

ANNUAL REPORT 2004



The Parole Board



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Chairman's Foreword

When the Parole Board came into existence all prisoners then serving sentences of eight years or more (including prisoners serving life sentences) were eligible to have their cases considered by the Board. When therefore the Board started its work the backlog of cases was very considerable. If the Board is to work properly then that backlog would lessen as fewer prisoners would be eligible to come within the Parole Board's remit.

It is logical, therefore, that this is in fact what happened. As can be seen from the statistics attached to this Report the number of cases which fell to be considered by the Board during the year fell to forty three compared to seventy two in the previous year. In addition there were cases carried over from the previous year and cases coming for review for a second or even a third time.

In the Report for 2003, I stated that the capacity of the Board is such that it could deal with a greater number of cases than this. However, difficulties which, are beyond the control of the Board, prevented it from so doing. Those difficulties are set out in the first Report of the Parole Board and many of them continue to exist.

A full dossier on each prisoner has to be prepared by the secretariat of the Board and this requires Reports from all of the relevant agencies, e.g. the Governor of the Institution in which the prisoner is accommodated, the Probation & Welfare Service, the Psychology Service, the local Prison Review Committee and An Garda Síochána. In given cases information on the locality where the crime was committed and the affect of the crime on its victim or on the victim's family also has to be obtained.

In some cases Psychiatric or Forensic Psychological Reports are required before the dossier is completed. Now obviously putting this together is a complicated task and requires great assistance from the many arms of the penal system.

In this year, and other years, the Board has been disappointed at the difficulties at which the Probation & Welfare Service still appears to find itself. I will deal later with the necessity to increase the availability of psychological service. Whilst generally Probation & Welfare Officers work in an extremely effective and caring way it must be realised that the Parole Board are extremely dependent on their input in each and every case.

Before a dossier is finally prepared and thus a case ready to be considered by the Board the prisoner in question is interviewed by two members of the Board. The Review Dossier such as it is at this stage is made available to him or her and it is also, of course, available to the members of the Board who conduct the interview.

These interviews take place at the institution in which the prisoner is accommodated and the two Board members who conduct the interview are accompanied by a member of the staff of the secretariat.

Written submissions from the prisoners legal representative will, of course, be accepted but legal representation at the interview is not allowed. The interviews, however, are conducted in an informal manner intended to put the prisoner at ease.

The purpose of the interview is to give the prisoner an opportunity to indicate in person to the Board what his or her feelings in the matter are. He or she is also at liberty to discuss the contents of the dossier with the Board. The prisoner can seek any clarification he or she requires. This, of course, might well improve the Boards ability to assess the level of risk of re-offending, to measure needs and to deal appropriately with each individual case.

The Board recognises that the interview is a most important part of the process as it enables experienced members of the Board to form an assessment of the prisoner. In the past the Board did not feel that at a second or a subsequent review of a case a further interview was necessary but from time to time in individual cases where appropriate the Board will arrange for such second interview to take place.

Whilst the system might appear slightly cumbersome its objective is to be as fair as possible and to ensure that all relevant information is before the Board when they sit to adjudicate and make recommendations in any given case.

Of course, delays along the line can thwart the Board and can result in the consideration of individual cases being delayed. The fact that many of the organisations that deal with the Board are considerably overworked can cause such delays.

This must be frustrating for the prisoner concerned and it is a matter which the Board view with great concern.

In particular, the Board notes with dismay the lack of sufficient psychologists in the Prison Service. Bearing in mind the importance of prisoners addressing their offending behaviour this is greatly regretted. The standard of achievement by the prison service (and they have certainly achieved a great deal already) would be further enhanced if adequate psychological services were available - and by available I mean in each and every prison in the country.

In previous Reports the Board had drawn attention to the number of murders that are being committed in the country on an all too regular basis. They have even ceased to make headlines in the newspapers. So common have they become that human life has clearly been cheapened.

The Board must react to this. Whilst each case must be carefully considered on its own merits nonetheless a message must go out to the public that persons who are convicted by a jury of the crime of murder will serve a very long sentence indeed.

It is both surprising and disappointing how the public at large seem to think that even in murder cases early release is possible. This is not true. The Board has sent out that message on many occasions

The seriousness of the crime of murder must be reflected in the length of time served by those convicted. The gun and the knife are the prime weapons of much human misery. The most restrictive legislation regarding possession of these lethal objects is necessary and it is equally necessary that it be vigilantly applied. In many ways such steps will be saving people from themselves and would lessen the risk of tragedy.

The Board are always disturbed by the number of serious crimes which prisoners allege would not have been committed had they not been under the influence of drink. This just adds emphasis to the drink culture that pervades our society.

The fact that an offence was committed whilst under the influence of drink is frequently raised in court as a mitigating circumstance. Since drunkenness is in itself an offence (albeit a minor one) it is difficult to understand the logic in using it as a mitigating factor in a otherwise heinous crime.

Is it perhaps time that the Crime Commission or the Law Reform Commission make recommendations which would enable the Government to lay down specifically that the consumption of excess alcohol could not under any circumstances be used to lessen the consequences of the commission of crime.

Drugs present a major problem both in the commission of some of the cases that come before the Board and in the rehabilitation process for prisoners generally. Frequently we deal with horrible and ghastly crimes which were committed with the object of funding the purchase of drugs by wrongdoers.

The Board is also dismayed to note that drugs are prevalent throughout the prison system in the country. The Board is conscious of and warmly recommends the attitude of the Minister for Justice Equality and Law Reform and indeed his predecessor and the prison service generally to confront this problem but a very major task indeed it has become. It is depressing to think that there is probably only one penal institution in this country which is totally drug free. It is even more depressing to see the occasional case where prisoners have not taken drugs a for long period and then whilst in prison succumb. Even more upsetting are the occasional cases of prisoners who get involved in drugs for the first time whilst in prison.

Drugs clearly delay the rehabilitation of prisoners and delay the ability of the Parole Board in recommending any form of temporary release.

The methods of getting drugs into prisons are so sophisticated that it may well require draconian measures to bring the practise to an end. The Board strongly recommends what the Minister and the prison service are doing in their endeavours to obviate this problem. The presence of drugs in penal institutions is clearly a bar in the rehabilitation of prisoners.

Differences exist between the remission system in the United Kingdom, which can be as much as 50%, and the remission system here which is 25% and an anomaly arises when Irish prisoners serving sentences in England for which they would have been entitled to a higher rate of remission are repatriated here where they can only get 25% remission. Since English sentences are higher than Irish sentences (because of this remission) an injustice can easily be done. The Board have highlighted this in the past and repeat it now.

All that said, the Board in carrying out its responsibilities recognises that it has a duty to take into account and to reflect in its recommendations the good work done by many prisoners to rehabilitate themselves. The Board would be failing in its duty if it did not acknowledge this. Prisoners who attend the relevant courses that are available to them and who acknowledge their own wrong doing and address their offending behaviour are entitled to have all of that taken into account. Appropriate consideration must be given to such prisoners and when the risk of re-offending has been minimised they are entitled to the rewards that their endeavours have earned. Otherwise efforts to rehabilitate prisoners would be an exercise in futility.

Prisoners for their own part must understand that if they do not participate in programmes designed for their rehabilitation and do not acknowledge and address their own wrongdoing are doing nothing but thwarting their own rehabilitation and making it impossible for the Board to make any recommendation that might lead to temporary release for them.

The public interest dictates that until the risk of re-offending has been absolutely minimised temporary release is not an option which the Board can consider recommending. All factors must be taken into account in considering this. The circumstances of the crime that a prisoner committed are a very major factor indeed. Where a crime is committed in particularly heinous circumstances or where a crime involves cruelty then clearly a huge amount of work has to be done before risk of the perpetrator of such an offence re-offending is minimised.

The public interest must remain the guiding light for the Parole Board in making its recommendations to the Minister.

On the other hand, prisoners who genuinely acknowledge and address their offending behaviour and who make every effort to rehabilitate themselves are entitled to the rewards of that effort.

A source of deep concern to the Parole Board arose when it was discovered that the Sex Offenders Programme had few, if any, takers for those then incarcerated in the Curragh. It is surely a matter of concern that prisoners, who, because of the long-term nature of their sentences, become institutionalised, can be, in this day and age, released to the public without any form of training or without being required to attend any of the many programmes available to assist in their rehabilitation. It is only a matter of time until such prisoners go back into their old habits and offend again. Their rehabilitation requires diligent attendance at as many of these programmes as possible and the efforts of the Prison Service in this regard are to be highly commended. What we are really doing is trying to save these prisoners from themselves. If they are not prepared to cooperate in programmes that lead to their rehabilitation should they be entitled to the remission which they presently get?

Once a prisoner is released on remission he is no longer under supervision and the Probation & Welfare Service can do little about him. It is surely better that prisoners initial release should be under the supervision of and with the assistance of the Probation & Welfare Service. In last year's Report we recommended revisiting the entire system of remission and certainly nothing that has happened in the meantime would cause us to change that view. The rehabilitation of prisoners is one of our primary concerns and if they themselves will not take the necessary steps to achieve this then they must be

persuaded so to do.

Yet again, I must express my sincere thanks to the Board, to the Probation & Welfare Service, the Prison Service and all the other services which have been of so much help and assistance to us.

The people of Ireland do not realise how indebted they should be to so many of the personnel of these organisations whose dedicated work has done so much good for so many people. Frequently that good is hidden but it is very real and those concerned are entitled to the satisfaction of knowing that their job has been very well done and the Board would like to avail of this opportunity of paying public tribute to them.

We are very grateful to the officials of the Department who give such assistance to us. We acknowledge with gratitude the work of the Garda Síochána with whom ever closer ties are being built up. We recognise the difficulty some of the Gardaí have in complying with some of our requests some of which date back to the time of commission of the offence. We are appreciative of all their efforts on our behalf.

For my own part, I must express my personal thanks to the members of the Board whose individual experience and expertise has always been freely available to me and available to the Board generally. Their opinions have the weight and value of their knowledge and experience. Their time is given unstintingly. I am most grateful to each and everyone because their collective knowledge of wisdom is at the very core of the Boards activities.

Finally, I must, of course, express my thanks to the permanent staff of the Board. Serving a Board like this is no easy task but the manner in which Allan Grant and his team have done it is deserving of the greatest appreciation. Not only have they worked hard but they have worked cheerfully. Like many other organisations they are under heavy staff pressure from time to time but their work always seems to get done.

They serve the Board well and they serve the public well. My thanks to each of them.

GORDON HOLMES
March 2005

INTRODUCTION

The Parole Board was established by the Minister for Justice, Equality and Law Reform to review the cases of prisoners with longer term sentences and to provide advice in relation to the administration of those sentences. The Board was appointed by the Minister on 4 April, 2001. The first meeting of the Board was held in July 2001 and the first prisoners were interviewed by members of the Board, as part of the review process, in November of that year.

This is the third annual report of the Parole Board and it relates to the Board's activities during 2004. Members of the Board were very pleased to attend the Seventh Annual Conference of the Irish Association for the Study of Delinquency. Board Members also attended the Youth Justice Conference which was held in Northern Ireland.

Before the Board can review the case of any prisoner, his or her case must be referred to it by the Minister for Justice, Equality and Law Reform. Generally, the cases of prisoners sentenced to eight years or more, but less than fourteen years, are reviewed at the half sentence stage. The cases of prisoners sentenced to fourteen years or more, including life, are reviewed after seven years has been served.

As a general principle, prisoners serving sentences for:

- (a) Treason or attempted treason or murder or attempted murder to which section 3 of the Criminal Justice Act, 1990 applies (i.e. murder or attempted murder of a member of An Garda Síochána or the Irish Prison Service acting in the course of his or her duty);
- (b) Murder or attempted murder done in the course or furtherance of an offence under section 6 of the Offences Against the State Act, 1939, or in the course or furtherance of the activities of an unlawful organisation within the meaning of section 18 (other than paragraph (f) of that Act);
- (c) Murder or attempted murder, committed within the State for a political motive, of the head of a foreign state or of a member of the government or a diplomatic officer of a foreign State,

will not be eligible for review by the Board.

In addition, persons sentenced to a term of imprisonment for the possession of drugs under subsections 3A and 3B of section 27 of the Misuse of Drugs Act, 1977 as amended by section 5 of the Criminal Justice Act, 1999 will also not be eligible for review by the Board.

The Minister for Justice, Equality and Law Reform may, however, refer any individual case to the Board for review.

The Board's review process is designed to be open and inclusive. A significant difference between the Board's process and that of its predecessor, the Sentence Review Group, is the general practice of providing copies of reports and other material to the prisoner whose case is being reviewed.

The cases of some 43 prisoners were referred to the Board during 2004. Of these, 33 prisoners accepted an invitation to participate in the review process. During 2004 the Board made recommendations to the Minister in 61 cases. In addition to dealing with new referrals, the Board also reviewed some 35 cases for a second or subsequent time. This was the same number as in 2003. Where a prisoner is not recommended for release, second, or subsequent, reviews will generally take place on an annual basis in the case of prisoners serving less than 10 years and within 3 years in all other cases.

MEMBERSHIP OF THE BOARD

Mr. Gordon Holmes	<i>Chairperson</i>
Mr. Seán Lowry	<i>Probation and Welfare Service</i>
Mr. Frank McCarthy	<i>Governor, Cork Prison</i>
Ms. Lillian McGovern	<i>Community Representative</i>
Ms. Anne O'Gorman	<i>Department of Justice, Equality and Law Reform</i>
Mr. Tim O'Donoghue	<i>Community Representative</i>
Ms. Daisy O'Reilly	<i>Community Representative</i>
Mr. Brian Purcell	<i>Irish Prison Service</i>
Dr. Charles Smith	<i>Central Mental Hospital</i>
Mr. Martin Tansey	<i>Community Representative</i>

STAFF OF THE SECRETARIAT

Mr. Allan Grant	<i>Assistant Principal Officer</i>
Ms. Alice Treacy	<i>Higher Executive Officer</i>
Mr. Colin Donovan	<i>Clerical Officer</i>

Appendices

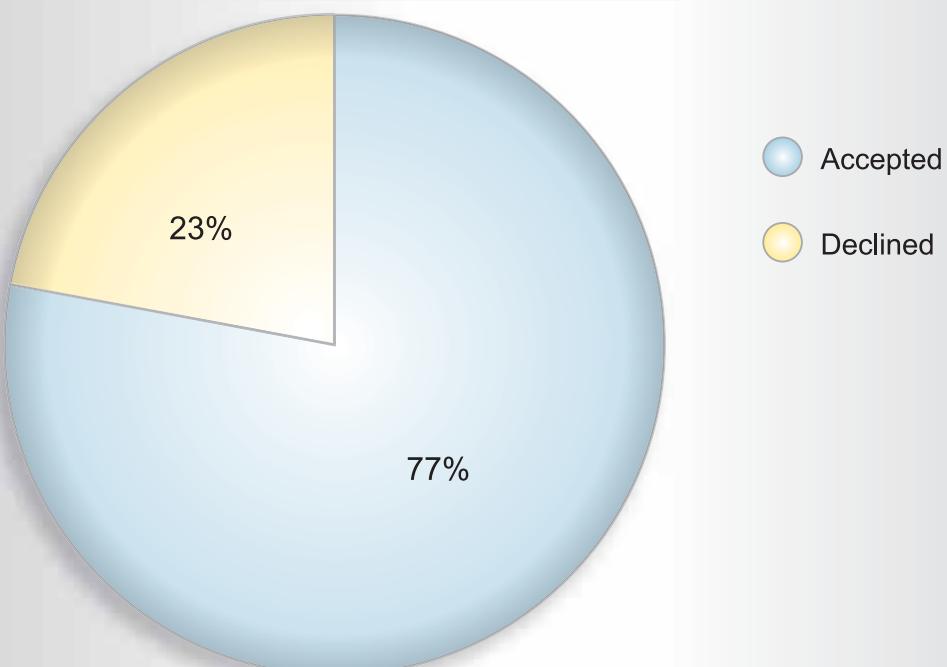


Appendix A(i)

Cases Referred to the Board - 2004		
	Number of Cases	%
Cases referred to the Board for review	43	100
Prisoners who accepted an invitation to participate in the review process ⁽¹⁾	33	76.75
Prisoners who declined to participate in the review process	10	23.25

Note: (1) In addition 1 prisoner who, having previously declined an invitation to participate in the review process, accepted the invitation during 2004, bringing the total of new cases to 44.

Fig A(i) Cases Referred - 2004

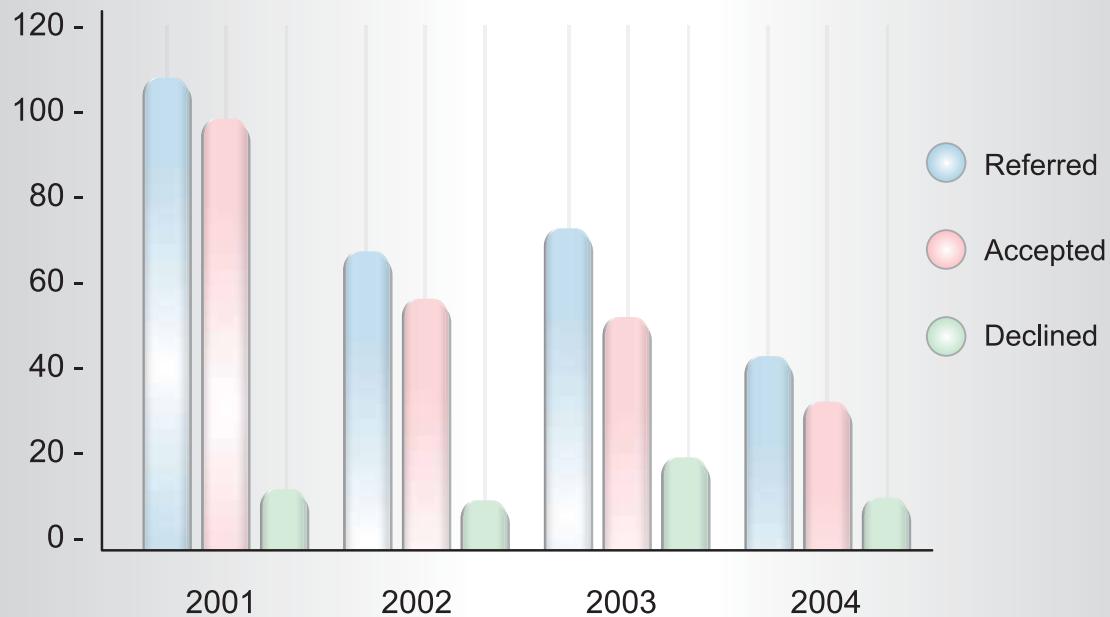


Appendix A(ii)

Cases Referred - Yearly Comparison				
	2001	2002	2003	2004
Cases referred to the Board for review	113	67	72	43
Prisoners who accepted an invitation to participate in the review process	100	57	53	33 ⁽¹⁾
Prisoners who declined to participate in the review process	13	10	19	10

Note: (1) In addition 1 prisoner who, having previously declined an invitation to participate in the review process, accepted the invitation during 2004, bringing the total to 35.

Fig A(ii) Cases Referred - Yearly Comparison

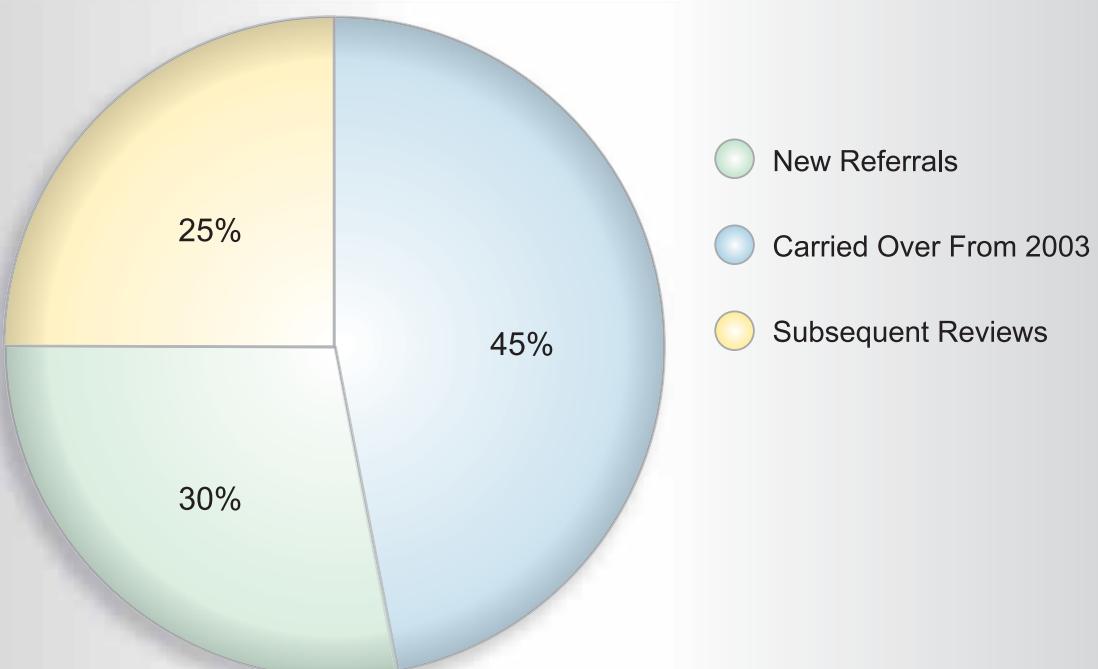


Appendix B(i)

2004 Caseload		
	Number of Cases	%
Cases referred to the Board for review	43	30.50
Cases carried over from 2003 ⁽¹⁾	64	44.68
Cases for second or subsequent review	35	24.82
Total Caseload	141	100

Note: (1) Includes 1 prisoner who, having previously declined an invitation to participate in the review process, accepted the invitation during 2004.

Fig B(i) Caseload - 2004

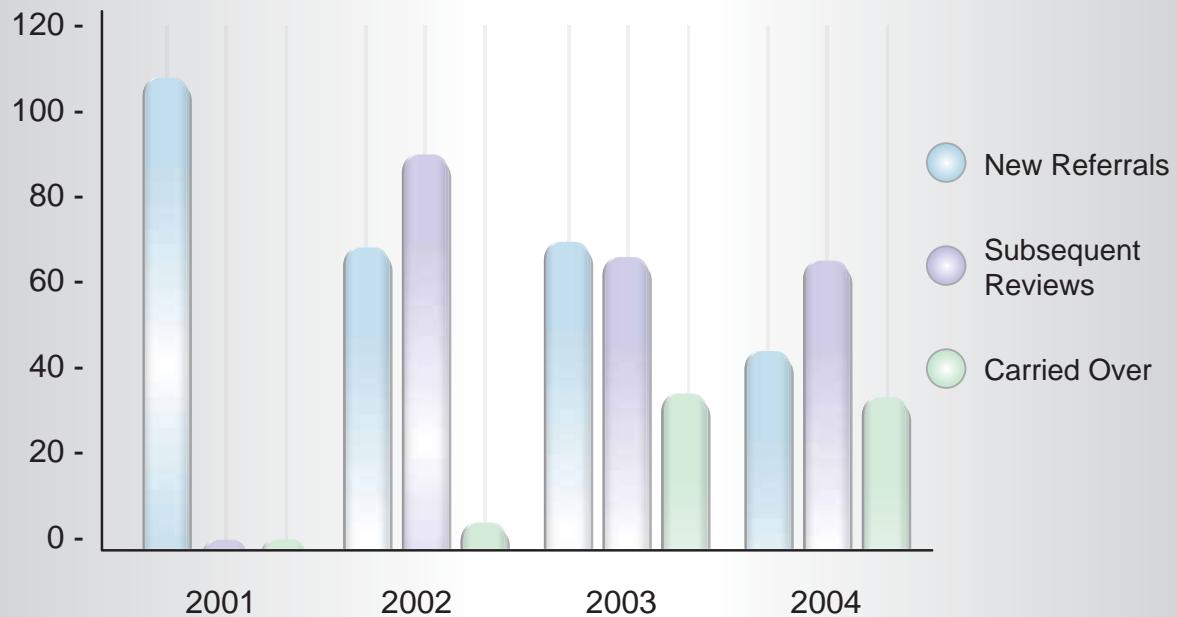


Appendix B(ii)

Total Caseload - Yearly Comparison				
	2001	2002	2003	2004
Cases referred to the Board for Review	113	67	72	43
Cases carried over	0	93	67	64 ⁽¹⁾
Cases for second or subsequent review	0	3	35	35
Total Caseload	113	163	113	113

Note: (1) Includes 1 prisoner who, having previously declined an invitation to participate in the review process, accepted the invitation during 2004

Fig B(ii) Total Caseload - Yearly Comparison

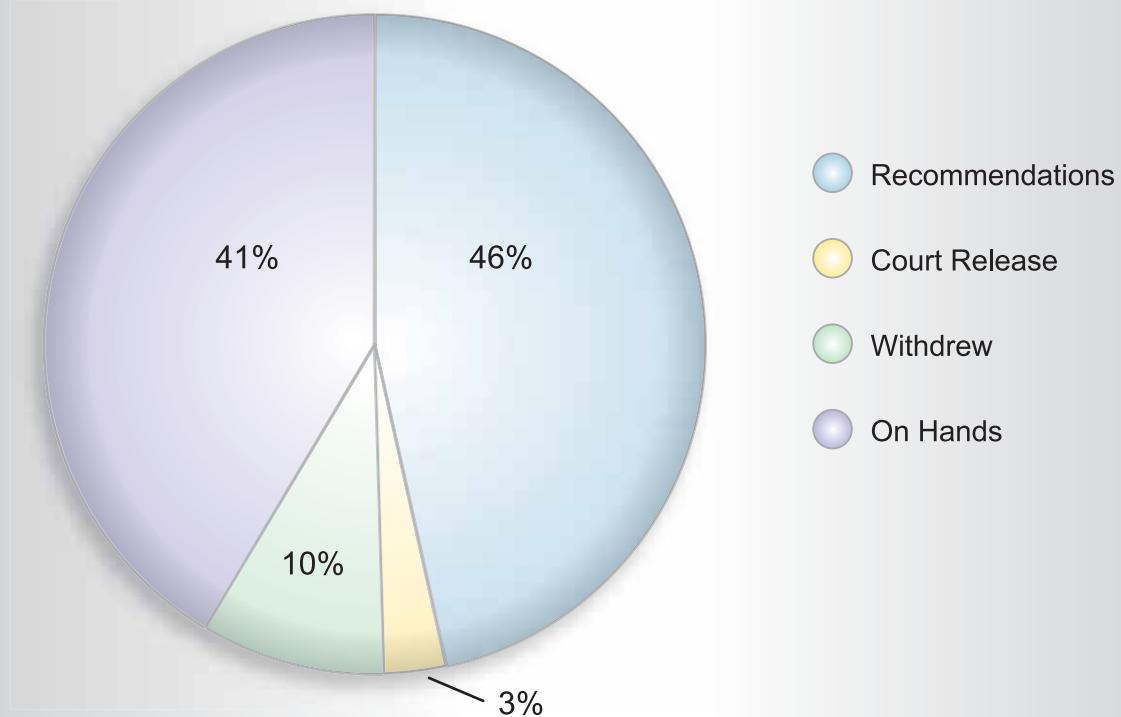


Appendix C(i)

Case Review Progress 2004		
	Number of Cases	%
Cases on hands at beginning of year	63	100
Cases for second or subsequent review	35	
Cases in which an invitation to participate was accepted in 2004 ⁽¹⁾	34	
Cases in which a recommendation to the Minister was made	61	47.13
Cases where the prisoner was released by the Courts during review process	4	3.82
Cases where prisoner withdrew from the review process ⁽²⁾	13	8.92
Cases on hands - i.e. at various stages of the review process and to be carried over to 2005	54	40.13

Notes: (1) Includes 1 prisoner who, having previously declined an invitation to participate in the review process, accepted the invitation during 2004
(2) In addition 1 other prisoner withdrew from the Parole Board process, subsequent to a recommendation being made, making a total of 14 withdrawals in all

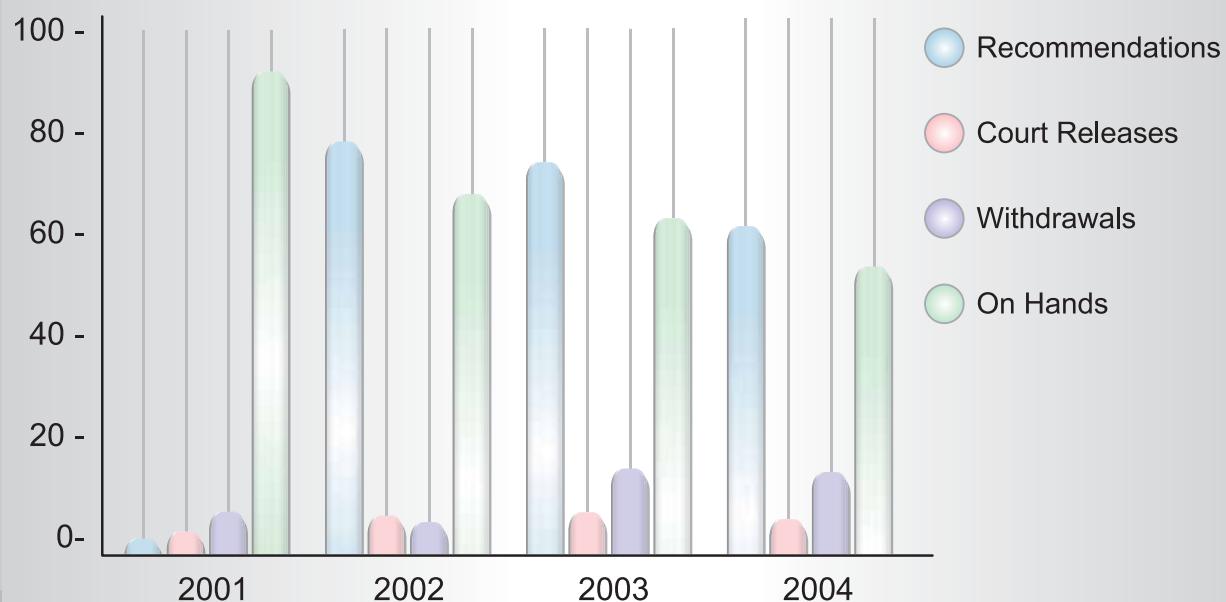
Fig C(i) Parole Board (Status of Cases) - 31/12/04



Appendix C(ii)

Case Review Progress Comparison								
	2001		2002		2003		2004	
	No.	%	No.	%	No.	%	No.	%
Cases on hand at beginning of year	0		93		67		63	
Cases for second or subsequent review	0	100	3	100	35	100	35	100
Cases in which an invitation to participate was accepted	100		57		55		34	
Cases in which a recommendation to the Minister was made	0	0	79	51.63	74	47.13	61	46.21
Cases where the prisoner was released by Courts during review process	1	1	4	2.61	6	3.82	4	3.03
Cases where the prisoner withdrew from the review process	6	6	3	1.96	14	8.92	13	9.85
Cases on hands - i.e. at various stages of the review process and to be carried over	93	93	67	43.79	63	40.13	54	40.91

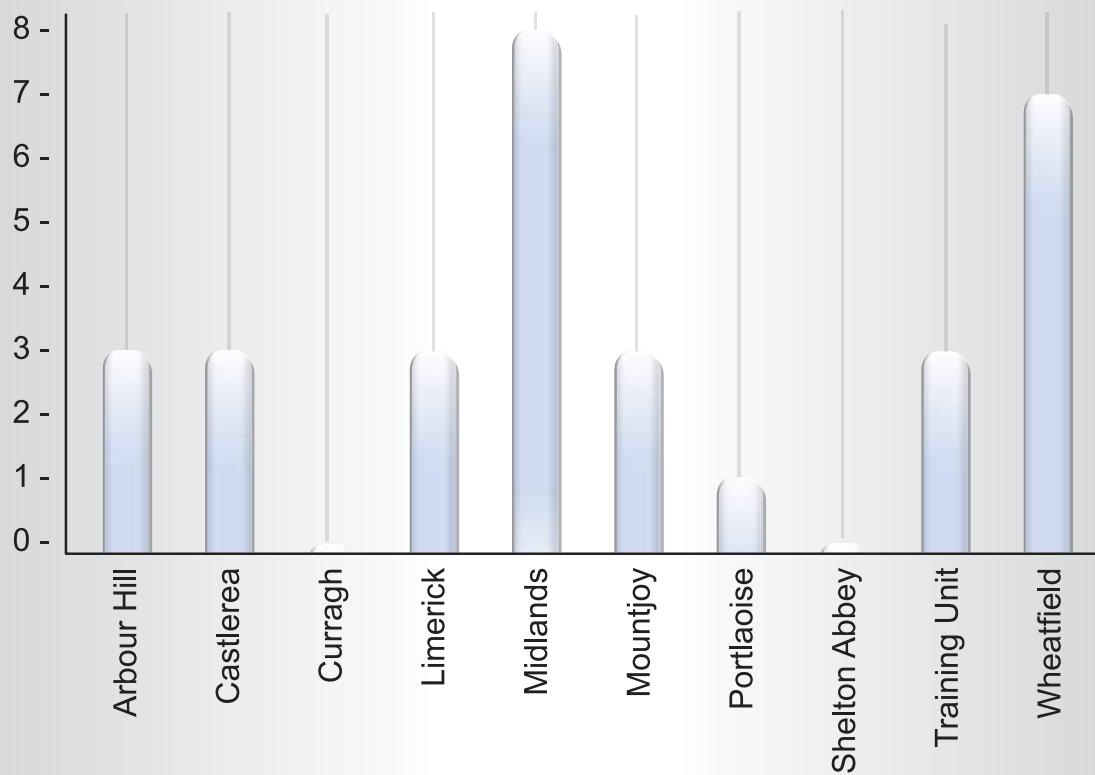
Fig C(ii) Case Review Progress Comparison



Appendix D(i)

Prisoner Interviews 2004		
Institution	No. of Prisoners	%
Arbour Hill Prison	3	9.68
Castlerea Prison	3	9.68
Curragh Place of Detention	0	0.00
Limerick Prison	3	9.68
Midlands Prison	8	25.80
Mountjoy Prison	3	9.68
Portlaoise Prison	1	3.22
Shelton Abbey	0	0.00
The Training Unit	3	9.68
Wheatfield Prison	7	22.58
Total	31	100.00

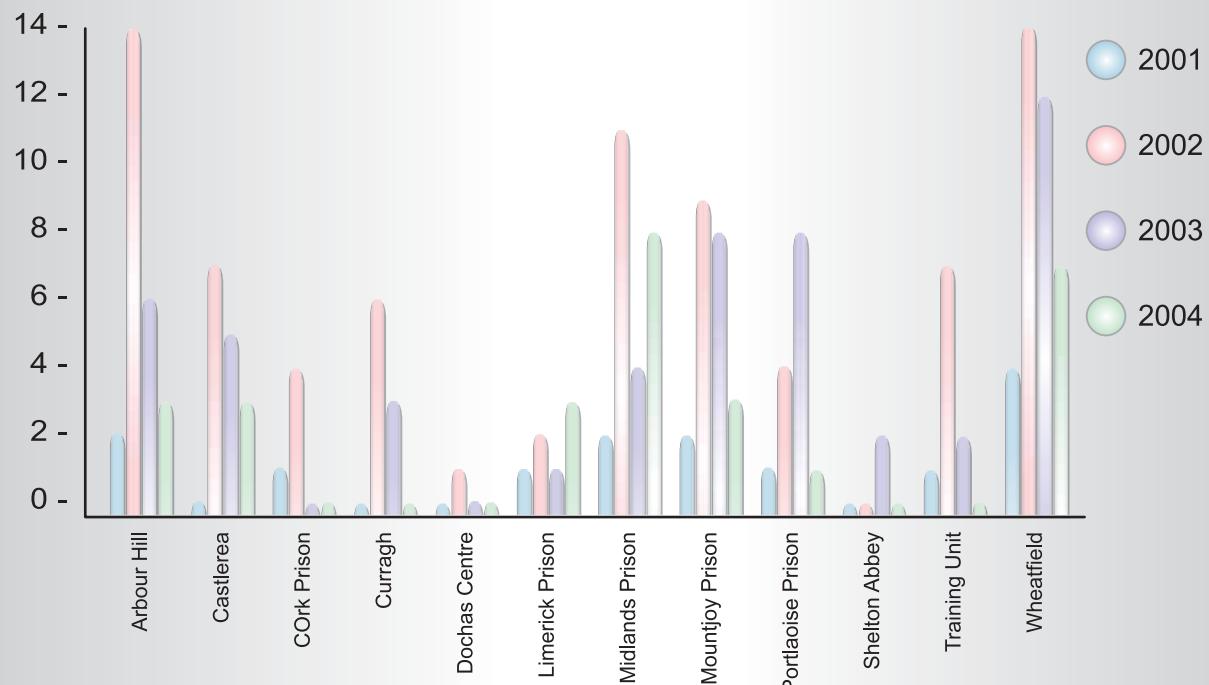
Fig D(i) Prisoner Interviews - 2004



Appendix D(ii)

Prisoner Interviews - Yearly Comparison				
	Number of Prisoners			
	2001	2002	2003	2004
Arbour Hill Prison	2	14	6	3
Castlerea Prison	0	7	5	3
Cork Prison	1	4	0	0
Curragh Place of Detention	0	6	3	0
Dochas Centre	0	1	0	0
Limerick Prison	1	2	1	3
Midlands Prison	2	11	4	8
Mountjoy Prison	2	9	8	3
Portlaoise Prison	1	4	8	1
Shelton Abbey	0	0	2	0
The Training Unit	1	7	2	3
Wheatfield Prison	4	14	12	7
Total	14	79	51	31

Fig D(ii) Prisoner Interviews - Yearly Comparison

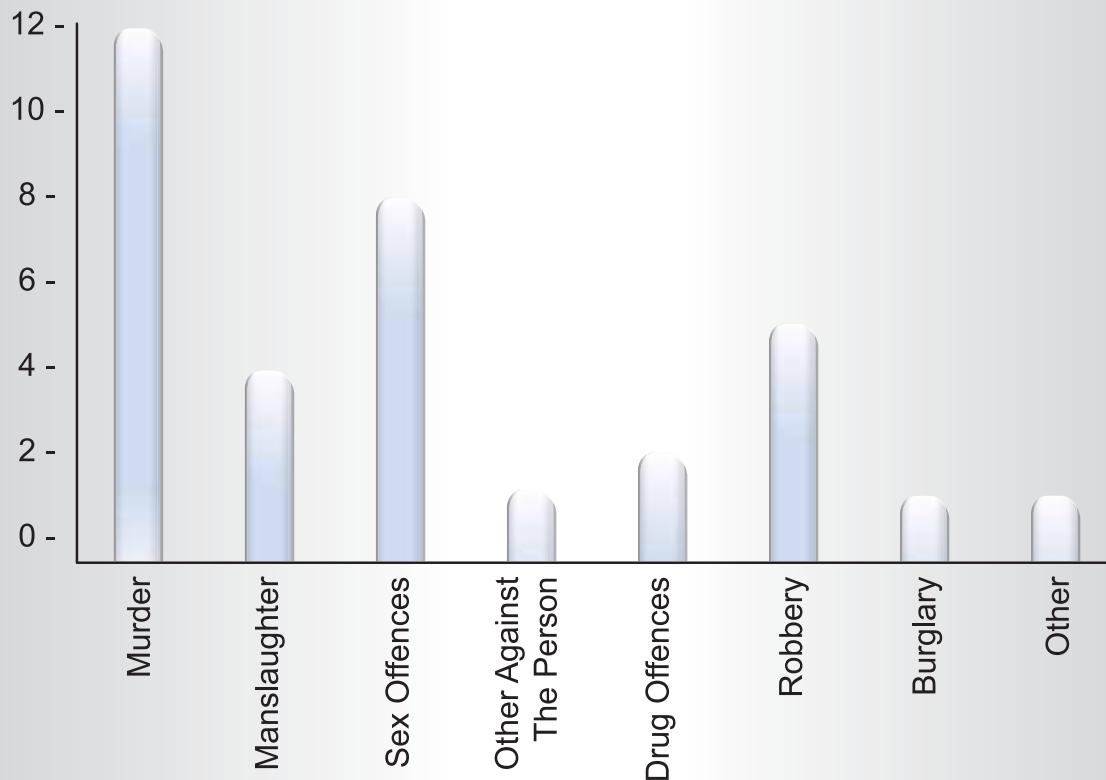


Appendix E(i)

Offence Analysis of Cases in which an invitation to Participate was accepted in 2004		
Offence⁽¹⁾	No. of Prisoners	%
Murder	12	35.29
Manslaughter	4	11.77
Sex Offences	8	23.53
Other Offences Against the Person	1	2.94
Drug Offences	2	5.88
Robbery	5	14.71
Burglary/Aggravated Burglary	1	2.94
Other Offences	1	2.94
Total	34	100

NOTE: (1) Where the prisoner was convicted of more than one offence, the offence indicated is that for which the longest sentence was imposed

Fig E(i) Offence Analysis - 2004

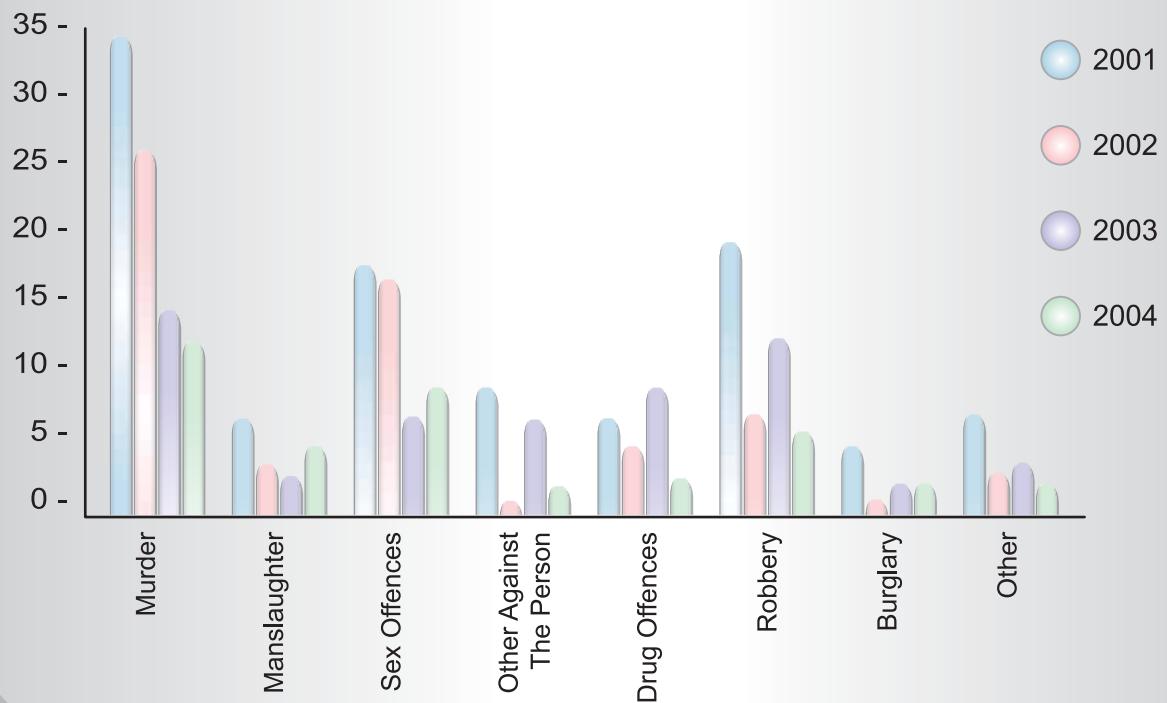


Appendix E(ii)

Offence⁽¹⁾	Number of Prisoners			
	2001	2002	2003	2004
Murder	34	26	14	12
Manslaughter	6	3	2	4
Sex Offences	17	16	6	8
Other Against The Person	8	0	6	1
Drug Offences	6	4	8	2
Robbery	19	6	12	5
Burglary/Aggravated Burglary	4	0	1	1
Other Offences	6	2	3	1
Total	100	57	52	34

NOTE: (1) Where the prisoner was convicted of more than one offence, the offence indicated is that for which the longest sentence was imposed

Fig E(ii) Offence Analysis - Yearly Comparison

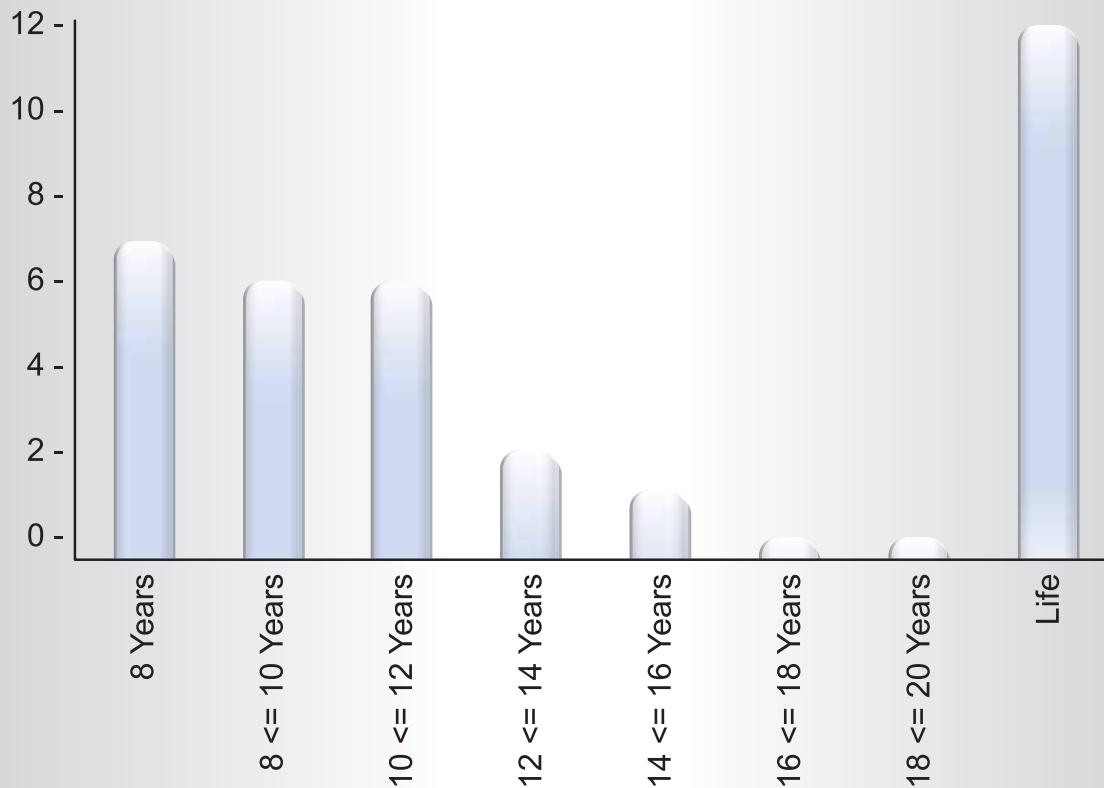


Appendix F(i)

Sentence Length Analysis of Cases in which an invitation to participate was accepted in 2004		
Sentence Length⁽¹⁾	No. of Prisoners	%
8 Years	7	20.59
8 <= 10 Years	6	17.65
10 <= 12 Years	6	17.65
12 <= 14 Years	2	5.88
14 <= 16 Years	1	2.94
16 <= 18 Years	0	0.00
18 <= 20 Years	0	0.00
Life	12	35.29
Total	34	100

NOTE: (1) Where the prisoner received more than one sentence, the sentence indicated is the longest sentence imposed or, where applicable, the aggregate of (consecutive) sentences

Fig F(i) Sentence Length Analysis - 2004

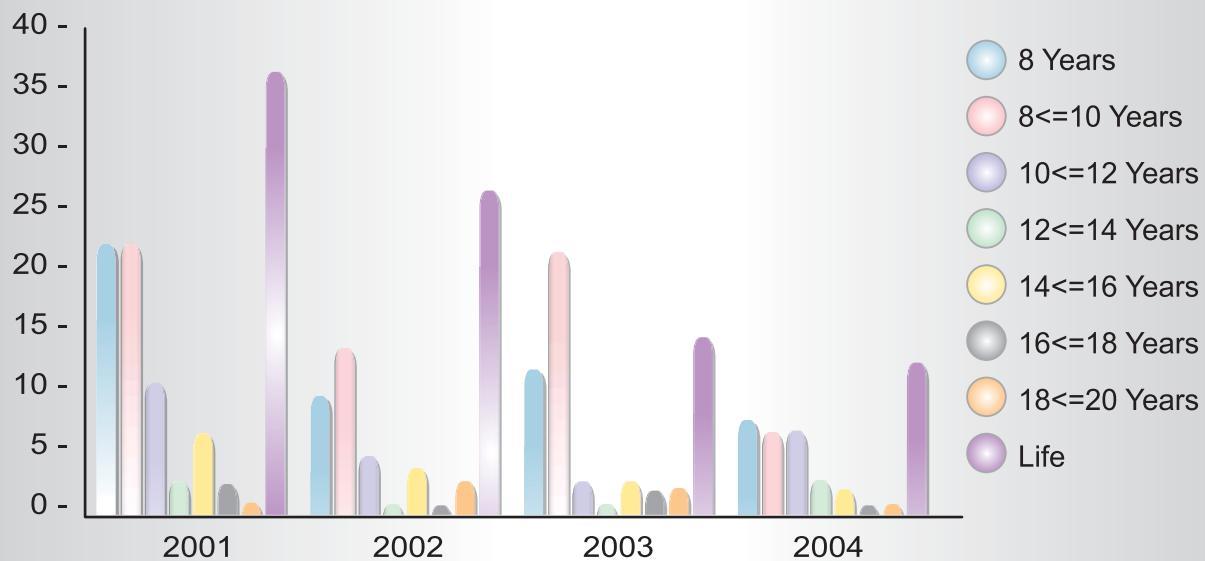


Appendix F(ii)

Sentence Length ⁽¹⁾	Number of Prisoners			
	2001	2002	2003	2004
8 Years	22	9	11	7
8 <= 10 Years	22	13	21	6
10 <= 12 Years	10	4	2	6
12 <= 14 Years	2	0	0	2
14 <= 16 Years	6	3	2	1
16 <= 18 Years	2	0	1	0
18 <= 20 Years	0	2	1	0
Life	36	26	14	12
Total	100	57	52	34

NOTE: (1) Where the prisoner received more than one sentence, the sentence indicated is the longest sentence imposed or, where applicable, the aggregate of (consecutive) sentences

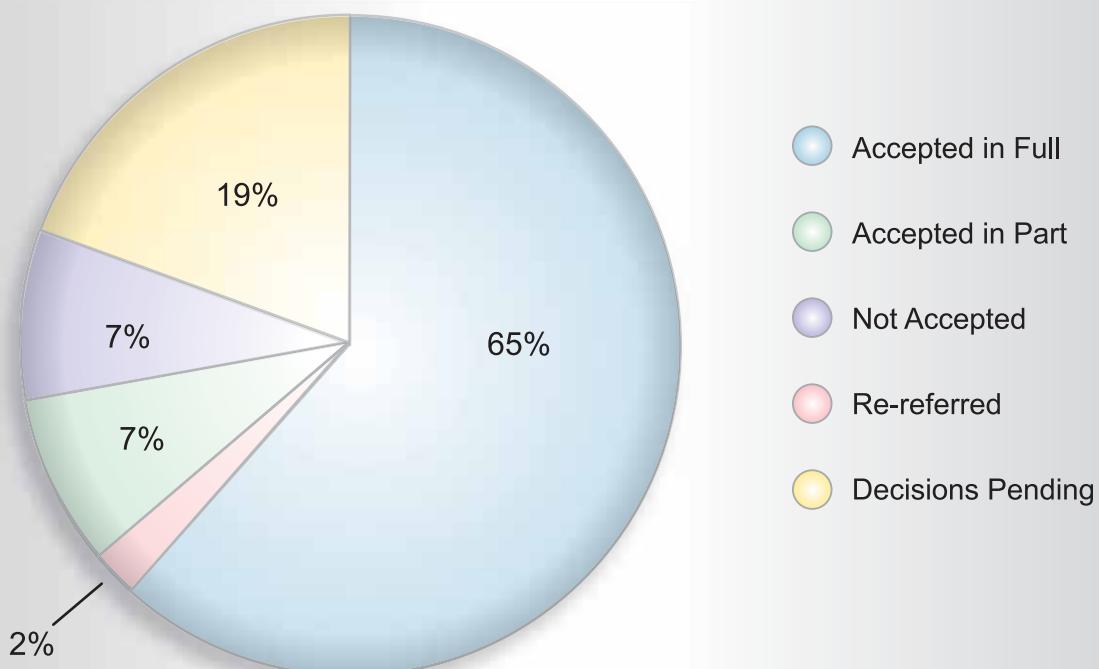
Fig F(ii) Sentence Length Analysis - Yearly Comparison



Appendix G(i)

2004 Recommendations made to the Minister for Justice, Equality and Law Reform

	Number	%
Recommendations accepted in full	40	65.57
Recommendations accepted in part	4	6.56
Recommendations not accepted	4	6.56
Cases referred back to the Board for further consideration	1	1.64
Ministerial decisions pending	12	19.67
Recommendations made	61	100

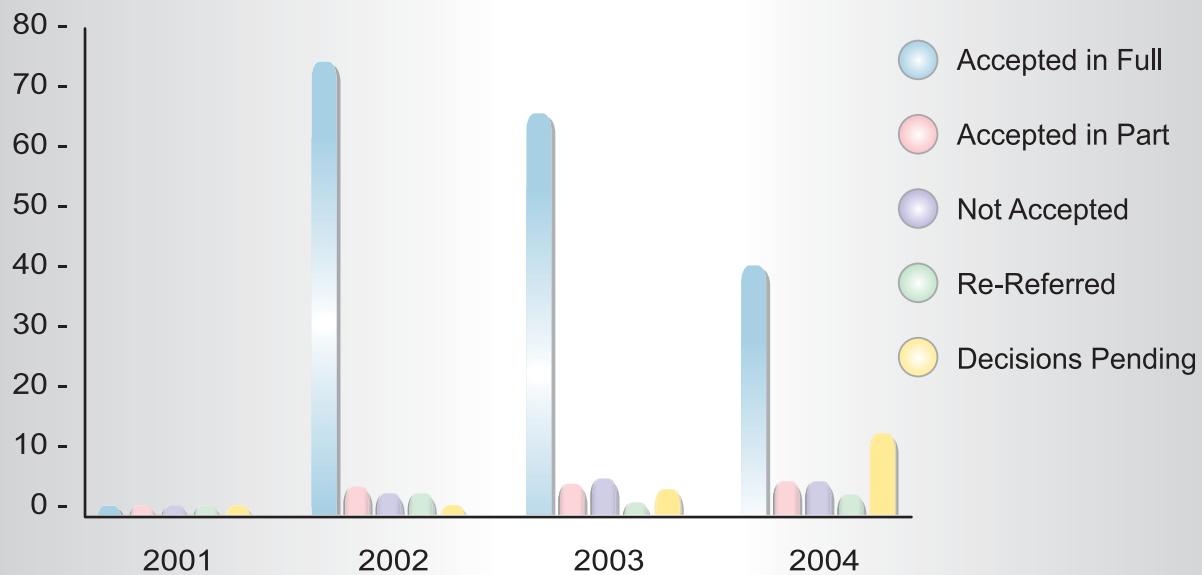
Fig G(i) Recommendations Made - 2004

Appendix G(ii)

**Recommendations made to the
Minister for Justice, Equality and Law Reform
Yearly Comparison**

	Number of Cases			
	2001	2002	2003	2004
Recommendations accepted in full	0	74	65	40
Recommendations accepted in part	0	3	3	4
Recommendations not accepted	0	1	4	4
Cases referred back to the Board for further consideration	0	1	0	1
Ministerial decisions pending	0	0	2	12
Total Recommendations made	0	79	74	61

Fig G(ii) Recommendations Made - Yearly Comparison



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