

*Second Annual Report of the
Inspector of Prisons and
Places of Detention
for the Year
2003 - 2004*

**Note: Parts of this Report have
been deleted for legal reasons**

Contents

	Page
Introduction	1 - 2
1. Background	3 - 17
2. Staff	17 - 20
3. The Netherlands	20 - 24
4. Position in other Countries	25 - 28
5. Programme of Work of Inspector of Prisons	29 - 33
6. Probation and Welfare Service	33 - 36
7. My Experience with Probation Services in Limerick	36 - 39
8. Visit to Coolamber	39 - 45
9. Visit of Inspector of Kairos Prison Ministry	45 - 46
10. Prison Food	47 - 49
11. Visit to Lowdham Grange Prisons	49 - 51
12. Healthcare at Lowdham Grange	51 - 57
13. Visit to Whatton in the Vale	57 - 60
14. Public Scrutiny of Prisons	60 - 64
15. Meeting the IPRT	64 - 65
16. Meeting with International Catholic Chaplains to Prison at Maynooth	65 - 69
17. Awards to Staff	69 - 70
18. Views of three distinguished English Inspectorates of Private Prisons	70 - 73
19. Meeting at the Reform Club Pall Mall London	73 - 75
20. St. Patrick's	75 - 78
21. Memo	78
22. Food In Prisons	78 - 80
23. Views of the Head Roman Catholic Chaplain on the Irish Prison Service	80 - 81
24. An Act to establish an Inspector General of Prisons and Places of Detention	82 - 89
25. Alcohol	89 - 91
26. Fire in Prisons	91 - 92
27. Pension for Inspector	
28. Psychology in Prison	92 - 94
29. Acknowledgements	94 - 97
30. Re: Inhumane and degrading treatment by the IPS	98
31. Recommendations	99 - 104
32. Recommendations arising from the Individual Prisons Inspected	104 - 114

Appendix A

Report on inhumane and degrading treatment by the IPS in Mountjoy in January 2004 and ensuing correspondence

Introduction

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

Dear Minister

I congratulate you on your reaction to my last report. I now enclose my second annual report which I am afraid will also make disturbing reading. There is so much to change and unfortunately opposition to change. Money is being wasted and misdirected.

I am very grateful to the Governors of all prisons I have visited in the last year and all who work in prisons, also some excellent people in the Departments and the Prison Service and all the people who helped me as volunteer inspectors and of course the prisoners.

There is much more to be done which hopefully will reduce of number of people consigned to prisons which would be the cheaper and more effective alternatives.

Under my alleged contract I am obliged to make a report on my duties for the past year to the Minister for Justice Equality and Law Reform. My year commences on the 24th April which appropriately enough is the Feast of the Patron Saint of Magistrates. I will refer to my report of last year. In order to understand this present report it is essential that the reader is familiar with the history set out in the first few pages of last years report. It will be noted that the Irish Government's response to the CPT Report on their visit to Ireland on the 31st August 1988 - 9th September 1998. "As a general approach the Inspector will report to the Minister/Parliament on the administration of the Prison system They will also create a statutory Prisons Inspectorate and a statutory Parole Board. It is hoped that the Prison Service Bill will be enacted in 2000".

The matter is still "receiving attention".!!

I can not see why I can not be made statutory immediately. I have taken the liberty of drafting a Bill based on the Acts in England and Scotland and in Western Australia which were used by Mr. Mellett Deputy Secretary General when he was preparing all the documentation. I am quite certain that many senior officials will not like much of my proposed Bill as it will offend their basic mantra about power, secrecy, control and security. However, since we have a "hands on Minister", I hope that this Bill will be promoted. The Prisons Bill will require very careful consideration and should arrange to include provision for proper independent policing control and transparency openness and efficiency and accountability.

Some of my draft is repetitive but it is really alternative phraseology for your consideration.

In this report I will repeat some suggestions, recommendations and comments. This is to highlight them and in the hope that by repetition something may eventually be achieved. The drip on the stone may eventually crack it.

I look forward to continuing my work.

Sincerely yours

Dermot Kinlen
Inspector of Prisons and
Places of Detention

1. **Background**

The first report of the new Inspector of Prisons was published the day before the Dail recessed for three months. It was extremely well received by the media. It consisted of a general report and then in separate slim volumes the reports on the prisons which had been inspected by the Inspector and his team during the few months when he was effectively operative. The Director General of Prisons Mr. Aylward was full of charm. He came and stayed with me in Kerry with his wife on at least two occasions. He informed me that I should be "Inspector General" so that the people who work with me and for me would be described as inspectors. The then Minister told me to rely entirely on him. I did so. I believed that he was genuinely interested in having an inspector. He was not aware that I had been offered other jobs such as the "Flood Tribunal". I was not expecting any specialised treatment. I was looking to Mr. Aylward for guidance and assistance. he gave me nine books of peripheral interest to help me establish my library. When the Minister formally opened my office he commented on my library. I explained that it was my personal library but that I had got nine peripheral interest books from the Director General of the Prison Service and that his department indeed had sent me one book "on loan".

As recorded in my first report, there were repeated efforts made by the Director General of the Prison Service for me firstly to take six months to read myself into my new job and secondly to go on a tour (first class naturally) of Australia and possibly New Zealand. I pointed out that I had in fact already been to Australia and was called to the Bar in New South Wales by the Chief

Justice of that State. He stated that he wanted me to go to Perth. I told him that I had already been to that City and had travelled down the Swan River to Fremantle. He pointed out that I hadn't been to a prison there. There was a wonderful Irish woman there who was in charge of Prisons and who would be returning to Ireland on retirement and might be useful to me. I said I would welcome meeting her when she returns to Ireland.

I strongly and urgently recommend that some external and experienced bodies such as the Smurfits School of Business Studies at UCD should look at the whole prison service. It should be asked a simple question. Is the tax payer getting value for money in the way "the huge prison budget". (The Director General's own often repeated words) is spent.

Firstly there is the question of the Prison Officers and their overtime. This had been highlighted by the media. It is a matter of very grave concern, however, it is not a simple issue. It has historically evolved. Some prison officers refuse to work overtime on the grounds that they value their private time for the sake of their sanity and indeed for the sake of their families.

When Mountjoy Prison was built it had incell sanitation but a bright civil servant in 1939 or 40 apparently decided the prisoners were using too much water (a very scarce commodity!). The incell sanitation was removed. Now men are couped up with a chamber pot for about 16 hours a day minimum. They use milk cartons and other recepticals for the overflow.

Many members of the public understandably would require stiffer punishments than the Courts already inflict. In certain circumstances people demand the death penalty, flogging and even stocks to be restored. If you have been violated by any form of violence or having your homes burgled, that reaction is totally understandable. However, if you stand back and ask yourself would you like to be in a cell with three other men or possibly even four for 16 hours a day using a chamber pot and milk cartons and surrounded by mice and cockroaches? Some ordinary decent criminals (ODC) who have long prison experience complain about the increase of homosexuality. There have even been cases where people have been charged for sexual offences. However, prison officers said any such incidences are normally consensual. In the old days prison officers were regarded as "warders" or "turnkeys" however the present officers frequently include highly intelligent and highly educated men and women. They frequently interact with the prisoners and help them on the path of reform or recovery. If the many gates in the old prisons were electrified or otherwise modernised, it would not be necessary to have a prison officer stationed at every gate for the purpose of opening it and closing it. In the prisons where no in-cell sanitation is provided there have to be officers on overtime duty from 8 p.m to 10 p.m or to 12.00 m.n to enable prisoners go to the toilet between these hours. However, money is not available to modernise the prisons. I have strongly recommended that Mountjoy and Portlaoise be pulled to the ground. A new modern prison should be built on the sites of these prison or elsewhere. If they were modern it should reduce the number of overtime hours worked very considerably. I

am thrilled that the Minister is closing Mountjoy and replacing it. This is urgent.

The power of the POA has evolved over the years so that to a great extent the Governors can not govern without consulting the POA. They also have little control over their budgets as they have to have the permission of the Prison Service regarding expenditure of same.

Ms. O'Gorman informed my office that it was not within my remit to investigate or to have any dealings with the POA. I replied that I did not accept that ukase. I can look at anything which is "appropriate" in the management of the prison. However, I deferred investigating the problems of the management and the POA in view of the fact that the present "hands on" Minister is actively involved in direct negotiations with the POA. I felt that my intervention at this stage would be positively unhelpful. However, that is not the only matter about which I am gravely concerned.

I have asked for the audited accounts for the Prison Service but was told I would learn little from them as they are merely a reproduction of the estimates. However, I am aware from my own personal knowledge that the original prison section in the Department of Justice has now been divided into two, each under an assistant secretary. One comparatively small group is the prison division policy within the department the other is the Prison Service Headquarters with at least 120 people. It has seven directors none of whom has prison experience but all of whom are senior officials who have been

promoted from the Department of Justice and most have at least one Deputy Director. There are four assistant directors each of whom seems to have at least two managers who seems to have several assistant managers and so it proceeds. However there are plans to expand this group.

Fortunately, I now have two people liaising with me from the Department namely Mr. Flahive and Mr. Flynn. I am grateful for their assistance. I also have Mr. Brosnan and Mr. Mitchell from the Prison Service Headquarters who are friendly and I thank them. Mr. Mitchell has provided much history for the book which I am presently writing.

It is intended that the Prison Service will be decentralised to Longford. I understand that only three officials have agreed to move to Longford however this won't present any great problem as people will be recruited from other departments to make up the numbers. Indeed since the Prison Service has every intention of expanding, the chances of promotion in the Prison Service will be very great.

One presumes that the new senior officials will have as little experience of prisons as their immediate predecessors. In other words, they will have had no prison experience. There is an interim Prison Board, which has no statutory foundation and which has many good people on it from the general community, but has also four officials including the Director General and the Deputy Secretary General of the Department included in this body which is purely advisory insofar as it exists presently.

Is it necessary for senior officials in the Prison Service to travel all around the world (mostly first class) and study the position in Australia, New Zealand, North America and all over Europe? The senior officials get very handsome allowances for such touring while getting all their expenses paid. In this day of modern tele communications it should be possible to have video links so that you can have an entire conference without anyone leaving their home. The necessity for travel is surely gone or nearly gone. However, I repeat as a matter of great urgency and importance that a professional person or persons should be immediately employed to look at the whole sorry structure.

I have now received under the Freedom of Information the following memo from the Director General to his associate Miss O'Gorman

Memo from S Aylward Director General of Prisons to Anne O'Gorman
Department of Justice on 15/3/02 Re Governor's Appointment and
Inspector's proposed Seminar (obtained under FOI)

(It should be read slowly and analysed) Emphasis is added

"Sean F Aylward@Prisons

15/03/2002

To: Anne M O'Gorman/Justice@Justice

CC: Brian G Fitzpatrick/HQ/Prisons@Prisons

Fax to

Subject RE: Re circular re Staffing of office of Inspector of Prisons

Anne

If its the last resort I would be prepared to contemplate a retrench of a 2 year period but I originally contemplated that in context of a full Governor salary being drawn down in the new post & that will not now arise.

I really think Finance is getting a bargain in the current retiree recruitment proposition - especially as its only a 2 year contract which is proposed.

I am also conscious Governor group might resent losing a HQ based post
So might aspirant Governors

Even more so the aspirant group in fact - as existing Governors would not be as concerned given they already have that status achieved

Keep me posted

Incidentally, any Seminar proposed for or by the Inspector should be grounded & centred in and on the realities & expectations of the Minister & Dept of JELR. IPS, the outfit which will be subject to future inspection, should be there for practical reasons also - to have some input into practical arrangements re access/sight of draft reports & liaison mechanisms etc. Also to give a briefing on the overall prison system & ongoing programmes & activities

Without these people represented there the suggested seminar would be little more than a social outing - even with the proposed jail visit elements

Start as you mean to continue!"

SA

Conor Lally of the Irish Times sought details from the Director General of Prisons of correspondence between himself and myself. It was for a restricted period. For completeness, I think it is important that I mention the memo which I sent to Mr. Aylward and his colleagues Mr. Mellett and Ms. O'Gorman

This was sent to all three officials (none replied).

I kept wanting to be informed of what was going on in the Prison Service. I stated that any member of the Prison Service including the many directors and their managers had access to my office. In a letter dated the 8th May 2003 the Director General states in connection with a question of feedback "I will alert my headquarters colleagues to your willingness to receive them in your office as part of the feedback and information processed in the meantime we will try to ensure that you are kept up to date with significant developments".

While there is small feedback I am much more dependant on the Governors and staff of the various prisons which I have visited. They are all extremely open, friendly and helpful. I am also indebted to the Irish Times, Irish Independent, Irish Examiner and the Star (which seems to have a correspondent inside Mountjoy as it can produce photographs of prisoners

slopping out!) I am also very grateful to the English Sunday Times which tells me what the POA is doing and what the Prison Service is doing or not doing and what the Minister is doing. Because journalistic sources are not always correct, it would be nice if they were confirmed or denied by Department or Headquarters but at least I am now getting some information (to call it a "trickle" would be to exaggerate).

In the draft bill I have provided for the inspectorate to be fully informed.

Two officials Mr. Brosnan and Mr. Mitchell were assigned by the Prison Service to keep me informed and I must confess that both of these gentlemen have been helpful and have given me some very interesting historic information. I did not think I should have to run to the Prison Service to check every rumour. In a letter of the 30th April last I wrote to the Director General of the Prison:- " I think it would be more appropriate if you and all your staff who wish to see me would make an appointment and come to my office. Nobody would be more welcome. Please notify all your staff that my office is open to them and if they wish to raise anything which is appropriate in my estimation. I have a constant flow of visitors from all aspects and feel it important that I should get a full feedback from you and your cohorts. My first annual report will be with the Minister next week. I look forward to a harmonious year." I also wrote on the 15th April to the Director General quoting the CPT report of the 17th December 1999 which states:- " that in devising precise proposals (for the Inspector) regard will be had to the functions of Prisons Inspectorates in other jurisdictions. I would like to know as a matter of urgency what information has been gathered in relation to that undertaking and I would like to be supplied with it forthwith as I will be

commenting on it in the report which is nearly concluded and will hopefully be with the Minister at the end of this month".

Mr. Aylward suggested that I should have the title of "Inspector General" and that those assisting me should be inspectors. I accepted his suggestion. I should either be "Inspector General" or "Chief Inspector". However, in a letter of the 20th November 2002 reads as follows:- "Thank you for your letter of 12th November. You mention the role of your peers internationally. My information, confirmed by the way at the last Council of Europe Conference of Prison Directors a fortnight ago, is that internationally there are actually two very distinct groups of Prison Inspectors or Inspector Generals. Four at least are wholly independent of their national Prison administration - they include yourself and the Inspectors based in England, Scotland and Western Australia. The others are, for the most part, regarded by observers I have spoken to as part of the "chain of command" or supervisory system in the prisons administration. They tend to have the full title "Inspector General" to reflect their supervisory role and are akin in many cases to the old Irish Superintendent of Prisons post, which was filled by Mr. Frank Dunne and Mr. R Mac Connchrada, among others, in their time. This former office had a significant inspection dimension but could hardly be seen as independent. The 24 hour a day "availability" of the Spanish Inspector which you cite suggest to me that he / she had operational responsibilities but I am not suggesting certainty on this point.

"Turning now to the core of your letter. I would be anxious to remove any impression or suggestion that I propose to decide what is to be considered by your Inspectorate.

(emphasis added). I have suggested in response to queries by you about accessing internal documents here that this is an issue that needs to be fully teased out - a very different proposition to insistence that I will decide what you do. Any discussion we had about your role in the past related to the experience and treatment of the prisoner on the ground - an area in which you have taken an interest and where independent scrutiny is, in my view most crucial. (emphasis added)

"You asked me to give you details of all communications from my office to you since October 2001. I must confess I do not keep a telephone log and most of these communications were by phone I will scan our correspondence records to see what I can dig up on this. I do know I have sent you a steady stream of articles and publications including publications and reports of our own in which I felt you might have an interest. I have been doing this right up to last week in fact.

"As for your final comment that I have soured relations between our two offices I am more than astonished by this remark. I have certainly never set out or intended to do this and reiterate to you my often repeated offer to meet with or talk to you any time you feel this would help matters. You have yet to take me up on this offer which remains on the table I do hope that we can get relations back on track. They were never severed as far as I was concerned.

"I have always sought to avoid personalising bureaucratic spats or difficulties. I am no paragon in this respect but I do my best and will continue to do so - what ever the provocation. I also want to reiterate here that I personally sought and welcomed the appointment of an independent prisons inspector here. I welcomed your appointment by the Minister to the post last Spring I also made sure when you were appointed that you would be welcomed and treated courteously everywhere you went in our system. I have asked you to contact me about any problem you encounter in this respect I repeat that request.

As the Head of this Service it is not for me to set out or to negotiate with you any change in your terms of reference or indeed your general terms and conditions. I do hope it should be relatively simple to further clarify these issues with the Department if there is a problem.

If you are reproducing this correspondence in your forth coming report I respectfully ask you to reproduce it in full"

Yours sincerely

Sean Alyward

Director General

If the Oireachtas wants an independent Inspector they should make him/her so by passing a statute. They could emulate the statute used for England and Scotland but I would prefer if they used the one from Western Australia. That

gives the Inspector complete independence and to interfere with him/her in any way is in fact a criminal offence. I have drafted a bill which is appended to this report.

In the other countries who have invited me to inspect their situations such as France and Austria (which were not considered by Mr. Mellett) there is in fact a Minister in charge of prisons. This means that the empire being built up in each country is under parliamentary control and is subject to independent scrutiny. I have been informed that the total number of persons involved in the Irish Director General's office of prisons is less than half than what is in Northern Ireland and Scotland. They also have a Correctional Director in England. The Home Office recently admitted to me that it was just another layer of bureaucracy. The man who had been Director General of Prisons and Places of Detention is now the new Correctional Director and has taken over control of not merely the prisons but also the probation service. The Deputy Director General of the Prison Service has now become the new Director General. There is a determined effort on behalf of the present administration to take over the Probation Service and the Chaplaincies, however, I will deal with both at a later part in this report. While the Civil Service contains some very fine people and has done fantastic work they must at all times be (like the rest of us) accountable and transparent and subject to parliamentary and independent scrutiny.

2. **Staff**

I met the CEO of the Courts Service in the street one day. He told me that Mr. Mellett the Deputy Secretary General of the Department had contacted him regarding the young lady I wanted as secretary who would have to be seconded to me from the Courts Service. He told me that Mr. Mellett said I had been to see the Minister and that is why Mr. Mellett was now asking for this person. The CEO emphasised that this was the first time anyone had asked him for this lady although she had been nominated by me at least a year previously. The CEO of the Courts Service assured me that he would do everything he could to expedite her eventual appointment on secondment which he did.

I have been very fortunate in my staff. Former governor Jim Woods took up his appointment in October 2002. He has a wealth of experience, he does his best to keep me under control in the best sense of the word, however, I have made it clear to him that I will not write my annual report as a civil servant might do! Unfortunately his contract expires next October. I sincerely hope he will opt to remain with the Inspectorate and that his contract be implemented promptly. There should be no break.

However he has been absolutely wonderful in helping me in my various inspections and has a great knowledge of prisons and how they are and how they should be run. He also understands much better than a lay man various mindsets with which one has to cope. I can not express my gratitude to him sufficiently.

The clerical support for the entire office is provided by my secretary, executive officer Ms. Pauline Kearney who is on secondment from the Courts Service. Ms. Kearney has brought to my office great skills and the experience gained from the many different positions she held within the courts system. Her contribution to the Inspectorate is invaluable.

Mr. Martin McCarthy who is the third member of my staff had worked for me when I was a Judge of the High Court and is on secondment from the Courts Service. He was indeed my first member of staff commencing his secondment from the Courts Service on the first day of my appointment 24th April 2002. Mr. McCarthy was offered no incentive from the Department of Justice Equality and Law Reform on his secondment.

Mr. Mc Carthy had made a major contribution to the establishment and creation of the Prisons Inspectorate. He was actively involved in the research which led to the development of the system and methodology of the Office of the Inspector of Prisons and Places of Detention Mr. McCarthy was also a member of my inspection teams and was a contributor in the production of the individual prison inspection reports.

In July 2003 some 15 months into his role as an active member of the team of the Inspectorate, he informed me that he felt he had proven his worth to this Office, I agreed.

In the circumstances and with concern for his future, he made an application to the Minister for an improvement in his terms and conditions of his employment. Unfortunately the Department failed to recognise the worth of Mr. McCarthy to my Office and refused his application for an improvement.

In October 2003 as a result of the Department's decision, Mr. McCarthy informed me that he would no longer carry out duties for which he was not paid. He also informed me that because of the clear directive from the Department as to the type of duties he could not be involved in, he would immediately revert to the duties of my personal security and driver only.

The office was established in October 2002 and I was promised it would be fully fitted with the normal office requirements.

However, some one and a half years later the computers are still not working fully despite several visits by personnel from an outside contractor. The I.T. Section within the Department of Justice are responsible for the I.T. Services to this office and why it takes so long to complete a small job for just a handful of staff is extraordinary. I know that the entire Justice Department have been relocated to various other offices which entailed a lot of I.T work, but this appears to have been completed and up and running in a very short period. The work in this office commenced well ahead of the relocation and is still not complete. Perhaps, I would be better served by another firm as it appears very expensive and still not fully operational. It is most frustrating.

3. **The Netherlands**

They have the Council for the administration for penal sanctions. This is an independent supervisory and advisory board to the Minister for Justice of the Netherlands.

The RAAD combines three tasks:-

- A) a court of appeal for (mainly) prisoners in cases regarding their rights as a prisoner

- B) a counselling service to the Minister for Justice regarding the application of sanctions and Judicial measures

- C) and a general supervision of the application of the sanctions and measures

The RAAD is independent from the Department of Justice as the members are nominated by Her Majesty the Queen and have no professional relation to any institution of the prison system. The members have a variety of backgrounds like magistrates, science, medicine, psychiatry and local administration.

The Department of Justice facilitates the RAAD with a staff and bureau. The RAAD has a supervisory focus mainly on the judicial position of incarcerated or otherwise liberty deprived convicts and the way they are

treated while they are under the care of penitary or probation authorities. The RAAD visits every juvenile institution penitentiary, treatments institute, and probation office, about every two years (which amount to about 65 supervision visits yearly) and reports in detail to the Minister for Justice about the situation as found. Recommendations may be included in these reports. The main focus of attention of the RAAD are the following aspects:-

- A) The regime in general
- B) The judicial position of the incarcerated persons
- C) Contacts among inmates qualitatively and quantitatively

Contacts between inmates and prison staff structured as well as spontaneous.

Contacts between inmates and the social world outside.

Probation: the quantity and quality standard of activities offered to the inmates such as labour education, etc.

While the RAAD carries out a general supervision in every institution it has its own supervisory board. These boards are independently positioned like the RAAD. These boards however focus mainly on the individual cases of prisoners, juveniles etc, within the institution therefore they are RAAD functions as the Court of Appeal.

Question in the Dail

My annual report was published just before the Dail recessed for three months. A question regarding the report was raised by Deputy Michael D Higgins and got an oral answer on Wednesday the 15th October 2003.

The answer by the Minister for Justice, Equality and Law Reform is as follows:-

"In his first Annual Report, the Inspector of Prisons and Places of Detention made a substantial number of recommendations aimed at improving the services and conditions in prisons generally, as well as specific recommendations in relation to the particular prisons he inspected. Some of the recommendations are short term in nature and some are more long term e.g. the replacement of accommodation at Mountjoy and Portlaoise Prisons.

My Department and Irish Prison Service are taking account of the recommendations of the Inspector with a view to implementing them where possible and as resources permit. I understand that several of the more straightforward recommendations have already been implemented e.g. Emergency lighting has been upgraded in Cloverhill Prison and the new Education Unit there will open on 1 December; toilet and wash areas in Mountjoy and Portlaoise Prisons are being renovated and regular fire drills are being carried out at Limerick Prison. Efforts are continuing to fill the vacancy for a medical officer at Portlaoise Prison and a recruitment competition to fill vacancies for psychologists will take place shortly.

As regards the Inspector's longer term recommendation, I have already indicated in response to Question No. 5 on today's Order Paper, that I am considering the views of the Chairman and members of the Prisons Authority Interim Board about the future of Mountjoy. Meanwhile, Phase 1 of the complete renovation of Portlaoise Prison is already underway and tenders will be invited shortly for the provision of new prisoner accommodation there. This will result in the closure of the outdated accommodation in the 'D' and 'E' Blocks which were the subject of critical comment by the Inspector.

The Inspector's recommendations for legal and systematic change e.g. granting of temporary release for remand prisoners in special circumstances and improved communication of information from the Courts and the Garda Síochána at the time of committal of persons to prison, are being considered in my Department and the Irish Prison Service. It is proposed to discuss a number of possible follow-up options with the Inspector in the near future. " (Emphasis added) (as of April 2004 there has been no sign of "possible follow up options)"

As regards the flow of information to the Inspector, arrangements are in place whereby officials of my Department and the Irish Prison Service meet with the Inspector as necessary and forward to him all relevant written material. I very much hope that the Inspector will regard these arrangement as satisfactory".

The last paragraph of the reply indicates again why I am so insistent that my office be made totally independent and statutory. People in other countries such as England and Scotland have expressed amazement at my first report

that I am not statutory. Indeed I have also got from various countries, offers of help in view of my first report

4. Position in other Countries

In my first annual report I dealt with the situation in Spain. Prisons there are subject to inspection from a number of quarters unlike Ireland. Firstly, there are full time independent members of the Judiciary. For example, in the Madrid area where there are six prisons there are three full time judges. They are totally independent of the Prison System and of the Government Departments. There is the Prisons Inspectorate. They are on 24 hour duty. They can be reached by mobile phone and are aware of everything that is happening in prisons. Apparently a similar situation arose when we had a Superintendent of Prisons, but that office held by a senior civil servant was abolished at least twenty years ago and has not been restored. The Spanish Inspectorate regard themselves as being totally independent although they are civil servants. They say that the main opposition with which they have to deal is the Prison Service Civil Servants. They are at constant logger heads with them. Apparently the prosecutor and members of Parliament can visit prisons. The Inspectorate says that their criticism tend frequently to have a political background (which is perfectly understandable) but that all members of parliament can and many do visit prisons. In this country only Minister of State apparently are legally allowed to visit prisons. Since the prisoners do not exercise the franchise to vote unless they are University graduates, in which case they can vote in the election to the Seanad, which is done through the post and no real interest unless prompted by relatives of prisoners or friends. It is ridiculous that members of Oireachtas should not be allowed automatically to visit all Prisons and Places of Detentions without having to secure permission from several Civil Service sources. TD's have no real

interest. In practice Governors tend to be extremely helpful and gracious to anyone who wants to visit prison but in the long awaited draft Bill the Oireachtas should carefully consider giving themselves this power rather than a matter of concession.

In Spain no prisoner can be put into an exclusion cell for any long period (over six hours) without the consent of the Inspector General of Prisons, the Judge assigned to the prison, the Governor, and the resident psychiatrist. The exclusion cells are similar to the cells used by ordinary prisoners but are kept in a special unit where all six of them can be observed by the one officer with a television screen.

When my contract was being prepared Mr. Mellett the Deputy Secretary General of the Department considered the position in Scotland and in England and Wales and in Western Australia. In the latter jurisdiction it is a criminal offence for any official to impede the Inspector in his inspections or fail to answer or to provide information. All three jurisdictions are covered by Statute.

I demanded in my first report that a stand alone Statute (which I have drafted) should be put into place immediately to clarify and add substance to my office and its powers which presently are non existent. I was flattered that the Tanaiste said that I was showing considerable independence without the aid of Statute at all and therefore she saw no reason to expedite it. I hope that she and the other members of the Cabinet will reconsider that situation

having regard to this report and my last report and the reality on the ground. Through the courtesy of the Australian Ambassador to Ireland (who was for five years a prison doctor in that great country) I have received some information and there is more coming to me. Through the courtesy of the Italian Ambassador to Ireland I received a letter from Cons Giovanni Tamburino the Director of the Office of Penitentiary Administration. Herewith is the letter.

Dear Justice Kinlen

The Department has received from the Italian Embassy in Dublin your kind request for information concerning the authority in charge of inspections on the prison service here in Italy. We therefore wish to inform you that initially such functions are performed by a special judiciary "Supervisory Judiciary" which is an authority outside the penitentiary administration.

We enclose a copy of the Italian penitentiary Act translated into English so that you might have more detailed information upon this particular judiciary.

We also wish to seize this opportunity for asking you to kindly send to our office the law regulating the inspectorates service as well as the law regulating the prison system in your country. We remain at your disposal for any further information you need about the penitentiary system in Italy.

Thanking you in advance.

Best Regards

Director of the Office.

I had sadly to reply that infact the law regarding the Inspection service has not yet been provided by the legislature I have referred a copy of his letter to the Minister hoping that he might be able to clarify the situation to the Italians. I am also publishing it in this my annual report. There are two immediate steps which the Oireachtas must take if they are serious about inspection of prisons.

1. A proper Act to which I must contribute regarding the prisons inspectorate and
2. A full audit from top to bottom on the Prison administration. They talk about transparency, openness and value for money. I would like experienced business experts to evaluate the prison service from the Director General down and the situation in the prisons and particularly the position of the POA. There are excellent people throughout the system. Indeed there are many idealistic people who far exceed the work for which they are paid.

5. Programme of work of Inspector of Prisons 2003 - 2004

19th May	Full Inspection of Loughan House 19th and 20th
26th May	Inspector attended opening of Limerick Courthouse
6th June	Meeting with Human Rights Commissioner
10th June	Meeting with Mareva Coughlan
17th June	Meeting with Mr. Brosnan and Francis Comerford
18th June	Meeting with Dr. Dooley
23rd June - 4th July	Full inspection of Wheatfield Prison
10th July	Attend Cloverhill Visiting Committee meeting
August	Commence writing history of office (this will take about two years)
8th September	Minister officially opens office
10th September	Meeting with Mr. Flahive Assistant Secretary of the Department and Tony Flynn A/P
11th September	Speaks to the International Conference of Catholic Prison Chaplains at Maynooth
15th/19th September	Full Inspection of Forth Mitchel (Spike Island)

8th October	Meeting with Tony Flynn S. Murphy and Personnel from Pricewaterhouse Re I.T. In office
14th October	Meeting with I.P.R.T
15th October	Revisit Wheatfield Prison
28th/29th October	Re: Visit Fort Mitchel (Spike Island)
3rd - 7th November	Full inspection of Arbour Hill Prison
10th November	Receive Ambassador of Pakistan
11th November	Meeting with John Brosnan & Jim Mitchell IPS
8th -13th December	Visit Home Office and visit two prisons in Nottinghamshire (one for sex offenders and one privately run) and visit Hume House for rehabilitation of homeless in London
15th December	Meeting with Mr. Brosnan & Mr. Mitchell from Prison Service HQ
17th December	Return visit to Arbour Hill Prison
5th January 2004	Unannounced visit to Mountjoy and did report on inhumane and degrading treatment of prisoners by the IPS
20th/21st January	Revisit Cloverhill Prison
27th January	Meeting with officials of the Central Mental Hospital
28th January	Meeting with members of Kairos Re: Programme for prisoners

29th January	Inspector visited Coolamber Therapeutic Centre
30th January	Inspector and Maurice Manning visited Mountjoy
16th/17th/18th February	Revisit to Limerick Prison
24th February	Inspector meeting with Ms. Janice Walthew re facilities for visitors at Cloverhill Prison
3rd March	Visit of inspection of facilities for juveniles in St. Patricks Institute
March/April	Prepare Annual Report to Minister Attend the Mental Health Commission launch of Strategic Plan 2004 - 2005
24th April	Inspector attended a middle temple conference at Windsor on sentencing

The Minister stated at a debate in the Seanad as follows:- "We need a new statute for prisons. In case members of the Seanad think I am delaying on this subject there were proposals that the Prison Service be put on a statutory basis and there was an internal debate as to whether the Probation and Welfare Service should be set up as the same statutory series of bodies to be entirely separate. The view previously expressed was the Probation and Welfare Service should be separate. I am not so convinced about that. No matter how good peoples intentions are if one sets up bodies under statute and gives them functions they are inclined to be careful of their own patch.

There is to some extent, a public interest in wedding the Probation and Welfare Service with the Prison Service rather than making them competitors at the Exchequer trough. When money was put into the general areas of rehabilitation it should not be the subject of undue competition between two separate agents. It can not co-ordinate their activities to their best extent.

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

With the greatest respect the idea of one snout at the trough rather than two is folksy but unsound.

The Probation Service is the Cinderella of the various bodies involved. It is of course dealing with people after they have been punished. However, their function is far wider and more important than that. Firstly they have huge remit amongst the ordinary citizens in dealing with problems such as the break up of marriage the care of children, the elderly and liaising with social welfare and housing authorities. They are also looked upon by the judiciary and very correctly as impartial and independent.

Since the judiciary are suppose to regard prison as a very last resort they depend on the Probation Service to provide them with some alternatives. Some Judges seem to think they only have two remedies namely prison or a fine. Since most of the clients appearing in the Courts come from the impoverished people the second option is rarely viable. However, there are far more fields in which the Probation Service do fantastic work. Unfortunately judges and lawyers do not seem to be aware of what is happening. Also the media can whip up public opinion rapidly but seldom report the wonderful work done by the Probation Service.

6. Probation and Welfare Service

This is a most dedicated and important group of people in the administration of criminal Justice and indeed in relation to all types of problems in the community. The Probation and Welfare Service should be given full Statutory Authority. I object strenuously to the idea that it should be tucked into the Prisons Bill. The probation and welfare service primarily exists under the 1907 Act which is very short and was intended to deal with criminal and matrimonial and similar problems to be of assistance to the people involved and to the Courts before which they appeared. They should not be seen as part of the Prison Service.

The present policy of the Prison Service is to take over the Probation and Welfare Service, the Chaplaincy Service and (as I have illustrated in another part of this report) my office. (cf memo from the Director General to Ms. O'Gorman) Pg. 10-11

I have made it quite clear that I am totally independent. Fortunately I have a liaison with two officials in the Prison Service who are helpful. The latest Director in the raft of Directors of the Prison Service is in charge of Chaplains and Probation and Welfare Service.

It is absolutely essential that prisoners view the Chaplains, the Probation and Welfare Officer and the Inspector of Prisons as being totally independent of the Prison Service. They have to work naturally with that organisation but must not be seen as part of it. For example I had great difficulty dealing with 19 Chinese in Cloverhill but through a Chinese friend who acted as interpreter I established that I was in fact totally independent of the management of the prison. I got rice for them in place of potatoes. A sentenced Chinese prisoner now calls me "Mr. Rice"!

At first the Probation and Welfare Service did not see themselves as involved in prison at all. However, they are now certainly very much part of the service and are useful not merely to the prisoners but also to the prisoners families. They are assigned to most prisons. It should be noted however that no sanction has been granted for assignment of Probation and Welfare Service staff to Castlerea or the Curragh (temporarily closed) prisons. The current Probation and Welfare Officers in those prisons are on loan from local core teams from which they can not be spared.

It might also be noted that the ratio of Probation and Welfare officers to prisoners was determined in most cases many years ago at a time when rehabilitation or reintegration of prisoners into their families and local

communities was not a feature of the system. Equally it must be said that the Probation and Welfare Service did not consider the prison environment suitable for therapeutic work with offenders. Indeed in England the hostels for sex offenders are run by the Probation Service once a prisoner is discharged by the Prison Service.

In very recent years this situation has much changed in that the present Director General of the Irish Prison Service has requested that the Probation and Welfare Service provides staff to the prisons in the same ratios that exist for the work of the service in the community. This would require considerable additional staffing. It would result in the tripling of service staff working in the prisons. This projection was presented at a high level meeting in the Department of Justice Equality and Law Reform on the 23rd October 2002. Its logic was accepted. It was also recognised that current economic circumstances made it prohibitive. Nevertheless when economic circumstances improve the proposal should be given serious consideration to enable the Probation and Welfare Service to play its full role in positive sentence management and the rehabilitation and reintegration of prisoners. Also I suspect that the Chief Probation and Welfare officer does not have direct access to the Minister which is regrettable.

In the current diary year book of the Irish Public Administration the following appears as regards the Probation Service:- " The Probation and Welfare Service provides a probation work and related service to the courts and a welfare service to the prisons and places of detention. The work involves

carrying out pre-sentence assessments for the courts; supervising offenders in the community who are referred by the courts; supervising offenders under community service orders; supervising offenders released unconditionally from custody; and providing a counselling service to offenders and their families. The Service is also involved in non-criminal, family law cases."

This is hardly an adequate description of their remit. They must be and be seen to be independent and as a better and cheaper alternatives to prisons.

7. My Experience with Probation Services in Limerick

Limerick people reckon they are getting a bad press. Infact they don't deserve it. There are some families and some areas that certainly have problems. However, there is an excellent vibrant and successful team of probation officers working there with great results. The local district judge many years ago had really very little option. Most of the people before him for criminal offences came from the deprived possibly uneducated and probably unemployed section of the community. There was no point in imposing a fine because the miscreant would not have the money and even if he had he would not pay. So the only option was imprisonment. However the senior probation officer in Limerick (who after 30 years is still full of enthusiasm and has a firm belief in the potential goodness of people) went to the Judge and said give me your "worst case". The Judge did and the experiment was a success. When ever I sat on assignment in Limerick I forced my travelling colleague to visit Limerick Prison and then to go and see the great work that was being done by the Probation Service. Some of the

highlights which we saw were in (a) in a disused factory in Moyross. There a very attractive young lady who is recognised by the FAI as a fully qualified referee had two local teams participating in various soccer leagues. She exercised the greatest control over her pupils and was obviously very efficient and very popular. Nearby a young priest had some persons on probation who were putting shredded newspapers into wooden boxes and pouring water over them. The water was then pressed out of the paper and the resulting briquettes were given to the Vincent de Paul. He had about six young men working with him on this project. The local school used to be covered in graffiti. It is now cleaned and the people of the area including persons on probation take great pride in the pristine condition of the school and the gardens around it. All this is happening in Moyross. They also have a group cleaning O'Malley Park every morning. There is a charming old lady who lives near the Roman Catholic Cathedral of St. John's in houses which I believe were provided by the Vincent De Paul. They needed walls at the front garden to protect the existing railing. This old lady became very friendly with a lot of the young lads and some of them no longer on probation still call to see her. She said "God love them they needed a mother". They also help out the battered wives centre. They help out in the blind centre. Infact they were so concerned there that they bought locks and fitted them to the back door to protect the premises. They also built a Braille map of Limerick to help the persons who have defective sight to plan a journey through the city. The Probation officer became a very active member of the Judges team in dealing with the many social problems which informed so many cases coming before the local District Judge. This splendid officer has now been transferred to the

Waterford area and is in charge of that region. The Judge himself has moved to a slightly less arduous area. However, there he started another organisation. First offenders make a contract with the Court that they will interact with a local group who include a probation officer and several local citizens who volunteer their services. He then does community work. If the victim of his crime is agreeable he works part time for the victim to help to make amends for his behaviour. His case is adjourned for six months. At the end of that period the Probation Officer makes a report to the Court. The Court may deal with the matter then or can continue the contract for another six months. If the culprit has made amends and has developed insight into his situation the Judge may strike out the proceedings and thus enable the accused, if he so wishes, to emigrate to the United States or Australia. A conviction of any sort might block ones entrance to either of these countries and indeed to others. The scheme has been so successful that a similar scheme is now running in Mayo. Unfortunately it is seldom mentioned by the media. Their operation entails about one tenth of the price of keeping a person in Limerick Prison or any other prison.

I have no doubt my Limerick experience is replicated all around the country. It is important that the local community are involved and if possible the victim. For example in Nenagh where the imaginative District Judge started this venture not merely got the community involved, the monks of Glenstal Abbey have taken a very active part in working in close contact with the Probation Service. They present various alternatives to prison. I estimate that they cost one tenth of what it costs to keep a person in prison at the most. It is

important that the public is aware of the wonderful work being done in their name. However, the welfare service should promote themselves. Also lawyers involved in the criminal courts should be able to suggest suitable alternatives to prison. I am not suggesting that prison should be abolished. However, despite Mr. Howard M.P England statement to the contrary I believe prisons, on the whole, do not work. It is expected that a Judge should only impose a prison sentence as a very last resort. Many victims, very understandably, regard judges on occasions as too lenient and the services provided to prisoners excessive. "T.v in each cell!!!" However, if you are locked up for 16 hours and cannot read what do you do? At night prisons are now quiet. They settle down for news followed (because of choice of channels) by soaps and sport. It reduces boredom and even possibly suicide.

8. Visit to Coolamber

Accompanied by Mr. Martin McCarthy I went down to Longford to Coolamber Manor, Listyan. A member of the Visiting Committee of Cloverhill Mr. Doolnan of Sligo told me of the work his wife did for rehab at this place. He invited me to visit. She then wrote to me and I stated that I would certainly do so but not until 2004. It is a magnificent early 19 Century manor house on an elevated side site with a 150 acres farm. It is a beautiful premises in lovely condition. It was bought by rehab in 1969/70. It is a most impressive place. It is a working farm. They have sold their milk quotas so they have dry stock, sheep and six horses. It is run for recovering drug addicts who are trying to find their way back to normal life. It is recommended that they spend twelve months here. They are in a pleasant non residential area away from their

normal dangerous background. They are receiving training in vocational skills. There is intensive counselling. It is drug free not even methadone is used. They started with twenty about two years ago. Now five are going out to jobs in the locality. There is a follow up service with all the other outlets of rehab throughout the Country. 90% of the residents would have a criminal record and mostly are graduates from Mountjoy. Their ages are between 18 and 35. Most of the them are serious heroin users. At first the local people did not want such an institution in their area which is perfectly understandable. They are funded up to the end of June by the Department of Health.

It is certainly a most impressive premises. The residents were teaching local children how to ride the six horses which are part of the establishment. There was a very relaxed relationship between all concerned. The important thing here is people must be kept working all the time. They do all sorts of courses and gain certification. Not merely were the inmates teaching local children how to ride the horses but they were mucking out stables and polishing and cleaning the gear and the lambing season plays a very active work timetable. The continuous work schedule ensures that they have no problem sleeping. There is a magnificently equipped computer room and this training is compulsory for all inmates. There is also a magnificent kitchen. A splendid and enthusiastic young horticulturist with the assistance of five inmates produces practically all the vegetable and fruit requirements of the household. One young lady who had been "a bit of a handful" has become very keen on growing herbs and is developing under the guidance of this young teacher a large selection of cooking herbs. If there were more people here the cost

would actually decrease. For example this horticulturist told me he only has five pupils and that he would have no problem coping with twenty at least. The same seems to be true of all the other occupations. There is excellent carpentry work and indeed much of the furniture particularly in the garden was made on the premises. They are taught music, creative art and have an excellent if small gym and have televisions. It is not suitable for very dangerous people or for psychiatric or for personality disorder types. There is random testing for drugs by the local doctor and nurse. I was delighted to hear that the Minister for Health and the Minister for Justice were both planning a visit in the very near future. I have no doubt they will be as impressed as I was. It is such a tremendous contrast to the confines of Mountjoy and Wheatfield. They have little or no private time. They can choose from a wide variety of skills. They have one to one counselling. They are not allowed out unsupervised but some were allowed to return to Dublin for Christmas. However, if they fell by the wayside they would not be readmitted. However, they are not too rigid about an occasional lapse once the person genuinely is trying to break a vicious cycle. The Probation and Welfare Service are also involved. Inmates are referred by the Eastern Regional Health Authority. They are seen by a psychiatrist. The place has been described as a "God send". A year is needed to keep the inmates occupied all the time and they are being rehabilitated by education. It is a quiet place away from city pressures. Everyone seems happy. They don't have time to brood. It is an extremely impressive place run by a very enthusiastic and friendly staff. It could be expanded very considerably at very little extra cost. I hope the two Ministers are impressed as I am sure they will

be. However it will require considerable co-operation between the Welfare Service, Rehab, the Health Board and the two Ministers. It does not require the involvement of the Irish Prison Service. I was deeply impressed and would encourage persons interested in alternatives to prison and rehabilitation to study the way it is run. It could, perhaps should be replicated throughout the country.

In answer to a parliamentary question given on the 30th September 2003 the Minister referred to the Committee on video conferencing established under Mrs. Justice Susan Denham as Chairperson. It is stated :- " it is expected that an interim report will be submitted to the Minister before the end of the year and a final report at the second quarter of 2004. Both reports will be published by the Minister".

I recommended last year that this be done. It would save people being dragged to and from Cloverhill for bail and other pre-trial application with all the overtime that entails. I am delighted to read that the Minister is now going to do that. It will be a great great saving of money. The escort being provided by outside agencies will also save money.

However I suggest that many post trial applications (i.e bail, application for free legal aid, discovery, police property) could also be done by video link.

The Minister is committed (and has so stated many times) to the reduction of the cost of imprisonment. He points out that the current overtime costs are

estimated at 63 to 64 million Euro per annum. The POA do not publicly try to defend this huge payment. If a private prison existed it would not recognise POA. Please see my report on visit to Lowdham Grange in Nottinghamshire and my visit to the British Home Office (Pg. 49 - 58).

The former English Inspector of Prisons Sir David Ramsbotham has just published a book which was reviewed in the Economist for November 15th last. It is "Prisongate: the shocking state of Britains Prisons" and the need for visionary change, published at Free press at £20 sterling. "Over and over again Sir David lays the blame for the miserable performance of the Prison Service not so much for those at the bottom of the hierarchy as on those at the top - the area managers, their superiors the top civil servants and not least the Ministers. These are the people who have read, or should have read, report after report, study after study, all showing that you can not cut reoffending rates let alone suicides if you put more and more prisoners into under staffed jails designed often a hundred years or more ago to hold a fraction of their present number and more fundamentally if you refuse to treat prisoners as human beings. The upshot is hugely over crowded prisons unsuitable for any kind of rehabilitation and thus for a claim "prison works".

If only it did. The prison population he states mainly consists of the bad the mad and sad. With 70% of male prisoners suffering from some form of personality disorder and 65% having a reading age of less than eight. It is clear that the mad and the sad constitute the main category. It is equally clear that the only regime on offer in most British jails - best described as malign neglect - serves them particularly poorly. The politicians both Tory and

Labour clamour to lock up even more offenders who pose little threat to the public. Michael Howard, Home Secretary when Sir David started his job and is now leader of the Conservative party got the trend growing. Not only did he make the claim that "prison works" he overturned the policy of previous conservative governments that the deprivation of liberty involved in a prison sentence was punishment enough in itself. Mr. Howard said he disagreed - in other words that it was right for the Prison Service to add to a prisoner's punishment by punitive regimes. None of his successors have dared to look less tough. Accordingly, the Home Office expects the prison population to rise between 90,140 and 109,600 by the end of the decade compared with 44,566 ten years ago. Since the cost of one new prison place is now £100,000 the policy is sure to involve even more overcrowding, neglect, degrading treatment - and crime.

It would be nice to think that books like Sir David's might help avert this dismal outcome. All past evidence suggests however that Ministers will simply try to cover up their failures by imposing meaningless targets and league tables based on procedures not results. It is a certainty that they will not appoint as Chief Inspector another person let alone a general so outspoken in the face of the waste, pointlessness and inhumanity that seem to come with the job. (Economist for Nov 15th 2003).

9. Visit of Kairos Prison Ministry

Mr. Louis Power, Mr. John O'Loughlin Kennedy and Mr. Murphy attended at the office of the Inspector at their request and had morning coffee with me

and the former Governor Jim Woods whom they had met previously. They explained that their organisation had been founded in Brazil and then spread into Spain. They have been very effective in reducing recidivism wherever they went. They were now involved in three prisons in England and they would be delighted if I could visit one "La Verne". They told me that Governor Lonergan had been there and that a tv (RTE) programme "would you believe" had followed him there and that he was very favourably impressed. They also said that they had the support of Sir David Ramsbotham former Chief Inspector of Prisons in the U.K who was very supportive. They run wings of prison and even take over the running of prisons. They are not getting very far here. They suggested that some sort of committee perhaps of retired judges might try to promote their cause. They impressed me as very sincere and dedicated people. However, I asked had they been in touch with the Chaplains. They had been in touch with the Catholic Chaplains but not with the others. I recommended that they should certainly see the Chaplain who is attached to St. Georges Church and was Church of Ireland Chaplain to Mountjoy and the Dochas. I also recommended the Presbyterian Chaplain to all the Dublin prisons who was attached to Findlater's Church. However, I said that I could not do anything because I knew so little about them. I would regard it as an impertinence to start directing or suggesting that the Chaplains do something which they did not want to do. I asked about "Alfa" and they were familiar with it. I said that I understood that it had been introduced in at least two of our prisons and was working well. They said that Alfa and Kairos worked very well together in the one prison. They said they had the support of Archbishop Martin the co-adjutor of Dublin. They have met the previous

head Chaplain but are hoping to meet the new head Chaplain. I said I would certainly read their literature and they gave me a video on loan relating to a prison in Brazil. However, I explained very carefully that I could do nothing unless they had the support of the Chaplains and then I would look at the matter afresh. They told me they had a plan to run a private prison but they were informed that there were no such plans at the moment. They were told that the Minister was looking at it. They would be very anxious to bid and to be allowed run a private prison. I do not know whether they would have the financial backing or the expertise. I did not ask any questions but told them that they could always come to see me anytime they wanted. I viewed the video on the Brazilian Prison which was very impressive. However, I think the prisoners in the film and their families were more religious than people in a post Christian Ireland. I hope I am wrong.

10. **Prison Food**

Where we have visited the Inspector and those volunteers assisting him and his Special Advisor have all found the food to be excellent. We always got the dinner which the prisoners were getting. Some of the kitchens have some well deserved awards.

There is one small problem which I have identified. However it could easily be resolved at a meeting of the Governors perhaps with the assistance of a dietician. In one large prison where the dinner was served at 12.30 p.m the prisoners had complained that they felt hungry during the night and some supplemented their intake by purchases from the tuck shop. The Governor and chef decided on a trial basis to give, in the evening, the main meal, and have a snack at 12.30 p.m. However, that caused problems. Since prisoners are moved from one prison to another, apparently other Governors felt there should be uniformity. There was also a problem that in some prisons they had a fourteen day menu cycle and in some others they had a twenty eight day menu cycle. There may be reasons for these differences. The Governors group could be a very informative and powerful body. They should address this problem and plan together for a solution. There does not necessarily have to be uniformity. An open prison (where there might be very strong physical activity) may find that dinner in the middle of the day is more suitable. The issue should not be left in abeyance.

One of my small achievements during my term in office is that I got rice for the Chinese (who hate potatoes). The moment I mentioned it, the Governor in Cloverhill had no problem in providing rice (which is actually cheaper than

potatoes). I met one of the Chinese prisoners later in Mountjoy. He came up all smiles. When I first met the Chinese they treated me with grave suspicion as being someone "from the Government". However, with the aid of a Chinese friend I won their confidence. This smiling Chinese person called me "Mr. Rice". Although he had not got my name correctly I recognised the description and smiled back with delight.

Do prisoners have any right to vote?

This is a fascinating subject. Undoubtedly graduates of certain Universities can vote in Senate elections. However, a very interesting and well researched article about franchise by Ms. Caoilthionn Gallagher is on page one of the new (2001) UCD Law Review. It is entitled "The Captive Vote: Prisoners' Suffrage in Ireland". It is a discussion on prisoners voting rights in general and it discusses the decision of the High Court in case of *Breathnach -V- Ireland* and other conflicting decisions. She is watching with interest for the Supreme Court to clarify the Law. Her article is a very telling argument in favour of franchise.

Even if prisoners do not have votes they do have families who have suffrage. Also legislators should realise that it is in the interest of everyone to find alternatives which are effective. Michael Howard MP the leader of the Conservative Party has stated "Prisons work". If only that were true. Judges are sending more and more people to prison. The mad and the sad and the bad without any discrimination as to which category a prisoner is found to be. She is working on a comparative piece on the same topic for public law and I look forward greatly to receiving a copy. She is presently working for Liberty

21 Tabart Street, London, SE1. It is an organisation protecting civil liberties and promoting Human Rights. I also refer to an article by Rick Lines Executive Director of IRPT in the Irish Times of April 19th in which he refers to the decision of the European Court of Human Rights on March 30th which he says that the right denying prisoners the right to vote contravened the convention of Human Rights. Voting is a fundamental right of citizenship and is not a privilege existing at the discretion of an individual Government or Minister.

11. Visit to Lowdham Grange Prisons

With my personal assistant Martin McCarthy I visited Lowdham Grange at Lowdham Nottinghamshire.

We took an early crowded expensive train changing at Leicester for a small train without any facilities to Lowdham. Fortunately, we discovered that it is just a request stop. The result was that the conductor got out at the station beforehand and went up to talk to the driver to make sure to stop at our planned destination. We were told that on the way home that we should stand on the platform opposite and as the train approaches, put our hand up just as if we were hailing a bus as very few trains actually ever stop. I felt we were out in the "styx". We were supposed to get breakfast but it never arrived. We arrived starving at Lowdham. We went in to the railway inn next door to the station but they didn't serve food "on a Monday" but did every other day. We eventually went to a pub called the Magna Carta and had some substance. We then took a taxi out to the prison. Many years ago it was a borstal. However, then it was handed over to "premier prison services"

who built it from the ground up and managed it and are employed by the Home Office and not by the prison service. It was opened in February 1998. It is a category B prisoners closed training prison for long term prisoners. Premier prison services run a number of prisons in England and indeed one is Scotland. They also provide escort services. However we were met by the Governor (or more correctly the Director) Peter Wright. He had been a former Prison Governor in the Prison Service but was now employed and was happy to be employed by the Premier prison service as their director. It has a complement of 524 prisoners and is full. It is situated in a rural setting approximately 10 miles north east of Nottingham. It accepts all suitable category B (determinate sentence prisoners who should be fit and well). It has single cell accommodation with toilet and wash hand basin. HM Chief Inspector of Prisons did a full inspection in November 1999. However there are also intermediate inspections by the inspector. These are normally only announced about 24 to 48 hours before hand. We went to a boardroom where we met heads of the various departments and there was a wide selection of sandwiches, cakes and very pleasant bits and pieces and tea or coffee. The food was most welcome. I gave a general history of the commencement of my office and the lack of support and indeed ignorant opposition from certain officials. Regimes include incentives, education, workshops and training courses. The present service accredited a reasoning and rehabilitation course which commenced in April 2003. There are various types of offending behaviour groups e.g anger management, stress management and a life skills course. These courses are accredited by relevant awarding bodies not the prison service. Other special features such

as job preparation skills and a listeners scheme (known at Lowdham Grange as the “buddy” scheme) are also available. The Samaritans are available on the phone but do not participate because they don’t approve of the “buddy” scheme as the buddy is not forbidden to talk to the prison authorities about something he has been told in confidence.

The prisoners earning the highest wages make a compact to donate some of the money to victim support and pay the balance into a building society account for use on their release.

12. Healthcare at Lowdham Grange

Lowdham Grange has 24 hour nursing cover and a part time medical officer. The local NHS hospital is used for surgical, orthopaedic, acute medical procedures and radiology. If a prisoner requires medical attention and treatment in prison is not available they will have to be transferred to Nottingham or Doncaster.

Substance misuse strategy.

In partnership with the prison services the prison has a CARAT drugs service programme that provides counselling, assessment, referral advice and through care to those wanting help with drug problems. Referrals can be made for detoxification services, one to one group work and the prison’s testing programme. The voluntary testing programme commenced operations in August 2001 and is a highly successful component of the drugs

strategy. Prisoners with drug problems are identified in a reception interview by a nurse and induction counsellor followed by a medical officer. Their assessments are made within 24 hours. Prisoners usually disclose their problems. Relevant records can give indications and mandatory drug testing can also be used. As already stated in patient medical psychiatric cases are transferred to Nottingham Prison. It is not a committal prison. Prisoners are sent there from other prisons. The establishment is represented on the local drug action team and community drug agencies are members of the drugs strategy team. The Director has limited powers unlike a prison Governor. There is a controller Denis Atkins who was a former Governor himself and who is appointed by the Home Office as their employer (and not the prison service). The Director has to refer matters (i.e people being confined in observation cells or a dirty protest cell etc) to the controller. However the Director thinks that the position may alter in the next few months. There is a reasonable good rapport between the controller and the director. They both know one another for many years and sometimes they disagree but the controller has the last word as representing the employer namely the Home Office. Everyone save the Probation Service are employees of "premier prison services". The probation service is contracted out by the Home Office and is totally separate from the prison service. They come from the Probation's Service area of Nottinghamshire. Mrs. Mitchell who was a former teacher took us on a conducted tour of the prisons. First we went to the isolation unit. This is on two floors and is in a free standing separate building with a tiny exercise yard attached to it but the prisoners are only allowed out in fours to use the exercise yard. Here they have disruptive prisoners and

people who may have psychiatric problems and in which case they are transferred elsewhere. There are others with personality disorders whom the psychiatrist refuse to treat on the grounds that they do not have a treatable psychiatric disease. They have a similar problem that we encounter in Ireland an unseemly row between the Department of Health and the Department of Justice or in England the Home Office. It is the patient who suffers.

When we arrived we had to produce identification such as a passport and then we were photographed and we were issued with an identification document which stated who was responsible for us, in my case, it was Peter Wright the Director and also a photograph which was completely unflattering of myself. Visitors must surrender cameras, electronic equipment, mobile phones, pagers, laptop computers, dictaphones, glass or sharp objects aerosols, alcohol and drugs. If the visitor is taking any form of medication he may only take one days supply into the prison. All persons are liable to be searched. On every floor of the accommodation blocks, there are showers and prisoners are allowed take showers any time they want. They are all involved in education of one sort or another. They were involved in classes for seven hours per day for five days of the week, this is very different to very limited hours available in Ireland. There are three categories of prisoners. Those who are the most advanced are released at 6.30 am and can retire at 9p.m. They all have television in their cells. In the centre of the floor in each wing there were tables and chairs where prisoners could play draughts, chess, cards, dominos or anything that took their fancy. Although they tried to keep the cell occupation on a solo basis they occasionally had to get people to double up due to pressure on space but tried to restrict it to family

members or friends from the outside. Mrs. Mitchell explained they try to give the person who is the longest in a shared cell priority for a single cell but this wasn't always possible. Sometimes the person who was longest sharing a cell was pre-empted by some new arrival who was regarded as particularly vulnerable. The Directors and some of the senior management had been recruited from the original prison service but they tried to encourage other people from other disciplines to come in as employees of "premier prisons". They were very proud of their independence. They were also very proud of their prison. The staff do not wear uniforms and staff are normally on first named terms with prisoners who normally respond by using officers first names.

The prison does not take people serving life sentences. All prisoners who are over 18 years of age and the average sentence is approximately 10 years which means that the average age of release is about 28 minimum.

The premier prison services do not recognise the POA. They say that this is very significant. They said that the prison POA had been for a long time too powerful and in many ways ran the prisons. Originally the customer was the Director General of the Prison Service, however, this was regarded as being in competition with the Prison Service and therefore the Director General was inappropriate. Now the customer is the Home Office. The Director and some of the staff recommended a report that they anticipate will be published in January on Prisons by Pat Carter. The prison service not merely work as customers but was also originally the boss. This was certainly undesirable.

When asked about “slopping out” they told me that when William Whitelaw was Home Secretary he directed that all slopping out must stop immediately. This caused a great deal of trouble and cost a lot of money to eradicate but he saw it through. Now it is gone from the English system. They do have a trade union namely the prison service union which includes everyone including cleaners. Everyone is part of it. It is not nearly as aggressive as the POA. It is known as the PSU. The total staff is 275 of whom 177 are custody officers. They have three psychologists. When I pointed out that it was practically impossible to get psychologists in the prison service in Ireland and that it was a scandal that I would be highlighting in my next annual report. They told me I should start a recruitment drive in England for psychologists as many universities were producing fully qualified forensic psychologists. In Ireland as far as I can ascertain we have a limited number of psychologists but none of them are forensic amongst those assigned to prisons. The Director and a lot of his crew said they were so proud of Lowdham that they would love to show it to our Minister and that without even consulting their directors and board they would issue a firm invitation to our Minister and his officials to come and see what has been done. A few years ago they welcomed the staff of Dundrum Central Mental Hospital who expressed themselves as being very impressed at the standard of care being provided in this prison.

They have Chaplains of various religions. They have an Anglican chapel but they are going to convert it into a interdenominational chapel. They are also going to provide a Mosque as they have a very large number of Muslims which of course presented problems during the fasting month of Ramadan.

They are very aware of racism but feel that it is no greater than in the general community but try their best to eradicate it.

They are proud of the fact that their prison was designed constructed, managed and financed by the public sector. It was regarded as more a travel lodge than the old institutional style prisons of the Victorian era. Private prisons were set up under the 1991 Act. They worked under a long term fixed price contract. The contract is for 25 years. There is a mechanism in the contract to deal with inflation. The prison director as we have seen has no power to punish or to put someone in segregation and that is the power of the controller from the Home Office. It would be well worth while to get a copy of the normal contract. They widely accepted that public perception must change.

I had planned to take a taxi back to my little railway station and stand on the platform with my hand held up to stop the next passing train. Actually they were quite shocked at the route the Home Office suggested I take. They said I should have taken a train to Nottingham. However, a prison officer Martin Lile who resides nearly fifty miles away in Derbyshire, said that he went via Nottingham and to save us having to change at Leicester for the next train from Nottingham to London, he would take us straight to Nottingham where we got the direct express to London Saint Pancras and back to the Reform Club and so in the immortal words of Mr. Pepys "to bed". Certainly this prison made a deep impression on me and is light years ahead of any prison I have seen in Ireland. I would like to thank all of the staff who were so helpful and

contributed so much but in particular the prison director Peter Wright, the controller Denis Atkins, Mrs Grace Mitchell who gave us the conducted tour and was very open and frank about the problems and Carol Washington who was our contact person and who insisted on us having more tea and cake before we left and Martin Lile who very kindly drove us directly to Nottingham for our express train to London.

The prison is of course in the country and has plenty of land. There are two full size soccer pitches available and has plenty of open space. There is a little horticulture. When I asked which method was cheaper for keeping prisoners namely the private sector or the public sector, I was informed it depended on whom you asked. Undoubtedly the private sector was cheaper but the percentage varied between 11% and 16%.

13. Visit to Whatton in the Vale

This is another prison also in Nottinghamshire. It is for sex offenders. It is about ten miles north east of Nottingham. It has roughly 200 prisoners. It has a lady governor Ms. Vivienne Harte. Her deputy is Mr. Daly from Cork. We had a full and interesting conversations with various members of staff. We also spoke to some of the prisoners. There are 14 forensic psychologists full time in the prison. Although Arbour Hill Prison is smaller in relation to Whatton, on our inspection there was just one clinical psychologist in Arbour Hill for three days a week. She supervised the very difficult main course for prisoners. Then she had to go to headquarters on Friday for meetings. The head psychologist for Cork City and Fort Mitchel (Spike) has also to travel to

Dublin for meetings. It is a classic example of Parkinson's Law. Work expands to fill the time available for it. The work of one person can be done with great difficulty by several. They form themselves into committees and sub committees to investigate something. Then they have to study the methodology the result then (after a suitable period of time and perhaps some travel) they "evaluate" what has been done and then after another suitable delay they "prioritise" it. It then goes on a shelf and is possibly printed in a glossy brochure.

There is little or no political will to do anything. There are no votes in prisons. That is the view of some leading politicians to judge by their behaviour. After some years the question is raised again. Then you set up a committee and start the rot all over again. Each Director must have two assistant directors. If you have only one he can try to undermine his boss. If you have two they have to compete with each other so as to remain in favour with the boss. Then each sub director has a manager and he has two submanagers and so it proceeds. I have dealt with this at depth in my first report. The lady in Arbour Hill or indeed any psychologist in any prison would surely be better employed in dealing with the prisoners than serving on committees. The hard work which I admired in the lady in Arbour Hill and in other prisons does not have time to do "one to one" counselling which is very important. People have to come to grips with their inner self.

The long course for sex offenders given normally within two years of their release is a very painful experience. Some prisoners can not cope and drop out. They have to admit that their behaviour was abnormal and wrong. They

then have to view their behaviour from the victims point of view. Prisoners find this a very traumatic and on occasions terrifying experience. The Parole Board complained that not enough people do this course.

However the truth is there is absolutely no incentive for doing the course. If you submit to it and are accepted you are committed to a very difficult and stressful course. If you complete it successfully you are told you will not get a days extra remission. The course is restricted to a small number (usually eight). I was told that they had difficulty finding prisoners for the course when they ran them in the Curragh and in Arbour Hill and there is not a lot of take up. At the same time we were told that 35 people might apply for the course and only eight are accepted. However, I am not clear why this conflict arises. Many years ago people were sent to expensive clinics to be "cured". That was the received wisdom at the time. Bishops and religious superiors did just that. However, they are now pilloried for giving a second chance to miscreants who the medical experts have said were no threat but to keep them away from children. However, nowadays the consensus seems to be that people are not cured but like alcoholism or other addictions they must try to get a control of themselves and be extremely watchful. It must be "a day at a time". In Whatten they divided the prisoners into three categories depending on the intensity of their affliction. The course is fine tuned to each group. I told the psychologists that we couldn't get psychologists and that as far as I knew there were no forensic psychologists attached to any prison. They told me that there are plenty of psychologists available for work. In England they told me if one advertised in their professional journal, one could

have no difficulty filling the posts. I told them that two psychologists had been brought from New Zealand and once they came they turn their backs on Ireland and returned home. I also told them that two universities offered qualifications and that the Department of Finance would not fund them. I hoped that funding would be provided from savings in other aspects of the Prison Service to enable students to proceed to qualification. However, they would have to undertake to give at least five years service in prisons after graduation.

I then met two prisoners who had developed great insights into their lifestyle. They described how painful and traumatic the course had been. One ended in tears.

14. Public Scrutiny of Prisons

In 1925 the Visiting Committees Act was past. In the same year a Prison Committee Rules were made. It is practically impossible nowadays to get a copy of the visiting committee Rules. Originally every new member got a copy of both the Act and the Rules. The Government Publications Office do not have the Rules and know nothing about any intention to reprint them. I eventually got a copy from Prison Service Policy Section and a number of Rules are struck out. In their reply to the CPT visit to Ireland 31st August - 9th September 1998 at Paragraph 79 on page 71 the following appears:-
“proposals in relation to the details of the proposed inspectorate are being worked on at the moment. As a general approach the inspectorate will report to the Minister/Parliament on the administration of the Prison System. In

devising precise proposals, regard will be had for the functions of Prisons Inspectorates in other jurisdictions. It is not possible to let the Committee have more precise details at this stage but further details can be supplied at a later stage when the definitive proposals have emerged. Work has commenced on the preparation of a Prisons Service Bill which is intended as well as placing the new 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".

80: In relation to Visiting Committees the Visiting Committees Act of 1925 is amended by Section 19(5) of the Criminal Justice Miscellaneous Provisions Act 1997 "This amendment has revoked the power of Visiting Committees to grant special privileges or impose special punishments on prisoners and to hold enquiries on oath into charges against prisoners in relation to breaches of prison discipline. Instead the Visiting Committee has been given power to hear appeals from prisoners against penalties imposed by Governors of a prison. In addition the Visiting Committee Chairpersons group held its inaugural meeting on the 4th March 1998. The group has met four times since their establishment to date to share experience of general relevance to the visiting committees and in particular in relation to the treatment of prisoners in all institutions visited"

The relevant section of the cited 1997 Act is as follows subsection (3) "An appeal from a decision of the Governor or an officer of that prison acting on his or her behalf, to impose a penalty on a person in accordance with the

Rules made under Section 19 of the Criminal Justice (Miscellaneous Provisions) Act 1997, may be heard by a Visiting Committee subject to and in accordance with Rules made under this Act". So we now have two "improvements". One is that all the Chairpersons meet occasionally and of course get expenses (very properly). One meeting I attended was really a political one. They had been criticised because they were "grace and favour" rewards by one or other of the parties in Government. They discussed the objections and condemned them. The other "improvement" was to remove a number of powers the Visiting Committees had and give them new powers to over rule the Governor in accordance with Rules made under this Act. No such Rules have yet been made. This is why I have suggested that the Visiting Committee which had very limited powers has been further neutered.

The same 1997 Act states SS8:- "Rules made under Section 12 of the General Prisons (Ireland) Act 1877 and the Prisons (Ireland) Act 1907 and Regulations made under Section 8 of the Penal Servitude (Ireland) 1891 that would enforce immediately before the commencement of this Act shall continue in force as if made under this Section and may be amended or revoked accordingly".

It would be marvellous for the people on Visiting Committees and indeed for Prison Governors and staff and prisoners and myself that a small booklet were produced for all of them laying out what Rules apply in prison. In view of the promises made to the CPT, I strongly recommend as a matter of priority, that the position of Visiting Committees should be clarified. They should infact

be given far more powers than they have. They are the public watchdog. Some persons in the Oireachtas suggested that I should take over their role. I am flattered but gracefully decline. At the moment I have an excellent former Prison Governor and myself as the sole inspecting staff. I do have wonderful dedicated people who have volunteered from the public sector who assist me in various inspections. I have also had offers of help from England and Scotland, South Africa, France and Germany. I have had invitations from them to study their systems. The Turkish Government have sent me most useful literature dealing with all prisons internationally agreed regulations. It is in English.

However in my opinion Visiting Committees should contain a majority who live near or within a certain radius of the prison and should be much more actively engaged. I as Chairman in Mountjoy attended every suicide to make sure Prison Officers got counselling. As pointed out in my report last year on Spain there are full time judges doing nothing but visiting prisons. They have abolished padded cells as being inhumane and contra to natural justice. They do have segregation cells but no one can be kept there for more than a few hours without the consent of the Judge, the resident psychiatrist and the Governor. They were shocked at the conditions in Ireland. A distinguished American playwright feels my first report could be the basis of a great play in the style of Ibsen. I have declined to collaborate!

15. Meeting the IPRT

Rick Lines the new executive director of the Irish Penal Reform Trust Limited wrote to me on the 7th October on behalf of the trust. He requested a meeting with me on the 14th October. His organisation had brought a Mr. Stephen Nathan to Dublin and they wanted me to meet him. According to Mr. Lines, Mr. Nathan "is considered the international independent authority on prison privatisation and has monitored the international growth of the private corrections industry since its inception in the early 1980's. A journalist and researcher he also edits prison privatisation report (international PPRI a newsletter published by the public service international research unit at the University of Greenwich in London). He was in Dublin for separate briefing session for T.D's and journalists on "private" prisons. Both Mr. Nathan and Mr. Lions joined me in the early afternoon. Mr. Nathan is very persuasive. His main argument was that private prisons are run for profit. This means they cut back on services. They are dependent on their investors who are of course concerned with their dividends. The owners are therefore interested in the financial return. I promised to take his views into consideration in my next annual report when I was dealing with the question of privatisation.

I have considered all the above arguments. I have also visited an English privately run prison (Lowdham Grange) and discussed the matter with the Home Office.

On balance I believe Ireland should start with at least one private prison under the Department and not the prison service (as it would not be fair to be run by

the organisation which provides state prisons. (All prisons should be subject to open inspection by an independent inspectorate). They should be in open competition.

16. Meeting with International Catholic Chaplains to Prisons at Maynooth

The prison service was trying to "co-opt" the churches and other faith groups into its agenda. The Churches should remain independent of the Government. The Chaplains are already mired between the Government and the Churches. An awful lot is already rendered to Caesar. I am not saying that the Churches should not work with the Prison Service (of course they should) but they have to be able to do it on their own terms rather than coming under the Government's thumb. The chaplains must be sure that they and their superiors dictate the agenda not some Civil Servant. They have not become part of the Government or of its agency the Irish Prison Service. The head chaplain was offered a room in Prison Service Headquarters, however, of his own volition he declined preferring to remain in his office in Arbour Hill. He is still listed in the annual report as part of management.

The 11th congress of the international commission of Catholic prison pastoral care chaplains was held in Maynooth. The organiser of this conference rang me in despair. A prominent international speaker had suddenly withdrawn. He begged me to fill the gap. I was reluctant to do so. I stated that I would not have time to write a paper as I was required to attend with in 48 hours. He asked me to speak from the index of my report.

There were about 150 participants from 56 countries. The Vatican and the United Nations attended the conference as did the Director from the Irish Prison Service who is responsible for Chaplains and the Welfare Service. The Chaplains attending deal with the pastoral care of more than 8 million prisoners world wide. The service spent its time in preparing reports and organising meetings I explained that once a committee was set up it took ages to prepare a report. When the report was available a group had to study its "methodology". Then after a period of time it had to be "evaluated". Finally it had to be "prioritised", then it was put on a shelf to gather dust and in a few years time, when the point rose again in public debate or to keep Civil Servants, busy the whole routine and the same question is raised again. The foregoing description got great laughter from the entire audience to my surprise. Apparently Parkinson's Law is a world wide phenomenon. Afterwards a third world Bishop came up to me and told me I had described the Vatican exactly. He told me the Pope was supposed to be the servant of the servants of God but that he, in fact, stood then on top of a huge and ever growing pyramid of bureaucrats. I told him that the Vatican was certainly not within my remit!

A young priest then approached me and told me that he had stayed in my house in Sneem with his parents when he was an infant. I immediately remembered him. I told him that on impulse that I had announced to his parents that he would go far and might indeed be the first Irish Pope. He has in fact become a priest and has a parish in East Russia which is far bigger

than the whole of Ireland. He is Chaplain to three prisons which he says are run mainly on corruption.

The Department immediately asked for a copy of my speech. Unfortunately it was not written out. It was extempore. However a Director of Prison Service was present. It was reported by David Quinn in the Independent and also was noted in The Tablet. It was a rehash of what was in my first annual report.

I highlighted that Mountjoy and Portlaoise were well past their "sell by date" and should be pulled to the ground. I also praised initiatives in the fields of restorative justice whereby if possible offenders were brought into contact with their victims and did community service to benefit their victims in place of prison sentence. The prison should be the place of last resort. Judges should justify the use of prisons as they are so expensive. Prison seldom improves the prisoner. There was wonderful unsung work being done by the Probation Service.

I have been involved with Irish Chinese Relations since 1977 when I went to China with Former President and Mrs. O'Dalaigh. I have been honoured with the personal title of "Ambassador of Friendship" by the Chinese Government. I have visited many prisons and detention centres in China and Hong Kong. There are now nearly 40,000 Chinese in Dublin alone. Unfortunately they are also contributing to the population of prisoners. Many of them are per force

members of triads who seem to be dominated by the huge Chinese population in Liverpool.

I gave a lecture on Cearbhall O'Dhalaigh and the commencement of diplomatic relations between Ireland and China to the Irish Chinese Cultural Society. Subsequently the secretary told me he had been contacted by an official in the Department of Justice. She wanted a full copy of my address. I checked that it was the Department of Justice. I could understand if the Department of Foreign Affairs had some mild interest in it. However, I was assured it was a lady from Justice. I then wrote to a senior official in the Department of Justice asking why they wanted it. A Senior Official wrote back that he had made enquiries and that nobody in the Department had contacted the Irish Chinese Cultural Society and that the Irish Cultural Society knew nothing about the matter either. I replied that they had contacted the secretary of the Society and asked him for a copy of my talk. When I queried the matter they phoned the programme secretary who did not know what the Department were talking about. I replied to this letter pointing out that in fact the Department did phone the Secretary but then phoned a different official when the matter was queried. I offered to provide affidavits. Naturally there has been no further reply. It doesn't worry me. However, what the Department of Justice wants to know about Cearbhall O'Dhalaigh and about the commencement of Diplomatic Relations with China is yet another "puzzlement". I am delighted that they are keeping an eye on me. I try to keep an eye on them but it is very difficult.

17. Awards to Staff

My friend Terry Waite C.B.E has drawn my attention to the Butler awards in England funded with the assistance of three charitable trusts including Lloyds Bank in England. This is an award scheme where the Butler Trust awards people each year for dedication and commitment and who have manifested a range of good work in prisons and the prison headquarters across the U.K. These include highly sophisticated complex resettlement programmes, visitors centre which offers comfort and advice to prisoners families, Governors who turn around "failing" prisons. Telephonists who offer a friendly and speedy service to everyone who calls. The staff working daily with the most difficult and disturbed prisoners in the system. Imaginative contributions and community projects, pioneering work with very young offenders and excellence in Healthcare, Education, PE, Catering. At the same time the Trust celebrates often repetitive work done day in day out without fuss or publicity. The Trust carries out a vital service in identifying good practice and bringing recognition to the many staff and volunteers who are so committed to the effective care and resettlements of prisoners. People like their work to be recognised and where appropriate praised. The Butler Trust is a charity which is much appreciated by the staff in the English Prison Service. It seems to me that some recognition should be set up as a charity to reward the many people in the prison system who are dedicated to work with a real sense of vocation. Perhaps a public company such as a bank (as in the U.K) would fund such a trust.

18. Views of three distinguished English persons on Private Prisons

"**Competition: A catalyst for change in the Prison Service**" is a fascinating publication of the C.B.J (Centrepoint London WCIA IDU)

On the question of Private prisons were dealt with by the following distinguished people as follows as a preface to that report:-

A) Martin Narey, Commissioner for Correctional Services

The experience of private sector involvement in the provision and operation of prisons has been a great success. Not only have the private sector providers demonstrated they can run prisons which are among the best in this country, but the introduction of competition has been a key catalyst for change in the wider prison service.

"The private sector has demonstrated a long term commitment to raising standards of prisoner care through decent and constructive regimes. They have set high standards of mutual respect between prisoners and staff which is so necessary for healthy, orderly and safe prisons.

"There is no doubt that competition between providers, public and private, has improved performance, reduced costs and overcome resistance to change across the service as a whole.

"The benefits of a mixed economy are clear but there is always scope for further progress. As the market matures providers face the twin challenges

of maintaining innovation and reducing their reliance on imports from the public sector to fill senior posts".

B) Lord Woolf, The Lord Chief Justice

"I agree entirely with the view that quality regimes and constructive activities must be the route to successful resettlement, from which the whole of society would benefit.

"I have visited private prisons, which have achieved very impressive standards and are the model of what prisons should be like. Obviously we should be aiming to achieve these high standards across the prison service.

"It is very important that the private and public work together to continue to drive up standards in this field. I greatly welcome any contribution that the private sector can make to penal reform and the prison service.

C) Derek Lewis, former Director General of the Prison Service

"The progress that has been made in the use of the private sector to operate prisons in the UK would have been inconceivable twenty years ago. The report set out clearly the considerable successes (as well as the occasional failures) of the private sector. For the most part these derive from setting managers and staff free from the dead hand of bureaucracy and daily political interference.

"What is less clear from the report is the fact that much, perhaps most, of the progress that has been achieved in the public sector in the last ten years

would not have been possible without the threat of credible competition from the private sector. Greater accountability extends not just to the 10% in private but also the benefits of better regimes, tighter security, lower costs and greater accountability extend not just to the 10% in private prisons but also the 90 percent who are not - as well as to the taxpayer and public at large.

"But perhaps the report will also help to dispel once and for all one of the great myths of the "public - private" debate. That is the view that only those directly employed by the state can have a service ethos and a commitment to the public good. Whether public or private, correctional services are delivered by people who have chosen to work in that environment. The report signals loudly and clearly that those who work in privately managed prisons have just as strong a commitment to public service and find no conflict in balancing this with their other task of earning an acceptable profit for their shareholders".

Later I interviewed an official in the Home Office who deals with contracts with private prisons. He told me that the best prison in England and Wales was a privately run one. He also added that the worst was also privately run! However there were exceptional circumstances and it had made a dramatic change around and would now move up the scale.

19. Meeting at the Reform Club Pall Mall London

I organised a dinner at my Club (which was founded by the liberal party and Daniel O'Connell). There is a splendid portrait of him in the atrium by Haverty.

My guests included Mr. & Mrs Phil Wheatley (He is Director General of Prisons and Places of Detention) He had been assistant to Mr. Narey who has now been promoted to being Director of all Correctional Services. Mr. & Mrs. Terry Waite (he was about to return to Beirut) The last time I saw him was when we lunched together on an apple and a glass of water in Lambert Palace and then I saw him to the train. He told me he was going to Beirut but the English Foreign Office had strongly recommended he should not go. However, he felt he owed it to the prisoners there. He then spent four years in solitary confinement. When he told me he was returning I advised him not to stay as long this time! He told me one time he was being moved and was bound and his eyes were taped but he was not gagged. He was shoved into the boot of a car and was aware there was another person in it. He muttered "this place is very crowded" and the man who turned out to be Mr. McCarthy replied "it wasn't until you got in"! He is still deeply involved in prison work and has written to me and advised me about the Butler Awards and strongly recommends that we do something of that sort in this country. Each prison submits a list, (to a independent committee) of persons who have done great work during the previous twelve months in the prison. It covers everyone from the Governor, down whom in the opinion of colleagues and of people like the Prison Inspector and the Visiting Committee, deserves credit for outstanding work.

I also had the Right Honourable Sir Swinton Thomas a former Lord Justice of Appeal. He was appointed as the interception of communications commissioner by the Prime Minister under Section 57 of the Regulation of

Investigatory powers Act 2000. The organisations that he oversees under Chapter 1 of Part One of that Act are the Security Service, the Secret Intelligence Service, the GCHQ, the National Criminal Intelligence Service, the Special Branch, the Police Service of Northern Ireland, the Police in Scotland, Customs and Excise and the Ministry of Defence. There is no mention of prisons. However, his plan essentially is to do his best to ensure that these agencies that engage in the interception of communications are complying with the law, the safeguards that are in place and the Human Rights Act.

It was the introduction of the Human Rights Act which brought prisons within his remit. Mr. Jack Straw who was the Home Secretary at the time was concerned whether the interception of communications within prisons complied with the provisions of the Human Rights Act. Accordingly he asked Sir Swinton to take on interception of communications in prisons as an addition to his portfolio on a non statutory basis. When he visits prisons he looks to see whether the practices within the particular prison comply with the Prison Act and the fairly complex rules made under that Act and that the prisons are complying with the Human Rights Act particularly in relation to proportionality, necessity and the like. It was an extraordinary coincidence that at the meeting Mrs. Des O'Malley, Mrs Waite and Mrs Wheatley were all from County Tyrone! That fact certainly made for a relaxed and useful interchange. Of course they have the advantage of having a Prison Act and Human Rights Act. The English Courts are developing openness and accountability by major Civil Servants. A useful book on the subject is Civil

Actions against the Police now in its third addition by Richard Clayton QC. Hugh Tomlinson QC, Edwin Buckett and Andrew Davies. It contains a list of modern decisions of the Court of Appeal and the House of Lords. It deals with the Police Reform Act 2002, The Human Rights Act 1998, The Data Protection Act 1998, The Regulation of Investigatory Powers Act 2000 and The Police Act 1996 and The Terrorism Act of 2000. It also deals with actions for exemplary damages against police officers and other senior officials. It deals with the growing claims for exemplary damages for misfeasance by a public servant.

20. St. Patrick's

On the 3rd March 2004 the Inspector and his Special Advisor former Governor Woods visited St. Patrick's Institution. They were very warmly welcomed by the Deputy Governor Mr. Cramer, the Assistant Governor Mr. Hughes and Chief Officer Davies. They had all served with Governor Woods at various stages in their career. In other words they were all "old Mountjoy boys"!

The Inspector had for many years been on the Visiting Committee of St. Patrick's save for one hiccup when he and other members were dropped. However he got back on the visiting committee the following year. He was nominated by PACE an organisation founded by a Quaker lady and a Catholic chaplain providing a halfway house for prisoners since its inception. He is now a Patron of that organisation.

The new building is very impressive both externally and internally. It was built for boys of fourteen and fifteen year old and consists basically of two houses each with ten beds and was intended to be a special school. However it is now being transformed to accommodate sixteen and seventeen year olds. In each house there are four showers. It was planned to have a high staff ratio as it involved not merely officers but also education and probation staff.

There was intended to have one to one psychological counselling. There were to be 20 places between B1 and B2, but with the plans now for the older age group it is providing an additional 24 places on B3 making a total of 44.

In order to accommodate those on B3 with facilities such as recreation, dining, games/tv room etc similar to those on B1 & B2, the basement area of B Division had to be completely refurbished. A stairwell had to be built from the end of B3 gable wall to the basement to allow access. There is one head teacher and five full time teachers. The new building costs €9.4 million.

While there are a few inmates held there at present, because of disturbance in another section of St. Patrick's, it is basically unused. It seems an excellent facility. It is painted in very dramatic colours. It is very refreshing and cheerful to view. However, apparently it is going to be knocked down. It is such an excellent new building that a developer might use it as a school or some such institution. The Department of Education should be involved. It has fine classrooms and has a magnificent games hall which it is capable of coping with five aside football plus various other games. If it is to be replicated I would hope that many good ideas incorporated into this new extension will be incorporated in a new provision, preferably away from a prison, for very young offenders.

I have heard that this new building is called "Chateau Kelly" after a certain High Court Judge whose demands it was suppose to satisfy. Sadly it is unsuitable and wrongly sited for fourteen year old tearaways. St Patricks itself replacing a borstal which was a strict boarding school run in Clonmel. St. Patrick Institution is in fact a totally different concept though it pretends not to be a prison.

Disturbance

The previous week there had been a disturbance. Six of the inmates in St. Patrick's got up onto the netting which covers the yard. They were greeted by a fusilade of drugs including drink which was fired in over the boundary wall at the rear of the prison. They were also thrown a mobile phone. They got up there and threatened staff who tried to remove them. They took a cocktail of drugs. Two got involved in serious conflict with each other but the next morning had no recollection of the incident because their minds had been "blown"! Father Frost was the main reason why all of them came down. It was a very bitterly cold night and the wet from the water hoses which had been turned on them added to their discomfort. Obviously the whole venture had been well and truly planned and plotted by people inside and outside.

We left just before lunch. I would like to express again my deep appreciation of the warm welcome we received and for the very frank answering to our questions. I receive a warm welcome in all the institutions I have visited to date. I informed Deputy Governor Cramer that we will be doing a full

inspection of St. Patrick's within the next year. If it is still there! Seriously it will take a long time to find and develop a new site. Obviously the existing premises will have a few years left in them.

21. Memo

It was also unfortunate that the previous Saturday the Inspector witnessed the standoff between the Minister and Governor Lonergan at a seminar at the Kings Inns. He had been witness to a similar confrontation between the same parties in the same place many years ago. The Minister departed from his prison speech and Governor Lonergan (to quote Vincent Browne who was Chairman), "robustly replied". This clash of personality was unfortunate as they are both excellent people with very conflicting ideas. Both have a great deal to offer to the development of the Prison Service.

22. Food in Prisons

In the report in Cloverhill I dealt with the unsatisfactory arrangement of three people in a cell with incell sanitation. I pointed out that the cells were overcrowded. One prisoner complained bitterly that "big men make big farts". It certainly doesn't seem a very suitable place for eating a meal! I understand that a well known criminal started proceedings. However, when money was mentioned to him apparently he withdrew his proceedings. It is also discussed in Lord Archer's recent book based on his prison experience. (I have heard - I have not read it)

I am informed by the Department that they can not find any legal prohibition on the serving of food in a room containing a toilet. Every prison and place of detention is subject to regular safety audits both by internal prison bodies and by external agencies. As far as the Department is aware the issue of food consumption with in cell where sanitary facilities are also provided has not been identified as a difficulty under any legislation as a result of these audits. I have asked the former Registrar of the Court of Human Rights in Strasbourg to investigate this matter for me. However, as a lay man it seems to me rather disgusting to have your meal in an over crowded cell with a toilet in the middle of it. Perhaps I am just old fashioned.

However I think it is a matter which should be looked at. Obviously toilets should be separate from eating quarters. One surely does not need an audit to come to that conclusion. Of course if it were to be remedied there would be a great deal of trouble and expense. In some of our prisons meals are had in the canteen. This is certainly not the norm. From prison movies it seems clear whenever there is going to be a riot or other trouble it will arise from the canteen. That is why we have probably got rid of them except in the female prisons and open centres.

23. Views of the Head Roman Catholic Chaplain on the Irish Prison Service

In the "Irish Catholic" of the 26th February 2004, Fr. Declan Blake who used to be the chaplain in Mountjoy and is now head chaplain of all prison chaplains and is now based in Arbour Hill, gave an interview to Sarah McDonald. He states he is very conscious always of the victims of crime and

the pain that they carry and the injustices they have suffered. However, because he is a prison chaplain he tries to be a voice of the prisoners because they have "no voice".

"I have a lot of contact with the families of prisoners and in a sense I see myself as a bridge between the prisoner and his family. If it is the first time a prisoner is locked up it can be devastating for the parents and family members".

He admits he has learnt a lot about the brokenness of people from his time in prison - "A lot of prisoners in the Irish system are in for drug related offences. There are many who just find it difficult to cope". Fr. Declan expresses concern that while society expects prisoners completing their sentences return to the fold rehabilitated. Often there is little support for the provision of services to rehabilitate inmates. "There is usually cause for most drug addictions. They are drug addicts and until that root cause is addressed everything else is really a waste of time".

The sex offenders programme has a capacity for ten prisoners for up to 350 sex offenders currently in the Irish Prison System. The services are totally inadequate. We only have one full time probation and welfare officer and one psychologist. The lack of rehabilitation programmes is a failure on the part of society the prison service and the Department of Justice. He says:- "A lot of prisoners left school at a very young age and some can't even read or write. Some are very gifted but they never got the opportunity to tap into those

talents. I tried to encourage them to use the opportunity when they are in prison to develop their talents or educational skills in areas such as woodwork, art or music".

I would as the Inspector think his statistic is slightly inaccurate - (the course for 10 is in Arbour Hill but there was also a similar course in the Curragh) I respectfully adopt what he has said. However the picture is not entirely black. Reflecting on his ministry he states "it has made me realise the vulnerability of humanity, how weak we are as human beings, and how vulnerable we can be. It has given me an insight into that side of life that people wouldn't normally tap into. The faith is really alive in here though that might seem strange to an awful lot of people".

**24. An Act to establish an Inspector General of Prisons
and Places of Detention**

Appointment of Inspector General

The Government shall appoint a person to be Inspector General of Prisons and Places of Detention for a five year term. At the termination of the term the person may be reappointed for a period not exceeding a further five years.

The Chief Inspector shall not be, or, have been a Civil Servant.

- (a) The Inspector General will report to the Minister for Justice Equality and Law Reform annually on the activities of the Inspectorate.
 - (b) He will be totally independent of the Prison Service and the Department of Justice Equality and Law Reform
 - (c) His office will be provided with its own separate budget to be agreed between the Inspector the Minister for Justice Equality and Law Reform and the Minister for Finance.
 - (d) His office will be provided with the appropriate staff to enable the Inspector General to carry out the duties imposed on the Inspector General by this Act or any amending Act.
- (1) It shall be the duty of the Inspector General to inspect or arrange for the inspection of prisons and places of detention in the Republic of

Ireland and to report to the Minister for Justice Equality and Law Reform on them.

- (2) The Inspector General shall in particular report to the Minister for Justice Equality and Law Reform on the treatment of prisoners and conditions in prisons and places of detention.
- (3) All prisons, remand centres and places of detention including Bridewell's and Garda Station are subject to inspection whether they are managed directly by the Prison Service or if they are contracted out or otherwise.
- (4) Contracted out prisons and places of Detention shall be subject to this Act as fully as are state run institutions.

On inspection the Inspector General and his team shall have regard to all matters which the Inspector General considers appropriate in relation to the Prison Service and all institutions run by it and in particular having regard to

- (a) The way the prisoners are treated
- (b) The quality of the Regime including the opportunities for prisoners to work and receive education
- (c) How the establishment prepares prisoners for release
- (d) The morale of prisoners and staff
- (e) The quality of healthcare

- (f) How the establishment is managed and whether it is good value for money
- (g) The critical condition of the buildings
- (h) During every inspection the Inspector may talk to managers, staff and prisoners individually and in groups to get their views.
- (i) To check and report on the standards and operational ethos in the Prison Service.
- (j) The question of humanity and propriety and the financial efficiency of the Prison Service and of each establishment.

The Inspector General is concerned with the major issues of the treatment of prisoners but he is not authorised to investigate individual prisoners grievances. These are matters for the prison visiting committee and the High Court.

Statute and Rules

Reports

The Inspector General shall produce an annual report to be laid before the Oireachtas. It shall be given originally to the Minister for Justice Equality and Law Reform not later than four months after new year. The annual report shall be submitted to the Oireachtas not more than five weeks after it is presented to the said Minister of Justice Equality and Law Reform.

The Inspector General shall send a written report of each inspection describing the conditions found by Inspectors and making representations for

improvement to the Minister for Justice Equality and Law Reform within five weeks from the end of the inspection. Copies of the report will be sent to the Prison Service and the relevant Governor it will be published by the Minister (within six weeks from the receipt by him of each individual report) on the internet.

The Inspector General may be asked by the Minister to advise on any matter to do with the Prison Service establishments including investigating and reporting on specific incidents.

The Inspector General may be asked by the Minister for Justice Equality and Law Reform to advise on any matter to do with the Prison Service establishments including investigating of and reporting on specific incidents.

The Inspector either at the request of the Minister or because the Inspector General regards it as appropriate from time to time undertakes a thematic reviews which will be published by the Minister and laid before the Oireachtas.

The Inspector General will report to the Minister on conditions in all the establishments that are run by the Prison Service or otherwise where prisoners are detained and shall in particular have regard to

- (a) The conditions in those establishments

- (b) The treatment of prisoners or any other inmates and what facilities available to them and such other matters as the Inspector General deems appropriate or as the Minister may request

The Inspector General may take accounts when investigating particular incidents or situations on the Ministers direction having regard to the rules and procedures governing the operation of these establishments of departmental policy and relevant departmental action.

- (a) The Inspector General and/or inspectors on his behalf will carry out a general inspection of each prison at least once every five years. However the Inspector General may also make unannounced visits at any time to any of the institutions and make short or long visitation as the Inspector deems appropriate in addition to the formal detailed inspections. The Inspector General will take into account any expression of parliamentary or any public concern and any comments and submissions. The visiting committees reports or other written or other submissions as in his absolute discretion as he may deem appropriate to consider. The programme will cover both the establishment to be inspected and any more general aspects of the work of the Prison Service which are to be given special attention during the period of such inspection.
- (b) The Inspector General may exercise the functions of the office either personally or by anyone delegated so to do by the Inspector General.

The method of conducting inspections or investigating incidents will be a matter for the Inspector General himself advised by his supporting team and subject to advice from the Minister.

The Inspector General and members of his inspection team will be entitled to have access to any part or any establishment and to see any relevant papers or records about establishment being inspected or at which an incident is being investigated to speak to any members of staff. The Minister will publish all reports received from the Inspector within a reasonable time of receipt thereof without alteration, deletion or addition unless with the consent of the Inspector General and only on the grounds of security. However the Inspector General shall if he deems it appropriate make a confidential submissions to the Minister on the grounds that it would not be published. It may subsequently be published only with the consent of the Minister and the Inspector General.

The Inspector General may send a draft of his proposed report on any matter to the Prison Governor or to the prison division or a section thereof for the purpose of checking for accuracy. He will not offer drafts for comments and he has complete independence in determining the form and the content of his report as submitted to the Minister of Justice Equality and Law Reform.

The Inspector General may submit a report to the Minister. If the Minister replies to the Inspector Generals report he must place a copy of the report

together with a copy of his response if any, in the libraries of both Houses of the Oireachtas.

The Inspector General will be provided with all information regarding development in policy. He will be provided with copies of all communications issued by the prison division to the establishments generally and will receive copies of the annual report on prisons and the prisons division and the annual reports of the visiting committees and all other relevant documents issued by the Prison Service or individual prisons.

The Inspector General solely shall decide what is relevant. He must be kept up to date on all documents aforesaid. If any document is marked confidential or embargoed to a fixed date the Inspector General shall respect such designation.

The prison section of the Department and the prison service must provide the inspectorate with a monthly list of all documents including memos, reports plans submissions issued and/or received during the previous month and provide copies of such documents to the inspector which he may request.

The Inspector General shall be appointed on a part time basis but will be supported by a full time staff.

The Inspector General or any person authorised by the Inspector General may perform inspections and may enter a prison at any time and may carry in and use any equipment deemed necessary and interview any inmate or staff member and have access to relevant vehicles and require the production of

any documents relating to a prison or prison service. It is a criminal offence to hinder or resist the Inspector General or people authorised by the Inspector General. It is also an offence deliberately to mislead the Inspector General or authorised person or to victimise or threaten any person who has provided or maybe providing assistance to the Prisons Inspectorate. Any person guilty of any of the above offences shall be tried in the Circuit Court based on a certificate from the Inspector setting out the alleged offence on conviction the accused shall be subject to a term of imprisonment not exceeding one year or a fine not exceeding one thousand Euro or to such term of imprisonment and fine.

25. Alcohol

Ireland is awash with alcohol. It is the most frequently used drug. The Irish are not good drinkers. This will come as a shock to the many drinking classes. Drink also produces mood swings. It changes people utterly. It is no excuse for criminal behaviour although people will still say "sure it's a sign of a good man". The younger generation start drinking and having binges at a very early age thereby reducing their resistance to alcohol and sewing the seeds for serious alcoholism and damage to their health. An enormous number of criminal offences are rooted in drink. When I was young, boys met girls at hops, dances or balls. Only "certain types" of women went into bars. Now the whole social scene has utterly changed. Nearly the only way for boys to meet girls or girls to meet boys is on a licenced premises. The number of female alcoholics is increasing at an alarming rate. Alcohol is

never an excuse for a criminal offence although it frequently explains why a decent ordinary citizen suddenly becomes a raging lunatic.

The Probation Service used to run an alcohol awareness course. Very few prisoners attend AA meetings because most of them will not accept that they have an alcohol problem and that it is a disease. It is incurable. It destroys health. However, it can be controlled by a person with proper insights and strength of character and outside help such as counselling, attending AA and of course old fashioned prayer. In the old days they had courses known as Alcohol Awareness. In it one prisoner played the part of the mother and another prisoner played the husband who had collected the dole and drunk it all with his pals. He had come back to explain to his wife why he had no money for her and the children. The entire audience were able to identify and were enthusiastic supporters and encouragers. However, this course is very seldom provided because of lack of staff by the probation service. The alcohol situation is a disaster waiting to explode. It frequently causes physical disintegration and is an ever increasing burden on the health budget. However, the problem is in the community and not just in prisoners.

Prohibition does not work. Indeed it creates criminals. However alcohol should only be served to people over 20 years of age
Indeed prison officers who frequently have a very stressful life also seek relief and release through alcohol. In at least one prison on a Monday morning there are at least 25% on sick leave due to huge over indulgence over the

weekend. Alcoholism is an insidious disease. Many prison officers require counselling and help to face up to the reality of their drinking patterns.

26. Fire in Prisons

In my first report I expressed grave concern about the occurrence of accidental fires in a prison. I was the counsel for Dublin Corporation in the Stardust fire enquiry. My own home was saved by the speedy reaction of Donnybrook Fire Brigade. I was also involved in a fire alarm in a hotel in Wales which was not fortunately "for real".

I invited the Dublin Fire Service to assist me in assessing the fire situation in Dublin prisons. On two occasions Dublin Fire Service sent me an engineer. Both of these inspectors impressed me greatly. I told them that in Edinburgh the fire service had now taken over the matter of fire service in Edinburgh Prison. This unfortunately may mean extra cost. There must be two exits at least from a building. There is no point in just having one stairwell. If a fire breaks out half way up the stairwell it means everyone above it is doomed. I am still gravely concerned about the occurrence of fires particularly in our prisons. The former Governor of the training unit in Dublin when I called to introduce myself at the start of my office informed me that a large fire tender could not get into the yard because of the angle with the gate. This has been disputed by other prison personnel since. Certainly it looks extremely awkward to me. However, the trouble may well be that if one has to put in an extra stairwell it would cost a lot of money. The present ruling mantra is

"when resources allow". This does not excuse interference with Human Rights and might be construed as criminal negligence.

I know that both engineers who came from the Dublin Fire Brigade prepared reports which were then sent "upstairs". There they are lodged. We made several applications to have sight of these reports but have not even got an acknowledgement. I can quite understand why the fire brigade (which is probably under resourced and trying to make cutbacks and do not want to know about prisons) could say they don't want to have responsibility for prisons. The fire brigade does liaise with Governors and management in various prisons and they have come into prison with their tenders and have checked hydrants and so forth, however, I can not really understand how the fire brigade can refuse to provide reports which I know exist and which were done by impressive engineers and should be shown to the Governor and myself.

27. Pension for Inspector

I have always been concerned about my pension. I had contributed to the Bar pension fund. However to get a full Judicial Pension I had to be 15 years on the Bench. However I'd only serve less than 9.

Sean Aylward offered to help me to buy "the missing years". He brought an official to lunch in my chambers. At first it appeared I could buy the missing years then I could not because I had got tax relief on my contributions to the Bar Pension Fund. I was very grateful to Aylward for his efforts.

His wife and himself were my guests in Sneem on at least two occasions. His wife helped me to try to preserve Rossdohan which is the finest fern garden in Europe. I believed them to be my good friends.

When the then Minister offered me the job of Inspector of Prisons he told me to rely on Aylward. Sean Aylward immediately called at my chambers. It was the first of many visits. He told me to depend on him. However he showed surprise when I told him the Minister had also offered me the "Flood Tribunal" and had considered me the previous year for the Supreme Court. He immediately pressed me to accept the prison offer.

He then said Martin McCarthy will of course come with you as your assistant. His was a great inducement. I brought him into the service. He was the chief trainer of Erins Isle in the GAA.

Martin McCarthy was perfectly happy in the Court Service and was hugely respected. After Aylward gave me this inducement Martin McCarthy agreed to be temporarily seconded to the Prison Service. He has been an invaluable member of my wonderful very small team.

I agreed to forego the Flood Tribunal and looked forward to my new job which my CV shows was near to my heart.

I was not expecting any special favours because of Mr Aylwards friendship. I knew I could depend on him to get me the same treatment as my High Court colleagues - nothing more- nothing else. It was becoming apparent to me that Mr. Aylward had not "the final say" as indeed the then Minister had suggested. Mr. Mellett was introduced with in the equation.

I now had no encumbered property. I had a small pension and other sources of income. Also the job was reputedly part time. In practice I work harder than when I was on the bench but this is my own choice and gives me job satisfaction.

27. Psychology in Prison

When I visited Mountjoy Governor Lonergan told me that there was no psychologist in the female prison (Dochas). He told me that it was urgently needed as most of the women, if indeed not all have psychological problems. Many of them were involved in drugs of various sorts including alcohol. Then I met a senior psychologist attached to Mountjoy male prison. When I asked him how many staff he had he smiled and said "I am the senior and the only psychologist". At that time he was hoping that a psychologist would be appointed to St. Patrick's Institution next door who would do part time work with him in the male prison. However, he said that he badly needed help in Mountjoy male prison and that the Dochas had no psychological assistance

and it badly needed it. I fortunately met the Grade 3 Governor McMahon who is in charge of the immediate needs of Dochas. She told me that they had a psychologist. I was puzzled. However, I discovered that they were all telling the truth. There is no psychologist assigned to this female prison. However one comes from Headquarters "on a Thursday" to do psychological reports for the Courts or for the Parole Board. It is agreed by all parties that he does not do any counselling or provide any therapeutic service for the women in this prison. I recently visited St. Patrick's to see the new expensive building for young males presently not used and apparently shortly to be sold. I was told that a female psychologist was assigned and was also going to help out in Mountjoy but she has left. So there is no psychologist in St. Patrick's either.

I am afraid even the Minister is fed inaccurate information on occasions about the psychologists. For example he says in Arbour Hill there is individual counselling. There was only one psychologist when I inspected the prison. She is a very impressive person she is there Tuesday, Wednesday and Thursday and supervises courses which are done mainly by experienced prison officers and Probation and Welfare staff but on Fridays she has to go to Headquarters to act on one of the committees. He also stated that the psychiatric service provides "extensive support to prisoners in this category". In Arbour Hill the psychiatrist can only be seen if you are referred by the GP. She does nothing with the sex cases unless a prisoner has a psychiatric complaint (i.e is mentally ill) if they had a personality disorder she does not see them. The sex offender treatment programme is restricted to eight or ten participants.

It is very difficult to get psychologists. None of the psychologists available in prisons are forensic psychologists. I have already pointed out that there are fourteen full time forensic psychologists in the one sex offenders prison which I visited in Nottinghamshire. They told me that there are plenty available if you advertise in their professional magazine.

I am told that it was suggested that the Prison Service would pay for a student to go for a course in UCD or TCD if they gave an undertaking to work in the service for five years after they qualified. However that was apparently stopped by the Department of Finance. While there is a great need for psychologists we just can't get them and when we do they don't stay.

Apparently two psychologists came from New Zealand and then for some reason went back home. This is a matter which will have to be addressed urgently by the Department, the Prison Service Headquarters, the Department of Finance and the Department of Health. The psychologist is a very important for the rehabilitation. However, they are far too scarce on the ground. The excellent lady in Arbour Hill who greatly impressed me said she had no time to do one to one counselling between her committee meetings at Headquarters (Parkinson's Law again!) And organising her thinking skills group work programme and supervising the sex offenders treatment programme for three days a week.

Also as can be seen in my report on Arbour Hill the sex offenders treatment programme is a very severe one. Many participants feel that it is so traumatic and that there is no reward for doing it they won't do it. Also it is very hard to

see why so many people apply to do the course but it is so restricted.

Apparently the reason is that they only deal with people who are near the end of their sentence. Prisoners complain that the Parole Board tell them to avail of all opportunities but do not spell out clearly what they mean. There are wonderfully dedicated people but they are totally inadequate in numbers to provide an adequate service in Arbour Hill. I have not seen the Curragh (which is presently closed) or Cork Prison or the Midlands but hope within the next year to contact and inspect all of them and particularly their sex offenders programme which seems to be a shambles.

The reviewing of sentences was a great inducement to get prisoners to cooperate with unpleasant experiences such as the 10 month sex offenders courses. Now prisoners say there is no incentive to go through traumatic experience without any reward such as extra remission. The recent Supreme Court decision was removing a light of hope for prisoners. I hope it will be clarified by the full Court or by Statute.

28. Acknowledgements

The Inspector would like to acknowledge the assistance of the following at the various inspections Wheatfield, former Governor James Woods Special Advisor, Martin McCarthy Personal Assistant, Professor Binchy of TCD, Professor Claire Carney formerly Dean in UCD, Dr. Owen Carey formerly doctor in Mountjoy, Dr. Paul Ward Lecturer Law Department in UCD, David O'Mahoney Law Student, Joseph Gannon Engineer Dublin Fire Brigade.

Fort Mitchel former Governor James Woods Special Advisor, Martin McCarthy Personal Assistant, Professor Paul McCutcheon Dean of the Law Faculty University of Limerick, Dr. Patrick Malone Medical Advisor.

Loughlan House

The Inspectorate team who consisted of the inspector who was assisted by former Governor James Woods (Special Advisor), Martin McCarthy (Personal Assistant), John Smyth (former Registrar of the Court of Human Rights in Strasbourg and Chef de Cabinet of the Secretary General of the Council of Europe), Dr. Anne Smyth medical adviser.

Arbour Hill

Former Governor James Woods Special Advisor to the Inspector, Dr. Jim Ledwith psychiatrist medical consultant, Professor William Binchy of TCD Human Rights Consultant, Dr. Paul Ward of UCD Law Department

29. Re: Inhumane and degrading treatment by the IPS

I spent my Christmas and New Year in Sneem County Kerry where I began my annual report. On my return to Dublin on the evening of the 5th January I got a fax from the General Secretary of the POA (Mr. John Clinton) with a report from the Mountjoy Branch of that organisation. I immediately took a taxi and made an unannounced inspection of the base of Mountjoy Prison. I saw and smelt the conditions. I also read the report prepared by the Mountjoy Branch of the POA. I spoke to prisoners and prison officers and consulted the records. Subsequently, I spoke to the Roman Catholic chaplain and to one of the two doctors who are mentioned in the report. As a result, I was quite satisfied to find as a matter of fact that the prisoners were being kept in most inhumane and degrading conditions. I prepared a report. The place was overcrowded. Prisoners had to sleep on the floor in filthy conditions. This report was sent to the Minister, the Director General of the Prison Service to the Secretary of the POA, to Maurice Manning President of the Human Rights Commission. I also sent a copy to the CPT in Strasbourg.

Governor Lonergan was not aware of the conversation between the Chaplain and the Director General. However, he points out that the Chaplain has recently taken up duty and was not fully acquainted with procedures. He then proceeds to talk about how frequently the cells are painted:- "they are forced to sleep on mattresses on the floor in most unhygienic conditions" he also states "every effort is made by the staff to keep the B basement area clean and generally speaking it is maintained to a high standard considering the pressure and overcrowding there.

As you are aware numbers in Mountjoy are currently very high - 487 today. With such high numbers it is necessary to accommodate over 70 in the B basement with about 25 on mattresses in the holding cells. Such conditions are appalling and I certainly can not stand over them. When the separation unit and A division closed significant reductions were made in staffing levels. This took place on the clear understanding that the overall numbers would never exceed 400. However we are unable to achieve such a target and are constantly overcrowded".

30. Recommendations

1. Urgently demolish and replace Mountjoy Prison and also Portlaoise.
2. Urgently set up a totally independent prison inspectorate with a revised contract clarifying the Inspectors powers in relation to the Director General and staff of the Prison Service and also to provide (like all other Judges employed after retirement) for the pension rights of the present Inspector of Prisons.
3. Implement the recommendations in my first report or explain why they are not being implemented
4. Provide that all members of the Oireachtas have a right to visit Prisons and Places of Detention and can only be refused admission on security grounds.

5. The probation service should encourage the judiciary, criminal lawyers, particularly those who prosecute and defend, to visit and appreciate what the service provides.
6. Provide adequate probation staff to all prisons and places of detention
7. The Departments of Health and Children and Department of Justice Equality and Law Reform in conjunction with the Department of Finance should replicate the wonderful work of the rehabilitation institute at Coolamber as detailed in this report.
8. Produce as a priority a prisons bill to establish Prison Service and also a bill for the Parole Board and more urgently a Prison Inspectorate Bill.
9. Prepare and make available a booklet of all Prison Rules which are still in existence and apply to prison and provide to Visiting Committees, Governors and the Inspector of Prisons.
10. Set up a public funded awards system similar to the Butler Awards in England if possible funded by the private sector.
11. To cope with the huge illiteracy problem in prison, prisoners who are literate should be encouraged to work with prisoners who are totally illiterate. In England it is called the "toe by toe" or "Shannon Reading Scheme". It is also similar to the "Buddy" Scheme mentioned in my

report on Lowdham Grange in England. Illiteracy certainly contributes to crime and to recidivism. People who can not read or write will find it hard to get and keep jobs and may drift into crime. Quite apart from that, illiteracy is deeply frustrating and humiliating. Rage and shame can make people anti social and destructive. If fellow prisoners teach the illiterate it costs the tax payer nothing. It benefits the illiterate but it also benefits the prisoners who are teaching. In England there are now 400 mentors teaching about 1,000 prisoners in 80 different jails. It is great to be able to read letters from loved ones and to read stories to children. It can change ones whole outlook and enable one to progress in educational or training programmes. Illiteracy is a form of imprisonment. This system works well in England and if it had the support as no doubt it would of the Governors and of the POA it would work equally well here.

- 12 Eradicate immediately the old manta of secrecy which surrounds this department. It is based on Power and Control As Lord Acton says " all power corrupts and absolute power corrupts absolutely". They have a ridiculous form asking people if they are satisfied with the service. I doubt it if provides any real information or change. The department needs a radical change of openness, transparency and accountability. On the radio a correspondent said on 10th April '04 "the Department of Justice is so secret they will not tell you the time of day".

13. The Governors in consultation with dieticians should sort out the time of the main meal in each prison
14. The Department of Finance should fund people to get qualified as psychologists including forensic as well as educational. On the students undertaking to work for five years minimum in the Prison Service after qualification.
15. Give real powers to the Visiting Committee in consultation with the Committees the Governors and the Inspectorate

31. Recommendations Arising from the Individual Prisons Inspected

Recommendations from Loughan House (Inspected May 2003)

1. The position regarding adequate psychiatric services should be discussed with the doctors, the Governor and the Prison Service Headquarters and a suitable service put in place immediately. The Department of Health and Children should provide a psychiatric hospital cover for Loughan House as indeed all prisons.
2. A psychologist should be appointed to the prison.
3. The surgery should be removed downstairs or a lift should be provided alongside the stairway which would carry incapacitated patients up and down.

4. The visitor centre should be replaced urgently (the mens toilet in it is out of order). The whole building is decaying.
5. The shelved new workshop should be built immediately.
6. If she is agreeable, the Killesandra based nun should be made a full time Chaplain without pay. This would enable her to attend the Chaplains meetings. At the moment she is a volunteer and she wants to continue in that capacity. The Inspector intends to talk to the head chaplain about this particular matter. The Bishop of Kilmore will also have to be contacted as he provides chaplains to Loughan House.
7. An extraction fan should be put into the cooking area of the kitchen.
8. All bedrooms are in need of repainting and renovation.
9. Missing wall tiles in the toilet area should be replaced.
10. The call bells in the two isolation rooms should be repaired and become usable. This is a matter of high priority. While these rooms are being used at all.
11. The curtains in the shower cubicles and the timber seating are in need of replacement and repair. The whole toilet washroom area requires

repainting. The overall hygiene within the toilet/washroom areas could be improved.

12. The dental surgery should become operational as soon as possible. The engineer should be required to attend as a matter of great priority to repair the air compression.
13. The addiction counsellor from the North Western Health Board should be restored.
14. The football field needs attention as presently it is dangerous.
15. The training of the staff in the use of breathing apparatus equipment and in fire drill and in evacuation proceedings requires immediate attention.

Recommendations from Wheatfield Prison (Inspected June 2003)

1. The signs at the main entrance to be changed from Wheatfield Place of Detention to Wheatfield Prison
2. Cell accommodation/the ceilings of the cells are in need of repainting [The cell ceilings appear to be of stippling/terylene material and we were informed by management that they are fire retardent and sound proof, therefore the possibility of painting is very difficult and costly]

3. The cells at the ground floor area of reception are in need of painting and cleaning
4. The standard of food in staff canteen could be improved. A lot could be done to improve the quality of the service provided.
5. The quality of the seating provided is poor in the visitors waiting room area. New seating should be provided. The whole area requires painting.
6. The psychology service at Wheatfield prison is inadequate.
7. Distalgesic tablets should be kept in a locked cabinet.
8. It would seem that the attendance by the Dentist of one full day and one morning a week should be increased.
9. The number of staff support officers at Wheatfield Prison should be increased immediately.
10. The study which was carried out by consultants McAllister Devereux Keating should be implemented and address the emergency lighting, signage, evacuation, assembly points, plus the access for fire brigade in an emergency.

Recommendations from Fort Mitchel Prison (Inspected September 2003)

1. The Inspector recommends the building of a bridge from the mainland to Spike Island, increase the number of prisoners in Fort Mitchel and develop the facilities needed for such an expansion
2. Records relating to those placed in special or isolation cells should state the date and time of placement. The date and time of removal. The reason for the placement and who authorised the placement and removal. The records should be initialled by both the Chief Officer and the Governor. The majority of these are already in place
3. A more suitable location should be found for the serving of prisoners meals in the "C" wing of the prison.
4. That the Prison Service Headquarters look at the possibility of filling the vacant position (workshop instructor) as soon as possible.
5. Consideration should be given to serving the main meal to prisoner at 4.30p.m instead of 12.30 p.m on a trial basis.
6. That the laundry facilities be replaced/repared or alternative arrangements be made with an outside laundry.
7. That chairs with back support be supplied to each prisoner in his cell.

8. That the gym be opened for prisoner's use in the afternoons and recreation periods.
9. That full refresher B.A training for staff take place as soon as possible
10. That an additional Probation and Welfare Officer be appointed

Recommendations from Arbour Hill Prison (Inspected November 2003)

1. That the number of psychologists attached to the prison be increased to enable one to one therapy to be carried out and to increase programmes for prisoners.
2. That the Judiciary Presidents be sent a copy of this report and they be respectfully invited to consider keeping control of sentences by review or devising some method of encouraging prisoner to do the main sex offenders programme.
3. That Headquarters of the Prison Service ensure that the Business plan for the prison is not delayed or not implemented due to Headquarters failure to reach its own targets.
4. To look at the possibility of providing work training facility along with the present workshops.
5. Vacancy in Probation and Welfare to be filled urgently
6. Modesty doors surrounding toilet unit in treble cells be increased in size to at least half standard size doors and replace broken tile in shower cubicle.

7. Library should be opened more frequently than at weekends and the gym at least some evenings per week.
8. Expand the programme facilities in the computers in the detail office.
9. That the health promotion policy should be clarified by Headquarters and implemented. That the Health review group's recommendations should be implemented and there should be active health screening for hepatitis.
10. The doctor request a dictaphone and a fax machine for use in the surgery which I recommend.
11. That some support course should be provided for suitable applicants who fail to get placed on the main sex offenders programme. The psychologist's time should be directed at prison work rather than being involved in Headquarters meetings or committees.
12. Sex offenders cannot avail of transfers to open centres and are not granted temporary or supervised release. This is a matter which should be looked at in Headquarters/Minister's Department as such considerations may encourage involvement in the programmes and lead to a structured and supportive release.

13. The sex offenders programmes is excellent but should be extended by providing additional programmes. The prisoner should be encourage to engage in these course. The Judiciary should offer incentives such as sentence review to encourage people to do the full course.
14. There should be facilities for children of prisoners when they visit at the waiting room.
15. There should be annual refresher staff training in C & R, B.A, use of fire hoses, fire extinguisher, etc and an evacuation fire drill exercise carried out regularly where there are staff and prisoners accommodated.
16. The facility of providing hepatitis vaccine for staff be re-introduced and updated.

Appendix A

Encl. A



PRISON OFFICERS'
ASSOCIATION

NM/SS

Mr. Justice Dermot Kinlen,
Inspector of Prisons' and
Places' of Detention,
1 Lower Grand Canal Street,
Dublin 2.

5th January 2004

Dear Justice Kinlen,

The following attached report submitted to Governor J. Lonergan, Mountjoy Prison, Mr. Sean Aylward, Director General, Irish Prison Service and Mr. Michael McDowell T.D., Minister for Justice, Equality and Law Reform, is respectfully submitted to you showing particular regards for the content in respect of the treatment of persons in custody.

Yours sincerely
On behalf of the Prison Officers' Association

John Clinton

John Clinton
General Secretary.



PRISON OFFICERS' ASSOCIATION

22 December, 2003.

Governor J. Lonergan,
Mountjoy Prison,
Dublin 7.

I am directed by the branch committee to bring the following matters to your attention.

The number of inmates currently in custody in Mountjoy Prison, and the manner and conditions in which some are being held, are appalling, dangerous and amounts to cruel and inhuman treatment of persons in custody. Our members have to work in these conditions and are adversely affected by them.

A particular area of concern is the two holding cells in the 'B' base area. The all to frequent use of these cells to house anything from 10 to 22 inmates is shocking. Each of these cells measures approximately 3 metres x 4 metres. They contain only a built-in bench and a toilet. After 10pm at night, each cell holds on average 5 inmates. The remaining inmates (usually 10) are taken from the holding cells and brought to the waiting area in the reception where they are then required to sleep. No beds are provided for any of the inmates, only filthy mattresses. These are placed on dirty floors in the holding cells and equally dirty seats in the reception area. Between 6am and 7am the inmates in the reception area waiting room are transferred back to the holding cells in the 'B' Base area. These inmates are then required to have their breakfast, dinner, tea and late supper in these cells.

A number of very serious issues arise in respect of this ongoing practice, the following being just three of them:

- (a) These movements take place at a time when staffing levels are at their minimal and place the security of the prison at serious risk.
- (b) The ability of staff to observe prisoners in the 'B' base holding cells is limited and virtually impossible in the reception area. Furthermore, this reception waiting area does not have a cell call system.
- (c) Vulnerable and weak inmates are then at the mercy of other more violent inmates and serious assaults (sexual and otherwise) may occur, as has been the case in the past. The prison is failing in its basic duty of care and the very essence and basic requirement of the court order as contained on the warrant:

“..to safely keep the body of..” is being recklessly and flagrantly disregarded.
This in turn leaves the state open to litigation

There is also the very serious medical and health issues that this practice brings with it for our members, personnel from other agencies who work in the prison and inmates themselves. The branch committee have repeatedly expressed our very serious concerns in respect of these issues to the following:

- (a) all governor grades;
- (b) all Chief Officers;
- (c) Dr. Edward Cox and Dr. Patrick Mc Carthy;
- (d) all Mountjoy (Male) Prison chaplains
- (e) The Probation and Welfare Service at Mountjoy Male Prison.

All of the above agreed that this amounts to cruel and inhuman treatment of persons in custody and that there is a knock-on effect for staff.. Furthermore, the writer personally brought Dr. Cox, Dr. Patrick Mc Carthy and Sr. Grainne to the holding cells at a time when there were 20 inmates locked in them. The dirt, the medical/health and safety issues were all too evident to them. They were appalled and undertook, to raise this matter within the remit of their professional roles within the prison.

It is very clear that the following points are a source of tension making within this prison

- (i) the continuous overcrowding in the prison to breaking point;
- (ii) the conditions in which some are held;
- (iii) the refusal/failure to transfer prisoners from this grossly overcrowded prison to other prisons within the state even though vacancies exist in them;
- (iv) the knock on effect this has for the proper management of persons in custody.
- (v) the effect this has on officers.

The above raises fundamental questions as to the capacity and ability of the Irish Prison Service/Department of Justice, Equality and Law Reform to properly, adequately and safely manage this and other prisons within the state

This is then compounded by the following:

- (vi) The policy of the Minister for Justice, Equality and Law Reform and the Director General of the Irish Prison Service to engage in a highly publicised threat of industrial action and possibly strike action being taken by prison officers when no proposal or sanction for a ballot – let alone a ballot has – even taken place;
- (vii) The provocative and unnecessary parading around the prison of army personnel in combat attire. You will recall that during the recent disturbance on ‘D’ wing, inmates highlighted this to you as one of the reasons for their actions. A follow up search recovered makeshift weapons. And that followed a more serious incident on the ‘B’ wing that same morning when a number of inmates engaged in a violent confrontation with officers.

All of the points herein have combined to place huge stress on prison officers. It has undoubtedly increased the tension in the prison to boiling point, especially given the time of year. There are genuine fears by staff for their safety over the Christmas period.

It is accepted and understood that you have no power to grant temporary release or even transfer persons from this institution. That power lies solely with the Minister for Justice, Equality and Law Reform – as does responsibility for the current situation. Nevertheless, this branch committee has a duty to the members of the prison officers association here at this prison. We intend to take whatever steps are deemed necessary in respect of these issues.

Accordingly, it is requested that you bring these facts to the attention of the Minister for Justice, Equality and Law Reform, Michael Mc Dowell, T.D, S.C. and the Director General of the Irish Prison Service, Mr. Sean Aylward.

These issues will inevitably lead to health and safety issues, and is likely to expose members of the Prison Officers' Association to unacceptable levels of risk to their health and safety. Immediately upon it becoming apparent that a situation has arisen which exposes Prison Officers to such a risk, the appropriate Court application will be made, and this letter will be used to ground any such court application.

Yours on behalf of the Branch Committee,

John J. P. Ward
Assistant Branch Secretary

C.C. To Each Governor grade
 Mr. John Clinton, General Secretary, Prison Officers' Association.
 Each Medical Officer at Mountjoy Male Prison,
 Each Chaplain at Mountjoy Male Prison
 The Probation and Welfare Service at Mountjoy Male Prison

Report on Mountjoy Prison 2004

I spent Christmas and New Year in Sneem County Kerry where I began my annual report. On my return to Dublin on the evening of the 5th January I got a fax from the General Secretary of the POA with a report from the Mountjoy Branch of that organisation. I append both documents to this report. (Exhibit A) I was so concerned by these documents that I proceeded directly to Mountjoy Prison unannounced where I was met by the ACO. One enters this region from the circle by going down steps sited immediately behind the spiral staircase. There were eight officers on duty in the interior of the prison together with the ACO. I was informed that the capacity of the prison was 445. On the occasion of my visit there were 462 and the previous night there had been 475. The holding cells are plain rooms with a bench like seat along the walls. They are cement fixtures. I entered the unoccupied cell. I looked at the records and the previous night there had been nineteen persons in the holding cells and on the 18th December there had been 21. There was a toilet bowl and a wash hand basin behind swing doors off the cell. There were three strips of toilet roll along the top of the toilet and would presumably be acting as toilet seats for the first bums which used the lavatory.

I then saw the duvets stored in large hampers. The covers were very much off white. Certainly they were not "Persil white". Some had cigarette type holes burnt into them however they were reasonably clean. At the far end of the corridor the mattresses were stacked. They also looked very tired. Some of them were wafer thin. While I was there two prisoners were moved from the holding cell in which the six were contained and were brought in to the other holding cells to spend the night

there. They spread their mattresses on the floor. I engaged both in conversation. The wash hand basin had obviously been used for a urinal and there was a distinct smell of urine. The ventilation was minimal. The first cell on your left after you pass the holding cells and go through the separating gate is a four bedded cell but there were five men in it at the time of my visitation one was sleeping on the floor. They never know until final lock up how many persons would arrive in the prison on a warrant. These cells were never intended as sleeping quarters for prisoners and are definitely unsuitable for that purpose. If there is an overflow (i.e more than five to each cell) they are accommodated overnight (10.30 p.m to 6.30 a.m) in the reception area where they sleep on the floor between the firm fixed benches. At 6.30 a.m they are brought back to their respective holding cells and are locked up there from 6.30 a.m to 8.30 a.m again for lunch from 12.30 p.m to 2.00 p.m and from 4.30 p.m to 5.30 p.m for tea and from 7.30 p.m to 10.30 p.m when they are assigned an area to lay down their mattress. The officer and the prisoners say there is frequently violence. There was also bullying and on occasions sexual assaults. It was a particularly frightening experience for country boys, first offenders and possibly illegal immigrants (who have committed no "crime" save wanting to work in Ireland").

The prison service are very proud of their mission to keep people humanely and to rehabilitate as far as possible. This is not a Pious aspiration but is a firm commitment. What I saw this evening showed that message to be unctious impiety. I also spoke to a prisoner who was on cleaning duties in the corridor and who wanted very much to be transferred to another prison. I told him that I had no input whatsoever and that I was expressly forbidden to intervene in any individual

prisoners case. I told him that the Oireachtas was not in any rush to make my offices a statutory one and clarify my powers. I also told him that the visiting committee has been rendered totally impotent. I told him that I would note his concern but that he was not to expect any result of our conversation. I confirmed with a Chaplain and a doctor that they agreed with the sentiments expressed with the documentation faxed to me by Mr. John Clinton Secretary of the Prison Officers Association. There were approximately 200 spaces available in Mountjoy which the Governor cannot use because of an order by the previous Minister. The toilet arrangements off the reception area were in appalling condition. They were positively dirty. A press in this room had its door removed because it was used to hide drugs such as methadone.

As regards the current dispute between the Minister and the POA my office has been informed (naturally orally and not in writing) that it is not within my remit to investigate industrial relations by the redoubtable Ms. O'Gorman of the Prison Section dealing with policy in the Department. I replied that I did not accept her ukase. However I did not propose at this stage to intervene. I felt another intervention would not serve any useful purpose. However my so called contract does give me the power to decide what is appropriate and not a Civil Servant no matter how eminent, accordingly at the moment I will not comment on the portions of the document which deals with the relations between the POA and the Minister. Governor Lonergan does not stand over these conditions.

Signed

Mr. Justice Dermot Kinlen

Inspector of Prisons and

Places of Detention

(without any statutory authority or powers)

C.C. Michael Mc Dowell S.C T.D
Minister for Justice Equality and Law Reform

Mr Aylward
Director of Prisons and Places of Detention

Maurice Manning
Statutory Commissioner for Human Rights

Secretary CPT Strasbourg

Mr. John Lonergan
Governor Mountjoy Prison

Mr. John Clinton
General Secretary of the POA