

**Response of the Irish Government
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 26 September to 5 October 1993**

The Irish Government has requested the publication of the CPT's report on the visit to Ireland from 26 September to 5 October 1993 (see CPT/Inf (95) 14) and of its response. The government's response is set out in this document.

Strasbourg/Dublin, 13 December 1995

PROGRESS REPORT TO CPT

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PART I

INTRODUCTION

- GENERAL RESPONSE OF IRISH GOVERNMENT TO CPT REPORT

INTRODUCTION

1. The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Ireland from 26 September 1993 to 5 October 1993 in pursuance of Article 7 of the relevant European Convention. The Committee's visit was a planned periodic one which had been notified to the Government in Autumn 1992 as part of the Committee's programme of periodic visits for 1993.
2. The Irish Government, consistent with its long-established commitment to human rights both nationally and internationally, was among the first countries to become a party to the Convention under which the Committee works. The Irish Government appreciated the spirit of openness and co-operation shown by the Committee during its visit. It is pleased to note that the Committee records that meetings with the then Minister for Justice, Mrs. Máire Geoghegan-Quinn, T.D., and the then Minister for Health, Mr. Brendan Howlin, T.D., and with officials, were conducted in a spirit of

full co-operation. The Government also notes that the Committee considers that it received a satisfactory reception at the establishments visited with two exceptions - the Garda Síochána Bridewell Station in Cork and the Garda Immigration Service at Shannon Airport. The Government regrets the delay and inconvenience caused to the Committee at these locations but understands that it is not unusual for the Committee to experience some such difficulties, particularly during its first visit to a country. It notes that in both cases the difficulties were quickly resolved. Despite the very comprehensive preparations made by the relevant authorities for the Committee's visit, it is clear that the Committee's standing and role were not properly understood at these locations.

3. This document is the Government's interim response in the form of a Progress Report on the Committee's findings.

General Response of Irish Government to CPT Report

4. The Government welcomes the Report as an independent and objective overview of the treatment accorded to persons held in custody in this country.
5. While there may be grounds for querying the evidential basis on which the Committee reached some of its conclusions - this point is discussed briefly at paragraph 9 below and is referred to, also, throughout this Progress Report - the Government does not

suggest that the Committee's Report stands in any way devalued on that account. It will, therefore, take full account of the comments offered by the CPT and proceed to address them.

6. Indications that persons in custody might be abused or open to the risk of abuse, or left without recourse to redress where abuse occurs, or is threatened, has to be a matter of grave concern to any Government. The Government wishes to stress that its firm policy is that abuse in any form will not be tolerated, that any perpetrators will be rooted out and, where possible, prosecuted and/or otherwise disciplined. Those in custody must at all times be provided with the means necessary to secure the protection of their safety and their rights. The Government would wish it to be recognised that the vast majority of personnel in the Garda and Prison services share the same abhorrence of abusive behaviour and the same determination to ensure that abuse does not occur. The Government wishes to draw attention, also, to the fact that various legal and other instruments, as well as administrative arrangements, necessary to foster respect for the rights of those in custody, have been put in place over the years. It fully acknowledges that these instruments and arrangements need to be kept constantly under review and strengthened where necessary.
7. Despite Government policy and the high professional standards of the vast majority of Gardaí and Prison Officers, it is a fact that, from time to time, the unacceptable behaviour of a small minority of personnel gives cause for serious concern. In some cases the evidence necessary to deal with the wrongdoers is available but in others

the lack of sufficient evidence presents a major obstacle to corrective action against the wrongdoer. The principal tragedy in this situation is that wrongdoing goes unpunished. Moreover, the person abused is left not only with a grave and understandable sense of injustice, but also with the suspicion that wrongdoing is considered acceptable by those in authority. But there is a further tragedy in the fact that the service stands tarnished on the basis of a small number of incidents in which justice has been denied.

8. The Government accepts that the occurrence of even a very small number of cases is totally unacceptable and leaves a Committee such as the CPT with no option but to express its worst fears.

9. The evidence on which the CPT may rely can, in certain instances, be open to question. An example is the situation where the evidence consists solely of allegations made by the party allegedly abused. Such allegations, particularly where there are physical signs consistent with the account given by the injured party, can very validly suggest the possibility that Gardaí or Prison Officers were at fault. This evidence, however, may fall well short of what would be required in order to charge any individual either with a criminal offence or with a breach of discipline. In this connection, the Government notes the Committee's own observations that it is... "not a Judicial Body"... and that it... "does not have the power to confront persons expressing opposing views or to take evidence under oath". It will be clear from this Progress Report that in confronting the alleged perpetrators of abuse, there is

invariably a conflict of evidence. In most cases there is an insufficient basis for concluding that disciplinary action against an identifiable individual is clearly warranted. Aware of this difficulty - which is of course faced by authorities in other jurisdictions also - the Government, as already indicated, fully acknowledges the need constantly to review the protection in place for those in custody.

10. It will be clear from the Progress Report that while there have been very worthwhile improvements on certain fronts, and that improvements are ongoing in many areas, there is room for more action on others. The Government is committed to meeting the concerns identified by the CPT. It will be glad, also, to facilitate any further first hand study of its custodial arrangements on which the CPT may wish to embark.

PART II

PROGRESS REPORT

ON THE FINDINGS OF THE CPT COMMITTEE

CHAPTER 1

Allegations of Physical Ill-Treatment of Persons in Police Custody

1. The Committee's Report at paragraphs 13 to 23 and 63 to 76 deals with allegations of physical ill-treatment of persons in police and prison custody. The Government wishes to deal with these matters at the beginning of this Progress Report. The remainder of the Progress Report follows the sequence of the summary of the Committee's recommendations, comments and requests for information contained in Appendix I of the CPT's Report.

Police Custody (Paragraphs 13-23 of the Report)

2. In this section of the Report, the CPT refers to speaking to many people about their experiences in Garda custody. A number of these people made allegations about

ill-treatment (slaps, punches and/or kicks). With one exception, none had any marks consistent with such abuse. However, the CPT points out that given the lapse of time between the alleged ill-treatment and the allegations made to them, any alleged injuries would have healed.

3. The one exception who showed signs of having been ill-treated was examined by two medical members of the CPT. He had signs of injury to head, face and torso. These were considered by the CPT as being consistent with allegations of being grasped, shaken and kicked while in Garda custody.
4. Furthermore, the CPT discovered a large number of non-standard issue weapons in the desk drawers and lockers of the Detective Unit in Finglas Garda Station. The CPT noted that substantial damages had been paid in 1992 to a person who had allegedly been kicked and struck repeatedly with a baton by Gardaí from Finglas Garda Station.
5. The CPT formed the view in the light of its study "that persons held in certain Garda stations - more particularly in Dublin - run a not inconsiderable risk of being physically ill-treated".

Government Comments (Ill-treatment - Police Custody)

6. The Government is very concerned at these findings. While recognising that the CPT, in its own words, "is not a judicial body" and "does not have the power to confront

persons expressing opposing views or to take evidence under oath", its findings must be and are being taken very seriously by the Government.

7. The problem is that much of the information available to the CPT, on which it based its conclusions, is not of its nature verifiable because of the absence of sufficient corroborative evidence. In one case, however, there was, according to the CPT, corroborative evidence in the form of injuries to head, face and torso and as soon as the case was brought to notice a detailed investigation was carried out on the instructions of the Garda Commissioner.
8. The person concerned (referred to in this Report as "Mr. B.K."), then a 20 year old, was arrested and questioned at a Dublin Garda station. He was released that evening and re-arrested later in connection with a separate offence. He made no complaint to Gardaí at any stage about his treatment while in custody. However, a Prison inmate, who has a family relationship with Mr. B.K., made a complaint to the CPT. Mr. B.K. himself told the Gardaí that he did not authorise anybody to make a complaint on his behalf.
9. Despite Mr. B.K.'s reluctance to make a complaint, the senior investigating officer (a Garda Superintendent) persisted in his questioning. His report indicates that there were a number of contradictions in the account given by Mr. B.K. First, he said that he had been assaulted by four plain clothes Gardaí. Subsequently he said it was two, then one. In fact, he named as the assailant a Garda who was off duty and not in the Garda station at all that evening. This can be verified from the duty roster of the

station. The Gardai say that Mr. B.K., when in the station, grabbed a scissors from a table and had to be restrained for fear of injuring himself. He did, apparently, suffer a minor wound. A doctor was called immediately to the station by the Gardai and he dressed the wound. Mr. B.K. made no complaint to the doctor of having been assaulted. He made it clear to his solicitor, also, that he did not wish to pursue any allegation of assault against the Gardai. He did, however, tell his solicitor that three red marks on his chest were a result of being mistreated at the Garda station. This allegation is strongly denied by the Gardai who were on duty that night.

10. This case illustrates very clearly the difficulty of discovering the full truth in certain cases. It seems clear that Mr. B.K. did suffer an injury. However, it cannot be established with any certainty that the injury took place in the Garda station, much less that an identifiable Garda was responsible for it. It may also be relevant to mention that later on the day of his visit to the Garda station for the purpose of the investigation, Mr. B.K. was visited by three criminals and was warned by them not to co-operate with the Gardai. He refuses to be drawn on the details of this visit.
11. There is a large body of Garda rules and regulations which seek to guarantee fairness and care for those in custody. These include the Treatment of Persons in Custody in Garda Siochána Stations Regulations, 1987. They place a statutory obligation on the "member in charge" of a Garda station to ensure that the provisions of the Regulations are enforced

12. The Government notes that the CPT acknowledges that a range of legal safeguards is available to persons detained in Garda stations. The Government also notes that the CPT considers that the comprehensive custody record, as provided for in those Regulations, can reinforce the fundamental safeguards granted to persons in police custody and that the CPT delegation observed that these records were completed diligently by members of the Garda Síochána.
13. There is an independent statutory body - the Garda Síochána Complaints Board - set up specifically to thoroughly and independently examine and adjudicate on any complaints of wrong-doing by members of the Garda Síochána. It may be helpful to indicate the general experience of the Board in relation to complaints made to them. The Board is of the opinion that complaints against Gardaí - and this reflects international experience also - are often made for unworthy motives and seldom stand up to careful and rigorous independent examination. Of the cases disposed of by the Garda Síochána Complaints Board in 1993, 63% were withdrawn or regarded as inadmissible. A further 29% of complaints were considered to be unfounded. Action was taken against members of the force in 8% of cases. A high proportion of these cases (i.e. the 8% in which action was deemed necessary) related to relatively minor infringements such as the use of abusive language, discourtesy etc. - that is not to suggest in any way that such behaviour is acceptable. Four involved physical ill-treatment. The Board's experience suggests that there is need for great care in forming judgements about general Garda behaviour on the basis of individual complaints even if combined with other evidence which may or may not be

corroborative of misbehaviour. This is true especially where the opportunity for challenging the allegations is not immediately available.

14. The CPT is clearly also aware of the need for care. Nevertheless, it has a duty to express its concerns, even if they represent what might be termed a "worst-case" scenario. In line with its general approach to the CPT Report, however, (see Par. 5, Part I) the Government's response is to take the views of the CPT fully on board and ensure that the safeguards in place are such that the Committee will not be disposed, again, to reach the conclusion it has on this occasion about the potential risks faced by persons in Garda custody.

15. The Garda Commissioner has already addressed the matters raised in the Committee's report at a conference of senior Garda management. Matters highlighted at that conference and subsequently in writing to Officers in charge of Divisions included, inter alia, the need for a more organised approach to ensuring that persons in custody are treated with dignity and that their rights are fully safeguarded. Specifically, the Commissioner has arranged for
 - More frequent monitoring of the performance of supervisory members responsible for the care of persons in custody,

 - Regular reports on special inspections of accommodation for detainees to be made to the Commissioner, and

Greater emphasis to be placed during in-service training courses on the need for proper treatment of persons in custody.

Responses to Specific CPT Recommendations (Police Custody)

- Recommendation** (a) "appropriate steps to be taken to ensure,
- (i) that any weapons held on police premises as pieces of evidence are properly labelled and held in a secure and centralised location, and
 - (ii) that no other non standard-issue weapons are held on police premises (paragraph 18);"

The Garda Commissioner has directed all Divisional Officers to ensure that any property (including weapons) which comes into the possession of Gardaí is properly recorded, labelled and stored.

Each Divisional Officer has also been directed to ensure that personal Garda property, other than that required for duty, is to be excluded from stations.

Supervising members of the Force have been directed to inspect all areas and locations in stations regularly to ensure compliance.

Recommendation (b) "senior police officers to deliver to their subordinates the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions (paragraph 22)."
(Police Custody)

All the issues raised in the Committee's Report relevant to policing were the subject of a special address by the Garda Commissioner at a conference with Chief Superintendents in November 1994. Matters highlighted at that conference, and subsequently in writing to Officers in charge of Divisions, included the need for an active approach to ensuring that persons in custody are treated with dignity and their rights safeguarded. Other specific measures have been taken by the Garda Commissioner as already outlined.

Responses to Requests for Information

Request (a) "the findings of the Garda Síochána Complaints (Police Custody) Board investigation into the case referred to in paragraph 19, together with details of the number of cases in 1991, 1992 and 1993 in which out-of-court settlements have been made on grounds of alleged assault by the police (paragraph 19);"
(Police Custody)

The case referred to is still being dealt with by the Garda Síochána Complaints Board under the Garda Síochána (Complaints) Act, 1986 and, as such, is effectively sub judice. The Complaints Board is independent in the exercise of its functions and the Minister for Justice

may not interfere with the progress of the case. It should be mentioned that the case is also before the High Court arising from a legal challenge by the Garda Representative Association to the method of investigating the complaint.

Details of the number of cases in 1991, 1992 and 1993 in which civil proceedings were taken against Gardaí on grounds of alleged assault or other wrongful behaviour, and the outcome of the proceedings, are set out in the following tables:

TABLE 1

CIVIL PROCEEDINGS ARISING OUT OF COMPLAINTS OF ILL-TREATMENT FOR YEAR 1991

ATURE F ILL REATMENT	TOTAL NOT PURSUED	CIVIL PROCEEDINGS				DISCIPLINARY ACTION						
		PENDING	SETTLED	CASE DISMISSED	AWARD	CRIM. INV.	CRIM. PROS.	CRIM. CONV.	N.I.B.	CAUTIONED ADVISED ETC.	MONETARY PENALTY	MEMBERS DISMISS.
ASSAULT	16	6	1	3	1	1	1	-	-	-	-	-
WRONGFUL ARREST	6	3	-	-	-	-	-	-	-	-	-	1 PENDING
WRONGFUL SEARCH	1	-	-	1	-	-	-	-	-	-	-	-
MANNER OF SEARCH	2	2	-	-	-	-	-	-	-	-	-	-
ABUSIVE BEHAVIOUR	-	-	-	-	-	-	-	-	-	-	-	-

Note:
 Crim. Inv. = Criminal Investigation
 Crim. Pros. = Criminal Prosecution
 Crim. Conv. = Criminal Conviction
 N.I.B. = Not in Breach.

TABLE 2

CIVIL PROCEEDINGS ARISING OUT OF COMPLAINTS OF ILL-TREATMENT FOR YEAR 1992

ATURE F ILL REATMENT	TOTAL PURSUED	NOT PURSUED	PENDING	SETTLED	CIVIL PROCEEDINGS					DISCIPLINARY ACTION			
					CASE DISMISSED	AWARD	CRIM. INV.	CRIM. CRIM. PROS. CONV.	CAUTIONED ADVISED ETC.	MONETARY PENALTY	MEMBERS DISMISS		
ASSAULT	13	7	5	0	0	1	-	-	-	-	-	-	-
WRONGFUL ARREST	15	8	6	0	1	0	-	-	-	-	-	-	-
WRONGFUL SEARCH	1	1	-	-	-	-	-	-	-	-	-	-	-
MANNER OF SEARCH	2	1	0	1	-	-	-	-	-	-	-	-	-
ABUSIVE BEHAVIOUR	0	-	-	-	-	-	-	-	-	-	-	-	-

Note:
 Crim. Inv. = Criminal Investigation
 Crim. Pros. = Criminal Prosecution
 Crim. Conv. = Criminal Conviction
 N.I.B. = Not in Breach.

TABLE 3

CIVIL PROCEEDINGS ARISING OUT OF COMPLAINTS OF ILL-TREATMENT FOR YEAR 1993

ATURE F ILL REATMENT	TOTAL PURSUED	NOT PENDING	CIVIL PROCEEDINGS							DISCIPLINARY ACTION		
			SETTLED	CASE DISMISSED	AWARD	CRIM. INV.	CRIM. CONV.	CAUTIONED ADVISED ETC.	MONETARY PENALTY	MEMBERS DISMISS		
ASSAULT	13	3	10	0	0	1	1	1	0	0	0	1
WRONGFUL ARREST	12	3	9	-	-	-	-	-	-	-	-	-
WRONGFUL SEARCH	2	1	1	-	-	-	-	-	-	-	-	-
MANNER OF SEARCH	4	0	3	1	-	-	-	-	-	-	-	-
ABUSIVE BEHAVIOUR	1	0	1	-	-	-	-	-	-	-	-	-

Note: Crim. Inv. = Criminal Investigation
 Crim. Pros. = Criminal Prosecution
 Crim. Conv. = Criminal Conviction
 N.I.B. = Not in Breach.

Request (b) "whether ongoing programmes of education and professional training on (Police Custody) human rights questions exist at all levels of the law enforcement hierarchy (paragraph 22);"

Education on human rights is provided as an integral part of the training course provided for trainee Gardaí and as part of in-service courses at the Garda College. This training and education includes lectures on the relevant Constitutional and legislative provisions including the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987. A 30-session Police Ethics Course has been introduced recently, as acknowledged by the CPT. Lectures are up-dated on an on-going basis to take account of constitutional, legislative and procedural developments.

Police ethics are also included in training courses. In addition, a booklet entitled "Professional and Ethical Standards for An Garda Síochána" was distributed to all members of the Garda Síochána in 1993. The Booklet emphasises that the powers to deprive citizens of their liberty impose a grave responsibility on members of the Garda Síochána. It enunciates the moral principles which should guide the exercise of these powers.

Treatment of persons in custody regulations were among the topics covered in the care programme for In-Service Schools during 1992/93. Quality of service, including matters of general behaviour and standards, was part of the 1993/94 programme. Additionally, care of prisoners has been included as part of promotion courses for Inspectors and Sergeants.

Request (c) "for 1991 to 1993:

(Police Custody)

- . **The number of complaints of ill-treatment by the police lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**

- . **An account of the disciplinary/criminal sanctions imposed on the grounds of ill treatment by the police (paragraph 23);"**

The Garda Complaints Board state that the breach of discipline which most closely approximates to the term "ill-treatment" is "abuse of authority" which is defined in the 1986 Act as follows -

"oppressive conduct towards a member of the public including -

- (a) without good and sufficient cause, making an arrest, or

- (b) using unnecessary violence towards any person with whom the member is brought into contact in the execution, or purported execution, of his duty.

The Board states that the numbers of admissible complaints made in each of the years 1991, 1992 and 1993 which included allegations of 'abuse of authority' were as follows:

Year	No.
1991	184
1992	191
1993	<u>391</u>
Total	766

Of these a total of 695 complaints have been finalised to date. The numbers which resulted in criminal or disciplinary proceedings alleging abuse of authority or equivalent criminal offences in each year were as follows:

Criminal Disciplinary (formal and informal combined)

	Proceedings taken	Sanctions imposed by Tribunal	Referred to authorities/ Tribunal	Sanctions imposed
1991	0	0	12	9
1992	1	0	10	7
1993	0	0	11	5
Totals	1	0	33	21

The disciplinary sanctions imposed ranged from informal advice, admonition or warning through to reduction in pay amounting in some cases to four weeks' remuneration. The more serious cases tend to take a long time to process and are frequently held up by challenges in the High Court by the accused member.

Safeguards against ill-treatment

Recommendation (a) (Safeguards) **"the possibility to be explored of providing arrested persons with the right to have a lawyer present during interrogations (paragraph 43);"**

The Government will give careful consideration to this CPT recommendation. It will, of necessity, require detailed consultations with a number of interests including the Law Society. The consultations will begin shortly.

Recommendation (b) (Safeguards) **"detained persons to be expressly informed of their right to request a medical examination by a doctor, including one of their own choice (paragraph 48);"**

The Government accepts the CPT's recommendation. It will be implemented administratively in the first instance and will be included in the next review of the 1987 Regulations.

Recommendation (c) **"steps to be taken to ensure that persons in police custody are**
(Safeguards) **informed of their rights in a language which they understand and**
that the form setting out those rights is available in a variety of
languages (paragraph (49));"

The Garda Commissioner is providing for the "information for persons in custody" form to be available in a selection of languages in all Garda stations.

Recommendation (d) **"means to be explored of enhancing the supervision by senior**
(Safeguards) **officers of the work of Garda Siochána "members in charge"**
(paragraph 56);"

The Garda Commissioner has directed Divisional Officer in writing -

- (i) to draw the attention of all members in their Division to the importance of adhering strictly to the provisions of the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda stations) Regulations, 1987 and to the Garda Code of Ethics relating to the detention of prisoners;
- (ii) to draw particular attention to the role and responsibilities of supervisors and "Members in charge" in relations to the care of persons in custody;
- (iii) to monitor and supervise closely the performance of all members, especially members in charge, in relation to prisoner care, and

(iv) to carry out inspections on a formal and informal basis to ensure that standards are being met:

Recommendation (e) "the possibility to be explored of introducing a system of (Safeguards) independent inspection of police establishments (paragraph 57);"

The Government accepts the suggestion from the CPT that the possibility of introducing an independent system of inspection of Garda stations be explored. The examination has commenced.

CHAPTER 2

ALLEGATIONS OF PHYSICAL ILL-TREATMENT OF PERSONS IN PRISON CUSTODY

Preliminary Comments (Prison Custody)

1. The Report at paragraphs 63 to 76 deals with allegations of physical ill-treatment of persons in prison custody. The Government, as a preliminary comment, wish to make it clear that it does not, and will not, condone the physical or other ill-treatment of any person in State custody and will take whatever measures are required to prevent such ill-treatment. Its commitment to meeting its obligations in this regard under a range of international instruments is complete and without reservation.
2. The Government's approach to the management of offenders is reflected in a major policy document "The Management of Offenders - A Five Year Plan" which was in course of preparation throughout 1993 - when the CPT visited this country - and which was published by the Minister for Justice in June, 1994. A copy has already been sent to the CPT. Of particular relevance to the Report is the inclusion in the policy document of draft new Prison Rules (based largely on the European Prison Rules) and a draft Code of Discipline for staff.

3. The Government, again by way of preliminary comment in relation to Prisons, wishes to draw attention at the outset to some positive factors -
- (a) there is a clear and unambiguous acknowledgement within the prison system of firm official policy on the non-acceptability of ill-treatment of those in custody;
 - (b) there is clear and unambiguous commitment on the part of prison managements to the treatment of prisoners with care, justice, dignity and respect;
 - (c) the general quality of custodial staff is high by any standards. They are employed only following selection through interview competition by the independent State recruitment agency, the Civil Service Commission. Interviews include an element of psychological assessment.
 - (d) there are independent Visiting Committees appointed to each institution under the Prisons (Visiting Committee) Act, 1925 who act as public watchdogs of the operation of prisons and as guardians of prisoner rights;
 - (e) within the prison system there is a range of non-custodial personnel including doctors, psychiatrists, chaplains, welfare staff, teachers and community volunteers who are in constant contact with prisoners and remain fully aware of the concerns and stresses which they face;

(f) all prisoners have the freedom to raise their concerns with local managements, the central administration, Visiting Committees, the police (Garda Síochána), the domestic Courts, the European Court of Justice and, of course, other international bodies such as the CPT.

4. It is, however, the case that the Irish Prison System, like every prison system, has to enforce Court orders for detention. In certain circumstances physical restraint may be necessary to ensure compliance with Court orders. Prisons must hold in custody, against their will, persons committed to custody in accordance with law and staff are duty-bound to maintain custody and control, by force if necessary. Tradition, experience and training in personnel management ensures that, for the most part, force is unnecessary and is the exception rather than the rule. If, as a last resort and in exceptional circumstances, force becomes necessary staff are obliged to use it, but only to the minimum extent necessary to achieve the particular objective in hand. The vast majority of staff can be relied upon to follow this precept but it would be naive to suggest that out of a total of about 2,500 officers there are none whose reliability in this regard is above suspicion.
5. Where force is used it is almost inevitable that some prisoners will complain of abuse. Invariably staff counter with an allegation of misconduct or disobedience on the part of the prisoner. The adjudication of these allegations presents any prison management or administration with, perhaps, its single most difficult operational task - attempting to establish, on the balance of probabilities, the rights and wrongs of a particular confrontational incident. They must, of course, establish the truth to the best of their ability to ensure that

prisoners who may have been ill-treated have redress. However, they must also have regard to the requirement to avoid unjustified damage to the good name, reputation and professional integrity of custodial staff (for whom the consequences of using excessive force could be dismissal and disgrace). Managements must also bear in mind that while the Courts (by means, for example, of Judicial Review) will defend and vindicate the rights of prisoners, they will also defend and vindicate the rights of staff to their good name and livelihood. It is not open to any prison management or the central administration to take action against an alleged perpetrator of ill-treatment without establishing, on the basis of solid evidence, that there is guilt. If substantive evidence of ill-treatment by an officer is available severe disciplinary action is taken.

6. It is with these considerations in mind that the Government addresses the statements made in the CPT Report. To avoid any possible misinterpretation, the Government acknowledges, first, the constraints under which the CPT must operate, the difficulties they face in trying to establish in a short time what may be happening in the institutions they visit and the solemn duty which the CPT have to draw attention to all matters which give them cause for concern. The Government proposes to deal with the contents of the Report, in relation to prisons, institution by institution, with all of the above considerations in mind.

Specific CPT comment (followed in each instance by Government's Comments)

Mountjoy Prison

"A number of inmates at Mountjoy Prison alleged that they had been physically ill-treated (punched and/or kicked) by staff at that establishment. An examination of the prison's disciplinary records showed that the prison officers said to have been involved had, in turn, complained that they had been assaulted by those inmates. Nevertheless, in the context of the disciplinary proceedings against prisoners which followed, it was not uncommon to find that the Governor grade staff who had conducted the adjudications had decided to impose only nominal penalties (e.g. loss of evening recreation) on the prisoners concerned" [paragraph 63].

"It should also be said that the existence of ill-treatment of prisoners by prison staff at Mountjoy..... was openly acknowledged by some of the senior staff in [that] establishment with whom the delegation spoke. At Mountjoy Prison, the Governor told the delegation that there were some prison officers in the establishment whose services he would prefer not to retain; however, he advanced that he had no effective control in matters of staff discipline and that, as a result, he had been unable to dispense with their services....."
[paragraph 65].

"From all of its on-site observations, the delegation was satisfied that the great majority of prison officers were attempting to deal in a humane manner with prisoners in their charge.....However, the information at the Committee's disposal indicates that, in at least some prisons in Ireland, and, in particular, in Mountjoy [Prison].....there are certain officers who have a propensity to ill-treat prisoners" [paragraph 71].

7. While the foregoing statements are based on allegations by prisoners supported by circumstantial evidence and remarks by senior staff and are insufficient to substantiate charges against any individual, the Government is nevertheless seriously concerned that there are individual prison officers whose attitude towards prisoners is the subject of suspicion by prison management. This has been the subject of discussions with the Governor of Mountjoy Prison, and the Government can confirm that specific arrangements have been made to ensure that the officers in question are closely supervised in the exercise of their duties. If any actual evidence - as distinct from suspicion - becomes available suggesting the need for disciplinary action, the Government will not hesitate to act.

8. It is important also that the following points be made:-
 - (i) It is the policy of management in Mountjoy Prison not to impose stiff or harsh penalties on any prisoners (less than 20 out of a population of around 600 are deprived of privileges on any one day). It would, therefore, be unsafe to conclude that the imposition of "nominal" penalties on prisoners who alleged ill-treatment signalled an acknowledgement that ill-treatment had taken place.

- (ii) Senior staff are expected to exercise close supervision of staff whose attitude towards prisoners may appear to fall short of the high standards demanded of custodial staff and to do everything within their power to counteract their influence. They monitor the individuals concerned very closely. In the absence of clear evidence of wrongdoing, however, disciplinary action against such staff cannot be taken. Transfers to other institutions, which may be affected in the interests of the Prison Service as a whole, are not a solution since it would merely transfer a possible problem to someone else.
- (iii) The power to dismiss staff rests with the Minister for Justice, in the case of probationers, and with the Government, in the case of staff who have successfully completed probation. The power to dismiss may be exercised only on the basis of clear evidence justifying its exercise. Ministerial/Government decisions to dismiss are reviewable by the Courts which will insist on due process and sustainable evidence justifying such action in all cases.

Limerick Prison

"Further, certain inmates at Limerick Prison alleged that they had been roughly treated by prison officers at that establishment. The most serious allegation of ill-treatment heard by the delegation related to an incident said to have occurred

there in the first half of 1992. The inmate in question, whom the delegation met at Mountjoy Prison, alleged that on 9 April 1992, he was punched, kicked and thrown down two flights of stairs by a group of prison officers at Limerick Prison. In the course of the delegation's visit to Limerick Prison, the Governor confirmed that this incident had indeed taken place. He added that when one of his senior officers attempted to intervene to protect the prisoner concerned, he too had been assaulted by staff.

The CPT understands that the Garda Síochána were asked to investigate this incident and that a confidential report had been submitted to the Minister for Justice. In this respect, the Committee has taken note of a statement made by the Minister for Justice on 21 May 1993 before the Dáil Select Committee on Legislation and Security to the effect that:

"I regret that a commitment to confidentiality was given...If I could be assured from the legal advice available to me, and I haven't yet been assured, that I could proceed with action in relation to what happened at Limerick Prison, without having to release the confidential report, then I would have no hesitation in proceeding with disciplinary action".

"The CPT wishes to receive a copy of the Garda Síochána report on the incident which took place in Limerick Prison on 9 April 1992 and to be informed of any disciplinary action which may subsequently have been taken against the prison officers alleged to have been involved in that incident" [paragraph 64].

"It should also be said that the existence of ill-treatment of prisoners by prison staff at.....Limerick Prison [s] was openly acknowledged by some of the senior staff in [that] establishment[s] with whom the delegation spoke.

.....At Limerick Prison, the Governor said that, in some cases, no action had been taken in over two years on his recommendations to the Ministry of Justice that disciplinary measures be taken against certain prison officers. He believed that, in consequence, a "hard-core" of basic grade officers who had resorted to ill-treatment of prisoners had come to feel that they were "invincible and immune to any instruction" from management" [paragraph 65].

".....the information at the Committee's disposal indicates that, in at least some prisons in Ireland, and, in particular, in Limerick Prison [s], there are certain officers who have a propensity to ill-treat prisoners" [paragraph 71].

9. The incident in Limerick Prison on 9 April, 1992 appears to have had its origins in an incident which occurred on Sunday 5 April, 1992. During this incident an Assistant Chief Officer's jaw was broken by a blow from a prisoner [apparently by the inmate whom the delegation met at Mountjoy Prison and who is also referred to later in relation to Portlaoise Prison]. Tension was high in the prison for the next few days and eventually exploded in a melee which led to the complaint to the Committee. These events were considered by the Minister for Justice to be such as to warrant an on-the-spot investigation by a senior officer in the Prisons Division of the Department of Justice and an officer was sent at once to Limerick Prison to establish what happened and report back to the Minister.

10. The officer commenced his investigation on the evening of 10 April, 1992 and completed it in 12 days. The difficulty of getting full information when conducting enquiries of this kind is considerable and, in order to ensure that he was given a complete account of what took place, the investigating officer promised each person interviewed (both staff and prisoners) that what was said would be treated in confidence. On completion of the investigation the investigating officer made a confidential report to the Minister to which was annexed notes of the confidential interviews he had conducted.

11. This guarantee of confidentiality was critical in relation to the conduct of subsequent disciplinary proceedings. Based on the conclusions in the investigating officer's report, disciplinary proceedings were initiated against a number of officers - a response was sought to a letter which outlined accusations made against them. In each case a reply was received from a solicitor acting for the officers requesting a copy of the report which had been made to the Minister and on which, obviously, the Minister was acting. Because of the confidential status of the report, and the promise of confidentiality which had been made by the investigating officer, there was a reluctance to release the report and legal advice was sought by the Minister as to whether its release could be avoided. The legal advice was that there was no alternative to releasing the report if it were decided to pursue the allegations, and that if the matter were raised in the High Court by way of Judicial Review it was certain that the Court would order release of the report. In order to avoid a breach of trust and possible adverse consequences for future enquiries which release of the report would entail, it was decided to withhold the report, accepting that this would mean allowing the disciplinary proceedings to lapse with the consequence that a number of probable wrongdoers would go

unpunished. It was a difficult decision to take given the administration's policy of invariably bringing likely wrongdoers to account for the serious act of physically ill-treating prisoners but, nevertheless, for the reasons already given, it was deemed unavoidable.

12. It is assumed that it is this confidential report to which the CPT refers in paragraph 64 - the quotation of the Minister's statement to the Dáil Select Committee on Legislation and Security is in relation to it. The need to preserve confidentiality and to avoid a breach of trust by withholding publication remains and a copy of the report is, therefore, being sent to the CPT for its own confidential information and on the understanding that it will not form part of any published material.
13. It is obviously legitimate to question the decision to guarantee the confidentiality of statements made in this instance. The guarantee was given for an entirely proper reason i.e. it was evident to the investigating office that this was the only way of discovering the truth. The consequences of that decision, unfortunately, were not foreseen i.e. that, in effect, it meant that no disciplinary action could be taken on foot of the statements made. In the light of the legal advice subsequently received in this case, it has been decided that it will no longer be the prerogative of any officer investigating a prison incident to make a decision of this kind.
14. Side by side with the question of possible disciplinary action, there was, in this case, a question whether a criminal offence or offences had been committed for which sufficient evidence might be available to justify a criminal prosecution against staff. The police authorities (Garda Síochána) were, therefore, requested to carry out a separate criminal

investigation. This investigation took place and the Garda Síochána submitted a file to the Director of Public Prosecutions. It is understood that the Director (who is independent of the Executive in carrying out his functions) decided that there should not be any prosecution.

15. The Government's acknowledgement of probable wrongdoing by some staff in Limerick Prison is reflected in the Government's acceptance of the CPT's recommendations (see paragraphs 45 to 50 of this Response).

16. The Government wishes also to point out that difficult management/staff relations in Limerick Prison, which pre-dated the events in Limerick Prison in April, 1992, may have had a bearing on those events. These difficulties are the subject of active consideration and dialogue with the relevant parties at this time. The Government acknowledges, nevertheless, the serious nature of the incident, which was probably instigated by a small number of officers, and, regardless of the background, that the incident was inexcusable.

Cork Prison

"The delegation heard fewer allegations of ill-treatment of inmates by staff in Cork Prison.

A small number of allegations were heard that prisoners had been physically ill-treated in, or on transfer to, D Unit in that establishment. In this respect, the delegation was not convinced that the procedures adopted by prison officers to

transfer inmates to D Unit were such as to minimise the risk of injury to prisoners (cf paragraph 75).

Further, a number of allegations were heard that prisoners on landing C3 at Cork Prison (which housed inmates who were segregated from the main prison population for their own protection) were frequently subjected to abusive language by staff' [paragraph 66].

17. The D Unit is a nine-cell unit which is part of the main prison structure. It is used to hold prisoners who are particularly disruptive or unruly. Such prisoners may be transferred from within Cork Prison itself or, indeed, from other prisons which, because of high numbers or lack of facilities, are unable to cope with them. Very often these prisoners have a history of prominent involvement in prison disturbances.
18. Given the calibre of the prisoners involved it is unfortunately the case that, at times, the use of force may become necessary to ensure control (see paragraph 4 of this Chapter). It is readily admitted that force has been used from time to time in dealing with these prisoners but the Governor of the prison is satisfied that the **minimum** force necessary in individual cases is used and, where it is necessary to employ force, it is supervised by a ranking officer. Incidental injury to prisoners cannot always be avoided in such situations, but the Governor has stated that there is no record of any prisoner requiring medical attention in the aftermath of forced transfer to the D Unit.

19. Most of the prisoners who are on C3 landing of Cork Prison for their own protection are serving sentences for sex-related offences. In common with experience in other jurisdictions, there is in Ireland a tendency on the part of prisoners to isolate and attack prisoners who are sex offenders. That is the only reason for their segregation - in other words it is for their protection and is not a punitive measure. The Governor has reported that he has had no complaints from any of these prisoners of staff abuse and he is not aware of complaints made by them to any other domestic body. There is real doubt as to whether the allegations made to the CPT concerning these prisoners are soundly based. The Government agrees that there is always room for improvement in practices relating to the use of force and that training in better control and restraint procedures would be beneficial. It will deal with this question later (paragraphs 45 to 50).

St. Patrick's Institution

"The delegation heard no allegations of physical ill-treatment of young offenders by staff in St. Patrick's Institution and found no other evidence of the existence of such ill-treatment. That said, a few inmates alleged that, on occasion, prison officers had treated them rather roughly" [paragraph 67].

20. The statements in this paragraph present a difficulty. If there were no allegations of ill-treatment, the question arises as to the need to refer to the matter at all. The reference may raise a question as to whether the delegation was altogether convinced that prisoners at the institution had not been ill-treated. This could be reinforced by the statement that no "other"

evidence of ill-treatment was found. It would be unfortunate if this created the impression that the CPT delegation were suspicious that there was ill-treatment even though they could not come up with anything to support it. The CPT will no doubt take the opportunity of clarifying their comments in this regard.

21. The Government is at a disadvantage in commenting on the reference to allegations of prisoners being treated "roughly". There is no explanation as to what it means, how it may be distinguished from "ill-treatment", or how evidence of its existence might be secured.

Wheatfield Place of Detention

"Reference should also be made to the fact that in the course of its visit to Mountjoy Prison, the delegation heard allegations that a prisoner in Wheatfield Place of Detention in Dublin had recently been ill-treated by prison officers in that establishment's Segregation Unit. A sub-group of the delegation went to Wheatfield Place of Detention in order to interview the inmate concerned and to examine certain of the establishment's records.

The prisoner in question alleged that, on the evening of 20 September 1993, when he had refused to move from the Segregation Unit (where he had been staying voluntarily) to another area of the prison, he was attacked by six prison officers, who kicked him on the head and body while he was lying on the floor.

He stated that he was then forcibly stripped and placed in the padded cell in the Segregation Unit until the following day.

The prisoner's medical file showed that he was seen by a doctor for the first time on 22 September 1993. The doctor who carried out that examination had recorded the inmate's allegation that he had been assaulted by prison officers, and his medical findings - "periorbital ecchymoses, infraorbital nerve intact, tender on palpation of occipital protuberance" - showed that the prisoner had sustained injuries.

By contrast, the record of the prisoner's transfer to the padded cell, which had been completed by prison officers in the Segregation Unit, made no reference to injuries of any kind. Further, although that record stated that the reason for the transfer was an "assault on staff" by the inmate, the delegation could find no trace of any disciplinary action taken against the prisoner as a result" [paragraph 68].

"The delegation informed the Governor of Wheatfield Place of Detention of these findings and asked him to investigate the incident and to provide the CPT with a report on any action taken by him. His report was forwarded to the Committee by the Government's Liaison Officer on 24 January 1994. It addresses both the inconsistency between the prisoner's medical record and the record for the padded cell and the lack of any disciplinary action taken against an inmate who, according to staff, had assaulted them.

In respect of the prisoner's injuries the Governor concluded: "I cannot say with any certainty that these injuries were inflicted deliberately or whether they were sustained in the course of restraining and removing him. What I can say, and have said publicly to the staff of Wheatfield and of other prisons where I have served as Governor, is that I will never tolerate the mistreatment of offenders in our care".

As regards the absence of a disciplinary report concerning the inmate, the Governor stated in his report that he was told by staff that a prison officer had prepared a disciplinary report on 20 September 1993, but had apparently left it in his locker "until his memory was refreshed when the investigation was launched". The Governor added that he is unhappy with that officer's handling of the disciplinary report and found it difficult to accept this explanation. In consequence, he had decided not to take any further action against the prisoner concerned" [paragraph 69].

22. The Government considers that, for the sake of a balanced assessment of this allegation, certain other significant parts of the Governor's report of the incident which was forwarded to the CPT should be referred to.
23. The Governor's report commences by stating that the prisoner was transferred to Wheatfield on 15 September, 1993 and was assigned to a cell on Bedroom Unit 1G. He refused to go and requested instead to go to the Segregation Unit. His request was granted. He told a

senior officer that he would prefer a bed on Units 7, 8, 9 or 10G and the senior officer agreed to transfer him there when a suitable vacancy arose.

24. On the evening of 20 September a cell in the Segregation Unit was required for another prisoner and a senior officer was instructed to transfer the prisoner to a cell on Unit 9G. The senior officer reported at 7.45 pm approximately that the prisoner had refused to transfer to Unit 9G, had run away from staff down the corridor and threatened the officer and other staff with violence, stating that he was HIV [positive] and would bite them. The senior officer also reported that the prisoner had, in fact, become violent and had to be forcibly restrained and placed in the padded cell because of his violent and agitated state.
25. The prisoner saw the prison doctor at his own request on 22 September, 1993. The medical record shows that he had bruising around his right eye and a tender area on the back of his skull. No treatment was deemed necessary by the doctor. The prisoner was seen again by the doctor on 30 September by which time, the records show, the bruising over the right eye had almost completely subsided and his skull was no longer tender. Again no treatment was deemed necessary by the doctor.
26. The prisoner's version of events differs from that of the staff. He alleged that he was asked to move to Unit 1G (rather than 9G as stated by staff). When he refused he was "grabbed by a number of staff and was kicked all around the head and the stomach and the back of the head". He was then forcibly placed in a padded cell and stripped. He had asked to see a medical orderly but none came. On the following morning he was visited by an Assistant Governor, two other senior officers and a chaplain and he said he told them that he was

assaulted by prison officers the previous night. He added that he had not put down his name to see the doctor on 21 September because he had omitted to put down his name before he left the padded cell (i.e. in time to see the doctor on his visit). He said he had asked to see the doctor that afternoon but in the meantime had a visit from his solicitor and by the time the visit was over the doctor had left the institution. He did, however, see the doctor on 22 September.

27. The Governor says that an examination of the prison records indicates that there was no vacancy on Unit 1G on the night of 20 September. Other records and evidence suggest that the prisoner was offered transfer to 9G and not 1G.
28. The persons whom the prisoner states visited him in the padded cell on the morning of 21 September were interviewed by the Governor. The Assistant Governor and two senior officers say that the prisoner did not, in fact, make any complaints and they did not observe any injury. The chaplain, however, said that the prisoner did tell her that "he had been assaulted by staff the previous night". The chaplain did notice "a slight bruise over his right eye but said it was of such a minor nature that she was not convinced that a serious assault took place". The Governor makes the comment that the prisoner would not have been moved in with the general prisoner population if the Assistant Governor had observed injuries of the kind alleged by the prisoner.
29. There is no doubt about the fact that the prisoner in this instance sustained injury. The prisoner's injuries were not of a serious kind, as borne out by the medical records, and were not inconsistent with what might have been incurred in an authorised forcible removal to a

cell. The injuries are not, however, consistent with the prisoner's allegation that "he was kicked all around the head and the stomach and the back of the head".

30. The Government refers again to the extreme difficulty of deciding in cases of this kind whether, on the balance of probabilities, there was an excessive use of force. The use of force became necessary because the prisoner refused to obey a reasonable instruction. The injuries actually sustained by the prisoner - and it is not disputed that there were injuries - were inconsistent with his description of how he was treated, did not require medical treatment and could not reasonably be said to be consistent with an allegation of excessive use of force or ill-treatment.

Portlaoise Prison

"It should be added that the particular prisoner to whom reference was made in paragraph 64 [the prisoner in Limerick Prison who complained of ill-treatment] also alleged that, on 18 September 1993, he was attacked by a number of prison officers in Portlaoise Prison. He claimed that he had been walking with the aid of a crutch and was asked to move more quickly by prison officers. When he was unable to do so, the officers present allegedly responded by punching and kicking him. On examination by one of the delegation's doctors the inmate was found to display marks on his back consistent with his allegation" [paragraph 70].

31. The Governor of Portlaoise Prison was asked to comment on this allegation. In his comments he stated that reports submitted at the time by a Chief Officer and three Assistant Chief Officers suggest a different sequence of events. An Assistant Chief Officer, who was supervising the final lock-up of prisoners on the evening of 18 September 1993, says that all prisoners complied with the normal procedures except the one referred to who remained on the landing. He was approached by the Assistant Chief Officer and asked to go to his cell but ignored the request. A second request still brought no response from the prisoner. The Assistant Chief Officer then called for the assistance of a prison officer and both together escorted the prisoner to his cell. The prisoner then began uttering abuse and when he neared his cell door raised a walking crutch and attempted to strike a third officer who had then joined to assist in the lock-up.
32. At this stage the Assistant Chief Officer took away the crutch and the prisoner was then lifted bodily and placed in the doorway of his cell. He reacted violently and approached the officers threateningly. He struck one officer violently in the face. That officer sustained a fairly serious facial injury necessitating eleven days sick leave for recovery, the loss of a tooth and damage to an upper denture. Another officer sustained a shoulder injury which kept him off duty the following day. The prisoner became so violent that he had to be removed to the segregation unit.
33. On the following day (Sunday) the prisoner requested medical attention. As there was no doctor on duty, the Deputy Governor arranged for his removal to the local General Hospital for examination where results proved negative. On Monday the prisoner was offered a visit to the prison doctor but refused.

34. In the course of the subsequent investigation by the Deputy Governor of a charge of indiscipline against the prisoner, it was alleged that the prisoner was intoxicated at the time of the incident. In fact a quantity of home made alcoholic "brew" had been found in his cell. The prisoner admitted to possessing it. The prisoner also said he could not remember the incident, adding "I'm on valium and it slows you down".
35. The prisoner made allegations of assault and in view of this and the fact that an officer had sustained serious injuries, the Deputy Governor subsequently asked the Garda authorities to investigate the incident. However, no criminal prosecution was initiated by the Director of Public Prosecutions following the investigation.
36. The Governor gives it as his view that the minor injuries sustained by the prisoner were consistent with necessary forcible removal to his cell and segregation area rather than evidence of ill-treatment. He says that the alleged actions of the prisoner would be consistent with his reputation for being uncooperative, hostile and most difficult to manage. He points out that between January, 1991 and March 1994, the prisoner was charged with various forms of serious misconduct on a total of nine occasions (excluding the incident which was the subject of the particular complaint to the CPT).
37. Once again the difficulty arises of assessing, on the balance of probabilities, whether or not unnecessary or excessive force was used and the prisoner thereby ill-treated. The Government finds it difficult to escape the conclusion, having regard to the Governor's report, that the allegation of deliberate ill-treatment is not well founded.

Measures for the Prevention of Ill-Treatment

38. The Report states:

".....one of the most effective means of preventing ill-treatment by prison officers lies in the diligent examination of complaints of ill-treatment and the imposition of suitable penalties.

The information gathered by the CPT's delegation would indicate that procedures in force at the time of the visit were not successfully rooting out the perpetrators of ill-treatment amongst prison staff. The delegation was informed, however, that a new Disciplinary Code for prison officer was planned.

The CPT would like to receive the comments of the Irish authorities on this subject, together with the following information for the three year period 1991-1993:

- the number of complaints of ill-treatment by prison officers lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**

- an account of the disciplinary/criminal sanctions imposed on the grounds of ill-treatment by prison officers.**

The CPT also recommends that the relevant authorities in the Ministry of Justice, as well as Prison Governors, deliver the clear message that ill-treatment of inmates is not acceptable and will be dealt with severely" [paragraph 72].

39. The Government considers it necessary to make the point that, apart from the extremely serious incident of April, 1992 in Limerick Prison when it is probable that a number of prison officers were guilty of ill-treatment, there is no evidence of institutionalised or widespread ill-treatment which the general drift of the Report would, on the face of it, suggest. The Government fully accepts that one of the most effective means of preventing ill-treatment by prison officers lies in the diligent examination of complaints of ill-treatment and the imposition of suitable penalties. If there is evidence of ill-treatment which stands any prospect at all of being acceptable to a Court, the Government will never have any hesitation in imposing the ultimate sanction of dismissal, as well as facilitating, in every way that it may, a criminal prosecution. It is satisfied that prison staff are aware of this, and that this alone is a powerful deterrent.
40. The difficulty, as outlined earlier, is to find the truth behind an allegation. Two specific allegations reported by the CPT, those in relation to the prisoner in Wheatfield Place of Detention (paragraphs 22 to 30 above) and the prisoner in Portlaoise Prison (paragraphs 31 to 37) are good illustrations of the problem. Existing procedural arrangements fell down in the case of Limerick Prison because those interviewed were guaranteed confidentiality (see paragraphs 9 to 16) but there are serious questions about the merits of the allegations in the other two cases.

41. Deterrents to ill-treatment are extensive (see paragraph 3 of this Chapter) and procedures are already in place (and will be tightened-up following the shortcomings in the Limerick investigation) for detailed investigation of allegations. The new Code of Discipline for prison staff will clarify more fully the duties and responsibilities of staff and will introduce more comprehensive procedures for the actual examination of complaints. The implementation of the new Code, therefore, is expected to assist in obtaining more clear-cut results. It would be over-optimistic, however, to expect that the implementation of the Code will, of itself, guarantee the identification of "perpetrators of ill-treatment" in all cases or of bringing all of them to account. No matter what Code is introduced, it will remain a matter of judgement on the evidence presented in each case as to whether or not ill-treatment has occurred and, if it has, whether sufficient evidence is available to take action against an identifiable officer.
42. The information sought by the CPT is set out below. As already indicated, staff are reminded as opportunity arises of stated Government policy that ill-treatment of those in custody is intolerable and that the most severe penalties will be visited on those found guilty of it. In deference to the CPT's request, a reminder was issued to all staff through Governors about this matter in July, 1994.

(1) Recorded number of complaints of ill treatment received from prisoners:

Year	No.
1991	119 *
1992	46
1993	35

* The high figure for 1991 is largely due to complaints received from prisoners following a major disturbance in Mountjoy Prison on 16 September, 1991.

(2) Instances of disciplinary action/sanction taken against staff arising from (1):

In no case was the evidence sufficient to sustain a charge of ill-treatment and, consequently, the imposition of disciplinary action/sanction did not arise.

43. The Government considers that the prospect of preventing ill-treatment are likely to be improved by means of (a) high quality education and professional training in person-management, (b) skills training in control and restraint procedures to minimise the effects of conflict situations and (c) the promotion of high-quality, on-the-spot supervision by responsible supervisors. The CPT in its Report advocates much of this in paragraphs 73 to 75. Improved training will be a key element of the Government's Five Year Plan (cf paragraph 2) and will be given optimum priority in the allocation of available financial resources.

Staff Training

44. The Report goes on to refer specifically to training. It states:

"The CPT also wishes to emphasise the great importance which it attaches to the education and professional training of prison staff. There is arguably no better guarantee against ill-treatment of a prisoner than a properly trained prison officer, capable of adopting an appropriate attitude in his relations with inmates.

As already indicated (cf paragraph 22) such training will be most effective if it exists at all levels of the law enforcement hierarchy, and is ongoing.

Further, particular attention should be given to training in the art of handling, and more especially of speaking to, prisoners i.e. to interpersonal communication skills. The possession of such skills can enable prison officers to deal with the difficult situations which may arise in prisons, without resort to violence (paragraph 73)."

"In this respect, the Committee has noted that, in the budget for the Irish Prison Service, staff training appears only as an "incidental expense" and that, in the return of expenditure for the year ending December 1993, only £150,000 (from a total annual budget of some £95 million) had been spent on such training.

The Committee also learned that the induction training course for prison officers has recently been cut from 12 to 8 weeks, and that substantial numbers of prison staff (mainly those recruited in the mid to late 1970's) received no induction training whatsoever (paragraph 74)."

"As regards in-service training, when this is available, it seems to concentrate on personal skills (e.g. printing; desk-top publishing and PC appreciation/Word Perfect courses) or on training in a narrow vocational sense (basic cooking skills; supervisory development and catering management). Human rights education and communications studies do not appear to be included.

It should also be mentioned that only a small number of staff had received any specialist training in restraining and moving prisoners or in controlling disturbances. In this respect, the CPT understands that the Irish authorities have recently produced an instruction manual for prison staff on the use of control and restraint techniques and that additional prison officers are to be trained as Control and Restraint Instructors. These measures have an important part to play in minimising the risk of injury to prisoners, in particular in situations where it may be necessary for inmates to be moved by force from one area of an establishment to another (paragraph 75)."

"The CPT recommends:

- that much greater priority be given to professional training, including an appropriate human rights element, for prison officers of all ranks and categories. Experts who are not employed by the Prison Service should be involved in this training;**
- that an aptitude for interpersonal communication be a major factor in the process of recruiting prison officers and that, during the induction and in-service training of such officers, considerable emphasis be placed on acquiring and developing interpersonal communication skills;**

- **that training in control and restraint techniques be made more widely available to prison officers and that all prison officers be made aware of the contents of the recently-produced instruction manual on this subject (paragraph 76)."**

Government Comments

45. The Government agrees with the CPT on the critical importance of high quality training.
46. The CPT Report does not accurately reflect expenditure on training. The "budget" expenditure of "£150,000" (in respect of 1993) under "incidental expenses" relates only to payments to training agencies, consultants' fees etc. It does not take account of (a) the cost of operating Beladd House training centre, and of its staff, which are dedicated exclusively to recruit officer and other training (£190,000 in 1994) (b) the cost of overtime to cover staff released for in-service training (£0.64m in 1994) (c) other incidental costs (for equipment, travelling and subsistence etc.) (about £20,000 a year). Recruit Prison Officer Training now extends to 9 weeks. The average annual salary cost of recruits in training (9 groups of about 20 for 9 weeks each) amounts to about £400,000. **In other words, the true cost of training in the Prison service in 1993 was not £150,000 but about £1.25m.** In 1994 £190,000 was spent on consultants' fees, etc. together with £640,000 approximately for overtime to cover staff released for training. The allocations for 1995 are £200,000 and £1m, respectively.

47. The Government notes the specific recommendations in relation to training made by the CPT, and in so far as present training arrangements do not adequately cover what is recommended, they will be extended as quickly as personnel and financial resources allow. In 1993 the (Irish) Institute of Public Administration was engaged to carry out an in-depth survey of training needs in the Irish Prison Service. The survey was designed to consider the needs of three groups in turn

- (a) Governor grades,
- (b) Chief Officers, Assistant Chief Officers, Clerks and Training Liaison Officers, and
- (c) basic grade prison officers.

A report in relation to (a) has already been received and its recommendations will be implemented. The Report on group (b) is now being finalised by the IPA and work on group (c) has commenced.

48. Aptitude for inter-personal communication is assessed at the recruitment stage (the selection boards include Governors and psychologists) and inter-personal skills form a large segment of induction training. Human rights issues are given significant coverage in the induction training.

49. In-service training up to recently has had a high content of special skills training. The need for broader training will be addressed in the context of the survey referred to in paragraph 47 and the recommendations made will be implemented so far as financial resources permit.

50. There is a recognised need for skilled Control and Restraint training and that need is emphasised by the content of the CPT Report. In fact, studies of the model in use in other countries commenced some three years ago and a programme for such training has been developed to suit conditions in the Irish Prison System. It is comprised of two phases:

Phase I covers:

Training for each officer in the art of being able to defend him/herself against personal attack, and being able to respond as part of a three person team with minimal and controlled force to a violent situation.

Phase II covers:

Training for selected groups of officers to enable them to respond as part of a 12 person team with minimal and controlled force to more serious violent incidents.

Instruction is undertaken by trained personnel and is overseen by two instructors who have received special training. By the end of 1994 some 45% of staff in the closed institutions (including Mountjoy, Limerick, Portlaoise, Wheatfield and Cork) had received Phase I training. Over 75% of staff will have completed Phase I by the end of 1995 and all remaining staff will have completed this Phase as early as possible in 1996. Phase II commenced in 1994 and 14% of staff completed this Phase by the end of the year. A further 14% will complete that Phase in 1995.

CHAPTER 3

GENERAL INFORMATION - POLICE (GARDA SIOCHÁNA) ESTABLISHMENTS

Responses to Requests for Information

**Request (a) "clarification of the meaning of the term "some other convenient place" used
(Police) in the Offences Against the State Act 1939 (paragraph 11);"**

1. A person arrested under Section 30 of the Offences Against the State Act 1939 may be removed to and detained in custody in a Garda station, a Prison or "some other convenient place". These words are not defined in the Act but they were considered by the Court of Criminal Appeal in the People -v- Farrell [1978, I.R. 13 at page 22]. The Court (per O'Higgins C.J.) said "the application of the ejusdem generis rule of construction would indicate that the general term 'other convenient place' ought to be construed in the same sense as the specifics - a Garda station or a prison - and at least must mean a "convenient building of some kind".

In practice, a person arrested under the section is detained in a Garda station.

Request (b) "whether it is a legal requirement to apply the full range of safeguards set out in the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Siochana Stations) Regulations 1987 to Persons Detained under the Offences Against the State Act 1939 (paragraph 12)."

2. The Gardaí are under a legal duty to apply the provisions of the 1987 Regulations to persons detained under section 30 of the Offences against the State Act, 1939. In that regard it should be noted that the Regulations operate in the case of any person who is held in custody in a Garda station, including a person detained under the Offences against the State Act, 1939. Furthermore, the fact that the Regulations have full effect in Section 30 cases is confirmed by the fact that Regulation 7(4) refers specifically to directions given in respect of persons detained under that section.

CHAPTER 4

CONDITIONS OF DETENTION IN THE POLICE (GARDA SÍOCHÁNA) ESTABLISHMENTS VISITED

Response to Specific Recommendations

Recommendation (a) (Police Establishments) **"conditions of detention in the police establishments visited by the delegation to be reviewed in the light of the remarks made in paragraphs 25 to 36 (paragraph 37)" and, "appropriate steps be taken to ensure that the conditions of detention in all police establishments meet the requirements indicated in paragraph 24 (paragraph 37)."**

1. There is an on-going programme of replacing older and generally unsatisfactory Garda stations together with a programme of major refurbishment and maintenance. Upgrading and improving cell accommodation where necessary is an integral part of this programme. It is a policy aim that all cell accommodation will meet the standards referred to by the Committee.

Consequent on the Committee's visit and report the Garda Commissioner has instructed each Divisional Officer to ensure that all cell accommodation in his Division is regularly inspected

to ensure that cells (a) are clean, (b) are equipped with clean mattresses and blankets and (c) have lights and toilets in working order.

Cells at the Bridewell Station, Cork

2. The Bridewell station is the main holding centre for persons detained in Cork city. It has eleven cells which are in constant use with a turnover of approximately 4,000 persons per year. The general condition of the Bridewell building, including the cells, is regarded as good. The cells were extensively modified some years ago to improve their safety standards. Every effort is made to maintain cleanliness. The cells are cleaned daily and twice monthly there is an additional steam washing. If the cells are fouled between cleanings they are washed out by Gardaí. Every effort is made to keep the cells in a clean and sanitary condition at all times.

3. The principal reasons for utilising the Bridewell as the main holding centre are -
 - (a) its capacity;

 - (b) its central location and nearness to the Courthouse;

 - (c) the availability of interview rooms;

- (d) its personnel structure (Station House Officer, Station Orderly and Gaoler) and developed culture in dealing with prisoners, custody regulations, meals, escorts etc, and
- (e) that it has been selected for a pilot study on the audio/video recording of interviews with suspected persons.

Cell Accommodation at Finglas Garda Station

4. The Committee were highly critical of the standard of maintenance and cleanliness of the cells at the station. As stated elsewhere, the need for greater care in maintaining cell accommodation has been brought to the attention of Divisional Officers by the Garda Commissioner. The Divisional Officer for Finglas area has been giving Finglas Station his personal attention to ensure that proper standards of cell accommodation are maintained.

The cells there were completely refurbished in 1992. The work included decoration, fitting of new cell doors, installation of vandal proof lighting, smoke detectors, new windows and a heating system. The cells are cleaned Monday to Friday by a yardman, who was appointed in May 1991. Steam cleaning is carried out when there is contamination which requires more than routine cleaning. In February 1995 defects in toilets and security door handles were repaired.

5. As to the CPT's comment on the finding of an empty bubble pack of Temgesic under a mattress in a cell at Finglas, the Garda authorities point out that there is no legal power for body searching of prisoners unless they are detained for drug related offences. In those circumstances it is not possible to eliminate the possibility of drugs being taken into cells.

Recommendation (b) "the aliens holding room at Santry Divisional Headquarters (Police Establishments) not to detain persons for other than short periods of time (paragraph 37);"

6. It is noted that the Committee were generally satisfied with the condition and amenities of the holding room but were concerned that it should not be used for holding persons for a prolonged period of time. This view has been noted. If detention for more than one night is necessary detainees will be moved to a prison facility.

Responses to Specific Comments

Comment (a) "the Irish authorities are invited to explore means of bringing into service the cells at Anglesea Divisional Headquarters (paragraph 26)."

7. The four cells at Anglesea Street station in Cork are used for emergencies but, for the reasons given above in the comments on the Committee's findings on the Bridewell Station, could not be substituted for the detention facilities at the latter station.

Comment (b) "if it is the case that Criminal Legal Aid is not available for consultations between detained persons and lawyers at police stations, the Irish authorities are invited to review that restriction (paragraph 45);"

8. The Criminal Justice (Legal Aid) Act, 1962 and the various regulations made thereunder provide that legal aid may be granted by a Court for the defence of persons of insufficient means who are charged before it. However, there is no provision for granting legal aid to persons detained at a Garda station.

In accordance with the CPT's recommendation in this matter, the Government will review the position.

Comment (c) "the Irish authorities are invited to reconsider the composition of the Garda Siochana Complaints Board and of disciplinary tribunals appointed by it, in the light of the CPT's remarks in paragraph 55 (paragraph 55);"

9. The Government notes the recommendation of the CPT concerning the composition of the Garda Complaints Board. The operation of the Board and of disciplinary tribunals will be reviewed shortly in the light of the recommendation.

Responses to Requests for Information

Request (a) "the maximum numbers of detainees who may be held in each of the cells under the Dublin Municipal Courts (paragraph 32)."

10. The cell accommodation at this centre is normally used to house prisoners for 1 hour to 1½ hours while awaiting the calling of their cases in Court. The two cells for males can hold up to seven prisoners and the cells for females up to 4 prisoners, depending on demands at any particular time. The position is being monitored to prevent over-crowding.

Request (b) "clarification of the concept of a person reasonably named by an arrested person, as used in regulation 9 of the 1987 regulations (paragraph 40);"

11. No definition has been provided with regard to who would constitute "a person reasonably named" by a detained person for the purposes of the Criminal Justice 1984 Act or the Treatment of Persons in Custody in Garda Síochána Stations Regulations, 1987. [The reason for choosing that expression was explained by the Minister in the course of the Oireachtas (Parliamentary) debate on the 1984 Act as follows:

"We are also recognising the right of the detained person to have one other person informed of his whereabouts and the same rule will apply in relation to notifying that person as applies in relation to notifying the solicitor. We have used, in relation to

that other person, the term 'reasonably named', so as to avoid imposing an obligation where the person names someone for purely frivolous reasons."

(Dáil Debates: 2/11/83 Vol. 345 Col 1257).]

12. It would not be practicable to attempt to set out in any text a list of the persons who should be contactable by the Gardaí in these situations because in many cases the member in charge would have no way of knowing whether a particular person had a bona fide interest in the welfare of the detained person.
13. In practice, the member in charge will interpret this phrase as meaning a person who is contactable and accessible without an inordinate amount of difficulty and who would have a bona fide interest in the welfare of the arrested person. Those who would not come within this definition would be persons residing at a long distance from the place of detention and who cannot be contacted; those who suffer from severe mental or physical infirmity; people who would not wish to be informed, perhaps because they are not acquainted with the person, (e.g. clergymen, journalists); possible accomplices who are likely to pervert the course of justice.
14. It should be borne in mind that any decision by the Garda Síochána to refuse to comply with a request for notification of a detention would be open to review by the Courts, having regard to the particular circumstances of the case. Failure to comply with the relevant provisions could render a detention illegal and could lead to the institution of legal and disciplinary proceedings against the member or members concerned.

Request (c) "details of any steps taken by the Irish Authorities to make mandatory the practice whereby police officers provide a list of solicitors to detainees who do not know the name of a lawyer (paragraph 44);"

15. There are no proposals at present to amend the 1987 Regulations in that regard but this is a matter that will be kept under review in the context of the general operation of the Regulations.

Request (d) "information on any progress made towards the creation of panels of solicitors prepared to make themselves available for consultations at police stations (paragraph 44);"

16. This proposal was raised by the Governing body of the solicitors profession in Ireland, the Incorporated Law Society, in their submission to a Committee which was established in 1989 by the then Minister for Justice. The Committee had been asked to examine, inter alia, whether additional safeguards were needed to ensure that uncorroborated inculpatory admissions made by an accused person to the Garda Síochána are properly obtained and recorded.

17. The proposal made by the Incorporated Law Society has not been formally implemented. However, there are informal arrangements at Garda stations under which Garda members who know of solicitors who are willing to attend at the Garda station will provide the names to a suspected person who does not know of a solicitor. In the context of the preparation of a Juvenile Justice Bill the opportunity is being taken to make statutory provision for the

giving of such information in the case of persons under 18 years who are detained in a Garda station.

Request (e) "the criteria employed by police officers when deciding whether it is practicable to contact a doctor of a detainees own choice (paragraph 46)."

18. The 'practicability' of arranging for the attendance of a doctor of a person's own choice is judged by reference to the distance of the doctor's residence or surgery from the station, the urgency of the case, the time likely to elapse before the doctor could attend, and the assumed willingness of the doctor to give priority to a call to a Garda station.

19. In the majority of cases where a doctor is called to a Garda station to examine or treat a person in custody the doctor attends at the request of the Gardaí.

Request (f) The CPT wishes to be informed whether it is the practice in Ireland that: "all medical examinations of persons in police custody are undertaken out of the hearing and preferably out of the sight of police officers (unless the doctor concerned requests otherwise and that the results of every such examination as well as any relevant statements by the detainee and the doctor's conclusions, are recorded in writing by the doctor and made available to the detainee and his lawyer (paragraph 47)."

20. It is normal practice for an arrested person to be examined by a doctor out of sight of a Garda unless security reasons dictate otherwise.

21. The results of an examination by a person's own doctor is, of course, a private matter between them. Where a doctor attends at the request of the Gardai, his/her findings are recorded in the custody record or, alternatively, the custody record will indicate where they are recorded. Any such report is not automatically made available to the detainee but will be made available in the event of it being relevant to an issue in subsequent Court proceedings or in the event of an investigation by the Garda Complaints Board. In this regard, the doctors report is regarded as being in the same class as other witness statements where the general rule is one of disclosure of all material which might be helpful to the defence in the context of a prosecution.

Request (g) "a copy of the Steering Committee's recommendations to the Minister for Justice on the creation and assessment of a pilot scheme on audio and audio/video recording of interrogations, together with information about action taken on those recommendations (paragraph 52)."

22. The Steering Committee on Audio and Audio/Video Recording of Garda Questioning of Suspects reported to the Minister for Justice in March, 1994. A copy of the Report is forwarded with these comments for the CPT's information, as requested.
23. On foot of the Steering Committee's recommendations a pilot study on the use of audio and audio/video recording was commenced in Tallaght Garda station in Dublin in May, 1994. A further study commenced at the Bridewell Garda station, Dublin in March, 1995 and two further pilot studies are being initiated at Garda stations in Cork and in Portlaoise. The pilot

studies are being monitored by the Steering Committee which will, in due course, report to the Minister with its assessment of the pilot schemes and the extent to which an effective and economic basis can be found for a national scheme.

CHAPTER 5

CONDITIONS OF DETENTION IN PRISONS AND PLACES OF DETENTION

Preliminary Comment

1. Before setting out its detailed response to the specific recommendations and comments made by the CPT under this heading, the Government wishes to make some general comments.
2. The Government has never denied that physical conditions in some of the prison institutions - particularly closed institutions - are poor. There are serious deficiencies in terms of washing and sanitation, kitchen, work/training, education, visiting and recreational facilities. Some significant improvements have been made in recent years, e.g. the building of the Place of Detention at Wheatfield in the late 1980's; a new Health Care Unit in Mountjoy Prison; the complete refurbishment of the cell blocks of St. Patrick's Institution, including integral sanitation in each cell; the upgrading of a section of Mountjoy Prison, including the provision of integral sanitation; the provision in Mountjoy Prison of a new kitchen/bakery/assembly hall building; a modern medical unit in Portlaoise Prison and a new educational facility in Fort Mitchel.

3. However, much more remains to be done. The Government accepts that buildings which are outworn and lacking in basic facilities must be upgraded as a matter of priority. In the policy document "The Management of Offenders - a Five Year Plan", referred to earlier, a programme for the upgrading of physical conditions in these institutions has been set out. The total cost of the works involved is estimated to be of the order of £80m - a figure which could well turn out to be conservative. It is unrealistic to expect that, given other pressures on public finances, this level of funding could be made available over a short time. The competing demands on the Exchequer for general health, education, welfare, other social improvements for the general community, together with the requirement, in the interests of the community as a whole, to keep the public finances under strict control, impose necessary constraints.
4. As indicated in the Five Year Plan the strategy must be to establish priorities and to tackle the requirements in a structured way on a phased basis. Given a reasonable financial allocation over the period of the Plan, it is envisaged that the main works to be undertaken will include the provision of
- in-cell sanitation, as part of refurbishment projects, in Mountjoy, Portlaoise and Limerick (including, in the case of Limerick, the replacement of a disused wing);
 - enhanced work/training facilities in Mountjoy, St. Patrick's, Limerick and Loughan House;
 - enhanced education facilities in Portlaoise, Mountjoy, Limerick and Cork;

- kitchen and reception facilities in Portlaoise;

- enhanced visiting facilities in Cork.

Responses to Specific Recommendations in the Report

Recommendation (a) "conditions in the reception area of Mountjoy Prison to be substantially improved without delay, taking into account the Committee's remarks in paragraph 80 to 82. In particular, measures to be taken to improve the heat insulation capacity of the metal roofing, the ventilation in all of the cells to be improved and both of the two smaller cells to be provided with access to natural light and fitted with an appropriate means of rest. If such improvements were not to prove possible, the area to be taken out of service (paragraph 83)."

5. A major refurbishment of a section of Mountjoy Prison was commenced in September 1993 and completed in July 1994. This newly-refurbished area provides new holding cells to replace the holding cells at the reception. All cell accommodation in this new area, including holding cells, is provided with integral sanitation. The multiple holding cells and the two single cells at reception referred to by the CPT have been taken out of use and are being used for stores.

Recommendation (b) "the three small holding cells located at the end of the segregation unit in Mountjoy Prison not to be used for other than short periods of time and never to be used to hold inmates overnight (paragraph 84)"

6. The cells in question have, in fact, been demolished, as had been planned in the context of the refurbishment work referred to in the preceding paragraph.

Recommendation (c) "a high priority to be given to the plan for a new prison for women, and in the meantime, steps to be taken immediately to ensure that women prisoners are not held two to a cell in C Division at Limerick Prison (paragraph 90)"

7. As the CPT are aware, the Government has decided to provide a new purpose designed and built prison to accommodate up to 60 female offenders. The prison is to be located adjacent to, but completely separate from, the existing Mountjoy Prison. A very thorough and comprehensive approach is being taken to the planning of this new facility under a Steering Committee appointed by the Minister for Justice early in 1994. The Steering Committee consists of representatives of prison management at local and headquarters level, the former Chairwoman of the Council for the Status of Women, the Chief Executive of the Employment Equality Agency and a representative from the Office of Public Works. It is intended to provide living accommodation and necessary ancillary facilities and services to the highest

modern standard. A pre-release residence will be included. Construction is expected to commence in 1997.

8. Women prisoners are no longer held two to a cell at Limerick Prison unless by prisoner request e.g. two sisters, cousins or friends who ask to be together.

Recommendation (d) "the two small "safety cells" on the ground floor of the annex to St. Patrick's Institution to be renovated (enlarged, natural light improved, call system fitted) without delay, or, should that prove impracticable, to be taken out of service (paragraph 95)"

9. The cells in question are no longer in use - in fact, the Governor of the Institution has indicated that they had not been used for a number of months prior to the CPT's visit.

Recommendation (e) "the use made of the reception cells in St. Patrick's Institution to be reviewed in the light of the Committee's remarks in paragraph 95 (paragraph 95)"

10. These cells are holding-type cells, used mainly for committals or on movement (either to another institution or to Court) of offenders. The Governor has indicated that almost invariably offenders occupy these cells for the shortest possible duration and rarely for more than two hours. An additional holding cell has since been provided in the reception area so as to reduce the number of offenders occupying each of the cells at any given time. The Governor has also indicated that the holding cells have not been used as overnight

accommodation for at least 2 years. The Governor has been requested to note the views expressed by the Committee in relation to the use of these cells and the matter will be kept under review.

Recommendation (f) "steps to be taken without delay to improve conditions of detention in St. Patrick's Institution, those steps to include measures to eradicate the problem of rodent infestation in Annex 2 (paragraph 96)"

11. A major refurbishment of all three wings of St. Patrick's Institution, including integral cell sanitation, has been completed and attention will now be focused on ancillary facilities. In general, therefore, conditions in that institution are now quite good and certainly far better than they were at the time of the CPT visit.
12. The Governor of St. Patrick's has stated that, prior to the CPT's visit, improvements had been carried out to windows and toilet doors in Annex 2 and that repairs had been carried out to ceilings, walls and floors in most of the cells there. He has also indicated that arrangements are in place for the regular cleaning of the areas and of cell sheets and duvet covers. A private specialist company attends to the problem of rodent infestation on a regular basis. These improvements will be maintained but, in fact, the question of the continued use of this Annex as living accommodation is scheduled for review in the context of possible alternative uses for St. Patrick's Institution.

Recommendation (g) "a very high priority to be given to measures designed to reduce overcrowding (paragraph 98)"

13. As the CPT have indicated in their Report, the problem of overcrowding, with all its consequences, is acknowledged as the single most pressing issue requiring to be tackled. This is recognised in the policy document "The Management of Offenders - A Five Year Plan" mentioned earlier. The Plan proposes a three-pronged approach:
- (a) the investment of £30m to provide 210 additional prison places, 60 of which will be provided in a new purpose-built facility for women offenders;
 - (b) the introduction of the concept of Positive Sentence Management which will not only be directed towards a more purposeful regime for those in custody, but will facilitate a move away from unstructured early releases to planned and programmed releases under the supervision of the Probation and Welfare Service; and
 - (c) the development of more community sanctions and measures at the Court stage in conjunction with the implementation of the European Rules on Community Sanctions and Measures adopted by the Committee of Ministers of the Council of Europe, 1992.
14. Planning of the women's facility for 60 is, as indicated earlier, at an advanced stage and the current expectation is that work will commence in 1997. A major and, of course, very welcome development which took place since the publication of the Five Year Plan, was the ending of the campaign of paramilitary violence, associated with the Northern Ireland

problem. The development of the Peace Process has already resulted in the release of certain prisoners and the present intention is to review the case for extra prison places - and specifically the case for a new Prison for 150 male offenders - in the light of this development.

Recommendation (h) "due consideration to be given to introducing an enforceable ceiling on the inmate population of each prison in Ireland (paragraph 98)"

15. The problem of overcrowding in some of the institutions is, as has been indicated, recognised. The population of each institution is limited to its "operational capacity" but this is, in certain cases, very much stressed to the limit given the pressures being placed on ancillary facilities. As indicated in Par. 14, the development of the Peace Process has resulted in the release of some prisoners and the situation with regard to Prison space requirements generally will now fall to be reviewed in the light of further development of that Process.

Recommendation (i) "serious efforts to be made to limit, as far as possible, the number of prisoners who are held two to a cell (paragraph 98)"

16. Single cell occupancy (except, of course, in recognised dormitory set-ups) is one of the objectives of official policy. Wheatfield Place of Detention was designed around single-cell occupancy. The refurbishment of the wings of St. Patrick's Institution undertaken over the past four years at a cost of £8m. has been based on that concept. The same is true for the

new Health Care Unit completed in 1993 at a cost of £4.5m. in Mountjoy Prison.

Furthermore, any new prison facilities will be designed for single cell occupancy.

17. Single cell occupancy, in all places designed for it, is the goal, and the Government is satisfied that the way to reach that goal is by pressing ahead vigorously with its Five Year Plan subject to the comments made in Pars. 14 and 15 in relation to the changed situation brought about by the developing Peace Process.

Recommendation (j) "implementation of measures designed to provide prisoners with ready access at all times to toilet facilities to be treated as a matter of the highest priority; preferably, a target date to be set for the eradication of the practice of slopping out in Irish prisons (paragraph 101)"

18. The points made by the CPT in relation to the objectionable consequences of the absence of access to toilet facilities are accepted fully. The provision of integral cell sanitation is an important (though expensive) element of the upgrading of existing institutions. It is already settled policy that all new facilities will have integral sanitation. With the provision of integral sanitation in the new institution at Wheatfield (opened 1989), in St. Patrick's Institution, in a section of Mountjoy Prison and in the newly-built Health Care Unit, a significant improvement has been achieved on this front in recent years. In all, approximately 40 % of prisoners are accommodated in cells having integral sanitation facilities, or otherwise have access to toilets on a 24-hour basis.

19. The Five Year Plan indicates that, during the period of the Plan, the provision of integral sanitation, as part of refurbishment projects, will be undertaken in Mountjoy, Portlaoise and Limerick. Again, the Government are convinced that the best way to bring the practice of slopping out to an end is by implementation of this Plan. Assuming a level of financial resources of the order indicated in the Plan itself, a programme of integral sanitation in the closed institutions could be completed over a period of 7 to 8 years.

Recommendation (k) "bathing facilities for prisoners at Mountjoy Prison to be upgraded and efforts to be made to improve prisoners' access to such facilities in all of the establishments visited (paragraph 103)"

20. As the Report indicates, shower facilities in Mountjoy Prison have traditionally been located at the Prison's central "bathhouse". During 1993 and 1994, however, some additional facilities were provided on the ground floor of A Division and also as part of the refurbishment work of a section of B Division (both projects were, in fact, being undertaken during the CPT's Visit). It is the intention to provide enhanced shower facilities in all offender accommodation wings in the context of the refurbishment programme to be undertaken in Mountjoy during the period of the Five Year Plan.
21. In the meantime the question of improving offenders' access to such facilities in all of the establishments visited by the Committee has been taken up with the Governors concerned and the matter will be kept under review.

Recommendation (l) "steps to be taken to improve the regime activities offered to male inmates at Mountjoy Prison (paragraph 107)"

22. It is accepted that regime activities for male prisoners are not adequate in Mountjoy Prison. Much is being achieved, however, despite the overcrowding and lack of essential facilities. Current activities centre around work/training and education. In addition there is, by international standards, generous, out-of-cell time, indoor and outdoor association and recreation, and use of gym facilities. Every effort is being made to create opportunities to increase the scope for constructive use of time by offenders. In this context, a new kitchen/bakery/assembly hall building at Mountjoy Prison has just been completed at a cost of £2.3m and will facilitate significant improvements in the quality of work/training and education activity. In addition, a pilot scheme of providing a small financial incentive for offenders is being introduced to reward those who opt to work productively. However, the inadequacy of the regime activities is fully acknowledged and these deficiencies will be addressed in the context of the Five-Year Plan.

Recommendation (m) "efforts to be made to increase the number of work places offered to prisoners at Cork Prison and, as regards remand prisoners, regime activities to be improved (paragraph 111)"

23. In addition to the work and training activities mentioned by the CPT, about 20 more offenders are engaged in work and training activities in the laundry, computer workshop and hurley-banding workshop. Prisoners are housed in the 'D' Unit for relatively short periods, generally 2 months or less, and work and training activities are not readily available to them.

24. However, the overall problem of inadequate work and training activities in Cork Prison is acknowledged. This problem arises principally as a consequence of overcrowding. The present emphasis at Cork is to improve the quality and maximise the use of the existing resources there. In relation to participation in educational activities the figure referred to in the CPT's report appears to relate to the number in attendance at classes at any one time. In fact, daily participation would normally be more than twice the figure quoted. In all, a total of 130 to 140 prisoners participate in educational activities, including Physical Education classes, in Cork Prison. Priority is given to sentenced prisoners. It is recognised that activities for remand prisoners are very limited and the question of improvements in this front will receive particular emphasis in the context of the Five-Year Plan.

Recommendation (n) "steps to be taken to improve the regime activities offered to young offenders at St. Patrick's Institution (paragraph 113)"

25. The situation in St. Patrick's Institution at the time of the CPT's visit was affected to a considerable extent by the refurbishment programme then in progress. Work and training activities were at a virtual stand-still and participation in educational activities was well below its normal 50% or so of the prisoner population. Even with completion of the refurbishment, however, there are limits to what can be achieved at this location in relation to regime activities for young offenders because of the Institution's physical limitations. It is considered that a better way forward may be to utilise the modern facilities for juvenile offenders at Wheatfield - where about 200 places are, at present, taken up by adult prisoners -

for juveniles in St. Patrick's. This would involve a redeployment of offender populations. An assessment of this possibility is being carried out.

Specific Responses to Comments in the Report

Comment (a) **"the in-cell ventilation in the accommodation for women prisoners at Mountjoy Prison was rather poor (paragraph 86)"**

26. The mechanically-operated ventilation system was enhanced in this accommodation at the end of 1993. In addition, all cells have natural ventilation by means of openable window sections.

Comment (b) **"the standard of cell furnishings throughout St. Patrick's Institution left something to be desired (paragraph 94)"**

27. This problem arose, essentially, from the fact that temporary ad hoc arrangements were made for cell furnishings/use of wings while the major refurbishment programme was ongoing at the time of the CPT's visit. Major refurbishment of cell accommodation has been completed and new cell furniture has been provided in the whole of St. Patrick's.

Comment (c) **"efforts should be made at Limerick Prison to provide high security prisoners who wish to work with the opportunity to do so, if necessary within the confines of A Division (paragraph 109)"**

28. There is not sufficient physical space within the present confines of Limerick prison to provide the necessary workshops etc. for work and training activities for these high-security offenders. However, the Five-Year Plan envisages additional work and training facilities being provided in Limerick Prison during the period of the Plan. It is intended that construction work on the re-building of the disused D wing will commence in late 1995 and the possibility of providing appropriate work and training activities for high-security prisoners in conjunction with that project is being actively considered.

Responses to Specific Requests for Information

Request (a) "confirmation that cell E4 in the segregation unit at Mountjoy Prison has been renovated to the same standard as cell E5 in that unit (paragraph 85)"

29. The necessary improvements as planned at the time of the CPT's visit have been carried out, and cell E4 has now been renovated to the same standard as cell E5.

Request (b) "full details, of the "Five Year Plan for Prisons" (paragraph 98)"

30. A number of copies of the Plan were sent to the Committee's Secretariat at the time of its publication in June 1994.

CHAPTER 6

MEDICAL SERVICES IN PRISONS AND PLACES OF DETENTION

Responses to Specific Recommendations

Recommendation (a) "steps to be taken to provide at least the equivalent of the services of one full-time doctor for prisoners held in the male accommodation areas at Mountjoy Prison (paragraph 117)"

1. It is accepted that the present medical input to Mountjoy male prison is inadequate. It is intended, in the context of negotiations at present taking place with the Irish Medical Organisation regarding a common contract of employment for all prison doctors, to increase the present medical input to the prison.

Recommendation (b) "measures to be taken to ensure the provision of the equivalent of at least three full-time qualified nurses at Mountjoy Prison (paragraph 118)"

2. The introduction of qualified nursing staff into various prisons is under active consideration. It is accepted that the presence of nurses would make a considerable contribution to

improving the quality of health care in prisons. The Government shares the view of the CPT that "nursing staff have an essential role to play in health care (for prisoners)".

3. The Five Year Plan includes the statement (at para 7.11.2) that "discussions will continue with staff interests concerning the proposed recruitment of a corps of qualified nurses into the Prison Service as soon as possible". These discussions are linked with broader productivity talks which are on-going with staff representatives.

Recommendation (c) "the number of hours for which a doctor is present at Limerick and Cork Prisons to be increased, taking into account the size of the inmate populations of those establishments (paragraph 120)"

4. The comments of the CPT in relation to the appropriate level of medical and nursing input to these prisons have been noted and will be taken into account in the context of the overall up-grading of medical services referred to earlier.

Recommendation (d) "the services of at least one full-time qualified nurse to be provided in Limerick and Cork Prisons (paragraph 120)"

5. The case for qualified nurses at both of these institutions is acknowledged. The comments made in reply to recommendation (b) above apply here also.

Recommendation (e) **"the material conditions in the doctors' room in the male accommodation area at Mountjoy Prison to be substantially improved and particular attention to be given to maintaining higher standards of hygiene (paragraph 123)"**

6. The medical areas on A wing and C wing are in the process of being upgraded.

Recommendation (f) **"the authorities to ensure that the Inmate Medical Record File is used by all doctors working in prisons in Ireland (paragraph 128)"**

7. Following the visit of the CPT a further guide-line was issued by the Director of Prison Medical Services to all prison doctors (in May 1994), stressing the requirement for an individual medical record to be kept on each prisoner in the standard Medical Record File. There is nothing to suggest that the maintenance of medical records in the prescribed form is not feasible. The Director will keep the matter under review with a view to ensuring that the CPT's concerns in this matter are met.

Recommendation (g) **"all possible steps be taken to expedite the implementation of the standardised contract of employment for doctors working in prisons (paragraph 132)"**

8. Following a protracted period during which the Irish Medical Organisation were not ready to discuss the standard contract offered in October 1992, productive discussions were begun in May 1994 aimed at reaching a satisfactory conclusion as rapidly as possible. These

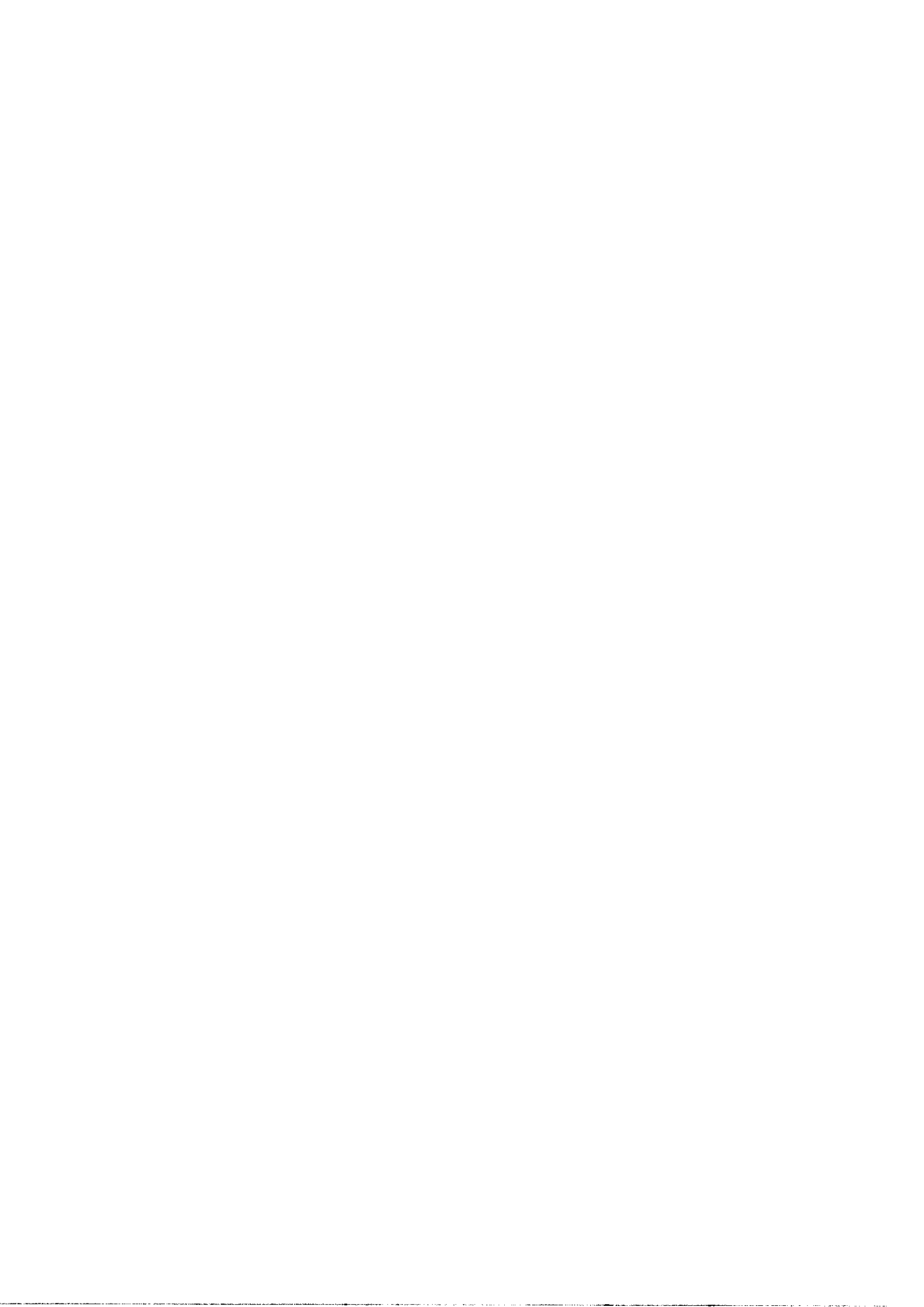
negotiations are on-going and the aim is to have them concluded satisfactorily as soon as possible.

Recommendation (h) "psychiatric services at Mountjoy Prison to be reinforced (paragraph 133)"

9. During 1994 a working party involving representatives of the Department of Justice, the Department of Health, the Eastern Health Board and the Central Mental Hospital met on a number of occasions to review problems regarding the provision of psychiatric services to prisoners, including steps to overcome delays in admissions to the Central Mental Hospital. The Report of this group will be submitted to the Ministers for Health and for Justice shortly. In addition, discussions are taking place with a number of Health Boards aimed at improving psychiatric care within prisons by means of the formal sharing of psychiatric posts between the health service and the prisons. Approval has been granted for this proposed restructuring and further discussions are planned with a view to the Department of Justice entering into a contract with the Eastern Health Board for the provision of the revised psychiatric service to prisons in the Dublin area.

Recommendation (i) "the policy of routine segregation of HIV+ prisoners to be abolished without delay (paragraph 138)"

10. The Government fully accepts the undesirability of segregation of HIV positive prisoners. Following the acceptance by the Minister for Justice of the recommendations of an Advisory Committee on Communicable Diseases in 1993 steps have been taken to discontinue the



Responses to Specific Comments

Comment (a) "it would be desirable to avoid the practice of medical orderlies also working as uniformed prison officers (paragraph 121)"

12. It is agreed that it would be desirable to avoid the practice whereby medical orderlies also work as uniformed prison officers. This situation arises mainly because, as prison officers, they are part of the prison officer pool for overtime purposes. The question of confining medical orderlies to medical duties will be pursued with staff interests.

Comment (b) "mentally ill prisoners should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. That facility could be a civil mental hospital or a specially equipped psychiatric facility within the prison system. Whichever course is chosen, the accommodation capacity of the facility in question should be sufficient to avoid prolonged waiting periods before necessary transfers are effected. The transfer of mentally ill prisoners to an appropriate psychiatric facility should be treated as a matter of the highest priority (paragraph 136)"

13. See **Paragraph 9** of this Chapter.

Comment (c) "there is no medical justification for the segregation of an HIV+ prisoner who is well (paragraph 137)"

14. The Government fully accepts the undesirability of segregating HIV positive prisoners. Action being taken to deal with this matter has been referred to already. (See **Paragraph 10** of this Chapter).

Comment (d) "the educational materials produced on the advice of the Advisory Group on Communicable Diseases in Prisons should be given the widest possible distribution amongst prisoners and prison staff. In particular, copies should be given to all newly-admitted prisoners and newly-recruited staff (paragraph 139)"

15. Arrangements have been made to comply with this suggestion.

Responses to Requests for Information

Request (a) "information about the use which the Irish authorities intend to make of the "health care unit" at Mountjoy Prison (paragraph 124)"

16. The intended use of this Unit has been outlined at Chapter 7.10 of the document 'The Management of Offenders - A Five-Year Plan'. It will be used to provide a greater level of medical care to prisoners than would be available generally in the prison system but without,

however, attempting to duplicate public hospital care. It would be suited to HIV-positive offenders who require special medical supervision, psychiatrically disturbed offenders unable to cope with the mainstream prison environment, other offenders on particular treatment or undergoing medical assessment who require facilities of the kind provided in it and offenders who have been in outside hospitals and who are convalescing prior to a return to the mainstream prison. As already indicated it is not intended that the specialist services available in a general hospital should be replicated in this Unit.

Request (b) "whether the new post of pharmacist for the Irish prison service has been filled (paragraph 129)"

17. The post of pharmacist was filled following competition in the Spring of 1993. The pharmacist took up duty in August 1993 prior to the visit of the CPT.

Request (c) "details of the measures envisaged to provide courts with a power of direct referral to an appropriate psychiatric facility, together with an indication of the legislative progress which has been made in implementing those reforms (paragraph 135)"

18. The Government shares the concerns expressed by the Committee in relation to the limited powers of the Courts to deal appropriately with accused persons who appear to have psychiatric ailments. These matters are discussed in a Green Paper on Mental Health published in June 1992 and will be addressed in a White Paper on New Mental Health Legislation which is expected to be published in the near future. The Minister for Health's

commitment to the introduction of new mental health legislation is set out in the recently published "Health Strategy - Shaping a Healthier Future".

Request (d) "details of any steps taken by the Irish authorities to implement the recommendations of the Advisory Group on Prison Deaths in respect of:

- . the enhancement of training for prison staff in recognising indications of suicidal risk (paragraph 142) and,**
- . the improvement of the flow of information - both within and between establishments - about persons who have been identified as potential suicide risks (paragraph 144)"**

19. Since the presentation of the report of the Advisory Group on Prison Deaths the following has taken place,

- . Prison Service Senior Personnel (Governors and Chief Officers) received a two day Suicide Awareness Training Programme.
- . Suicide Awareness Workshops are being provided for supervisory grades and prison officers. This programme extends to all closed prisons and is ongoing. The workshops are of two days duration.

- All operational Prison Officers and Supervisors have received an emergency training programme, involving information on methods of suicide in prisons, visiting and checking requirements and the use of emergency resuscitation packs.
 - All new recruits to the Prison Service receive an extensive Suicide Awareness Programme as well as a First Aid Training Course.
20. A suicide risk summary is completed at the time of reception by an Officer/Medical Orderly or at any other time when there is reason to believe that a prisoner might be at risk/suicidal. When a prisoner is being transferred from one establishment to another his file states if he/she is a potential suicide risk.
21. An effective system is in operation in which day or night staff going off duty note in writing any information relating to prisoners which might indicate that they could be suicidal and this is communicated to staff coming on duty.

CHAPTER 7

OTHER ISSUES OF RELEVANCE TO THE CPT'S MANDATE

Responses to Specific Recommendations

Recommendation (a) "prisoners facing disciplinary charges to be formally guaranteed the following rights:

- . **to be informed in writing of the charges against them and to be given sufficient time to prepare their defence;**
- . **to call witnesses on their own behalf and to cross-examine evidence given against them;**
- . **to be heard in mitigation of punishment, in cases where found guilty by the Governor;**
- . **to remain seated during adjudications and to have facilities to take notes;**
- . **to appeal to a higher authority against any sanctions imposed (paragraph 148)"**

1. All the recommendations made by the CPT in relation to disciplinary procedures vis-à-vis prisoners will be fully considered in the context of the current review of the new Rules for Prisons a draft of which was published as an appendix to the policy document "The Management of Offenders - A Five-Year Plan".

2. It can be stated that, in principle, the Irish authorities accept the broad thrust of the CPT's recommendations. As regards appeals against the application of internal prison sanctions on prisoners the CPT is invited to note the terms of Section V9 of the draft revised Prison Rules providing for appeals to the chairperson of the Prison Visiting Committee where the sanction imposed on the prisoner involves a loss of remission or suspension of visits or other facilities exceeding 14 days. Of course, prisoners have an independent (constitutional) right of access to the Courts by way of judicial review to seek redress if they consider they have been wronged.

Recommendation (b) "the new Prison Rules to address the question of the right of prisoners to be legally represented in the context of disciplinary proceedings (paragraph 148)"

3. The Government considers that implementation of this recommendation is impracticable for both financial and operational reasons. Prisoners facing disciplinary proceedings must, of course, be treated in accordance with the principles of natural justice. The failure to do so is actionable in the Courts.

Recommendation (c) "the use made of Unit D at Cork prison to be reviewed, in the light of the Committee's remarks in paragraph 153 (paragraph 153)"

4. As indicated earlier (see paragraph 20) the D unit is a nine-cell unit used to hold prisoners who are particularly disruptive or unruly. They may be transferred to the unit from within Cork Prison itself or from other prisons. Very often these prisoners have a history of prominent involvement in prison disturbances and, in many cases, have a propensity to violent behaviour. Their stay in the D unit is normally relatively short and special work/training and the provision of special education facilities for them while held there is simply not feasible. Outdoor exercise and indoor recreation are provided. They can, of course, become involved in work/training and education activities on transfer from the D unit to the mainstream prison. It is not considered practicable, from an operational point of view, to make any major changes in the operation of the unit.

Recommendation (d) "The material conditions in Unit D at Cork Prison to be improved - in particular, the cells on the first floor to be equipped with beds and, with the exception of the padded cell, all of the cells to be fitted with a table and chair, if necessary fixed to the floor. Further, steps to be taken to improve access to natural light, in particular in the ground floor cells (paragraph 153)"

5. All cells with the exception of padded cells have been fitted with fixed beds. Tables and chairs have also been supplied. Work to improve natural lighting is under consideration but this is proving difficult.

Recommendation (e) "Prisoners to be entitled to send confidential correspondence to appropriate authorities (paragraph 156)"

6. Prisoners are entitled to send and receive confidential correspondence from their bona fide legal advisors. In addition, under the existing Prison Rules they may address a complaint to the Governor of the Institution in which they are accommodated. The draft new Prison Rules provide that prisoners may write to the Minister for Justice, the Courts or the Garda Síochána and be given the means to communicate with members of the Visiting Committee. It is accepted that such contact may, in certain circumstances, need to be dealt with on a confidential basis and the necessary arrangements will be made in this regard. The Government accept that it would be appropriate that the President of the CPT should be included among those to whom confidential communications may be sent by prisoners.

Recommendation (f) "a review of the operation of prison Visiting Committees to be carried out, taking into account the Committee's remarks in paragraph 157 (paragraph 157)"

7. The Government draws attention to the discussion of the appointment and roles of Visiting Committees in the Department of Justice policy document "The Management of Offenders - A Five Year Plan" (paragraphs 6.8 and 6.9).

Recommendations made by Visiting Committees are carefully noted by prison management and regularly taken into account in the formulation of the Department of Justice prison

policy. The Government recognises that there are a number of areas relating to Visiting Committees where changes are required and agrees with the following:

- the establishment of a Visiting Committee Chairpersons' Group, which would come together from time to time to discuss common problems and, if necessary, submit proposals to the Minister for Justice on issues of general concern in relation to prisons
- revoking the power of Visiting Committees to impose disciplinary sanctions (removing a possible adversarial role vis-à-vis prisoners)
- to confer on Visiting Committees limited powers to consider appeals for sanctions imposed by the Governor with provision for an ultimate appeal to the Minister for Justice.

The Government is satisfied that the changes proposed will lead to a significant improvement in the effectiveness of Prison Visiting Committees.

Recommendation (g) "conditions in the visiting areas of Mountjoy, Limerick and Cork Prisons to be substantially improved, with the aim of ensuring that prisoners and their visitors are able to converse in relative privacy, in physical conditions which are conducive to the maintenance of positive relationships. Further, steps to be taken to ensure that those conditions are met in all other prisons in Ireland (paragraph 160)"

8. The important part which contact with family and friends play in helping a prisoner cope with his/her sentence and in maintaining relationships during periods of imprisonment is fully acknowledged. It is accepted that the visiting facilities at the three institutions referred to are inadequate. In Mountjoy and Cork prisons the problems arise mainly from the overcrowding situation - the facilities were simply not designed or built for the numbers now using them. The facilities in Limerick Prison are, as the reports points out, of a temporary nature and in a bad state of repair. The planned new wing in Limerick to replace the disused D wing will include a visiting facility; as indicated earlier it is intended to commence construction work on this project in 1995. In view of the CPT's comments in relation to the question of visiting facilities generally, a review of each institution's visiting facilities has been put in train. Where reasonable steps can be taken to meet the CPT's recommendations they will be taken. However, improvements on the scale accepted as necessary will be effected largely in conjunction with the major refurbishment work programme already referred to.

Recommendation (h) "steps to be taken to be taken to provide prisoners with greater access to telephones (paragraph 165)"

9. The importance of prisoner telephone contact with family and friends is fully accepted. In recent years a number of initiatives have been taken to provide prisoners with greater access to telephones and these will be continued. The new draft Prison Rules refer specifically to providing telephone contact.

Recommendation (i) "the Irish authorities to seek to ensure that prison Governors are provided with the necessary means to enable them effectively to manage the prisons of which they have charge (paragraph 169)"

10. The Department of Justice is committed to enhancing the authority of local managements in accordance with modern management principles. It is accepted that local managements should have responsibility and accountability for local issues, including expenditure, subject to budgets. This principle is acknowledged in the Five Year Plan. The question of devolving budgets to Governors is something which the Department has been working on for some time. There are complex technical issues involved relating to the design of financial systems etc. A top-level management review group (comprising Governors and senior Departmental officials) has recommended, among other things, (October, 1994) that the process of financial delegation be commenced at Mountjoy Prison on a pilot basis, and steps to implement this are being advanced. There is, of course, a system of structured involvement of local management in relation to prison policy matters. This involves regular meetings with senior officers of the Department and meetings with the Minister for Justice.

11. The question of local management's authority over staff is more complex than indicated in paragraph 168. Prison Officers are appointed by the Minister for Justice on the recommendation of the independent appointments body - the Civil Service Commission. They are subject to the terms of the Civil Service Regulation Act, 1956. Appointments may be terminated only by the Minister for Justice, during a two-year probationary period, or by the Government if probation has been completed. There are no plans to change the legal basis on which Prison Officers are recruited and serve.

Responses to Specific Comments

Comment (a) "it would be desirable for cells used for disciplinary purposes to be equipped with a table and chair, if necessary fixed to the floor (paragraph 149)"

12. This suggestion will be implemented as far as the maintenance of good order and the safety of the offenders themselves allows.

Comment (b) "the Irish authorities are invited to consider including the President of the CPT in a list of authorities to whom prisoners may address confidential correspondence (paragraph 156)"

13. This suggestion is acceptable to the Government.

Comment (c) "the Irish authorities are invited to explore the possibility of introducing extended unsupervised visits in order to enable prisoners to maintain family and personal (including sexual) relations (paragraph 161)"

14. The difficulties associated with a regime of extended unsupervised visits are considerable. Drug-taking in Prisons has become a serious problem in this country, as it has elsewhere,

and the Government's view in that solutions to this problem will need to be given higher priority at this time than the introduction of unsupervised visiting arrangements.

Comment (d) "the Committee invites the Irish authorities to consider abolishing the rule that all correspondence to, or from, a prisoner must be read by a prison officer (paragraph 164)"

15. While the Government is in sympathy with the general principle behind the Committee's suggestion the overriding consideration must remain the maintenance of safe custody, good order and security. Relaxation of the Rule can, furthermore, raise new problems - the Department of Justice, for example, has received a number of complaints in recent years from the victims of offenders, especially in sexual offence cases, who receive letters from prisoners which their victims judged to be threatening. Nevertheless, optimum implementation of the suggestion will be considered.

Responses to Specific Requests for Information

Request (a) "when it is envisaged that the new Prison Rules will enter into force; in due course, a copy of the Rules (paragraph 145)"

16. The draft new Prison Rules have been published as an Appendix to the Five-Year Plan. Public observations which have been received on these are at present being considered. It is hoped soon to submit a final version of the proposed Rules to the Parliamentary Draftsman

for approval prior to their making by the Minister for Justice with Government consent.

The aim is that the new Rules will enter into force in the latter half of 1995. A copy will, of course, be supplied to the CPT.

Request (b) "whether it is the case that young offenders at St. Patrick's Institution may be deprived of education as a punishment and, if so, under what circumstances (paragraph 146)"

17. This is not the case.

Request (c) "the comments of the Irish authorities on the fact that copies of inmates' correspondence with their lawyers were found in their prison files (paragraph 163)"

18. As a general rule, the authorities would have no interest in retaining copies of such correspondence and the CPT can be assured that no such correspondence would be passed on to the prosecution authorities. The only justification for making and retaining copies of such correspondence would be related to security. Prison Governors will be advised to treat prisoners' correspondence with their legal representatives as privileged. In exceptional circumstances, such correspondence may be inspected (though not read) and in only wholly exceptional security circumstances should occasion arise where copies would need to be made and retained.

(d) Immigration Service, Shannon Airport

Responses to Specific Recommendations and Request for Information

Recommendation (a) "the operation of the Immigration Service at Shannon Airport to be reviewed in the light of the Committee's remarks in paragraph 174 (paragraph 174)."

Recommendation (b) "information on the practical arrangements which exist in order to ensure that persons are not returned to countries in which they face a risk of torture or inhuman or degrading treatment or punishment (paragraph 174)."

19. There have been a number of significant developments since the visit of the CPT, viz.

New Legislation: The Minister for Justice will proceed shortly with legislation on Refugee Status which will put existing administrative arrangements in relation to the processing of asylum applications on a statutory footing. It provides guarantees to asylum seekers in relation to how their applications will be processed. It also provides for the establishment of an independent authority to examine and make

recommendations to the Minister on individual applications. In addition, provision is made for the establishment of an appeals tribunal.

Training of Immigration Officers: In 1993/1994 a programme of Training in relation to asylum specially designed for Immigration Officers was completed. The course was run in conjunction with the UNHCR. Its aim was to broaden the understanding of the concept of political asylum and Ireland's obligations under the 1951 UN Convention relating to the status of asylum seekers. It also aimed to train immigration officers on how to establish if a person was an asylum seeker as well as providing advice on interviewing such persons. All Immigration Officers have participated in the course. Further training is planned for 1995.

20. Arrangements for the provision of interpreters for foreign nationals who do not speak English are in place. Preparation of a multi-language information sheet for asylum seekers is in train.