

*First Annual Report of the
Inspector of Prisons and
Places of Detention
for the Year
2002 - 2003*

INTRODUCTION

Michael McDowell Esq S.C T.D
Minister for Justice Equality and Law Reform,
St. Stephen's Green,
Dublin 2.

Dear Minister

I am deeply honoured and delighted to have been appointed the first Inspector of Prisons and Places of Detention since the foundation of the State. The office has been a busy time in gestation but at last exists. It has only been fully operational recently. I hope you will honour us shortly by officially opening our premises.

Far too many people are sent to prison. It is a finishing school in criminality for many young people. Young people also may get their first introduction to drugs in prison. Violent crime must at the moment require incarceration where prisoners develop their own self awareness. They should address their inability to control anger and other anti social behaviour. However, homelessness, truancy, and lack of parental control are obviously some of the factors to be addressed. These problem are not being adequately addressed and funded. There are many excellent imaginative people serving the criminals but many are frustrated by the way funds are dissipated.

Once I became operational (and indeed long before it). I visited all the prisons save one. However we have done a full report on Limerick, Cloverhill, Portlaoise, and Mountjoy (which includes the female Dóchas Centre). I enclose my general report and the specific reports on the named prisons. There are many many problems highlighted in these reports. Many will cause annoyance. Many will require expenditure of money. However in some cases, at most, cosmetic changes are being proposed. This is obviously a waste of money. The Minister, The Judiciary, the Department, the Prison Service, all have a vital contribution to make.

I am grateful to my staff and all Governors and staff of all disciplines in each prison visited. In particular I want to thank the private individuals identified as inspectors in the reports herewith who voluntarily attended at prisons and gave perceptive reports. No words of mine can adequately express my gratitude to each of them who rose to the challenge so readily and gave me expert advice without charge.

My report may make disturbing reading. The public should realise the problems of poverty, ignorance, homelessness and particularly drug addiction. The tolerant public are too tolerant of the greatest of all drug problems namely alcohol, which is very addictive and is the cause of much antisocial behaviour. The unfortunate victims must be given support and never left out of the equation.

I look forward to continuing my work. Sincerely yours.

Dermot Kinlen
Inspector of Prisons and
Places of Detention

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1. BACKGROUND TO THE ESTABLISHMENT OF A POSITION OF AN INSPECTOR OF PRISONS AND PLACES OF DETENTION

The appointment of an independent Inspector of Prisons was recommended in the report of the committee of enquiry into the prison system (commonly referred to as The Whitaker Report) which was published in July 1985. It states:- “The appointment of an independent Inspector of prisons of equivalent status to the Director (Director General) and reporting through the secretary (general) of the Department to the Minister for Justice (Equality and Law Reform) is also recommended. The Inspector should be empowered to inspect all aspects of the work of the prison service including the treatment of prisoners and conditions in prisons. Ad hoc inspections at the request of the Minister should be provided for. Each year the Inspector should make a report to the Minister and subject to any omissions necessary on security ground the report should be published in full”.

[The establishment of an Inspector’s/Ombudsman office for Prisons had already been demanded by the 1982 McBride Report - at the instigation of the Prisoners Rights Organisation which was very unofficial.]

Despite the recommendation of the Whitaker report to appoint an independent Inspector of Prison in 1985 no appointment took place and in fact it is clear from the Department’s report on “The management of offenders a five year plan” published in June 1994 that the Department of Justice took the view that there was no need to create an office of the

Inspector of Prisons. The Department's views were that there were only 13 penal establishments [compared to England/Wales where there were over 100] and that there were constant interaction between Department officials and prison staff, regular visits by those officials, by representatives of various voluntary groups and ongoing attention on the part of the visiting committees.

However, within the same report they state that the Department reconsidered this matter and now takes the view that despite the existence of the various controls/supervisory arrangements, it is right in principle that an independent person should be appointed as Inspector of Prisons as envisaged by the Whittaker committee. It is further stated within the report that an Inspector will be appointed during the five year plan period (1994-1999).

In February 1997 an expert group report titled "Towards an Independent Prisons Agency" which makes reference to the appointment of an Inspector of Prisons in the Whittaker Report and in the "Five Year Plan" report. They also recommend the appointment by the Minister. They considered that the position should be part time in view of the relatively small size of the Irish Prison system. The report states that an Inspector should be required to raise issue of concern at the appropriate level i.e Prison Agency or Department and should issue an annual report to the Minister which should be laid before the Houses of the Oireachtas. The report further states that the Inspector should be required to report on all prisons and places of

detention under the aegis of the Minister for Justice particularly on conditions in those institutions and on the treatment of the persons held in them.

Furthermore it should be open to the Minister to request the Inspector to report on specific issues or incidents connected with the prisons.

The Council of Europe Committee for the prevention of torture and inhumane or degrading treatment or punishment [known as the C.P.T.] visited Ireland in August/September 1998 and inspected a number of prison establishments as well as some Garda stations and the Central Mental Hospital in Dundrum. They also visited Ireland in 1993. In the report on its 1993 visit the C.P.T emphasised the value of regular visits to prison establishments by an independent body the e.g. Visiting committee, or a Judge with responsibility for carrying out such inspection with authority to receive and if necessary take action on prisoners complaints and to visit the premises.

In an interim report to the C.P.T arising from their visit the Irish Authorities make reference to a number of proposed reforms regarding visiting committees as well as stating that the Government had proposed the creation of an independent Prisons Inspectorate.

The C.P.T welcomed the Irish Government's interim response and requested detailed information about the role and functions which was intended to attribute to the Prisons Inspectorate and the time scale within which the Irish Authorities envisage that the Prison Inspectorate would become operational.

In the Irish Government's response to the C.P.T report on their visit to Ireland from 31/8/1998 to 9th September 1998 it states "that details of the proposed inspectorate are being worked out. As a general approach the Inspector will report to the Minister/Parliament on the administration of the Prison system. Further details will be furnished later. Work has commenced on the Prisons Bill which is intended as well as placing the Prison Service on a statutory basis, will also create a statutory prisons inspectorate and a statutory Parole Board. It is hoped that the Prison Service Bill will be enacted during 2000".

So as outlined in the various reports recommending such appointment dating as far back as 1985 no appointment took place of an Inspector of Prisons and places of detention until Mr. Justice Dermot Kinlen's assignment to the position in April 2002.

An Inspector of Prisons for England and Wales was established in 1980 and for Scotland in 1981, so the position has been well established in our neighbouring countries for years.

Establishments and Design Capacities

Arbour Hill Prison: Location Arbour Hill, Dublin 7.

Profile: Arbour Hill is a closed, medium security prison for males aged 18 years and over. It has a design capacity of 139.

Castlerea Prison: Location Harristown, Castlerea, County Roscommon.

Profile: Castlerea is a committal prison for male adults age 17 years and over. It is a closed medium security prison. A separate area within the perimeter wall known as The Grove is a a low security semi open house style accommodation. The main block has a design capacity of 146 and the Grove of 36.

Cloverhill Prison: Location Cloverhill Road, Clondalkin, Dublin 22

Profile: Cloverhill is a medium security closed prison for male adults aged 17 years and over. Its design capacity is for 456 prisoners.

Cork Prison: Location Rathmore Road, Cork.

Profile: Cork Prison is a medium security, closed prison for males aged 17 years and over. The prison has a design capacity for 150.

Curragh Place of Detention: Location Curragh, Co. Kildare

The Curragh Place of Detention is a closed, medium/low security centre for adult male prisoners. It has design capacity of 68.

Fort Mitchel Place of Detention: Location Spike Island, Cobh, County Cork.

Profile: Fort Mitchel is a closed, medium security place of detention for young adult males. It has accommodation for 102 prisoners.

Limerick Prison: Location Mulgrave Street, Limerick

Profile: Limerick Prison is a closed, medium security prison for males and females aged 17 and over. It has a design capacity of 145.

Loughan House: Location Blacklion, County Cavan

Profile: Loughan House is an open Place of Detention for male offenders aged 18 years and over. The design capacity is 85.

Midlands Prison: Location Dublin Road, Portlaoise, County Laois

Profile: The Midlands Prison is a closed medium security prison for males aged 18 years and over. The prison has a design capacity for 515 prisoners.

Mountjoy Prison: Location North Circular Road, Dublin 7

Profile: Mountjoy Prison is a closed, medium security prison for males aged 17 years and over. Its design capacity is for 547 prisoners.

The Dóchas Centre located on the Mountjoy Prison Complex is a closed medium security prison for females aged 17 and over and has a design capacity for 80 prisoners.

Portlaoise Prison: Location Portlaoise, County Laois

Profile: Portlaoise Prison is a high security closed prison for males aged 17 years and over. The prison has a design capacity for 203.

Shanganagh Castle: Location Shankill, County Dublin

Profile: Open Centre for juveniles between the ages of 16 and 21. The design capacity of the centre is for 60 offenders

Shelton Abbey: Location Arklow, County Wicklow

Profile: Shelton Abbey is an open centre for males aged 19 years and over. The design capacity is 58.

St. Patrick's Institution: Location North Circular Road, Dublin 7

Profile: St. Patrick's Institution is a closed, medium security place of detention for males aged between 16 to 21 years. It has a design capacity of 220.

The Training Unit: Location Glengarriff Parade, Dublin 7.

Profile: The Training Unit is a semi-open low security prison for males aged 18 years and over. The unit's design capacity is for 94.

Wheatfield Prison: Location Cloverhill Road, Clondalkin, Dublin 22

Profile: Wheatfield Prison is a closed, medium security prison for males aged 17 years and over. The design capacity is 320.

2. THE ROLE OF THE INSPECTOR OF PRISONS AND PLACES OF DETENTION

The Office of the Inspector was established by an order signed by the Minister for Justice Equality and Law Reform on the 21st February 2002.

There is a statutory provision in the forthcoming Prisons Bill for the Prisons Inspectorate. The appointment of Mr. Justice Dermot Kinlen to the position following his retirement on the 23rd April 2002 from the High Court Bench is for a period of five years. The terms of reference of the office is to -

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

Guidelines:

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

- (a) the quality of the regime;
- (b) the attitude of staff and inmates
- (c) health, safety and well-being of prisoners
- (d) the conditions of the buildings
- (e) questions of humanity and propriety;
- (f) any general pattern which may indicate possible inadequacies in the management of the prison
- (g) [(originally there was another paragraph which was taken out of the document which I signed, it outlined that *The Inspector of Prisons may carry out an investigation into any specific aspect connected with the running of any prison or into any specific issue or incident if he or she thinks it appropriate to do so.*) This should be included in the Act].

The Inspector may raise issues of concern, arising out of an investigation or an inspection, either with local management, the Director General of the Irish Prisons or the Minister. To facilitate the Inspector in carrying out his functions, he may consider complaints from prisoners but only to the extent that such complaints are relevant to the functions of the Inspector. The Inspector will, not later than four months following the end of each calendar year, submit a written report to the Minister on his activities during the year. The Inspector will also furnish the Minister with such information relating to his activities as the Minister may require from time to time but not necessarily leave such information for the annual report. It is intended that the annual report will be published. The functions outlined above will also

apply to any child detention centres and remand centres designated by the Minister under Section 150 of the Children Act, 2001. These terms of reference may be further refined in the forthcoming Prisons Bill in the light of the experience gained in the interim. The Inspector will also be entitled to report and make recommendations, in the light of experience gained, on the contents of the legislation which will eventually make statutory provision for the Prisons Inspectorate.

The newly appointed Inspector of Prisons and Places of Detention took up duty in his new position on the 24th April 2002.

Background and Experience of the Inspector

Background

1952:First class Honours B.A. in Modern Irish History and Modern European History, with first class Honours in both subjects and Scholarship at University College, Dublin (The National University of Ireland).

1952:Barrister at Law, King's Inns, Dublin, Ireland.

1956:LL.B. At University College, Dublin (N.U.I.).

1969:Barrister at Law, Middle Temple, London, England.

1971:Senior Counsel at the Irish Bar.

1985:Associate of the Chartered Institute of Arbitrators (A.C.I. Arb).

1990:Elected Bencher of the Honourable Society of King's Inns.

1990:Nominated by Irish and British Governments as Deputy Judge to the Court of Appeal of the O.E.C.D. Paris, France.

1993:Admitted as a Barrister at Law, New South Wales, Australia.

1993:Appointed Fellow of the Chartered Institute of Arbitrators (F.C.I. Arb).

1993:Re-appointed Judge of the Court of Appeal of the O.E.C.D for a further three years and re-appointed every three year since and is currently a member of the Court.

1993:Appointed a Judge of the Irish High Court.

1997:Made a Knight Commander of the Equestrian Order of St. Gregory the Great with Cross by the Pope partly for working with prisoners.

2002:23rd April retired as High Court Judge.

2002:24th April appointed by the Government as Inspector of Prisons and Places of Detention on a five year contract. The first such appointment in the history of the State.

2002: Re-appointed Judge of the Court of Appeal of the O.E.C. D. for a further three years.

2002: Received an Honorary Doctorate of Laws (LL.D) from Limerick University.

Experience

He had an extensive legal practice on the South Western Circuit (Common Law, Criminal Law and Administrative Law) until he took silk. Since then he had appeared as leading Counsel for the Bureau Veritas of Paris at the Whiddy Island Disaster Inquiry. He was the leading Counsel for Dublin Corporation in the Stardust Disaster Inquiry and as leading Counsel for the Dublin Corporation in the Wood Quay saga. He had a general Common Law practice and was standing Counsel to the Mutual Insurance Company for local authorities in the Republic and was leading Counsel in a number of important criminal trials.

He wrote the Submission and successfully argued the case on the need for a University at Limerick.

In 1977, he visited China with the former President of Ireland, Cearbhal O' Dalaigh and his wife as a guest of the Chinese Government and was subsequently involved in establishing Diplomatic relations between both countries. He was President of the Irish-Chinese Cultural Society and he

has travelled to China as a guest of the Chinese in 1980, 1983 and 1985. In 1998, he led a delegation of Irish Judges to lecture the Chinese Judiciary on Human Rights, Independence of Judiciary, etc. It was the first group sponsored by the European Union.

In 1980, as a result of an International request, he visited the Re-education Camps and prisons of Vietnam as guest of Premier Pham Van Dong and published a Report on his findings.

He was appointed by the International Commission of Jurists in Geneva as an observer at the trial of the “Negros Nine” at Bacolod in the Philippines and his Report was published by the I.C. J. He was President of the Irish Section of I.C. J. and is now Patron of that Section.

He had been a member of the Visiting Committee of St. Patrick’s Institution for Juvenile Offenders from 1971 to 1993 save for a short period. He was Chairman of the Visiting Committee of the main Irish Prison (Mountjoy) for males and females from 1990 to 1993. He has visited prisons in China, Vietnam, Cuba, Northern Ireland, the Philippines and Hong Kong.

He was a Director of Kilkenny Design for 6 years.

The Chinese Government has conferred the title of Irish Sino Friendship Ambassador on him.

He is a life member of the Royal Dublin Society, of the Irish Military History Society, of Muckross House, Killarney, the Hunt Museum, Limerick, the Friends of the National Collections, Dublin Zoological Society, the Irish Chinese Cultural Society, An Oige (I.Y.H.A), Garryowen Rugby Club and has been a member of the Dublin Grand Opera Society since 1947. He was an early member of P.A.C.E. (Prisoners Aid through Community Effort) and is now a Patron of that organisation. He was largely responsible for the establishment of the International Sculpture Park at Sneem, County Kerry.

He was Chief Brancardier of the Kerry Diocesan Pilgrimage to Lourdes for many years and President of the National Conference of Chief Brancardius and Chief Handmaids of the Pilgrimages to Lourdes for 4 years.

The Inspectors involvement in prisons

As a young barrister I joined PACE (Prisoners Aid Through Community Effort) shortly after it was founded by a Quaker lady and a Catholic Chaplain to Mountjoy Prison. The intention was to provide some sort of halfway house for prisoners after they left prison to enable them to reintegrate into society. The office and Headquarters of that organisation was in my home, where it was for many years rent free. I was employed in visiting prison from time to time to interview people presented by the welfare staff as suitable participants for the hostel at Priorswood, Coolock, Dublin.

PACE was invited by the then Minister for Justice to nominate suitable persons to serve on the visiting committee of St. Patricks. Two names were

sent forward. The Superintending Officer of Prisons knew the other candidate so I was appointed!

The Department of Justice had a notorious mindset. It was obsessed with "POWER AND CONTROL". The secretary and the two assistant secretaries left their mark but it was the superintending officer of prisons who has become a legend. The visiting committee was appointed for one year at the end of May with their appointments post dated to the 1st of January. This meant that the Prison was without a visiting committee for nearly five months a year. The visiting committee had written bland reports congratulating the Governor on the garden and the Chaplain on the great attendance at the annual retreat. However, the committee became more active. They had secret meetings to draft rules for Visiting Committees which would give them more power and more input into the prison system. They got great assistance from the Northern Ireland Office, the British Home Office and the Cambridge Institute of Criminology.

The Visiting Committee was responsible for starting the school in St. Patrick's. There were always trades instruction skills available in that institution but the Governor had trouble in one of his imaginative adventures from the trade union movement when they objected to offenders doing work which took work away from their members on the outside. They also had a mechanic shop where prisoners were taught to be mechanics and also taught driving. That service was not provided anywhere else in the Prison Service. Some of the inmates from St. Patrick's ended up driving great

lorries across Europe having got a full driving licence for all grades from A to E.

Several members of the Visiting Committee were not re-appointed and the Chaplain was fired. When the Chaplain came to collect his coat and papers he was informed by an embarrassed Governor that he had instructions not to let him into the prison and that his successor would bring his coat and other property to him. As I was representing PACE and as far as I was concerned it was a work of charity in which I was interested, I applied to the Minister (who was not aware of the fact that I had been dropped) and was re-appointed to the Visiting Committee the next year. My colleagues didn't wish to be re-appointed as they felt powerless and frustrated. A number of imaginative visiting committees during that period were sacked. However, an old Chinese Proverb commands that dripping on a stove will eventually crack it. I felt you could achieve more by staying in the system rather than fuming outside.

Indeed all except one member of the visiting committee in Mountjoy were also sacked. I was then appointed to that Committee and became Chairman. I remained also on the St. Patrick's Visiting Committee. Visiting Committees wrote reports which were supposed to be published yearly. However, for some years the reports were not published and on one occasion the committee had to produce a report for the previous three years because of threatened legal action. The reports are available to the public at no cost. My report was very critical of the various matters including the total

lack of interest by the Judiciary in prisons or in the alternatives thereto. Only one lady Justice attended regularly. She was the Judge in charge of the Children's court.

The Superintending Officer of Prisons has ceased to exist. However, the Department has continued with its mindset of POWER AND CONTROL. It has gone deeper into a bunker since the Freedom of Information Act. "If at all possible put nothing in writing" is a definite mantra.

3. REVIEW OF ACTIVITIES OF THE INSPECTOR OF PRISONS AND PLACES OF DETENTION FOR YEAR 2002 - 2003

The Inspector was appointed on the 24th of April 2002. Unfortunately the establishment of the Inspectorate did not coincide with that date and despite the guarantees of the senior official nominated by the Minister for Justice, Equality and Law Reform for the setting up of the office, there was in fact no structures or facilities in place at the time of the appointment.

In the beginning the Inspectorate operated from a loaned office at the Interim Parole Board's offices at 31-35 Bow Street, Dublin 7, due to the courtesy and generosity of the chairman Mr. Gordon Holmes and his staff for which the Inspector is eternally grateful.

The Inspector is also grateful to Mr. Justice Quirke and the staff of the Department of Finance and the Public Service Benchmarking Body (housed in the same building) for the use of one of their car-parking spaces.

The Inspector had "a reasonable expectation" that he would be treated as other Judges before and since his appointment but that has not yet happened.

The work of the Inspectorate was severely hindered and restricted because of the failure of the Department of Justice, Equality, and Law Reform to provide the Inspector with, what must be the minimum requirement, that being a fully equipped office and staff.

At a meeting with two officials from the Department, the Inspector got agreement for the immediate secondment of two people from the courts service, Mr Martin McCarthy and Ms Pauline Kearney. They would form part of the staff of the Inspectorate with effect from the 24th April.

Mr McCarthy was immediately available on 24th April, Ms Kearney in fact arrived for duty with the Inspectorate on 6th August 2002, approximately three months past the agreed date.

Despite the frustrations caused by the failure to provide the inspectorate with proper working conditions to enable the office to conduct its business in a professional manner and function in a normal way on a day-to-day basis, the Inspector went straight to work. On 26th April, the Inspector attended a conference at the Garda College Templemore, organised by the Irish Association for the Study of Delinquency Ltd. The Inspector and Mr McCarthy commenced on the 30th April a nationwide introductory tour of all 16 Prisons and places of detention with the exception of one, Loughan house, Co. Cavan which will be visited in due course. This tour of introduction was complete by early July

On the 13th and 14th May I organised a meeting in Mountrath County Laois to coincide with the introductory tour to the Midlands and Portlaoise Prisons. I had identified a number of consultants and experts, all fully qualified in their own sphere, who might be interested in giving of their time voluntarily in assisting me in my function as Inspector of Prisons and Places of Detention.

The four such persons who attended were John Smyth, former Chef de Cabinet of the Secretary General of the Council of Europe and previously Registrar of the Court of Human Rights, Professor Claire Carney former Dean of Philosophy and Social Science at U.C.D. Dr. Michael Mulcahy former medical Superintendent of Stewards Hospital, Dublin and Dr. Mauve Houlihan, Lecturer in Business Management studies in the Smurfit School of Business at University College Dublin and the two of us from the Prisons Inspectorate. John O'Sullivan, Governor, the Midlands Prison and Chairman of the Governors group, Mr Brian Purcell, Director of Operations, Irish Prison Service, Mr John Ward, representative of the Prison Officers' Association and Fr. James O'Connell, Chaplain to the Midlands Prison . The purpose of the meeting was as part of my research into the creation of a system and methodology in the establishment of the new office of the Inspector of Prisons and Places of Detention for which there was no precedent.

1In mid-June and while still involved in the introductory tour of the Prisons, I also attended the Chaplains group meeting at a convent near Portarlington.

In July, I had meetings with the Irish Penal Reform Trust at my residence in Dublin and with the Head of the Probation and Welfare service and some of his Senior staff.

Mr McCarthy attended as my representative at the launch of the Focus Ireland and P.A.C.E publication (of the research study) into crime and homelessness which explored the relationship between crime and homelessness.

I also reached agreement with the Department of Justice Equality and Law Reform with regard to the identification of a suitable office. I met with officials from the Department and an Architect from the OPW at 1, lower Grand Canal Street, Dublin 2 and agreed various modifications that were required. In August officials from the Department of Justice Equality and Law Reform offered and I accepted furniture from an office of a committee of inquiry whose work was complete and who had vacated their offices. Mr McCarthy and Ms Kearney attended the said office at Blackrock, Co. Dublin with an official from the Department on a number of occasions in the process of this procedure.

In September and continuing my research, with the assistance of the Irish embassy in Madrid, I visited the Co-Ordinator of programmes of the Director-General of Penitentiary Institutions in Spain. I was also given a conducted tour of one of their relatively new Prisons (five years old near Aranjuez). (Full report at page 41)

I was also involved in research with HM Chief Inspector of Prisons for Scotland, Mr Clive Fairweather. During the three-day visit to Edinburgh accompanied by one of my staff, Mr McCarthy, we attended at the Chief Inspector's offices and also took part in an inspection of HM Prison Edinburgh as observers at the kind invitation of Mr Fairweather and his staff.

I met members of the European Committee for the Prevention of torture and inhumane or degrading treatment or punishment (C.P.T) (see report on page 49).

I also met with the Director and four of his staff of Amnesty International.

Some of the issues they were concerned about were:- the detention of asylum-seekers in prison while under process, no risk assessment before deportation, racism within prisons, people with mental health problems being incarcerated in prison, and the link between homelessness and crime. They were disturbed by the fact that the Minister for Justice Equality and Law Reform had refused them access to prisons to investigate the issues mentioned.

At the end of September and the beginning of October I went to London for a series of meetings which included meeting with officials from the Department of Health, on mental health issues relating to prisoners and with The Chief Inspector of Prisons for England and Wales.

On the 7th October Mr Jim Woods joined the office as Special Adviser to the Inspector. Mr Woods who was a former Prison Governor with many years experience of the Irish Prison System is absolutely invaluable to the work of the Office of the Inspector.

We were also informed at this stage by the Department of Justice Equality and Law Reform that we could take possession of our new offices at 1, Lower Grand Canal Street, Dublin. Although this is correct, it must be stated that some of the office furniture had not been delivered and that there was no equipment installed such as telephones, fax machines, PCs , e-mail's, cleaners, etc.

The Inspectorate carried out a preliminary inspection of Mountjoy prison on the 8th- 9th-10th-October. The team consisted of Mr Justice Dermot Kinlen, Mr Jim Woods and Mr Martin McCarthy. This visit was in preparation of our formal two weeks inspection in January 2003.

As a result of the research, planning and preparation of the previous months and despite the handicaps placed before us, it was felt that a system and methodology of inspection had been identified and we were satisfied that it was workable.

The Inspectorate undertook its first formal inspection of any prison on the 4th 5th and 6th November 2002. This was at Cloverhill prison in Clondalkin, Dublin and the team consisted of Mr Justice Dermot Kinlen, Mr Jim Woods Special Adviser, Mr Martin McCarthy, Prisons Inspectorate and Dr Chen Mullen, Consultant.

It is fair to say that this inspection was a success and that it clearly marked the practice and procedure to be followed in the future. The foundation of the system and methodology of inspection was established. There is an independent report on the inspection of Cloverhill Prison accompanying this annual report.

Throughout the remainder of November and in addition to compiling the report on the inspection of Cloverhill Prison there were a series of meetings with various groups. The inspector met with the Visiting Committee to St Patrick's Institution Dublin, Schizophrenia Ireland, the Probation and Welfare

service, the Bridge project in Parnell Street, Dublin, PACE, at Priorswood and their Santry workshops.

A meeting also took place in early November, at the Office of the Inspector of Prisons and places of Detention, with Senior officials of Department of Justice Equality and Law Reform.

The context of the meeting was with regard to the considerable outstanding requirements of the office and the delay in the provision of the basics to allow the office to function in a professional manner. The Officials were apologetic for the delays and said that they would do everything possible to expedite the completion of the office. As a result of this expeditious “prioritising” it is fair to say that the office was operational by mid-March 2003 almost 12 months after the appointment of the Inspector.

At the end of November the Inspector and Martin McCarthy attended a meeting at the Central Mental Hospital Dundrum. We met with the Director of the C.M.H. Dr Charlie Smith and some of his colleagues. Topics discussed were mental health issues, schizophrenia, mental illness, personality disorder, anti-social behaviour, forensic psychiatry and clinical psychiatry. The situation of prisoners with mental health problems being kept in prison was also covered at great length. Dr Smith and his colleagues highlighted some of the difficulties experienced within the C.M.H. They accepted there was a waiting list from prisons for the transfer of prisoners with mental health problems to the C.M.H.

They said that because of the sheer demand on space, facilities and resources there was not a lot they could do about the situation at present. They did however indicate that negotiations were taking place at that time for the opening of an additional 30 beds facility and this undoubtedly would be welcomed.

The Inspectorate undertook its second formal inspection of a prison on the 26th and 27th November 2002. The inspection was of Limerick prison and the team consisted of Mr Justice Dermot Kinlen, Mr Jim Woods, Mr Martin McCarthy, Dr Jim Ledwith, Professor Claire Carney and Professor Paul McCutcheon.

There is an independent report on the inspection of Limerick prison accompanying this annual report.

On the 9th 10th and 11th December 2002 the Inspectorate carried out an inspection of Portlaoise prison and the team consisted of Mr Justice Dermot Kinlen Mr Jim Woods Mr Martin McCarthy Dr Jim Ledwith and Professor Claire Carney.

There is an independent report on the inspection of Portlaoise prison accompanying this annual report.

On 14th December I attended a conference in the Conrad Hotel Dublin organised by the Irish Penal Reform Trust Ltd on mental health in prisons, human rights, and good practice. The key speaker was Mary Robinson former UN High Commissioner for Human Rights with contributions from Dr

Harry Kennedy consultant forensic psychiatrist the Central Mental Hospital and Gordon Lakes former chairperson of the UK Mental Health Commission.

We also made a return visit to Cloverhill Prison in December as part of the follow-up of our inspection from early November.

There is an independent report on the inspection of Cloverhill prison accompanying this annual report.

In early January 2003 and while continuing our work on the inspection reports for Limerick and Portlaoise Prisons, we were also actively involved in the preparation work for the forthcoming two-weeks inspection of Mountjoy and the Dóchas Centre which commenced on 20th January and concluded on the 31st. This inspection was the biggest undertaken by the Inspectorate so far.

There is an independent report on the inspection of Mountjoy prison and the Dóchas Centre accompanying this annual report.

In February, March and April we continued to compile the prison inspection reports of Limerick, Portlaoise, and Mountjoy including the Dóchas Centre. We were also working on the preparation of my annual report. I attended the official opening of the extension to Priorswood House belonging to PACE by the Minister for Justice Equality and Law Reform.

I had a meeting with senior officials from the Prison Officers' Association at my Office in Grand Canal Street.

The Inspectorate made return visits to Limerick and Portlaoise Prisons as part of the follow-up from our previous inspections.

We also visited the Probation and Welfare facility in Nenagh, County Tipperary and viewed the work being done there with the help of the District Judge, the Gardai and the local community. This was an idea brought from New Zealand when a study group went over there a few years back and saw it work at first hand. It is much cheaper on the tax payers to place an offender in the likes of the Nenagh Project than to place them in prison, provided the offender is fully committed to partaking in the project and that the offence is such that does not merit a custodial sentence.

I attended the Visiting Committees' chairpersons meeting at St Patrick's Institution.

I had a meeting with two Senior Officials from the Irish Prison Service Headquarters who have been assigned as the liaison officers by the Director General.

Mr Woods, Mr McCarthy and I attended at Mountjoy prison for the gala night of the drama group's production of Moll by John B Keane. An excellent project with a very positive effect on the personal development of prisoners.

1My special adviser Mr Woods, on behalf of the Inspectorate, attended the Prison Service Training College in Newbold Revel, (near Coventry) England on the 27th and 28th of February. The meeting was arranged by personnel involved in fire surveys in Prisons and places of detention for the Prison Service of England and Wales. The main items on the agenda were,

- (a) Problems encountered with fire safety within prisons.
- (b) The installation of water sprinklers in cells and corridors plus smoke extraction systems/fire prevention.
- (c) The sharing of information among the Prison Services and lessons learned from their experiences arising from a cell fire incident in one of the prison in England where a prisoner died.

There were representatives in attendance from England and Wales, the Isle of Man, Scotland, Northern Ireland and the Republic of Ireland.

Prisons Inspected

Cloverhill Prison	-	4th, 5th, and 6th November 2002
Limerick Prison	-	25th, 26th and 27th November 2002
Portlaoise Prison	-	9th, 10th and 11th December 2002
Mountjoy Prison (including Dóchas Centre)		20th - 31st January 2003

The Inspectorate made return visits to the above prisons to clarify details and accuracy of the statistical aspects of the reports.

17th December 2002	-	Cloverhill Prison.
10th & 11th March 2003	-	Limerick Prison.
14th April 2003	-	Mountjoy Prison - Dóchas Centre.
24th April 2003	-	Portlaoise Prison.

Staff of the Inspectorate

The office of the Inspectorate consists of :-

- | | | |
|-----|-----------------------|------------------------------|
| (a) | The Inspector General | The Hon. Mr. Justice Kinlen. |
| (b) | Special Advisor | Mr. Jim Woods. |
| (c) | Prisons Inspectorate | Mr. Martin McCarthy. |
| (d) | Clerical Support | Ms. Pauline Kearney. |

The following lists of consultants assisted the Inspectorate throughout the year:-

- (a) Prof. William Binchy.
- (b) Prof. Claire Carney.
- (c) Prof. Paul McCutcheon.
- (d) Mr. Paul Ward Lecturer.
- (d) Dr. Ledwith Psychiatrist.
- (f) Ms. Louise McAuliffe, Judicial Researcher
- (g) Dr. Owen Carey G.P.
- (h) Mr. Seamus McArevey, Engineer
- (i) John Smyth B.L.

4. BUDGET FOR OFFICE AND EMPLOYMENT OF EXPERT CONSULTANTS

I was told that there was no funding provided for in the budget for my office and that no budgetary arrangements were set up for its existence. However, money would be made available from “the huge budget” provided for the Irish Prison Service. Later I was told that I could not spend a penny piece or employ anyone without the consent of the Prison Authorities. I WAS APPALLED. The smarminess was replaced by ignorant arrogance. I was seeking the services of expert consultants to assist me with the carrying out of inspections. I was then provided with literature outlining the structures within the Civil Service about the procedure regarding employing experts and basically it meant that I had to seek such experts within the Civil Service first, before advertising elsewhere and to follow that line as far as possible. So I decided that there must be still decent people in the world who would help me and I discovered that I was correct. I contacted universities and asked them if they could provide post graduate people who might offer their services free. To my amazement, I got a fantastic response. Each person signed a letter of confidentiality and attended for a day or two at a prison inspection. This did not cost the Prison Service any money and therefore I did not have to seek permission, nor would I. They involved an eminent Psychiatrist and a Doctor, two Deans of Law faculties, a University Lecturer in law, a Law Research Student, a Lecturer in Business Management, a former Dean of Philosophy and Social Sciences, a former Registrar of Court of Human Rights in Strasbourg and an Engineer who specialises in fire prevention. I would welcome any other qualified person who has enough idealism to offer their services free to the inspectorate.

Co-operation and assistance received and the establishment of the Inspectorate as a statutory and independent unit.

The Prison Service and the Department of Justice Equality and Law Reform have been slow to provide any information to the Inspectorate. The fact that they wanted me to take six months off to read myself into the job and wanted me to go on a tour of Western Australia and possibly New Zealand shows their peculiar mindset. While many interpretations will be put on these offers, I took them as meaning that I was not to do any real work.

I was told repeatedly that the Prison Service would provide me with everything that was in the “public domain”. It was pointed out to me that the support I got in other countries was from Inspectors not from Government. This is simply not true. I do not see how I can do my job unless I know what is going on in the prisons and the plans for the future. It is not for any Civil Servant to decide what is appropriate for me to see. It is not up to officials to tell me what is “appropriate” particularly since information has been denied me which is available to the Public Press, the Irish Penal Reform Trust, to the Prison Officers Association, and to the Chaplains.

I was very concerned that we have a higher prison officer/prisoner ratio level than any other country in the world. The Department informed me (by telephone naturally) that they would not give me any information regarding overtime earnings by prison staff because it was not within my remit. I replied that I did not accept that I was precluded from inquiry into this matter. However for the moment I would defer my investigation because according

to the press, the Minister was actively dealing with the matter. Accordingly I took the view that it would be inappropriate and even unhelpful for me to investigate the matter at the present time. However I do not accept that any official can decide what is within my remit. My contract is with the Minister. He and I can determine under my contract what is appropriate.

As a matter of urgency I request the Minister to establish as soon as possible the Inspectorate as a statutory and independent unit. This does not have to await the Prisons Bill. Officials tell me there is no political will and it may be three or five years before the Bill is proposed to the Oireachtas. It may be treated like the proposed new Prison Rule book which is a very sick “joke” at this stage. I want the Act expedited and I want to be consulted regarding its contents. I want total independence to be guaranteed and that my report be published and available to the Oireachtas within a calendar month or another specified time of my delivering it to the Minister. It should be published as it is written. The only deletions should be with the consent of the Inspector and only on grounds of security. It is very important for prisoners and those working with prisoners that there is a “watchdog” to prevent insofar, as is humanly possible, any abuses of the system. I also refer to the European Prison Rules of the Council of Europe Part 1 Rule 4 which provides for regular inspections by duly appointed Inspectors the same as duly appointed visitors authorised to safeguard prisoners individual rights. The explanatory memorandum comments on Rule 4:- **“THE EFFECTIVENESS AND CREDIBILITY OF THE INSPECTION SERVICES WILL BE ENHANCED BY THE DEGREE OF INDEPENDENCE FROM THE**

PRISONS ADMINISTRATION THAT THEY ENJOY AND THE REGULAR PUBLICATION OF THE RESULTS OF THEIR WORK". Indeed I could draft the Bill within a week. At most it would fit on a page and could be added to some other Bill. After all the Lords Day of Observance Act as applied to Ireland was repealed. (Save the section regarding service of summons by a schedule to a Finance Act)! I would wish to be involved in the Bill in making my office Statutory. The Inspector should be able fully to monitor the Prison Service urgently now that the ineffectual Visiting Committee is further emasculated.

The Department of Justice, Equality and Law Reform - Irish Prison Service

The prisons and places of detention are now controlled by two separate bodies. One is the Prison Section, Department of Justice Equality and Law Reform which they state deal with prison policy issues, with Dail questions and replies relating to prison matters and freedom of information relating to prison issues. (Some of the freedom of information requests are also dealt with directly by Prison Service Headquarters). They also deal with legislative issues. The appointment of visiting committees, the transfer of sentenced prisoners legislation, interim parole board cases and the cases of some of those detained in the Central Mental Hospital are all part of their responsibilities. The section is headed up by an Assistant Secretary with the assistance of a Principal Officer, an Assistant Principal Officer, a Higher Executive Officer, an Administrative Officer, two Executive Officers and a Clerical Officer. There are four other staff assigned to the Division which

deal mainly with the Probation and Welfare service and the child residential institution abuse claims.

There is the Prison Directorate also headed by a person of the rank of an Assistant Secretary. There are at least 120 of a staff in this headquarters sited mainly at Monastery Road, Clondalkin, Dublin 22 but some members are also located in a building in Clonskeagh. There are seven Directors [none of whom come from the Prison Service, which is amazing] and each have a deputy Director or two plus all the other various staff grades.

A study recommended that there should be a Prison Authority separate from the Department of Justice Equality and Law reform. So there is now an Interim Prison Board which contains many experienced and worthy citizens. This board receives a modest yearly payment for their services plus all their expenses for attendance at meetings etc. It is apparently intended to make the Board a permanent feature and to include it in the Prisons Bill.

The Prison Service Headquarters in Clondalkin had plans to build a permanent headquarters on a site on which a deposit has been paid near Newlands Cross, Clondalkin. This may be one of the reasons why the valuable site in Shanganagh is being considered for sale. Rumour has it that “the palace” and other detention centres will not be built on the site located at Newlands Cross and presumably this may lead to the loss of deposit in whole or in part. A very valuable site in Shanganagh has become vacant

during the course of the year and I have not been informed as to what the plans are for this most important property.

I am concerned at the large costs of running the Prison Service and how little of the budget reaches the prisoners needs. I wonder if the administration is top heavy. There were approximately 80 staff involved in the running of the service prior to the move to Clondalkin where now there are at least 120 staff. Was there a need for a 50% increase of staff? If one looks at Parkinson's Law for the pursuit of progress by C Northcote Parkinson Penguin Book 1957, Chapter one is "the rising pyramid" which states "work expands so as to fill the time available for its completion". Politicians and taxpayers have assumed occasional phases of doubt that a rising total in the number of civil servants must reflect a growing volume of work done. Cynics in questioning this belief have imagined that the multiplication of officials must have left some of them idle or all of them to work for shorter hours. The fact is that the number of officials and the quantity of the work are not related to each other at all. The rise in the total of those employed is governed by Parkinson's Law and would be much the same whether the volume of work were to increase diminish or even disappear. The author goes on to state the axiomatic rules thus (1) An official wants to multiply subordinates not rivals and (2) Officials make work for each other. The chapter goes on to show how it works in practice. It ensures that if you have seven people working flat out gathering information and sending memos to each other the seven together can just do the work which was formerly done by one. I would also refer to Chapter 10 of Little Doorrit Vol. I by Charles

Dickens which deals with “the office of circumlocution”. So now we have the Interim Prison Board the Headquarters of the Prison Service coupled with the Minister’s own Prison Section. The line of demarcation between the two Assistant secretaries is obscure and even the Minister’s section agrees it is unclear about the other. Petronius (who was executed for insubordination) wrote in 65 A.D. “we trained hard.... but it seemed that every time we were beginning to form up into teams we would be reorganised.... i was to learn later in life that we tend to meet any new situation by reorganising; and a wonderful method it can be for creating the illusion of progress whilst producing confusion, inefficiency and demoralisation.”

On my tour of visits to the prisons I asked both management and staff if there was an improvement in the service with the dramatic increase in staffing at Headquarters. I was informed by both groups that in fact things at prison level had got worse and the extra staffing caused more confusion and even duplicated the work as different officials were seeking the exact same information.

The Inspector is ill equipped at the present time to assess whether the tax payer is getting good value for its money. However, the Inspector intends next year to retain a business expert to assess the whole matter or perhaps the Minister might be interested in doing so.

5. MEETING WITH THE VARIOUS GROUPS

Visit to the Inspector of Prisons in Madrid, Spain

While the Inspector was on holiday in Spain he spent 2 days studying the Spanish system. The Inspector was accompanied by Snr G Kindelan as interpreter and also a Ms. Catriona Doris, First Secretary of the Irish Embassy in Madrid. We were received by Snr Jose Suarez Tuscon Co-ordinator of Programmes of the Directorate General of Penitentiary Institutions. He told us that his Department had been under the Department of Justice which was now a part of the Interior Ministry and is the control organisation of the Prisons organisation. In the Department there were twelve independent Inspectors each with secretaries. Really, they are the people in charge and they report to the co-ordinator. Snr Suarez being an Inspector himself for four years. He said it was the most laborious and difficult work of his entire career. He was now the co-ordinator. All Inspectors report to the co-ordinator and then to the Director General.

There are sixty eight prisons in Spain. They do a complete audit of at least fifty per annum. The Inspectors arrive totally unannounced. Everyone in the Prison must answer the questions put to them. On inspection he can meet everyone including prisoners, at a general Inspection, everything is inspected and reported on, which includes complaints from prisoners. The minimum period for a full inspection is four days, although frequently it is longer. The report on the prison can be sent to the Prison or a meeting can be requested with the head of the Prisons depending on the seriousness of the report. The Inspector when he arrives is provided with a fine room and

given every possible attention. However, they find that usually the local officials put every obstacle they can in their way!! Something the Inspectorate had to learn to live and cope with. Since 1996 however, it is under the attention of the Minister of the Interior and he is known as the Director General of Prisons. There are sections dealing with Inspection of Prisons, Human Resources, etc. Everything arising out of the Inspector's Report will be discussed with the heads of the Department who will try to resolve them. The consequences of criticism by the Inspector are very serious. When queried as to whether the Inspectorate was really independent, the co-ordinators said that they prided themselves on being independent, even though they were part of the Ministry.

There were four or five other bodies which were involved in the Inspection of Prisons. It is essential to have outside monitoring of all aspects of penology. Firstly there are Prison Judges. These are members of the Judiciary. For example in Madrid there are six prisons and there are three Judges assigned to them, which means that each Judge must visit at least two prisons per week. Also the public prosecutor has jurisdiction to visit, report on, and correct problems in prison. He is one official but he has a back up team. Also a parliamentary committee or even individual members of parliament can visit all the prisons and can be as critical as they wish. However, they tend to be political in their outlook. So there are a number of corrective weights and balances.

The Inspector General of Prisons depends on his Inspectors in his Department. There are about thirty people involved including twelve inspectors and their secretaries, and the co-ordinator. If there is a specific problem in a prison it can be investigated, if the Inspector General directs it.

The Inspector General is deeply involved in Labour Relations. The Union is very powerful. If a complaint is made against an official he is entitled to have his union representative and a lawyer present at any meeting and is entitled to have access to all reports. It is an extremely difficult area and presents many problems. There is an Inspector on duty 24 hours a day 7 days a week. He is contactable by mobile phone. If there is an incident in any of the prisons it should be brought to the attention of the Inspector General. It is reported immediately to the Inspector on duty so the Inspector General knows about it before it even appears in the newspapers. The Inspector General must be kept fully informed of all important matters in all prisons.

When asked if his regime was more liberal than that of the Swedes. He stated that the Swedes had been visiting English and Spanish Prisons about two weeks ago and they had a very useful interchange of views. He would say the Swedes were more advanced in one way but thought the Spanish were also more advanced in other ways. When asked about co-habitation by married couples he quickly responded that he did provide a service for prisoners and their partners. He said the prisoner had to be in good standing and stated that there were two pilot schemes, one at Aranjuez outside of Madrid near Toledo and the other in Valencia. If they are anxious

to have a child they can meet and co-habit at least once a month. At the moment there would be over twenty couples in the prison but they have to show that they have a meaningful relationship, that it is fairly permanent and that they both wish to spend a lifetime together. They had flatlets included in both prisons where the cohabiting partners could live and they could have children up to the age of three living with them. They immediately wanted the Irish Inspector to see the high standard of Spanish Prisons and explained that they believed that they were the best in the world. The Irish Inspector had already received similar information from other sources. It was agreed that he would visit the prison at Aranjuez the following day.

As regards mental health, he stated that the percentage of mentally ill people in prison was very low probably one per cent. He said there were two penitentiary hospitals in Spain, one in Seville and another in Alicante. These housed people who were found to be "guilty but insane" or rather not guilty due to insanity, but they also took those who became insane while in prison and were not exclusively kept for the criminally insane. There are no ordinary mental asylums in Spain. If a person has a short term psychiatric illness he will be sent to a section of the normal regional hospital until it is deemed appropriate for him to return to the prison.

Nobody under eighteen years of age is kept in prison. There are special institutions for minors between fourteen and eighteen that are in detention. He stated that every cell in every prison had internal sanitation which included a W.C and a shower. As regards children who are out of control

the primary responsibility is with the parents and they are answerable for their children's behaviour which applies also to those who act as Guardians of children and would include orphanages.

He also informed me that he nearly visited Ireland last year when there was a meeting of the penitentiary institutions of every country. Unfortunately at the last moment he was unable to travel. He said that the Irish Inspectorate should be represented as they had a great deal to learn from mutual experience. He was informed that the present position in Ireland was the minimum communication and if possible nothing in writing between the Department and/or the Prison Service and the Inspectorate.

At his urging it was agreed that the Irish Inspector of Prisons would visit and observe the position at Aranjuez. He took details of passports for security reasons and that the Irish Inspector would be most welcome to return at any time and to visit any of the sixty eight prisons in the Country. There was then an exchange of presents and some useful books on the Spanish Prisons presented to the Irish Inspector.

On Thursday the 5th September I was collected by the Ambassador's car and was accompanied once again by Ms. Caitriona Doris and Snr. Gonzales Kindelan and we drove to the new prison (five years old near Aranjuez). There had been a famous victory here over the French and it was being celebrated on this day so the Governor was absent. However his assistant received us and in answer to the simplest questions gave long winded

answers frequently avoiding the question itself. This prison stands alone in the countryside and covers a very large area. It was designed for one thousand one hundred prisoners approximately but now has about three hundred more than its design capacity which requires two bunks in some cells which provides adequate accommodation. Each cell normally has one bed and has an inbuilt steel toilet, wash hand basin and an inbuilt shower unit. The cell is wired for television. A prisoner must provide his own television set at his own expense. All the cells are fairly modern build and are well lit both artificially and naturally. There is a large family unit. The prisoners eat their meals in canteens. On each floor there is a small “tuck” shop for cigarettes, coffee, snacks. Prisoners do not use money but have a bank account and on items they purchase, deductions are made from their appropriate accounts. About 20% of the prisoners are employed by outside contractors and do work such as the making of parts for computers. They are paid full wages and their social service dues are also paid for them. This means that they have quite a considerable sum of money when they leave prison as well as having perfected a technical skill.

The balance are employed in various works around the prison and are allowed out from 8.30am to 1.00 p.m and thereafter brought back for a siesta. They are allowed out again from 5.00p.m to 7.00pm. They get a daily wage but it is much smaller than those who are on contract. The family cells are made up of two cells which have been converted into one. In some of them the prisoner is put with her children up to the age of three.

Thereafter they are taken away and put with members of her family or as a

last resort, with the social services. If both parents are in prison there are family units for them, they also can have children up to the age of three living with them. The cells are magnificent and there is a kindergarten in the prison. Sometimes children are sent to outside schools. They used to keep children until six years of age but they have now reduced this to three years as being more suitable. Prisoners can also have up to three hours alone with their partner in a large cell with a matrimonial bed. The prison has plenty of open spaces and has a magnificent swimming pool (indoor) which can be used by all prisoners at least once a week. They also have a gymnasium, soccer and basketball pitches.

The medical unit takes in prisoners who are mentally disturbed or could be described as a social nuisance and cannot settle in prison. It is protected by Prison officers but staffed by medical staff. It has a full time psychiatrist and a full time dentist and consists of fifty six cells on the top floor. On the day of our visit there were 54 prisoner held there.

There are no padded cells or strip cells. There are prison exclusion cells where a prisoner is incarcerated and not involved in any work or any other activity. He is deprived of his limited liberty. However, the cell is very similar to the ordinary cell. He has his own sanitation including a shower, a wash hand basin, w.c both of which are made of steel and with nothing really suitable to injure himself or anybody else. There is one single bed just off the floor. He can have his television and radio if he wishes. However, he is handcuffed during all this period. When he is having his meals the handcuff

is removed from one arm but linked to either another prisoner or a prison officer to help with his feeding. They were shocked at my description of the cells in Mountjoy. No one can be put into these exclusion cells unless the Director (i.e the Governor) of the Prison backed by the Judge who visits the prison frequently and backed by a doctor. Without these three certificates no one can be put into an exclusion cell. This seems a very sensible arrangement. [Some Irish experts feel it is much worse to handcuff prisoners in exclusion cells as the Spanish do rather than the padded cells used in the Irish system. I accept there are two view points but at the moment the Spanish solution seems more humane.] The name of the prison was Centro Cro Detencionario Madrid Aranjuez it was built in October 1998. On the day of my visit there were one thousand three hundred and eight prisoners. There were nineteen mothers with children and five couples with children. They obviously had not expected me to look at these correctional cells. Therefore, there was no opportunity for them to tidy them when I asked to see them. I was shown over one but I was also able to look into the occupied ones. All had the description I have just given. Family type accommodation is a comparatively new experiment and is apparently also found in Alicante. I forgot to inquire who provides Viagra!! It was a most useful visit. I had not really wanted to go but I was mildly pressurised by the Co-ordinator of the Inspector General and I am grateful to him. It was a very valuable experience. Of course prisons of this sort cost a great deal of money to build and to maintain.

Meeting with the CPT

I met members of the European Committee for the Prevention of Torture and Inhumane or degrading treatment or punishment (C.P.T) in September 2002 at their request. It was anticipated that I would only take a short while with them as I had only just started up the office and that it really was not fully operational. However, I spent over an hour with the Committee explaining that while they were promised that I would exist that infact I was “a facade”. I was quite satisfied that neither the Department of Justice Equality and Law Reform or the Prison Service Senior Personnel in Headquarters welcomed my appointment although they undoubtedly paid “lip service” to the idea. I must add that I got a very warm welcome from local management and staff and all others working in prisons when I visited them. I explained to the Committee that all I could do was to present a report of my findings to the Minister. In my draft contract it is stated that “it is intended” that it should be published. From my experience and from the C.P.T.’s experience of the Department this causes me grave concerns. I have asked that the words “it is intended” be deleted.

The Inspector of Prisons and the Media

The Civil Servants who were dealing with me when I was being appointed to the position were worried about my exposure to the media. I was told that Sir David Ramsbotham the last British Inspector had been regarded by Tony Blair and Jack Straw (the then Home Secretary) as “a safe pair of hands”. However he rapidly became “the darling of the media”. Also Judge Tumin who was his immediate predecessor had cultivated the media. They wanted me to give an undertaking not to follow those precedents. I gladly gave the

undertaking. I have to prepare a report. As far as I am concerned I want my report published and hopefully that will generate sufficient political will to have some of the glaring inequities in the prison system resolved and I will not have to resort to the media.

Subsequently, I was asked in a number of prisons would I give interviews on the television. I said that there were already two spokespersons for the prisons. One was obviously the official spokesperson and had his own spin doctor. The other may not be an official spokesperson but gets about equal exposure. I stated that I had undertaken not to speak directly to the media. However my report would speak to the media. Also I don't really feel bound by my undertaking, I reserve the right, if needs be, to speak directly to the media. However at the moment I am not anxious to interfere with the TAM ratings of the two spokespersons!

Privately Run Prisons

In England some of the Prisons are run by Private Enterprise as also in other Countries such as the United States and Australia. They may build, refurbish or take over existing prisons. They have to compete in the open market with the Prison Service. This competition in England has resulted in the streamlining of the Prison Service who successfully won back two prisons from the Private Sector last year. The Inspector also intends to look at this aspect of the matter. In the last century privatisation became the norm in many jurisdictions but the idea has not arrived here yet. It is

essential that they be fully and frequently monitored in the same way as state prisons are supposed to be.

6. A MATTER OF GRAVE CONCERN

30 years ago a delegation from St. Patrick's Visiting Committee went to see the Minister for Social Welfare. They were gravely concerned that when prisoners left prison they had practically no money. A prisoner may leave prison on a Friday with about €60.00 or less (and this sum depends on how much if anything the prisoner had saved). That would not cover a few nights at the Iveagh Hostel. It almost certainly would be spent on alcohol or drugs. The prisoner may be entitled to supplemental benefit the following Monday but can not get the dole for two weeks. He could not even afford the Iveagh Hostel for those 2 weeks. In the Iveagh Hostel there are 195 beds at €16.80 per night or €86.80 per week inclusive of four meals per day. All 195 beds are in single-room accommodation. Each guest must undergo an interview before being accepted as a resident. There are no drug abusers or people on a methadone programme accepted.

THE MINISTER FOR SOCIAL WELFARE TOLD THE DELEGATION THAT HIS DEPARTMENT SAID HE WOULD NEED A SPECIAL ACT TO PROVIDE FOR THE FACILITY THAT THEY WERE SEEKING AND THAT THERE WAS NO TIME AVAILABLE FOR TO PREPARE THE ACT.

However he decided of his own volition that he would solve the problem (and against the advice of his Civil Servants). He would send a welfare officer to St. Patrick's each week. The Governor would give him a list of all those who would be released in two weeks time. They were immediately entered on a list so they could get the dole on emergence from prison. (although if it were late on a Friday they might still have to wait until Monday). The dole can only be given to people who are available for work.

However the Minister properly pointed out that if anyone offered a prisoner work during the last two weeks of his incarceration the Governor would almost certainly arrange for temporary release to be granted to him.

Accordingly, they were available for work. This was a brilliant solution and solved the problem. However that Minister duly departed and the problem was restored. I am now informed by the Prison Authorities that they have appointed a Deputy Director to investigate the whole matter and to bring up solutions. It is fantastic that after thirty years or more the matter is now “being investigated”. The normal procedure one would think would be for a report to be provided when the problem re-emerged. One must query the methodology of the system. Until this problem is resolved satisfactory, there will be situations of prisoners being released and unable to pay their rent which leaves them homeless.

It is appalling that prisoners should be put on the side of the street without a structured source of income or even a roof to give shelter. Admittedly there are ad hoc arrangements in different prisons. There is great sympathy and understanding of the problem amongst the welfare staff and indeed amongst Governors. However, this does not require ad hoc arrangements. It is a scandal. If a person is released on a Friday night primarily to convenience the Courts and Prison Service with about at most €60.00 in his/her pocket and cannot get the dole for two weeks, will he/she not revert to crime? The State by their behaviour are encouraging such a route. The Department of Social Community and Family Affairs may well have been correct in saying it

requires an Act. However there is so much of a shambles in relation to the prisons that one would almost despair of an Act to cover all the problems.

Homelessness

This is a major problem for many of our prisoners on discharge from prison. I have commented on it in each of the prison's visited reports. The Chaplains, the Probation and Welfare and the Governors all expressed their concerns at the level of homelessness. It is a sad reflection on our society when some of the women in the Dóchas Centre refused to leave on temporary release because they had no where to stay for Christmas. It says a lot for our caring society when people prefer to remain in custody rather than be released into the community where they have no homes or shelters to return to.

Recently I read a very interesting article in The Irish Catholic concerning homelessness which was written by Fr. Peter McVerry S.J which outlined:-
“Anger is a gift. One of the gifts which I have received from the homeless young people with whom I am working is that they have made me angry. Not angry with them, but with our society! Several nights recently at our hostel for over 18's two young boys aged 15 and 16 have arrived looking for emergency accommodation for the night. They had been told by the Health Board that they would have to sleep rough as there were no beds left. This is 12 years after our society passed the Child Care Act 1991 which guarantees every homeless child a place to stay and we still haven't got around to ensuring that it happens. These young people may already have

endured violence, sexual abuse or neglect at home and our society tells them that they will have to sleep on the street. That is violence and neglect not by parents who may have problems or who can not cope but violence and neglect by one of the wealthiest countries in Europe. These young people get the message through our neglect that they are just not worth anything, they are of no importance, they are of no value and then we wonder why some of them were involved in anti social behaviour? When we start to respect them there is some chance that they begin to respect us. Most of the time I am angry. But when I lose my anger I will be of no use to them”.

No doubt, some of those boys that Fr McVerry is referring to may end up in prison and we will then wonder why? If this problem of homelessness is not tackled soon it will become even more acute. The difference between “the haves” and the “have nots” is becoming ever more apparent.

7. THE PROBATION AND WELFARE SERVICE

This is the Cinderella organisation dealing inter alia with prisons. They work in the general community and see that as their main preoccupation. Infact they were not keen on working in prisons. However, they now accept that they have a roll in prisons. The present structure as it operates means that mainly the young and inexperienced probation officers start work in a prison and after three years go into community work. However, there are some senior people entering the probation service. All Probation and Welfare staff make a very important contribution to the prison and to its correct functioning. In the prisons that I have visited I was concerned about the Probation and Welfare staffing levels and in the way in which they dealt with drug and particularly alcohol dependency problems plus the appalling problem of homelessness and mental health. I was also concerned about security, physical and sexual abuse, counselling service, juveniles and the problem of the revolving door and sending prisoners out without adequate support. How can they survive? The Probation & Welfare are very concerned about the reintergration of prisoners with addictions into the community. There are many wonderful people involved in the Prison Service and in the Probation and Welfare Service from the very bottom to the top. They are the unsung heroes in Irish Society. We owe a great deal to them. Some of them feel very frustrated by the lack of resources and an over assertive bureaucracy obsessed with power and control and occasionally leaving people confused as to their respective role. My friend Terry Waite has told me about the Butler awards in the United Kingdom which are given to highlight excellence in different spheres in the custody care and

rehabilitation of prisoners. I am hoping to get information on “the Butler Awards” and possibly to recommend something similar to the Minister.

On the 5th March 2003 a Minister in the Seanad stated that there was an internal debate as to whether the Probation and Welfare Service should be set up as part of the same statutory series of bodies (within the Prisons Bill) or be entirely separate. He stated that there is public interest in welding the Probation and Welfare Service with the Prison Service rather than making them into “competing snouts at the exchequer trough”. The Probation Service should certainly work with and within the Prison Service. However, it should preserve its total independence. After all it offers different and radically effective and much cheaper alternatives to prison. Probation Officers are highly respected by Judges for their impartial, helpful and totally independent assessments. In prison, unfortunately, to some extent they are seen by prisoners as part of the management structure of the Prison Service and as such are not trusted. Some of their work is done by the Chaplains, who are naturally sympathetic, but are not trained Welfare Officers, and do not wish to work in that role. The problem arises because of prisoners’ perceptions of the Probation Officers. The work of the Probation Service is not confined solely to within the prison but have a much wider remit. They have deep involvement with dysfunctional families, childcare, social welfare entitlements, making assessments for courts, involving health and social problems (such as housing and addictions etc).

The Chaplains

I met the Chaplains as a group at a convent near Portarlinton but I also spoke to the Chaplains in each Prison visited. Unlike all other sections they have no particular secular agenda. However they feel that their annual report gets very little publicity and is basically unheeded. They were gravely concerned about the use of padded cells especially in Mountjoy and St. Patrick's Institution where they are widely used. The conditions in the basement of Mountjoy were of serious concern to the Chaplains. The prison has become a dumping ground for many of the psychiatrically ill amongst us. This issue has been raised in their annual report for years. As regards rehabilitation services the Chaplains are very critical. They say that for the most part the prisons are places of detention and the level of rehabilitation is a major issue to be addressed. 95% of prisoners come from areas of social and economic deprivation. In many senses the education system has failed them and probably has denied them meaningful employment. It is the experience of many chaplains that homelessness amongst ex prisoners is a major cause of recidivism. Indeed PACE was founded in the 1960's precisely because of this problem. They feel that the new programmes such as CONNECT and LINKAGE will have limited success.

The fact is that as a State we are prepared to spend in the region of €1,300 a week to retain an offender in prison but are unwilling to offer any adequate financial support on release. The question to be asked is who really benefits from the "huge annual budget" spent on our prisons each year? Some felt

that the administration was top heavy with expensive excursions to foreign lands.

They also felt that there was an unseemly delay in getting a decision from the Parole Board. Prisoners were seen by the board for a brief interview and wait for months before receiving a decision from the Minister.

The value of visiting committees was questioned. Concern was also expressed about the lack of compassion on granting temporary release for prisoners at times of death in families. Shortage of staff as an excuse for not escorting prisoners to funeral homes or hospitals had been received from the Prison Service Headquarters and is another cause of concern.

They say that a number of voluntary counsellors visit the prison at the request of the Chaplains. They provide an unique service to the prisoners. However, the situation is that they are often left waiting for a very long time before gaining access to the prisoner. The excuse is that there is a shortage of staff. This causes stress both for the client and the counsellor and much valuable time is lost in the process.

The drug situation in the prison system needs to be adequately addressed. Some efforts were being made but there was no serious attempt to address the underlining causes. Infact “clean” prisoners are exposed to drugs and become addicts in prison.

As a group, sex offenders are amongst the most marginalised amongst the prison population. The number is increasing and yet there is no real attempt to help them address their problem. Concern was expressed at the number of very young people being sent to prison and being given long sentences for crimes they committed at a very young age. They spend many of their formative years incarcerated with little or no help available to them. At the time of their release they experience severe stress at the prospect of facing a hostile society.

For some homelessness is a reality to be faced after a long and painful prison sentence. They also face unemployment as few are willing to employ them. It will be remembered that 11 women refused to leave prison for Christmas because they had “no where to go”.

Some of the Chaplains complain about the power of the POA and the fact that the Governor does not have power to govern. (This is also a matter of grave concern to the Inspector). There are also serious allegations of corruption but the Inspector has not had time to investigate these allegations but hopes to do so in the future. Primarily this is a matter for management.

It was also pointed out that with the decreasing decline in vocations it is very difficult to provide Chaplains from the priesthood or from convents. The Bishop nominates the Chaplains but they are employed under contract provided by the Department of Justice Equality and Law Reform. They are normally contracted for three to five years. However, there are no pension

rights attached to it. Accordingly lay people who are involved in Chaplaincy work can not stay long as they are only available when they have a career break. There should be at least one priest assigned even if only part time to each prison. The hierarchy should engage in discussions with the Prison Service to try to resolve these problems.

The Chaplains frequently supplement the work of the Probation and Welfare Service and indeed other agencies. The Chaplains got praised in every prison both from staff and prisoners, but they have to walk a rather tight line, as they have to balance themselves between the needs of the prisoners and the needs of the staff and at the same time express their concerns. They feel frustrated that their concerns seldom seem to be published or acted upon. Some authorities see the Chaplains as “a push over for a sob story”. They are too gullible (or perhaps too Christian?).

Visiting Committees

They exist by virtue of the Visiting Committees Act of 1925 and regulations made thereunder and S.19(5) of the Criminal Justice (Miscellaneous Provisions Act 1997).

As illustrated by my remarks of my own experiences on the Visiting Committees of Mountjoy and St. Patrick's they are ineffectual. Some members do not seem to realise that they can write a report (other than just the annual report) to the Minister. Under the Act the public including the media can see it free of charge. Presently the members are normally appointed for three years unlike the old days. However in a recent debate in

Seanad Eireann they were criticised for appointments being rewards for failing or retired politicians. Personally I have found ex politicians on committees frequently very useful and well informed about the machinations of the department. Indeed one politician led a rebellion on one Visiting Committee and in frustration they all publicly resigned when their concerns were ignored.

One Minister for Justice when asked why so many visitors came from his county said prisoners from the country found it easier to communicate with country visitors rather than with "Dubs". The result of that policy is that now only three visitors to Mountjoy come from Dublin and a person from Donegal is on the Cork Visiting Committee! I have no doubt that they are all good and conscientious members of their respective committees. However, there are several good reasons why the visitors should come from a restricted area. They should be readily available to deal with prisoners' appeals arising from disciplinary decisions of the Governor and could hear the appeal very soon after sanction was imposed. It was stated in a reply to the C.P.T. Group that prisoners have the right of appeal of sanctions imposed by the governor to the Visiting Committee but in fact the Visiting Committees' powers are reduced in the 1997 Miscellaneous Provisions Act as the new prison rules were not brought into law. I asked all of the Chairpersons and was told that the Governors decisions never come up on appeal until after the sanction has been imposed and served in a lot of cases.

Last year the money paid to the members in expenses was over €650,000 and most of this money would have been saved if visitors came from a restricted area or gave their services free as they did in “the good old days”. Before 1925 the local authorities frequently appointed Board of visitors as is still done in some prisons in England and Scotland. As can be seen from the reports which I and my team have written since last October (when we became operational) the Visiting Committees are seldom hyperactive and are usually ignored by prisoners.

It has been suggested in the Oireachtas that I and my office should take over the duties of all the Visiting Committees. Our functions are complementary but different. Also there are 12 members on each of the 16 committees. My overworked staff of three people and myself are barely able to do our own work. The Visiting Committees should be given more not less powers and should be more proactive. The Government’s answer to the CPT inspection is that we now have meetings of Chairpersons (at more expense) “to pool experiences”. In the real world it is hardly an answer to the CPT criticism. Anyway as clearly illustrated promises made to the CPT are verging on being “unbelievable” as I am sure the CPT would agree.

There is also criticism from the CPT against a serving prison/clerk officer being Secretary to Visiting Committees. I think this is an unfair criticism. In my time on Visiting Committee (over 20 years with one short hiccup) the prison officer as a secretary was invaluable. Particularly when I was Chairman of Mountjoy V.C our secretary was invaluable. The secretary

prepares all the schedules for the annual reports, assembles prisoners and others who want to see the committee or whom the committee wishes to see. The committee can always ask the prison officer secretary to leave the room if he/she is not required. I have always found that the secretary, without any demur, always left the committee alone, when ever asked to do so.

8. RACISM IN IRISH PRISONS

The Governor of Cloverhill Prison said that there was no racism within the prison and this was confirmed by the Probation and Welfare officers.

However, in fairness the population in Cloverhill is at best transient and it is very hard to get the complete picture. The Chaplains told me that it was rampant in that prison. There were nineteen Chinese prisoners detained in the prison and I brought a Chinese friend who is living in Dublin to act as my interpreter. At first they were very suspicious of me and my Chinese interpreter. However, they eventually agreed to talk to us. They stated that they travelled as a group to protect themselves from taunts from other prisoners and had learnt the word “chinks”. They objected strenuously to eating potatoes as they hated them. They asked why couldn’t they get rice? In fact rice was served one day during my visitation. I mentioned it to the Governor who immediately put rice on the menu. It is actually cheaper than potatoes. Some time later I returned to Cloverhill and met Eastern Europeans. One said he would commit suicide rather than share a cell with Africans. Another man from the same part of the world (but not quite the same country) stated that he had no objection to Africans (infact he was sharing a cell with two). He said all men were the same except the colour of their hair, or their skin, or their eyes differed but he found no difference basically between one man and another. However, they all complained bitterly that they would love rice but only the Chinese got it. The poor Governor couldn’t win!! This was another form of racism. Now I am happy to say rice is available to anyone who wants it. I would like to thank the Governor very much for his very speedy response. I am also grateful to the

Chaplains for drawing this matter to my attention. Then when I visited Mountjoy I was told that there was racism in the form of name calling. It applied not merely to prisoners but to some officers who we were told would shout “hey you coco” when trying to attract the attention of “a coloured man”.

There is no doubt that there is racism but I don't think it is any more or less than in the general population. The Irish people tend to be insular in their outlook and have not yet got accustomed to the idea that we are rapidly becoming a multi racial society. There should be guidelines for the staff and they should be reminded regularly of their duty to all groups whether marginalised Irish or foreign nationals. It is racist and down right rude to say “hey you nigger” or “chink” or whatever else one likes to call them. Also there were complaints that they smell differently from us and therefore sharing a cell was very unpleasant. I pointed out from their point of view we Irish might smell in an offensive manner to them. There is undoubtedly racism in the Irish Prison System but a lot of the management and staff are not fully aware of it. It is a schoolboy sort of insensitivity which should not occur. I have just received the Minister's commissioned reports on racism carried out in Wheatfield Prison. I agree with their conclusions and recommendations.

Health and Safety Issues (especially fire regulations)

The Inspector is very interested in fire safety. His own home has been saved by the Dublin Fire Brigade from an extensive accidental fire in the basement. He was the leading Counsel for Dublin Corporation in the

Stardust Inquiry. The Health and Safety Officer of the Irish Prison Service who is currently writing a thesis entitled:- “A comparative evaluation of Fire Safety best practice in the U.K, Irish and American Prisons” has provided useful information and the Inspector looks forward greatly to a copy of his thesis when published or otherwise available. The position in relation to fire legislation as it applies to prisons would appear to be as follows:-

- (1). The Fire Services Act 1981 - based on Section 18 of the Act (general obligations with regard to Fire Safety) Prison premises or any part thereof put to use as sleeping accommodation providing treatment or care or purposes of teaching are accessed by members of the public are covered by this legislation.
- (2). Safety Health and Welfare at work Act 1989. Employers must look at all factors which may affect the safety health and welfare of both the employees and third parties including the risks associated with the event of fire.

Section 6 (g) specifically mentions the duty of the employer with regard to the preparation and revision as necessary of adequate plans to be followed in emergencies.

- (3). Safety Health and Welfare at work (general application) Regulation 1993. Regulation 10 requires the employer as a result of a risk assessment to decide on and document in writing in the safety

statement the protective measure necessary to reduce the level of risk to an acceptable level. This will include the means by which the employer seeks to prevent the outbreak of fire and the procedures in place for dealing with an outbreak of fire (equipment on hand, trained personnel, fire alarm, emergency procedures etc.).

Section 9 lays down specific duties on behalf of the employer with regard to emergency duties. These duties relate to emergencies caused by an outbreak of fire.

Section 16 requires that a place of work have certain basic facilities including emergency lighting.

- (4). Safety, Health and Welfare at work (signs) regulations 1995. These regulations specify the minimum requirements for signage used to identify the location of fire fighting equipment and emergency exits. They also specify requirements for directional signs which would be used to indicate the planned escape route in the event of an emergency and what to do in the event of a fire.
- (5). Building control regulations 1997. These regulations do **not** require the Irish Prison Service to obtain Fire Certification from a local authority for any works carried out. This is a problem area, alterations and new works can technically be done without conforming to fire safety requirements. [To counteract this the Irish Prison Service have

tried with limited success to ensure that design teams provide “mock fire certification”]. This is the main reason why the position of fire engineer for the Irish Prison Service was sought. A post which to date has not been filled.

- (6). Building regulations 1997. These regulations specify minimum requirements relating to the design of new buildings and buildings which undergo material alteration or a material change of use. The requirements relating to fire safety are detailed in Part B. The purpose of “mock fire certification” is to confirm that the works meet the requirements of Part B.
- (7). In Britain the introduction of the Fire Precautions (work place) regulations 1997 satisfies the fire and emergency safety elements of the 1989 European Workplace Directive. This applies to British Prisons who no longer have Crown immunity from this type of legislation. It is very likely that similar regulations may also emerge in Ireland now that the British Regulations have been made.

As appears from the foregoing, the law on fire safety and related topics such as emergency evacuation is spread over a wide range of legislation. The Inspector has been informed by the Irish Prison Service that considerable progress has been made on fire safety matters since 1989, primarily due to the fact that the Safety Health and Welfare at work Act

applies to prisons. However there are areas of concern particularly in older establishments such as:-

- (a) The control of cells contents which increase fire load cover, (extra electrical equipment t.v., video, kettle etc)
- (b) Rescue times for cells fire
- (c) Prison policy and procedures especially liaison with the Fire Authorities
- (d) Escape time and block/wing evacuation
- (e) Smoke control
- (f) Fire fighting/Fire training/use of breathing apparatus equipment/fire drill/evacuation
- (g) Detection and suppression systems

In the opinion of the Inspector it will be a pathetic defence if there were to be a major fire in prison to allege that the Regulation and statutes do not apply to the premises where the incident occurred.

This same problem was confronted by the Inspector of prisons in Scotland. The authorities there have decided that the fire service has overall authority. Their requirements must be met by the Prison Service.

Some of the prisons inspected have only one main stairwell. For a fire to occur on the stairs it would mean that the people on the upper floors would have limited escape means available. In the circumstances, the fire

authorities would be requesting a second stairwell or an external fire escape. This will of course cost money but with proper management of the “huge budget” it should be possible to fulfil the requirements of the fire authorities without fresh funding. However, if this is impossible it should still be done as the staff and prisoners are entitled to the same statutory protection as apply in any other type of premises.

Mental Health

As a young barrister I was retained on behalf of the Irish Transport and General Workers Union to appear on behalf of their staff at the Mental Hospital in Killarney, Co. Kerry, at an inquiry into the death of a patient. I was led by Sean McBride S.C. My learned leader decided that I should spend two days in the ward to get the “feel of the place”. It was a large ward consisting of schizophrenics and geriatrics. It was a frightening experience. One geriatric kept following me around. Then he told me his son was coming to collect him the next day to bring him for a drive. I hoped he would have a good day. He said he would love to go to Dingle to see the sea and smell the sea air. I told him I thought that would be delightful. When he went away the nurse told me he had been dumped in the mental hospital twenty years earlier by his son and that his son who had taken over the farm had never come to see him. Although he had kept hoping he would come “tomorrow”. In those days the RMS was paid on the number of inpatients he had. Ballinasloe and Killarney topped the list. There was absolutely no incentive to encourage the RMS to release patients.

In the mid 1970's an Italian professor in Bologna proclaimed that most people in mental hospitals were not in need of treatment and should not be there. They should be cared for in the community. The result has been that mental hospitals have been closed or certainly have substantially reduced the number of patients retained therein.

Many people who would formerly have been put into the psychiatric hospital or the county home are now dumped on the street. They cover a wide variety of complaints. They may be insane; have a personality disorder; learning disability; physical or other mental disability, they may be psychotic and at the same time, they may have addiction problems or social disability.

The statistics are unbelievably varied. In Kerry they would be described as "having a bit of a want" That is a nice phrase which covers a large number of people who are trying to survive in an uncaring society. They land in prison for "anti social behaviour". They are not suitable to prison. Prison is not suitable for them. They can be very disruptive to a prison regime. Once you have a Court warrant a Governor must take them into what is a totally unsuitable establishment.

If they are sent to the Central Mental Hospital in Dundrum they may be returned if they merely have a personality disorder. This is because the psychiatrist can not offer them any appropriate treatment. Their decisions are based on the fact that they are not suffering from any psychiatric needs which is either treatable or curable and therefore a psychiatric hospital is not

the appropriate place for them. Governors used to send prisoners to St. Brendan's, Grangegorman or to St. Loman's in Lucan or St. Ita's in Portrane or other such psychiatric hospitals. This is no longer the case.

The Central Mental Hospital in Dundrum has been described by the Minister for Health and Children on a recent visit as "grim". I visited the Central Mental Hospital in Dundrum with the kind permission of Dr. Dermot Walshe the Inspector of Mental Hospitals and the Hospital Director. It is mainly a very old building and is in poor condition although "it has had a few face lifts". However, the work is primarily cosmetic. There are 84 beds in the hospital, over 50 of which are reserved for permanent patients. They have to take in psychotic patients from all of the prisons and indeed admissions from other psychiatric hospitals. As the Inspector of Mental Hospitals reports show this service is mostly under funded and inadequate but the staff are very dedicated and do the best they can. However, they will not take in people who merely have personality disorders. Interestingly enough they have no padded cells for male patients. They have one for the females!

A person some time ago was being tried for three murders and a jury had to decide whether or not he was insane or if he had a personality disorder. Three eminent clinical psychiatrists stated on oath that he was insane. Three equally eminent forensic psychiatrists swore that he was not insane but that he merely had a personality disorder. The jury decided that he was not insane but that he had a personality disorder. As a result the trial proceeded and he was lodged in prison where he had occasional visits to

the Central Mental Hospital Dundrum until he died. Here the psychiatrists gave clear cut contradictory evidence. How is a governor or a prison doctor (who is normally a G.P) to decide whether a man is insane or merely has a personality disorder. If he is insane he should be in a psychiatric hospital or psychiatric unit in a general hospital if not he goes to Prison.

We only have one, criminal psychiatric hospital namely Central Mental Health Dundrum, which is inadequate. Persons like the one outlined above should not be in prison. "A caring society" would not put him out of sight and out of mind. In the old days he would have been in a caring and secure environment for life. He would not normally be released into society unless his personality disorder was under reasonable control. Now once his sentence is served he is entitled to be returned to society no matter how dangerous he may be. The present system is an appalling indictment of a so called "caring society". It seems clear to me that these unfortunate people have no human rights in our present regime.

In Spain I inspected a modern prison which has an entire floor with over fifty separate rooms which is controlled by a resident psychiatrist, a resident dentist and a nursing staff. All persons whether psychotic or with a personality disorder are lodged there. I also spent a most useful day with the Department of Health in London. They have a similar problem with psychiatrists saying that people with personality disorders should not be sent to psychiatric Hospitals. However, the English intend, hopefully from March

of this year, to put all these people who have more than “ a bit of a want” under the control of the N.H.S.

A survey of the level of learning disability amongst the prison population in Ireland which was completed for the Department of Justice Equality and Law Reform and published on the 6th August 1999 showed that 28.8% of the sample population scored below 70 on the Kaufman Brief Intelligence Test (KBIT) which is suggestive of a significant degree of intellectual disability.

There are two prisons in the town of Portlaoise. There is also a county hospital and a psychiatric hospital in the same town. However, the psychiatric hospital will have nothing whatsoever to do with the prisoners. They are not normally resident in the Midland Health Board Area and therefore the psychiatric hospital will not care for them. If a Judge sitting in Portlaoise requires a psychiatric report on a prisoner that person has to be taken by three prison officers to the Central Mental Hospital in Dundrum where he will be assessed. A psychiatrist there has to write out a report. The prisoner has to be brought back to his prison of origin. There is a large amount of overtime involved as the result of this bureaucratic nonsense. It is about time that these matters were looked at realistically. It is my strong recommendation that this obscene behaviour be eradicated. That the Department of Health and Children take over responsibility for everyone (“who has a bit of want”) unless it can show that it is more appropriate that a particular individual be under the care of the Department of Education. He

should certainly not be dumped by an uncaring society into a prison to cause further deterioration to an already inadequate system.

There is no doubt that there is a great deal of disability in prison. The Department of Health in London told me that probably 75% of prisoners suffer from some "want". Here, some authorities state that the amount is as little as 2% however, this is really all semantics. I am concerned that in prison peoples human rights are being denied by an uncaring society implemented by feuding Government Departments. Lack of funds is a totally inadequate excuse.

The Mental Health Act 2001 and the Criminal Law insanity Bill 2002 seem to me to be a profitable field for legal expertise. As Dr. Kennedy, Medical Director of the Central Mental Hospital has pointed out there are certain conflicts between the two and indeed in the Mental Act itself there are conflicts. He also points out that the introduction of "designated units" within the prison system is unworkable and unacceptable. Prisons can not function as hospitals. The prisons environment is inherently anti therapeutic. He points out:-"the alteration in the consummates of a finding of unfitness to plead and insanity is welcome from a medical point of view. This is likely to have substantial resource implications however not only in mental health but in intellectual (disability mental handicap services) also.

The mere fact that we are having cutbacks is not to be used as an excuse in facing up to the realities of the problems with people "who have a bit of a want" if savings are to be made. Another useful comment from Dr. Harry

Kennedy is :-”one of the oddities of the Irish Jurisdiction is that the Judges are almost victims of this system as well. It is not uncommon for him to see in his clinics people who have been remanded into custody with a request from the judge that they may receive care and treatment because the Judge doesn’t have the power, at the moment, to find treatment for these people in any other way. Judges also do not have the power to seek a hospital bed for some one. It is a very simple matter in other jurisdictions to draft laws that allows judges to obtain opinions and to organise a psychiatric disposal when it is obvious to everyone that is the right thing to do. We hope that power like that might be introduced into a forthcoming Bill. They were in a green paper on mental health, they were on a white paper on mental health but they were dropped for some reason from the Mental Health Act 2001”. He would like to have them back, I have little doubt that many members of the judiciary would like them back and certainly I, as Inspector of Prisons, would very much welcome them.

I am also grateful to the Irish Psychiatric Association and particularly their report of March of this year called “the stark facts”. The need for a national mental health strategy as well as resources is so badly needed. It is a very disturbing report and hopefully it will be implemented. We are all inter dependant. No man is an island. We are certainly not yet a caring society. I have also looked at the reports of the Inspector of Mental Hospitals and the report of the Committee for the review of the Central Mental Hospital. I am always optimistic and hopeful, although it will require essential change in

mindsets in many areas, that change must come and proper psychiatric care for prisoners who require it must come.

9. CONCLUSIONS

The individual four inspection reports are attached which outline in detail the various concerns and recommendations made in relation to each prison.

However, these are a summary of a few of my overall views of my inspections carried out to date.

Shanganagh Castle

Shanganagh Castle has been closed since last December. I regard that as a retrograde step. I was informed that the reason for its closure was that economically it could not be justified with the amount of offenders being held there. This was the only open centre available to the young offenders in St. Patrick and by its closure the offenders have no goals for which to achieve. It was the only centre for young offenders with open space facilities and green areas such as grounds, tennis court, football field and gardens. In young offenders centres in England and indeed Northern Ireland there are football pitches and open grounds attached to them. When one compares the facilities in St. Patricks which has absolutely no open green spaces and is a complete concrete jungle with that of Shangangh, one wonders which centre should be closed?

Rumour has it that €9 million has been spent on building a facility within St. Patricks to accommodate offenders younger than 16 years of age and is now not going to be used for this age group. (of course the Justice Department are not responsible for this age group, as it is the responsibility of the Departments of Education/Health). If Shanganagh were closed for

economic reasons why was nine million spent on a facility that is not being used? What are the economic reasons for these plans? Rumour also has it that staff of various agencies including prison staff have been selected and in some cases promoted and assigned to these new facilities which are not operational. What economic factors were considered to justify this type of waste of money, if they were true?

Shanganagh Castle could be described as the “jewel in the crown” of the prison system. Surely it could be used for various other purposes or age groups, or even female prisoners who have no open centre facility. It is a most valuable property with great open space. It appears to be the motto of Headquarters planning that if there is a green open space, then build on it from the evidence in the prisons that I have visited. The Midlands Prison being a good example when an accommodation block was built on the only football field planned for that prison.

Does one sell off their crown jewels in the name of progress or for economic considerations?

Prisoners

The condition of the buildings of Mountjoy, Portlaoise and a small part of Limerick Prison are very poor. The sanitary facilities are appalling and for prisoners and staff to have to live and work in such conditions in this age is just unacceptable. These old prisons need to be knocked and rebuilt or replaced elsewhere.

The amount of prisoners with drug addiction and all of the problems associated with drug addicts is frightening. There should be an expansion of the drug maintenance programmes introduced into all of the prisons effected by drug addiction and properly staffed with multi disciplinary and professional medical personnel. A drug free area in all of the prisons should be introduced to allow for those who don't want to become involved in illegal drugs and for those who successfully overcome the habit.

The number of prisoners who are unoccupied during period of unlock and who spend their time walking around exercise yards or sitting in recreation areas watching t.v or playing games is soul destroying. I am aware that some of them don't want to be occupied and some are also so addicted to drugs that it would be difficult to get them to concentrate in workshops or educational activities. Nevertheless an effort should be made to have them engage in some form of activity rather than walking around aimlessly in an exercise yard all day long.

Prison Staff

The staff in the prisons visited were welcoming and helpful to the inspectorate team. The most of them appeared enthusiastic about their work and displayed a willingness to become more involved in prisoners programmes and saw their role more in an instruction role rather than in a sole security role. A small number of staff felt that there was too much being done for the prisoner and not enough for the staff. Overall staff morale was quite good.

The lack of on going training and development is a glaring omission. Many of the staff have received no training for years. There was also a clear need for “essential” training such as breathing apparatus and control and restraint etc to be undertaken as a matter of urgency. The safety of lives and the security of the prisons depends on this type of training. But there was strong evidence of the lack of overall developmental training which is so essential for the staffs’ everyday interaction and working with the people over whom they have such control.

Appreciation

Again I want to thank my Staff, Volunteer Consultants, the Courts Service, the Governors, Prison staff, Probation and Welfare staff, the Irish Prison Service, the Department of Justice, Equality and Law Reform, the Board of Works and all the many N.G.O, the Kings Inns, the Judges Library, the Judicial Researchers and many others who have helped in so many ways.

General Recommendations

- (1) That the office of the Inspector of Prisons and Places of Detention be established as a statutory and independent unit. This can be done by a schedule to any Finance Act and does not have to wait until the Prisons Bill reaches the houses of the Oireachtas. An Independent budget to be provided for each year by the Minister for Justice, Equality and Law Reform in consultation with the Minister for Finance. This is most urgent.

- (2) That the Probation and Welfare Service be set up as an independent agency with provisions within the Bill that it provides the Irish Prison Service with the necessary staffing requirements of that service.
- (3) The position of fire engineer (fire officer) for the Irish Prison Service should be filled forthwith. The prisons should be expressly under the control of the local fire authority in relation to all fire and safety provisions as in other public buildings.
- (4) That the Department of Health and Children take responsibility for prisoners with psychiatric illnesses, personality disorders and other disabilities to ensure the services and facilities that are available to the public in psychiatric hospitals or units are also available to prisoners.
- (5) That Bail applications be done by video link (as in Northern Ireland) or by transferring the prisoners concerned to Cloverhill Prison and keeping them there until their applications are processed in the nearby Courthouse. The setting up of the necessary facilities to allow for this service to operate requires capital expenditure.
- (6) That psychologists be provided immediately for Mountjoy, Dóchas and Portlaoise Prisons.

Recommendations Arising from the Individual Prisons Inspected

CLOVERHILL PRISON'S RECOMMENDATIONS

- 4.3. Illegal drugs being thrown over the boundary wall....Support by Irish Prison Service to Governor in their prevention. (Finance, Building & Equipment etc.)
- 4.4. Lack of background information on prisoners on committal.... Irish Prison Service to pursue meetings with the Gardai & Courts Service to resolve this problem.
- 4.5 Prisoners being brought from other prisons That the Minister for Justice, Equality and Law Reform amend the legislation to allow for warrants to be made out to the Irish Prison Service and not individual prisons or Minister sign transfer orders, which power he already has.
- 5.1. Amend the Criminal Justice Act 1960 to allow remand prisoners to be granted temporary release in special circumstances....The Minister for Justice, Equality & Law Reform amend the Act accordingly.
- 6.3 Juveniles should not be mixed with adult prisoners.... Juveniles if at all possible should not be sharing cells with adult prisoners and should be kept separated as far as possible (exception being a family member).

- 6.6. That all committals to the prison receive a physical medical examination by the doctor....This practice should be implemented immediately and the Irish Prison Service to pursue same.
- 7.1. Education....The opening of the new educational facility as soon as possible.
- 8.1. Activities....Additional activities to occupy the prisoners' time and reduce boredom.
- 9.3. Fire vulnerability study....Its recommendations to be implemented by the Irish Prison Service as soon as possible.
- 9.11. Equipment replaced....Its replacement as recommended as soon as possible.
- 111.3. Fluorescent lighting in the toilets of the visitors' waiting room....To be replaced by blue lighting as soon as possible.
- 12.1. The Probation & Welfare Service to be placed on a statutory basis....To be considered by the Minister for Justice, Equality & Law Reform.
- 12.2. The Probation and Welfare Officer with responsibility for servicing Cloverhill Courthouse to be part of the Probation & Welfare Officers

Team within the prison....To be considered by the Head of Probation Service.

13.3. Asylum seekers not to be held in prison while awaiting decision regarding Irish citizenship....That such applicants should be detained elsewhere.

14.2. Removal relocation form (AH390)....That the time of examination by the nurse/medical orderly should also be recorded on the form

LIMERICK PRISON'S RECOMMENDATIONS

6.2 Gymnasium.... The addition of two punch bags with appropriate quality gloves for the use on same

6.3 Library.... The expansion of the entire library area

8.1 Access to the visitor waiting area in the new development.... An arrangement which allows access for visitors who arrive early

12.3 Psychiatric care The Inspector recommends that psychiatric care for prisoners should be on par with that provided in the general community.

13.10(a)The value of the vouchers The Irish Prison Service

Headquarters should establish a basic standard amount which would be applicable to all prisons on a unified basis.

14.2/3The providing of one medical area with new waiting room

attached...The Inspector recommends that the Irish Prison Service Headquarters includes this in any future refurbishment plans.

17.6/7Teachers having to be sent to various buildings and inadequate

storage space.... When plans are being drawn up for the refurbishment of the rest of the prison that consideration should be given to having the educational unit placed within one area and that proper storage facilities be provided.

18.12Records show that March 2002 was the last time that staff fire drill

training took place.... Staff fire drill training should be updated on a regular basis

19. Bullying amongst staff....The Governor should keep this matter very much under review.

PORTLAOISE PRISON'S RECOMMENDATIONS

- (1) That an appointment of an additional full time Probation and Welfare Officer be assigned to the prison. Page 10, 5.1(a).
- (2) That a citizen's advice type facility should be established in the prison. Page 10, 5.1(b).
- (3) That the I.P.S Headquarters set up meeting with other Government Agencies responsible for housing and social welfare issues regarding prisoners entitlements. Page 12, 5.1(e).
- (4) That local management make decisions on non medical issues so that the doctor's time is not wasted. Page 16, 5.3(d)
- (5) That the appointment of the doctor, psychologist, updating of files and facilities and supply of medicine (weekends) to be expedited immediately by the I.P.S. Headquarters Page 18, 5.3(i).
- (6) That local management arrange to install another telephone for the use of prisoners on E2 landing. Page 23, 5.4(j)
- (7) That local trades staff examine this gate on a regular basis and if found faulty to have same replaced. Page 23, 5.5(a)
- (8) That the I.P.S. Headquarters addresses the issue of prisoners with mental problems being detained in prisons. Page 25, 5.5(g)

- (9) That local management have toilet/shower facilities in exercise yard brought up to an acceptable level of hygiene and whatever repairs/replacement work needed to be carried out immediately. Page 30, 31 6.6(e).
- (10) That the Irish Prison Service Headquarters examine the situation regarding staff training in general (especially B.A training in view of the age profile of the staff involved). Page 40, 7.5.
- (11) That a decision should be made immediately by the Irish Prison Service Headquarters concerning the future use of D Block and if it is to continue (against my advice) as cellular accommodation that a smoke extractor system should be installed. Page 40, 7.6.
- (12) That in view of the age and condition of the prison consideration should be given to rebuilding the whole premises. The Inspector strongly recommends the demolition of the prison. Page 29, 6.4 and Page 32, 6.9(c)
- (13) Provision of an adequate and complete CCTV system immediately. Page 46

MOUNTJOY PRISON'S RECOMMENDATIONS

- (1) That the locker room and offices over the front gate of the Dóchas Centre be converted to prisoner room accommodation and that the existing offices and locker room facilities within this area be transferred to another location. Page 90 [Page 8, 4.1]
- (2) That the main prison be replaced not refurbished as a matter of urgency but that in the meantime, the sanitary systems within the prison to be brought up to an acceptable standard. This work should start immediately but should be phased by commencing work in the vacant wings. [Page 12, 5.1(a) & 15,5.2(a) Page 106]
- (3) Televisions be provided in all cells as soon as possible. [Page 21/22 5.2 (j)]
- (4) The Governor to investigate if the alleged practice of reading documents between legal representatives and prisoners when on professional visits to the prison is correct and if correct, to rectify same. [Page 22, 23, 5.2 (k)]
- (5) That the outside contract placed for pest control within the prison be increased to eradicate and further control the pests particularly mice and cockroaches. [Page 27, 5.4 (a) and Page 52, 6.3 (a)]
- (6) That push button alarm call bells are installed inside the cladded cells in the medical unit. [Page 28, 5.4 (d) and Page 107]

- (7) The development of a surgery complex on the site of the old kitchen should be proceeded with if the existing buildings are not going to be replaced. [Page 29, 5.4 (e) & Page 30, 5.4 (f)]
- (8) The future role of the medical orderlies should be addressed by the Irish Prison Headquarters. [Page 30, 5.4 (f)]
- (9) The appointment of a Healthcare Manager as recommended in the report on “Prison Health care Services” 2001 at page 47 should be implemented. [Page 31, 5.4 (h)]
- (10) The appointment of two additional psychologists (one for the male prison and one for the Dóchas Centre) [Page 32, 5.5 (a)]
- (11) That the electricity supply generator for the main prison be upgraded or replaced as a matter of urgency. [Page 39, 5.8 (d) & Page 67, 7.4]
- (12) That management, if at all possible, carry out fire evacuation exercises in all parts of the prison that is occupied. [Page 39, 5.8 (e) and Page 68, 7.7]
- (13) The cleanliness and hygiene of the toilet/wash areas within the prison especially the “A” recreation area, “B” wing and “D”

workshop/recreation areas to be brought up and maintained at an acceptable standard.

[Page 46, 6.1 (d), Page 49, 6.2 (b) and Page 56, 6.4 (h)]

- (14) That the prisoners who perform cleaning duties within the toilet areas should get some extra recognition offered to them. (i.e industrial allowances) [Page 49, 6.2 (b)]
- (15) That the refuse waste bags being stored at end of the landings and at some of the exits from the wings of the prison be removed more frequently to a disposable area. [Page 49, 6.2 (b), Page 51, 6.3 (a) and Page 54 6.4 (a)]
- (16) That general shower area be refurbished and brought up to a reasonable standard. [Page 59, 6.4 (m)]
- (17) That prisoners receive two changes of underwear, socks, shirt, etc per week and have a shower at least twice per week. [Page 59, 6.4 (m)]
- (18) The provision of a drug free area/wing within the main prison.
[Page 60, 6.4(n)]
- (19) That a wire covering or other such material be placed over the emergency exit light fittings so that prisoners cannot remove the batteries from them. [Pages 67, 7.4]

- (20) That staff receive more comprehensive training in the use of breathing apparatus. [Page 68, 7.6]
- (21) That signs are erected outlining fire evacuation points, emergency exits and assembly point areas and fire evacuation notices be placed in all cells. [Page 68, 7.7 and Page 69, 7.8]
- (22) That an information leaflet / booklet be made available to all new committals to the prison. [Page 82 10.3, (a) and Page 110]
- (23) That the entrance to the control room of the Dóchas Centre be kept locked for security reasons at all times. [Page 89, 90, 11.1]