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## Mission Statement

To maintain and enhance community security and equality through the development of a range of policies and high quality services which underpin:

- the protection and assertion of human rights and fundamental freedoms consistent with the common good;
- the security of the State;
- an effective and balanced approach to tackling crime; and
- progress towards the elimination of discrimination and the promotion of equal opportunities and the accommodation of diversity.

## Values

We are guided by a set of core values in seeking to deliver on our mission. These values are founded on an analysis of the environment in which we operate, the expectations of Government and the community, and the resources at our disposal. These values are the guiding principles informing our work. We aim to:

- ensure access to justice;
- apply fair and equal standards of treatment to all groups in society;
- demonstrate accountability for our actions;
- show courtesy, integrity and openness in our dealings;
- provide excellent services to the public; and
- value the individual.



Michael McDowell, T.D.,  
Minister for Justice,  
Equality and Law Reform

### Foreword by Minister Michael McDowell, T.D.

I am pleased to present this report on the activities and achievements of my Department during 2004. The Annual Report sets out the progress achieved on the goals and objectives included in the Department's 2003-2005 Strategy Statement as well as other important developments in 2004.

A particular focus during the first half of the year was Ireland's Presidency of the European Union. The Department responded well to this additional challenge and contributed significantly to the success of the Presidency. Alongside this role, our on-going work programme continued apace during 2004 with good progress made across all facets of the Department's wide range of responsibilities. I was particularly pleased to get Government approval to increase the size of An Garda Síochána to 14,000 officers. Over 1,100 new officers will be recruited for each of the next three years and between attested and trainee officers we will reach our target strength of 14,000 officers by the end of 2006.

I was also pleased to obtain Government approval for the provision of an additional Assistant Commissioner post in An Garda Síochána to head the new Garda Traffic Corp. We will increase incrementally the size of



Brian Lenihan, T.D.  
Minister of State



Frank Fahey, T.D.  
Minister of State

the new Corp from its current strength of approximately 500 to 1,200 in 2008.

Important pieces of legislation successfully brought through the Houses of the Oireachtas during 2004 includes the Private Security Services Act 2004 which provides for the establishment of a Private Security Authority to control and supervise individuals and firms providing private security services and to investigate and adjudicate on any complaints against them. I was pleased to launch the Authority at its new headquarters in Tipperary Town in October.

The Civil Liability and Courts Act 2004 is a major plank in this Government's efforts to tackle insurance costs and insurance fraud and I believe that it will dramatically change the way in which personal injury actions are processed. In a very real way, the Act tackles the "compensation culture" which has developed in this country. The new Act provides for, among other things, the swearing of affidavits in personal injury claims. A person who makes a false or misleading statement in an affidavit, if found guilty on indictment, faces a penalty of up to 10 years imprisonment and/or a fine of up to €100,000.

This progress would not have been possible without the dedication and commitment of the staff of the Department, its agencies and associated bodies. On my own behalf and on behalf of my colleagues Ministers of State, Brian Lenihan, T.D. and Frank Fahey, T.D., I would like to thank everyone.

I would also like to thank Willie O'Dea, T.D. for all his hard work during his time as Minister of State in the Department of Justice, Equality and Law Reform and to congratulate and wish him well on his appointment as Minister for Defence.

Finally, I would also like to take this opportunity to recognise and pay tribute to the dedication, commitment and achievements of former Secretary General, Tim Dalton who retired in 2004 after over 40 years of service to the Department. I would particularly like to acknowledge his unique role in the Northern Ireland peace process and to wish his successor, Sean Aylward, every success as Secretary General of the Department.

Michael McDowell, T.D.,  
Minister for Justice, Equality and Law Reform

# part one

Introduction





Sean Aylward  
*Secretary General*

### Introduction by Secretary General

This year's Annual Report of the Department of Justice, Equality and Law Reform sets out the progress achieved in implementing our Strategy Statement 2003 - 2005 objectives in accordance with section 4 of the Public Service Management Act (PSMA), 1997. It also reports on other developments in our Department during 2004.

Each of the main areas of the Department's work is the subject of a separate chapter under its related High Level Goal heading. Each chapter begins with a report on progress on relevant Strategy Statement objectives and then covers other developments relating to the area during the year.

Significant progress was made on achieving our Strategy Statement objectives in 2004. These objectives cover a broad range of issues such as responding to crime, pursuing the programme of change for the Garda Síochána, developing immigration policy and building on the existing statutory foundation for equality, equal status and disability and providing funding and developing the supports to deliver on childcare commitments. Chapter 6, which deals with Criminal and Civil Law Reform matters, details, amongst other things, the legislation enacted and Bills published and progressed during 2004. The Department's ever-increasing responsibilities and workload in relation to EU and

international matters in 2004 and its significant role in Ireland's EU presidency is covered in chapter 8 under a number of headings.

Progress on the Department's modernisation agenda under "Sustaining Progress", the Social Partnership Agreement 2003 - 2005 is covered by chapter 14. This chapter sets out the progress achieved during 2004 in areas such as strategic planning and performance management, training and development, financial management, customer service, equality of opportunities and IT and e-Government. Our progress in this respect was independently monitored and verified by the Civil Service Performance Verification Group established under Sustaining Progress.

Finally, some details on the structure and staffing of the Department are set out by us and an organisation chart and overview of the functions of the various divisions of the Department are included as appendices at the end of this report. Without the professionalism, loyalty and commitment to their work of hundreds of civil servants at all levels, this vital government Department could not hope to provide the core service to our Government and people which they rightly expect of us. I want to acknowledge this human factor which underpins all the activities and outcomes chronicled in this report.

To sum up: We can report progress across most areas of our mandate in 2004. We are well placed to advance on the priorities set for us by Government through 2005 and 2006.

Sean Aylward  
Secretary General

30 November, 2005

## Department's Mandate

The Department's Mission Statement, Values and High Level Goals reflect a Department with a mandate which crosses many significant and varied areas of public sector policy and administration.

The Department's main areas of responsibility include:-

- Implementing Government policy on crime and protecting the security of the State.
- Providing policy advice in relation to the criminal justice system and supporting the operation of this system.
- Continuing reform of the criminal law and updating areas of the civil law.
- Playing a central part in the implementation of core elements in the Good Friday Agreement.
- Co-operating in the EU and international fields and promoting Ireland's interests within the Department's areas of responsibility.
- Implementing the Government's asylum strategy and further developing national immigration policy.
- Developing and implementing policy in relation to equal treatment generally, anti-racism, disability equality, human rights and childcare.

## Department Structure and Staffing

The Department is structured around ten areas. Each area is comprised of one or more Divisions and is headed by a member of the Management Advisory Committee (*see Appendix 1*):

- Crime, Security and Northern Ireland, Mutual Assistance and Extradition
- Garda Síochána
- Prisons and Probation and Welfare Policy
- Criminal Law Reform and Human Rights
- Civil Law Reform, Courts Policy, Equality and Disability
- EU/International matters
- Asylum, Immigration and Citizenship
- Childcare and Youth Justice
- Personnel, Corporate Services, Organisation Development, Project Development, Finance and IT
- Reception and Integration Agency.

There was approximately 800 staff working in the Head Office areas of the Department at the end of 2004. Numbers working in the wider Justice and Equality Sector stood at about 20,000. There are now some 21 organisations in the Justice and Equality Sector, each with specific administrative, regulatory or operational functions. (*see Appendix 1*)

Across all its votes the Department was responsible for a budget of €1.863 billion in 2004 which compares to a budget of €1.731 billion in 2003.

# part two

**Progress on 2003-2005 Strategy Statement High Level  
Goals and other developments during 2004**



## TACKLING CRIME

### High Level Goal 1

*To achieve optimum protection against crime for all members of society.*

#### Strategy Statement 2003-2005 Objectives

- *Progress a comprehensive and measured policy for responding to crime, in the context of a well informed and broadly based public discussion on crime issues.*
- *Contribute to the ongoing development and implementation of the overall strategic objective of the National Drugs Strategy 2001-2008 to reduce significantly the harm caused to individuals and society by the misuse of drugs through a concerted focus on supply reduction, prevention, treatment and research.*
- *Within the framework of the overall objective of developing a comprehensive and measured policy for responding to crime generally, ensure that there continues to be an effective policy in relation to combating organised crime.*
- *Contribute to the development of an accepted framework for the production and presentation of crime statistics and promote the availability of complementary sources of crime data, in order to provide a greater quantity and quality of information on levels and trends of crime.*
- *Develop proposals in relation to the establishment of a national DNA database as an important aid in crime detection and, subject to Government decision, proceed towards implementation.*
- *Promote the RAPID (Revitalising Areas by Planning, Investment and Development) Programme in the Justice area.*
- *Continue to focus on youth and crime by supporting and developing evidence-based preventative measures and interventions aimed at young offenders and those most at risk of offending.*
- *Promote the co-ordination of response across agencies involved in assisting victims of domestic violence, rape and sexual assault.*
- *Continue to promote, implement and monitor the right to equal treatment and the accommodation of diversity in crime prevention and criminal justice processes, with particular regard to race, ethnicity and culture.*
- *Continue to develop a response to cyber crime.*
- *Contribute to progressing measures to reduce deaths and injuries on our roads, including strict enforcement of the road traffic laws.*
- *Make effective use of the arrangements for mutual assistance in criminal matters and extradition between Ireland and other jurisdictions.*

## Progress on objectives in 2004

- There was an overall reduction in headline crime of 4% in 2004 when compared to 2003. There was a reduction in the numbers of murders (-20%) and sexual assaults (-28%). Other categories that showed significant decreases were false imprisonment (-15%), abduction (-32%), theft from the person (-14%), aggravated burglary (-14%) and robbery from the person (-14%). The categories of assault causing harm, burglary and possession of drugs for sale or supply also showed decreases. Out of the 25 headline offences, 15 recorded decreases and 10 recorded increases.
- The Government remained determined and implemented or developed measures to combat organised crime using all the means available to it, including the provision of the necessary resources to An Garda Síochána and strengthening the legal framework to tackle this phenomenon.
- The Department continued to provide resources and support to and input into the work of the National Crime Council throughout 2004. The key roles of the Council are to focus on crime prevention, raise public knowledge and awareness of crime, examine the fear of crime, identify research priorities which could be commissioned by the Department and undertake in-house research.
- The Department continued to play a proactive role, through representation in the institutional structures in place under the National Drugs Strategy, in the formulation and implementation of policies to tackle the problem of drug misuse. These include the Inter-Departmental Group on Drugs, the National Drug Strategy Team, the National Advisory Committee on Drugs and the National Assessment Committee for the Young People's Facilities and Services Fund. The National Drugs Strategy 2001- 2008 agreed by Government in 2001 contains over 100 individual actions to be implemented by the various Departments and agencies involved in the delivery of drugs policy. During 2004, the Department and its associated agencies continued to progress the implementation of actions in the justice area.
- A mid-term review of the National Drugs Strategy commenced in 2004. The Department was actively involved in the review and was represented on the steering group which oversaw the review.
- The Department continued to channel funding for pilot Local Drug Task Force projects in respect of which An Garda Síochána and the Probation and Welfare Service are the lead agencies.
- The Department also continued to provide mainstream funding for a range of justice related projects which have their origins in Local Drug Task Force pilot initiatives.
- The Department continued to support the development of a pilot arrest referral scheme for juveniles in the Dublin North Inner City Local Drug Task Force area.
- An additional pilot community policing forum (in the Finglas/Cabra Local Drug Task Force area) became operational in 2004 and was publicly launched by the Taoiseach. The Department continued to act as the channel of funding to this project.
- The Department continued to work with other interested Departments and agencies on the development of proposals for a suitable mechanism to more accurately record the number of drug-related deaths in Ireland.

- The Department continued to develop and implement policy to combat organised crime at national and international level. The operational successes of the Criminal Assets Bureau and other specialist Garda national units are evidence of the progress being made in tackling organised crime.
  - The Department secured the necessary budgetary resources for the Criminal Assets Bureau.
  - The report of the Expert Group on Crime Statistics, which the Minister established, was published by him in July, 2004. The Expert Group recommended the establishment of a central crime statistics unit, which would, inter alia, examine the collation of information relating to crimes reported to and recorded by the Gardaí, examine the collation of information relating to other crimes where the Garda Síochána is not the prosecuting authority, identify the needs of key stakeholders within the criminal justice system and the wider research community and publish criminal justice statistics, based initially on the Garda Síochána PULSE data. The Minister accepted the recommendation that such a unit be established and work is underway on establishing it within the Central Statistics Office. The report of the Expert Group endorsed the Government decision to conduct biennial national crime victimisation surveys and recommended that the unit be responsible for overseeing the national crime victimisation survey and be involved in its design and planning.
  - Work continued on the preparation of a Sourcebook on Youth Crime commissioned from the University of Limerick. This project will bring together all publicly available statistical data on youth crime (disaggregated by age group), provide information on youth justice sanctions and identify crime trends over time, in the context of an increasing focus on youth crime and resulting sanctions since the enactment of the Children Act, 2001. The Sourcebook will contribute to an informed debate on this issue and will be published in 2005.
  - DNA profiling is an increasing valuable tool in the investigation of crime, particularly of the most serious offences such as murder and rape. Many other jurisdictions have established such databases. The Law Reform Commission published in 2004 a consultation paper on the subject and, following a consultation process, will then develop proposals. It is the Minister's intention to draw up proposals for a database which would, having regard to constitutional requirements and the requirements of the European Convention on Human Rights, permit as extensive a database as possible. When the Law Reform Commission publish their final recommendations they will be fully examined, with a view to bringing forward appropriate legislative proposals as soon as possible to give effect to any decision to establish a DNA database.
  - The RAPID (Revitalising Areas by Planning, Investment and Development) Programme is a focused Government initiative to target the 45 most disadvantaged areas in the country. The Programme aims to ensure that priority attention is given to tackling the spatial concentration of poverty and social exclusion within the 45 designated areas through targeting state resources, available under the National Development Plan (NDP) 2000-2006.
- Throughout the course of 2004 the Department continued to be represented on the RAPID National Monitoring Committee and co-ordinated and supported the implementation of the RAPID Programme by the Garda Síochána, the Probation and Welfare Service and relevant Divisions of the Department. At the local level the Garda Síochána and the Probation and Welfare Service are

represented on RAPID Area Implementation Teams and facilitate the co-ordinated delivery of the RAPID Programme.

The Department makes decisions on funding for RAPID proposals within the context of existing allocations across Votes within its remit. Particular priority is given to RAPID proposals which fall within the functional areas financed under the NDP. Examples of the type of proposals received or supported under the RAPID Programme are applications for funding under the Equal Opportunities Childcare Programme, proposals for Garda Youth Diversion projects, CCTV schemes, Probation and Welfare Service projects and proposals which would be a matter for the Garda Commissioner to decide on (such as the deployment of Gardaí).

Of the proposals submitted through RAPID, the Department has approved funding of €17,649,001 in 2004 under the Equal Opportunities Childcare Programme for 120 childcare proposals and €60,000 in respect of a Probation and Welfare Project. In addition, this Department and the Department of Community, Rural and Gaeltacht Affairs provided approximately €260,000 to co-fund on a 50/50 basis a number of specific proposals which supported Garda youth diversion projects and Probation and Welfare Service projects in RAPID areas. With regard to the Equality for Women Measure of the NDP, it was announced in 2004 that a budget of €7 million for the period 2005 to 2007 would be available to fund the development of projects located in RAPID areas which support equality for women.

- The Department continued to participate in the European Crime Prevention Network. This Network was established in 2001 and contributes to developing various aspects of crime prevention at EU level, in particular the application of best

practice, and supports crime prevention activities at local and national level. The Network pays particular attention to the fields of juvenile, urban and drug-related crime. Ireland held the Chair of the Network during the Irish Presidency of the European Union and organised two successful meetings in Kilkenny and Dublin.

- The Department provided further financial support to a range of crime prevention initiatives, including the Missing Persons Helpline, Crimestoppers, Neighbourhood Watch, Community Alert, the Leanbh child begging project, Copping On and the Irish Association for the Study of Delinquency.
- A Youth Justice Project Team was established in October 2004 to conduct an analytical review of the structures and institutional arrangements by which the State delivers services to young offenders. The project team aims to identify ways of enhancing cross-sectoral co-ordination to improve outcomes in the area and will report to the Minister in mid 2005.
- Garda Youth Diversion Projects are community based, multi-agency crime prevention initiatives which seek to divert young people from becoming involved (or further involved) in anti-social and/or criminal behaviour by providing suitable activities to facilitate personal development, promote civic responsibility and improve prospects of employability. The projects are funded by the Department of Justice, Equality and Law Reform and administered by the Community Relations Section of the Garda Síochána. The projects are a tangible measure of crime prevention and reflect the commitment to multi-agency partnership approaches to tackling crime and anti-social behaviour at community level.

The number of participants in each project differs according to local circumstances and resources.

The focus is on the quality of the work/intervention with the participants rather than on the quantity of participants. It is estimated that the 64 Garda Youth Diversion projects catered for approximately 3,100 participants during 2004.

- The Intoxicating Liquor Act, 1988 (Age Card) Regulations, 1999 set out detailed provisions in relation to the age cards scheme, which is operated by the Garda Síochána and is designed to assist licence holders to comply with legislative provisions relating to under-age drinking by providing evidence of age where a doubt exists. During 2004 a total of 44,472 cards were issued, bringing the total number issued to 189,966. The Department and the Garda Síochána continued to monitor the operation of the scheme to ensure its effectiveness.
- The Department chairs the National Steering Committee on Violence Against Women at Minister of State level and also provides the secretariat to the Committee. The National Steering Committee met regularly during 2004 and continued to respond to the various issues involving violence perpetrated against women.

One of the aims of the National Steering Committee is to raise public awareness of the issue of violence against women. A conference on Violence Against Women was organised in Dublin Castle as part of the programme of events during Ireland's Presidency of the EU. The conference, which was entitled "Violence against Women - from violation to vindication of human rights", focused on the various forms of Violence Against Women - Domestic Violence, Rape and Sexual Assault, Prostitution and Trafficking - from a Human Rights perspective. It also included discussion on pornography and on legal measures to address all forms of violence against women.

The European Women's Lobby European Observatory on Violence Against Women launched their First Country Report at the conference and the Department of Justice provided funding for this.

In 2004, the Department continued to provide grant funding for violence against women Awareness Raising Projects.

The Department provided funding for:

- A Legal Co-ordinator post for Rape Crisis Network Ireland
- A research project by the Dublin Rape Crisis Centre for research on the long term effects of first disclosure of rape or sexual abuse
- A Trafficking co-ordinator post for Ruhama

The Department continued to fund comprehensive research into attrition rates in rape cases in Ireland. This research is being carried out by the National University of Ireland, Galway and the Rape Crisis Network Ireland. The research should provide a greater understanding as to why victims choose not to report cases to the Gardaí and also why, of the cases reported, only a small percentage result in a court hearing and should hopefully lead to changes in this regard.

Perpetrator programmes form part of the Department's overall strategy to combat violence against women. Their aim is to hold perpetrators accountable for their behaviour with a view to preventing further violent acts. The Department continued to fund the operation of Perpetrator Programmes in 2004. The Evaluation of Perpetrator programmes continued in 2004 and is expected to be completed in 2005.

- Arising from the World Conference Against Racism in South Africa in 2001, the Government set about developing a National Action Plan

Against Racism. A lengthy consultation phase was completed in 2003. The Consultative Process consisted of a national consultative conference, written submissions, regional and thematic seminars.

The framework for the Plan will be built around five main objectives, Protection, Inclusion, Provision, Participation and Recognition, i.e., 'Protection' from racism; 'Inclusion' in the socio-economic sense; equality of access to the 'Provision' of services; 'Participation' of minorities in Irish society and decision making; and, 'Recognition' and building respect of cultural diversity and promoting interaction and understanding. A summary of the outcomes of the consultation process and a proposed framework for the National Action Plan, entitled, *Diverse Voices*, is available on the Department's website ([www.justice.ie](http://www.justice.ie)).

The plan contains a number of recommendations in relation to Policing and the Administration of Justice. The National Action Plan Against Racism is at the final stages of preparation and will be launched early in 2005.

- The Department provides the secretariat and general support for the Internet Advisory Board. The Board was set up in 2000 to raise awareness about Internet downside issues, including the area of child pornography, and to support a self-regulatory framework for the internet service provider industry and the work of the hotline for reporting on child pornography. In 2003, the Board established a review group to examine the Code of Practice and Ethics for the Internet Service Provider Industry, arising from a commitment to the industry to review it after one year in operation. This review was completed in 2004. In October 2004 the Board held a Conference on 'Children and new Media'.

- During the year, the Department continued to ensure that the Garda Síochána was adequately resourced to enforce the Road Traffic Acts and key road traffic policy initiatives. The principal Garda road safety campaign, Operation Lifesaver, continued in 2004, focusing in particular on drink driving, speeding and seat belt offences. There is continued participation by the Department and the Garda Síochána in the High Level Group on Road Safety, chaired by the Department of Transport. A new Strategy on Road Safety to cover the period 2004 to 2006 was published in 2004. A working group established to examine the potential for outsourcing elements of speed detection is expected to report to the Minister in 2005. The Garda Traffic Corps was launched in November 2004 and a new Assistant Commissioner was appointed by the Government who has taken charge of all aspects of traffic law enforcement. The penalty points system, which was introduced on a manual basis for speeding offences from 31 October 2002 and extended to include driving without insurance and seatbelt offences in 2003, was expanded on 4 June, 2004, to include careless driving offences.

Provisional figures from the Garda Síochána indicate that the number of fatalities on the roads in 2004 was 375. The figures also indicate that there were approximately 141,723 fines on the spot issued for speeding and 22,613 fines on the spot issued for seatbelt offences, during 2004. A total of 12,307 arrests for drink driving offences were made by An Garda Síochána during 2004.

- During the year 2004 the Central Authority for Mutual Legal Assistance assisted in the development of a number of domestic, international and bilateral initiatives designed to improve the legislative and operational arrangements for mutual assistance including:
  - Domestic legislation to implement the EU

Mutual Assistance Convention 2000 and Protocols, the EU Framework Decision on the execution in the EU of Orders freezing property and evidence; and arrangements for implementation of the Criminal Justice (Joint Investigations Teams) Act 2004 and the Criminal Justice (Illicit Traffic by Sea) Act 2003.

- Draft EU instruments related to information sharing and enhancement of the 1959 Mutual Assistance Convention, draft Framework Decision on the European Evidence Warrant, and participation in mutual evaluation exercises by the EU and Council of Europe.
- The work of the Council of Europe Committee of Experts on the operation of European Conventions in the Penal Field.
- The draft agreement on mutual assistance between Ireland and the United States of America, implementing the EU - USA Agreement on mutual assistance.

In the course of the year the Central Authority continued to participate in the European Judicial Network. The Network consists of contact points in each EU Member State who provide practical and legal information on the operation of mutual assistance in their respective jurisdictions and generally assist in improving co-operation between Member States.

During Ireland's Presidency of the EU from January to June, 2004 the Central Authority chaired a number of meetings of the European Judicial Network and hosted a very successful meeting in Dublin on the theme of the European Arrest Warrant.

A Guide to Irish Law and Procedures in relation to Mutual Assistance in Criminal Matters is available from the Department for use by practitioners. The

Guide is available in English, Spanish, French, German and Italian.

### Extradition

- During 2004 the Department put in place measures and procedures to implement the European Arrest Warrant Act 2003, involving the establishment of a Central Authority.

The Department also provided assistance in connection with:

- The amendment of the European Arrest Warrant Act 2003.
- The draft agreement on extradition between Ireland and the United States of America, implementing the EU - USA agreement on extradition.
- The work of the EU working group dealing with extradition and the European Arrest Warrant.
- Council of Europe meetings dealing with developments in relation to extradition matters.

During 2004 the following matters were also progressed:

- Guidelines to take account of the European Arrest Warrant were prepared.
- Completion of questionnaires for the evaluation of measures to implement the European Arrest Warrant.
- Meeting with UK authorities to ensure smooth operation of the European Arrest Warrant between Ireland and the UK.

In addition, there were regular meetings involving the Department, the Office of the Attorney General, the Office of the Chief State Solicitor, the Department of Foreign Affairs and the Gardaí to discuss issues relevant to the processing of requests for extradition and European arrest warrants. These meetings also considered measures aimed at ensuring the efficient operation of the extradition and European Arrest Warrant procedures.

**Developments in Mutual Legal Assistance during 2004:**

- 443 mutual assistance requests were received from abroad;
- 85 requests were sent abroad.

**The types of request processed by the Central Authority include:**

- requests for assistance in the service of judicial documents,
- the search for and seizure of evidence,
- the taking of evidence in court,
- police to police co-operation,
- production orders,
- the restraint and confiscation of criminal assets,
- the exchange of information from judicial records and
- the temporary transfer of prisoners.

Requests can relate to any criminal offence but typically relate to offences of a serious nature such as drug trafficking, violent offences and financial crimes.

Ireland has deposited with the General Secretariat of the Council of the European Union a Statement of Good Practice in Mutual Legal Assistance in Criminal Matters pursuant to an EU Joint Action of 29 June, 1998. The Statement sets out the steps which are taken by Ireland to promote best practice in relation to the execution of requests to Ireland and requests sent from Ireland to other Member States of the European Union.

**Developments in Extradition during 2004:**

- 10 persons were surrendered to the United Kingdom under Part 3 of the Extradition Act 1965 (in relation to warrants received prior to 1 January, 2004),
- 17 requests under Part 2 of the Extradition Act, 1965 were received from other countries,
- 217 European Arrest Warrants were received

from Member States of the EU (of which 189 were deemed by the Central Authority not to be in order),

- 28 European Arrest Warrants received from Member States of the EU were processed by the Central Authority,
- 18 European Arrest Warrants were transmitted to other Member States of the EU by the Central Authority,
- 5 persons were surrendered to Ireland under the European Arrest Warrant Act 2003,
- 2 persons were surrendered by Ireland under the European Arrest Warrant Act 2003,
- A report on the operation in 2003 of the extradition arrangements with the United Kingdom was prepared by the Department and presented by the Government to the Houses of the Oireachtas on 10 December, 2004 as required by statute.

## Other Developments

### Cross-Border Seminar on Organised Crime

In September, 2004 the Department of Justice, Equality and Law Reform and the Northern Ireland Office facilitated a second joint An Garda Síochána / Police Service Northern Ireland seminar on cross-border organised crime. The first ever joint cross-border organised crime threat assessment was launched at the seminar.

### Renewal of Detention Provisions in the Criminal Justice (Drug Trafficking) Act 1996

In December, 2004 the Dáil and Seanad approved the Minister's proposals to renew the detention provisions in the Criminal Justice (Drug Trafficking) Act 1996 for a further two years.

### Commissions of Investigation

In February, 2004 the Minister announced his intention to establish a commission under the Commissions of Investigation Act 2004 to investigate the handling of

allegations or complaints of child sexual abuse made against clergy operating under the aegis of the Archdiocese of Dublin. Work on the setting up of the commission is well advanced.

### **Firearms and Explosives**

The Department's Firearms and Explosives Unit's programme of modernisation was further advanced in 2004 with the creation of a database to process and store applications for firearms import and export licences.

#### **Registered Firearms Dealers**

Approximately 350 Firearms Dealers were registered in the State during 2004. However, the number of persons registered at any one time would vary throughout the year with firearms dealers being removed or being added to the register. Approximately half of the Registered Firearms Dealers trade in firearms and ammunition and pay a fee of €75 per annum, while the remainder trade in ammunition only and pay a fee of €12 per annum.

#### **Firearm Certificates**

Firearm certificates are granted to residents and non-residents by the Garda Síochána. 213,596 certificates were granted during the year ended 31 July, 2004 to residents. Approximately 4,000 certificates were granted to non-resident applicants for the year ended 31 December, 2004. A non-resident may not bring a firearm into the country which a resident is prohibited from holding.

#### **Firearm Importation Licences (EU and Non-EU importations)**

1433 Importation Licences were granted during the year ended 31 December, 2004. However, it should be noted that import licences normally contain more than one firearm per licence granted.

#### **Exported to EU Countries**

463 Transfer Documents were granted during the year ended 31 December, 2004.

However, it should be noted that transfer documents can and regularly do contain more than one firearm per licence granted.

### **Explosives**

During the year ended 31 December, 2004 the following licences were issued:

- 296 Importation licences for industrial explosives, marine safety flares, nitrates/sodium chlorate and a number of minor items;
- 356 fireworks importation licences for displays;
- 57 Licences for the manufacture of explosives on site of use, i.e. quarries.

#### **Training Courses for Drivers of Vehicles Carrying Explosives**

During 2004, 14 drivers attended Specialisation courses.

#### **Carriage of Dangerous Goods by Air**

955 Applications were received from the Department of Transport for the Carriage of Dangerous Goods or Munitions of War.

#### **Scheme of Compensation for Personal Injuries Criminally Inflicted**

The Criminal Injuries Compensation Tribunal administers a Scheme of Compensation for Personal Injuries Criminally Inflicted which provides for ex-gratia compensation in respect of out of pocket expenses including loss of earnings incurred as a result of personal injuries, including fatal injuries, which are directly attributable to a crime of violence or which were sustained while trying to prevent a crime or in the saving of a human life. The Department is responsible for the administration of the Scheme.

In 2004, the Tribunal was provided with funding of €2.337 million for the General Scheme of which €119,000 related to staff pay. The Tribunal paid out

€2.261 million in awards. The highest award paid out in 2004 was €261,263 and the lowest was €76.

The Tribunal received 229 new applications in 2004. Of the cases on hand, decisions were made in 100 cases. The Minister also appointed a new Tribunal during 2004 to replace the previous Tribunal which had completed its term of office.

The Tribunal also administers the Prison Officer's Scheme of Compensation for Injuries Criminally Inflicted on Prison Officers. This Scheme came into force in 1990 and was backdated to 1986. In 2004, the Tribunal was allocated funding of €1.152 million. The Tribunal paid out €616,539 in awards. The highest award paid out under the Prison Officer's Scheme in 2004 was €53,014 and the lowest was €500.

The Tribunal received 110 new applications in 2004 and made decisions on 62 of the cases on hand. Of the decisions made 59 applicants received an award and 3 had their applications refused.

## SECURITY

### High Level Goal 2

*To further develop policies and implement measures to underpin the security of the State and to pursue such policies and measures in the wider international context of security.*

#### Strategy Statement 2003-2005 Objectives

- *Keep under review and identify appropriate responses to threats posed by terrorism to the security of the State or the international community.*
- *Keep under review the effectiveness of the regulation and control of firearms and explosives.*

#### Progress on objectives in 2004

- In 2004, the Department, in consultation with the Garda Síochána, continued to keep the Minister and the Government advised on the nature and extent of the threat posed by terrorist organisations to the security of the State and the wider international community. In particular, the Department participated fully in efforts to achieve a comprehensive and lasting settlement to the conflict in Northern Ireland and to the restoration of the devolved institutions.
- In the wider international context of security, the Department continued to contribute actively to the various international fora in respect of the adoption and implementation of counter-terrorism measures. In particular, during Ireland's Presidency of the European Union (EU) from January to June 2004, the Department steered the introduction of new EU counter-terrorism measures in the wake of the Madrid bombings of 11 March, 2004.
- Work on the development of a statutory regime governing the retention of and access to telecommunications traffic data was progressed, with a view to the enactment of primary legislation.
- Proposals for the updating of firearms legislation were approved by the Minister for inclusion in the Criminal Justice Bill 2004.
- A further programme of upgrading the security of the premises of Firearms Dealers in conjunction with the Garda Síochána was undertaken and is near completion.
- A proposal to engage an explosives expert to advise on a review of the law and policy on explosives was approved.

#### Other Developments

Material relating to the regulation and control of firearms and explosives is set out in Chapter 1 on Tackling Crime (see page 19).

## GARDA SÍOCHÁNA

### High Level Goal 3

*To ensure that the Garda Síochána has the structures, resources and capacity to operate in an efficient and effective manner, meeting the best practices of a modern police service, taking account of the Government's and Minister's key objectives and accounting for its performance and for the management of the resources allocated to it.*

#### Strategy Statement 2003-2005 Objectives

- *Seek to secure for the Garda Síochána the necessary personnel, financial and other resources to provide an effective and high quality policing service.*
- *Pursue the programme of organisational change arising from the recommendations of the Report of the Steering Group on the Efficiency and Effectiveness of the Garda Síochána.*
- *Manage compensation claims relating to the Garda Síochána.*
- *Administer the Garda Conciliation and Arbitration Scheme.*
- *Establish a Garda Inspectorate.*
- *Support the investigation into allegations of Garda misconduct in Donegal and take any necessary follow-up action required.*
- *Support the investigation into the fatal shooting of John Carthy at Abbeylara and take any necessary follow-up action required.*
- *Optimise co-operation between the Garda Síochána and the Police Service of Northern Ireland.*

#### Progress on objectives in 2004

- The Government is committed to ensuring that the Garda Síochána is provided with the necessary resources, both in terms of personnel and equipment, to enable it to deal efficiently and effectively with the many challenges which it faces.
- The allocation provided in the 1997 Estimates for the Garda Vote was a figure of just under €600 million. The Estimate Provision for the Garda Vote for the year 2004 was €1,054.9 million, representing an increase of over 75% on the 1997 Estimate Provision.
- The personnel strength (all ranks) of the Garda Síochána on 31 December 2004 was 12,209. This represents an increase of 1,241 (or 11.3%) since the 31 December 1997. In October, 2004, the

Government approved the Minister's proposal to increase the strength of An Garda Síochána to 14,000 on a phased basis, in line with the Agreed Programme for Government commitment in this regard. This is a key commitment in the Programme for Government, and its implementation will significantly strengthen the operational capacity of the Force.

- **National Digital Radio Project:** Following submission of a business case for the system and subsequent discussions with the Department of Finance, it was decided that the system would be procured on a pan- public service basis. To progress the project, a Procurement Group with representatives from the Department and An Garda Síochána as well as representatives from the other emergency services was set up in December 2004.

- Work continued on the Fixed Charge Processing System and a pilot system was introduced in the Dublin and Louth/Meath areas on 30 June, 2004. The system was further extended to the entire Dublin Metropolitan Region on 22 November, 2004 with plans to extend the system to Cork early in 2005. Work progressed on the outsourcing of the collection of payments - a prerequisite to the extension of the system nationwide. Integration with the Garda Pulse system was also progressed.
- The Department continued to support An Garda Síochána in the provision of resources to enable systems such as the Financial Management System to be deployed (the first phase of which went live in January, 2004) and on the maintenance of the Garda Pulse system, including the provision of resources to enable replacement computer hardware to be provided.
- The Department also worked with An Garda Síochána on the preparation of a new Information and Communication Technologies (ICT) Strategy for the period 2005 to 2009.
- During 2004 the ongoing programme of replacement and refurbishment of Garda station accommodation continued. During 2004, a number of new/refurbished Garda stations, both large and small, were completed, for example, Templemore, Dundalk, Ennistymon, Abbeyfeale, Longwood and Ballycotton. Other projects underway include Bantry, Ballina, Ballyshannon and New Ross.
- The Government Decision in October, 2004 to increase the strength of An Garda Síochána to 14,000 presented a significant challenge to ensure that sufficient accommodation space would be available within the Garda College to cater for the increased number of new recruits. In conjunction with the Garda Authorities and the Office of Public Works, a major plan of works was drawn up and agreed. This included the outsourcing of in-service training accommodation from the College, the provision of new accommodation within the College itself and the sourcing of alternative facilities for tactical training. Work on all of these aspects was commenced before the end of 2004, including the signing of a contract for the first phase of building works within the College. In this regard, the new administration block and other works is expected to be completed by the end of 2005 and in time for the major increase in recruits in February, 2006. Outsourcing of accommodation and facilities for in-service training is planned to be in place by April, 2005.
- The Garda Síochána Bill 2004 was introduced in Seanad Éireann in March 2004 and had completed all stages in that House by December. The Bill redefines the relationship between the Government and the Garda Síochána and will support the efficient and effective operation and administration of the Force. It provides for the establishment of a Garda Síochána Ombudsman Commission – which will replace the Garda Síochána Complaints Board – to deal with all complaints against members of the Force and the establishment of Joint Policing Committees and Local Policing Fora to facilitate co-operation between the Garda and local communities. The Bill was amended during its passage through the Seanad to provide for the establishment of a Garda Síochána Inspectorate, an independent mechanism reporting to the Minister, arising from recommendations of the first report of the Morris Tribunal.
- Legislative measures to give effect to the recommendations contained in the Report on Performance and Accountability for the Garda Síochána are contained in the Garda Bill 2004 which is before the Oireachtas and is expected to be enacted by Summer 2005.

- During 2004 the Minister advised the Garda Commissioner of eight policing priorities which the Government wished to see addressed. These priorities have been incorporated into the Garda Síochána Policing Plan 2005.
- The Garda SMI Implementation Steering Group Final Report was presented to Government, laid before the Oireachtas and published in 2004. Progress continued in 2004 on the implementation of the Garda SMI change programme.
- The Department continued to liaise during 2004 with the Garda Complaints Board in areas such as finance and in laying the Board's Annual Report before the Oireachtas.
- Steps continued to be taken in 2004 and will continue in 2005 to further reduce Garda Síochána compensation cases on hand. During the year €4.6 million including costs was awarded by the High Court in 90 compensation claims arising under the Garda Síochána (Compensation) Acts, 1941 and 1945. A further 231 new applications were received in 2004.
- Work continued in advancing plans to establish a Garda Síochána Compensation Tribunal along the lines recommended by a committee set up in 1997 to review and make recommendations on the efficiency and effectiveness of the Garda Síochána (Compensation) Acts 1941 and 1945. The committee made 14 recommendations which included the repeal of the existing Acts and the setting up of a new Garda Síochána Compensation Tribunal on a statutory basis.
- A new database installed in 2002 to input/output pertinent details of civil actions was maintained and developed in 2004. All cases were duly processed in 2004 and, where appropriate, consultations were held with the Chief State Solicitor's Office.

There was a total of €2.5 million, including settlements, awards and costs paid in respect of 106 claims arising from non-malicious injuries to Gardaí, injuries to civilians on Garda premises, legal actions taken by Gardaí and legal actions arising from acts or omissions by the Garda Síochána. There were 144 new cases in 2004.

- Stable industrial relations were maintained in 2004 between the Garda associations and the Official Side - which comprises representatives from the Department of Finance, Garda Management and the Department of Justice, Equality and Law Reform - due to the effective processing of claims and issues and a commitment to engage in full and fair discussion in an effort to bring about the most acceptable outcome to all parties.

A particularly significant development relates to the introduction of a revised Conciliation and Arbitration Scheme which was agreed as part of the modernisation agenda for the Garda Síochána. Following intensive negotiations agreement was reached on 16 April 2004 on the Scheme.

#### The Scheme provides for the following:

- (i) A three person Arbitration Board instead of a single arbitrator to deal with claims for increases in basic pay and other claims involving significant expenditure. The Board will comprise an independent chairperson together with one person to be nominated by the Official Side and one person to be nominated by the Associations.
- (ii) An adjudicator to deal with non-pay issues which do not involve significant expenditure.
- (iii) Provision for the use of a facilitator as an aid to the negotiation process.

Increases in pay rates due under the terms of **“Sustaining Progress - Social Partnership**

**Agreement 2003 – 2005**” were made in a timely fashion following assessments made by the independent Garda Performance Verification Group of progress achieved on commitments set out in the Garda Síochána Action Plan. The Garda PVG decided that the progress achieved in the organisation in relation to the commitments in Sustaining Progress on stable industrial relations, cooperation with flexibility and ongoing change, as well as satisfactory implementation of the agenda for modernisation, warranted payment of the relevant pay increases.

- The Department continued to support the work of the Morris Tribunal in its investigation into complaints concerning certain Gardaí in the Donegal Division. The Tribunal reported in July on the first module of its work related to the issue of explosives ‘finds’ in Donegal and recommenced its inquiry into its second module, concerning the investigation of the death of Mr Richard Barron. The report of the first module of the Tribunal’s work was published and its recommendations have been accepted by the Government.

## Other developments

### Garda Fleet

A total of €14.3 million was spent in 2004 on the purchase of vehicles for the Garda and Ministerial fleets. The operational capability of the Force at the end of the year was 2,026 vehicles.

### Senior Garda Appointments

During 2004 the Government appointed one Assistant Commissioner, eight Chief Superintendents and seventeen Superintendents to fill vacancies which arose in these ranks.

As part of the SMI review of the Garda Síochána the Government decided that new arrangements should be introduced for promotion to the Assistant Commissioner rank. The selection procedures for

promotion to the rank of Assistant Commissioner were amended by way of the Garda Síochána (Promotion) (Amendment) Regulations, 2001 (S.I. 392 of 2001). It was agreed that the selection process for promotion to Assistant Commissioner would be reviewed and this review was carried out, by management consultants, in 2004. The review recommended a new competency-based structure which refined the current procedures in line with best practice criteria. The implementation of the revised process as recommended in the review was agreed at Garda Conciliation Council in 2004.

### Civilian Staff

Efforts continue to fill vacancies and to progress the civilianisation of administrative work within an Garda Síochána, within the context of Government policy on public service numbers, so as to release Gardaí to high visibility policing where they are most needed. In the context of the Minister’s announcement in October, 2004 of accelerated Garda recruitment to reach a strength of 14,000 members, a review of staffing needs at the Garda College commenced. The outcome will determine the additional resources required to deliver the appropriate training to the increased numbers at the College over the coming years.

### Garda Child Protection Vetting

In March 2004, the Department published on its website the *Report of the Working Group on Garda Vetting*, which sets out a strategy for the expansion in the vetting services of the Garda Síochána in respect of persons working with children and vulnerable adults.

During 2004, the practical recommendations of this strategy were brought forward by a multi-agency Implementation Group chaired by the Garda Síochána. The extension of Garda vetting services will commence on a phased basis as soon as the necessary practical arrangements are in place.

## THE COURTS

### High Level Goal 4

*To facilitate the Courts Service in effectively managing the courts, supporting the judiciary and providing a quality service to all court users.*

#### Strategy Statement 2003-2005 Objectives

- *Ensure that all ministerial functions in relation to the courts are effectively discharged.*
- *Co-ordinate and integrate the policy objectives of the Minister and the Government across the wider criminal justice system with those of the courts system.*
- *Ensure the implementation of those objectives set out in the Programme for Government which relate to the Courts and the Courts Service.*
- *Ensure that the Courts system has the appropriate administrative infrastructure, systems and resources in place to enable it to provide a high quality service to the public and to judges, including improved access and facilities for court users.*
- *Work with the Courts Service to develop full participation by the courts in the eGovernment initiative for the delivery of public services to the citizen and to businesses.*

#### Progress on objectives in 2004

- Funding of €97.99m was secured for the Courts Service in 2004. This represents a 6.3% increase on 2003. The funding provided allowed the Courts Service to progress the implementation of its strategic plans and policies specifically in the areas of Information Technology and Capital Building Programmes.
- Steering groups continued to drive forward inter-agency matters, i.e. Public Private Partnership, eCourts, and the Expenditure Review Process.
- Following the evaluation of the Drug Court pilot programme by expert consultants, the programme was extended to include the Dublin 7 area. The extension of the Drug Court has allowed time for further consideration, in consultation with the relevant Departments and Agencies, of how the Drug Court concept should be further developed and resourced. A further evaluation of the operation of the Court in the extended area will be carried out in 2005 in conjunction with the Courts Service, after which an informed decision can be taken in relation to its further expansion.
- 8 additional judicial posts were created by the Civil Liability and Courts Act, 2004 and subsequently filled.
- The National Irish Bank Enquiry was completed and the Report presented to the High Court in June 2004. The full costs of the Enquiry will be recovered in 2005.
- On 27 September 2004, the Minister announced the establishment of a *Legal Costs Working Group* to identify ways of reducing the cost of civil litigation. Details of the Legal Costs Working Group's membership and its terms of reference were published in a press release on the Department's website ([www.justice.ie](http://www.justice.ie)). The Working Group held its inaugural meeting on 19 October 2004 and is to report to the Minister in 2005.

## Other developments

### The Courts Service Annual Report 2003

The Courts Service Annual Report 2003 was published in July 2004.

### The Courts Service Capital Building Programme

€18.9 million was allocated to the Courts Service Capital Funding in 2004. Major refurbishment programs were completed in Castlebar and Ennis Courthouses.

### Rules Committees

Following the enactment of legislation, Rules of Court are made by the Rules Committees of the respective Courts and forwarded to the Department for the concurrence of the Minister and the making of Statutory Instruments.

### Rules of Court completed in 2004

#### - District Court Rules

*District Court (Intellectual Property) Rules, 2004*  
S.I. No. 411 of 2004

*District Court (Personal Injuries Assessment Board Act 2003) Rules, 2004*  
S.I. No. 526 of 2004

*District Court (Railway Infrastructure) Rules, 2004*  
S.I. No. 534 of 2004

*District Court (Estreatment of Recognisances) Rules, 2004*  
S.I. No. 535 of 2004

*District Court (Children) Rules, 2004*  
S.I. No. 539 of 2004

*District Court (Taxes Consolidation Act 1997) (Amendment) Rules, 2004*  
S.I. No. 586 of 2004

*District Court (Children) (No2) Rules, 2004*  
S.I. No. 666 of 2004

*District Court (Food Safety) Rules, 2004*  
S.I. No. 700 of 2004

#### - Circuit Court Rules

*Circuit Court Rules (Section 39, Criminal Justice Act 1994) 2004*  
S.I. No. 448 of 2004

*Circuit Court Rules (Personal Injuries Assessment Board Act 2003) 2004*  
S.I. No. 542 of 2004

*Circuit Court Rules (Protection of Employees (Part-Time Work) Act 2001) 2004*  
S.I. No. 721 of 2004

*Circuit Court Rules (Equal Status Act 2000) 2004*  
S.I. No. 879 of 2004

*Circuit Court Rules (Employment Equality Act 1998) 2004*  
S.I. No. 880 of 2004

*Circuit Court Rules (Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters) 2004*  
S.I. No. 881 of 2004

*Circuit Court Rules (Jurisdiction and the Recognition and Enforcement of Judgments in Civil or Commercial Matters) 2004*  
S.I. No. 882 of 2004

*Circuit Court Rules (Service in Member States of Judicial and Extra-Judicial Documents in Civil or Commercial Matters) 2004*  
S.I. No. 883 of 2004

## **- Rules of the Superior Courts**

*Rules of the Superior Courts (Commercial Proceedings) 2004*

*S.I. No. 2 of 2004*

*Rules of the Superior Courts (Order 27 (Amendment) Rules) 2004*

*S.I. No. 63 of 2004*

*Rules of the Superior Courts (Shorthand Reporting) 2004*

*S.I. No. 137 of 2004*

*Rules of the Superior Courts (Right of Attorney General and Human Rights Commissioner to Notice of Proceedings involving declaration of Incompatibility Issue Rules) 2004*

*S.I. No. 211 of 2004*

*Rules of the Superior Courts (Amendment to Order 118) 2004*

*S.I. No. 253 of 2004*

*Rules of the Superior Courts (Order 130 (Amendment) Rules) 2004*

*S.I. No. 471 of 2004*

*Rules of the Superior Courts (Personal Injuries Assessment Board Act 2003) Rules*

*S.I. No 517 of 2004*

*Rules of the Superior Courts (Solicitors (Amendment) Act 2002) 2004*

*S.I. No. 701 of 2004*

*Rules of the Superior Courts (Order 85) 2004*

*S.I. No. 767 of 2004*

*Rules of the Superior Courts (Aviation Regulation Act 2001) 2004*

*S.I. No. 810 of 2004*

*Rules of the Superior Courts (Bail Applications) 2004*

*S.I. No. 811 of 2004*

*Rules of the Superior Courts (Court of Criminal Appeal) 2004*

*S.I. No. 812 of 2004*

*Rules of the Superior Courts (Planning and Development Act 2000) 2004*

*S.I. No. 813 of 2004*

*Rules of the Superior Courts (Teaching Council Act 2001) 2004*

*S.I. No. 815 of 2004*

*Rules of the Superior Courts (Commission to Inquire into Child Abuse Act 2000) 2004*

*S.I. No. 884 of 2004*

## **- Fees Orders**

*Supreme Court and High Court (Fees) Order, 2004*

*S. I. No. 444 of 2004*

*Circuit Court (Fees) Order, 2004*

*S. I. No. 445 of 2004*

*District Court (Fees) Order, 2004*

*S. I. No. 446 of 2004*

### Judicial Appointments during 2004

Judges are appointed by the President acting on the advice of the Government. The Minister for Justice, Equality and Law Reform is responsible for bringing to Government the names of candidates recommended by the Judicial Appointments Advisory Board for appointment as Judges. The Department assists the Minister in carrying out the necessary administrative arrangements.

A new Chief Justice was appointed in 2004, and the resulting vacancy was filled by the appointment of one ordinary judge of the Supreme Court. Eight judges (including the Chief Justice) were serving on the Supreme Court on the 31 December, 2004.

Four judges were appointed to the High Court in 2004. Three of these filled additional judicial posts created by the Civil Liability and Courts Act, 2004, while the fourth filled a vacancy created by the elevation of a judge to the Supreme Court. Thirty-three judges (including the President of the Court and the Chairperson of the Law Reform Commission) were serving on the High Court as of the 31 December, 2004.

Five judges were appointed to the Circuit Court in 2004. Three of these filled additional judicial posts created by the Civil Liability and Courts Act, 2004, while the remaining two filled vacancies created by the retirement of one judge, and the elevation of another to the High Court. Thirty-four judges (including the President of the Court) were serving on the Circuit Court as of the 31 December, 2004.

Two judges were appointed to the District Court in 2004. Both appointments filled additional judicial posts created by the Civil Liability and Courts Act, 2004. Fifty-five judges (including the President of the Court) were serving on the District Court as of the 31 December, 2004.

## PRISONS AND PROBATION & WELFARE

### High Level Goal 5

*To promote community safety through effective offender management by both the Prison Service and the Probation and Welfare Service in accordance with the law and the sentences and sanctions handed down by the courts. To encourage best practice including appropriate mechanisms of accountability for both these Services.*

#### Strategy Statement 2003-2005 Objectives

- Advance the process of structural and systems development.
- Ensure that the Prison Service and the Probation and Welfare Service collectively support the aims and objectives of the Minister and the Government in relation to the management of offenders.
- Keep the Regulatory framework up to date.

### Progress on objectives in 2004

- Negotiations continued in 2004 with the Prison Officers' Association on the implementation of new working arrangements which are aimed at eradicating the unacceptable levels of prison staff overtime and delivering a more efficient and cost effective Prison Service. These discussions, which involved the Labour Relations Commission, were often protracted and difficult in the year. A limited number of financial issues were the subject of a referral to arbitration during late 2004, and the findings of the Arbitrator was awaited at the end of the year.

However, in the absence of an agreement with the Prison Officers' Association on the overtime issue at the end of December of 2003, the progressive implementation of a series of measures, approved by Government, to enable the Irish Prison Service to operate within its budget commenced in January, 2004. These measures included the mothballing of Fort Mitchel and Curragh Places of Detention as well as the publication in the EU Journal of a Prior Information Notice signalling the Minister's intention to invite tenders from contractors to provide a prisoner escort service to

the Irish Prison Service. In addition, prison staffing levels and overtime were capped at a level to ensure that expenditure on pay and overtime would be consistent with that envisaged under the Change proposal.

- Work continued in 2004 on the preparation of New Rules for the Governance of Prisons. These Rules, which will set out in considerable detail the full range of rights, duties and obligations for prisoners, prison staff and management, have been prepared by the Department. The draft Rules were the subject of detailed and extensive consultation with senior staff throughout the prison system and European standards for prisons have been taken into account in their drafting. The Rules will come into force, as a Statutory Instrument, as soon as possible after the text has been finalised.
- The scheme of a Prisons Bill, 2004, to achieve three objectives, was published in February, 2004. Firstly, it will provide a statutory basis for contracting out a prisoner escort service. Second, it will enable the holding of pre-trial hearings through video conferencing. Third, the Bill will remove a purely technical statutory impediment in

the Prisons Act 1933 to the closure of Mountjoy Prison.

- The Criminal Justice (Temporary Release of Prisoners) Act, 2003, along with new associated regulations, the Prisoners (Temporary Release) Rules, 2004 were commenced with effect from 12 November, 2004. This Act provides a clearer legislative basis for the power to grant temporary release by setting down the principles which will apply to the exercise of this power. The Act amends Section 2 of the Criminal Justice Act, 1960, and provides a clear and transparent basis, as well as the necessary safeguards required, for the operation of the system of temporary release.
- The Probation and Welfare Service completed stage two of the implementation of a customised Information Technology system in 2004. All Probation and Welfare Service staff in community based locations and those assigned to prisons are now online. When fully operational, the IT system will have the capacity to produce detailed information on the use and management of community sanctions.
- 30 additional Probation and Welfare Service personnel were recruited, trained and assigned during 2004 to work on implementation of relevant sections of the Children Act 2001.
- Family conferencing, as provided for in Sections 78-87 of the Children Act 2001, was commenced in July 2004 and is available in every Court area. 11 referrals for family conferences were received by the Probation and Welfare Service by end December 2004.
- A Value for Money Examination of the Probation and Welfare Service (VFM Report 46: The Probation and Welfare Service) was published on 26 April 2004 by the Office of the Comptroller and Auditor General. The findings of that examination

are now being used to inform the further development of best practice and the effective management of the Probation and Welfare Service.

- The Probation and Welfare Service began the process of implementation of a structured risk assessment instrument as part of Service development of practice. Initial training was completed for all Probation and Welfare Officers during 2004 and implementation will begin in 2005.
- A cross agency committee, led by the Homeless Offenders Strategy Team - a specialist multi-agency unit within the Probation and Welfare Service - has been established in the Dublin area with a view to the accommodation and effective management of homeless sex offenders, with a particular reference to issues of public safety, risk management and prevention of victimisation.
- PROTECT North & South, a joint initiative between the Probation Board for Northern Ireland and the Probation and Welfare Service, was launched in September 2004. The project is an example of co-operation between public bodies in Northern Ireland and the Republic of Ireland and was developed in the spirit of the Belfast Agreement and the Northern Ireland Criminal Justice Review. PROTECT N&S is funded by the Special European Union Programmes Body under Priority 5 Measure 2 of the European Union Programme for Peace and Reconciliation in Northern Ireland and the Border Region of Ireland.

## Other developments

### Prisons

#### Prisons Building Programme

At the start of 2004, The Minister announced that he had received Government approval, in principle, to

replace the facilities in the Mountjoy prison complex with a new prison facility on a greenfield site in the greater Dublin area. In February 2004, advertisements were placed in the print media inviting interested persons to put forward potentially suitable sites for consideration. A committee, comprising representatives from the Office of Public Works, the Irish Prison Service and the Department, was subsequently established to review all potential sites and to make recommendations.

The Minister announced in December, 2004, that he had received an increased capital allowance for 2005, which would allow the Prison Service to commence work on major capital projects at Portlaoise Prison and Limerick Prison in 2005.

### Decentralisation

In March, 2004, the Minister announced that the site for the new Prison Service Headquarters in Longford had been selected and terms agreed for its transfer to State ownership from Longford County Council.

### Statistics

#### Petitions

The 1995 High Court Judgement on petitions stated that the power of clemency must be used sparingly and only in special and exceptional circumstances. As a consequence of applying the High Court Judgement to the assessment of applications to open a petition and re-petitions, all petition cases which the Minister adjudicated on in 2004 were refused.

<b>2004 - Petitions / Re-Petitions</b>	
Application to open a petition (AOPs) / re-petitions (RPs) received	44
AOPs / RPs finalised - including cases carried forward from 2003	28
AOPs / RPs carried forward to 2005	16

### Peace Commissioners

Peace Commissioners are appointed by the Minister as the need arises in particular areas. The Office of Peace Commissioner is an honorary one. 68 persons were appointed as Peace Commissioners in 2004 and 136 Peace Commissioners resigned, died or were removed from Office during the year. At the end of the year, the number on the Roll of Peace Commissioners was 6,816.

### Other Statistics

Statistics relating to prisons and related matters are published in the Annual Reports of the Irish Prison Service, the Parole Board and in the Minister's Annual Report on the Operation of the Council of Europe Convention on the Transfer of Sentenced Persons.

### Publications

Irish Prison Service Annual Report for 2003.

Second Annual Report of the Parole Board.

Annual Report for 2003 on the Operation of the Council of Europe Convention on the Transfer of Sentenced Persons.

### Probation and Welfare Service

The Department through the Probation and Welfare Service allocated over €14 million in funding for over 70 community projects and initiatives addressing offending behaviour and related issues in 2004. This represents in the region of 40% of the total Probation and Welfare Service budget and is an effective recognition of the partnership between the Probation and Welfare Service and communities in addressing public safety and the rehabilitation and reintegration of offenders.

The first issue of the Irish Probation Journal was published in September 2004. The Irish Probation Journal is a joint initiative between the Probation and Welfare Service and the Probation Board for Northern Ireland providing a forum for sharing theory and

practice, increasing co-operation and learning between the two jurisdictions and developing debate about work with offenders. It will be an annual publication.

2004 saw the expansion of the partnership initiative between the Probation and Welfare Service and the Northern Area Health Board Homeless Person's Unit, supported by the Irish Prison Service, to provide a pilot *In-reach Service* at Mountjoy Prison. The *In-reach Service* resulted, over the year, in 295 prisoners receiving direct assistance and advice from the Homeless Persons Unit while still in custody and supported throughcare following release.

## CRIMINAL AND CIVIL LAW REFORM

### High Level Goal 6

*In accordance with the Government's programme, policies and priorities:*

- *to enhance the protection of persons, property and society from criminality by progressively reforming the criminal law;*
- *to reform the civil law and, through ongoing review, to achieve a system of law that is responsive to the needs of modern society;*
- *to give the legislative effect to international instruments on criminal and civil law matters by means of primary or secondary legislation, or, where appropriate, to take the necessary administrative action.*

#### Strategy Statement 2003-2005 Objectives

- *Complete the programme of criminal and civil law reform contained in the Government Legislation Programme.*
- *Promote research, as required, into areas of the criminal and civil law and keep abreast of developments in other jurisdictions to support policy formulation and development.*
- *Ensure that the criminal and civil law is kept under review and up to date and, in this regard, that adequate systems for consultation are in place with the Department's main customers.*
- *Ensure an efficient and effective national contribution to the deliberations and achievements of the EU and other relevant international bodies in the area of criminal and civil law co-operation.*
- *Ensure an efficient and effective contribution to deliberations, both within the Department and between Departments, on matters impacting on or likely to impact on the area of civil or criminal law.*
- *Ensure an efficient and effective contribution to the deliberations of the Houses of the Oireachtas on European Union issues.*

### Progress on objectives in 2004

The criminal and civil law programmes include legislative issues relevant to this Department which have been identified in the Government's Legislative Programme, which in turn includes the commitments set out in the Agreed Programme for Government. Details of progress on the implementation of the programme in 2004 are set out below. While the Legislative Programme is a committed programme of work, it is subject to change in response to developments both at national and international level.

The management and advancement of the agreed programme of civil law cooperation in the Justice and Home Affairs area involved a significant additional

workload during Ireland's Presidency of the EU in the first half of 2004.

#### ● **Laws enacted in 2004:**

- Child Trafficking and Pornography (Amendment) Act 2004;
- Criminal Justice (Joint Investigation Teams) Act 2004;
- Commissions of Investigation Act 2004;
- Twenty-seventh Amendment of the Constitution Act 2004;
- Immigration Act 2004 (No. 1 of 2004);
- Private Security Services Act 2004 (No. 12 of 2004);
- Tribunals of Enquiry (Evidence) Amendment Act 2004 (No. 13 of 2004);

- Civil Liability and Courts Act 2004 (No. 31 of 2004);
- Intoxicating Liquor Act 2004 (No. 34 of 2004);
- Irish Nationality and Citizenship Act 2004 (No. 38 of 2004).

### ● Bills before the Oireachtas

#### **Registration of Deeds and Title Bill 2004**

(published in November 2004): the Bill provides for:

- establishment of a body to be known as the Property Registration Authority, the principal functions of which will be to control and manage the Registry of Deeds and the Land Registry and to promote and extend the registration of ownership of land.
- repeal and re-enactment of the law relating to the registration of deeds.
- amendment of the law relating to the registration of title to land.

#### **Proceeds of Crime (Amendment) Bill 1999**

(published in November 1999): the Bill will amend the Proceeds of Crime Act 1996 in a number of technical respects arising from the experience of the Criminal Assets Bureau in operating the Act. The Bill also includes measures formerly under contemplation for a Proceeds of Corruption Bill.

#### **Criminal Justice (Terrorist Offences) Bill 2002**

(published in December 2002): the Bill will enable the State to meet commitments undertaken as part of the international community such as compliance with the EU Framework Decision on Combating Terrorism and several UN Conventions.

#### **Commissions of Investigation Bill 2003\*\***

(published in July 2003): the Bill provides for the establishment on a statutory basis of a new mechanism for investigating into matters of significant public concern, to be known as Commissions of Investigation. The legislation will have general

application. There will not be a permanent or single investigations agency but Commissions will be established as required.

#### **Criminal Justice (Joint Investigation Teams) Bill 2003\*\***

(published in April 2003): the purpose of the Bill is to give effect to the requirements of the EU Council Framework Decision of 13 June 2002 on Joint Investigation Teams which provides for the setting up of joint investigation teams for a specific purpose and limited period, by mutual consent, to carry out criminal investigations with a cross-border dimension in one or more of the Member States setting up the team.

#### **International Criminal Court Bill 2003**

(published in August 2003): the purpose of the Bill is to give effect to the provisions of the Statute of the International Criminal Court concluded at Rome on 17 July 1998, signed by Ireland on 7 October 1998 and ratified on 11 April, 2002.

#### **Transfer of Execution of Sentences Bill 2003**

(published in December 2003): the Bill gives effect to the provisions in Title III, Chapter 5 of the Schengen Convention and in Article 2 of the Additional Protocol to the 1983 Council of Europe Convention on the Transfer of Sentenced Persons. It allows for the transfer of the execution of sentences where the sentenced person has fled from the sentencing state to his/her state of nationality.

#### **Garda Síochána Bill 2004**

(published on 13 February 2004): the Garda Síochána Bill, 2004 was progressed through Seanad Éireann during 2004 and passed by the Seanad in December. The Bill, in addition to other matters connected with the administration and functions of the Garda Síochána, includes proposals for the establishment of two independent bodies to be known as the Garda Síochána Ombudsman Commission and the Garda Síochána Inspectorate. The primary function of the

Garda Síochána Ombudsman Commission will be to investigate complaints by members of the public against members of the Garda Síochána and in that respect it will replace the Garda Síochána Complaints Board which was established under the Garda Síochána Complaints Act 1986. The Inspectorate will provide independent advice to the Minister of the day in relation to the efficiency and effectiveness of the operations and administration of the Garda Síochána. The decision to establish the inspectorate has its origins in the first Report of the Morris Tribunal. The Bill was awaiting Second Stage in Dáil Éireann at the end of 2004.

#### **Child Trafficking and Pornography (Amendment) Bill 2004\***

(published on 26 May 2004): the Bill has two purposes. First, it ensures that any person who sends or produces documents to a committee of the Houses of the Oireachtas which might include child pornography does not run the risk of committing the criminal offence of distributing child pornography in contravention of the Child Trafficking and Pornography Act 1998. Second, the 1998 Act also makes it an offence to possess, print, publish or show child pornography. However the 1998 Act does not provide an exemption to members of the Oireachtas who might come into possession etc of child pornography as a consequence of carrying out their proper functions. The Bill ensures that any member of the Oireachtas, civil servant or adviser who came into possession etc of child pornography while carrying out their legitimate functions in gathering evidence during an investigation into any matter relating to child pornography, or assisting in any such investigation, would not commit a criminal offence.

#### **Criminal Justice Bill 2004**

(published on 8 July 2004): the primary purpose of the Criminal Justice Bill is to make certain changes to the criminal law as recommended in the report of the Expert Group (chaired by the late Mr Eamon Leahy S.C.) appointed to consider changes in the criminal

law which were recommended in the Report of the Steering Group on the efficiency and effectiveness of the Garda Síochána. In this respect the Bill provides for increased garda powers in a number of areas including preservation of a crime scene and powers of search, arrest and detention. The Bill also contains some additional provisions such as admission as evidence of previous witness statements, prosecution appeals and fixed charges for certain public order offences.

\* Published and enacted in 2004

\*\* Enacted in 2004

#### **Bills under preparation during 2004:**

- Communications Data Retention Bill
- Criminal Justice (Mutual Assistance) Bill formerly referred to as the Criminal Justice (International Cooperation) Bill
- Criminal Justice (Miscellaneous Provisions) Bill
- Criminal Justice (Protection of Confidential Information) Bill
- Crimes (Codification) Bill
- DPP appeal against unduly lenient sentences in the District Court
- Drug Offenders Bill
- Enforcement of Fines Bill
- Fines Bill
- Prison Service Bill
- Trafficking and Child Exploitation Bill
- Contractual Obligations (Applicable Law) Bill
- Coroners Bill
- Defamation Bill
- Family Law Bill
- Gaming and Lotteries (Amendment) Bill
- Intoxicating Liquor (Codification) Bill
- Judicial Council Bill
- Tribunals of Inquiry (Evidence) (Amendment) (No. 2) Bill

## Other Developments

### Private Security Authority

Following on from the *Report of the Consultative Group on the Private Security Industry* published in December 1997, the Department drafted a Bill which was signed into law on 4 May, 2004 as the Private Security Services Act, 2004 (No.12 of 2004). The Act provides, inter alia, for the establishment of a Private Security Authority to control and supervise individuals and firms providing private security services and to investigate and adjudicate on any complaints against them.

On 27 October 2004, the Minister signed the Private Security Services Act 2004 (Commencement) Order 2004 (S.I. No.685 of 2004) which allowed for the establishment of the Private Security Authority. On 28 October, the Minister launched the new Authority in Tipperary Town, where the Authority is now based. The Authority has diverse membership with representatives of the legal profession, the training industry, An Garda Síochána, industry employers and employees and Civil Servants.

### Codification of Substantive Criminal Law

The Programme for Government includes a commitment to codify all substantive criminal law into a single Crimes Act. An Expert Group was established in 2003 to consider possible approaches to codification. The Group consulted nationally and internationally as part of this process. Following Government approval and publication in 2004 of the Report of the Expert Group on the Codification of substantive criminal law, a statutory group to be known as the Criminal Law Codification Advisory Committee is to be established to oversee the codification process and ultimately, once that goal is attained, to ensure the ongoing maintenance of the code and its internal logic. Pending the enactment of the necessary legislation the Group is to be established on a non-statutory basis.

- A formal restatement of the Succession Act 1965 was published under the Statute Law (Restatement) Act 2002.
- The reform and modernisation of land and conveyancing law is the subject of a joint project between the Law Reform Commission and this Department. A Law Reform Commission Consultation Paper entitled “Reform and Modernisation of Land Law and Conveyancing Law” was published in October 2004. It was followed by a consultation process, which included a conference in the O’Reilly Hall, UCD, in November.
- The Minister indicated in his speech at the annual dinner of the Coroner’s Society of Ireland on 29 September 2004, that it was his intention to now proceed with a comprehensive reform of the existing Coroners Act 1962, as opposed to a more limited reform. That reform will draw heavily on the recommendations in the Report of the Coroner’s Review Group published in December 2000. The Minister also indicated that he was considering how best the coroners service might be restructured in order to better serve the demands of modern society in regard to investigation of death, where criminal circumstances were not involved.
- In June 2003, the Minister launched the Report of the **Legal Advisory Group on Defamation**. The remit of the Group, which was established in September 2002, was to focus on technical issues of a legal nature and, in particular, to take account of recent developments in other jurisdictions which had occurred since the final report of the Law Reform Commission on Defamation was published in 1991. In that context, the Group had a role in assessing the legal changes which may be required in the reform of our defamation laws. A public consultation process ran until 31 January 2004. Meetings were held in 2004 with the Press

Industry Steering Committee in the context of their proposals for an independent press council, a press ombudsman and a press code of standards.

- The Department continued to co-operate with the Department of the Environment, Heritage and Local Government in developing the Residential Tenancies Bill which represents the legislative response to key elements in the Report of the Commission on the Private Residential Sector. The Bill was enacted in 2004.

### Statutory Instruments made in 2004

- **Criminal Justice Act 1994 (Section 32) (Prescribed Activities) Regulations 2004** (S.I. No 3 of 2004): this Statutory Instrument gave further effect to Directive 2001/97/EC (2nd Money Laundering Directive) by prescribing activities for the purposes of section 32 of the Criminal Justice Act 1994 (as amended).
- **Criminal Justice Act 1994 (Section 57A) Order 2004** (S.I. No 52 of 2004): this Statutory Instrument designates Myanmar as a State that does not have in place adequate procedures for the detection of money laundering pursuant to section 57A of the Criminal Justice Act 1994 (as amended).
- **Children Act 2001 (Commencement) Order 2004** (S.I. No. 468 of 2004): the primary purpose of this Statutory Instrument is to bring into operation from 29 July 2004 the provisions of the Children Act 2001 which provide for the operation of the family conference that is convened by the Probation and Welfare Service on the directions of the Children Court.
- **Criminal Justice Act 1994 (Section 32) (Prescribed States or Countries) Regulations 2004** (S.I. No 569 of 2004): these Regulations designate the Principality of Liechtenstein as a

state to which the customer identification requirements under Section 32 of the Criminal Justice Act 1994 do not apply.

- **Criminal Justice (Joint Investigation Teams) Act 2004 (Commencement) Order 2004** (S.I. No 585 of 2004): this Order appointed the 1st day of October 2004 as the day on which the Criminal Justice (Joint Investigation Teams) Act 2004 (No. 20 of 2004) came into effect.
- **Criminal Justice (Temporary Release of Prisoners) Act 2003 (Commencement) Order 2004** (S.I. No. 679 of 2004): this Order appointed the 12th November 2004 as the day on which the Criminal Justice (Temporary Release of Prisoners) Act 2003 (No. 34 of 2003) came into effect.
- **The Solicitors Acts 1954 to 2002 (Professional Indemnity Insurance) (Amendment) Regulations 2004** (S.I. No. 115 of 2004): These Regulations, made in March 2004, provide for the Professional Indemnity Committee (appointed by the Council of the Law Society) facilitating the application of Directive 98/5/EC, insofar as it relates to ensuring a lawyer from an E.U. member state wishing to practice in the State has professional indemnity insurance equivalent to the minimum level of cover for solicitors in the State.
- **European Communities (Lawyers' Establishment) Amendment Regulations 2004** (S.I. No. 752 of 2004): These Regulations extend the European Communities (Lawyers' Establishment) Regulations 2003 to lawyers from the 10 countries which acceded to the European Union in 2004. The latter Regulations brought into force in Ireland the measures necessary to comply with Directive No. 98/5/EC to facilitate the practice of the profession of a lawyer on a permanent basis in a Member State other than that in which the qualification was obtained.

- **European Communities (Freedom to Provide Services) (Lawyers) (Amendment) Regulations 2004** (S.I. No. 753 of 2004): These Regulations extend the European Communities (Freedom to Provide Services) (Lawyers) Regulations, 1979 to 1999 to lawyers from the 10 countries which acceded to the European Union in 2004. The latter Regulations gave effect to Council Directive No. 77/249 EEC so as to enable lawyers from other Member States to provide professional services in the State by way of provision of services.
- **Civil Liability and Courts Act 2004 (Commencement) Order 2004** (S. I. No. 544 of 2004): This Order brought into operation sections 1, 5, 6, 8, 19, 21, 22, 25, 26, 29, 39, 41 – 44, 54 and 55 of the Act with effect from 20 September 2004. It also provided for the coming into operation of sections 7, 9 – 18, 20, 23, 24, 27, 28 and 40 on 31 March 2005.
- **Courts and Court Officers Act 2002 (Section 46) (Commencement) Order 2004** (S.I. No. 712 of 2004): The Order provided for the coming into operation of section 46 of the Courts and Court Officers Act 2002 on 31 March 2005.
- **Refugee Act 1996 (Section 22) (Amendment) Order 2004** (S.I. No. 500 of 2004): This Order amended the Refugee Act 1996 (Section 22) Order 2003 (S.I. No. 423 of 2003) to provide for the detention in a prescribed place of persons detained for the purposes of removal from the State to another Member State of the EU under Council Regulation (EC) No. 343/2003 (known informally as the “Dublin Regulation”).
- **Irish Nationality and Citizenship Act 2004 (Commencement) Order 2004** (S.I. No. 873 of 2004): This Order commenced the Irish Nationality and Citizenship Act 2004 with effect from 1 January 2005.

## Resolutions/Scrutiny of EU Business 2004

### ● Council Framework Decisions

Resolutions in accordance with Article 29.4.6 were approved by both Houses of the Oireachtas approving the exercise by the State of the options or discretions provided by Article 1.11 of the Treaty of Amsterdam to take part in the adoption of proposals for Council Framework Decisions on the application of the principle of mutual recognition to confiscation orders.

## Developments in European Union and International Law

In recent years work at EU level in the areas of criminal and civil law co-operation has expanded significantly and this continued in 2004 creating new demands for participation in the negotiation of EU and other international instruments, participation in various international monitoring mechanisms and the production of legislative proposals at national level to meet our international obligations. Details of instruments agreed or adopted during the year are contained in the chapter on International issues. Details of instruments under negotiation are shown below. In addition, there was attendance and follow-up action in respect of the Public Hearing in January 2004 on the Commission Green Paper on the conversion of the Rome Convention (Rome I) on the Law applicable to Contractual Obligations into a Community Instrument and its modernisation in January 2004.

There was attendance and follow-up action in respect of the Public Hearing in June 2004 on the Commission Green Paper on Maintenance Obligations and on Approximation, Mutual Recognition and Enforcement of Criminal Sanctions in the EU.

There was attendance and follow-up action in respect of a Public Hearing in November 2004 on the Commission Green Paper on Mutual Recognition of Non-custodial Pre-trial Supervision Measures.

Agreement was reached in 2004 on a Commission Decision on the adequate protection of personal data contained in Passenger Name Record (PNR) data transferred by air carriers to the US Bureau of Customs and Border Protection and an agreement between the European Community and the USA on the processing and transfer of PNR data.

### Proposals for Council Regulations

Both Houses of the Oireachtas approved, in accordance with Article 29.4.6 of Bunreacht na hÉireann, the exercise by the State of the option, provided by Article 3 of the fourth Protocol set out in the Treaty of Amsterdam, to take part in the adoption and application of the proposal for a Regulation of the European Parliament and of the Council creating a European order for payment procedure.

### European Union Instruments agreed/adopted during 2004

*(Details of these are contained in the chapter on International Issues)*

### European Union Instruments under negotiation during 2004

- **Negotiations between EU and USA on Agreements on Extradition and Mutual Legal Assistance.**

The European Council agreed in September 2001 that negotiations should be opened with the USA with a view to a new agreement on matters of judicial co-operation, including extradition and mutual legal assistance. Formal negotiations between the EU (represented by the Presidency) and the USA got underway in June 2002 and concluded in 2003. Negotiations with the US on the bilateral instruments to give effect to the agreements continued during 2004.

- **Council Decision determining which provisions of the 1995 EU Convention on simplified extradition procedure and of the 1996 EU Convention relating to extradition constitute**

### **developments of the Schengen acquis for purposes of the application of these two Conventions between the EU and Iceland, and Norway.**

Negotiations on this Council Decision commenced in June 2001 and were completed in 2003. The purpose of this Decision is to associate Iceland and Norway with the application of the provisions of the Simplified Extradition Convention (1995 EU Extradition Convention) and the 1996 EU Extradition Convention which constitute a development of the Schengen acquis and which fall within the scope of the Association Agreement between the EU and Iceland and Norway.

- **Draft Council Decision with a view to concluding an agreement between the EU and Iceland, and Norway on the surrender procedure between the Member States of the EU and Iceland, and Norway.**

The purpose is to associate Iceland and Norway with the non-Schengen building parts of the 1996 EU Extradition Convention as well as the mechanisms of the European Arrest Warrant. Negotiations commenced in 2003 and continued during 2004.

- **Draft Council Framework Decision on the execution in the European Union of confiscation orders.**

This proposal was initiated in June 2002. Negotiations continued in 2003 and up to June 2004, when agreement in principle on the text was reached. The aim of the instrument is to facilitate co-operation between Member States as regards the recognition and execution of confiscation orders so as to oblige a Member State to recognise and execute in its territory a confiscation order issued by a judicial authority of another Member State.

- **Draft Council Framework Decision on combating racism and xenophobia.**

The aim of this instrument is to define a common criminal law approach within the EU to racist and xenophobic behaviour and to provide effective, proportionate and dissuasive penalties and sanctions for such behaviour.

- **Draft Council Framework Decision on the application of the principle of mutual recognition to financial penalties.**

The aim of this instrument is to provide for the mutual recognition of financial penalties, mainly fines, within the European Union. The intention is that a fine imposed in one Member State can be executed and collected in another. Politically agreed during 2004.

- **Draft Council Framework Decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking.**

The aim of this instrument is to target illicit drug trafficking by providing a common EU definition of drug trafficking aligned to the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, minimum rules in relation to punishment levels as well as liability of legal persons, and jurisdiction and prosecution. Politically agreed during 2004.

- **Draft Framework Decision on the European Evidence Warrant for obtaining objects, documents and data for use in procedure in criminal matters.**

The aim of this instrument which was published in 2003 is to apply the principle of mutual recognition to a European warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters. Discussions commenced in January 2004 and negotiations are continuing.

- **Draft Framework Decision on the application of the “ne bis in idem” principle.**

The aim of this instrument is to provide Member States with common legal rules in order to ensure uniformity in both the interpretation and practical implementation of the “ne bis in idem” principle (i.e. that no person should be tried twice for the same crime). It proposes to repeal Arts. 54-58 of the Schengen Convention upon its entry into force.

- **Draft Framework Decision on the retention of data processed and stored in connection with the provision of publicly available electronic communications services or data on public communications networks for the purpose of investigation, detection and prosecution of crime and criminal offences including terrorism.**

This instrument was co-sponsored by Ireland, The UK, Sweden and France in 2004 and negotiations continued on it throughout the year. Its aim is to provide for the retention of communications data and access to the data for the purpose of investigating, detecting and prosecuting crime, including terrorist crime.

- **Regulation of the European Parliament and of the Council creating a European order for payment procedure.**

Negotiations on the proposed Regulation commenced in 2004.

- **Directive of the European Parliament and of the Council on certain aspects of mediation.**

Negotiations on the proposed Directive commenced in 2004.

- **Regulation of the European Parliament and the Council on the law applicable to non-contractual obligations (known as Rome II).**

This proposal was initiated in July 2003. The objective of the Regulation is to harmonise the

rules on the applicable law for non-contractual obligations, both civil and commercial. This would ensure that courts in all the member States apply the same law to cross-border disputes involving non-contractual obligations (torts), thereby facilitating mutual recognition of court rulings in the European Union. Negotiations commenced in September 2003 and continued through 2004 under the Irish and Dutch Presidencies.

### Other International Matters

- **Council of Europe Convention on action against trafficking in human beings.**

Negotiations on this instrument continued throughout 2004.

- **Cooperation Agreement between the European Community and its Member States, of the one part and the Swiss Confederation, of the other part, to combat fraud and any other illegal activity to the detriment of their financial interests.**

This Agreement was signed in October 2004 by Ireland. The Agreement aims to extend administrative and judicial assistance in criminal matters between the EC and its Member States and Switzerland in order to combat illegal activities concerning trade in goods and related matters.

- **Council of Europe Convention on Extradition.**  
Revised Declaration to 1957 Council of Europe European Convention on Extradition to take account of position following introduction of European Arrest Warrant.
- **OECD Convention on Combating Bribery of Foreign Public Officials in international business transactions.**

Ireland, as one of the two lead examiners, commenced an examination on behalf of the OECD Secretariat, of Slovenia's compliance with this Convention.

- **Draft Convention on exclusive choice of court agreements**

Significant progress was made in the negotiations on the draft Convention at meetings which took place in The Hague during 2004.

- **Draft Convention on the International Recovery of Child Support and other forms of Family Maintenance**

Negotiations on the draft Convention took place at a meeting in The Hague in July 2004.

### Bilateral Agreements/Treaties

- **Ireland-USA Treaty on Mutual Legal Assistance in Criminal Matters**

This Treaty was signed in Washington D.C. on 18 January 2001 and is currently awaiting ratification.

- **Bilateral agreement with the United Kingdom on Mutual Legal Assistance in Criminal Matters**

Entered into force on 1 June 2004.

- **Bilateral agreement with the United Kingdom regarding the extension of the 1959 Council of Europe Convention on Mutual Legal Assistance in Criminal Matters to the Isle of Man**

Amending legislation to allow for the agreement to be ratified is being included in the Criminal Justice (Mutual Assistance) Bill, formerly referred to as the Criminal Justice (International Cooperation) Bill, which it is expected will be published in 2005.

- **Bilateral Agreement between Ireland and Hong Kong Special Administrative Region on Surrender of Fugitive Offenders**

Substantial progress made on agreement during 2004.

- **Bilateral agreement between Ireland and Hong Kong Special Administrative Region on Mutual Legal Assistance in Criminal Matters**

Amending legislation to allow for the agreement to be ratified is being included in the Criminal Justice (Mutual Assistance) Bill, formerly referred to as the Criminal Justice (International Cooperation) Bill, which it is expected will be published in 2005.

- **Proposed Bilateral agreements with the United Kingdom regarding the extension of the 1959 Council of Europe Convention on Mutual Legal Assistance in Criminal Matters to the Bailiwick of Guernsey and to the Isle of Man**

Amending legislation to enable any such agreement to be entered into is being included in the Criminal Justice (Mutual Assistance) Bill, formerly referred to as the Criminal Justice (International Cooperation) Bill, which it is expected will be published in 2005.

- **Bilateral Agreement between Ireland and Canada on Extradition**

Agreement close to finalisation.

- **Bilateral Agreement between Ireland and Argentina on Mutual Legal Assistance in Criminal Matters and extradition**

At preliminary stage of consideration.

### Central Authorities for international child abduction and maintenance recovery

In addition to its role as a substantial contributor to the Department's programme of law reform, the Department operates the Central Authorities for international child abduction and maintenance recovery.

### Child Abduction

The Central Authority in the Department operates under the Child Abduction and Enforcement of Custody Orders Act 1991. The Act gives the force of law in Ireland to the Hague and Luxembourg Conventions:

- *The Hague Convention on the Civil Aspects of International Child Abduction* is designed to

ensure the immediate return of children who have been removed from one contracting state to another—usually by a parent in defiance of the wishes of the other parent. It is based on the principle that the custody of a child should be decided by courts in the state in which the child habitually resides.

- *The European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children (the Luxembourg Convention)* is designed to ensure that custody and access orders granted in one contracting state are recognised and enforced in other contracting states. Recognition and enforcement disputes usually arise when one parent removes a child from one state to another in defiance of a court order granting custody or access rights to the other parent.

When a child's removal from the State to a convention country comes within the terms of either Convention the Irish Central Authority liaises with its counterpart in that country with a view to having the child returned either voluntarily or following court proceedings in that country. The Irish Central Authority provides similar assistance to a foreign applicant whose child has been removed to the State, including arranging with the Legal Aid Board for the provision of legal aid.

The Child Abduction and Enforcement of Custody Orders Act, 1991 came into operation in October 1991. In the period between then and December 2004, the total number of cases which have been the subject of applications to the Central Authority is 1001 and the number of children involved is 1,652.

**Outcome of cases in 2004**

	Incoming	Outgoing	Total
<i>Court ordered return</i>	11	9	20
<i>Court refused return</i>	3	3	6
<i>Voluntary return/Settled by consent</i>	11	9	20
<i>Withdrawn</i>	5	6	11
<i>Access order registered</i>	1	-	1
<i>Access application refused</i>	1	-	1
<i>Awaiting resolution</i>	16	16	32
<i>Application refused by Central Authority</i>	1	2	3
	<b>49</b>	<b>45</b>	<b>94*</b>

\*Includes 24 cases carried forward from 2003

**Breakdown of new cases by Contracting State - 2004**

Country	Incoming	Outgoing	Total
<i>Australia</i>	2	-	2
<i>Bosnia</i>	-	1	1
<i>Brazil</i>	-	1	1
<i>Canada</i>	1	2	3
<i>England &amp; Wales</i>	19	19	38
<i>Cyprus</i>	1	-	1
<i>France</i>	1	-	1
<i>Germany</i>	2	-	2
<i>Israel</i>	1	-	1
<i>Italy</i>	-	1	1
<i>New Zealand</i>	-	1	1
<i>Northern Ireland</i>	-	5	5
<i>Romania</i>	-	1	1
<i>Scotland</i>	-	3	3
<i>South Africa</i>	1	-	1
<i>Spain</i>	-	1	1
<i>Trinidad &amp; Tobago</i>	1	-	1
<i>USA</i>	3	3	6
<b>Total</b>	<b>32</b>	<b>38</b>	<b>70</b>

### Maintenance recovery

The Maintenance Act 1994, which came into effect on 25 November 1995, enabled the State to ratify the 1956 United Nations Convention on the Recovery Abroad of Maintenance which operates in over 50 countries, including all EU countries, Australia and New Zealand. Although the United States is not party to any multilateral conventions of this nature, Ireland concluded a separate bilateral arrangement with them on a federal basis on 10 September 1997. The USA is declared a designated jurisdiction for the purposes of part 3 of the Maintenance Act 1994.

Under the UN Convention, Contracting States cooperate with one another to assist maintenance creditors in one Contracting State to recover monies due from debtors residing in another Contracting

State. All appropriate steps are taken, including the institution of court proceedings, to recover monies due.

Under the EU Brussels Convention and the Lugano Convention, simplified procedures are also in place whereby maintenance orders made in one Contracting State can be enforced in another Contracting State under those Conventions.

The Central Authority discharges the functions required of it under the Maintenance Act 1994 by, inter alia, providing assistance on the completion of the necessary forms, transmitting the application to the Central Authority in the country where the maintenance debtor resides and by seeking assistance in locating the maintenance debtor.

#### Applications Received from 25 November, 1995 to 31 December 2004

Year	Incoming*	Outgoing*	Total
1996	5	14	19
1997	16	17	33
1998	21	8	29
1999	22	15	37
2000	21	17	38
2001	14	20	34
2002	30	18	48
2003	26	21	47
2004	26	39	65
<b>Total</b>	<b>181</b>	<b>169</b>	<b>350</b>

\* Incoming: maintenance creditor resides outside the State; Outgoing: maintenance creditor resides in the State.

## HUMAN RIGHTS

### High Level Goal 7

*To implement the Human Rights Commitments in the Good Friday Agreement and the ongoing review and revision of human rights aspects of criminal law and practice principally insofar as the Department's sphere of responsibilities are concerned.*

#### Strategy Statement 2003-2005 Objectives

- *Following the enactment of the Human Rights Commission Acts, 2000 and 2001, and in accordance with the provisions of those Acts, ensure the complete operational establishment of the Human Rights Commission -*
  - (a) to enable it to implement fully the commitment in the Good Friday Agreement, and*
  - (b) to fulfil the Government's commitment that the Commission will be a model for others to follow as an institution which will set rather than follow standards of best international practice in the promotion, protection and development of human rights in the State, in an all Ireland context and internationally in association with other rights based organisations.*
- *Fulfil the commitment to give further effect to the provisions of the European Convention on Human Rights.*
- *Ensure that the human rights aspects of criminal law and practice are kept under review and up to date and in particular that channels of communication are established with the Human Rights Commission*

#### Progress on objectives in 2004

- The Human Rights Commission is the independent national human rights institution in Ireland which was established under the Human Rights Acts, 2000 and 2001 in line with a commitment in the 1998 Good Friday Agreement. The Minister for Justice, Equality and Law Reform has certain statutory functions under those Acts, particularly with regard to financial and staffing issues affecting the Commission, as well as matters connected with and arising from the Commission's Reports to the Minister and the Government. During 2004 the Department took all appropriate action in accordance with those statutory obligations.
- The Commission's budget for 2004 was €1.823 m. The Commission has emerged from its formative phase and is now taking on the full range of the substantive tasks associated with its statutory functions. The Commission's Strategic

Plan 2003 - 2006 sets out the key areas of work that the Commission will be focusing on over the period.

- The Commission's Annual Report for 2003 was submitted to the Government on 5 October, 2004 and laid before the Houses of the Oireachtas on 20 October, 2004. The Commission's report on its effectiveness since its establishment was also considered by the Government on 6 July, 2004. The Minister's responses to the recommendations contained in that report were approved by the Government and laid before the Houses of the Oireachtas on 20 October, 2004. Some of the Commission's recommendations have already been implemented while others are the subject of ongoing consideration in consultation with the Department of Finance.
- As far as contributing to raising awareness of the application of the European Convention on Human Rights Act 2003 is concerned all necessary steps

have been taken. It remains an ongoing function of the Department to keep abreast of developments with regard to the use of the Act in domestic proceedings and to ensure that decisions of the Court of Human Rights which may have implications for the areas of the criminal law of concern to the Department are noted and acted upon.

### **Criminal Law (Insanity) Bill, 2002**

The purpose of the Criminal Law (Insanity) Bill 2002 is to provide an appropriate framework to govern the criminal responsibility of mentally ill persons who may have committed offences. The Bill completed Committee Stage in Seanad Éireann in April 2004 and is now awaiting Report Stage. Amendments to the Bill will be brought forward at Report Stage to modernise and clarify the current arrangements relating to the certification/de-certification and transfer of persons detained for psychiatric treatment in the Central Mental Hospital.

## EUROPEAN UNION AND INTERNATIONAL

### High Level Goal 8

*To increase the public's security and promote the development of a more equal society through our participation in EU and other international initiatives and programmes that influence our ability to tackle crime, law reform, equality and asylum and immigration strategies.*

#### Strategy Statement 2003 - 2005 Objectives

- *Ensure that the Department is well placed to successfully lead and manage the Presidency workload in all areas of its EU responsibilities.*
- *Contribute to the deliberations of the Convention on the Future of Europe.*
- *Continue to participate in the development and implementation of European Union and other international policy in relation to drug misuse and organised crime and also crime prevention.*
- *Ensure effective national contribution and participation in the deliberations of the EU in the areas of judicial co-operation in civil and criminal matters and in other international bodies such as the UN and the Council of Europe.*
- *In the area of human rights, equality and discrimination, ensure effective national contribution and participation in the deliberations of the European Union and EU bodies such as ECRI (European Commission against Racism and Intolerance) and EUMC (European Union Monitoring Centre on Racism and Xenophobia) and other relevant international bodies such as Council of Europe and the UN.*
- *Ensure that the State's arrangements on migration, asylum and related policy issues are developed and represented in harmony with our partners in the EU, Council of Europe and other relevant international groupings.*
- *Support our policing commitments at international level.*
- *Implement obligations arising in relation to the Schengen acquire on foot of the EU Council Decision in February 2002 approving Ireland's application to participate in aspects of the acquis.*

### Progress on objectives in 2004

- 2004 was an important year for the Department in the context of its European Union and international functions. Ireland held the Presidency of the European Union during the first six months of the year which also coincided with an important juncture in the development of the Union and its policies. Officials of the Department also participated in meetings in other international fora, including the United Nations, Council of Europe, and the Hague Conference on Private International Law.
- The adoption of the Hague Programme on

strengthening freedom, security and justice in the European Union by the European Council in November provides the framework for the further development of the Union as an area of freedom, security and justice.

#### Presidency

- The Department's Presidency responsibilities centred principally on the Justice and Home Affairs (JHA) Council but also extended to other Council formations, including the Employment, Social Policy, Health and Consumer Affairs Council (ESPHCA) in the context of progressing the equality agenda and the Competitiveness Council in the context of free movement issues.

- The Irish Presidency took place at an important time in the development of the Union's policy in the Justice and Home Affairs area in particular. The Amsterdam Treaty had imposed a deadline of 1 May 2004 for the adoption of a range of measures directed towards the establishment of an area of freedom, security and justice. In addition, 2004 also marked the end of the five year programme agreed by the Tampere European Council which included the completion of the first stage of establishing the Common Asylum Policy for the Union. It also fell to the Irish Presidency to coordinate the European Union's response to the heightened terrorist threat represented by the Madrid bombings on 11 March. Strengthening the area of freedom, security and justice for the purpose of creating a Safer Union was therefore a key objective of Ireland's Presidency of the European Union.
- The Presidency placed significant demands on the Department and its associated agencies. The Justice and Home Affairs Council, which was chaired by the Minister for Justice, Equality and Law Reform, met six times in the course of the Irish Presidency, including an extraordinary meeting on March 19 following the Madrid terrorist bombings. In addition, officials of the Department and its associated agencies were responsible for chairing over one hundred and forty meetings at working group level. Fifteen Presidency related senior level meetings and conferences took place in Ireland.
- The Irish Presidency was able to make significant progress on the agenda and objectives it had set itself. Agreement was achieved on more than twenty legislative measures on which negotiations were ongoing at the beginning of the Presidency as well as a similar number of non-legislative instruments. Key measures which were adopted, or on which political agreement, was achieved, in the course of the Presidency included:
  - The European Council's Declaration on Combating Terrorism of 25 March and the follow-up revised EU Action Plan.
  - The Asylum Qualifications Directive and the Asylum Procedures Directive in keeping with the Treaty of Amsterdam deadlines.
  - The Regulation creating a European Enforcement Order for uncontested claims, the Directive on Compensation to Victims of Crime and the Framework Decision on the application of the principle of mutual recognition to Confiscation Orders in the context of taking forward the broader Tampere agenda.
  - The Directive on the right of citizens of the Union and family members to move and reside freely within the territory of Member States.
  - Community funding programmes directed to organisations active in the field of equality and preventing and combating violence against children and women.
  - The mandate for a new multi-annual programme for the development of cooperation in justice and home affairs which resulted in the development, and adoption in November 2004, of the Hague Programme on strengthening freedom security and justice in the European Union to build on the achievements of the Tampere Programme.

### Constitutional Treaty

- The Convention on the Future of Europe completed its work in July 2003 having presented a draft European constitution to the European Council. The European Council welcomed the Convention's draft, which was used as the basis for the work of an Intergovernmental Conference (IGC), at which the Governments reached agreement on 18 June 2004, during the Irish

Presidency, on the final text of the Constitution. During 2004, this Department continued to contribute to developing policy positions in relation to the Treaty as required.

### Hague Programme

- The Hague Programme on strengthening freedom, security and justice in the European Union was adopted by the European Council in November in keeping with the June European Council mandate. The Hague Programme is intended as a new five year programme for the period 2005-2009, in succession to the earlier Tampere Programme, and will provide the framework for the further development of the Union as an area of freedom, security and justice. It is complemented by the European Strategy on Drugs 2005-12 subsequently adopted by the European Council in December.

### Terrorism, Drug Misuse and Organised Crime

- The Declaration on Combating Terrorism, adopted by the European Council in March 2004 in the aftermath of the Madrid bombings, was intended to reinforce existing work at EU level and provide the basis for the development of a reinforced and comprehensive strategy to combat terrorism. Council Conclusions on the follow up to the European Council Declaration were adopted by the JHA Council in June. A report to the European Council in June was also able to record significant progress in taking forward the Declaration, including the appointment of a Counter Terrorism Coordinator and the reestablishment of a Counter Terrorism Task Force within Europol. In the period from March to June 2004 an EU Action Plan to combat terrorism, building on the Declaration, was developed and was adopted at the June European Council.
- Work was taken forward on the basis of the Action Plan in the latter half of 2004. Significant

progress was achieved in particular in the area of prevention, preparedness and response to terrorist attacks, the fight against terrorist financing, preparedness and consequence management in the fight against terrorism and the protection of critical infrastructure. Agreement was also reached on a strategy on the fight against terrorist financing and an EU Solidarity Programme on the consequences of terrorist threat and attacks. The Action Plan on Combating Terrorism was also updated in December 2004.

- The Dublin Conference on the EU Drugs Strategy / The Way Forward, held on 10-11 May 2004 in conjunction with the Irish Presidency, was intended to contribute to the development of a new EU Drugs Strategy for the period 2005-2012. The Netherlands Presidency took forward that work leading to the adoption of the new strategy by the European Council in December. The strategy will be a key instrument to effectively confront drugs use and trafficking in drugs. The European Council also invited the European Commission to prepare a proposal for an Action Plan for implementation of the Strategy in 2005-2008 with a view to its adoption early in 2005.
- Agreement was also reached on a Framework Decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking in October. The proposal targets illicit drug trafficking by providing a common EU definition of drug trafficking to be punishable in all Member States, minimum rules in relation to punishment levels, as well as liability of legal persons, and jurisdiction and prosecution.
- The issue of organised crime was discussed at the informal meeting of Justice and Home Affairs Ministers on 22-23 January 2004. The discussion was a follow up to the Conference on Organised Crime held in Dublin on 20/21 November, 2003

and led to the adoption of a Council Resolution on a model protocol for the establishment in Member States of partnerships between the public and private sectors to reduce harm from organised crime.

- The Council adopted conclusions in December in relation to the European Crime Prevention Network as well as a strategic approach to tackling cross-border organised crime.

## Other Developments

### Police Co-operation:

- Police cooperation was taken forward at the level of the JHA Council as well as within the framework of Europol, the Police Chiefs Task Force and CEPOL, the European Police College.
- The enhancement of police cooperation at the level of the Union was an important element in the European Council's Declaration on Combating Terrorism. Arising from the Declaration, the Counter Terrorism Task Force was re-established within Europol. The Police Chiefs Task Force also prepared a report on the Madrid bombing and its role was also reviewed with a view to strengthening of EU operational cooperation.
- Council Conclusions on the three year CEPOL report were agreed in February and an Irish Presidency proposal to give CEPOL legal personality was adopted in July. In addition a handbook for cooperation between Member States to avoid terrorist acts at the Olympic Games and other comparable sporting events was agreed as were Council Conclusions on police co-operation to combat football related violence.

### Peacekeeping

The Garda Síochána continued to contribute to International Peacekeeping operations in 2004. Eighteen members of the Garda Síochána served with

the United Nations Force in Cyprus (UNFICYP) mission during 2004. Four Garda members served with the European Union Police Mission (EUPM) in Bosnia during 2004.

### Judicial Co-operation in Civil and Criminal Matters

- Legislative proposals adopted in the course of 2004 in the area of civil law cooperation included the Council Directive relating to compensation to victims of crime in April. This Directive will help ensure compensation to victims of violent international crime and help victims claim compensation as a result of crime suffered in a Member State other than their own.
- A general approach was agreed at the JHA Council on 8 June 2004 in regard to the Framework Decision on the application of the principle of mutual recognition to confiscation orders. This Framework Decision is designed to facilitate co-operation between Member States with regard to the recognition and execution of orders to confiscate the proceeds of crime.
- The Europol/Eurojust Agreement was approved at the JHA Council in March and Council Conclusions on the improved use of Eurojust in the fight against organised crime were also agreed in December.
- During 2004 the Council, in co-decision with the European Parliament, adopted the Regulation creating a European Enforcement Order for Uncontested Claims (805/2004). This Regulation, the first civil law measure in the Justice and Home Affairs area to go through the co-decision process, ensures that creditors who have obtained an enforceable judgment in respect of an uncontested debt will be able to have that judgment enforced directly in another Member State.

## Human Rights / Equality

- Equality issues fall within the remit of the Employment, Social Policy, Health and Consumer Affairs (ESPHCA) Council at EU level. The Minister of State at the Department of Justice, Equality and Law Reform, Mr. Willie O’Dea, T.D., chaired the equality session of the Council on 1 June.
- Significant progress was achieved in taking forward the equality agenda at EU level in the course of 2004. Decisions adopting a Community Action Programme to promote organisations active at European level in the field of equality between men and women and a Programme of Community Action for 2004 – 2008 to prevent and combat violence against children, young people and women and to protect victims and groups at risk (Daphne II programme) were adopted in April.
- In March 2004, Ireland submitted its first and second National Report on the legislative, judicial, administrative and other measures taken to give effect to the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD) to the UN CERD Committee.
- As part of the Irish Presidency programme, an anti-discrimination conference entitled “Closing the gap: Systematic Approaches to Promoting Equality and Diversity in Europe” was organised in co-operation with the European Commission and held in Limerick on the 27th and 28th May. The focus of this conference was an exploration of the role of independent Equality Bodies, workplace best practice and access to goods and services. It was also an opportunity to share the knowledge and experiences of Irish and international colleagues. By drawing on a broad range of experiences, the conference objective was to help raise awareness and support efforts to combat discrimination across all the six grounds in Article 13 of the Treaty of the European Communities (race, gender, age, disability, religion and sexual orientation).
- The June European Council invited the Commission to bring forward a proposal for the establishment of a European Gender Institute following discussion at the June meeting of the ESPHCA Council.
- Political agreement was achieved on the Directive implementing equality between women and men in the access to and supply of goods and services in October. This Directive provides a framework for combating discrimination based on sex in access to and supply of goods and services, with a view to putting into effect the principle of equal treatment between men and women.
- A general approach, pending the opinion of the European Parliament, was also reached in December on the draft Directive on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, and the draft Decision amending Decision 2001/51/EC establishing a Programme relating to the Community framework strategy on gender equality and, Decision No 848/2004/EC establishing a Community action programme to promote organisations active at a European level in the field of equality between men and women. Council Conclusions on sexual harassment in the workplace were also adopted in December.
- In its EU Presidency role, Ireland also co-ordinated and presented the common EU position at the Commission on the Status of Women in New York from 1-12 March 2004 and on the draft UN Convention to promote and protect the dignity and rights of persons with disabilities which was the subject of the UN Ad Hoc Committee meeting in New York from 29 May to 9 June 2004.

- As part of the Irish Presidency programme, a gender equality conference entitled “New Horizons for Gender Equality”, was organised in co-operation with the European Commission and held in Limerick on the 6th and 7th of May 2004. The Conference examined, on an EU-wide basis, the progress made towards the achievement of equality between women and men and also provided an excellent opportunity to welcome Ministers from the 10 new Member States. By drawing on a broad range of experiences from countries within and outside the EU the conference explored how gender equality could be progressed in the enlarged EU.

### Asylum, Migration and related policy areas:

- There was considerable progress achieved in the area of asylum, migration and related policy areas in the course of 2004 at EU level. The Asylum Qualifications Directive – the Directive on minimum standards on the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection - was formally adopted by the April Justice and Home Affairs Council following intensive negotiations and political agreement in March. Political agreement was also achieved in April on the Asylum Procedures Directive – the Directive on minimum standards on procedures in member States for granting and withdrawing refugee status. The Asylum Qualification and Procedure Directives represent the final two cornerstones of the first phase of a Common EU Asylum System as provided for by the Amsterdam Treaty and the 1999 Tampere European Council Conclusions.
- Together with other legislative instruments on asylum already adopted by the Council, the Qualification and Procedures Directives guarantee a minimum level of protection and procedural safeguards in all Member States for those who are genuinely in need of international protection, whilst preventing abuses of asylum applications which undermine the integrity of the system. The Hague Programme provides for the further development of a Common Asylum System by 2010.
- In addition, agreement was reached on a Decision to establish the European Refugee Fund 2005-2010 in June.
- A number of measures were also agreed in the area of legal migration. These included the Directive on the admission of third country nationals for studies and related purposes, which was adopted in December following political agreement at the March JHA Council, as well as recommendations directed to the admission of third country nationals for the purposes of research. Agreement was reached on Council Conclusions on the establishment of Common Principles for immigrant integration policy in the European Union in November.
- Considerable progress was also achieved in reaching agreement on the Regulation establishing the European Border Management Agency, a significant measure in the effort to fight illegal immigration and to combat terrorism, during the Irish Presidency, leading to its formal adoption in October. The role of the Agency is to improve coordination of operational cooperation between Member States and to facilitate the application of existing and future Community measures relating to the management of external borders.
- Other measures which will contribute to combating illegal immigration are the Directive on the obligations of carriers to communicate passenger data and the Decision on the organisation of joint flights for removal from the territory of two or more Member States of third country nationals who are the subject of individual

removal orders agreed at the April JHA Council. Council Conclusions on the elements for establishing preparatory actions for a financial instrument for return management in the area of migration were also agreed in June as were Council Conclusions on measures to combat illegal immigration across the maritime borders of the Member States of the European Union in December.

- Work has also been taken forward on the development of an EU wide Visa Information System. A first legislative instrument, by way of the Council Decision establishing the Visa Information System was adopted in June, in addition to Council Conclusions on the architecture, functionalities, the choice of biometric identifiers and the approach for the implementation of the system in February.
- The Department also participated at meetings of the European Migration Network which is chaired by the European Commission. The purpose of the EMN is to meet the information needs on migration and asylum of Community Institutions, Member States and, in the longer term, of the general public. This is done by building up a systematic basis for monitoring and analysing the multi-dimensional phenomenon of migration and asylum at EU level.

### Schengen

- The Department continued to pursue the administrative and legislative tasks associated with implementation of the Council Decision approving Ireland's participation in certain elements of the Schengen acquis. During 2004, the Transfer of Execution of Sentences Bill, which gives effect to provisions of the Schengen Convention, was passed by the Seanad.
- With regard to Schengen more generally, Council Conclusions on the location, management and

financing of the second generation Schengen Information System (SIS II) were agreed in April.

### Oireachtas Scrutiny

- In accordance with the European Union (Scrutiny) Act 2002 and the Oireachtas scrutiny guidelines, the Department has been involved in facilitating increased scrutiny of EU business by the members of the Oireachtas. The arrangements involve providing information notes on all new EU legislative measures involving this Department, covered by the Oireachtas scrutiny arrangements, to the Oireachtas Sub-Committee on European Scrutiny. The Department provided thirty-one such information notes during 2004. During 2004, the Department has sought and obtained Oireachtas approval, as required by Article 29.4.6 of the Constitution, to exercise Ireland's entitlement under Title IV (visas, asylum, immigration, judicial cooperation in civil matters) to opt-in in respect of four measures.

### Developments in other International Fora:

- Within the framework of the Hague Conference on Private International Law, the Department participated actively in negotiations aimed at reaching agreement on two proposed Conventions - one relating to choice of court agreements in civil and commercial matters and the other relating to the international recovery of child support and other forms of family maintenance. In the context of Ireland's Presidency of the EU, the Department had the additional responsibility of chairing regular coordination meetings to facilitate the presentation of a common position in relation to aspects of these proposed Conventions.
- The Department also participated in discussions on migration and asylum issues in other international fora, including the Inter-Governmental Consultations on Asylum, Refugee and Migration Policies (IGC) based in Geneva.

- The **European Refugee Fund** for the period 2005 – 2010 on which political agreement was reached will also contribute to the Union's efforts in the refugee and asylum field.
- **Asia Europe Meeting (ASEM)**  
The Department was represented at the ASEM meeting of Asian and European Directors General with responsibility for migration which took place in the Netherlands in November 2004.

## NORTHERN IRELAND

### High Level Goal 9

*To contribute to the establishment of partnership, equality and mutual respect within Northern Ireland, between North and South and between these islands.*

#### Strategy Statement 2003 - 2005 Objective

- *Further the peace process, with emphasis on those matters for which the Department has particular responsibility.*

### Progress on objective in 2004

- In 2004, the Department continued to progress implementation of those Government commitments under the Good Friday Agreement for which it bears primary responsibility. In particular:
  - the Department continued to participate fully in the multi-lateral talks to achieve a comprehensive and lasting settlement to the conflict in Northern Ireland and the restoration of the devolved institutions;
  - the Department continued to liaise closely with the Independent International Commission on Decommissioning (IICD);
  - the Department continued to participate in the institutions established under the Good Friday Agreement. Many of the matters falling within the competence of the British-Irish Council (BIC) and, in particular, the British-Irish Intergovernmental Conference (BIIGC), come within the Department's remit, including especially, matters relating to cross-border security co-operation;
  - the Independent Monitoring Commission Act 2003 was commenced on 7 January 2004 and the Department provided assistance with the establishment of and liaison with the

Independent Monitoring Commission. The Commission's role is to report on paramilitary activity, security normalisation and on aspects of participation in the political institutions of the state;

- in April 2004, the Independent Monitoring Commission (IMC) produced its first report to both Governments under Articles 4 and 7 of the International Agreement establishing the Commission. The scope of the first report encompassed the activities of paramilitary groups in the widest sense and dealt with all forms of criminality engaged in by paramilitaries.

In July 2004, the IMC produced its second report. This report was presented to the British Government only, as provided for under Article 5(2) of the International Agreement and dealt with security normalisation issues.

In October 2004, the IMC produced its third report. This report was presented to both Governments under Articles 4 and 7 of the International Agreement. The report concluded that some paramilitary groups had scaled back the intensity of their activity, but none had materially wound down their capacity to commit violent or other crimes.

In progressing the implementation of recommendations of the report of the Victims'

Commission, "A Place and a Name", which conducted a review of the services and arrangements in place, in this jurisdiction, to meet the needs of those who have suffered as a result of the conflict in Northern Ireland the Minister for Justice, Equality & Law Reform appointed the Remembrance Commission, in October 2003.

The Commission has responsibility for administering the Scheme of Acknowledgement, Remembrance and Assistance for Victims in this Jurisdiction of the Northern Ireland Conflict. The Commission is also responsible for the administration of the Remembrance Fund, which amounts to €9m, over three years. Expenditure by the Commission up to 31 December, 2004, amounted to €2.194 million, which included a donation of €1.25 million to the Northern Ireland Memorial Fund. Details of the categories of payment made by the Commission were provided in the Department's *Annual Report 2003*.

- The Department assisted the Joint Oireachtas Committee on Justice, Equality, Defence and Women's Rights' consideration of the Report of the Independent Commission of Inquiry into the Dublin and Monaghan bombings of 1974.
- Arising from the recommendations of the Cory collusion inquiry process and in accordance with commitments made under the Weston Park Agreement of 2001, the Government approved the establishment of a Tribunal of Inquiry with terms of reference to inquire into suggestions that members of the Garda Síochána or other employees of the State colluded in the fatal shootings of RUC Chief Superintendent Harry Breen and RUC Superintendent Robert Buchanan on 20 March, 1989. During 2004, the Department initiated preparatory legal and practical work to effect establishment of this Tribunal of Inquiry.
- The Good Friday Agreement provided for a wide-

ranging review of the criminal justice system in Northern Ireland to be carried out by the British Government through a mechanism with an independent element, in consultation with the political parties and others. The Review, published in March 2000, contained a substantial number of recommendations in relation to, *inter alia*, co-operation between the British and Irish Governments and between the relevant agencies North and South on criminal justice matters with a view to both the enhancement of existing areas of co-operation and the development of new areas. In 2004, officials from this Department continued to work with officials from the Northern Ireland Office on completing the drafting of an Intergovernmental Agreement on Cooperation on Criminal Justice Matters and an associated work programme.

### Other developments

The list of Statutory Regulations made in 2004 include the Decommissioning Act 1997 (Decommissioning) (Amendment) Regulations 2004 and the Decommissioning Act 1997 (Decommissioning) (Supplementary) (Amendment) Regulations 2004 (S.I. Nos. 79 and 80 of 2004): these regulations extended to 25 February 2005 the expiry date of the Decommissioning Act 1997 (Decommissioning) Regulations 1998 and the Decommissioning Act 1997 (Decommissioning) (Supplementary) Regulations 2001 respectively, thus continuing in force the legislative basis for decommissioning.

The Independent Monitoring Commission Act 2003 (Commencement) Order 2004 (S.I. No. 5 of 2004) was also made and this allowed for the establishment of the Independent Monitoring Commission.

Resolutions were passed by both Houses of the Oireachtas in June 2004 extending the operation of sections 2 to 12, 14 and 17 of the Offences Against the State (Amendment) Act 1998 for a 12-month period ending 30 June, 2005, thus continuing those provisions that were enacted in the aftermath of the Omagh Bomb.

## ASYLUM, IMMIGRATION & CITIZENSHIP

### High Level Goal 10

*To provide the framework for ensuring that asylum, immigration and citizenship policies respond to the needs of immigrants, asylum seekers and our society and are in line with the best international practices and standards in the area.*

#### Strategy Statement 2003 – 2005 Objectives

- *Develop immigration policy and bring forward comprehensive new immigration legislation within a structured framework.*
- *Implement the Government's asylum strategy in order to deliver more speedy decisions in relation to applications for refugee status, process to finality the asylum applications currently on hand and increase the rate of repatriation of failed asylum applicants whose applications have been processed to finality in order to maintain the integrity of the asylum process.*
- *Process applications for visas, permission to remain in the State, naturalisation and other facilities covered by aliens, nationality and citizenship legislation as promptly as resources allow and provide an adequate public information service on these matters.*
- *Provide a responsive and effective capacity to combat trafficking in human beings and illegal immigration in terms of actions both domestically and internationally.*
- *Continue to provide and support the necessary structures, including the necessary legislative base, for the asylum and immigration areas having due regard to best international practice.*
- *Provide the necessary support framework, including the development of the Reception and Integration Agency, for meeting the reception and accommodation needs of asylum seekers and the integration of refugees into Irish society.*

### Progress on objectives in 2004

- Preparatory work was undertaken in developing policy for the proposed Immigration and Residence Bill, including the drafting of a discussion document.
- Proposals were presented to Government for a constitutional change on citizenship in order to address the Irish born child issue. Draft legislation for the constitutional amendment and the subsequent implementing legislation was prepared. The Irish Nationality and Citizenship Act 2004 was enacted and preparations were made for its commencement in January 2005, including consultations with the Department of Foreign Affairs.
- The Department participated in the completion of the Report of the Interdepartmental Working Group on the Internationalisation of Irish Education services. Resulting from that Report, and following discussions with the Department of Enterprise, Trade and Employment, new arrangements for student access to employment were announced in December 2004.
- A number of significant legislative measures were politically agreed, or substantially progressed during the Irish Presidency of the EU, including:

- Border Management Agency Regulation
- Passenger data directive
- Students Directive
- Researcher Recommendations
- Decision on the Visa Information System (VIS)

The Strategic Committee on Immigration Frontiers and Asylum (SCIFA) was successfully prepared and chaired.

- During 2004, the Department continued to implement the Government's asylum strategy aimed at achieving:
  - Greatly increased processing capacity to deliver more speedy decisions in relation to applications for refugee status leading to the completion to finality of the processing of all new asylum applications within a six month period, and
  - Dealing with the increased numbers of repatriations arising in respect of persons who do not qualify for refugee status.

A cornerstone of this strategy was the ongoing implementation of the significant amendments to the Refugee Act, 1996 that were introduced in September 2003 by the Immigration Act, 2003, and which improvements were further consolidated during 2004.

### Removal and Transfers

The number of deportation orders made and effected have steadily increased since the enactment of the Immigration Act, 1999; the highest number in 2004, notwithstanding the accession to the EU on 1 May, 2004 of ten States whose nationals, in previous years, would have featured significantly in deportations and voluntary returns.

Of the 611 persons who voluntarily returned in 2004, 393 returned under the general voluntary return schemes operated by the International Organisation on Migration (IOM) and the remaining 218 returned with financial assistance from the Department.

### Deportation orders made, persons deported & voluntary returns

Year	Deportation Orders Made	Persons Deported	Returned Voluntarily
1999	102	6	37
2000	940	187	248
2001	2025	365	365
2002	2430	521	506
2003	2425	590	762
2004	2915	599	611

## Charter flights

Seven charter flights took place in 2004 to Eastern European & West African destinations, bringing the total of such flights to twelve since 2001. Details as follows:

### Charter Flights in 2004

Date	Destination	Number Deported	Cost of aircraft hire €
12 February	Romania	62	93,609
20 February	Gambia	1	50,200
31 March	Romania	53	71,590
06 April	Nigeria	29	146,500
26 August	Nigeria	25	248,630
17 November	Romania & Moldova	66	82,700
15 December	Romania & Moldova	38	82,700
<b>Total</b>		<b>274</b>	<b>775,929</b>

- **Transfers to other EU States of persons to have their asylum claims dealt with there.**

The Dublin II Regulation came into effect from 01 September 2003. The Regulation provides the legal basis for establishing the criteria and mechanism for determining the State responsible for examining an asylum application by a third country national in one of the Member States of the EU (excluding Denmark but including Iceland, Norway & Switzerland).

Removals made under the Regulation are by way of Transfer Orders rather than by Deportation Orders and are signed on behalf of the Minister by an officer of a grade equal to or higher than an Assistant Principal Officer. The first transfers to be effected began in January 2004.

Below are tables showing: (i) the number of Transfer Orders signed and effected in 2004 (ii) the EU States to whom the persons named in the Transfer Orders are to be sent (iii) the nationalities of the persons referred to in Table 2.

**Table 1: Dublin II Transfer Orders Signed & Effected in 2004**

Year	Transfer Orders Signed	Transfer Orders Effected
2004	238	65

**Table 2: EU States responsible for dealing with the asylum applications of the 238 persons referred to in the Dublin II Transfer Orders Signed in 2004**

Country	Number	Country	Number	Country	Number
United Kingdom	128	Holland	15	Greece	6
France	18	Sweden	10	Austria	5
Germany	18	Italy	9	Norway	3
Belgium	17	Luxembourg	7	Spain	2

**Table 3: Nationalities of the 238 persons referred to in Table 2**

Nationality	Number	Nationality	Number	Nationality	Number
Sudanese	36	Guinean	4	Azerbaijani	1
Nigerian	34	Liberian	4	Canadian	1
Somalian	24	Palestinian	4	Colombian	1
DR Congo	13	Rwandan	4	Croatian	1
Iranian	13	Chinese	3	Ethiopian	1
Afghanistani	8	Iraqi	3	Ivory Coastian	1
Burundi	8	Kuwaiti	3	Lebanese	1
Russian	8	Moldovan	3	Libyan	1
Romanian	7	Armenian	2	Malaysian	1
Albanian	6	Ghanaian	2	Sri Lankan	1
Algerian	6	Kosovan	2	Togolese	1
Cameroonian	6	Moroccan	2	Zimbabwean	1
Georgian	6	Pakistani	2		
Ukrainian	5	Sierra Leonean	2		
Congolese	4	Angolan	1		

### ● Judicial Reviews

Court challenges continued to feature significantly in the area of Repatriation in 2004.

The number of new cases which arose during 2004 challenging Deportation Orders or deportation-related matters by way of judicial review was 254, involving a total of 326 Deportation Orders.

A further 48 High Court actions arose during the year involving enquiries under Article 40.4 of the

Constitution - applications for extensions of time to seek judicial review or plenary proceedings. Taking account of proceedings finalised during the year under review, the total number of on-going judicial review cases on hands as at 31 December, 2004 was 290 wherein a total of 409 Deportation Orders were challenged. The number of judicial review cases on hands at year-end represented a 77% increase in such cases over the year end position in 2003.

In addition to the above cases, there were four other Judicial Reviews which were dealt with by

the Ministerial Decisions Unit (MDU). This is the section which makes decisions on behalf of the Minister based on recommendations by the Office of the Refugee Applications Commissioner or the Refugee Appeals Tribunal on whether asylum applications should be granted.

In two cases the Minister's decision to refuse a declaration of refugee status was challenged. The other two actions challenged the Minister's decision to refuse re-admittance to the asylum process under the provisions of Section 17 (7) of the Refugee Act, 1996 (as amended).

During 2004 there were two cases before the courts where the rulings were of particular note. In the cases of Leontjava and Chang, the High Court ruled that, inter alia, section 2 of the Immigration Act 1999 was unconstitutional. On 23 June, 2004 the Supreme Court delivered its decision in the appeals in the cases and ruled that, inter alia, section 2 of the Immigration Act 1999 was not unconstitutional. As a result of the earlier High Court ruling the Immigration Act 2004 was introduced as a matter of urgency. The decision of the Supreme Court followed the enactment of the Immigration Act 2004. In a separate case which has had a significant impact on the effect of judicial review challenges on Deportation Orders, the High Court ruled on 27 October, 2004 in the cases of 'Adebayo, Igwe and others' that the institution of judicial review proceedings challenging a Deportation Order has the effect of staying the enforcement of that order pending a determination of the court proceedings. That ruling is being appealed to the Supreme Court.

### Asylum

- The number of asylum applications received in 2004 was 4,766 as compared to 7,900 in 2003, representing a 40% reduction. Since Ireland's peak of 11,634 applications received in 2002, there has been a reduction of some 59% in

asylum applications received to the end of 2004. (See table 1 below).

- The main source countries for asylum claims for 2004 continue to be Nigeria and Romania. Applications for Nigeria comprised 37.3% of overall applications and applications from Romania comprised 6.0% of overall applications. The top five source countries for 2004 in descending order were Nigeria, Romania, Somalia, China and Sudan. (See table 2 below).
- Processing of asylum applications continued to move strongly in the asylum processing agencies, namely the Office of the Refugee Applications Commissioner and the Refugee Appeals Tribunal with 7,121 cases finalised by ORAC and 6,520 decisions taken by the RAT. At the end of December 2004 there were 3,696 cases on hands in ORAC and RAT compared with 7,390 at the end of 2003. Of these cases some 1,144 were over six months old as compared to 2,896 at the end of 2003 and 6,500 at the end of September 2001. (See table 3 below).

**TABLE 1- ASYLUM APPLICATIONS RECEIVED PER YEAR**

Year	Total
1992	39
1993	91
1994	362
1995	424
1996	1,179
1997	3,883
1998	4,626
1999	7,724
2000	10,938
2001	10,325
2002	11,634
2003	7,900
2004	4,766

**TABLE 2 - TOP FIVE SOURCE COUNTRIES FOR ASYLUM APPLICATIONS FOR 2003 AND 2004**

2003			2004		
Country of Origin	Number of Applicants	as % of overall applicants	Country of Origin	Number of Applicants	as % of overall Applicants
1st: Nigeria	3,110	39.4%	1st: Nigeria	1,776	37.3%
2nd: Romania	777	9.8%	2nd: Romania	286	6.0%
3rd: DR Congo	256	3.2%	3rd: Somalia	198	4.2%
4th: Moldova	243	3.1%	4th: China	152	3.2%
5th: Czech Republic	186	2.4%	5th: Sudan	146	3.0%

**TABLE 3 - DETAILS OF ASYLUM APPLICATIONS RECEIVED AND CASES PROCESSED IN 2004 (FIRST INSTANCE) BY THE ORAC**

Number of applications received	4,766
Number of interviews scheduled	6,998
Number of interviews held	5,041
Number of no-shows	1,463
Number of cancellations	494
Number of applicants granted refugee status	430
Number of applicants refused refugee status of which:	6,460
– Recommendation to refuse applicant a declaration to be a refugee following interview – S13 of the Refugee Act, 1996	143
– Recommendation that an application is manifestly unfounded – S12 (1) of the Refugee Act, 1996	2
– Recommendation to refuse – S11(9) of the Refugee Act, 1996	0
– Recommendation to refuse – S13(4)(b)	2,715
– Recommendation to refuse – S13(5)	2,046
– Recommendation to refuse – S13(2) withdrawn	255
– Recommendation to refuse – S13(2) deemed withdrawn	1,299
Dublin Regulation Cases	243
Cases outstanding for more than six months	805
Total cases finalised	7,121

**OUTCOME OF APPEALS IN 2004**  
**Appeals granted/refused/withdrawn in 2004**

2004	Granted/ Set Aside	Refused/ Affirmed	Withdrawn	Total Decisions
<b>Substantive</b>	458	1,931	48	<b>2,437</b>
<b>Manifestly Unfounded</b>	9	17	0	<b>26</b>
<b>Dublin Convention</b>	25	48	0	<b>73</b>
<b>Substantive 15-Day</b>	184	1,653	120	<b>1,957</b>
<b>Accelerated</b>	60	1,809	14	<b>1,883</b>
<b>Dublin II Regulation</b>	1	143	0	<b>144</b>
<b>Total</b>	<b>737</b>	<b>5,601</b>	<b>182</b>	<b>6,520</b>

<b>MINISTERIAL DECISIONS IN 2004</b>	
<b>Applications decided between 1 January 2004 and 31 December 2004</b>	<b>8,715</b>
Number of applicants granted at first instance	403
Number of applicants granted on appeal	752
<b>Total Number of applicants granted in 2004</b>	<b>1,155</b>
Number of applicants refused at first instance	2,451
Number of applicants refused on appeal	5,109
<b>Total Number of applicants refused in 2004</b>	<b>7,560</b>

- The authority under the Refugee Act, 1996 for the Minister to designate a country as a safe country of origin was exercised in the cases of Croatia and South Africa on 9 December 2004, following consultation with the Minister for Foreign Affairs. While applications from these countries continue to have a full merits consideration of their case, any appeals in such cases are dealt with by the Refugee Appeals Tribunal on the basis of papers alone rather than an oral hearing, thus reducing processing times. This brought to 14 the number of countries designated as safe countries of origin for the purposes of the 1996 Act.
- Also, following changes introduced in 2003 allowing applications from certain countries, including designated safe countries and others, to be prioritised for processing under the Refugee

Act, 1996, preparations were completed in 2004 for the even speedier processing of such applications, with a view to implementation in early 2005. The arrangements cover countries designated as safe countries of origin including Bulgaria, Romania, Croatia and South Africa as well as Nigeria, which although not a designated safe country of origin represents the highest source country of asylum applications in the State.

- The Department processed an increased volume of applications for visas in 2004 - almost 48,000 applications. Specialist visa offices established in Beijing and Moscow in 2002 enabled us to provide a better quality customer service and to combat fraudulent applications through greater local knowledge.

- The Department processed applications for permission to remain in the State on the basis of: a change of status (e.g. Marriage to an Irish/EU national), business permission applications, citizenship applications as promptly as resources allowed.
- The Department provided a comprehensive public information service on all aspects of immigration and citizenship through its various helplines (visa, citizenship and immigration). Provided detailed information regarding immigration and citizenship matters on the Departmental website to assist members of the public.

### Asylum Seeker Accommodation Programme

At 31 December 2004, the Reception and Integration Agency (RIA) had the capacity to accommodate over 7,700 asylum seekers in 2 reception centres, 63 accommodation centres and 9 self-catering centres across 25 counties in a range of accommodation facilities. The types of centres available to RIA include guesthouses, hostels, mobile home sites (Kildare, Athlone and Tralee), former holiday centre (Mosney), former hotels and system built accommodation. Between the introduction of direct provision in April 2000 and the end of 2004, the RIA had accommodated almost 36,400 asylum seekers, including over 3,600 allocated accommodation during 2004.

The outturn in 2004 in respect of the provision of accommodation and ancillary services to asylum seekers was €83.6million.

Current payment rates for accommodating asylum seekers within direct provision compare most favourably with costs in other EU countries. On the basis of information provided at an international conference of reception organisations in Prague in October 2003, Ireland was ranked as second lowest in the EU in terms of accommodation costs.

There was an increase of 11.5% in the number of asylum seekers being accommodated between January and December 2004. In January 6,081 asylum seekers were accommodated, whereas at end of December 2004 there were 6,785 persons in centres operated by the Agency. The RIA attribute this increase in the main to the withdrawal of rent supplement from asylum seekers which commenced on 27th May, 2003.

### Inspections

The RIA has an inspection team which conducts comprehensive inspections of properties (commercial and state owned) used to accommodate asylum seekers at least on a twice yearly basis. These inspections are always unannounced and the inspectors look at all aspects of the accommodation centres in relation to the proprietors' obligations under contract - which cover such areas as reception, management and staff cover, maintenance of the property, menus and facilities being provided. Senior management also conduct random regular inspections of centres. In addition, an independent inspectorate has been engaged by the RIA to conduct further comprehensive inspections of all centres to include additional areas such as health and fire safety issues. The independent assessor conducts comprehensive inspections on every centre at least once a year. All centres are also open to inspections by Environmental Health Officers.

### Health Services

#### Health screening for Asylum Seekers in Ireland

Health screening is available in Dublin reception centres to all asylum seekers on a voluntary and strictly confidential basis. They are advised of this immediately on arrival. Screening covers Hepatitis, TB, HIV, immunisation status and any other ailments or conditions which the medical officers feel need further investigation and/or treatment. Arrangements are in place to enable Health Boards outside the Eastern Regional Health Authority (now HSE) region to offer the service to those who do not avail of it in Dublin.

Upwards of 80% of newly-arrived asylum seekers avail of screening in the Dublin Reception Centres. In addition, all asylum seeker women attending maternity hospitals throughout Ireland are screened.

#### Health Information Project (HIP)

Arising from discussions held by a multi-agency group, established by the Northern Area Health Board (now HSE) which included representatives from the SPIRITAN Asylum Services Initiative, SPIRASI (a non-governmental organisation) and the Reception & Integration Agency, one of the principal needs identified was the lack of accurate and comprehensive information on health services for newly arrived asylum seekers.

A Steering Committee, comprising the stakeholders listed above, was formed to oversee the establishment and management of a peer led health information programme located at SPIRASI. It was felt the programme would be most effective if delivered by suitably qualified personnel who, ideally, had first hand experience of the asylum and refugee process.

The HIP programme is available to all newly arrived asylum seekers in Dublin. It provides them with a detailed description of the health services in Ireland, the availability of services and how they may be accessed. This briefing covers such diverse areas as maternity, G.P., health screening, mental health and community welfare services.

The HIP programme was entered into a competition for an Irish Healthcare Pharmaceutical Award in 2004 which recognises innovation and excellence in Irish Healthcare, emphasising the partnership between healthcare professionals and the pharmaceutical industry. The Project received a commendation under the Best Patient or Public Education Project (Non-Pharmaceutical) category.

## **Support for Asylum Seekers**

### Small Grants Scheme

The Small Grants Scheme was established by the Agency in 2001 specifically to assist voluntary support groups befriending asylum seekers in direct provision centres throughout the country. Grants are made for projects which assist the asylum seekers to settle in the area and which seek to promote intercultural activities between the asylum seekers and the local community.

A total of €140,000 was made available under this scheme in 2004, benefiting forty-nine projects. Projects selected for funding ranged from reception functions, such as formal or informal welcome meetings, to art classes, day trips to local places of interest and sports activities.

## **Integration Initiatives**

### Forum

In October 2004, the Reception and Integration Agency held a Refugee Consultation Forum. The focus of the Forum was the refugee experience of integration. The Forum's aim was to develop and improve positive working relationships between RIA and the refugee community.

### Engagement with County and City Development Boards

The use of existing local structures such as County and City Development Boards is being piloted by the RIA in order to stimulate a more active role, at local level, in refugee integration activities. The pilot consisted of a survey of refugees and persons with leave to remain in the Limerick area in order to determine their current socio-economic circumstances and to assess their needs with regard to all issues affecting their integration such as housing, health, education and employment. A separate survey was carried out with bodies represented on the Limerick City Development Board in order to determine the current level of service provision available to these communities in the City.

Action plans drawn up by the Board based on the findings of the survey will help to inform future policy and will result in the development of strategies which can be used as models of best practice throughout the country.

#### Commemoration Ceremony

In March 2004, the Reception and Integration Agency hosted commemoration ceremonies in Limerick and Carrick-on-Shannon as part of its ongoing initiatives on integration. People from a number of different countries who had been granted refugee status in Ireland were presented with a Commemoration Certificate, in the presence of their families, to welcome them to the community of Irish society.

#### Programme Refugees/Resettlement Quota Programme

In 1998 the Irish Government decided to participate in the UNHCR Refugee Resettlement Programme. This Decision was taken following approaches by the UNHCR requesting that Ireland would admit, on an annual basis, a small number of "special cases" refugees who do not come under the scope of Ireland's obligations under the Geneva Convention of 1951 as amended by the New York Protocol of 1957. Normally these people are already refugees in a country of first asylum where they cannot find a durable solution. Responsibility for the resettlement in Ireland of refugees under this programme rests with the Reception and Integration Agency.

During 2004 fifty eight (58) persons were admitted under the Resettlement Quota programme. Following a request from the UNHCR, a further twenty two (22) persons, relatives of families already in Ireland, were admitted from "No Man's Land" a temporary camp on the Iraqi/Jordanian border. Thirteen (13) other family members were admitted under family reunification.

Since the programme began a wide range of nationalities have been admitted, including persons from Liberia, Somalia, Cameroon, D.R. Congo, Sudan,

Afghanistan, Iran, Iraq, former Yugoslavia and Chechnya.

#### MORE Project

The MORE (Modelling of National Resettlement Process and Implementation of Emergency Measures) project was targeted to develop, in transnational co-operation, comprehensive resettlement models which could be used in EU Member States. The overall objective of the project is to facilitate the quicker and better integration of refugees who come directly from crises situations and/or unstable/temporary life situations to EU Member States. The project proposal was prepared in co-operation with two Member States - Finland and Ireland, both of which have experience on resettlement and evacuation processes. The project was co-funded by the European Refugee Fund and was ongoing throughout 2004.

The Reception and Integration Agency made a major contribution to the project including organising transnational workshops, planning sessions, fact-finding missions, mapping exercises, the publication of reports, the planning of a closing conference, a project website and various publication activities.

In October 2004, Irish delegations from the Reception and Integration Agency's Integration Unit took part in Finnish selection missions in Turkey and Egypt. In November, 2004, the Integration Unit hosted a Project Workshop in Carrick-on-Shannon which was attended by a Finnish delegation. During that month, staff from Finland spent a week in Ireland observing the Irish resettlement system as part of the project's staff-exchange programme.

#### EU Activities

The Agency is represented on the EU Immigration and Asylum Committee's National Contact Points on Integration. This Group, which meets on a regular basis, was set up in 2003 to exchange information and good practices in the area of integration at the European level. As part of its role on the Committee

the RIA started preparations for an International Integration Conference to be held in Ireland in 2005.

#### European Refugee Fund

The RIA is the responsible authority for the administration of the European Refugee Fund (ERF) in Ireland. Under ERF 2004, the European Commission has made €919,090 available to Ireland and this has been allocated to 16 projects working in the areas of reception, integration and voluntary return.

### **Other Developments**

#### **Budget**

The dedicated budget allocated to the asylum and immigration areas of the Department's vote increased from €38.628m in 2003 to €40.488m in 2004.

#### **Refugee Legal Service**

In 2004, the Department provided €9.1m for the development and operation of the Refugee Legal Service (RLS); so as to provide a legal and advice service to asylum seekers at all stages of the asylum process.

#### **Members of the Refugee Appeals Tribunal**

During 2004, 11 new Members were appointed to the Refugee Appeals Tribunal, (with 7 Members re-appointed) bringing the total complement of serving Members at the end of 2004 to 34.

#### **Key Annual Statistics**

Non-EEA nationals who remain in the State for more than 3 months are required to register with their local Garda Registration Officer and to obtain permission to remain in the State. In 2004 almost 134,000 non EEA nationals registered in the State, an increase of 6,000 on the previous year.

#### **Integration Projects**

The RIA also provided over €27,000 for a number of integration related projects in 2004.

#### **Community Games**

The Reception and Integration Agency successfully facilitated the hosting of the Community Games for the fourth year in succession in Mosney. Approximately 4,000 competitors, managers and staff were accommodated over the three weekends in 2004 and large numbers of day visitors were also catered for at the centre. The organisers have expressed great satisfaction with the organisation of the Games.

## EQUALITY AND DISABILITY

### High Level Goal 11

*To promote the development of a more equal society by promoting, monitoring and implementing the right to equal treatment and the accommodation of diversity, having regard to gender, marital status, family status, sexual orientation, religious belief, age, disability, race and membership of the Traveller community.*

#### Strategy Statement 2003-2005 Objectives

- Enhance the existing statutory foundation for equality, equal status and disability.
- Develop and pursue equal opportunity and equal access policies.
- Support the reconciliation of work and family responsibilities.

### Progress on objectives in 2004

- The Equality Act 2004 was enacted on 18 July 2004 to give effect to three EU Equality Directives, namely Directives 2000/43/EC (Race Directive), 2000/78/EC (Framework Employment Directive) and 2002/73/EC (Gender Equal Treatment Directive). The Directives prohibit discrimination on a number of grounds in the areas of employment and access to goods and services and were implemented through a series of amendments to the Employment Equality Act 1998, the Equal Status Act 2000 and the Pensions Act 1990.
- Research into comparative international practice and anti-discrimination legislation, commissioned as part of a review of the discriminatory grounds under the Employment Equality Act 1998, was completed by University College Cork and a report was published on 3 September 2004 (available on the Department's website: [www.justice.ie](http://www.justice.ie).) The research focused on four new discriminatory grounds; socio-economic status/social origin, trade union membership, criminal conviction/ex-offender/ex-prisoner and political opinion. The outcome of the research is expected to inform the completion of the review process and any future policy decision adopted in this regard.
- The Department continued to provide support and to liaise closely with the Equality Authority and the Equality Tribunal in relation to the performance of their statutory functions during 2004. In addition to initiatives such as the National Framework for the Development of Equal Opportunities at the level of the Enterprise, the Department liaised closely with the Equality Authority and the Equality Tribunal in regard to legislative proposals to amend the Employment Equality Act 1998 and the Equal Status Act 2000 to implement the EU equality Directives.
- Developing and pursuing equal opportunity and equal access policies for people with disabilities is one of the key objectives of the Department's strategy for equality. During 2004 the Department continued to be active on a number of fronts providing a focal point for disability equality policy and legislation development in the context of mainstreamed public service provision for people with disabilities.
- The preparation of the Disability Bill 2004 was overseen by the Cabinet Committee on Social

Inclusion due to the complex and cross-cutting nature of the issues involved. Preparation of the Bill required continued co-operation with all Departments concerned throughout 2004. The Bill was published on 21 September 2004, as a key element of the National Disability Strategy launched by the Government. The strategy also comprises the Comhairle (Amendment) Bill 2004, Sectoral Plans for key service areas and a multi-annual investment programme for enhanced disability services.

- The National Disability Authority (NDA) was established in June 2000 and its remit includes functions in advising the Minister on disability policy as well as promoting good practice in service provision. The Department provided funding of over €4.3 million to the NDA in 2004.
- National Information Days on Disability have been held since 1997 (co-funded by the Department and the EU Commission). The Department held the eighth National Information Day on Disability on 8 December 2004. The National Information Day was marked by the prize-giving ceremony for the National Primary Schools Essay Competition ‘*Someone Like Me*’.
- In 2004, the Department supported a number of initiatives, including the award-winning TV programme *ThreeSixty*, a animation DVD *True Stories*, disability-specific items on RTE’s *About the House* series, the O2 Ability Awards organised by the Aisling Foundation, and the European Disability Forum in connection with Ireland’s EU Presidency.
- The Department continued to participate in a number of Interdepartmental Committees and in European Union, Council of Europe and other international fora which have an impact on disability equality policy. Work continued in connection with a proposed UN Convention on the

protection and promotion of the rights and dignity of people with disabilities and a Council of Europe Disability Action Plan.

- As Chair of the National Co-ordinating Committee for the European Year of People with Disabilities (EYPD) in Ireland, the NDA organised a Disability Summit which took place in January 2004 to close the Year. In February 2004 Ireland scored the highest average levels of awareness in a *Eurobarometer* survey on EYPD. Ireland submitted its Review and Evaluation Report to the EU Commission in June 2004.
- The Department continued to support People with Disabilities in Ireland Ltd. (PwDI), which is a non-profit making independent body providing a representative structure for people with disabilities, their families, carers and advocates. PwDI operates through a national office in Dublin and through 30 Disability Networks at county level. PwDI has an elected Board drawn from the county networks. PwDI received funding from the Department of €1.4 million in 2004.
- The Department chairs the Monitoring Committee in relation to the 3% target for the employment of people with disabilities in the public sector (excluding the Civil Service, which is monitored by the Department of Finance). This target was re-stated in “Sustaining Progress” and previous national agreements. The Disability Bill 2004 places the 3% target on a statutory footing.
- In response to significant gaps identified in disability specific data available in Ireland, the Government decided in July 2004 to carry out a national post census survey on disability in 2006. The survey will be conducted by the Central Statistics Office and is being developed in consultation with relevant stakeholders.

- The Department continued to participate in policy making in national, EU and other international fora dealing with employment equality issues including:-

- **EU Presidency initiative:- Questionnaire on Sexual Harassment in the Workplace in EU Member States**

During the Irish Presidency the Department initiated a research programme on sexual harassment in the workplace. The initiative, which sought detailed and current information from government policy makers and legislators, equality promotional and enforcement bodies, and from employers and union groups, in relation to sexual harassment in the workplace in all EU Member States, including the new Member States, arises from the implementation of the United Nations Beijing Platform for Action. Questionnaires were developed and circulated to 149 organisations in the 25 Member States. A research report was published on 30 June 2004 (available on the Department's website). The research findings provided quantitative and qualitative information to be used to draw up indicators in relation to this issue during the Dutch Presidency in the latter half of 2004.

- **Meeting Workplace Relations and Environment Commitments made under *Sustaining Progress***

Throughout 2004 the Department worked towards implementing the commitments made by the Government in relation to the amendment of the Maternity Protection (Amendment) Act 1994, the Adoptive Leave Act 1995, the Parental Leave Act 1998 and the Employment Equality Act 1998.

- **EU Council of Ministers Social Questions Working Group**

During 2004 the Department participated in

Social Questions Working Group discussions on an EU Commission proposal, published on 26 April 2004, for a draft Directive of the European Parliament and of the Council to recast the EU gender equal pay and equal treatment Directives and to include the incorporation of key principles from relevant European Court of Justice (ECJ) case law. The Social Questions Working Group completed its discussion of the draft Directive on 27 October, 2004 and, following further discussion at Coreper in November, political agreement on a Council General Approach was agreed at the Employment and Social Affairs Council on 7 December 2004.

- **National Framework Committee for Equal Opportunities at Enterprise Level**

The Department participates in the National Framework Committee for Equal Opportunities at Enterprise Level which is chaired by the Equality Authority. The Committee which was established under the Programme for Prosperity and Fairness (PPF) was continued under *Sustaining Progress*. During 2004, the work of the Committee focused on stimulating and supporting planned and systematic approaches to workplace equality. Employment equality reviews were supported in two organisations. A grant scheme supported small and medium sized enterprises to put in place employment equality policies and equality and diversity training for staff. Trade unions and business networks were supported to develop projects to enhance their capacity to resource their members to engage in workplace equality strategies.

- **Administration of Employment Equality Issues**

Arising from a commitment under *Sustaining Progress*, an Employment Review Group consisting of representatives of the

Department of Enterprise, Trade and Employment (Chair), this Department and each of the employment rights bodies, was set up in September 2003. The Group examined the delivery of services by employment rights bodies with a view to bringing forward recommendations for increasing cohesiveness and user-friendly access. The Group's Report was published in April 2004.

- The Working Group on Equality Proofing, established in 2000 under the *Programme for Prosperity and Fairness (PPF)* continued to meet during 2004. The Department continued to provide funding for the following pilot projects on Equality Proofing as part of the 2004 work programme agreed by the Working Group:-

- Selected areas of FÁS;
- Community Workers Co-operative to prepare a manual on equality proofing for community groups;
- An Equal Status Review in the North Western Health Board;
- An Integrated Approach to Proofing (to include poverty, gender and equality proofing) in areas of Back to Education Allowance (Department of Social and Family Affairs) and National Action Plan Against Racism.

A report on the progress of the Working Group's activities will be published in 2005.

- In June, 1998, the Minister for Justice, Equality and Law Reform established a Committee to monitor and co-ordinate the implementation of the recommendations of the Task Force on the Travelling Community. The Committee, which is chaired by the Department, is representative of Traveller interests, social partners and relevant

Government Departments. During 2004, the Monitoring Committee continued to meet and monitor the progress of the recommendations of the Task Force on the Travelling Community.

- In December, 2003 a High Level Group on Traveller issues was established under the aegis of the Cabinet Committee on Social Inclusion. Its remit is to ensure that the relevant statutory agencies involved in providing the full range of services to Travellers, would focus on improving the practical delivery of such services. The High Level Group which is chaired by the Department comprises of members of the Senior Officials' Group on Social Inclusion and other senior public servants with key responsibility for the delivery of Traveller specific services and is a short term initiative to improve outcomes.
- During 2004, officials from the Department continued dialogue with a range of international organisations and represented Ireland at relevant meetings. The following is an outline of the international organisations the Department engaged with during the year.

### Council of Europe organisations/working groups

- European Commission on Racism and Intolerance (ECRI)
- Specialist Group on Roma, Gypsies and Travellers (MG-S-ROM)
- Framework Convention for the protection of National Minorities (FCNM)
- The Department also engaged with the Organisation for Security and Co-operation in Europe (OSCE) in relation to Roma and Anti-Semitism issues.

## United Nations

### United Nations Convention on Elimination of all forms of Racial Discrimination - CERD Report

Ireland's First and Second National Report under the United Nations International Convention on the Elimination of All Forms of Racial Discrimination was prepared and was submitted to the UN in March 2004. The report will be examined by the CERD Committee in March 2005.

## European Commission

### European Monitoring Centre on Racism and Xenophobia - (EUMC)

During 2004, the EUMC continued to operate under the existing Council Regulation 1035/97. Proposals to extend the mandate of the EUMC to become a Human Rights Agency continued to be developed. The Commission are expected to produce a draft Regulation establishing the new agency in June 2005. Ms Anastasia Crickely became the first Irish person and the first woman to chair the EUMC in June 2004.

## European Community Action Programme to Combat discrimination

Under Article 13 of the Amsterdam Treaty the European Council also established a Community action programme to combat discrimination which will run from 2001 to 2006 to enhance and support the two anti-discrimination Directives adopted in 2000. A Programme Committee is in place to assist and advise the European Commission in the implementation of the Community Action Programme activities. Ireland is represented on the Committee by officials of the Department. Ireland also continued to participate in the EU Anti-Discrimination Awareness Campaign which was launched in 2003 as part of the Community Action Programme.

- The following progress was achieved on supporting the reconciliation of work and family responsibilities:

- **Maternity Protection (Amendment) Act 2004**

The Maternity Protection (Amendment) Act

2004 was signed into law on 19 July, 2004 and commenced on 18 October, 2004. The Act implements in full the recommendations of the *Report of the Working Group on the Review and Improvement of Maternity Protection Legislation* in line with a Government commitment in *Sustaining Progress*.

- **Adoptive Leave Bill 2004**

Following consultations with relevant parties in 2002, legislative proposals to apply the appropriate Maternity Review Group recommendations to adoptive leave were developed during the course of 2003. The Adoptive Leave Bill 2004 was published and initiated in Seanad Éireann on 2 April, 2004. The Bill was passed by the Seanad on 15 June, 2004 and completed Dáil Committee Stage on 7 December, 2004.

- **Amendment of the Parental Leave Act 1998**

In accordance with section 28 of the Parental Leave Act 1998 and a commitment in the *Programme for Prosperity and Fairness*, a Working Group comprising the social partners, relevant Government Departments and the Equality Authority, carried out a review of the Act in 2001. *The Report of the Working Group on the Review of the Parental Leave Act 1998* was published on 29 April 2002. Legislative proposals to implement a number of improvements to the parental leave scheme were approved by Government on 8 September, 2004. The Parental Leave (Amendment) Bill 2004 was published and initiated in Seanad Éireann on 16 December, 2004.

- **National Framework Committee for Family Friendly Policies**

The Department participated in the National Framework Committee for Family Friendly Policies, established under the *Programme for*

*Prosperity and Fairness* and continued under *Sustaining Progress*. The Committee, chaired by the Department of Enterprise, Trade and Employment, supports family-friendly policies at the level of enterprise. In addition to advising the Committee in relation to adoptive, maternity and parental leave legislation and associated case law developments during 2004, the Department contributed to the Committee's overall programme of work throughout the year which included organising the National Family Friendly Workplace Day on 1 March, 2004.

## Other Developments

### EU Initiatives

The Department's representative attended two meetings of the EU High Level Group on Mainstreaming Gender Equality in 2004. The Department is also represented on the Management Committee for the EU Gender Equality Programme 2001 – 2005.

The Department advised on the implementation at national level of commitments on gender equality which are contained in the EU Employment Guidelines 2003 – 2005 and the EU Social Policy Agenda. The Department provides relevant inputs to the National Employment Action Plan 2003 – 2005 and the National Action Plan against Poverty and Social Exclusion.

### Council of Europe

The Department represents Ireland on the Council of Europe Working Group - the Committee for Equality between Women and Men, known by the initials of the French title CDEG. The Committee aims to advance gender equality within the work of the Council. There were two meetings of the Committee in 2004.

### The UN Beijing Platform for Action

The Platform for Action which was adopted at the UN Fourth World Conference on Women in 1995 (Beijing)

outlines commitments on gender equality in twelve critical areas of concern. The Department has reported periodically to the UN on the implementation of these commitments.

### The UN Commission on the Status of Women (CSW)

The Commission on the Status of Women promotes equality for women and particularly the implementation of the UN Beijing Platform for Action. Under Ireland's Presidency of the EU, the Minister of State with special responsibility for Equality and the Department represented the EU at the March 2004 meeting of the Commission.

### The National Women's Council of Ireland

The National Women's Council of Ireland (NWCI) is the national umbrella organisation for women representing over 150 non-governmental women's organisations at national, regional and local level. The Council received a grant of €524,740 from the Department in 2004 for general administration, salaries and overheads. This included a developmental grant of € 7,260 for the organisation, Women In The Home (WITH).

### State Boards

The Department prepares periodic six monthly reports to Government on the gender composition of State Boards broken down for each Government Department.

The second and third reports were presented to Government in 2004. The second report, covering the period 1 January 2003 to 30 June 2003, was presented to Government in January 2004 and the third, covering the period 1 July to 31 December 2003, was presented to Government in July 2004.

The fourth report, covering the period 1 January 2004 to 30 June 2004, was prepared for submission to Government in January 2005. At the end of 2004 women made up 32% of the total membership of State

Boards and 38% of those members appointed by Government or Ministers. Women represented 25% of appointments made other than by Government.

This represents a slight increase over the same period in 2003, when women made up 30% of the total membership of State Boards and 36% of those members appointed by Government or Ministers.

Ministerial appointments of women to State Boards were close to the Government's gender balance target of 40% at the end of 2004. However, the percentage of women nominated by other nominating bodies remained low at 25%. On the request of the Government the Department entered into consultations with the Social Partners regarding women's representation on State Boards and Agencies, with particular reference to worker-directors. At the end of 2004 the Minister of State with special responsibility for equality had under consideration further proposals to increase the numbers of women nominated other than by Government in 2005.

### **United Nations Convention on the Elimination of Discrimination Against Women (CEDAW)**

The above Convention, which Ireland acceded to in 1985, requires regular reporting to the UN on equal rights for women in political, economic, social, cultural and civil life. Ireland's Combined Fourth and Fifth Reports on the CEDAW were submitted to the United Nations on 10 June 2003. The reports are due to be examined by the UN Committee on the Elimination of Discrimination Against Women in 2005. Preparation for the examination commenced in 2004.

### **National Women's Strategy**

The Government agreed in Sustaining Progress to develop a National Women's Strategy. Work on scoping the Strategy was completed in 2004 and an Inter-Departmental Committee, chaired by the Assistant Secretary in charge of Equality in the

Department, has been established. A Consultation Group comprising of the Social Partners and the National Women's Council of Ireland is being consulted on the Strategy as it is being developed. The Strategy which will cover the ten years 2006-2015, will be published before the end of 2005.

### **Equality for Women Measure**

The Department has been allocated a sum of €35.5m under the Equality for Women Measure of the National Development Plan 2000-2006 to promote equality for women. This funding is located in the following Operational Programmes (OPs); the Southern and Eastern OP (€21.7m); the Border, Midland & Western OP (€7.8m) and the Employment and Human Resources Development (EHRD) OP (€6.097m). The EU is co-financing expenditure under the EHRD OP. Expenditure on the Measure during 2004 was €3.9m.

A total of 70 projects were funded under Phase I of the Measure; 47 under the Regional OPs and 23 under the EHRD OP. The projects are pilot initiatives to develop learning on appropriate strategies for the achievement of greater gender equality in employment, business and decision making. It is hoped that much of this learning will transfer to the mainstream. To date, approximately 7,000 women have participated in training and other courses and a further 11,000 have utilised the facilities of service providers. The majority of the Phase I projects were nearing conclusion at the end of 2004. Details of all projects funded under the Measure, including a copy of the latest Annual Report can be found on the web site: [www.ewm.ie](http://www.ewm.ie)

The Minister for Justice, Equality and Law Reform decided that the second Phase of the Measure covering the period 2004-2006 should have a particular focus on poverty and social exclusion and that the most appropriate mechanism to deliver this is through the RAPID Programme. €7m has been earmarked for relevant initiatives within RAPID designated areas.

Also during the year, the Department secured additional funding of €3.5m under the EHRD OP. This funding will promote the mainstreaming of learning developed in Phase I of the Measure. In addition, it will also assist the roll-out of the FÁS initiative “Expanding the Workforce”, which is designed to encourage women who wish to return to the labour market.

### Gender mainstreaming

The Department’s NDP Gender Equality Unit supports the incorporation of a gender equality perspective in measures of the National Development Plan, 2000-2006. The Unit is co-financed by the European Social Fund. The Unit has produced a range of publications to assist with this work which are on the Unit’s web site [www.ndpgenderequality.ie](http://www.ndpgenderequality.ie). The Unit’s main activities in 2004 were as follows:

- hosted a one-day conference entitled ‘**Gender Mainstreaming: Partnership in Practice**’ on 15 April 2004. Three hundred people attended the conference, which focused on partnership work between the community/voluntary and statutory sectors to promote gender mainstreaming.
- Produced 4 publications in 2004 - ‘Gender Equality Relevance Sheets’ covering all 130 measures of the National Development Plan; ‘Geographic Gender Equality’; ‘Developing and Implementing a Gender Equality Policy: A guide for Community and Voluntary Organisations’; and ‘Women and Men on Farms in Ireland’. A series of videos on women promoting gender equality in a range of policy areas was launched in June 2004.
- Organised a training course on ‘Women in Decision-Making’, which was held in Co Clare, in West Cork and North Mayo.
- The Unit conducted reviews for all NDP measures which are prioritised for gender equality and provided guidance in the development of relevant

indicators and other actions to advance gender equality.

- Commenced research on gender issues in transport, housing, a pilot time use survey and a pilot gender budgeting initiative.

### Gender Pay Gap

Arising out of the recommendations in the Report of the PPF Consultation Group on Male/Female Wage Differentials, the Department engaged the Economic and Social Research Institute to undertake research into the Graduate Gender Pay Gap. This research focuses on graduates in the early years of employment post-graduation. The Research is due to be published in Autumn 2005.

### Irish Presidency Anti-Discrimination Conference

As part of Ireland’s Presidency of the European Union a Conference entitled ‘Closing the Gap: Systematic Approaches to Promoting Equality and Diversity in Ireland’ was held in the Radisson Hotel, Limerick on 27 -28th May, 2004. The aim of the Conference was to promote a greater understanding and approach to the implementation of European anti-discrimination legislation, policies and practices among existing Member States and new Member States following enlargement. It was also a unique opportunity for the Old Member States to review their achievements in terms of the Equality agenda as developed under Article 13 over the past five years.

Article 13 of the Treaty of the European Community enables the European Community to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religious belief, disability or sexual orientation. Under Article 13, an extensive legislative framework has evolved which forms the basis upon which national equality legislation can be and has been developed. During the conference, many examples of the practical outcomes of national equality legislation were demonstrated showing that while approaches in

different countries varied there was still a lot of commonality within the legislation itself.

### **Support for the National Consultative Committee on Racism and Interculturalism (NCCRI)**

The National Consultative Committee on Racism and Interculturalism (NCCRI) is a voluntary sector organisation that in 2002 formally established its status as a private company limited by guarantee. The NCCRI Ltd. seeks to promote meaningful dialogue between the statutory and the non-governmental sectors on issues related to racism. It sponsors a partnership approach to anti-racism and intercultural initiatives.

In 2004 the Department provided a grant of €309,000 to the NCCRI for general administration, salaries, overheads and specific projects.

### **Traveller Mediation Service**

During 2004, the Department continued to provide financial support towards a Traveller Mediation Service operated by Pavee Point. This service is an initiative of Pavee Point Travellers Centre and it provides a mechanism for responding constructively to the various conflicts and disputes which arise between Travellers and members of the settled community.

### **Gender non-employment Directive**

During 2004, agreement was reached on Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services which outlaws sex discrimination in the provision of goods and services, including the provision of insurance and related financial services. However, the directive also provides that Member States may permit insurance companies to treat men and women differently when it comes to premiums and benefits if gender is a decisive factor in assessing risk (e.g. in motor insurance).

Progress on this Directive was a priority during the Irish Presidency of the EU and led to finalisation during the Dutch Presidency. The Directive came into force on 21 December 2004 and Member States are required to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 21 December 2007 at the latest. Transposition of this Directive into national law may require some amendments to the Equal Status Acts 2000 to 2004.

### **National Anti Racism Awareness Programme (Know Racism)**

A high level steering group chaired by Mr Joe McDonagh was established in 2001 to implement the National Anti-Racism Awareness Programme, (Know Racism), in partnership with this Department. Its aim was to stimulate an awareness of racism and promote respect for cultural diversity. More details of the programme are on: [www.knowracism.ie](http://www.knowracism.ie).

€230,000 was allocated to the National Anti-Racism Awareness Programme (Know Racism) for 2004. The 2004 allocation was used to clear any outstanding payments remaining after December 2003 and as a means of bridging the gap between the end of the programme and the launch of the National Action Plan Against Racism. A review and evaluation of the Know Racism Programme has been carried out and lessons learned will be incorporated into the National Action Plan Against Racism.

In 2004, to mark the International Day against Racism on March 21st and European Week Against Racism, the National Consultative Committee on Racism and Interculturalism (NCCRI) coordinated a large number of events in Ireland, North and South with the support of this Department and the Equality Commission for Northern Ireland.

### **National Action Plan Against Racism**

Arising from the World Conference Against Racism in South Africa in 2001, the Government set about

developing a National Action Plan Against Racism. A lengthy consultation phase was completed in 2003. The Consultative Process consisted of a national consultative conference, written submissions, regional and thematic seminars.

The framework for the Plan will be built around five main objectives: Protection, Inclusion, Provision, Participation and Recognition, i.e., 'Protection' from racism; 'Inclusion' in the socio-economic sense; equality of access to the 'Provision' of services; 'Participation' of minorities in Irish society and decision making; and, 'Recognition' and building respect of cultural diversity and promoting interaction and understanding. A summary of the outcomes of the consultation process and a proposed framework for the National Action Plan, entitled, *Diverse Voices*, is available on the Department's website.

The development of the National Action Plan Against Racism represents an opportunity to both build upon and enhance existing policies and strategies to address racism in Ireland and to identify new priorities, aspirations and areas of work that can be drawn together into an overall cohesive plan.

€335,000 was allocated for the National Action Plan Against Racism in 2004. The provision was to cover administrative costs, preparation costs, pilot projects and dissemination of information about the plan prior to its launch. The National Action Plan Against Racism is at the final stages of preparation. The plan was circulated to the Social Partners, Equality Authority and the Irish Human Rights Commission on 21 May 2004. The plan will be further considered by the Senior Officials Group on Social Inclusion before adoption by the Government. The Plan will be launched early in 2005.

## CHILDCARE

### High Level Goal 12

*To enhance the quality of childcare provision and increase the availability of childcare places for parents and children throughout Ireland, availing of funding provided through the National Development Plan and to continue to develop and support a well-structured, proactive and caring childcare sector.*

#### Strategy Statement 2003-2005 Objectives

- Continue to develop the supply of quality childcare places in Ireland through the implementation of the Equal Opportunities Childcare Programme 2000 - 2006 in accordance with best practice.
- Continue to support quality improvement in the childcare sector.
- Co-ordinate childcare policies and programmes at national and local level through continuing and developing engagement with statutory and non-statutory organisations involved in childcare.

#### Progress on objectives in 2004

- The overall commitments made under the Equal Opportunities Childcare Programme 2000-2006 (EOCP) in the period to December 2004 will create over 33,000 new centre-based childcare places. The year 2004 saw 6,300 new places come on stream, bringing the total number of new places actually created under the Programme to 24,600 by end 2004.
- The original package of funding allocated to the Programme under the National Development Plan was €317.4 million. This was subsequently increased to € 436 million in 2001 and was further augmented by €13 million in 2004 following the successful Mid Term Review of the National Development Plan, bringing total funding to €449 million. The level of demand for capital grant assistance from community based childcare groups and the level of unmet need for services at local level was such that the Minister for Justice, Equality and Law Reform raised the need to provide additional capital with his Cabinet colleagues in Autumn 2004, as a result of which a

major boost to capital funding was made available in the context of Budget 2005. This brings the total funding available for the present Programme to €499.3 million and includes an increased capital provision of €205 million in the period 2000 to 2007.

- Total funding committed under the Programme to end December 2004 amounts to over €320.3 million. Of this, €153.4 million has been committed to capital projects (including €40.1 million allocated in 2004); €112.5 million to staffing grant assistance (including €15.4 million allocated in 2004); and €54.3 million to quality improvement (including €11.5 million allocated in 2004).

A further €12.6 million has been spent on the day to day administration of the Programme and technical supports to date. Much of the remaining current funding yet to be allocated will be required for continuing supports to existing projects.

- The EOCP makes capital grant assistance available to community based not for profit childcare groups and to private providers to create new and

enhanced childcare facilities. During 2004, expenditure on capital grant assistance amounted to more than €24.4 million.

- Staffing grant assistance is only made available to community and voluntary groups which offer services to disadvantaged families. During 2004, expenditure on staffing grant assistance amounted to nearly €28 million.
- Grant support is also made available for the enhancement of childcare quality (under the Quality sub-measure). This is delivered through a range of actions but it largely focuses on the 33 City/ County Childcare Committees (CCCs) and the seven National Voluntary Childcare Organisations (NVCOs).

## Other developments

- The Department has devised a new collaborative initiative “Partnerships for Quality Childcare” under the EOCP to promote greater collaboration between the City and County Childcare Committees and the National Voluntary Childcare Organisations, enabling them to work together on innovative projects which further strengthen the quality of childcare in Ireland. The closing date for the first phase of the Initiative is January 2005.
- During 2004 the Department published a comprehensive report entitled ‘Developing Childcare in Ireland’ which outlines the progress under the childcare measures to the end of 2003. This report has been widely circulated, and is available on the Department’s website, ([www.justice.ie](http://www.justice.ie)). The data will be updated annually.
- The National Childminding Initiative, which was announced in November 2003 and which aims to enhance quality awareness among childminders, became operational in 2004. The initiative makes

available a small grant of up to €630 to a childminder for capital type purchases which would enhance the service being offered. Availability of the grant is conditional upon attendance at a short series of Quality Awareness lectures for childminders organized by the CCCs. Some 2,600 participants had attended these lectures by the end of 2004.

- The National Childcare Co-ordinating Committee (NCCC) continued to meet regularly during 2004 and the Committee and its Sub-Groups undertook a large body of work. The City/County Childcare Committees (CCCs) continued to deliver their five year strategies through their action plans, and the National Voluntary Childcare Organisations (NVCOs) continued to deliver their three year strategies through their action plans.

## LEGAL AID

### High Level Goal 13

#### *To facilitate access to justice:*

- *through the operation of professional, efficient and cost-effective criminal legal aid and advice schemes, and*
- *In relation to civil legal aid, by supporting the Legal Aid Board in providing the best possible service to its clients within the resources made available to it.*

#### Strategy Statement 2003-2005 Objectives

- *Identify policies and implement measures to facilitate access to justice through the criminal legal aid and advice schemes.*
- *Provide a first class service to practitioners who operate the Scheme.*
- *Support the Legal Aid Board in providing the best possible service to its clients within the resources made available to it.*

### Progress on objectives in 2004

#### Criminal Legal Aid

- The gross cost of the Criminal Legal Aid and Advice Schemes was €34.14m in 2004.
- Liaison continued with the Law Society, Bar Council and Courts Service to ensure the continued successful operation of the Criminal Legal Aid and Advice Schemes.
- The full series of claim forms used in the District, Circuit and Higher Courts and forms relating to the Garda Station Legal Advice Scheme were finalised and made available on the Department's website in 2004.

#### Civil Legal Aid

- Our High Level Goal is pursued by supporting the Legal Aid Board in the implementation of the Civil Legal Aid Act, 1995 and Regulations made under the Act, (which established the Legal Aid Board on a statutory basis).
- The Department continued to support the Legal

Aid Board in providing the best possible service to its clients within the resources made available to it. This included:

- Continuing to provide adequate resources to the Board to enable it to discharge its brief;
- Continuing to develop, in discussion with the Legal Aid Board, a measurable cost effective and professional civil legal aid service;
- Providing any assistance required under the Act to support the Board in the development of effective management systems;
- Reviewing policy on civil legal aid in the context of the Board's operations.

- The Legal Aid Board operates a law centre network through 89 solicitors operating from 30 full time locations and 12 part time law centres nationally. This service is complemented by a Private Practitioners Scheme, whereby legal service can be made available in areas of geographic remoteness and where the exigencies of the law centre service so require.
- The Board also operates a dedicated service, known as the Refugee Legal Service (RLS), to

provide legal advice and assistance to asylum seekers at all stages of the asylum process, including representation before the Refugee Appeals Tribunal.

- The Board continues to run a specialised Refugee Documentation Centre, which provides an independent and professional research and library service for all of the main bodies involved in the asylum process.
- The Legal Aid Board has a vital role to play in providing access to justice in civil matters to people on low incomes. Family law cases account for approximately 96% of cases dealt with by the Board.
- The total number of cases in which legal services were provided by the Board through law centres, the Refugee Legal Service and the Private Practitioner schemes in 2004 was almost 17,000 as compared with 19,500 in 2003. Over 75% of the number of cases in which the Board provided legal services through law centres involved litigation. The number of persons awaiting service decreased from 3,500 in December 2003 to just 2,200 at the end of December, 2004.
- In 2004, the Board's grant in aid funding was €18.388 million while funding for the provision of the Refugee Legal Service and Refugee Documentation Centre was €9.071 million.

in respect of essential visits to prisons and other custodial centres (other than Garda Stations) and for certain bail applications.

## Other developments

### Criminal Legal Aid Scheme

The Criminal Justice (Legal Aid) (Regulations) 2003 came into effect on 1st January, 2004. These Regulations provided for increases totalling 7% during 2004 in the fees payable under the Criminal Legal Aid Scheme to solicitors for attendance in the District Court and for appeals to the Circuit Court and for an increase in the fees payable to solicitors and counsel

## BUSINESS SUPPORT AND CUSTOMER SERVICE

### High Level Goal 14

*To support the attainment of the Department's objectives in our policy and operational areas through the effective and efficient management of our organisation and resources with particular regard to the development of our staff and the delivery of excellent customer services.*

### The Modernisation Programme

#### Strategy Statement 2003 - 2005 Objective

- *Advance a range of modernisation initiatives to enable us to continuously improve the way we manage our organisation and resources.*

### Progress on objective in 2004

- In accordance with requirements under the 'Sustaining Progress' Social Partnership Agreement 2003-2005, the Department and its sectoral bodies reported progress on their respective modernisation Action Plans in advance of the 1 July and 1 December 2004 payment dates under the Agreement.

On the Department side, the Civil Service Performance Verification Group (CSPVG) decided, having considered the reports submitted, that payment was warranted to all staff in the case of both the 1 July 2004 and 1 December 2004 payments dates.

Over the two verification phases of Sustaining Progress in 2004 the CSPVG noted that good progress had been made by the Department in a number of areas including:

- the implementation of the Management Information Framework and recommendations arising from the Mullarkey Report, both of which contribute to a more efficient and transparent use of resources;

- the consolidation/restatement of legislation including the intoxicating liquor code, the codification of land law and conveyancing statutes and criminal law;
- the provision of 'recognisable and certifiable' training to Internal Audit staff at the Department;
- the Department's Legislative Programme.

On the sectoral side, the Justice and Equality Sector Performance Verification Group (JES PVG) decided in June 2004, having considered the reports submitted, that sufficient verifiable progress had been achieved by the sectoral organisations under its remit to warrant payment of the pay increases due under the Agreement on 1 July 2004 to all staff, with the exception of grades represented by the Prison Officers Association in the Prison Service, in respect of which a decision on whether payment is warranted was deferred.

On the 20th July, following resolution of matters arising from the talks held at the Labour Relations Commission concerning lump sum payments and other non-pay issues which were in dispute, the JES PVG decided - taking account of the Secretary

General, PSMD, Department of Finance updated assessment that sufficient progress had been achieved to warrant application of the relevant pay increases to the grades represented by the POA - that payment of the pay increases due from 1 January 2004 and 1 July 2004 was warranted in the case of POA grades.

In November 2004 the JES PVG decided, having considered the reports submitted, that sufficient verifiable progress had been achieved by the sectoral organisations under its remit to warrant payment of the pay increases due under the Agreement on 1 December 2004 to all staff.

- In November 2004, in accordance with the terms of the *Mid Term Review of Part Two of Sustaining Progress* the Department and its sectoral bodies prepared revised Modernisation Action Plans to take account of the Agreement's additional duration and pay increases to 1 June 2006 as well as changing priorities and challenges over this period. The revised modernisation Action Plans were agreed by the relevant partnership committees and subsequently approved by the appropriate Performance Verification Groups (PVGs).

The Department and its sectoral bodies will report progress on these revised Modernisation Action Plans to the relevant PVGs in 2005.

- During 2004 the Department's modernisation working group, which is comprised of senior Department officials, continued to monitor progress on the implementation of the Department's Modernisation Action Plan. Progress by the sector on modernisation was monitored by the Justice and Equality Sector Steering Group.

## Planning and Performance

### Strategy Statement 2003 - 2005 Objective

- *Enhance our strategic, business planning and individual performance planning frameworks to support improved organisation performance.*

### Progress on objective in 2004

- Further progress was achieved on enhancing our strategic, business planning and individual performance planning frameworks in the Department in 2004 with the completion of a new set of Business Plans for the year; and continued implementation of the Performance Management and Development System (PMDS). Under the PMDS, the updating of individual Role Profile Forms by all staff continues to provide greater clarity of individual roles; helps align individual performance with the Department's Strategy Statement and Business Plans; promotes positive management of individual performance; and helps to support achievement of the Department's overall business objectives.

Progress on the implementation of the Department's Strategy Statement objectives was monitored during the year through a process, involving the Minister and the Management Advisory Committee (MAC), of regular review of 2004 Business Plans.

The Department's 2003 Annual Report, was prepared in 2004 and incorporated a progress report on the implementation of Strategy Statement objectives.

The Department continued to provide its sectoral bodies with the necessary supports during the year to enable them to carry out their various administrative, regulatory or operational functions. The Department continued to

strengthen its linkages with its sectoral bodies during 2004 and ensure a coherent approach was taken across the sector to the implementation of Government commitments and in relation to management and strategic planning and performance issues through meetings of the Justice and Equality sector Steering Group.

### Other developments

The Department provided the Taoiseach's Office with its second annual progress report on the implementation of Agreed Programme for Government (APG) commitments for which the Department is responsible in May 2004. A further update of progress on commitments was provided in July 2004. This Department is responsible for implementing, for the most part in a lead role, in excess of 80 of the 477 commitments in the Agreed Programme for Government.

## Human Resource Management

### Strategy Statement 2003 - 2005 Objective

- Ensure that the Strategy Statement on Human Resource Management (HRM) is completed, and that the supporting computerised HRM database is fully implemented.

### Progress on objective in 2004

- Work on the Strategy Statement on Human Resource Management (HRM) was concluded in 2004. A final draft was completed and it is anticipated that it will be published before the end of 2005.
- Personnel Division continued to provide a human resource and industrial relations service to management and staff of the Department and its agencies in 2004. Recruitment, filling vacancies, redeployment and the holding of promotional competitions at all levels took up significant time and resources.
- The HRM system (HRMS), which went live in October 2003, was utilised by all staff in the Division in 2004 in the provision of statistics and various management reports.

### Other developments

- A major review of the organisation of the work of Personnel Division was carried out to identify ways in which the Division could be made more customer and user friendly, and to improve the efficiency with which the Division meets its objectives.
- In recognition of the specialised and complex nature of the work concerned, a dedicated Pay and Pensions Section was set up in the Division to utilise the existing expertise in the area in the most efficient and effective manner possible.

<sup>1</sup>These figures do not include staff who were recruited to cover Term Time vacancies. It also excludes staff who transferred into this Department from other Government Departments.

- Promotional and Assessment forms for grades represented by the Public Service Executive Union (PSEU) were used as part of the Annual Review stage of the Performance Management and Development System (PMDS).
- The Department's Policy on eWorking was launched in December 2004. The first phase of the programme is currently being implemented and will provide a number of staff with an opportunity to work from home or from another approved location on a regular basis.
- A Decentralisation Unit was established to progress the Department's commitment to implementing the Government Programme for Decentralisation. Staff were allocated to this section with the key objective of processing the transfer of staff both within and outside the Department to our decentralised locations and to other decentralised locations included in the Decentralisation Programme.

<b>New Entrants to the Department in 2004<sup>1</sup></b>	
Permanent Staff	142
Temporary/ Contract Staff	25

<b>Resignations/Retirements from the Department in 2004</b>	
Retirements	11
Retirements (Ill Health Grounds)	4
Retirements (Early)	1
Resignations (reason unspecified)	49
Resignations (domestic reasons)	4
Resignations to take up other employment in the Public Service	6
Resignation to take up employment in the Private Sector	1

## Equality of Opportunities

### Strategy Statement 2003 - 2005 Objective

- *Develop a policy on Equality of Opportunities having regard to the Employment Equality Act, 1998 and as provided for in the Programme for Prosperity and Fairness.*

### Progress on objective in 2004

- Equality measures were discussed at Divisional management meetings and monitored on an ongoing basis leading to an increased awareness and appreciation of the issues involved.
- The 3% target for the employment of people with disabilities continued to be closely monitored within the Department. At the end of 2004 the percentage of people with a disability in this Department stood at approximately 3.9% of staff.
- The Department sought to employ people with disabilities from the Civil Service Commission Panels when available. The Department also engaged with the Department of Finance in a pilot project aimed at recruiting graduates with disabilities to provide them with temporary work placements relevant to their qualifications and experience. The Department also indicated its willingness to the Department of Finance to participate in a pilot scheme on self-declaration for people with disabilities.
- The Department has a Disability Liaison Officer (DLO) whose role is to act as a point of contact both within and between Departments for information and advice in relation to disability. During the year the Department notified all staff of the role of the DLO, advising how it might be of assistance and providing contact details.
- In late 2003 the Department invited submissions from staff as to how the role of the DLO could be developed, who should perform the role, how it

could link in more with staff with disabilities and their supervisors, what areas of responsibility it should cover and generally, how it might be taken forward.

In 2004, in response to the submissions received, a series of initiatives were put in place and the Department's Partnership committee were invited to comment on the Department's policy in this area.

- A Disability Awareness Training course for trainers, which was a cross-departmental initiative, was facilitated by the Department's psychologist. This was a follow on from the Disability Awareness Seminar held in December 2003. Disability awareness also forms an integral part of induction training for new entrants.
- During the year, increased female representation was achieved at the Assistant Principal Officer grade and the Department exceeded the target of 33% of staff in this grade being female.

## Training and Development

### Strategy Statement 2003 - 2005 Objective

- *Provide a targeted training and development programme for all staff which is linked to our strategy statement and business planning process.*

### Progress on objective in 2004

- The expansion and development of the training function within the Department continued apace during 2004.
- The provision and delivery of general and specialist training during 2004 arising from the on-going implementation of the Performance Management and Development System (PMDS) and nominations from supervisors significantly increased on previous years. This increase in demand was facilitated by a comprehensive new Developmental Training Programme for staff in 2004 which was put in place to assist the Department to meet its requirements under Partnership concerning the spending of 4% of payroll on Training. The T&D Unit also continued to provide support to staff who wished to attend conferences and seminars of relevance to their work within the Department.
- Overall 654 staff benefited from attending both internal and external training during 2004. Internal training consisted of a range of courses covering areas such as Interpersonal Skills, Writing Skills, Team Working, Negotiation Skills and Disability Awareness. External training was delivered in the areas of Health & Safety, I.T. training and Management Development including training provided by the Centre of Management and Organisation Development (Civil Service Training and Development Centre), Department of Finance.
- Key initiatives undertaken in 2004 included:
  - A major drive took place which resulted in all staff in the Department who requested IT training being trained by various IT Training providers.
  - PMDS Awareness training was facilitated by Departmental trainers to a substantial number of Garda Clerical Civilian staff on a country-wide basis in early December. This training was provided in response to a request for information on the PMDS system and in particular, the Civil Service Competency Framework in terms of Interview Preparation for staff.
  - In co-operation with relevant divisions, the Staff T&D Unit initiated in 2004 preparations for the undertaking of a pilot programme in PMDS Upward Feedback.
  - In December 2004, the unit began the process of providing e-cabinet training to staff of the Department.
  - First Aid training was provided to staff on request.
  - The 2004 Assistant Principal Conference was again organised by the T&D Unit and was held in late September. The theme of the event was Decentralisation.
  - A new IPA Diploma in Administration Studies tailored for this Department was announced. The commencement of the course is to be launched officially by the Secretary General in early January 2005.

- Two members of staff attended the fulltime Masters Programme in Policy Analysis (two year) organised by the Institute of Public Administration in association with the Faculty of Commerce, UCD during the year. The primary aim of the programme is to enhance the capabilities of personnel within the Public Sector System to analyse policy and thus contribute to decision-making on the allocation of public money.

## Partnership

### Strategy Statement 2003 - 2005 Objective

- *Further embed the Partnership process through its various committees and working groups.*

### Progress on objective in 2004

- Regular meetings of the Partnership committees were held during the year helping to develop and strengthen partnership structures within the Department. Personnel Division continued to play a central role in monitoring the work of the committees in addition to supporting and co-ordinating that work. This included organising an annual meeting of the Partnership Steering Committee, which is chaired by the Secretary General.
- The various Partnership sub-committees met regularly to deal with specific issues relating to their own areas.
- The Department's Strategy Statement 2003 - 2005 and 2003 Business Plans were discussed through Partnership.
- Modernisation Action Plans and Progress Reports under the 'Sustaining Progress' Social Partnership Agreement were discussed by the relevant Partnership committee prior to being submitted to the appropriate Performance Verification Group (PVG).
- Issues surrounding accommodation and training & development were discussed by sub-groups of Partnership, and an Implementation Plan for PMDS Upward Feedback was submitted to the Department's Management Advisory Committee by Partnership.
- The results of a staff attitudinal climate survey, conducted within the Department as part of the preparation for the roll-out of PMDS Upward Feedback, was considered by Partnership and subsequently discussed with senior management.

## Family Friendly Initiatives

### Strategy Statement 2003-2005 Objective

- *Continue to support the full range of family friendly initiatives as far as possible in order to help staff to reconcile work and family life.*

### Progress on objective in 2004

- The Department continued to be fully committed to implementing family friendly policies where possible thus enabling staff to combine and balance work with their personal commitments and choices.
- Schemes including term-time, worksharing, career breaks and a variety of special leave

arrangements were actively encouraged and facilitated where possible. Temporary replacements were recruited to cover the 110 officers who availed of term time in 2004.

- A Work-Life Balance Day was held to promote the wide range of family-friendly schemes and initiatives to help staff combine their work and personal commitments.

## Financial Management

### Strategy Statement 2003 - 2005 Objectives

- *Implement an effective financial management framework for the Department and its associated offices to support the devolution of authority and accountability and to achieve better value for money.*
- *Establish the structures and processes to facilitate the development of an effective financial management framework for the Department of Justice, Equality and Law Reform.*
- *Develop the Department's Finance Division as a Shared Services Centre to implement and maintain efficient and effective financial management and transaction processing systems to meet the requirements of the Department, and its associated offices, An Garda Síochána, the Prison Service, the Courts Service and the Land Registry and Registry of Deeds and to facilitate the requirements of the Government's Management Information Framework.*
- *Continue to review and appraise the integrity of all systems which are intended to control the Department's operations.*

### Progress on objectives in 2004

- The Department's Audit Committee held its first meeting in January 2004. The Committee's role is to oversee and advise on matters relating to operation and development of the internal audit function and to report to the Secretary General in relation to the operation and development of that function.
- The Department's Shared Services Centre

satisfactorily fulfilled its objectives in 2004 in relation to its core activities by processing all payrolls, accounts payable and staff expenses in an efficient and effective manner on behalf of the Department, and its associated Agencies.

- The introduction of a new financial system for the Department and its Agencies was progressed by the Shared Services Centre in accordance with the planned schedule which was completed in October, 2004. In addition, the implementation

project was extended beyond its original scope to include the Land Registry and the Department of Arts, Sport and Tourism. It is expected to have both of these new Client Organisations live by March, 2005.

- The Department's Financial Management Unit continued with the progression of the Management Information Framework (MIF) during 2004. Financial restructuring of the Department was completed in June 2004 with

staff awareness and training of the new structures completed in the same month.

- Self Service Travel and Subsistence was enabled within the Department during September 2004 according to schedule. Additionally, the Financial Management Unit continued to progress the development of budgetary devolution, enhanced management reporting and Departmental costing systems with a schedule for completion in 2005.

## Other developments

### *Payroll*

The Shared Services Centre operates weekly, fortnightly and monthly payrolls for all staff in the Justice and Equality Sector as follows: -

	<b>JELR</b>	<b>Garda</b>	<b>Prisons</b>	<b>Courts</b>	<b>Registries</b>	<b>Total</b>
<b>Weekly</b>	586	13849	115	532	317	15399
<b>Fortnightly</b>	858	192	3614	634	383	5681
<b>Monthly</b>	5	7466*	-	-	-	7471
	1449	21507	3729	1166	700	28551

\* includes 7009 Garda pension payments.

Under the provisions of the Pensions Act, 1990 and the Occupational Pensions Schemes (Disclosure of information) (No. 2) Regulations, 1998 the Shared Services Centre produced and made available the 2003 Annual Report of the Garda Síochána Superannuation Schemes, in 2004.

### *Non-Pay Expenditure*

The Shared Services Centre processes on a monthly basis approximately 8,500 invoices, fee and expense claims and 150 local expenditure accounts for the running of the Department and its associated Agencies, including the Garda Síochána, the Prison Service, the Courts Service, the Land Registries and the Criminal Legal Aid Scheme. The Shared Services Centre also brings to account various monies received in the Department, i.e. non-public duty payments,

citizenship fees, film censorship and data protection fees and other miscellaneous receipts.

### Summary of 2004 expenditure allocations for the Justice and Equality Sector

2004 allocation			
	Non Capital Supply Services (000)	Capital (000)	Total provision (non Capital and Capital)
<b>Department</b>	314,242	24,856	339,098*
<b>Garda Síochána</b>	1,054,833	14,944	1,069,777*
<b>Prison Service</b>	296,922	48,804	345,726
<b>Court Service</b>	49,473	26,235	75,708*
<b>Land Registry and Registry of Deeds</b>	31,369	2,189	33,558*
<b>Group Total</b>	1,746,839	117,028	1,863,867

\* includes supplementary estimate

## IT and e-Government

### Strategy Statement 2003 - 2005 Objectives

- Support e-Government initiatives (as set out in *New Connections, eEurope 2002 and eEurope 2005*) by leveraging recently deployed technology within the sector and by relevant legislative activity and also support initiatives such as *Customer Service, PMDS, Freedom of Information, Financial and HR strategies and the improved operational efficiency of the Department and its agencies.*
- Contribute to strengthen policy making and research capacity in the Department and agencies.

### Progress on objectives in 2004

- Phase 1 of the project to deliver updated operational support systems to the Irish Film Censor's Office was developed & deployed successfully, incorporating a website and a backend system for processing of applications for classification of film & video. Further functionality (integration of website & back-end processes) will be addressed in a later phase of the project commencing in 2005.
- The Department's new and upgraded desktop environment was successfully rolled out to all remaining offices in Dublin in the first half of 2004.
- An eWorking Policy, based on the "eWorking in Ireland" Code of Practice was prepared and adopted by the Department in December 2004.
- Online collaboration tools were deployed for a number of projects, including the EU Presidency.
- The Department's website was updated to provide bilingual content capabilities. Downloadable application forms are now available for most services provided directly by the Department, where appropriate to do so.
- The Department continued to contribute to central eGovernment initiatives.

- During 2004, the Department initiated a series of meetings during which the integration of systems in the criminal justice sector was re-examined with a view to realising the advantages of information-sharing across agencies as a mechanism and platform for the efficient and effective management of the criminal justice system. The agencies have agreed that the REACH Public Service Broker, as it comes on stream, should be used where possible. The Criminal Justice Integration Programme formally commenced in summer 2004 with a first pilot project: the Courts/An Garda Síochána Integration Project to investigate the transfer of data between the Courts Service Criminal Case Tracking System (CCTS) and the Garda Síochána PULSE system.
- During 2004, the Department participated in an inter-departmental working group on the IT impacts of the decentralisation programme and hosted initial workshops for the Justice and Equality sector on preparations for decentralisation. Agencies decided on taking an individual approach to developing an IT strategy to support decentralisation, to be reviewed in 2005.
- A subset of public services delivered by the Department and by the Courts Service was included on the ReachServices portal ([www.reachservices.ie](http://www.reachservices.ie)) at its launch.
- The Department continued to provide support and expert advice on IT matters to the various Justice sector agencies and to maintain the Justice Sector Data Network.
- The Department continued to participate in the extended pilot phase of the Department of the Taoiseach's eCabinet project, which also included the Departments of Finance and Social and Family Affairs. Phase 1 of the eCabinet application was successfully deployed to all the Department's offices in Dublin in Autumn 2004, with training being provided to staff in its operation. The Department will continue to be involved in the piloting of further phases of the eCabinet application in 2005.
- The piloting of the Department's Portal was extended to a wider group during 2004, in preparation for its deployment to all Head Office staff and to the first phase of eWorkers in the first quarter of 2005.
- Work on consolidation of the asylum and immigration information systems continued throughout 2004 with the deployment of the first release of the Repatriation case tracking system, incorporating the Ministerial Decisions Unit (MDU) area, in October 2004. This was followed by the development of a single consolidated application for the Citizenship area and Release 2 of the Repatriation system to incorporate recent legislative changes, both due for deployment in early 2005.
- A strategic replacement of all systems in the Asylum area will begin in 2005.

## Quality Customer Service

### Strategy Statement 2003-2005 Objective

- *Provide to the best of our ability a professional and efficient service to our client groups and individual customers in consultation with them and through a process of continuous service improvement.*

### Progress on objective in 2004

#### Customer Service

- During 2004, the Customer Liaison Panel, membership of which is drawn from representative segments of the Department's "customer base" met on one occasion and discussed a draft of the Department's new Customer Charter. The Staff Customer Liaison Panel, which is drawn from representative segments of Departmental staff were also involved in the development of the Customer Charter. The Charter will be published in 2005.
- During 2004 the Department continued to work with the Land Registry, Forensic Science Laboratory, Office of the Film Censor and State Pathology Service to develop the most efficient service that these bodies can provide.

## Regulatory Reform

### Strategy Statement 2003-2005 Objective

- *Contribute to meeting Government objectives in relation to developing policy on regulatory reform.*

### Progress on objective in 2004

- In relation to the progress on Statute Law Reform the Department accounts for up to one third of the Government's total legislative output and manages comprehensive criminal law reform and civil law reform programmes. The Department is engaged in an ongoing process of review, modernisation and evaluation of effectiveness of law reform activity. In 2004 the Department allocated a significant level of research funding on projects to overhaul Land Law and Conveyancing Laws, the Intoxicating Liquor Licensing Laws, and as a result of Government commitments, the entire body of Criminal Law.
- The Department continued to contribute in 2004 to the work of the High Level Group on Regulation, established in the aftermath of the OECD's report "Regulatory Reform in Ireland", to develop and co-ordinate the 'Better Regulation' agenda.

## Communications

### Strategy Statement 2003 - 2005 Objective

- *Develop a culture of excellent communications internally, and externally, particularly in our dealings with the media.*

### Progress on objective in 2004

- The Department's Electronic Press Cuttings Database was maintained. During 2004 staff awareness of the online archive of press cuttings was raised.
- During Ireland's Presidency of the EU the Press Office successfully coordinated the media aspect of a number of conferences and meetings held in

Ireland, in particular, the Ministerial Justice and Home Affairs Council held in Dublin Castle.

- There was ongoing close cooperation between "Justice Family" press officers during 2004.
- Press Office resources and practices continued to be monitored in 2004 to ensure the level of service provided met the needs of the Department and the media.

## Freedom of Information

### Strategy Statement 2003 - 2005 Objective

- *Implement fully and effectively our obligations under the Freedom of Information Act.*

### Progress on objective in 2004

- We have endeavoured to maintain a high quality of decision making in responding to all Freedom of Information (FOI) requests.
- We have maintained and developed this high standard of decision making through the provision of ongoing training for appointed deciding officers and appeals officers of the Department.
- The Department's continued participation in the Civil Service Users Network group (CSUN), a group of FOI Officers in Civil Service Departments, is an invaluable tool in the exchange of information when dealing with inter-departmental FOI requests. The Department's membership of this

group, has assisted in the processing of common requests in a unified and efficient manner.

- In 2004 the Department published its section 15 and 16 manuals as provided for in the FOI Acts. The Section 15 manual is a guide to the functions and records held by the Department, whereas the Section 16 manual outlines the rules and practices under which the Department operates. Both of these documents are available on the Department's website: [www.justice.ie](http://www.justice.ie).
- In 2004 the Department undertook a review under section 32(2) of the Acts of all statutory provisions which restrict access to information falling under our remit. A Report was presented to the Information Commissioner and a copy was also laid before both Houses of the Oireachtas.

## Other developments

In 2004 the Department received a total of 444 requests under the Freedom Information Acts, 1997 and 2003. 73% of requests received this year were for personal information from staff and clients of the Department with approximately 6.5% of requests coming from journalists. Requests received from Journalists have dropped by 66% on 2003 figures. The Department is committed to the full implementation of the Acts and in the provision of full training and assistance to decision makers in the execution of their duties under the Acts.

## Policy Planning and Research

### Strategy Statement 2003 - 2005 Objective

- *Further enhance our policy analysis capability through the procurement of objective, quality research.*

### Progress on objective in 2004

- The Department's Policy Planning Research Unit (PPRU) continued to provide funding for research relevant to the Department's policy areas. In 2004, a sum of €521,000 was provided for a range of research projects, including research in the area of 'The Number, Profile and Progression Routes of Homeless Persons before the Courts and in Custody', and a 'Source Book on Youth Crime'.

## Other Business Support and Customer Service Developments

### Forensic Science Laboratory

The Forensic Science Laboratory provides an important professional service to the State in the fight against serious crime. To further improve the efficiency of this service, in line with other initiatives in the fight against crime, the recommendations arising out of a review of the operation of the Laboratory are being implemented over a period of time.

### State Pathology Service

During 2004 the Department worked closely with the State Pathologist, Dr Marie Cassidy, to meet the ever increasing demands being placed on the Service. In November 2004, Dr. Michael Curtis was appointed Deputy State Pathologist.

### Film Censor's Office

- There was an increase of 17% in the number of feature films certified and 16% in the number of video/DVDs certified in 2004.
- The Irish Film Censor's Office website was launched on 3 September, 2004.
- An Inspector was recruited with responsibility for monitoring compliance with the provisions of the Video Recordings Act 1989.
- The findings of a major national survey of parents carried out for the Irish Film Censors Office by Lansdowne Market Research were published.

### Energy Saving Measures

The Energy Conservation Unit of the Office of Public Works is working on a programme which will

incorporate all of the larger buildings that the Department occupy. In a joint venture with Sustainability Energy Ireland (formerly the Irish Energy Centre) the OPW is focusing on energy monitoring and targeting in on all large state buildings. This will involve the establishment of an energy - monitoring bureau specifically dedicated to collecting and reporting on energy consumption in state buildings. The bureau will be charged with developing Energy Performance Indicators for each building, identifying energy waste and preparing weekly, monthly and annual energy reports. The collected data will be circulated to the relevant accommodation officers and a new emphasis will be placed on energy conservation.

Persons responsible for energy conservation within this Department and individuals in other Government Departments will be given access via the internet to a dedicated web site which will show energy consumption data from their particular buildings. They will be able to access daily, weekly, monthly and annual reports for electrical and heating fuel consumption. The buildings will be rated according to energy performance and areas for improvement highlighted. The system was installed in a number of buildings in 2004.

The Department continued to use various different paper products in its business. Our policy is to use products which are 100% recycled, partly recycled or made by way of the forest control method using 100% pulp with chlorine free bleach.

### **Bookmaker's Licences**

The Department is responsible for processing applications by Bookmakers, who reside outside of the State, for a Certificate of Personal Fitness from the Minister for Justice, Equality and Law Reform. A total of 63 applications were processed in 2004.

### **Comhairle na Míre Gaile**

Comhairle na Míre Gaile (Deeds of Bravery Council)

set up under the Deeds of Bravery Act 1947 gives awards to those whom they feel have displayed an extreme act of courage in saving the lives of others. In 2004, 2 presentations were made, 1 in Cavan and 1 in Galway, following decisions taken by the Council. Nominations can be made by local councils, An Garda Síochána, Defence Forces, Fire Brigade and members of the public.

### **Accommodation**

During 2004 the Department continued to work to meet its increasing accommodation needs and that of its associated Agencies. Following the sale of the Department's Head Office on St. Stephen's Green, we are in the process of seeking other suitable accommodation sites around the city for staff that were dispersed following the move from St. Stephen's Green.

### **Auctioneering Review**

The Auctioneering/Estate Agency Review Group was established in July 2004 to carry out a review of all aspects of the auctioneering profession in Ireland and equivalent services in appropriate comparable jurisdictions.

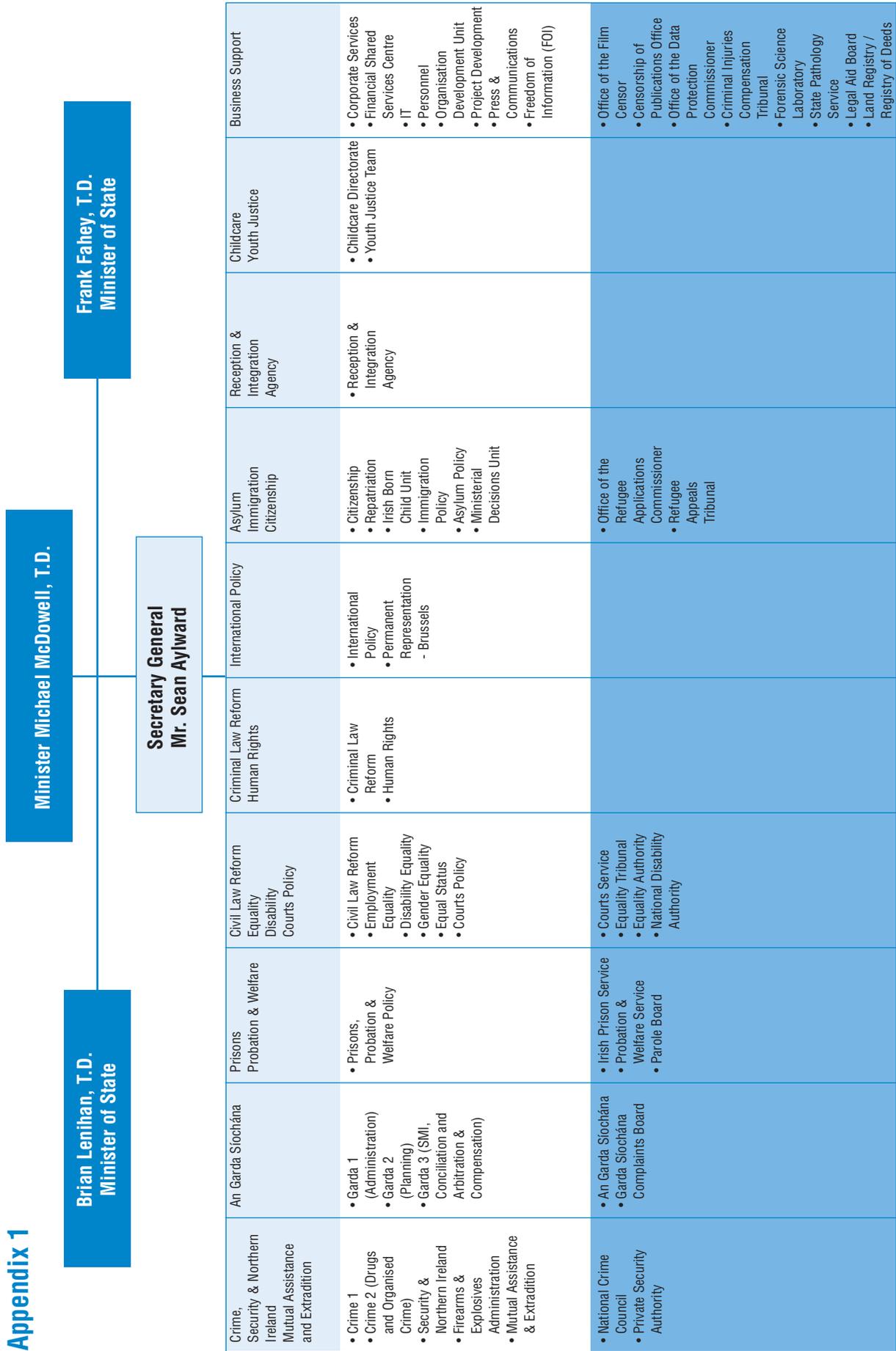


# part three

Appendices



Appendix 1



Assistant Secretary Areas  Divisions of Department  Associated Bodies

## Appendix 2

### Overview of the Divisions of the Department

#### Crime, Security and Northern Ireland

**Crime 1** is responsible for general crime policy matters and also for issues relating to the enforcement of the criminal law. The Division also deals with policy issues relating to the Garda enforcement of road traffic law and other related strategic issues. The Division is also responsible, in conjunction with the Garda Síochána, for the development of crime prevention measures and social inclusion structures.

**Crime 2** is primarily responsible for the development and enhancement of the Department's policy response, in terms of law enforcement, to the problems of drugs and organised crime.

**Security and Northern Ireland Division** deals with general security matters and matters relating to Northern Ireland relevant to the Department's general area of responsibilities, for example arms decommissioning.

**Firearms and Explosives Administration Unit** deals primarily with the implementation of the Firearms Acts 1925 to 2000 and the Explosives Act, 1875 including the formulation and implementation of policy with respect to firearms and explosives. In accordance with the Firearms Acts 1925 to 2000 the Unit has responsibility for the registration of firearms dealers, the granting of firearms importation licences to registered firearms dealers and residents, the granting of export licences for the transfer of firearms to other EU Member States. The Unit also has primary responsibility for matters relating to the manufacture, transportation, storage and importation of explosives, including fireworks under the Explosives Act 1875. In addition to the primary responsibilities, the Unit also liaises with other Government Departments on a wide range of matters from aircraft carrying munitions of

war/dangerous cargo to research, cruises and visits by foreign naval vessels.

**The Mutual Assistance and Extradition Division** discharges the Department's designated role under International Conventions and Agreements in the criminal field in regard to the processing of incoming and outgoing requests for mutual legal assistance/judicial co-operation and extradition. The Division also participates in initiatives at international level to extend the scope of such requests and to facilitate the operation of the relevant Conventions or Agreements. It also provides assistance with regard to domestic measures to implement the terms of such Conventions/Agreements.

The Department of Justice, Equality and Law Reform acts as the Irish Central Authority for Mutual Assistance in Criminal Matters.

The principal role of the Central Authority is to assist the Minister in the discharge of functions under the international co-operation provisions of the Criminal Justice Act 1994 (Part VII). It also manages and co-ordinates the execution of requests for mutual assistance in co-operation with the Attorney General's Office, the Chief State Solicitor's Office, the Office of the Director of Public Prosecutions, the Garda Síochána, the Revenue Commissioners and the Courts. Attendance in Court on the hearing of mutual assistance applications and related matters continues to be an important aspect of the work of the Central Authority.

In relation to requests for extradition, the Division carries out the administrative tasks associated with the specific functions of the Minister, which are provided for in the Extradition Acts 1965 to 2001. Under the European Arrest Warrant Act 2003, which provides for simplified surrender procedures between all Member States of the European Union, the Minister acts as the Central Authority for the purposes of the Act. The Act came into operation on 1 January, 2004

and governs the procedure between Ireland and the other Member States of the European Union for the surrender of persons suspected of having committed criminal offences.

Requests for extradition/surrender fall into two categories-

- requests under the Extradition Act 1965 (for all non EU countries)
- requests under the European Arrest Warrant Act 2003 (for member states of the EU).

## Garda

**Garda 1 (Administration)** is responsible for administration of policy in areas such as Garda recruitment, training and discipline. It also deals with estimates, transport, equipment and international police missions.

**Garda 2 (Planning)** is responsible for policy and implementation in relation to Garda computerisation and telecommunications, as well as the Garda Building and Stations Maintenance Programmes. It provides support for the administration of the Garda Síochána Complaints Board, which is independent in the discharge of its functions.

## Garda 3

**Garda C&A** is responsible for administration of the Garda Conciliation and Arbitration Scheme involving the processing of claims in relation to pay and conditions of members of the Garda Síochána up to and including Chief Superintendents.

**Compensation Claims and Civil Actions:** The Garda Síochána Compensation Acts provide a compensation scheme for members of the Garda Síochána who die or are injured as a result of a malicious act in the course of or in relation to the performance by them of their duties as members of the Garda Síochána. Civil actions arise from non-malicious injuries to Gardaí, injuries to civilians on Garda premises, legal actions

taken by Gardaí and legal actions arising from acts or omissions by the Garda Síochána.

**Garda SMI** is responsible for the development and implementation of the programme of change arising from the recommendations of the Report on Efficiency and Effectiveness as part of the Strategic Management Initiative in the Garda Síochána.

Garda 3 has certain functions in relation to promotion to the senior Garda ranks as well as in relation to the employment of certain civilian grades within the Garda Síochána. Garda 3 also represents the Department at the EU Police Co-operation Working Group.

## Courts Policy

The Courts Service was established in 1999 in accordance with the provisions of the Courts Service Act 1998. The statutory framework of the Courts Service establishes clear lines of accountability, responsibility and transparency. Under the Act, responsibility for the management of the courts system is conferred on the Courts Service.

The role of **Courts Policy Division** is to discharge ministerial functions in relation to the Courts, including all constitutional and legislative matters related to judicial appointments/salaries, the making of Rules of Court and the preparation of material in relation to the Minister's accountability to the Dáil on court issues. The Division is also responsible for policy underlying Courts related legislation.

Courts Policy Division also examines and considers proposals from the Courts Service regarding financial and staffing matters and major court development programmes in the IT and building areas and advises the Minister in relation to the provision and utilisation of resources. The Division also ensures that the Courts Service is appropriately resourced and that necessary reporting systems are in place to enable the Minister to discharge his responsibility in regard to the Service.

In addition, Courts Policy Division is responsible for all aspects of policy, secondary legislation, financing and management of the Criminal Legal Aid Scheme. The Division deals with all 'IR' type issues with the representative bodies of both branches of the legal profession in respect of the Scheme. The Division is also responsible for the management of the Ad-Hoc Legal Aid Scheme (CAB) and the Garda Station Legal Advice Scheme.

### Prisons, Probation and Welfare

**Prisons & Probation and Welfare Policy Division** is responsible for providing strategic direction and guidance to the Irish Prison Service and the Probation and Welfare Service and for monitoring the performance of those services in line with agreed policy objectives. The development of effective organisational structures in these areas underpinned by legislation is an important function of the Division.

The Division also discharges ministerial functions in relation to the prisons and the Central Mental Hospital, including appointments to prison visiting committees, acting as liaison with the Interim Parole Board and the Inspector of Prisons and Places of Detention and processing applications under the transfer of sentenced persons legislation.

The **Petitions Unit** and the **Peace Commissioners Unit** also come under the auspices of Prisons and Probation and Welfare Policy Division. The former processes petitions to the Minister for reductions of penalties and/or sentences imposed by the Courts while the latter processes nominations for appointment to the Office of Peace Commissioner.

### Law Reform

**Criminal Law Reform Division** is responsible for the preparation of laws relating to the reform of the criminal law and is involved in keeping areas of criminal law under review so as to identify the potential for reform. In addition, staff of the Division participate in international meetings including those at

EU, Council of Europe and the United Nations level in relation to criminal law matters, the drawing up of agreements, treaties, etc. on matters of mutual interest relevant to the enforcement of the criminal law and the preparation of legislation to give effect in the State to those instruments.

The **Civil Law Reform Division** has the function of preparing laws relating to civil law not within the functional remit of any specific Department as well as servicing the legislative needs of other Divisions within the Department. The Division keeps areas of the civil law under review so as to identify the potential for reform. In addition, staff of the Division participate in international meetings including those at EU, Council of Europe and the United Nations level in relation to civil law matters, the drawing up of agreements, treaties etc. on matters of mutual interest relevant to the enforcement of civil law and the preparation of legislation to give effect in the State to those instruments.

The Civil Law Reform Division has responsibility for the Central Authorities on international child abduction and international maintenance recovery.

### Human Rights

The **Human Rights Division** is responsible for the implementation of the Human Rights Commitments in the Good Friday Agreement and the ongoing review and revision of the human rights aspects of criminal law and practice principally insofar as the Department's sphere of responsibilities is concerned.

### International Policy

**International Policy Division** has responsibility for the co-ordination of international policy and services various European Union and other international fora dealing with the Department's remit.

## Immigration and Citizenship

**Immigration and Citizenship Policy Division** is responsible for the development of immigration and citizenship policy and of proposals for legislative change in this area. It also participates in international fora on immigration policy issues, in particular in relation to the development of immigration policy at European Union level.

**Immigration and Citizenship (Operations) Division** is responsible for the implementation of policy in relation to the admission of non-nationals to the State, their residence in the State and the granting where appropriate of Irish citizenship. Its functions include:

- the processing of applications for certificates of naturalisation and other matters concerned with the acquisition of citizenship,
- the issue of visas to persons wishing to travel to the State, other than nationals of States exempted from the visa requirement, through the consular services of the Department of Foreign Affairs,
- the issue of business permission to non-EEA nationals seeking to establish a business in the State,
- determining applications for permission to remain in the State referred from An Garda Síochána,
- deciding on applications for residence permits from EEA nationals and their dependants,
- the effective operation of the Garda Registration System for non-EEA nationals,
- dealing with reported non-compliance with the law regarding the admission and residence of non-nationals, in co-operation with the Garda National Immigration Bureau.

## Repatriation

**Repatriation Unit** is responsible for considering the cases of failed asylum seekers and illegal immigrants under section 3(6) of the Immigration Act 1999 for leave to remain in the State or repatriation to their countries of origin. It is also responsible for actively

encouraging voluntary repatriation to the country of origin. The Unit is responsible for giving effect to the transfer of persons under the Dublin Convention to the appropriate EU State for their asylum applications to be determined there and for giving effect to the implementation of bilateral readmission agreements with Poland, Romania, Nigeria and Bulgaria. The Unit also liaises with the Garda National Immigration Bureau in the effecting of deportation orders made by the Minister under section 3 of the Immigration Act, 1999. The Unit also liaises with other interested third parties e.g. the Department of Social, Community and Family Affairs, Customs Service, Work Permits Section, Department of Enterprise, Trade and Employment. The Unit also responds to judicial review and other court proceedings on behalf of the Minister.

## Asylum Policy

**Asylum Policy Division** is responsible, inter alia, for the development and implementation of policy (both domestic and Ireland's input at EU/International levels) in relation to asylum seekers.

However, applications for asylum are dealt with by two independent statutory offices:

- The *Office of the Refugee Applications Commissioner* (RAC) which considers applications for asylum at first instance and makes recommendations to the Minister for Justice, Equality and Law Reform as to whether a person should be granted or refused refugee status;
- The *Refugee Appeals Tribunal* (RAT) which deals with appeals in respect of applications for asylum.

## Ministerial Decisions Unit

**The Ministerial Decisions Unit** is responsible for making a decision on behalf of the Minister on each asylum application based on the recommendation of the Refugee Applications Commissioner or the decision of the Refugee Appeals Tribunal.

The MDU is also responsible for dealing with judicial reviews of Ministerial decisions relating to asylum applications.

The section also deals with revocations of refugee status.

### Reception and Integration Agency

The Reception and Integration Agency (RIA) was established on 2 April, 2001. The RIA replaced and combined the functions performed previously by the Directorate for Asylum Support Services (DASS was established by the Government in November, 1999 under the aegis of the Department of Justice, Equality and Law Reform to co-ordinate the scheme of dispersal and direct provision for asylum seekers) and the former Refugee Agency which operated on an administrative basis under the Department of Foreign Affairs.

The RIA has the following remit:-

- planning and co-ordinating the provision of services, including health, education and welfare services, to both asylum seekers and refugees including implementation of Government policy on the reception of asylum applicants through the system of direct provision and dispersal to accommodation centres throughout the State;
- monitoring and maintenance of accommodation registers;
- co-ordinating the implementation of an integration policy for all refugees and persons who, though not refugees, are granted leave to remain; and
- responding to crisis situations that result in relatively large numbers of refugees arriving in Ireland within a short period of time. (e.g. the large number of refugees from Kosovo who came in 1999).

All applicants for asylum are referred to the Reception and Integration Agency following the making of their application for asylum at the Office of the Refugee Applications Commissioner. Between the introduction of direct provision in April 2000 and the end of 2004, the RIA has accommodated almost 36,400 asylum seekers, including over 3,600 during 2004.

At 31 December 2004, the Reception and Integration Agency had the capacity to accommodate over 7,700 asylum seekers in 2 reception centres, 63 accommodation centres and 9 self-catering centres across 25 counties in a range of accommodation facilities.

### Equality, Disability and Childcare

Following a redistribution of work in January 2003, the Employment Equality Division was reorganised into two separate divisions, namely Employment Equality Division and Gender Equality Division.

**Employment Equality Division** is responsible for developing the policy and legal framework to advance equal opportunities in the areas of employment and family friendly policies. The Division works to advance employment equality primarily through legislative, administrative and monitoring mechanisms. It acts in a liaison capacity between the Department and the Office of the Director of Equality Investigations and the Department and the Equality Authority. The Equality Authority and the Office of the Director of Equality Investigations were established under the Employment Equality Act 1998.

**Gender Equality Section** is responsible for implementing a number of Government commitments on gender equality; supporting policy development on policy issues and monitoring national and international commitments on gender equality issues. The section has a lead role in supporting the implementation of gender mainstreaming in the National Development Plan 2000-2006 and in implementing a programme of positive actions for women.

**Equal Status Division** is responsible for promoting the development of a more equal society by promoting, monitoring and implementing the right to equal treatment and the accommodation of diversity, having regard to gender, marital status, family status, sexual orientation, religious belief, age, disability, race and membership of the Traveller community. In particular, to combat racism and to promote an inclusive society by managing the Anti-Racism Awareness Programme and by developing a National Action Plan against Racism and by monitoring the implementation of Government policy for the Traveller community.

**Disability Equality Section** provides a focal point for disability equality policy and legislation development. It was established in 1997 arising from a recommendation by the Commission on the Status of People with Disabilities (Report 1996). The section monitors the implementation of disability mainstreaming policy in relation to public services. It also administers the funding for the National Disability Authority (NDA) which was established in June 2000 to develop and monitor the implementation of standards in services for people with disabilities. In addition, the Section contributes to and monitors progress in the development of international equality policy at European Union, Council of Europe and United Nations levels.

**The Childcare Directorate** has responsibility for developing childcare provision and the implementation of the Equal Opportunities Childcare Programme through Exchequer funding and funding provided from the National Development Plan 2000 to 2006. The Directorate works to increase the quantity and quality of childcare services, both in the community and private sectors, as well as developing a co-ordinated approach to childcare provision at local and national level over the course of the National Development Plan. The Plan enables the Department to provide for the further development and expansion of childcare facilities to address the needs of men and

women in reconciling their childcare needs with their participation in employment, training and education.

## Personnel

**Personnel Division** has overall responsibility for approximately 4000 staff across the Justice and Equality Sector. During the year Personnel Division continued to provide a professional and efficient human resource/personnel customer service to staff and management. Recruitment and filling of vacancies continued to be a priority requiring major resource input which placed additional demands on staff within the Division. Several successful internal promotion competitions at all levels were also held during the year.

As regards recruitment, we continued to work closely with the Office of the Civil Service and Local Appointments Commission through participation on Interview Boards and meeting with candidates prior to assignment. As part of our commitment to implementing and facilitating family friendly policies where possible, work sharing was introduced in 2002 enabling staff to balance work with their personal commitments and choices. A comprehensive range of family friendly schemes is now available to staff.

## Finance

**Finance Division** in Killarney is responsible for issuing payments for the supply of goods and services to the Department and its associated agencies; the payment of salaries, overtime, allowances, staff expenses for the Department and its associated agencies and for the payment of Garda pensions. The Division also maintains all the necessary associated financial records and co-ordinates the Department's and agencies annual estimates of expenditure and provides regular financial reports to managers across all of the Department's business areas (votes) and to the Department of Finance. The Division prepared the Appropriation Accounts for the Department of Justice, Equality and Law Reform, the Garda Síochána, the Prisons Service and the Land Registry and Registry of Deeds.

## Internal Audit

The purpose of the **Internal Audit Unit** is to provide reasonable audit assurance to the Department and associated agencies that significant operating risks are identified, managed and controlled effectively. This Unit covers the audit function in relation to the Department, the Garda Síochána, the Irish Prison Service, the Probation & Welfare Service, the Land Registry and various other offices associated with the Department, including, amongst others, the Legal Aid Board, the National Disability Authority, the Forensic Science Laboratory and the Film Censor's Office.

## Corporate Services

**Corporate Services Division** provides the support services to ensure that the Department and its associated offices operate as efficiently and effectively as possible. In so doing, it is responsible for procurement of non-IT equipment and stationery, provision and maintenance of accommodation, telecommunications etc. for the headquarters of the Department and some of the associated offices which do not have a local purchasing office of their own. It is also responsible for the provision of file registry, information resources and messenger services for the Department. Corporate Services Division administers the Minister's and Department's functions and acts as a liaison in relation to the various offices associated with the Department, such as the Land Registry and Registry of Deeds, the Office of the Film Censor, the Office of the Censorship of Publications Board, the Data Protection Commissioner's Office, the Legal Aid Board, the Forensic Science Laboratory and the State Pathology Service. It also coordinates the Department's responses to Government memoranda, replies to Parliamentary Questions and to representations and/or correspondence where two or more line Divisions of the Department are involved.

In addition, Corporate Services Division is responsible for administering the functions of the Minister and the Department as contained in a wide range of legislation such as the Betting Act 1931, the Coroner's Act 1962

and the Auctioneers and House Agents Acts 1947 - 1973. The Division also deals with the issue of Violence against Women and provides the Secretariat to the National Steering Committee on Violence against Women.

## IT

**IT Division** is responsible for providing and supporting Information Technology solutions to other Divisions/Sections of the Department. It is focused on improving services to staff of the Department to support them in their functions and attempting to exploit improving technologies to improve how staff of the Department collaborate with each other and work more flexibly. It delivers a range of systems mostly of the document and record management variety, reflecting the work of the Department.

This Division has a role in relation to the other Agencies and Offices associated with the Department from providing basic infrastructure to connect the agencies to assisting in projects to improve information flows and processes between agencies in the Criminal Justice and Asylum and Immigration areas.

## Organisation Development

**Organisation Development Unit (ODU)** plays a key role in strengthening and developing the Department's strategic, business and individual performance planning frameworks to support improved organisation performance. This involves the preparation of the Department's Strategy Statement and regular reviews of progress on its implementation; co-ordinating the completion of annual Divisional Business Plans and monitoring the implementation of the Performance Management and Development system.

ODU plays a key role in the development and implementation, in the Department and wider Justice and Equality sector, of the modernisation programme under Sustaining Progress. The aim of this

programme is to improve resource management, organisational responsiveness and service delivery. This work builds on progress already achieved to date on strategic management initiatives and the programmes of organisation change in the Department since 1997.

ODU reports progress on the Department's commitments under the Agreed Programme for Government to the Taoiseach's Office each year.

ODU also provides administrative support to the Department's Policy Planning Research Unit (PPRU). The PPRU's function is to enhance the Department's policy analysis capability through the procurement of objective, quality research.

### Project Development

**Project Development Division** is responsible for the updating and development of policy in relation to a range of issues, through the establishment of discrete projects in particular policy areas. Current projects include policy reviews in the area of gaming and lotteries, auctioneering and the illegal and harmful use of the Internet.

### Press Office

**The Press Office** is responsible for providing a service to the broadcast and print media on behalf of the Minister, Minister of State and the Department generally. The Press Office provides a 24-hour service, answering media queries on a daily basis. The office is responsible for issuing press releases and speeches, and arranges interviews for the Minister and Minister of State.

The Press Office answers thousands of press queries each year and issues hundreds of press releases and speeches. All press releases and speeches are available on the Department's web site.

