, fairly open minded productive Minister but is avoiding this problem like his officials. He should grasp the nettle and not wait for decision of the Court of Human Rights or the Irish Courts. What about 'equality' with Northern Ireland? What about the Proclamation of 1916. Are some people more equal than others?

12. Drug Addiction

One of the great problems in prisons is the drug culture. This has many manifestations. Firstly, there are the couriers who bring the drugs into the country. Some of them are drug addicts themselves and earn comparatively small sums for acting as couriers, but sufficient to feed their own habit. Then there are the drug barons who are seldom incarcerated. Then there are the many middle men and women who are also incarcerated. Then

there are the unfortunate drug addicts, these, and other subcategories, require different treatment.

There should be no drugs in prisons. The elimination of drugs from the prisons is the objective, but extremely hard to achieve. It has been shown in other countries where undertakings such as strip searches, no contact on visits, prisoners placed in special suits, etc. were tried and despite such measures they still had some illegal drugs within the prison. The Minister wants “drug-free prisons” not “drug-free sections” of prisons. In the real world, one has to accept that addicts are extremely adroit in getting a supply of drugs. They are smuggled into prison in many and varied ways. They can be sent over the wall with a catapult, or they can be stitched into clothes, or fondling an infant and removing the drug from its nappy, or through the mouth while kissing. Once a drug gets into prison it causes chaos. Frequently it is taken in by a weak member of society. A weak person in the prison can be bullied and can be used as a conduit to get the drugs into the prison, from there it is handed over to one of the local bosses. Unfortunately, it would appear that some prison officers have themselves been used as conduits.

It is the drug culture outside the prison which should be attacked and if possible destroyed. It is for that reason that the Inspector strongly recommends that sniffer dogs be used to deal with all persons (not merely visitors) entering the prison. It will be necessary to have at least two separate sniffer dogs each with individual handlers. There are dangers here

also. Dogs are not infallible. However, if two separate dogs with separate handlers indicate that a certain person has been in contact or is in contact with drugs there is a very strong probability that he/she is carrying drugs.

We have to get rid of the 'haves' and the 'have nots'. We must be a real 'caring' society. Poverty, lack of education, inadequate parenting skills, with early exposure to drugs are chronic in our society. All causes of poverty should be history.

13. Prisoners with psychiatric problems.

The Inspector noted from the media that the Irish Penal Reform Trust had been given locus standi to represent mentally ill prisoners in legal proceedings against the State. The High Court held that the IPRT had expertise and the financial ability necessary to mount an effective challenge to alleged systematic failings in the Irish prisons system. In the course of his judgement the High Court judge said, "It was almost indisputable that prisoners with psychiatric problems who were amongst the most vulnerable and disadvantaged members in society. Many were ignorant of their rights and might fear retribution if they challenged the authorities. They might also be unaware that they had a constitutional right to receive a better standard of treatment.". The two prisoners involved in the application were people who suffered from psychiatric illness. Both had served sentences in Mountjoy men's prison. The IPRT had become increasingly concerned about the manner in which prisoners with mental problems are treated.

Unfortunately and incredibly, the Minister has appealed this decision to the Supreme Court.

The IPRT alleged that research showed that 78% of prisoners put into padded cells in solitary confinement had been found to be mentally ill. The Prison Reform Trust believe that prisoners who are not in a position to assert adequately or in time their constitutional rights, believe that the conditions in which such vulnerable prisoners were held was a matter of concern and importance to the wider community. The State had argued that the IPRT was not legally entitled to intervene in proceedings taken on behalf of the prisoners. The High Court Judge stated he did not accept the defence submission that the two prisoners were limited to their own very personal circumstance. They sought constitutional remedies in respect of systematic deficiencies in the manner in which prisoners with psychiatric difficulties were treated in prison.

The Inspector of prisons has consistently expressed his concern regarding the treatment of mentally ill or insane people and also people with personality disorders. They should all be placed in the charge of the Department of Health. There will of course be vehement resistance to such a proposition from various vested interests.

Amnesty International in their reports for the year 2005 under the heading "Places of Detention" states:- "Detention conditions did not comply with international standards: many prisons were overcrowded, lack adequate

sanitation facilities and had insufficient education and employment programmes. People facing deportation were detained in prisons rather than in special detention centres. Mentally ill prisoners continue to be held in padded cells in ordinary prisons rather than in specialised institutions.”

14. Prisoners’ right to vote/human rights

A British prisoner who was sentenced to life imprisonment for manslaughter brought the British government to the European Court of Human Rights in Strasbourg. That court held that the British government had violated a prisoner’s rights by refusing him the ability to vote in an election.

The landmark ruling in the case of John Hirst found that any departure from the principle of universal suffrage risked undermining the democratic validity of the elected legislature and its laws. This ruling was not binding on the forty-six countries who are signatories to the European Convention on Human Rights but would have paved the way for similar actions by Irish prisoners. Immediately the Department of Justice, and (inter alia) Equality said there was a clear distinction between the British decision and anyone here. However, the Department of the Environment has (according to the Irish newspapers of 4th February 2006) plans to give all prisoners, irrespective of their crime, the right to vote. It is stated that they should be able to take part in the next general election, if planned primary legislation passes the Oireachtas before then. Apparently, it is intended that all prisoners will be given a postal ballot. They will be registered to vote in the

constituency of their former residence, rather than the prison in which they are presently resident. Many prisoners are homeless. It will be interesting to see where they will cast their votes. No matter how it is arranged, fortunately many of the prisoners will be voting in the constituency which returns the Taoiseach or the Tánaiste.

The Hirst judgement by the European Court of Human Rights diverges from a previous ruling by the Supreme Court in the Republic, which found against a prisoner's right to vote in elections in July 2001. Certainly, the Herst case would provide hope that the Court of Human Rights would diverge from the Irish law and come more into line with countries like Sweden or Spain. Also, there is a clear denial of human rights regarding our own Human Rights Act.

Our Supreme Court has also ruled that prisoners do not have a human right to cohabit while they are prisoners. "Murray and Anor v Ireland 1991" - ILRM, page 465. Clearly we do not have any proper independent inspection mechanism for the protection of human rights of prisoners. They have a statutory Inspector of Prisons and a statutory Ombudsman in Northern Ireland. "Is it equality," I ask the Minister, "not to have either here. Is it not totally contrary to the Belfast Agreement?" Surely, human rights demanded by the CPT and provided in Northern Ireland should not be ignored in the Republic because it is not on the list of the Minister's "priorities". The Inspector is consciously repeating himself in the hope that constant

repetition may cause the rock solid opposition to change, may eventually be cracked.

The people in Northern Ireland have (a) a totally independent statutory inspectorate, (b) a totally independent statutory Prisoners' Ombudsman, (c) recourse to the CPT, (d) recourse to the UN protocol which the British have ratified (but the Irish have failed so to do), (e) a board of visitors who have great powers compared to the neutered powers of the Irish visiting committees. It seems to the Inspector that there is a certainly a stateable case against the Irish Government for breach of human rights not merely of the prisoners, but also of the prison officers who have to work in those conditions. However, they are also clearly in breach of the Belfast Agreement, which was to provide for the same civil rights on both sides of the border. The differences are set out in a schedule to this report entitled Prisoners Complaints. (Exhibits 1)

15. Roman Catholic Chaplain's Annual Report 2005

The Inspector adopts all the arguments put forward in the Chaplains' report and I would urge all persons interest in penal reform to read not merely this year's report but over the years. Admittedly, like the Inspector's own reports, they may tend to be repetitive. One might legitimately also attribute frustration to the authors. The introduction to the latest report reads as follows:- "Prison chaplains daily contact with offenders and their families give us a privileged insight to their difficulties and struggles. Year after year our reports have articulated many of these difficulties in the hope that they could be addressed in a way that would gradually bring about the serious

changes within the Irish prison system that are now long overdue. There are no indications that these vital changes will ever take place. We have consistently expressed our frustration at the crippling slow rate of progress that has led to the steady regression we have seen over the years. It is clear that the current system is dysfunctional and in need of radical change. Unfortunately, however, the only change in the air is further expansion of this already failing system.” [emphasis added]

“It seem strange to us that we would continue to spend vast sums of money on a system that is not working and that we demand no accountability of this vast prison expenditure. Is it that imprisonment is now a big business, a reliable employer, good for the building trade, food industry, etc. Huge sums of money continue to be spent on the Mountjoy complex in spite of the fact that it is to be demolished and replaced. Extensions approved and built in many prisons stand witness to a sustained investment in the bricks and mortar of a failing system. All of this continues while on a daily basis prisoners, many of whom are able bodied, intelligent and capable people, walk aimlessly around prison yards or lie in bed for over seventeen out of every twenty-four hours.”

The chaplains’ report goes on to outline the total boredom endured by prisoners due to lack of work or education. Homelessness, chronic drug addiction, psychiatric illnesses, recidivism especially among non-serious criminals and prisons become dumping ground (for those struggling to cope in society) are areas highlighted. They expressed their concerns around

sentence management and care around juvenile offenders who present a particular vulnerability. They recommend in the strongest possible terms that a serious look be taken at alternatives to imprisonment. Prisons should be the last resort not the first. Again the Inspector recommends that all persons interested in the welfare of our prisoners should read this report. All citizens should be interested for selfish, if for no other reasons, in urgent penal reform.

16. Recidivism

It is very difficult and, as the Ministers says, regrettable that figures are not available. If there were any underemployed person in the Prison Section of the Department (and there might be!) he or she should be able to work out the number of recidivists in the system. However, they may complain that they are not literate enough and are depending on computers. We know a fortune has been wasted on computers for the prison which are obsolete and have to be scrapped. However, each prisoner has a number and it is recorded. He/she carries that number through life. Surely, even a semiliterate would be able in a very short time to check in each prison how many prisoners had been imprisoned previously. The Minister has set up at the end of Autumn 2005, a committee on recidivism with the assistance of a university to provide a report to him by January 2007. The result will be available, he hopes in early January 2007. It may help in sentence management! In England they have a Minister for prisons. She is from a minority ethnic group and is a distinguished lawyer. She is the Baroness Scotland. She was interviewed by Rachel Billington, who is a trustee of the Longford Trust, which is active in the area of prison reform. The article

appeared firstly in the national newspaper for prisoners “Inside Times” and was summarised in “The Tablet” on 3rd December 2005.

In England they have a new five year Government strategy aimed at reducing rates of re-offending. Baroness Scotland last December launched three new alliances with the Corporate Civic Society and the Faith and Voluntary Sectors. The idea simply is that an ex-offender should be helped by those outside the prison walls because they make up the community in which he or she will live. When asked how she was going to make this excellent objective work in practice, she replied with an impassioned plea for a ‘holistic’ approach. She also wants to make changes in the education area. [This is a greatly neglected area of rehabilitation which is certainly not on the Minister’s list of priorities in Ireland.] Baroness Scotland says it is necessary to analyse the skills gap and match the skills/qualifications to jobs available outside prison. [It will be remembered that in my first annual report, I mentioned an excellent prison outside Toledo in Spain where many were employed and paid full industrial wages and Social Welfare paid by outside firms. It meant that some of them when they left prison would continue working for their old firm.] It also meant they could support their own families.

When asked about chances of reform to which she replied:- “The Government can’t do it on their own; the courts can’t; local authorities can’t; victims can’t; prisons can’t; probation can’t; police can’t; offenders can’t; voluntary groups can’t; employers can’t, but together we can.” With so

many good people throughout the Prison Service and indeed amongst the Judiciary and among ordinary citizens one must have hope that there can be a full holistic approach rather than the traditional pyramid building of power and control by a handful who are obsessed with 'mé féin'.

18. RECOMMENDATIONS

1. I have asked for the last four years to be established as a statutory and independent unit. This can be done by inserting two or three sections into any Bill. It does not have to wait until the Prisons Bill reaches the houses of the Oireachtas. However, it is now clear to the Inspector that the Minister does not regard this as an urgent matter. The Inspector may be an irritant, however he may be controlled by Statutory Instruments in the view of the current Minister. The present draft Prison Rules seriously erodes the independence of the Inspectorate and is totally unacceptable to the present Inspector.
2. That the Probation and Welfare Service be set up as an independent agency with provisions within the Bill that it provides the Irish Prison Service with the necessary staffing requirements of that service.
3. That the Irish Prison Service have established independently a fire-prevention engineer. He should prepare an assessment of the fire-prevention requirements in all prisons and places of detention. The

prisons should be expressly under the control of the local Fire Authority in relation to all fire and safety provisions.

4. That the Department of Health and Children take responsibility for prisoners with psychiatric illnesses, personality disorders and other disabilities to ensure that services and facilities to the public in psychiatric hospitals or units are also available to prisoners.
5. That adequate psychologists be provided immediately for all prisons and places of detention and not restricted as heretofore to "clinical" psychologists.

All the foregoing are mentioned in the first annual report of the Inspector for year 2002-2003. They have been repeated annually since, but are ignored by the current Minister and his Department.

For all the prisons and places of detention inspected by the Inspector and his team during the past year have produced reports including recommendations. The Inspector repeats all the recommendations made in the individual reports.

6. Close down St. Patrick's immediately. It was condemned twenty years ago by Dr. Whitaker. Money has been spent on it to provide for even younger people is a disaster. To keep young men of seventeen to twenty-one doing nothing. It is a recipe for disaster and is a

finishing school for bullying and developing criminal skills. Thirty years ago they trained young men in that institution to be motor mechanics and drivers of heavy vehicles. Sadly, that was thirty years ago. Immediately they should start again a mechanic shop to teach driving and car repairs.

7. Encourage drama and music in all prisons and places of detention, but particularly the larger ones.
8. Remove the Escort Corps from the school in Cloverhill immediately. Use the building for what it was intended to be, namely a school.
9. The potential of Shelton Abbey is vast and should be expanded.
10. Persons for deportation or extradition should not be held in Cloverhill or any other prison. They have not been sentenced, they do not deserve to be criminalised as all they wanted to do was share the 'Irish dream'. Is this a crime? Surely a premises near the airport could be used to contain them before their departure.

There have been a number of recommendations implemented in Loughan House but six remain to be addressed. The Inspector is very pleased with what has been achieved, many services are needed but are missing such as psychology, psychiatrist, counselling and Probation and Welfare staff.

The Inspector again repeats his concern about the lack of a qualified independent fire-consultant who could do an in-depth survey of all prisons and places of detention. Some prisons are like accidents waiting to happen.

11. Set up immediately the Connect Programme in Limerick, and roll it out in all prisons as originally intended. Is all the money given by Brussels available and if not, why not?
12. Allow one prison at least to be run by private enterprise in competition to the Prison Service but equally subject to inspection by the Prisons Inspectorate. Periodically there should be an assessment of all prisons who should compete on the grounds of efficiency and rehabilitation skills against each other.
13. Courses for sex-offenders should be expanded and be available wherever suitable sex-offenders are incarcerated.
14. Make the Parole Board statutory and give them real powers and allow appeals from their decisions to the High Court, whose decision should be final.
15. Sniffer dogs should be used initially in places like Mountjoy and if found viable the service should be expanded to all prisons and places of detention.

19. Acknowledgements

The Inspector is sincerely grateful for the volunteers who have assisted the Inspectorate by taking part in various visitations. They have all been extremely helpful and insightful. Words cannot adequately express the Inspector's appreciation and gratitude.

Prof. W. Binchy, Regus Professor of Law, TCD

Prof. Caroline Fennel, Dean of Law Faculty, UCC

Prof. Paul McCutcheon, Head of Law Department, UL

Mr. Paul Ward, Law Faculty, UCD

Mr. Mark Kelly, Human Right Consultant

Dr. Maurice Manning, President Human Rights Commission

Dr. Jim Ledwith, Consultant Psychiatrist

Dr. Owen Carey, GP

Dr. Paddy Malone, GP

Mr. Patick Keane, Senior Counsel.

The Inspector once again is deeply grateful for the loyal and hard working staff led by special adviser former Governor Jim Woods his personal assistant Mr. Martin McCarthy, Ms. Pauline Kearney who is the extremely

efficient and hard working secretary to the Inspector and the Inspectorate and Ms. Catherine McDonald who is assisting Ms. Kearney part time

APPENDIX 1

Prisoners' Complaints in two Jurisdictions

Republic of Ireland	Northern Ireland
1. Emasculated Visiting Committee	Board of Visitors with full powers
2. CPT (Council of Europe) The CPT are visiting Ireland this year (thank God).	CPT
3. A promise of Independent Inspector, (but not given priority as other more urgent matters).	Statutory Inspectorate
4. No Ombudsman	Statutory Ombudsman
5. UN Protocol for Inspection of Prisons Not ratified	Ratified

Prisoner in ROI are being apparently denied human rights.

Belfast Agreement that there will be equality in rights north and south of the border.

ROI denies Irish prisoners an adequate no. 1. above, also denies 3, 4, and 5.

Is this equality? Why is there this difference?

What are the Minister and the Department hiding? Of what are they afraid? Or is it just the traditional mindset?

APPENDIX 2

Press Release

In the mid 1830s there was an independent inspector of prisons and no one succeeded him.

The Whitacker report of 1985 recommends (on page 16.2:31) that “There should be an Inspector of Prisons with overall responsibility for monitoring their efficient, fair and orderly administration (including regimes and discipline).”

The Council of Europe set up the European Committee for the prevention of torture and inhumane or degrading treatment or punishment. (mercifully shortened to the CPT committee). They visited Ireland from 31/8 to 9/9/98 and arising from the visit they made the following points in their report of their findings at pages 38 and 39. “The CPT has also highlighted the value of regular visits to prison establishments by an independent body (for example a visiting committee or a judge with responsibility for carrying out such inspections) with authority to receive and if necessary take action on prisoner complaints and to visit the prisons.” The Irish Government’s response was that they proposed the creation of an independent prisons inspectorate which was published in Strasbourg and Dublin on the 17th December 1999. The CPT responded as follows “In this respect the CPT

would like to receive detailed information about the functions which it is intended to attribute to the prisons inspectorate and to the reformed visiting committees. It would also like to be informed of the time scale within which the Irish Authorities envisage that the prisons inspectorate will become operational.”

The Irish Government replied to the request raised by the CPT regarding prisons inspectorate and when it will be operational. The answer is as follows. “Proposals in relation to the details of the proposed inspectorate are being worked on at the moment. As a general approach the inspectorate will report to the Minister/Parliament on the administration of the prison system. In devising precise proposals regards will be had to the functions of prisons inspectorates in other jurisdictions. It is not possible to let the committee have more precise details at this stage but further details can be supplied at a later stage when definite proposals have emerged. Work has commenced on the preparation of a Prison Service Bill which it is intended, as well as placing the new service on a statutory basis will also create a statutory prisons inspectorate and a statutory parole board. It is hoped that the Prison Service Bill will be enacted during 2000.”

The powers of the Visiting Committee have been neutered by section 19 of the 1997 Act.

The current Inspector has asked in all of his annual reports to be made statutory. He was informed more than once by a gloomy civil servant that

there is “no political will” to make the office statutory. This is confirmed by the Minister for Justice, Equality and Law Reform’s answer given to Deputy Cuffe in his Dáil reply on the 17th May 2005 is as follows. “Apart from his concerns about prison conditions, the inspector has also referred to the need for new prisons legislation. The question of a comprehensive new Act covering matters relating to the prisons is included in my Department’s legislative work programme but it will be some time before comprehensive legislation can be completed and unfortunately, there are other issues of higher priority.”

It will be remembered that in Spain there are prison inspectors available 24 hours per day. There are also full-time judges visiting the 68 prisons in that country.

The document which purports to lay down the terms of reference and guidelines of the inspectorate prepared by the Justice Department contains the following paragraph. “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 and the legislation which will make statutory provision for the prisons inspectorate”

It is entirely inappropriate to include the inspector in the new draft Prison Rules. In view of the foregoing information it is also an effort to confine the inspectorate and its independence. The only rule which might be included

is that the Governor, Staff, Department (justice, Prison Section) and Irish Prison Service shall facilitate in every way the work of the Prison Inspectorate.