

**Address by the Minister for Justice, Equality and Law Reform
Mr. Brian Lenihan T.D. at the launch of
“The Whitaker Report 20 Years On –
Lessons Learned or Lessons Forgotten?”
25 July 2007**

Ladies and Gentlemen,

I am very pleased to be here today to speak at the launch of this publication, reviewing what has happened in the 20 years since the Whitaker Report itself was published.

This book – a collaborative effort from the Katherine Howard Foundation and the Irish Penal Reform Trust - contains the views of a range of people with a long interest in prison issues. Each brings his or her own perspective to what has been happening in the intervening period. The management of offenders is one of the most difficult and sometimes controversial areas of public administration. It is a topic that merits serious and vigorous debate rather than complacency and not surprisingly there are frequently strong and sometimes conflicting views on the question of imprisonment. You will appreciate that while I welcome the contribution that this publication will make to the debate on prison issues I do not necessarily share all the views expressed in it.

I as Minister, the Oireachtas and the various agencies that make up the criminal justice system must strive to balance the competing demands of protecting the public and at the same time providing a humane prison environment which seeks – as far as possible – to bring about the rehabilitation of those who we send to prison.

The “Report of the Committee of Inquiry into the Penal System” otherwise known as the “Whitaker Report” set out a roadmap for prison policy. Indeed, I recently looked at an Irish Times article going back to September, 1985 following the publication of the report which described it as presenting “ *a wide-ranging agenda for fundamental change in the management and operation of the prison service*”. I think this was an apt description and in my view it certainly has contributed to how we have developed prison policy over the years. The appointment of a Board and a Director General for the Irish Prison Service followed through on the key recommendation of the Committee in this regard.

Today’s Ireland is very different to that of the mid 80’s when Dr. Whitaker was asked to take on the task of looking at the growth in crime; the demand for prison spaces; and the shortcomings in the prison facilities and services for offenders. I think it is generally accepted that we have seen an enormous transformation in this country in the last 15 years. Yet when we look into our prisons we cannot avoid the fact that young men in general who come from certain socially deprived areas and groupings constitute a significant proportion of the prison population. That said, offenders – irrespective of background - must be held accountable for their actions and imprisonment is part and parcel of the consequences of committing crimes. Gangland criminals are also an increasing feature of our modern prison population.

While imprisonment should always be seen as a last resort, let us be clear, prisons are needed to protect the public. No society based on the rule of law can exist without them.

It is the judiciary that are faced with the unenviable task of deciding whether or not an individual convicted of a crime should go to prison. Obviously different judges have different approaches but certainly my personal experience is that judges do not sentence anyone to imprisonment lightly. The statistics generally support the view that there is no excessive use of imprisonment as a sanction in this jurisdiction. Of the 120,000 or so convictions in our criminal courts in 2006 less than 10% resulted in imprisonment. Our courts make liberal use of alternative sanctions including fines, community service, the Probation Act and suspended sentences. The current prison population of around 3,400 falls well short of the 4,000 predicted in the Whitaker report to be imprisoned by 1995.

Our overall rate of imprisonment is very low compared to that of the USA. I do accept that the USA is perhaps not the ideal comparator. However even within the context of the Europe Union our rate of imprisonment is lower than countries such as Germany, France, Italy, Sweden, and the Netherlands and it is about half that of our nearest neighbour the United Kingdom.

Prison accommodation

Reading the newspapers one sometimes get the impression that building new prisons must be intrinsically bad. I must say it is inexplicable to me how anyone who cares about prisoners rights and who has seen the conditions facing prisoners and staff in Mountjoy and Cork prisons can take that view.

We cannot be expected to deliver a twenty first century correctional system in prison buildings that are centuries old. In recent years we have made determined efforts to replace and modernise our prison accommodation across the country. I will deliver on the Government's commitment to continue to invest in the modernisation of our prisons to ensure that they meet international standards.

The case for closing Mountjoy Prison has been well documented. The new prison at Thornton is badly needed to replace the Dickensian conditions in some of our prisons and to ensure that those committed to prisons can be kept in a safe and secure environment with the facilities necessary to encourage their rehabilitation. No massive growth in the use of imprisonment is being contemplated. However we have to face the fact that our population is growing rapidly and that there is no spare capacity within our prison system. The forecasts used to plan for Thornton do not envisage any significant increase in the rate of committals to prison and because of population growth actually envisage a slight decline in the number of prisoners per 1000 population.

I acknowledge that there has been concern regarding the closure of the Dóchas Centre. I have to be very frank and say that since its opening in 1999 there has been a serious issue with overcrowding there. Women prisoners deserve better. That is why the new development at Thornton presents an opportunity to build on the positive aspects of the Dóchas Centre while providing an expanded operational and rehabilitative capacity.

The new campus at Thornton will provide for approximately 1,400 spaces including an assessment centre, high, medium and lower security facilities as well as step down facilities. However, it should not merely be seen as additional space in which to accommodate growing numbers of prisoners. The campus design is regime orientated and will allow for the development of progressive rehabilitative programmes, a key objective for my Department under the Programme for Government, the introduction of enhanced educational and work training facilities and the introduction of single person cells with in-cell sanitation and shower facilities to end the inhumane practice of slopping out. In addition, the new prison complex will also be constructed with an extensive cordon sanitaire to prevent drugs and other items being thrown over the perimeter wall, a facility which would be impossible to provide for at the Mountjoy site. Work on the proposed new prison is expected to commence towards the end of this year with completion expected in 2010.

A second new prison will be built to accommodate the Munster region. This will be built on a site at Kilworth, County Cork. The site being provided by the Department of Defence will allow for the development of a modern prison facility to replace the outdated facilities at Cork Prison. While the project has not yet advanced to detailed design stage, it is intended that the capacity of the new prison would be in the region of 450 prisoners. The new prison will further enable the Service to provide the range of rehabilitation programmes for offenders befitting a modern prison service.

Modern regulatory regime for the prisons

In tandem with improving the physical accommodation we are also working hard to provide a prison regime which will challenge the offender to look at his/her behaviour and at the same time work to help them leave prison better equipped to reintegrate into their community in a positive way.

Prison Rules

It is self evident that the procedures and working practices which underpin work in the prison environment demand a modern regulatory basis. For that reason for the first time in 60 years we will have a new set of Prison Rules entering into force later this year. These new Rules take full account of international instruments, rulings of the European Court of Human Rights and best practice. They respect the rights of prisoners while taking account of the practicalities of running a prison and ensuring prisoners are kept in safe and secure custody.

Integrated Sentence Management

Fundamental to a twenty first century prison system - as envisaged in the Whitaker Report - is the drawing up of a personal development programme for prisoners. The introduction of Integrated Sentence Management (ISM), a new system for the management of each prisoner's sentence will deliver on this. ISM will involve a new orientation in the delivery of services to prisoners and a new emphasis on prisoners taking greater personal responsibility for their own development through active engagement with both specialist and non-specialist services in the prisons. This will create a prisoner-centred, multidisciplinary approach to working with prisoners with provision for initial assessment, goal setting and periodic review to measure progress.

In talking about this proactive approach to the management of a prisoner's time in

prison I am reminded of the words written by one prisoner in a submission to the National Economic and Social Forum during its consultation on its 2002 report on the 'Re-integration of Prisoners, namely, (and I quote) "*don't wait until we are near release or relapse to change us. Start at the beginning, make the change our own choice and it will become part of our psyche.*" Piloting of this process is already ongoing in two prisons and will soon be extended to other prisons. We have reinforced the need to work from day one with prisoners in the Programme for Government with the commitment that all prisoners will be offered developmental opportunities by means of fully staffed and resourced rehabilitation programmes.

Drugs in Society: implications for the prisons

The issue of demand for illicit drugs in our society is one that we must address with determination and in a partnership way. The Gardaí have devoted considerable resources to tackling gangland and drug related crime and will continue to mount targeted operations aimed at saving human life and lessening the misery that drugs bring to communities across the country.

The success of the Gardaí in combating these criminal gangs has resulted in the imprisonment of many gang leaders and this has led to increased inter-gang violence within the prison system. This is a feature of prison life today and one which the Whitaker group would not have seen to any significant extent in the 1980's.

Despite active security measures already taken by the Irish Prison Service, there are persistent and organised attempts to smuggle drugs, mobile phones and other illicit materials into our prisons. The presence and abuse of illegal drugs in prisons has been both instrumental in the growing number of violent incidents towards both staff and prisoners alike and a serious impediment to those seeking to overcome their addictions.

Comprehensively tackling the drug and criminal problem within the prisons is a key objective of mine and until such time as these issues are satisfactorily dealt with the integrity of the Prison Service continues to be undermined.

Some measures have already been taken to address these problems but the problem is serious and requires a dedicated and sustained response to ensure that it will be extremely difficult for any person to get illicit goods whether drugs, weapons, alcohol or mobile phones into a prison or to keep them hidden once inside.

It is my intention to extend measures already taken in the context of the Prison Drugs Strategy launched last year by the Irish Prison Service to make prisons drugs free. In that regard I recently announced that I had obtained Government approval for significant additional staffing resources to introduce a range of new security measures in our prisons. These measures include:

- the establishment of a drug detection dog unit within the Irish Prison Service which, when fully operational, will comprise 30 dogs and handlers;
- the establishment of an Operational Support Group dedicated to and developing expertise in all security related areas such as searching and gathering intelligence on illicit material being trafficked within our prisons; they will support and augment the efforts of normal prison staff and will target specific problem areas;

- the introduction of security screening (X-ray/metal detectors) for all persons (prisoners, visitors and staff) entering our prisons; and
- two special segregation units for suspected gang leaders in Cloverhill Prison.

In addition to this, the new Prison Rules, 2007 (to which I have already referred) will provide for mandatory drug testing and searching within prisons when they come into effect next October.

Inspector of Prisons / Appeal Tribunal

It is appropriate that I mention the fact that the appointment of an Inspector of Prisons was recommended by Dr Whitaker. As you will be aware the first such Inspector, Mr Justice Dermot Kinlen, passed away last week having held the post since 2002. His contribution to the debate on prisons issue was of considerable value over the years.

As many of you know he had a very deep and personal interest in the welfare of prisoners and his oft forthright comments raised awareness of the rights of prisoners and penal policy generally.

The enactment of the Prisons Act, 2007 earlier this year, in addition to placing the office of Inspector of Prisons on a statutory basis also provides prisoners with a statutorily independent means of appeal against any penalty imposed by a prison governor involving the loss of remission. Under this mechanism prisoners will have recourse to free legal aid. The Appeal Tribunal will come into operation on the 1st of October and represents a significant step forward in the context of prison grievance management.

Alternatives to custody / Restorative Justice approach

Hand in hand with these positive developments within the prison sphere we must also continue to view imprisonment as a sanction of last resort and continue to examine alternatives to such custody for both juveniles and adult offenders.

Probation Service

The Probation Service plays a significant role in working with offenders in the community. It is the lead agency in the assessment and management of offenders in the community. At any one time, the Probation Service is supervising and/or assessing up to 6,000 offenders in the community, including offenders subject to supervision orders from the courts and life sentence and other prisoners on temporary release. The Probation Service is now in the process of a significant re-organisation and has been allocated substantial additional resources to strengthen its role.

Irish Youth Justice Service

I firmly believe that we must strive to provide appropriate, targeted interventions at an early age in the life of the young person who is 'at risk' of offending. One of the areas highlighted in the Whitaker report was the use of detention for young people as a last resort. That philosophy underpins the Children Act. We have done much good

work in recent times with the establishment of the Irish Youth Justice Service; the implementation of the criminal justice provisions of the Children Act and the expansion of the Garda Youth Diversion Projects. As Minister for Children I was anxious to see a joined-up approach across the Government Departments and agencies to tackling the multi-faceted needs of this group of juveniles. We have put significant money into this area in recent years including providing additional resources, as already mentioned, to the Probation Service; additional judges for the Children Court and resourced the Irish Youth Justice Service to spearhead a co-ordinated approach to the needs of children under 18 years of age. Furthermore the transfer of the responsibility for the management of children detention school facilities from the Department of Education and Science to the Irish Youth Justice Service last March and the planned development of these schools will eventually cater for all children up to the age of 18 ordered to be detained by the courts. In the short to medium term, the schools will be developed to ensure an integrated service to children remanded and committed by the Courts. One important aspect of this change of direction is that it is intended that in the future all 16 and 17 year old boys will be committed to the care of the Children's Detention Schools rather than St. Patrick's Institution. As Minister for Justice I will continue to be fully supportive of the work of the Irish Youth Justice Service and others working in this area.

Restorative Justice

As many of you will be aware there is substantial interest in restorative justice as an alternative way of dealing with offenders. A Commission headed by Judge Mary Martin and which includes a contributor to this book – Mary Henry - was established by the Government earlier this year to examine the issue. The group has been tasked with considering how this approach to criminal justice might be adopted for application on a nationwide basis. The Commission is currently reflecting on the experience and effectiveness of pilot restorative justice projects in Nenagh and Tallaght and the impact of the restorative practices which have been adopted by the Gardaí in their Youth Diversion Programme. I expect the Commission will issue an interim report on its work by the end of this year and conclude its deliberations in late 2008.

In my address today I have sought to give you a 'flavour' of what is currently happening in our criminal justice and prison system. We are in the midst of a journey of transition, change and modernisation. It is by no means an easy journey but I am committed to bringing about change – change for the better. I will continue to work in partnership with the agencies of the criminal justice family and the many voluntary and community groups to see positive and lasting developments in our Prison Service over the coming years.

Thank you.