The Irish Prison System

Vision, Values, Reality

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JCFJ Jesuit centre
for faith & justice

Acknowledgements

The Jesuit Centre for Faith and Justice

The Jesuit Centre for Faith and Justice works to promote social justice by fostering an understanding of public issues through social analysis, theological reflection and advocacy. The Centre is an agency of the Irish Jesuit Province and is a registered charity: CHY 6965.

At the heart of its work is the belief that every human being deserves dignity and respect. The social justice issues of concern to the Centre include penal policy, housing and homelessness, health care, and the need for a more just and sustainable model of economic development.

The Centre conducts independent analysis on complex issues with the aim of influencing change in policy and practice, as well as raising public awareness of difficult social problems.

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Chapter 1 : Introduction

Imprisonment is the most severe penalty available to the courts in Ireland, as it is in most other developed countries. Given the far-reaching implications of removing an individual's liberty, even where he or she has committed a crime, and the reality that imprisonment often has detrimental consequences for both the person imprisoned and his or her family, a society must give serious consideration to two fundamental questions: the extent to which it uses the penalty of imprisonment and the conditions that operate in its prisons.

Ireland's prison population has been rising steadily for several decades, and has more than doubled since 1995. During the country's economic boom, expenditure on prisons increased considerably and, in particular, additional spending was devoted to building new prison spaces and refurbishing existing prison buildings. Yet despite this extra expenditure and the marked increase in the number of prison places available, prison conditions overall have worsened.

In particular, overcrowding has become an over-riding characteristic of prisons in Ireland. That overcrowding affects every aspect of life in most Irish prisons. It has led to multiple occupancy of cells designed for one person, put pressure on services such as education and training, eliminated the possibility of increasing the amount of time prisoners spend out of their cells, and hindered the ability of the prison authorities to deal appropriately with inter-prisoner tensions and violence, so that large numbers of prisoners now have to be locked up for their own safety for as many as twenty-three hours a day. Overcrowding and inadequate conditions also affect the people who work in prison, since this is their workplace.

In a very real sense, then, the question of the extent to which imprisonment is used and the question of the conditions of imprisonment have become closely intertwined in the Irish prison system over recent years.

Imprisonment and Socio-Economic Deprivation

Alongside the disturbing reality of the conditions in Irish prisons, is the troubling fact that a disproportionate number of people in prison come from backgrounds characterised by social and economic deprivation. High numbers of prisoners lack literacy skills and educational or training qualifications. Compared to the general population, disproportionate numbers suffer from mental illness, and have alcohol and/or drug addiction issues. Many have experienced homelessness at some point in their lives. It could be argued that for many, the prison system has become 'the service of last resort' – and that the system is being asked to deal with the consequences of inadequate or failed policies across a whole range of areas, from income distribution to education and training services; from mental health care to family support services.

Limited Policy Horizons

That the focus in recent times should have been so much on building additional prison places indicates an extremely narrow perspective on penal policy and a failure to take full account of the possibilities for radically expanding the range and use of other, non-custodial, means of responding to people who commit crime. It also indicates a failure, in government circles, to grasp the idea that 'social policy is best criminal policy' – the idea that the most productive

way to use resources to combat crime is to invest in tackling the social deprivation that underpins much of the crime in our society.

Even where the building of new prison places may have been justified, the approach taken has been deeply retrograde. It has been to favour the extension of existing developments, creating in the process a number of very large prisons, or to plan for the building of new, and large prisons such as Thornton Hall, located in areas inaccessible by public transport. Such an approach is at variance with international best practice, which favours the provision of prison places in smaller, and geographically dispersed, prisons. A particularly retrograde feature of the prison building programme is that it is now a formal part of policy that accommodation may be designed for two-person occupancy of cells, in contravention of the *European Prison Rules* which specify single cell occupancy as the norm.

The Gap between Policy Ideals and the System in Practice

Both the conditions now prevalent in Irish prisons, and the limited policy vision which has been shaping prison development, are at variance with the key official statements regarding the role and function of the prison system. *The Management of Offenders*, published in 1994, sets out a vision for a penal system where imprisonment would be used only as a measure of last resort, where prisoners would be treated 'with care and respect', where they would 'have access to the facilities and services necessary for their physical and mental well-being', and where the environment and opportunities provided within prison would lead those imprisoned to a 'constructive lifestyle' in the community following release. Furthermore, it envisaged that policies for development of community-based sanctions and measures should be considered 'at least as important as those for the development and use of penal institutions'.

Key elements of this approach are also evident in the Mission Statement and Core Values of the Irish Prison System. The mission of the Service is stated as being: 'to provide safe, secure and humane custody for people who are sent to prison … managing custodial sentences in a way which encourages and supports prisoners in their endeavouring to live law abiding and purposeful lives as valued members of society'. The core values include: 'respect for the human dignity and rights of every person' and a commitment to 'minimising the detrimental effects of imprisonment'.

These official statements are in keeping with the principles and provisions of a series of United Nations and Council of Europe human rights conventions on the rights of people in prison and on the way prison systems must operate if they are to respect these rights. Ireland has ratified these conventions, and in so doing has taken on the obligation to implement their provisions to the fullest extent possible.

It is apparent, then, that there a significant gap between the espoused official values and overarching policy statements regarding the development of the Irish prison system, and the decisions and actions that have been taken over recent decades. Pointing to the chasm that can exist between declared values and the actions actually taken by government, one writer has remarked: 'It is easy to use values as a mantra rather than an agenda for action.'[1] The context, in that instance, was health policy, but the point seems all too applicable to the prison system in Ireland.

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[1] Marc Danzon, 'The Value of Values', in Marshall Marinker (ed.), *Constructive Conversations about Health Policy and Values*, Oxford: Radcliffe Publishing, 2006, p. 17.

Principles for Reform

The serious situation regarding the use of imprisonment in Ireland and the conditions that now prevail in our prisons provide compelling reason for the authorities responsible for the Irish prison system, and for Irish society as a whole, to look for radical change in policy and practice. In doing so, clear guidance is provided by the principles that have been repeatedly stated by international bodies, and that have been adopted by the countries generally considered to have a strong commitment to humane prison regimes.

The essential principles include:

- ❖ It is the deprivation of liberty which constitutes the punishment of imprisonment: people are sent to prison *as* punishment, not *for* punishment;

- ❖ People in prison must be treated with humanity and respect for their inherent dignity;

- ❖ The prison system must seek to promote the rehabilitation and social reintegration of those imprisoned;

- ❖ Given that it is the loss of freedom which constitutes the punishment, and given the goal of rehabilitation, life inside prison should be as normal as possible, with security no greater than is required for safe custody;

- ❖ The use of imprisonment should be kept to a minimum, with non-custodial sanctions used as an alternative, wherever possible.

Victims of Crime

To advocate for a reduced reliance on imprisonment as a sanction, and for humane conditions within prisons, is not in any way to suggest that the consequences of crime for the people who are its victims may be overlooked or minimised. Even a less serious crime can have a significant impact on a person's life; the most serious crimes can devastate the lives of individuals and families. Victims of crime deserve justice, and the criminal justice system has an obligation to respond sensitively and appropriately to their needs, and to act effectively to detect and prosecute offences.

The basis for advocating the use of non-custodial sentences where possible, and ensuring humane conditions where imprisonment needs to be used, is the belief that while penal sanctions of necessity contain a punitive element they should also have significant rehabilitative functions. They should seek to enable the perpetrators of crime come to an understanding and appreciation of the consequences of their actions for the victims of crime, serve to increase their sense of respect for other people and society as a whole, and allow them to see how they may lead a life free of crime, so helping to ensure that fewer people become the victims of crime in the future.

Background to this Report

The work of the Jesuit Centre for Faith and Justice is based on the belief that every human person is worthy of respect. It follows that the innate dignity of the person cannot ever be disregarded or discounted, even in cases where he or she has committed a crime.

As it became increasingly evident in recent years that the conditions in Irish prisons were in many respects an affront to human dignity, the Centre considered it important to contribute to raising awareness of the existence and the unacceptability of these conditions, and to add its voice to the many calls for a different approach to be adopted. It hopes that in providing a perspective that draws on Christian values and principles, such as compassion for all people, solidarity, and respect for the common good, it can help widen the debate and reveal new possibilities as to how Irish society can best respond to the problem of criminal behaviour – and the social conditions which are often a contributory factor to that behaviour.

Articulated within this report is the need for an Irish penal system that is based on the minimum use of custodial sanctions, the minimum use of security, the 'normalisation' of life within prisons, and the development of alternative, non-custodial sanctions. The report offers, first, an analysis of the Irish prison population and its demographics; second, an overview of the experience of living in prison in Ireland today – the physical conditions and regimes that generally operate; third, a description of each of the fourteen prisons in Ireland; fourth, a description of the various services provided within the prison system; fifth, an outline of the costs, both financial and social, of imprisonment; sixth, an articulation of a vision for the prison system based on values and principles of Catholic social teaching; seventh, an outline of the key human rights principles in regard to imprisonment; and eighth, a series of recommendations, which highlight the need for a radical realignment of current policies and practices.

Chapter 2 : The Irish Prison Population

Growth in Numbers in Prison

The prison population in the Republic of Ireland has been rising steadily over several decades, and has more than doubled since 1990. Prior to 1970, the daily average number of people in prison was less than 800, and at times it was substantially lower than this – for example, in 1957 it was 395. In 1975, however, the daily average exceeded 1,000, and by 1989 it had risen to more than 2,000. From the late 1990s, the increase in the prison population became even more marked, and, as Table 1 below shows, during the decade 2001 to 2010 the daily average grew from 3,112 to 4,290 (an increase of 38 per cent).

The increasing resort to imprisonment in Ireland is reflected not only in the growth in the daily average number but in the figures for committals to prison each year. Table 1 shows both the number of *people* sent to prison each year over the period 2001 to 2010, and the total number of *committals*, which is greater, since some people are committed to prison more than once during the same year.

Table 1: Prison Population, 2001–2010 and Selected Years

Year	Daily Average Number of People in Prison	Number of Persons Committed to Prison	Total Committals
1989	2,067		
1991	2,141		
1996	2,111		
1998	2,610		11,307
2000	2,948		11,626
2001	3,112	9,539	12,127
2002	3,165	9,716	11,860
2003	3,176	9,814	11,775
2004	3,199	8,820	10,657
2005	3,151	8,686	10,658
2006	3,191	9,700	12,157
2007	3,321	9,711	11,934
2008	3,544	10,928	13,557
2009	3,881	12,339	15,425
2010	4,290	13,758	17,179

Source: Ian O'Donnell, Eoin O'Sullivan and Deirdre Healy, Crime and Punishment in Ireland 1922 to 2003: A Statistical Sourcebook, Dublin, Institute of Public Administration, 2005, pp. 153, 155; Irish Prison Service, *Annual Reports,* 2000 to 2010

The figure for the daily average for 2011 is not yet available, but on several dates throughout 2011 the prison population was much higher than the daily average for 2010. For example, on 13 May 2011, there were 4,490 people in prison. However, there are indications that numbers have declined somewhat since then: on 21 November 2011, the total was 4,269;[2] on 1

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[2] Letter, from Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, 20 December 2011, follow-up to PQ 164, 36793/11, *Dáil Debates,* Vol. 747, No. 5, 24 November 2011, p. 1034.

December 2011 it had again risen and stood at 4,313[3] but this was still lower than the May 2011 figure.

Rate of Imprisonment

Ireland's rate of imprisonment – that is, the number of prisoners per 100,000 population – has increased continuously and very rapidly over the past four decades: rising from 25.2 per 100,000 in 1970 to 36.1 in 1980, and from 60.1 in 1990 to 80.4 in 2000.[4] In December 2011, the rate was 95.8.[5] While this is lower than many European Union countries,[6] it is also significantly higher than that of the countries which have the lowest rates. These include countries with populations not greatly different from Ireland's – Finland (59); Slovenia (64); Norway (73) and Denmark (74) – as well as a number of other Northern European countries – Sweden (78); Germany (86) and the Netherlands (87).[7]

The 'rate of imprisonment' refers to the prison population at a particular time and so does not reflect the impact of a situation where, in any given year, there is a high number of committals to prison, a large proportion of which are associated with short periods of incarceration. These short periods arise either because people are detained on remand, are detained briefly under immigration legislation or have been given a sentence of short duration. This is the situation in Ireland, with the result that although the number of people in prison in Ireland at any one time may not be substantially greater than in several other European countries, and much lower than many others, Ireland's penal policy results in significantly greater numbers of people experiencing imprisonment than its rate of incarceration might at first suggest.

'Non-Sentence' Committals to Prison

The prison population includes not only people who have been convicted by the courts and given a sentence of imprisonment but those who are on remand or awaiting trial, those detained under immigration legislation, and those sent to prison for contempt of court.

From 2001 to 2007, more than half of all committals to prison related to persons in these categories. However, since 2008 the majority of committals have been under sentence; in 2010, they represented 70 per cent of the total (see Table 2).

Most 'non-sentence' committals are in the category 'Remand/Awaiting Trial' – a category in which the numbers increased significantly following the coming into force, in May 2000, of the Bail Act, 1997.[8] A second group of 'non-sentence' committals relates to detention under immigration legislation, which provides that individuals may be subject to detention if they

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[3] Letter, from Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, 20 December 2011, follow-up to PQ 163, 36793/11, *Dáil Debates*, Vol. 747, No. 5, 24 November 2011, p. 1034.

[4] Eoin O'Sullivan and Ian O'Donnell, 'Imprisonment and the Crime Rate in Ireland', *The Economic and Social Review*, Vol. 34, No. 1, Spring 2003, pp. 33–64, at p. 46.

[5] The prison population was 4,313 on 1 December 2011 and the country population was 4.5 million.

[6] Some countries had rates in excess of 200 per 100,000 population: Poland (213); Czech Republic (222); Estonia (252); Lithuania (276) and Latvia (324). Countries with rates in excess of 150 but less than 200 included: Spain (152); Scotland (153); England and Wales (155); Hungary (163); Slovakia (184). See, International Centre for Prison Studies, 'World Prison Brief', (available at: www.prisonstudies.org/info/worldbrief/).

[7] *Ibid*.

[8] Irish Prison Service, *Annual Report 2001*, Dublin: Irish Prison Service, 2002, p. 12.

are considered to have entered the country illegally or remained beyond the period that they were legally entitled to be in the country.[9] In 2010, there were 479 committals (involving 459 persons) under immigration legislation; this represented a decrease of 29 per cent on the figure for 2009, when there were 673 such committals. Overall, committals under immigration legislation have declined significantly over several years, so that the number in 2010 was 54 per cent lower than that for 2007.

Finally, a very small number of 'non-sentence' committals – usually fewer than ten each year – are for contempt of court.

Table 2: Committals to Prison, 2005–2010

Year	Total Committals	Committals under Sentence	Committals on Remand/ Awaiting Trial	Committals under Immigration Legislation	Other Committals/ Committals for Contempt of Court
2005	10,658	5,088 (47%)	4,522	951	188 ('other')
2006	12,157	5,642 (47%)	5,311	1,196	8 (contempt)
2007	11,934	5,715 (47%)	4,967	1,249	3 (contempt)
2008	13,557	7,461 (55%)	5,052	1,034	10 (contempt)
2009	15,425	10,226 (66%)	4,519	673	7 (contempt)
2010	17,179	12,487 (73%)	4,836	479	3 (contempt)

Source: Irish Prison Service, *Annual Reports,* 2001 to 2010

Despite there being a significant number of 'non-sentence' committals each year, the great majority of people in prison on any given day are there under sentence. This is evident from the data provided by the 'snapshot' of the prison population, published in the Annual Reports of the Irish Prison Service since 2003 (see Table 3). These snapshots reflect the reality that while a significant percentage of people committed to prison are in the 'non-sentence' categories, the majority of them are detained for relatively short periods. This is particularly the case for those committed under immigration legislation; many people in this group may be detained for just a few days. In 2009, for example, over 70 per cent of people committed under immigration legislation were detained for a period of less than eight days; the daily average number of such detainees in 2009 was just ten; in 2010, it was eleven.

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[9] A number of different pieces of legislation, ranging from the Aliens Act, 1946 to the Illegal Immigrants Act 2000, provide the basis for detaining people considered to be illegally present in the country. The Immigration, Residence and Protection Bill 2008, drafted to replace the various existing acts relating to immigration and asylum, included provision for the continued use of detention in this area.

Table 3: Snapshot of the Prison Population, 2003–2010

Year	Total Prison Population	Detained under Sentence	Detained on Remand/Awaiting Trial/Others	Detained under Immigration Legislation
2003	3,146	2,640 (83.9%)	488 (15.5%)	18 (0.57%)
2004	3,174	2,660 (83.8)	373 (11.7%)	42 (1.3%)
2005	N/A	2,637	N/A	N/A
2006	3,287	2,725 (82.9%)	519 (15.7%)	43 (1.3%)
2007	3,334	2,696 (80.8%)	619 (18.6%)	19 (0.6%)
2008	3,695	2,944 (79.7%)	730 (19.7%)	21 (0.6%)
2009	4,040	3,418 (84.6%)	602 (14.9%)	20 (0.5%)
2010	4,440	3,721 (83.8%)	709 (15.9%)	10 (0.2%)

Source: Irish Prison Service, *Annual Reports,* 2003 to 2010

Committals under Sentence

Type of Offence

In the Annual Reports of the Irish Prison Service, information is provided in two ways on the type of offences for which people have been imprisoned following conviction by the courts – firstly, in relation to the committals that have taken place during the year, and, secondly, in respect of the prison population on a given day (the annual 'snapshot' of the population).

In terms of committals, Table 4 shows that in each year over the period 2001 to 2009, a small minority of committals related to the most serious offences; in absolute terms, the numbers in these categories increased somewhat over the nine-year period, but the significant increase in the overall number of committals meant that *in percentage terms* these sub-groups showed a decrease.

However, the table reveals some marked increases, especially in the latter years of the period covered, in the categories 'offences against the person without violence' (which rose by 164 per cent); drug offences (up 191 per cent); road traffic offences (up 132 per cent). By 2009, road traffic offences represented one-third of all committals and constituted the single largest category.

In addition, non-payment of a court-ordered fine accounted for a significant number of committals each year. In 2010, there were 6,683 such committals, as opposed to 4,806 in 2009 (an increase of 39 per cent). The number of committals for non-payment of fines continued to rise in 2011, reaching almost 6,969 by the end of November.[10] Of the 2010 total, 1,054 were female committals, and 5,629 were male; female committals represented 15.8 per cent of the total in this category, a higher proportion than committals generally, where they represented 12.4 per cent (see Table 14 below).

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[10] *Dáil Debates*, Vol. 750, No. 2, 15 December 2011, p. 516, PQ 239, 40561/11.

Table 4: Committals under Sentence by Offence, 2001–2009

Offence Category	2001	2002	2003	2004	2005	2006	2007	2008	2009
Group 1:									
Murder	14	13	33	30	17	17	19	20	19
	(0.3)	(0.3)	(0.6)	(0.6)	(0.3)	(0.3)	(0.3)	(0.3)	(0.2)
Manslaughter	10	7	19	19	9	18	19	12	20
	(0.2)	(0.1)	(0.4)	(0.4)	(0.2)	(0.3)	(0.3)	(0.2)	(0.2)
Sexual Offences	113	102	121	91	93	90	116	120	123
	(2.2)	(2.0)	(2.2)	(1.8)	(1.8)	(1.6)	(1.8)	(1.5)	(1.1)
Other Offences	502	562	573	830	570	655	728	787	832
	(9.7)	(11.2)	(10.6)	(16.4)	(11.2)	(11.3)	(11.3)	(9.8)	(7.7)
	639	684	746	970	689	780	882	939	994
Total Group 1	(12.3)	(13.6)	(13.8)	(19.2)	(13.5)	(13.4)	(13.7)	(11.7)	(9.2)
Group 2:	240	253	233	182	84	63	41	65	62
Offences Against the Person with Violence	(4.7)	(5.0)	(4.3)	(3.6)	(1.7)	(1.1)	(0.6)	(0.8)	(0.6)
Group 3:	857	761	1,003	1,130	1,200	1,562	1,744	2,025	2,262
Offences Against the Person without Violence	(16.6)	(15.1)	(18.5)	(22.3)	(23.6)	(26.9)	(27.0)	(25.2)	(20.8)
Group 4:	310	260	306	278	279	395	530	637	902
Drug Offences	(6.0)	(5.2)	(5.7)	(5.5)	(5.5)	(6.8)	(8.2)	(7.9)	(8.3)
	1,553	1,448	1,463	1,296	1,357	1,452	1,564	2,254	3,601
Road Traffic Offences	(30.0)	(28.8)	(27.0)	(25.6)	(26.7)	(25.0)	(24.2)	(28.0)	(33.1)
	1,561	1,630	1,659	1,208	1,479	1,550	1,694	2,123	3,044
Other Offences	(30.3)	(32.4)	(30.7)	(23.8)	(29.1)	(26.7)	(26.2)	(26.4)	(28.0)
Total Group 4	3,424	3,338	3,428	2,782	3,115	3,397	3,788	5,014	7,547
	(66.4)	(66.3)	(63.4)	(54.9)	(61.2)	(58.6)	(58.7)	(62.3)	(69.5)
Total	**5,160**	**5,036**	**5,410**	**5,064**	**5,088**	**5,802**	**6,455**	**8,043**	**10,865**

Source: Irish Prison Service, *Annual Reports,* 2001 to 2009

In the 2010 Annual Report of the Prison Service, data on committals under sentence is presented using a new set of categories, with offences now recorded under the headings being used by other agencies – An Garda Síochána, the Courts Service, the Probation Service and the Central Statistics Office. Table 5 presents the data for 2010. The re-categorisation means that, except for a number of specific offences, it is not possible to make direct comparisons with the years prior to 2009.

Table 5: Committals under Sentence by Offence, 2010

		Female	Male	Total
01	Homicide Offences	2	51	53
02	Sexual Offences	0	123	123
03	Attempts/Threat to Murder, Assaults, Harassments & Related Offences	57	687	744
04	Dangerous or Negligent Acts	98	1,127	1,225
05	Kidnapping and Related Offences	0	15	15
06	Robbery, Extortion & Hijacking Offences	2	63	65
07	Burglary and Related Offences	17	463	480
08	Theft and Related Offences	257	1,193	1,450
09	Fraud, Deception & Related Offences	22	343	365
10	Controlled Drug Offences	56	904	960
11	Weapons and Explosives Offences	6	284	290
12	Damage to Property & to the Environment Offences	48	423	471
13	Public Order & Other Social Code Offences	117	1,493	1,610
14	Road Traffic Offences	523	2,749	3,272
15	Government, Justice Procedures & Organised Crime Offences	149	768	917
16	Offences Not Elsewhere Classified	143	304	447
Total		**1,497**	**10,990**	**12,487**

Source: Irish Prison Service, *Annual Report 2010*

In relation to the annual 'snapshot' of the prison population, the data shows that the prison population on a given day includes a significant percentage of people convicted of the most serious offences, even though, as already noted, only a very small minority of persons committed in any year come into prison as a result of having been convicted of such offences.

For example, as Table 6 shows, on 4 December 2009, the day the 'snapshot' data was recorded for that year, 1,153 people in prison (33.7 per cent of the total) had been convicted of one of the offences in Group 1, the most serious offence category. There was a marked increase in numbers serving a sentence for murder or manslaughter between 2003 and 2009, with the numbers rising from 240 to 335 (an increase of 40 per cent). In 2010, the number serving a sentence for 'homicide offences' was 368 (Table 7).

Over one-fifth of those in prison under sentence in December 2010 had been convicted of a 'controlled drug offence', a category that includes: cultivation or manufacture of drugs; possession of drugs for sale or supply; possession of drugs for personal use, and 'other drug offences'. As Table 6 and Table 7 show, the numbers in this category rose considerably between 2003 and 2010 – from 314 (12 per cent of the total) to 852 (23 per cent).

On 4 December 2009, there were just 170 persons in prison for a road traffic offence despite this being the largest offence category for committals during that year. Twenty-five people were in prison on that day for the non-payment of a fine (0.7 per cent of the total); in 2010, the number was 15 (0.4 per cent).

Table 6: Snapshot of Prison Population by Type of Offence, 2003–2009

Offence Category	2003	2004	2005	2006	2007	2008	2009
Group 1:							
Murder	174	189	222	229	228	251	264
Manslaughter	66	73	72	78	84	72	71
Sexual Offences	298	258	252	232	237	275	292
Other Group 1 Offences	672	405	568	387	405	433	526
Total Group 1	1210	925	1,114	926	954	1,031	1,153
Group 2: Offences Against the Person with Violence	416	291	199	138	86	96	102
Group 3: Offences Against the Person without Violence	431	518	568	714	696	749	941
Group 4: Drug Offences	314	376	344	381	472	567	760
Road Traffic Offences	127	221	177	221	190	184	170
Other Offences	142	329	235	345	298	317	292
Total Group 4	583	926	756	947	960	1,068	1,222
Total	**2,640**	**2,660**	**2,637**	**2,725**	**2,696**	**2,944**	**3,418**

Source: Irish Prison Service, *Annual Reports,* 2001 to 2010

Table 7: Snapshot of Prison Population by Type of Offence, 2010

		Female	Male	Total
01	Homicide Offences	9	359	368
02	Sexual Offences	1	309	310
03	Attempts/Threat to Murder, Assaults, Harassments & Related Offences	21	434	455
04	Dangerous or Negligent Acts	4	106	110
05	Kidnapping and Related Offences	0	34	34
06	Robbery, Extortion & Hijacking Offences	1	88	89
07	Burglary and Related Offences	9	326	335
08	Theft and Related Offences	46	605	651
09	Fraud, Deception & Related Offences	1	36	37
10	Controlled Drug Offences	32	820	852
11	Weapons and Explosives Offences	1	208	209
12	Damage to Property & to the Environment Offences	2	94	96
13	Public Order & Other Social Code Offences	1	48	49
14	Road Traffic Offences	3	68	71
15	Government, Justice Procedures & Organised Crime Offences	6	41	47
16	Offences Not Elsewhere Classified	1	7	8
	Total:	**138**	**3,583**	**3,721**

Source: Irish Prison Service, *Annual Report 2010*

Length of Sentence

Data on 'length of sentence' reveal that the great majority of those committed to prison following conviction in any one year have received very short sentences, and only a small minority have received the most lengthy sentences. In 2010, for example, 7,356 committals following conviction were in respect of sentences of three months or less and a further 2,049 were for sentences of three months to less than six months (Table 8). These represented 58.9 per cent and 16.4 per cent, respectively, of all committals under sentence.

At the other end of the scale, 44 committals in 2010 were for a sentence of ten years or more, and 18 were for a life sentence (respectively, 0.35 per cent and 0.14 per cent of all committals under sentence in that year). A striking feature of Table 8 is how the number of committals for the shortest sentences (less than six months) has grown over the decade – from a total of 2,993 in 2001 to 9,405 in 2010, an increase of 214 per cent. While such sentences represented 58 per cent of all committals under sentence in 2001, by 2010 they represented 75.3 per cent.

Table 8: Committals under Sentence by Length of Sentence, 2001–2010

Length of Sentence	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
<3 months	2,005	1,909	2,018	2,000	1,962	2,253	2,293	3,526	5,750	7,356
3 to <6 months	988	923	1,083	1,196	1,020	1,220	1,374	1,494	1,905	2,049
6 to <12 months	1,098	1,029	1,232	1,023	962	1,134	1,285	1,404	1,561	1,514
1 to <2 years	518	514	402	283	465	458	509	610	440	453
2 to <3 years	109	221	189	187	259	281	333	359	408	351
3 to <5 years	245	241	269	200	225	250	360	346	469	420
5 to <10 years	160	168	153	116	143	168	231	219	240	282
10+ years	23	18	30	30	35	20	47	65	70	44
Life sentences	14	13	34	29	17	18	23	20	22	18
Total	5,160	5,036	5,410	5,064	5,088	5,802	6,455	8,043	10,865	12,487

Source: Irish Prison Service, *Annual Reports,* 2001 to 2010

However, data on length of sentence at the time of committal cannot give a picture of the breakdown of the prison population by length of sentence at any given time. The data from the 'snapshot' of the prison population provided in the Annual Reports of the Irish Prison Service show clearly that, on any given day, those imprisoned for a short sentence constitute a very small minority of the overall prison population, and those serving the longest sentences, while still a minority, represent a much more significant proportion. For example, Table 9 shows that on 30 November 2010 there were 38 prisoners serving sentences of less than three months and 159 serving between three and six months (1.0 per cent and 4.3 per cent, respectively, of the prison population on that day). Meanwhile, there were 285 prisoners serving sentences of ten years or more and 286 serving life sentences (around 7.7 per cent in both cases).

Table 9: Snapshot of Prison Population by Length of Sentence Being Served, 2003–2010

Length of Sentence	2003	2004	2005	2006	2007	2008	2009	2010	Change 2003–2010
<3 months	56	66	88	87	57	50	49	38	-32%
3 to <6 months	99	178	171	164	126	124	92	159	+60%
6 to <12 months	289	441	278	323	275	283	326	373	+29%
1 to <2 years	401	209	369	376	352	377	423	452	+13%
2 to <3 years	288	274	273	284	293	329	418	403	+40%
3 to <5 years	569	611	476	486	516	592	767	816	+60%
5 to <10 years	594	522	565	582	631	684	784	909	+53%
10+ years	178	166	195	189	207	241	283	285	+43.4%
Life sentences	166	193	221	234	239	264	276	286	+72%
Total	2,640	2,660	2,637	2,725	2,696	2,944	3,418	3,721	

Source: Irish Prison Service, *Annual Reports,* 2001 to 2010

The figures in Table 9 show that of the prison population detained under sentence, the numbers as a percentage of the total serving a sentence of less than six months had changed little over the eight-year period: it was 5.9 in 2003 and 5.3 in 2010. Of the longest sentences, in 2010, there were 107 more prisoners serving a sentence of 10 years, and 120 more serving a life sentence, than there had been in 2003, representing increases of 60 per cent and 72 per cent, respectively. However, given the overall increase in the prison population, the increase in percentage terms was not so significant: from 6.7 per cent (sentences of ten years or more) and 6.3 per cent (life sentences) in 2003 to around 7.7 per cent in each case in 2010.

The single largest category in both 2003 and 2010 consisted of those serving a sentence of five years to less than ten years (representing 22.5 per cent in 2003 and 24.4 per cent in 2010), and the second largest was the category consisting of those serving a sentence of three years to less than five years (21.5 per cent in 2003 and 21.9 in 2010). Again, the numbers in both these categories grew significantly over the decade – increasing by 53 per cent in the case of sentences of five to less than 10 years, and by 43.4 per cent in the case of sentences of three to less than five years.

Age Profile

The majority of people in prison are in the younger age groups, and this has long been the case. As Table 10 shows, over two-thirds (69.7 per cent) of those committed to prison in 2010 were aged between twenty-one and thirty-nine, with the single largest sub-category being the thirty to thirty-nine age group (27.7 per cent of the total). A significant minority of those committed to prison are very young: in 2010, a total of 221 who were under eighteen – and therefore, under the law, children – were committed to prison. Moreover, 1,581 young people over the age of eighteen but under twenty-one were committed to prison in 2010 (11.5 per cent of the total).

Just over 5 per cent of those committed in 2010 were aged fifty and over; the percentage in this category remained broadly the same during the decade 2001 to 2010 (varying from 4.1 to 5.2 per cent in the ten years).

Table 10: Age of Persons Committed to Prison in 2010

Age	Male	Female	Total	Percentage (of Total)
16	74	-	74	0.5
17	145	2	147	1.1
18 to <21	1,430	151	1,581	11.5
21 to <25	2,446	344	2,790	20.3
25 to <30	2,592	387	2,979	21.7
30 to <40	3,288	519	3,807	27.7
40 to <50	1,434	228	1,662	12.1
50 +	648	70	718	5.2
Total	12,057	1,701	13,758	

Source: Irish Prison Service, *Annual Report 2010*, p. 14

The snapshot of the prison population on 30 November 2010 (Table 11) provides an age profile only for those who were in custody under sentence – that is, for 3,721 of the 4,440 persons (83.8 per cent) detained on that day. In percentage terms, this age profile is not very different from that relating to those committed to prison in that year, but it shows a lower percentage under the age of twenty-one years, and a greater percentage over fifty.

Table 11: Age Profile of Persons in Custody Under Sentence, 30 November 2010

Age	Male	Female	Total	Total Percentage
16	2	-	2	0.5
17	21	-	21	0.56
18 to <21	289	5	294	7.9
21 to <25	699	38	737	19.8
25 to <30	785	30	815	21.9
30 to <40	1,053	41	1,094	29.4
40 to <50	475	19	494	13.2
50 +	259	5	264	7.1
Total	3,583	138	3,721	

Source: Irish Prison Service, *Annual Report 2010*, p. 12

No specific information is provided in Annual Reports on the number of older persons (over sixty) coming into prison, but anecdotal evidence suggests that that the prison population now includes a greater number of such prisoners than previously. On 31 May 2011, in response to a Dáil Question, the Minister for Justice and Equality, Alan Shatter TD, indicated that there were, in all, 102 people aged over sixty in Irish prisons: 82 in the age group 60 to <70; 16 in the age group 70 to <80, and 4 over 80.[11]

Place of Origin

In 2010, of the 13,758 persons committed to prison in Ireland, 10,702 (77.8 per cent) were Irish nationals. This represents an increase on the figure for the preceding years – and presumably reflects the marked decline, already noted, in the proportion of people being committed to imprisonment under immigration legislation. Apart from Ireland, the countries

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[11] *Dáil* Debates, Vol. 733, No.4, 31 May 2011, p. 198, PQs 248–250, 13425/11 to 13427/11.

of origin most frequently represented are the UK, other EU Member States, and other European states.

Table 12: Nationality of Persons Committed to Prison in Ireland, 2010 and Selected Years

Nationality Group	2001	2003	2005	2007	2009	2010
Irish	7,806 (81.8%)	7,194 (73.3%)	6,501 (74.8%)	6,447 (66.4%)	9,330 (75.6%)	10,702 (77.8%)
UK	225 (2.4%)	N/A	N/A	228 (2.3%)	251 (2.0%)	284 (2.1%)
Other EU	64 (0.7%)	272* (2.8%)	263* (3.0%)	1,126 (11.6%)	1,384 (11.2%)	1,493 (10.9%)
Other European	638 (6.7%)	1,321 (13.5%)	1,066 (12.3%)	311 (3.2%)	218 (1.8%)	200 (1.5%)
African	448 (4.7%)	503 (5.1%)	425 (4.9%)	612 (6.3%)	587 (4.8%)	527 (3.8%)
Asian	131 (1.4%)	253 (2.6%)	257 (3.0 %)	611 (6.3%)	390 (3.2%)	419 (3.0)
Australasian	11 (0.1%)	10 (0.1%)	6 (0.06%)	4 (0.04%)	6 (0.05%)	3 (0.02%)
Central/South American	40 (0.4%)h	147 (1.5%)	100 (1.2%)	303 (3.1%)	121 (1.0%)	97 (0.7%)
North American	12 (0.1%)	14 (0.1%)	13 (0.2%)	18 (0.2%)	20 (0.2%)	18 (0.1%)
Not Recorded	164 (1.7%)	100 (1.0%)	55 (0.6%)	51 (0.5%)	32 (0.3%)	15 (0.1%)
Total	**9,539**	**9,814**	**8,686**	**9,711**	**12,339**	**13,758**

*Includes UK

Source: Irish Prison Service, *Annual Reports*, 2001 to 2010

Place of Residence Prior to Committal

The Annual Reports of the Irish Prison Service consistently show that around one-third of those committed to prison in any year give Dublin as the county in which they had been resident prior to coming into prison. Cork, Limerick and Galway are the next three most significant counties in terms of place of residence prior to committal, accounting for around one fifth of those committed. In 2010, the figures for the four main counties were: Dublin – 4,817 (35 per cent); Cork – 1,563 (11.4 per cent); Limerick – 987 (7.2 per cent); Galway – 538 (3.9 per cent). In addition, the place of residence of 413 people committed during 2010 was Louth (3 per cent) and of a further 403 it was Tipperary (2.9 per cent). In all, these six counties accounted for almost two-thirds of the places of residence prior to committal to prison in 2010.

However, as in previous years, all of the other twenty counties in the State was represented in the statistics for place of residence. While, in each case, fewer than 2.5 per cent of the total number committed to prison had been resident in the county concerned, in absolute figures the numbers are quite significant, as Table 13 shows. Four counties – Kerry, Kildare, Meath and Waterford – had more than 300 committals, and five – Donegal, Clare, Mayo, Wexford, and Wicklow – had between 201 and 300.

Table 13: Place of Residence Prior to Committal to Prison, 2010 (Data for 20 Counties)

50 or Fewer	51 to 100	101 to 150	151 to 200	201 to 250	251 to 300	301 to 350
Leitrim 50 (0.4%)	Monaghan 96 (0.7%)	Roscommon 101 (0.7%)	Sligo 152 (1.1%)	Mayo 234 (1.7%)	Wexford 257 (1.9%)	Meath 325 (2.4%)
		Carlow 103 (0.7%)	Longford 155 (1.1%)	Donegal 235 (1.7%)	Wicklow 295 (2.1%)	Waterford 336 (2.4%)
		Cavan 122 (0.9%)	Kilkenny 160 (1.2%)		Clare 297 (2.2%)	Kildare 342 (2.5%)
		Offaly 145 (1.1%)	Laois 171 (1.2%)			Kerry 345 (2.5%)
			Westmeath 192 (1.4%)			

Source: Irish Prison Service, Additional Statistics Annual Report 2010, www.irishprisons.ie

Women in Prison

The Irish prison population is predominantly male: throughout the decade from 2001, around 90 per cent of those committed to prison each year were male. However, the female prison population in Ireland has been increasing steadily – a trend that is reflected in both the number of committals each year and in the daily average number of women in prison.

In terms of committals, Table 14 shows that 1,701 women came into prison in 2010 – representing 12.4 per cent of all persons committed during the year. As compared to the beginning of the decade, 778 more women were sent to prison in 2010 – an increase of 84.3 per cent. As a percentage of all committals, female committals have also risen since 2001, but the trend upwards has not been as sharp as that for absolute numbers: this is because of the significant increase in the overall number of people sent to prison.

Table 14: Women Committed to Prison, 2001–2010

Year	Number of Women Committed to Prison	Total Number of Persons Committed to Prison	Committals of Women as Percentage of Total
2001	923	9,539	9.7
2002	1,043	9,716	10.7
2003	1,145	9,814	11.7
2004	906	8,820	10.3
2005	906	8,686	10.4
2006	960	9,700	9.9
2007	1,155	9,711	11.9
2008	1,225	10,928	11.2
2009	1,459	12,339	11.8
2010	1,701	13,758	12.4

Source: Irish Prison Service, *Annual Reports,* 2001 to 2010

In terms of the daily average number of women in prison, Table 15 below shows the marked increase which has occurred over the decade – from 98 in 2001 to 157 in 2010 (an increase of 60 per cent). As a percentage of the total 'daily average' number of prisoners, women represented 2.5 per cent of the total prison population in 1975; 2.4 per cent in 1985; 1.8 per cent in 1995; 2.4 per cent in 2000, and 3.6 per cent in 2010. In percentage terms, therefore, the daily average number of female prisoners has not risen as significantly as it has in absolute terms: again, this is a reflection of the overall increase in the prison population.

Table 15: Daily Average Number of Women in Prison, 2001–2010

Year	Total Number of People in Prison – Daily Average	Women in Prison –Daily Average	Women as Percentage of Total Daily Average
2001	3,112	98	3.2
2002	3,165	104 (+6.1%)	3.3
2003	3,176	94 (-9.6%)	3.0
2004	3,199	97 (+3.2%)	3.0
2005	3,151	103 (+6.2%)	3.3
2006	3,191	106 (+2.9%)	3,3
2007	3,321	111 (+4.7%)	3.3
2008	3,544	124 (+11.7%)	3.5
2009	3,881	132 (+6.5%)	3.4
2010	4,290	157 (+18.9%)	3.7

Source: Irish Prison Service, *Annual Reports,* 2001 to 2010

The age composition of the female prison population does not differ greatly from the prison population as whole: the great majority are between the ages of twenty-one and thirty-nine and the largest single sub-category is the age group thirty to thirty-nine. In 2010, 73.5 per cent of the 1,701 women committed to prison were between the ages of twenty-one and thirty-nine, with 30.5 per cent aged thirty to thirty-nine. The snapshot of the prison population on 30 November 2010 showed that almost 79 per cent of the 138 women in custody under sentence were between the ages of twenty and thirty-nine (29.7 per cent were in the thirty to thirty-nine age group; 27.5 per cent in the twenty-one to twenty-four age group, and 21.7 in the twenty-five to twenty-nine group – see Table 11 above).

Socio-Economic Background of People in Prison

The Annual Reports of the Irish Prison Service do not provide data on the socio-economic backgrounds of the prison population. However, a number of research studies over the past two decades reveal a consistent picture: a high proportion of people in prison come from economically disadvantaged backgrounds, have few educational or training qualifications, and have a history of unemployment. Significant numbers have suffered mental illness or have substance abuse problems; many have experienced homelessness at some point in their lives.

Paul O'Mahony's study of 108 prisoners (a sample of the population in Mountjoy Prison in the mid-1990s) indicated a prison population that was mainly of urban origin, principally from Dublin, and was composed primarily of people from working class areas characterised

by public housing.[12] Only one in five had lived in owner-occupied housing prior to imprisonment, even though at that time over 70 per cent of Ireland's population lived in such housing.[13]

A study by O'Donnell, which mapped the place of origin of people in prison and related this to electoral districts in Ireland, found a marked difference in the rate of imprisonment according to levels of deprivation. In the most deprived areas there were 145.9 prisoners per 10,000 population, while in the least deprived areas the figure was 6.3 per 10,000. Areas of Dublin, Cork and Limerick featured most often, followed by areas in Dundalk, Tralee, Tullamore, Clonmel, Dungarvan and Mullingar.[14]

One component of a research project by Harry Kennedy *et al.*, published in 2005, was an analysis of records relating to 8,615 persons who were committed to prison in Ireland in 2003 and who had an address in Ireland prior to committal. The study found that people from economically deprived urban areas were over-represented in this group, although people from deprived rural areas with low population density were not. The report concluded that the prison population was largely drawn from districts which combine high economic deprivation scores and high population density.[15]

The main part of this research study by Kennedy *et al.* related to five samples of the prison population in 2003. These samples comprised: 7 per cent of all men committed to prison (both under sentence and on remand) during 2003; a cross-sectional sample, involving 50 per cent of all male prisoners on remand; a cross-section of 15 per cent of all men in prison under sentence at the time of the study; 9 per cent of all women committed to prison in 2003, and 90 per cent of all women in prison at the time of the study.[16]

One striking finding from this research was the over-representation of people from the Travelling Community in the prison population. Despite the fact that members of the Travelling Community comprised just 0.58 per cent of the total population of Ireland, they represented over 10.6 per cent of the female committals and 6.5 per cent of the cross-section of the female prison population. Of the three groups of male prisoners in the study, Travellers represented 10.7 per cent of the sample of men who were in prison under sentence; 4.2 per cent of men detained under remand, and 5.4 per cent of male committals.[17] These findings, and those of a study by Linehan *et al.*, published in 2002, indicate that Travellers are much more likely than the population generally to experience imprisonment at some stage in their life.[18]

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[12] Paul O'Mahony, *Mountjoy Prisoners: A Sociological and Criminological Perspective*, Dublin: Department of Justice, 1997, p. 62.

[13] *Ibid.*, p. 55.

[14] Ian O'Donnell, Conor Teljeur, Nicola Hughes, Eric P. Baumer and Alan Kelly, 'When Prisoners go Home: Punishment, Social Deprivation and the Geography of Re-integration', *Irish Criminal Law Journal*, Vol. 17, No. 4, 2007, pp. 3– 9.

[15] Harry G. Kennedy, Stephen Monks, Katherine Curtin, Brenda Wright, Sally A. Linehan, Dearbhla M. Duffy, Conor Teljeur and Alan Kelly, *Mental Illness in Irish Prisoners: Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners*, Dublin: National Forensic Mental Health Service, 2005, p. 81.

[16] *Ibid.*, p. 1.

[17] *Ibid.*, Table 9.1, p. 103.

[18] *Ibid.*, p. 120; Sally A. Linehan, Dearbhla M. Duffy, Helen O'Neill, Conor O'Neill, Harry G. Kennedy, 'Irish Travellers and Forensic Mental Health', *Irish Journal of Psychological Medicine*, Vol. 19, No. 3, 2002, pp.76– 79.

Education

In relation to education, studies have shown that a high proportion of people in prison have difficulties with basic literacy and are much less likely to have completed second-level education than the general population.

In a 2001 literacy study of adult prisoners, half the participants scored in the lowest level of competence; in the general population, less than one-quarter scored at this level. Poor literacy levels were particularly prevalent among prisoners under the age of twenty-one; people in this group were more likely than older prisoners to score in the lowest two levels of competency. One-fifth of the participants stated that they had experienced serious reading problems at school.[19]

The study by Kennedy *et al.* found that in two of the sample groups (namely, the men in prison on remand and the men detained under sentence), over 10 per cent were illiterate. Almost 19 per cent of these groups had attended a special school (including schools for those with behavioural problems) or participated in remedial classes within a mainstream school.[20] Data in relation to educational qualifications was provided for the sentenced group only, and showed that 60 per cent had no qualification; 9.2 per cent had a Group Certificate only; 17 per cent a Junior Certificate only; 7.8 per cent a Leaving Certificate, and only 2.3 per cent had a degree or diploma.[21]

Truancy and early school-leaving are a common experience among people in prison. The literacy referred to, and also a study on learning disabilities among prisoners, published in 2000,[22] showed that large numbers had left school early, some before the age of twelve.[23] In O'Mahony's sample of 108 prisoners in Mountjoy Prison, 86 had left school before the age of sixteen; some had never progressed beyond primary school.[24]

Employment

Given that the majority of prisoners come from areas characterised by high levels of economic and social deprivation, and given also the incidence of poor educational attainment, it is not surprising that a very high proportion have experienced unemployment or have worked only in low-skilled and insecure jobs.

In the study by Kennedy *et al.*, at least 50 per cent of the male prisoners included in the study had been unemployed at the time of committal to prison; in the case of the remand group, the figure was as high as 63.9 per cent.[25] Of the sample of women committed during 2003, more than two-thirds were unemployed at the time they came into prison.[26] Only ten of the 108 people in the study by O'Mahony could be considered to be qualified as skilled or semi-

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[19] Mark Morgan and Mary Kett, *The Prison Adult Literacy Survey: Results and Implications*, Dublin: Irish Prison Service, 2003, pp. 36–45.
[20] Harry G. Kennedy *et al.*, *op. cit.*, 2005, p. 36 and p. 46.
[21] *Ibid.*, p. 46.
[22] Michael Murphy, Mark Harrold, Seán Carey and Mark Mulrooney, *A Survey of the Level of Learning Disability among the Prison Population in Ireland*, Dublin: Department of Justice, Equality and Law Reform, 2000, p.18.
[23] Mark Morgan and Mary Kett, *op. cit.*, p. 46.
[24] Paul O'Mahony, *op. cit.*, p. 53.
[25] Harry G. Kennedy *et al., op.cit.*, 2005, p.36.
[26] *Ibid.*, p. 60.

skilled workers. The great majority (88 per cent) had been unemployed on their committal to prison and 44 per cent had never had a job that lasted more than six months.[27]

Mental Illness

A number of studies from the 1990s onwards have consistently highlighted that in Ireland, as in many other countries, there is a high incidence of mental illness among prisoners, relative to the general population. Harry Kennedy, Director of the National Forensic Mental Health Service, has suggested that the prevalence of mental illness among prisoners is so high that prisons are being used as 'psychiatric waiting rooms, the equivalent of A & E trolleys'.[28]

There are many factors influencing the high number of people with mental illness in prisons. Mental illness often interacts with other factors, such as homelessness or substance misuse, to increase the possibility that a person may engage in criminal behaviour and experience imprisonment. Inadequacies and shortfalls in community-based mental health services, which were intended to replace the traditional institution-based services, have left some people with mental illness in very vulnerable situations which may lead to disengagement from family, housing insecurity, and ultimately into criminal activities. In particular, the inadequacy of services to respond to the needs of people with co-morbid mental illness and substance abuse may contribute in some instances to their ending up in prison.

The study by Kennedy *et al.* showed a very high incidence of mental illness in all five groups included in the research. Among male prisoners, the six-month prevalence of mental illness of some kind was: 16 per cent of those committed to prison in 2003; 21.4 per cent of the sample of remand prisoners; and 23.3 per cent of those in prison under sentence. Among female prisoners, the rates were even higher: 25.8 per cent of female committals and 39.1 per cent of a cross section of female prisoners had a six-month prevalence of mental illness.[29] Previous studies also revealed a particularly high incidence of mental illness among female prisoners.[30]

The incidence of psychosis and of major depressive disorders among Irish prisoners was found to be significantly higher than that revealed in a meta-analysis of studies of prison populations in other countries. Six-month prevalence rates of psychosis among men varied between 7.6 per cent among those on remand and 2.9 per cent among sentenced prisoners; the incidence of major depressive disorder for these two groups was 10 per cent and 5 per cent respectively. Among women, the six-month prevalence of psychosis among all female prisoners in the study (sentenced and on remand) was 5.4 per cent; the figure for major depressive disorder was 12.4.[31]

The findings of this study show a high incidence of mental illness existing prior to people coming into custody, and therefore before the impact which imprisonment itself may have in terms of causing or exacerbating mental health problems. Many prisoners in this study had a

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[27] Paul O'Mahony, *op. cit.*, 1997, p. 62
[28] Harry G. Kennedy, 'The Future of Forensic Mental Health Services in Ireland', *Irish Journal of Psychiatric Medicine*, Vol. 23, No. 2, 2006, pp. 45–46.
[29] Harry G. Kennedy *et al.*, *op. cit.*, 2005, Table 8.1, p. 81.
[30] Maureen Mooney, Michael Barry, Sharon Friel, Frances Hannon and Cecily Kelleher, 'Perceived Quality of Life and Mental Health Status of Irish Female Prisoners', *Irish Medical Journal*, Vol. 95, No. 8, September 2002, pp. 241–43; Patricia Carmody and Mel McEvoy, *A Study of Irish Female Prisoners*, Dublin: Stationery Office, 1996, pp. 14–15.
[31] *Ibid*., Table 8, p. 82.

history of significant contact with psychiatric services in the community and a number had been in contact with child psychiatric services.

Homelessness

The inter-relationship between homelessness and imprisonment is complex. Homelessness increases the risk of involvement in crime – for instance, the need to maintain a drug dependency, which may have led to a person being out of home in the first place, may lead to criminal activity. Moreover, if a homeless person comes into the criminal justice system, the lack of an established place to stay may render them more likely to be held in custody, rather than being awarded bail.[32] In addition, the fact of being imprisoned may result in subsequent homelessness, as a person may lose the accommodation they had prior to coming into prison (through, for example, being unable financially to maintain that accommodation or through relationship breakdown).

Studies show that homelessness is an all-too-common feature of the background of people in prison in Ireland. Of the people committed to prison in 2010, for example, 314 (2.3 per cent) were recorded as having no fixed abode. The comparable figures for 2009 and 2008 were: 247 (2.0 per cent) and 320 (2.9 per cent) respectively.[33] However, it is possible that the number who had been homeless before coming into prison is under-recorded in the official statistics because prisoners may not wish to admit they have nowhere to stay, since to do so might adversely affect their chances of receiving bail at a subsequent court hearing or of obtaining temporary release.

In the study by Kennedy *et al.*, 8.5 per cent of the sample of men in prison on remand had been living in 'unsettled accommodation', and 5.5 per cent had been 'homeless or roofless' in the month prior to arrest. Among this group of prisoners, almost 20 per cent stated that they did not have a place to stay on their release from prison, and over 40 per cent had been homeless at some stage in their lives.[34] Of the study's random sample of men in prison under sentence, 1.6 per cent had been 'homeless and roofless' in the month before their arrest.[35]

In August 2003, a survey of 241 persons in Dublin prisons showed that 25 per cent had been homeless at the time of their committal to prison.[36] In all, 54 per cent had experienced homelessness at some point in their lives; one-fifth of this group reported that they had first experienced homelessness as a child.[37]

Substance Misuse

A very large number of people who enter prison have used illegal drugs and of these many have a serious drug dependency problem. Some may have been convicted of drug offences – as already noted, in late 2010, over one-fifth of the total number of people in prison under sentence had been convicted of a drug offence. However, it cannot be assumed that in all cases those in prison under sentence for a drug offence (such as the manufacture, distribution

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[32]Mairead Seymour and Lisa Costello, *A Study of the Number, Profile and Progression Routes of Homeless Persons before the Court and in Custody*, Dublin: Centre for Social and Educational Research, Dublin Institute of Technology; Department of Justice, Equality and Law Reform; Probation and Welfare Service, 2005, p. vi.
[33]Website of Irish Prison Service, Additional statistics for annual reports (available at: www.ips.ie).
[34] Harry G. Kennedy *et al.*, *op. cit.*, 2005, p. 36.
[35] *Ibid.*, p. 48.
[36] Mairead Seymour and Lisa Costello, *op. cit.*, p. 50.
[37] *Ibid.*, p. 67.

or sale of illicit drugs) are themselves consumers of these or other drugs, but many, of course, *are* users.

In addition, many people who are in prison following conviction for other, non-drug offences also have a drug habit; often it is the need to maintain that habit which has led to their criminal behaviour. Where drug use interacts with other factors, such as homelessness and mental illness, there may be increased risk of involvement in criminal activity and ultimately of imprisonment. In a 1999 study carried out of a representative sample of people in prison, 51 per cent of male prisoners and 69 per cent of female prisoners reported that they had been under the influence of drugs when they committed the offence for which they were imprisoned.[38] A further aspect of the inter-relationship between illegal drugs and imprisonment is of particularly serious consequence – tensions regarding debts and territorial disputes within and between groups involved in the sale and distribution of drugs may spill over into incidents of extreme violence inside prison.

Kennedy *et al.* revealed high levels of drug use and dependence in the lives of the people in the five samples included in their study. Among male committals, 23.3 per cent were considered to have a drug abuse problem and 32.8 per cent to be drug dependent.[39] Among the sample of men in prison on remand, the six-month prevalence of harmful drug use was 19.1 per cent, and of dependence, 28.5 per cent.[40] In the sample of men in prison following conviction, 60.9 per cent of those serving a fixed sentence were considered to have a drug problem, as against 29.6 per cent of those serving a life sentence.[41]

Among the female prisoners in the study, the incidence of drug problems was also very high. Of the sample of women committed to prison in 2003, almost half (48.4 per cent) reported that they had a current drug dependence problem; of the cross-section of the female prison population, 46.7 per cent said they had a drug dependence problem in the six months prior to coming into prison.[42]

As in the case with illegal drugs, the percentage of people in prison who have an alcohol abuse or dependence problem is much higher than the percentage of those who have been convicted of an alcohol-related offence (for example, drunkenness). Alcohol may, however, be an important factor in other offences for which people are sent to prison. The 2012 Report of the Steering Group on a National Substance Misuse Strategy points out that in the case of public order and assault offences, for example, 'there is sufficient international evidence supporting a strong relationship between alcohol consumption and these offences'.[43] The report also notes research pointing to evidence that alcohol is a factor in a significant number of homicides.[44]

The findings of the research by Kennedy *et al.* point to a high incidence of alcohol abuse and alcohol dependence among the prison population. Of the group consisting of men committed to prison in 2003, almost half were considered to have a 'lifetime' alcohol abuse or

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[38]Frances Hannon, Cecily Kelleher and Sharon Friel, *General Healthcare Study of the Irish Prisoner Population*, Dublin: Stationery Office, 2000.
[39] Harry G. Kennedy *et al.*, *op. cit.*, 2005, Table 3.7, p. 29.
[40] *Ibid.*, pp. 41–42.
[41] *Ibid.*, Table 5.11, p. 56.
[42] *Ibid.*, p. 65.
[43] Steering Group Report on a National Substance Misuse Strategy, Dublin: Department of Health, 2012, p. 77.
[44] *Ibid.*

dependence problem, with 36.2 per cent having a current problem.[45] In the other two groups of men in the study (those on remand and those under sentence) around 60 per cent identified themselves as having a lifetime history of alcohol abuse or dependence.[46] Among female prisoners in the study, the incidence of alcohol problems was not as high; nevertheless, around one-quarter of the sample of female committals reported a current alcohol dependence problem, and 18.5 per cent of the cross-section of the female prison population reported an alcohol dependence problem within the six months prior to their coming into prison.[47]

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[45] Harry G. Kennedy *et al.*, *op. cit.*, 2005, p. 29, Table 3.7.
[46] *Ibid.*, p. 41; p. 56.
[47] *Ibid.*, p. 65.

Chapter 3 : Overview of Irish Prisons

What Shapes the Experience of Imprisonment

Alongside the level or extent of imprisonment, the nature of incarceration is a vital consideration in trying to comprehend the prison system. An understanding of the experience or 'content' of imprisonment is necessary to appreciate how it affects those detained in prison and how it impacts also on prison staff, prisoners' families and the wider society. This chapter will look at what imprisonment entails in Ireland today. It will examine the main features and trends across the prison system as a whole and the 'quality' of regimes (the physical conditions) within prisons, or what criminologists call the 'depth' of imprisonment.

How burdensome or damaging for a person a stay in prison becomes will be affected not just by the length of their sentence. Other factors include whether the sentence is served mainly in a closed or open facility, the restrictiveness of the incarceration in terms of space and range of activities available, whether there is scope to maintain family contact via periods of leave and humane visiting conditions, whether there is misuse of illegal – or legal – drugs within the prison. The physical conditions in which men and women are confined will constitute a critical part of any assessment of the 'depth' of imprisonment. The cells they are locked in; whether these cells have to be shared or not; eating arrangements; how many hours in the day they are locked in their cells; what activities and services are available to them; toilet and washing arrangements – these are all key determinants of how imprisonment will be experienced. Less tangible aspects are also important, such as atmosphere; relationships between the people detained in prisons, and between them and those who work in prisons; whether there is a sense of safety or otherwise within the prison; whether those imprisoned feel they are treated with dignity or not.

The degrees of physical restriction and confinement, as well as the less tangible factors, are shaped in turn by the overall size of the prison. In general, the larger the prison the greater the degree of control there is over the men or women held within it and the more damaging is the experience of imprisonment for those detained.

The backgrounds and life experiences of people sent to prison, referred to in Chapter 2, will also shape the impact of imprisonment. Many come into prison with mental health and/or literacy and/or addiction issues, and/or as victims of abuse. Such difficulties are, in general, exacerbated by being in prison, sometimes to the point of rendering imprisonment an almost unbearable experience.

The quality of life inside prisons is also influenced by the policies and practices which management and staff bring to their tasks. A key determinant of the experience of imprisonment is whether security and control is made dependent on physical constraints or is seen instead as needing to encompass 'dynamic security' – which relies on good relationships between staff and prisoners.[48] Sometimes this concept of 'dynamic security' is expressed in

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[48] In the report on its 2010 visit to Ireland, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) stated: 'The existence of positive relations between staff and prisoners, based on the notions of dynamic security and care, is a decisive factor [in dealing with the issue of inter-prisoner violence]; this will depend in large measure on staff possessing appropriate interpersonal communication skills.' See CPT, *Report to the Government of Ireland on the Visit to Ireland Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)*

the assertion that there should be a balance between 'custody' and 'care' in the running of prisons. Rebalancing 'safe custody' with 'care and rehabilitation' in prison regimes was proposed as a key element of policy in the 1997 report of a government-appointed Expert Group (McAuley Report) on the future direction of the Irish prison system.[49] Balancing control with a humane regime is also at the heart of the European Prison Rules issued by the Council of Europe[50] and of the recommendations of the report of the Committee of Inquiry into the Penal System (referred to as the Whitaker Report).[51]

Overcrowded Prisons

On 1 December 2011, there were 4,313 people imprisoned in the fourteen prisons in the Republic of Ireland.[52] The dramatic rise in prison numbers over the past decade, with more than a doubling of the prison population since 1995, has meant that practically every Irish prison is now holding numbers in excess of its original design capacity. The resultant overcrowding is having a hugely detrimental effect on the physical conditions in the prisons and on the regimes operating within them. In effect, there is a near 'warehousing' approach to imprisonment by the Irish Prison Service and the Department of Justice and Equality. Overcrowding has meant an escalation in cell-sharing, so that at December 2011, 60 per cent of the prison population were sharing a cell.[53]

In order to accommodate numbers in excess of capacity, bunk beds have been installed in cells intended for one; in addition, mattresses are often put on floors for prisoners to sleep on. Overcrowding in Irish prisons results not just in 'doubling up' but in cells being used to accommodate three, four or even more people. Given the size of prison cells, requiring even two people to share a cell will result in cramped conditions. In the original wings of the oldest prisons – Mountjoy Prison, St Patrick's Institution, Limerick Prison, Cork Prison and Arbour Hill Prison – the floor area of a cell would typically be around eight square metres, sometimes much less.[54] With the exception of the Dóchas Centre for women prisoners, the Training Unit (located beside Mountjoy Prison), The Grove (a separate unit in Castlerea Prison), and the two open prisons, this enforced sharing means that people in prison must use the toilet in the presence of others; in the case of most of Mountjoy, Cork and parts of Limerick and Portlaoise prisons, this means using buckets which are then 'slopped out' at unlock time.

Overcrowding leads to a 'pressure cooker' atmosphere within prisons. It impacts profoundly on the whole experience of imprisonment. Perhaps the most serious consequence of enforced sharing is that it can throw together drug-user and non-drug-user, smoker and non-smoker,

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from 25 January to 5 February 2010, Strasbourg: Council of Europe, 10 February 2011, par. 33, p. 21 (available at: www.cpt.coe.int).

[49] *Towards an Independent Prison Agency: Report of Expert Group* (McAuley Report), Dublin: Department of Justice, February 1997, p. 13.

[50] Council of Europe, Committee of Ministers, *Recommendation Rec (2006) of the Committee of Ministers of Member States on the European Prison Rules*, Adopted by the Committee of Ministers on 11 January 2006 (available at: www.coe.int)

[51] Committee of Inquiry into the Penal System, *Report of the Committee of Inquiry into the Penal System* (Whitaker Report), Dublin: Stationery Office, 1985.

[52] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD, to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747, No. 5, 24 November 2011, p. 1034, PQ 163, 36792/11.

[53] *Ibid*.

[54] Detailed information on the size of cells in Irish prisons is provided in: Judge Michael Reilly, Inspector of Prisons, *The Irish Prison Population – An Examination of Duties and Obligations Owed to Prisoners*, Nenagh: Office of the Inspector of Prisons, July 2010 (available at: www.inspectorofprisons.gov.ie).

young prisoners and those convicted of sexual crimes against the young. It thus creates the conditions for very serious bullying and possibly abuse, as well as high levels of stress.

The increase in the prison population has also led to a significant reduction in the opportunities for prisoners to participate in education and work activities. For many prisoners such opportunities do not exist at all. This curtailment of opportunity has occurred primarily because facilities and resources for structured activity have not kept pace with the increase in the prison population and because the provision of new accommodation has not been accompanied by a corresponding increase in facilities. The non-replacement of staff as a result of the public service embargo and the prioritisation of 'security' roles over developmental roles among prison officers are further factors limiting access to services and facilities.

Other features that have reduced such access include new constraints on movement within prisons, greater segregation of different groups within the prison population, and longer lock-up times; which for hundreds may now be for as much as 22 or 23 hours a day or more.[55] Even if a prisoner in an overcrowded prison has access to educational opportunities, the ability to engage in study is hindered by the inevitable constraints arising out of spending most of the day in a shared cell with one, two or three people. Apart from the lack of space, there may be little chance of quietness as the others in the cell are likely to want to chat, listen to the radio or watch television.

The concept of overcrowding in prisons is not just a matter of bunk-beds and mattresses being crammed into limited spaces on cell floors but has implications for services and activities to meet the needs of all those detained in prison, and for the safety of high numbers.[56] Overcrowding means that regimes degenerate, and that they do so in several ways.

For the majority of those in prison in Ireland, the deterioration of regimes in the past decade or so has been brought about in multiple ways, and in general the impact of each one reinforces that of others. The main regressions are:

* ❖ fewer single cells and more multiple occupancy (at December 2011, 60 per cent share compared to 1994, when an estimated 28 per cent of the population shared);
* ❖ a diminution of access to activities and services;
* ❖ a deterioration in toilet and washing arrangements for many prisoners as a result of overcrowding and multi-occupancy;
* ❖ the prevalence of addiction issues and drug-taking throughout the prison system;
* ❖ severe controls on family visits, and other family contact;
* ❖ limited opportunities for 'progression' in sentences – for example, access to structured early release or a move to an open centre;
* ❖ greater safety concerns among prisoners, many of whom consequently seek ask ' the prison authorities 'for protection', which often entails 22- or 23-hour lock-up;
* ❖ greater distance and less trust between the staff in prisons and those detained there, in large part resulting from some of the above developments.

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[55] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp. 1034–5, PQ 165, 36794/11.
[56] The Inspector of Prisons, Judge Michael Reilly, emphasises this wide concept of what constitutes overcrowding.

Judge Michael Reilly, the Inspector of Prisons, frequently stresses how such problems reinforce each other. In a report to the Minister for Justice and Law Reform in July 2010, he quotes from a report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 1991:[57]

> *The CPT … is particularly concerned when it finds a combination of overcrowding, poor regime activities and inadequate access to toilet/washing facilities in the same establishment. The cumulative effects of such conditions can prove extremely detrimental to prisoners.*[58]

In the view of the Inspector of Prisons, a country's obligations to its prisoners fall under three general headings – (a) accommodation, (b) services and regimes and (c) prisoner safety.[59] He emphasises that the numbers detained in a prison must be at a level that allows all three conditions to be satisfied:

> *… we, as a country, would not meet our obligations simply by providing adequate accommodation if we did not provide appropriate services and regimes and ensure the safety of our prisoners.*[60]

Daily Routine

In closed prisons in Ireland, the following is the routine for most prisoners (also see Table 16 below). Cells are unlocked briefly after 8.00 a.m. For over a thousand prisoners, this is also the time for 'slopping out'.

In most Irish prisons, morning 'unlock' is followed by prisoners collecting their breakfasts and bringing this back to their cells. Officially, cells are unlocked again by 9.30 a.m. to allow prisoners to take part in education, work or other structured activity, or to access services. Prisoners return to cells by 12.30 p.m. after collecting their dinner. In the afternoon, they are due to be released from their cells about 2.15 p.m. to engage in education or work activities or to access services as in the morning, until they are locked up again about 4.00 p.m. For evening recreation, prisoners are allowed out of their cells around 5.15 p.m. for no more than two hours.

In recent years, much of the out-of-cell time, officially scheduled into the daily routine, has been eroded. While some people may still have close to seven and a half hours out of their cells, for most it is now seven hours or even less. The exceptions to this pattern are the two open prisons (Shelton Abbey and Loughan House); the Training Unit and the Dóchas Centre in the Mountjoy complex, and 'The Grove' in Castlerea Prison. People detained in these prisons have a good deal more than seven and half hours out-of-cell time each day; however, they number in total little more than 500, representing about 12 per cent of the prison population.

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[57] Judge Michael Reilly, Inspector of Prisons, *op. cit*. The quotation cited by the Inspector is given in both par. 3.8 (p. 18) and par. 3.28 (p. 23) of his report.
[58] CPT, *Second General Report on the CPT's Activities Covering the Period 1 January to 31 December 1991*, Strasbourg: Council of Europe, 13 April 1992 (CPT/Inf (92) 3 [EN]), par. 50 (available at: www.cpt.coe.int).
[59] Judge Michael Reilly, Inspector of Prisons, *op. cit.*, par. 1.8, p. 7.
[60] *Ibid.*, par. 1.10, p. 7.

For the great majority of people in prison, however, the situation is worse than that which the Committee of Inquiry into the Penal System (The Whitaker Committee) recorded, and criticised, in 1985. The Committee described the time people were locked in cells – which was then 16 hours a day – as 'excessive'[61] and it recommended the out-of-cell time should be 'at least 12 hours'.

Table 16: Typical Daily Prison Timetable

(*Note 16½ hours lock-up per day, 7½ hours unlocked. No food served after 16.00*)

Time	Event	Comment	Unlock
08.00 h	Unlock	**Slopping Out** - Wash nearby	30mins
08.30 h	Lock	**Breakfast** - Collect and Eat in Cell	
09.30 h	Unlock	Only if Education or Work is available	3h
12.30 h	Lock	**Dinner** - Collect and Eat in Cell	
14.15 h	Unlock	Only if Education or Work is available	2h
16.00 h	Lock	**Evening Meal** - Collect and Eat in Cell	
17.15 h	Unlock	**Recreation**	2h
19.15 h	Lock	**Lock up** for the night for over 12 hours	

Toilet arrangements – Slopping out

For around 850 people detained in Irish prisons (around 20 per cent of the total population), the reality of spending seventeen or more hours each day locked in a cell is made even more grim by the fact that they do not have access to proper toilet facilities.[62] Moreover, the great majority of these people are also sharing cells. The Inspector of Prisons in his 2010 report noted that all the prisoners in Cork Prison and a majority of prisoners in Limerick and Mountjoy Prisons were obliged to 'slop out' are in double cells or multi-occupancy cells.[63] Only in Portlaoise were those who had to 'slop out' accommodated in single cells.[64]

The report of the CPT following its visit to Ireland in early 2010 outlines the consequences of the lack of proper sanitary arrangements in many Irish prisons:

> *The CPT has repeatedly stated that it considers the act of discharging human waste, and more particularly of defecating, in a chamber pot in the presence of one or more other persons, in a confined space used as a living area, to be degrading. It is degrading not only to the person using the chamber pot but also for the persons with whom he shares a cell.*
>
> *The other consequences of such a state of affairs – the hours spent in the presence of chamber pots containing one's own excreta and that of others and the subsequent 'slopping out' procedure – are scarcely less objectionable. The whole process is*

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[61] Committee of Inquiry into the Penal System, *op. cit.*, p. 14.
[62] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter, TD to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747, No. 5, 24 November 2011, p. 1034, PQ 164, 36793/11.
[63] Judge Michael Reilly, Inspector of Prisons, *op. cit.*, par. 3.19, p. 20.
[64] *Ibid*.

extremely humiliating for prisoners. Moreover, 'slopping out' is also debasing for the prison officers who have to supervise it. [65]

In his July 2010 report, the Inspector of Prisons describes what is entailed in 'slopping out':

I have observed at first hand over a 30 month period the practice and methods used for 'slopping out' in these prisons. I have been present on the landings when prisoners have been unlocked at all times of the day – (first thing in the morning and at all other times when prisoners are unlocked). I have observed the prisoners emptying their buckets or pots into slop hoppers and in some instances into bins. In Cork, Limerick and Mountjoy Prisons this practice is carried out in a chaotic and unstructured manner. This is because of the number of prisoners and the short period of time allocated. The situation is far less chaotic in Portlaoise Prison because the numbers are smaller.

Prisoners often have to queue to 'slop out'. The total contents of their 'slop out' buckets or pots do not always end up in the slop hoppers but splash on the surrounding floor or worse onto the prisoners. In certain prisons the slop hoppers were invariably dirty. The facilities for cleaning the 'slop out' buckets or pots was inadequate. The smell in most of these areas was unacceptable. [66]

The indignity of the current sanitary arrangements in many Irish prisons arises in part from cell-sharing and this remains even when there is proper sanitation. On 21 November 2011, 1,885 prisoners (in addition to the 845 required to slop out) were required to use normal toilet facilities in the presence of others.[67] Describing the situation in Limerick Female Prison, where the cells measure 8.86m^2, the Inspector of Prisons writes:

… in-cell sanitation is not screened. The toilet is not covered. I have observed food trays and towels being used as toilet covers. When there is more than one prisoner in a cell a prisoner attending to her sanitary or washing requirements does so within feet and in full view of her fellow prisoner. The situation is far worse when there are three prisoners in a cell. [68]

Severe Confinement – Extended Lockup

One of the most disturbing developments in the Irish prison system over the past decade is that an increasing number of people are detained under conditions of severe confinement – that is, they are segregated from most other prisoners and are subject to extended lock-up, in some cases of 23 hours or more. For some, extremely severe confinement can continue for a long time, even for years. The physical, psychological and emotional damage caused by this level of restriction and isolation is likely to be considerable.

While the numbers have reduced since January 2011 (see Table 17 below), in November 2011, there were 178 people in prison in Ireland who were locked up for 23 hours *or more* a day. A further 186 were locked up for between 18 and 23 hours a day (88 for between 18 to 20 hours; 47 between 20 to 22 hours; and 51 for 22 to 23 hours).

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[65] CPT, *op. cit.*, 2011, par. 48, p. 29.
[66] Judge Michael Reilly, Inspector of Prisons, *op. cit.*, pars. 3.17–3.18, p. 20.
[67] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, p. 1034, PQ 164, 36793/11.
[68] Judge Michael Reilly, Inspector of Prisons, *op. cit*., par. 11.24, p. 59.

Most of the 178 people on 23-hour lock-up in November 2011 were in Wheatfield (63), Mountjoy (59), Midlands (28) and Castlerea (25). Of those on 20- to 22-hour lock-up, 44 were in St Patrick's Institution. Overall, the prison with the largest number of prisoners on lock-up of more than 18 hours was Mountjoy.[69]

Table 17: Severe Confinement – locked up for 18 hours or more per day

Hours Locked-up	No. Of People (January 2011)	No. Of People (November 2011)	Max Hours out of cell
23+	250	178	1
22-23	26	51	2
20-22	164	47	4
18-20	60	88	6

Sources: *Dáil Debates* Vol. 727, No. 5, 27 January 2011, pp. 894–5, PQ 68, 4301/11; *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp. 1034–5, PQ 165, 36794/11. Information relates to 26 January 2011 and 21 November 2011 respectively.

There are two main categories of prisoners who are subjected to extended lock-up: those given protection and those being punished. The first, and much larger group, consists of those who have been given 'protection'. In November 2011, Minister for Justice and Equality, Alan Shatter TD, explained that the term 'protection prisoner' applied to those prisoners who would be considered to be under threat or 'at risk' in the general population due, for example, to gangland feuding, drug debts, because they had given evidence in a court case or because of the nature of their offence.[70] In some instances, prisoners themselves request that they be given 'protection'; in others, the prison authorities may place a person on protection, having judged that he or she would be vulnerable to attack.

In practice, some protected prisoners on 22- and 23-hour lock-up may not get even their one hour of daily exercise in the open, as they can be released from their cells later than scheduled, or because some opt not to leave their cells even for this hour, whether through fear of others, depression or other reasons.

The CPT, in the report following its visit to Ireland in 2010, was very critical of Irish authorities for leaving prisoners on 23-hour lock-up to 'languish in their cells', and noted that people 'might spend a year or more in conditions akin to solitary confinement'.[71] It added:

> *... 23-hour lock-up should only be considered as a temporary respite, whereas in the Irish prison system it has developed into a general measure.*[72]

Prison authorities would argue that they have little choice, if they want to ensure the physical safety of these prisoners, but to lock them in cells virtually all of the time. However, a significant factor in exacerbating this problem of severe confinement is the pattern of very

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[69] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp. 1034–5, PQ 165, 36794/11. (Relates to 21 November 2011)
[70] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp. 1034–5, PQ 165, 36794/11.
[71] CPT, *op. cit.*, 2011, par. 57, pp. 33–34.
[72] *Ibid.*, par. 57, p. 34.

large prisons in Ireland. This allows few options for prison authorities to separate and manage vulnerable prisoners in reasonable, safe and more constructive regimes.

The second group of prisoners on extended lock-up are those who have had a punishment imposed for a breach of prison discipline and so are deprived of 'privileges'. This group will typically include people who have been disciplined for possession of drugs, or for violence against another prisoner or a member of staff. In prison jargon, these are known as 'P19' offences. The duration of such punishment for breach of prison discipline varies: it can be between one day and eight weeks.

Although the Irish Prison Service is hesitant to impose this sanction, anecdotally it would appear that punishments consisting of 'loss of privileges' have increased in recent times. In regards to prisoners in possession of drugs the Prison Service has instructed Governors to automatically have all privileges withdrawn, from those prisoners for 56 days, and thus have no visits, or phone calls. The removal of any degree of flexibility for Governors regarding the response to such 'P19' offences is open to question. It could be argued that having discretion is important and fair, and allows for account to be taken of specific circumstances – for example, where a Governor knows that a prisoner found in possession of drugs is in this situation only because he or she has been put under pressure by others.

Within the prison system, there are three locations seen particularly as 'punishment' sections: eight cells in D block in Cork Prison; fifteen cells on C1 landing in the Midlands Prison; and the Separation Unit in Portlaoise Prison, which can hold 40 but typically will have about 25. Prisoners being punished are regularly sent from other prisons to Portlaoise and Cork in particular. Such prisoners may be isolated for 22 or 23 hours each day and their association with other prisoners may be confined to just one other prisoner during their one hour of daily exercise. In the Portlaoise Separation Unit, for example, there are four separate small exercise yards to facilitate such isolated activity. The CPT report was critical of these units in Cork, Midlands and Portlaoise, and called on Irish authorities to review their operation.[73]

Reduced Access to Services and Activity

The sub-standard regime that now applies to the prisoners who are subjected to inordinate lock-up times is only part of the negative impact of the segregation that currently pervades the prison system. As well as this 'cohort of protection prisoners who are subject to a more restricted regime',[74] many more are also segregated from other prisoners within the prison in which they are detained. While these segregated prisoners will usually have the more 'normal' unlock time of about seven hours, and are likely to have some degree of activity such as education or work, the impact of the segregation seriously diminishes the quality of the regime they experience.

The impact of such segregation can be seen in accounts from the different prisons that are given in the next chapter. For example, the segregation of different paramilitary groups from each other, and in turn from 'ordinary' prisoners, in Portlaoise Prison; the *de facto* separation of Dublin and non-Dublin prisoners into C and D wings in St Patrick's Institution; the non-availability to those in the new Harristown wing of Castlerea Prison of services provided elsewhere in that prison; the restrictions in the regime for those on A wing in the Midlands

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[73] CPT, *op. cit.*, 2011, par. 97, p. 53.
[74] *Dáil Debates* Vol. 727, No. 5, 27 January 2011, pp. 891–2, PQ 68, 4300/11.

Prison; and the separate treatment of different groups at Cloverhill and Limerick. Significant segregation of this kind takes place *in all of the nine larger prisons*, and generally means that individual prisoners have reduced access to facilities, services and activities, since their availability has to be scheduled to take account of the need to keep different groups apart. The only exceptions to this pattern are, significantly, the five smaller institutions – the Training Unit, the Dóchas Centre, Arbour Hill and the two open prisons.

Other trends also tend to impoverish the regimes available to prisoners, in the larger prisons in particular. One of these is the increased emphasis on 'security', which in multiple ways restricts what prisoners can do:

- ❖ In the Dóchas Centre, locked gates were installed in 2010 between the houses where the women in the Centre live and the building where workshops, general education, physical education and other activities take place. Often, women cannot get to 'the school', as there may not be officers available to open and close the gates – previously there was free access to the activities area.

- ❖ An excellent all-weather football pitch is no longer used by *any* prisoner at Wheatfield, arising from security concerns relating to a very small number of prisoners.

- ❖ The visiting arrangements in Cork Prison result in prisoners being forbidden physical contact with their visitors. The CPT report commented that such a systematic ban on physical contact between prisoners and their families, in particular their children, was unreasonable, given the security procedures in place.[75] The formal response of the Irish Government to the CPT report's comments was to state that, since there was no 'internal searching of visitors', the Irish Prison Service did not intend to amend the policy with regard to screened visits.[76]

Further examples of this trend towards more restrictive measures could be given from across the prison system. The fundamental flaw is the increasing policy of a one-size-fits-all approach to security whereby procedures and restrictions that might be appropriate for a minority are applied universally.

Another aspect of an imbalanced focus on 'security' can be seen in what is prioritised in relation to staffing. The Irish Prison Service created 160 new and additional posts through the formation of its Operational Support Group (OSG), which was established in 2008 and given responsibility for the introduction and operation of 'enhanced security' measures such as airport-type screening at prison entrances. The OSG cost over €10.6 million in 2009.[77] However, while additional prison officers were being drafted into such security roles, posts in which officers worked with prisoners in vocational training workshops have been left vacant: 82.5 such posts (approximately one third of all workshop posts) were vacant at one point in

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[75] CPT, *op. cit.*, 2011, par. 99, p. 53.

[76] Response of the Government of Ireland to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its Visit to Ireland from 25 January to 5 February 2010, Strasbourg: Council of Europe, February 2011, CPT/Inf (2011) 4, p. 61 (available at: www.cpt.coe.int).

[77] *Dáil Debates* Vol. 724, No. 2, 8 December 2010, p. 566, PQ 62, 46627/10.

2011,[78] further undermining the quality of prison regimes. Both the Inspector of Prisons and the CPT have criticised the Irish Prison Service severely for having non-operational workshops throughout the prison system. Another example of questionable priorities is the cutting by the Irish Prison Service of its prison education budget between 2008 and 2011 by a far greater proportion than reductions elsewhere in the budget for the prison system.[79]

Another trend that worsens the experience of imprisonment is the tendency of the Irish Prison Service to install new cell accommodation for increased numbers of prisoners, without matching such expansion with appropriate increases in services and activity. In relation to such developments, the Inspector of Prisons and the CPT have again been severely critical, expressing concern about the Midlands Prison, Wheatfield and the deferred prison at Thornton Hall, in particular. This practice means either that prisoners in the new accommodation will have little or no access to services and activities (as is the case in the Harristown wing in Castlerea Prison), or that all prisoners suffer a diminution in activities and resources as existing provision is spread more thinly (as is happening in the Dóchas Centre).

Impact of Illegal Drugs

The multifaceted relationship between drug abuse and imprisonment is one of the most significant issues determining how the Irish prison system operates.

Illicit drugs shape not only the size of the prison population but its composition – notably the presence within prisons of people associated with rival gangs involved with drug trafficking and distribution, and of individuals who are in fear of such gangs. This is a major factor in creating the segregation now seen as necessary and of the extensive use of prolonged lock-up as a protective measure.

In addition, drug use within prison, and the efforts to control it, can have a profound influence on the whole prison regime and on the experience of imprisonment for those in prison and their families.

The significance of the impact of drugs is reflected in the comments of those who have written about the Irish prison system. Paul O'Mahony notes that the prison system has expanded enormously since the arrival of opiate use in Ireland, and that the criminal justice system has become harsher throughout the period of the 'war on drugs'.[80] John Lonergan, in his autobiography, *The Governor*, says:

> *Drugs ruined the prison service during my time in it, and undermined a lot of the best and most positive programmes in prisons. So much of the bullying and violence in prisons is directly related to drugs.*[81]

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[78] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp. 1037–8, PQ 168, 36797/11. Twenty-two of the 82.5 posts were filled by current staff in an 'acting-up' capacity.
[79] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp. 1036–7, PQ 167, 36796/11. Funding for the National College of Art and Design programme has been cut entirely; the Alternative to Violence Programme was cut by 80 per cent, Open University courses cut by 55 per cent and funding to VEC Education Units within the prisons were cut by 43 per cent.
[80] Paul O'Mahony, *The Irish War on Drugs: The Seductive Folly of Prohibition,* Manchester: Manchester University Press, 2008a, p. 171.
[81] John Lonergan, *The Governor: The Life and Times of the Man who ran Mountjoy*, Dublin: Penquin Ireland, 2010, p. 180.

When the CPT examined some of the larger prisons in Ireland in 2010, it found that drug misuse remained:

> ... a major challenge in all the prisons visited. The management and health-care staff in most prisons visited acknowledged both the rising numbers of prisoners with a substance abuse problem and the widespread availability of drugs. Drugs were a significant element in making Mountjoy Prison an unsafe place for inmates and staff.[82]

The availability of drugs varies considerably within Irish prisons: some prisons (Arbour Hill Prison for example) have few or no drug problems, while Mountjoy Prison is dominated by a drugs culture. In 2009, more than 28,000 voluntary drug tests were carried out in Irish prisons to monitor drug use and responses to treatment among prisoners. The percentage testing positive varied between different prisons but overall, and excluding methadone, 'between one-tenth and two-fifth of those screened tested positive for at least one drug.'[83] One of the most disturbing features of drug use within the prison system is that there are instances of people using drugs for the first time while in prison, as a result of coming into contact with habitual users – the possibility of which is increased by overcrowding and the need to share cells.

Prison authorities typically respond to drug use within prisons through a combination of supply control, demand control and harm reduction measures. The Irish Prison Service policy document, *Keeping Drugs Out of Prisons,* launched in 2006, has as its aims:

> Firstly, through the implementation of stringent measures to prevent drugs from getting into prisons; and secondly, by continuing to invest in services within prisons to reduce the demand for illicit drugs in the prisoner population as well as meeting prisoners' treatment and rehabilitative needs.[84]

However, as the title of that document suggests, the major effort goes into trying to reduce supply, and there is not a corresponding level of effort to provide treatment and support to prisoners to get off, and stay off, drugs.

Enormous costs have been (and continue to be) incurred by recent efforts to control the supply of drugs getting into prisons. Elaborate scanning equipment at every prison entrance, sniffer dogs, the BOSS chair (Body Orifice Security Scanner), urine testing facilities, netting erected over exercise yards and very restricted visiting arrangements have all proved costly in financial terms, and intrusive, time-consuming and often demeaning for prisoners, visitors and staff alike. Despite this commitment of resources, it is very questionable how effective the efforts are. There appears to be some curtailment, but illegal drugs remain widespread within prisons.[85]

There *has* been a considerable expansion of detoxification programmes, and psychiatric, psychological and counselling services related to drug use in most prisons in recent years. However, what is provided in these efforts to reduce demand is grossly inadequate to respond to the scale of the problem. Moreover, the severe lack of purposeful activity in many parts of

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[82] CPT, *op. cit.*, 2011, par. 72, p. 42.
[83] Jean Long, 'Drug Tests in Irish Prisons', *Drugnet Ireland*, Issue 35, Autumn 2010, p. 24.
[84] *Dáil Debates* Vol. 716, No. 1, 29 September 2010, p. 554, PQ 947, 32459/10.
[85] CPT, *op. cit.*, 2011.

the prison system presents major difficulties when prisoners are trying to get off drugs, or to stay off them. John Lonergan remarks:

> [The Irish Prison Service] *has no problem spending huge sums of money training sniffer dogs to search for drugs, but it appears never to strike the administrators that if prisoners were trained and doing meaningful work they might not need illicit drugs.*[86]

Overall, then, policy in relation to illegal drug use within Irish prisons is heavily loaded towards attempts at supply control, with far less effort put into tackling demand. By contrast, in Denmark, the policy is a balanced combination of supply and demand measures, and very substantial effort goes into both. There are treatment programmes in virtually all Danish prisons, full-time and long-term when required. The Danish prison authorities offer a 'treatment guarantee' to prisoners with drug dependency, including those with an alcohol dependency, through which motivated inmates having at least three months left to serve in prison must be offered treatment within two weeks after they have expressed a desire to receive treatment.[87]

However, a broader more holistic approach is required to address addiction problems in prisons. As indicated earlier, the problems in prisons tend to reinforce and compound each other. The high lock-up pattern worsens and is worsened by cell-sharing, and inappropriate toilet arrangements add to the hardship entailed in both. Likewise, such problems are often made worse by a lack of purposeful activity. The drugs problem, in turn, compounds such difficulties and is also made worse by these other problems.

The challenge of getting off drugs when alternative activity is unavailable has already been mentioned. Another example relates to segregation: the D wing in St Patrick's Institution was once primarily a drug-free area, but now its main function is to separate non-Dublin from Dublin prisoners. A further illustration of problems reinforcing each other is reflected in the comment by the CPT in relation to Cork Prison:

> *The delegation came across a number of cases of prisoners at Cork Prison who had not been provided with any support as they underwent drug withdrawal and who were clearly suffering. In several cases, the prisoners in question were sharing a cell with one or two other persons which, given the symptoms of withdrawal (including vomiting and diarrhoea) and the lack of in-cell sanitation, made the process all the more unpleasant.*[88]

Decent conditions, such as being out of the cell for most of the day, having purposeful activities and being treated with humanity and dignity, are factors which can also help people with addiction issues. Conversely, appalling conditions, boredom and demeaning treatment reduce whatever chances there are that prisoners will have to overcome drug and alcohol dependency.

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[86] John Lonergan, *op. cit.*, p. 192. A written reply on 8 December 2010 by the Minister for Justice and Law Reform to a Dáil Question by Ciarán Lynch TD revealed that the Irish Prison Service had 26 dog handlers and 37 trained dogs, but stated that the Minister was unable to give the cost of this Canine Unit.

[87] Kriminalforsorgen (Danish Prison and Probation Service), *Arsrapport 2006* (Annual Report), Copenhagen, p. 52.

[88] CPT, *op. cit.*, 2011, par. 75, p. 43.

Size of Irish Prisons

The scope of the authorities to mitigate the effects of segregation and feuding in many Irish prisons is hampered by the policy of concentrating the prison population in a small number of large prisons. There are fourteen institutions holding over 4,000.[89] Although Ireland has a population smaller than any of the larger Nordic states, the numbers in Irish prisons – Mountjoy (with 590), Midlands (605), Cloverhill (411) and Wheatfield (657)[90] – are much greater than the largest prison population in any of these countries.[91] Castlerea (348) and Limerick (327) prisons are also very large, as are Cork (289), Portlaoise (272) and St Patrick's Institution (192).[92] In fact, this pattern of incarceration means that *81 per cent of prisoners in Ireland are held in prisons of more than 200,* most of them in institutions vastly larger than that.[93] There is no closed institution holding fewer than 100 prisoners.

There are prisons of more manageable size in Ireland, which generally have better regimes, although in recent years some of these have been put under pressure because of overcrowding. Arbour Hill in Dublin holds 151 long-term prisoners, 42 per cent of whom are now 'doubled up'. Likewise, the Dóchas Centre, which is built next to Mountjoy and became fully operational in 1999, has 127, with almost two-thirds (65 per cent) sharing rooms. The Training Unit, also part of the Mountjoy complex, should hold 96 in a modern 'semi-open' pre-release centre, but with the introduction in 2008 of doubling-up (and 'slopping out' for a period), at December 2011 it detained 108. The remaining two prisons are the only open centres now in Ireland: Loughan House in Blacklion, Co. Cavan (which has 128 prisoners) and Shelton Abbey near Arklow, Co. Wicklow (108).[94]

During the past decade, the Irish Prison Service decommissioned three prisons – all of which were much smaller than most Irish prisons. These were: Shanganagh Castle, Shankill, Co. Dublin, an open centre for about 60 young men; Fort Mitchel Prison on Spike Island, Co. Cork, which detained about 100 males, most of them also under twenty-one, and the Curragh Prison in Co. Kildare, which housed 100 or so adult men, the great majority of whom had been convicted of sexual offences. All three prisons, closed by the then Minister for Justice, Equality and Law Reform, Michael McDowell TD, were widely regarded as having some of the better regimes within the prison system. The Curragh was seen to have achieved a strong pro-treatment culture, which is critically important in supporting those who have committed sexual offences to address their behaviour. That culture was significantly lost when prisoners from the Curragh were transferred to the larger Midlands Prison. Remarkably, also, at the

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[89] The Whitaker Report spoke of the desirability of having prisons with a maximum capacity of 100. Many commentators on prison issues, including Anne Owers, the former Chief Inspector of Prisons in England and Wales, and Andrew Coyle, former prison governor and Director of the International Centre for Prison Studies, have also advised that smaller prisons are preferable.

[90] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747, No. 5, 24 November 2011, p. 1034, PQ 163, 36792/11. These figures are for 1 December 2011. It is planned to expand the Midlands Prison by a further 300.

[91] Oslo Prison – the largest in any of the four Nordic countries, Denmark, Finland, Norway and Sweden – has 392 prisoners.

[92] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow- up to *Dáil Debates* Vol. 747, No. 5, 24 November 2011, p. 1034, PQ 163, 36792/11. These figures are for 1 December 2011.

[93] *Ibid.* This refers to a prison population on 1 December 2011 of 4,313: 81 per cent of those detained were in prisons holding more than 200; 68 per cent (2,939) in prisons with more than 300, and 52 per cent (2,263) in prisons of more than 400.

[94] *Ibid*.

time of their closure, these three institutions had the three highest rates of participation in education among all the prisons in Ireland, each having over 90 per cent involvement.

Open Prisons

Most prison systems in western countries combine 'closed' and 'open' prisons. Open prisons do not rely on physical barriers to keep prisoners in custody. Instead, prisoners stay on trust; as prisoners themselves say, 'you are your own jailer'. Such institutions have a much greater sense of normality, and cost far less to run than closed prisons. Buildings which are used as open prisons were often originally built for other purposes; this is the case with Ireland's two open prisons – Shelton Abbey, and Loughan House. (Shanganagh Castle, which was closed in 2002, was variously a private residence, a hotel and a school.)

Prisoners in open centres are invariably locked in their rooms for much less of the time than is the case in closed prisons; in some instances, they may not be locked in at all, even at night. They eat their meals together and prisoners and staff can relate to each other to a far greater extent than is feasible in a closed prison. John Lonergan's description of Shanganagh Castle gives a good picture of both the principles and practice possible in open prisons.[95] 'It allowed the staff and the boys to live a far more normal and constructive life than in the more rigid and dividing regime and philosophy of closed prisons', he states.[96] Today, most prisoners at Loughan House and Shelton Abbey appreciate the opportunity to use the greater space outdoors, as well as the greater degree of normality indoors.

In 1985, those detained in the three open centres then operating in Ireland represented 11.5 per cent of the country's prison population.[97] That proportion declined steadily over the years, accentuated by the closure of Shanganagh Castle in 2002, and it has been less than 6 per cent for some time, standing at just 5.5 per cent in December 2011.[98] In contrast, in Nordic countries such as Denmark, Finland and Norway, the proportion in open prisons is between 35 and 40 per cent. The absence of serious commitment in Ireland to extending the use of open prisons is evident also in the lack of an open facility for women prisoners in Ireland, and the absence of a designated open centre for those under twenty-one years of age since the closure of Shanganagh Castle – though from time to time a few young men who are under twenty-one are sent to Loughan House or Shelton Abbey.[99]

Young People in Prison

The manner in which juvenile boys aged sixteen and seventeen years and young men aged between eighteen and twenty-one are detained in Ireland is one of the most scandalous features of the country's prison system. In all, some 357 young people in these age groups are detained in Irish prisons. In a written reply to a Dáil Question in November 2011 the Minister

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[95] See John Lonergan, *op. cit.*, pp. 39–46.

[96] *Ibid.*, p. 43.

[97] The *Annual Report on Prisons and Places of Detention 1985* shows that the daily average prison population in that year was 1,863, and that the daily averages for the three open centres were: Loughan House, 103; Shanganagh Castle, 58; Shelton Abbey, 53 – a total daily average of 214 for the open institutions.

[98] On 1 December 2011, there were 4,313 people detained in Irish prisons, but only 236 in the two open prisons – 108 in Shelton Abbey and 128 in Loughan House.

[99] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp. 1035–6, PQ 166, 36795/11. On 28 October 2011, there were 12 people under twenty-one years detained in the two open prisons – ten in Loughan House, and two in Shelton Abbey.

for Justice and Equality, Alan Shatter TD, revealed that there were 343 males as well as 14 females under twenty-one in the prison system on 28 October 2011.[100]

There are three distinct groups of young male people under twenty-one in the prison system, and all of these groups are held in unacceptable conditions.

The Boys Group: approximately 40 boys aged sixteen and seventeen are held in part of St Patrick's Institution. At the time of the visit of the CPT in February 2010, there were 14 boys aged sixteen and 44 aged seventeen.[101] In his report issued in July 2010, the Inspector of Prisons indicated that among those who were on protection on C3 landing of St Patrick's were 20 boys under eighteen – in other words, a substantial proportion of those under eighteen in the institution were on protection.[102]

The practice of detaining sixteen- and seventeen-year-olds in St Patrick's is in contravention of the United Nations Convention on the Rights of the Child, to which Ireland is a signatory, which requires that no young person under the age of eighteen should be detained in the same facility as those over eighteen.[103]

The Young Men in St Patrick's Institution Group: about 140 young men aged between eighteen and twenty-one, who make up the remainder of the population of St Patrick's Institution, are held in a prison that was condemned by the Whitaker Report in 1985, by prison chaplains in 2010, and by many others in the years in between. These young men are required to wear prison clothes and are subject to screened visits.

The Young Men in Adult Prisons: some 162 young men under the age of twenty-one are held in adult prisons around the system. Of the 343 males under twenty-one in the prison system on 28 October 2011, 181 were in St Patrick's Institution (which detains only those below the age of twenty-one) and 162 were detained elsewhere in the prison system. Among the latter there were 34 in Limerick; 26 in Cork; 21 in Cloverhill; 20 in Wheatfield; 19 in Midlands, and 17 in Castlerea. Of the 14 female prisoners under twenty-one, 12 were in the Dóchas Centre and 2 in Limerick.[104]

Holding young people under twenty-one in adult prisons goes against all accepted international standards. The adult prisons to which the majority of them are sent – Limerick, Cloverhill, Mountjoy and Cork, for example – have some of the worst conditions in the Irish prison system. They may be obliged to share, with older prisoners, cramped cells where there is inappropriate sanitation, and where they may be subject to bullying, abuse and become drawn into deeper criminalisation.

In relation to the first group, those under eighteen, the CPT report in 2010 follows many earlier reports in stating: 'St Patrick's Institution does not provide a suitable environment for the detention of juveniles (conditions, regime, staffing)'.[105] The current Inspector of Prisons

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[100] *Ibid.*

[101] CPT, *op. cit.*, 2011, par. 28, p. 19.

[102] Judge Michael Reilly, Inspector of Prisons, *op. cit.*, par. 17.3 and par. 17.5, p. 81.

[103] Article 37 (c) of the *Convention on the Rights of the Child* states:'... every child deprived of liberty shall be separated from adults unless it is considered in the child's best interests not to do so ...'

[104] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp. 1035–6, PQ 166, 36795/11. Relates to 28 October 2011.

[105] CPT, *op. cit.*, 2011, par. 26, p. 17.

(like his predecessor) has also expressed concern in 2010: 'It is not appropriate that juveniles are detained in a prison with adults.'[106]

The CPT, noting that some of the boys detained in St Patrick's Institution had experienced disruption in their family life, had been in care or experienced mental health problems, argued that staff working with them:

> *... should be carefully selected for their personal maturity and ability to cope with the challenges of working with – and safeguarding the welfare of – this age group. ... All such staff should receive professional training, both during induction and on an ongoing basis, and benefit from appropriate external support and supervision in the exercise of their duties.*[107]

However, the CPT clearly viewed any improvements in provision for under-eighteens in St Patrick's as interim measures, and called on the Irish authorities to take the necessary steps to ensure that juveniles deprived of their liberty in Ireland are held in appropriate detention centres for their age group.[108] The official response of the Irish authorities to this recommendation was to announce that the first phase of the planned 167-place National Children's Detention Centre at Oberstown, Co. Dublin would be ready by 2013 (and would provide 80 spaces) and the second phase would be ready by 2015 (providing 60 spaces).[109] However, the response added: 'It should be noted that tendering for the construction of the main project will be subject to Government approval and to the necessary funding being made available.'[110]

In relation to the older age group (18–21) at St Patrick's Institution, the CPT was critical in particular of the consequences of keeping factions or individuals apart. The Committee found that when it visited in February 2010, some 35 prisoners were not assigned to any educational or vocational courses.[111] Furthermore, 41 (out of a total population of 210) were held on protection, 27 on C3 of St Patrick's and 14 in the basement unit of C Block. Those held in the basement had some measure of outdoor exercise, education and sessions with a psychologist, but the regime for the larger group on C3 'was far more limited as many of them could not associate together and, other than access to outdoor exercise, they spent most of the day locked in their cells.'[112] As already noted, those on protection on C3 include boys under eighteen years.[113]

Clearly, many of the negative aspects of the regime for eighteen- to twenty-one year-olds at St Patrick's arise from segregation. This situation is exacerbated by the fact that this is now the only institution in the prison system designated for this age group, since Shanganagh Castle and Fort Mitchel were closed in the past decade. As well as depriving the prison

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[106] Judge Michael Reilly, Inspector of Prisons, *op. cit.*, par. 17.20, p. 84.

[107] CPT, *op. cit.*, 2011, par. 40, p. 25.

[108] *Ibid.*, par. 26, p. 17.

[109] Response of the Government of Ireland to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its Visit to Ireland from 25 January to 5 February 2010, *Ibid.*, p. 18.

[110] *Ibid.*

[111] CPT, *op.cit.*, 2011, par. 52, p. 31.

[112] *Ibid.*, par. 56, p. 33.

[113] Judge Michael Reilly, Inspector of Prisons, *op. cit.*, par. 17.3, p. 81.

system of two regimes that in most respects were far better than St Patrick's Institution, these closures also deprived the authorities of options in relation to separating those who might be in conflict with each other. The closure of Shanganagh also deprived the system of a crucial open option for this age group.

Chapter 4 : Ireland's Fourteen Prisons

In many respects, each prison is unique, with features, arrangements and atmosphere particular to itself. The following sketches attempt to give some sense of the main characteristics of Ireland's fourteen prisons. The descriptions below generally convey the situation in each of these prisons in 2011, in particular the latter part of the year.

4.1 Mountjoy Prison – Part of Mountjoy Complex

Mountjoy Prison for men is one of the largest and by far the most well-known prison in Ireland; it is also, aside from A and B wings of Limerick Prison, the oldest in the country. Its Governor until recently, John Lonergan has commented in public about its shortcomings, as have Visiting Committees, Prison Chaplains, the Inspectors of Prisons, and the CPT (the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe). A key factor in determining conditions in Mountjoy is the level of overcrowding in the prison. In 2010, the Inspector of Prisons advised that the absolute limit to Mountjoy's prison population should be 540;[114] however, that number has been greatly exceeded in recent times. At the end of July 2010, Mountjoy held 721 men.[115] The prison population had reduced to 590 on 1 December 2011, but one wing (C wing) was then out of use for renovation, so that the sense of overcrowding in the rest of the prison remains.

Research in the mid-1990s by Paul O'Mahony documented the severely deprived backgrounds of most Mountjoy prisoners, a great number of whom had been repeatedly incarcerated.[116] More recent research by Harry Kennedy confirmed this picture of the prison population of Mountjoy.[117] John Lonergan's book, *The Governor*, vividly captures this aspect also, as well as conveying the appalling inadequacy of the physical conditions in Mountjoy.[118]

Over 47 per cent of Mountjoy prisoners are obliged to share cells,[119] often on mattresses on the floor. In A, B, and D wings, where the majority of prisoners in Mountjoy are accommodated, there are no in-cell toilets or wash basins. Some form of in-cell sanitation is a basic requirement for people who do not have ready access to sanitation outside of the cell or room they occupy. The human body needs easy access to toilet facilities, at all times, even when locked in a cell. 'Slopping out' is, therefore, a grim and pervasive feature of the place, affecting 69 per cent of all those held in the prison. This may be modified for a couple of hours in the evenings when a 'toilet patrol' can allow prisoners out of their cells after lock-up should they need to use the dilapidated, but at least private, toilets at the end of wings. However such 'toilet patrols' now often fail to operate, due to non-availability of staff.

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[114] Report on an Inspection of Mountjoy Prison by the Inspector of Prisons, Judge Michael Reilly, August 2009, par. 2.27, p. 13 (available at: www.inspectorofprisons.gov.ie).
[115] Ali Bracken, 'Prison population over 5,000 for first time', *Sunday Tribune*, 1 August 2010.
[116] Paul O'Mahony, *op. cit.*, 1997.
[117] Harry G. Kennedy *et al.*, *op. cit.*, 2005.
[118] John Lonergan, The Governor: The Life and Times of the Man who Ran Mountjoy, Dublin: Penguin Ireland, 2010.
[119] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747, No. 5, p.1034, 24 November 2011, PQ 163, 36792/11. In Mountjoy 275 out of 590 did not have their own cells at 1 December 2011.

Education for about 80 prisoners is provided in six small classrooms in a converted chapel in the centre of Mountjoy, and in a few other improvised locations elsewhere in the prison, but these facilities are far too limited to meet the requirements of such a large prison population. There are several 'workshops' in converted cells, and other work and training opportunities such as in the kitchen. Overall, however, the facilities available are inadequate: the total number of places for education, work and training allows for fewer than half the prisoners to be involved in any structured activity. The remainder are left sitting around, or 'walking the yard' (or, as is the case for prisoners 'on protection', confined to their cells for upwards on 23 hours each day).

Current arrangements and priorities for prison officer staffing have contributed to a serious worsening of an already poor level of activity. The annual production of a play involving prisoners in Mountjoy, which happened successfully for many years, ceased in 2006 with the introduction of a new staff roster.[120] A lack of support from the Irish Prison Service is blamed by John Lonergan for this cessation, as well as for the termination of the Mountjoy community work parties, which operated from 1978 to 2009. Through these projects prisoners and officers went from the prison to construct facilities such as community halls and gardens for local groups.[121] In 2011, the library, which is staffed by officers, was open for only 30 per cent of the time scheduled,[122] and there were eighteen vacancies in officer posts to supervise workshops.[123]

A separate three-storey Medical Care Unit (MCU) within Mountjoy is now, in fact, a place that offers some drug treatment, including the only drug-treatment course in the prison system, and a range of educational activities. One floor of the MCU consists of a High Support Unit, which offers multi-disciplinary support to vulnerable prisoners, such as those who are depressed or have other psychological problems.

On 23 September 2010, there were 153 prisoners in Mountjoy who were deemed in need of 'protection' on '23-hour lock-up'.[124] By 7 December the number on 23-hour lock-up had fallen to 88, and by 26 January 2011, it was down to 59, but on that date another 103 prisoners were locked up for between 20 and 22 hours daily.[125]

On 21 November 2011, there were 59 prisoners in Mountjoy who were deemed in need of 'protection' and were on '23-hour lock-up'. A further 64 were locked up for between 18 and 20 hours each day. This latter group was mostly in the Separation Unit, where men tend to be locked up for either the entire morning or afternoon.

4.2 Cork Prison

While the situation in Mountjoy Prison have been aired publicly to a considerable extent, conditions in Cork Prison, which are in many respects far worse, have received much less attention. Cork shares with Mountjoy (and Portlaoise E block and part of Limerick) the appalling toilet arrangements which consist of buckets that must be 'slopped out' at the end of wings at unlock time. This is the case even in C wing in Cork, a three-storey block with 50

[120] John Lonergan, *op. cit.*, p. 170.
[121] *Ibid.*, pp.188–192.
[122] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp.1038–9, PQ 169, 36798/11.
[123] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp. 1037–8, PQ 168, 36797/11.
[124] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp. 1034–5, PQ 165, 36794/11.
[125] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp.1034–5, PQ 165, 36794/11.

cells, which was built in restricted space in the late 1980s. Ninety-six per cent of prisoners in Cork are required to slop out.[126] A large majority of the men held in Cork Prison are accommodated in the older A and B wings.

The impact on prison conditions of the lack of in-cell sanitation is compounded in the case of Cork Prison by exceptional overcrowding. Of the 289[127] prisoners in Cork Prison on 1 December 2011, 264 (or 91 per cent) were *not* accommodated in single cells.[128] As in Mountjoy, prisoners are sometimes required to sleep on floors.

There is in Cork a purpose-built Education Unit, which provides a broad education programme, with facilities for a range of practical as well as academic subjects. There are also several workshops which offer work training and make wood and fabric products. A greater proportion of prisoners are, therefore, provided with structured activity than is the case in Mountjoy. However, one-third of workshop posts (6 out of 17) are currently vacant.[129] There is a strong tradition going back many years of post-release support in Cork, particularly in education, but also in areas like addiction and housing.

Written replies to Dáil Questions revealed that there were 14 prisoners on 23-hour lock-up on 23 September 2010, and 21 on 7 December of the same year.[130] However, a reply to a further question more recently revealed that on 21 November 2011 only one man in Cork Prison was on 23-hour lock-up, but that 20 were locked up for between 18 and 20 hours.[131] On 28 October 2011, there were 26 who were under 21 years of age in Cork Prison.[132] A 'punishment wing' in D block holds up to eight prisoners from Cork Prison itself and from other prisons, usually for a period of two months at a time.

The ground floor of C wing in Cork, C1, houses mainly long-term prisoners, including some serving a life-sentence, and these usually have single cells. These men on C1 are allowed mix with the main part of the prison, for example for education or in workshops. Those on the top floor, C3, are segregated from the rest of the prison, but have a normal regime in the sense of having about seven hours out-of-cell time or being able to take part daily in some work or education in a small separate designated area known as The Laundry. As well as a commercial-sized laundry, which undertakes washing for the whole prison, there are a couple of classrooms in this area. Men on C3 also have sole use of the main Education Unit on Friday afternoons.

The men held on C2 are 'protection prisoners' and have an even more restrictive regime in terms of out-of-cell time and access to activity. Some on C2 are seen as 'on protection from other protection prisoners' and thus suffer additional disadvantage, at times being confined to cells for perhaps 23 hours a day, and only being unlocked when others on C2 are locked up. A teacher visits them in their cells on one day a week and offers them educational support

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[126] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747, No. 5, 24 November 2011, p. 1034, PQ 164, 36793/11.
[127] There were over 330 in the prison at one point in late May 2010.
[128] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter, TD to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747, No. 5, 24 November 2011, p1034, PQ 163, 36791/11.
[129] *Dáil Debates* Vol. 747, No. 5, pp. 1037–8, 24 November 2011, PQ 168, 36797/11.
[130] *Dáil Debates* Vol. 724, No. 2, p. 564, 8 December 2010, PQ 56, 46618/10.
[131] *Dáil Debates* Vol. 716 No. 1, pp. 556–7, 29 September 2010, PQ 949, 32461/10; *Dáil Debates* Vol. 724, No. 2, p. 564, 8 December 2010, PQ 56, 46618/10; *Dáil Debates* Vol. 747, No. 5, pp. 1034–5, 24 November 2011, PQ 163, 36794/11.
[132] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp. 1035–6, PQ 166, 36795/11.

and materials for what is essentially self-study. Others on C2 have four to six hours a day out of their cells, and may also access the main Education Unit on Thursday afternoon and evening.

In November 2009, a unique event in Cork Prison revealed much about the lives of prisoners and those who have been in prison. The chaplain and Education Unit organised a mass for deceased former prisoners and asked for names of those whom current prisoners wished to remember. In the dilapidated gym-cum-recreation room, over 100 gathered, mostly prisoners but also the Governor and staff of various disciplines. The prisoners' choir sang movingly. A long list of about 75 names was read out: former prisoners who had died, some years ago, but most more recently; some were older people, but many were very young. Many had committed suicide or died of drug overdoses. Such a pattern could be found in probably every prison in Ireland. At the annual Christmas mass in the Dóchas Centre, the names of all associated with Dóchas who died in the previous year are read out, and there are usually between 15 and 20 such women. These may have been out of prison five days or five years. It can also be assumed that there are other women, former residents of Dóchas, whose deaths are not known about by the organisers.

4.3 Midlands Prison

The Midlands Prison in Portlaoise, which opened in 2000, is now the second largest in the country, and is set to become the largest. It adjoins the older Portlaoise Prison. It is in traditional Panopticon form, with wings radiating out on three floors from an inner circle. Originally, there were to be three wings only, but before the building was completed a fourth was inserted, so sacrificing outdoor recreation facilities. A further wing with 150 cells, or 300 spaces, is expected to be ready by mid-2012 and this is likely to bring the prison's population to over 900. However, a corresponding increase in the provision of activity and services is not planned.

Of the 605 in the prison on 1 December 2011, more than half (311) were obliged to share cells.[133] While there is proper sanitation in each cell, men who are sharing cells are required, even in this modern prison, to use toilet facilities in each other's presence. In October 2011, 19 prisoners at the Midlands were under twenty-one years of age.[134]

When the Curragh Prison was closed in 2004, around 100 prisoners were transferred to A wing of the Midlands Prison. Since then, those on A wing have, in effect, experienced a different regime from that operating elsewhere in the prison. There are some classrooms at one end of the ground floor in A wing and teaching is provided there. Students on A wing also have exclusive access to part of the main Education Unit one day each week, as well as on one evening, and so can take part in several practical subjects not available on their own wing. There had been access to the main Education Unit for those on A wing on two evenings each week, but this has now been reduced because of non-availability of prison staff.

Most of those held on C wing are effectively segregated from the rest of the prison also, either being restricted by prison authorities, or self-segregating out of fear of going beyond this part of the prison. Thus, they experience a significantly diminished regime, and few of

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[133] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747 No. 5, p1034, 24 November 2011, PQ 163, 36792/11.
[134] *Dáil Debates* Vol. 747, No. 5, pp.1035–6, 24 November 2011, PQ 166, 36795/11. The figure given relates to 28 October 2011.

them access services such as education or work-training elsewhere in the prison. In November 2011, 28 prisoners in the Midlands Prison were locked up for 23 hours each day, and a further 9 were locked up for 18 hours or more.[135] Most of these were held on C wing. On the ground floor of this wing, C1, the right-hand side is a 'punishment block' with about 15 cells, while the left-hand side has others who are considered 'at risk' or seen as requiring higher security, and who are on long-term segregation. Teachers may access the latter group on C1 and give some educational support. However, teachers are no longer allowed access the prisoners on the upper floors, C2 and C3, allegedly for operational and security reasons.

The Midlands does have substantial and good-quality facilities for work-training and education, including indoor physical education, for those who can access them, mainly those on B and D wings. The prison is generally clean and constructed to a high quality. However, there is much that is dysfunctional about the way it has operated in recent years, some of this apparently attributable (at least at one stage) to poor relations between management and prison staff, and generally low morale among prison staff. Prisoners on methadone treatment may not get this until 10.30 a.m., and thus miss activities like workshops and education. In the same manner, the shop' from which prisoners can buy personal items may open on only one morning a week for particular wings, so prisoners on those wings may have to miss work or classes in order to use it. A very fine library is closed most of the time it is scheduled to open (it was open only 33 per cent of its scheduled opening hours in 2011),[136] and workshops are frequently closed also, a problem accentuated by 3.5 workshop staff vacancies.[137] Morning unlocks and escorts are often late, so that classes and other activities can start half an hour late in the already 'eroded' prison day.

4.4 Wheatfield Prison

Another large modern prison which compares to Midlands Prison in terms of size, clientele and regime is Wheatfield Prison, which was opened in the mid-1980s. Located in west Dublin, Wheatfield was constructed originally to consist of twenty identical units radiating off central corridors on two floors, with sixteen single cells in each Unit. It was thus *designed for 320 prisoners*. Initially, the authorities maintained a one-person-one-cell policy but in the 1990s doubling up was introduced and its use has grown steadily, especially over the past decade, so that on 1 December 2011, over two-thirds of the population in Wheatfield were sharing cells – 446 out of 657.[138] In October 2011, 20 young men in Wheatfield were under twenty-one years of age. The number of men on 23 hour lock-up stood at 63 in November 2011[139] There are three 'punishment cells' in Wheatfield.

In 2010, a new wing in Wheatfield was opened, providing 176 additional cells. The prison therefore now has a population over twice that originally envisaged. However, no expansion of the Education Unit or of training facilities was planned in conjunction with this increase in accommodation. Most prisoners at Wheatfield opt to become involved in education or training so that existing facilities are already fully utilised and cannot take extra numbers without a reduction in the level of individual participation. In autumn 2010, the then Minister for Justice and Law Reform, Dermot Ahern, announced plans to build work and training

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[135] *Dáil Debates* Vol. 747, No. 5, pp. 1034–5, 24 November 2011, PQ 165, 36794/11.

[136] *Dáil Debates* Vol. 747, No. 5, pp. 1038–9, 24 November 2011, PQ 169, 36798/11.

[137] *Dáil Debates* Vol. 747, No. 5, pp. 1037–8, 24 November 2011, PQ 168, 36797/11.

[138] *Dáil Debates* Vol. 747, No. 5, p. 1034, 24 November 2011, PQ 163, 36792/11.

[139] *Dáil Debates* Vol. 747, No. 5, pp. 1034–5, 24 November 2011, PQ 165, 36794/11.

facilities to cater for the increased population, but these will be provided some years after the additional cells have been occupied.

When Wheatfield was built, a toilet was included in each cell. However, as already noted, a large majority of those currently detained there must share a cell and so must use toilet facilities in the presence of other prisoners.

There was a great deal of progressive thinking behind the original design for Wheatfield, which was to an extent modelled on Ringe Prison in Denmark. The idea behind the original twenty, separate, units was that a lower level of security could be applied in most of them and so prisoners would eat their meals together and be able to manage many of their own daily tasks, such as cleaning and cooking. In the front part of each unit are two large spaces which were intended for such self-management purposes, as well as for recreation. All these units were plumbed and wired to enable prisoners to cook at least some of their own food, and to do their own washing and cleaning. However, these facilities have never been used for their original purpose and, instead, the same regime as operates in other prisons – of locking up prisoners for several hours at meal times – was established throughout Wheatfield from the beginning. Furthermore, at the inception of the prison, movement within it was severely restrained by the installation of additional gates along central corridors.

In the course of time, the regime at Wheatfield deteriorated in other ways also. A sizeable high-quality hard-surface football pitch has not been used by prisoners for some time, as concern over the possibility of an escape attempt by leading gangland prisoners led to *all* prisoners being prohibited from using it. This is an example of a 'one-size-fits-all' approach to security which makes the regime more restrictive than necessary for the mass of prisoners, and it illustrates the diseconomies of large penal institutions. Evening library sessions have now been abandoned in Wheatfield and in 2011 the library was open less than 15 per cent the time scheduled.[140] Some vulnerable prisoners, those at risk of being attacked or abused, find it increasingly difficult to make their way to the prison Education Unit.

There remain, however, many positive aspects to the regime at Wheatfield, in particular the very extensive education and work-training provision which has been there from the start (but which, as noted, has not been expanded correspondingly to meet the needs of population increases). Positive developments in recent years include: the re-activation of the *Alternative to Violence Project* (AVP), which runs courses over weekends in which prisoners are trained in non-violent coping mechanisms while also learning to teach other prisoners to do the same; the *Building Better Lives* (BBL) programme for people convicted of violent offences; a Red Cross community-based Health and First Aid in Action course; the introduction of several drug counsellors; a pre-release course with strong community links. However, the extension of the prison accommodation, together with delays in providing additional facilities for education and training (if these facilities are to be provided at all), cannot but further endanger the positive features of Wheatfield.

4.5 Castlerea Prison

The development of Castlerea Prison began in the 1990s on a large site vacated following the closure of the psychiatric hospital in the town. Some elements of the prison, such as an education unit, work training facilities and administration, are located in a spacious building,

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[140] *Dáil Debates* Vol. 747, No. 5, pp.1038–9, 24 November 2011, PQ 169, 36798/11.

dating from the 1930s, which was the main part of the old hospital, and which has been extensively refurbished. However, most of the prison has been newly built, including all cell accommodation in the main part of the prison. This main cell block has four floors, with each of the upper three landings holding over 60 prisoners, and the bottom floor accommodating about 20. A separate section, known as 'The Grove', holds about 50 prisoners in conventional houses, most of which were previously homes for medical staff of the hospital. In 2009, a new section, known as the Harristown wing, was added and holds approximately 120.

In late 2011, Castlerea Prison held 348 men, 25 of whom were 'on protection' and thus locked up for 23 hours of the day. Although it is regarded as an adult prison, 17 of those detained there were under twenty-one years of age. All cells in Castlerea have integral sanitation, so there is no 'slopping out'. However, over 60 per cent of the prisoners detained there have to share a cell, so the reality is that the majority of the prisoners have to relieve themselves in front of others.[141]

The facilities for structured activities (education, including physical education, library services, and work and training) available to those in the main prison and The Grove are relatively good. The education programme, especially in the main prison, is comprehensive, and typically about half of the prisoners in these parts of the prison participate.

There are good workshop facilities, which provide work with computers, fabrics, wood and the like, but the provision of these activities is hampered by non-replacement of prison officer instructors – with half of the 20 posts vacant in November 2011.[142] A sizeable library which opened in 2009 is barely functioning: it was open to prisoners only 25 per cent of the scheduled 20 hours per week in 2011.[143]

Matters are much more unsatisfactory, however, in the new Harristown wing of the prison. The pattern of expanding accommodation, but not the matching facilities for activities and services, evident in Midlands and Wheatfield prisons, can be found in this new section of Castlerea also. What is particularly frustrating about the situation in Castlerea is that the prisoners in this new section have little or no access to the good facilities – such as the gymnasium, the library, classrooms or workshops – in the adjoining main part of the prison. In the new wing, cramped spaces are now improvised for small measures of literacy or computer education (in two small classrooms), physical activity, drug counselling, or contact with medical or probation staff. The delivery of even these limited services is further complicated and restricted by significant segregation within this wing.

Harristown wing has four main sections on two floors, each section called after a townland in the Castlerea locality. On the top floor are 'Kilteeven' and 'Tarmon'; on the bottom are 'Trier' and 'Erritt'. There are up to 26 prisoners in each of these segregated sections. However, there is a further element of segregation in the shape of twelve single cells which make up the 'CBU', or 'Correctional Behaviour Unit', where prisoners are on 23-hour lock-up. Some of these CBU prisoners have requested 'protection', but some are confined as a 'punishment'.

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[141]*Dáil Debates* Vol. 747, No. 5, pp. 1033–139, 24 November 2011, PQ 162-171, 36791-800/11. Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow PQ 163–4. There were 348 in the prison on 1 December 2011, 212 of whom (61 per cent) were obliged to share cells; 25 on 23-hour lock-up on 21 November 2011; and 17 under twenty-one year-olds in the prison on 28 October 2011.
[142] *Dáil Debates* Vol. 747 No. 5, pp. 1037–8, 24 November 2011, PQ 168, 36797/11.
[143] *Dáil Debates* Vol. 747, No. 5, pp. 1038–9, 24 November 2011, PQ 169, 36798/11.

Both 'Trier' and 'Erritt' hold remand prisoners. No work is available to prisoners in either of these sections but they may access education in the two small classrooms three times each week. These remand prisoners do not have use of any gym facilities, but have occasional access to a small outdoor all-weather pitch.

On the upper floor, those on 'Kilteeven' and 'Tarmon' likewise do not have the opportunity to work. Some in each of these sections have access to the two classrooms a few times each week. Outdoor recreation for those on 'Kilteeven' and 'Tarmon' takes place only in exceptionally small exercise yards. Some of those on 'Tarmon' are on 23-hour lock-up, having requested 'protection', and thus have no access to any structured activity.

4.6 Cloverhill Prison

Cloverhill Prison adjoins Wheatfield Prison in Clondalkin, in west Dublin and is primarily a remand centre for men who are in custody awaiting trial. It is linked by an underground tunnel to Cloverhill Courthouse.

When Wheatfield was built in the 1980s, the original intention was to have a prison for 80 women next to it, and a wall was erected and the site serviced for this purpose. However, that plan proceeded no further, as it was seen as an inappropriate site primarily due to its location. It was too far from central Dublin to facilitate contact with the women's families. The walled site beside Wheatfield lay unused for several years, until the then Minister for Justice, Nora Owen, decided in the mid-1990s that a remand prison for 400 men should be constructed on the space. Cloverhill Prison opened in 1999.[144]

In December 2011, 411 prisoners were held in Cloverhill, mostly on remand with a small proportion as sentenced prisoners. Given that the prison now holds a population that is over five times that envisaged when the space was originally designated for a women's prison, Cloverhill, while a new facility, is extremely cramped. Typically, three men are held in a cell that should hold only one; two of these will be on bunk beds. In November 2011, 90 per cent of all prisoners at Cloverhill were detained in shared cells and so would have to use toilets in each other's presence.[145]

In October 2011, 21 prisoners at Cloverhill were under twenty-one years of age. The use of extended lock-up is much less prevalent in Cloverhill than in other large prisons: there were three men locked up for between 22 and 23 hours in Cloverhill on 21 November 2011.[146]

A great majority of the prisoners on remand in Cloverhill are held for quite short periods. When courts are in session, as many as 100 prisoners may go to court each day. However, a significant number of those on remand are held for many months, and some even for years, and together with the sentenced prisoners these longer-term remand prisoners form a cohort of perhaps 200 at any one time who need the same services and activities as other prisoners,

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[144] *Irish Prison Service Report 1999 and 2000*, Dublin: Stationery Office, 2002, p. 10.

[145] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747 No. 5, p. 1034, 24 November 2011, PQ 164, 36793/11. This letter acknowledged that, of the 428 prisoners in Cloverhill on 21 November 2011, only 41 (that is, 10 per cent) occupied single cells with flush toilets and the remainder – the vast majority – 'are required to use normal toilet facilities in the presence of others'.

[146] *Dáil Debates* Vol. 747, No. 5, pp. 1034–6, 24 November 2011, PQ 166, 36795/11, and PQ 165, 36794/11.

such as work, education (including library services and physical education), drug treatment and so forth.

As in most prisons, a number of drug counsellors are now available to help prisoners at Cloverhill. There are no workshops of the kind found in other prisons, but some prisoners are engaged in work such as catering and cleaning; most of these are sentenced prisoners. An Education Unit consisting of six classrooms and a health/fitness gym offer the main sources of structured activity in Cloverhill. A substantial library in the centre of the prison offers materials in many different languages – in response to the diverse ethnic composition of the prison population – as well as in English. However, the library is somewhat hampered by frequent closures, as prison staff who should be on duty there are assigned to other work; in 2010 and 2011, for example, it was open 65 per cent of its scheduled hours.[147]

Generally, there are more than 100 prisoners in Cloverhill enrolled for education. However, as in other prisons, the opportunity for individual prisoners to participate in education is restricted considerably by segregation. Different groupings are allocated different times in education and this limits the involvement of all. The main body of prisoners, from A, B and C1 wings, have access to education during morning sessions. Those on E wing have access during some afternoons. Some of those 'on protection' on C2 have access to the Education Unit on other afternoons, but they are otherwise on 23-hour lock-up. Those on D wing cannot access the Education Unit, although a limited amount of outreach work is done by teachers in their area. Prisoners on D1, seen as involved in gangs, are kept separate from other prisoners on Garda instructions. Many of those on D2 have mental health problems.

4.7 Portlaoise Prison

Portlaoise is the prison with the highest security in Ireland. It has armed soldiers overseeing the prison from the surrounding walls, and multiple gates controlling access and movement within. Its high-security role dates from the 1970s, when IRA and other paramilitary prisoners were sent there, but its history (and some of the buildings still in use) dates back well over a hundred years. In recent times, there have been fewer paramilitary prisoners and more 'ordinary' prisoners, including many of those convicted of gangland-related crimes.

The prison has two main accommodation blocks: the new C block, which opened in 2009, holds about 180 'ordinary' prisoners and the old E block has about 60 prisoners who have various kinds of paramilitary associations, including with IRA and INLA groupings. A Separation Unit (or A block), seen as a punishment unit for the prison system as a whole, has varying numbers, but generally about 25 prisoners, a few of whom will be held there for reasons other than 'punishment'. This Separation Unit was previously part of the Midlands Prison (which adjoins Portlaoise Prison), but it has recently been incorporated into Portlaoise Prison. Most prisoners in the Separation Unit are on 22-hour lock-up, and 23 prisoners were thus confined in November 2011.[148] There were 272 prisoners in Portlaoise on 1 December

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[147] *Dáil Debates* Vol. 724, No. 2, p. 561, 8 December 2010, PQ 53, 46615/10 and *Dáil Debates* Vol. 747, No. 5, pp. 1038–9, 24 November 2011, PQ 169, 36798/11.
[148] *Dáil Debates* Vol. 747, No. 5, pp. 1034–5, 24 November 2011, PQ 165, 36794/11.

2011.[149] In October 2011, four of those held in Portlaoise were under twenty-one years of age.[150]

The two main parts of Portlaoise Prison, C and E blocks, are very different from each other, both physically and in terms of atmosphere. E is quite dilapidated and consists of four floors or landings, with the bottom floor referred to as E1, and the other floors named accordingly, up to E4 at the top. Those on each of these landings are kept separate from each other – and usually wish to keep themselves separate. There is also some separation within landings. For example, there are currently two separate 'non-aligned' groups on E1; 'Real IRA' prisoners are held on E2, and the 'Continuity IRA' on E3. In all, there are eight different 'groups' in E block, including breakaway factions (although two of these groups consist of single individuals serving long sentences). 'Slopping out' continues in E block, but prisoners there have single cells, although these are very small (6.24m^2).[151] About half of the 120 or so cells in E block have been vacant in recent times, and several of these spaces (located throughout the four floors) have been assigned to educational purposes. Teaching is provided in all parts of E block, but is inevitably limited by the need to teach each group separately, so that those studying have far fewer classes than they would get if the restrictions arising from segregation were not in place.

Accommodation in the new C block is very much on a par with other new facilities in Irish prisons in recent times – clean and with proper sanitation, but this block also has a high degree of 'doubling up', with most prisoners there obliged to share cells. About two-thirds of the prison population are now held in C block.

From the mid-1980s, when the Provisional IRA was the dominant grouping in Portlaoise Prison, education was virtually the only structured activity available to those in the prison and an extensive programme with a high level of participation grew up, spearheaded by the local County Laois VEC, but also involving the provision of very successful courses from the Open University (OU), the National College of Art and Design (NCAD) and the Arts Council. As the clientele changed over the years, a wide range of courses and a high level of involvement continued to be features of Portlaoise, although OU and NCAD provision have been cut sharply. Today, education is still the main activity available to prisoners in the new Portlaoise configuration. When C block was built, a substantial Education Unit, which includes a sports hall and library, was built on an adjoining site, and this is available to prisoners in C block. Two work-training workshops (in industrial cleaning and printing) are provided. The services of drug counsellors are also provided in this facility.

4.8 St Patrick's Institution for boys and young men

St Patrick's Institution dates from Victorian times and stands next to Mountjoy Prison. Originally, the building housed the main women's prison in Ireland but after 1956 it became predominantly a juvenile institution, though the women's prison continued to be located in a basement wing until the opening of the Dóchas Centre in 1999. Since then, St Patrick's has

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[149] Letter 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow up to *Dáil Debates* Vol. 747, No. 5, p. 1034, 24 November 2011, PQ 163, 36792/11.
[150] *Dáil Debates* Vol. 747, No. 5, pp. 1035–6, 24 November 2011, PQ 166, 36795/11. Figures relate to 28 October 2011.
[151] See: Judge Michael Reilly, Inspector of Prisons, *The Irish Prison Population – An Examination of Duties and Obligations Owed to Prisoners*, Nenagh: Office of the Inspector of Prisons, 2010, p. 74.

been used to detain sixteen to twenty-one year-old males. Recently, it holds about 200 at any one time, with some 30 of these being remand prisoners.

As indicated in Chapter 3 a high number of young people in St Patrick's Institution are locked up for an excessively long portion of the day. Forty-two were locked up for between 20 and 22 hours a day on 21 November 2011, but 57 were locked up for that time at one point earlier in the year, 26 January.[152]

At present, St Patrick's is the only institution managed by the Irish Prison Service specifically for the detention for those under twenty-one. Two other institutions which were designated for this age group – Shanganagh Castle, an open centre in Shankill, Co. Dublin, and Fort Mitchel Prison on Spike Island, Co. Cork – were closed in 2002 and 2004.

Built in the Panopticon form favoured in the nineteenth century, St Patrick's Institution today has just three wings – B, C and D. The Education Unit – a pre-fabricated building dating from the 1970s – stands just inside the main gate. More modern system-built living accommodation, together with education and sports facilities, have been installed next to B wing in the mid-2000s to provide for sixteen and seventeen year-olds, most of whom have a separate regime than for those over eighteen. However, not all of this age group who are detained in St Patrick's are in this unit: some are 'on protection' on 'C' landing of the main building.[153] Several older sections of the prison have been refurbished to provide training workshops. D wing is designated as drug-free.

The Irish Prison Chaplains' report for 2010 describes the youngsters in St Patrick's and the response of the prison system to them:

> *St Patrick's Institution accommodates some of the most difficult (and therefore the most damaged) children in our society. Many of them suffered abuse, violence or serious neglect in their earlier childhood, sometimes in other institutions, abuse that was never adequately addressed. Rather than helping them to identify and address these issues (which have often contributed to their offending and subsequent detention), St Patrick's Institution is a 'warehouse' for young people, many of whom were broken by those childhood experiences. By entering into a harsh and punitive system, they are further broken down. It is a demoralising, destructive and dehumanising experience, with few redeeming features, characterised by idleness and boredom, for young people, who are full of energy, at a critical time in their development.[154]*

Rivalry between those from Dublin and those from elsewhere has become so established in St Patrick's that the two groups have *de facto* separate regimes. Currently, those on D wing are almost entirely from outside Dublin, while young men from Dublin tend to be assigned to C wing. While C and D are the two largest groupings in St Patrick's, there are two other segregated groups housed in B wing, 'the Unit' in B basement and a B landing for those 'on protection'. With the special section for sixteen and seventeen year-olds, this makes five distinct main groups in St Patrick's Institution.

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[152] *Dáil Debates* Vol. 727, No. 5, pp. 891–2, 27 January 2011, PQ 68, 4301/11 and *Dáil Debates* Vol. 747, No. 5, pp. 1034–5, 24 November 2011, PQ 165, 36794/11.
[153] Judge Michael Reilly, Inspector of Prisons, *op. cit.*, par. 17.3, p. 81.
[154] Irish Prison Chaplains, *Irish Prison Chaplains Report 2010*, 2011, pp.14–15 (available at: www.dublindiocese.ie/content/irish-prison-chaplains-report-2010).

This segregation impacts on the extent to which activities can be offered. Workshop availability has to be shared between C and D wings and is further restricted in recent times by there being six vacancies for workshop instructor posts. The Education Unit tends to have about half of the population detained in St Patrick's enrolled at any one time, but it too must now restrict the times and the range of courses and activity that can be offered to different groups. The main group of sixteen and seventeen year-olds, however, have a fuller education programme. Those on 22-hour lock-up have only occasional contact with teachers. However, St Patrick's Institution is one of the few prisons where the library is not affected by the closures experienced in most other prisons and so is functioning properly.

Although consisting mostly of old buildings, St Patrick's does not have the 'slopping out' which is such a feature of Mountjoy next door. Cells have proper toilets. However, the incidence of cell-sharing has increased in recent times and on 7 December 2010 almost half the young people detained in St Patrick's were sharing a cell (101 out of a total population of 210),[155] but this had dropped one year later, with 15 per cent sharing cells in December 2011 (28 out of 192 on 1 December 2011).[156] It is clear that, as in other prisons, illegal drugs remain widespread within St Patrick's, despite scanning and sniffer dogs at the main entrance, screened visits which prohibit physical contact, regular urine testing, and a cover of netting over the exercise yard as a counter to drugs being thrown over the walls.

Notwithstanding the renovations carried out in recent decades, St Patrick's remains mostly a Victorian building; it was described by the Whitaker Report in 1985 as being 'so unsuitable as to require priority replacement'.[157] The holding of sixteen and seventeen year-olds within a prison has rightly been criticised by many in recent years. However, the inappropriateness of the institution for any young person must also be a matter of concern.

4.9 Arbour Hill

The regime standards in Arbour Hill Prison, Dublin, are higher than in most other closed prisons in Ireland. However, there has been some deterioration in these standards in recent years, in particular a significant degree of doubling-up, which affects over 40 per cent of the population in the prison.[158] The prison holds about 150, nearly all of them long-term prisoners. Many, but not all, of those held at Arbour Hill are in prison for sexual offences. There are no prisoners on 23-hour lock-up, so all will have a regime that involves about seven out-of-cell hours each day.

Arbour Hill Prison consists of three wings at right-angles to each other, on two floors. Originally a nineteenth century military prison, it has been substantially modernised and has integral sanitation (but prisoners who share cramped cells of less than 7m^2 have little privacy in use of the toilet).[159] Within the accommodation block, there is a sizeable gymnasium and a library, although the latter appears to be scarcely functioning.

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[155] *Dáil Debates* Vol. 724, No. 2, pp. 562–3, 8 December 2010, PQ 54, 46616/10

[156] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747, No. 5, p. 1034, 24 November 2011, PQ 163, 36792/11.

[157] Committee of Inquiry into the Penal System, *op. cit.*, par. 2.40, p. 18.

[158] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747, No. 5, p. 1034, 24 November 2011, PQ 163, 36792/11. Refers to 1 December 2011.

[159] For details of cell size in Arbour Hill Prison, see Judge Michael Reilly, *op.cit.*, p. 32.

A substantial two-storey facility for structured activity – housed in a building which is separate from the accommodation block – was built in the 1980s. On the ground floor of this newer building there are workshops in areas such as printing and the production of Braille texts. On the upper floor, there is an Education Unit. A majority of Arbour Hill prisoners participate in education, and for most of these prisoners this is their main activity. Most prisoners, however, combine an involvement in both education and work. On this upper floor also is an area where those who have committed sexual crimes undertake treatment programmes run by psychology staff; in 2009, Arbour Hill was designated as a national centre for the treatment of sex offenders.[160] Arbour Hill has a much better level of provision for activities than many of the other institutions in the prison system.

4.10 Training Unit

The Training Unit, on Glengarriff Parade in Dublin, is a separate and modern prison, built in the 1970s in a corner of the Mountjoy complex. John Lonergan, who worked there in the early years, described the Training Unit as being 'a new concept':

> *... the emphasis would be on preparing prisoners, particularly long-term prisoners, for their release back into society ... The idea was that the prisoners would avail themselves of education and work training and be better prepared to leave prison and reintegrate into the community. Reduced security was also an important part of the regime, as long-term prisoners often suffer from institutionalization, so the scaled-down security would help them adjust to the life that was awaiting them.*[161]

The Training Unit was clearly intended as a facility providing a different kind of regime from that operating generally throughout the prison system. Instead of eating in cells as happens in most other prisons in Ireland, prisoners in the Training Unit eat their meals together in a dining room.

The main focus in the Training Unit initially was on work-training, in areas such as welding, steel-turning, electronics and steel-fabrication. In time, an Education Unit was also developed and had a considerable focus on basic education and the arts, as well as providing a pre-release course.

From the beginning, some prisoners at the Training Unit had opportunities to have daily release from the prison so that they could take part in work, training, education or therapeutic activities. However, the Irish Prison Service has been less supportive of this aspect in recent years. Full early release from the Training Unit is also far less common nowadays; in earlier years, this was seen as one of the sensible options that should be available to help prisoners move into crime-free life on the outside. Paradoxically, however, while the erratic 'shedding'[162] of prisoners from Mountjoy in order to reduce overcrowding continues, prisoners in the Training Unit now tend to be kept till the very last minute of their sentences.

A further recent regression in the Training Unit relates to the sleeping accommodation. From its inception, the prison had 96 'rooms', as distinct from cells. These rooms provided simple student-hostel-like accommodation, rather than the accommodation of conventional prisoner

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[160] Irish Prison Service, *op. cit.*, 2010, p. 36.
[161] John Lonergan, *op. cit.*, p. 51.
[162] 'Shedding' refers to unsupervised and often hastily-planned early release from prison.

cells. Prisoners had access to toilets and showers on their corridors at all times. Up to 2008, there was only one prisoner to a room at the Training Unit. However, doubling-up was introduced in that year. On 1 December 2011, of the 108 prisoners in the Training Unit, 44 were sharing a cell.[163] The Irish Prison Service initially stipulated that shared rooms could not be unlocked at night and they introduced 'slopping out' for prisoners in shared accommodation.[164] However, while such slopping out continued at least until the end of 2010 (and is referred to in a Dáil answer around that time), it is reported to have ceased at the end of 2011, with the Minister for Justice and Equality claiming that all prisoners at the Training Unit have '24 hour access to toilet facilities.'[165]

The original plans for the Thornton Hall complex envisaged that the Training Unit would be demolished as part of the move to the 'super prison' on this new site.

4.11 Limerick Prison – Men's Prison

About 300 men are held in Limerick Prison. Some parts of the prison date from even before the opening of Mountjoy in 1850, but substantial sections, including all of the large wings C and D, have been built in the past decade.

The segregation that has become such a characteristic of most prisons in Ireland is a dominant feature in Limerick also. D wing is kept fully separate from the remainder of the men's prison, referred to as CAB as it combines the three remaining wings – A, B and C (the other wing is the E wing for women prisoners). There is a degree of further segregation, however, arising from the fact that some prisoners in CAB are seen as needing to be kept separate from others; in particular, prisoners in A3 and B3 landings are kept apart from others and from each other. About 12 'protection' prisoners on A3 have some education provided on their own landing. Some prisoners, although permitted to go to work or education elsewhere in the prison, will self-segregate out of fear and keep to their own accommodation area.

Inevitably, as in other prisons, such a degree of segregation impacts negatively on the regime available to most of the prisoners. Different groups will be offered different workshops, so prisoners are assigned to work they might not otherwise choose or that does not best suit them. Workshops are further hampered by very frequent closures, accentuated at present by eight vacancies among workshop instructors. A new, high-quality, 'Services Unit' was opened in 2008, consisting of a large sports hall, a health/fitness gym and two sizeable floors of classrooms that include several art and craft classrooms. In another floor of this new building, medical, psychology and probation services are provided. A library is situated next to classrooms, which was open less than 60 per cent of its schedule hours in the first ten months of 2011.[166]

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[163] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747, No. 5, p. 1034, 24 November 2011, PQ 163, 36792/11.
[164] In an article in the *Sunday Tribune* on 21 September 2008, Ken Foxe wrote: 'In the Training Unit at the Mountjoy complex, "slopping out" has been introduced for the first time because prison officers who previously escorted inmates to the toilet during the night no longer consider it safe because of double occupancy. The prisoners involved have been using chamber pots instead.'
[165] *Dáil Debates* Vol. 727, No. 5, pp. 890–1, 27 January 2011, PQ 67, 4297/11 and Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747, No. 5, p. 1034, 24 November 2011, PQ 164, 36793/11.
[166] *Dáil Debates* Vol. 747, No. 5, 24 November 2011, pp. 1038–9, PQ 169, 36798/11.

However, the undoubted benefits of such education facilities are reduced because segregation requires education at different times, thus reducing the programme available to individual prisoners. Further, at other times classes will not be permitted to take place if there is a shortage of supporting prison officers, whose role is to bring prisoners to and from classes and to oversee security.

The great majority of prisoners in Limerick must share a cell: on 1 December 2011, of the 327 men and women detained in the prison, 243 (74 per cent) were sharing – a proportion surpassed only by Cork (91 per cent) and Cloverhill (88 per cent). The number of prisoners locked up for extended periods varied considerably over 2010 and 2011. Whereas there were 34 people on 23-hour lock-up in April 2010 and 64 in January 2011, there were none by December 2011, although 22 were locked up then for 22 hours each day. Moreover, replies to Dáil Questions in both 2010 and 2011 reveal that most of the men and women in Limerick have to put up with inappropriate toilet arrangements. On 21 November 2011, of 337 men and women in Limerick Prison, 112 (33 per cent) were required to slop out, 139 (41 per cent) had access to normal toilet facilities but had to use these in the presence of others, while only 86 (26 per cent) were the sole occupants of a cell with a flush toilet.[167]

The various features outlined above indicate a very poor regime for men detained in Limerick Prison, even relative to the arrangements prevailing in most other Irish prisons. As in other prisons, illegal drug-taking is reported to be rife, despite the enormous cost and inconveniences resulting from the work of the Operational Support Group (OSG).[168] In Limerick also, there are indications that many prisoners suffer serious mental illness, and concerns as to whether their needs are being met.

Dóchas Centre and Women's Section, Limerick Prison

Internationally, the proportion of women in a country's total prison population tends to be very small, almost always in single digit percentages. It is particularly low in Ireland, being generally between 3 and 4 per cent in recent years. However, the number of women incarcerated in Ireland has risen steeply in the past decade, even more sharply than for male prisoners. There were 84 women in prison in September 2000 (2.9 per cent of the prison population at that time); while by mid-December 2010 there were 166 (3.7 per cent).[169]

4.12 Dóchas Centre

In Ireland, most imprisoned women are held in the Dóchas Centre in the Mountjoy complex (127 on 1 December 2011), while the remainder are in one wing of Limerick Prison (29 on 17 December 2010). The Dóchas Centre was opened as a new prison in 1999 and was specifically designed with women prisoners in mind. It aimed to be as non-institutional as possible, to avoid unnecessary security features and to support as much normalisation as

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[167] Letter, from the Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, 20 December 2011, follow-up to PQ 164, 3679311, *Dáil Debates*, Vol. 747, No. 5, 24 November 2011, p. 1034.
[168] Irish Prison Service, *Annual Report 2008*, Longford: Irish Prison Service, 2009, p. 5.
[169] The 2000 figures are for 1 September 2000 and are from the Council of Europe's *Penological Information Bulletin,* Nos. 23 and 24, December 2002. The 2010 figures relate to 29 July 2010 – see, Ali Bracken, 'Prison population over 5,000 for first time', *Sunday Tribune*, 1 August 2010.

could be achieved within the new setting. Women had previously been held in the basement of a wing under St Patrick's Institution in quite dreadful conditions.[170]

The Dóchas Centre was designed to hold 80 women. It consists of five 'houses' of various sizes and security levels, with each house having normal domestic facilities such a kitchen where women can make their breakfasts and sometimes other meals. Two main meals are usually eaten by women together in a dining room, so the practice of locking up for long periods at mealtimes, which happens in all the larger prisons in Ireland and which totals over four hours each day, does not happen in Dóchas.[171] The Centre was designed to provide each woman with a single room, which had a separate en suite shower and toilet.

A central building includes a sizable hall for physical education, music and drama performances, religious services and other gatherings. This building also contains high-quality workshops and classrooms for education. Women prisoners in the old prison were consulted extensively in relation to the design and planning of Dóchas, and they responded very positively to the opportunity to develop a new regime. At any one time, more than half of the women take part in education. However, a well-stocked library facility does not currently function. There is also extensive interaction with the outside community in a range of other ways.

By 2009, according to John Lonergan, 'the Dóchas Centre struggled to maintain the high standards it had set over the previous decade.' Against the strong advice of the local prison management, the Irish Prison Service insisted on making doubling-up a feature of Dóchas, and put in 'ugly black steel jail bunks' into the rooms. Lonergan says:

> *Doubling up in single rooms seriously erodes the values promoted in the centre – women having privacy, their own space and above all personal safety. If you are in prison and you have to share accommodation with another prisoner, you are never on your own, not for a minute. People crack up when they don't have their own space. But it looks now as if doubling up is going to be part and parcel of the regime in the Dóchas Centre for years to come.[172]*

By December 2011, 65 per cent of women in the Dóchas Centre had to share accommodation (82 out of 127 women).[173] In late 2010, administrative rooms in a building adjacent to Dóchas, known as Building 8, were incorporated into the women's prison, with the intention of converting this to accommodation. At an earlier stage, local management estimated that perhaps 20 to 25 women could be held there in single rooms. The Irish Prison Service then planned to have 70 women in dormitories in this building, with as many as eight or nine in bunks in some rooms. If this were to happen, the population of the Dóchas Centre could rise to close to 200, and there would be a further marked deterioration in the living accommodation provided for a significant proportion of the women. Furthermore, these plans

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[170] The story of the old prison, the designing of the new one, the establishment of a more positive regime and the principles underpinning these changes are recounted in John Lonergan's book, *The Governor*.

[171] The Training Unit, The Grove at Castlerea Prison, and the two open centres – Loughan House and Shelton Abbey – are the other exceptions.

[172] John Lonergan, *op. cit.*, p. 153.

[173] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747, No. 5, p. 1034, 24 November 2011, PQ 163, 36792/11. Figures relate to 1 December 2011.

did not envisage corresponding increases in appropriate activity such as education and workshops for the women.

(4.11.1) Limerick Prison - Women's Section (E wing)

This is a restricted and oppressive space. Until late 2010, the wing provided just ten relatively small cells, all of which were doubled-up with bunk beds, but several of which had a third woman on a mattress on the floor.

Towards the end of 2010, ten additional cells were provided, some of which were single cells, at least initially. In December 2010, the number of women held in Limerick varied between 38 (7 December 2010) and 29 (17 December 2010). Of the 38 women detained in Limerick on 7 December 2010, 24 (63 per cent) were sharing cells. The increase in the number of cells has not been accompanied by a corresponding increase in facilities for activities to cater for the additional population. A much-valued Home Economics classroom has been abolished.

There are multiple reasons why women need the personal space of a single cell or room, personal health, the avoidance of bullying, and sexual abuse being only some of the reasons. A prisoner preparing for a second- or third-level examination would have to try to study while with two others in a cramped cell. The women in Limerick, unlike those in Dóchas, are locked up for about 17 hours each day. Neither do they have any privacy in use of the toilet in these cells, a fact forcefully highlighted by the Inspector of Prisons.[174]

The only other facilities in this wing are a couple of classrooms, an exercise room and a recreation room. However, women are afforded some relief from the restrictions of this small wing in so far as they have access to the new education facilities in the men's part of the prison once or twice a week.

4.13 Loughan House (an open prison)

Loughan House is located in the far western corner of Co. Cavan, near the village of Blacklion, and looks across Lough Macnean to Co. Fermanagh. The main building is a three-storey one, with a dining hall, recreation rooms, a library and some offices on the ground floor, and rooms for sleeping on the upper two floors. There are visiting facilities, a handball court and a sports hall near this main building and, a little further removed, there is a spacious activities building that has been recently constructed. The ground floor of this new building contains high-quality workshops for building skills and industrial cleaning, but there have been no prison staff to run them since their inception in 2007. There is also a spacious woodwork classroom on this floor, and the upper floor has other classrooms for both practical and academic subjects. Loughan House has a high rate of participation in education, with about 70 per cent of all prisoners taking part in classes. A new accommodation block was opened in 2008, supplementing the capacity of the main house.

The prisoner population of Loughan House peaked at around 150 a number of times in 2010, and this was usually when the numbers in the overall prison system were particularly high. At other times, there is a lower number in Loughan (fewer than 100 at one point in December 2010), raising the question of whether there is a tendency within the prison system to regard

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[174] Judge Michael Reilly, Inspector of Prisons, *op. cit.*, par. 11.24, p. 59. The comment of the Inspector was quoted earlier, in Chapter 3, Section 3.

the open centres primarily as spill-over locations which they use with some reluctance. On 1 December 2011 there were 128 in Loughan House.

About half of the prisoners at Loughan House must share sleeping accommodation (December 2011),[175] but all have access to showers and toilets in privacy, separate from their rooms. In the new accommodation block there are single rooms, but every two such rooms adjoin a separate shower and toilet facility located between the two rooms. Prisoners speak of liking this new accommodation, seeing it as better than the facilities in the older house and certainly better than accommodation generally in closed prisons. (A new accommodation block at Shelton Abbey has similar arrangements.)

4.14 Shelton Abbey

Shelton Abbey is situated a couple of miles from Arklow, Co. Wicklow, bounded on three sides by forestry, and on the fourth by the ghostly hulk of the now defunct Net Nitrate fertiliser plant. The core part of Shelton is a large nineteenth-century building that was once a stately home. Most of the upstairs rooms in this main building are given over to dormitory accommodation, while the ground floor has several ornate, high-ceilinged rooms, used for recreation, for visits by prisoners' families, for administration and so forth. There is also a dining room, a kitchen and a gym on this floor. The library, also on this floor, is provided and operated by staff from Wicklow County Library Service, and is one of the few in the prison system to function reasonably well.

The main house is adjoined by what were once substantial farm buildings and, in recent years, by a new accommodation block which is similar to that added in Loughan House, and with similar sleeping, washing and sanitary arrangements.

To one side of the main house is a 'temporary' two-storey pre-fabricated building which serves as an Education Unit; this provides a comprehensive education programme, including a long-established pre-release course. About 70 of the 108 prisoners currently at Shelton Abbey participate in education.

Shelton Abbey has large and magnificent formal gardens, and some prisoners work in this facility. About a kilometre from the main house is 'the farm', where prisoners work in farming activity, including horticulture and the rearing of goats and in-calf heifers which are sent to Africa via the NGO, Bóthar. Two new workshops have been built in this area, but have yet to be brought fully into use.

In past times, the open centres were often seen to be underused by the Irish Prison Service, and also misused in the sense of large numbers of prisoners being 'flushed through', i.e. being sent for very short periods, often a matter of days, before then being released. Such turnover is not evident in Shelton in recent times, with the facility being used more to enable medium and long-term prisoners to progress and experience more normality prior to release.

The regime at Shelton Abbey is similar to that in Loughan House. Over 60 prisoners live in the main building, most in dormitories of four to eight beds, although two long-term prisoners have single rooms. The new block currently holds 44 prisoners, some of whom are 'doubled-

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[175] Letter, 20 December 2011, Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, follow-up to *Dáil Debates* Vol. 747, No. 5, p. 1034, 24 November 2011, PQ 163, 36792/11.

up'. Thus, about 70 of the 108 currently in Shelton Abbey are required to share sleeping accommodation, although this is less burdensome than in closed prisons as prisoners are not locked in, even at night. All prisoners are able to use separate toilets in privacy at all times. However, in the dormitories in particular, prisoners can be haphazardly and inappropriately mixed together, including young and old, smokers and non-smokers. There are plans to build further accommodation for 36 prisoners, which would bring the capacity of Shelton Abbey close to 150.

Chapter 5 : Services in the Prison System

Services within Prisons

Within prisons, a range of personnel carry out various functions and provide a number of services and activities for the men and women held there. These personnel may be employed by the Irish Prison Service (like prison officers, probation staff, chaplains or psychologists) or by other agencies in the community (like most education staff and drug counsellors), or may come into prison as volunteers (such as facilitators from Alcoholics Anonymous). The extent to which people held in prison can avail of services and activities will vary from prison to prison, and even within different parts of a prison, as will be clear from the descriptions of the fourteen prisons given above. The following describes the main services provided within prison.

5.1 Education

While vocational training can validly be seen as one element of the education offered to people in prison (see next section, 'Work and Work Training'), the term 'prison education' is normally used in an Irish context to refer to the other elements provided by the 'Prison Education Service'. This service aspires to offer a wide curriculum through adult education methods, delivered by teachers and instructors employed by agencies from the outside community. There are 220 'whole-time equivalent' teachers employed by nine Vocational Education Committees (VECs) throughout the country, which comprises the largest part of this service, but it also includes librarians from public library services, teachers from third-level colleges such as the Open University and the National College of Art and Design (NCAD), and some community or voluntary bodies such as the Alternative to Violence Project (AVP). Prison staff engaged in activities such as physical education and libraries may also be seen as part of this larger prison education effort.[176]

The aims set out for prison education in Ireland reflect both adult education and progressive penal 'philosophies'.[177] These are:

> To provide a high quality, broad and flexible programme of education that meets the needs of those in custody through helping them:
> ❖ Cope with their sentences
> ❖ Achieve personal development
> ❖ Prepare for life after release

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[176] Further information on prison education in Ireland can be found in annual reports of the Irish Prison Service, and in a range of articles published in the *Journal of Correctional Education*: by Sean Wynne, 'Education and Security – When the Twain do Meet!' (on Portlaoise Prison), 2001, vol. 52, issue 1, pp. 39–42; Mary Kett, 'Literacy Work in Wheatfield Prison, Ireland', 2001', vol. 52, issue 2, pp. 63–67; Kevin Warner, 'Widening and Deepening the Education we offer those in Prison: Reflections from Irish and European Experience', 2002, vol. 53, issue 1, pp. 32–37; and Pam Lorenz, 'The Education Centre, Fort Mitchell Prison, Spike Island', 2002, vol. 53, issue 2, pp. 65–69.

[177] Further information on the thinking inherent in prison education in Ireland can be found in Cormac Behan, 'From Outside to Inside: Pedagogy within Prison Walls', in Randall Wright (ed.), *In the Borderlands: Learning to Teach in Prisons and Alternative Settings*, 3rd edition, San Bernardino, California State University, 2008; Anne Costelloe and Kevin Warner, 'Beyond Offending Behaviour: the Wider Perspective of Adult Education and the European Prison Rules', in Randall Wright (ed.), 2008, *ibid*; and Kevin Warner, 'Penal Policy and the Adult Education of Prisoners', in Paul O'Mahony (ed.), *Criminal Justice in Ireland*, Dublin, Institute of Public Administration, 2002. (Some of this writing is available at: www.epea.org)

❖ Establish the appetite and capacity for lifelong learning.[178]

This thinking is in tune with that of the Council of Europe's view on prison education,[179] and also that of the Whitaker Report, which stated:

> *Affording opportunities to prisoners for increased self-improvement, self-esteem and self-reliance are achievable objectives, and make more sense than the unrealistic goal of a reform to be accomplished in three months or three years. For this reason education in prison should have something to offer to everyone and should not concentrate on either the backward or the bright.*[180]

Such approaches give rise to some of the key characteristics of the educational provision offered in prison. First, the principle that all prisoners are entitled access to education is stressed – although very high lock-up times and other restrictions in regimes in recent years mean that this principle is not fully adhered to currently. Secondly, the education offered should 'aim to develop the whole person bearing in mind his or her social, economic and cultural context',[181] thus implying a 'personal development', or what might be called an 'education for its own sake', orientation. Therefore, formal qualifications, while important, are only one aspect of the education provided. Thirdly, education in prison should offer a wide or comprehensive curriculum, which the Council of Europe takes to include 'classroom subjects, vocational education, creative and cultural activities, physical education and sport, social education and library facilities'.[182]

Until recently, and for more than two decades, more than half of all men and women in prison participated in prison education. For most of these prisoners, this involvement was daily and was their main structured activity within prison, although many who take part in education also engage in work and training, and sometimes avail of other services such as treatment. More recently the proportion of prisoners participating in education has declined somewhat, as educational facilities and teaching resources have not kept pace with the expansions in prison populations – and also because severe confinement now means several hundred prisoners do not have access to education (or, indeed, to many other services). However, education remains, by far, the structured activity in which the greatest number of people in prison participate.

The prison education curriculum generally has been classified by Catherine Coakley and colleagues under ten headings:[183]

1. *Literacy*: seen as the most important area, this aspect of the curriculum 'concentrates on the needs of the individual and respects the adult status of the student, his/her prior knowledge, skills and life-experience'.[184]

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[178] Prison Education Service/Irish Prison Service, *Strategy Statement of the Irish Prison Education Service 2003–2007*, Dublin, 2004, p. 4.

[179] See *European Prison Rules*, Council of Europe Recommendation Rec (2006)2 Strasbourg, 2006, par. 28.1 to 28.7, and *Education in Prison*, Council of Europe Recommendation No. R (89) 12, Strasbourg, 1990 (available at www.epea.org).

[180] Committee of Inquiry into the Penal System, *op. cit.*, p. 96.

[181] Council of Europe, *Education in Prison, op. cit.*, p. 8.

[182] *Ibid.*, pp. 7–8.

[183] Catherine Coakley (ed.), *Prison Education in Ireland: A Review of the Curriculum*, Dublin: Prison Education Service/Irish Prison Service, 2003, pp. 23–43.

[184] *Ibid.*, p. 24.

2. *General Subjects*: this refers to subjects such as English, Mathematics, History, Geography, Science, Languages (including Irish), Philosophy and Sociology/Social Studies.
3. *The Arts*: such as visual art, music, writing, drama.
4. *Practical Subjects:* such as woodwork, metalwork, car maintenance, horticulture and construction studies.
5. *Home Economics:* including parenting and childcare and elements of pre-release courses.
6. *Health Education:* including topics such as sexuality, alcohol and drug awareness, nutrition and coping with stress.
7. *Computer Applications and Information Technology:* taught as a stand-alone subject, but also in conjunction with other subjects. (Educational possibilities are hampered, however, by lack of access to the internet. See discussion in 'Work and Training' below.)
8. *Physical Education:* PE is taught by Physical Education teachers, along with prison officers trained as Health and Fitness Instructors.
9. *Offence Focused Programmes:* the areas covered here typically include anger management, thinking skills and substance-abuse programmes, aimed at increasing personal awareness or developing particular attributes.
10. *Third Level Education:* this is mainly provided by the Open University, who until recently had over 100 students at a time in the Irish prison system, while NCAD are also involved in Portlaoise Prison.

Education of this type began in Irish prisons with the introduction of County Dublin VEC teachers to Shanganagh Castle in 1968, after which other VECs and other educational agencies rapidly became involved in other prisons. By the mid-1980s, a high level of engagement in education by men and women in prison throughout the country had developed. The level of participation was exceptionally high by international standards. This high level can be attributed to a strong commitment in terms of policies and resources by the Department of Justice and by the education authorities, to the adult education approach, to the wide curriculum and to the 'normalising' nature of teachers coming from the community outside.

More recently, the support of prison authorities for education has been much more tentative. The Irish Prison Service cut most aspects of its financing of prison education by approximately half between 2008 and 2010.[185] This was far in excess of cuts in any other area of the prison system. A pattern of paying higher 'gratuity' to prisoners in some areas of work and training than to those in education, has also emerged, in contravention of the European Prison Rules.[186] And, as mentioned previously, corresponding facilities for education have frequently not been provided in prisons when accommodation for additional prisoners has been installed.

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[185] Written answer by Minister for Justice and Law Reform, Dermot Ahern TD, to Dáil Question by Ciaran Lynch TD, 29 September 2010. The total of allocations to prison Education Units was approximately €1,091,000 in 2008, but cut to 53 per cent of this level in 2010. Funding for other education providers, such as Open University, post-release and arts projects, totalled about €375,000 in 2008, but only 49 per cent of this level was given in 2010. In 2010, prison libraries received 91 per cent of the funding they obtained in 2010, but the bulk of this was to cover librarians' salaries, which are relatively fixed. Teacher allocations for prisons, funded by the Department of Education through VECs, remained largely unchanged over this period.
[186] Council of Europe, 2006, *op. cit.,* par. 28.4 state: 'Education shall have no less a status than work within the prison regime and prisoners shall not be disadvantaged financially or otherwise by taking part in education.'

5.2 Work and Work-Training

Work and work-training provide the second highest level of structured activity, after education, in the prison system. This activity is seen as complementary to the provision of the Prison Education Service, and many prisoners who are engaged in one of these areas will also be involved in the other. Virtually all work and training is facilitated by prison staff and there is a specific staff structure that has approximately 250 posts in the sector, with industrial supervisors and industrial managers in particular prisons and an overall Assistant Governor of Work and Training.[187]

A particularly important area of work is catering, which has been developed to high (and externally validated) standards of provision and training since the 1990s. Other service delivery work within prisons is in areas such as cleaning, waste management and laundry, and these activities may also incorporate certified training.

Most work and training takes place in workshops within prisons, some of which are purpose-built to a high specification; others are limited, improvised facilities. Training workshops within prisons are in areas such as printing, computers, Braille, woodwork, metalwork, construction, industrial contract cleaning, craft, horticulture and electronics.[188] Some of these areas of activity (notably computers, woodwork, metalwork, craft and horticulture) are also catered for within education, so that there is a requirement by staff in both sectors to mesh their provision in a cohesive manner.

According to the Irish Prison Service annual report for 2009, 'over 800 prisoners participated in work training activities on a daily sessional basis during the year.',[189] an involvement of just over 20 per cent of prisoners in this sector. The report also accepted that the moratorium on public service recruitment and promotions impacted on the operation of work training services and facilities.[190] It will be recalled from earlier chapters that some 82.5 instructor posts were unfilled in late 2011,[191] and new workshops remain unused in several prisons. A little less than half of the 800 who participate in work activities are in accredited vocational training courses, with accreditation provided mainly by City and Guilds and the Scottish Qualifications Authority rather than FETAC, the normal such provider in Ireland.

Along with education, the provision of work and vocational training in prison aids later reintegration,[192] while also providing a positive outlet for time and energy during imprisonment.[193] Prisoners can acquire skills which will prove useful on release and assist them to take their place in a competitive job market. Research by Seymour and Costello found that 53 per cent of prisoners surveyed in Dublin prisons had been unemployed prior to

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[187] Since his retirement in the early 2000s, the national Co-ordinator of Work and Training has never been replaced, a vacancy now matched by the lack of a national Co-ordinator of Education. General civil servants in the Irish Prison Service have taken on some of the work of these specialists, but there is an argument that these posts should again be filled by persons with professional specialist expertise in these areas.
[188] Irish Prison Service, *op. cit.*, 2010.
[189] *Ibid.*, p. 33.
[190] *Ibid.*, p. 33.
[191] Written answer by Minister for Justice and Equality, Alan Shatter TD, to Dáil Question by Ciaran Lynch TD, 24 November 2011.
[192] National Economic and Social Forum, *Re-integration of Prisoners*, Dublin: National Economic and Social Forum, Report 22, January 2002. (available at www.nesc.ie)
[193] Committee of Inquiry into the Penal System, *op. cit.*

imprisonment.[194] As the National and Social Forum[195] found, imprisonment itself impinges negatively on a person's future job prospects. Equipping men and women in prison with the skills and aptitudes for work, and helping them to find employment upon release are major challenges, especially in times of severe recession. Overcoming this challenge is not helped by the restricted 'working day' available to the great majority of prisoners; with the exception of catering, work and work-training will rarely last for more than four hours in the day.

Compounding these obstacles, the abandonment of Mountjoy Prison's community work parties, and the limiting of other opportunities for day-release from prison for work and work-training, are particularly negative developments. Other bridging mechanisms have been developed, however, notably via the Business in the Community (BITC) 'in-reach service', where employers support prisoners in making the transition from prison to employment. Three BITC Training and Employment Officers (TEOs) are engaged in the placement of prisoners from Mountjoy and Midlands prisons, and in the preparation for these placements prior to release. The Irish Prison Service state that, between mid-2007 and the end of 2009, 872 referrals have been made to the TEOs and 272 post-release placements have been secured in respect of the 556 participating prisoners released from custody.[196]

One further major handicap in efforts to offer relevant training and preparation for the current employment market is the absolute restriction that now applies to prisoners having access to the internet, even in a supervised setting. This prohibition hampers the provision of education generally, and appears an increasingly archaic approach in a society which is moving towards ever greater reliance on such technology. John Podmore, a former Governor of Brixton Prison, has written recently:

> *Prisons need to do more to tackle the serious digital exclusion of prisoners, which is vital if we want people to obtain employment on release… Homes, jobs, education and positive relationships all reduce reoffending. We search and apply for jobs online. We learn online. We keep in touch with family and friends by email, text and social media. Yet prisoners have to do all this by pen and paper… The official line is that digital inclusion threatens security. This is a false premise. Security is there to be managed, not hidden behind. Given the thousands of mobile phones that are found in prisons, many with internet access, it is likely there is nefarious digital inclusion going on. Better to make the case for why it is so important and manage it.*[197]

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[194] Mairead Seymour and Liza Costello, *A Study of the Number, Profile and Progression Routes of Homeless Persons before the Court and in Custody in Dublin*. Probation and Welfare Service/Department of Justice, Equality and Law Reform, Dublin, 2005.

[195] National Economic and Social Forum, *Creating a More Inclusive Labour Market,* Dublin: National Economic and Social Forum, Report 33, January 2006, p. 9. (available at www.nesc.ie)

[196] Irish Prison Service, *Annual Report 2010*, Longford: Irish Prison Service, 2011, p. 34.

[197] John Podmore, 'Clarke's privatisation drive will fail to improve prisons', *The Guardian*, 20 July 2011.

5.3 Prison Officers

By far the largest group working with people in prisons are prison officers. For many years, the Irish prison system had an officer-to-prisoner ratio of approximately one-to-one, although this has been reduced in recent years. In 2009, there were 3,568 prison staff (including headquarter staff) to an average population of prisoners for the year of 3,881.[198] This overall level of staffing appears high by international standards, although the ratio of staff actually dealing with prisoners may be a good deal lower.

The role of the prison officer is a complex one, arising from dual responsibilities in relation to 'custody' and 'care'. As Andrew Coyle points out, writing in a British context that broadly applies to Ireland also:

> *Until the beginning of the twentieth century the task of prison staff was relatively straightforward. It was to guard prisoners in such a way as to prevent them from escaping and to ensure that they behaved in an orderly fashion throughout the course of their imprisonment.*[199]

Later in the century, the concept of 'reform' also began to feature within the role of prison officers, which 'led to confusion on the part of staff about what was expected of them … security and control on one hand and reformation of the prisoner on the other'. Coyle refutes the notion that these twin aims are contradictory, citing research in England by Alison Liebling in particular, he emphasises 'the centrality of the relationship between prisoners and prison staff', and notes that 'the good prison officer is one who treats each prisoner as an individual and as a human being rather than as a cog in a machine'.[200]

The Whitaker Report also recognised the complexity of the prison officer's task:

> *There is an inherent dilemma in the role of prison officers in a closed prison. Primarily they are custodians, and while it may be expected of them – and they may consider it desirable – that they should develop a relationship with those in their charge in order to create a humane and rehabilitative regime, the fact is that they must always exercise authority over them to ensure the orderly and secure functioning of the institution.*[201]

However, the Whitaker Report did propose encouraging prison officers to extend their range of duties into social areas such as social skills classes, recreational activities, welfare work, and involvement in pre-release hostels and non-custodial measures.[202] Relatively little of such engagement has taken place in any sustainable way in the intervening years.

The Whitaker Report noted that:

> *In Mountjoy women's prison the officers appear to be able to maintain satisfactory relationships with the prisoners and to show both care and concern for them without*

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[198] Irish Prison Service, *op. cit.,* 2010.

[199] Andrew Coyle, *Understanding Prisons: key issues in policy and practice,* Maidenhead: Open University Press, 2005, pp. 89–90.

[200] *Ibid.*, p. 91.

[201] Committee of Inquiry into the Penal System, *op. cit.*, p. 129.

[202] *Ibid.,* p. 130.

suffering any diminution of authority. One reason for this may well be that, because the numbers in the prison are small, the tensions associated with larger prisons are absent.[203]

These qualities were carried into the new Dóchas Centre, and are clearly evident also today in the other smaller institutions, such as the open prisons and the Training Unit. However, these places comprise only a small part of the prison system, holding approximately 10 per cent of the prison population. Conditions favourable to good and helpful relationships between staff and prisoners are not present in the system at large. As is clear from the previous two chapters, a range of developments in recent decades have undermined the prospects of positive relationships, including:

- ❖ Greater lock-up times for most prisoners
- ❖ A much lower proportion in open prisons
- ❖ The abandonment of activities in which officers engage constructively with prisoners (such as the community work project in Mountjoy Prison and football at Wheatfield Prison)
- ❖ Greater reliance on remote monitoring via CCTV cameras and other new technologies
- ❖ Low prioritisation of training workshop posts (over 70 of which have been left vacant), in contrast to the prioritisation of the Operational Support Group, when it comes to prison officer staffing
- ❖ Similarly, diversion of officers from other roles where they engage positively with prisoners (such as operating libraries, gyms or outdoor physical activity) to more strictly custodial roles.

Far from achieving the care/custody balance advocated by the Whitaker and McAuley Reports, the prison system has gone sharply in the opposite direction.

Despite this deterioration in conditions favourable to caring relationships, many prison officers engage helpfully and in a humane way with prisoners, often despite the larger dehumanising system in which they operate. Much of their training these days also supports the dual role, and since 2007 recruit prison officers achieve a HETAC level 6 qualification (seen as two years full-time third-level study) via the Higher Certificate in Custodial Care. This course is offered through Sligo Institute of Technology and the Prison Service Training and Development Centre at Beladd House, Portlaoise. Close to 20 per cent of prison staff have now engaged in the programme.

A key concept widely used in relation to supporting such a balanced role for prison staff is 'dynamic security'. In his 1985 study of foreign prison systems undertaken with a view to learning lessons for regimes in England and Wales, Ian Dunbar emphasised the need to develop three aspects –individualism, relationship and activity – which he said 'come together in the widely shared concept of dynamic security'.[204] Dunbar noted:

Coming from a system where so many prisoners are idle in their cells, I was impressed by the uniformity of assumption that any prisoner who is left in his cell … is a threat to security or control This assumption has led to the practice of giving

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[203] *Ibid.*
[204] Ian Dunbar, *A Sense of Direction*, London: Home Office, 1985, p. 23.

prisoners the opportunity to be unlocked from first thing in the morning to last thing at night: unlocking from 6.30 am to 11.00 pm was not uncommon.[205]

Coyle, citing Dunbar, says of dynamic security:

It is the opposite of the arrangement whereby staff observe prisoners at a distance, often via television monitors, and rarely come into physical contact with them. In the dynamic security model staff will mix with prisoners. They will move among them, talk to them and listen to them; there will be the normal dynamics of human interaction.[206]

This comment resonates with that of a former Director General of the Norwegian Prison Service, Kristen Bølgen Bronebakk, who identified what she saw as the qualities of the Norwegian system:

The personnel. And the emphasis put on treating everybody with respect, not using more harsh methods than absolutely necessary. I think when you visit a prison in Norway, what people say to me afterwards is that they note the atmosphere and the relationship between inmates and security officers ... Security officers are not locked into their own cubicle, they are out there together with inmates.[207]

Such roles are, of course, challenging for prison staff and require much greater training and development, but they tend to be more satisfying for staff also, and give rise to a more tolerable and less destructive regime for people held in prison. In Norway, the role envisaged for prison staff is strongly centred on relating to prisoners, captured in the official slogan that reflects a decision to change the emphasis of their work: 'from guard to social worker – a paradigm shift'. Every prisoner in Norway has a 'personal officer' (sometimes also called 'contact officer'), a prison officer who has the responsibility for supporting usually no more than three prisoners in dealing with their sentences and planning their futures.

Approaches such as these are critical to the wellbeing of men and women held in prison, but also to that of prison staff. They determine whether prison regimes are reflective of normality or highly destructive. The idea of dynamic security occurs frequently in Nordic writing on prisons, and in several Council of Europe recommendations. The Council of Europe recommendation on the management by prison administrators of life sentence and other long-term prisoners states:

The maintenance of control in prison should be based on dynamic security, that is the development by staff of positive relationships with prisoners based on firmness and fairness, in combination with an understanding of their personal situation and any risk posed by individual prisoners.[208]

High out-of-cell time and extensive opportunities for activity, as well as quality prison staff, are required for such an approach. In Denmark, in the later decades of the twentieth century,

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[205] *Ibid.*, p. 22.
[206] Andrew Coyle, *op. cit.,* p. 139.
[207] From unpublished PhD thesis by Kevin Warner, 'Resisting the New Punitiveness: Penal Policy in Denmark, Finland and Norway'*,* University College Dublin, 2009, p. 255. (available on www.epea.org)
[208] Council of Europe Publishing, Compendium of conventions, recommendations and resolutions relating to penitentiary questions, p. 144. (available at: www.coe.int/prisons)

multiple roles were established for prison staff, initially in the new Ringe Prison and then throughout all prisons:

> When [*Ringe*] *prison came into operation, many aspects of the structure and daily life were arranged in a radically different manner from those of conventional prisons. Unit officers were to perform four main tasks with regard to security/order, welfare work, management of the workplaces and management of the inmates' leisure-time activities.*[209]

Reflecting this approach, William Rentzmann, the Danish Director General, speaks of prison work having two facets that are equal and complementary: exercising control, and 'providing support and motivation for the inmates'.[210]

In Ireland prison staff are give little encouragement by the prison authorities, with the expectation of those in smaller institutions, to work in this manner. This results in physical control as the default response of Irish prison authorities to dealing with the management of prisoners. Counter to this culture, however, the extent to which staff on the ground deal in practice with people in a more subtle, intelligent and humane manner should not be underestimated.

An illustration of such tension between 'dynamic' and 'static' security, and between 'care' and 'custody' approaches, is evident in the recent Committee for the Prevention of Torture (CPT) report and the response of prison authorities to this. The CPT says:

> *Addressing the phenomenon of inter-prisoner violence requires that prison staff must be alert to signs of trouble and both resolved and properly trained to intervene. The existence of positive relations between staff and prisoners, based on the notions of dynamic security and care, is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills.*[211]

The lengthy response of the Irish Prison Service and the Department of Justice to this point is striking in that it refers only to physical controls.[212] They frame the holding of over 300 protection prisoners on 23-hour lock-up as a positive initiative. They detail (among other physical control elements) tighter control of visits, stricter searching within prisons, increased cameras and probe systems, nets over exercise yards, security scanning at entrances, and the introduction of sniffer dogs and 30 dog-handling teams, Operational Support Units and the BOSS[213] chair, all by way of response to the above point made by the CPT. They emphasise

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[209] *Danish Prison and Probation Service*, p. 75. Copenhagen: Ministry of Justice, 2001.

[210] William Rentzmann, 'Ethical Values and the Selection, Training and Professional Career of Prison Staff – the Danish Experience'. Paper presented at the Congres Penitenciari Internacional, Barcelona, 2006, pp. 404–5.

[211] Council of Europe, Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 January to 5 February 2010, Strasbourg, 10 February 2011, CPT/Inf (2011)3, p. 21. (available at www.cpt.coe.int/documents/irl/2011-03-inf-eng.pdf)

[212] Council of Europe, Response of the Government of Ireland to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Ireland from 25 January to 5 February 2010, Strasbourg, 10 February 2011, CPT/Inf (2011)4, pp. 25–27. (available at www.cpt.coe.int/documents/irl/2011-04-inf-eng.pdf)

[213] Bodily Orifice Security Scanner (BOSS) chairs were introduced in 2010 for the scanning of prisoners when entering or leaving prison.

that 'there will be no easing off' in relation to security measures, and give notice of further security 'enhancements'. They make no reference whatsoever to the CPT's central point – the need for 'positive relations between staff and prisoners, based on the notions of dynamic security and care'. It is as if these ideas are not understood.

5.4 Mental Health Services

As noted in Chapter 2, there is a high incidence of mental illness among people in prison, relative to the general population. Some prisoners have experienced mental illness prior to coming into prison; others may become ill for the first time while in prison. In any case, the environment within prison, especially if that prison is grossly overcrowded, is not one that is conducive to maintaining good mental health, and nor is prison a good setting in which to try to recover from mental illness. The provision of services to meet the needs of people in prison with mental illness therefore presents significant challenges.

Mental Health Services Provision

The key elements of current provision of mental health services for people in prison are:

- ❖ 'In-reach' services provided by consultant-led and inter-disciplinary teams are available to all prisons in the Dublin area, as well as to Portlaoise Prison and the Midlands Prison. These services are provided by the National Forensic Mental Health Service, based in the Central Mental Hospital (CMH). In the case of the remaining prisons, the Irish Prison Service contracts the HSE and private psychiatrists to provide services.
- ❖ Prisoners who are deemed to be in need of in-patient psychiatric care may be transferred to the Central Mental Hospital. People detained in prisons outside the Dublin area may be transferred to the Central Mental Hospital for assessment on an outpatient basis.
- ❖ A 'High Support Unit' for vulnerable prisoners has been provided in Mountjoy Prison since December 2010. This consists of nine single cells, and one safety observation cell, and in addition to the service provided by the staff deployed there the unit is visited by the in-reach team from the Central Mental Hospital.[214]
- ❖ The Psychology Service of the Irish Prison Service provides therapeutic interventions for prisoners with mental health problems, as well as programmes aimed at improving mental health and enhancing coping skills of prisoners.

There have been a number of important developments in relation to addressing mental health issues within the prison system in recent years – the opening of the 'High Support Unit' in Mountjoy Prison, the provision of ten extra beds in the CMH in late 2008, and the potential for the freeing-up of some additional space here, as a result of the passage of the Criminal Law Insanity (Amendment) Act 2010, which allows for the conditional discharge of patients from the hospital to alternative settings in the community.

A further significant development was the establishment of the Psychiatric InReach and Court Liaison Service (PICLS) a full-time, five-days-a-week service based in Cloverhill Prison, the largest remand prison in the State. This service provides assessments for newly remanded prisoners referred to it, as well as for other individuals referred at an earlier stage of their contact with the criminal justice system. The service aims to ensure that those assessed as being in need of further psychiatric care are directed to the most appropriate setting, whether this is the CMH, psychiatric services within prisons, community health facilities or general psychiatric hospitals.

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[214] Judge Michael Reilly, Report on an Inspection of Mountjoy Prison by the Inspector of Prisons Judge Michael Reilly, 24 March 2011, p. 15.

Concerns

Despite some positive developments in service provision, serious concerns remain regarding the adequacy and appropriateness of the response to the significant proportion of the prison population experiencing mental health problems.

An issue of particular concern is that in some instances prisoners who have been assessed as being in need of in-patient psychiatric care may be left waiting for admission to such care because there are no vacancies in the Central Mental Hospital and there are no alternative options available: only rarely, if at all, are prisoners admitted to inpatient care in psychiatric facilities for the general public and there is an absence of secure regional mental health facilities. The result is that acutely ill patients are left to remain in prison and in some instances may end up being accommodated in 'special observations cells'. Dr Harry Kennedy has pointed out: 'Beyond the immediate containment of a crisis situation solitary confinement has no therapeutic benefit for the mentally disordered prisoner, and can be harmful if prolonged for more than the shortest of durations.'[215] The use of 'special observation cells' to accommodate acutely ill patients has been repeatedly criticised.[216]

The reliance on the CMH means that all prisoners being provided with in-patient psychiatric care are admitted to a high-security facility, when for many this is not required or appropriate.

In addition, it is now generally accepted, including by the health and prison authorities, that most of the accommodation available in the CMH building is seriously inadequate and that there is urgent need for the existing building to be replaced by an alternative facility.

With regard to the services provided within prisons, there are concerns that despite improvements in recent years in the in-reach psychiatric services, there remains an inappropriate degree of reliance on pharmacological treatments and insufficient access to services such as counselling, psychological services, and occupational therapy.

Beyond these specific concerns, there is the reality that the environment within a prison is not an ideal one in which to maintain good mental health, let alone recover from mental illness. This applies even if the physical conditions and regime are to a high standard. In the circumstances too often pertaining in Irish prisons – characterised by overcrowding, multiple occupancy of cells, lengthy lock-up periods, limitations in access to recreation, education and training – the experience of imprisonment may be extremely damaging in terms of its impact on mental health.

Principles

International human rights treaties and the stated official aims of Irish prison authorities provide clear guidance as to the direction which reform of the mental health services for prisoners should take**.**

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[215] Harry Kennedy *et al., op. cit.*, 2005.
[216] CPT, *op. cit.*, 2011.

Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health'.

The UN Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care[217] outline the basic rights and freedoms of people with a mental illness that must be secured if states are to be in full compliance with the ICESCR.[218]

The key principles outlined in this document include:

- ❖ All persons have the right to the best available mental health care (Principle 1)
- ❖ Every person shall have the right to be treated in the least restricted environment (Principle 7(I))

Of particular significance is that these standards apply equally to all persons, including:

> ...*persons serving sentences of imprisonment for criminal offences, or who are otherwise detained in the course of criminal proceedings or investigations against them, and who are determined to have a mental illness or who it is believed may have such an illness* (Principle 20(1)).

Adopting the principle proposed by the Group to Review the Structure and Organisation of Prison Health Care Services, the Irish Prison Service has stated that the aim of health care services within prisons is: 'to provide prisoners with access to the same quality and range of health services as that available to those entitled to General Medical Services in the community and which are appropriate to the prison setting'.[219]

Key Reforms

Over recent years, a number of groups, including the Expert Group on Mental Health Policy, the Independent Monitoring Group in relation to the implementation of the Expert Group's report, the Inspector of Prisons, the Commission on Mental Health, and the CPT, have urged reform of the mental health services provided for prisoners in Ireland.

The key reforms which have been advocated include:

- ❖ The replacement of the current Central Mental Hospital: the Government in responding to the 2010 Report of the CPT said that it proposed the development of 'a 120 bed National Forensic Hospital with associated community based supports, a 10 bedded Forensic Mental Health Child and Adolescent Unit and a 10 bedded Forensic Mental Health Unit for persons with an intellectual disability'[220]

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[217] These Principles, often referred to as the MI Principles, were adopted by the UN General Assembly Resolution 46/119 of 18 February 1992.

[218] Amnesty International (Irish Section) *Mental Illness: The Neglected Quarter*, Dublin: Amnesty International (Irish Section), 2003, p. 27.

[219] Irish Prison Service (www.irishprisons.ie/about_us-healthcare.htm)

[220] Council of Europe, *Response of the Government of Ireland to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Ireland from 25 January to 5 February 2010*, Strasbourg, 10 February 2011, CPT/Inf (2011)4, pp. 55–56.

❖ The provision of both intensive care units and long-term low secure units at regional level. [221]

❖ The provision of a separate 'high support unit' for vulnerable prisoners in every prison, other than open centres.[222]

❖ The further development of in-reach mental health services in prisons to ensure that there is an appropriate range of therapeutic interventions and programmes, rather than a reliance on pharmacological treatments.

❖ The expansion of diversionary measures to ensure that people whose offending behaviour is directly linked to a mental illness are diverted to appropriate services at an early stage of their contact with the criminal justice system.

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[221] Harry Kennedy *et al*, *op. cit., 2005*.
[222] Office of the Inspector of Prisons, *Annual Report 2010*, 7 April 2011, p. 22.

5.5 Drug Services

There can be no doubting the magnitude, complexity and difficulty of the problem of drug use in Irish prisons[223]

An earlier section of this report (Chapter 2) noted the high incidence of drug abuse and drug dependency among people coming into prison in Ireland. Chapter 3 drew attention to the problem of drug use within prisons. The provision of adequate services to address problems of illegal drug use is therefore critically important.

Many prisoners, particularly those serving longer sentences, wish to use their time in prison constructively, including addressing their dependency on drugs while in custody. However, the very nature of prison presents obstacles to addressing addiction, while current practice within the prison system also makes it difficult.

The existence of a drug culture in many prisons can militate against those who wish to engage positively with addiction services:

> [Prisons] *became the centre of a virulently powerful drugs culture, notable for its embrace of reckless hedonism and mindless risk. In short, the very institution, prison, which was intended to be the main instrument of general and individual deterrence from drug use, became a hothouse environment, nurturing destructive drug use, unhealthy patterns of behaviour and wildly pro-drug attitudes. Ever-increasing numbers of prisoners embraced a lifestyle centred on drugs; in effect, adopting a favourable attitude towards drugs and towards the opportunities afforded by the criminal drugs business. They tended to avoid serious consideration of risks and negative consequences. These behaviours, values and attitudes were sometimes initiated and almost invariably strongly reinforced within the prisons.*[224]

Prison by its very nature is not an environment that is conducive to treatment, which requires a person to be open and admit to being vulnerable. Lack of trust between prisoners, and between prisoners and prison officers, inhibits many prisoners from talking freely about themselves, their lives and their dependency on drugs. Overcrowding and a high level of violence in some Irish prisons create a stressful environment, which does not favour successful engagement in drug detoxification and treatment. In some prisons, there is no drug-free area where prisoners who wish to deal with their dependency on drugs can be accommodated. This is closely related to overcrowding within the prisons. Hence, those who wish to deal with their addiction issues may have to do so in a drug-filled environment.

The lack of explicit incentives for prisoners to deal with their drug misuse while in prison – such as earlier release, increased family visits or phone calls, transfer to a drug free environment, or a less rigid daily regime – is a further factor affecting prisoners' willingness to enter treatment.

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[223] Paul O'Mahony, *Key Issues for Drug Policy in Irish Prisons,* Dublin: Drug Policy Action Group, 2008b, p. 3.
[224] Paul O'Mahony, *op cit.*, 2008b, p. 5.

The absence of integrated sentence management for all prisoners also has serious consequences for the effective implementation of drug treatment services.[225] Decisions as to which prison a person is sent to are often made, not on the basis of the needs of the prisoner, but on the basis of the needs of the system. A prisoner can be transferred to another prison in the middle of their drug counselling course because the prison needs to free up space, thus terminating prematurely the counselling course. Unstructured release is the norm: a prisoner who may have arranged to access a treatment programme, or appropriate residential accommodation on release, may be released several days, or even weeks, early, to discover that no place is yet available on the treatment programme or in the accommodation centre.

There are 24 full-time drug counselling posts in the prison system; and there are nine detoxification beds available for over 4,000 people in custody, a substantial number of whom, as noted, have a drug or alcohol dependency.

The help offered to prisoners with addiction issues is often limited to methadone substitution treatment. Methadone treatment is provided in eight out of the fourteen prisons.[226] Over the course of the year 2010, a total of 2,424 prisoners received methadone treatment, an increase of 20 per cent on the figure for 2008.[227] In August 2010, over 700 prisoners (or 16 per cent of the prison population) were on methadone treatment.[228]

In its report, the CPT expressed serious concerns over the manner in which methadone prescribing was carried out in Cork, Midlands and Mountjoy Prisons, and was critical in particular of the lack of medical review of prescriptions. It also noted:

> *During detoxification there was no routine follow-up of prisoners to assess whether they were withdrawing from drugs and the symptoms they were experiencing, or indeed whether the prisoners concerned were continuing their illicit drug misuse on top of their prescribed methadone detoxification. For a number of prisoners in receipt of a methadone detoxification prescription it could be stated that this was simply 'free petrol'.[229]*

Methadone maintenance is not provided, as it should be, as part of a comprehensive drug treatment programme that includes engagement with addiction counsellors, addiction nurses and, as required, an addiction psychiatrist. Many of those on a methadone programme are not required to engage with a counsellor, nor give urine samples to monitor the use of illegal drugs, nor is there any review of the level of methadone prescribed.

Despite a stated commitment to continuity of care between prison and the community, such continuity is very inadequate. Prisoners not on a methadone programme prior to admission cannot be placed on a methadone maintenance programme within prison, as they may subsequently have no access to a methadone treatment programme on release.

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[225] Integrated sentence management involves assessing the varied needs of prisoners as they begin their sentence, and attempting to provide a range of services and facilities, including drug detoxification and treatment. Such an integrated sentence management programme is essential for an effective rehabilitation regime. Despite a commitment to introduce an integrated sentence management programme for all prisoners, such a programme has to date been devised for only minority of the people in Irish prisons.

[226] *Dáil Debates* Vol. 716, No. 1, 29 September 2010, pp. 554–-5, PQ 947, 32459/10.

[227] Irish Prison Service, *Annual Report 2010*, Longford: Irish Prison Service, 2011, p. 29.

[228] *Dáil Debates* Vol. 716, No. 1, 29 September 2010, pp. 554–5, PQ 947, 32459/10.

[229] CPT, *op. cit.*, 2011, par. 74, p. 42.

Many prisoners are unwilling to detoxify completely from methadone, as, on release, should they relapse, they will have to go back on a waiting list to regain their methadone programme. Between 1998 and 2005, 105 former prisoners died from drugs: nine died on day one or two after release; 16 died between days three and seven post-release; overall 42 died within the first weeks of release.[230] The incidence of preventable drug-related deaths upon release from prison and the high rates of recidivism associated with problematic drug users highlight the importance of a seamless provision of treatment services as a person moves between prison and the community.

Custodial Drug Treatment Centre

Perhaps the most important addition to drug treatment services would be a custodial drug treatment centre. Section 28 of the Misuse of Drugs Act, 1977 (enacted even before drugs became a serious issue for Irish society) included an enlightened and far-sighted section which allows the court, following receipt of medical and other assessments, to order that a person convicted of certain drug offences be detained in a custodial drug treatment centre for a period not exceeding one year.[231] The Act further provided that where a person successfully completes the programme in such a custodial centre, a period of probation or a suspended sentence would be imposed in lieu of imprisonment. Thirty-five years after this legislation was enacted, no such custodial centre exists.

The site at Thornton Hall, in north County Dublin, unsuitable in so many respects as the location for a major prison, could, however, be an ideal one for a custodial drug treatment centre.

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[230] Suzie Lyons, Simone Walsh, Ena Lynn and Jean Long, 'Drug-Related Deaths Among Recently Released Prisoners in Ireland, 1998 to 2005' *International Journal of Prisoner Health*, 2010, 6(1): 26-32.

[231] Section 28.2(b) of the Misuse of Drugs Act, 1977 states: '[T]he court shall, if in its opinion the welfare of the convicted person warrants its so doing, b) order that the person be detained in custody in a designated custodial treatment centre for a period not exceeding the maximum period of imprisonment which the court may impose in respect of the offence to which the conviction relates, or one year, whichever is the shorter.'

5.6 The Probation Service

The roots of the probation service in Ireland are shared with Britain and reach back to the nineteenth century when philanthropic agencies and religious bodies engaged in informal supervision of those given conditional discharge by the courts.[232] These arrangements were given legal force by the Probation of Offenders Act of 1907, by which probation officers were directed to 'advise, assist and befriend' those given sentences in the community or released from prison. Later in the twentieth century, this obligation generally took the form of social casework service to those who had broken the law. Confronting criminality was 'not necessarily of central concern. An assumption of the approach was that an improvement in offenders' general human functioning would itself take care of offending behaviour'[233]

Such a social work orientation was a characteristic of the Probation and Welfare Service (PWS) in Ireland at the time it began to grow to a significant size in the early 1970s. While the major part of its work was carried out in the community (for example, supervising those on probation, community service or parole), it developed substantially within prisons also, with 31 Probation and Welfare Officers providing 'a listening ear and a safety valve to prisoners' by 2002.[234]

Until recent times, the welfare dimension of the PWS's work was particularly strong within prisons. The Whitaker Report saw Probation and Welfare Officers having a primary role in advice and counselling, and it described their work as attempting to help those in prison:

> *... towards a greater awareness of their responsibilities to themselves, their families and the wider community, helping them to work towards a resolution of personal and practical problems, and preparing them for a return to community living. The service is much more involved than any other in providing a link between the prisoner and the outside world, and for this reason its role is crucial.*[235]

In line with this broad conception of the PWS's work, the chapter on the service in the Whitaker Report discusses in detail issues such as the critical period immediately after release, and the considerable needs of people who are released for financial assistance, accommodation, training and employment.

Almost a decade later, in *The Management of Offenders*, the Department of Justice envisaged a very similar role for the PWS, this being 'to assist those in custody' and also 'to confront those in custody' – but the greater emphasis by far was on the assisting role, focused in particular on 'resettlement plans'.[236]

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[232] See Patrick O'Dea, 'The Probation and Welfare Service: Its Role in Criminal Justice', In Paul O'Mahony (ed.), *op. cit.*, 2002, p. 635.
[233] *Ibid.*, p. 637.
[234] *Ibid.*, p. 649–50.
[235] Committee of Inquiry into the Penal System, *op. cit.*, p. 99.
[236] Department of Justice, *The Management of Offenders: A Five Year Plan*, Dublin: Department of Justice, 1994, p. 55.

Probation without Welfare

Writing in 2002, O'Dea also describes a strong 'welfarist' emphasis in the service's work with prisoners, which was geared to helping them to cope and work towards a resolution of personal and practical problems.[237] However, he also highlights a significant change in direction for the service, stating:

> *It is the policy of the PWO branch of* [the trade union] *IMPACT to encourage a redefinition of the role of the PWS in prisons. The branch believes that the PWO should be less involved with meeting routine welfare needs of prisoners and more with the development of a range of rehabilitative interventions designed to actively address offending.*[238]

Such a narrowing of focus to 'addressing offender behaviour' became the policy of the Department of Justice and the management of the PWS also. In 2006, the PWS was renamed the Probation Service by government, a rebranding meant to indicate a new strategy and priorities. These included 'refocusing work on [sic] prisoners to a community perspective and doing this in consultation with the Irish Prison Service'. [239]

This 'transformation' has significantly altered what Probation Officers (as they are now also renamed) do within prisons. Their 'work on prisoners', like their work in the community, has narrowed greatly to a focus on 'challenging offending behaviour'.[240] The overall 'vision' of the new service states:

> *We will prioritise our interventions based on assessing and managing risk of harm and of re-offending, reducing re-offending and effectively managing those offenders under our supervision in the community and in custody.*[241]

The first 'strategic goal' of the Probation Service's *2008–2010 Business Plan* is "high standard of assessment and supervision of offenders", and the 2010 *Annual Report* outlined some means through which this goal was being realised:

> *Introduction and analysis of a range of risk-assessment instruments, including Level of Service Inventory – Revised (LSI – R), Risk Matrix 2000...*[242]

The role of the service is now redefined as contributing to public safety by:

- ❖ The effective assessment and management of offenders
- ❖ Challenging offender behaviour
- ❖ Facilitating the integration of ex-offenders[243]

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[237] Patrick O'Dea, *op. cit.*, p. 650.
[238] Patrick O'Dea, *ibid.*, p. 650.
[239] The Probation Service, *Annual Report 2006: Transformation: a Journey not a Destination*, p. 7. (available at: www.probation.ie)
[240] For a critique of a focus on 'offending behaviour' see Costelloe and Warner, 2008, *op. cit.*
[241] The Probation Service, *Strategy Statement 2008–2010*, p. 5. (available at www.probation.ie)
[242] The Probation Service, *Annual Report 2010*, p. 7. (available at www.probation.ie)
[243] The Probation Service, *ibid.*, p. 5.

A number of major interlinked changes in the role of the Probation Service have taken place in recent years. These changes indicate that the renaming of the service has been significant. With regard to the service's work in prisons, three connected changes can be noted.

First, the service's concentration on work in the community has meant its operation within the prison system has become an even smaller minority part, perhaps less than 10 per cent of the overall Probation Service's work. Secondly, the focus on risk-assessment and attempts to confront 'offending behaviour' have seriously reduced and marginalised the work of Probation Officers in meeting what O'Dea calls 'the routine welfare needs of prisoners'.[244] Thirdly, these prioritisations have meant that the Probation Service now regards no more than a third of the prison population as their potential client group, mainly those they see as 'high-risk offenders'. Those in prison who now receive attention from probation staff are, for example, those given Part Suspended Sentence Supervision Orders (a new departure under the 2006 Criminal Justice Act), those subject to post-release supervision orders, and those with life-sentences. Those under eighteen years of age in prison also receive particular attention on child-protection grounds.

It is difficult to argue against the Probation Service prioritising its work and resources in the community, especially if one is arguing for an expansion of alternatives to custody. Likewise, supervision of those who have received life-sentences, and others who have committed sexual or other violent crimes, should clearly be priorities for the service on grounds of public safety. However, the multiple withdrawals outlined above do leave critical gaps in the services and supports available to men and women in prison, and indeed to many of those who are released. Two major questions that arise are:

1. Is such concentration on risk-assessment and 'criminogenic needs' a valid and effective approach?
2. Who will meet the 'routine welfare needs' of the great majority of men and women in prison?

In relation to the first question, a significant number of criminologists and prison practitioners question the appropriateness and effectiveness of this narrow focus on the 'criminogenic'. Nils Christie has cautioned that the approach encourages people in prison to *pretend* to reform and can 'very easily lead to a lot of falsification of behaviour … you have in a way to prove you've improved'.[245] Much of the development in risk-assessment and criminogenic-focused work derives from Canada, but one Canadian, Stephen Duguid, raises questions similar to Christie. Critiquing programmes such as Cognitive Skills, which claim to correct the false-thinking of the so-called 'offender', he says:

> *The deception is both transparent and despised* [by prisoners]. *Only the weakest willed take on the self suggested by the state, the clever wear it only as a veil, and the stubborn resist as best they can.*[246]

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[244] Patrick O'Dea, *op. cit.*, p. 20.

[245] From an interview with Nils Christie, November 2006, by Kevin Warner. See PhD thesis, 'Resisting the New Punitiveness: Penal Policy in Denmark, Finland and Norway', 2009, p. 253. (available at www.epea.org)

[246] Stephen Duguid, Can Prisons Work: The Prisoner as Object and Subject in Modern Corrections, Toronto: University of Toronto Press, 2000, p. 200.

New Alternative Development addressing Welfare

It might also be pointed out that interventions such as the Better Lives Programmes, now operated in Irish prisons by the Psychology Service without the involvement of Probation Service staff, are markedly different to typical offence-focused interventions in that they give as much attention to developing the positive qualities and potential in people as they do to addressing weaknesses – hence the title 'better lives'.

Perhaps the most serious reservation to the narrow focus on 'offences', is the lack of realism in the approach. Whatever they have done, men and women in prison are always more than just 'offenders'. There is much more to their personalities, and their lives, than simply those actions which led them to prison. They are fathers, brothers, sisters, mothers; they are people facing problems, just like the many others not in prison. Crucially, they come from, and will return to, communities. The failure to see 'the whole person', and the exclusion of social context, are severe weaknesses in the offence-focused approach.

The second question raised above by the changed direction of the Probation Service is an even more obvious one. Whitaker stressed the welfare role of the service in prisons, and the crucial role it played in linking those incarcerated with the outside community. However, there are now enormous gaps in the help available to men and women in prison on social and personal issues. 'The Welfare' (as prisoners once called staff of the Probation and Welfare Service) no longer exists as such, and staff has been withdrawn from vital work they once did. Governors, in particular, will often now lament the lack of help on welfare issues for those in prison, especially as they re-enter the outside community.

In practice, many probation staff will still attempt to help some prisoners with welfare matters, as will chaplains, prison staff, teachers, psychologists and others working in prisons. However, such helping is not a primary responsibility of any of these disciplines, and help that might be offered the great majority of prisoners is simply not now available.

One possible solution, given Probation Officers' formal withdrawal from this area, is to develop an enhanced role for prison officers in which they could provide greater help to prisoners seeking to adjust to life in prison, providing practical assistance in planning for the future, addressing employment and housing needs, and helping prisoners maintain a crucial link to their community and families. However, such a departure would require significant changes in overall penal policy and culture, in particular a genuine care/custody balance in the way prisons are run. For this to happen, it would be necessary for greatly enhanced relationships between prison officers and prisoners. To make this possible, very different regimes would be required – including greatly increased unlock times, much more activity, more interaction between prison staff and people held in prison, far fewer restrictions and much smaller prisons. The provision of significant training and support for prison staff in carrying out such a different role would also be essential.

5.7 Role and Work of Prison Chaplains

Amongst the prison personnel, Chaplains[247] play a multifaceted role; formally they are 'responsible for the pastoral and spiritual care of the entire prison community',[248] which includes prisoners, their families and the prison staff, but they also play a key role in the welfare and rehabilitation of people in prison. In the Whitaker Report a role description outlines how in an:

> ... unofficial capacity the chaplain is a sort of informal ombudsman who can protect the prisoner against 'the system' and who can make representation on behalf of individuals to the prison authorities.[249]

People in prison come predominantly from a Christian tradition and the role of Chaplains is guided by this tradition.

Christian Vision

It is not possible here to give a comprehensive description of the Christian vision but there are three key elements which apply to the care of people in prison. First is a strong belief or hope for redemption. Secondly, there is a strong commitment to a 'justice tempered by mercy' where forgiveness is central to Christian teaching. Finally, there is the obligation to 'Restorative Justice' which seeks to bridge the gap between victims and perpetrator. The Chaplains state:

> Our vision ... is one that affirms the dignity of the person, and seeks a voice for those deprived of their freedom. It is a vision that urges us to take a prophetic stance on issues of social justice and to continue the exploration of Restorative Justice as one of many alternatives to imprisonment.[250]

Chaplains vary in how they fulfil their role and what they define as the limits of their responsibilities; some interpret the role as a purely spiritual affair, while the majority see themselves as acting as advocates and go-betweens for the prisoners. For the majority of Chaplains building relationships with people in prison is central to their work in order to affirm the dignity of the person and to recover, in them, a sense of hope for their future.

Chaplain's Mission or Role

Michael Bryant,[251] writing on the responsibilities of a Prison Chaplain, identifies the following roles:

1. Counsellor – Visiting and Listening for residents, staff and families

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[247] Currently, there are chaplains from the Church of Ireland, Methodist, Presbyterian and Roman Catholic, Christian churches in Irish prisons. The needs of Muslim prisoners are met by local Imams.

[248] Description taken from the Irish Prison Service website (Available at: www.irishprisons.ie/care_and-_rehabilitation-chaplaincy.htm)

[249] Committee of Inquiry into the Penal System, *op. cit.,* p. 99.

[250] Irish Prison Chaplains, *op. cit.*, 2011.

[251] Michael Bryant, 'Role Work of Prison Chaplains' in George Anderson, Eileen Hogan, Joseph Kane and Hilton Rivet (eds.), *Who is the Prisoner? A Better Christian Response,* New Orleans: Institute of Human Relations, 1985, pp. 153–160.

2. Advocacy – Liaising, Go-between with staff, residents, families and society
3. Liturgical leader – Worship, Sacraments and Ecumenical Awareness
4. Facilitator of life beyond prison – post-release care in the community.

Within the Irish context, the functions of the Chaplain are defined in a similar multi-faceted role of religious duties, providing for the welfare of prisoners and staff including counselling, for example responding to trauma, crisis and grief. Chaplains are also advocates for people in prison, 'promoting the dignity, development and rehabilitation of prisoners', key to this task is liaising between staff, voluntary groups and the Department of Justice.

Counselling and Welfare Needs

Prison, for the most part, is a damaging experience; in addition to this, many people in prison lack self-esteem, come from deprived communities, have a drug dependency and have been victims of violence themselves (see Chapter 2). While the Prison Chaplains work within certain confinements, they have considerable access within the prison estate, enshrined within the *Prison Rules 2007*, they are entitled to visit a prisoner at any time and in any part of the prison[252]. The Prison Chaplain is a listening ear, providing counselling and support. Day-to-day, they walk the prison when prisoners are released from their cells for recreation, speaking to prisoners, recording grievances, and taking note of contacts various inmates wish them to make. Prisoners are entitled to just one six-minute phone call per day, and as such there is high demand for the informal liaison service provided by Chaplains who frequently relay messages to family beyond prison.

Many Chaplains are very active in their role, working closely with the Psychology Service, the Parole Board, the Probation Service and the Education Service within prisons. Chaplains often take part in interdisciplinary meetings, to discuss individual prisoner issues while some also facilitate outside family visits, providing neutral venue visits; this is particularly useful in the months prior to release.

Advocates for Justice

Prison Chaplains see themselves as advocates for people in prison, who, for the most part, are from marginalised communities (see Chapter 2). However, it is a complex aspect of their job, working for and yet criticising 'the system and the administration', supporting the prisoner, while simultaneously supporting the prison officer.

Under Section 119 of Part 15 of the *Prison Rules 2007*, Chaplains are obliged to submit annual reports to the Governor of their particular prison, and to the Director General of the Irish Prison Service. Chaplains are also obliged to make an official report to the Governor if they feel that the 'spiritual, moral, mental, emotional or physical state of any prisoner is being significantly impaired by his or her continued imprisonment'. This is provided for under Section 118.

In addition to these individual reports, the Irish Prison Chaplains have themselves published national annual reports. These reports have been amongst the most fervent critiques of the prison system, highlighting degrading treatment, the frequently futile nature of imprisonment,

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[252] Department of Justice and Equality, *Prison Rules 2007*, para. 117. (available at:
www.justice.ie/en/JELR/prison%20rules%202007.pdf/Files/prison%20rules%202007.pdf)

the extremely negative environment devoid of constructive activities, and the reports have questioned how the expressed Prison Service's objective of 'rehabilitation' can be achieved in such an environment.

In their *Annual Report 2010*,[253] they describe the Irish prison system as being in a state of crisis. The report addresses issues such as media reporting, humane custody, prison overcrowding, drug misuse, prison violence, sentence management and the imprisonment of children which 'is in direct contravention of the United Nations Convention on the Rights of the Child'.

Prison Chaplains are amongst the most vocal advocates for the welfare of prisoners:

> *Our role as chaplains calls us to be a voice for those deprived of their freedom and to bring matters of concern to the Minister. ... Our sole agenda is the welfare of the prison community and ultimately the safety of the wider community.*

However, the degree to which their assessments are accepted by the Department of Justice remains unclear. Their 2010 report notes a lack of departmental with them and of their concerns. This view resonates with the Bishops of England and Wales describing the role as:

> *... an ambivalent one. The Prison Act places the chaplain firmly within the context of the prison yet, although the chaplains are within the penal system, they have a duty to remain critical of it.*[254]

In the Irish Prison Chaplain's *Annual Report 2010* change is seen as not just a matter for the Irish Prison Service, but for the media, the community, the political leaders and church bodies. There is a web of relationships, and bold leadership is required. For instance, punishing a person with a drug problem without addressing the drug use fails both the drug user and the victims damaged by the drug user. Overcrowding affects the person in prison, their guardians, their families and adds to an increasingly hostile environment in prison and afterwards when released.

Liturgical Leader – Organise Worship

The chaplains see liturgy as a way of create and confirming community in any social setting, including in prison. Liturgies which seek to be inclusive, affirming, and ecumenical are to be fostered. Key religious festivals can foster community and bring variety to what can be a very regular timetable.

This Christian vision is the foundation on which the Chaplains build. They seek to bring hope to those in prison and the community they serve. They tread a fine line, seeking to build bridges between prisoner and victim, between fellow Christians, and between people in prison and those in the community and all people of good will. They can find courage and support in the works of Pope John Paul II:

> *Prison should not be a corrupting experience,*

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[253] Irish Prison Chaplains, *op. cit.*, 2011.
[254] The Catholic Bishops' Conference of England and Wales, *A Place of Redemption; A Christian Approach to Punishment and Prison*, London: Burns & Oates, 2004, p. 71, no. 121.

a place of idleness and even vice,
but instead a place of redemption.[255]

Members of the chaplaincy service seek to promote the Christian vision within a prison context as outlined in St Luke's Gospel.[256]

> *The spirit of the Lord has been given to me,*
> *For he has anointed me.*
> *He has sent me to bring the good news to the poor,*
> *To proclaim liberty to captives*
> *And to the blind new sight,*
> *To set the downtrodden free,*
> *To proclaim the Lord's year of favour*

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[255] The Catholic Bishops' Conference of England and Wales, *ibid*., 79.
[256] Luke 4: 18–19.

5.8 Psychology Service

The Psychology Service sees its role as applying psychological research, principles and skills to the needs of the prison service. At the end of 2010 there were 21 psychologists working in Irish prisons, comprising a mix of psychology specialism (clinical, counselling and forensic psychologists). There is less than one psychologist for every 200 prisoners in the prison system, so that there are significant gaps in the services they can provide.

The main focus of the Psychology Service is working with prisoner-clients on both a one-to-one basis and in groups. The Service's annual report for 2010 refers to additional roles, which include the development of strategy, policy and protocols in areas significant to the operation of the prison system. The service also supports and facilitates research projects, including the evaluation of interventions.[257]

A large part of the Psychology Service's work is the provision of mental health services to those in prison. This is done primarily through individual work with men and women in prison, but also through stress management and stress reduction groups in a number of prisons. A table in the 2010 annual report for the service lists 2,239 recorded reasons for referral to psychologists. Of these, 731 give 'mental health' as a reason, with a further 159 being classified as 'relationship/family issues' and 40 being 'self-harm'. The referrals are fairly evenly split between such counselling oriented needs and what might be seen as 'offence focused' needs, indicating perhaps the balance between these two main dimensions of the service's work.

In his introduction to the 2010 annual report, the Head of the Psychology Service, Paul Murphy, refers to the increasing concern during 2010 with overcrowding in prisons. Such overcrowding impacts on the quality of custody and contributes significantly to both intra-personal and interpersonal stress within prisons, he comments. Stress arises from too many people living within a confined area and the lack of adequate meaningful occupation, so that 'for some, the experience of imprisonment can become very fraught'. The Psychology Service is consequently involved in attempting to help those manifesting significant psychological distress resulting from such pressures.[258]

Psychologists also try to address those factors that put prisoners at risk of re-offending, and so have developed group programmes designed for prisoners who have committed particular crimes. The service operates two Building Better Lives (BBL) programmes – one aimed at those who have committed sexual offences and one geared towards those who have committed violent offences.

The Building Better Lives Programme that focuses on sexual crimes was established in 2009 in Arbour Hill, concomitant with the publication of the Irish Prison Service's Sex Offender Management Policy. Key aspects of this policy were the establishment of Arbour Hill as the national centre for those convicted of sexual offences and the replacement of the old Sex Offender Treatment Programme (SOTP), which had been run in Arbour Hill for some two decades, with the more flexible BBL programme.

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[257] Irish Prison Service, Psychology Service *Annual Report 2010*, p.3.
[258] *Ibid.*, p.1.

This BBL is a therapeutic programme for men who acknowledge that they have committed a sexual offence and who have a desire to address the factors underlying their offending and to build a better life for themselves. The programme involves open, rolling groups. Participants move in and out of these groups as they complete their work. The flexible nature of the open groups allows prisoners to engage fully at the same time with other important services such as education, work and training.

The BBL at Arbour Hill comprises three elements:

Exploring Better Lives (EBL)

The EBL group aims to develop motivation and confidence about positive change. This group prepares men for more in-depth offence-focused work on the PBL group.

Practising Better Lives (PBL)

The PBL group focuses on obtaining a more detailed understanding of past offending and developing positive offence-free self-management plans for the future. This element normally lasts for about six to nine months. In this core part of the course, there is as much emphasis placed on developing competencies and self-esteem for a positive future as there is on getting the participant to face up to his pattern of offending and managing risk. This dual approach is now widely seen as best practice in addressing patterns of serious crime.

Maintaining Better Lives (MBL)

The MBL group aims to support on-going progress and development for men who are serving longer sentences in prison and to ensure a through-care plan from prison to community-based supports.

Intrinsic to the programme is the development of a support plan involving family members or significant others who are designated as support persons for those participating in the BBL. The purpose of these meetings is to foster improved family relationships, develop open and honest dialogue and link the participant and his wider family network with community-based professionals in supporting post-release supervision and resettlement efforts.

Since its inception in 2009 to the end of 2010, 85 participated in this BBL and the programme is now reported to be well established in Arbour Hill. Like the earlier SOTP that it replaced, BBL has been derived from programmes developed by Bill Marshall in Canada, and is also influenced by the work of Tony Ward in New Zealand, who is associated with what is known as the 'good lives model' in working with people who have committed serious crime.

In 2010, Wheatfield Prison was identified as the national centre for the treatment of those who had committed what are regarded as medium and high-risk violent crimes, and group-based programmes to address violent offending were introduced there. This BBL programme operates within a similar psychological model to the BBL in Arbour Hill, although with different components and targeting different areas of need. There are introductory elements which aim to enhance the motivation of participants and help them to recognise how they can bring about positive changes in their lives. The core therapeutic element is again called Practising Better Lives, and this aims to help participants gain a better understanding of the factors that contributed to their offending and support them in developing positive and

realistic life plans. This part of the course typically takes nine to twelve months to complete. The Wheatfield BBL course had forty-nine participants in 2010.

With eight of the 21 psychologists assigned to Arbour Hill and Wheatfield, a considerable proportion of the Psychology Service's limited resources are focused on those held in these prisons. Elsewhere, the work of psychologists will vary with the different needs of their clients in different prisons, although this effort is constrained by limited staff. In St Patrick's Institution, the needs of those with a history of sexually harmful behaviour are prioritised, for example through the Baseline Initiative. This is a joint venture between the Northside Inter Agency Project (NIAP) and the Irish Prison Service Psychology Service and provides group programmes. A key aspect of this project is the follow-up intervention provided by NIAP to participants on their release to the community.

The service's 2010 report refers to another group in need of help in St Patrick's: the 40 to 50 children who are housed at any one time, with a large proportion of these being subject to Care Orders prior to custody. The report states that children separated from carers are a vulnerable population, and that the needs of these children are seen as a priority. However, the report also acknowledges that the current level of Psychology Service provision means that the vast majority of service users are offered only brief interventions.[259]

In similar vein, the 2010 report speaks of the capacity of the Psychology Service to respond to needs in Cork and Limerick being severely curtailed due to the lack of available resources, with only limited outreach service to Castlerea Prison.[260] In Portlaoise and Midlands, the ratio of psychology staff to 'Parole Board eligible men' is 1:87, leading to 'significant demand for longer term offence work' and resulting in 'a chronic problem of extensive wait times for offence and mental health work'.[261]

Against this background the Psychology Service continues to experience marked deficits in staffing, with acute gaps in service provision being apparent across the prison estate.[262] These gaps are most notable, the report states, in Cork, Limerick, St Patrick's Institution, Castlerea and Mountjoy.

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[259] *Ibid.,* pp. 13–14.
[260] *Ibid.,* pp. 7–8.
[261] *Ibid.,* p. 8.
[262] *Ibid.,* p. 23.

Chapter 6 : The Cost of Imprisonment

Financial Costs of Imprisonment

Imprisonment is an extremely expensive feature of the criminal justice system. It is noteworthy that in its Annual Reports for both 2002 and 2003 the Irish Prison Service commented, with regard to the then annual rise in the average cost of keeping a person in prison, that: 'This reflects continuing high costs associated with the use of imprisonment and *highlights the need to ensure that imprisonment must remain the sanction of last resort.*'[263] (Emphasis added)

The gross expenditure[264] on prisons in Ireland by the Irish Prison Service since 2001 is recorded in Table 18 below. This shows that, from 2001 to 2008, the continuing rise in prison numbers occurred alongside a constant upward trend in public expenditure on the prison system. Overall, expenditure rose from €267.5 million in 2001 to €404.3 million in 2008, an increase of 51 per cent.

In both 2009 and 2010, however, even as prison numbers continued to increase, gross expenditure fell. It rose slightly in 2011, but the provision for prisons in the Estimates for Public Services in 2012 again represents a decrease. On the basis of the figure projected, gross expenditure by the end of 2012 will be 17 per cent below that in 2008.

The fall in expenditure since 2008 relates in particular to two headings: 'Salaries, Wages and Allowances' – reflecting the general cuts in public sector pay – and 'Buildings and Equipment'. Expenditure under the latter heading increased significantly over the period 2005 to 2008, with a peak in 2006, when it was more than three times what it had been in 2001. This increase in capital expenditure was associated with the provision of additional prison places and the refurbishment of existing accommodation. The fall since 2008 reflects the overall decline in Government capital spending and means that prison capital expenditure is now lower than it was at the beginning of the decade, and less than a quarter of what it was at its peak.

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[263] Irish Prison Service, *Annual Report 2002*, Dublin: Irish Prison Service, 2003, p. 9; *Annual Report 2003*, 2004, p. 9.
[264] Net expenditure is lower as this takes account of receipts for services within the prison system which are funded by agencies other than the Irish Prison Service.

Table 18: Expenditure on Irish Prisons, 2001–2010

	Total Gross Expenditure	Percentage change on Previous Year	Capital Expenditure/ Building and Equipment[265]	Capital/Building & Equipment as percentage of Total	Expenditure other than Capital/Building	Pay as percentage of Total
	(€ million)		(€ million)			
2001	267,517	10.9	33,047	12	234,470	69
2002	300,114	12.2	43,605	14	256,509	68
2003	301,927	0.6	35,615	12	266,312	71
2004	290,624	- 3.7	40,341	14	250,283	71
2005	346,648	19.3	75,457	22	271,191	64
2006	388,702	12.1	110,985	28	277,717	59
2007	395,301	1.7	94,359	24	300,942	63
2008	404,375	2.3	69,644	17	334,731	67
2009	374,120	-7.5	49,788	13	324,332	69
2010	335,204	-10.4	30,486	9.1	304,718	72
2011	346,323	3.7	33,831	9.7	313,183	70
2012	336,163	-2.9	24,080	7.2	312,083	71

Sources: Data for the period 2001 to 2010 from Irish Prison Service, *Annual Reports*, 2001 to 2010. Data for 2011 and 2012 from Department of Finance, *Estimates for Receipts and Expenditure for the Year Ended 31 December 2012*.[266]

Average Cost per Person Detained

The data in relation to 'average cost of keeping a prisoner in custody' reflects the overall trend in expenditure, with an almost continuous move upwards from 2001 to 2008, and then significant decreases in 2009 and again in 2010, the latest year for which information is available. Table 19 below shows that between 2001 and 2007 the 'average cost' rose year-on-year (with the exception of 2004), so that by 2007 it was €28,700 more than it had been in 2001 – the rise, from €79,000 to €97,700, representing a total increase of 23.6 per cent over seven years. The determining of the average cost per prisoner excluded capital expenditure.

Table 19: Average Cost of Keeping a Prisoner in Custody, 2001–2007

	Average Cost Per Prisoner (€ 000)	Change from Previous Year (€ 000)	Percentage Change
2001	€79,000	N/A	N/A
2002	€84,750	€5,750	7.3
2003	€87,950	€3,200	3.7
2004	€83,800	- €4,150	- 4.7
2005	€90,900	€7,100	8.5
2006	€91,700	€800	0.9
2007	€97,700	€6,000	6.5

Source: Irish Prison Service, *Annual Reports 2001 to 2007*

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[265] In the Annual Reports for 2001 to 2004, a specific figure for 'Capital Expenditure' was provided. From 2005 onwards, however, this terminology was no longer used, and instead the heading 'Buildings and Equipment' was employed; the Annual Report for 2005 included a revised figure using this new heading for the previous year, which was slightly higher than the figure in the 2004 Report for 'Capital Expenditure'.

[266] Data for 2011 appear as the 'Forecast Outturn' for the year; these are described as 'estimated figures as notified by Departments and Offices', and may be amended in the 'End-year Issues figures' (Department of Finance, Estimates for Receipts and Expenditure for the Year Ended 31 December 2012).

In 2008, the Irish Prison Service changed the methodology of calculating the 'average cost'. This change was accompanied by a change in the terminology used: up until the 2007 Annual Report, the calculation was of the 'average cost of keeping a prisoner in custody'; from 2008, the calculation became 'the average cost of providing a prison space'.

The revised method of calculation aimed to exclude, firstly, expenditure not under the direct control of the Irish Prison Service and, secondly, costs which it was now deemed should be included under capital expenditure. Thus, in the Annual Reports since 2008, the salaries of teachers in the prison system are excluded, since these 'are not provided for under the Prisons Budget allocation'.[267] (They are, instead, paid for from the allocation to the Department of Education and Skills). Also excluded are 'buildings/equipment assets' and 'small works' – these are now considered to be capital expenditure.[268]

In order to allow a comparison between the situation in 2008 and 2007, the 2008 Annual Report 'restated' the average cost of providing a prison space for 2007, using the new methodology, so that it now became €85,362. The figure derived under the original method (€97,700) was therefore 14.45 per cent higher than that obtained using the revised method.

As Table 20 below shows, the average cost (using the revised method) rose to €92,717 in 2008 (an increase of 8.5 per cent from 2007). If, however, the original method of calculation had been employed this figure would have been well over €100,000.[269]

Table 20: Average Cost of Providing a Prison Space, 2008–2010

	Average Cost of Prison Place (Revised Method of Calculation)	Percentage Change
	(€ 000)	
2007	€85,362	+6.5
2008	€92,717	+8.6
2009	€77,222	- 16.7
2010	€70,513	- 8.7

Source: Irish Prison Service, *Annual Reports 2008 – 2010*

Table 20 shows the significant decline in the average costs of a prison space which has occurred since 2008, with a fall from €92,717 in that year to €77,222 in 2009, and to €70,513 in 2010. Overall, there has been a decline of 24 per cent between 2008 and 2010.

The Irish Prison Service attributes the decrease in the average cost of providing a prison space which has occurred since 2008 to two factors. The first is a decline in overall current costs[270] – of which the major part relates to expenditure on salaries and allowances. This arises not only from cuts in public sector pay but from a reduction in the ratio of staff to

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[267] Irish Prison Service, *Annual Report 2008*, Longford: Irish Prison Service, 2009, p. 46.
[268] Ibid.
[269] The estimates are based on the assumption that the figure for average costs provided in the report for each of the three years 2008 to 2010 was 12.6 per cent lower than it would have been had the original method of calculation been used. This was the case for the 2007 figures.
[270] Total costs declined by €17.7 million, with pay costs accounting for €15.5 million of this.

prisoners, since staff numbers did not increase in line with the increase in the number of prisoners.

The second factor contributing to declining average costs is what the Irish Prison Service describes as 'an increase in bed capacity'. This refers to an increase in 'capacity' of 495 in 2009 (from 3,611 on 31 December 2008 to 4,106 on 31 December 2009)[271] and a further increase of 97 during 2010 (bringing 'average bed capacity' in 2010 to 4,203).[272] In reality, however, the 'increase in bed capacity' translates as a greater number of prisoners crowded into the prison spaces available.

The fall in expenditure on prisons in Ireland since 2008 would be a welcome development were it a reflection of a reduced resort to imprisonment. This is far from the case. Prison numbers have not declined or remained stable as expenditure decreased, but rather have continued to increase, so that, for example, the daily average number of people in prison in 2010 was 21 per cent higher than it had been in 2008. While reductions in expenditure attributable to greater efficiencies are to be welcomed,[273] the reality is that it is almost inevitable that the reduced spending on prisons, and in particular on capital spending, alongside increased prison numbers, means poorer conditions for those detained, and a continuation of the appalling physical conditions which exist in so many Irish prisons.

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[271] Irish Prison Service, *op. cit.*, 2010 p. 49.

[272] Irish Prison Service, *op. cit.*, 2011, p. 36.

[273] The Annual Report for 2010 refers to a 'transformation agenda' under the Public Service Agreement 2010–2014 agreed between the Irish Prison Service and staff representatives in early 2010. This includes a commitment to achieve annual savings of €21 million on pay costs; however, this target for savings 'will only be achievable on an annual basis when the required transformation programme is completed and fully implemented'. (Irish Prison Service*, op. cit.*, p. 40).

Costs of Imprisonment for Families

To a far greater extent than is the case with the other penalties available to the courts, imprisonment imposes costs on the spouses, partners, children, parents and other relatives of prisoners – in other words, on people who themselves have not committed any crime. These costs are part of what is often referred to as the 'secondary' or 'collateral' consequences of imprisonment and they can lead families to feel that they are 'serving a parallel sentence' with the person who has been imprisoned.[274] The costs of imprisonment for families may be reckoned in material and emotional terms and in terms of additional demands on time and energy. While research (mainly from other countries) and anecdotal evidence reveals the nature and seriousness of the effects on families, there is no information available as to the numbers of families – or the number of children – in Ireland who experience the costs that are a by-product of imprisonment.

The imprisonment of a family member may result in a significant drop in a family's income, if the person imprisoned has been the sole breadwinner or a contributor to the family's income. This loss in income may result in the immediate relatives of the person in prison having to rely for support on their extended family, which in turn may place a strain on family relationships.[275] Furthermore, a study of the experiences of families of prisoners carried out for the Bedford Row Family Project in Limerick revealed instances where family members had lost *their* jobs as a consequence of their relative's imprisonment.[276]

Even as a family experiences a reduction in income as a consequence of imprisonment, it is likely to face new and extra financial demands. Some of these relate to the additional expenses which one-parent families routinely experience – in terms of child care, for example. Other costs arise from the family's efforts to remain in contact with the person who is in prison. Travel to visit prisoners may place onerous demands in financial terms as well as in terms of energy and time. Families who live at a substantial distance from the prison may have to spend money on both public transport and taxis to get to and from the prison at the designated time.

Moreover, prisoners rely on their families for 'pocket money' and for clothes and cigarettes, so that for their families' visits to the prison can entail a significant outlay that is additional to travel expenses.

The financial impact of imprisonment for families can continue even after their family member has been released. Where that person has lost their job as a result of their imprisonment and now cannot find any employment, or can access only poorly paid and/or temporary work.

The emotional costs of imprisonment are many and diverse. The fact that imprisonment is the ultimate sanction in our criminal justice system means that it carries a particular stigma, not just for the prisoner but also for his or her family. Research has highlighted the sense of embarrassment, shame and isolation that members of the families of prisoners may

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[274] Jessica Breen, 'The Ripple Effects of Imprisonment on Prisoners' Families', *Working Notes*, Issue 57, April 2008, p. 19.
[275] *Ibid.*, p. 20.
[276] Bedford Row Family Project, *Voices of Families Affected by Imprisonment*, Research Report, Limerick: Bedford Row Family Project, 2007, p. 24.

experience, with serious consequences for their well-being, in particular their mental health.[277]

Family members may have to endure the experience of being treated as if they are 'tainted by association' with the person who has been sent prison and can feel that there are few, if any, people in whom they can confide their feelings and concerns.

Most families go to great lengths to maintain a relationship with the person imprisoned, but it is clear that this carries emotional as well as financial burdens for them. Visiting prison can entail enormous stress and strain for families, and while prison visits are an essential way by which prisoners and their families can stay in touch they can also be a negative experience for both families and prisoners. In part, this is the result of the conditions surrounding prison visiting in most Irish prisons – the inadequate and overcrowded visiting areas; the absence of specific provision for children; the lack of privacy; the intrusive security to which visitors are subjected, the short time allowed for visits. But there are emotional and psychological reasons why prison visiting can be stressful for families (as well as for prisoners). Visitors come to the prison bearing the problems they are experiencing in coping with life in the absence of the prisoner, while the prisoner carries the difficulties he or she is facing within the prison. Either or both may reveal the difficulties they face or alternatively try to conceal them and pretend that they are coping well but in any case there is limited time and no privacy in which to resolve misunderstandings or allow people to 'talk through' their difficulties. Prisoners' families interviewed in the Bedford Row research study pointed to the distress they experienced when visits revealed the inadequacy of the conditions prevailing in prisons, or the fact that their relative was coping badly with life in prison, or was being subjected to bullying. This research also revealed the despair felt by families when confronted by evidence that prison was doing little to help their relative address their offending behaviour or that the person themselves showed little signs of attempting to turn their life around or deal with problems such as drug-taking.[278]

The strains imposed by imprisonment can result in serious damage to and ultimately a breakdown in family relationships, for example, between, spouses or partners, and indeed between parents and their imprisoned son or daughter.

The imprisonment of a parent can impose multiple and devastating costs on children. At a practical level they are deprived on a day-to-day basis of the financial, practical and emotional support of one of their parents. In some cases, children may not be told that their father or mother is in prison – but they may then be left with a lingering uncertainty and anxiety as to the reasons for their parent's absence. If, however, they are told about their parent's imprisonment, they may feel ashamed or embarrassed and are in danger of being taunted or bullied by other children. For children, too, visiting a prison can be a deeply upsetting experience.

Where imprisonment leads to the breakdown of their parents' relationship the consequence may be serious damage to, or even the complete sundering of, the relationship between the parent in prison and his or her children. If a mother is imprisoned and there is no second parent or other family member in a position to care for her children, there may be no option but for children to go into the care system. Whether such children ever return to live with

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[277] Jessica Breen, *op. cit.*, and Beford Row Family Project, *op. cit.*

[278] *Ibid.*, p. 33.

their mother will depend on factors such as the duration of the sentence of imprisonment, the ability of their mother to find a place to live, and secure an adequate income, on her release from prison.[279]

The cumulative effects of the emotional and material damage which imprisonment imposes on children is highlighted in the findings of research showing how the imprisonment of a parent poses a serious threat to the life-chances of children.[280] Analysis of longitudinal data gathered through the Cambridge Study in Delinquent Development revealed that separation due to parental imprisonment during the first ten years:

> *... was a strong predictor of all antisocial and delinquent outcomes in the study, even up to age 40. Separation because of parental imprisonment predicted worse outcomes for children than parent–child separation caused by other reasons. The effects of parental imprisonment remained, albeit reduced, even after controlling for parental criminality, childhood risk factors, and parent–child separation.*[281]

Many of the costs of imprisonment borne by families will ultimately revert to society as a whole. This is obvious in the case financial costs such as the lone parent allowances paid to the families who have been deprived of income because of the imprisonment of a parent, or the subsidisation of travel costs for people on low incomes who must visit prisons. But there are other, less easily defined, ways in which the costs of imprisonment imposed on families also, in the end, become costs for society. So, for example, the breakdown of a prisoner's relationship with partner or parents as a result of imprisonment may result in him or her becoming homeless, with consequent costs in terms of homeless services or state-subsidised accommodation in the private rental sector. Relationship breakdown may also remove what can be a most powerful protective factor against former prisoners returning to crime – namely, the practical and emotional support which strong family ties can provide. Such recidivism is inevitably a cost to society in general as well as to the victims of these new crimes. The fact that children who have experienced the imprisonment of a parent may face 'diminished life-chances and an increased likelihood that they will become imprisoned at some point during their own lifetime'[282] also translates into a cost that is borne not just by the individuals affected but by society as a whole.

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[279] Baroness Jean Corston, 'Women in Prison: The Corston Report', *Working Notes*, Issue 58, July 2008, p. 5.
[280] John Hagan and Ronit Dinovitzer, 'Collateral Consequences of Imprisonment for Children, Communities, and Prisoners', *Crime and Justice: A Review of Research,* 26, 1999, pp. 121–162.
[281] Joseph Murray and David Farrington, 'Parental Imprisonment: Effects on Boys' Antisocial Behaviour and Delinquency through the Life-course', *Journal of Child Psychology and Psychiatry,* 46, 2005 (pp. 1269–1278), p. 1276.
[282] Jessica Breen, *op. cit.*, p. 23.

Chapter 7 : Vision and Values

Introduction

Our prisons, as institutions of the State, reflect the vision and values of the people on whose behalf they operate. Or do they? Whether this vision and these values are acknowledged and articulated as such, or are merely to be inferred from the reality of the present situation, it is right that we ask whether we can be content with that reality. What is it we hope for in our prison system? Is it delivering outcomes with which we can be satisfied? Or, in the absence of most people engaging with and being concerned about the issue, is our prison system indicative of attitudes of indifference or worse towards the people most directly affected by how policy is framed and implemented?

Increasingly, there seems to be an attitude, reflected in, and often fuelled by, certain sections of the media, which sees justice in terms of punishment with a vengeance and ignores the rehabilitative element that is part of the stated aim of penal sanctions.[283] It may well be asked, 'are we are becoming a more punitive and unforgiving society?' The notion of mercy, or the recognition that change and redemption are always possible, seems hardly to feature in popular debate. Voices that seek to dehumanise people in prison are often the loudest to be heard.

Could a faith-based perspective on these matters contribute to a better outcome for everyone concerned – people who are victims of crime, those who commit crime, the families of both groups, prison staff, the community in general?

To consider issues relating to imprisonment from the perspective of Christian social teaching is to ask questions about human dignity and human rights, about solidarity and the common good, about access to what is necessary for survival and for 'integral human development' inside or outside of prisons, about justice that is tempered by mercy, about compassion, about the hope for wholeness.[284]

Christian Vision of Justice

In the Christian faith tradition – as in the Jewish and Muslim traditions – the story of creation links all humankind, and reinforces the belief that we are all children of God, our Creator. We are more than neighbours: we share the same flesh and blood, the same common humanity, which does not distinguish between traditions. Of course, the image of sibling rivalry is also found in the Scriptures in the story of Cain and Abel; moreover, communications between people are frustrated as the people of Babel struggle in different languages while building their tower. Despite these internecine tensions, the underlying common human condition, of being made in the image of God, is presented as calling us all to live not only as neighbours but as brothers and sisters, as children of God.

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[283] See for example, Department of Justice, *op. cit.*

[284] The need to provide the conditions necessary for 'integral human development'– that is, development which will promote the good of every person and of the whole person – is a key theme of *Populorum Progresssio* (The Development of Peoples), the Encyclical Letter issued by Pope Paul VI, 26 March 1967 (www.vatican.va). Pope Benedict XVI returns to this theme in his Encyclical Letter, *Caritas in Veritate* (Charity in Truth), 29 June 2009 (www.vatican.va).

The parable of the Good Samaritan (Luke 10: 25–37) illustrates the Christian view of how victims of crime should be treated. Through a 'practical and loving response',[285] they are to be tended to and helped towards recovery. But what of those who perpetrate crimes? Jesus, in the gospel accounts, is not naïve about the human capacity for greed and the unjust exercise of power over others but he calls disciples to love both neighbour and enemy (Mt. 5: 46–48). Love does not preclude seeking justice for wrongs done but does demand that vengeance and the judgment of persons, as opposed to their actions, be avoided. Jesus did not come to set aside the law (Mt. 5:17) but to call his followers to go beyond law to love. The Beatitudes (Mt. 5: 1–12) and the Sermon on the Mount (Mt. 5–7) are a kind of template for Christianity and we are left in no doubt that the responsibility for due care of prisoners is one of the most important distinguishing marks of a Christian:

> *Come, ye blessed of my Father, possess you the kingdom prepared for you from the foundation of the world. For I was ... in prison, and you came to me.*[286]

> *Depart from me, for I was ... sick and in prison, and you did not visit me.*[287]

Christian faith is concerned not only with the present but with our final destination and so hope in the future is at the heart of its message. This hope is seen to influence all relationships. Of course, this does not always find full expression in actual situations but the call to hope is a vision of life which should inform discussions on all matters of social justice, including the treatment of those imprisoned. As people of hope, believers are challenged to forgive 'seventy times seven' (Mt. 18: 22).

The Christian vision of justice seeks not simply to punish but to mend relations between the person wronged, the person who has offended, and the wider society. In various gospel stories Jesus is faced with people who have offended. In no case is he dismissive of wrongdoing, but he sees these people and engages with them first as persons. Being valued in this way contributes to a change of heart, and forgiveness allows them to return, to be restored to their community. The example of Zacchaeus (Lk 19: 1–10) is apt. Being seen by Jesus as a person first, not as a tax-collector and cheat, despised by his community, initiates the change in him which leads to restoration of wrongs and his reintegration into his community.

Values

Dignity of the Human Person and Solidarity

At the core of Catholic social teaching is the equal dignity of every human being. This stance on human dignity is based in the belief that we are all created in the image of God, and are created ultimately for existence with God. The Christian vision of our shared humanity, then, calls for solidarity with one another, particularly with the people who are vulnerable or without power or influence in society. That solidarity must extend to both victims of crime and those who commit crime.

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[285] Gerry O'Hanlon SJ, 'Crime and Punishment: A Christian Perspective', *Working Notes*, Issue 58, July 2008, p. 16.
[286] Mt. 25: 34–36.
[287] Mt. 25: 42–43.

Christian solidarity calls us beyond feelings of vague compassion to a firm commitment to '... the good of all and of each individual because we are all really responsible for all'.[288] This solidarity needs also to be built into the systems and structures of the criminal justice system so that, on the one hand, it respects the dignity of people who have been victims of crime and takes due account of their suffering and, on the other, it seeks to achieve justice through appropriate punishment while offering the prospect of rehabilitation. In relation to the use of imprisonment, respect for human dignity and solidarity requires that the prison system operate in such a way that does not demean those who are detained or reinforce their isolation from society but instead reminds them of their dignity as individuals who belong in the human family, whatever their crime.

Solidarity also requires that serious attention be paid to the reality that a disproportionate number of people in prison come from impoverished and disadvantaged areas, that many have experienced serious personal problems such as mental ill-health, homelessness, educational under-achievement and drug dependency, and that very often services in the community have failed to provide an adequate response to these problems.

Catholic social teaching recognises that 'human sinfulness can become enshrined in the very fabric of society' so that personal sin 'can become part of the economic, legal or political structures'.[289] These structures in turn can be maintained or reinforced by the actions and attitudes of individuals or by their indifference in the face of the injustice that has now become established. [290]

From a Christian perspective then, society's response to the reality of crime and the harm it causes must go beyond those issues that are the direct responsibility of the criminal justice system: it must include addressing the social factors that are known to be associated with crime, among which are stark inequalities in the distribution of income, resources and opportunities.

Human Rights

Catholic social teaching holds that human rights are intrinsic to the human person and it emphasises the "universal, inviolable, inalienable" nature of such rights.[291] However, recognising that all rights are realised in community, it also acknowledges that in practice their exercise may be limited by the need to respect the rights of others and the common good of society.[292]

Imprisonment inevitably involves a curtailment of some rights – for example, the right to freedom of movement, to freedom of association, the right to privacy. Nonetheless, international human rights law is clear: all who are deprived of their liberty are to be treated with humanity and with respect for the inherent dignity of the human person; this is 'a

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[288] Pope John Paul II, *Sollicitudo Rei Socialis*, Encyclical Letter on Social Concern, 30 December 1988 (available at: www.vatican.va).
[289] See Pádraig Corkery, Companion to the Compendium of the Social Doctrine of the Church, Dublin: Veritas, 2007, p. 47.
[290] *Ibid.*
[291] Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*, Dublin: Veritas, 2005, n. 153, pp. 72–73. (Also available at www.vatican.va)
[292] See Pádraig Corkery, *op. cit.*, p. 50.

fundamental and universally applicable rule'.[293] In effect, apart from those measures necessary to ensure safe and secure detention, imprisonment must not result in the denial of the human rights of those detained.

As a signatory to several international human rights treaties which outline the rights of people in prison, Ireland is required to do its utmost to implement the principles and specific guidance which they set out. The international committees responsible for monitoring the implementation of these treaties have repeatedly shown that in significant respects Ireland is failing to meet the standards outlined. These findings sharply reveal the need to strengthen efforts to ensure that the rights of people detained in our prisons are respected and protected.[294]

The Common Good

In Catholic social teaching, the common good is understood as 'the sum total of social conditions which allow people, either as groups or as individuals, to reach their fulfilment more fully and more easily'.[295]

Clearly, the criminal justice system in any country has the potential to either enhance or diminish the common good – in how it responds, or fails to respond, to the needs of people who have been the victims of crime, and in how the penalties used to address wrongdoing serve, or do not serve, the goals of justice and restoration of right relationships.

The principle of the common good requires that society as a whole has a responsibility to foster respect and support for the role which penal institutions can play in protecting citizens and carrying out a vision of justice which includes rehabilitation of those in prison and their re-integration into society. Key to this is respect for those persons who organise and manage prisons, and care for prisoners on our behalf. They too are fathers and mothers, brothers and sisters, colleagues and friends. But this respect becomes a meaningless aspiration if in fact we do not provide sufficient resources for their role to be carried out in accordance with human dignity and human rights.

The common good –'the good of all people and of the whole person'[296] – understood in the context of penal policy must include the good of those who work in places of detention. The physical surroundings in which prison officers and prisoners spend their time also reflects, to a certain extent, what we as a society think about all of them. The morale of staff members is fed by and feeds the atmosphere in which their work is carried out.

We need, therefore, to recognise more clearly that we owe a duty of care to those who work in our prisons, and acknowledge that while our society expects them to be responsible for the

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[293] United Nations, *International Covenant on Civil and Political Rights*, Article 10; Office of the UN High Commissioner for Human Rights, *CCPR General Comment 21* (concerning humane treatment of persons deprived of liberty), 1992, n. 4.
[294] For example, United Nations Human Rights Committee, *Concluding Observations*, following examination of the third periodic report submitted by Ireland under the International Covenant on Civil and Political Rights (CCPR/C/IRL/CO/3, 22 July 2008); CPT, *Report to the Government of Ireland on the Visit to Ireland Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 January to 5 February 2010*, Strasbourg: Council of Europe, 10 February 2011.
[295] Pontifical Council for Justice and Peace, *op. cit.*, n. 164.
[296] *Ibid.*, n. 165.

upholding of the human rights of the group in their care it often refuses them the means necessary to do this.

Respect and support of the role of those who work in whatever capacity in our prison system also requires that they be subject to appropriate and effective systems of accountability. Such accountability is vital in ensuring that those who work directly with prisoners do not use the imbalance in power that is inherent in this situation in an inappropriate or abusive manner. Furthermore, accountability is essential in the policy-making process so as to ensure that decisions are not only evidence-based and informed by international best practice but are made in a way that is transparent and allows for the participation of citizens.

Safeguarding Family Relationships

The institution of the family and its safeguarding has a central place in Christian social teaching. The fundamental equality of all persons means that the right to a family life and the requirement that family relationships be respected extends both to those who are in prison and to the members of their families.

Of its very nature, imprisonment imposes severe strains on family relationships, and despite the efforts of family members, of prisoners themselves, of people working in the prison system, and of voluntary organisations, great harm can be done to these relationships as a consequence of imprisonment. As the Preface to a report of the Bedford Row Family Project noted:

> *Family life and relationships persist through the time of a prison sentence and in many practical ways transcend the material boundary of prison walls. But these relationships clearly become vulnerable in this passage and in this space ...*[297]

Minimising the use of imprisonment, enabling and supporting on-going contact between people in prison and their families, and the provision of services to support families should therefore be key features of penal policy. The imperative for such an approach comes in the first instance from the requirement that family relationships be respected and safeguarded but in addition it is clear that the maintenance of strong family ties and on-going family support can enhance the likelihood of having a home and being able to reintegrate into society following a period of imprisonment.

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[297] See Jim Sheehan, Preface, *Bedford Row Family Project Research Report*, Limerick: Bedford Row, 2007, p. iv.

Chapter 8 : International Human Rights Principles

International human rights law provides a framework for the development of national prison policy, setting out key principles and minimum standards to which a prison system should adhere.

UN Human Rights Treaties

A number of United Nations conventions which Ireland has ratified contain provisions that specifically address the human rights of people in prison. Other conventions include provisions which are applicable to all persons and are therefore also relevant to the issue of human rights in the Irish prison system.

In ratifying these UN conventions, Ireland has committed itself to implementing their provisions. However, the conventions have not been incorporated into Irish law and are not therefore justiciable before the Irish courts. Ireland's adherence to the requirements of the conventions is subject to scrutiny by the UN through the monitoring process of the various UN committees established to oversee implementation. This process involves the submission by the State of periodic reports to the relevant committee, a subsequent formal hearing and examination by the committee which is attended by representatives of the State, and the issuing of *Concluding Observations*, including recommendations, by the committee. UN committees do not, however, have the authority to take action should the State fail to implement these recommendations.

International Covenant on Civil and Political Rights[298]

The International Covenant on Civil and Political Rights, ratified by Ireland in 1989, requires, under Article 10.1, that:

> *All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.*

Article 10.3 states explicitly that rehabilitation should be a core function of imprisonment:

> *The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.*

This article also specifies that people detained on remand should be segregated from those in prison following conviction and that 'juveniles' should be separated from adults (Article 10.2 (a) and (b)). When ratifying the Covenant in 1989, Ireland formally entered a reservation in respect of these two provisions, in the following words:

> *Ireland accepts the principles referred to in paragraph 2 of article 10 and implements them as far as practically possible. It reserves the right to regard full implementation of these principles as objectives to be achieved progressively.*

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[298] *International Covenant on Civil and Political Rights* (available at: www2.ohchr.org/english/law/ccpr.htm)

Other provisions of the Covenant on Civil and Political Rights are also relevant to the issue of imprisonment:

Article 7 provides that:

> *No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*

Article 11 states:

> *No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.*

The requirements arising from Article 10 of the Covenant have been elaborated on by the Human Rights Committee, which has responsibility for monitoring State Party implementation of the Covenant, in a 'General Comment' issued in 1992.[299] (General Comments are used by UN monitoring committees to set out their interpretation of the obligations arising under specific articles and to indicate their expectations as to what will be included in the periodic reports of State Parties to the Committee.)

The Human Rights Committee makes clear that Article 10 imposes a 'positive obligation' that no person detained should be 'subjected to any hardship or constraint other than that resulting from the deprivation of liberty'. It points out that this obligation goes beyond the requirements of Article 7 of the Covenant, which bans torture or other cruel, inhuman or degrading treatment or punishment. The Committee adds that 'respect for the dignity' of those detained 'must be guaranteed under the same conditions as for that of free persons'.[300] Furthermore, it says:

Treating all persons deprived of their liberty with humanity and with respect for their dignity is a fundamental and universally applicable rule. Consequently, the application of this rule, as a minimum, cannot be dependent on the material resources available in the State party.[301]
The Committee highlights that the requirements of humane treatment apply equally to all persons detained, without distinction or discrimination.[302]

In relation to the issue of the segregation of remand from convicted prisoners (Article 10.2 (a)), the Committee says: 'Such segregation is required in order to emphasize their status as unconvicted persons who at the same time enjoy the right to be presumed innocent ...'[303]

With regard to the issue of rehabilitation (Article 10.3), the Committee is explicit as to the central importance of this in any prison system:

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[299] Office of the High Commission for Human Rights, CCPR General Comment No. 21 concerning humane treatment of persons deprived of liberty (Article 10): 10/04/92, n. 2. This replaced a previous General Comment on Article 10 (No. 9, 30 July 1982), 'reflecting and further developing' the earlier version.

[300] *Ibid.*, n. 3.

[301] *Ibid.*, n. 4.

[302] *Ibid.*, n. 4. Article 2.1 of the Covenant states: 'Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'

[303] *Ibid.*, n. 9.

> *No penitentiary system should be only retributory; is should essentially seek the reformation and social rehabilitation of the prisoner.*[304]

The General Comment makes clear that states which have ratified the Covenant are expected to outline in their periodic reports to the UN Committee the measures they are taking – in terms of education, training, work programmes (inside and outside prison), post-release assistance – to promote the reformative role of prison.

Ireland has submitted three periodic reports to the UN Human Rights Committee in respect of the Covenant on Civil and Political Rights; the third of these was examined by the Committee in July 2008. In its *Concluding Observations* following this examination, the Committee expressed concern regarding the increased use of imprisonment in Ireland and the 'adverse conditions' in Irish prisons – in this context mentioning specifically overcrowding, the incidence of non-segregation of remand prisoners from those imprisoned under sentence, deficiencies in mental health care services and the high level of inter-prisoner violence. It recommended that the State should increase its efforts to improve conditions for all people detained in prison and should promote alternatives to imprisonment.[305]

Convention on the Rights of the Child

The provision in the International Covenant on Civil and Political Rights regarding the detention and treatment of juveniles (Article 10.1 (b)) needs to be read in conjunction with the obligations arising under the *United Nations Convention on the Rights of the Child*,[306] which was ratified by Ireland in 1992.

Article 37 (c) of the Convention requires that:

> *... every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so ....*

This article also requires that:

> *Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.*

Under the Convention, a child is defined as every person under the age of eighteen years of age. Other provisions of the Convention are also relevant – in particular, the requirement, under Article 3, that the 'best interests of the child' must be a primary consideration in all actions affecting children, and the right of the child to remain in contact with his or her parents if involuntarily separated from them (Article 9.1).

In its *Concluding Observations* following examination of Ireland's second periodic report in relation to the Convention, the UN Committee on the Rights of the Child expressed concern about the detention of young people aged sixteen and seventeen in St Patrick's Institution, since this also held young people over the age of eighteen, and the exclusion of the

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[304] *Ibid.*, n. 10.
[305] UN Human Rights Committee, International Covenant on Civil and Political Rights, *Concluding Observations: Ireland*, 30 July 2008 (CCPR/C/IRL/co/3), n. 15.
[306] *United Nations Convention on the Rights of the Child* (available at: www2.ohchr.org/english/law/crc.htm)

Ombudsman for Children from investigating complaints from young people under eighteen in that institution.[307]

Convention against Torture and other Cruel and Inhuman or Degrading Treatment or Punishment

The Convention against Torture and other Cruel and Inhuman or Degrading Treatment or Punishment,[308] which Ireland ratified in 2002, is also relevant to the issue of human rights standards in prisons. Article 16 of the Convention states:

> *Each State Party shall undertake to prevent ... acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.*

Article 11 states:

> *Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment ... with a view to preventing any cases of torture.*

Ireland's first report under the Convention was examined by the Committee against Torture in June 2011; in its *Concluding Observations*, the Committee expressed particular concern regarding overcrowding, the continued practice of 'slopping out', and the high incidence of inter-prison violence in some prisons. It recommended the construction of new prison facilities 'that comply with international standards', the strengthening of efforts 'to eliminate without delay' the practice of slopping out, and addressing the factors contributing to inter-prisoner violence '… such as the availability of drugs, the existence of feuding gangs, lack of purposeful activities, lack of space and poor material conditions'. The Committee also urged that the Irish Government 'adopt a policy of focusing on alternative, non-custodial sanctions'.[309]

International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ratified by Ireland in 1989)[310] is also of relevance to a consideration of the human rights obligations relating to imprisonment. Article 12 of the Covenant recognises 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health'. A General Comment on this Article highlights the threefold nature of the obligations which arise for states which have ratified this Convention. These are: the obligation to *respect* the right to health of every person (the State must refrain from taking any action that would damage the health of

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[307] UN Committee on the Rights of the Child, Convention on the Right of the Child, *Concluding Observations: Ireland*, 29 September 2006 (CRC/C/IRL/CO/2), n. 72.
[308] Convention against Torture and other Cruel and Inhuman or Degrading Treatment or Punishment (available at: www2.ohchr.org/english/law/cat.htm)
[309] UN Committee against Torture, Convention against Torture and other Cruel and Inhuman or Degrading Treatment or Punishment, *Concluding Observations: Ireland*, 17 June 2011 (CAT/C/IRL/CO/1), n. 11–n. 15.
[310] International Covenant on Economic, Social and Cultural Rights (available at: www2.ohchr.org/english/law/cescr.htm)

individuals); the obligation to *protect* the right to health (the State must strive to ensure that individuals' health is not damaged by third parties); and the obligation to *promote* the right to health of every person.[311]

This Article clearly carries significant implications for the Irish prison system, since it gives rise not just to a requirement to provide adequate health services, but to ensure conditions and regimes that do not damage in any way the health of people detained in prison.

UN Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care

The UN Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care[312] outline the basic rights and freedoms of people with a mental illness that must be secured if states are to be in full compliance with the Covenant on Economic, Social and Cultural Rights.[313]

Key provisions of the UN Principles include:

> *All persons have the right to the best available mental health care…* (Principle 1)

> *Every person shall have the right to be treated in the least restricted environment* (Principle 7(1)).

The Principles explicitly state that the equal application of the standards set down must include 'persons serving sentences of imprisonment for criminal offences, or who are otherwise detained in the course of criminal proceedings or investigations against them …' (Principle 20(1)).

Council of Europe Human Rights Obligations

In framing its prison policy, Ireland also has an obligation to adhere to the human rights standards set out by the Council of Europe. A member of the Council of Europe since its foundation in 1949, Ireland was an early signatory to the Convention for the Protection of Human Rights and Fundamental Freedoms (generally referred to as the European Convention on Human Rights)[314] and so assumed the obligations arising under that Convention from the time it entered into force in 1953.

The provisions of the Convention have been transposed into Irish law in the European Convention on Human Rights Act 2003: this means that the rights set forth in the Convention can be pleaded directly before Irish courts and tribunals.

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[311] UN Committee on Economic, Social and Cultural Rights, *Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights, The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights*), General Comment 14, 08/11/2000, n. 33.
[312] These Principles, often referred to as the MI Principles, were adopted by the UN General Assembly Resolution 46/119 of 18 February 1992. (available at: www2.ohchr.org/english/law/principles.htm)
[313] Amnesty International (Irish Section), *Mental Illness: The Neglected Quarter*, Dublin: Amnesty International, 2003, p. 27.
[314] European Convention on Human Rights (available at: www.echr.coe.int/ECHR/EN/Header/Basic+Texts/The+Convention+and+additional+protocols/The+European+ Convention+on+Human+Rights/)

Article 3 of the Convention, 'Prohibition of Torture', states:

> *No one shall be subjected to torture or to inhuman or degrading treatment or punishment.*

Ireland's implementation of this article is subject to periodic scrutiny in the form of examination every five years by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (generally referred to as the Committee for the Prevention of Torture – the CPT).[315]

The CPT has made five visits to Ireland to date.[316] In the report following its fifth visit, which took place in early 2010, the Committee commented in detail on the issue of overcrowding. It pointed out that in the case of some prisons this raised 'real concerns as to the safe and humane treatment of prisoners', and drew attention to the many ways in which overcrowding impacted negatively on the physical conditions and regime experienced by prisoners. The CPT noted the upward trend in the prison population and the role of committals for short sentences in adding to the problem of overcrowding. It also commented on the issue of drug use within Irish prisons; inadequacies in health services and in particular mental health services; and the need to develop further services such as education, and opportunities for work.[317]

CPT Standards

In a number of its General Reports, which appear annually, the CPT has drawn attention to some of the 'substantive issues' which it takes into account in its examination of places where people are detained. These indicate the Committee's views 'regarding the manner in which persons deprived of their liberty ought to be treated' and they have been drawn together to form the *CPT Standards*.[318]

The Standards highlight that although the Committee is particularly concerned with the issue of ill-treatment of prisoners by staff, '... all aspects of the conditions of detention in a prison are of relevance to the CPT's mandate.' It adds: 'Ill-treatment can take numerous forms, many of which may not be deliberate but rather the result of organisational failings or inadequate resources'.

Among the issues identified as key by the Committee are:

❖ The importance of promoting 'constructive as opposed to confrontational relations between prisoners and staff ...'.[319] (p. 15)

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[315] The Committee for the Prevention of Torture was established under the terms of the *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, adopted in 1987.

[316] The dates of these visits were: 26 September–9 October 1993; 31 August–9 September 1998; 20–28 May 2002; 2–13 October 2006; 15 January–5 February 2010.

[317] Committee for the Prevention of Torture, *Report to the Government of Ireland on the Visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 25 January to 5 February* 2010, Strasbourg, 10 February 2011, CPT/Inf (2011) 3.

[318] European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *The CPT Standards: 'Substantive' Sections of the CPT's General Reports*, Council of Europe, CPT/Inf/E (2002)–Rev. 2009.

[319] 'The cornerstone of a humane prison system will always be properly recruited and trained prison staff who know how to adopt the appropriate attitude in their relations with prisoners and see their work more as a

❖ The damaging effects of overcrowding: 'All the services and activities within a prison will be adversely affected if it is required to cater for more prisoners than it was designed to accommodate; the overall quality of life in the establishment will be lowered, perhaps significantly. Moreover, the level of overcrowding in a prison, or in a particular part of it, might be such as to be in itself inhuman or degrading from a physical standpoint.'(p. 15)

❖ The need to have a 'satisfactory programme of activities (work, education, sport, etc.) ... for the well-being of prisoners'. (p. 15)

❖ The need to make available a 'regime of activities' for remand prisoners, so that 'prisoners cannot simply be left to languish for weeks, possibly months, locked up in their cells ...'. (p. 15)

❖ The importance of access to outdoor exercise – with a minimum of at least one hour outdoor exercise available to all prisoners without exception. (p. 16)

❖ The unacceptability of 'slopping out', and the principle that 'ready access to proper toilet facilities and the maintenance of good standards of hygiene are essential components of a humane environment'. (p. 16)

❖ The need to enable prisoners to maintain 'reasonably good contact with the outside world', including the 'safeguarding' of relationships with family and friends. (p. 16)

❖ The role of grievance and inspection procedures as 'fundamental safeguards against ill-treatment in prisons'. (p. 17)

❖ The fact that it is in the interests of both staff and prisoners that 'clear disciplinary procedures be both formally established and applied in practice'. (p. 17)

❖ The need to prevent and effectively address inter-prisoner violence. (21)

❖ The need to proactively address the particular problems that attach to the imprisonment of prisoners who require high levels of security and prisoners who are serving long sentences. (pp. 25–26)

❖ The principle that 'prisoners are entitled to the same level of medical care as persons living in the community at large. This principle is inherent in the fundamental rights of the individual'. (p. 27)

❖ The need for prison authorities to ensure adequate psychiatric care for prisoners. (p. 30)

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vocation than as a mere job. Building positive relations with prisoners should be recognised as a key feature of that vocation.' (*The CPT Standards: 'Substantive' Sections of the CPT's General Reports*, p. 20)

In addition to the requirements arising from the Convention on Human Rights and the recommendations of the CPT, Irish prison policy should be guided by the requirements of the *European Prison Rules,* issued by the Council of Europe, originally in 1987 but revised and updated in 2006.[320] The Rules outline in detail the conditions that should obtain in all places of detention, and start by setting out the 'basic principles' which underpin their later detailed provisions regarding conditions and regimes.

These principles include:

❖ All persons deprived of their liberty shall be treated with respect for their human rights. (1)

❖ Persons deprived of their liberty retain all rights that are not lawfully taken away by the decision sentencing them or remanding them in custody. (2)

❖ Restrictions placed on persons deprived of their liberty shall be the minimum necessary … (3)

❖ Life in prison shall approximate as closely as possible the positive aspects of life in the community. (5)

❖ All detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty. (6)

❖ All prisons shall be subject to regular government inspection and independent monitoring. (9)

Among the key provisions of the *European Prison Rules*, which are of particular relevance to the conditions currently prevalent in the Irish prison system, are:

❖ The security measures applied to individual prisoners shall be the minimum necessary to achieve their secure custody. (51.1)

❖ The accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy … (18.1)

❖ Prisoners shall normally be accommodated during the night in individual cells except where it is preferable for them to share sleeping accommodation. (18.5)

❖ Accommodation shall only be shared if it is suitable for this purpose and shall be occupied by prisoners suitable to associate with each other. (18.6)

❖ The regime provided for all prisoners shall offer a balanced programme of activities. (25.1)

❖ This regime shall allow all prisoners to spend as many hours a day outside their cells as are necessary for an adequate level of human and social interaction. (25.2)

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[320] Council of Europe, Committee of Ministers, Recommendation Rec (2006)2 of the Committee of Ministers to member states on the European Prison Rules, adopted 11 January 2006.

Ireland's Commitment to International Human Rights Standards

By ratifying the human rights conventions of the United Nations and the Council of Europe, Ireland has signalled to the international community its commitment to implement these treaties, including their provisions relating to imprisonment.

Key statements of Irish prison policy could be seen to indicate commitment to the core principles of these treaties. In particular, the underlying philosophy of the Department of Justice policy statement, *The Management of Offenders*, strongly reflects the core elements of a human rights approach.[321] The document states that that 'certain basic principles have to be accepted as the starting point for prisons policy formulation in a civilised society', and says that these principles are 'grounded in morality and respect for basic human rights'. It then says that:

> *Imprisonment should be seen as 'an option of last resort'.*[322]

The removal and restriction of rights entailed in imprisonment should 'constitute, in themselves, the *whole* penalty imposed on the convicted person – any adverse conditions which add to that penalty are unwarranted'.[323]

The objectives of the prison system at both national and local level include ensuring that prisoners are treated with care and respect and that they have access to the facilities and services necessary for their physical and mental well-being.[324]

The objectives of the prison system at both national and local level include the provision of an environment and a range of opportunities to lead those imprisoned to a 'constructive lifestyle' in the community following release.[325]

'Plans and policies for the use and development of community-based sanctions and measures are at least as important as those for the development and use of penal institutions.'[326]

The Mission Statement of the Irish Prison Service also reflects some of these key principles:

> *The mission of the Irish Prison Service is to provide safe, secure and humane custody for people who are sent to prison. The Service is committed to managing custodial sentences in a way which encourages and supports prisoners in their endeavouring to live law abiding and purposeful lives as valued members of society.*

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[321] Department of Justice, *op. cit.*, 1994.
[322] *Ibid.* par. 1.10, p. 17.
[323] 'The bottom line is that imprisonment removes totally the right to free movement, which is one of the most valued of human rights, and also considerably limits various other rights such as the right to unrestricted communication with others.' (*Ibid.*, par. 1.9, p. 17)
[324] *Ibid.*, par. 2.3; 2.5; 2.6, pp. 22–23.
[325] *Ibid.*, par. 2.3; 2.4; 2.5, pp. 22–23.
[326] *Ibid.*, par. 1.10, p. 116–17.

Furthermore, the Inspector of Prisons, Judge Michael Reilly, has drawn on human rights treaties, as well as on domestic legislation and relevant court decisions, to set out in detail the standards which his office will use for the inspections of prisons in Ireland.[327]

However, the reality is often far removed from the ideals expressed in official policy statements. It is clear from the observations of the monitoring bodies for international conventions that the conditions prevailing in Irish prisons are in many instances in serious breach of key human rights requirements. Far-reaching reforms in policy, practice and provision are required if the commendable aspirations implied in ratification of conventions and expressed in official policy statements are to be realised.

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[327] The Inspector stated that he was publishing the Standards so that all interested parties (including prisoners, those responsible for the management and administration of the prison service and the general public) would have the opportunity to be aware 'of the standards that I will expect to see implemented in Irish prisons'. He added: 'These standards do not constitute public policy or public policy proposals but are those against which I will benchmark all prisons'. Judge Michael Reilly, Inspector of Prisons, *Standards for the Inspection of Prisons in Ireland,* Nenagh: Office of the Inspector of Prisons, July 2009, p.4 (www.inspectorofprisons.gov.ie).

Chapter 9 : The Way Forward: Recommendations

1. Minimum use of custody: reduce, and set a limit to, the numbers in prison

Both the Whitaker Report (1985) and the *Management of Offenders* (1994) subscribed to the principle that imprisonment should be used as the penal option of last resort, and to the concept of fixing a limit to overall population size. The case for minimising the use of imprisonment is based on the seriousness of using the deprivation of liberty as a penalty, the detrimental effects of imprisonment, not only for the person imprisoned but for his or her family, the financial costs of imprisonment, and its ineffectiveness in preventing re-offending among a significant percentage of those who spend time in prison.

It is also a principle of the European Prison Rules and other international human rights documents.

The Director General of the Prison Service, Michael Donnellan, stated in January 2012 that there are 'too many people in prison' and there is a need to 'rebalance imprisonment'. He has said that his initial focus will be on the possibility of reducing the number of prisoners serving sentences of less than 12 months (currently around 500) and he has spoken of using instead 'robust community alternatives'. Ireland should see it as a feasible target to get back to the rate of incarceration that applied up to the mid-1990s, when it hardly ever exceeded 60 per 100,000. Finland has, by deliberate policy, substantially reduced its prison population to this level.

In Ireland, such a rate of imprisonment would mean a prison population of about 2,700. The achievement of a reduction of this scale would require in the first instance an explicit commitment not only from the Irish Prison Service but from the Minister for Justice. Its achievement would necessitate the extension of the use of alternatives to imprisonment, including community service, a clear policy of not using imprisonment for less serious offences, increased remission, and the use of early release under supervision.

2. Minimum use of security: have one third prisoners in open prisons and have a gradient security system in all other prisons

Practically the whole of the Irish prison system operates under high security, which is extremely detrimental to the welfare of prisoners. Open prisons ensure people are damaged less than they would be if held in closed prisons and they offer better prospects of resettlement. They cost much less to run, relying as they do more on the prisoners' personal responsibility and prison staff's relationship with them than on cost-intensive physical security measures.

Some Nordic countries, for example, can have a third or more of their entire prison population in open centres an assessment needs to take places as to why a similar percentage of the Irish prison population could not be accommodated in open prisons. For example some of the prisoners in Ireland's highest security prison, Portlaoise, and some who have committed sex offences could be detained in a low security prison. An even higher proportion of women could be beneficially held in open centres. The vacant building at Shanganagh Castle in Shankill, Co. Dublin could be purchased and brought back into use as an open prison – possibly for women. This would relieve the overcrowding in the Dóchas Centre and

in the unit for women in Limerick. A designated open option for young men under twenty-one also needs to be restored.

Ireland has a low level of provision of open prison places; only about 5 per cent of the prison population are in its two remaining open centres, Shelton Abbey and Loughan House. Moreover, too often these open facilities are not used to their best advantage, being either under-utilised or used merely to accommodate an overflow from the closed prisons.

Facilities with reduced security

The Training Unit at Mountjoy, which is a semi-open prison, is currently not functioning as originally designed. Immediate action is required to stop the Unit being used merely as an overflow for Mountjoy. There needs also to be a reversal of the relatively recent policy of doubling up in rooms. The Training Unit had been designed to up-skill prisoners through various training programmes and then gradually re-introducing them back into the community through, initially, day release to attend training or work, followed by weekend release and then full release.

The Dóchas Centre, for women, set a new international standard for a closed prison in regards to its progressive regime. However, as it currently operates, with the doubling up in rooms designed for one, the planned addition of dormitories and dramatic overcrowding, its former status as having a progressive regime has now been eroded. The current retrograde steps need to be reversed.

3. 'Normalisation' of prison life: transformation of regime standards

The Whitaker Report argued that prison should provide truly humane custody based not just on minimum use of custody and security but also normalisation of prison life. Working on this principle it could be argued that conditions should be measured relative to what is considered 'the norm' in society. If such a measurement tool is used, it is clear that there has been regression in this regard in the years since the Whitaker Report, in so far as living standards generally in Irish society have risen significantly while conditions for a substantial proportion of the prison population have deteriorated. The key issues which need to be addressed in order to ensure a humane and rehabilitative regime include:

Single cell/room accommodation: Prisoners should be accommodated in single cells or rooms, with direct access to separate toilet and washing facilities. This is no more than the Whitaker Report stipulated nearly 30 years ago and the European Prison Rules insist on today. It was achieved in the Dóchas Centre prior to 'doubling up' beginning there. A most alarming feature of Irish prisons in the past decade or so is that not only has single-cell occupancy become increasingly rare but the aspiration that this should be the norm appears to have been abandoned. There is an immediate need to restore single-cell occupancy – which had been enshrined in legislation up until the 1980s – as the principle which will guide all future prison planning. Currently, over 60 per cent of people in prison are in shared cells.

Out-of-cell time: Prisoners should be able to be out of their cells for at least 12 hours each day, as the Whitaker Report also stipulated. Currently, most prisoners get about 7 hours out of cell time.

Structured activity: All prisoners should be able to participate for a structured full day in activity such as education, work, work-training, drug treatment, therapy, or combinations of these elements.

Self-management: All sentenced prisoners at least should be enabled to do their own cooking, laundry and other normal daily tasks, and be able to eat meals together away from their cells. This is virtually the universal practice in Danish prisons, and is increasingly the practice in other Nordic prison systems. This was the original intention for Wheatfield Prison and the infrastructure to make this possible was provided when the prison was built in 1985 but was never utilised.

Visiting and family contact: Is linked with positive resettlement[328] and therefore needs to be encouraged and facilitated. Standards set out in Whitaker in relation to visits need to be achieved: 'with minimum supervision (especially of family visits) and maximum allowance of personal contact.

4. Make smaller prisons the norm

Possibilities for less conflicted, less restrictive, but more constructive and potentially less costly regimes are offered in smaller prisons, preferably with 100 or fewer prisoners. Such prisons should be in a number of different locations around the country and, as far as possible, should be accessible by public transport. A plan to move from larger to smaller prisons, and from an almost exclusively closed prison model to one with more open prisons, would clearly have to be part of major restructuring of the prison system that would take time. However, the essential requirement is that a clear policy decision is made in favour of taking this direction.

5. Provide a system for progressive serving of sentences

There should be a process whereby a person in prison can progressively move towards eventually becoming re-integrated in society which begins from the time he or she enters prison.

Where prisoners serve their sentences in a co-operative and well-behaved manner, they should have a real prospect of moving progressively to less secure locations, including open prisons. They should be able to obtain leave from prison for some weekends and other periods, so as to maintain family and other relationships, to keep a hold on a measure of normality and to pursue purposeful activities such as work, education or training. There should be remission at the two-thirds point of sentence and in addition prisoners should have the prospect of additional early release on a conditional basis. Such gradual re-engagement with outside life is recommended in the European Prison Rules and offers the best prospect of successful reintegration for prisoners.

The Irish Prison Service has accepted the principle of Integrated Sentence Management, and this is to be welcomed. However, the reality is that rarely does a system of progressive serving of a sentence operate: for the majority of prisoners, the last days of their sentences are much the same as the first. It is crucial therefore that the principle of Integrated Sentence

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[328] Helen Codd, In the Shadow of Prison: Families, Imprisonment and Criminal Justice, Devon: Willan Publishing, 2008.

Management be implemented in a meaningful way, so that there is a plan in place for each prisoner and that in every case the prisoner is himself or herself involved in drawing this up. Furthermore, there must be effective systems for ensuring that these plans are progressively implemented.

6. **Ensure that no child is detained in a prison**

The UN Convention on the Rights of the Child requires that nobody under the age of eighteen should be detained alongside adults.

Currently, boys aged sixteen and seventeen are held in St Patrick's Institution, a facility that also holds young men aged 18, 19 and 20. The authorities have moved to ensure that at least some of those under eighteen are detained in a separate unit but the regime of this unit falls far short of what is required for the effective care and rehabilitation of a young person who is still legally a child.

The plan to provide a Child Detention School at Lusk for the sixteen and seventeen year-old age group is welcome. However, the fact that even after this was announced it was being proposed that a unit in the Thornton Hall site be designated for the under-eighteen age group (with this being justified on the grounds that it would be used only on a temporary basis, in case Thornton Hall was ready in advance of the unit at Lusk) raises questions as to whether the prison authorities have fully and decisively committed themselves to the principle that children should not, under any circumstances, be detained alongside those over eighteen.

The Minister must make an immediate commitment, including a time frame, to 1) extend the remit of the Ombudsman for Children to include children in detention facilities, and 2) the building of a facility for sixteen and seventeen year-old children. The size of the facility needed should be carefully reviewed and should not be based on the numbers in this age group currently detained St Patrick's Institutions (around 40 in February 2012). In particular, it needs to be clearly established if the needs of some of those who are detained in St Patrick's could be more appropriately met in non-custodial accommodation, and whether there is scope for using the existing facilities at Oberstown for some of those on remand.

7. **Make specific provision for young men under twenty-one**

It is now being increasingly recognised that cognitive and emotional development towards adulthood is a more prolonged process than was previously understood. Legally 'childhood' ends on reaching the age of eighteen, but the emotional and moral capacities associated with adulthood may not be reached until people are in their early and even mid-twenties. The Irish prison population in October 2011 included about 300 young men. (The 2010 Irish Prison Service *Annual Report* noted that there were 700 young men, and 38 young women, aged between the ages of twenty-one and twenty-four in prison.) While just over half of young men aged under twenty-one were detained in St Patrick's Institution over 160 were held in closed adult prisons, with the majority held in Limerick, Cork, Cloverhill, Wheatfield, Midlands and Castlerea. The inadequacy of provision for young people has been exacerbated by the closure of Shanganagh Castle and Fort Mitchel, both of which were designated for young men in this age group and each of which had developed regimes specifically geared to meeting their needs and circumstances.

Given the development needs of young people (in particular, but not limited to, those under twenty-one), their vulnerability to being more deeply drawn into criminal behaviour but also their potential openness to being influenced to lead a life free of crime, there is a strong case for providing separate institutions for this group, with regimes and services appropriate to their needs. A priority must be the closure of St Patrick's Institution, the inadequacies of which have long been recognised (since the 1960s) and the closure of which was recommended in the Whitaker Report almost thirty years ago.

8. Ensure that comprehensive drug and alcohol detoxification and treatment services are available promptly

A very high percentage of people in Irish prisons are there because of offences relating directly or indirectly to drug and/or alcohol use.

In recent years, enormous effort and cost have been involved in attempts to control the supply of illegal drugs getting into prison, with questionable results. A more balanced approach would see the same effort and commitment being devoted to providing drug treatment. For many individuals the reality of being sent to prison can constitute the crisis point which can act as a catalyst for them to address their drug or alcohol use. The Irish Prison Service should be aspiring to a situation where every prisoner willing to enter treatment (for drugs and/or alcohol problems) is given access to that treatment with minimum delay and is provided with follow-up of adequate duration. Denmark offers a fine model in this regard: any prisoner who requests treatment for drug or alcohol problems is guaranteed this service (which is usually full-time) within two weeks of making a request, if he or she still has at least three months of a sentence left to serve.

Drug treatment provision within the prison system should include at least one custodial drug treatment centre. This would allow for the implementation of a section of the Misuse of Drugs Act, 1977, which provides the courts with the power to order that a person convicted of certain drug offences could be detained in a custodial drug treatment centre, rather than being sent to prison, for a period not exceeding one year.

9. Protect the human rights of people in prison

There are a number of ways in which prisoners' human rights need to be asserted, bearing in mind that men and women held in prison are still citizens and members of our society, therefore a primary goal should be to fully reintegrate them. Fundamentally, the physical conditions and regimes operating in prisons must respect the inherent dignity and basic rights of every person. These must be recognised, even where it has been found necessary to deprive an individual of their liberty. Fair and just procedures in general are required throughout the prison system and people in prison should be able to take grievances to the Ombudsman, as happens elsewhere in Western Europe. The granting to people in prison in Ireland of the right to vote in elections is welcome, but it needs to be facilitated more positively.

10. Develop an independent prison authority, with a genuine care/custody agenda

As envisaged by the Whitaker and McAuley reports, that there should be a prison authority that is genuinely separate from the Department of Justice and is responsible for a prison service that has a proper care/custody balance, as both of these reports also envisaged.

11. Engage genuinely with the public and interest groups about the future of prisons

Government should engage positively with interested parties, while also encouraging and supporting independent research.

The public, interested parties (including the judiciary, those working in any capacity in the prison system, academics, voluntary bodies providing services, NGOs concerned about prison conditions, and prisoners and former prisoners themselves) should be engaged in genuine consultation about the shape of the future penal system, including non-custodial measures. The way this was done in Norway for the development of that country's 2008 White Paper on the future of prisons offers a far better model of consultation than that currently being pursued by the Department of Justice in Ireland.

In particular, there needs to be openness to research into the nature and operation of the current prison system. To facilitate this the Irish Prison Service should actively promote research and study as well as improving the dissemination of statistical information on the prison population. The Central Statistics Office could play a role is this regard.

12. Responsibility of the media in the portrayal of prison and penal policy

As the media has an important role in shaping public perceptions of crime and penal policy, so there should be constructive engagement with them. Often the image of those held in prison that is presented in the media is demonised and sensational. One example of this inaccurate approach is the tendency to depict prisoners in general as violent, when, in fact, it is only a minority who have been involved in violence, as is clear from Chapter 2.

13. Adhere to the idea that 'good social policy is best criminal justice policy'

This phrase is common in Finland and is a useful touchstone in shaping both social and penal policy. A recent report by the Irish Penal Reform Trust, *The Vicious Circle of Social Exclusion and Crime: Ireland's Disproportionate Punishment of the Poor*, highlights this, as does the social justice perspective ascribed by the ethos of the Jesuit Centre for Faith and Justice.

14. Develop a more positive role for prison officers, to reflect a genuine care/custody balance

In line with the high levels of security and restriction that currently operate in the majority of Irish prisons, the greater part of most prison officers' work has to do with 'guarding', that is, with the physical control of prisoners. As outlined in the discussion in Chapter 5 (section 3), there is a need to develop the prison officer's role substantially, to reflect a greater focus on 'dynamic security'. With this approach, staff members are more involved in caring for, interacting with and supporting prisoners. Some prison officers in Ireland do engage in this more constructive and challenging way of working at present, especially in training workshops, the open centres and lower security locations such as the Dóchas Centre, The Training Unit and The Grove in Castlerea Prison. However, overall, the scope for this kind of work is limited. A change of direction would require significant training for staff, and serious support from prison authorities. The prison service in Norway, for example, has made such a change, which is reflected in their slogan: 'From Guard to Social Worker – a Paradigm Shift'. The 'personal officers' in Norway and the 'four main tasks' in prison work in Denmark (both

of which were described above in Chapter 5, section 3) reflect this very different way of working as an officer in a prison.

15. Abandon proposals for Thornton Hall and Kilworth, Co. Cork, and reset planning to build only small prisons

Originally, the Irish Prison Service and the Fianna Fáil/Progressive Democrat Government planned to construct a closed prison for 2,200 at Thornton Hall, which is near the Dublin-Meath border, as well as another for 450 in part of the army camp that is some miles from the village of Kilworth in North Cork. When the Fine Gael/Labour Government took office in 2011, the Minister for Justice and Equality, Alan Shatter TD, established a group to review prison building requirements. The Thornton Hall Review Group reported in the summer of 2011 and set out revised proposals in which, initially, a closed prison for 700 men would be built at Thornton Hall, and one for 500 men at Kilworth. However, such projects were not included in capital spending plans agreed by the government in late 2011. The Minister for Justice now speaks of the construction of these prisons being 'deferred', and he has committed to seeking funding for them in subsequent years.[329]

These proposed prisons are far too large, located in inaccessible places and entail the wrong kind of regimes. Most of the detrimental conditions in Irish prisons that have been criticised in this policy paper appear set to continue in Thornton Hall and Kilworth should these prisons ever come into being. On the basis of present practice, such over-sized prisons are likely to apply inordinate and unnecessary restrictions to the majority of men held within them, and extensive segregation, with all its damaging consequences, would almost certainly be applied.

There is every indication also that the excessive lock-up times that are currently enforced in most Irish prisons would pertain at Thornton Hall and Kilworth. A particularly alarming and unacceptable feature of the 2011 proposals for these two prisons was that they envisaged most prisoners sharing cells. For example, it was proposed that 400 out of 500 prisoners (80 per cent) in the main part of Thornton Hall, and 300 out of 350 prisoners (86 per cent) in the main part of Kilworth, would share cells. A further major concern regarding these proposed prisons is that both would be inaccessible to families and other visitors who do not have private transport.

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[329] Letter, from Minister for Justice and Equality, Alan Shatter TD to Ciarán Lynch TD, 20 December 2011, follow-up to PQ 164, 36793/11, *Dáil Debates,* Vol. 747, No. 5, 24 November 2011, p. 1034.