



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*  
(OFFICIAL REPORT—*Unrevised*)

Thursday, 8 June 2006.

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## DÁIL ÉIREANN

*Déardaoin, 8 Meitheamh 2006.  
Thursday, 8 June 2006.*

Chuaigh an Leas-Cheann Comhairle i gceannas ar 10.30 a.m.

*Paidir.  
Prayer.*

### Requests to move Adjournment of Dáil under Standing Order 31.

**An Leas-Cheann Comhairle:** Before coming to the order of Business I propose to deal with a number of notices under Standing Order 31 and I will call on the Deputies in the order in which they submitted their notices to my office.

**Mr. Boyle:** I seek the adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, that the Minister for the Environment, Heritage and Local Government makes a statement in this House on the statistics revealed in the publication of the annual report of the Cork Simon Community, which show a 12% increase in the number of people availing of emergency accommodation from the organisation, accompanied by a 50% increase in the use of its daytime services.

**Mr. Connolly:** I seek the adjournment of Dáil Éireann under Standing Order 31 to discuss the following matter of urgent public and national concern, namely, the report of the National Physical and Sensory Disability Database published by the Health Research Board which found that 58% of Irish people registered with physical and sensory disabilities are awaiting assessment for therapeutic intervention and rehabilitation services, while 8% have been assessed and require such services, the fact that over 30% require assessment for personal assistance and support services, while 2.4% have been assessed under this heading and require such services, and the urgent need to tackle the disparity between assessment and service provision in several service areas.

**Ms C. Murphy:** I seek the adjournment of the Dáil under Standing Order 31 to discuss the following matter of urgent national and local importance, namely, the lack of a strategic approach by Government towards the spending of national funds on sports and arts facilities. The recently announced capital allocations for sports

and arts facilities show a clear leaning towards the county from which the Minister for Arts, Sport and Tourism comes and at the same time counties such as Kildare, Meath and west Dublin are failing to provide facilities for their rapidly expanding population. There is a clear need to audit sports and arts facilities nationally and to respond to deficiencies in a transparent manner rather than the current position which has much to do with who is representing one's area.

**Mr. J. Higgins:** I seek the adjournment of the Dáil under Standing Order 31 to have an urgent debate on renewed pressure by Limerick County Council on the communities of Pallaskenry and Kildimo to accept water from an often polluted source, the River Deel, instead of their current adequate supply exclusively from Bleach Lough, a spring water lake, and the need to get Limerick County Council to withdraw its injunctions and threats of jailings, including of young mothers, and to respect the democratic wish of the community to keep the environmentally sound source of water which they currently enjoy.

**Ms McManus:** I seek the adjournment of the Dáil under Standing Order 31 to discuss the following specific and important matter of public interest requiring urgent attention, namely, the need for the Tánaiste and Minister for Health and Children to consider the concerns expressed by two Dublin hospitals, Our Lady's Hospital for Sick Children, Crumlin, and St. James's Hospital, about the process that led to the recommendation concerning the new national children's tertiary hospital and to ensure that a review is carried out.

**Mr. Gogarty:** I concur with Deputy Catherine Murphy's point on funding and, in that respect, I seek the adjournment of the Dáil under Standing Order 31 to debate a related matter of specific and national importance, namely, the growing problem of obesity among our young people and the related personal and health problems associated with it such as bone fractures, muscle pain, diabetes and heart failure and the need for the Departments of Education and Science, Health and Children and Arts, Sport and Tourism to take a co-ordinated approach, with targeted funding to be provided, where appropriate, on an equal geographical basis.

**Ms Harkin:** I seek the adjournment of Dáil Éireann under Standing Order 31 to discuss a matter of national importance, namely, the report from the Irish Cancer Society which predicts a doubling of the numbers of those suffering from cancer by 2020 and the current woefully inadequate cancer service available to those living in the north west and now threatened in the north east with no radiotherapy centre promised north of a line from Dublin to Galway, with the women of the north west still waiting for the rollout of

[Ms Harkin.]

BreastCheck and no indication of a national programme to screen cervical cancer.

**Dr. Cowley:** I seek the adjournment of the Dáil under Standing Order 31 to debate an urgent matter of critical importance, namely, how the Government will cope with the impending crisis of an explosion in cancer cases, the number of which is estimated to double by 2020, considering its failure to adequately fund basic oncology and palliative care services at present and failure to address the hundreds who will die due to a lack of BreastCheck and other preventative services in the west, north west and north east.

**Mr. Gormley:** I seek the adjournment of the Dáil under Standing Order 31 to discuss an issue of urgent public importance, namely, the report of the National Cancer Registry indicating that the number of cancer cases in this country is likely to double in the next 15 years and the need for the Minister for Health and Children to state how she will deal with this problem given that our health services are already over-stretched.

**An Leas-Cheann Comhairle:** Having considered the matters raised, they are not in order under Standing Order 31.

#### Order of Business.

**Minister for Finance (Mr. Cowen):** It is proposed to take No. 1, the Criminal Justice (Mutual Assistance) Bill 2005 [Seanad] — Second Stage and No. 3, the National Oil Reserves Agency Bill 2006 — Order for Second Stage and Second Stage. Private Members' business shall be No. 29, Greyhound Industry (Doping Regulation) Bill 2006 — Second Stage, resumed, to be taken immediately after the Order of Business and to conclude after 90 minutes.

**An Leas-Cheann Comhairle:** There are no proposals to put to the House.

**Mr. Bruton:** Before I raise questions on the Order of Business, I wish to point out to the Minister representing the Government that this side of the House co-operates with the Government in bringing forward legislation in an urgent manner. However, the National Oil Reserves Agency Bill was only published on Friday, it was received by most Deputies on Tuesday and is now to be debated on Thursday. We had a convention that Deputies would be given a reasonable period to prepare responses to Bills. We should revert to the proper practices we were observing in the past. This Bill could not be construed as emergency legislation.

I wish to raise a number of questions on the Order of Business. For the past number of days Deputy Kenny has asked the number of people who are awaiting trial under sections 1 and 2 of the 1935 Act, which have been deemed unconsti-

tutional by the Supreme Court. We have not yet heard how many such cases await trial or whether the decision jeopardises any of them. I am anxious to know whether the Minister has obtained that information for the House.

The Government deemed No. 54 on the list of proposed legislation, the register of persons who are considered unsafe to work with children Bill, a significant priority but it appears that the heads thereof have not yet been presented to it. What does significant priority mean if this is not coming to Government and if the Taoiseach cannot indicate the stage of preparation it has reached?

We do not have the legislative basis for the scheme in respect of the hepatitis C and HIV compensation tribunal (amendment) Bill, which the Tánaiste announced 16 months ago, in February 2005. It is unacceptable that people infected by the State, who have waited nine years for this legislation, received firm promises 16 months ago but have seen no solid progress.

The Government indicated that it would introduce orders, secondary legislation, to provide that doctors and other medical professionals would display prices in their surgeries. The Competition Authority is now taking action on allegations of price-fixing or lack of transparency in the medical profession. What is the position regarding the promised order that was intended to deal with this matter in advance?

**Mr. Cowen:** The legislation to give effect to the recommendations of the child protection joint working group for the register of persons who are considered unfit to work with children arises out of the North-South Ministerial Council format. Work on this Bill has concentrated on developing procedures for vetting of convictions through the vetting unit. The development of a register gives rise to a range of legal policy and practical implementation issues. The Departments of Education and Science and Health and Children are in discussions regarding the establishment of a pre-employment consultancy service. It is not possible to say when that legislation will be brought forward but we will follow it up.

**Mr. Bruton:** That does not sound like great urgency on the part of the Government.

**Mr. Cowen:** It is. The Minister of State at the Department of Health and Children with responsibility for children, Deputy Brian Lenihan, is taking charge of the situation. He is the first Minister of State to introduce vetting procedures in respect of this matter.

**Mr. Stanton:** We shall await them.

**Mr. Cowen:** The Government approved the heads of the hepatitis C and HIV compensation tribunal amendment Bill, which we expect to publish in this session. I will ask the Tánaiste to contact the Deputy regarding the secondary legis-

lation relating to charges imposed by medical professionals. I know only about the primary legislation issues.

**Mr. Bruton:** I think the Minister's colleague, the Minister for Enterprise, Trade and Employment, quashed it.

**Mr. Cowen:** If so, I will check with him. I do not know what is the position in that regard.

The Taoiseach indicated yesterday his understanding is that approximately 20 cases were involved in the relevant section to which the Deputy referred.

**Mr. Bruton:** Are those cases awaiting trial?

**Mr. Cowen:** In the printout that I saw from the Official Report of yesterday's proceedings, the Taoiseach undertook to contact Deputy Kenny on the exact number. He cited the figure from memory.

**Mr. Bruton:** I know it was from memory but it was not clear whether those people are awaiting trial or whether their trials might be jeopardised in any way by the Supreme Court decision. That is what people want to know.

**Mr. Cowen:** There is no reason why the Supreme Court decision should jeopardise proceedings for anyone awaiting trial. We know the constitutional parameters. An amending Act is now on the Statute Book and people can be rearraigned if necessary.

**Mr. Bruton:** That Act does not have retrospective effect.

**Mr. Cowen:** Exactly, but a person charged can be rearraigned on other charges so nothing is irreversible until the judicial process begins.

**Mr. Rabbitte:** Yesterday, the Taoiseach seemed to give a completion date for the work of the all-party committee without outlining its terms of reference. Does the Minister for Finance know when we will be advised of the terms of reference for the all-party committee to inquire into certain matters with which we are all familiar? Will these focus mainly on the deficiencies of the Act passed on Friday last? Will representations be entertained from this side of the House concerning the terms of reference? Will it be a separate new committee of the House? Will any reports written by State counsel for the client, for example, on the implications and significance of the case, be made available to the committee? Will they be made available to the in-house inquiry in the Office of the Attorney General?

**Mr. Cowen:** I have read the Official Report of yesterday's proceedings. The Taoiseach did not give a completion date for the all-party committee's deliberations. He left that open.

**Mr. Boyle:** He said it would be autumn. That is in the Official Report.

**Mr. Cowen:** The all-party committee will determine how long it sits. That is how it works.

**Mr. Gormley:** Does the Minister think what the Taoiseach says does not matter?

**Mr. Cowen:** I will answer Deputy Rabbitte because he is asking the questions. The Taoiseach indicated that the Government has some ideas on the terms of reference, which it would share with the Opposition for discussion and consideration. There is no prescriptive approach, it is a matter of working out the terms of reference. We have some views on the matter and if everyone is committed to dealing with the wider policy issues that arise it should not be impossible to arrive at terms of reference agreeable to everyone.

A senior civil servant in my Department will report on the facts of what happened in respect of this case. I was somewhat disappointed to read in the Official Report of yesterday's debate that people regard the appointment of a senior civil servant as sweeping things under the carpet. It ill behoves Members of this House to impugn the integrity of either the Civil Service or the public service.

**Ms O. Mitchell:** The Minister is joking.

**Mr. J. O'Keeffe:** That is ridiculous.

**Mr. Cowen:** The fact that a person is in the public service should not indicate that he or she is incapable of doing his or her job with integrity. As the Minister with responsibility for the public service, I wish to make that clear.

Legal submissions from the Attorney General's office or staff to the legal team would be the basis of the arguments made in open court. That is not a major issue. I do not know whether it is normal to make such papers available. It is a matter for discussion. I do not think there will be any major document shaking the foundations of the State, even if we did see the papers.

**Mr. Rabbitte:** The very tetchy Minister gave several glib replies.

**Mr. Cowen:** The Deputy posed several glib questions.

**Ms Burton:** It must be too early in the morning for the Minister.

**Mr. Rabbitte:** Could the Minister manage to avoid sulking for a moment?

**Mr. Cowen:** Name-calling will get the Deputy nowhere.

**Mr. Rabbitte:** Will the Minister have another go at answering the question?



**Mr. Cowen:** I have answered it.

**Mr. Rabbitte:** I said that in a case such as this, State counsel would have prepared a report for his or her client on the implications of the case as he or she saw it. I merely asked the Minister, respectfully, whether that would be made available to the all-party committee. Could the Minister attempt to answer without snarling?

**Mr. Cowen:** I did not snarl.

**Mr. J. Higgins:** One man's snarl is another man's smile.

**Mr. Cowen:** The problem with this Deputy is that whenever he hears an answer he does not like he decides to call people names. The fact that I cannot rise with the same quick degree of indignation as the Deputy does not mean he is any more correct than I. I will leave the name-calling to the Deputy. That is his style, not mine. That is the way he behaves. I am not obliged to take it from him.

**Mr. Howlin:** We will tell the teacher.

**Mr. Cowen:** The question of documentation is an issue that can be considered in the terms of reference to be drafted. The Taoiseach has outlined in good faith a preparedness to work on an all-party committee basis under the terms of reference which will deal with the issues. A report is to come from a public servant. I make the point, as I am entitled as Minister with responsibility for the public service, that I find it most disappointing that senior and experienced Deputies regard the appointment of a senior civil servant as in some way impugning the integrity of the process. That is unwarranted. I believe the fullness of the report when published will confirm there is no foundation to such an assertion.

**Ms Burton:** The Minister should answer the question.

**Mr. J. O'Keeffe:** Has he the authority to question the Attorney General and the Minister for Justice, Equality and Law Reform?

**Mr. Rabbitte:** What is the answer to the question?

**Mr. Cowen:** The answer to the question is that whether that will be available is a matter for discussion.

**Mr. Rabbitte:** Between whom?

**Mr. Cowen:** For the third time, there are draft terms of reference which will be communicated to the Opposition and if there are issues it wishes to raise it may raise them there. However, if the Opposition is trying to find another means, beyond the report of the Civil Service, to ascer-

tain what happened in this case, there is no necessity for that because the report from the senior civil servant will confirm all of the issues about which people have questions.

**Mr. J. O'Keeffe:** Does he have the authority to question the Minister and the Attorney General?

**An Leas-Cheann Comhairle:** Order please. I call Deputy Gormley.

**Mr. Gormley:** Yesterday evening, Dr. Maurice Manning, chairman of the Human Rights Commission, called for an urgent investigation into Ireland's role in assisting the United States in extraordinary renditions at Shannon Airport. Does the Minister for Finance accept such an investigation is now necessary—

**An Leas-Cheann Comhairle:** That is not a matter for the Order of Business. We had a Private Notice Question yesterday —

**Mr. Gormley:** With respect, a great deal of latitude was given to the previous speaker and I insist I get the same treatment. The Minister has made a statement about this issue and says we are not involved in extraordinary renditions. However, is he stating to the House that the planes mentioned in the Council of Europe report were not involved in extraordinary renditions in any shape or form? I am not asking whether there were prisoners on board but whether the Minister believes the planes were used for extraordinary renditions under any shape or form.

**An Leas-Cheann Comhairle:** The question is not in order. I call Deputy Crawford.

**Mr. Gormley:** With respect, I do not know why the previous speaker was in order and given great latitude, but I am not.

**An Leas-Cheann Comhairle:** The previous Deputy was speaking about promised business. There is no promised business with regard to Deputy Gormley's question.

**Mr. Gormley:** There has been a call for an investigation. Is the Government going to bring forward that investigation? It appears there will be no investigation or statement.

**An Leas-Cheann Comhairle:** Deputy Crawford, on the Order of Business.

**Mr. Crawford:** I wish to raise two issues. First, with regard to the difficulties between the NRA and property owners, when will the roads amendment Bill be brought to the House for discussion? Second, who is responsible for the health system or when can we have a debate in the House with regard to the ongoing situation, particularly with regard to the fact that we cannot get answers to

any questions in the House and services, particularly in the north east, are being removed? Will the Minister organise and ensure a full debate on the health system and that responsibility is accepted for it? He spends €13 billion of taxpayers' money on it, but we do not have a service.

**Mr. Cowen:** The roads amendment Bill is to amend legislation relating to roads and the National Roads Authority. The heads of the Bill are expected this year and it is hoped to publish it later in the year. With regard to the many representations the Deputy has made to the authority, I hope it recognises his position as a public representative and deals with them expeditiously.

**Mr. Crawford:** What about the health issue?

**Ms Lynch:** As a result of the "Prime Time Investigates" programme on the trafficking of women for the purposes of prostitution in Ireland, has the Government any intention to introduce legislation or to sign into law the various international treaties which would protect some women and children involved in the industry?

When will the broadcasting authority Bill, which concerns the transmission of RTE to England, be introduced? Does the Minister intend the same facility to be provided to the people of Cork where it appears the intention of the authorities is to close the regional station? Has the Minister any intention of interfering or ensuring that does not happen? Where stands the policy the RTE authority is charged with having with regard to regionalisation?

**Mr. Cowen:** There have been a number of legislative provisions in recent years dealing with the phenomenon of human trafficking. A further Bill, the criminal justice trafficking in persons and sexual offences Bill, will give effect to a number of international instruments on trafficking in persons and sexual exploitation. It is not possible at this stage to indicate when that Bill will be brought forward, but I understand the Minister intends to bring forward draft legislation this year.

With regard to the RTE authority and the policies it is pursuing, that is a matter for the authority. If the Government were to intervene, there would be howls of derision and indignation from the Opposition benches on interfering with public service broadcasting.

**Caoimhghín Ó Caoláin:** Against a backdrop of public hospitals such as Monaghan, Cavan and Dundalk, which have long records of excellent care for patients, being deprived of services and the recent announcement by the Health Service Executive north east area of a further contraction in services to offset a projected overspend in the current fiscal year, will the Minister for Finance, as former Minister for Health and Children, inter-

vene with the Minister for Health and Children to ensure patient safety is not put at risk across all the different disciplines affected, including oncology, renal dialysis and a raft of others highlighted over recent days? We appeal to the Minister to use his good offices and experience in the Department to recognise the needs of the north east.

With regard to promised legislation, the health information and quality authority Bill and the eligibility for health and personal social services Bill have been raised many times. What are the prospects of this legislation being brought forward in order to accommodate the type of debate we need in the House on this deeply worrying development which compounds the hurt of so many people?

**Mr. Cowen:** On the health Bill, the consultation process is under way and once it is finished, revised proposals will be submitted to Government. It is a process which will take longer than initially anticipated. The Bill is expected to be published later in the year.

**Caoimhghín Ó Caoláin:** I did not ask about the health Bill, but the health information and quality authority Bill.

**Mr. Cowen:** That is the one I was talking about.

**Caoimhghín Ó Caoláin:** What about the eligibility for health and personal social services Bill?

**Mr. Cowen:** That one is called the health Bill. The one I am talking about provides for the establishment of the health information and quality authority and the Irish social services inspectorate function on a statutory basis.

**Caoimhghín Ó Caoláin:** Will the Minister make any intervention with regard to the issues I raised? As he holds the finance portfolio, he is the key player.

**Mr. Cowen:** There is record levels of money for the health services——

**Caoimhghín Ó Caoláin:** There is record money and ever-contracting services. Clearly there is a crisis.

**Mr. Cowen:** ——and we are pursuing successful policies.

**Caoimhghín Ó Caoláin:** There is a crisis.

**Mr. Durkan:** As we enter the fifth year of the life of the Government, does it recall the document Delivering Better Government or is it still vivid in the memory of the Members opposite? I remind the Government of one of its aspirational proposals at the time, the minerals development Bill. When is the aspiration likely to become a reality?

**Mr. Cowen:** I understand it is due in the last year of the Government's tenure, which is next year.

**Mr. Durkan:** Yesterday was the anniversary.

**Mr. Cowen:** Perhaps Deputy Durkan should concentrate on trying to deliver better opposition so that he might have some prospects in government.

**Mr. Durkan:** We are delivering opposition all right. The Minister and his colleagues should start delivering better government. It is time for them to wake up and do so. I would not go too far down the road on that one if I were the Minister.

**Ms Burton:** The Minister announced at the time of the budget that he was allowing the bank levy——

**Mr. Cowen:** I apologise to Deputy Durkan for snarling at him.

**Mr. Durkan:** I do not mind the Minister snarling at all.

**Mr. Kitt:** He is warming up.

**Ms Burton:** ——of €100 million per annum on the banks to lapse. He also announced the establishment of a social investment fund. He announced last weekend that the banks have apparently agreed to contribute a mere €25 million to his alternative. That represents a massive saving for them. Will the new arrangement require legislation, or will it go through Pobal? What instrument has the Minister in mind for the social investment fund structure?

**Mr. Cowen:** I will make a full announcement about the social investment facility, which has every prospect of being a successful initiative, as soon as my consultations and deliberations in that regard have concluded. The figure of €25 million was mentioned at the time of the budget.

**Ms Burton:** It is small, when one considers that the Minister gave the banks the right to drop €300 million.

**An Leas-Cheann Comhairle:** The matter cannot be debated now.

**Ms Burton:** It is a huge gain for the banks. They were contributing €100 million per annum, but the Minister intends to ask them for contributions of just €25 million in future.

**An Leas-Cheann Comhairle:** The matter cannot be debated at this stage.

**Ms Burton:** It is a steal for the banks.

**An Leas-Cheann Comhairle:** I call Deputy Gogarty.

**Ms Burton:** Can the Minister, Deputy Cowen, comment on how he arrived at the figure of €25 million? Did he ask the banks for anything?

**An Leas-Cheann Comhairle:** The matter cannot be debated at this stage.

**Mr. N. Dempsey:** There is no legislation.

**Ms Burton:** At the rate they are making profits, it is absolute buttons for them.

**Mr. Cowen:** The levy was for three years. That is what happened.

**Ms Burton:** It was a bad deal.

**Mr. Cowen:** I do not renege on deals — that is the difference between Deputy Burton and me.

**Mr. Howlin:** That was a snarl.

**Mr. Gogarty:** I always like a little bit of banter.

**Mr. Cowen:** Was that another snarl?

**Ms Burton:** I have been awfully polite to the Minister.

**An Leas-Cheann Comhairle:** Deputy Gogarty, without interruption.

**Ms Burton:** I really do not deserve that kind of snarl.

**Mr. Gogarty:** One must admit that it is quite entertaining.

**Mr. Cregan:** Deputy Burton is very touchy.

**Mr. Durkan:** That is on a good day.

**Ms Burton:** We are all enjoying the sunshine. We are in good humour. The Minister should try to join in.

**Mr. N. Dempsey:** The Deputies opposite are all very sensitive.

**Mr. Durkan:** Some people have a funny way of showing they are enjoying the good weather.

**Mr. Cowen:** A little less pettiness would not go astray.

**Mr. Gogarty:** The heat is obviously getting to Members. I wish to inquire about the Criminal Law (Sexual Offences) Act 2006, which was debated in the House last week. It is obvious that the latter will have a knock-on effect on other legislation. In that context, I refer, in particular, to that relating to education. There are some questions about section 29 of the Education Act

1998, which relates to discipline procedures, appeals and the role of parents' associations. Will the Minister indicate whether there are plans to introduce legislation in the near future to amend the 1998 Act? Does he recognise the importance of re-examining the Act?

**Mr. Cowen:** I understand that no such legislation is promised. The points that have been raised by the Deputy are further reasons for the all-party committee to sit down to work out which wider policy issues should be addressed.

**Mr. Howlin:** The Government said that last week.

**Mr. Gogarty:** The Minister for Education and Science said that she would examine this issue.

**Mr. Howlin:** Copies of the Defence of Life and Property Bill 2006, No. 30 of 2006, were circulated to Deputies this morning. The Bill has been proposed in the names of the Progressive Democrats Senators. Can I ask whether it is a Government Bill? Will it be taken in Government time? Has it been endorsed by the Government?

**An Leas-Cheann Comhairle:** As it is a Seanad Bill, it is a matter for the Upper House.

**Mr. Cowen:** Yes.

**Mr. Penrose:** Not if the Bill comes to the Dáil.

**Mr. Treacy:** Deputy Howlin is firing blanks.

**An Leas-Cheann Comhairle:** It is not a matter for this House.

**Mr. Howlin:** It is unusual for Deputies to be given a Bill that has been produced by one party in what purports to be a coalition Government. Is it a Government Bill or is a separate party within the Government producing its own legislation as an alternative to Government policy?

**Mr. Durkan:** Yes.

**An Leas-Cheann Comhairle:** It is a Seanad Bill. It is a matter for the Seanad.

**Ms O. Mitchell:** It is legislation.

**Mr. Rabbitte:** That definitely happened last week in any event. They produced a separate Bill.

**An Leas-Cheann Comhairle:** It is legislation that is before the Upper House.

**Mr. Howlin:** It is not before either House. It has just been published.

**An Leas-Cheann Comhairle:** It is before the Seanad.

**Mr. Howlin:** Is it proposed to take the Bill in this House?

**Mr. Kitt:** No.

**Mr. Howlin:** Can I ask whether it has been considered by the Cabinet?

**An Leas-Cheann Comhairle:** It is before the Seanad.

**Mr. Howlin:** It is not before the Seanad.

**Mr. Treacy:** It is listed on the Seanad Order Paper.

**Mr. Howlin:** I am inquiring about the status of a Bill that has been published. Is it a Government Bill or a part-Government Bill?

**Ms McManus:** It is semi-detached.

**Mr. Cowen:** It has not been considered by the Government. It is obvious that it is an initiative by the Progressive Democrats representatives in the Seanad.

**Ms O'Sullivan:** Does the Minister for Justice, Equality and Law Reform agree with the Bill?

**Mr. Cowen:** I welcome the initiative. It is great to see it.

**Ms O'Sullivan:** They are in government with the Minister's party.

**Mr. Cowen:** It is important that small parties keep their identities when they are in government.

**Mr. Durkan:** It is a segment Bill.

**Mr. Stagg:** If in doubt, leave them out.

**Mr. Ring:** The Minister does not need to explain.

**Mr. Durkan:** That is in case they——

**Mr. Howlin:** They will be sending Michael a sweet.

**Mr. Stagg:** The Minister of State, Deputy Parlon, is watching.

**Mr. Cowen:** That is something the Labour Party forgot when it was in government.

**Mr. Howlin:** I think the Labour Party asserted itself well in government.

**Mr. Cowen:** It did. The Deputy should not bring me down that road.

**Mr. Boyle:** I think we have returned to the days of the temporary little arrangements.



**Mr. Treacy:** Oh Danny boy.

**Mr. Gogarty:** There are another 11 months to go.

**Mr. Cowen:** Deputy Boyle should get a sense of humour.

**Mr. Boyle:** Perhaps the Minister is in the business of changing partners.

**Mr. Cowen:** Now the Deputy is being very funny.

**Mr. Boyle:** The Minister suggested earlier that Opposition Deputies who question the value of an internal review of procedures in the Office of the Attorney General and the Office of the Director of Public Prosecutions because the review will be carried out by a civil servant are somehow denigrating that process. The reason for the concern and scepticism on the part of some Members on this side of the House is partly based on recent experience. I refer, for example, to the Dalton report, which has been prepared by a senior civil servant but which cannot be brought to the floor of the House. Following its preparation, that report, in which people are named, was distributed without being discussed in the House.

**Mr. J. O'Keeffe:** It has been leaked.

**Mr. Boyle:** It has been leaked on a large scale before the House has had an opportunity to consider its findings. How can Deputies be confident that the same thing will not happen in the case of the internal review of the workings of the Office of the Director of Public Prosecutions and the Office of the Attorney General that has been promised by the Government? Can I suggest that the best way to deal with this matter would be to ask the all-party committee to deal with all the issues from day one? Its terms of reference should be open so that it can ask the necessary questions of those who need to be questioned. We need to ensure that this work is done in the shortest possible period.

**Mr. Cowen:** I do not agree, the best way to ensure that due process is observed would be to get someone such as a senior civil servant from the Department of Finance who is *au fait* with systems in the public service to collate the information and to set out why the system of notification did not work in this particular case. That is the best way of proceeding.

**Mr. J. O'Keeffe:** The Government will be obliged to take responsibility.

**Mr. Cowen:** To do it in any other way might cause people to succumb to the temptation of playing politics with the issue.

**Mr. J. O'Keeffe:** Is that what the Government wants to avoid?

**Mr. Gormley:** The report will exonerate everybody and place responsibility on nobody.

### Message from Seanad.

**An Leas-Cheann Comhairle:** Seanad Éireann has passed the Criminal Law (Sexual Offences) Bill 2006, without amendment.

### Private Members' Business.

#### Greyhound Industry (Doping Regulation) Bill 2006: Second Stage (Resumed).

Question again proposed: "That the Bill be now read a Second Time."

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** Deputy Deenihan, who proposed the Greyhound Industry (Doping Regulation) Bill 2006, outlined his commitment to greyhound racing in some detail. He also spoke about the interventions he made when he was responsible for the industry during his term as Minister of State at the then Department of Agriculture, Food and Forestry. There is no denying the Deputy's interest in this area and his endeavours aimed at raising the standards within our greyhound racing industry, in the interests of owners, trainers, spectators and sponsors. He is concerned about the integrity of the industry and about animal welfare in general.

The Deputy will be obliged to admit, however, that no real progress was made in all these areas until the current Government entered office. It has been the first Government to appreciate fully the true value of horse and greyhound racing to the economic and social life of our country. Horse and greyhound racing events are not just great sporting occasions for hundreds of thousands of Irish people, but they also contribute significantly to the incomes and economic realities of many people, especially small farmers, throughout the country.

Race meetings are also great social occasions for the spectators, provide important opportunities for local suppliers and retailers and can be exploited as a unique Irish experience for visitors from abroad.

The Government seized this opportunity, and by introducing a radically new approach to promoting and sustaining the Irish racing industry, namely, the horse and greyhound fund in 2001, the entire industry improved dramatically. By the end of 2005, Bord na gCon had received €65 million from the fund since its establishment in 2001 and it will receive a further €14 million in 2006.

This has enabled Bord na gCon to significantly improve the facilities at the various greyhound tracks around the country, which has led to increased attendances at race meetings, improved betting turnover and increased sponsorship. Bord

na gCon also intends to continue its capital development programme in coming years and consequently, the industry can look forward continually to attracting new beneficiaries in the form of patrons, sponsors, corporate bodies and casual racegoers. Given the continuation of the fund announced by the Government in 2004, the Irish greyhound racing industry can expect similar levels of funding until 2008.

It is surprising, given the proud record of the Government in changing the face of Irish greyhound racing so dramatically, that Deputy Deenihan and his party could not wait for a few more weeks, for the outcome of the Dalton report.

**Mr. Deenihan:** The outcome is known. The Minister announced it. Its findings have been published all over the place.

**An Leas-Cheann Comhairle:** The Minister of State should be allowed to make his contribution.

**Mr. T. O'Malley:** By introducing——

**Mr. Deenihan:** The outcome is known. There will be no outcome. It has been all over the newspapers. Members know that.

**An Leas-Cheann Comhairle:** Deputy Deenihan is being unhelpful.

**Mr. T. O'Malley:** By introducing this Bill at this stage——

**Mr. Deenihan:** If I did not introduce the Bill now I would not be able to do so until November or December.

**An Leas-Cheann Comhairle:** The Deputy should not interrupt the Minister of State.

**Mr. T. O'Malley:** One must wonder whether his motivation is to introduce real, lasting and proven benefits to the industry, as the Government has done, or to cause mischief in the pursuit of hollow publicity.

**Mr. Deenihan:** This is ridiculous.

**Mr. T. O'Malley:** I wish to comment on some of the issues.

**Mr. Deenihan:** There is no mischief involved here. I gave a commitment.

**An Leas-Cheann Comhairle:** The Deputy has the right of reply.

**Mr. Deenihan:** Before the Minister of State, Deputy Tim O'Malley, continues, he should withdraw that remark. I promised this Bill before the Dalton report was commissioned and before——

**An Leas-Cheann Comhairle:** The Deputy has the right of reply.

**Mr. Deenihan:**——Mr. Dalton was assigned to this job.

**Mr. T. O'Malley:** I wish to comment.

**An Leas-Cheann Comhairle:** The Minister of State should be allowed to continue without interruption.

**Mr. Deenihan:** Very well.

**Mr. T. O'Malley:** May I continue?

**Mr. Deenihan:** The Minister of State should not personalise this simply because I have made an effort.

**Mr. T. O'Malley:** There have been several statements. As Deputy Deenihan is aware, this matter is in the public arena and the Minister with responsibility, the Minister for Arts, Sport and Tourism, Deputy O'Donoghue, has constantly asked people to refrain from public comment because many names and other matters have been revealed, which does not constitute due process. The Minister is being responsible in ensuring due process will take place, because this is a significant, important and growing industry. Many people depend on it for their employment and it is essential too for the public to have confidence in it.

The Minister also noted that, in the greyhound and horse industries, as well as the entire sports arena, Ireland's anti-doping control procedures must be the best. It must strive for best practice in this regard. This has already been achieved in respect of sport in general and the Minister is being extremely responsible in ensuring that best practice and procedures will be implemented by Bord na gCon after this matter has been investigated. It is not good for the industry for comments to be made about a report which has not been published and which has not yet gone before the Cabinet.

**Mr. Deenihan:** All Members agree with that.

**Mr. T. O'Malley:** It is extremely important that everyone should perform their business properly and that due process takes place, especially for those who are involved and for those whose names are in the public arena. Therefore, it was premature of Deputy Deenihan to bring forward this Bill.

**Mr. Deenihan:** While it may have been premature, it was not mischievous.

**An Leas-Cheann Comhairle:** Order, please.

**Mr. T. O'Malley:** Why could Members not wait for due process for all concerned?

**Mr. Deenihan:** There is none.

**Mr. T. O'Malley:** We must have due process, as this industry is too important——

**Mr. Deenihan:** There is no due process involved here.

**An Leas-Cheann Comhairle:** Order, please.

**Mr. T. O'Malley:** ——for the people involved.

**An Leas-Cheann Comhairle:** Members should be allowed to make their contributions.

**Mr. T. O'Malley:** It is too important for our country——

**Mr. Deenihan:** Just the ones who flout the terms in this instance.

**Mr. T. O'Malley:** The integrity of the industry must be allowed to endure.

**Mr. Deenihan:** Perhaps there is a new definition of due process.

**Mr. T. O'Malley:** This is a significant and a growing industry which is of major benefit to many small farmers and to those who train greyhounds.

The introduction of this Bill is as effective and timely as trotting around Shelbourne Park three days before the derby final.

**Mr. O'Connor:** I wish to share time with Deputy Peter Power——

**Mr. Deenihan:** I hope the Deputy will be more constructive.

**Mr. O'Connor:** Earlier, I listened to Deputy Burton stating the sun was shining outside the House and that all Members were in great form. I am glad to see Deputy Deenihan co-operating in this regard. Moreover, last weekend I watched the television programme “Reeling In The Years” and the Deputy looked to be in fine fettle then. I am glad nothing has changed.

I am delighted to have the opportunity to make a brief contribution to this debate and I welcome the attendance of my party colleague, the Minister for Arts, Sport and Tourism, Deputy O'Donoghue. I wish him continued success in his great work. My constituency of Dublin South-West is delighted with the announcements made by the Minister this week in respect of the lottery capital sports programme. A number of projects in my constituency have been grant-aided, including the pavilion project in Tymon Park, the Greenhills Park bowling green, Kilnamanagh Football Club, in conjunction with the Kilnamanagh Family Recreation Centre, the Dodder Park — Old Bawn project, the Kingswood community

centre and the Sacred Heart Boxing Club, Kilmarden.

**Mr. Deenihan:** These are very important grants.

**Mr. O'Connor:** These are important grants and it is good the Government recognises a major population centre.

**Mr. McHugh:** What about the Tallaght grannies association? The Deputy did not mention it.

**Mr. O'Connor:** We are happy in Tallaght. I will not be distracted because I am proud of the work being done in my constituency. I am delighted to bring this news from Tallaght and Greenhills to the Minister.

As for the Bill, I note the Minister opposes it. As the Minister of State at the Department of Health and Children, Deputy Tim O'Malley, stated, it is premature to accept the proposed legislation before the finalisation of the Dalton report on certain matters affecting Bord na gCon. Its terms of reference include an examination of Bord na gCon's existing greyhound doping procedures.

While Members will probably taunt me to the effect that I know little about greyhounds, I attend race meetings. Only this week, I was in Harold's Cross.

**Mr. McHugh:** They are four legged creatures, with two at the front and two at the back.

**Mr. O'Connor:** Last Monday, I enjoyed a marvellous night's entertainment when the St. Jude's GAA Club in Templeogue ran a night in Harold's Cross which I attended. I understand the Minister's exaltations of the merits of greyhound racing, as it is a great night out. I compliment Harold's Cross in that regard.

As Members are aware, in January 2006 the board of Bord na gCon decided to terminate the employment contract of its chief executive. This was the culmination of a series of events surrounding the chief executive, which included a direct communication from Mr. Tynan to the Minister alleging shortcomings in corporate governance practice at Bord na gCon, and that procedures dealing with doping infringements by the doping control committee were not in accordance with best practice.

In February 2006, the Minister established an independent investigation to be carried out by Mr. Tim Dalton, the former Secretary General of the Department of Justice, Equality and Law Reform, into those issues relating to corporate management in Bord na gCon, as well as its management of the positive tests for banned substances. I understand the terms of reference of the independent investigation were as follows. It was to review the allegations of shortcomings in corporate governance practice at Bord na gCon

made by its chief executive in his letter to the Minister of 18 January 2006. Moreover, it was to review a response dated 30 January of the chairman of Bord na gCon to those allegations. In addition, taking into account the possibility of legal proceedings taking place, it was to examine the circumstances surrounding the decision of the board on 26 January to terminate the contract of employment of the chief executive officer with immediate effect, and to report when and if possible, in light of the said legal proceedings, its findings to the Minister, and in any event to advise on any action considered necessary to ensure adherence to best corporate governance practice.

The terms also included consideration of the manner in which Bord na gCon procedures dealing with doping infringements are carried out at present, to comment on the adequacy of existing procedures, and to advise whether there should be changes or modifications put into effect. Mr. Dalton presented his report to the Minister in April and his Department immediately sought guidance from the Attorney General's office on how to proceed regarding the issues raised. In accordance with the Attorney General's advice, copies and, in some cases, extracts of the report were sent, on a confidential basis, to persons to whom it referred to afford them an opportunity to submit observations to the Minister by close of business on Wednesday, 31 May 2006. The submissions received were made available to Mr. Dalton for the purpose of finalising his report, following which the Minister will present proposals to his Cabinet colleagues to deal with the recommendations in the report.

The Minister will also seek approval for immediate publication of the report. He made it absolutely clear, as recently as last week when replying to parliamentary questions, that all those mentioned in the report would be afforded due process and sufficient time to submit their observations. He also stated that he does not intend to comment at this stage on any aspect of Mr. Dalton's report until it is formally released into the public domain.

Under the Greyhound Industry Act 1958, the Minister appoints the seven members of the board of Bord na gCon, which comprises a chairman and six ordinary members. The term of membership of an ordinary member is three years with two ordinary members retiring each year. An ordinary member may at any time resign by letter to the Minister and the resignation takes effect on receipt by the Minister of the letter. The Minister may at any time remove an ordinary member of the board. An ordinary member of the board whose term of office expires is eligible for reappointment. The Minister appoints the chairman, as the occasion requires, and he or she holds office at the pleasure of the Minister. The chairman may, however, resign at any time by way of letter to the Minister and his or her resig-

nation takes effect from the date of receipt of the letter by the Minister.

The Minister appointed Mr. Seamus Mallon, former MP and MLA, and Mr. Dick O'Sullivan, manager of Punchestown racecourse, to the board for three years, with effect from 23 May 2006, to replace Mr. Cathal Curley and Mr. John Hegarty whose terms of office expired on 23 January. The Minister will be warmly complimented in many communities for his foresight in making those appointments. While Mr. O'Sullivan is well known, Mr. Mallon is a revered figure in domestic politics. I am glad he has taken up this assignment and I wish him well.

My knowledge of greyhounds is restricted to attending Harold's Cross greyhound stadium to support local events. Bord na gCon, which is a commercial semi-State body, was established in July 1958 under the Greyhound Industry Act to control greyhound racing and to improve and develop the industry. The board's functions are: the control, promotion and operation of greyhound racing; the overall control of coursing; the promotion of greyhound exports; the operation of betting; the regulation of public sales of greyhounds; the making of grants for prize money; the allocation of grants to improve amenities at tracks; the licensing of greyhound tracks and their officials; the authorisation of bookmakers to conduct business at tracks; and the collection of levies on course bets. Of the State's 19 greyhound tracks, Bord na gCon owns nine — Shelbourne Park, Harold's Cross, Cork, Tralee, Waterford, Youghal, Limerick, Galway and Clonmel. It also has a 51% share in the Mullingar track but there are no plans for a track in Tallaght.

**Minister of State at the Department of Health and Children (Mr. S. Power):** This debate on the greyhound industry, which has been taken for granted in many respects, is welcome because the industry has not received much coverage in the House. We were fortunate that two Ministers in the previous Government, Deputy Walsh and Mr. Charlie McCreevy, were familiar with the greyhound racing and horseracing industries and they brought forward legislation to secure funding for both industries. This resulted in significant investment in both industries in recent years which has been reflected in attendances at meetings. The people have spoken with their feet.

I was a greyhound owner in the past and my family was involved down through the years in the industry. I like a night at the dogs. In recent years, the issue of clerical abuse has received a great deal of publicity. However, as a former altar boy, my experience of the church was much different. I was an altar boy to a priest who loved both horse and greyhound racing and I had the pleasure of travelling around the country to attend horse and greyhound race meetings and even the odd coursing meeting. I learned a great deal and my experience with this priest was joy-



[Mr. S. Power.]

ous and educational. I am grateful for the education I received about greyhounds and horses.

**Mr. Healy:** Did the Minister of State win anything with his dogs?

**Mr. S. Power:** Unfortunately, no, but they were good at eating.

Many tracks had poor facilities until recent years. Kevin Heffernan, who is associated more with gaelic football than with greyhounds, was one of the people responsible for much of the change that has taken place. He identified what was required to improve the industry but at the time, unfortunately, the necessary resources were not available. Much needed investment and development has been undertaken and this has led to the modernisation of facilities at greyhound tracks under the chairmanship of Paschal Taggart. I acknowledge the tremendous part he has played and the leadership he has given in modernising the industry, for which there is great appreciation throughout the State. While the changes were much needed, the board also realised the industry faced stiff competition. People have other options and unless good, modern, clean facilities are provided, they will go elsewhere. Many of the tracks provide restaurants facilities and so on and a night out at the dogs has become more attractive. For example, many office groups and clubs go to the dogs for a night out.

**Mr. F. McGrath:** The Minister of State has gone to the dogs.

**Mr. S. Power:** The profile of those attending greyhound meetings has changed significantly in recent years. For example, many more young people attend than did so a few years ago. I acknowledge the leadership given by Paschal Taggart and the other members of Bord na gCon. I also acknowledge the transformation of the greyhound industry.

It is somewhat unfortunate that Deputy Deenihan is bringing forward his Bill at this time. The Dalton report has not been made public.

**Mr. Deenihan:** What about the article in the *Sunday Independent*? It has been leaked all over the place.

**Mr. S. Power:** Extracts have appeared in newspapers but, in fairness to the people involved—

**Mr. Deenihan:** They are entitled to due process.

**Mr. S. Power:** Of course they are.

**Mr. Deenihan:** Due process has been given a new definition.

**Acting Chairman (Mr. Carey):** The Deputy should allow the Minister of State to continue, without interruption.

**Mr. S. Power:** I am not sure in what light Paschal Taggart and the other members of the board will be portrayed in the Dalton report. It may decide they acted improperly or it may vindicate them.

**Mr. Deenihan:** Not according to the leaked report.

**Mr. S. Power:** Regardless of how the report treats the people concerned, the doping scandal, as it has been called, is only one aspect and we should not forget the good these people have done in terms of transforming the industry. We in Ireland like to build people up, only to knock them at the first opportunity.

**Mr. Deenihan:** The Minister of State should look around himself.

**Mr. S. Power:** For their own reasons, some people love to take advantage of opportunities to criticise others but the achievements made under the chairmanship of Paschal Taggart must be acknowledged. I do not know Mr. Taggart very well, although I met him on a few occasions. Most of those directly involved in the greyhound industry are appreciative of the role he played and the changes he introduced. It is important that we acknowledge these changes and express sincere appreciation for his and other members' foresight. They have encouraged many more people to become involved in the industry, which for a long time had to struggle with the same old faces, limited prize money, poor attendance and facilities in need of modernisation.

The changes made in recent years are due in many respects to the funding provided when this House enacted the Horse and Greyhound Racing Act 2001. Funding has been secured for the horse and greyhound racing industries, making the task of planning for the future a little easier. One of the smaller parties in this House tends to criticise the Government for the stance it has taken in that regard, although most of the contributors to the debate on the Act were happy with the proposals being made.

The matter is often depicted as if we were giving the money directly to the horses or their wealthy owners but the greyhound and horse racing industries employ a large number of people, even if they are not the best paid workers in the country. I have been personally involved with the Stable Staff Association and have seen the changes which have taken place. For a long time, many workers in the industry were abused by their employers but their terms have changed for the better in recent years. We should be conscious of that instead of making rash statements. Deputies have responsibilities and they should

not abuse their positions by making wild accusations.

I acknowledge Deputy Deenihan's love for and understanding of the greyhound industry but he has been somewhat premature in respect of this Bill. The Government supports all aspects of greyhound racing and that is appreciated by everyone involved in the industry, from the small owner and breeder to the thousands of spectators who enjoy the racing experience at tracks across the country. The Government's introduction of the horse and greyhound racing fund dramatically changed the landscape by transforming what was a struggling sport into a high quality and well financed industry with state of the art facilities for trainers, owners, dogs and paying customers.

The sport can only thrive on the basis of trust and integrity on the part of those involved. Spectators and punters must be satisfied that a dog's performance, whether it wins or loses, is genuine and truly reflects the animal's abilities and talents. Once trust and confidence are lost, everything else goes. Every effort should be made to improve the procedures and levels of integrity in the area of dope testing. The record of this Government cannot be matched when it comes to ensuring that Irish sports are conducted in an environment of fair play and integrity. Prior to the Government's establishment in 1999 of the Irish Sports Council as a statutory body responsible for the promotion and development of sport in Ireland, we did not have a national anti-doping programme. We can now boast of having one of the best anti-doping programmes in the world and of procedures which the World Anti-Doping Agency holds up to other countries as a model to be copied. This commitment by the Minister for Arts, Sports and Tourism to the highest standards of integrity, transparency and fair play is no less evident in his approach to greyhound racing and his insistence that the most effective and appropriate procedures are put in place in Bord na gCon.

Given that the Minister requested Mr. Dalton to address this area in his report, it would not have been unreasonable to expect Deputy Deenihan to wait a short while to allow this critical issue to be given the attention it deserves. The Minister has urged everyone concerned to desist from public comment so that Mr. Dalton's work can be finalised. It is a pity that did not happen. The people mentioned in the report should be afforded adequate time to make their observations and for the Government to decide on the best response. We all share Deputy Deenihan's concern for this industry, which forms an important element in the economic, sporting and social lives of Irish people. However, we also want to act properly with regard to integrity and regulatory functions in the organisation of the sport. Jumping the gun does not serve the interest of the Irish greyhound industry in any meaningful way. There will be a time and a place to address

these issues in a calm and constructive manner but today is not the time.

I thank all those involved in the greyhound industry because the recent radical changes to the sport have not happened by accident. A night out at the dogs is a family event which can be enjoyed equally by a five or a 95 year-old. I wish the industry continued prosperity and look forward to attending many tracks over the summer months.

**Acting Chairman:** Before calling on the next speaker, I remind the House that Members should show restraint and should not criticise or make charges against persons outside the House as they are defenceless against accusations made under privilege, other than the right of reply under Standing Order 58.

**Mr. Ferris:** I welcome any attempt to increase public confidence in greyhound racing which, with an excellent track in Tralee, is an important sport in my constituency. It is vital that such an important sport conducts itself in a completely transparent manner.

Last Saturday night, I attended the greyhound track in Tralee with other Deputies from my constituency to take part in a fundraising event by the Spa, Churchill and Fenit communities for a playground for young people. It is a fantastic facility and I compliment everybody involved.

Going to watch greyhound racing is, as the Minister indicated, a wonderful social occasion. He used the word "integrity" and it jumped out at me because the integrity of the industry is important. Unfortunately, there is a sense of doubt in many people's minds. In the majority of cases there is no problem and only a small minority have anything to fear from drug-testing of dogs and other safeguards to ensure that the sport is pursued fairly and with due regard to the safety and health of animals involved. This issue is of interest as a result of recent controversy regarding the position of the chairman of Bord na gCon, particularly in respect of leaks from the Dalton report into the sacking of the former chief executive, Mr. Aidan Tynan. That sacking centred on Mr. Tynan's claims regarding the failure to publish the results of dope tests. If that report recommended the introduction of mandatory testing, as leaked to the newspapers some weeks ago, this Bill merely anticipates what will be an early initiative on the part of the Minister to ensure that this is done.

I agree with proposals to ensure that drug testing on greyhounds is carried out in a more professional and secure manner. Procedures are loose and while nobody is alleging that abuse is widespread, there is scope for it. As previous speakers stated, there are many stories on how easy it would be to mask evidence of certain drugs in samples.

On the sacking of Mr. Tynan, there is the issue of accountability. Should a person harbour

[Mr. Ferris.]

serious concerns on the manner in which greyhound racing is administered, he or she should be able to air them without fearing that his or her position will be threatened. That lies behind many concerns regarding the state of the sport in this country. There is a perception, rightly or wrongly, that cliques have developed, which have particular connections and interests. In any sphere of life, this leads to rumours. The solution is generally to ensure a regular turnover of people in positions of authority so that there is a healthy intake of new blood and ideas and that people have confidence in those in authority.

The Minister for Arts, Sport and Tourism has a major responsibility in respect of the manner in which he appoints the members of Bord na gCon and maintains relationships with them. Members of State boards should be seen to be impartial. While they must have a background and interest in the sport, they should not be seen to ally with any interests in it. The Dalton report will hopefully lead to greater transparency in greyhound racing and the Government will address any areas of concern that will cast a shadow on a successful and positive sport.

I stress that allegations have been made. I do not say that they have been substantiated but I hear them constantly, as do other Deputies from rural areas who have an interest in the industry. There have been allegations of political interference. In the interests of public confidence, it is necessary to ensure that people's concerns are allayed. I have no difficulty supporting the proposal contained in this Bill.

**Mr. McHugh:** I welcome the Greyhound Industry (Doping Regulation) Bill 2006. Great strides have been made in respect of the development of the greyhound industry in recent years. A pragmatic, dynamic approach has been taken by Bord na gCon to the development of the industry and this has been supported by the current and previous Ministers and the Department of Arts, Sport and Tourism. The progress made can be seen in County Galway, where the greyhound track has been refurbished and renewed. On Friday nights, the greyhound track is the place to be, not only for greyhound racing but also for the craic. As we are dealing with doping regulations, I had better explain that the "craic" I mentioned refers to fun and socialising.

**Mr. F. McGrath:** I was getting worried.

**Mr. McHugh:** As a result of the controversy that has affected Bord na gCon recently, the great strides made have been tainted. That controversy should be nipped in the bud before further irreparable damage is done.

The Fine Gael Bill proposes the establishment of an independent regulation and control body to deal with doping and illegal drug use in the greyhound industry. When I hear about another

independent body being set up, I have nightmares because I have visions of another unaccountable body. However, the principle of independence from Bord na gCon is vital. The ongoing controversy illustrates and underlines this. One cannot have a body investigating itself. For the system to operate without any suspicion attached, it is imperative that any member of a new body not be a member of Bord na gCon. The greyhound industry is intimate and small and everyone knows everyone else. Even if the people carrying out doping tests are scrupulously honest, the close nature of the industry means that it will always be possible for certain people to raise suspicions. Such a scenario does not create confidence in the independence of the process and is, therefore, not good for the greyhound industry.

**Mr. Healy:** I welcome the opportunity to support this Bill. Any action to lift any clouds that might hang over the industry is important and should be taken quickly. This is a small but important industry, particularly in the area from where I come in south Tipperary in which the Clonmel track is located and which hosts the national coursing festival each year. They greyhound and coursing industries are important and give much employment and support to other industries and business in the town of Clonmel and much enjoyment and sport to the many people involved at all levels.

As other speakers stated, there has been much welcome development in the industry in recent years and it is fair to compliment Bord na gCon on this. I hope those developments will extend to Clonmel in the near future. We are seeking €5 million for the development of the track there. We have had difficulties which have been resolved and I hope the €5 million will become available soon to extend and improve the facilities at Clonmel.

I welcome, if true, news that the Dalton report will indicate that mandatory testing is necessary. Such testing should be introduced sooner rather than later. This is an important industry over which no clouds must hang. We must have trust and confidence in the industry, which must be transparent in its operation. This Bill would achieve that. In the interests of the sport, I support it.

**Mr. Connolly:** This Bill is to be welcomed as an attempt to restore, or perhaps give, a good name to the greyhound industry, which has been dogged by controversy for some time.

Greater transparency in drug testing has been demanded and with the ongoing turbulence in Bord na gCon, it is past time for a separate, independent doping and appeals agency if the testing procedures are to have any credibility. The abuse of greyhounds by the administration of performance-enhancing drugs in unsporting and detrimental to the industry, which is popular with many people. For a night out at the greyhound



track, one must book well in advance. There is an onus on us to do something about that. Unfortunately, a number of the top owners have come under suspicion of having their greyhounds doped. There have been many unexplained deaths of top greyhounds that can only be associated with doping. Race fixing involving doping is said to be rife and is unfair to punters. In many cases, it can be lethal to the dogs. The drug most associated with it is EPO, which presents a serious temptation because owners can gain a number of lengths advantage for their dogs by administering it to them. Performance-enhancing drugs are not the only drugs given. Dogs are often blocked and this must be examined. It may be equally difficult to pick up. The result is that when a dog enters a race, it has a number of lengths in hand. Those issues must be addressed.

Bord na gCon had a policy of naming and shaming corrupt individuals in the weekly sporting press published by the Irish Coursing Club. After 2003, it altered this practice and distinguished between those who dope dogs and those who bring the sport into disrepute. I would like to know what is the difference. Where gambling is involved, people are tempted to cheat.

**Mr. F. McGrath:** I welcome the opportunity to speak on this Bill and other sporting matters. I am always amazed at how other sporting groups are treated. How do the greyhound and horse racing industries receive major investment and tax breaks while the Eircom League is ignored? Shelbourne Football Club, my local club, deserves the support of the Government. I commend the Shelbourne supporters development group for great work in supporting a local club and demanding Government support for the Eircom League. We must support, fund and assist clubs in the Eircom League to the same extent as the greyhound and horse racing industries. We need leadership and vision to deal with this issue. Why can there not be a top quality league in Ireland that all families can enjoy, rather than watching Premiership football?

I support the plan to end doping and rigging of greyhound races. I demand standards in the industry to root out doping and sleaze. Although it is an important social and family event, the downside of it is coursing, on which we need a debate.

**Mr. Gregory:** This Bill is welcome if it can clean up one corrupt aspect of the greyhound industry. Regrettably, the industry is riddled with corrupt practices and a complete investigation into all aspects of the industry is needed. I refer in particular to the illegal, disgraceful practice of blooding greyhounds with live rabbits, hares and kittens. RTE ably exposed these practices some time ago.

Greyhound welfare is also an issue. Thousands of dogs are put down as soon as they are no longer useful for racing. Many are cruelly treated

and there are many instances of dogs being dumped with their ears hacked off and throats slit rather than a vet being paid to humanely put them down. The owners should be traced and dealt with severely. Many dogs are exported to Spain in inhumane conditions and treated in an appalling manner. This is the tip of the iceberg.

Live hare coursing — a medieval and cruel practice — is still legal and should be banned outright as has been done in more advanced countries. Even the most prominent owners and trainers are involved in doping. The dog that won the coursing greyhound of the year award, Boa Vista, is owned by Vinnie Jones and others. It also won the Irish Cup 2005-06, sponsored by J.P. McManus, receiving prize money of €80,000. It tested positive for a banned drug following that win but we still do not know what drug was involved. The Irish Coursing Club is a law unto itself and is not fit to regulate anything involving animal welfare.

**Mr. Gogarty:** I echo Deputy Boyle's comments on the Dalton report, which was leaked. God help us if any report on sexual offences is treated in the same way. I agree with the sentiments of this Bill and will support its attempt to regulate the greyhound industry.

Greyhounds must compete on merit and should not race after taking painkillers or other drugs to boost performance. Much concern has been expressed about the health and safety of the greyhounds but only a handful of Deputies have referred to the health and safety of hares. Deputy Gregory referred to the continuing practice of blooding and cruelty to dogs. Greyhounds are treated as commodities and put down once they have outlived their usefulness. The same applies to hares. Even in the regulated system where dogs wear muzzles, hares are held for up to six weeks and may be killed by stress or mauling during coursing meets.

I have nothing against the greyhound industry *per se*. I acknowledge that a night at the dogs could be an enjoyable event but not at the expense of unnecessary cruelty and mistreatment of animals. Studies have shown that drag coursing provides a similar training for dogs without cruelty to hares.

Notwithstanding the manner in which dogs are treated, a societal issue must be addressed. Many Deputies and well-heeled members of society enjoy going to the dogs and buying dogs. I am sure they would not condone the use of animals as commodities or cruelty to animals but this happens in the greyhound industry. Surveys show that 75% of people living in the countryside and 90% of those in cities oppose hare coursing, a considerable amount. The sport has blood on its hands and is under a cloud, irrespective of the contents of the Dalton report. An industry based on cruelty and exploitation should not be allowed to continue as it is.



[Mr. Gogarty.]

The greyhound and horse racing industries are hugely profitable. Nevertheless, some 37% of funding from the Department of Arts, Sport and Tourism is allocated to these two profitable industries. Does one person become healthier, fitter or better off spiritually as a result of this investment? They do not but, as Deputy Finian McGrath outlined, a major deficit exists in respect of sports clubs where people are involved in sports. This morning I referred to obesity and the lack of exercise by children. Track and field sports, Gaelic games, rugby, hockey, soccer, swimming and tag rugby, which is catching on nowadays, allow people to interact socially, increase fitness and improve health. There is no exploitation in these sports. Receiving an elbow from Deputy Deenihan in an all-Ireland final may be labelled as blood sport but that is legal and I endorse such blood sport between human beings.

Dumb animals are being exploited but even dumber animals are keeping the industry going. There is something wrong when three times as much lottery funding for sports is allocated to Kerry as to Dublin and north Kildare. Money is available if we transfer it from industries that provide no exercise to local clubs and communities, enabling us to address the health crisis. This will avoid getting involved in the exploitation of animals.

**Mr. Stanton:** I propose to share time with Deputies Hogan and Tom Hayes. No one can dispute Deputy Deenihan's interest in and knowledge of sport, particularly this area. He has been committed to the industry for many years and in 1999 he promised to publish a Bill. It is important this is debated now because this is the last opportunity we will have to debate a Private Members' Bill before the end of the Dáil term. Deputy Deenihan has generously given Private Member's time to put this Bill before the House. This should be noted, as doubts have been raised with regard to the industry.

The Dalton report, mentioned not by Deputy Deenihan initially but *ad nauseam* by the Government, has put a cloud of doubt over the industry. This must be lifted. The best way to do that is with this Bill. I am amazed the Government, and the Minister for Arts, Sport and Tourism in particular, has come in to rubbish, more or less, what Fine Gael is trying to do.

Three issues are involved. These relate to the corporate governance of Bord na gCon, banned substances and a separate issue. The first two are the major factors, and they are on two separate tracks. It should be possible to deal with doping regulations separately. It would be important to have this Bill on the Statute Book. The Minister has stated he would be happy to engage with Deputy Deenihan on aspects of his proposal if and when he was in a position to do so. Everyone accepts that action must be carried out. The Government has not put forward any valid reason

for it not being done. It has mixed up and confused two separate issues for its own end.

I spoke to somebody this morning involved in the Youghal greyhound racing track in my constituency. I am pleased to state that Bord na gCon will invest significantly in that track. Although it is a small track, it is very important to Youghal. We have recently been decimated in Youghal because of closures in industry. The greyhound track is one of the biggest industries in the town. I have been told that €250,000 is being made immediately available for stands and kennels, and this will upgrade facilities so people can have a meal and a nice evening there. It is a fantastic area down by the sea.

I was told that only for Mr. Paschal Taggart, the track would have caravans on it and be growing water lilies. There was much support for Bord na gCon and what it has done over the past number of years. Mr. Taggart created possibilities, not only in Youghal but across the country.

The UK has a flying squad which is independent. Deputy Deenihan is proposing a similar section, independent within Bord na gCon, to regulate the industry with regard to doping and illegal drugs, which is crucial. This is probably the final opportunity before the summer recess to debate this legislation and bring it forward. If we must wait for the Government to bring legislation forward, we will be waiting for the next Dáil, or perhaps beyond that. I do not see any opportunity to do it next year. I ask the Government not to go against the Bill and allow it to go forward. If it needs to be amended later, we have much of the work done already.

It does not make any sense for the Government not to accept the Bill. It should co-operate with Members on all sides of the House. All Members, including those in Government, have stated that legislation such as this is necessary, important and positive. Nobody on the Government side has explained how this legislation interferes with due process. It does not, and it is a separate issue. This could go forward as such.

The Government has raised the Dalton report, all aspects of which have been made available in the press. It has been leaked. Perhaps there should be an inquiry as to how that happened, who leaked it and why it was done. I understand the report recommends that a control committee should become a committee of three, independent of Bord na gCon, which should have an appeal mechanism. This is being proposed in the Bill. The Government is missing a golden opportunity to advance the issue. It is playing politics with the issue, and the Minister for Arts, Sport and Tourism is missing an important opportunity.

**Mr. Hogan:** I thank Deputy Stanton for sharing time on this very important matter.

**Mr. B. O'Keeffe:** I hope the Deputy will be refurbishing Kilkenny in his speech.

**Mr. Hogan:** First, I declare my interest in that I am a greyhound owner. I am proud of this. When I come to speak about Kilkenny, I will expect the support of the Minister of State, Deputy Batt O'Keeffe.

**Mr. B. O'Keeffe:** Absolutely.

**Mr. Hogan:** I praise the great work done by a former Minister of State, Deputy Deenihan, when he had an opportunity to act with regard to the greyhound industry. He did not just talk about action. He developed a forward-looking greyhound plan, which could be widened to the larger community. This resulted in the significant increases in attendances and the development of first-class facilities around the country.

There is no doubt the current chairman of Bord na gCon, Mr. Taggart, and his board of directors, in conjunction with the support received at the time from the Department of Agriculture and Food, have done a tremendous job in uplifting an industry which was a Cinderella sport, but has now grabbed the imagination and attention of the wider public.

The important economic aspect of the industry is not to be underestimated, particularly with regard to owners, trainers and the wider community. A number of people are involved because there is a tradition in the family, and also because new syndicates are emerging which are bringing great sport, enjoyment and entertainment to the wider community. This is similar to how the horse racing industry has developed, with many people involved in various syndicates. That is giving a new outlet in terms of entertainment, and the greyhound industry is the same.

The barrage of accusations by the Minister for Arts, Sport and Tourism, Deputy O'Donoghue, that Deputy Deenihan's proposals smack of political opportunism does not sit well. To level such accusations is not the right tone to strike on an issue such as this, the Greyhound Industry (Doping Regulation) Bill. I was disappointed with the Minister when he stated that Deputy Deenihan's proposal "smacks of political opportunism on the part of the Deputy and seems to be contrary to the spirit of impartiality, openness and fair play that he appeared to espouse when preparing the Bill".

As with the Minister for Justice, Equality and Law Reform last week, I do not believe that to be the right tone. More than anybody in this House, Deputy Deenihan has espoused, in a very impartial and open way, his desire to see the greyhound industry developed. He put his money where his mouth is when he was Minister of State for the period 1995 to 1997.

I would like the Minister to give credit where it is due and get on with the job of ensuring we have a board of directors in place in which we and the Minister can have full confidence. There should be a proper chief executive rather than an acting chief executive, which we have at the

moment, with the capacity to deliver on board decisions. There should be certainty regarding the budget of Bord na gCon.

All these issues have been in limbo for far too long. The Minister for Arts, Sport and Tourism, Deputy O'Donoghue, has failed to take the necessary decisive action to ensure we have a continuation of the good work carried out over the past number of years.

It was a mistake for the Government to transfer responsibility for the greyhound industry to the Department of Arts, Sport and Tourism. I know the political reasons for this occurring when a former Minister, Deputy Walsh, left office. It has not served the industry well. There was much expertise in the Department of Agriculture and Food, built up over a long time. This facilitated officials being in contact with various programmes which had to be worked out with the EU and in conjunction with Bord na gCon and the tracks around the country. There was a good working relationship. I am disappointed we do not have the decisive action needed to ensure the industry has confidence to go forward.

I hope the Minister will take the opportunity, as he promised in his contribution, to provide clarity in the next week or two for the industry and give leadership by appointing a chief executive immediately. He should ensure there is sufficient funding to complete a number of tracks around the country, not least the track in Kilkenny.

The killjoy attitude of some of the speakers, particularly Deputy Gogarty, leaves much to be desired. I cannot understand somebody representing a Dublin constituency who cannot see the immense entertainment constituents can get from events in Shelbourne Park and Harold's Cross. It has nothing to do with the Deputy's so-called attitude to attention to animals. The sport is properly regulated, and the owners and trainers look after their animals to the highest standards. No amount of a killjoy attitude, as adopted by Deputy Gogarty, will convince me other than that the wider community wants this sport developed and takes great entertainment and enjoyment from it.

The record attendances show that.

The independent verification of doping has been a controversial aspect and Deputy Deenihan has outlined a way forward. This has not been dealt with by successive Ministers after nine years in office and that is far too long. Deputy Deenihan is accused of political opportunism because the Minister is about to take action, but he and his predecessors have had nine years to do it yet they have not done it. There needs to be certainty in the verification of the doping of greyhounds and that should not be in the hands of the board. That independent verification is enshrined in this legislation in the best possible way.

I ask that the best possible ministerial support be given to departmental officials to ensure the

[Mr. Hogan.]

proper budgets are in place to complete the programme in Limerick, Kilkenny and Clonmel. I hope the programme is completed by the end of 2007 and that we continue to have the highest possible standards in the greyhound industry under the leadership of Bord na gCon and Mr. Taggart. The clouds surrounding the industry must be lifted by the Minister, Deputy O'Donoghue, in the next couple of weeks.

I support Deputy Deenihan's initiative to ensure we get the type of action necessary to lift the gloom around the industry and to give us back the certainty necessary to go forward.

**Mr. Hayes:** I am pleased to have the opportunity to say a few words on this important Bill. I commend Deputy Deenihan for having the courage to table a Bill that we can discuss. We all have the opportunity to discuss an industry about which much has been written, some of it unfair. This industry is vital to the economy. It brings in €300 million in revenue and over 1.3 million people attend dog tracks every year. That includes dog owners, dog breeders, trainers and the general public, who all support events in the different stadiums around the country.

Since Deputy Deenihan's time in office there has been much change in the industry. Under Paschal Taggart as chairman of Bord na gCon, the industry has gone from strength to strength. I attended the Produce stakes in Clonmel only a few weeks ago. That track was closed four years ago and greyhound racing was abandoned, but the place was chock-a-block that night with people interested in the industry. There were many young people having a good night out away from other troubles. There was also great pride for the people who won the race.

Parts of the Dalton report were leaked the weekend of that race and Paschal Taggart addressed the public at the meeting. It showed how much the Government is out of touch. The Minister for Arts, Sport, and Tourism slated Deputy Deenihan and that attitude was typical of the Minister for Justice, Equality and Law Reform last week when he showed he was out of touch with the people on the street. The Minister, Deputy O'Donoghue, is certainly out of touch because people want this industry sorted out. The Dalton report was leaked to every newspaper in the country and everybody knows what is in it. Deputy Deenihan is trying to put in place legislation that will help this industry.

Australia provides an example of a system where a dog can be tested on a weekend and the results delivered early the next week. We have excellent standards in technology and there is no reason we cannot put such a system in place. The reality is that the greyhound and coursing industries have been getting bad press due to a lack of knowledge. People have come into this House and have spoken of terrible things that have happened, but these things are against the law. I have

heard of no-one that regulates and runs this industry that breaks the law. Only two weeks ago, I visited Newpark stud, owned by Mr. Seán Burke. Those who are opposed to this sport should visit this stud and see the professionalism he has brought to the business, such as using artificial insemination to produce the best dogs, cleanliness, hygiene and everything else that is used in the production system. Mr. Burke is now a top breeder, but there are many more like him and there is potential for more and more young people. As agriculture changes, there is an increasing need for such developments. Places like Newpark stud should be encouraged rather than knocked.

The people involved in the greyhound industry are very dedicated. They like their dogs, their entertainment and they like winning because they are competitive by nature. This industry needs support rather than negativity. Whether we are in Government or Opposition, we should be fair to the industry. It brings in a huge amount of revenue to the State and if 1.3 million people are attending dog races then the industry needs support. It is unfair to condemn it. If one drives a car on the Dublin to Cork road at 100 mph, then one is breaking the law. We are not differentiating between those people who are committed to the industry and those who are abusing it. The law is there for such people. There are bad apples in every orchard but we must support the industry. Deputy Deenihan's Bill is timely and I commend him in having the courage to bring it before the House. Anybody who criticises him is not facing reality and is out of touch with what is happening.

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. B. O'Keeffe):** I declare an interest as I am the proud part-owner of a number of greyhounds.

**Mr. Connaughton:** Has the Minister of State won much?

**Mr. B. O'Keeffe:** No one doubts Deputy Deenihan's genuine interest in the successful operation of greyhound racing and his anxiety to ensure an independent, autonomous body is given responsibility for dealing with doping and illegal drug use in the industry. It is of paramount importance that the integrity and regulatory structure of greyhound racing is of the highest calibre. It must be seen to operate in an open and transparent fashion, whereby everyone is treated equally and fairly in accordance with clear, unambiguous, published criteria and procedures.

As a member of the Committee of Public Accounts in April 2004, I addressed issues around the anti-doping procedures in place in Bord na gCon at the time. I was concerned then, as I am now, that the most effective and appropriate systems are being operated in this important sport and industry. However, as the Minister for Arts, Sport and Tourism has already pointed out,



this Private Members' Bill, introduced before the Dalton report has been finalised and considered by the Government, is not at all helpful. It is unfair and unkind. It is uncharacteristic that he, as a Kerryman, would try to use the opportunity to pull the rug from a respected public servant such as Tim Dalton.

**Mr. Deenihan:** It has absolutely nothing to do with the Dalton report.

**Mr. B. O'Keeffe:** Deputy Deenihan is seeking to deny an opportunity for proper consideration of the Dalton report.

**Mr. Deenihan:** That is not the case.

**Mr. B. O'Keeffe:** He is trying to deny a considered response to any recommendations or observations brought forward by Mr. Dalton in the interest of Irish greyhound racing and with due concern for the people mentioned in the latter's report.

Once the Government has considered the various issues and recommendations in the report, the Minister for Arts, Sport and Tourism, Deputy O'Donoghue, will take whatever actions are appropriate and required. The Minister has at all times acted in an honourable manner in accordance with due process and the advice of the Attorney General. It would have been far more advisable and less politically expedient for Deputy Deenihan to have awaited the outcome of this process, after which the Government's views on the recommendations will be known and put into effect. In light of this, there is no option other than to oppose this Bill. It would be quite extraordinary——

**Mr. Connaughton:** It would be extraordinary.

**Mr. B. O'Keeffe:** ——that we would allow somebody of the calibre of Tim Dalton to originate this report, bring it to Cabinet, allow the latter to have its say and, in the interim, not provide those people identified in the report with an opportunity to respond. Surely the Opposition sees that in terms of fair play and people's rights, the individuals mentioned in the report should be given the opportunity to respond to what has been said about them.

At that juncture, the Government should consider the report, its recommendations and the responses received from those to whom it refers. The Government must have all the facts before it. When it does, all Members of the House and those involved in the industry will want to ensure that the recommendations contained in the report will form the blueprint for an anti-doping strategy that will operate within the Irish greyhound industry in the future.

**Mr. Connaughton:** I wish to share time with Deputy Deenihan.

**Acting Chairman:** We must conclude at 12.38 p.m.

**Mr. Connaughton:** Will the Acting Chairman advise me when I have spoken for five minutes?

**Acting Chairman:** Yes.

**Mr. Connaughton:** I congratulate my colleague, Deputy Deenihan, on introducing this. In what is a first during the many years I have been a Member, I did not hear a single word of criticism, either yesterday or today, from the other side of the House.

**Mr. Deenihan:** They did not even refer to the Bill.

**Mr. Connaughton:** There is nothing wrong with the Bill. It is the first time that has ever happened during my tenure and I congratulate Deputy Deenihan on it.

The Bill is watertight. Nobody can say that it was not well researched or well thought out. It obviously fits the bill.

**Mr. Deenihan:** If it was, that was the issue.

**Mr. Connaughton:** Politics being politics——

**Mr. B. O'Keeffe:** No comment was made on it.

**Mr. Connaughton:** ——I must state, in fairness to him——

**Acting Chairman:** The Deputy must address his comments through the Chair.

**Mr. Connaughton:** ——that the Minister of State is a great supporter of the greyhound industry and possesses great knowledge in respect of it. He knows only too well the importance of the Bill. However, that is politics and another story. We will come to it later.

If ever a sporting success story existed, it is the greyhound industry. I am not involved in it. On a number of occasions, however, I was present at meetings at the new Galway greyhound track and it is a most pleasurable experience. I noticed all different types of people, families and communities were out for a good evening's entertainment. It is becoming a huge conduit for the collection of funds for various causes throughout the country. The Galway track, under its excellent managerial team, does extremely well and I see a great future for it. I could not help but think that some of our colleagues, particularly those in the Green Party, are, based on what they stated earlier, opposed children playing "ring a ring a rosie".

It was pointed out that everything that happened in this industry was good, with the exception of one matter. The national profile and image of the sport has increased and it is now affordable to the most ordinary working man and women, which is important. The number of grey-



[Mr. Connaughton.]

hound breeders has also increased. Many of the families traditionally involved and extremely successful have been joined by others. Many young people are involved.

Although I do not know whether it is correct, I am informed that doping occurs in some shape or form. I do not know the extent to which that is the case and I do not make a case one way or another. The industry would not be as successful were it not for the robust and good chairmanship of Paschal Taggart. Surely, in the interests of Bord na gCon, it would be most normal and natural for an independent body to transparent results. It should test dogs by employing the methods of the flying squad, with no opportunity, high up or low down, for tampering. It would be seen by the public as the cleanest sport of all. The only way we will arrive at that is through an independent testing facility, about which there is nothing unusual. This Bill goes no further than seeking to deal with that specific matter.

We know that we will be beaten on the floor today, which is unfortunate for the greyhound industry. However, I guarantee the Minister of State that whatever about the Dalton report, a comma will not be moved when the Minister for Arts, Sport and Tourism introduces his Bill. The Bill before us will stand as a monument to good sense by Deputy Deenihan and it will be seen as such by the people within the industry. All that will happen is that many people will ask why the Government did not accept this Bill when it knew it was watertight.

**Mr. Stanton:** Absolutely.

**Mr. Deenihan:** I thank all Members who contributed to the debate on the Bill. As I stated at the outset, it afforded us a three-hour opportunity to discuss the greyhound industry. Unfortunately, the Government side took a negative approach to what I am trying to do. Apart from the Minister of State, Deputy Seán Power, the majority of them were on message, came with prepared scripts and all made similar statements. They did not at any stage address the Bill or its contents. They had one mission, namely, to ridicule the Bill, make it appear irrelevant and accuse me of being mischievous and opportunistic.

I will outline the background to this Bill. I have been a Member for a long period and I do not get excited by taunts from the other side of the House. Normally, I do not make utter such taunts. I do not believe in that type of politics. However, it is in the Fianna Fáil philosophy that one should get one's retaliation in first. It deals with the Opposition and then its own. I accept that is the type of bloodsport in which members of that part engage.

**Mr. B. O'Keeffe:** There are also a couple of harriers on Deputy Deenihan's side of the House.

**Mr. Deenihan:** I also find that when people are under political pressure, as the Minister was on one occasion at a meeting of Kerry County Council, they like to refer to an incident that happened in Cork for which I do not believe I was at fault. They like to throw that at me at certain times, but I am sure the Acting Chairman will agree that whatever I, as a Kerryman, did on the football field was honourable and for the sake of my county.

I am disappointed but not surprised by the Minister of State's response to this Bill. The Government is constantly accusing the Opposition, especially Fine Gael, of not bringing forward policies and legislative proposals. When we do, it ridicules them or leaks them to the media, as happened two weeks ago. This is now the approach of the Government—

**Mr. B. O'Keeffe:** On a point of information, the Government did not leak them to the papers.

**Mr. Deenihan:** —and it is doing no good for our democracy.

**Acting Chairman:** Senator Deenihan, without interruption.

**Mr. B. O'Keeffe:** It is important to set the record straight.

**Mr. Deenihan:** The Minister said last night—

**Mr. B. O'Keeffe:** The Government did not leak the report to the press.

**Mr. Deenihan:** —that the introduction of this Private Members' Bill can only damage the process of ensuring that all the parties to the Dalton inquiry receive due process. The Government should note that the process has been damaged already with the leaking of the report to a number of our national newspapers and the subsequent publication of the conclusions and recommendations put forward by Mr. Dalton. The whole matter is outlined in the *Sunday Independent*. We could have a debate on the report today based on the leaked information in the lead article of that newspaper and *The Sunday Tribune*. The content of the final report will not differ in any way from the existing material. The information was leaked to the reporters concerned and they did what any reporter would do, that is, publish it.

As far as the people, including the greyhound fraternity, are concerned, the Dalton report has been published. It featured not only in the lead articles in both the *Sunday Independent* and *The Sunday Tribune* but also on RTE's "Prime Time" and in a number of daily newspapers and radio stations subsequently. Does the Minister honestly believe the parties affected by this report have been granted due process given that they received the report for their observations three days after it was published as the lead story in our main

Sunday newspapers? Is this due process? One will realise these people have been condemned, irrespective of what side of the argument one is on. Those of us who are fair-minded in this House should at least support due process. Given the deliberate effort by Government sources to spin a specific view on the Dalton report, the use of the term “due process” is a total joke and a misdemeanour. It should not be used because there is no due process. It is not our fault on this side of the House and it has nothing to do with this Bill, it is because of the spin the Government has put on the report.

Does the Minister of State honestly believe Mr. Dalton's final report will differ substantially from the one leaked to the media following the submission of observations from those individuals mentioned therein? It will not. Given that there is already a report, does the Minister of State believe Mr. Dalton will issue a different one? He will not because his credibility would then be at stake, and that is the bottom line. The process has been destroyed because of Government incompetence and mischief. I was accused of being mischievous today, but the mischief is on the other side of the House. Mr. Dalton already had in-depth interviews with all the individuals concerned and he was very much aware of their views before he drafted his report. These people will not change their views because they have been asked for observations on the report. Mr. Dalton knows how all the main players think about this issue already.

Having read the leaked report, it is clear that Mr. Dalton will recommend that the control committee I am proposing be independent of Bord na gCon and that it consist of three or four members, including a judge or barrister and a veterinary expert. This was already published in the newspaper and therefore Mr. Dalton is recommending my approach. Why not accept it now and make amendments later? Bord na gCon also favours this approach given that the chairman and other members said they do not mind handing over control. They would have done so years ago if my Bill had been accepted by the then Government, as I pointed out last night. However, as with everything else, the Government ignored it.

I will outline clearly the background to this Bill and I hope somebody is listening. I made a commitment on 28 January on RTE that I would bring forward a Bill immediately to take the control of doping out of the hands of Bord na gCon and I said I would introduce it in the Dáil at the first opportunity. I published it on 16 February. I did so rapidly because I had available to me a section of the 1997 Bill, which I nearly had ready

for introduction in that year. I worked on that Bill and did not leave the job to officials. I made a commitment to several interested media representatives that I would introduce the current Bill during Private Members' time before the summer recess and did so before the Minister, Deputy O'Donoghue, appointed Mr. Dalton on 1 February. As we all know, very little legislation will pass through this House when we return in the autumn. Business will be conducted in a helter-skelter manner before the election and a Bill of this type will not be considered a priority.

Today represents a repeat of history. I was looking over some papers in preparation for today's debate and noted that on 14 December 1955, James Dillon, the then Minister for Agriculture, introduced a Greyhound Industry Bill in this House. It was opposed all the way by the Fianna Fáil Members, including Sean MacEntee. However, after the change of Government in 1958, Mr. MacEntee, then a Minister, introduced a Bill with the same provisions as the one he had rejected and fought against for two years. Mr. Dillon stated in his reply in 1958:

This Bill is substantially the same Bill as I brought in, which was argued at such exasperating length in the past by Deputy MacEntee.... The Bill was discussed *ad nauseam* in the House before. As submitted now, it incorporates the Committee Stage and Report Stage amendments that I had offered to the House.

I hope I will not have to say this.

My Bill will have the same fate as that of the 1950s. There is no other solution to the problem. A Bill I once proposed on the mothering of greyhounds was opposed by the then Government but, lo and behold, it introduced the same Bill a couple of months later. I am introducing the Greyhound Industry (Doping Regulation) Bill using all my knowledge of the industry. I believe I have some credibility in this regard because I appointed Paschal Taggart in 1995. I did not do so for political reasons but because I believed he was the right man for the job. He has been in his position for 11 years and the Government claims credit for what he has achieved.

This is a sad day for this House. The issue that has arisen has nothing to do with the Dalton report. Last night, when I was introducing the Bill, I did not even mention the report. However, the Government focused its discussion on the report because of its intentions. It is obvious that it did so deliberately because a certain spin is being put on the issue for a certain reason. I commend the Bill to the House and will put it to a vote.

Question put.

## The Dáil divided: Tá, 54; Níl, 72.

## Tá

Boyle, Dan.  
 Breen, Pat.  
 Broughan, Thomas P.  
 Bruton, Richard.  
 Burton, Joan.  
 Connaughton, Paul.  
 Connolly, Paudge.  
 Costello, Joe.  
 Coveney, Simon.  
 Cowley, Jerry.  
 Crowe, Seán.  
 Deasy, John.  
 Deenihan, Jimmy.  
 Durkan, Bernard J.  
 English, Damien.  
 Enright, Olwyn.  
 Ferris, Martin.  
 Gilmore, Eamon.  
 Gogarty, Paul.  
 Gormley, John.  
 Gregory, Tony.  
 Harkin, Marian.  
 Hayes, Tom.  
 Healy, Seamus.  
 Higgins, Joe.  
 Hogan, Phil.  
 Howlin, Brendan.

Kehoe, Paul.  
 McCormack, Pádraic.  
 McGinley, Dinny.  
 McGrath, Finian.  
 McGrath, Paul.  
 McHugh, Paddy.  
 McManus, Liz.  
 Mitchell, Olivia.  
 Morgan, Arthur.  
 Murphy, Catherine.  
 Murphy, Gerard.  
 Neville, Dan.  
 Ó Caoláin, Caoimhghín.  
 Ó Snodaigh, Aengus.  
 O'Keeffe, Jim.  
 O'Shea, Brian.  
 O'Sullivan, Jan.  
 Perry, John.  
 Rabbitt, Pat.  
 Ring, Michael.  
 Ryan, Eamon.  
 Shortall, Róisín.  
 Stagg, Emmet.  
 Stanton, David.  
 Timmins, Billy.  
 Upton, Mary.  
 Wall, Jack.

## Níl

Ahern, Dermot.  
 Ahern, Noel.  
 Andrews, Barry.  
 Ardagh, Seán.  
 Blaney, Niall.  
 Brady, Johnny.  
 Brady, Martin.  
 Breen, James.  
 Brennan, Seamus.  
 Callanan, Joe.  
 Callely, Ivor.  
 Carey, Pat.  
 Carty, John.  
 Cassidy, Donie.  
 Collins, Michael.  
 Coughlan, Mary.  
 Cowen, Brian.  
 Cregan, John.  
 Curran, John.  
 Davern, Noel.  
 Dempsey, Noel.  
 Dempsey, Tony.  
 Devins, Jimmy.  
 Ellis, John.  
 Finneran, Michael.  
 Fleming, Seán.  
 Fox, Mildred.  
 Gallagher, Pat The Cope.  
 Glennon, Jim.  
 Grealish, Noel.  
 Hanafin, Mary.  
 Haughey, Seán.  
 Healy-Rae, Jackie.  
 Hoctor, Máire.  
 Jacob, Joe.  
 Keaveney, Cecilia.

Kelleher, Billy.  
 Kelly, Peter.  
 Kirk, Seamus.  
 Kitt, Tom.  
 Lenihan, Brian.  
 McDowell, Michael.  
 McEllistrim, Thomas.  
 McGuinness, John.  
 Martin, Micheál.  
 Moloney, John.  
 Moynihan, Donal.  
 Moynihan, Michael.  
 Mulcahy, Michael.  
 Nolan, M. J.  
 Ó Cuív, Éamon.  
 Ó Fearghaíl, Seán.  
 O'Connor, Charlie.  
 O'Dea, Willie.  
 O'Donnell, Liz.  
 O'Donoghue, John.  
 O'Donovan, Denis.  
 O'Flynn, Noel.  
 O'Keeffe, Batt.  
 O'Keeffe, Ned.  
 O'Malley, Fiona.  
 O'Malley, Tim.  
 Parlon, Tom.  
 Power, Seán.  
 Roche, Dick.  
 Sexton, Mae.  
 Treacy, Noel.  
 Wallace, Dan.  
 Wallace, Mary.  
 Wilkinson, Ollie.  
 Woods, Michael.  
 Wright, G. V.

Tellers: Tá, Deputies Kehoe and Stagg; Níl, Deputies Kitt and Kelleher.

Question declared lost.

**Criminal Justice (Mutual Assistance) Bill 2005**  
[Seanad]: Second Stage.

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. B. O’Keeffe):** I move: “The the Bill be now read a Second Time.”

The Criminal Justice (Mutual Assistance) Bill 2005 is a significant legislative proposal. It gives effect to seven international instruments, which build on and supplement the existing legislative framework for the provision of mutual legal assistance. Part VII of the Criminal Justice Act 1994, which deals with international co-operation in the context of mutual legal assistance, is being repealed and its terms re-enacted with amendments and additions to take account of operational experience gleaned over the past ten or so years and to take account of the provisions in the instruments to which effect is given in the Bill.

Mutual legal assistance, in simple terms, enables one state to provide, within its jurisdiction, a service to another state related to the administration of justice in the latter. The type of assistance may concern such matters as the investigation of serious international crime, including the gathering of evidence for use abroad or the service of documents issued by a judicial authority.

The seven instruments to which this Bill gives effect are the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union agreed at Brussels on 29 May 2000, which develops and modernises existing provisions governing mutual assistance between member states of the EU, and the protocol to that convention done at Luxembourg on 16 October 2001; the agreement between the EU and the Republic of Iceland and the Kingdom of Norway; the EU Council framework decision of 22 July 2003 on the execution in the European Union of orders freezing property or evidence; the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, which improves and supplements the provisions of the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters; the necessary provisions to give effect to articles 49 and 51 of the convention signed in Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985; and the mutual legal assistance aspects of the Council decision concerning the signature of an agreement between the European Union and the United States of America on Extradition and Mutual Legal Assistance, done at Brussels on 6 June 2003.

I take this opportunity to advise the House that some amendments will be brought forward on Committee Stage to give effect to the aspects of the mutual legal assistance provisions in the UN Convention against Corruption and the UN Convention against Transnational Organised Crime, which the Attorney General has advised require

legislative amendment. The range of issues which require legislative amendment arising from the mutual legal assistance provisions in these conventions is limited.

Turning to the Bill, Part 1, which encompasses sections 1 to 10, defines key terms used in the Bill and sets out the restrictions to apply to providing mutual legal assistance. Mutual legal assistance will be refused where granting such assistance might prejudice the sovereignty, security or other interests of the State, or where there are grounds for believing that the request was made to prosecute or punish a person on the grounds of sex, religion, race, nationality, ethnic origin, political opinion or sexual orientation. A request shall also be refused if it appears that providing assistance might result in the person being subjected to torture or if it would contravene the European Convention on Human Rights.

Section 5 gives direct effect to articles 4 and 6 of the 2000 convention and articles 4 and 8 of the second additional protocol. These articles lay down the formalities and procedures to be followed when requests are being transmitted and executed and deal with channels of communication. Provision is also made in this Part for the designation of states for the purposes of the Act and for the designation of a central authority in the state.

Article 7 of the 2000 Convention and article 11 of the second additional protocol, dealing with the spontaneous exchange of information on criminal matters without the need to receive a request beforehand, are given effect in section 9. Section 10 repeals the listed provisions of other Acts.

Sections 11 to 20, which comprise Part 2 of the Bill, provide a basis for dealing with requests for financial information for criminal investigation purposes, including the monitoring of bank accounts and obtaining information on such accounts. This Part gives effect to the provisions of the 2001 protocol and enables Ireland to give effect to article 4 of the EU-US agreement on mutual legal assistance, which deals with identification of bank information.

Section 11 was amended on Committee Stage in the other House. In light of further discussions with the Irish Bankers Federation and the Garda Síochána following publication of the Bill, the use of the phrase “reasonable time” for compliance with account orders was removed and the definition of account information order was amended to clarify timescales for compliance. This section has also been amended to ensure that variations on a person’s name will be included in an order as it would be unfair to expect a financial institution to be aware of variants of a name.

Procedures for obtaining an account information or account monitoring order are set out in section 12. Such an order may be made only by a judge of the District Court who must be satisfied that an offence has been committed or that the person concerned has assets deriving



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from criminal conduct and that there are reasonable grounds for believing that the specified financial institution has information that is required in the investigation. Provision is also made in this Part for Ireland to request information on banking transactions from another state.

Section 12(6) was inserted on Committee Stage in the other House. The amendment allows for an account information or monitoring order to be modified by narrowing the information sought to that which, further on in an investigation, is considered to be specifically relevant to the investigation. In sections 14 to 16, provision is made for a request to be received from another state for information on financial transactions.

On receipt of such a request, the Minister may authorise an application to be made to a judge for an account information or account monitoring order. The procedures to be followed and the information required for such an order to be made are laid out in section 16. The Part also provides for transmission of the information to the requesting state and that non-compliance with an account information or account monitoring order is an offence.

Part 3, comprising sections 21 to 29, deals with the interception of telecommunications messages between member states of the EU for criminal investigation purposes, which is provided for in Articles 17 to 22 of the 2000 Convention. Section 22 of the Bill sets out the circumstances in which Ireland may request the assistance of another member state in intercepting telecommunications messages. Such a request can be made only where the Minister for Justice, Equality and Law Reform has given an authorisation for interception under the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993.

The person whose messages are to be intercepted must be present in Ireland or in a member state and the technical assistance of a member state must be necessary to intercept. The information to be transmitted when a request is being made is also set out. In addition, the Part provides for Ireland to receive requests for interception from other member states in certain circumstances and lays out the procedures to be followed when such requests are received.

Section 24 provides, *inter alia*, if the person whose messages are to be intercepted is physically in the State, the Minister may authorise interception only on foot of a request from a member state if the conduct under investigation would constitute a serious offence within the meaning of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and would justify the making of an interception authorisation. The section also sets out conditions which may be applied and deals with the transmission of the messages to the requesting state.

Sections 25 and 26 of this Part deal with interception where the technical assistance of another member state is not required to carry out the interception. Where the Minister has authorised an interception, the telecommunications address of the person is in another member state and the assistance of that state is not required to intercept, section 25 provides that the Minister will notify the member state that the person concerned is on its territory.

The member state concerned may consent or not to the interception. Interception may continue while that decision is being made, but any information obtained from interception prior to consent being given may not be used unless agreed with the other member state or for the purpose of preventing an immediate and serious threat to public security.

Section 26 applies the same provisions to the situation where another member state does not need our assistance to intercept messages, but the telecommunications address of the person concerned is in this State. Under such circumstances, the Minister shall be informed and must decide whether to allow the interception. The section provides that interception shall not be allowed if it would not be possible in a similar domestic context.

Section 27 provides an obligation for an authorised undertaking, in other words, a telecommunications company or service provider, to facilitate interception where the person is present in the State, authorisation has been given for interception but the messages cannot be directly intercepted in the State. In such circumstances, if the telecommunications provider can access equipment in another member state to facilitate interception, it shall do so. Where a telecommunications provider here has equipment to facilitate interception, the person concerned is in another member state and the messages cannot be intercepted directly from that state, but the telecommunications provider here can assist that state in interception, the provider is obliged to facilitate the interception. A new section 28 was added on Report Stage in the Seanad to allow for a review of the interception provisions in this Bill by a judge of the High Court, as is provided for in section 8 of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993.

The amendment also extends to this Bill section 9 of the 1993 Act, which provides for a complaints referee, who will be a Circuit or District Court judge or a barrister or solicitor of ten years’ standing appointed by the Taoiseach. He or she may review complaints from individuals regarding certain aspects of the Act. The oversight envisaged under sections 8 and 9 will not, either implicitly or explicitly, allow the designated judge to enjoy any degree of extra-territoriality. In other words, the oversight role would be confined to the decisions and actions taken domestically, by the Minister or the Garda, for

example, and would not extend to non-national decision-making. Section 29 amends the Postal and Telecommunications Services Act 1983 by providing for fines for non-compliance.

Part 4, comprising sections 30 to 39, gives effect to the terms of the Council framework decision on the execution in the EU of orders freezing property or evidence. Section 31 sets out procedures to be adhered to when an order is made to prevent the destruction, disposal or transfer of property that could be evidence in an ongoing criminal investigation. Sections 32 and 33 give effect to Articles 4 and 9 of the framework decision.

Section 32 provides for a freezing order and for the standard certificate, provided for under article 9 of the framework decision, to be transmitted to a member state for enforcement and sets out the procedures for so doing. Section 33 sets out provisions for transmitting a freezing order and certificate to Ireland from another state. The procedures to be followed when we receive such a request and provisions for the making of a freezing co-operation order by the High Court to execute the external order are set out in section 34.

The remainder of this Part deals with the length of time a freezing co-operation order may remain in force, its variation and termination, amendment or postponement, and the conditions under which the making of a freezing co-operation order may be refused. Article 10 of the framework decision, dealing with the treatment of frozen property, is given effect to in section 39.

Part 5, comprising sections 40 to 46, deals with orders for the confiscation and forfeiture of property. Under section 41, Ireland may make a request to a designated state for confiscation of property if a confiscation order has been made here. Provision is made in sections 42 and 43 for a designated state to transmit a confiscation order to this State and for a confiscation co-operation order to be made to execute the external order. A confiscation co-operation order can only be made on foot of an application to the High Court and the Minister must consent to such an application. Provision is also made for any person claiming to own or hold an interest in the property to make representations as to why the confiscation order should not be made.

Sections 44 to 46 deal with forfeiture orders, both in a designated state and here. The information necessary when a forfeiture order is sent here by another state is laid out and the procedures to be followed for the execution of an external forfeiture order are in place. Again, an application for a forfeiture co-operation order may be made, with the Minister's consent, to the High Court. Provision is made for any person claiming to own or hold an interest in the property to make representations and for the disposal of the property for the benefit of the Exchequer once a forfeiture co-operation order has been executed. This Part updates the provisions for

confiscation and forfeiture orders in the Criminal Justice Act 1994.

Part 6 of the Bill, incorporating sections 47 to 65, deals with the taking of evidence. Section 48 is based on provisions in section 52 of the Criminal Justice Act 1994 and sets out procedures for obtaining a statement of evidence from a person in a designated state for use in criminal proceedings. Provision is made in section 49 of the Bill, based on section 51 of the Criminal Justice Act 1994, for evidence to be taken on request from a witness here and used in criminal proceedings abroad. This Part also deals with the privilege of witnesses and makes it clear that a person cannot be compelled to give evidence to assist in a criminal case abroad where he or she could not be compelled to give evidence in criminal investigations here or in the state concerned. If a claim for privilege is upheld, any evidence taken from a person cannot be sent to the requesting state.

Sections 51 and 52 deal with the transfer of prisoners to and from Ireland for the purpose of giving evidence or assisting in criminal investigations. These provisions are broadly based on those in sections 53 and 54 of the Criminal Justice Act 1994. They have been amended to take into account Article 9 of the 2000 convention and Article 13 of the second additional protocol.

Sections 53 to 58 provide for evidence to be given by means of a television or telephone link. They give effect to Articles 10 and 11 of the 2000 convention and similar provisions in Articles 9 and 10 of the second additional protocol. Under section 53, where a witness is in a designated state and it is not desirable or possible for a witness to give evidence in person here in Ireland, a letter of request for the person to give evidence by means of a television link may be issued by a judge.

Sections 54 to 56 provide for a request to be made to this State for a witness to give evidence abroad by means of television link and for the Minister to request the president of the District Court to nominate a judge to summon the witness to attend for the purpose of giving evidence. Section 56 lays out the procedure for taking the evidence and provides, among other things, that the evidence must be given in compliance with the laws of the requesting state in so far as they are compatible with the fundamental principles of law in this country. The evidence may also be taken in private. Sections 57 and 58 provide for a request to be made for a witness present in the State to give evidence by telephone in criminal proceedings in another country and lay down the procedures to be followed in such cases.

Part 6 also deals with procedures for searches for evidence and makes provision for a request to be made to another state for evidence. The provisions are based on sections 52 and 55 of the Criminal Justice Act 1994. Section 60 deals with requests from other states for evidence to be obtained here for use in criminal proceedings or

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investigations in the requesting state. Such requests can only be dealt with where a search power exists under domestic law for the offence concerned. Searches for evidence on foot of such a request are limited to cases where the offence concerned is punishable under both our law and that of the requesting state by at least six months' imprisonment or cases where the offence is punishable under Irish law by at least six months' imprisonment and is being prosecuted in the requesting state by administrative authorities whose decision may give rise to criminal proceedings. The procedures to be followed when a request for evidence is received are set out in sections 60 and 61, as are the requirements which must be met for a judge to issue a domestic search warrant in order for a request to be executed.

Chapter 2 of Part 6 of the Act lays down provisions relating to the obtaining of identification evidence for use within and outside the State. Section 65 sets out the procedures to be followed when a request to obtain identification evidence is received and provides that identification evidence may be taken from a person only with consent if it is not already in the possession of gardaí. Intimate bodily samples may only be taken by a doctor and dental impressions by a doctor or dentist. Provision is also made for the destruction of identification evidence. This Part is included at the request of the Office of the Attorney General following a court case where, due to a legal lacuna, the State was unable to assist another state with the provision of identification evidence. It extends the legal provision for the taking of types of identification evidence to bring Ireland's legal provisions in such cases in line with those of other states.

Part 7, which contains sections 66 to 77, covers the procedures for serving documents within and outside the State and provides for the restitution of property to its rightful owner. Sections 66 to 68 deal with the service of documents and are based on sections 49 and 50 of the Criminal Justice Act 1994. They have been amended for the purpose of giving effect to Article 5 of the 2000 convention and Article 16 of the second additional protocol. These sections provide that documents issued by a court in this country in the context of criminal proceedings may be served on a person present in another state and that similar documents from another state may be served on a person in this country. The main change to the existing provisions is to provide for service by post.

Chapter 2 of this Part, which contains sections 69 to 73, dealing with the restitution of stolen property gives effect to Article 8 of the 2000 convention and Article 12 of the second additional protocol. This chapter allows for an order to be made in the State for the restitution of property situated in another state. Likewise, another state may request Ireland to place property in the State obtained by criminal means at the disposal of the

requesting authority. The procedures to be followed on receipt of a request are set out. Following receipt of an application for restitution, the District Court may make an order for the property concerned to be delivered to the Garda. Provision is made for a person claiming to own or have an interest in the property to make representations as to why the order for restitution should not be made.

Chapter 3 of Part 7 of the Bill provides for controlled deliveries for criminal investigation purposes and gives effect to Article 12 of the 2000 convention and Article 18 of the second additional protocol. Provision is made for a request to be made to a designated state to allow a controlled delivery to be made in that state and for specified persons, including members of the Garda Síochána and Customs and Excise officers, to take part in the controlled delivery. Other states may also request that a controlled delivery take place here and for persons from that state to take part in it. Any controlled delivery made in this country will, however, only be made under the direct control of either the Garda Síochána or Customs and Excise officers, as appropriate.

Part 8, which contains sections 78 and 79, gives effect to the Ireland-US treaty on mutual assistance, as amended by the EU-US agreement on mutual assistance.

Part 9, which contains sections 80 to 89, inclusive, deals with a range of miscellaneous issues. It amends section 9 of the Criminal Justice (Joint Investigation Teams) Act 2004 to allow participants from third states that have been designated for mutual assistance purposes to become involved in joint investigation teams in this country if the competent authority of the country that established the team with Ireland so agrees. This will remove the need for orders to be made and laid before the Oireachtas every time this issue arises in respect of a particular joint investigation team. The amendment will not in any way change the role of participants in such teams, which is primarily intended to be of a supportive or advisory nature unless the states which established the team agree otherwise. Some of the other miscellaneous provisions in this part include the section that provides for penalties in the case of disclosure prejudicing an investigation, the provision of liability of the officers of a corporate body and data protection provisions.

Section 87 was amended on Committee Stage in the Seanad to allow for regulations to be made to give effect to international instruments. This section was included on the advice of the Attorney General following recent judgments in two Supreme Court cases in which it was found that regulations giving effect to EU law and policy obligations were *ultra vires* the parent Act if made under a standard regulation-making provision in that Act. As the Bill before the House gives effect to seven international instruments, it is important that the regulation-making provision



encompasses the power to give effect to international and EU law.

This legislation will assist in enhancing existing mutual assistance provisions. It will provide for wider and more efficient co-operation in fighting transnational crime. The increased mutual assistance powers provided will be of use in detecting and prosecuting criminals. It is an essential item of legislation in a world where crime knows no borders. I commend the Bill to the House and look forward to hearing the views of Deputies on it.

**Mr. G. Murphy:** The Criminal Justice (Mutual Assistance) Bill 2005 gives effect to seven mutual legal assistance instruments. I read the explanation given in the Seanad by the Minister for Justice, Equality and Law Reform as to why it took so long to bring this Bill before the Oireachtas.

**Mr. Howlin:** The Minister of State, Deputy Batt O'Keeffe, does not seem to be keen to hear the Opposition because he is leaving the Chamber.

**Mr. G. Murphy:** As a member of the Joint Committee on Justice, Equality, Defence and Women's Rights, I understood his explanation well. More than half of the legislation that is going through the Dáil originated in the Department of Justice, Equality and Law Reform. It does not all come in the form of Bills, as many changes are made by means of amendments being added to Bills by the Minister, Deputy McDowell. This Bill is no exception in that regard. The Seanad will have a better understanding of this system of legislating by the time it has completed its adjudications on the Criminal Justice Bill 2004.

The Minister said that we need to prioritise, but what can be more important than clamping down on child pornography and the trafficking of children and women and the new phenomenon known as the war on terror? Society is changing rapidly. Child pornography and people trafficking are big international businesses in which profits of billions of euro are being made. Crime syndicates are being operated by most ruthless people who are willing to kill and maim to maintain their empires. Such savage people have the money to buy and create technology systems to protect themselves and their rackets in ways we cannot imagine.

While the Minister might be right to take steps in this regard, I cannot understand the rush to bring these instruments into Irish law before we have the resources or expertise to implement them. The Garda Síochána does not have a satisfactory radio system. It does not have a computer system that functions for basic uses, let alone technological systems. It cannot communicate with or interpret systems being used by other states. It cannot deal with the sophisticated

systems being used by those involved in organised crime. Do we have a specialised technology unit? How is it resourced? Does it have enough qualified personnel who have expertise in the varied and advancing technology? Are expert personnel being employed to deal with changing ways?

Irish children are using simple systems such as text messaging to code their conversations. Does the Garda have a specialised decoding section? As I have said, half of the Bills that are going through the Oireachtas were initiated by the Department of Justice, Equality and Law Reform. Most of them deal with domestic law, but none of them has had any real effect as a consequence of the Garda's lack of resources. The Garda needs proper radio and computer systems and modern cars, which are the basic elements needed to fight crime.

The problems to which I refer mean that we will be able to implement the international co-operation measures being introduced in this Bill at the most basic level only. I accept that we are coming from a fairly low base in this regard. Many of the crimes we are fighting are organised by worldwide criminal organisations. While this is a relatively new problem in Ireland, we can catch up quickly by putting properly resourced systems in place to deal with the increasing threats we will face in the future. It is clear that co-operation between EU member states and other like-minded countries will be a key element in this fight.

While it is essential for Ireland to transpose these seven instruments into law, the required effect will not be achieved if we do so without providing additional resources. The transposing of the instruments into Irish law will help this country to build on the success of the Criminal Assets Bureau, which has been the biggest achievement of our criminal justice system over recent years. The success of the bureau has helped Ireland to take spectacularly effective action against home-grown organised crime. Ireland's inability to pursue the same kind of action in other European jurisdictions has, however, been a problem. The enactment of this legislation will help us to take our successful action against organised crime to an entirely new level. It will mean that the ill-gotten gains of crime bosses will be tracked down in Europe and other parts of the world. I hope other countries that have not yet understood the effectiveness of the Criminal Assets Bureau or developed similar structures of their own will take the Irish example on board.

The loss of certain personal freedoms and the threat to human rights are, unfortunately, among the disadvantages we encounter in certain instances when we try to take action against organised crime, drug barons, prostitution, child pornography and terrorism. Crime bosses and terrorists will always have an advantage in this regard. Civilised society must balance the need to fight evil with the need to show respect for per-



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sonal freedoms, civil liberties and human rights. While that is not always easy, we must be vigilant. The Minister's decision to refer the heads of this Bill to the Irish Human Rights Commission before it was published is to be commended. I understand that most of the commission's recommendations have been taken on board. However, the Government and the State must avoid being drawn into conflicts which are not of their own making with allies which generally subscribe to the objectives of this Bill, but which, like the United States, can be accused of being in breach of those standards which the Bill seeks to uphold.

The Government's unqualified support for Bush and his war in Iraq, the questionable use of Shannon Airport and the undue demands made by the Bush-led superpower on other nations while itself failing to honour the most basic of human rights, as well as world and UN conventions, undermines the commitment of the Government and the free world to fight terrorism. This undermines Ireland's commitment to justice and human rights. Members should reconsider their position, as the American people are doing at present. The indications are that they will punish the Bush Administration in the mid-term elections for its handling of the Iraqi war.

When the chairman of the Irish Human Rights Commission publically states that Ireland must find a better way to ensure that Shannon Airport is not illegally used to facilitate the transportation of alleged terrorists, Members must listen. Mere unquestioning acceptance of the word of the Bush Administration is no longer sufficient. True friends and allies, like Ireland and the United States, should be able to facilitate each other by proving that Ireland's co-operation with the United States respects international standards. It should be in our mutual interests to put this question beyond debate and doubt.

Our law enforcement agencies must be provided with all the requisite legitimate laws. They must be provided with the best equipment and technology and must co-operate to fight the great threats of terrorism and organised crime. It must also be remembered that it is all to no avail if human rights, civil liberties and justice are ignored because the basic human standards for which we fight will be lost.

As part of Europe and as a civilised nation, Ireland must always keep to the forefront the idea that laws, police forces and armies alone will not win this fight. While these problems may be contained with good laws, armies and police forces, ultimately we will never be successful without tackling the underlying inequality, prejudice and injustice that exists throughout the world.

There has been some criticism of this Bill from eurosceptics who believe the entire principle of subsidiarity is undermined by this type of Europe-wide legislation. When one considers the enormous challenges we face, such concerns are

unfounded and unrealistic. Most legislation and regulations coming from Europe have transformed Irish society for the better. I refer in particular to social and equality legislation. If such progress is to be maintained, it must be realised that the only way to succeed is through total co-operation and, to a great extent, integration.

Ireland has experienced significant changes to a greater extent than most other countries. Most Irish people travel throughout Europe and the world and many Irish people own property or live in other countries. Similarly, many Europeans and others live and work in Ireland. New situations demand new solutions and to deal with such trends and threats, more co-operation will be required in all facets of life. Fine Gael has always been the most pro-European party and has always embraced change which would improve the security of our citizens and that of our fellow Europeans. However, this should not be done at any cost. Ireland must honour its traditions, laws and, above all, Constitution.

The Criminal Justice (Mutual Assistance) Bill covers diverse areas such as accessing bank accounts in all EU states, collecting and transferring evidence, setting up joint investigation teams, producing prisoners to give evidence in other European jurisdictions and most importantly in the modern world, interpreting telecommunications across national boundaries. It will cover telephone calls from mobiles and land lines, as well as e-mails and Internet connections. The monitoring of bank accounts will make it easier for member states to confiscate the assets of criminals who live outside their jurisdictions.

In general, Fine Gael has welcomed all legislation introduced by the Minister to combat terrorism and crime. However, it has repeated continually that passing legislation without resources has a limited effect on a serious situation. While the Minister's record in introducing legislation is impressive, his record in providing resources is extremely poor. It will be an extremely expensive matter to make this legislation work. The requisite information technology and expertise will demand enormous resources. While the legislation will be passed, the major question will be whether the law enforcement agencies, including the Garda Síochána, will receive the specialised manpower and equipment to do the job.

It goes without saying that crime lords and terrorists will always have an advantage. To an extent, adherence to the maintenance of basic human rights and civil liberties in the laws drawn up by the EU and the free world in general will make law enforcement less effective. Hence, unlimited resources must be placed at the disposal of specialised law enforcement agencies. Although Ireland probably needs to establish several sections with varied specialties, we have not yet begun to examine the matter.

The EU member states and the free world must realise that even with unlimited resources, as well as the best technology and expertise that money

can buy, the best they can hope to achieve is to contain the situation. It must be realised that the only long-term solution is for these nations to seriously tackle the injustices, inequalities and prejudices which are rampant throughout the world.

**Mr. Howlin:** I accept the Government's view that this Bill is important. It is certainly large legislation and, for that reason, I regret the manner in which it was introduced. To be blunt, it was introduced by a Minister of State at the Department of the Environment, Heritage and Local Government who read a script and then left immediately. He was replaced by a Minister of State at the Department of Health and Children who was replaced within an hour by the current incumbent, the Minister of State at the Department of Finance, Deputy Parlon.

If there is to be an engagement with Parliament, a Minister should attend the House who is in a position to listen to arguments and respond to them on Committee Stage. Otherwise, one is left with Members reading pre-prepared speeches on important legislation.

Last Thursday, a different filler Bill from the Department of Justice, Equality and Law Reform was placed on the Order Paper. It was not reached and this week another Bill has been placed before the House. As the previous speaker noted, half of the legislation to come before the House emanates from the Department of Justice, Equality and Law Reform. There should be some decent co-operation with Opposition spokespersons to ensure the House does its job, to properly examine, scrutinise and debate to make good law. Deputy McDowell is a Minister who is particularly good at listening, although he will probably faint when he hears I said something positive about him, but at least he is capable of absorbing a good argument and changing his view. For that reason, I regret he is not present and that justice matters are not scheduled so that we can have proper debates.

**Mr. Parlon:** The Cabinet is meeting.

**Mr. Howlin:** Then an alternative arrangement should have been made to dispose of justice matters, especially since two Ministers of State are assigned to the Department.

The legislation is important because we live in a globalised world. The main plank of the European Union is the free movement of goods, services, people and capital, and this impacts increasingly on the way we live. We no longer think in narrow national confines and, by and large, that is good. We are socially and culturally enriched by the free movement of new ideas, cultural inheritances, music and so on. Ireland has been enriched by the movement of labour, which has fed the dynamic Celtic tiger, and capital. New structures in an integrated Europe are being built as a result of the freedom of movement.

Unfortunately, crime has always been globalised and it has always been a step ahead of globalisation. While a structure is in place within the Union to facilitate the free movement of services, for example, crime is not hindered by such encumbrances. The structures that are put in place must be robust to ensure criminality is faced down and tackled in a co-operative manner within Europe and beyond by like-minded countries based on principles of democracy and justice. I accept the importance of co-operation in policing and criminal justice matters generally and I support such co-operation wholeheartedly on behalf of the Labour Party.

The earliest form of European co-operation on these matters was based on a Council of Europe concept. I was privileged to serve as a member of the Parliamentary Assembly of the Council of Europe. The bedrock of the Council was the European Convention on Human Rights but it took Ireland 50 years to transpose it. The argument put forward by successive Governments during that time was that fundamental freedoms enshrined in the Constitution were more robust than those provided in the convention. However, the reasons were more complicated than that. Notwithstanding that, the co-operation between countries anchored in the European convention evolved through other conventions over time, including the 1959 Convention on Mutual Assistance and Criminal Matters, which is a precursor to this legislation, while a series of developmental protocols in justice co-operation were introduced subsequent to the Treaty of Rome.

I refer to controversial issues such as extradition. Those of us who have been Members for a long time will recall heated debates on such issues and the need to ensure international co-operation should be anchored in principles of justice and law. This week, we have been reminded of unlawful rendition of so-called suspects to places of detention or interrogation. The concept of extraordinary rendition is the antithesis of proper legal extradition based on constitutional laws and principles to which we, as a nation, subscribe. For that reason, it is important in implementing a framework for legal co-operation that we are clear and robust about not co-operating with illegal activity, for example, by facilitating it through direct compliance or indirect advertence of eye to practices such as this. I hope the principles enunciated by the Minister for Foreign Affairs in the past 24 hours and the Minister for Transport in the House yesterday will not be sops to this principle. Proper inspection of aeroplanes passing through Irish airspace or airports should be required. The Government should, therefore, not only accept assurances that no act is being carried out to which the State could not be a party, but ensure it is so through proper inspection.

In the post-9/11 world, there has been a new focus and alertness regarding global security issues. Laws enacted in a number of countries,

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such as the Patriot Act in the US, would not have been accepted in different times and, thankfully, they would not be accepted in this jurisdiction even now. We have experienced threats to the security of the State. There were times the threat to the survival of the State was much more real than the threat that manifested itself in the US post-9/11. We did not always succeed because we went too far sometimes but governments always sought to ensure there would be no heavy gangs or laws that would infringe constitutional rights and privileges. The work of the Houses of the Oireachtas and the Judiciary, in particular, preserved constitutional rights even in the face of peril over time. That principle should be maintained in the frenzy of the new focus on international security.

The Union, particularly during the Finnish Presidency, also developed new legal bases for shared co-operation on intelligence and security matters. We always need to strike a calm balance in our minds between the need for security and the protection of the individual citizen and the protection of the State and to preserve the basis of the State, which is the rights and freedoms of the citizen.

I refer to the provisions of the legislation, which is lengthy, although much of it comprises a recitation of various protocols and the Irish-US treaty. However, a number of provisions will require scrutiny on Committee Stage, to which I look forward, and I will preserve some of my careful consideration for that Stage. Part 2 deals with provision of information and monitoring arrangements for financial transactions. It is important, having regard to Ireland's position as a centre for international financial services, that we should not only have robust law in this area but that the international investor community should understand we have clarity in these matters. International financiers should have confidence in the way we manage our affairs and Ireland should not have a reputation, for example, for being a bolt-hole for hot or tepid money because moneys are traded transparently through our financial institutions.

Scrutiny should be robust so that criminal behaviour can be effectively identified and speedily eradicated. If we are to have a future in international financial services, that principle needs to be anchored to the financial services and criminal monitoring legislation enacted in these Houses.

The Bill contains a lovely new phrase, "account monitoring orders". In recent years, the tribunals of inquiry have been engaged in their own account monitoring orders, with some interesting results. In the past 48 hours, I read that an individual before a tribunal claimed to be shocked at the amount of money unearthed by such monitoring.

Section 14 deals with requests from member states for information about financial transactions and sets out the procedures to ensure compliance

with such requests. We need to ensure that requests from other member states for information about financial transactions by individuals who are citizens of or resident in this State are made with clarity. Section 14(2)(b)(i) states: "any information that may be supplied in response to the request will not, without the Minister's prior consent, be used for any purpose other than that specified in the request". How will that be guaranteed? Having read the provisions as carefully as I could in the time available to me, I am unsure as to how we can achieve that stated legal purpose. How can we know whether the information is being used for other purposes or take effective action if the information is so used, given that the information would by then have been passed on? These matters will require detailed analysis on Committee Stage.

If a Deputy has served here long enough, many issues remind him or her of past events. Part 3 of the Bill deals with the interception of telecommunications and messages. The behaviour of a previous Government should make us want to develop robust structures to ensure that communications are monitored in accordance with law. The legislation that governs the interception of such communications was introduced by a coalition Government as a result of the events of that time. Clearly, these provisions will need careful scrutiny. Section 22 sets out the mechanism to deal with situations in which we want to monitor the transmission of communications in another member state, while section 23 deals with requests made to us on interception. In order for us to comply with a request from another member state, the request would have to be subject to the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993. In other words, the offence being investigated would have to be an offence in this jurisdiction and the request would have to conform to the Constitution.

I welcome the fact that an amendment was accepted on Report Stage in the Seanad on judicial oversight because I was alarmed to find that the Bill as amended on Committee Stage did not provide for this. I am unsure as to the stage at which judicial oversight is involved but the Minister of State may inform us of that.

Part 4 deals with freezing orders. Given the current climate, a freezing order may seem a good idea. The provision for a legal mechanism to freeze extraterritorial property and evidence is welcome.

Part 5 deals with confiscation and forfeiture orders. I presume this Part provides for an international version of the Criminal Assets Bureau, which is the most useful criminal justice agency to have been established in this State in recent decades. It is a useful and effective force for reaching to the heart of criminality by depriving criminals of the proceeds of their offences. The procedure by which CAB is to be internationalised will have to be clarified because we have



already encountered constitutional issues in that regard.

Part 6 deals with the provision of evidence, including the potential transfer of prisoners to give evidence or assist in criminal investigations. This matter will also need further examination because I do not know whether people placed in custody or convicted in Ireland could be moved to another jurisdiction to aid an investigation. While legislation provides that sentences can be served in other jurisdictions, clarification is needed with regard to how somebody could be transferred for investigative purposes. I am happier with the provisions in the Bill which provide for video and telephone evidence.

Section 48 provides that an Irish judge may issue a letter of request to seek assistance in obtaining evidence from a person in another member state. I am confident that our system of judicial oversight is adequate in that respect.

In section 49, which provides for requests made to this State, "requesting authority" is not clearly defined for me. I refer to subsection (3) which states: "The Minister shall not exercise the power conferred by subsection (2) unless an assurance is given by the requesting authority that any evidence that may be supplied in response to the request will not, without the consent of the nominated judge or the witness, be used for any purpose other than that permitted by the relevant international instrument." I do not want to rehearse this State's judicial mechanism for processing applications from other member states under letters of request, but requesting authority is not defined in Part 6, although it may be defined elsewhere.

An issue arises with regard to the various judicial investigative structures in the European Union. The French and Italian investigating magistrate system, under which inquiries are conducted by judges who can cause a person to be held in custody during the course of an investigation, is different from our system, in which the police conduct the inquiry and the accused is held in custody at the behest of the courts, with the presumption of a right to bail. Who would be the investigating authority? Would it be an investigating magistrate? Would it be the police? Are there any circumstances in which a request would be made by the police to aid in an investigation or are we talking about presiding judges in a subsequent trial of an individual? That was unclear on my reading of requests being made to the State for co-operation on this. I may have overlooked the definition in another section of the Bill.

Part 7 of the Bill deals with other forms of assistance, for example the service of documents. It outlines a procedure which seems fine and good in that it requires translation to be provided to people whose base or original documents are in a language not known to them. It also deals with restitution of stolen property. I had not time

this morning to reread the Criminal Justice (Theft and Fraud Offences) Act 2001, which is the guiding enactment for the restitution of stolen property provision in this Bill. Under section 69 of the Bill a request would be made to Ireland for restitution of stolen property and the procedure to deal with that is laid out. The section stipulates that a request to the State for the restitution of stolen property shall be in writing and shall include or be accompanied by:

- (i) a description of the property;
- (ii) its location;
- (iii) the name and address of its owner; and
- (iv) any other information likely to facilitate compliance with the request.

I am not sure whether this is a new provision or if there was always a possibility in law for a member state or another international body to make an application to the State for the restitution to it of property it claims was stolen. I am mindful of the ongoing debate on property looted by the Nazis. It has caused serious and widespread litigation in other jurisdictions. In Germany elaborate base law exists to ensure looted or stolen property can be identified and returned. Members will recall last year's controversy when allegations were made that some of the artifacts on display in a venerable and respected Irish museum were Nazi-looted and should be restored to the descendants of their rightful owners, the victims of Nazi tyranny. I wonder how that sort of charge would be played out on the provisions of section 59.

Section 70 lays out the action that is to follow on request:

(1) On receipt of the request the Minister may, if of opinion that the request complies with section 69, cause an application to be made to the District Court...

(2) The Court shall provide for notice of the application to be given to any person who appears to be or is affected by such an order unless the Court is satisfied that it is not reasonably possible to ascertain the person's whereabouts.

It then goes on to run its course. Is there a time limit on allegations of property being stolen? Are we to go back in history or does the normal Statute of Limitations apply?

Part 8 deals with mutual assistance in criminal matters between Ireland and the US. We can see that the provision in Part 8 is to transcribe into our domestic law the original Ireland-US treaty, which is recited as an appendix to this enactment in Schedule 8. The original treaty was enacted before 9 September 2001 but was modified by the US-EU treaty of 2003. Any co-operation agreement with any authority should be examined carefully and how this will manifest itself must be dealt with in great detail and with great care. It



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strikes me that profound matters are dealt with by international treaties but are seldom scrutinised by these Houses. We do not have the resources and I take some responsibility as a member of the Houses of the Oireachtas Commission for saying we do not have the resources to adequately, from a political and a public perspective, debate the import and impact of international treaties such as this. They seem to be a specialist area for officials at the Department of Foreign Affairs, and are rubber stamped by politicians and seldom given the scrutiny they deserve.

One of the changes envisaged in the treaty and which is transposed into our domestic law in section 78(4) of this Bill is the notion of the operation of joint investigation teams:

Section 7 (operation of joint investigation teams) of the Criminal Justice (Joint Investigation Teams) Act 2004 applies in relation to a joint investigation team established under Article 16 ter and operating in the State as if it were a joint investigation team established under that Act.

What is envisaged in these joint investigation teams between Ireland and the US? Where an asylum seeker or an Irish citizen resident in Ireland is on a list as a potential al-Qaeda member would that trigger a joint investigation? It is not clear how that would operate. We would always want to ensure full protection for Irish citizens.

One could speak for a long time on this Bill and I hope we will have the opportunity to do so on Committee Stage. Ministers are busy, particularly Ministers for Justice, Equality and Law Reform, however for this House to hold and regain the respect of the people as a House of scrutiny on their behalf we must ensure that full respect is given to the Members, the debates and the analysis we bring to any legislation, which we alone, under the Constitution, have the right to enact into law.

**Aengus Ó Snodaigh:** Tá mé ag iarraidh mo chuid ama a roinnt leis na Teachtaí Catherine Murphy agus Cuffe.

Ar dtús báire, ba mhaith liom aontú leis an méid deireanach a bhí le rá ag an Teachta Howlin. Ba chóir go mbeadh an tAire ag deileáil leis an chuid seo den díospóireacht. Tá súil agam go mbeidh an tAire os ár gcomhair nuair a shroicheann an Bille Céim an Choiste.

Aithníonn Sinn Féin go bhfuil sé tábhachtach go bunúsach go bhfuil comhoibriú idirnáisiúnta idir póilíní agus an córas dlí ar mhaithe le cearta na hiobartaigh agus chun coireanna a stopadh. Is ceart bunúsach daonna í an ceart do phríobháideachas, áfach. Dá bharr sin, is gá go mbeadh aon foráil a chuireann an ceart sin ar athló réasúnta, go mbeadh gá leis agus go raibh gá leis, agus nach mbeadh sé thar fóir. Chomh maith le sin, is ceart

go bhfuil agus go mbeadh cosaintí ann mar chothramaíocht ar an cheart sin a bheith curtha ar athló. Ní creidim go bhfuil an Bille seo ag dul leis an méid sin. Dá réir sin, beimid ag cur ina choinne.

The measures included in this Bill further consolidate the fast-advancing, anti-democratic and subversive agenda of Big Brother fans such as the Minister for injustice. The Minister for Justice, Equality and Law Reform will not tolerate invasions of his privacy — remember gardaí leaking a story about his son — but he has led the charge assaulting the right to privacy in Europe. Typically, there is one law for the Minister and another for everyone else.

This Bill will increase e-mail surveillance and phone tapping in the State, adding to the vast bank of information on private individuals available to so-called intelligence services and governments. In the absence of adequate safeguards, this will create further opportunities for people such as the Minister to subvert the judicial process, trample on the fundamental rights of citizens and engage in political policing to serve his own narrow agenda and self-interest. The Minister's actions in respect of Frank Connolly and the Centre for Public Inquiry — leaking confidential Garda information to a drinking buddy — demonstrates the threat the former poses to the democratic fabric of our society.

Law enforcement authorities are fallible. Last month in England, it emerged that 1,500 people were incorrectly listed on the criminal record bureau, affecting job and study opportunities. Intelligence may be fabricated and is frequently used and abused by those in power to justify their actions. The invasion of Iraq on false premises and the police shooting of a 27 year old Brazilian in the wake of the London bombings are just two examples.

Nearer home we can consider the revelations of the Morris tribunal, the Kerry babies saga and the Sallins set-up. Safeguards against, and remedies in the event of, such abuse are glaringly thin on the ground. Such protection should be prioritised. Debate at this stage is futile because the instruments to which this Bill gives effect were passed at EU level six years ago following cursory, insufficient debate. We are obliged to transpose them into domestic law. It is ludicrous that the formal stages of legislative debate are being conducted after any possibility of amending the Bill has passed.

I concur with the statement of the Irish Human Rights Commission that “any consideration of the human rights issues raised by this legislation at this point cannot compensate for inadequate consideration of these issues in the course of drafting the source EU legislation”. One of the principal measures to which this Bill gives effect is the EU Convention on Mutual Assistance and Criminal Matters 2002. Regarding that convention Statewatch observes that concerns about serious crimes and the need for increased powers

of police surveillance on the one hand must be balanced by the need to provide for scrutiny, accountability and safeguards for the rights of citizens on the other and suggests that it is difficult to see how this measure would pass that test.

Inadequate Oireachtas input has become the Government's *modus operandi* for introducing such measures. It was described as purposely defective in an article in *The Irish Times* recently, an assessment with which I agree. In one of the last acts of the previous Government in June 2002, the Cabinet secretly introduced data retention measures beyond those in any other country. Once this was disclosed, civil liberties groups criticised the Government and questioned the constitutionality of the action. Last year the Minister made an amendment confirming a mandatory three-year data retention to the Criminal Justice (Terrorist Offences) Act. In light of guarantees that any measures on data protection would be part of a separate Bill, preceded by a focused Oireachtas debate, this was an unexpected move in the final hours when few Deputies were in the Chamber. This demonstrates premeditation on the part of the Minister, who is eager to develop a bank of information on citizens.

Fianna Fáil, Fine Gael and the Labour Party seem content to allow the Minister to proceed in this manner. Two weeks ago, an EU measure on the obligatory exchange of information and intelligence between member states was scrutinised by the Oireachtas committee with responsibility for justice. After the wrong document was initially circulated, the correct document was received by members at 6.30 p.m. the day before the meeting at 9.30 a.m. The members were not concerned by this and refused an offer of more time to study the correct text. I conclude that they do not bother to scrutinise EU legislation before recommending its adoption.

I also have more specific concerns, the first of which deals with the designation of countries for the purpose of this Act. The Minister has absolute power for this decision and the Bill fails to provide for criteria governing this decision. Section 4 does not provide that the country must respect fundamental human rights, including privacy and freedom from disproportionate interference from the State in the form of unnecessary surveillance or harassment. Criticisms similar to those levelled at the EU's contentious white list of safe countries may apply to the designation of countries for the purpose of this Bill. This Bill must be amended to include criteria that countries must meet to be included on the list and to provide for an independent mechanism by which a country will be evaluated and monitored. The Bill should be amended to provide for Oireachtas oversight of ministerial decisions.

I am concerned by the weakening of the dual criminality safeguard and the inadequate judicial oversight. The Bill should amend the 1993 Act, which governs the interception of communi-

cations by introducing a requirement of judicial authorisation of the Minister's decision to allow phone taps in advance of them being placed. In April the Data Protection Commissioner stated that hundreds of private telephone records are examined by the Garda Síochána every month. He argued that legislation should be amended to ensure that telephone records are made available only in the investigation of serious crime.

It is paradoxical to sign an agreement of this nature with the United States when it continues to refuse to recognise the jurisdiction of the International Criminal Court. It is paradoxical to sign and give effect to such an agreement with the United States when its law enforcement authorities and security agencies breach the human rights of thousands. This includes breaching the right to justice by carrying out extraordinary renditions, with which this State colludes according to the Council of Europe. Other breaches include torturing prisoners and holding them indefinitely without charge in camps such as Guantanamo Bay and Bagram, Afghanistan.

Mr. T. J. McIntyre, law lecturer at UCD and director of Digital Rights Ireland, argues that international law agencies are playing on global terrorism to bring about what they sought, an extreme regime of surveillance and data retention. We must safeguard democracy against the establishment of the big brother states, which has been sought. My party and I will, therefore, oppose this Bill at all stages unless, even at this late stage, safeguards are introduced.

**Ms C. Murphy:** The primary aim of the Bill is to give legal effect to the agreements that have been entered into under various treaties and conventions. In principle, I do not have a difficulty with mutual assistance. We are clearly living in changing times, and many crimes, such as those relating to the drug trade, terrorism and human trafficking, have taken on an international dimension. These are areas where there is a clear need for co-operation and exchange of information. It is not only desirable, but required.

The Bill allows for money trails to be pursued. This proved to be of key importance with the Criminal Assets Bureau. The Bill also allows for the freezing of assets and the interception of telecommunications messages. It allows for the compelling of witnesses and permits requesting authorities to detain witnesses at their discretion, without a requirement to due process. Mutual assistance is a soft description. This is a significant item of legislation that requires careful scrutiny.

The argument that if people have nothing to hide, there is nothing to fear, has often been advanced as a reassurance to the public when tough criminal law is being enacted. There are high-profile examples, such as the Birmingham Six and the Guildford Four, which prove that this is not necessarily the case. The principle of this legislation is fine, but it is important for us to pay very close attention to the detail.

[Ms C. Murphy.]

The Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union seems strong on law and specifics, unlike, for example, the mutual assistance agreement between this State and the United States of America in respect of tackling criminal matters. There are many ambiguous areas in that respect, to some of which I will refer.

We cannot afford to ignore the significant difference in culture with regard to law enforcement between Ireland and the US. There is a high incidence of incarceration of citizens in the US, as opposed to a more tolerant approach for minor crimes here. I visited the US some years ago and somebody in a prison informed me that approximately one person in ten will have spent a night in prison at some stage. I was quite shocked, but it shows that minor crimes tend to draw more punishment and that there is a different culture of law enforcement.

This Bill includes a bilateral agreement with a country which is not operating within the terms of international law and which does not even recognise international law. That country has no regard for the rules of war or the Geneva Convention. The United Nations recently denounced the operation of the camp at Guantanamo Bay and has sought that prisoners there be either charged or released.

We must remember that the UK is a partner in the war in Iraq with the US. Two British citizens were released, without charge, from Guantanamo Bay after being held there for two and half years. There is every reason for us to proceed with extreme caution and consider the matter in great detail.

Section 4 of the Bill allows for the designation of a state other than a member state. There does not seem to be any guiding principles in terms of limiting the states with which information can be exchanged. The section should include some formulation of words, such as “provided that the state recognises and operates its laws in accordance with international law, and human rights law”, that would restrict the provision. Otherwise, the Government could theoretically deal with any state in respect of these matters.

Some sections of the treaty between Ireland and the US are as follows. Article 1.2 states that assistance shall include “such other assistance as may be agreed between the Central Authorities.” If we pass this legislation this month, the Minister for Justice, Equality and Law Reform and the US Attorney General, Mr. Gonzales, will decide matters between them. There are no limiting words such as “such other assistance as may be agreed between the Central Authorities provided that this assistance is in accordance with domestic and international law”. It is very broad and gives unlimited scope with regard to information gathering and sharing.

Article 1.3 states:

Except when required by the laws of the Requested Party, assistance shall be provided without regard to whether the conduct that is the subject of the investigation, prosecution, or proceeding in the territory of the Requesting Party would constitute an offence under the laws of the Requested Party.

Regardless of whether such conduct is criminal here, the US can still request assistance.

Theoretically, we may be asked to provide information or seize the assets of someone who has not committed any offence under Irish law. This may have constitutional implications, considering the importance of the presumption of innocence. It has the potential of locating or identifying people or providing articles or evidence on persons and seizing property, where the person has never committed any crime in this jurisdiction. There are far more safeguards where seizure of assets or property is concerned and I would have expected equal or additional safeguards for people, including Irish citizens.

Under Article 3, assistance may be denied even where a requested party is of the opinion that the request, if granted, would impair its sovereignty, security or other essential interests, or would be contrary to important public policy, or where the persons concerned has already been acquitted or convicted of the crime in question, the two can still come to a compromise so that the assistance is granted. This means that there is no certainty before the law and that an acquittal does not even protect a person who has been through the courts and proven innocent if the two Governments agree to a compromise.

Article 7 states that the requesting party may use any evidence or information obtained from the requested party “for preventing an immediate and serious threat to its public security.” Is this not the rationale used for detaining persons at Guantanamo Bay as a means of preventing attacks on the USA? I imagine that it means something completely different to the US Government than it does to people here. It is this to which I referred with regard to an emphasis on culture. That must be taken on board.

Article 10 states that a person who has been compelled to be a witness in the requesting party's country can be denied due process or detained or subjected to any restriction on their liberty at the discretion of the Government that requested his or her presence. This is not the section that deals with persons in custody and, therefore, a non-detainee can be locked up and forced to give evidence in respect of an offence that is not even criminal in Ireland. It is down to the central authority in the requesting state to tell the state of which the request is being made when it has finished with the witness and specified timeframes are not set down. This could be used as a form of detention. Article 10 also indicates that it is the responsibility of the country requesting a witness to appear in its jurisdiction, regardless of



whether it holds the person in custody. These are some of my concerns relating to that specific treaty and they are not exhaustive.

With regard to the Bill, we have been informed that it is not possible to quantify the available finance. I am concerned that we are imposing further obligations and tasks on our police force and expecting them to be carried out with existing resources. If this results in cuts, it is certain that the latter will occur from the bottom up. Community policing or the traffic corps will suffer. We must be careful. If the finance cannot be quantified, it is not possible to state that it will be resource-neutral. For example, I imagine that it will require some gardaí to travel in order to meet members of other forces and carry out joint investigations, both here and in other countries. The resourcing issue must be considered. I have serious concerns about this legislation.

**Mr. Cuffe:** I am dubious about the Bill. There are significant concerns regarding Ireland's role in the wider world in addressing terrorist and development issues. Looking back 40 or 50 years, there was a time when people in Ireland could hold their heads high. We were proud of our foreign policy and people such as Frank Aiken, Seán Lemass and others could go to the UN and pledge that Ireland would be a non-aligned, strong voice in the world for developing nations.

Yet we are not meeting the commitments we should be meeting as Ireland develops. The Taoiseach makes solemn commitments at the UN and then breaks them. We are standing idly by while the US brings detainees to Guantanamo Bay and China kills thousands of its citizens every year. It is not good enough to forget about human rights concerns for the sake of our economy when we see clear and flagrant breaches of Ireland's international commitments. I will say that about the US, China, Poland or any country that is directly or indirectly facilitating the abuse of human rights, be it in Chinese labour camps, Guantanamo Bay or US prisons where hundreds of people are put to death each year.

The Government is curiously silent on these issues. The Progressive Democrats Party is also curiously silent on the human rights issues out there. The Minister for Foreign Affairs will tell us that he has mentioned concerns about Guantanamo Bay, but I can imagine him saying this under his breath at a meeting held to facilitate foreign investment into Ireland. It is not enough to mention these concerns, it is important to do something about them. We must address concerns about terrorism and we must have procedures and protocols in place to ensure the sharing of information. However, if we are doing that on the one hand, we must speak out about human rights issues on the other. I am not convinced that the Government is doing enough about these issues abroad.

There is a darker side to EU mutual assistance. Many of the European countries involved have

directly facilitated the carriage of persons on these rendition flights. It is not good enough for us to state that we will share information on terrorists when other countries in Europe are directly facilitating the US in taking prisoners to countries such as Egypt and beating the life out of them. It is not good enough for the Taoiseach, the Minister for Foreign Affairs and the Minister for Justice, Equality and Law Reform to talk about terrorism and not talk about the abuse of human rights by sovereign governments, be it the US, China, the UK, Poland or others.

The Minister for Foreign Affairs sounded great defending his record on "Morning Ireland" this morning. He was the first EU Minister to call for the closure of the prison at Guantanamo Bay and the first to raise the issue of extraordinary renditions at EU level. However, if he really believes that detention at Guantanamo Bay should be brought to an end and that extraordinary rendition is fundamentally wrong, why is he against putting in place a set of procedures to ensure that Ireland is not complicit in this odious activity?

The chairman of the Human Rights Commission, Dr. Maurice Manning, called for an urgent investigation yesterday. His call was echoed by Deputy Gormley, who said that a new inspection and monitoring system is urgently needed for military and CIA flights that stop over in Ireland. He said the only effective way of ensuring we do not become complicit in dispatching people to be tortured or ill-treated is through establishing an effective process of monitoring and inspection. However, let us look at what is happening in Shannon Airport. One week, US helicopters are in the hold of a plane being dispatched to Iraq and the next week Russian helicopters are in the hold of a Russian plane heading off to deal with a trouble spot around the world. We are wearing a blindfold when it comes to the import and export of arms and possibly prisoners. That is not good enough for the Government nor for the legacy of our early participation in the UN, when we strongly committed ourselves to safeguarding, protecting and upholding human rights around the world. The Government can hold its head low when it comes to these issues.

Every time we talk about terrorism, we feed into the so-called "war on terror", which may be the way George Bush and others see the world, but which should not be good enough for Ireland in 2006. We should be doing more to facilitate development aid. We should check aircraft that enter our airspace to make sure that they are not carrying weapons. We should do what some of our EU partners, such as Austria, are doing and make sure that military flights on the way to an illegal war are not permitted in our airspace. This is what we should be debating in this House today, rather than feeding into George Bush's overly simplistic view of foreign affairs in the 21st century.



[Mr. Cuffe.]

Of course we need protocols on terrorism and we need to exchange information. My concern relates to the whimper from Government benches when it comes to facilitating a bloody, dirty war that has killed tens of thousands of civilians and that is essentially a war for oil. I want to see the Government show leadership, but I see no sign of it today. I implore the Government to join Dr. Manning in urging the establishment of a process of monitoring and the inspection of suspect aircraft so that we can meet our human rights obligations.

Senator Dick Marty called for an extended dialogue between the EU and the US on how terrorism might be fought within the rule of law, by ensuring that human rights are enhanced and not ignored. All I want to see here is for us to enhance our human rights record and not to ignore the human rights abuses of other countries.

**Mr. Fleming:** I welcome the opportunity to speak on the Criminal Justice (Mutual Assistance) Bill 2005. I understand that this Bill has already been discussed in the Seanad and is now coming before this House for discussion on Second Stage. There already have been some improvements and refinements to the Bill following discussion in the Seanad, and I am sure there will be more before this Bill is enacted.

This is a mutual assistance Bill and that means that different states can provide assistance for each other in the administration of criminal justice legislation in each country. The purpose of this Bill is to give effect to the provisions of seven mutual assistance instruments. The first one is the Convention on Mutual Assistance and Criminal Matters between Member States of the European Union. The second instrument is a protocol to the convention signed in Luxembourg in 2001. There is an agreement between the EU and the Republic of Iceland and the Kingdom of Norway and the application of certain provisions of the Convention on Mutual Assistance and Criminal Matters between Member States of the European Union. It is clear that some of these instruments go beyond the EU.

The Bill also deals with a Council framework decision on the executing of orders freezing property or evidence. It also deals with the second additional protocol to the Convention on Mutual Assistance and Criminal Matters between Member States of the European Union. Article 49 deals with implementing certain aspects of the Schengen Agreement. The Bill contains the mutual legal assistance aspect of a Council directive concerning the signature of agreements between the EU and the US on extradition and mutual assistance in criminal matters. That agreement was reached in Brussels in 2003 and is known as the EU-US Agreement.

I welcome these provisions and the Bill which will give effect to them. However, I take the

opposite view to what is being said by most Members as I do not think the legislation goes far enough. The majority of these provisions deal with matters within the EU, but much crime is not confined to the EU. This is one of the first baby steps for states co-operating in fighting international crime. Many of the country's major crimes have a connection with international events. Much crime is international, it spills into various jurisdictions and requires an international response. I recall comical scenes from films and television I watched when I was younger. One saw in the United States a sheriff chasing a fellow in a car trying to get to the county boundary before he was arrested.

**Mr. Durkan:** "Smokey and the Bandit".

**Mr. Fleming:** Exactly. Once he got over the boundary he was safe as there was no FBI to get him. It was great entertainment but a ridiculous way to catch criminals. In effect, that is what we have here. Once a criminal goes from one jurisdiction to another, he or she is free unless international agreements pin him or her down and make him or her face the penalties for his or her crime.

We are only scratching the surface today. When we examine this issue in its entirety, we will see a strong demand exists for a body such as the United Nations to come up with a far more sophisticated and extensive set of protocols to deal with international crime and the administration of justice internationally. It cannot be done at EU level. It must move beyond that. Before long I can see Ireland pushing this at UN level through the EU. Some steps to deal with international crime can be taken at EU level and I will deal with them shortly. These are to be welcomed although they may be rough around the edges and may need to be refined. Nevertheless, it is a step in the right direction.

We can all be victims of crime. It is grand for us in the safety of an island off the west coast of Europe to give out about what practically every other country in the world does and the various abuses that take place. However, we are isolated from some of the difficulties that happen in other countries and it behoves us to take a broader view and consider it in a world context and not a local one. International crimes which impact at local level in Ireland as in most countries include drugs, international terrorism and people trafficking.

Whether the route for drugs goes from Colombia to Amsterdam or Morocco in ships, trucks and containers, it is essential that all police agencies in the world have the authority to work together on surveillance, arrests, communications and prosecutions. Drugs come from where they are grown in Colombia or Afghanistan to the streets of Dublin and every village in Ireland. Every village and street in Ireland has a problem with drugs. If people here do not accept that, they

are not in touch with what is happening with teenagers and people in their 20s. These drugs come from an international source in the first instance, through many of the crime gangs operating in Dublin and other large urban areas.

The level of drugs now coming into the country is such that the Garda Síochána inevitably must concentrate on major seizures worth €10,000, €20,000, €50,000 or even more than €1 million. Although they see small amounts being dispatched from one town to another or to a village through couriers with mobile phones, they must concentrate on where the volumes of crime are larger. I will return to the importance of intercepting telecommunications in dealing with crime internationally. Drugs are extremely widespread and it is incumbent on us to in some way try to cut off the supply of drugs into the country. Nobody can disagree with that.

I do not know how many times I have heard that much of the crime committed in Ireland is drug related. People rob, break and enter and commit burglary and larceny to obtain money and property to sell at a reduced price for cash to feed their drug habits. The drug problem is an international one which affects us all at local level, and it can only be handled, dealt with and rooted out at international level.

For anyone to remotely suggest that international terrorism can be dealt with inside country boundaries is foolhardy in the extreme. When I prepared my notes for today, I saw that within a couple of days of the bombings in London last year, one of the suspects was picked up in Rome. He had been tracked through his mobile telephone across France and Switzerland to the train to Rome. When he arrived he was arrested. That was only possible through co-operation between the police authorities across Europe and the mobile telephone companies which were able to track the signal from the telephone and see where calls were being made and to where he was moving. I fundamentally disagree with anyone who considers that a retrograde step.

I listened to people in this House complain about privacy and data protection rights. I agree with that. Nobody on this side of the House wants to infringe on normal law-abiding citizens. However, if this can help us catch international terrorists and allow us to catch within a few days people who indiscriminately place bombs in tube stations or on double-decker buses and blow people up, I am in favour of it. I am delighted to see that police are catching up at long last. It is now also possible to track the more expensive cars. Those of us who watch "Crime Scene Investigation" see how they are able to track the movement of large cars from satellite. It will be of help to see where criminals are moving.

Trafficking of people means people from poorer countries are taken to wealthy countries for illegal activity and commercial gain for those involved in the trafficking. It is disheartening, upsetting and difficult to cope with seeing dead

people in containers, where they were left in a shipyard for a weekend and suffocated in the heat. These containers are the equivalent of the coffin ships which Ireland knows about from years ago, when people had to leave due to poverty to find a better life for themselves in another country. This is also why those who are trafficked leave their countries.

It does not affect us to an extent, in that wealthy countries do not have to worry about it. It involves poorer people from poorer nations seeking to get to better off countries such as Ireland and other EU countries. Some of them die or are killed in the process. It is a fallacy for anyone to suggest that international co-operation should not take place between all the various police authorities, justice administration, court and prosecution procedures and Ministers with responsibility for justice.

I listened to other contributions before I spoke and speakers complained about the protection of human rights in every part of the world. We have a duty to protect human rights in the part of the world in which we live. When we see people dying in containers we have a duty to ensure those responsible for the organised trafficking of people for profit are prosecuted the entire way back to their home countries.

A great deal of crime is controlled at international level. It is even suggested in media reports, although there is no hard evidence, that the recent occupation of a church in Dublin was masterminded through mobile telephones from Afghanistan. That may or may not be true but it is possible. It is plausible although it may not be factual. It gives an indication of what can be done and what happens in some situations. I disagree with anyone who has a difficulty with us intercepting telephone calls to deal with such situations.

A major aspect of the Bill deals with the roles of banks and financial institutions and the freezing and seizing of money in bank accounts throughout the world. I am Chairman of the Joint Committee on Finance and the Public Service and this issue has often been discussed at meetings of that committee. In recent years dozens of statutory instruments have passed through this House to deal with the freezing of accounts, for example, the accounts of people connected to bin Laden and his various associates. We may pay no heed to some of the small print we see on the Order Paper but I have seen statutory instruments of this nature referred to the Committee of Public Accounts time and again. The international agreements in question are reached on foot of the intervention of the United Nations. Some of the requests to freeze funds of international terrorists have been initiated at UN level rather than EU level and it is important they are not just internal to the European Union.

The Central Bank and the financial regulator told me that when some of these statutory instruments were passed, the authorities notified the

[Mr. Fleming.]

various banks that the accounts of all those with a particular name were to be frozen, which has led to the freezing of thousands of accounts in Ireland in recent years. It is therefore not an academic exercise. I am pleased the legislation will deal with the issue of variations in surnames, which the Seanad has considered. Variations in surnames may exist on computer databases and the banks and financial institutions cannot be expected to know about them, especially if they are foreign names with which we are not familiar. There are refinements in the Bill to deal with this.

I presume the Irish Bankers Federation was in contact with the Department and the Seanad on this matter and they have responded to the federation to tighten the provisions. Inevitably, some of the statutory instruments were a little rough around the edges and citizens who have been getting on with their lives and business here for many years were caught up in investigations merely because they had a surname equivalent to that of an associate of bin Laden or others. I hope most of these problems have been sorted and that they will not recur. I am happy the issue has been dealt with and that the legislation has been refined completely.

There are two or three principles I would like to stress in respect of this legislation. We will not co-operate in any international agreement if it compromises or prejudices our sovereignty. Our sovereignty is one reason we often have difficulty with international agreements and conventions. We have a written Constitution that guarantees our sovereignty and when ratifying EU treaties etc. we have always taken the safe option of ascertaining the view of the people in a referendum. The Oireachtas must respect the wishes of the people as they, rather than this House, are the sovereign governors of the country. We have always respected this and we will not co-operate in the ratification of any international agreement that prejudices our sovereignty.

If any of the investigations carried out under any convention pick on people because of their race, colour, religion or sexual orientation, the Irish Government will not co-operate with them. If evidence or information provided to another country by Ireland under any convention were to lead to the torture of a person, the Government would not co-operate. We have heard speech after speech on Guantanamo Bay and if torture is being carried out in such places Ireland is precluded from co-operating in any investigation that might result in it. We have heard talk on the use of Shannon Airport and scaremongering regarding rendition flights but even the media commentators who are not prone to or noted for being on the Government side have been saying all morning that the recent report, issued by a Swiss gentleman at European level, is long on hearsay and short on everything else.

On the interception of telecommunications, I referred to the interception in Rome of one of

those responsible for the bombings in London. Under the international legal instruments in question, states can force telecommunications providers to provide direct assistance when it is not possible to provide it by working through another state. When a person's telephone is registered in a country in which he is not resident during an investigation, the assistance of the third country might not be of any benefit. In this case, the relevant government has the power to approach the telecommunications companies directly to provide assistance in tracking the person. There is a complaints procedure outlined clearly in the Bill relevant to those who feel this is going over the top.

Some other countries could learn from Irish legislation, such as the proceeds of crime legislation, and from our use of the Criminal Assets Bureau. It is recognised internationally that we have been one step ahead of the posse in this area and we have developed legislation in this context very extensively. Other countries are examining it.

It is good to see that there is a facility to transfer prisoners from country to country to assist with investigations. Telephone and television links can be used for the taking of evidence. Part 6 deals with identification procedures whereby members of the Garda, with the assistance of medical professionals, including doctors or dentists, can take blood or DNA samples to be used for identification purposes in other countries. A loophole existed in this regard but the legislation has closed it.

I commend the legislation to the House and hope it will be passed swiftly. We want it to contain all the safeguards suggested on the other side of the House. The Bill is the first of many to deal with international crime, which can be solved only through co-operation between countries on a worldwide basis.

**Mr. Durkan:** I am glad of the opportunity to speak on this legislation. I have tabled quite a few parliamentary questions on the subject over the years and, coincidentally, I have tabled one or two questions today.

This legislation is a balancing act and it is necessary to meet the threat presented to us. I am referring to crime levels and the degree to which organised crime can seemingly operate with impunity, to which organised criminals can thumb their noses at the authorities and are blatant in the way they display themselves, and to which they have resources at their disposal and can launder those resources. I refer also to the number of locations in which they can launder them. It is not always in underdeveloped countries that this occurs. We must balance our considerations against constitutional rights, first against those that obtain in this country and then against those observed by the countries with which we are dealing and which are cosignatories to the legal instruments.

Let us consider the necessary steps we must take. The drug barons have control over an industry worth many millions of euro or dollars. They have achieved a certain degree of respectability and are now recognised as half-legitimate players in the business sector. They can invest in real estate and are doing so regularly. Using modern technology they can, within seconds, transmit their money electronically to countless locations throughout the world. They have been doing that regularly for some years. They even managed to gain information by intercepting their own transmissions. They intercept the authorities' transmissions, including those of the Garda, very effectively. We all depend on mobile phones and sadly they are being used by criminals tools of their trade. They rely on them heavily because they facilitate instantaneous, handy, easily available and high-tech communications. Mobile phone technology is improving all the time. Why should they not resort to mobile telephony? Some means must be found to deal with them.

As stated previously, their activities can, in my view, be countered through the technology, as well as via the home affairs or the justice areas.

The development of the technology is advancing at such a pace that it is easier to develop the mechanisms through the technological area than through interceptions at a later stage. This can be developed into the area of the Internet in the context of child abuse and everything else. Incidentally, that is another area where there is also major organised international abuse. However, I will return to the trafficking of people.

Based on my reading of the issues involved, it is not sufficient to rely on the enforcement or justice area, that is, the policing of the work. It is much more effective to intercept at the technological level and to be able to provide a system that is not so readily accessible from the viewpoint of those who should not have access to it. In other words, some type of registration system must be devised to throw these particular clients off the track. Not only are these criminals organised, they are also heavily armed. They tote their guns about on a regular basis and shoot each other up in the streets. They travel up and down motorways shooting at each other. We have become very complacent as regards how matters have developed in this jurisdiction in recent years. It is fine to talk about the legislation that is needed. We can have as much legislation as we like but if it is not enforced visibly on the streets, nothing will happen. The time has come when innocent citizens going about their normal business are at risk and in fear of their lives. It is not unusual to meet constituents who will readily express their fear to one. Such fear is generated by thugs with guns and sometimes those without them. They extort, intimidate and threaten and they behave that way all the time.

There was never as much intimidation of witnesses, for example, as is the case at present. That

undermines the entire system of law and order. There are protection rackets, which are quite evident in this city and several others, where thugs, again with or without guns, visit businesses and offer so-called protection for a price. I do not know whether everyone in the country knows what is going on. I presume that the Department of Justice, Equality and Law Reform and the Minister are aware of what is happening. Certainly, the Minister has talked about it a good deal in flamboyant terms. The time has come to take issue with some of these matters because the rights and entitlements of ordinary citizens are being undermined and put at risk. I am conscious of people's entitlements in terms of civil and human rights.

I recall being apprehensive years ago when the Criminal Assets Bureau was being set up lest it be abused. It was not abused, actually, and probably should have been introduced a couple of years earlier. I fully recognise and accept that my fears at the time were without foundation. Now, however, there is a much more serious threat. Not only does it exist in Ireland, it is widespread internationally. We must be careful not to get mixed up between anti-terrorism, which is also rampant worldwide, and what I have dealt with as regards the ordinary common or garden criminal who is working and living here and who takes his or her family on occasional holidays to very exotic places. They would that claim such adventures occur at no expense to the taxpayer, but boy do we pay for their holidays.

Intimidation is quite common in this city and in several others throughout the country. A previous speaker referred to the growth of the drug industry. He was quite right in saying that no one can evaluate the full extent to which it has grown in Ireland in recent times. It so serious and so few resources are being deployed to confront it. This is particularly worrying. If one speaks to any garda working on the ground, he or she will indicate how slender are the resources available for overt or covert reaction to the drugs problem. It is nothing by comparison with what is required, particularly when one considers the magnitude of the problem. Due to the fact that big money is involved, the drug problem will continue to grow. I am not one of those who proposes the legalisation of various forms of drugs. I know the notion was trotted out years ago that legalisation would remove the problem. Prohibition in the US is often quoted in this regard by enthusiasts. They are wrong, of course, because the consumption of alcohol increased by 5,000% when prohibition ended. It was the way it was controlled, and big money was involved. We should be absolutely clear about this nonsense. I do not go down that route at all.

In my opinion, the international community must tackle the problem at source. The way the European Union has dealt with set aside should be the model to be employed for dealing with the production of the types of drugs coming into



[Mr. Durkan.]

Ireland from Colombia, Afghanistan or wherever. That is the only way to deal with the problem. The people who are producing should be paid not to produce. It is a tough solution and it would cost money. However, that is what the international community will be obliged to do if it wants to deal with the problem. If we do not face reality, the problem will get worse.

It can come as a shock to learn that even a person one knows quite well, and who might never have been involved in misdemeanour, could have a serious drug problem. Such a person, as an addict, can be used by drug pushers to ensure that not only does his or her habit continue, but that it is spread. It is a type of pyramid system that is self-serving and contains clear objectives. This undermines the entire fabric of our society. We had better challenge that and we must use every means at our disposal to do so. We have a written Constitution and we must observe that. Other countries have written constitutions and some do not. Regardless of whether we like it, in so far as we are concerned, we should ensure that the countries with which we have agreements recognise and fully accept the problem with which we must deal and their obligations to co-operate with this jurisdiction. It is not just one-way traffic. They must co-operate with us as well. If they do not do so to the fullest possible extent, there is no sense in having the legislation in place.

My colleague, Deputy Coveney, who is a member of the European Parliament, will also contribute to this debate. I remember quite a frenetic debate that took place at a meeting of a sub-committee of the European Parliament many years ago at which I was a member of a delegation. I recall that some countries had rigid laws but few rules as to how they dealt with various crimes, petty crime in particular, and they were involved in the pursuit of offenders across borders. The participants in that debate were not prepared for the debate that ensued. Criminal activity across borders creates major problems. Notwithstanding the legislation and the agreements in place, irrespective of how important a case may be, if such legislation and agreements do not stand up constitutionally, the case falls.

The most likely people to bring a case challenging legislation are those with resources, as opposed to an innocent citizen. Those who have resources can afford to go to court to fight a constitutional case. They can do everything possible to ensure that the criminal gets his or her rights, but the same rights may not necessarily be available to the ordinary private citizen who may accidentally have come down on the wrong side of the tracks and be guilty of having committed a misdemeanour.

I wish to refer to what I regard as misdemeanours. In some jurisdictions in Europe and in some states of the US a serious attitude is taken to petty crime offences. There is a theory

— it was known as zero tolerance here a few years ago and there were high notions about how it would operate — that, for example, if the person who throws a cigarette butt on the footpath is punished severely, all crime will cease, but life does not work that way. The serious message that must be put across is that crime does not pay. To ensure that, we need to start by taking on the big guys at the top and working down from there. It is not as if their operations are not big or not visible. They are well established. Dealing with those operators in an effective fashion will send a message down the tracks, as has happened in other jurisdictions. Those authorities in those jurisdictions also pursued minor criminals involved in petty crime. However, they hit the real targets in terms of criminals.

In the ten months from 1 January to 1 October 2005 €7.5 million was taken in armed robberies here, of which €38,000 was recovered. Risk assessments are readily available from various financial institutions, including insurance companies. An evaluation of the risk involved in such criminal activity would conclude that there is a fairly good risk that the person involved in such crime will not be caught and will not have to pay the price for it. That is the message being sent to the people on the street and to criminals throughout the country.

This kind of legislation, if properly used, can be effective. There is no point burying our heads in the sand and pretending we do not have a crime problem. We also have an international crime problem, and it is increasing at an alarming rate. It is up to us as to whether we will deal with it. If we continue to focus on the rights of the criminal, we will not resolve the problem. It will come down to the effectiveness of the legislation when its provisions are implemented on the streets.

**Mr. Coveney:** I am delighted to have this opportunity to speak on the Bill. I did not realise it was ordered for today until I arrived here this morning. The debate on the Bill presents a good opportunity to raise a number of issues of concern which are appropriate to mention on Second Stage. The Bill is welcome. However, when one reads the seven protocols and agreements which it will transpose into Irish law, one realises the length of time it often takes the Government to reflect in Irish law what has been agreed at European level. That poses problems, a point to which I will return later. Bringing forward the legislation at this point is welcome.

The reality is that crime does not respect borders. If we are to have a truly common and open market in the European Union, which is what the three or four main parties in this House are striving for, we must recognise that type of open market poses problems in terms of the criminal world. If we remove borders for trade, we open borders for international crime, and the criminals are taking advantage of that. That is the

reason a sluggish response from the Irish Government in transposing European legislation in the criminal law area is not acceptable. When agreements are made at European level, we need to ensure they are quickly transposed into Irish law, whether they deal with the crime of trafficking in human beings, drugs or fraud.

I wish to raise a number of specific issues related to crime in Ireland and to deal with the aspect of the Bill which refers to developing mutual assistance with the US. In regard to the EU, previous speakers referred to the growth in the availability of drugs in Ireland. We can introduce all the national drug strategies we like, but unless the European Union collectively tries to grapple with this problem and unless we try to grapple with it globally, there will always be excess supply over demand of the major so-called fashionable drugs. The most dangerous drug here is cocaine and its availability is rapidly growing. There is a heroin problem in Dublin in particular and that problem has increased in parts of the country outside Dublin for some time. Those involved in implementing the national drugs strategy are genuinely trying to deal with that problem. We could endlessly debate whether that strategy is as successful as it should be. However, the Government has not sufficiently recognised the extent of the cocaine problem here. Cocaine has become incredibly common in almost every large town and city. It is treated with the lack of respect that means it is becoming a frequently used party drug. We need to take a much stronger stand on that problem at home and we also need to try to cut off supply of that drug. The only way that can be done is through mutual assistance.

I have been involved in the European Parliament in dealing with the issue of human trafficking. The "Prime Time" programme a number of weeks ago that was broadcast on consecutive nights woke up the Irish nation to the relevance of the issue of human trafficking to Ireland. Many people assumed that the slave trade happened in the developing world and was not something that we, as a member state of the EU, would tolerate. Of the 11 top source countries for forced prostitution and the trafficking in women for that trade, four of them are on the Continent of Europe and one is a member state of the EU. We need to wake up and recognise that problem. The European Union has been taking some action to address it and is planning to take more. There is a Council framework decision on combating trafficking in human beings. This is the only country in the European Union that does not specifically outlaw the crime of human trafficking, despite signing up for mutual assistance in a range of legal and criminal areas. Irish legislation neither defines nor deals with this crime although it covers the situation of a child trafficked into Ireland and put into forced labour or prostitution. I would be pleased to be proved wrong, but am fairly sure I am right in saying Irish law does not recognise the crime of trafficking in persons.

The Government needs to address this and the Minister for Justice, Equality and Law Reform says he will address it but we have heard little about this since. Senator O'Rourke said she personally would introduce a Bill but we have not yet seen it.

This is important especially when one considers the Government's emergency response to the difficult situation that arose last week regarding statutory rape. All 24 EU countries with which we are agreeing mutual assistance have defined human trafficking in their national legislation. I urge the Government to introduce legislation in that area, otherwise the Opposition will, although the Government has more resources for that.

The problem of human trafficking has been underestimated here. The International Labour Organisation has estimated that up to 12.3 million people are victims of forced labour each year, of whom 2.4 million have arrived as a result of trafficking. The US department of state for trafficking in persons estimates that between 600,000 and 800,000 men, women and children are trafficked across borders each year. Of those 100,000 are trafficked across borders within or into the European Union. According to UNICEF, 1.2 million children are trafficked within countries or across borders each year. Human trafficking is the third largest source of income for organised crime internationally, exceeded only by the arms and drugs trades. The UN office for drugs and crime estimates that each year trafficking in people generates \$7 billion.

This is a big business run by organised, dangerous people, many of whom have switched from the drug trade into trading in people because it is less risky and the laws in the area, as exemplified by Irish legislation, are not sufficient to deal with their activity. They aim at vulnerable countries, such as Ireland, where demand in the sex trade is growing. Many young women come from eastern Europe to lap-dancing clubs or brothels in Ireland. I commend the work of Ruhama which has been driving the agenda to raise awareness of this problem, including appearing on the "Prime Time" programme.

While some members of the European Parliament are involved in two international campaigns, Stop the Traffik and Business Travellers against Human Trafficking, governments ultimately will make the difference. There should be a more co-ordinated approach to human trafficking within the European Union, starting with a recognition that it exists. For example, the World Cup starts tomorrow and we are excited about that, although Ireland is not playing. Many women have been trafficked into Germany to fill the market for prostitution created by the World Cup. It was a mistake for Germany to legalise prostitution. During the World Cup many young girls will be forced into appalling situations from which it is almost impossible to escape. They will be afraid to go to the police because they are illegal immigrants, and they fear repercussions

[Mr. Coveney.]

from the traffickers. This is a major issue which needs to be tackled through mutual assistance at European level and further afield.

I support the section of the Bill concerning mutual assistance with the United States. There are many who, when we do anything with the United States use it as a political opportunity to beat the Government. This implies that our only contact with the United States should be to reprimand it for Guantanamo Bay or rendition flights. Europe, and especially Ireland, has a special relationship with the United States. We are right to develop mutual assistance in areas of mutual concern whether fighting terrorism, drug or human trafficking, or any other form of organised crime.

If, however, we are developing closer legal relationships with the United States we should also be able to raise issues of concern that are not consistent with a growing mutual working relationship between the United States and Europe. We need to address the inconsistency of trying to work together to minimise terrorism while facilitating rendition or extraordinary rendition flights in European countries, whether knowingly or not.

I am a member of a temporary committee of investigation in the European Parliament into the rendition flights issue. It is my view, although it does not suit me politically to say so, that the Government most probably did not know that privately chartered aircraft refuelled in Shannon Airport on their way home from the most high-profile rendition mission, bringing Abu Omar to Cairo. Whether we like to admit it or not, Shannon Airport has played a role as a pit or fuel stop in rendition missions such as that mission, which flew from Milan through Germany to Cairo where Abu Omar was dropped off. It is unrealistic, however, to say the Irish Government knew that was the case at the time. The assurance it has received regarding the transport of detainees through Shannon Airport from the US authorities is probably valid. I do not believe the detainees have been transited through Shannon Airport but we need to look for a new assurance from the United States along the lines of ensuring that CIA-chartered private aircraft are not landing and taking off there on their way to or from rendition or extraordinary rendition missions.

This also affects public confidence. It would be helpful for the Government to work with other European governments to develop a common standard for the treatment of privately chartered aircraft flying through European air space and airports. It would be reasonable to propose for example a system of random inspection and to seek passenger and crew lists of planes before they arrive.

Debate adjourned.

## Messages from Select Committees.

**An Leas-Cheann Comhairle:** The Select Committee on European Affairs has completed its consideration of the European Communities (Amendment) Bill 2006 and has made no amendments thereto.

The Select Committee on Justice, Equality, Defence and Women's Rights has completed its consideration of the following Estimates for Public Services for the service of the year ending 31 December 2006 — Votes 36 and 37.

## Ceisteanna — Questions.

### Priority Questions.

#### Deportation Orders.

1. **Mr. J. O'Keeffe** asked the Minister for Justice, Equality and Law Reform if all the non-Irish, non-British nationals who were released from prison since the coming into effect of the Immigration Act 1999 were considered for deportation; if not, the reason; the number of such persons who were considered for deportation; and if he will make a statement on the matter. [22256/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I refer the Deputy to the replies I gave to Questions Nos. 84 to 88, inclusive, of 10 May 2006, 190 of 4 May 2006 and 470 of 3 May 2006.

There is no provision in Irish law for the automatic deportation or judicially ordered deportation of a non-national who has committed a criminal offence. In this respect our system is somewhat different from that which operates in the United Kingdom and which gave rise to recent controversy there. It has long being the practice of Ministers for Justice, Equality and Law Reform to give consideration to deportation in particular cases where a non-national has been convicted of a serious offence. Until recently such cases were relatively isolated and the volume was small. However, due to the significant increase in non-nationals in recent years, I have introduced a new system which has been in place since May 2005 whereby the case of every non-EU national imprisoned is brought up for consideration.

Deportations in these situations are quite complex. Any person to be deported must first be served with a written notice of intention to deport, as provided for under section 3 of the Immigration Act 1999, as amended, which advises each individual of the options open to him or her at that time, namely, to consent to deportation, to agree to return voluntarily to the country of origin or to submit, within 15 working days, written representations to the Minister setting out reasons he or she should not be deported. Where the third option is availed of, any written rep-

resentations submitted by or on behalf of the person in question is considered before a final decision is taken as to whether that person should be the subject of a deportation order. It is my intention to address expedited deportation procedures in the forthcoming immigration residence and protection Bill.

With regard to specific numbers of non-Irish, non-British nationals who were released from prison since the coming into effect of the Immigration Act 1999, I mentioned in reply to a Parliamentary Question of 10 May last that my Department is compiling these figures. I remind the Deputy that EU nationals have the right to be here and if an EU national is sentenced for something such as a public order offence, it does not follow as a consequence that the person will be deported when released from prison. When analysis of the figures is completed, I will be in a position to respond in a more detailed way to the Deputy and I will supply him with the information as soon as the exercise is completed.

As the Deputy is aware, the provisions relating to the removal of non-nationals from the State are being considered in the context of the Bill I mentioned.

**Mr. J. O’Keeffe:** Despite the fact that I raised the issue on two previous occasions in the House, can the Minister not tell us yet how many non-national prisoners released from prison over the past six years were not considered for deportation under section 3 of the Immigration Act 1999? Can he not tell us how many so released have re-offended and have further convictions or are before our courts on further charges?

Why was the information I requested on two occasions in the Dáil — on 10 and 23 May — not furnished? Did the Minister have the information and fail to give it or did he not have the information, thereby demonstrating he is not able to do his job under section 3 of the Immigration Act 1999?

What was the process put in place after the 1999 Act provided for the deportation of non-national prisoners by ministerial order? The Minister referred to the fact that a systematic process was put in place. Is it not correct that the process was only begun this time last year? Furthermore, is it not correct that the necessary liaison between the Irish Prison Service, the Courts Service and other bodies, including the Minister’s office, was only put in place six or seven weeks ago, coincidentally or otherwise around the time of the furore which led to the departure of the then UK Home Secretary, Mr. Charles Clarke, because of the same issue?

**Mr. McDowell:** It is not the same issue, but a radically different one, because in Britain the judiciary apparently has power to order the deportation of persons it sends to prison. We do not have that system and whether we should have it is a policy judgment matter. To give the Deputy

an example of the issue in question, whether somebody here for five years who is given a one month sentence for being drunk and disorderly should be deported as a further consequence of having served that term of imprisonment is a matter on which there could be two views. Non-nationals here help to build up our economy and are welcome while they are law-abiding citizens. However, where they breach the law, it does not follow under Irish law that either the Judiciary or the Minister is obliged to push them out of the country regardless of their circumstances or of whether the person is the mother of a family who are Irish citizens.

The Deputy should not be simplistic. This is not a Charles Clarke situation and there is no smoking gun.

**Mr. J. O’Keeffe:** Not yet.

**Mr. McDowell:** If the Deputy wants information, there are 113 non-EU national prisoners serving sentences in Ireland, from 38 different countries.

**Mr. J. O’Keeffe:** The ones I am interested in are the ones since 1969 for whom deportation has not been considered.

**Mr. McDowell:** The point is the Deputy implies by his question that all those who serve a sentence and are released should be considered for deportation.

**Mr. J. O’Keeffe:** All I want is the information.

**Mr. McDowell:** There is no point in doing a Steve Silvermint in the House. The simple fact is that if, for example, the mother——

**Mr. J. O’Keeffe:** My job is to ask questions and the Minister’s job is to give the answers.

**Mr. McDowell:** I am answering the questions, but the Deputy is throwing ridiculous shapes. It is an absurdity, for example, to suggest that the non-national mother of Irish children attending school here who is up on a shop-lifting charge should be considered for deportation——

**Mr. Howlin:** Nobody suggested that.

**Mr. McDowell:** The Deputy’s question implies that every non-national released from prison should be considered for deportation. I regard that as xenophobic nonsense. The Deputy should be more careful about what he says.

**Mr. J. O’Keeffe:** I reject entirely the Minister’s suggestion of xenophobia. All I am asking is for him to do his job under the Act. I remind him that under the same Act, the courts in Ireland have the right to make a recommendation on deportation.



[Mr. J. O’Keeffe.]

The Minister has not answered my questions today nor did he answer them on 10 or 23 May. Does he have available to him the figures for the number of non-nationals released from prison or the number considered by him for deportation? Is it correct that in the entire period since 1999, or for the period for which he gave one answer — the past 12 months — only four such people have been deported? Has he information as to offences committed by such people? Has he made inquiries of the Garda to obtain the relevant information which I sought in the public interest.

All I want are the facts; we can draw conclusions afterwards. Why is the Minister hiding the facts or putting up a smokescreen pretending the facts are not available? What we are getting is reaction politics as opposed to the Minister showing he has done his job. What he has shown so far is that he has not done his job. He does not have the information.

**An Leas-Cheann Comhairle:** I remind Deputies they have gone over time. We will move on to Question No. 2.

**Mr. Howlin:** Is there no answer?

**Mr. McDowell:** I was told to move on to the next question.

#### Departmental Communication.

2. **Mr. Howlin** asked the Minister for Justice, Equality and Law Reform the steps he intends to take to improve communications between his Department and the offices of the Attorney General and Chief State Solicitor, particularly in regard to legal cases that may have implications for legislation introduced or operated by his Department; and if he will make a statement on the matter. [22153/06]

**Mr. McDowell:** There is no doubt that recent events have highlighted communications issues between the Department of Justice, Equality and Law Reform and the offices of the Attorney General, the Director of Public Prosecution and the Chief State Solicitor. An examination of communications within the Office of the Attorney General took place some years ago and it resulted in some administrative changes in that office. A further examination by a senior official from the Department of Finance is due to take place, as the Taoiseach informed the House yesterday. The Department of Justice, Equality and Law Reform will co-operate in every possible way with that examination and with the implementation of any new communications or consultation arrangements which may emerge from it.

Communications and recording of correspondence within the Department of Justice, Equality and Law Reform are constantly kept under review to see if they can be improved. I am satisfied the Department’s procedures were followed

correctly on this occasion. As the Tánaiste told the House recently, the Department was informed in writing by the Office of the Chief State Solicitor on 29 November 2002 that an application had been made to the High Court seeking judicial review to challenge certain provisions of the Criminal Law Amendment Act 1935. The proceedings in question are generally known as the CC proceedings. A departmental official promptly telephoned the Office of the Chief State Solicitor to ascertain whether that office needed a response from the Department in respect of the application. The answer was in the negative. In January 2003, which was approximately a month later, the Office of the Chief State Solicitor repeated in writing its undertaking to advise the Department of any development in the proceedings. The Department did not receive any further communication, between that date and the date of the recent Supreme Court judgment, from the Office of the Chief State Solicitor or any other source concerning the CC proceedings. Neither I nor the Department were notified of the hearing or outcome of the High Court case, which the State won, or the subsequent appeal to the Supreme Court, which the State lost.

Following discussions on the matter with my officials I established a criminal justice group, comprising representatives from the main agencies working in the criminal justice sector, in late 2004. The Garda Síochána, the Courts Service, the Prison Service, the Office of the Attorney General and the Office of the Director of Public Prosecutions are, *inter alia*, represented on the group. The main function of the group, which is chaired by the Secretary General of the Department of Justice, Equality and Law Reform, is to promote a co-ordinated and cohesive approach to criminal justice matters. This group has met on four occasions since late 2004 and is scheduled to meet again in July. The Secretary General has advised me the group will meet more frequently from now on.

#### *Additional information not given on the floor of the House.*

I have been advised by the Secretary General of the Department that, from now on, cases of litigation with constitutional and policy implications for the criminal justice system will be a standing item on every agenda of the criminal justice group. Furthermore, I intend to discuss with the Attorney General and the Director of Public Prosecutions the importance of putting in place agreed procedures for a consultation process between our three offices in cases of litigation on constitutional and policy issues. The consultation process will be in addition to the current consultation process that is provided for in statute between the Attorney General and the Director of Public Prosecutions.

In response to the Supreme Court decision of 23 May 2006, I published the Criminal Law (Sexual Offences) Bill 2006 on 1 June 2006. It passed all Stages in the Dáil and Seanad and was signed into law by the President the following day. If we had been aware of the impending Supreme Court judgment, I emphasise that nothing could have been done that would have prevented the application to the High Court which resulted in the temporary release of a convicted sex offender. No legislation, even if rushed through the Oireachtas the same day, could have influenced subsequent events. In any case, it would not have been practicable to rush through pre-prepared legislation as it is simply not possible to anticipate the terms of a Supreme Court decision, let alone the decision itself.

**Mr. Howlin:** Most people will find it extraordinary that a criminal justice group was established in 2004 to promote co-ordination between the Department of Justice, Equality and Law Reform, the Office of the Attorney General and the Office of the Chief State Solicitor. If that is what it was established to do, it is clear it has been a total failure. That is one formal structure. Is a designated individual responsible for informing the Minister of constitutional cases pertaining to legislation in his remit? Do any formal or structured meetings take place between the Minister and the Attorney General, at which various matters are discussed? Is there a Cabinet subcommittee on legislative matters? If so, who is on the subcommittee? Does the subcommittee discuss constitutional challenges which arise? I refer not only to cases which directly challenge statutes, but also to cases which might end up as challenges to statutes.

I would like to ask the Minister about the answer he has just given the House in response to Question No. 2. Is it not the case that the respondents in the recent CC proceedings, to which he alluded, were Ireland, the Attorney General and the Director of Public Prosecutions? Who decided that the Director of Public Prosecutions would defend the case? What level of discussion took place between the counsel nominated by the Director of Public Prosecutions and his officials in formulating that defence?

**Mr. McDowell:** Does the Deputy refer to my officials when he says "his officials"?

**Mr. Howlin:** No, I was referring to the discussions between the DPP's officials and the DPP's counsel.

**Mr. McDowell:** The Deputy asked whether a Cabinet subcommittee deals with legislative and constitutional matters. There is no such subcommittee. I was also asked about the Department of Justice, Equality and Law Reform. Constitutional issues can arise in respect of a great variety of matters. Somebody could challenge the consti-

tutionality of some provision of the Land Acts, some provision of the criminal law——

**Mr. Howlin:** Or the Housing Acts.

**Mr. McDowell:**——or some provision of immigration law. In cases of that kind, the assistant secretary with relevant responsibility, or the principal officer under that assistant secretary, is charged with bringing to the attention of the Minister any knowledge that he or she might have on whether a response is required to any constitutional challenge of significance to the Department. It may seem strange but, as I have indicated to the House on a number of occasions, no notice of what was happening in this case was given, with the exception of the exchange in 2002. No information was made available on whether the case was ongoing or had died a death, as so many cases do. It is not reasonable to assume that every case automatically reaches a conclusion. The great majority of judicial reviews and constitutional claims wither on the vine. Did Deputy Howlin ask another question?

**Mr. Howlin:** Who determined who would respond on behalf of the State? Who organised the legal team? What level of co-ordination took place between the DPP's team and the Department of Justice, Equality and Law Reform?

**Mr. McDowell:** An inquiry into that matter is ongoing. I do not know the answer to the questions. When a mixed question of criminal law and constitutional law arose when I was Attorney General, it was normal for the State in almost every case, if not every case, to put one team, rather than two teams, out on the pitch. I presume the same procedures were followed before I became Attorney General and have been followed since I held that position.

**Mr. Howlin:** Who determines that?

**Mr. McDowell:** It is discussed by the two law officers — the Director of Public Prosecutions, or a senior member of his staff, and the Attorney General, or a senior member of his staff. That is the normal rule.

**Mr. Howlin:** The Attorney General should have known from the start, therefore.

**Mr. McDowell:** The point is that the Attorney General did not know. After he had nominated counsel to deal with the case in the first instance, the Attorney General had no further involvement in the case. The Office of the Director of Public Prosecutions and an official, or some officials, in the Office of the Attorney General had ongoing involvement in the case. However, it was not brought to the attention of the Attorney General himself, as it should have been in accordance with the procedures in the Office of the Attorney General, as a result of human error.

[Mr. McDowell.]

I want to take this opportunity to contradict some mischievous speculation that has appeared in the press. I have served as Attorney General. I have served in Government, with Rory Brady as Attorney General. I have been privileged to serve in a Government served by Rory Brady. He is an extremely hard-working and conscientious man. I know for a fact that if he had been aware of any issue that required my attention, he would have drawn it to my attention. We have an extremely close working relationship.

**Mr. F. McGrath:** It did not deliver.

**Mr. McDowell:** It is based on immense good will. The Department of Justice, Equality and Law Reform and the Office of the Attorney General have never had a closer working relationship than they currently enjoy.

**Mr. J. O’Keeffe:** The Minister thinks neither he nor the Attorney General is responsible — it is the usual approach.

**Mr. Howlin:** I would like to ask a brief supplementary question. The Minister took up some time by making a personal statement, which was fine. Was the query that his assistant secretary sent to the Office of the Chief State Solicitor in 2002 followed up after no response was received?

**Mr. McDowell:** No.

**Mr. Howlin:** Was the criminal justice group that was established in 2004 apprised of the proceedings which were pending?

**Mr. McDowell:** No. In response to the first question, the correspondence in question was directed to the then Secretary General, but without the name of the Department. That is the common way. If one was addressing correspondence to a Department in 2002——

**Mr. Howlin:** I thought it was directed to the Office of the Chief State Solicitor.

**Mr. McDowell:** I refer to the correspondence that was sent from the Office of the Chief State Solicitor to the Department of Justice, Equality and Law Reform in 2002. It was not dealt with by the Secretary General of the Department. It was dealt with by the criminal law division of the Department. The official to whom it was allocated immediately contacted the person in the Office of the Chief State Solicitor who had written the letter to ask whether anything was required from the Department. The departmental official was informed that nothing was required from the Department, as the Office of the Chief State Solicitor intended to keep the Department posted of any developments.

**Mr. Howlin:** Did the contact to which the Minister refers involve a telephone call?

**Mr. McDowell:** A note was taken of that by both parties to the telephone call in question. The note is still available.

### **Garda Deployment.**

3. **Mr. Healy** asked the Minister for Justice, Equality and Law Reform if he will immediately increase Garda numbers in south Tipperary, particularly community and drug unit gardaí in view of the increased crime levels in the area, the increased levels of drug related crime, the recent drug related murder, a number of unsolved murders in the Clonmel area and heightened levels of anti-social behaviour; and if he will make a statement on the matter. [22114/06]

**Mr. McDowell:** Deputy Healy will appreciate that policing operations and the deployment of Garda resources are matters for the Garda authorities. It is the responsibility of Garda management to allocate personnel to and within divisions on a priority basis, in accordance with overall policing requirements. However, I am in regular contact with the Garda Commissioner to keep the measures and resources for tackling serious crime under continuous review. The overall allocation of Garda resources, including manpower, to the Garda Commissioner reflects the Government’s policing priorities. The Garda Síochána has never been better resourced at any time in its history.

I have been informed by the Garda authorities, which are responsible for the detailed allocation of resources, including personnel, that the personnel strength, all ranks, of the Garda Síochána is set to rise to 12,641 today, following the attestation of 273 new members. This compares with a total strength of 10,702, all ranks, on 30 June 1997 and represents an increase of 1,939, or 18.1%, in the personnel strength of the Garda Síochána during that period. The total number of gardaí in training or fully attested will reach 14,000 in December 2006.

I am informed by the Garda authorities that the personnel strength of the Tipperary Garda division on 7 June 2006 was 315 gardaí, and that the strength of each Garda district in the division on the same date was as follows: Clonmel, 65; Cahir, 47; Nenagh, 42; Templemore, 50; Thurles, 73; and Tipperary town, 38. I am further informed that an additional 15 gardaí are due to be allocated to the Tipperary division on 9 June 2006. This allocation will comprise 13 probationer gardaí who have been attested as members of the Garda Síochána, in addition to two gardaí who will be allocated to the division by way of permanent inter-divisional transfer. Overall, this will bring the total strength of the Tipperary division to 330 gardaí, all ranks. This represents an increase of 33 gardaí, or 11%, compared to the figure as of 31 December 1997. I understand that



Garda management proposes to allocate the 15 additional gardaí among districts as follows: four for Clonmel; three for Thurles; three for Nenagh; two for Templemore; two for Tipperary town; and one for Cahir.

The Garda authorities inform me that the crime situation in the division, including drug-related crime and anti-social behaviour, is continually monitored by local Garda management and resources are deployed to meet specific needs. Funding has been allocated to the division from the budget for Operation Anvil, which has been extended to rural areas to target criminal activity. As the Deputy is probably aware, a special operation is ongoing in Clonmel. The community policing units in the division work closely with local communities and other initiatives are frequently taken to target specific types of criminal activity.

The personnel strength of the divisional drugs unit is one sergeant and eight gardaí. The Garda national drugs unit provides assistance and expertise to the divisional drugs unit, as necessary, in operational, intelligence and training matters. Moreover, all gardaí have responsibility, *inter alia*, to deal with drug related issues as they arise.

*Additional information not given on the floor of the House.*

I am also informed by the Garda authorities that an investigation file is being prepared by the Garda Síochána for the law officers in respect of one recent murder in Clonmel and that a Garda investigation is ongoing with regard to a second murder.

I am assured by the Garda authorities that the crime situation, including drug related crime and anti-social behaviour, is continually reviewed by local Garda management with resources being deployed to meet specific needs. Allocations of Garda personnel throughout the country, together with overall policing arrangements and operational strategy, are continually monitored and reviewed. This ensures the optimum use of Garda resources and provision of the best possible service to the public.

Finally, the national headline crime rate has decreased from 29 crimes per 1,000 in 1995 to 24.5 crimes per 1,000 in 2005.

**Mr. Healy:** While any increase in Garda numbers is welcome, does the Minister accept that an unacceptable situation has been allowed to develop by him and the Government, as well as the previous Fianna Fáil-Progressive Democrats Administration, in south Tipperary over the past ten years? For example, there has been no increase in the number of gardaí in south Tipperary during the lifespan of this Government. Moreover, since the Progressive Democrats-Fianna Fáil Government came into office in 1997, only four additional gardaí have been deployed within the south Tipperary Garda area.

This constitutes an increase of approximately 4%. During the same period, overall Garda strength increased by more than 16%.

Hence, the allocation to south Tipperary has been completely inadequate and unfair. While the additional numbers which the Minister has just provided are welcome, they do not meet the needs of the south Tipperary area. As the Minister is aware, the area has experienced a considerable increase in crime levels, including drug-related crime.

**An Leas-Cheann Comhairle:** Will the Deputy put a question to the Minister?

**Mr. Healy:** In recent years, there has been a considerable increase in the rate of unsolved murders. When will the Minister appoint community gardaí to the area? Not a single community garda is dedicated to that office in south Tipperary. When will he allocate community gardaí? When will he allocate additional gardaí for drug-related work? Only two gardaí in south Tipperary deal with this matter. An increase in numbers is necessary.

**Mr. McDowell:** I welcome the Deputy's acknowledgment that the number of gardaí has increased in the Tipperary division. I reiterate my earlier statement, namely, that the number of gardaí has, during the lifetime of the Progressive Democrats-Fianna Fáil coalitions, risen by 11%.

**Mr. Healy:** It has risen by 4%.

**Mr. McDowell:** It is 11%.

**Mr. Healy:** The numbers have risen from 98 to 102. These are the Minister's figures.

**Mr. McDowell:** It must be borne in mind——

**Mr. Healy:** I refer to the reply to Question No. 431 of 23 May 2006.

**An Leas-Cheann Comhairle:** The Deputy should allow the Minister to reply.

**Mr. McDowell:**——that this compares with an 18% increase of the strength of the force nationally. In addition, groups such as the national drugs unit, the Garda National Immigration Bureau and other national units that support local gardaí have also been strengthened. Second, as the Deputy has been operating with two particular parties in mind, he should know that when we came to office in 1997, we discovered that the number of gardaí in the force had fallen during the lifetime of the rainbow Government.

**Mr. Howlin:** Did the Minister discover that?

**Mr. J. O'Keeffe:** That was why he made promises he could not keep.



**Mr. Howlin:** Or did not keep.

**Mr. Healy:** While that is disgraceful, it does not——

**An Leas-Cheann Comhairle:** The Deputy should be brief.

**Mr. Healy:** As already stated, until today, no increase had taken place in the past five years. Moreover, according to the Minister's reply to Question No. 431 of 23 May 2006, before today's announcement there had only been an increase of 4% in the previous ten-year period. Many responsible organisations, such as South Tipperary County Council, Clonmel Borough Council, the RAPID organisation and others have asked the Minister to meet the public representatives in south Tipperary. However, he has refused to so do. Will the Minister inform the House whether he will meet those organisations in the near future to discuss this issue?

**Mr. McDowell:** I will inform those organisations, as I have informed the Deputy, that from today, Clonmel will receive an additional four gardaí, Thurles and Nenagh will receive an additional three gardaí each, Templemore and Tipperary town will receive an extra two gardaí each and one more will be deployed to Cahir.

**Mr. Healy:** That is not enough.

#### **Probation and Welfare Service.**

4. **Mr. J. O'Keeffe** asked the Minister for Justice, Equality and Law Reform the measures he intends to put in place to deal with sexual offenders who breach post-release conditions; and if he will make a statement on the matter. [22257/06]

**Mr. McDowell:** Part 5 of the Sex Offenders Act 2001 introduced a scheme under which the courts could order persons convicted of sexual offences to undergo a period of post-release supervision by a probation and welfare officer. As well as placing the sex offender under the supervision of the probation and welfare officer, the court may attach such conditions to the supervision as it considers appropriate. It is a separate offence for a sex offender to fail, without reasonable cause, to comply with any of the supervision period conditions and such a person is liable on summary conviction to a fine not exceeding €1,905 or imprisonment for a term not exceeding 12 months or more. Hence, a regime is in place.

The probation and welfare service has been in touch with my Department about the desirability of that service being given power to prosecute sex offenders who fail to comply with the conditions of their supervision. I have included a provision in the proposed criminal justice trafficking and sexual offences Bill, which is at present at an advanced stage of preparation in my Department,

to give effect to the request by the probation and welfare service to allow probation officers to prosecute non-compliant sex offenders, rather than being obliged to open a file with the Garda. The legislation will include some other amendments to the 2001 Act.

Furthermore, I brought forward a number of proposals in respect of sentencing of offenders by means of Committee Stage amendments to the Criminal Justice Bill 2004, with which the Deputy is well acquainted.

**Mr. J. O'Keeffe:** Intimately.

**Mr. McDowell:** The proposals will give a court power to suspend or partially suspend sentences, subject to certain conditions. This will not reduce custodial sentences but it will permit the courts to leave major further sentences hanging over offenders to give them an incentive to comply with the conditions laid down by the courts for rehabilitation and probationary purposes, as well as a significant incentive not to reoffend. The purpose is to provide an incentive to offenders to deal with issues that give rise to offending and to stay away from crime. Under the new proposals, the conditions that may be imposed will include a requirement that the person keeps the peace and is of good behaviour during the period of suspension. An order may include a condition that the person undergoes substance abuse treatment, psychological counselling, sexual offenders therapy and other treatment while in prison and after release therefrom.

Such new powers are desirable and I am pleased to note that the Deputy's party and the other parties represented at the Select Committee on Justice, Equality, Defence and Women's Rights have broadly welcomed these proposals and have facilitated their adoption on Committee Stage. I hope to have them become law as soon as possible.

**Mr. J. O'Keeffe:** Two issues arise on foot of the Minister's reply. The first concerns the legal loopholes that must be filled and the second concerns the adequacy of resources. I am glad the Minister has proposed legislation that will resolve the loophole in order that probation and welfare officers can bring to court those who breach post-release conditions. When does the Minister expect such legislation to become law? The loophole will remain open until that time.

As for the adequacy of resources, is the Minister aware of the concerns expressed by many reputable organisations to the effect that resources, particularly in the probation and welfare service, are inadequate to monitor the operation of sex offenders' post-release conditions? Has he any proposals in this regard?

**Mr. McDowell:** The newly appointed head of the probation and welfare service, Mr. Michael

Donnellan, is implementing a complete reformation of the probation and welfare service to refocus its efforts in a manner which is most productive of its time. He reported that much of its time was absorbed in furnishing reports for court cases while he believed its resources would be better utilised handling individual offenders who are the subject of probation orders or who have just been released. This is how society would obtain the best return from the service's activities. He also has concerns that using the service within prisons may not be the best way forward. Counselling and welfare services within prisons would best be provided by the Irish Prison Service rather than an external body working inside and outside the prison. He is proceeding to address that. The probation and welfare service needs to be refocused. I praise the staff of the service.

**Mr. J. O'Keeffe:** There is not enough of them.

**Mr. McDowell:** I would like to strengthen the service in any way I can. Its new head, Michael Donnellan, has a clear vision of where it is going and I have given him an assurance that I will support him in implementing reform and refocusing the service.

**Mr. J. O'Keeffe:** It will be a top priority of the next Government.

### Crime Levels.

5. **Mr. Howlin** asked the Minister for Justice, Equality and Law Reform his views on the figures contained in the recent Garda report for 2005 which shows a further increase in the number of headline offences; his further views on whether taken together with the provisional figures for the first quarter of 2006, the report shows a worrying deterioration in crime; the action he intends to take arising from the increase in the number of serious crimes; and if he will make a statement on the matter. [22154/06]

**Mr. McDowell:** I consistently emphasise that care must be taken in interpreting statistics, especially when considering short-term fluctuations and extrapolating trends over short periods. I emphasised this when the level of crime decreased and, on occasion, when it increased. I have indicated my concerns at recent trends but we need to be conscious of what the figures taken over a prolonged period show. The level of headline crime in 2005 was lower than that for 2003 by 1.6% and for 2002 by 4.4%. Furthermore, in 1995, when we had a population of almost 3.6 million, there were 29 crimes per 1,000 of the population, while in 2005, with a better crime recording system and a population of more than 4.1 million, there were 24.6 crimes per 1,000 of the population, in other words, 15% crimes less per 1,000 of the population. By way of comparison, during 1995 and 1996, when the population was 600,000 fewer than now, there were 102,484

headline crimes and 100,785, respectively, although they are strictly comparable with current categories. These are equivalent to 29 crimes per 1,000 population in 1995 and 28 per 1,000 in 1996.

While no level of murder is acceptable, Ireland has one of the lowest murder rates in the western world. For example, figures recently published by the Scottish Executive show that between 2000 and 2002 the average homicide rate per year in Scotland was 2.27 per 100,000 head of population. In Glasgow it was 6.29 per 100,000 population. By comparison, in the same period Ireland had an average annual homicide rate of 1.89 per 100,000 population and the rate in Dublin was 2.12. Part of the increase in the crime figures for 2005 and the first quarter of 2006 reflects increased enforcement activity on the part of the Garda.

Operation Anvil has been expanded outside Dublin. For instance, earlier, in County Westmeath two armed robbers were apprehended as part of this operation and I congratulate the Garda on that success. The crime figures are challenging but I would not like to demoralise the Garda. In a changed Ireland when it comes to crimes per 1,000 head of population the force is doing better comparatively than ten years ago.

**Mr. Howlin:** I also congratulate the Garda on successfully apprehending two armed robbers in County Westmeath, which is good news. A total of 101,659 headline offences were recorded last year, meaning almost 2,000 serious crimes were committed each week, or 279 each day. The number of homicides increased by almost 60%. Guns were used in 75 murders between 1998 and 2004 but proceedings were initiated in only 26, or 35%, of cases and convictions recorded in only 12, or 16%, of cases. The public is worried about these issues. Is Operation Anvil the solution? Should it be rolled out on a national basis and resourced properly? Has the Minister a strategy to deal with the increasing viciousness of those involved in the drugs business in Dublin and throughout the State? Are the resources available to the Garda, including specialist units and overtime provision, adequate to ensure these alarming figures do not increase?

**Mr. McDowell:** I agree with the Deputy that firearms homicides are a major concern. I also agree it is difficult for the Garda to detect them not because of the firearms used but because the great majority of such homicides are carried out by members of small gangs who are impervious to ordinary pleas of humanity and who are gripped by a sense of viciousness towards the people they deal with. One of the problems is their victims are frequently members of similar gangs.

**Mr. Howlin:** They are terrified by them.

**Mr. McDowell:** Witnesses are unwilling to co-operate in many cases with the Garda in the detection and prosecution of these offences. I have provided immense resources for the force and I informed the Garda Commissioner on a number of occasions that if he believes he can get more value for additional resources under Operation Anvil, I will give him 100% backing. A budget of approximately €11 million has been provided for the operation this year. The Commissioner was recently advised that an additional €10 million is available for further operations to tackle gun-related crime. A substantial number of firearms has been seized but not all firearms have been seized and while they are available, the Garda faces a threat that is difficult to counter.

My strategy is to back the Garda Commissioner with resources and legislative and administrative support. The House is in the process of substantially strengthening firearms law by introducing mandatory advisory sentences for the Judiciary. That legislation will also provide for a firearms amnesty. While it has not come to public notice, the Garda has had significant success in recent times disrupting the activities of a number of the major players in the Dublin area.

**Mr. Howlin:** We have a common purpose in trying to address the most dangerous evil facing the State, which is the drug lords. With regard to the Minister's mandatory sentencing proposals, has he considered the implications of the recent Supreme Court judgment in the C.C. case regarding the determination of honest knowledge in so far as it might impact on a declaration by a garda that the value of drugs held is a fixed amount regardless of the state of mind or knowledge of the individual in possession of the drugs? Is he confident his proposal is not constitutionally frail in light of the Supreme Court decision?

**Mr. McDowell:** I would love to dilate on the subject of honest knowledge or honest belief as a defence but I do not have time. If a person is found in possession of cocaine worth €3 million, his or her knowledge is only one of the issues that should be taken into account.

**Mr. Howlin:** There would be no contest in respect of drugs worth €3 million.

**Mr. McDowell:** The sentencing provision rather than the crime is important in this regard. It must be established whether a person is in possession of drugs. The value and consequences of these drugs are different matters. Just as I did not believe in respect of the 1935 Act that the cards should be handed to the accused in these matters, I do not believe it should be open to somebody who is carrying cocaine worth €3 million to deny knowledge of its value. As Deputy Howlin will be aware, the legislation now prevents that issue from arising. On the question of whether the CC case has constitutional implications in respect of

the matter, the issues are not wholly unrelated but they are first cousins at best.

## Other Questions.

### Human Rights Issues.

6. **Mr. Stagg** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the recent report from the Human Rights Commission on the rights of *de facto* couples, which warned that Ireland could be in breach of international human rights conventions in not making provision for *de facto* couples; the steps he intends to take to provide full rights for such couples; and if he will make a statement on the matter. [22149/06]

**Mr. McDowell:** At the invitation of the Human Rights Commission, I participated in the launch of a research report commissioned on the rights of *de facto* couples on 12 May 2006. There is no obligation in international human rights conventions to give legal recognition to *de facto* couples. The research report acknowledges that the European Convention on Human Rights imposes no positive duty on states to provide for the legal recognition of *de facto* couples generally. The report also states that United Nations instruments do not oblige states to afford *de facto* couples positive recognition in the form of, for example, a registration scheme.

I previously acknowledged that the question of extending legal recognition to same and opposite sex couples in domestic relationships needs to be addressed. With a view to progressing the issue and with Government approval, I established a working group on domestic partnership and asked it to present an options paper to me by 20 October. The group is charged with considering the categories of partnerships and relationships outside of marriage to which legal recognition might be afforded, consistent with the Constitution. The group will also identify options for the granting of legal recognition to those alternative forms of partnership and the extent to which such recognition could be given. It is my intention to bring proposals for legislative reform to the Government following receipt of the group's report. The Taoiseach has indicated that he intends to progress any such legislative initiative.

One of the group's first actions was to invite submissions from the public and I understand there was a large response from individuals and groups representing a broad spectrum of opinion. This was followed on 26 May by a conference, which I opened and at which I received a copy of the Constitution from some errant members of the Ancient Order of Hibernians.

**Mr. Howlin:** By express delivery.



**Mr. McDowell:** The Ancient Order of Hibernians has apologised to me for the incident but is not convinced that the perpetrators were in good standing as members of the organisation.

The Human Rights Commission report will inform the deliberations of the working group, as will the All-Party Oireachtas Committee on the Constitution's report on the family and the deliberations of the Law Reform Commission on the rights and duties of cohabitants.

**Mr. Howlin:** The Minister does not believe that we are in violation of any international convention. Has he examined Article 8 of the European Convention on Human Rights in the context of the report to the Human Rights Commission? Can he assure the House that we are not in breach of any obligation under that or any other article? Does he accept the need for what the report described as an "overarching statute" in this regard? It is not simply a matter of sorting out property rights but involves wider issues. Has he ruled out the possibility of amending the Constitution?

With regard to the options paper commissioned by the Minister, who is responsible for writing it and what will be its status once it is completed?

**Mr. McDowell:** The group is chaired by the chairperson of the Legal Aid Board and former Deputy, Ann Colley, and is composed of a high-powered group of people including representatives from the gay and lesbian community and my Department. These issues are being considered with a view to drawing a clear picture of the implications of any particular option.

I have not ruled out constitutional change but the Taoiseach and I are of the opinion that a constitutional amendment of, for example, the definition of the family to include unmarried people, regardless of their sexual orientation, would be extremely divisive and would probably not pass. There is no point in taking a constitutional route and making the best the enemy of the good.

**Mr. Howlin:** Is the Minister ruling it out as an option?

**Mr. McDowell:** I am not ruling out any options but the Taoiseach has indicated that the group chaired by Ann Colley should operate within the parameters of the Constitution as it stands because an early change to accommodate a more ambitious plan would not, in the Government's collective judgment, stand a good chance of success at this stage.

**Aengus Ó Snodaigh:** Is the Minister aware of the report endorsed by the Equality Authority and the Equality Commission for Northern Ireland on equivalence in promoting equality, which states that while reforms for gay couples do not necessarily need to replicate the measures

introduced in the UK, legislation will be required to protect and give effect to equal treatment of transsexual people and lesbian and gay couples under the equivalence requirement? Does he agree that a shortfall exists between the equality protections for lesbian, gay and transsexual people in this State and the protections for these groups in the Six Counties? Does he further agree that, under the equivalence provisions in strand three of the Good Friday Agreement, this Government must introduce human rights and equality provisions for these groups that are at least equivalent to those obtaining in the Six Counties?

**Mr. McDowell:** I do not agree with the general point made by the Deputy that there must be an equivalence in respect of the arrangements made on both sides of the Border. I do not accept that we must do everything they do or that every human rights initiative taken in the Six Counties, as the Deputy terms it, must be mirrored in this State. This is a constitutional State and we must uphold our Constitution. The people of Northern Ireland do not have access to a written constitution. No citizen in Northern Ireland has the right to have the laws enacted in Westminster struck down on the basis that they conflict with a written constitution. When it comes to equivalence, it is not a question of comparing like with like. The citizens of this State have a more robust and constitutionally understood system for vindicating their rights than the people of Northern Ireland.

I do not accept that, if the United Kingdom Parliament or a Northern Ireland Minister decides to introduce a certain method to deal with a social issue in Northern Ireland, we are obliged under the Good Friday Agreement to follow suit. In the area of civil and political liberties, both sides of the Border share a determination to establish high standards of protection but these standards will not be identical because, if they were, we might as well close this Chamber and ask for direction from Westminster. If that was the case, Deputy Ó Snodaigh's party colleagues might be tempted to take their seats in Westminster.

**Mr. Howlin:** Deputy Ó Snodaigh did not expect a lecture on that matter.

**Aengus Ó Snodaigh:** I did not realise that the Minister disagreed with the Good Friday Agreement.

### **Sexual Offences.**

7. **Mr. Costello** asked the Minister for Justice, Equality and Law Reform when the committee on video evidence was established; when it reported to his Department; the action which has been taken based on the report's recommendations; when he intends to implement section 16 of the Criminal Evidence Act 1992,



[Mr. Costello.]

which provides that a video recording of evidence given by a person under 17 years of age in respect of sexual or violent offences shall be admissible as trial evidence; and if he will make a statement on the matter. [22119/06]

**Mr. McDowell:** One of the consequences of the judgment of the Supreme Court that section 1(1) of the Criminal Law Amendment Act 1935 is unconstitutional is an increase in the evidential requirements on the prosecution in prosecutions under the Criminal Law (Sexual Offences) Act 2006. As a result, child victims face the prospect of being subjected to adversarial court procedures that may be damaging to them. It is important that the undesirable impact of these developments is alleviated to the greatest extent possible. Section 16 of the Criminal Evidence Act 1992, as amended, makes provision for the video recording of any evidence given in respect of a sexual offence or an act involving violence by a person under 17 years of age. The relevant subsection was commenced in 1993.

Section 16 also makes provision for the video recording of a statement during an interview with a member of the Garda Síochána, or any other person who is competent for the purpose, made by a person under 14 years, in respect of whom a sexual offence or an offence involving violence is alleged to have been committed. It provides that such a video recording shall be admissible at a trial as evidence, provided the person whose statement was video recorded is available at the trial for cross examination. It is important to remember that proviso. It does not eliminate the issue of cross-examination.

My predecessor as Minister for Justice, Equality and Law Reform established a committee in 1998 to draw up guidelines for persons involved in video recording interviews by a member of the Garda Síochána with a complainant aged under 14 years of age or with an intellectual disability in relation to a sexual and-or violent offence. This committee subsequently submitted a report in 2003 entitled Good Practice Guidelines with related recommendations. The guidelines cover a number of areas and made a number of recommendations. My Department carried out its own examination of the report and asked the Health Service Executive for its views on the most effective mechanisms to oversee the implementation of the guidelines and associated recommendations, including the issues of how a joint national training programme for people involved might be established. One of our problems with this is that the quality, ethics and training of the people taking the original statement must be of the highest standard, otherwise they will be accused of prompting or coaching the child and the system would be brought into disrepute. The Health Service Executive has confirmed to the Department of Health and Children and my Department that it has established a task

group which is working on this, will issue its first report within the next week and will finalise its work on this matter shortly thereafter. I regret the delay in coming forward with this and it is an area where greater urgency could have been shown by all involved.

**Mr. Howlin:** I welcome the Minister's last comment acknowledging undue delay, which is a great pity. The Minister responded to my colleague Deputy McManus in November 2005 in virtually the same form he gave to the Dáil last week, that the Department had asked the HSE for its views and told the House that the HSE had indicated it was examining the matter thoroughly and would revert to the Department shortly. That was last November. Last week the Minister told the House he telephoned the HSE. I presume this was to put pressure on them and find out what had happened since last November. I understand we will have an interim report within a week. We need to get procedures and mechanisms in place. Does the Minister accept that?

The Minister made great play last week of introducing the Bill into the House last Friday of this new, adversarial court procedure that is now being produced, in which young girls will be asked about the length of their skirts and so on. Does the Minister accept there was always the potential for an adversarial court procedure to arise given the traumatic nature of cross-examination in such cases?

Does the Minister accept that section 5 of the Bill that has been enacted worsens the situation because it opens the anomaly whereby the girl would have to have had penetrative sex in order to be innocent? One can imagine the cross-examination that will flow from that. Under the provision enacted into law by these Houses attempted sex would not be an offence for the girl in those circumstance and this would open her to greater cross-examination. Does the Minister accept we will have to revert to this?

Having accepted the urgency, can the Minister give us a timeframe for establishing the sort of video evidence that has been agreed since the Criminal Evidence Act 1992 was enacted?

**Mr. McDowell:** I will regard it as a matter of extreme urgency and when I receive the first report from the HSE next week I will ensure I have a final report as soon as possible from it. In the meantime I will look at what my Department should do rather than approaching this on a linear basis and waiting for them to pass something down.

**Mr. Howlin:** What is the idea of a phased report?

**Mr. McDowell:** I do not know. Last week I had little time for reflection, as the Deputies will understand, but something has occurred to me on a growing basis. An age category of 15 and 16

year old children was provided for in section 3 of this Bill and in section 2 of the 1935 Act and a separate offence was created for them. Suppose that, under the honest belief defence, a jury listens to an accused claim there was no conversation about the victim's age and that he or she believed the child was 17, not 15 or 16 years old. If that is the only evidence on the issue, and if it is agreed there was no extraneous evidence from which actual knowledge could be imputed to the accused, any of us, imagining ourselves as jurors, required to acquit unless the case was proved beyond reasonable doubt, would be forced to dig hard and deep before contemplating convicting a person unless there was something egregious or manifestly incredible about that evidence. In addition to the new cross-examination issues and new vagueness on 13, 14 and 15 year olds for one offence and 15 and 16 year olds for another offence, we must also face the fact that the 15 and 16 year old age category will be more difficult to prosecute in the case of total strangers. A curious by-product of where we are being driven by the court decision is that a contemporary or school pal would be imputed with more knowledge of the age of a young girl than a 24 year old man who met her casually. When the dust settles and everybody examines it again, it will not be seen as a step forward.

**Mr. Howlin:** The Bill was wrong.

**Mr. McDowell:** The change in the law that was forced on us has not been a step forward.

**Mr. Howlin:** That change was not forced.

**Mr. McDowell:** It was. We had stern rules — the Law Reform Commission report of 1990 called them harsh but I call them stern — that any adult interfering with a young person at an age or in a category prohibited by law took the entire risk. Now the risk is not borne exclusively by the accused, who can wriggle out of it. It will have some strange effects in individual cases including the fact that people who know each other and are friends will be in a worse position than strangers, and that is unacceptable to me.

**Mr. Howlin:** We need to go back to all this.

**Mr. G. Murphy:** The Supreme Court was entitled to make that decision and we must live by it. The fact that video evidencing was not available after such a long time under consideration by various Departments caused major concern last week when the Minister had to deal with the situation. The public was worried about barristers interrogating very young people. People cannot understand why it takes so long for Ministers and the Government to implement decisions. It is not a sign of good, decisive Government if these events continue to happen. There is a general perception that we must have multiple reports before we reach a decision. Can the Minister provide an accurate timescale for when video conferencing will be available?

**Mr. McDowell:** I accept the Deputy's criticisms but I regard the matter as one of great urgency to bring the matter to a conclusion. The 1992 Act made the introduction of this material contingent on the availability of the person for cross-examination. It is not an alternative to cross-examination if an absolute precondition of the introduction of such evidence is that the person can be cross-examined later. Nonetheless, it is a good idea.

**Mr. Howlin:** Will it be in place this year?

**Mr. McDowell:** I hope so.

### Deportation Orders.

8. **Mr. Quinn** asked the Minister for Justice, Equality and Law Reform the number of occasions since June 2002 on which aircraft have been chartered to facilitate the deportation of persons from this country; the cost involved in such charters; the number of persons deported in this way; the number who were children; the overall costs involved, including Garda man hours; and if he will make a statement on the matter. [22144/06]

**Mr. McDowell:** Since January 2002, 23 charter flights have been engaged for the purposes of removing persons illegally residing in the State. Some 723 persons were removed in this way at a total cost of €3,150,073. Details of these charter flights are set out in the table.

No. of non-nationals removed

Date	Destination	Adults	Minors	Total	Cost (Euro)
					€
9 January 2002	Algeria	2	Nil	2	23,490
28 March 2002	Nigeria	6	Nil	6	190,000
14 November 2002	Nigeria	Information not readily available	Information not readily available	12*	151,500
18 November 2003	Romania and Moldova	Information not readily available	Information not readily available	24*	92,490
28 November 2003	Romania and Bulgaria	Information not readily available	Information not readily available	20*	27,800

Date	Destination	Adults	Minors	Total	Cost (Euro)
					€
12 February 2004	Romania	Information not readily available	Information not readily available	62*	93,609
20 February 2004	Gambia	1	Nil	1	50,200
31 March 2004	Romania	49	4	53	71,590
6 April 2004	Nigeria	26	3	29	146,500
26 August 2004	Nigeria	24	1	25	248,610
17 November 2004	Romania and Moldova	56	10	66	82,700
15 December 2004	Romania and Moldova	39	2	41	82,700
15 March 2005	Nigeria	26	9	35	265,000
1 June 2005	Romania	50	8	58	84,720
5 July 2005	Nigeria	30	16	46	248,300
13 September 2005	Romania and Moldova	46	5	51	87,270
18 October 2005	Nigeria	23	15	38	243,300
8 December 2005	Nigeria	17	2	19	238,850
17 January 2006	Romania and Moldova	42	2	44	91,255
27 January 2006	Spain — Dublin II Regulation Transfer	1	Nil	1	43,300
21 February 2006	China	13	Nil	13	255,539
4 April 2006	Nigeria	23	6	29	242,050
15 May 2006	Romania	44	4	48	89,300

\*Note (i) A breakdown of the numbers deported between adults and minors is not readily available for these flights.

The costs do not include Garda expenses associated with these removal operations. Given the wide range of immigration duties performed by the Garda Síochána and the Garda National Immigration Bureau, GNIB, it is not possible to identify the particular pay and overtime costs incurred in these charter flights. Charter flights involve a lower ratio of Garda escorts to deportees than is the case using conventional scheduled flights, which require more gardaí per individual because other passengers are involved. The number of escorting gardaí on each flight varies and is dependent on a prior risk assessment of each removal operation carried out by the GNIB.

There are two main categories of repatriation charter flights. Smaller charters are organised to remove disruptive persons whom commercial airlines will not take on account of previous disruptive behaviour on board aircraft, and larger charters are organised to return those to destinations with a high degree of——

**Mr. Howlin:** Popularity.

**Mr. McDowell:** ——deportations. There is a new EU initiative on sharing the costs of flights and co-operation in organising such flights.

The figures are often disappointing to the GNIB and one of the problems is that those who are arrested to be deported gain access to lawyers who commence judicial review proceedings. Members may have heard about a family making

an application to the High Court for judicial review on the basis that some members suffered from epilepsy and better medical treatment is available in Ireland than Romania. In that instance, space on the plane was left empty. Happily, the High Court has decided that the grounds were invalid. One may schedule a flight for a certain number of people and then discover that a considerable fraction of them is excused at the last moment due to judicial reviews and injunction proceedings. The Department is considering sending a letter, which we hope will be judicially supported, to the effect that any argument should be made immediately and that any application for judicial review at the 11th hour will not be accepted.

**Mr. Howlin:** What are the criteria used to determine those who should be deported on a charter flight and those who should be deported on a conventional flight? Is cost analysis carried out and taken into account in this determination?

The Minister was unable to give the breakdown between adults and minors in a previous response to a similar question regarding flights in 2003 and 2004. Why does he not know how many adults and minors are on any given flight? Surely such fundamental information would be recorded before any individual is put on a flight out of the jurisdiction.

**Mr. McDowell:** It is strange that people were deported without their being recorded. Perhaps

they came to Ireland at the age of 16 and left at 19——

**Mr. Howlin:** In terms of the determination, the criteria for a minor would be entirely different. The file exists within the Department and I find it numbing that it is not available to the House.

**Mr. McDowell:** I would not use the term “numbing”, but I find it strange. I ask the Deputy not to be numbed by this information.

**Mr. Howlin:** The Minister would like me to be numbed more often.

**Mr. McDowell:** I agree the information should be available but I note from the information in the table that no clarification has been added. Deputy Howlin asked how to decide between a commercial and a charter flight. Depending on the nature of a passenger on a commercial flight, a garda may have to be handcuffed, or in close proximity, to the passenger.

**Mr. Howlin:** Is it in case the passenger makes a run for it?

**Mr. McDowell:** It is in case he or she becomes disruptive on the plane. One immigration officer had his arm broken by a person resisting deportation. Disruptive passengers may necessitate flights to be grounded and arrests made. The views of other passengers must be taken into account, especially on long-haul flights, if a significantly disruptive passenger is on a plane. It is not an exact science but the number of supervising gardaí must increase in the case of a commercial flight. There must be a ratio of two or three to one to prevent an outburst or a breach of the peace on the plane. Commercial carriers are not very keen on such passengers so judgment must be used. Economic factors are taken into account and perhaps there is a graph that shows when a commercial flight is feasible.

The majority of people who finish the asylum process are requested to leave voluntarily. They are offered arrangements to return home, with the assistance of the International Organisation of Migration. Everyone who is brought to Dublin airport in custody to be sent home on a charter flight has been offered and has refused the opportunity to return to his or her country on an ordinary flight with assistance from the Irish State. Everyone is well treated and is offered the more civilised and dignified option. If we did not have a system of deportation our law would be a mockery.

**Mr. Cuffe:** There is little information on what happens to these people when they return to their country of origin. Various commitments were made by the Minister and his predecessor to ensure these people are well treated on their return to their home country. Will the Minister tell us about information received regarding what happens to these individuals once they return and the procedures in place to ensure that the State

knows what happens to such individuals on their return?

**Mr. McDowell:** Any person in danger of violence etc. in the host country is entitled to resist deportation on *refoulement* grounds. If somebody is brought from Dublin to Lagos, for example, by airplane, arrangements are made by an advanced party of gardaí for reception and processing in Lagos. Arrangements are made for overnight accommodation for such people if they so wish. After that, these people are in their home country and it is their duty to look after themselves. The State's obligation does not extend to monitoring these people or doing a follow-up.

Anybody who thinks the resources of the Exchequer should be spent finding out what happens to people who came here but remained illegally after being asked to go home and that we should make it our business to monitor what happened to these people after they returned home should know that is not a reasonable use of manpower or taxpayers' resources.

**Mr. Cuffe:** We have deported people who have just reached the age of majority to countries such as Nigeria. I put it to the Minister that there must be some duty of care to find out what happens to these individuals, particularly when they do not have family in their own country. Many young people, on reaching the age of majority, have been deported. There should be some duty of care by the State to ensure we know what happens to these people.

**Acting Chairman (Mr. Glennon):** I ask the Minister to be brief.

**Mr. McDowell:** My experience is that 16 year olds and 17 year olds who come in from a number of these states, and one state in particular, have crossed half the world to get here. Very frequently the account given shows a considerable degree of independence of mind on their part. Their histories show that these are functioning people with a good appreciation of their whereabouts etc.

Once a person is of full age and back in one's own country, it is not the Irish taxpayers' duty to further assist that person. A person in those circumstances has already turned down an offer by the State of an air fare home at a time of their own choosing. In those circumstances, the services of the International Organisation for Migration would be available to such people on their arrival home, but these people have turned that down. The Deputy should remember that nobody gets on to a charter flight in this regard who has not turned down a generous repatriation package from the State to go home unescorted in their own time on a commercial flight. In those circumstances, the people are in a position to have contacts awaiting them on arrival.

#### Independent Inquiries.

9. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform the status of



[Aengus Ó Snodaigh.]

the inquiry into the death of a person (details supplied) while in Garda custody in Clonmel; and if he will make a statement on the matter. [22192/06]

**Mr. McDowell:** The independent statutory inquiry process established by me pursuant to section 12 of the Dublin Police Act 1924, as applied and amended, has been under way for some time following the appointment of Mr. Hugh Hartnett, SC, on 14 September 2005 to conduct it. Mr. Hartnett decided that the inquiry was to be held in private and he is not, under his terms of reference, required to report to me on a regular basis on any of its aspects. He is required to report to me with his findings and conclusions, which I intend to publish unless there are reasons to the contrary.

I have had no indication from either Mr. Hartnett or any other party that substantial progress is not being made. When last I heard of the progress, approximately 90 witnesses had given oral evidence, and the inquiry was heading to a conclusion. It is Mr. Hartnett's proposal to have the inquiry concluded by the summer.

**Acting Chairman:** The Deputy has one minute until the Adjournment.

**Aengus Ó Snodaigh:** I will be brief. Is the Minister aware of the harassment of Mr. Brian Rossiter's father, Pat Rossiter? This seems to confirm a practice, long established, whereby gardaí engage in serious harassment of people who are brave enough to make complaints against the Garda. Is the Minister concerned about this?

**Mr. McDowell:** I am aware of some press coverage of the kind the Deputy referred to, and some of it has not been completely fair. As I understand it, the particular incident coming before the District Court occurred at a time before there was public controversy relating to the Brian Rossiter case. That was not brought to the public's attention in the press reportage. The public dimension to the case came after the incident involving Mr. Rossiter's father. I do not want to comment further as I do not know the individual facts. In so far as it is relevant, the incident will be fully taken into account.

*Written Answers follow Adjournment Debate.*

### Adjournment Debate Matters.

**Acting Chairman:** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 21 and the name of the Member in each case: (1) Deputy J. Higgins — concern over renewed attempts by Limerick County Council to impose water from a polluted source on the residents of Pallaskenry and Kildimo; (2) Deputy Gormley — that the Minister introduce the necessary legislation and programmes to deal with the increasing problem of graffiti vandalism; (3) Deputy Ó Caoláin — the

need for the Minister immediately to prevent the imposition of cutbacks in health services in the north east; and (4) Deputy Wall — that the Minister outline the reasons for the proposed closure of a facility (details supplied) in County Kildare.

The matters raised by Deputies Ó Caoláin, Wall and Gormley have been selected for discussion.

### Adjournment Debate.

#### Health Services.

**Caoimhghín Ó Caoláin:** The news that came with the leaking of the Health Service Executive report that the HSE north-east region is contemplating cuts in services to offset an overrun of almost €10 million in the current fiscal year has come as a grievous blow to the people of counties Cavan, Monaghan, Louth and Meath, the greater number of whom live under a daily dark cloud as a result of the loss of critical services at a number of those hospitals, not least in Monaghan and Dundalk.

People in the region I represent are absolutely outraged and cannot understand that at a time when the economy is, for all intents and purposes, awash with money, the Government is presiding over cutbacks in health, which has made a serious and negative difference in the daily life condition of ordinary people. In the area where I live in County Monaghan, there have been upwards of 20 avoidable deaths as a result of the contraction in service delivery at the acute hospital site in Monaghan in recent years. That is a terrible statistic, a terrible reality and a terrible indictment of Government policy in this regard.

People have a right to ask why, after nine years in government, the coalition has got our health services so disastrously wrong. While it is acknowledged that more money is going into the health services than at any time previously, the reality is that we are not receiving the service delivery we once enjoyed and have every right to expect in future.

The Government is more keen to give tax breaks and land to developers of private hospitals than it appears to be committed to the public hospitals of Monaghan, Cavan and Dundalk, each of which has long records of excellent care for patients and is again being deprived of services. Almost incredibly, the contemplated cuts in the north east will have an effect on some of the most vulnerable of patients, those with cancer and those requiring renal dialysis, among other service user needs.

If these cuts go ahead, long-promised and long-needed improvements in oncology and dialysis services will be blocked as an exercise in a so-called money-saving endeavour. It may save money in the long term, but at what price? What price will people pay over the remainder of this year?

The focus of these cuts is incredible. There is a bounden duty and responsibility on Government to recognise that the *per capita* allocation of fund-

ing in the north east falls well below the average *per capita* allocation right across the different HSE areas throughout the State. It is now a requirement of the Minister for Health and Children, Deputy Harney, to ensure the HSE properly funds services in the north east rather than employs the exercise mooted in this report, that is, a curtailment of promised developments and improvements and a further contraction in service to allegedly save almost €10 million in the remainder of this year.

There is no doubt that diktat ending accident and emergency services in Monaghan has already contributed to the loss of lives. In respect of what other area of the country could a Deputy stand up and say what the names of Bronagh Livingstone, Pat Joe Walsh and Frances Sheridan mean to the House? I could go on and on and the truth is that each name means something to the Minister. He recognises them and he knows that their deaths occurred in tragic circumstances. No Deputy from any other part of the country could stand up and refer to the hospital services in his or her hospital area and expect such instant, national recognition of those names. There is no better way than that to explain the sad reality of the situation in Monaghan.

I hope the Minister recognises that a special situation applies here. It is not acceptable that we will have further misery heaped on the suffering, fear and concern that is prevalent in the community that I am proud to represent.

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am taking this matter on behalf of the Tánaiste and Minister for Health and Children.

Under the Health Act 2004, the Health Service Executive has responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. The Department has been advised by the HSE that the allocation in 2006 for the north-east hospital network is €216 million. This is approximately €15 million more than was provided in 2005, representing an increase of over 7%. Management at the hospitals in the north east are examining options to assist in meeting the requirement to operate within the approved funding allocation in the current year. The purpose of the reviews under way is to identify options that can assist with breaking even financially without impacting existing services. A number of budgetary measures have already been put in place within the HSE hospital network in the north east. The HSE has assured the Department that these budgetary control measures will not have an adverse impact on patient care, including cancer and dialysis services. The aim is to obtain best value for money and to maximise efficiencies where possible.

Staffing levels in the north-east hospital network increased from 3,091 at the end of 2004 to 3,238 at the end of 2005 and 3,301 at the end of the first quarter of 2006. This represents an increase of 210 since the end of 2004. Since 1997, cumulative funding totalling more than €36 million has been allocated to the Health Service Executive north-eastern area for the develop-

ment of appropriate treatment and care services for people with cancer. This investment has enabled the funding of eight additional consultant posts and support staff in key areas of cancer care and 41 cancer care nurse specialists across the region. The HSE has assured the Department of Health and Children that an additional €600,000 will be invested in the further development of cancer services in the region this year. There are currently two consultant medical oncologists with sessional commitments in the region. The appointment of an additional consultant medical oncologist between the Mater Hospital and Our Lady of Lourdes Hospital in Drogheda is currently being processed and is a priority post for the HSE.

The HSE expects that by reviewing expenditure and applying available resources, including money put aside for contingencies, it will manage the provision of services as set out in its 2006 service plan.

### Mental Health Services.

**Mr. Wall:** I thank the Leas-Cheann Comhairle for the opportunity to discuss this very important matter. I raise it because I received letters from the very concerned parents of residents at Clonree House on foot of newspaper reports that the centre there is to close.

To close a centre after a six-month period is a very worrying aspect of this proposal. The families of the loved ones being cared for in this centre, like all families with children suffering from mental illness, see the care and facilities as having a stabilising effect on those seeking such care. The families also understood in this instance that a new rehabilitation group was to be established. However, instead of the good news of advancing the care of their loved ones through the proposed group, the families are being told that the facility is to close for financial reasons. One reason mentioned is that the staffing levels could not be maintained at the centre and because of this, overtime had to be paid on all night-shift work. It is this aspect that is causing the financial problems leading to the threat of closure.

Families also see bonds of friendship develop between all of the residents and this loss of friendship will also affect each of the residents. If the residents are moved to another centre, it will take a great deal of time for them to develop new friendships, acquaint themselves within new surroundings and so on. These difficulties lead to a fear within the person and a further worry for the family concerned.

I need only quote from a letter, sent to the Tánaiste, that I received from a family member with a loved one in the centre, to understand the worry and concern that this uncertainty is causing for the families concerned:

I have now been made aware that this hostel is being closed down for mainly financial reasons. I am one of many families who has someone in the service. To have someone you love develop a psychiatric illness is horrendous.

[Mr. Wall.]

Mostly it is such a slow process that you are not aware it is happening. When you have someone admitted to Lake view unit, the psychiatric section in Naas General Hospital, they usually remain there for a few weeks until they are returned to their families. The effect this has on the family is frightening. The family are left to deal with a stranger with no training and very little support. If every family gave in and left their loved ones in hospital it would cause chaos. We as families need help. This hostel was to be our saving grace we felt. It would be somewhere our loved ones would get the help coping with their illness and maybe families would get the help needed to understand. When someone develops a psychiatric illness their personality can change hugely. In a way you end up grieving for the child you lost and have to learn to accept the person they become.

That statement speaks for itself and underlines the threat that the families involved fear at this very moment.

What is going to happen? When will it happen? In what way will it affect their loved ones and in what way will it affect the home? Will any facilities be put in place to assist them with the burden that they have to bear? These very relevant questions must be answered by the HSE before any action is taken in regard to the possible closure of the centre. The families of those involved must be consulted and agreement reached on the means of addressing a problem that has great personal effects for the families involved. It affects them to the point that they are being split down the middle as to what they can further accept.

I ask the Minister that this decision be re-examined and that every effort be made to maintain the centre that the families have come to trust and believe in. I also ask that the  
5 o'clock proposal on the provision of a rehabilitation group at the centre be considered, as the families believe that this is the way forward for their loved ones.

I will conclude with another quote from the same letter to the Tánaiste:

There is no-one fighting solely for the patients or families like me. So for them I ask you to re-think the closure of this centre. I feel you are a straight person and if you can help, you will. I feel so sad because I know what is ahead for anyone who has a loved one enter the service. The only way I can describe it is a life sentence for all of us, patients and families.

I ask that this be brought to the attention of the Tánaiste and Minister for Health and Children and that the appropriate action be taken to keep the centre open.

**Mr. McDowell:** I thank Deputy Wall for raising the issue and I assure him I will bring his remarks to the attention of the Tánaiste.

The management and delivery of services at Clonree House is primarily a matter for the Health Service Executive. The HSE has informed

the Department of Health and Children that Clonree House opened in December 2005 to facilitate the refurbishment of another residential facility in the mental health services for Kildare and west Wicklow. I am advised that six residents live in Clonree House and all residents have been assessed by the mental health services rehabilitation staff. The plan is to transfer them in the near future to community residences which are deemed to be more appropriate to their needs. This will be carried out in consultation with the individuals concerned and their families. The HSE is examining proposals for the most efficient and effective use of Clonree House for the patients of the Kildare adult mental health services.

As the Deputy may be aware, the report of the expert group on mental health policy, *A Vision for Change*, was published by my colleague the Minister for State, Deputy Tim O'Malley, in January this year. This report has been accepted by Government as the basis for the future development of mental health policy. This report is the first comprehensive review of mental health policy since *Planning for the Future* was published in 1984.

Recent years have seen dramatic changes in both the concept and innovative practice of mental health care delivery. These changes have been very much in line with the model of service provision now recommended by the expert group. The focus of mental health service provision is to work towards a community-based model of supporting, caring for and treating people with mental illness who live in their own communities. This is achieved through a range of services, which includes outpatient clinics, day hospitals, home visits, community residences and supported accommodation as well as working in collaboration with voluntary organisations.

*A Vision for Change* envisions an active, flexible and community-based mental health service where the need for hospital admission will be greatly reduced. The report recommends that a programme of capital and non-capital investment in mental health services adjusted in line with inflation should be implemented in a phased basis over the next seven to ten years. The proposals in that document will allow for further significant expansion in community services and in specialised services for groups such as children, older people and those with particular needs.

The programme of further investment began this year, with an additional €25 million allocated to the HSE for the development of mental health services. This brings to €835 million the estimated non-capital expenditure on our mental health services in 2006. The Minister of State, Deputy Tim O'Malley, who has special responsibility for mental health will seek the active support of all involved in the mental health services so that together we can bring about the far-reaching improvements contained in *A Vision for Change*. I assure Deputy Wall that decisions in regard to the future use of Clonree House will be made in accordance with the recommendations in that document. I thank the Deputy for raising this matter.



### Graffiti Offences.

**Mr. Gormley:** I thank the Ceann Comhairle for giving me the opportunity to raise the issue of graffiti vandalism, a problem which is becoming worse by the day in Dublin city and elsewhere. From previous parliamentary questions I put down on this issue, it appears the Government does not have a coherent strategy to deal with this issue. Local authorities are only now becoming aware that there is a serious problem. However, they simply do not have the resources or legislation to tackle it properly.

Anyone who has visited capital cities throughout Europe knows that graffiti vandalism is a major problem in Paris, Berlin and Rome. These beautiful cities have been defaced by these graffiti vandals. Interestingly, London does not appear to have the same problem, nor does New York, a city I visited last week for the UN conference on AIDS. Surely it would not be too much for this Government to examine how the New York authorities, or the authorities in New South Wales in Australia, dealt with the graffiti problem.

The US is one of the most progressive countries when it comes to anti-graffiti measures. Its innovative approaches include providing incentives for citizens to use protective coatings to minimise the damage caused by graffiti, revoking the driving licences of graffiti offenders, banning the sale of spray paint to minors, banning the possession of spray paint in public places and the rapid removal or painting over of graffiti once it is discovered. Its graffiti solutions programme builds on deterrents and law enforcement and focuses on prevention, harm minimisation and the removal of graffiti.

It appears we have no specific graffiti offence in Irish law, nor has the Minister any intention to introduce specific legislation. We were informed by the Minister for Justice, Equality and Law Reform that the Criminal Damage Act 1991 and the Litter Pollution Act 1997 cover the offence of graffiti. However, it is not at all clear how many people were convicted for graffiti vandalism last year. The Minister for Justice, Equality and Law Reform informed the House that there were 1,702 convictions for damaging or defacing property. How many were for graffiti vandalism? We were also told there was one conviction under the Litter Pollution Act 1997. Again, was this for graffiti vandalism?

The Minister for the Environment, Heritage and Local Government, Deputy Roche, in reply to a parliamentary question stated he considers this legislation adequate. If this is so, why have we seen an upsurge in graffiti throughout Dublin? We cannot afford to underestimate the extent of this problem. This is not a harmless activity. Householders and shopkeepers must remove the graffiti and this costs a considerable amount of money. I know the owner of the pen shop on Dame Street had to remove graffiti from his windows and stonework on at least three occasions. Not only that, but graffiti gives rise to a sense of urban blight and lawlessness.

Although New South Wales had legislation dealing with property offences, it was felt necessary to introduce specific graffiti offences. These include damaging and defacing property by means of spray paint without reasonable excuse, the proof of which lies with the person. It attracts a maximum fine of 2,200 Australian dollars or imprisonment for six months or a period of community service work. It is also an offence for a person to have spray paint in his or her possession, with the intention that it should be used to damage or deface premises or other property.

Graffiti removal costs money. Approximately \$17 billion a year is spent in the United States on the removal of graffiti. I suspect if we calculated the costs here, it would be considerable. It is often borne by the individual householder or shopkeeper. It is not good enough for the Government to continue to put its head in the sand on this issue.

I will suggest a number of steps we could use to deal with graffiti vandalism. The Government must introduce specific legislation to deal with the offence of graffiti vandalism. The Garda must have a special unit, as do many police forces in the United States, to deal with graffiti vandalism. New York city has GHOST, the graffiti habitual offenders suppression team, which gathers information using digital cameras. Rewards should also be offered, as in the United States, for tip-offs on "taggers" as they are known there.

Community service orders for individuals caught defacing property with graffiti should include provision that they remove the graffiti themselves in certain areas. Local authorities must be allocated sufficient resources and a system put in place for the quick removal of graffiti on public and private property. There should be a graffiti hotline to report graffiti immediately so it can be dealt with quickly. We need a graffiti strategy which includes the Garda, Dublin City Council, the Chamber of Commerce and residents' associations.

People suggest that certain graffiti amounts to artistic expression. If this is so, we can always make available blank walls in certain parts of the city to those who want to express themselves. However, much of what I witness does not amount to artistic expression. It is, quite simply, vandalism.

**Mr. McDowell:** I am standing in for my colleague the Minister for the Environment, Heritage and Local Government, Deputy Roche, but I agree with every word the Deputy stated. Our response to graffiti has not been adequate to date and serious action must be taken on it. The constituency Deputy Gormley and I share has been under sustained attack in recent times. It seems to be spreading everywhere. I will return to that issue if I can.

Under the Litter Pollution Act, primary responsibility lies with local authorities. It is their function and we cannot establish a national body. I understand what the Deputy stated on Garda involvement and I will return to that issue. Gardaí have a great deal to do, but waiting and



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hoping that someone will produce a spray can and deface a wall in their presence is not productive.

The Minister for the Environment, Heritage and Local Government, Deputy Roche, is satisfied that local authorities have adequate power under sections 19 and 20 to tackle the problem of defacement of property that is in, or visible from, a public place. Section 19 makes it an offence to deface property without the written authority of the relevant owner, occupier or person in charge. A local authority or its agents may enter and take the necessary remedial action.

Section 20 is a complementary provision which enables a local authority in the interests of amenity or of the environment to take remedial action on graffiti, even if it has been put up with the consent of the owner, which I imagine is extremely rare. The local authority may serve a notice on the occupier requiring steps to be taken to remove or otherwise remedy the defacement within a specified period of not less than seven days. Failure to comply with such a notice is an offence and, in the case of an offence, the local authority may give effect to the notice and recover costs. The local authority may also by arrangement with the occupier take steps to remedy the defacement. The local authority or its agents may by agreement enter and remedy the defacement themselves. It is also an offence to obstruct or impede a local authority in these actions under sections 19 and 20. Penalties under the litter Acts range from an on-the-spot fine of €125 to a fine, on summary conviction, not exceeding €3,000 or, on indictment, a fine not exceeding €130,000.

In addition to the Litter Pollution Acts, the Criminal Damage Act 1991 provides for the offences of damaging or defacing property. The Garda authorities take these very seriously. The Garda has put Operation Encounter and Operation Assist in place to focus on anti-social behaviour, including offences of criminal damage and defacing property. When gardaí detect such offences, culprits are processed through the courts or via the juvenile liaison system, as appropriate.

The Department of the Environment, Heritage and Local Government, in conjunction with the Department of Justice, Equality and Law Reform and the Department of Community, Rural and Gaeltacht Affairs has embarked on a pilot project to tackle graffiti specifically. It was originally proposed to operate in RAPID areas only but this did not occur. The obvious danger was that the activities in question would be displaced to non-RAPID areas, in which case the project would have achieved nothing.

I agree with the Deputy it is important for local authorities to provide a service enabling the rapid removal of graffiti. If one spends half an hour putting it up and it is gone the next day, one will not be so keen to do so again. That is the best way to curtail the activity rather than hoping a garda will find a graffiti artist in the act, given that the latter will obviously have a look-out to watch out for gardaí.

Each of Deputy Gormley's suggestions is constructive. Some €3 million has been provided this year for the pilot programme, which I want to see work. I was unhappy with the RAPID-based criterion and we will now operate on the basis of Garda districts instead.

Some national authorities take this matter very seriously and I notice that the NRA tries to paint out graffiti on motorways. The best deterrent is simply to eliminate it as rapidly as possible. In other areas, there is less progress.

Property owners must keep their premises clean. Even if they are vandalised they cannot say somebody else is responsible and that it is therefore somebody else's problem to solve. If one owns property, one's duty is to keep it clear of graffiti. Small shop owners and others whose lives would be made impossible by constant graffiti attacks should be assisted and I agree with the Deputy in this regard. However, it is a different matter in the case of large property development companies that have not got around to cleaning up their properties. It is no more acceptable for them to allow graffiti to be on their premises than to allow their sewers to be cracked. Graffiti is anti-social and degrades the whole community.

It will be interesting to see how the pilot programme works out this year. I agree very strongly with the Deputy that local authorities must raise their game to solve the problem and join in a partnership approach with the Garda to gain intelligence on who is responsible.

The Deputy made a good point on one's being in possession of spray paints without a reasonable excuse in circumstances giving rise to the inference that one might be a graffiti artist. We should include a provision that takes this into account in our law. Somebody, on doing a little research, should be able to track down where the major sales of spray paint are taking place and to whom it is being sold. Even if it can be ordered over the Internet, thus making it difficult to prevent, as was put to me, we must constantly make life difficult rather than easy for vandals.

I am grateful that the Deputy has raised this issue and I hope he will be glad that one of the pilot schemes is based in his and my constituency. We should see some of its benefits in the very near future.

The Dáil adjourned at 5.15 p.m. until 2.30 p.m. on Tuesday, 13 June 2006.

## Written Answers.

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**The following are questions tabled by Members for written response and the ministerial replies as received on the day from the Departments [unrevised].**

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*Questions Nos. 1 to 9, inclusive, answered orally.*

### **Criminal Sentences.**

10. **Mr. Gogarty** asked the Minister for Justice, Equality and Law Reform his views on providing the resources necessary for the compilation of a database of information on criminal sentences in the Four Courts and online; and if he will make a statement on the matter. [22212/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Under the Courts Service Act 1998, the Courts Service — which is responsible for the day to day management of the courts — is independent in the performance of its functions. I am responsible for ensuring that the Service is adequately funded and resourced and, in this regard, €111.8m is provided for that organisation in 2006.

Having regard to the compilation of a database of information on criminal sentences, I understand that the Board of the Courts Service has established a high level Steering Committee chaired by the Honourable Mrs. Justice Susan Denham to plan for and provide a system of information on sentencing. The initiative of the Board is designed to provide a systemic form of information in this respect as a reference point for Judges.

The Steering Committee has reviewed sentencing systems worldwide and identified those of Scotland and New South Wales as the most relevant to our situation. I understand that it is proposed to commence a pilot project shortly in the Dublin Circuit Criminal Court. I further understand that two researchers have been selected to collect and collate information on sentencing outcomes in cases on indictment in designated courts in accordance with criteria specified by the Committee.

The objectives of the project are to: — identify criteria and other information employed by the

judiciary in sentencing for particular offence types in criminal proceedings, — record and retrieve such information in individual cases, — design and develop a database to store the information retrieved and enable its retrieval in accordance with various search criteria, — share or disseminate the information, utilising information and communications technology, via a judges' intranet or other means, and — assemble appropriate material on sentencing for a benchbook and website.

It is anticipated that the pilot project will run for a six week period and that it will be evaluated prior to a further pilot in October 2006.

When the Steering Committee completes its work, further consideration can be given to the question of compiling a database of information on criminal sentences and the resources that may be needed for this purpose.

### **Garda Training.**

11. **Mr. O'Shea** asked the Minister for Justice, Equality and Law Reform the number of meetings that have taken place of the inter-Departmental working group to recommend an appropriate approach to Irish language training for recruits to An Garda Síochána; if this group has concluded its work; the recommendations it has made; and if he will make a statement on the matter. [18138/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The inter-departmental group which is examining Irish language training for Garda recruits has met formally on two occasions. However, its members have also been in continuing informal contact on the issues under discussion. The Garda Commissioner had also established a working group to examine the teaching of Irish in the Garda College. I am advised that the two groups have liaised closely and understand that the main issues have been addressed by the Commissioner's working group, including

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the teaching of Irish to recruits who have no knowledge of the language, and more generally the promotion of excellence in Irish in the Force, particularly taking into account the needs of Gaeltacht areas and the requirements of the Official Languages Act 2003.

I expect to receive the report of the inter-departmental group before the end of this month, and the aim is to put in place the new programme in time for the intake of recruits in August.

#### **Garda Deployment.**

12. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if adequate numbers of Gardaí are available to combat the drugs problem with particular reference to the areas throughout the country that are currently most seriously subjected to the activities of drug dealers; and if he will make a statement on the matter. [22199/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Deputy will appreciate that policing operations and the deployment of Garda resources are matters for the Garda authorities. It is the responsibility of Garda management to allocate personnel to and within divisions on a priority basis in accordance with overall policing requirements. However, I am, of course, in regular contact with the Garda Commissioner in order to keep the measures and resources for tackling serious crime under continuing review. The overall allocation of Garda resources, including manpower, to the Garda Commissioner reflects the Government's policing priorities (including combating drug trafficking) and An Garda Síochána has never in its history been better resourced.

The Deputy will be aware of the Government's decision in October, 2004 to approve my proposals for the recruitment of 2,000 additional Gardai to increase the strength of An Garda Síochána to 14,000. Delivery of this commitment is on target and will be achieved. The combined strength of attested Gardai and recruits in training will reach 14,000 by the end of 2006 and the additional resources are being allocated to areas most in need, including areas with a significant drug problem.

The Garda National Drugs Unit (GNDU), in conjunction with other specialist Garda units such as the National Bureau of Criminal Investigation and the Criminal Assets Bureau, continues to undertake "targeted specific" operations against the larger illegal drug importation and distribution operations.

The GNDU also works closely with divisional and district drug units in detecting and preventing the sale and supply of illegal drugs. It provides assistance and expertise to these local units in operational, intelligence and training matters. Divisional and district drug units operate in divisions throughout the country and their primary

focus is to target local dealers and users. Where necessary, these resources can be supplemented by other Garda personnel operating at local level. All Gardaí have responsibility, inter alia, to deal with drug related issues as they arise.

There is also targeted patrolling by uniform and plain-clothes personnel of problem areas in order to detect and disrupt persons involved in drugs activity.

The trafficking and distribution of all illicit drugs at local, national and international level will continue to be vigilantly monitored by An Garda Síochána. Allocations of Garda personnel throughout the country, together with overall policing arrangements and operational strategy, are continually monitored and reviewed. This ensures the optimum use of Garda resources and provision of the best possible service to the general public.

#### **Missing Persons.**

13. **Mr. Eamon Ryan** asked the Minister for Justice, Equality and Law Reform if his Department is in a position to review an application for funding from an organisation (details supplied) wishing to establish a missing persons helpline; and if he will make a statement on the matter. [22208/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In March 2005, I established a new Commission for the Support of Victims of Crime to devise an appropriate support framework for victims of crime into the future and to disburse funding for victim support measures. The Commission is entirely independent in its decision making and examines each application on its merits. The Commission received an application from the Missing in Ireland Support Service for €71,600 to establish, staff and operate a helpline for missing persons. After careful consideration of the application the Commission decided to offer funding of €25,000; however, this offer was rejected by the Missing in Ireland Support Service. It should be borne in mind in this context that the Commission is charged with funding support services for victims of crime, and that, while some persons who are missing are crime victims, most are not.

The Commission advise me that no request has been made to them by the Missing in Ireland Support Service to review the funding as allocated in 2005 nor for funding in 2006.

#### **Citizenship Applications.**

14. **Dr. Cowley** asked the Minister for Justice, Equality and Law Reform the reason the average timescale for a certificate of naturalisation in the citizenship section takes in excess of two years without exception; his views on whether this is unreasonable in the case of a person (details supplied) in Dublin 15; his further views on

whether travel arrangements offered by his Department do not work on short notice for this person; if he will examine this case as a priority in view of it's nature; his further views on whether changes and exceptions have to be made; and if he will make a statement on the matter. [22008/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** On 9 May 2006, my Government colleague, Mr. Batt O'Keeffe, T.D. Minister for State at the Department of the Environment and Local Government responded on my behalf to an Adjournment matter by the Deputy in relation to this case. The response is on the record of this House.

In that response, I explained that the processing time was primarily as a result of the increase in the volume of applications being received in the Citizenship Section of my Department and that it was unlikely that there would be an early reduction in the then processing time of 24 months. I also explained that applications are dealt with as far as possible in chronological order and that this policy is only departed from in very exceptional circumstances. I further stated that there were approximately 6,300 applications awaiting processing before the application of the person concerned and that I did not consider it appropriate, for the reasons advanced in the case in question, to expedite the processing of the said application.

No new information has been put forward by the Deputy in his current Question and, consequently, I can see no reason to reconsider my decision not to expedite the processing of the application in question.

I also mentioned in my response that the person in question could apply for a multiple re-entry visa and that she had applied for and been granted such visa in the past. Multiple re-entry visas are designed to cater for the circumstance of a person who is required to travel outside the State on a frequent basis and at short notice. It obviates the need to apply each time for a re-entry visa and await the processing of that application. I cannot see, therefore, how this arrangement does not work for the person concerned if she is required to travel abroad at short notice in the context of her employment. I understand that she applied for and was granted such multiple re-entry visas in the past and that she has recently been issued with a multiple re-entry visa valid until April 2008.

#### **State Pathologist's Office.**

15. **Mr. Rabbitte** asked the Minister for Justice, Equality and Law Reform his proposals for reform of the Chief State Pathologist's Office; if it is intended to introduce a new system whereby homicide cases would be handled by two pathologists; the discussions he has had with the Chief

State Pathologist on this issue; and if he will make a statement on the matter. [22124/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As the Deputy may be aware, I have already signalled the fact that I am exploring a number of possibilities aimed at further enhancing the services provided by the State Pathologist's Office. This exercise, which is taking place in consultation with the Chief State Pathologist, is in train at the moment and until such time as I have made a decision in this matter it would be premature to say anything further.

I can, however, say that I have already authorised a number of initiatives to support the operation of the office which include the provision of a driver service — which is already in place, as well as the provision of new office and laboratory facilities, which are in planning. I can also confirm to the Deputy that the resources assigned by me to the Office have increased by more than 30% since 2003 and that further such resources will be deployed to meet emerging service needs.

Insofar as the possibility of assigning two pathologists to each homicide case is concerned, this option has been the subject of consideration and discussion between my officials and the State Pathologist. There are advantages to the approach but it is not the norm in the common law world and is closely associated with the particular needs of the Scottish legal system.

There are two focal issues for consideration; (a) reducing the risk that vital evidence might be lost due to the unavailability of a single pathologist (b) providing for peer review in important cases. The State Pathologist favours peer review in all homicide cases and in certain circumstances in other cases.

As regard preserving pathologist's evidence by deposition, my Department intends to consult the Attorney General's Office on such a proposal. The issue of having two pathologists present at such autopsies with a view to reducing the risk of either being unavailable as a witness is also being considered.

#### **Proposed Legislation.**

16. **Mr. Stagg** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the recent warning from the Chief Justice over the introduction of hastily prepared legislation; his views on the warning from the Chief Justice; if he intends to take the advice of the Chief Justice in regard to legislation emanating from his Department; and if he will make a statement on the matter. [22150/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I can inform the Deputy that I share the view expressed by the Chief Justice in April last that hastily-prepared legislation can sometimes lead to difficulties, among them the fact adverted to by the Chief Justice on the same



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occasion that it may be necessary for the Courts to interpret such legislation.

It is one of the aims of the process of developing legislation within my Department in consultation with the Attorney General's Office and the Office of Parliamentary Counsel to the Government to ensure to the greatest extent possible that Bills promoted by the Minister before the Oireachtas are drafted painstakingly so as to avoid such difficulties. It is also the case, however, that circumstances can arise, including court decisions, that require the Government and the Oireachtas to respond legislatively as a matter of urgency — as for instance in passing the Criminal Law (Sexual Offences) Act 2006 and the Immigration Act 2004. These circumstances are the exception rather than the rule, and I think the Deputy would agree that the process under which legislation is normally passed by both Houses has served its purpose well.

### **Legal Protection Measures.**

17. **Mr. J. O'Keeffe** asked the Minister for Justice, Equality and Law Reform if he is satisfied that there is sufficient legal protection in place to defend homeowners and occupiers from intruders; and if he will make a statement on the matter. [22254/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As the Deputy is aware, sections 18 and 20 of the Non-Fatal Offences against the Person Act 1997 make statutory provision in relation to the justifiable use of force in order to protect a person or property or to prevent a crime.

Section 18 sets out the various purposes for which justifiable force may be lawfully used and not constitute an offence. The force used must be reasonable by reference to the circumstances believed by the person to exist. The purposes include: — the protection of the person or his or her family or another person from injury, assault or detention caused by a criminal act, — the protection of the person or another (with the authority of that person) from trespass to the person, — the protection of his or her property or property from appropriation, destruction or damage caused by a criminal act or from trespass or infringement, — protection of property belonging to another from appropriation, destruction or damage caused by a criminal act or (with the authority of that person) from trespass or infringement, — prevention of crime or a breach of the peace.

Section 20 defines the meaning of “use of force” for the purposes of section 18 and subsection (4) provides that the fact that a person had an opportunity to retreat before using force shall be taken into account in conjunction with other relevant evidence, in determining whether the use of force was reasonable. Section 1(2) provides

that for the purposes of section 18, it is immaterial whether a belief is justified or not, if it is honestly held. The presence or absence of reasonable grounds for the belief is a matter to which the court or jury is to have regard, in conjunction with any other relevant matters, in considering whether the person honestly held the belief.

Protection of home and family is of course an issue of immense importance to everyone of us. However, as I stated in the House on 23 November, 2005, in response to a similar question, it is also important that any legislation in place achieves a balance in both providing necessary protection and also ensuring that we are accountable for any actions we take which are not justified in the circumstances. The existing legislation states circumstances in which use of force is justifiable and, as I have said, it also provides that a belief of the need to protect does not have to be justified if honestly held and leaves this as a matter for the courts to decide. As I recall, during the debate last November, while I stated that I was satisfied that the current legislation achieves its purposes, I also agreed to consider in a fair and reasonable manner any proposals for reform made by Deputies. That remains the case. I would welcome further debate in the Oireachtas as to whether the existing law can be improved in any way.

### **Garda Strength.**

18. **Mr. Penrose** asked the Minister for Justice, Equality and Law Reform if he has received a recommendation from the Garda Commissioner that the full time strength of the Gardaí should be increased to 15,000; if he intends to act on the Commissioner's recommendation; and if he will make a statement on the matter. [22141/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In August 2005, I received a submission from the Garda Commissioner on the resourcing requirements of An Garda Síochána. The submission was based on the Commissioner's analysis of the policing challenges facing An Garda Síochána in the medium and longer term, including the implications of demographic change, the need to continue to combat crime and terrorist threats, and the requirements for enhanced enforcement of road traffic law and immigration control. In the submission, the Commissioner proposed the future expansion of An Garda Síochána to 15,000 full time members. He also proposed the expansion of the Garda overtime budget, the creation of a Garda Reserve of approximately 4,000 members, and additional civilian support for An Garda Síochána.

On these last three issues, strong action has been taken. The 2006 Garda overtime budget allocation has risen by €22.4million to €83.5 million, an increase of 36.6% over the original allocation of €61.1m in 2005. I have published draft regulations providing for the establishment of a

Garda Reserve. As I outlined in an answer to another question today, significant progress has also been made on providing additional civilian support for An Garda Síochána.

On the issue of an increase in the strength of An Garda Síochána to 15,000, the priority now is the current recruitment drive to increase the strength of An Garda Síochána to 14,000 members, in line with the commitment in the Agreed Programme for Government. This has involved a major redevelopment of the facilities at the Garda College, almost doubling its student capacity. The recruitment programme is fully on target, and will lead to a combined strength, of both attested Gardaí and recruits in training, of 14,000 by the end of this year.

I am now giving careful consideration to the case for a continuation of the current intensive recruitment drive beyond the target of 14,000, and I will bring any proposals to Government. I do not want to anticipate the decision of Government, but I can say that I recognise the strength of the case made by the Commissioner and that I attach considerable weight to his arguments.

### **Garda Deployment.**

19. **Ms Lynch** asked the Minister for Justice, Equality and Law Reform the progress with regard to the greater use of civilians in An Garda Síochána in order to release more members for front line policing duties; the number of posts occupied by Gardaí in 2001 that are occupied by civilians; his plans to fill further such posts; and if he will make a statement on the matter. [22132/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In my reply to Priority Question No. 4 on 27 April 2006, I provided a comprehensive update on the significant progress being made in relation to civilianisation. I am pleased to inform the Deputy, that in the short time since that reply was given, further significant progress has been made.

There are now almost 100 staff either working or in training at the Garda Information Service Centre (GISC) in Castlebar and I expect that the Centre will reach its full staffing complement by the end of August and be fully operational in September. An open competition to recruit Clerical Officers to fill the remaining vacancies in GISC has succeeded in attracting over 2,000 applications. The GISC is already releasing to front line policing duties, Gardaí who would otherwise be occupied inputting data onto PULSE.

Discussions are continuing with staff interests in relation to the transfer of civilian staff to the direct control of the Garda Commissioner, a reform provided for in the Garda Síochána Act 2005. The transfer of civilian staff is due to take place on 1 October next. In preparation for the transfer of these staff to the Commissioner, a new

Human Resources Division for civilian staff in An Garda Síochána is being established. It will have a staffing complement of 37 civilians and will be based in Navan. Recruitment of staff for the Division has commenced.

Under the Garda Síochána Act, the Commissioner will become the Accounting Officer for An Garda Síochána with effect from 1 July. This transfer of responsibility is being supported by the establishment of a new Finance Unit within An Garda Síochána for which 9 civilian staff are being recruited. The Deputy should also be aware that my Department is currently finalising proposals to civilianise 31 posts in the Garda Telecommunications area. These positions, most of which were previously occupied by Gardaí, will be advertised shortly.

Meanwhile, the Joint Implementation Group (JIG) comprising management representatives from An Garda Síochána and my Department is continuing its work on civilianisation. Given that the 2001 Civilianisation Report was written at a point in time, the JIG is taking account of changes which have occurred in the environment in which civilianisation is being pursued and looking at ways in which the Civilianisation Programme can be advanced in the shorter term, both in the context of the report and otherwise.

I am determined to drive the Civilianisation Programme forward to ensure that the Gardaí being recruited in the current historic expansion of the Force are deployed to front-line policing duties and that appropriately trained and qualified civilians make the greatest contribution possible consistent with the effective and efficient functioning of An Garda Síochána. I am confident that the progress now being made on civilianisation will deliver on both fronts.

### **Sexual Offences Legislation.**

20. **Ms C. Murphy** asked the Minister for Justice, Equality and Law Reform if, in view of the recent controversy surrounding the adjudged unconstitutional nature of provisions of the Criminal Law (Amendment) Act 1935 he will instigate a full review of all current legislation pertaining to sexual offences; if he will introduce to the Houses of the Oireachtas a comprehensive reforming act in order to address any further shortcomings or constitutionally precarious provisions within the current statutory framework pertaining to sexual offences; the length of time he anticipates such a process would take to complete; and if he will make a statement on the matter. [22007/06]

22. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform if he will implement a system that would ensure that both his Department and the Attorney General's Office are fully briefed on potentially unconstitutional legislation on regular basis; and if he will make a statement on the matter. [22201/06]

37. **Ms C. Murphy** asked the Minister for Justice, Equality and Law Reform if he has intentions or plans to conduct an analysis of the communications structure between his Department and that of the Attorney General and the Director of Public Prosecutions to identify the reason the recently successful Constitutional challenge to provisions of the Criminal Law (Amendment) Act 1935 was not brought to his personal attention prior to judgement being handed down; the safeguards he will put in place to ensure that all potentially leading cases are closely monitored by his Department to ensure that required legislative amendments or introductions resulting from such cases can be anticipated; and if he will make a statement on the matter. [22006/06]

48. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the mechanism he proposes to introduce to prevent a recurrence of the recent legal and constitutional crisis which allowed the release of prisoners serving time for serious offences; and if he will make a statement on the matter. [22200/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 20, 22, 37 and 48 together.

There is no doubt that recent events have highlighted communications issues between my Department and the Offices of the Attorney General and the Chief State Solicitor. An examination of communications within the Office of the Attorney General took place some years ago that resulted in some administrative changes in that Office and a further examination by an official from the Department of Finance is now due to take place. My Department will, of course, cooperate in every possible way with that examination and in implementing any new communications or consultation arrangements which may emerge from that examination.

Communications and recording of correspondence within my own Department are constantly kept under review to see if they can be improved. I am satisfied that on this occasion our office procedures were carried out correctly.

On 29 November 2002, my Department was informed in writing by the Chief State Solicitor's Office of an application to the High Court seeking to challenge certain provisions of the Criminal Law Amendment Act 1935, (The "C.C." proceedings). An official promptly phoned the Chief State Solicitor's Office to ascertain whether they needed any response from the Department in relation to the application. The answer was in the negative. In January 2003, the Chief State Solicitor's Office repeated in writing its undertaking to advise the Department of any development in the proceedings. No further communication was received in my Department from the Chief State Solicitor's Office or any other source concerning

the "C.C." proceedings. Neither I nor my Department were notified of the hearing or outcome of the High Court case, which the State won, or the subsequent appeal to the Supreme Court.

Following discussions in the matter with my officials I set up, in late 2004, a Criminal Justice Group comprising representatives from the main agencies working in the criminal justice sector. The Group has representatives from, among others, An Garda Síochána, the Courts Service, the Irish Prison Service, the Attorney General's Office and the Director of Public Prosecutions. The main function of the Group, which is chaired by the Secretary General of my Department, is to promote a co-ordinated and cohesive approach to criminal justice matters. This Group has met on 4 occasions since late 2004 and is scheduled to meet again in July. The Secretary General has advised me that the group will meet more frequently from now on.

I have been advised by the Secretary General of my Department that, from now on, cases of litigation with constitutional and policy implications for the criminal justice system will be a standing item on every agenda of the Criminal Justice Group.

Furthermore, it is my intention to discuss with the Attorney General and the Director of Public Prosecutions the importance of putting in place agreed procedures for a consultation process between our three offices in relation to cases of litigation on constitutional and policy issues. This consultation process will be over and above the current consultation process provided for in statute between the AG and the DPP.

In response to the Supreme Court decision of 23 May 2006, I published the Criminal Law (Sexual Offences) Bill 2006 on 1 June 2006. It passed all stages in the Dáil and Seanad and was signed into law by the President on the following day.

I would emphasise that even had we been aware of the impending Supreme Court judgment, nothing could have been done which would have prevented the application to the High Court which resulted in the temporary release of one convicted sex offender. No legislation, even if rushed through the Oireachtas the same day, could have influenced subsequent events. It would not in any case have been practicable to rush in pre-prepared legislation as it is simply not possible to anticipate the terms of a Supreme Court decision, let alone the decision itself.

#### **Proposed Legislation.**

21. **Mr. J. O'Keeffe** asked the Minister for Justice, Equality and Law Reform the persons in his Department who had access to the Fine Gael draft Bill entitled Criminal Law (Amendment) Bill 2006, which was sent to his Department from the Bills Office of the Houses of the Oireachtas in May 2006; the requests which were made for the Bill; the persons who the Bill was given or



shown to outside his Department or the Government; and if he will make a statement on the matter. [22255/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I understand that on 24 May 2006, the Chief Whips Office received two separate draft Private Members Bills by e-mail from the Office of the Leader of Fine Gael. One of these was the Criminal Law (Amendment) Bill 2006 and the other was the Courts (Register of Sentences) Bill 2006. The message accompanying the Bills was that Deputy Jim O’Keeffe would be seeking leave to introduce both Bills in the Dáil on 25 May and that one or other would be debated in the Dáil on Private Members Business the following week. In those circumstances, insofar as my Department was concerned, both Bills were immediately circulated to those officials who would be dealing with them and also to officials who might have an input into the response to them or have views to offer on them.

There was no indication in the messages received that either or both Bills were on restricted circulation or were confidential. Accordingly, any references by my Department to the contents of the Fine Gael Bill were in good faith and without any awareness of any wish by the Deputy’s party to keep their legislative proposals out of the public domain.

*Question No. 22 answered with Question No. 20.*

### **Asylum System.**

23. **Mr. Gormley** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the comments contained in Amnesty International’s Report 2006, warning that further flashpoints similar to the recent hunger strike by Afghani men will continue to occur under our current asylum system; the plans he has to review the asylum process; and if he will make a statement on the matter. [22206/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have noted the very brief comments on asylum seekers contained in the section on Ireland in Amnesty International’s 2006 Report.

I am strongly of the view that the State has a comprehensive asylum system in place which is both fair and transparent and compares well with other EU States. Indeed this fact was recently acknowledged by a former UNHCR Representative to Ireland who is quoted as stating that Ireland is now a model for the new Member States of the European Union and that “we now have a system which, in many respects, is one of the best in Europe”.

The Refugee Act 1996 established two independent statutory offices to consider applications and appeals in respect of refugee status and to

make recommendations to the Minister for Justice, Equality and Law Reform on whether such status should be granted. These offices are the Office of the Refugee Applications Commissioner (ORAC) and the Refugee Appeals Tribunal (RAT).

Both agencies are highly resourced and staff members receive specialised, UNHCR-based training before processing cases. Due regard is also had to particularly vulnerable applicants, such as minors or victims of trauma, and appropriate training is given towards the sensitive processing of such claims.

When an applicant claims asylum, that applicant is provided with all the necessary information governing the asylum process, including a detailed information leaflet which is available in 31 languages.

Every asylum applicant is guaranteed an investigation and determination of his or her claim at first instance by the Refugee Applications Commissioner. Each application is assessed on the basis of the circumstances of the individual case and having regard to both the subjective elements (the applicant’s own account or personal history) and objective elements (up-to-date information on the applicant’s country or place of origin). This country of origin information comes from a wide variety of objective and respected sources, including organisations such as the UNHCR, Amnesty International, Human Rights Watch, UK Home Office, US State Department and other EU member states as well as media and internet sources.

In the event of a negative recommendation at first instance, our system also guarantees every asylum applicant a right of appeal to the independent Refugee Appeals Tribunal. Every appellant is furnished with a copy (in the language of their own country where possible) of the Tribunal’s information leaflet, which sets out the appeals process in full.

It is important to note that under section 13 of the Refugee Act 1996, a copy of the Refugee Applications Commissioner’s report, containing the findings and recommendation of the Commissioner, is sent to the applicant concerned and his or her solicitor (if known). The applicant, prior to submitting an appeal, is also furnished with all other relevant ORAC papers, such as the notes of the first instance interview. Similarly, under section 16 of the 1996 Act, the decision of the RAT is communicated to the applicant concerned and his or her solicitor. This indicates all the relevant papers which have been taken into account (and evidence adduced at the oral hearing where relevant) in reaching the decision, which also sets out the reasons for either affirming or setting aside the Commissioner’s recommendation.

The transparency of the appeals process was enhanced on the 31 March this year when a selection of decisions of the RAT were published, pur-



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suant to section 19 of the 1996 Act. It is the intention of the Chairperson of RAT to publish further decisions on an ongoing basis into the future.

Also important to note in terms of fairness is that access to legal assistance at all stages of the process is provided by the Refugee Legal Service and, under the provisions of the Refugee Act 1996, UNHCR is given full access to our refugee determination process.

In addition to a comprehensive first instance determination and an appeal, applicants have the opportunity to access the courts by seeking judicial review on procedural aspects of the decision-making.

Over recent years, very considerable work has been undertaken in ORAC and the RAT, to deal with applications for asylum and to speed up processing times. The work involved has resulted in a situation where:

- Processing has continued to move strongly in both ORAC and RAT. At the end of April 2006 there were 2,593 cases on hands in both agencies compared to some 5,542 cases on hands at the end of April 2004.
- The number of applications over six months in ORAC and RAT at the end of April 2006 stood at 524 as compared to some 6,500 at the end of September 2001. The backlog of applications has been effectively eliminated in ORAC with only 55 cases on hands over six months at the end of April 2006 and some 469 in RAT a significant number of which are at an advanced stage of processing.
- There is continued momentum in processing timescales for asylum applications with arrangements for the speedier processing of prioritised asylum applications (from nationals of Nigeria, Romania, Bulgaria, Croatia and South Africa) introduced in January 2005, with an 18 working day processing time at first instance in ORAC and 15 working days at appeals stage in RAT. Currently, approximately 40% of total applications fall into the prioritised category.
- With effect from 1 November 2005, all applicants for asylum are notified of their interview date by ORAC at the time they make their applications. The interview appointment is normally within 20 working days of application. However, for those applicants within the prioritised category, interviews in ORAC are held, more speedily, within 9 to 12 days.
- The typical processing time in the ORAC for non-prioritised cases is in the region of 8-9 weeks. The average length of time taken to process and complete substantive

appeals in the RAT is approximately 14 weeks.

I should also point out that very strong protections are afforded to individuals under section 5 of the Refugee Act, 1996 against refoulement and the opportunity is also provided to make representations to the Minister on a large number of grounds under section 3(6) of the Immigration Act, 1999 at pre-deportation stage.

I am also of the view that our present system of dispersal and direct provision which is referred to in the 2006 Amnesty Report, continues to provide an appropriate framework to meet the needs of asylum applicants while their applications are being processed. The Reception and Integration Agency (RIA) is responsible for the accommodation of asylum seekers through the Government policy of direct provision. Through this policy, asylum seekers are provided with full board accommodation as well as ancillary services including medical supports, family supports and community welfare supports. The RIA provides asylum seekers with decent, reasonable accommodation to a level where it is on a par with, and in many cases exceeds, that available in other European countries.

Finally, I would point out that in April 2005, I published a public Consultation Document setting out outline policy proposals for an Immigration and Residence Bill. This document noted that the State is required to introduce a subsidiary protection regime under EU law later this year. This provides an opportunity of which I intend to avail to re-examine, in the light of the experience of the last decade, how protection claims are dealt with under present law including at appeals stage. I will be bringing proposals to Government in this regard in the coming weeks.

### **Residency Rights.**

24. **Caoimhghín Ó Caoláin** asked the Minister for Justice, Equality and Law Reform his intentions to resolve the anomaly whereby the spouses and partners of non-Irish EU citizens have more residency rights here than the spouses and partners of Irish citizens. [22196/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** EU Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States was transposed into Irish law on 28 April 2006. I am aware that this has resulted in the granting of more favourable conditions in certain circumstances to such persons than are presently granted to spouses/partners/family members of Irish citizens.

I wish to advise the Deputy that I will be considering this issue fully in the context of the forthcoming Immigration and Residence Bill.

### Juvenile Offenders.

25. **Ms Shortall** asked the Minister for Justice, Equality and Law Reform if he has plans to increase the number of juvenile liaison officers in view of the proven success in dealing with juvenile offenders and the increasing burden that is likely to be placed on them following the enactment of the juvenile justice sections of the Criminal Justice Bill 2004; and if he will make a statement on the matter. [22147/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities, who are responsible for the detailed allocation of resources, including personnel, that as at 31 March, 2006 there were 95 Juvenile Liaison Officers (JLOs) working in the various Divisions throughout the country.

JLOs are responsible for implementing the Garda Juvenile Diversion Programme, which provides an opportunity to divert juvenile offenders from criminal activity. It operates on a nationwide basis under the supervision and direction of the Garda National Juvenile Office, Harcourt Square, Dublin 2. The Programme provides that, in certain circumstances, a juvenile under 18 years of age, who freely accepts responsibility for a criminal incident, may be cautioned as an alternative to prosecution.

The Children Act, 2001 provides a statutory basis for the Juvenile Diversion Programme. The Programme now includes provision on restorative cautioning and family conferencing which form part of the comprehensive restorative elements of the Act. The Juvenile Diversion Programme came into operation on 1 May, 2002. The Programme has proven to be highly successful in diverting young people away from crime by offering guidance and support to juveniles and their families. In the more serious cases, juveniles are placed under the supervision of Garda Juvenile Liaison Officers, who are responsible for administering the Programme at the local level.

In addition to the Juvenile Diversion Programme, there are also 64 Garda Youth Diversion Projects nationwide, with plans to increase this to 100 by the end of 2007. Garda Youth Diversion Projects are a crime prevention initiative, which adopt a multi-agency partnership approach to tackling crime and anti-social behaviour at community level. The projects aim to bring about the conditions whereby the behavioural patterns of young people towards law and order can develop and mature through positive interventions and interaction with the project. The projects are particularly targeted at 10-18 year old “at risk” youths in communities where a specific need has been identified.

The current recruitment drive to increase the strength of the Garda Síochána to 14,000 members, in line with the commitment in the Agreed Programme for Government, is fully on target. This will lead to a combined strength, of

both attested Gardaí and recruits in training, of 14,000 by the end of this year. The Garda Commissioner will now be drawing up plans on how best to distribute and manage these additional resources, and in this context the needs of the Garda Juvenile Diversion Programme will be given the fullest consideration.

### Prison Education Service.

26. **Mr. Boyle** asked the Minister for Justice, Equality and Law Reform the education programmes being offered to prisoners in the prison system; the programmes recently terminated; the reason for the termination of these programmes; the programmes being prepared for roll-out; when such programmes will commence; and if he will make a statement on the matter. [22210/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Education units offering a substantial and varied curriculum are in full operation in all prisons and places of detention, with the exception of Cloverhill Remand Prison where the education unit is now expected to open in the near future. Education for prisoners at these units is provided by a cohort of teachers comprising 210 full-time equivalents, mainly employed by Vocational Education Committees. This includes provision for the summer months and also enables special teaching arrangements where prisoners are segregated (e.g., Portlaoise, Mountjoy, Wheatfield, Limerick, Midlands, Castlereagh and Cork).

The education curriculum ranges from basic literacy to Open University courses, and includes structured physical education, health education, social education, the arts in various forms, as well as more conventional school subjects leading to Junior and Leaving Certificate and Further Education and Training Awards Council (FETAC) certification. Objectives, methods and course content are largely those of adult education; a high degree of curriculum and teaching material development forms an essential part of prison education.

There have been no terminations of prisoner education programmes. As in any adult education setting, the range of courses or programmes available at the different education units will, of course, vary in accordance with prisoners’ needs and local circumstances. In several institutions there is a high level of turnover of the prisoner population, which requires a flexible approach with regard to the curriculum content. Thus, on an ongoing basis, some courses may be discontinued and new ones offered in their place, but it would not be appropriate to regard such alterations as a termination of education programmes.

I am also arranging to forward the Directory of Prison Education 2006 to the Deputy. The Directory, which gives more details of what is available in the Education Units of different prisons, is pre-

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pared annually by the Irish Prison Service's Co-ordinator of Education.

### **Anti-Social Behaviour.**

27. **Mr. S. Ryan** asked the Minister for Justice, Equality and Law Reform the action he intends to take to deal with vandalism and anti-social behaviour which is causing problems in many communities with families harassed and property vandalised; and if he will make a statement on the matter. [22146/06]

### **Minister for Justice, Equality and Law Reform**

**(Mr. McDowell):** I share the concerns expressed about anti-social behaviour and its effects on people. In many such incidents, vulnerable people, often the elderly, are subjected to serious nuisance and forms of harassment which cause significant and persistent distress and interfere fundamentally with their capacity to enjoy quiet and peaceful lives. Often such people are simply too frightened to stand up to their persecutors. Equally, few of them have the financial resources to engage lawyers to seek private law injunction-type remedies to protect their rights to enjoyment of their property. To remedy this situation I intend to empower a senior officer of the Garda Síochána to apply to the District Court by way of civil procedure for an order which would prohibit a person from behaving in an anti-social manner. Similar to civil injunctions breaches of which are punishable as a criminal contempt, a breach of such an order will be a criminal offence. This type of order is not an entirely new concept. Such an order is simply a mechanism whereby the law seeks to stop a person from behaving in a way which is causing significant distress to a community or to some person in that community. In this respect the principle behind such anti-social behaviour orders is similar to the judicial power to bind over, which is a very old power indeed.

My proposals which I brought forward by way of Committee Stage amendments to the Criminal Justice Bill 2004 have recently been agreed by the Oireachtas Select Committee on Justice, Equality, Defence and Women's Rights.

Furthermore, a comprehensive package on juvenile justice issues brought forward as Committee Stage amendments to the Criminal Justice Bill by my colleague Mr. Brian Lenihan, T.D. Minister of State with special responsibility for children has been agreed by that Committee.

I attach top priority to the enactment of this Bill and I hope to see it complete its passage through the Dail and Seanad without any undue delay.

Strong provisions are in place to combat vandalism and anti-social behaviour. The primary basis for the law regarding public order offences is the Criminal Justice (Public Order) Act, 1994, which modernised the law in this regard. Further-

more, because of my concerns about the abuse of alcohol and its contribution to public order offending and broader social problems, I have brought forward tough new provisions to deal with alcohol abuse and its effect on public order in the Intoxicating Liquor Act 2003. One of the provisions of the Act is to broaden the application of the temporary closure order penalty, which was originally introduced to combat underage drinking, to cover also convictions for a series of offences, such as a licensee supplying intoxicating liquor to drunken persons and permitting disorderly conduct on the licensed premises.

The Criminal Justice (Public Order) Act 2003 has also been enacted, the main purpose of which is to provide the Garda Síochána with additional powers to deal with late night street violence and anti-social conduct attributable to excessive drinking. It does this by providing for the closure of premises such as pubs, off licenses, late night clubs and food premises where there is disorder or noise on or close to the premises, as well as the making of exclusion orders on individuals convicted of a range of public order offences, in addition to any penalty they might receive under the 1994 Public Order Act.

Under the Juvenile Diversion Programme, divisional Juvenile Liaison Officers regularly visit schools, youth clubs and social services and give presentations under the Education Programme and highlight alternative options for regular offenders. Community Gardaí and the Garda Schools Liaison Officers also visit schools and address young people on a variety of topics, including anti-social behaviour.

In addition to the Juvenile Diversion Programme, there are also 64 Garda Youth Diversion Projects nationwide, with plans to increase this to 100 by the end of 2007. Garda Youth Diversion Projects are a crime prevention initiative, which adopt a multi-agency partnership approach to tackling crime and anti-social behaviour at community level.

The projects aim to bring about the conditions whereby the behavioural patterns of young people towards law and order can develop and mature through positive interventions and interaction with the project. The projects are particularly targeted at 10-18 year old "at risk" youths in communities where a specific need has been identified.

I am informed by the Garda authorities that An Garda Síochána has a pro-active approach to policing anti-social/public disorder issues by immediate intervention, arrest and prosecutions or advice, as appropriate. Garda management make every effort to provide a high visible police presence on the streets of our towns and villages through the deployment of uniform, detective units, divisional traffic corps, community policing units and mountain bike units as appropriate.



### **Garda Investigations.**

28. **Mr. S. Ryan** asked the Minister for Justice, Equality and Law Reform the progress made with regard to the Garda investigation into the major money laundering operation uncovered in early 2005; if a file has been sent to the Director of Public Prosecutions; if he has plans to amend the Criminal Justice Act of 1994 concerning money laundering; and if he will make a statement on the matter. [22145/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that an investigation file has been referred to the Director of Public Prosecutions (DPP) in this matter and that a response is awaited.

I am further informed that additional Garda enquiries are currently being undertaken, including by way of mutual legal assistance, with another jurisdiction. The outcome of these enquiries will be referred to the DPP in due course for consideration in conjunction with the Garda investigation file.

Ireland already has extensive legislation in place to tackle money laundering activities. This legislation and other measures were evaluated recently by the Financial Action Task Force, the leading international anti-money laundering organisation. The Report of that evaluation contained a number of recommendations.

The amendments to the criminal law which would be needed to implement the recommendations of the Report are being assessed by officials of my Department in consultation with the Office of the Attorney General. These amendments are being assessed in conjunction with those arising from the provisions of the 3rd EU Anti-Money Laundering Directive which was agreed in late 2005. In this regard, a comprehensive consultation process with representative groups of all bodies designated under the Criminal Justice Act 1994 for anti-money laundering purposes took place during May 2006. All legislative proposals arising from this consultation process will be submitted to Government for approval in the normal way.

### **State Airports.**

29. **Mr. Costello** asked the Minister for Justice, Equality and Law Reform the number of US planes whose cargo is not clearly identified that have been searched by the Irish security forces; the reason searches have not occurred in all instances; and if he will make a statement on the matter. [17192/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I understand that, pursuant to Article 29 of the 1944 Chicago Convention on International Civil Aviation, all aircraft, if engaged in international air navigation and carrying cargo, must carry a manifest and detailed dec-

larations of the cargo, in conformity with the conditions prescribed in the Convention. Accordingly, it would appear that the scenario envisaged by the Deputy is not one that could or should arise.

In my reply to Parliamentary Questions Nos. 17 and 18 of 2 February, 2006, I outlined the circumstances in which the Garda Síochána could and would engage in the inspection of an aircraft as part of a criminal investigation.

### **Proposed Legislation.**

30. **Mr. Quinn** asked the Minister for Justice, Equality and Law Reform his proposals to reform the law relating to the protection of personal privacy; if the heads of a Bill have been approved by the Government; if so, if he will publish same; when he expects to bring a Bill before the Houses of the Oireachtas; the consultations he is planning prior to the publication of the Bill; and if he will make a statement on the matter. [22143/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I refer the Deputy to the details of my reply to Question No. 15 of 27 April 2006. I have nothing further to add to that reply other than to indicate that I expect the Privacy Bill to be published within the next few weeks.

### **Garda Stations.**

31. **Mr. Sherlock** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the list of ten worst Garda stations drawn up by the Garda Representative Associations; his views on whether it is acceptable that members of the force should have to work in such conditions; the steps he is taking to ensure that these stations are replaced or refurbished; and if he will make a statement on the matter. [22126/06]

34. **Mr. Sargent** asked the Minister for Justice, Equality and Law Reform the details of the progress being made to refurbish Garda stations around the country in need of improvement and modernisation; and if he will make a statement on the matter. [22203/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 31 and 34 together.

The Deputy can be assured that there is an enormous work programme in place to progress the refurbishment or replacement of specific Garda stations in order to bring them up to the highest standard. Between the start of 2005 to the end of 2007, the Office of Public Works will have spent approximately €112 million on a wide range of Garda building projects. Last year alone, that Office spent €26 million on Garda Building projects such as Bantry, Ballyshannon, Roscrea, New Ross and Ballina Garda Stations. In addition, a



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major building programme was completed in the Garda College at a cost of €20m. A wide range of projects are scheduled between now and 2007, which include Kill-O-Grange, Claremorris and Oranmore as well as progressing the 10 stations mentioned by the Deputy. I would refer the Deputy to a reply provided by my colleague Minister of State at the OPW, Tom Parlon, to Deputy O'Keeffe on 16 May last detailing the position regarding the stations referred to (PQ No 8255/06 refers). By way of update, the provision of temporary accommodation is being progressed in Buncrana and over the course of yesterday and today a brief of requirements has been prepared in respect of Ballincollig and Ballinhassig stations.

The Garda Building Programme is progressed on the basis of agreed priorities. A number of the stations referred to by the Deputy form part of an overall list of 40 to 50 Major Capital Works projects that have been prioritised and are being advanced. Others are included in planned refurbishment works and the provision of standard smaller type stations known as "basic units". It is important to note that progress on the Garda major building programme is achieved by consensus and with the cooperation and commitment of all concerned — the Department of Justice, Equality and Law Reform, the Garda authorities and Representative Associations and the Office of Public Works from whose Vote the capital works to Garda properties are funded. Indeed, the GRA and other Associations are actively involved and consulted in relation to both the prioritisation of various projects and on the identification of the actual accommodation requirements at each station. Not all the stations referred to by the Deputy are allocated the highest priority on the programme.

I am determined that the Garda Building Programme will be progressed as quickly as possible and that processes will be streamlined as much as possible. In that regard, a new civilian Garda Accommodation Officer is expected to be appointed shortly. Also, the upcoming transfer of Accounting Officer functions to the Garda Commissioner will lead to greater efficiencies as some of the functions currently split between the Gardaí and my Department will transfer to An Garda Síochána.

### **Garda Deployment.**

32. **Mr. Naughten** asked the Minister for Justice, Equality and Law Reform the steps he is taking to improve rural policing; the policy measures he intends to introduce; and if he will make a statement on the matter. [22005/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities, who are responsible for the detailed allocation of resources, including person-

nel, that the personnel strength (all ranks) of An Garda Síochána is set to rise to a record 12,641 today following the attestation of 273 new members. This compares with a total strength of 10,702 (all ranks) as at 30 June 1997 and represents an increase of 1,939 (or 18.1%) in the personnel strength of the Force during that period.

I have asked the Commissioner to take effective steps to protect vulnerable people living in isolated areas as a Government policing priority in the Garda Policing Plan 2006.

I am informed by the Commissioner that the rural model of Community Policing has been well established for a number of years and has been a useful instrument in the delivery of a more effective Garda service in rural areas. Community Rural Policing has recently been reviewed jointly with Muintir na Tire and proposals arising from this are currently under consideration by the Commissioner.

It is the responsibility of Garda management to allocate personnel to and within Garda Divisions, on a priority basis in accordance with the requirements of different areas, taking account of the various operational policing needs, including Community Rural Policing. These personnel allocations are determined by a number of factors including demographics, crime trends and administrative functions. Such allocations are continually monitored and reviewed by senior Garda management along with overall policing arrangements and operational strategy. This ensures that optimum use is made of Garda resources, and that the best possible service is provided to the public.

I should add that the current recruitment drive to increase the strength of the Garda Síochána to 14,000 members, in line with the commitment in the Agreed Programme for Government, is fully on target. This will lead to a combined strength, of both attested Gardaí and recruits in training, of 14,000 by the end of this year. The first group of newly attested Gardaí under the accelerated recruitment programme came on stream in March and the second such group comes on stream today. Further tranches of approximately 275 newly attested Gardaí will follow every 90 days hereafter until the programme is complete.

The Garda Commissioner will now be drawing up plans on how best to distribute and manage these additional resources, and in this context the needs of rural areas will be given the fullest consideration.

### **Drug Seizures.**

33. **Dr. Upton** asked the Minister for Justice, Equality and Law Reform the number of seizures of cocaine; the volume of cocaine seized; the estimated value of the cocaine seized in respect of each of the past five years; if additional measures are planned to combat the spread of cocaine sale and usage; and if he will make a statement on the matter. [22148/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** One of the Government's key policing priorities for 2006 is to continue to target organised crime, including drug trafficking.

Efforts under the National Drugs Strategy to tackle cocaine use in particular are broadly based to include measures aimed at both supply and demand reduction, including awareness initiatives. This increasing use of cocaine is, of course, a matter of great concern and the Garda authorities have taken a wide number of measures to address the problem.

The Garda National Drugs Unit and local drugs units conduct intelligence-driven operations to target individuals suspected of involvement in the distribution of cocaine. Drug units and community policing personnel are engaged in intelligence gathering on individuals and groups

suspected of involvement in the sale and distribution of the drug. There is also targeted patrolling by uniform and plain-clothes personnel of problem areas in order to detect and disrupt persons involved in such activity.

National units, such as the Garda National Drugs Unit, the Criminal Assets Bureau, the National Bureau of Criminal Investigation and the Garda Bureau of Fraud Investigation all have specific roles in reducing drug supply and confiscating the proceeds of criminality associated with drugs. All of these units operate under the direction of the Assistant Commissioner, National Support Services.

Data provided by the Garda authorities concerning the number, volume and value of cocaine seizures for the years 2001 to 2005, inclusive is summarised in the following table:

Year	No. of cases	Quantity	Estimated street value
		kg	€
2001	300	5.3	371,000
2002	429	31.7	2,219,000
2003	566	107.4	7,518,000
2004	753	167.3	11,711,000
2005	968	229.38	16,056,600

*Question No. 34 answered with Question No. 31.*

### Civil Partnerships.

35. **Caoimhghín Ó Caoláin** asked the Minister for Justice, Equality and Law Reform his views on whether same sex couples are less likely than opposite sex couples to want to commit to the array of rights and duties consequent on marriage; if so, the evidence by which he has arrived at this conclusion; and, if not, the reason for his view that same sex couples should nonetheless be denied the right to make this commitment which is available to opposite sex couples. [22195/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I refer the Deputy to my reply to Questions Nos. 392 to 394 of 23 May 2006. My view is that many same-sex couples may not want to commit to an institution which imposes on them all the rights and duties of marriage. I am aware that many opposite-sex couples are equally reluctant to make this commitment.

I also acknowledge that many same-sex couples are seeking full equal status with opposite-sex couples in having the option of marriage extended to them. While I respect that aspiration, my view is that the law must be updated to accord legal recognition to same-sex couples while remaining within constitutional boundaries.

To this end I established the Working Group on Domestic Partnerships to consider the categories of partnerships and relationships outside of

marriage, including same-sex couples, to which legal effect and recognition might be afforded consistent with constitutional provisions. I have asked the Working Group to report to me in October following which I intend to bring legislative proposals to Government for consideration.

### Immigration Procedures.

36. **Mr. Wall** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the suggestion made in a recent document produced by Chambers Ireland that the term non-national should be replaced by foreign national or some similar term in all documentation; his views on the suggestion made; and if he will make a statement on the matter. [22152/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am aware of the Chambers Ireland Study on Immigration Procedures which was published on 25 May 2006 and the recommendations made therein. The question of the most appropriate terminology for classifying persons as not being of Irish nationality is one which I intend to consider in the context of the forthcoming Immigration and Residence Bill. The Deputy will be cognisant of the predicament and sensitivities of categorising a cohort of people by virtue of what they are not (i.e. citizens of Ireland). The Deputy will also be aware of the problem that alternative phrases which may be acceptable at present could also be viewed, in

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time, as pejorative terms which are inconsistent with the spirit of inclusiveness and tolerance which we wish our immigration system to reflect.

*Question No. 37 answered with Question No. 20.*

#### **Garda Ombudsman Commission.**

38. **Ms O'Sullivan** asked the Minister for Justice, Equality and Law Reform the progress made with regard to the establishment of the Garda Ombudsman Commission; the number of staff recruited to date; when he expects that the Commission will be in a position to begin dealing with complaints from the public; and if he will make a statement on the matter. [22139/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Garda Síochána Ombudsman Commissioners were appointed by the President on the 10th February 2006, following nomination by the Government and recommendations by both Houses of the Oireachtas. The Commission is in a preparatory stage at present. I understand that the initial work of the Commission has involved study visits to their counterparts in Northern Ireland and the UK and initial meetings with the various stakeholders involved in the Garda complaints system, such as Garda management, the Garda representative bodies and officials of my Department. This process is aimed at enabling the Commission to establish principles regarding its approach to investigating complaints and to work on the development of operational protocols with the Garda Síochána. Consultations are also on-going between the Commissioners, my Department and the Department of Finance in regard to staffing matters. The Commission is working towards being in a position to receive complaints as soon as possible in 2007.

#### **Irish Prison Service.**

39. **Mr. Gilmore** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the recent comments by the Inspector of Prisons, in which they described the prison service as a failure; his plans to deal with the problems in the prison service identified in the various reports submitted by the Inspector; and if he will make a statement on the matter. [22127/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I do not accept that the Prison Service as a whole is a failure. Over 3,000 people are provided with safe, secure and humane custody on a daily basis. I agree that there are aspects of the service which require improvement, and this has already been recognised by me and the Government. In this regard, work has already commenced on replacing approximately

40% of the entire prison estate. This involves the replacement of the four prisons on the Mountjoy campus (Mountjoy, Training Unit, St Patrick's Institution and the Dóchas Centre), Portlaoise Prison and Cork Prison.

Many of the recommendations made by the Inspector in the context of his various reports on prisons have been implemented while the implications of others requiring more long term strategies are being considered.

#### **Garda Ombudsman Commission.**

40. **Mr. Ferris** asked the Minister for Justice, Equality and Law Reform his views on whether there is a need for the 26 County Ombudsman Commission to be operational and fully resourced immediately rather than January 2007 as currently proposed in order that there can be transparency and prompt action taken to investigate allegations against Gardaí and suspicious deaths while in custody; and if he will take action to expedite same. [22194/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Garda Síochána Ombudsman Commissioners were appointed by the President on the 10th February 2006, following nomination by the Government and recommendations by both Houses of the Oireachtas. Given the complex and serious nature of the role of the Commission it is important that they be given time to plan and develop their systems before commencing operations. I understand that the initial work of the Commission has involved study visits to their counterparts in Northern Ireland and the UK and initial meetings with the various stakeholders involved in the Garda complaints system, such as Garda management, the Garda representative bodies and officials of my Department. This process is aimed at enabling the Commission to establish principles regarding its approach to investigating complaints and to work on the development of operational protocols with the Garda Síochána. Consultations are also on-going between the Commissioners, my Department and the Department of Finance in regard to staffing matters. The Commission is working towards being in a position to receive complaints as soon as possible in 2007. In the meantime the Garda Síochána Complaints Board will continue to receive complaints.

#### **Victim Support Services.**

41. **Ms Burton** asked the Minister for Justice, Equality and Law Reform further to the decision of the Supreme Court on 30 May 2006 to order the release of a man who had been serving a sentence for statutory rape, the contacts his Department or the Garda have had with the young girl who was the victim in this case; and if support or counselling has been offered to the girl or her family; if support or counselling will be offered to

other young girls who may find themselves in this situation. [22118/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Deputy may be aware that I had a meeting with the family of the victim in the case to which the Deputy refers. The discussions conducted at that meeting were held in private at the request of the family.

It may also be of general assistance to know that the Health Services Executive is inviting the families directly affected by the recent Supreme Court decision to contact the National Counselling Services which are located throughout the country. I am informed that the counsellors are highly qualified and experienced professionals who will be able to provide support and advice and that these staff will also be able to guide callers to other services if needed. I understand that a free phone has been set up during office hours to deal with any calls and the staff will direct callers to the appropriate service in their local area.

My Department supports many initiatives to assist victims, including victims of sexual crime. The “Victims’ Charter” was published by my Department in 1999, following extensive consultations with all relevant agencies including the Courts, Garda Síochána, the Prison Service, the Probation and Welfare Service, the State Prosecution Service and the Victim Support organisation. The Charter sets out, from the victim’s perspective, a general description of the overall criminal justice system, concise summary of the role and functions of each of the main bodies/agencies involved, and the entitlements of the victim in terms of standards of treatment, rights and complaints procedures in each area. A guiding principle of the Victims’ Charter is a commitment to giving victims of crime a central place in the criminal justice system.

Under the Victims’ Charter specific provision is made for particularly vulnerable victims such as victims of sexual offences, domestic violence, elderly victims, victims with disabilities, and children. Some of the relevant provisions as they relate to minor victims of rape are as follows: — the Gardaí will show special sensitivity in relation to sexual offences, and receive appropriate training in the courts, provision is made for children under 17 to give evidence by video link where appropriate — the courts may impose legal restrictions on reporting cases such as rape and sexual assault, and provision is made for the exclusion of the public from court proceedings and the anonymity of complainants in situations where such measures are deemed necessary . e.g., rape, aggravated sexual assault or incest — the impact on the victim will be taken into account in sentencing, and the victim may give evidence about the effect of the crime if s/he so wishes — the supports outlined in the Charter document are geared to ensuring that the entire judicial process is made less intimidating for children.

Furthermore, I established the Commission for the Support of Victims of Crime in March, 2005 with a three year remit to develop a framework of victim services going forward and to disburse funding for victim support measures. In 2005, the Commission allocated €685,750 to 28 voluntary groups providing front-line services to victims of crime and this allocation has been increased to €1,085m for distribution by the Commission in 2006. These organisations provide support before, during and after the trial process. Out of the 28 groups funded an allocation of € 100,000 was made to The Rape Crisis Centre and €30,000 to CARI, €15,000 to the Sexual Violence Centre Cork towards the provision of court accompaniment services for the victims of crime. These organisations in particular provide support and counselling services to victims of sexual violence.

In April 2006 the Commission issued a further invitation for applications for funding for 2006, from registered charities, voluntary community groups and other bodies who provide or who have proposals for the provision of victims services/assistance. The Commission received 39 applications for funding and is currently assessing those applications.

In addition to the above, I am advised that the Commission is currently engaged in reviewing the Victims Charter (1999) to ensure that it continues to be relevant and applicable to all victims of crime. I understand that the Commission has held discussions with the Garda Síochána in relation to the provision of information to the victims of crime on the supports available to them. The Commission has confirmed that these discussions will be informed by the circumstances of the case to which the Deputy refers.

#### **Garda Operations.**

42. **Ms McManus** asked the Minister for Justice, Equality and Law Reform if Operation Anvil, announced by him on May 17 May 2005 remains in operation; the number of weapons seized to date; the number of arrests made; the number of charges preferred, arising to date from the Operation; the length of time the operation is intended to continue; and if he will make a statement on the matter. [22134/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Operation Anvil commenced in the Dublin Metropolitan Region on 17 May, 2005. It is an intelligence led policing initiative, the focus of which is the targeting of active criminals and their associates involved in serious crime by preventing and disrupting this criminal activity through extensive additional overt patrolling and static check points by uniform, mobile and foot patrols supported by armed plain clothes patrols. The operation remains in place and on-going in the Dublin Metropolitan Region and has been extended nationwide in 2006.



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Outside the Dublin Metropolitan Region a series of special operations, prepared by senior Garda managers and designed to focus on areas and incidents of high crime, have been authorised and have commenced in recent weeks. Operation Anvil has proved to be very successful in disrupting the criminal activities of a number of key criminal gangs. It has resulted in a number of high-profile arrests and the acquisition of intelligence on the movements of criminals. A budget of approximately €11 million has been allocated for Operation Anvil during 2006 and the Garda Commissioner has recently been advised that an additional €10 million has been made available for further operations to tackle gang related crime.

The most recent figures available to me show that since the introduction of Operation Anvil in May 2005, 424 firearms have been seized in the Dublin Metropolitan Region. To date, Operation Anvil has resulted in more than 2,200 arrests for serious crimes, including 43 arrests in connection with murders in the Dublin Metropolitan Region.

In addition to the introduction of Operation Anvil, the Commissioner in November 2005 augmented the Organised Crime Unit at the National Bureau of Criminal Investigation with an additional 55 Garda members to address the problem of criminal gang activity. Enforcement by the Unit has resulted in further firearms being seized and a number of persons arrested, thereby disrupting their criminal activities.

I am advised that information on the number of charges preferred under Operation Anvil are not readily available. This information is currently being assembled by the Garda authorities, and I will contact the Deputy again when the information is to hand.

#### Ministerial Appointments.

43. **Mr. Gilmore** asked the Minister for Justice, Equality and Law Reform when the term of office of the Inspector of Prisons expires; if it is intended to reappoint the person; if he has plans to abolish the post of Inspector of Prisons; and if he will make a statement on the matter. [22128/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The current Inspector of Prisons and Places of Detention, Mr. Justice Dermot Kinlen, was appointed to the post on a non-statutory basis with effect from 24 April, 2002. His appointment was for a period of five years and, as such, is due to expire on 23 April, 2007. In regard to my future plans for the post itself, I wish to advise the Deputy that I intend to establish the Office of the Inspector of Prisons and Places of Detention on a statutory footing.

#### Deportation Orders.

44. **Mr. Gormley** asked the Minister for Justice, Equality and Law Reform the numbers of Afghani nationals who have been deported in the period end 2001 to 1 June 2006; and if he will make a statement on the matter. [22205/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Between the period end 2001 to 1 June 2006 no persons have been deported to Afghanistan. However, during the period 1st January 2002 to 1st June 2006, 10 persons have been transferred to other EU States under the Dublin II Regulation.

#### Sexual Offences.

45. **Ms Burton** asked the Minister for Justice, Equality and Law Reform the position in regard to the operation of the Register of Sex Offenders; if the information is contained in a central database; the categories of persons who have access to the information; and if he will make a statement on the matter. [22117/06]

75. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform if he will carry out a review of the register of sex offenders in order to bring it in line with the register maintained in Northern Ireland; and if he will make a statement on the matter. [22202/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 45 and 75 together.

The Sex Offenders Act, 2001 which commenced on 27 September 2001 sets out the obligations on persons convicted of a range of sexual offences. A convicted sex offender must notify his/her name(s), date of birth and current home address to the Garda Síochána within seven days of the conviction for the sexual offence concerned or, where the offender is sentenced to imprisonment, from the date of full release from prison.

Thereafter, the offender must notify the Gardaí of any change of name or address within seven days of that change. Notification of any address where the offender spends either as much as seven days or two or more periods amounting to seven days in any twelve month period must also be given to the Gardaí.

If the offender intends to leave the State for a period of seven days or more s/he must inform the Gardaí of this fact and the address at which s/he intends to stay and also notify the Gardaí of his/her return. If s/he did not intend to stay away for more than seven days but did, s/he must inform the Gardaí within a further seven days. The provisions of the Act extend to any sex offenders entering this jurisdiction from abroad who have an obligation to register in their own countries.

It is an offence to fail to comply with the notification requirements. The penalty is imprisonment

for up to 12 months or a fine of €1,900 or both. The courts can also sentence an offender who has been found guilty of an offence under the schedule of offences in the Act to a period of statutory supervision under the Probation and Welfare Service on their release from prison.

The Domestic Violence and Sexual Assault Unit of An Garda Síochána monitor and manage the notification provisions. There are nominated Garda Inspectors in each Garda Division who are notified by the Domestic Violence and Sexual Assault Unit when a sex offender, who is subject to the requirements of the Sex Offenders Act, 2001, becomes resident in their Division.

Close liaison is maintained between An Garda Síochána and the Police Service of Northern Ireland in respect of persons subject to the Act, and information on the movements of such persons is exchanged for policing purposes. A Memorandum of Understanding on information sharing arrangements between Ireland and the UK, including Northern Ireland, relating to sex offenders has been negotiated by my Department and the Home Office. I have recently received Government approval for its signature and I expect this to take place shortly.

The InterGovernmental Agreement on North/South Co-operation on Criminal Justice Matters was signed on behalf of the Irish and British Governments in July 2005. Under the agreement, a Registered Sex Offender Advisory Group has been established consisting of representatives of An Garda Síochána, the Police Service of Northern Ireland, my Department and the Northern Ireland Office. This group is evaluating the potential for sharing information, examining the registration criteria in both jurisdictions and identifying areas for further co-operation. There are currently 916 persons subject to the Act's requirements. The Act and its operation are kept under constant review.

#### **Garda Reserve.**

46. **Ms Lynch** asked the Minister for Justice, Equality and Law Reform the position with regard to the establishment of the Garda Reserve Force; when he expects the first recruits to the Reserve to begin training; if a final decision has been made on the numbers to be recruited; the progress, he has made in his discussions with the representative associations on this matter; and if he will make a statement on the matter. [22131/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In July 2005, as part of a submission on the future resourcing requirements of the Garda Síochána, the Garda Commissioner proposed the recruitment of up to 4,000 reserve members as provided for in the Garda Síochána Act 2005. In response, and in the context of identifying policing priorities for inclusion in the Garda policing plan for 2006, I set the objective

of the recruitment of 900 reserve members by September 2006. Subsequently, the Commissioner submitted detailed proposals to me on the recruitment, training, powers, duties and deployment of reserve members. The proposals envisage a thoroughly trained Reserve with carefully selected powers and duties, working under the supervision of members of the Garda Síochána.

Draft regulations have been prepared under the 2005 Act to give effect to these proposals. I have already met all four Garda Representative Associations on this issue and have referred the draft regulations to the Garda Síochána Conciliation Council for detailed consultations with the Garda Associations. The Chief Superintendents' Association and the Superintendents' Association have already engaged positively in consultation on the draft regulations and I want to commend them for their positive attitude. I very much hope that the two other Associations will do likewise. I have made clear that I am genuinely open to any practical constructive proposals on issues such as the numbers, recruitment, training, powers, duties or deployment of reserve members. I have asked the Associations, for their part, to undertake to respect the clear will of the Oireachtas in this matter and to engage positively as the representatives of their senior officers have done in those consultations.

The draft regulations have also been referred to the Joint Oireachtas Committee on Justice, Equality, Defence and Women's Rights for its consideration. The recruitment campaign for reserve members will commence as soon as the regulations are made.

I am concerned that the Garda Reserve will reinforce the links between the Garda Síochána and local communities, and that it will enhance the capacity of the Force to respond to emerging policing challenges. I have seen for myself how well special constabularies, which are broadly equivalent to the Reserve, work in Britain, and how good and effective are the relations between them and the regular police forces. This is a great opportunity to enhance the policing service in our country, and I urge the Garda Associations to seize the opportunity now to make their contribution to its development.

#### **Proposed Legislation.**

47. **Mr. Sargent** asked the Minister for Justice, Equality and Law Reform the timetable as to when the promised anti-trafficking in human beings legislation will be introduced to the Houses of the Oireachtas; and if he will make a statement on the matter. [22204/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Criminal Justice (Trafficking in Persons and Sexual Offences) Bill is at an advanced stage of preparation and should

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be published later this year and enacted in the lifetime of this Dáil.

*Question No. 48 answered with Question No. 20.*

### **Tribunals of Inquiry.**

49. **Mr. Broughan** asked the Minister for Justice, Equality and Law Reform the position in regard to the three most recent reports received from Mr. Justice Morris; when it is expected that they will be published in full; and if he will make a statement on the matter. [22121/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The resolution which led to the establishment of the Morris Tribunal was passed by both Houses of the Oireachtas on 28 March 2002. It requires the Minister for Justice, Equality and Law Reform, within 14 days of receipt of any report from the Tribunal, either to apply to the High Court for directions regarding its publication or arrange to have it laid before the Houses of the Oireachtas. The terms of that resolution are reflected in the legal instrument establishing the Tribunal.

I recently received the third, fourth and fifth reports of the Morris Tribunal. Having concluded that publication of the reports might prejudice criminal proceedings, I applied to the High Court for directions as to publication under section 3 of the Tribunal of Inquiry (Evidence) (Amendment) Act, 2002. The High Court directed that the application be heard otherwise than in public as provided for in that section. I am precluded from disclosing what transpired during the course of those proceedings other than to say that they were held on notice to the Attorney General, the Director of Public Prosecutions and the person who is the defendant in the criminal proceedings.

Having considered the relevant submissions, including copies of the reports themselves, the President of the High Court ordered that all three reports should not be published until the Court otherwise directs. It is not possible for me to give an indication of when they might be published at this stage.

### **Crime Levels.**

50. **Ms B. Moynihan-Cronin** asked the Minister for Justice, Equality and Law Reform the number of cases of murder in which firearms were used in respect of each year from 1998 to date in 2006; the number of such cases in which prosecutions for murder were initiated; the number of such cases where convictions were secured; if he has satisfied himself regarding the level of detection and conviction in such cases; and if he will make a statement on the matter. [22135/06]

59. **Ms B. Moynihan-Cronin** asked the Minister for Justice, Equality and Law Reform the number of murders in which firearms were used since the beginning of 2006; his views on the continuing level of gun murders, many of which are gang-related; the steps he is taking to deal with this situation; and if he will make a statement on the matter. [22136/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 50 and 59 together.

I am informed by the Garda authorities that the table shows the figures available for murder offences recorded, detected, proceedings commenced and convictions, where a firearm was used for the years 1998 to 2005 and in 2006 up to 7 June.

While no level of murder is acceptable, I would advise the Deputy that Ireland has one of the lowest murder rates in the western world. For example, figures recently published by the Scottish Executive show that in the period 2000/2002 the average homicide rate per year in Scotland was 2.27 per 100,000 population. In Glasgow it was 6.29 per 100,000 population. By comparison, in the same period Ireland had an average annual homicide rate of 1.89 per 100,000 population and the rate in Dublin was 2.12.

The Government's top policing priority for 2006 is to continue to target organised crime, including drug trafficking, and the gun culture associated with it. This is being implemented through deployment by the Garda authorities of specialist units and the use of targeted operations to tackle specific criminal activities. I am in regular contact with the Garda Commissioner in order to keep the measures and resources for tackling serious crime under continuing review. All killings, regardless of the circumstances involved, are the subject of rigorous investigation by An Garda Síochána.

While the term "gangland murders" tends to be widely used in the media in referring to the nature of certain unlawful killings and speculation in this respect is understandable, this does not correspond to the manner in which An Garda Síochána classifies crime or particular offences. Caution is necessary in ascribing particular motives to any particular incident as, potentially, this might jeopardise the procedures which need to be followed for the proper investigation and prosecution of offences.

Operation Anvil commenced in the Dublin Metropolitan Region on 17 May, 2005 and is ongoing. It is focused on targeting active criminals and their associates by preventing and disrupting criminal activity through extensive additional overt patrolling and static check points by uniform, mobile and foot patrols supported by armed plain clothes patrols. I am informed by the Garda authorities that this operation, which is running in conjunction with regular policing, is

proving to be very successful in disrupting the criminal activities of a number of key criminal gangs and families and has resulted in a number of high profile arrests. All areas of the city are covered by Operation Anvil, with specific locations and individuals being targeted for additional Garda attention. Since the commencement of the operation, 43 arrests have been made in connection with murder investigations and 424 firearms have been seized.

Also, in November last year, the Garda Commissioner augmented the Organised Crime Unit at the National Bureau of Criminal Investigation by an additional 55 Garda members to address the problem of gangland activity. Enforcement by the unit has resulted in a number of arrests, seiz-

ure of firearms and the disruption of criminal activities.

I am bringing forward a range of measures to strengthen the law governing the control of firearms in the Criminal Justice Bill, 2004, which is currently before the House. These new measures include increases in fines and penalties generally for offences under the Firearms Acts and the creation of mandatory minimum sentences, of between five and ten years, for certain firearms offences, including possession of a firearm in suspicious circumstances, possession of firearm with criminal intent, possession of a firearm with intent to endanger life or cause serious injury to property, possession of a firearm while hijacking a vehicle, and use or production of a firearm to resist arrest.

Murder Offences Recorded, Detected, Proceedings Commenced and Convictions, where a Firearm was used for Years 1998 to 2005 and up to 7 June, 2006\*

Year	Recorded	Detected to date	Proceedings Commenced	Convictions
2006* (up to 7 June)	12	4	2	0
2005	21	4	3	0
2004	9	8	5	3
2003	20	10	4	2
2002	10	5	4	3
2001	9	6	2	2
2000	12	7	6	2
1999	12	7	7	5
1998	4	3	2	1

\*Figures provided are provisional, operational and liable to change

51. **Mr. M. Higgins** asked the Minister for Justice, Equality and Law Reform the number of homicides and serious assaults in each year for 2000 in which knives were used; his views on the introduction of a knives amnesty similar to that underway in Northern Ireland; and if he will make a statement on the matter. [22129/06]

#### **Minister for Justice, Equality and Law Reform**

**(Mr. McDowell):** I am informed by the Garda authorities that the number of homicides and serious assaults recorded and detected in each year from 2000 in which knives were used are as outlined in the table.

Offence	Rec/Det	Murder	Manslaughter	Assault	Total
2000	Recorded	9	7	105	121
	Detected	9	7	77	93
2001	Recorded	17	5	91	113
	Detected	17	5	64	86
2002	Recorded	21	3	86	110
	Detected	20	3	57	80
2003	Recorded	5	2	77	84
	Detected	5	2	41	48
2004	Recorded	14	1	77	92
	Detected	14	1	57	72
2005	Recorded	15	2	52	69
	Detected	9	2	29	40

The Criminal Justice Bill 2004, which is currently at Committee Stage in the House, amends the Firearms Acts, 1925 to 2000 to provide a

statutory basis for the introduction of an amnesty during which firearms, flick-knives and weapons of offence may be surrendered to the Garda



[Mr. McDowell.]

Síochána before new penalties and mandatory minimum sentences are introduced. A weapon of offence is defined as any article made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use.

During the amnesty period persons who surrender such weapons will not be prosecuted for the simple illegal possession of the weapon where the act constituting the offence was part of the process of the surrender. However, surrendered weapons will be forensically tested and where found to have been used in a crime the weapon and the forensic evidence will be admissible in any proceedings subsequently brought.

### **Garda Operations.**

52. **Mr. Morgan** asked the Minister for Justice, Equality and Law Reform if he will investigate the ongoing harassment by Gardaí of republicans and other supporters at the hunger strike vigils being held in Dublin and surrounding areas; the reason for Garda presence at these events; and if he will make a statement on the matter. [22190/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In recent months, there have been several events of the kind referred to by the Deputy in O'Connell Street, Dublin, culminating with vigils at the GPO.

I am informed by the Garda authorities that, in order to ensure disruption of traffic and of the general public is kept to a minimum, the Garda Síochána enters into discussion with the organisers of these marches to establish assembly points, march routes and so on. For all such public demonstrations, it is usual and appropriate for the Garda Síochána to maintain a presence, having regard to general considerations of public safety and public order. I am informed that at no time has there been any complaint of harassment with specific regard to what were referred to as vigils.

In relation to a remembrance gathering on 21 May, 2006, at Dolphin's Barn, I understand that a complaint has been made to the Garda Síochána Complaints Board, which is the independent body responsible for the investigation of complaints by member of the public against members of the Garda Síochána. As the matter is currently the subject of investigation, it would not be appropriate for me to comment further on this specific issue.

### **Constitutional Challenges.**

53. **Mr. Callely** asked the Minister for Justice, Equality and Law Reform when his Department became aware of matters relating to the recent Mr. A Supreme Court case; and if he will make a statement on the matter. [22080/06]

### **Minister for Justice, Equality and Law Reform**

**(Mr. McDowell):** As the Tánaiste has told this House, on 29 November 2002 my Department was informed in writing by the Chief State Solicitor's Office of an application seeking judicial review by the High Court to challenge certain provisions of the Criminal Law Amendment Act 1935, (The "C.C." proceedings). An official promptly phoned the Chief State Solicitor's Office to ascertain whether they needed any response from the Department in relation to the application. The answer was in the negative. In January 2003, the Chief State Solicitor's Office repeated its undertaking to advise the Department of any development in the proceedings. No further communication was received in my Department from the Chief State Solicitor's Office or any other source concerning the "C.C." proceedings. Neither I nor my Department were notified of the hearing or outcome of the High Court case, which the State won, or the subsequent appeal to the Supreme Court.

In response to the Supreme Court decision of 23 May 2006, I published the Criminal Law (Sexual Offences) Bill 2006 on 1 June 2006. It passed all stages in the Dáil and Seanad and was signed into law by the President on the following day. Following discussions in the matter with my officials I set up, in late 2004, a Criminal Justice Group comprising representatives from the main agencies working in the criminal justice sector. The Group has representatives from, among others, An Garda Síochána, the Courts Service, the Irish Prison Service, the Attorney General's Office and the Director of Public Prosecutions. The main function of the Group, which is chaired by the Secretary General of my Department, is to promote a co-ordinated and cohesive approach to criminal justice matters. This Group has met on 4 occasions since late 2004 and is scheduled to meet again in July. The Secretary General has advised me that the group will meet more frequently from now on.

I have been advised by the Secretary General of my Department that, from now on, cases of litigation with constitutional and policy implications for the criminal justice system will be a standing item on every agenda of the Criminal Justice Group. Furthermore, it is my intention to discuss with the Attorney General and the Director of Public Prosecutions the importance of putting in place agreed procedures for a consultation process between our three offices in relation to cases of litigation on constitutional and policy issues. This consultation process will be over and above the current consultation process provided for in statute between the AG and the DPP.

### **Garda Inspectorate.**

54. **Ms O'Sullivan** asked the Minister for Justice, Equality and Law Reform when the new head of the Garda Inspectorate will take up their position; when the other members of the Inspec-

torate will be appointed; when it is expected that the Inspectorate will be functioning; and if he will make a statement on the matter. [22140/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Following the enactment of the Garda Síochána Act 2005 in July 2005, the Secretary General of my Department requested the Public Appointments Service (PAS) to advise on the most appropriate recruitment process to source the best possible candidates for the members of the Garda Síochána Inspectorate.

The PAS proposed a model which involved using a private sector partner with experience in international recruitment and selection. Following a restricted procurement process and receipt of sanction from the Department of Finance the PAS engaged PriceWaterhousecoopers (PWC) as an Executive Search partner to assist them in a global search of common law jurisdictions to source suitable candidates for appointment of the Chief Inspector. As the position of Chief Inspector is the key position in the new organisation it was decided to recruit that person first.

On the 16th May, 2006, following a comprehensive selection and interview process, the Government appointed Ms Kathleen O'Toole to be the Chief Inspector of the Garda Síochána Inspectorate. Ms. O'Toole was the candidate who scored highest in the selection process. Ms O'Toole will be involved in the recruitment and selection of the other two members of the Inspectorate.

The positions of the other two members of the Inspectorate, who will report to the Chief Inspector, has been advertised separately by PAS. This process again involves an international search and selection process organised by PAS/PWC. The Chief Inspector will be involved in the

recruitment and selection of the other two members and has already met with PAS/PWC in this regard. It is expected that the shortlisting of suitable candidates for interview will take place later this month with interviews and selection to follow early in July 2006. I intend to bring proposals to Government for the appointment of these two other members in July 2006 at which stage I propose to make the necessary statutory order to set the establishment day for the Garda Síochána Inspectorate.

#### **Garda Deployment.**

55. **Ms McManus** asked the Minister for Justice, Equality and Law Reform the number of community Gardaí currently deployed; the location of these community Gardaí; if there is a set minimum period for community Gardaí to establish themselves in an area; and if he will make a statement on the matter. [22133/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities, who are responsible for the detailed allocation of resources, including personnel, that the personnel strength (all ranks) of An Garda Síochána as at 6th June 2006 was 12,375. This compares with a total strength of 10,702 (all ranks) as at 30 June 1997 and represents an increase of 1,673 (or 16%) in the personnel strength of the Force during that period. I am pleased to advise the Deputy that the serving strength of the Force is to receive a significant additional boost with the attestation of approximately 275 new members today.

I am further informed that the numbers and locations of gardaí allocated to Community Policing Duties as at the 31st March 2006 was as set out in the table:

Community Gardaí as at 31 March, 2006

Station	Inspector	Sergeant	Garda
Kevin Street	0	1	6
Kilmainham	0	1	4
Pearse Street	0	1	12
Harcourt Tce	0	0	4
Donnybrook	0	0	3
Irishtown	0	0	2
Store Street	1	2	22
Bridewell (D)	0	2	13
Fitzgibbon St	0	2	11
Mountjoy	0	0	10
Santry	0	1	3
Whitehall	0	1	4
Ballymun	0	2	7
Raheny	0	0	5
Clontarf	0	1	5
Howth	0	1	4
Coolock	0	1	8

Station	Inspector	Sergeant	Garda
Swords	0	1	10
Malahide	0	0	4
Dun Laoghaire	0	1	4
Dalkey	0	0	2
Cabinteely	0	1	4
Kill-O-Grange	0	0	3
Bray	0	1	13
Shankill	0	1	8
Greystones	0	0	6
Blackrock	0	2	5
Dundrum	0	0	6
Stepaside	0	0	2
Crumlin	0	1	4
Sundrive Road	0	0	5
Tallaght	1	1	19
Rathfarnham	0	1	4
Rathmines	0	0	3
Terenure	0	1	6
Cabra	0	1	4
Finglas	0	1	9
Blanchardstown	0	2	15
Lucan	0	1	5
Leixlip	0	0	3
Ronanstown	0	1	11
Ballyfermot	0	1	7
Clondalkin	0	1	9
Rathcoole	0	0	1
Waterford	0	2	6
Kilkenny	0	0	1
Nenagh	0	1	1
Borrisokane	0	1	1
Dolla	0	0	1
Toomevara	0	0	1
Portroe	0	0	1
Terryglass	0	0	1
Ballingarry	0	0	1
Cloughjordan	0	0	1
Anglesea Street	0	1	3
Barrack Street	0	0	2
Blackrock	0	0	1
Bridewell (C)	0	0	1
Watercourse Rd	0	0	2
Mayfield	0	0	2
Mallow Road	0	0	1
Togher	0	0	2
Bishopstown	0	0	1
Douglas	0	0	1
Carrigaline	0	0	1
Gurranbraher	0	0	3
Ballincollig	0	0	1
Fermoy	0	0	1
Mallow	0	0	1
Tralee	0	0	3

Station	Inspector	Sergeant	Garda
Henry Street	0	2	11
Mary Street	0	0	1
Mayorstone	0	0	3
Roxboro Road	0	1	6
Letterkenny	0	1	2
Monaghan	0	0	2
Cavan	0	0	1
Sligo	0	0	6
Galway	0	1	10
Salthill	0	0	2
Athlone	0	0	2
Mullingar	0	1	4
Ashbourne	0	0	2
Drogheda	0	0	1
Dundalk	0	1	2
Navan	0	0	2
Balbriggan	0	0	1
Naas	0	0	3

It is the responsibility of Garda management to allocate personnel to and within Divisions on a priority basis in accordance with the requirements of different areas. This includes the allocation of personnel to Community Garda Units. These personnel allocations are determined by a number of factors including demographics, crime trends, administrative functions and other operational policing needs. Such allocations are continually monitored and reviewed along with overall policing arrangements and operational strategy. This ensures that optimum use is made of Garda resources, and that the best possible service is provided to the public. Garda management state that there is no set minimum period for Community Gardaí to establish themselves in an area.

I should add that the current recruitment drive to increase the strength of the Garda Síochána to 14,000 members, in line with the commitment in the Agreed Programme for Government, is fully on target. This will lead to a combined strength, of both attested Gardaí and recruits in training, of 14,000 by the end of this year. I am pleased to inform the Deputy that the first group of newly attested Gardaí under the accelerated recruitment programme came on stream in March and a further 275 newly attested Gardaí will do so every 90 days thereafter.

The Garda Commissioner will now be drawing up plans on how best to distribute and manage these additional resources, and in this context the needs of Community Garda Units throughout the country will be given the fullest consideration.

### Human Trafficking.

56. **Mr. Wall** asked the Minister for Justice,

Equality and Law Reform the procedures which are in place to prevent the trafficking of women to Ireland for purposes of the sex trade; when the promised legislation to outlaw such trafficking will be in place; and if he will make a statement on the matter. [22151/06]

58. **Mr. Allen** asked the Minister for Justice, Equality and Law Reform if he has discussed with his European Union counterparts, the unacceptable incidence of human trafficking across Member States of the European Union; and if he will make a statement on the matter. [19808/06]

214. **Mr. M. Higgins** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the levels of human trafficking, primarily of women into Ireland for prostitution from countries including but not limited to Moldova, Lithuania, Romania, Mongolia, Nigeria and Brazil, who are tricked into coming here on false pretences of work and who upon arrival are forced into prostitution; the number of such persons as is known or estimated; and the vigilance which is being exercised in trying to stop these practices. [22274/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 56, 58 and 214 together.

By its very nature, human trafficking is a clandestine activity and, owing to the intimidation associated with it, victims are often reluctant to come forward to the authorities. This is the experience internationally and, for these reasons, it is impossible to be precise about the extent of human trafficking into Ireland. In common with other EU countries all the indications are that, in



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Ireland, trafficking in human beings takes place on a much smaller scale than illegal immigration. In the recently published United Nations Report “Trafficking in Persons Global Patterns” Ireland ranks at the low end of destination or transit countries in western Europe. This analysis is confirmed by the US State Department’s Trafficking in Persons Report 2006, which was published on 5 June and highlights the approach to human trafficking in 158 countries. The report states that “while Ireland has a growing population of migrants, there is not yet evidence of a large number of trafficking victims”.

The US states that the Government “has shown openness and leadership” in tackling human trafficking. It further states that the Government “has demonstrated strong leadership and initiative in addressing trafficking through law enforcement means” and “vigorously investigated cases of suspected trafficking reported by NGOs, potential victims themselves, and those reported in the media”. The report also states that the “Government of Ireland demonstrated strong engagement with international organisations, NGOs, and potential source countries on trafficking” and that “NGOs reported excellent cooperation with government and police officials, particularly at the operational level”.

Garda operations have uncovered a small number of trafficking cases. These indicate the involvement of eastern European nationals in trafficking and attempted trafficking activity. The Garda have encountered a small number of cases of eastern European women being trafficked into Ireland for the purpose of sexual exploitation within their own ethnic communities.

An Garda Síochána and the Garda National Immigration Bureau (GNIB), in particular, take a proactive and vigorous approach in preventing and combating trafficking of human beings. The GNIB works closely with other specialist units, e.g., the Garda Bureau of Fraud Investigation, the Garda National Drugs Unit, the National Bureau of Criminal Investigation and the Criminal Assets Bureau. A number of ongoing Garda operations, including “Operation Hotel” and “Operation Quest”, are in place to tackle the phenomenon. The approach taken in tackling trafficking is, where possible, to prevent it occurring, or where it does occur, to seek to prosecute the perpetrators and to protect the victims.

In view of the exponential growth in the level of immigration in Ireland in recent years, all members of An Garda Síochána are advised of the need to be mindful of the possibility of trafficking in women and children for sexual exploitation. If evidence of trafficking for such purposes is disclosed in any case, investigations are conducted. A training programme has been prepared for delivery to key Garda personnel throughout the State. This training programme has been

designed specifically to enable members of An Garda Síochána identify victims of trafficking whom they encounter in the course of their duties, ensure that members fully understand the complexity of the phenomenon and ensure that victims receive appropriate assistance from all the relevant agencies.

Under the Child Trafficking and Pornography Act 1998 it is an offence, punishable by up to life imprisonment, to traffic a child into, through or out of Ireland for the purpose of sexual exploitation. For the purposes of this Act, a child is a person under 17 years of age. It is also an offence under the Illegal Immigrants (Trafficking) Act 2000 for a person to organise or knowingly facilitate the entry into Ireland of another person whom that person knows or has reasonable cause to believe is an illegal immigrant or a person who intends to seek asylum. The maximum prison sentence on conviction for this offence is 10 years. In trafficking cases, it is also possible for the prosecuting authorities here to bring charges for a range of offences covered by our criminal law, including sexual offences, false imprisonment, possession of false documents, etc.

Legislation which will create a specific offence, in accordance with EU, United Nations and Council of Europe instruments on trafficking, of trafficking persons into, through or out of Ireland for the purpose of their sexual or labour exploitation is at an advanced stage of preparation in my Department. The legislation will be comprehensive, providing further protection to vulnerable persons against sexual abuse and amending provisions in existing Acts making them more relevant in the light of experience gained from their operation.

This legislation will provide for compliance with two EU Framework Decisions — the Framework Decision combating trafficking in persons and the Framework Decision combating the sexual exploitation of children and child pornography. The legislation will also take account of several other international instruments, such as the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the UN Convention against transnational organised crime, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Council of Europe Convention on action against trafficking in human beings.

It is proposed that the legislation, provisionally titled the Criminal Justice (Trafficking in Persons and Sexual Offences) Bill, should be published in 2006 and enacted in the lifetime of this Dáil. It has taken longer than expected to prepare because of the extent of the issues it will cover and the need to await the adoption of the Council of Europe instrument on trafficking so that it too could be taken into account in the legislation.

Successful prosecutions, no matter what legislation is in operation, will depend on the existence of evidence that will stand up in court and for that to happen, there must be a willingness to co-operate with Garda investigations. That is partly why, on 5 May, I launched a poster campaign. This campaign, which is facilitated by Crimestoppers, will help raise awareness of trafficking among the general public. It will also provide an important point of contact for those who may be victims of, or vulnerable to, this insidious crime. The posters are being displayed at airports, ports, bus and railway stations, among other places. Anyone who rings the free phone number 1800 25 00 25 can be assured that the call is anonymous, safe and free of charge. Victims of trafficking, or anyone with knowledge of trafficking activities, should not be afraid of contacting the authorities for assistance. An Garda Síochána, my Department and the International Organisation for Migration are all participating in the campaign and are available to provide whatever assistance is necessary to victims who come to our attention.

In May also, I published on the Department's website the report of a working group on human trafficking comprising representatives of my Department and An Garda Síochána. I fully support the conclusions and recommendations in the report, which is clear evidence that my Department and An Garda Síochána are committed to tackling human trafficking at a national level and to working with our European Union and other colleagues to tackle it internationally.

The issue of human trafficking is a priority at EU level and is discussed regularly by Justice and Interior Ministers and by officials within the framework of the Council. An EU Action Plan on Trafficking in Human Beings was agreed by the Council in December, 2005 and Council conclusions on preventing and combating trafficking of human beings on the basis of the Action Plan, including trafficking in connection with major international events, were agreed by the Council in April, 2006.

I should add that inter-Governmental, bilateral agreements were concluded with Poland and Bulgaria in December, 2005. These cover a range of criminal justice matters, including co-operation in combating trafficking in persons. Negotiations are ongoing in relation to proposals for agreements with other eastern European countries.

### **Garda Communications.**

57. **Mr. Gogarty** asked the Minister for Justice, Equality and Law Reform the number of Garda stations with broadband internet access; the plans he has for a nationwide roll-out of broadband to all Garda stations; and if he will make a statement on the matter. [22211/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda

authorities that Broadband internet facilities are available at Garda Headquarters, Harcourt Square, Store Street and the Garda College, Templemore. I am further informed by the Garda Authorities that broadband to provide telecommunications and Garda Intranet services has been deployed to 159 Garda Stations and has been ordered for a further 38 stations. In all, it is planned to provide access for an additional 50 Garda Stations by the end of 2006, subject to the availability of services at these stations.

*Question No. 58 answered with Question No. 56.*

*Question No. 59 answered with Question No. 50.*

### **Crime Levels.**

60. **Mr. Sherlock** asked the Minister for Justice, Equality and Law Reform his views on the figures contained in the recent Garda Report for 2005 which shows a further increase in the number of headline offences; his further views on whether taken together with the provisional figures for the first quarter of 2006, the report shows a worrying deterioration in the crime situation; the action he intends to take arising from the increase in the number of serious crimes; and if he will make a statement on the matter. [22125/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I refer the Deputy to my answer to Parliamentary Question No. 5 for today.

### **Refugee Appeals Tribunal.**

61. **Mr. Eamon Ryan** asked the Minister for Justice, Equality and Law Reform the plans he has to allow for publication of statistics on the decisions of the Refugee Appeals Tribunal; if he will create an independent selection and interview process for members of the Tribunal, both of which would bring the Tribunal in line with best international practice; and if he will make a statement on the matter. [22207/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As the Deputy will be aware, the Refugee Appeals Tribunal (RAT) was established under the Refugee Act, 1996 in order to deal with appeals arising from negative recommendations in respect of applications for refugee status issued by the Office of the Refugee Applications Commissioner (ORAC). The Tribunal has been in operation since November 2000 and is comprised, at the present time, of a full time Chairperson and 32 part time Members.

The RAT is a statutory body, independent in the performance of its functions under the provisions of sections 15 and 16 of the Refugee Act, 1996 (as amended) and the publication of statistics regarding decisions of the Tribunal is a matter for the Chairperson. The Tribunal has under-

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taken a significant job of work since its establishment, taking some 23,107 decisions up to the end of 2005. It has also been tackling on an ongoing basis the number of appeals on hands and moving from a situation, for example, where on 31 January 2004 it had some 2,596 appeals to clear (some 990 of which were over six months old) to a situation at the end of April 2006 where it had 1,672 appeals on hands, only 469 of which were over six months old and a significant number of which are at an advanced stage of processing.

I would like to place on the record my appreciation to the Chairperson of the Tribunal, its Members and staff for their efforts to date in carrying out the important work of the Tribunal in meeting the State's obligations under the 1951 Geneva Convention relating to the Status of Refugees.

In April 2005, I published a public Consultation Document setting out outline policy proposals for an Immigration and Residence Bill. This document noted that the State is required to introduce a subsidiary protection regime under EU law later this year. This provides an opportunity of which I intend to avail to re-examine, in the light of the experience of the last decade, how protection claims are dealt with under present law including at appeals stage. I will be bringing proposals to Government in this regard in the coming weeks.

#### **Tribunals of Inquiry.**

62. **Mr. Rabbitte** asked the Minister for Justice, Equality and Law Reform if, in respect of his meeting on 10 June 2005, with a private investigator (details supplied) in County Meath, he discussed with his Departmental staff the intended meeting with the private investigator; the reason his Departmental staff were not present at the meeting; when he first created a minute of the meeting; if he created a schedule of the copy documents supplied by the private investigator; and if so, when; if any of the documents received touched on issues of relevance to the Morris Tribunal; if so, if these documents were forwarded by him to the Tribunal; and if he will make a statement on the matter. [22123/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** For many years the individual named in the Deputy's question has frequently contacted me on a personal basis on a very wide range of issues which are of interest to him. These contacts are sometimes made by phone and sometimes by writing.

In relation to the specific encounter raised by the Deputy, the person in question had contacted me in the preceding week and had indicated that he was apprehensive that in a forthcoming debate in this House things might be said on which he could throw additional light. I was due to travel westwards on private business for the weekend

on the day that I met him and I contacted him as to whether he would be at his home which was along my intended route. We had a lengthy conversation on a number of topics chiefly centring on his personal involvement with the McBrearty family and the Morris Tribunal and events related thereto but also with other personal matters. He gave me copies of a number of documents which he had sent to my Department. None of them was original and all of them were already in the hands of the Department and had been made available for the Tribunal. The meeting was personal and no official was present it was not an occasion in respect of which either I or the individual in question would have been expected to make a minute.

#### **Gender Discrimination.**

63. **Mr. Stanton** asked the Minister for Justice, Equality and Law Reform the efforts he is making to address the gender pay gap; his views on the causes and results of same; and if he will make a statement on the matter. [18188/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** While there is a number of factors involved in the gender pay gap, it is generally agreed that the biggest factor is the difference between women and men in accumulated work experience, and women taking time-out of the labour force for child rearing and caring duties. Other factors include occupational segregation, educational and training differences, promotion policies within firms, the availability of child-care, and the availability of maternity, parental leave and family friendly work practices. Women also dominate part-time employment, which is often less well paid than full time employment. Over 30 per cent of all women in employment are in part-time jobs. However, it should be noted that the vast majority of those working part-time are doing so voluntarily and few part-timers are recorded as preferring to have longer hours.

In order to address the Gender Pay Gap the Government has adopted a multifaceted approach across a number of areas. The Consultative Group on Male/Female Wage Differentials, set up under the Programme for Prosperity and Fairness, was chaired by my Department and reported to Government in November 2003 on actions required to address the gender pay gap. Their research found that increased labour market participation by women was an important step in reducing the pay gap. The report contained a number of recommendations addressing a wide range of Government policies including: taxation, statutory minimum wages, education and training, and the development of family friendly policies.

We have acted on these recommendations and the indications are that Ireland has made considerable progress in relation to the gender pay gap with a significant narrowing of the gap in recent years. Twenty years ago the gap was about



25%. The most recent statistics produced by Eurostat (European Union Statistics Body) show an Irish Gender Pay Gap of 13% which is just below the EU average.

The recent reductions in the gap are attributable to a number of factors including: the introduction and regular increase of the National Minimum Wage, the implementation of legislative provisions, the introduction of the Equal Opportunities Child-care Programme, part-individualisation of the taxation system, increases in child benefit payments, and the continued strength of the Irish economy and the underlying strong demand for labour.

The Government has introduced a major investment initiative, partly funded by the EU, to develop child-care over the period 2000-2006. This has created over 41,000 new centre-based child-care places, an increase of over 70 per cent. We are also providing an additional €575 million for the Child-care Investment Programme 2006-2010, which will create a further 50,000 child-care places. In addition, we have provided very significant increases in child benefit which is now at a minimum of €150 per month for each child under 18 and from this year, we are providing a special annual payment of €1,000 for each child aged under six years.

We have also increased paid and unpaid maternity leave with similar increases promised for next year. Parents will then be entitled to a total of 56 weeks between paid and unpaid maternity leave. This is complemented by the parental, adoptive and carer's leave provisions introduced or strengthened by this Government and is a major support for women in the labour force who have child-care and/or other responsibilities.

The National Minimum Wage (NMW) has played a significant role in narrowing wage differentials because women tended to occupy a greater proportion of lower paid jobs and their incomes are now protected by Minimum Wage legislation. In May 2005, the National Minimum Wage was increased from €7 per hour to €7.65, an increase of over 9 per cent, and well ahead of inflation. As women occupy a greater proportion of lower paid jobs, this is a significant step in narrowing wage gap differentials.

My own Department has responsibility for the Equality for Women Measure (EWM) in the National Development Plan which has provided funding to projects for the period 2000-2006, including proposals aimed at addressing the glass ceiling and horizontal segregation in the labour force. The Equality for Women measure supports proposals designed to promote:

- access to employment, education and training, retraining and up-skilling
- encouraging entrepreneurship and career development among women

- innovative actions for disadvantaged women and older women
- gender proofing of personnel policies and practices, by means of the Equality Reviews and Action Plans Scheme, which is being implemented by the Equality Authority
- family friendly policies in employment and sharing family responsibilities
- research and information campaign for women returning to paid employment
- achievement of equality for women in the workplace and business and
- participation of greater numbers of women in decision making.

The Equality for Women Measure was funded initially from the Regional Operational Programmes of the National Development Plan which set aside almost €30 million for the period 2000 to 2006. Since then, the Measure has been reinforced with funding of over €6 million from the Employment and Human Resource Development Operational Programme, including €3 million from the European Social Fund. Since 2001, the vast bulk of that funding has been provided to 70 organisations to deliver positive action projects, for women in their communities, in education and training, in work and in decision making.

As a positive action programme, the Equality for Women Measure, along with gender mainstreaming, reflects the dual approach of the Irish Government to promoting equality for women. Since its inception, the Measure has demonstrated the ongoing relevance of positive action, both to contributing to the well-being of women in different situations, and to reinforcing the impact of gender mainstreaming.

The spread of actions supported by the Measure is comprehensive and diverse, ranging from providing foundation training to women in their communities, to building gender equality capacity within the social partners. A common feature across all projects is the relevance of the actions they are undertaking to address the attitudinal, cultural and structural barriers to equality for women. To date, approximately 7,000 people have participated in the 70 projects funded under Phase I of the Measure and many thousands more have benefited from the services delivered by the projects. The second Phase of the Measure, covering the period 2004-2006, has a particular focus on poverty and social exclusion and this is being delivered through the RAPID programme. A sum of €7m was approved in March 2005 to fund 58 projects within RAPID designated areas.

In addition to the funding directed to RAPID areas, a sum of €2m has been allocated to fund the mainstreaming of learning developed in Phase I of the Measure. Included in this figure is €500,000 which has been ring-fenced for the mainstreaming of Science, Engineering and Tech-



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nology (SET) projects. A further €1m has been allocated to FÁS to mainstream their “Expanding the Workforce” initiative which is designed to encourage women who wish to return to the labour market.

Again under Phase II, funding of €300,000 has been set aside for the programme of Equality Reviews and Action Plans which is being managed by the Equality Authority on behalf of the Department. A further €50,000 has been allocated to the “Leadership Initiative” to support the “Future Leaders” Programme which provides training to women in senior management positions in the public and private sectors.

This multifaceted response which the Government is taking in addressing the gender pay gap will be developed further in the National Women’s Strategy which is well advanced. Its development is being overseen by an Inter-Departmental Committee of Senior Officials, under the chairmanship of my Department and is the subject of an external consultation process. I am hopeful that the draft National Women’s Strategy will be finalised and submitted to Government later this year.

#### **Garda Disciplinary Code.**

64. **Mr. Howlin** asked the Minister for Justice, Equality and Law Reform his proposals for a new Garda disciplinary code in view of the serious concerns expressed by Mr. Justice Morris in regard to the deterioration of discipline and good order that he found in regard to the Gardaí in Donegal; when it is expected that the code will be published; when it will be in operation; and if he will make a statement on the matter. [22116/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Work is currently under way in my Department in relation to the preparation of draft new Garda disciplinary regulations on the lines recommended by the Morris Tribunal. These new Regulations will completely replace the existing disciplinary procedures. It will be recalled that the Morris Tribunal, in its latest reports, was critical of those procedures, pointing out that because of the overlay of legal formalism, they can be used to delay and frustrate simple and straightforward disciplinary investigations. The Tribunal commented that the current disciplinary regulations need to be replaced by a new, less complex approach which will be swift and fair with a simple appeal process.

As the Government has already announced, my intention is to publish these new draft Regulations in the coming weeks and to have them approved by the Government and signed into law before the Summer recess.

#### **Law Reform Commission.**

65. **Mr. Callely** asked the Minister for Justice, Equality and Law Reform the number of recommendations that the Law Reform Commission has made on matters relating to his Department; the number of these recommendations which are outstanding; and if he will make a statement on the matter. [22081/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I can inform the Deputy that a full list of the Reports of the Law Reform Commission since 1985 is on the Commission’s website together with the text of each Report, and that an indicative list of the Reports which have been implemented, in one form or another, is also on the Commission’s website.

#### **Constitutional Challenges.**

66. **Mr. Crowe** asked the Minister for Justice, Equality and Law Reform when he was first made aware of a High Court constitutional challenge to the Criminal Law Amendment Act 1935; and if he will make a statement on the matter. [22198/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I can inform the Deputy that I was never made aware of a High Court constitutional challenge to the Criminal Law Amendment Act 1935.

As the Tánaiste has told this House, on 29 November 2002 my Department was informed in writing by the Chief State Solicitor’s Office of an application seeking judicial review to challenge certain provisions of the Criminal Law Amendment Act 1935, (The “C.C.” proceedings). An official promptly phoned the Chief State Solicitor’s Office to ascertain whether they needed any response from the Department in relation to the application. The answer was in the negative. In January 2003, the Chief State Solicitor’s Office repeated its undertaking to advise the Department of any development in the proceedings. No further communication was received in my Department from the Chief State Solicitor’s Office or any other source concerning the “C.C.” proceedings. Neither I nor my Department were notified of the hearing or outcome of the High Court case, which the State won, or the subsequent appeal to the Supreme Court.

In response to the Supreme Court decision of 23 May 2006, I published the Criminal Law (Sexual Offences) Bill 2006 on 1 June 2006. It passed all stages in the Dáil and Seanad and was signed into law by the President on the following day.

#### **Garda Investigations.**

67. **Mr. O’Shea** asked the Minister for Justice, Equality and Law Reform the progress made with regard to the Garda investigation into the

murder of Donna Cleary in Coolock on 5 March 2006; if a file has been sent to the Director of Public Prosecutions; if persons have been charged in connection with the murder; and if he will make a statement on the matter. [22137/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities that the murder of the person referred to is under active investigation by the Gardaí at Coolock Garda Station. A number of persons have been arrested and the investigation is progressing. To date a file has not been submitted to the Director of Public Prosecutions and no person has been charged in connection with this incident. As this is an ongoing Garda investigation it would be inappropriate for me to comment further at this time.

### **Garda Strength.**

68. **Dr. Upton** asked the Minister for Justice, Equality and Law Reform the number of Gardaí at the latest date for which figures are available; the number expected to be recruited during 2006; the number of recruits who have graduated from the Garda Training College as full Garda members since 6 June 2002; the number of Gardaí who have retired, resigned or otherwise left the Force since 6 June 2002; and if he will make a statement on the matter. [22138/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda Commissioner that the personnel strength (all ranks) of An Garda Síochána is set to rise to a record 12,641 today following the attestation of 273 new members. This compares with a total strength of 10,702 (all ranks) as at 30 June 1997 and represents an increase of 1,939 (or 18.1%) in the personnel strength of the Force during that period.

The Deputy will be aware that the operational strength of An Garda Síochána includes attested officers. Therefore, with today's attestation a total of 2,616 new members have been attested to An Garda Síochána since 6 June, 2002. I have also been informed by the Garda authorities that 2,125 recruits have graduated from the Garda College since 6 June, 2002. Garda management state that a total of 1,736 members (all ranks) have resigned, retired or otherwise left An Garda Síochána since 6 June, 2002.

The timescale for achieving the target strength of 14,000 members of the Garda Síochána in line with the commitment in the Agreed Programme for Government remains as when I announced the Government approval in October 2004 for my proposals to achieve this objective. The phased increase in the strength of An Garda Síochána to 14,000 will lead to a combined strength, of both attested Gardaí and recruits in training, of 14,000 by the end of this year. This project is fully on target and will be achieved.

As part of the accelerated recruitment campaign to facilitate this record expansion, 1,125 Garda recruits were inducted to the Garda College during 2005. The College will induct a further 1,100 recruits this year and again in 2007, by way of intakes to the Garda College of approximately 275 recruits every quarter. The first group of newly attested Gardaí under the accelerated recruitment programme came on stream in March and the second such group comes on stream today. Further tranches of approximately 275 newly attested Gardaí will follow every 90 days hereafter until the programme is complete.

### **Prison Drug Treatment Services.**

69. **Mr. Boyle** asked the Minister for Justice, Equality and Law Reform the details of all drug rehabilitation programmes being offered in the prison system; the programmes recently terminated; the reason for the termination of these programmes; the programmes being prepared for roll-out; when such programmes will commence; and if he will make a statement on the matter. [22209/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** On 2nd May 2006, I launched the new Irish Prison Service Drugs Policy & Strategy, entitled Keeping Drugs out of Prison. This new policy fulfils the commitment in the Programme for Government to publish the plan to end all heroin use in Irish prisons as well as my own commitment to achieve a drug-free prison system. The implementation of this Policy & Strategy has seen an intensification of efforts in the prison system to eliminate the availability of illicit drugs within prisons. This Policy & Strategy involves the traditional means of effecting supply reduction — staff vigilance, physical searches and supervision of persons entering prisons and their reinforcement by means of improved facilities and procedures. The Policy & Strategy has also provided for a range of new measures to eliminate the supply of drugs into prisons: notably, enhanced visit security, the introduction of passive drug detection dogs and mandatory drug testing. An underlying aim of the new Policy & Strategy is the operation of all treatment programmes within a coherent policy framework, understood and supported by all agencies involved in drug treatment within the prison system.

The new Policy & Strategy also provides for enhanced engagement with the Community and Voluntary Sector, who play an important role in supporting drug addicted prisoners, both in prison and in the community. The Policy & Strategy also provide for the strengthening of the links to national bodies in this area, notably in the area of information sharing and research.

Working to fulfil these commitments will involve the implementation of stringent measures

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to prevent drugs from getting into prisons while, at the same time, continuing to invest in services within prisons to reduce the demand for illicit drugs in the prisoner population as well as meeting prisoners' treatment and rehabilitative needs.

Drug rehabilitation programmes for prisoners involve a significant multidimensional input by a diverse range of general and specialist services provided both by the Irish Prison Service and visiting statutory and non-statutory organisations. The Irish Prison Service seeks to reduce the demand for drugs within the prison system through education, treatment and rehabilitation services for drug-addicted offenders. Particular initiatives put in place include a Drugs Detoxification programme, a programme of Substitution Therapies, a programme of maintaining Voluntary Testing Drug Free wings, health interventions, vaccination programmes and treatment for viral illnesses.

I can assure the Deputy that no prison drug treatment programmes have been terminated. In fact, the present programmes will be expanded and enhanced with the further recruitment of psychologists and addiction counsellors. Advertisements for these positions have been placed in the national media and it is anticipated that these positions will be filled in the near future. The roll-out of the Drugs Policy & Strategy, including the enhancement of these programmes, has begun and I am confident that the targets set out will be reached, the major portion being implemented by end-2006 and the longer-term targets by end-2007.

#### **Garda Vetting Service.**

70. **Mr. Broughan** asked the Minister for Justice, Equality and Law Reform the categories of people working with children or other vulnerable people in respect of whom the Gardaí currently provide vetting procedures; if he has any plans to extend this to other categories; if his attention has been drawn to the recent case where a man sentenced to 16 years for multiple rape had been working with a homeless charity; and if he will make a statement on the matter. [22120/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Garda Central Vetting Unit (GCVU), established in January 2002, currently processes vetting requests in respect of, inter alia, the following: prospective employees of the Health Service Executive (HSE); prospective employees of certain agencies funded by the HSE; childcare places funded by the Equal Opportunities Childcare Programme; special education facilities; special needs assistants in the general education sector; school transports; and prospective adoptive parents and fosterers.

I am pleased to report that, under the guidance of a multi-agency implementation group, the vet-

ting service of the GCVU is currently undergoing major expansion. This is being made possible, in part, by the provision of significant additional human and other resources. In particular, the GCVU's staffing complement has more than doubled, from 13 to 30 personnel.

The extension of the vetting service of the GCVU is proceeding in a planned and structured manner, following the Unit's recent successful decentralisation to custom-designed office accommodation in Thurles, Co. Tipperary, under the Government's Decentralisation Programme. Moreover, significant changes have been made to the work processes of the Unit in order to streamline the processing of vetting applications.

I am not aware of the specific details of the case referred to by the Deputy but in any event the expansion of the Garda vetting service to new sectors will occur by means of a phased roll-out to an increasing number of organisations in the child and vulnerable adult care sectors. This expansion will continue until vetting is available in respect of all personnel working in a full-time, part-time or voluntary capacity with children and vulnerable adults. This includes those working with homeless persons.

#### **Garda Reserve.**

71. **Mr. Naughten** asked the Minister for Justice, Equality and Law Reform his plans for the Garda Reserve Force; and if he will make a statement on the matter. [22004/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In July 2005, as part of a submission on the future resourcing requirements of the Garda Síochána, the Garda Commissioner proposed the recruitment of up to 4,000 reserve members as provided for in the Garda Síochána Act 2005. In response, and in the context of identifying policing priorities for inclusion in the Garda policing plan for 2006, I set the objective of the recruitment of 900 reserve members by September 2006. Subsequently, the Commissioner submitted detailed proposals to me on the recruitment, training, powers, duties and deployment of reserve members. The proposals envisage a thoroughly trained Reserve with carefully selected powers and duties, working under the supervision of members of the Garda Síochána.

Draft regulations have been prepared under the 2005 Act to give effect to these proposals. I have already met all four Garda Representative Associations on this issue and have referred the draft regulations to the Garda Síochána Conciliation Council for consultation with the Garda Associations. The Chief Superintendents' Association and the Superintendents' Association have engaged in consultation on the draft regulations and I want to commend them for their positive attitude. I very much hope that the two other Associations will do likewise. I have made clear



that I am genuinely open to any constructive proposals on issues such as the numbers, recruitment, training, powers, duties or deployment of reserve members. I have asked the Associations, for their part, to undertake to respect the clear will of the Oireachtas in this matter and to engage positively in those consultations.

The draft regulations have also been referred to the Joint Oireachtas Committee on Justice, Equality, Defence and Women's Rights for its consideration. The recruitment campaign for reserve members will commence as soon as the regulations are made.

I genuinely believe that the Garda Reserve will reinforce the links between the Garda Síochána and local communities, and that it will enhance the capacity of the Force to respond to emerging policing challenges. I have seen for myself how well special constabularies, which are broadly equivalent to the Reserve, work in Britain, and how good and effective are the relations between them and the regular police forces. This is a great opportunity to enhance the policing service, and I urge the Garda Associations to take the opportunity now to make their contribution to its development.

#### **Garda Equipment.**

**72. Mr. Penrose** asked the Minister for Justice, Equality and Law Reform the number of Garda stations now equipped for the video recording of interviews with suspects; the total percentage of all stations this represents; the number of Garda stations with detention facilities that are so equipped; if there are any plans to equip further Garda stations; and if he will make a statement on the matter. [22142/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am advised by the Garda authorities that 131 Garda stations out of a total of 703 stations have video interview recording facilities — almost 19% of the total. In its Third Report dated September, 2004, the Steering Committee on Audio Video Recording of Garda Questioning of Detained Persons reported that there was a total of 167 Garda stations with detention facilities that are used to detain and interview people. In this regard, it should be noted that it was never the intention that all Garda stations would be equipped to carry out audio/video recording of interviews. Rather the intention was that a sufficient number of interview rooms in Garda stations across the country be equipped to provide a broad nationwide coverage.

Where a Garda station is not equipped with an audio/video system, a person to be interviewed in accordance with the Regulations will be taken to the nearest Garda station with such equipment. In this context, the Garda authorities have advised me that, in June 2005, a Garda survey indicated that 98.1% of interviews as specified in

the Regulations were being recorded. Interviews are not recorded mainly because either the arrested person declines to have the interview recorded or the equipment is already in use or is otherwise unavailable.

With regard to future and additional requirements I am advised that the Garda Commissioner is proceeding to prepare a tender for issue to the market for the provision of additional audio video systems.

#### **Asylum Policy.**

**73. Mr. Morgan** asked the Minister for Justice, Equality and Law Reform his views on the need for complementary protection for persons who have fled their country, and are unable or unwilling to return there due to the fact that their lives, safety or freedom are threatened by generalised violence, foreign aggression, internal conflict, massive violations of human rights or other circumstances which have seriously disturbed public order, including the lack of a functioning State Government. [22197/06]

**210. Mr. M. Higgins** asked the Minister for Justice, Equality and Law Reform the measures which the Government are taking to implement undertakings given under the Amsterdam Treaty Title IV, Article 63; if the Government will meet the deadline of 10 October 2006 for the transposition of the qualification directive 2004/83/EC; and the Government's intentions in relation to implementation of this directive. [22270/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 73 and 210 together.

Title IV of the Treaty establishing the European Community (inserted by the Treaty of Amsterdam) provides, inter alia, that the Council shall within a period of five years from the entry into force of the Amsterdam Treaty (1 May 1999), adopt certain minimum standards for asylum in EU Member States.

The objective of the relevant provisions of the EC Treaty is the creation of a common EU Asylum System, the establishment of which was endorsed by EU Heads of State and Government at the European Council in Tampere in 1999. A number of legal instruments in the area of asylum have been tabled by the European Commission to date and adopted by the Council.

Under the Protocol on the position of the United Kingdom and Ireland in relation to Title IV measures, the exercise of a specific option is required by the State, subject to the approval of the Government and the Houses of the Oireachtas, in order to take part in the measures in question.

The State has exercised the necessary options in respect of all asylum measures tabled to date under Title IV with the exception of the Recep-



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tion Standards Directive which it is not proposed to opt into at the present time.

Article 63.1(c) of the EC Treaty specifically provides for the Council to adopt measures on minimum standards with respect to the qualification of nationals of third countries as refugees. This provision provided the legal basis for the adoption of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, which necessitates the introduction of a subsidiary protection regime in the State later in the year.

Ireland's immigration and refugee legislation and practices are in compliance generally with the substance of Council Directive 2004/83/EC.

Work is ongoing in my Department to put the necessary statutory and administrative provisions in place as required before 10 October 2006 to ensure formal compliance with the Directive.

In addition to the subsidiary protection regime which I have referred to, the State already has comprehensive legislative provisions in place for determining whether non-nationals should be allowed to remain in the State for protection purposes or otherwise, such as the Refugee Act 1996, which sets out the framework for determining entitlement to refugee status; section 5 of the 1996 Act prohibiting refoulement of persons on various grounds and the very wide-ranging considerations under section 3(6) of the Immigration Act 1999.

### **Garda Training.**

74. **Mr. M. Higgins** asked the Minister for Justice, Equality and Law Reform if he will confirm that the Garda indoor firing range at Garda headquarters has been closed due to safety concerns; when it is expected that it will be reopened; the temporary arrangements which are in place to allow Gardai to continue firearms training; and if he will make a statement on the matter. [22130/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda Authorities that plans to refurbish the Garda indoor firing range at Garda Headquarters are being advanced. A specification of requirements has been prepared with the assistance of an external company which has expertise in this area.

In the interim, military ranges are being utilised to provide the requisite training for Garda personnel.

*Question No. 75 answered with Question No. 45.*

### **Garda Investigations.**

76. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform if the results of the investigation by a Garda superintendent into the bringing of public order charges against a person (details supplied) will be made available to the Houses of the Oireachtas; and if he will make a statement on the matter. [22191/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** A Garda Superintendent from outside the relevant Garda Division has been appointed to examine the circumstances surrounding the arrest, charging and subsequent acquittal of the person in question. That report has not yet been received. I do not propose to publish the report when it is received but it may be possible to provide the House with further information at that time.

77. **Mr. Ferris** asked the Minister for Justice, Equality and Law Reform the status of the investigation into the circumstances leading to the death of a person (details supplied) while in Garda custody; if there will be a full and public inquiry into their death; if there is or will be an investigation into allegations of intimidation and harassment of the person's family by Gardai; and if he will make a statement on the matter. [22193/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** A Detective Superintendent from outside the relevant Garda Division was appointed immediately after the incident to carry out a detailed investigation into all the circumstances surrounding the person in question's arrest, detention and removal to hospital. The Garda authorities submitted a file to the Director of Public Prosecutions on the matter and furnished a copy to me also. The Director issued instructions that no prosecution should ensue.

An inquest into this tragic death is ongoing at present. An inquest is an independent inquiry to ascertain the cause of death and the Coroner has statutory duties and powers, including the power to call witnesses. The Coroner cannot consider questions of civil or criminal liability. When the inquest has been completed and a verdict returned I will consider the matter further.

With regard to the recent allegations to which the Deputy refers, I have been informed by the Garda authorities that an investigation is currently underway by a Detective Superintendent from a Division outside the relevant area.

### **Drug Treatment Services.**

78. **Mr. McGuinness** asked the Tánaiste and Minister for Health and Children the programmes or facilities which are available in the Health Service Executive south east region for female heroin addicts who opt to detox; the number of places for males and females; her plans

to expand the service giving the increase in numbers seeking help; if funding is available to react to those needing the services; and if she will make a statement on the matter. [22023/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

### Child Protection.

79. **Ms Burton** asked the Tánaiste and Minister for Health and Children the action she is taking to ensure the safety of children in view of the fact that the protection offered by the Criminal Law Amendment Act 1935 has been withdrawn; and if she will make a statement on the matter. [22024/06]

**Minister of State at the Department of Health and Children (Mr. B. Lenihan):** As the Deputy is aware the Department of Health and Children in conjunction with the Department of Justice, Equality and Law Reform and other relevant Departments is committed to protecting children in Ireland today. This Government has taken a number of initiatives in regard to Child Protection, this includes the Children Act 2001, the improvement and expansion of Garda Vetting and most significantly the establishment of my office, the Office of the Minister for Children. This Office focuses on the important task of harmonising policy issues that affect children including early childhood care and education, youth justice, child welfare and protection, children and young people's participation, research on children and young people and cross-cutting initiatives for children. My Office is currently undertaking a review of the National Guidelines on Child Protection "Children First" and has advised the HSE in relation to a national awareness campaign on child abuse. Since 1997 the level of total additional revenue funding allocated to the HSE in the general area of child welfare and protection has been €200m. In 2006 an additional €8m was allocated within the HSE's Vote to child welfare and protection services.

With particular regard to recent developments the Deputy will again be aware that the Criminal Law (Sexual Offences) Act 2006 became law on 2nd June 2006. This legislation was introduced by the Minister for Justice, Equality and Law Reform as a direct consequence of recent Court decisions concerning the Criminal Law Amendment Act 1935. My Office is currently considering the implications of the 2006 Act in regard to Child Protection policy development.

The Deputy may wish to note that at the request of my Department, the HSE which has statutory responsibility for the protection of minors publicly invited any family directly affected by the recent Court decisions to make contact with the National Counselling Service. The HSE has confirmed that An Garda Síochána has made direct contact with the families involved to extend the offer of support and advise from the National Counselling Service

### Health Services Contracts.

80. **Mr. Carey** asked the Tánaiste and Minister for Health and Children the names of all companies which have provided services to the then Northern Area Health Board under the headings building construction, building maintenance, mechanical and electrical, painting and decorating, grounds maintenance and grass cutting, catering and provision of stationery for each year from 2000 to 2006; and if she will make a statement on the matter. [22025/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

81. **Mr. Carey** asked the Tánaiste and Minister for Health and Children the guidelines which have been issued by the Health Service Executive to area offices governing the award of contracts for the provision of services; the tendering process to be adhered to; the value for money guidelines which have been issued; the internal auditing arrangements which has been put in place to ensure compliance with good governance principles; the penalties which are in place for breach of the procedures mentioned; and if she will make a statement on the matter. [22026/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Section 6 of the Health Act, 2004 states that the Health Service Executive is a corporate body. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

82. **Mr. Carey** asked the Tánaiste and Minister for Health and Children her views on whether it is satisfactory that an employee of the Health Service Executive hiring outsider contractors can award a contract of less than €5,000 after receiving one quotation for the work and that three quotations are required if the contract is worth

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between €5,000 and €50,000 and that a formal tendering process is only required if the contract is worth more than the €50,000; and if she will make a statement on the matter. [22027/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The HSE Procurement Policy, which was published earlier this year, states that it is a key requirement that “competitive tendering or other forms of open competition shall be the normal practice except in exceptional circumstances as set out in the corporate policy statement”.

The HSE procurement procedures are broadly in line with the indicative values set out in the revised guidelines, drafted by the National Public Procurement Policy Unit (NPPPU) of the Department of Finance in consultation with the Government Contracts Committee and other participants in the public procurement market.

I have referred the Deputy’s question to the Parliamentary Affairs Division of the Executive to arrange for details on the HSE’s procurement procedures to be provided to him directly.

83. **Mr. Carey** asked the Tánaiste and Minister for Health and Children the guidelines which were issued to the health boards in the Eastern Regional Health Authority area regarding public procurement and tendering arrangements for the provision of services to the boards within the ERHA remit by outside contractors; the arrangements which were in place within her Department to ensure that these guidelines were adhered to; and if she will make a statement on the matter. [22028/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Health Service Executive (an area of which was formerly called Eastern Regional Health Authority) is governed by public law, and as such is obliged to comply with the requirements of public procurement law. Public procurement law requires adherence to the appropriate European Union Procurement Directives. In addition, the National Public Procurement Policy Unit of the Department of Finance issues national procurement policy and guidance material, which is available on the website — [www.etenders.gov.ie](http://www.etenders.gov.ie). While relevant information is freely available on this website, the Department also routinely brings any new developments to the attention of the Health Service Executive.

The HSE introduced a National Procurement Policy earlier this year which facilitates compliance with official public procurement policy and is in the process of establishing a new office with specific responsibility for Procurement. The HSE is currently recruiting for the post of Head of Procurement.

84. **Mr. Carey** asked the Tánaiste and Minister for Health and Children the arrangements which were in place in her Department to ensure that value for money was achieved by the then health boards in awarding contracts for the provision of services to the boards in the years 2000 to the establishment of the Health Service Executive; and if she will make a statement on the matter. [22029/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Like the Health Service Executive, the former health boards were governed by public law, and as such were obliged to comply with the requirements of public procurement law. Public procurement law requires adherence to the appropriate European Union Procurement Directives.

The Health Service Procurement Policy, which was published in 2000, had as its objectives to: ensure that materials management was developed in line with best practice; ensure that procurement practices complied fully with statutory regulations; ensure that savings and performance targets were met. The policy was also governed by a number of core values relating to the purchasing of supplies, works and services and included: achieving efficiency, effectiveness and best value for money in terms of overall life cycle costs; customer focus; dealing with quality suppliers, contractors and service providers; operating in a fair, open, transparent and non-discriminatory manner in the marketplace. This policy was accepted by the health boards, voluntary hospitals and direct funded homes. My Department also reminded the health boards regularly of their obligations to ensure that the spending of public funds should always conform to value for money principles.

#### **Cancer Screening Programme.**

85. **Ms O’Sullivan** asked the Tánaiste and Minister for Health and Children the progress made in recruiting clinical directors and other essential staff for the roll-out of BreastCheck to the south and west; the progress made in the appointment of contractors to construct clinical units in Cork and Galway; and if she will make a statement on the matter. [22030/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** I have met with representatives of BreastCheck and they are fully aware of my wish to have a quality assured programme rolled out to the remaining regions in the country as quickly as possible. For this to happen, essential elements of the roll-out must be in place including adequate staffing, effective training and quality assurance programmes. I have made available additional revenue funding of €2.3 million available to BreastCheck to meet the additional costs of roll out. I have also approved an additional 69 posts.



BreastCheck recently interviewed for Clinical Directors for the Southern and Western regions and appointments have been made and both will take up their positions later this year. Both are currently undergoing additional training in relation to their role as Clinical Director. This month BreastCheck will begin recruiting Consultant Radiologists, Consultant Surgeons and Consultant Histopathologists for both centres. BreastCheck are also recruiting radiographers. While the recruitment of radiographers is difficult at present as there is a shortage internationally of trained personnel, BreastCheck is confident that it will be in a position to employ sufficient radiographers at both sites.

BreastCheck also requires considerable capital investment in the construction of two new clinical units and in the provision of five additional mobile units and state of the art digital equipment. I have made available an additional €21 million capital funding to BreastCheck for this purpose. BreastCheck is in the process of short-listing applicants to construct the new clinical units at the South Infirmary/Victoria Hospital, Cork and University College Hospital Galway. BreastCheck is confident that the target date of next year for the commencement of roll-out to the Southern and Western regions will be met.

#### Health Services.

86. **Mr. Naughten** asked the Tánaiste and Minister for Health and Children if funding will be approved for a full seven day residential service for a charity (details supplied) in south County Roscommon; the status of the project; and if she will make a statement on the matter. [22048/06]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Vaccination Programme.

87. **Mr. Naughten** asked the Tánaiste and Minister for Health and Children further to Parliamentary Question No. 140 of 6 April 2006, the status of the review; when a compensation scheme will be put in place; and if she will make a statement on the matter. [22049/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** In its report on Childhood Immunisation, the Joint Oireachtas Committee on Health and Children recommended that legislation be drawn up to provide for a National Vac-

cine Injury Compensation Scheme. The feasibility of introducing such a scheme is currently under examination in my Department. This process is at an advanced stage and is being given priority in the Department's 2006 business plan.

#### Hospital Staff.

88. **Mr. Naughten** asked the Tánaiste and Minister for Health and Children further to Parliamentary Question No. 363 of 28 Sept 2005, if she will approve the appointment of three rheumatologists to cater for patient needs in the western Health Service Executive region and a paediatric rheumatologist; the additional rheumatology services which were provided in the region in 2005 and 2006; and if she will make a statement on the matter. [22051/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** In September 2002, Comhairle na nOspidéal initiated a review of Rheumatology Services. Its report, which was published in December 2005, examines the provision of services and makes recommendations on the organisation and development of rheumatology services in the future.

Responsibility for the implementation of these recommendations rests with the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Health Service Staff.

89. **Mr. Naughten** asked the Tánaiste and Minister for Health and Children further to Parliamentary Question No. 98 of 23 March 2006 if the high level working group has progressed the issues pertaining to the standardisation of the home help service including the issuing of contracts of employment; and if she will make a statement on the matter. [22053/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Health Service Executive (HSE) recognises and acknowledges the important services provided by personnel working throughout the home help service nationally and is committed to reviewing the existing models of services provided with a view to establishing a standardised high quality service that will benefit both clientele and staff.

In order to give effect to this commitment a high level working group comprising of representatives of the Health Service Executive, IMPACT and SIPTU have agreed to commence a process based on the partnership model and the following terms of reference have been agreed:- To review existing models/structures of home help services to address issues pertaining to the standardisation of services to include inter alia:



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1. The demands being placed on the services through the implementation of the home help agreement.
2. Outstanding issues pertaining to the implementation of the home help agreement.
3. Clarification on the nature of the service to be provided by home helps.
4. Explicit and agreed criteria for the assessment of need.
5. Standard criteria for entitlement.
6. Contractual service agreements with the voluntary organisations.
7. National guideline provisions for level of service provisions and the assessment of needs.
8. Recognition of the home help service as a service in its own right.
9. The role and status of home help organisers within this service.
10. The terms and conditions of home help organisers and other support staff employed by voluntary organisations.

A plan of work has been agreed by the parties in order to give effect to the agreed terms of reference. The high level group met yesterday, Wednesday 7 June 2006, to review progress and establish a number of subgroups to further progress tasks associated with the terms of reference.

#### Health Services.

90. **Mr. Naughten** asked the Tánaiste and Minister for Health and Children further to Parliamentary Question No. 236 of 21 February 2006, the funding provided to a charity (details supplied) in County Galway; the funding which will be provided to address existing service deficits and to develop new services in the Ballinasloe area; and if she will make a statement on the matter. [22058/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Under the Health Act 2004, the Health Service Executive (HSE) has the responsibility, with effect from 1 January 2005, to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. Voluntary organisations providing health and personal social services are funded by the Executive and it is a matter for the Executive to agree the levels of service and the appropriate funding in respect of each such organisation. My Department has requested the Parliamentary Affairs Division of the HSE to reply directly to the Deputy regarding the charity in question.

91. **Mr. Naughten** asked the Tánaiste and Minister for Health and Children further to

Parliamentary Question No. 237 of 21 February 2006 the position regarding the service provision for 2006; the plans for development of the services; and if she will make a statement on the matter. [22059/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** My Department has been informed by the Parliamentary Affairs Division of the Health Service Executive that a reply has been issued to the Deputy. In this regard I understand that an additional Consultant Physician with an interest in Endocrinology has recently been appointed to Roscommon County Hospital.

92. **Mr. F. McGrath** asked the Tánaiste and Minister for Health and Children the position regarding the home care package for a person (details supplied) in Dublin 3; and if the maximum support will be given. [22067/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

93. **Mr. Rabbitte** asked the Tánaiste and Minister for Health and Children if in relation to her recent visit to a nursing home (details supplied) in County Dublin, there are plans to extend or upgrade the premises having regard to the shortage of space for the 150 patients who are resident there; and if she will make a statement on the matter. [22068/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Irish Blood Transfusion Service.

94. **Mr. Allen** asked the Tánaiste and Minister for Health and Children if she is still committed to the provision of a new blood testing centre for Cork; and the funding which is available from her Department for such a centre in 2006. [22069/06]

95. **Mr. Allen** asked the Tánaiste and Minister for Health and Children if she will make a statement on the provision of a new blood testing centre in Cork; and the reason for the long delays

in bringing this matter to commencement and a successful conclusion. [22070/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** I propose to take Questions Nos. 94 and 95 together.

I fully support the development of a new Centre for the Irish Blood Transfusion Service (IBTS) in Cork. There is provision in the Capital Investment Framework 2005-09 for the appointment of a design team and commencement of the planning process for the new Centre.

The project is the subject of ongoing consultations between the IBTS and my Department. At my request, the IBTS Board is re-assessing the scope of the project in view of changes in work practice and service needs since the initial development brief for the project was produced in March 2003. The Deputy may also wish to note that in 2004 the IBTS invested more than €3 million in the refurbishment of its Cork Centre to ensure compliance with good manufacturing practice (GMP) standards.

#### Civil Registration Service.

96. **Mr. McGuinness** asked the Tánaiste and Minister for Health and Children if an appeal against a decision by the registrar general, civil registration service in the name of a person (details supplied) in County Carlow regarding the registration of their son will be reviewed and a decision issued based on the documents submitted by the person; and if she will make a statement on the matter. [22072/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** An tArd Chláraitheoir (Registrar General) is the person with statutory responsibility for the administration of the civil registration service. I have made enquiries with an tArd Chláraitheoir and the position is as set out as follows.

The Civil Registration Act, 2004, includes provision for the registration of births. Part 1 of the First Schedule to this act specifies the “required particulars” to be registered in respect of a live birth and there is therefore a legal requirement that each of these particulars, where known, be captured during the registration process. The required particulars to be registered are set out in the following Table.

Arising from this legal requirement, there is a duty on the parent(s), or any other person regarded as a qualified informant, to give these particulars to the registrar so that the registration of the birth can be effected.

In relation to the case referred to by the Deputy (details supplied), I understand that the mother objects to one of the required particulars, namely, a former surname which she had used, being entered in the register of births. An tArd Chláraitheoir has conducted a detailed examination of all relevant documentation, including the

birth registrations of all children born to the woman in question. As two birth registrations contain the former surname in question, an tArd Chláraitheoir informs me that he is unable to reach any conclusion other than that the former surname was used by the person and is therefore required under law to be registered in the registrations of any subsequent births.

Section 60 of the Civil Registration Act 2004 provides for an appeals procedure. Section 60(1) provides that where a registrar fails or refuses to register a birth or to enter in the register one or more of the particulars required to be registered, as provided for in Part 1 of the First Schedule, this may be appealed. However, as there is no failure or refusal by a registrar to register the birth or any of the required particulars, it would appear that the case in question does not come within the scope of the appeals provisions. The person in question may wish to seek legal advice in relation to this.

#### Particulars to be entered in the Register of Births

Date and place of birth  
Time of birth  
Sex of child  
Forename(s) and surname of child  
Personal public service number of child  
Forename(s), surname, birth surname, address and occupation of mother  
Former surname(s) (if any) of mother  
Date of birth of mother  
Marital status of mother  
Personal public service number of mother  
Birth surname of mother's mother  
Forename(s), surname, birth surname, address and occupation of father  
Former surname(s) (if any) of father  
Date of birth of father  
Marital status of father  
Personal public service number of father  
Birth surname of father's mother  
Forename(s), surname, qualification, address and signature of informant  
Date of registration  
Signature of registrar

#### Hospital Services.

97. **Mr. Kenny** asked the Tánaiste and Minister for Health and Children the amount of funding made available to Peamount Hospital in each of the years 2000 to 2006; her plans for the hospital; and if she will make a statement on the matter. [22090/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of

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the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Health Services.

98. **Mr. Kenny** asked the Tánaiste and Minister for Health and Children the timeframe for the development of a primary care health facility in Adamstown; and if she will make a statement on the matter. [22091/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act, 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Hospital Services.

99. **Mr. Wall** asked the Tánaiste and Minister for Health and Children when a person (details supplied) in County Kildare will receive their appointment for a scan examination; and if she will make a statement on the matter. [22104/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Health Services.

100. **Mr. McGinley** asked the Tánaiste and Minister for Health and Children if she will estimate the cost of running the Now Doc service in County Donegal for each year from 2002 to date in 2006; and if she will make a statement on the matter. [22157/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Water Fluoridation.

101. **Ms C. Murphy** asked the Tánaiste and

Minister for Health and Children the reason no information has been provided by her Department since 2001 on fluoride exposure in the population; the testing of the population being carried out in view of the acknowledgement that dental fluorosis is increasing; the specific measures intended to ensure that the public are protected against over exposure with regard to the growing scientific evidence of harm from fluoride exposure; and if she will make a statement on the matter. [22159/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** Fluoridation of public water supplies as a public health measure is accepted as being one of the most effective methods of ensuring against tooth decay. The World Health Organisation (WHO) recommends fluoridation of public water supplies and has stated that "fluoridation of water supplies, where possible, is the most effective public health measure for the prevention of dental decay." The WHO has also stated that "people of all ages, including the elderly, benefit from community water fluoridation".

The recently completed survey of oral health, covering the whole island of Ireland, shows that fluoridation of public water supplies continues to be a highly effective public health measure. It has contributed significantly to a major reduction in the incidence of dental decay in the Republic of Ireland. This compares favourably with the incidence of dental decay in Northern Ireland, which has significantly higher rates of dental decay and which does not have fluoridated water supplies. The oral health survey examined numerous aspects of fluoridation including dental fluorosis.

The oral health survey also shows that fluoridation of public water supplies has a significant impact on dental decay in disadvantaged areas. The gap, in terms of levels of decay, between non-disadvantaged and disadvantaged areas in the Republic of Ireland is significantly less than the gap between such areas in Northern Ireland.

The research carried out shows that, at the levels of usage of fluoride in the Republic of Ireland's public water supply, there is no risk to health. Fluoridation of the water supply in Ireland is limited to a maximum of one part per million. In this regard, the WHO and the European Union have identified that fluoridation levels below 1.5 parts per million are acceptable.

The Forum on Fluoridation recognised that there has been some increase in the incidence of mild dental fluorosis in Ireland. Most dental fluorosis is only detectable by dentists. The Forum, while recommending that fluoridation of water supplies continue, recommended a reduction in the levels of fluoride used from between 0.8 parts per million and 1 part per million to between 0.6 parts per million and 0.8 parts per million.

The Irish Expert Body on Fluorides and Health was set up in 2004. The terms of reference for the Expert Body are: — to oversee the implemen-

tation of the recommendations of the Forum on Fluoridation; — to advise the Minister and evaluate ongoing research — including new emerging issues — on all aspects of fluoride and its delivery methods as an established health technology and as required; — to report to the Minister on matters of concern at his/her request or on its own initiative.

As part of its work in implementing the recommendations of the Forum, the Expert Body examined the question as to what amendments may be required to the regulations, under the Health (Fluoridation of Water Supplies) Act, 1960, in order to give effect to the Forum's recommendation to reduce the level of fluorides in the public water supplies. The Expert Body has reported its findings to my Department. My Department is currently taking the necessary steps to introduce a new Regulation.

The results of fluoridation research and proposals for any future research is a matter for consideration by the Irish Expert Body on Fluorides and Health.

#### Health Services.

102. **Mr. Wall** asked the Tánaiste and Minister for Health and Children the number of step-down beds in private nursing homes in County Kildare that the Health Service Executive has leased for use by the HSE in each of the past three years; the cost of such leasing; and if she will make a statement on the matter. [22161/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

103. **Mr. Wall** asked the Tánaiste and Minister for Health and Children the number of complaints registered by patients to the Health Service Executive in regard to the K-Doc system in County Kildare; the nature of such complaints; the method of redressing the problems raised; and if she will make a statement on the matter. [22162/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

104. **Mr. Kehoe** asked the Tánaiste and Minister for Health and Children the reason dental treatment for a person (details supplied) in County Wexford is not being covered by the Health Service Executive; if the work can be carried out by the local health centre; and if she will make a statement on the matter. [22176/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

105. **Mr. Kehoe** asked the Tánaiste and Minister for Health and Children the reason a person (details supplied) in County Wexford is waiting for an appointment; the efforts which are being made to reduce the unreasonable waiting times; and if she will make a statement on the matter. [22177/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

106. **Mr. M. Higgins** asked the Tánaiste and Minister for Health and Children the number of public nursing home spaces which have been made available and the sites at which they have been made available in Galway City in each of the past ten years; if she will provide the same information with regard to places made available in County Galway over the same period; the number of spaces that it is projected are to be provided in each of the next five years; and if she will make a statement on the matter. [22178/06]

**Minister of State at the Department of Health and Children (Mr. S. Power):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Hospital Services.

107. **Mr. Naughten** asked the Tánaiste and



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Minister for Health and Children the acute hospital overrun in each hospital in the west and north west; and if she will make a statement on the matter. [22179/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

108. **Mr. Naughten** asked the Tánaiste and Minister for Health and Children the reason persons on a medical card in County Roscommon cannot get approval from the Health Service Executive to purchase glasses from opticians; if she has satisfied herself regarding this situation; the steps which are being taken to address the problem; and if she will make a statement on the matter. [22180/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Hospital Services.

109. **Mr. Kehoe** asked the Tánaiste and Minister for Health and Children the reason her commitment in Dáil Éireann in February 2006 concerning the awarding of a service level agreement for a service in a clinic (details supplied) in County Kilkenny has not been reached within the two month period stated by her; the amount being spent transporting patients from Carlow or Kilkenny by ambulance or taxis to other renal units; the number of patients who are receiving renal dialysis in Carlow and Kilkenny; and if she will make a statement on the matter. [22261/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Hospital Waiting Lists.

110. **Mr. Crowe** asked the Tánaiste and Minister for Health and Children if she will make a statement on the fact that a patient (details supplied) in Dublin 15 waiting for a kidney and pancreas transplant for nearly four years cannot receive a transplant should an organ become available due to there being only one pancreatic transplant surgeon in this State who is unavailable. [22262/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Hospital Accommodation.

111. **Mr. Cregan** asked the Tánaiste and Minister for Health and Children the situation in relation to Hume Street Hospital, Dublin; her future plans in relation to same; the reason hospital facilities and services are being run down; her plans for alternative services; the persons who requested same; the highest number of beds which existed in the hospital; the number of beds in recent years; the annual investment by the State in the hospital; and the person who owns the building and who would benefit from proceeds of the sale of the property. [22266/06]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

#### Decentralisation Programme.

112. **Mr. F. McGrath** asked the Minister for Finance the position regarding the decentralisation scheme; if the National Standards Authority of Ireland is included in the scheme; and if he will provide further details on this group. [21996/06]

**Minister for Finance (Mr. Cowen):** The National Standards Authority of Ireland (NSAI) is an agency under the aegis of the Department of Enterprise, Trade and Employment. I will answer on behalf of my colleague the Minister for Enterprise, Trade and Employment. Under the Government's Decentralisation Programme, the NSAI, with a total 132 staff, is to be relocated

to Arklow. The total number of first preference priority applications made via the Central Applications Facility from staff within the agency is 11. When those from across the civil service and the rest of the public service are added the total is 130. The NSAI are working closely with the OPW to identify and secure suitable office accommodation in the Arklow area. The NSAI anticipates that its decentralisation plan will be complete by April 2009.

### Tax Collection.

113. **Ms Burton** asked the Minister for Finance the number of high net worth persons who have been identified by the Revenue Commissioners for monitoring and review in terms of tax compliance; the number of such persons who have been identified; the ranges of net worth identified as qualifying for this category in bands of five million; the proportion of income tax such persons have paid in proportion to their income for the tax years 2003 and 2004 and other years for which such data is available from the year 2000 to date in 2006; the principal occupations of such high net worth persons, for example, property developer, land owner, farmer, industrialist; and if he will make a statement on the matter. [21997/06]

**Minister for Finance (Mr. Cowen):** I am advised by the Revenue Commissioners that the High Wealth Individuals Business Unit of the Large Cases Division monitors the tax compliance of approximately 300 individuals who are considered to be Ireland's wealthiest individuals, each having in general a net worth in excess of about €50m. This unit also monitors the related trusts and private investment vehicles of these individuals. Wealthy individuals not in the Large Cases Division come within the remit of the other operational Divisions. As information on net worth is not required on returns of income, it is not possible to provide definitive information in regard to the ranges of net worth of these individuals. It is estimated that the average rates of tax paid by the high wealth individuals for whom the Large Cases Division is responsible are set out in the following table:

Year	Average Rate
	%
2000-01	25.5
2001	28.9
2002	24.3
2003	30.2

The income figure used in estimating these average rates of tax is the figure before deducting specific reliefs, such as capital allowances and trading losses, but it does not include certain income such as artists' exempt income and patent income. It has not been possible to include

deposit interest retention tax (DIRT) as tax paid in the computation of average rate for the years 2002 and 2003 whereas the related income has been included. This has the effect of reducing the average rate in these years. In respect of 2004 it has not been possible to provide information on the average rate in the time available. As the tax returns for 2005 and 2006 are not yet due the information requested is not available for these tax years. While it is difficult to categorise precisely by occupation the individuals whose tax affairs are dealt with in Large Cases Division, in broad terms they are principally involved in the following sectors of the economy: property development and construction, retail sales, entertainment, IT, hotels and the motor trade. Finally, I would point out to the Deputy that the Revenue Commissioners' study "Effective tax rates of the top 400 earners: Report for the tax year 2002" will be published by my Department shortly.

### Residential Mortgage Borrowing.

114. **Ms Burton** asked the Minister for Finance his views on the report in respect of the borrowing statistics for the month to 30 April 2006 showing some of the highest recorded increases in borrowing and in particular a €1.8 billion increase in residential mortgage borrowing; his further views regarding the surge in borrowing and property prices; his proposals to address the issue; and if he will make a statement on the matter. [21998/06]

**Minister for Finance (Mr. Cowen):** As the Deputy will be aware, a high proportion of household indebtedness in Ireland relates to borrowing for house-purchase which, in turn, involves the acquisition of an asset for the households. In the same way, borrowing by the business sector generally underpins investment, and the creation of business assets yielding future income. It therefore reflects the strong performance of the economy and confidence in Ireland's economic prospects. Demand for housing has risen strongly in recent years and has been underpinned by demographic factors, the innate strength of the economy and the impact of an accommodating monetary stance, including historically low interest rates. House prices have risen rapidly in recent years driven by these fundamental factors. It is reasonable to assume that, over time such factors as the large increase in new housing supply will restore equilibrium to the market. This should allow output to move gradually closer to sustainable demand and result in more moderate price increases. There is currently a broad consensus amongst commentators such as the OECD and the IMF that the most likely outcome for the housing market is for a "soft landing". Whilst the pattern of mortgage growth and associated debt levels in the economy are supported by a range of fundamental factors such as growing employment, rising real incomes, favourable demo-

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graphics and low inflation and interest rates, the Central Bank has highlighted the need for borrowers and lenders to take account of the current very low level of interest rates and the fact that this situation cannot continue indefinitely. I share the view that both borrowers and lenders need to factor into their financial decision-making the prospective impact of potential changes in the future economic and financial environment.

#### State Claims Agency.

115. **Mr. Crawford** asked the Minister for Finance the expected cost to date of the legal advisor employed by the State Claims Agency to contest a case (details supplied); and if he will make a statement on the matter. [21999/06]

**Minister for Finance (Mr. Cowen):** I am informed by the State Claims Agency that costs

Year	Single Male	Single Female	Widower Male	Widow Female	Total
2003	30,250	64,490	2,820	7,150	104,710
2004	31,280	66,470	2,850	7,290	107,890
2005	31,980	67,860	2,910	7,410	110,160

(Figures are rounded to the nearest ten, provisional and subject to revision)

The numbers availing of the one parent family tax credit represent income earners who were in a position to absorb at least some of the one parent family tax credit and thereby give rise to an Exchequer cost. They do not include the numbers of potential claimants whose entitlements to other tax credits were sufficient to reduce their liability to tax to nil. The figures shown in the table are estimates which are derived from the Revenue tax forecasting model using actual data for the year 2002 adjusted to reflect actual or estimated growth in employment and wages for the year in question.

117. **Mr. Stanton** asked the Minister for Finance if persons who are not paying maintenance or who are not complying will maintenance requirements are still eligible for the one parent family tax credit; if so, his plans to make changes to this situation; if he will provide figures for the number of people who have been refused the one parent family tax credit as a result of non-compliance with maintenance payments for each year since the year 2003 respectively; and if he will make a statement on the matter. [22001/06]

118. **Mr. Stanton** asked the Minister for Finance his views on the assertion on page 112 of the recently published Government discussion paper, *Proposals for Supporting Lone Parents* (details supplied); the action he intends to take on foot of this recommendation; and if he will make a statement on the matter. [22002/06]

to date in respect of the Solicitors and Counsel retained in this case were €8,363.71. The Agency operates on behalf of instructing clients and I have no function in the matter.

#### Tax Code.

116. **Mr. Stanton** asked the Minister for Finance the breakdown by gender of the number of people claiming the one parent family tax credit for each year since the year 2003 respectively; and if he will make a statement on the matter. [22000/06]

**Minister for Finance (Mr. Cowen):** I am informed by the Revenue Commissioners that a breakdown by gender of the estimated number of income earners availing of the one parent family tax credit, for the years 2003 to 2005 inclusive, is set out in the following table:

**Minister for Finance (Mr. Cowen):** I propose to take Questions Nos. 117 and 118 together.

I am informed by the Revenue Commissioners that a one-parent family tax credit is a credit that can be claimed by a single parent (whether widowed, single, deserted, separated or divorced) who has a dependent child resident with him/her for the whole or part of the relevant tax year. The payment or non-payment of maintenance, as the case may be, by such a single parent is not a determining factor in entitlement to the one-parent family tax credit in respect of children of a claimant. The statistics sought by the Deputy do not exist. In relation to the Government Discussion Paper — *Proposals for Supporting Lone Parents*, the maintenance requirements mentioned on page 112 of the Paper, and quoted in the details supplied with the Deputy's question, are those which arise specifically under Social Welfare legislation. That legislation provides that liable relatives shall be liable to contribute such amount as may be determined towards support payments, such as the one-parent family payment, deserted wife's allowance or benefit or supplementary welfare allowance paid by the Department of Social and Family Affairs. The recommendation to which the Deputy refers is made in the context of enhancement of procedures whereby liable relatives are pursued in this regard. The Paper in question is, as its name indicates, a discussion paper on the issues facing lone parents, the purpose of which is to allow a full and frank debate and all views to be aired, all sections of society to be heard and in time areas of agreement and consensus to evolve and

emerge. The question of making any changes in the conditions attaching to the one-parent family tax credit would be one for consideration in the context of future Finance Bills.

### **Credit Cards.**

119. **Mr. Cregan** asked the Minister for Finance the law for persons who change credit card companies; if he will confirm that only one annual charge for stamp duty should be paid in the year when the account changed; the evidence which is necessary to satisfy the original company of same; and if he will make a statement on the matter. [22088/06]

**Minister for Finance (Mr. Cowen):** The legislation in respect of the €40 stamp duty charge on credit card accounts is contained in section 124 of the Stamp Duties Consolidation Act 1999. In the Finance Act 2005, this section was amended to ensure, that where an individual switches credit card companies during a year, commencing with the year ended 1 April 2006, only one €40 stamp duty charge will arise in the year. Where an individual does switch to a different credit card company, the €40 stamp duty will be charged on closure of the “old” credit card account. Where this €40 stamp duty is paid in the year, the “old” credit card company will issue a letter of closure to the individual confirming payment of the €40. This letter of closure should then be passed on to the “new” credit card company where the receipt of same will ensure that a €40 stamp duty charge will not be levied on the “new” credit card account in the same year of charge.

### **Disabled Drivers.**

120. **Mr. Durkan** asked the Minister for Finance the position in regard to the inter-Departmental review of the 1994 disabled drivers’ disabled passengers tax concessions; when it is expected to extend the limits of the scheme; and if he will make a statement on the matter. [22250/06]

**Minister for Finance (Mr. Cowen):** The Deputy is referring to the Disabled Drivers and Disabled Passengers (Tax Concessions) Scheme that provides relief from VAT and VRT on the purchase of a car adapted for the transport of a person with certain physical disabilities, as well as relief from excise on the fuel used in the car up to a certain limit. The disability criteria for eligibility for the tax concessions under this scheme are set out in the Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations 1994. A person must be severely and permanently disabled and satisfy one of the following conditions:

(a) be wholly or almost wholly without the use of both legs;

(b) be wholly without the use of one leg and almost wholly without the use of the other leg such that the applicant is severely restricted as to movement of the lower limbs;

(c) be without both hands or without both arms;

(d) be without one or both legs;

(e) be wholly or almost wholly without the use of both hands or arms and wholly or almost wholly without the use of one leg;

(f) have the medical condition of dwarfism and have serious difficulties of movement of the lower limbs.

A special Interdepartmental Review Group reviewed the operation of the Disabled Drivers Scheme. The terms of reference of the Group were to examine the operation of the existing scheme, including the difficulties experienced by the various groups and individuals involved with it, and to consider the feasibility of alternative schemes, with a view to assisting the Minister for Finance in determining the future direction of the scheme. The Group’s Report, published on my Department’s website in July 2004, sets out in detail the genesis and development of the scheme. It examines the current benefits, the qualifying medical criteria, the Exchequer costs, relationship with other schemes and similar schemes in other countries. The Report also makes a number of recommendations, both immediate and long-term, referring respectively to the operation of the appeals process and options for the future development of the scheme.

In respect of the long-term recommendations, which included the qualifying disability criteria, I should say that given the scale and scope of the scheme, further changes can only be made after careful consideration. For this reason, the Government decided that the Minister for Finance would consider the recommendations contained in the Report of the Interdepartmental Review Group in the context of the annual budgetary process having regard to the existing and prospective cost of the scheme. The best way of addressing the transport needs of people with disabilities including the effectiveness, suitability or otherwise of the Disabled Drivers’ Scheme in that regard will be progressed in consultation with the other Departments who have responsibility in this area. In any event, a car tax concession scheme can obviously play only a partial role in dealing with this serious issue.

### **Fishing Vessel Licences.**

121. **Mr. Ferris** asked the Minister for Communications, Marine and Natural Resources if he will make a statement on the situation regarding the licence, kilowatt and tonnage allocation for Atlantis WD 44. [22077/06]

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** The Licensing Authority established under the Fisheries (Amendment) Act 2003 has informed me that an application for a sea-fishing boat licence in respect of a vessel and a proposal to use the capacity of the “Atlantis”



[Mr. Browne.]

as replacement capacity for the purpose of licensing this vessel was received by him on 5 April 2006 and a licence offer for the vessel was issued on 26 April 2006.

The “Atlantis” had been de-registered on 26 May 2004 and, in accordance with Policy Directive 2/2003, the capacity of this vessel expired on 25 May 2006. A letter had been issued to the applicant on 28 October 2005 confirming the amount of capacity credited to him in respect of the “Atlantis” and pointing out that it must be re-introduced onto the Irish Fishing Boat Register by 25 May 2006.

The Fisheries (Amendment) Act 2003 does not give power to the Licensing Authority to vary the requirements of a Policy Directive, such as to extend the two-year period of validity of off-register capacity. The Licensing Authority is therefore precluded from granting an extension of the period of validity of the capacity of a vessel.

### Harbours and Piers.

122. **Mr. Perry** asked the Minister for Communications, Marine and Natural Resources when a decision will be made on an application (details supplied) which was lodged with his Department officials; and if he will make a statement on the matter. [22166/06]

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** The application referred to is currently being reviewed by Department officials who have had discussions with the applicant. Any decision will take into account existing leasing arrangements with the applicant, public procurement guidelines and what is in the best interest for the development of the Fishery Harbour Centre.

### International Agreements.

123. **Mr. Eamon Ryan** asked the Minister for Foreign Affairs if his attention has been drawn to the declaration made by the Trade Ministers of the African Union on 14 April 2006 in which they called for the pending review of the EU-ACP EPA negotiations due to take place in autumn 2006 to fully explore the alternatives to EPAs; his views on their call; the alternatives he favours; and if he will make a statement on the matter. [22022/06]

**Minister of State at the Department of Foreign Affairs (Mr. C. Lenihan):** I am aware of the declaration referred to by the Deputy. Many of the issues contained in it were raised by African Caribbean and Pacific (ACP) Ministers at the ACP-EU Council of Ministers meeting which took place at Port Moresby, Papua New Guinea on 1 and 2 June.

In response to the ACP concerns, the Union made a written declaration on Economic Partnership Agreements (EPAs), which is part of the conclusions of the ACP-EU Ministerial Council, as follows: “The EPAs, as development instruments, are aiming at fostering the smooth and gradual integration of the ACP states into the world economy, especially by making full use of the potential of regional integration and South-South trade. The Commission reconfirms that the gradually arising needs from the implementation of EPAs will be taken into account in the programming dialogue with the ACP on the resources of the 10th EDF, covering the time period after the entry into force on 1 January 2008. Moreover the EU recalls its commitments to substantially increase Aid for Trade by 2010 in addition to the EDF resources.”

The review of the EPA negotiations is mandated by the Cotonou Agreement of 2000. Since trade is a Community competence, the European Commission negotiates the establishment of the EPAs on behalf of the Member States and is responsible for the preparation of the review. EU Development Ministers set out their views on what should be the content of this review at the April meeting of the General Affairs and External Relations Council (GAERC). The Conclusions of this meeting call on the Commission to make this review “formal and comprehensive with participation from the ACP side”.

Furthermore, the GAERC asked that the review should cover “both trade and development aspects of the EPAs, including cross-cutting issues affecting the development prospects of all ACP countries (e.g. market access and rules of origin, regulatory and safeguard provisions etc)” as well as “necessary measures to support the timely completion of the negotiations”.

I fully endorse this position. I would like to point out that the Council also called for the establishment of a monitoring mechanism to allow for effective monitoring of the development and trade challenges involved in EPAs, and to help ensure that they achieve development outcomes. I have myself underlined the importance of such a monitoring mechanism at the GAERC.

I welcome the valuable opportunity the EPA review will provide to take stock of progress to date and to address the concerns of our ACP partners. Ireland will continue to urge that the EPA negotiations result in agreements that are supportive of ACP countries’ development needs and their poverty reduction efforts.

### Human Rights Issues.

124. **Aengus Ó Snodaigh** asked the Minister for Foreign Affairs if members of the US Marines (details supplied) had passed through Shannon Airport on their journey to or from Iraq; and if he will make a statement on the matter. [22043/06]

125. **Aengus Ó Snodaigh** asked the Minister for Foreign Affairs if he has had contact with his United States counterpart or other US authorities regarding the massacre of civilians in Haditha, Iraq on 19 November 2005; if so, if he will report on the context and outcome of that contact; if he has asked for or received information regarding whether the Marines involved had passed through Shannon Airport on their journey to or from Iraq; and if he will make a statement on the matter. [22045/06]

**Minister for Foreign Affairs (Mr. D. Ahern):** I propose to take Questions Nos. 124 and 125 together.

I share the serious concern which has been widely expressed about the allegations regarding events in Haditha in November 2005 which resulted in the deaths of Iraqi civilians. In its discussions with the US administration on the situation in Iraq, the Government has always made the point very clearly that the use of force in civilian areas should be kept to a minimum, and that every possible effort must be made to avoid civilian casualties.

It is essential that allegations of this kind be investigated fully and transparently, and that appropriate action is taken in response to the findings which emerge. I understand that the US military investigation into the events in Haditha is nearing completion and that the results will be made public. The Government welcomes the public assurance given last week by President Bush that any violation of the law by members of the US forces in Haditha will be punished.

In relation to the transport of US troops to and from Iraq, the Government does not hold records of individual military units which pass through Shannon Airport. The international forces serving in Iraq are operating under UN mandate, and at the request of the Iraqi Government. The presence of the Multinational Force was authorised by the UN Security Council under Resolution 1511 of October 2003, which also urged Member States to contribute assistance under the UN mandate. The mandate was reaffirmed in Resolution 1546 of June 2004 and was extended until the end of 2006 by Resolution 1637, which was adopted unanimously by the Security Council in November 2005.

More broadly, the Government and our partners in the EU remain very concerned at the rising level of violence in Iraq, which continues to claim the lives of large number of Iraqi civilians. The approval of a national unity Government by the Iraqi Parliament on 20 May was a welcome and significant step. Iraq now has a fully sovereign and democratic Government and Parliament, mandated for four years. However, Prime Minister Nuri Al-Maliki and his colleagues face serious challenges as they work to achieve the conditions in which the Iraqi authorities can assume full responsibility for the security and

well-being of the country and its people. The EU is determined to maintain its strong support for the Government's efforts.

### **Passport Applications.**

126. **Mr. Allen** asked the Minister for Foreign Affairs the reason the Passport Office refuses to complete the processing of a passport application due to the fact that the application was made in Irish and differed from the applicant's birth certificate name; the further reason the applicant was asked for tax documents and banks statements amongst others despite the fact that they are a 19 year old student who never held a provisional driving licence or a full driving licence; and his views on whether the decision is discriminatory against the Irish language. [22062/06]

**Minister for Foreign Affairs (Mr. D. Ahern):** A passport is an identity document issued by the State. It is usually provided in the name in which the person's birth was registered or in their married name when so requested. The long form of the birth certificate and, as the case may be, the marriage certificate are required as supporting documents.

If a person seeks a passport in a form of his/her name other than that supported by his/her birth/marriage certificate, the Passport Office will require proof of usage of the form of name over a period of two years. This is sought in all cases, including when a person seeks a passport in the English form of the name but the birth certificate shows the Irish version, and vice versa.

The requirements of the Passport Office in this respect are set out in the notes which accompany the application form as follows: Name to appear on the Passport. Complete Part A in the name by which you are normally known. Enter forenames 1, 2, 3 and 4 [if applicable] in the order as indicated on the form.

If the name by which you are commonly known differs from the version entered on your birth certificate, other than by marriage, you will be required to produce either a deed poll or evidence of usage of the name for at least two years, e.g. tax documents, bank statements, drivers licence, school reports etc. It will be necessary to produce at least two examples of such usage.

Where an applicant does not have the full 2 years proof of usage, the Passport Office can issue a passport, initially valid for 2 years, in the new form of their name, with a record of their birth certificate name entered on the observations page of the passport. After 2 years, the holder may then reapply for a passport solely in the new form of their name upon submitting proof of its usage.

### **Overseas Development Aid.**

127. **Mr. Bruton** asked the Minister for Foreign Affairs his views on whether some of the Govern-

[Mr. Bruton.]

ments with which Ireland has channelled aid money are ranked as having very high corruption problems in international assessments; if he is satisfied that Irish money does not end up diverted to corrupt purposes; and the arrangements which he has in place to prevent such abuses. [22089/06]

**Minister of State at the Department of Foreign Affairs (Mr. C. Lenihan):** Ireland provides development support to some of the poorest countries in the world, a number of which are ranked as having a high level of corruption. Corruption affects the poorest in society, and working in countries with corruption and weak governance generates a higher risk for donors, including Ireland. We are committed to addressing corruption through improving transparency and accountability, supporting public oversight institutions, parliamentary reform and the independent media, as well as building the capacity of civil society to influence and monitor public policy decisions.

For example, in Ethiopia, Ireland supports the strengthening of internal and external audit functions within the Government of Ethiopia. In Uganda, Ireland provides direct support to oversight bodies actively engaged in preventing and addressing corruption, such as the Inspectorate General of Government and the Directorate of Ethics and Integrity. In Zambia, Ireland supports the work of a special Task Force on Corruption. It also provides assistance to the public financial management system, as well as supporting parliamentary oversight of budget implementation and the work of civil society institutions engaged in anti-corruption activities.

In parallel with these support measures, rigorous controls and audit systems are in place to protect Irish funding from abuse. Ireland's funding is subject to external audit by reputable international auditing firms. At the Government level, donor funding is subject to the national auditing systems and to external examination.

In addition to these oversight procedures, a number of internal controls and mechanisms are also applied. An Audit Committee within Irish Aid, which consists of four external members, contributes to the strengthening of these controls. An integrated accounting system is also in place which is in line with best practice and meets OECD reporting and expenditure requirements.

While we are working in some of the most difficult operating environments in the world, I am satisfied that the monitoring, evaluation and audit systems which we have in place provide the best protection possible against misuse of Irish taxpayers' funds.

### Swimming Pool Projects.

128. **Mr. Kenny** asked the Minister for Arts, Sport and Tourism the swimming pools which

have been funded by his Department in the years 2000 to 2006; the locations where they have been built; the size of population areas they serve; and if he will make a statement on the matter. [22083/06]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** My Department administers the Local Authority Swimming Pool Programme, which provides grant aid to local authorities in respect of the capital costs of a new swimming pool, a replacement pool or the refurbishment of an existing pool. The closing date for receipt of applications under the current round of this Programme was 31 July 2000 and since then a total 57 projects have or are being dealt with. Of the 57 projects within the Programme, 19 have been completed and 14 are now under construction or are about to start construction. In addition, 24 other projects are at various stages in the Programme — 6 at tender stage, 10 at contract documentation stage and 8 at preliminary report stage. Details of these projects are provided in the table which follows. It is important to note that progress under the programme is largely determined not by my Department, but by the speed at which individual local authorities progress their projects.

As part of the Preliminary Reports/Feasibility Studies required for each project, local authorities are required to address issues of population/catchment areas in assessing the viability of their projects, bearing in mind that all operational costs are solely the responsibility of the local authority. An Expenditure Review of the Local Authority Swimming Pool Programme, which is underway at present, will also address the issue of the population/catchment areas for public swimming pools from the regional/national perspective.

#### PROJECTS COMPLETED (19)

1. Arklow (Refurbish)
2. Courtown/Gorey (New)
3. Dundalk (New)
4. Ennis (New)
5. Enniscorthy (New)
6. Monaghan (Refurbish)
7. Navan (New)
8. Wicklow (New)
9. Roscommon (Refurbish)
10. AquaDome, Tralee (Refurbish)
11. Ballinasloe (Replace)
12. Finglas, Dublin (Replace)
13. Grove Island, Limerick (New)
14. Sports and Leisure Centre, Tralee (Refurbish)
15. Clonmel (Refurbish)
16. Churchfield, Cork City (Refurbish)
17. Ballymun, Dublin City (Replace)
18. Tuam, Co Galway (Replace)
19. Drogheda, Co Louth (Replace)



# UNDER CONSTRUCTION OR ABOUT TO START CONSTRUCTION (14)

1. Cobh, Co Cork (Replace)
2. Youghal, Co Cork (New)
3. Ballyfermot, Dublin City (Replace)
4. Jobstown, South County Dublin (New)
5. Letterkenny, Co. Donegal (Replace)
6. Monaghan town (Replace)
7. Ballybunion, Co Kerry (New)
8. Clondalkin, South County Dublin (Replace)
9. Killarney, Co Kerry (New)
10. Askeaton, Co. Limerick (Replace outdoor pool)
11. Portlaoise, Co. Laois (Replace)
12. Portarlington, Co. Laois (Refurbish)
13. Longford, Co. Longford (Replace)
14. Thurles, Co Tipperary (Replace)

## OUT TO TENDER (6)

1. Athy, Co. Kildare (Replace)
2. Birr, Co. Offaly (Refurbish)
3. Naas, Co. Kildare (Replace)
4. Claremorris, Co. Mayo (Refurbish)
5. St. Michael's House, Dublin (New)
6. Kilkenny City (Replace)

## CONTRACT DOCUMENTS STAGE (10)

1. Tullamore, Co. Offaly (Replace for outdoor pool)
2. Bray, Co. Wicklow (Replace)
3. Greystones, Co. Wicklow (New)
4. Skerries, Fingal (New)
5. Roscrea, Tipperary, NR (New)
6. New Ross, Co. Wexford (Replace)
7. Buncrana, Co. Donegal (Refurbish)
8. Glenalbyn, Co. Dublin (Refurbish)
9. Castlebar, Co. Mayo (Replace)
10. Dunmanway, Co. Cork (Refurbish)

## PRELIMINARY REPORT STAGE (8)

1. Dundrum, Co. Dublin (Replace)
2. Edenderry, Co. Offaly (Replace)
3. Clara, Co. Offaly (Refurbish)
4. Ballybofey, Co. Donegal (New)
5. Ferrybank, Co. Wexford (Refurbish)
6. Ballaghaderreen, Co. Roscommon (New)
7. Loughrea, Co. Galway (New)
8. St. Joseph's School for Deaf Boys

129. **Mr. Kenny** asked the Minister for Arts, Sport and Tourism if his Department plans to support the establishment of a swimming pool in Lucan; the result of discussions which have taken place with South Dublin County Council on same; when funding will become available; and if he will make a statement on the matter. [22084/06]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I understand that South Dublin County Council is preparing a revised Water Leisure Strategy at this time and that part of this strategy will address the question of the provision of a new public swimming pool for Lucan.

The current round of the Local Authority Swimming Pool Programme, which is administered by my Department, was closed to applications on 31 July 2000 and no application was made in respect of a public swimming pool for Lucan before that date. The priority in relation to the current round is to support the 57 projects that applied for funding and new applications for grant aid towards the construction of swimming pools are not being considered at this time. However, my Department is carrying out an Expenditure Review of the Programme which is examining, among other things, how it has worked to date and what amendments, if any, are required to ensure its effective and efficient delivery. This Review is expected to be completed by end July. On completion of this Review, the question of re-opening the Programme will be addressed.

## **Sports Capital Programme.**

130. **Mr. Wall** asked the Minister for Arts, Sport and Tourism his views on providing 100 percent grants for capital sports projects in view of the high number of applicants who due to financial constraints cannot draw down their allocations; and if he will make a statement on the matter. [22163/06]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** Under my Department's sports capital programme, grants are allocated to sporting and to voluntary and community organisations for the provision of sporting and recreational facilities and equipment. The programme is advertised on an annual basis.

A review of the programme was published in December 1998 and, following its recommendations, a detailed set of guidelines, terms and conditions for the programme were established for the 1999 programme and continue to be used. One of the recommendations was in relation to the minimum amount of the project cost which an applicant for a local project should be expected to have in place at the time of making an application. That level was set at 30% with a reduction for designated disadvantaged projects of 20%. Disadvantaged projects are those designated by Government for special support through the schemes administered by the Department of Community, Rural and Gaeltacht Affairs (DCRGA), i.e. namely RAPID 1, RAPID 2, Local Drugs Task Force areas and Clár. Successful applicants to the sports capital programme which are in Clár or which have been endorsed by RAPID, qualify for additional top-up funding from DCRGA, up to a maximum total allocation of 80% of the project cost.

In circumstances where an applicant has access to funding from other Government sources, it is still expected to have at least 5% of the cost in its own funding. The need for a local contribution is a normal requirement in relation to Govern-



[Mr. O'Donoghue.]

ment funding and is in accordance with accepted levels of best practice.

My Department is currently undertaking a new strategy for the funding of sports facilities and one of aspects which it will examine is the minimum level of funding which should be required by applicants under the sports capital programme.

#### Departmental Investigations.

131. **Mr. Wall** asked the Minister for Arts, Sport and Tourism the number of submissions received by his Department in relation to the due process attached to persons named in the Dalton Report in relation to the greyhound industry; when the report will be placed in the library of the Houses of the Oireachtas or made public; and if he will make a statement on the matter. [22164/06]

132. **Mr. Wall** asked the Minister for Arts, Sport and Tourism the number of persons that received the Dalton Report on the instructions of the Attorney General, by his Department; and if he will make a statement on the matter. [22165/06]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I propose to take Questions Nos. 131 and 132 together.

In accordance with the advice of the Attorney General, copies and, in some cases, extracts of the Dalton Report were sent to persons referred to in the report on a confidential basis to afford them an opportunity to submit observations on the report to me by the close of business on 31st May 2006. A total of nine submissions were received by that date and these have been made available to Mr Dalton for the purposes of finalising his report. Following the receipt of the report from Mr. Dalton, I will present proposals to my Cabinet colleagues for dealing with the recommendations made in the "Dalton Report" including seeking the approval for the publication of the Report.

#### EU Funding.

133. **Ms Harkin** asked the Minister for Enterprise, Trade and Employment the level of grant aid that will be made available to SME's and large enterprises in the Border Midland Western region between 2007 to 2013. [22017/06]

134. **Ms Harkin** asked the Minister for Enterprise, Trade and Employment the transitional arrangements with regard to State aid for the Border Midland Western region 2007 to 2013. [22018/06]

135. **Ms Harkin** asked the Minister for Enterprise, Trade and Employment the mid-west region will be designated 87(3) (c), for the purpose of State aid, in the next programming period; if contiguous counties will be included; and the transitional arrangements which are expected. [22019/06]

136. **Ms Harkin** asked the Minister for Enterprise, Trade and Employment if the south eastern region, or part of it, be designated 87(3)(c). [22020/06]

137. **Ms Harkin** asked the Minister for Enterprise, Trade and Employment if the map of designated regions here is near completion; and when same will be published. [22021/06]

**Minister for Enterprise, Trade and Employment (Mr. Martin):** I propose to take Questions Nos. 133 to 137, inclusive, together.

On 21 December 2005, the European Commission adopted new Regional Aid Guidelines for 2007-2013. The Regional Aid Guidelines govern the areas in which Member States may grant regional aid, more commonly known as investment aid. Investment aid is intended to promote the economic development of certain disadvantaged areas within the European Union in order to redress regional disparities. The Guidelines specify rules for the selection of regions which are eligible for regional aid and define the maximum permitted levels of this aid. In line with EU cohesion policy and European Council requests for less and better targeted state aid, the new Guidelines re-focus regional aid on the most deprived regions of the enlarged Union.

Under Ireland's current Regional Aid Map, which defines the areas where regional aid may be granted until the end of 2006, all parts of the country currently qualify for some level of aid. Given Ireland's economic performance since the current Regional Aid Map was approved by the European Commission in 1999, it was to be expected that our scope to designate areas for regional aid for 2007-2013 would be significantly reduced. Nevertheless, Ireland has secured entitlement under the new Guidelines to maintain regional aid qualification for areas accounting for 50% of the country's population for the period 2007-2013.

In accordance with the Guidelines, the Border Midlands and West Region (26.5% of national population) will be classified as an "economic development region" and will continue to qualify for regional aid throughout 2007-2013 on a phasing-out basis. Maximum aid rates available for large firms from 2007-2010 will be 30%; for medium and small firms the rates will be 40% and 50% respectively. For the period 2011-2013 maximum aid rates available for large firms will be 15%; for medium and small firms the rates will be 25% and 35% respectively.

The South East sub-region (Wexford, Waterford, Kilkenny, Carlow and Tipperary South) alone automatically qualifies for designation on the basis of unemployment criteria specified in the Guidelines, i.e. sub-regions with unemployment higher than 115% of the national average.

The remaining areas which may qualify for designation for 2007-2013 within the permitted population threshold must meet the strict requirement in the Guidelines that they are relatively more in need of economic development than other areas on the basis of recognised economic indicators. These areas will be entitled to regional aid for small and medium-sized enterprises (SMEs) only. The Southern & Eastern Regional Assembly was consulted by my Department in relation to this designation. The Assembly accepted the findings of an independent report which it commissioned, from the National Institute for Spatial and Regional Analysis, at NUI Maynooth, and proposed that the remaining areas to be designated for 2007-2013 should be Clare, Limerick, North Tipperary and Kerry. The Assembly also proposed that these areas, in addition to Cork, should, in line with the Guidelines, be designated for a transitional period of two years (2007-2008) during which they can also receive State aid for large firms.

To ensure that the most deserving regions are designated in line with the Guidelines, Member States have to submit their proposals for designation to the European Commission for approval. The Government recently approved the Assembly's proposals, which Ireland will shortly notify to the European Commission. Details of the Regional Aid Map for 2007-2013 will be published following approval by the Commission.

In practice, therefore, all parts of Ireland, with the exception of Dublin and the Mid-East Region, will be proposed for designation in new Regional Aid Map, with varying aid rates related to their level of economic development. The regional aid rates currently available in Dublin and the Mid East are already lower than those in all other regions of Ireland. As Dublin and the Mid East continue to enjoy a more favourable economic situation, they cannot qualify for designation, within the permitted population threshold, ahead of other regions.

Any area no longer entitled to regional aid will continue to qualify for other forms of State aid, including SME Aid, Aid for Research and Development, Training Aid, Employment Aid and Aid for Environmental Protection, which are available in all areas.

### **Chemicals Regulation.**

138. **Mr. Quinn** asked the Minister for Enterprise, Trade and Employment the Government's position on the mandatory substitution of hazardous chemicals by suitable safer alternatives where they already exist on the market; if he will report on discussions that have taken place at

European level on this matter involving his Department; the position taken by his Department in votes or discussions; the Government's position on the proposed new EU chemicals legislation, REACH; and if he will make a statement on the matter. [22075/06]

139. **Mr. Quinn** asked the Minister for Enterprise, Trade and Employment if, in view of the fact that the principle of mandatory substitution was upheld by the European Parliament in November of 2005 and is used in other European legislation such as the Biocide Directive, he will explain his Department's attempts to oppose mandatory substitution in the REACH directive; and if he will make a statement on the matter. [22076/06]

**Minister of State at the Department of Enterprise, Trade and Employment (Mr. Killeen):** I propose to take Questions Nos. 138 and 139 together.

The EU Council of Ministers reached unanimous political agreement on a common position on the REACH Regulation on 13 December 2005. The political agreement is a delicately balanced compromise of Member States' positions, which was informed by the Commission's original proposal and by the various amendments suggested by the European Parliament in its First Reading Report of 17 November 2005. The Common Position is expected to be formally sent to the European Parliament in the next few weeks for the Second Reading stage of the co-decision procedure. I understand that the incoming Presidency is aiming to achieve final agreement on the REACH Regulation in Second Reading with the European Parliament.

REACH will introduce stringent registration measures, which will affect all manufacturers of chemicals, commercial users of chemicals and importers of chemicals. It will also provide valuable information with regard to any health and environmental effects of chemicals. In addition, REACH will provide for restrictions to be placed on the marketing and use of any chemical substance considered to pose a risk to human health or the environment. In regard to authorisation, REACH will provide for a system of control for certain substances of very high concern, such as CMRs (Carcinogens, Mutagens and substances toxic to Reproduction), PBTs (substances that are Persistent, Bioaccumulative and Toxic), vPvBs (substances that are very Persistent very Bioaccumulative), and other substances causing equivalent effects such as certain endocrine disrupters. Authorisations would be granted per individual use, so there would be no blanket authorised use of such a substance. The aim [Article 54] of the authorisation provisions is to ensure the good functioning of the internal market while assuring that the risks from substances of very high concern are properly controlled and that

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these substances are eventually replaced by suitable alternative substances or technologies where these are economically and technically viable. To support this aim, all applicants for authorisations will be obliged to provide an analysis of alternatives considering their risks and the technical and economical feasibility of substitution. Furthermore, authorisations will be subject to time-limited review. Authorisation is automatic, once the use of a substance can be adequately controlled.

Ireland supported the EU Commission's proposed approach of granting an authorisation where the applicant had demonstrated adequate control in accordance with the requirements set out in an Annex to the Regulation, and this approach was agreed by the EU Council of Ministers last December. Irish technical experts advised that those requirements are already extremely demanding and that, in practice, it would only be possible to demonstrate adequate control of substances of very high concern in very few cases. This would effectively mean that there is minimal risk associated with a substance.

Mandatory substitution brings with it the practical difficulties of finding and evaluating available alternatives; the time taken to find out if another substance is suitable for a particular process; the possible necessity of extensive technological investment; the validation or qualification of the new substance or process; the potential consequences if the alternative substance turns out to be unsuitable for the particular use or process, which might result in workplace accident or an inferior final product, or which might later be discovered to be more hazardous than the original one based on emerging evidence. The European Parliament First Reading amendment proposals which are aimed at imposing authorisation provisions stricter than those provided in the EU Council of Ministers' common position are unrealistic and Ireland will vigorously resist any attempts to introduce these in the Second Reading, as I am sure will many other EU Member States.

#### **Job Initiatives.**

140. **Mr. Bruton** asked the Minister for Enterprise, Trade and Employment the duration of employment which applies to participation in community employment schemes and other job initiatives; and his views on relaxing these periods particularly if a worker is aged 50 years and over to ensure when such people are made redundant, they have the opportunity to quickly reintegrate back into the workplace, bearing in mind the growing priority in public policy for continued active participation by workers who might otherwise consider early retirement. [22086/06]

**Minister for Enterprise, Trade and Employment (Mr. Martin):** On 10 November 2004, I announced, effective from that date, there will be

no compulsory lay-offs on the Job Initiative Scheme (JI). Participants who remain on JI will have their contracts renewed indefinitely. Community Employment (CE) is an active labour market programme designed to provide eligible long-term unemployed people and other disadvantaged persons with an opportunity to engage in useful work within their communities on a fixed-term basis. CE helps unemployed people to re-enter the active workforce by breaking their cycle of unemployment through a return to a work routine. It also assists them in the enhancement and development of both their technical and personal skills.

As part of the restructuring of CE approved in 1999, future participation in CE by an individual was capped at 3 years, effective from April, 2000. This measure was introduced to facilitate the movement of participants through CE, allowing new participants who may not otherwise have such an opportunity, avail of the programme. However, depending on the circumstances, FÁS may approve additional time on a scheme in order to address the needs of individual participants or to maintain service provision. In November 2004 the 3 year CE cap was revised to allow those of 55 years of age and over to avail of a 6-year period on CE (based on participation since 3rd April 2000). This was in recognition of the fact that older participants may find it more difficult to progress into employment. The aim of CE still remains as an active labour market programme with the emphasis on progression into employment. The programme is managed within this context, with consideration to the availability of resources and the needs of participants and the community.

#### **Social Welfare Benefits.**

141. **Mr. Ring** asked the Minister for Social and Family Affairs if child benefit will be paid to children in full time education up to the age of 22 years as is the case with the child dependant allowance; the estimate of the amount this proposal would cost per annum; and if he will make a statement on the matter. [22036/06]

**Minister for Social and Family Affairs (Mr. Brennan):** Unlike other social welfare payments requiring qualifying contributions or assessment of means, child benefit is a universal payment, paid in respect of children up to the age of 16 years regardless of the level or source of parental income. It continues to be paid in respect of children up to age 19 who are in full-time education, or who have a physical or mental disability. The policy of the Government over the past number of years has been to substantially increase the amount spent on child benefit for all families. Commitment to this policy is reflected in the significant resources invested in the scheme since 2001, increasing monthly payments to €150 for each of the first two children and €185 for the



third and subsequent children from April 2006, increases of €96.04 (177%) and €113.89 (160%) respectively. According to figures collected by the Central Statistics Office under the Quarterly National Household Survey for the period December 2005 to February 2006, there were an estimated 88,600 students aged 19 to 22 years. Extending child benefit to this category would therefore entail substantial cost, estimated to be in the region of €167 million annually.

In recognition of the need to target limited available resources at persons on low incomes with children in full-time education, a number of provisions have been introduced, including the extension of entitlement to child dependant allowance to age 22 where the parent of a full-time student (including third level) is in receipt of either a long-term social welfare payment, or a short-term social welfare payment for six months or more (short-term schemes include such payments as Unemployment Benefit and Assistance, Disability Benefit and Supplementary Welfare Allowance). In addition, in-work cash payments are provided to low-paid employees with families through the family income supplement (FIS) scheme. Under this scheme, a qualified child is any child under the age of 18 or aged 18 to 22 if in full-time education. This supplement is paid where a family's weekly income is below a specified income limit for the family size, and is calculated at 60% of the difference between the net family income (gross pay less tax, PRSI, health contribution, superannuation) and the relevant income limit. Further information regarding the FIS scheme can be obtained from any local office of the Department. The question of further improvements to the child benefit scheme is a matter for consideration in a budgetary context, having regard to available resources and Government commitments.

142. **Mr. Naughten** asked the Minister for Social and Family Affairs further to Parliamentary Question No. 222 of 15 December 2005, his plans to allow persons to continue to work and pay PRSI pension contributions beyond pension age to gain eligibility for an old age contributory pension; and if he will make a statement on the matter. [22055/06]

**Minister for Social and Family Affairs (Mr. Brennan):** The National Pensions Review was published in January and it includes recommendations from the Pensions Board designed to encourage people to continue working after normal retirement age. The measures suggested involve allowing people to defer receiving their social welfare pension and to grant them an actuarially enhanced payment when they do claim. The Pensions Board also considered that if this were combined with allowing those with less than full entitlements to count contributions made

after age 65 or 66 in order to improve their contributions record, this would increase the incentive for longer working within the social welfare pensions system. The Department is not in a position to operate such measures at present. However, I will continue to have the matter further examined in the context of the Pensions Review which is currently under way.

#### **Air Services.**

143. **Ms C. Murphy** asked the Minister for Transport the number of encroachments into airspace controlled by Dublin air traffic control in 2005; the locations where these originated from; if any were designated a near miss; and if he will make a statement on the matter. [22010/06]

**Minister for Transport (Mr. Cullen):** This is a matter primarily for the Irish Aviation Authority, which is responsible for establishing controlled airspace for the safe operation of aircraft, and not one for which my Department has operational responsibility. The Irish Aviation Authority has informed my Department that there were approximately 35 encroachments of controlled airspace by light aircraft in 2005. The vast majority of these were minor encroachments that did not jeopardise the safety of commercial aviation. All unauthorised penetrations of controlled airspace are noted by the IAA and serious encroachments are followed up by the Authority with the party concerned. I understand that none of the encroachments in 2005 gave rise to a near miss event.

#### **Aer Lingus Privatisation.**

144. **Mr. F. McGrath** asked the Minister for Transport the liability the Government will assume in the event of the sale of Aer Lingus to the workers transferred from Aer Lingus to TEAM Aer Lingus; the status of the guarantees and assurances given to the workers by the Government at the time; and if he will make a statement on the matter. [22011/06]

**Minister for Transport (Mr. Cullen):** The arrangements agreed between Aer Lingus and those workers who were transferred to TEAM Aer Lingus was a matter for the company. I understand from the company that those workers who opted to move to the new owner (FLS) waived all their rights in this regard at the time of the sale and those who did not returned to the employment of Aer Lingus and, therefore, have all of the conditions enjoyed to the employees of Aer Lingus.

#### **Air Services.**

145. **Mr. Gormley** asked the Minister for Transport if he will report on exercise Eagle at Shannon Airport on 25 April 2006, which tested the effectiveness of the emergency services if a



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passenger aircraft with a cargo of chemicals crashed at Shannon; and if he will make a statement on the matter. [22012/06]

149. **Mr. Costello** asked the Minister for Transport if he will comment on the recent exercise Eagle at Shannon airport that took place in April 2006; if he is satisfied with the effectiveness of the emergency services to respond to a major incident such as that staged during the exercise; and if he will make a statement on the matter. [22187/06]

**Minister for Transport (Mr. Cullen):** I propose to take Questions Nos. 145 and 149 together.

Each Aerodrome under the terms of its licence issued by the Irish Aviation Authority must carry out emergency exercises at the aerodrome at intervals not exceeding two years. This is a day-to-day matter for the relevant airport authority and is one in which I have no function. On 25 April 2006, Shannon Airport management initiated a simulated Airport Crash Exercise named Exercise Eagle and the following bodies participated: — Shannon Airport Management and Fire Service; Shannon Air Traffic Control; An Garda Síochána; HSE West Management and Ambulance service; and Clare County Council Management & Fire Service. The participating airline was American Airlines. I am informed that all participants were satisfied that Exercise Eagle was a success, particularly American Airlines who brought all their European Station Managers to Shannon to view the exercise at first hand.

#### **Proposed Legislation.**

146. **Mr. Crowe** asked the Minister for Transport his views on the demand from an association (details supplied) to introduce resident only parking regarding match days in Croke Park; and if so, the envisaged timescale for such legislation allowing for this to be introduced. [22013/06]

**Minister for Transport (Mr. Cullen):** I am aware of complaints by residents in relation to parking problems on the roads in the environs of Croke Park on match days when a large influx of motorists from outside the area park on residential roads for the duration of the events. Dublin City Council has also contacted my Department in relation to this matter. My Department is examining the current legislative provisions that are available to road authorities when applying restrictions and prohibitions on the parking of vehicles to ascertain if the existing provisions can accommodate this type of situation.

#### **Light Rail Services.**

147. **Mr. Callely** asked the Minister for Transport the length of Luas rail line in use for public

transport services; the criteria applied for the laying of the Luas track; the issues associated with safe movement of Luas on the existing track that has been brought to his attention since the Luas line has been in operation; and if he will make a statement on the matter. [22014/06]

**Minister for Transport (Mr. Cullen):** The total combined length of the two existing Luas lines is 24 km. I am informed by the Railway Procurement Agency (RPA) that the method of design and construction of Luas track was compliant at the relevant period with engineering best practice.

There are no current or past safety issues related to the Luas track. However, installation work has commenced on a replacement support system on parts of the Luas tracks that use Edilon block rail supports. The main Luas contractor is contractually obliged to carry out this remedial work to the RPA's satisfaction and at no cost to the taxpayer. The RPA will continue to ensure that there is no risk to passenger safety. Less than 5% of the overall Luas track requires modification.

Luas has a good safety record and both the RPA and Veolia Transport are committed to the highest standards in this area.

#### **Road Network.**

148. **Mr. Callely** asked the Minister for Transport the proposed date for the opening of the Dublin Port Tunnel; the estimated number of heavy goods vehicles that will use the Dublin Port Tunnel on a daily basis; the impact on the access and exit road network routes to the Dublin Port Tunnel; and if he will make a statement on the matter. [22015/06]

**Minister for Transport (Mr. Cullen):** The planning, design and implementation of national road improvement projects, including the Dublin Port Tunnel, is a matter for the National Roads Authority (NRA) and the local authorities concerned, in this case, Dublin City Council.

I understand that the civil engineering work within the tunnels has now been largely completed and that the main focus of work has shifted to the installation of the mechanical and electrical systems which make up the safety and control features of the project.

Dublin City Council and the NRA have advised that the main construction and installation work in the Tunnel is expected to be completed in June, with the Tunnel opening to traffic in September following a number of months of testing, commissioning and training. However, the exact opening date will be contingent on satisfactory completion of the testing and commissioning of the tunnels' operational and safety features, including the training of operational and emergency staff.

It is estimated by the NRA that approximately 21,600 vehicles will use the Port Tunnel on a daily basis. Of these, 6,300 are heavy goods vehicles over 17 tonnes.

Traffic management in general is a matter for the appropriate local authority in the area. In this instance, the traffic management and control arrangements that will apply following the opening of the Tunnel are matters for Dublin City Council and the NRA.

My officials and I are consulting with all stakeholders, including Dublin City Council and the NRA, to ensure that a co-ordinated strategy is developed for the opening of the Tunnel. Dublin City Council's Heavy Goods Vehicle (HGV) Management Strategy is an important part of this process in that its purpose is to ensure that maximum traffic benefits are secured from the Dublin Port Tunnel.

My Department's formal role will be to put in place the necessary regulations regarding road signage and related matters to support the strategy. This work is underway.

*Question No. 149 answered with Question No. 145.*

#### **State Airports.**

150. **Mr. Costello** asked the Minister for Transport the number of US soldiers who have stopped off at Shannon en route to Afghanistan or Iraq for each year since the US conflict began with these countries; the number who have stopped off at Shannon returning to the USA for each year since the conflict began; and if he will make a statement on the matter. [22188/06]

**Minister for Transport (Mr. Cullen):** Civilian air carriers carrying weapons or munitions, wishing to land in or over-fly Irish airspace are obliged to seek exemption from the provisions of Sections 6 and 7 of the Air Navigation (Carriage of Munitions of War, Weapons and Dangerous Goods) Order 1973. This Order applies only to the carriage of munitions of war, weapons and dangerous goods and not to military personnel. Therefore my Department does not collate information with regard to the number of military troops onboard civilian aircraft. Accordingly my Department does not have figures on the final destination of US soldiers on aircraft that have stopped at Shannon Airport, whether on eastbound or westbound flights.

151. **Mr. Costello** asked the Minister for Transport the number of countries which have used Shannon for transporting military equipment in each of the past 10 years; and if he will make a statement on the matter. [22189/06]

**Minister for Transport (Mr. Cullen):** The activities of foreign military aircraft landing in or

overflying Ireland are a matter for the Minister for Foreign Affairs.

The carriage of weapons or munitions on civilian aircraft, either landing or overflying, is prohibited under Irish law unless an exemption is given by the Minister for Transport. Civilian air carriers carrying weapons or munitions, wishing to land or over-fly Irish airspace are obliged to seek exemption from the provisions of Sections 6 and 7 of the Air Navigation (Carriage of Munitions of War, Weapons and Dangerous Goods) Order 1973.

The applications received by my Department from civilian air carriers identify the airports preceding and following the aircraft's arrival in Shannon.

The vast majority of the applications involve flights to or from the United States. Exemptions have also been given to aircraft from Canada, Israel and the U.K.

#### **Driving Licences.**

152. **Mr. Cregan** asked the Minister for Transport the position regarding persons who have a full driving license from the USA; the reason they need to re-sit their driving tests here; if there are bilateral or international agreements on such issues; if Ireland or the EU are a signatory to such agreements; and if he will make a statement on the matter. [22267/06]

**Minister for Transport (Mr. Cullen):** Irish driving licence regulations are required to operate within the framework of a harmonised EU system. The criteria essential for recognition of licences from other countries are testing and licensing regimes which meet the requirements of the EU Directive and reciprocal recognition of Irish licences.

A person who holds a driving licence issued by a Member State of the European Union or of the European Economic Area (includes Iceland, Liechtenstein and Norway) is permitted to drive in Ireland for so long as that licence remains valid. Where such a person has taken up normal residence in Ireland, he or she may exchange their licence for an Irish driving licence without taking a driving test.

In addition, Australia, Isle of Man, Japan, Jersey, South Africa, South Korea and Switzerland are recognised States for the purpose of driving licence exchange under the terms of Article 30(7) of the Road Traffic (Licensing of Drivers) Regulations, 1999. Under these regulations, persons holding a valid driving licence from a recognised State may exchange their licence for an Irish driving licence where they take up residence here, without the need for a driving test.

In all other cases a person taking up normal residence in Ireland must undergo the driver theory test, obtain a provisional licence and pass the driving test in order to obtain a driving licence.

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A bilateral agreement with the United States of America for the mutual exchange of driving licences is not envisaged at present.

### **Sugar Beet Industry.**

153. **Mr. Naughten** asked the Minister for Agriculture and Food the steps which she is taking through her golden share in Greencore to ensure that the company abides by the Labour Court Recommendations regarding staff compensation at the Mallow sugar factory; if the level of compensation for staff form part of the final package on the distribution of the sugar compensation or if it will form part of a separate deal; and if she will make a statement on the matter. [22047/06]

**Minister for Agriculture and Food (Mary Coughlan):** As Minister I hold a Special Share in Greencore plc. That share has the same monetary value as any other share in the company but has conditions attached which prevent the company from engaging in a number of activities without the prior written consent of the Minister. In summary, the Special Share prevents the disposal of the controlling interest in Irish Sugar Ltd, or the sale, transfer or disposal of more than 20% of specified assets, including lands and properties, of Irish Sugar Ltd in Carlow and in Mallow used in the production of sugar. It also prevents a single shareholder or group of shareholders from gaining control of Greencore plc. The Special Share does not empower me to get involved in operational matters or normal business decisions made by the company.

The compensation package available under the agreement on reform of the EU sugar regime includes restructuring aid covering the economic, social and environmental costs of restructuring of the sugar industry involving factory closure and renunciation of quota. In Ireland's case, this aid would be worth up to €145m. This aid is subject to the submission by the processor of a detailed restructuring plan for the industry which must include a social plan detailing the actions planned in particular with respect to re-training, redeployment and early retirement of the work force concerned. The Commission Regulation laying down detailed rules for the implementation of the restructuring aid is expected to be adopted very shortly. Where restructuring takes place in the first year of the new regime, as is the case in Ireland, the application for restructuring aid must be submitted by 31 July 2006 and a final determination as to its eligibility made by the Member State at the latest by 30 September 2006.

### **Farm Land Prices.**

154. **Mr. Naughten** asked the Minister for Agriculture and Food if her attention has been drawn to the continuing increase in the price of farm land identified by the Central Statistics Office,

which is running considerably above the level of general inflation; her views on the implications of this rise for farmers who wish to expand or persons who wish to enter farming for the first time; and if she will make a statement on the matter. [22181/06]

**Minister for Agriculture and Food (Mary Coughlan):** The rise in agricultural land prices over the last 10 years has been primarily driven by the decline in the amount of land available for sale as well as our strong economic growth. The volume of agricultural land being offered for sale has declined by 71% between 1995 and 2004, while the average price of agricultural land has increased from €5,641 to €16,261 per hectare.

Clearly the lack of available land and high sales prices can act as a constraint on some farmers. In order to overcome this, many farmers who wish to expand production are opting to lease or rent farmland. Approximately one-fifth of farm land was leased in 2003 (the latest year for which data is available).

In order to encourage land mobility, and to reduce the costs of land transfer, the Government has put in place a number of incentives, these include:

- An Early Retirement Scheme pension of up to €13,515 for a period of 10 years on farms transferred by gift, sale or lease.
- An installation aid grant of €9,520 for young trained farmers.
- Capital Gains Tax Retirement Relief for farmers over 55 years.
- A rental income tax exemption of €10,000 for farmers over 40 years who lease out land on a long-term basis.
- A 90% Agricultural Relief from Capital Acquisitions Tax.
- The provision of full Stamp Duty relief for young trained farmers.
- Stamp Duty relief for land swaps between two farmers.

These incentives encourage the early transfer of land without the necessity of purchase and improve the overall levels of land mobility. This, in turn, helps improve the availability of land to farmers who wish to enter farming or increase their scale of production.

### **Grant Payments.**

155. **Mr. Perry** asked the Minister for Agriculture and Food if she will have a decision made on a person's single payment under force majeure (details supplied) as in 1999/2000 the herd was restricted and reduced from 15 to 7 animals; and if she will make a statement on the matter. [22264/06]



**Minister for Agriculture and Food (Mary Coughlan):** The person named submitted an application, on 03 November 2004, for consideration of his circumstances under the Force Majeure/Exceptional Circumstances measure of the Single Payment Scheme. Following processing of his application the Single Payment Entitlements Unit informed the person named that his application was successful with the year 2000 excluded from the calculation of his Single Payment.

Payment in respect of the 2005 Single Payment Scheme will issue to the person named in the coming days.

156. **Mr. Kehoe** asked the Minister for Agriculture and Food the reason the application of a person (details supplied) in County Wexford was refused under the force majeure scheme; the mechanisms which are available for the person to make a new application; if there are guidelines available to applicants to let them know the reason they were refused; and if she will make a statement on the matter. [22276/06]

**Minister for Agriculture and Food (Mary Coughlan):** Every case for Force Majeure is dealt with on its merits. In order to be accepted under Force Majeure provisions, it must be found that production was adversely affected by the particular circumstances of the case.

In this case it was found by both my Department and the independent Single Payment Appeals Committee that production was not adversely affected throughout the three reference years (2000-02).

The Office of the Ombudsman has also examined this case and has agreed with the findings of my Department. The person named has now exhausted all review mechanisms within my Department.

The reasons for the decision in this case were communicated to the person named by letters dated 5 November 2004 and 10 March 2005. This is in accordance with the stated practice in my Department to give written reasons for decisions.

#### **Traveller Community.**

157. **Dr. Cowley** asked the Minister for Justice, Equality and Law Reform his views on the fact that Travellers have been part of Irish society for thousands of years with a culture that differs from the rest of the population and that it would be great benefit to all to have Travellers ethnicity recognised by the State; his further views on the importance of the State recognising the Traveller community as equals at State level; and if he will make a statement on the matter. [22158/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The question of recognition of Travellers as an ethnic group has been raised by some Traveller Organisations in the context of a

number of international conventions notably the UN Convention for the Elimination of all Forms of Racial Discrimination (CERD). The CERD defines “racial discrimination” as any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin.

The Government is committed to challenging discrimination against Travellers and has defined membership of the Traveller community as a separate ground on which it is unlawful to discriminate under equality legislation. This was not meant to provide a lesser level of protection to Travellers compared to that afforded to members of ethnic minorities. On the contrary, the separate identification of Travellers in equality legislation guarantees that they are explicitly protected.

The Government accepts the right of Travellers to their cultural identity and is committed to applying all the protections afforded to national minorities under relevant international conventions. However, the Government has not concluded that Travellers are ethnically different from the majority of Irish people. The point also needs to be made that the Government is not alone in making this assessment. The 1995 Task Force Report on the Traveller community, which consisted of Government Departments, civil society and Traveller representatives did not recommend that Travellers should be identified as an ethnic minority.

#### **Departmental Transport.**

158. **Mr. Sargent** asked the Minister for Justice, Equality and Law Reform if the use of energy efficient cars is being considered for his Department; and if he will make a statement on the matter. [21674/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Car purchases for Government Departments and Agencies are generally organised by the Government Supplies Agency (GSA).

Factors such as fuel efficiency and safety are taken into account in making such purchases.

#### **Community Policing Fora.**

159. **Mr. Crowe** asked the Minister for Justice, Equality and Law Reform the way in which the Cabra Policing Forum will be affected by new proposed legislation regarding policing arrangements with local communities. [22042/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Currently funding is made available via the Department of Community, Rural and Gaeltacht Affairs to a number of Community Policing Fora which have been established in the context of the Government's National Drugs Strategy.

There are two such fora operating on a pilot basis under the aegis of the North Inner City and



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Finglas/Cabra Local Drugs Task Forces respectively.

A Community Policing Forum under the aegis of the Finglas/Cabra Local Drugs Task Force was established as a pilot initiative in 2003. This project also receives annual funding of €51,584 through the Local Drugs Task Force initiative. The Department of Justice, Equality and Law Reform acts as the channel of funding for this initiative.

My position on this matter is that the establishment of community policing fora, in general, needs to be delivered in the context of an appropriate policy framework for what will be relatively new partnership structures involving the Gardaí, local authorities and local communities to deal with a range of issues of mutual concern. Such a framework will ensure that community policing fora are developed in an appropriate, consistent and properly planned manner.

Section 36 of the Garda Síochána Act 2005 provides that joint policing committees shall be established by local authorities and the Garda Commissioner in accordance with guidelines to be issued by the Minister for Justice, Equality and Law Reform after consulting with the Minister for the Environment, Heritage and Local Government and the Minister for Community, Rural and Gaeltacht Affairs. Draft guidelines have been prepared in consultation with the two Ministers.

Policing our society will be greatly strengthened by this partnership process involving the Garda Síochána and the elected national and local representatives of the communities which the Force serves and with the participation of the community and voluntary sector. Both the Garda Síochána and the local authorities have their responsibilities in ensuring that our policing needs are fully met. I am proposing to issue the guidelines for an initial brief pilot phase, during which committees will be established in a number of local authority areas.

I have forwarded the draft guidelines to the Oireachtas Committee on Justice, Equality, Defence and Woman's Rights inviting any observations which the committee might have and which I and my two Ministerial colleagues will consider prior to issue of the guidelines.

I intend to issue the guidelines on 16 June, thereby enabling the joint policing committees to be established in the relevant local authority areas at an early date. Preparatory work is underway prior to the formal establishment of the committees.

Provision has been made in the Votes of my Department and the Department of the Environment, Heritage and Local Government for funding for the pilot joint policing committees in 2006.

The Garda Síochána Act provides that a joint policing committee may establish, in consultation

with the local Garda superintendent, as the committee considers necessary within specific neighbourhoods, local policing fora. It is intended that supplemental guidelines for such policing fora will be made at a subsequent date.

#### **Vehicle Regulations.**

160. **Mr. Naughten** asked the Minister for Justice, Equality and Law Reform further to Parliamentary Question No. 109 of 27 April 2006 if he will seek a response from the Garda Síochána regarding the issues raised; and if he will make a statement on the matter. [22061/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that the complainant in respect of allegations of non-compliance with public service vehicles regulations in Athlone was interviewed but declined to make a written statement. I am further informed that the allegations have nevertheless been investigated by the Garda Síochána, and no evidence was uncovered to support these allegations.

#### **Sexual Offences.**

161. **Mr. F. McGrath** asked the Minister for Justice, Equality and Law Reform if he or his Department have correspondence over the years regarding the issues exposed in the May 2006 Supreme Court decision on the A case; and the reasons for his legal experts not knowing about this potential disaster. [22073/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The only correspondence which it has been possible to find in my Department which argued for the introduction of a defence of reasonable mistake as to age were in the context of the views invited from the public to the issues addressed in the Discussion Paper on the Law on Sexual Offences published by my Department in 1998. The Discussion Paper quoted the Law Reform Commission's recommendation that a defence of mistake as to age should be introduced on the ground that "Irish law in this area was unduly harsh and wholly out of step with the law in other jurisdictions". No mention was made in the LRC Report or elsewhere that their might be a constitutionality question mark over the strict liability offences of carnal knowledge of girls under 15 and 17 years of age.

As the Tánaiste has told this House, on 29 November 2002 my Department was informed in writing by the Chief State Solicitor's Office of an application seeking judicial review in the High Court to challenge certain provisions of the Criminal Law Amendment Act 1935, (The "C.C." proceedings). An official promptly phoned the Chief State Solicitor's Office to ascertain whether they needed any response from the Department in relation to the application. The answer was in

the negative. In January 2003, the Chief State Solicitor's Office repeated its undertaking to advise the Department of any development in the proceedings. No further communication was received in my Department from the Chief State Solicitor's Office or any other source concerning the "C.C." proceedings. Neither I nor my Department were notified of the hearing or outcome of the High Court case, which the State won, or the subsequent appeal to the Supreme Court.

In response to the Supreme Court decision of 23 May 2006, I published the Criminal Law (Sexual Offences) Bill 2006 on 1 June 2006. It passed all stages in the Dáil and Seanad and was signed into law by the President on the following day.

### **Residency Permits.**

162. **Ms Harkin** asked the Minister for Justice, Equality and Law Reform when the application by persons (details supplied) in County Sligo to his Department will be dealt with. [22074/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am pleased to inform the Deputy that permission to remain in the State has been granted to both of the persons in question and a letter notifying them of the decision has already issued.

### **Road Traffic Offences.**

163. **Mr. Kenny** asked the Minister for Justice, Equality and Law Reform if there is evidence that the three tonne limit is being implemented in Kennelsfort Road, Palmerstown; the number of summonses issued from March to date in 2006; and if he will make a statement on the matter. [22092/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that both local and Dublin Metropolitan Region Traffic Division personnel are actively enforcing the three-tonne limit on Kennelsfort Road on a daily basis. From March to date fifty four summonses have been applied for in relation to this breach and eleven fixed charge penalty notices have also been issued. I am further informed that eight convictions have been obtained for breaches of the three tonne limit on Kennelsfort Road to date in 2006.

### **Crime Prevention.**

164. **Mr. Bruton** asked the Minister for Justice, Equality and Law Reform if he has received reports from the Garda Commissioner regarding the level of active support for Neighbourhood Watch initiatives across the city; the number of active committees which are working currently with the Gardaí; the approximate proportion of the city covered by these; his views on whether there is potential to reinvigorate these commit-

tees particularly in view of the proposed Garda Reserve Force; and if he will make a statement on the matter. [22093/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Neighbourhood Watch was established in 1985 as a crime prevention measure for urban areas and there are approximately 2,600 Neighbourhood Watch schemes in operation nation-wide. Since its establishment, the Garda authorities have sought to encourage the active participation of the public in Neighbourhood Watch by encouraging and supporting communities to establish and maintain such initiatives. The Garda Síochána has been a strategic partner in driving and supporting Neighbourhood Watch through its Community Relations Section and local Garda management, and has deployed Crime Prevention Officers and Liaison Gardaí to assist schemes. I am informed by the Garda authorities that there are currently 18 District Neighbourhood Watch Committees in the Dublin Metropolitan Region, 17 of which are active.

A review of Neighbourhood Watch is being conducted by An Garda Síochána in consultation with the Dublin Neighbourhood Watch Representative Committee. A report including proposals for the re-invigorating of the initiative is being prepared and will be submitted to the Commissioner for his consideration in the near future. The Commissioner has proposed specific duties for Reserve members and these are being considered.

### **Sexual Offences.**

165. **Mr. Callely** asked the Minister for Justice, Equality and Law Reform the chronological order of the way in which the Mr. A case, unfolded; the relevant offices or Departments that were aware of the case; the personnel involved on behalf of the State in the preparation of the recent Supreme Court case; and if he will make a statement on the matter. [22094/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As the Tánaiste has told this House, on 29 November 2002 my Department was informed in writing by the Chief State Solicitor's Office of an application seeking judicial review to challenge certain provisions of the Criminal Law Amendment Act 1935, (The "C.C." proceedings). An official promptly phoned the Chief State Solicitor's Office to ascertain whether they needed any response from the Department in relation to the application. The answer was in the negative. In January 2003, the Chief State Solicitor's Office repeated its undertaking to advise the Department of any development in the proceedings. No further communication was received in my Department from the Chief State Solicitor's Office or any other source concerning the "C.C." proceedings. Neither I nor my Department were notified of the hearing or outcome of

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the High Court case, which the State won, or the subsequent appeal to the Supreme Court.

In response to the Supreme Court decision of 23 May 2006, I published the Criminal Law (Sexual Offences) Bill 2006 on 1 June 2006. It passed all stages in the Dáil and Seanad and was signed into law by the President on the following day.

166. **Mr. Callely** asked the Minister for Justice, Equality and Law Reform the procedures which are in place when his Department becomes aware of a legal uncertainty or a likely potential problem with legislation relating to his Department; the measures that were taken when the first signs of legal uncertainty or potential problems in relation to section 1.1 of the Criminal Law Amendment Act 1935 were noticed; and if he will make a statement on the matter. [22095/06]

168. **Mr. Callely** asked the Minister for Justice, Equality and Law Reform the procedures that apply when the Law Reform Commission recommends that a law needs to be changed; the procedures which were adopted when the Law Reform Commission recommended in 1990 that those relating to persons accused of sex offences against young girls needed to be changed; the steps that followed; and if he will make a statement on the matter. [22097/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 166 and 168 together.

Whenever my Department becomes aware that legislation might be required, I would be informed and, depending on the issue, its importance and urgency, I would agree policy with officials from the Criminal or Civil Law Reform Divisions. Again, depending on the issue and its legal complexity, the Attorney General's Office and the Office of the Director of Public Prosecutions may be consulted. In the case of Reports from the Law Reform Commission, their recommendations are examined in the Department and, where appropriate, are included in legislation. The criminal law measures in the 1990 Law Reform Commission Report on Child Sexual Abuse were examined in the context of the preparation of the Criminal Law (Sexual Offences) Act 1993, which gave effect to the Commission's recommendations on the decriminalisation of homosexual acts and also complied with its recommendations not to change the law on incest or the liability of girls who engage in under-age sex. The recommendations on mistake as to age and the age of consent were not legislated for because of lack of public support for what would have decreased the protection from the law available to children against sexual abuse.

The questions on age were returned to in the Department's 1998 Discussion Paper on the Law

on Sexual Offences. Views received on the questions addressed in the Paper disclosed no great public support for any changes on those issues. It is important to point out that the Commission's recommendation on a defence of mistake as to age was made on policy and not constitutional grounds.

The first occasion I became aware that there were potential problems with section 1(1) of the Criminal Law Amendment Act 1935 was when the Supreme Court delivered its judgment on 23 May 2006. My response to the judgment is the Criminal Law (Sexual Offences) Act 2006 which passed all stages in the Dáil and Seanad on 2 June 2006 and was signed into law by the President on the same day.

167. **Mr. Callely** asked the Minister for Justice, Equality and Law Reform where the responsibility rests with regard to the processing of the recent Mr. A Supreme Court Case and the notification to the relevant personnel of all matters relating; and if he will make a statement on the matter. [22096/06]

172. **Ms C. Murphy** asked the Minister for Justice, Equality and Law Reform if it is usual for him not to receive notification of Supreme Court actions pertaining to the constitutionality of legislation in operation within the State; if it is usual for him to be made aware of legal action pending or before the courts; if so, if such notification is limited to a particular type or class of action and in that case the type or classification which applies; and if he will make a statement on the matter. [22184/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 167 and 172 together.

There is no doubt that recent events have highlighted communications issues between my Department and the Offices of the Attorney General and the Chief State Solicitor. An examination of communications within the Office of the Attorney General took place some years ago that resulted in some administrative changes in that Office and as indicated by the Taoiseach to the Dáil yesterday a further examination by an official from the Department Of Finance is now due to take place. My Department will, of course, cooperate in every possible way with that examination. While communications and recording of correspondence within my own Department are being reviewed to see if they could be improved, I am satisfied that on this occasion procedures were carried out correctly.

As the Tánaiste has told this House, on 29 November 2002 my Department was informed in writing by the Chief State Solicitor's Office of an application seeking judicial review to challenge certain provisions of the Criminal Law Amendment Act 1935. (The "C.C." proceedings). An



official promptly phoned the Chief State Solicitor's Office to ascertain whether they needed any response from the Department in relation to the application. The answer was in the negative. In January 2003, the Chief State Solicitor's Office repeated its undertaking to advise the Department of any development in the proceedings. No further communication was received in my Department from the Chief State Solicitor's Office or any other source concerning the "C.C." proceedings. Neither I nor my Department were notified of the hearing or outcome of the High Court case, which the State won, or the subsequent appeal to the Supreme Court.

In response to the Supreme Court decision of 23 May 2006, I published the Criminal Law (Sexual Offences) Bill 2006 on 1 June 2006. It passed all stages in the Dáil and Seanad and was signed into law by the President on the following day. I would emphasise that even had we been aware of the impending Supreme Court judgment, nothing could have been done which would have prevented the application to the High Court which resulted in the temporary release of one convicted sex offender. No legislation, even if rushed through the Oireachtas the same day, could have influenced subsequent events. It would not in any case have been practicable to rush in pre-prepared legislation as it is simply not possible to anticipate the terms of a Supreme Court decision, let alone the decision itself.

*Question No. 168 answered with Question No. 166.*

169. **Mr. Callely** asked the Minister for Justice, Equality and Law Reform the number of people who have been convicted under Section 1.1 of the Criminal Law Amendment Act of 1935; the number of people currently serving prison sentence having been convicted under this Section of the Act; if in view of the recent Supreme Court ruling the perpetrator can be rearrested and retried under other Sections or other Act for their crime; and if he will make a statement on the matter. [22098/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have made enquiries with the Garda authorities and the statistics relating to the number of convictions recorded for an offence under Section 1(1) of the Criminal Law Amendment Act 1935 for the years 2000 to 2006 to date are set out in the following table. Figures prior to the introduction to the computerised crime recording system are not readily available, and it would require a disproportionate expenditure of Garda time and resources to identify these convictions from manual records. I am further informed by the Garda authorities that following the decision of the Supreme Court on 2 June 2006, gardaí have arrested the man identified as Mr. A and he has been returned to prison. On 6

June, 2006 there were 14 persons serving a prison sentence for offences contrary to Section 1(1) of the Criminal Law Amendment Act 1935. Of these 14 cases, six were also serving sentences for other offences.

Convictions for offences under section 1(1) Criminal Law Amendment Act 1935

Year	Conviction
2006*	0
2005	1
2004	2
2003	7
2002	22
2001	16
2000	7

Figures provided for 2006 to date are provisional, operational and liable to change.

### Residency Permits.

170. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform if he will examine the removal of documents by gardaí in December, 2005 from a family (details supplied) in County Dublin that have since been granted residency; the reason these documents have not been returned; and when the family might expect them to be returned. [22160/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been advised by my officials that documents were removed from the family in question in December 2005 for further examination. I understand that one of the documents referred to by the Deputy is in the process of being returned to the family. An issue has arisen in respect of the other document referred to by the Deputy and further enquiries are being made by my officials. It is hoped that the matter will be resolved shortly.

### Court Procedures.

171. **Mr. Healy** asked the Minister for Justice, Equality and Law Reform if a person (details supplied) in County Tipperary who appeared at Tipperary District Court on 3 January 2006 was remanded on bail until 7 February 2006; and if he was remanded on bail the details of that bail. [22183/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I requested a further report from the Garda authorities in respect of the matter raised by the Deputy. I am now informed by the Garda authorities that when the person in question appeared in court on 3 January 2006 an adjournment until 7 February 2006, rather than a remand on bail, was granted in the case con-



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cerned. At a subsequent hearing on 17 February, the person in question was released on bail. Any confusion caused by my original reply is regretted.

*Question No. 172 answered with Question No. 167.*

### **Citizenship Applications.**

173. **Caoimhghín Ó Caoláin** asked the Minister for Justice, Equality and Law Reform the status of citizenship applications for persons (details supplied); if these can be expedited. [22185/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** An application for certificates of naturalisation on behalf of the two persons in question, who are both minors, was submitted by their mother, a naturalised Irish citizen, to the Citizenship Section of my Department on 14 November 2005. Due to the fact that applications on behalf of minors generally require less processing than standard adult applications, it is usually possible to finalise them more quickly than standard applications. Based on current processing trends, it is likely that the application on behalf of the persons concerned will be finalised in the next few months. I will advise the Deputy and the applicant when I have reached a decision in the matter.

### **Garda Equipment.**

174. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number and cost of all information technology or other high tech facilities provided to his Department in the past five years; the extent to which each facility is operating efficiently and in accordance with VFM criteria; if PULSE is evaluated in this context; and if he will make a statement on the matter. [22215/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I can inform the Deputy that Expenditure under the main I.T. Capital and Current subheads of the votes under my Department's aegis (Justice, Courts, Prisons, Garda, Land Registry) for the years 2000 to 2004 amounted to €172.933m (1.7% of total accumulated expenditure). Figures relating to 2005 are not yet available for publication.

As the Deputy will appreciate, this expenditure relates to a wide range of organisations with varying and often complex business needs and includes hardware and system development, as well as consumable and maintenance costs. I am satisfied that the application of information technology across these public services is contributing towards improved delivery and value for money. This spend included the provision of a wide range of I.T. systems and applications, all of which are

aiding the delivery of public services within the Justice and Equality Sector.

Insofar as PULSE is concerned, I informed the Deputy in a reply to a similar question last October that a post implementation review of the system will take place when work that was ongoing at that time was completed. The majority of this work was completed in April and this review will take place later this year as expected and will encompass value for money criteria.

### **Garda Recruitment.**

175. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of applicants who have passed the Garda entrance exam; the number to date called for training; the number awaiting such a call; and if he will make a statement on the matter. [22216/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Public Appointments Service (PAS) is responsible for the administration of the application process as well as Stage 1 (aptitude testing) and Stage 2 (interview) of the Garda recruitment process.

I have been informed by the PAS that there was a total of 8,462 applications for the current Garda recruitment competition, 4,926 of whom sat the entrance exam. 2,872 (or 58.3%) of these applicants passed the exam. The PAS have further informed me that as at 6 June 2006, some 1,074 applicants had been called to interview, of which 657 (or 61.2%) had passed the interview.

I have been informed by the Garda authorities that 88 of these candidates, having gone on to pass Stage 3 (medical exam and physical competency test) of the current competition, have since been called for training under the most recent intake of student Gardaí in May 2006. It is not possible at this point to state how many candidates are awaiting a call to training, as the necessary processes under Stage 3 of the competition have not been completed for all candidates who have succeeded at Stage 2.

### **Garda Investigations.**

176. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of robberies in the past two years in which hostages were taken to assist in the robbery; and if he will make a statement on the matter. [22217/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that the figures relating to robberies involving hostages are not readily available and are currently being researched. They will be forwarded to the Deputy as soon as they are available.

I am further informed, however, that there were 51 incidents of false imprisonment offences recorded in 2005 and 46 in 2004. These figures

relate to incidences where a person has been detained against his or her will, including situations where a robbery is taking place.

It should be noted that false imprisonment differs from hostage taking in that hostage taking requires a person to be detained for the purpose of compelling another person to abstain from, or to complete, a task so as to assist offenders in committing a crime.

### **Garda Deployment.**

177. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the high crime areas in Dublin City, where nightly foot and mobile patrols are available; his plans to increase same; and if he will make a statement on the matter. [22218/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities, who are responsible for the detailed allocation of resources, including personnel, that the personnel strength (all ranks) of An Garda Síochána is set to rise to a record 12,641 today following the attestation of 273 new members. This compares with a total strength of 10,702 (all ranks) as at 30 June 1997 and represents an increase of 1,939 (or 18.1%) in the personnel strength of the Force during that period.

Garda management state that foot and mobile patrols are an essential part of the policing strategy in place in the Dublin Metropolitan Region (DMR). These patrols are supplemented by District Detective and Drugs Units, Garda Mountain Bike Units, Community Policing Units, Divisional Crime Task Force and Traffic Corps personnel to target areas of high incidence of crime.

Operation 'Anvil' has been in place in the DMR since 17 May, 2005 and is running in conjunction with regular policing. All areas throughout the city are subject to this operation, with specific locations and individuals being targeted for additional attention.

It is the responsibility of Garda management to allocate personnel to and within Garda Divisions on a priority basis in accordance with the requirements of different areas. These personnel allocations are determined by a number of factors including demographics, crime trends, administrative functions and other operational policing needs. Such allocations are continually monitored and reviewed by senior Garda management along with overall policing arrangements and operational strategy. This ensures that optimum use is made of Garda resources, and that the best possible service is provided to the public.

I should add that the current recruitment drive to increase the strength of the Garda Síochána to 14,000 members, in line with the commitment in the Agreed Programme for Government, is fully on target. This will lead to a combined strength, of both attested Gardaí and recruits in training,

of 14,000 by the end of this year. The first group of newly attested Gardaí under the accelerated recruitment programme came on stream in March and the second such group comes on stream today. Further tranches of approximately 275 newly attested Gardaí will follow every 90 days hereafter until the programme is complete.

The Garda Commissioner will now be drawing up plans on how best to distribute and manage these additional resources, and in this context the needs of the Dublin Metropolitan Region will be given the fullest consideration.

### **Garda Equipment.**

178. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if there is sufficient personnel and equipment in the Garda forensic laboratory for same to function to the highest capacity; if there are delays occurring; if so, the provision he or his Department will make to rectify same; and if he will make a statement on the matter. [22219/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I assume the Deputy is referring to the Forensic Science Laboratory which, although located in the Garda Headquarters complex at Phoenix Park, is in fact a civilian organisation coming under the aegis of my Department and not part of the Garda Síochána. The Laboratory staff both at leadership and subordinate levels are superbly well qualified and do a magnificent job in supporting crime investigation in this country.

Insofar as the resources available to the Laboratory are concerned, the position is that additional staff were sanctioned and assigned in recent years following a major review of the organisation's functions and the level of funding is kept under ongoing review so as to ensure the Laboratory has the facilities to deliver on its objectives. As the Deputy may also be aware, work is underway on the specification and design of a new building for the Laboratory and my intention is to provide a modern, state of the art facility which fully accommodates the needs of the Laboratory well into the future.

Insofar as the processing of cases is concerned, the position is that cases are categorised upon receipt in the Laboratory and prioritised according to whether an examination could lead to any information of an investigational or evidential value. A service level agreement is in place between the Laboratory and the Gardaí, setting out the turnaround times according to case type and providing for high priority cases to be examined immediately upon receipt. This agreement is supported by ongoing interaction between the Laboratory and the Garda authorities with a view to ensuring that the needs of crime detection and prosecution are met at all times.

### Deportation Orders.

179. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if he will confirm that all those deported to their homelands by his order have been properly treated; and if he will make a statement on the matter. [22221/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In relation to the treatment of returnees to their homelands, it should be borne in mind that before a decision to deport is made in any individual case, the Minister for Justice, Equality and Law Reform must have regard to the eleven factors contained in Section 3 (6) of the Immigration Act, 1999 (as amended) and the provisions of Section 5 of the Refugee Act, 1996 (as amended) on the Prohibition of Refoulement.

This means that the safety of returning a person to their country of origin, or refoulement as it is commonly referred to, is fully considered in every case when deciding whether or not to make a deportation order. This means in practice that a person shall not be expelled from the State or returned in any manner whatsoever to a State where, in my opinion, the life or freedom of that person would be threatened on account of his or her race, religion, nationality, membership of a particular social group or political opinion. The legislation requires that this consideration is given before the deportation decision is made. In arriving at such decisions, the Department of Justice, Equality and Law Reform uses extensive

country of origin information drawn from different independent sources, including the UNHCR, in evaluating the safety of making returns to third countries.

### Courts Service.

180. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if his office receives information from the Courts Service setting out the number of community service orders made in the past 12 months; and if he will make a statement on the matter. [22222/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Statistics on community service orders are provided in the Annual Reports of the Courts Service, which are available in the Oireachtas Library. At present, figures are given for the Dublin and Limerick Courts only. The most recent report covers the year 2004.

### Citizenship Applications.

181. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of applications for citizenship received in each of the past three years; the number approved; the number rejected; and if he will make a statement on the matter. [22223/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The following table sets out the information sought by the Deputy:

Naturalisation

Year	Applications received	Certificates issued	Applications refused
2003	3,580	1,664	179
2004	4,074	1,335	759
2005	4,519	1,452	1,319
2006 (to 4 June)	2,659	719	324

Post-nuptial citizenship

Year	Declarations received	Certificates issued
2003	2,491	2,272
2004	2,825	2,449
2005	4,080	2,622
2006 (end of March)	1,067	1,341

Since 1 April 2005 applications for naturalisation are examined upon receipt for compliance with the statutory residency criteria set out in the Irish Nationality and Citizenship Act, 1956, as amended. Those who do not have the required residency at the time they apply are deemed to be ineligible. Almost 2,800 applications, in addition to those who were refused, were deemed ineligible between 1 April 2005 and 4 June 2006. It should be noted that those persons who are

refused naturalisation or deemed ineligible may apply again and may ultimately be naturalised.

### Prison Accommodation.

182. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of cases in respect of which two or more prisoners share a cell in the various prisons throughout the country; and if he will make a statement on the matter. [22224/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The information requested by the Deputy is set out in the following table.

Institution	Cells with accommodation for more than one person
Mountjoy Prison	75 double cells, 15 four man cells and 1 six man cell.
St. Patrick's Institution	One triple cell
Castlerea Prison	Four 4 man cells and 20 double cells
Cork Prison	109 double cells.
Limerick Prison (Male)	104 double cells
Limerick Prison (Female)	10 double cells
Wheatfield Prison	64 double cells
Portlaoise Prison	8 double cells
Loughan House	40 double rooms and 5 four man rooms
Shelton Abbey	Dormitory accommodation provided for prisoners.
Cloverhill Prison	120 triple cells and 5 double cells.
Midlands Prison	22 treble cells
Arbour Hill Prison	5 three man cells and 15 double cells

Where possible, it is the aim of the Prison Service to provide single cell occupancy for all sentenced prisoners. Exceptions are made for some prisoners who actually seek to double-up. They do so especially if they are in prison for the first time. Prisoners may ask to share a cell with a friend or relative in custody and such requests are facilitated where possible. Doubling up may also occur from time to time if there is a concern about the physical/mental health of a prisoner.

It is anticipated that the new prison buildings at Thornton Hall and Spike Island will allow for increased single cell usage. The construction of new facilities will address the issue of cell occupancy levels and will, in addition, offer significant improvements in the areas of work training, education, medical services and in-cell sanitation.

#### **Garda Investigations.**

183. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of reported cases of car theft in each of the past four years; if prosecution and conviction have followed in each case; and if he will make a statement on the matter. [22225/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Statistics for the offences of unauthorised taking/theft of a mechanically propelled vehicle, recorded and detected for the years in question, are available in the relevant Annual Reports of An Garda Síochána, which are available in the Oireachtas library.

#### **Courts Service.**

184. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the steps he has taken to ensure that those charged with serious crimes are not allowed bail when charged in the Courts; and if he will make a statement on the matter. [22226/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As the Deputy will be aware, the Bail Act 1997 amended the bail regime generally and gave effect to the terms of the Sixteenth Amendment of the Constitution. Section 2(1) of the Act provides for the refusal of bail to a person charged with a serious offence where it is reasonably considered necessary to prevent the commission of a serious offence by that person. For this purpose a serious offence is defined as one which carries a penalty of at least 5 years imprisonment on conviction and which is listed in the Schedule to the Act (e.g. murder, manslaughter, sexual offences, drug offences). The Act was brought fully into operation on 15 May 2000. Furthermore, the Criminal Justice Act, 1984 provides that any sentence of imprisonment passed on a person for an offence committed while on bail shall be consecutive on any sentence passed on him or her for a previous offence.

The decision to grant bail in any particular case is a matter for the Courts who are, subject only to the Constitution and the law, independent in the performance of their judicial functions. The Garda Commissioner, for the first time, provided statistics on headline offences committed by persons who were recorded as being on bail at the time the offence was committed in his 2004 annual report. These figures show that 5% of headline offences were committed by persons on bail. The Garda annual report for 2005 indicates that 5.36% of headline offences were committed by persons on bail.

I welcome the provision of this information as a contribution to public discussion. I would point out that, while it is disturbing that offences are committed by persons on bail, the offence for which the person received bail may be a minor one.

#### **Garda Operations.**

185. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if the principals of all known criminal organisations operating throughout the country have been questioned or arrested in the past 12 months; and if he will make a statement on the matter. [22228/06]

187. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the action he proposes to take to put organised crime gangs out of business; and if he will make a statement on the matter. [22230/06]



193. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the extra resources he intends to make available to An Garda Síochána to facilitate a crackdown on organised crime, drug trafficking, intimidation of witnesses, extortion, racketeering and protection; and if he will make a statement on the matter. [22236/06]

200. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if he will make available extra Gardaí of various rank and sufficient in number to tackle organised crime with particular reference to overt and covert surveillance on those involved in drug dealing; and if he will make a statement on the matter. [22243/06]

201. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of Gardaí currently directly involved in tackling organised crime, drug or people trafficking; his plans to increase these numbers; and if he will make a statement on the matter. [22244/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 185, 187, 193, 200 and 201 together.

Let me say at the outset that the Gardaí are, in fact, conducting a major crackdown on organised crime, including drug trafficking and other types of organised criminality.

The Deputy will appreciate that policing operations and the deployment of Garda resources are matters for the Garda authorities. It is the responsibility of Garda management to allocate personnel to and within divisions on a priority basis in accordance with overall policing requirements. However, I am, of course, in regular contact with the Garda Commissioner in order to keep the measures and resources for tackling serious crime under continuing review. The overall allocation of Garda resources, including manpower, to the Garda Commissioner reflects the Government's policing priorities and An Garda Síochána has never in its history been better resourced.

The Deputy will be aware of the Government's decision in October, 2004 to approve my proposals for the recruitment of 2,000 additional Gardaí to increase the strength of An Garda Síochána to 14,000. Delivery of this commitment is on target and will be achieved. The combined strength of attested Gardaí and recruits in training will reach 14,000 by the end of 2006 and the additional resources are being allocated to areas most in need, including areas with significant levels of serious crime.

The Garda budget is now at an all-time historic high having reached €1.310 billion, which is more than double the budget for 1997. The 2006 Garda overtime allocation has risen by €22.4m to €83.5m, which represents an increase of 36.6% over the allocation of €61.1m for 2005. This will facilitate, among other things, the continuation of

operations targeted at the prevention and detection of crimes such as gangland murders, organised crime, racketeering and other criminal activity which gives rise to serious community concern.

An Garda Síochána now employ a wide range of techniques in the fight against serious crime. While each member of An Garda Síochána is generally responsible for the prevention and detection of crime, the establishment of specialist Garda units, operating under the Assistant Commissioner in charge of National Support Services, has proven to be particularly effective in tackling organised crime. The National Bureau of Criminal Investigation is the Garda specialist unit tasked with tackling organised crime. (The current strength of the Bureau is approximately, 145.) It carries out this role by conducting intelligence-driven operations in close co-operation with other specialist units, including the Garda National Drugs Unit, the Garda Bureau of Fraud Investigation and the Criminal Assets Bureau. In November, 2005, an additional 55 officers were allocated to the Organised Crime Unit of the National Bureau of Criminal Investigation to augment the effort to target groups involved in organised crime. The unit is headed by a Detective Chief Superintendent and works closely with Gardaí deployed on "Operation Anvil" and with other specialist units.

A Government top policing priority for 2006 is to continue to target organised crime, including drug trafficking, and the gun culture associated with it through the deployment of specialist units and the use of targeted, intelligence-led operations. As a specific response to the problem of gun crime in Dublin, the Government decided to provide funding for "Operation Anvil". This operation was undertaken, not as the sole response to this problem, but as a targeted response to augment the work which the Gardaí were doing each day to address gun crime. "Operation Anvil" specifically targets active criminals and their associates through the use of measures such as overt patrolling, static checkpoints, uniformed mobile and foot patrols supported by armed plain-clothes patrols and, covert operations.

"Operation Anvil", which has been extended nationwide in recent months, has resulted in a number of very successful outcomes, including the seizure of 424 firearms. In addition, up to the week ending 21 May, 2006, 29,708 checkpoints have been mounted and 10,065 drugs searches have been conducted. It has seriously disrupted the activities of a number of key criminal gangs and families, resulted in a number of high profile arrests and facilitated the collation of intelligence on the movements of criminal targets.

Garda strategies to deal with drug offences are designed to undermine the activities of organised criminal networks involved in the trafficking and distribution of illicit drugs. These strategies

include gathering intelligence on individuals and organisations involved in the distribution of drugs and conducting targeted operations on criminal networks based on intelligence gathered. In addition, Gardaí continue to work in collaboration with other law enforcement agencies, both within this jurisdiction and in an international context, to address the national and international aspects of drug trafficking and distribution. These strategies continue to result in operational successes. The trafficking and distribution of all illicit drugs at local, national and international levels is constantly monitored by the Gardaí.

The current strength of the Garda National Drugs Unit is 55, five of whom are temporarily seconded to the Organised Crime Unit of the National Bureau of Criminal Investigation. The two specialist units work closely. In addition, a total of 260 Garda personnel are allocated to divisional and district drug units in the six Garda regions.

Regarding the level of Garda resources tasked with preventing human trafficking, a joint task force, which pools the resources of Garda specialist units and detective units, has been established. The Garda National Immigration Bureau (GNIB) acts as the lead unit for the task force. Other specialist units involved include the Garda Bureau of Fraud Investigation, the Garda National Drugs Unit, the National Bureau of Criminal Investigation and the Criminal Assets Bureau. The GNIB has a number of sections which have an investigative role. The total strength of the GNIB at 17 May, 2006 was 161 members of An Garda Síochána and 32 civilian personnel.

Where there is justification and a legal basis, those suspected of involvement in criminal activity are arrested, detained and questioned in relation to specific crimes. Members of An Garda Síochána must, however, have reasonable grounds for believing that an individual has been involved in criminal activity before any person can be arrested, detained and questioned in relation to alleged criminality.

It is widely acknowledged that our legislative package for tackling serious and organised crime is already one of the toughest in Europe. The Criminal Justice Bill provides a comprehensive package of further anti-crime measures which will enhance the powers of the Gardaí in the investigation and prosecution of offences. The Deputy will be aware that I have brought forward a number of amendments to the Bill providing for the creation of criminal offences in relation to participation in organised crime, the strengthening of existing provisions for the 10 year mandatory minimum sentence for drug trafficking and a range of amendments to the Firearms Acts. The enactment of this Bill is a top priority for this Government.

### Crime Levels.

186. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the way in which it is intended to tackle the increasing level of gun crime; and if he will make a statement on the matter. [22229/06]

191. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of reported gun crimes including killings in each of the past five years; the extent to which successful prosecutions have followed; and if he will make a statement on the matter. [22234/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 186 and 191 together.

There is a particular overriding necessity, in view of the recent increase in violent crime involving firearms, to ensure that public safety and security concerns are given priority in any review of policy and legislation in relation to firearms. With this in mind I have brought forward a wide range of amendments to the Firearms Acts 1925-2000 in the context of the Criminal Justice Bill, 2004, which is currently before the Dáil.

Included in these new proposals are measures which will: create mandatory minimum sentences, of between five and ten years, for certain firearms offences, including possession of a firearm in suspicious circumstances, possession of a firearm with criminal intent, possession of a firearm with intent to endanger life or cause serious injury to property, possession of a firearm while hijacking a vehicle, and use or production of a firearm to resist arrest; require all persons, wishing to legally hold a firearm, to satisfy the Gardaí that they have provided secure accommodation for the firearm; and allow the Minister to deem certain firearms as “restricted” by reference to specific criteria, including the calibre, action type and muzzle energy of the firearm.

In future, any person wishing to obtain a certificate for such a firearm will have to apply directly to the Garda Commissioner. The legislation will introduce new offences concerning the modification of firearms such as “sawing-off” a shotgun; and increase fines and penalties generally for offences under the Firearms Acts.

I also intend to introduce a statutory basis for an amnesty during which firearms may be surrendered to the Garda Síochána before new penalties, and minimum mandatory sentences, are introduced. This will enable those in possession of firearms, who are not in compliance with the legal requirements, to regularise their position, and thus enable the Garda Síochána to concentrate on more serious offenders.

Operation Anvil, launched in May last year, and aimed at those involved in gun crime of any kind, is one of the most intensive special policing operations ever undertaken in the State. It is intelligence-driven and has deployed significant

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levels of Garda resources. The Garda Síochána are receiving resources this year to continue Operation Anvil and the Commissioner has recently extended the Operation to Garda Divisions outside Dublin.

In November, 2005 an additional 50 personnel from the uniform service in DMR were transferred to the National Bureau of Criminal Investigations. The Garda Síochána this year has the highest level of resources in its history — €1,290 million — an increase of €146 million or 13% on 2005. The provision for Garda overtime in 2006 is €83.5 million — an increase of €23 million on the allocation for 2005. This increase will greatly assist the planned deployment of a visible policing service in a flexible, effective and targeted response to criminal activity and to crime prevention, including gun crimes. The €83.5 million in overtime will yield 2.725 million extra hours of policing by uniformed and special units throughout the State.

I take great satisfaction in the Government's decision of October 2004 to approve the recruitment of 2,000 additional Gardaí to increase the strength of the Force to 14,000. As a result there will be a combined organisational strength, of both attested Gardaí and recruits in training, of 14,000 by the end of this year and 14,000 attested Gardaí in two years' time. One thing I have already promised is that the additional Gardaí will not be put on administrative duties but will be put directly into frontline, operational, high-visibility policing.

I can assure the deputy that I am in regular contact with the Garda Commissioner in order to keep the measures and resources for tackling serious crime under continuing review. I have requested details from the Garda authorities on headline crimes recorded, detected and convictions where a firearm was used from 2001 to 2005. These details are set out in the table below:

	2005		2004		2003		2002		2001	
	Recorded	Convictions	Recorded	Convictions	Recorded	Convictions	Recorded	Convictions	Recorded	Convictions
Homicide	27	0	11	9	26	14	13	7	12	5
Assault	4	0	8	0	12	4	20	6	15	2
Sexual Offences	1	0	0	0	0	0	0	0	1	0
Arson	0	0	0	0	0	0	0	0	0	0
Drugs	1	0	0	0	0	0	0	0	0	0
Theft	0	0	1	0	2	0	1	0	3	3
Burglary	46	3	77	5	74	16	88	19	60	19
Robbery	320	40	399	85	244	38	296	49	184	60
Fraud	0	0	0	0	0	0	0	0	0	0
Other	138	10	142	18	90	19	111	14	121	25
Total	537	53	638	117	448	91	529	95	396	114

*Question No. 187 answered with Question No. 185.*

### Anti-Social Behaviour.

188. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of reports of anti-social behaviour logged throughout the country since the introduction of the legislation; the number of prosecutions and convictions; and if he will make a statement on the matter. [22231/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Statistics for offences under the Criminal Justice (Public Order) Act, 1994 are available in the relevant Annual Reports of An Garda Síochána, which are available in the Oireachtas library.

### Public Order Offences.

189. **Mr. Durkan** asked the Minister for Justice,

Equality and Law Reform the number of public order incidents detected or reported in County Kildare in each of the past 3 years; the number of convictions arising therefrom; and if he will make a statement on the matter. [22232/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that no Garda District or Districts correspond to County Kildare. A number of Garda Districts include parts of County Kildare in their area. Accordingly, there are no figures available in respect of the county specifically.

### Garda Investigations.

190. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the action taken by way of ongoing follow up in respect of unsolved murder cases; and if he will make a statement on the matter. [22233/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As the House will appreciate, the deployment of Garda resources and the investigative methods used in murder cases are operational matters for the Garda Commissioner. In this regard, I am informed by the Commissioner that a number of National Support Units have been established, working under an Assistant Commissioner. These Units include the National Bureau of Criminal Investigation which investigates all forms of serious crime including murder and organised crime.

While the responsibility for the investigation of all crime rests with the local Garda officers, the National Bureau provides assistance to serious investigations through a range of expertise and skills available within it. Bureau staff assist in all aspects of the investigation including preliminary enquiries, case management, incident room management, general investigation, file preparation and other ancillary aspects of a criminal investigation. Specialist investigation teams within the Bureau carry out these tasks when requested by local Garda officers or on the direction of senior Garda management.

The system of National Support Units is designed to meet modern policing requirements in an efficient and professional manner. All killings, regardless of the circumstances involved, are the subject of a rigorous Garda investigation. I am advised that when a case of unlawful killing remains unsolved, the investigation is not closed and periodical reviews of the case are carried out by the Garda authorities. When new information becomes available this is examined and fully investigated by the Garda authorities.

*Question No. 191 answered with Question No. 186.*

#### **Court Staff.**

192. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if an adequate number of judges have been appointed to deal with the current workload; and if he will make a statement on the matter. [22235/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Since 2002, the total number of ordinary judges of the High, Circuit and District Courts has increased from 101 to 118, an increase of 17 judges. The number of High Court judges has increased from 25 to 31, the number of Circuit Court judges has increased from 25 to 33 and the number of District Court judges has increased from 51 to 54.

I have secured Government approval to further increase the number of District Court judges from 54 to 57 and I propose to make provision for this increase by way of amendment of the Civil Law (Miscellaneous Provisions) Bill 2006. I am currently considering the issue of additional judicial resources in the other courts. The

additional judicial resources provided have greatly strengthened the capacity of the courts system to meet the demands placed on it.

*Question No. 193 answered with Question 185.*

#### **Missing Persons.**

194. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of people currently recorded as missing persons; the degree to which resources are available within his Department to monitor the situation; and if he will make a statement on the matter. [22237/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that the number of untraced persons recorded at the end of 2005 was 395. I am further informed by the Garda authorities that the Missing Persons Bureau of the Garda Síochána is responsible for maintaining data relating to missing persons. All cases of a person reported missing in suspicious circumstances remain open and under ongoing review and investigation until the person is located, or, in the case of a missing person who is presumed drowned, a verdict to that effect by the coroner.

District Officers in the area where persons have gone missing take direct responsibility for all investigations/searches carried out. Local investigations teams are appointed by the District Officer and all means necessary, including the services of specialist units, are deployed to assist in these investigations. The services of Europol and Interpol are also availed of during such investigations. The systems put in place by An Garda Síochána to manage and deal with reports of missing persons are in line with best international practice, and Garda management is satisfied that the systems and resources in place are adequate to deal with any reported case of a missing person.

#### **Crime Prevention.**

195. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the steps which have been taken to prevent the flow of information to organised criminals in regard to cash in transit assignments; and if he will make a statement on the matter. [22238/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In the interests of creating a safe, secure and efficient cash-handling environment, a voluntary Code of Practice between An Garda Síochána and the service providers in the cash-in-transit industry, including the financial institutions, the Central Bank, the Financial Services Authority of Ireland and the security companies, was signed in 2005.

Appropriate crime prevention advice is also made available by An Garda Síochána to those involved in this industry to ensure that sensitive



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information does not fall into the hands of criminal elements. The Private Security Authority has indicated its intention to bring forward, at the earliest opportunity, licensing for the cash-in-transit sector of the Security Industry. I am informed that adherence to the Code of Practice will be an integral part of the licensing regime and companies who do not comply with the Code of Practice will not be licenced to operate in the cash movement sector.

In addition, I understand that the Private Security Authority has put stringent criteria in place to protect the private security industry from infiltration by criminals. All licence applicants will undergo criminal records checking by An Garda Síochána. This will apply to employees, principals and directors of private security companies. It is an offence in itself not to disclose details of a conviction(s) when applying to the Authority for a licence.

### **Witness Security Programme.**

196. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of people covered in the witness protection programme or scheme; and if he will make a statement on the matter. [22239/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Witness Security Programme was established in 1997 in response to the activities of organised criminal gangs to facilitate those persons who are prepared to give evidence against alleged offenders. The Programme operates under the direct control and administration of the Garda Commissioner. It is not the practice and it would be contrary to the public interest to comment on the specifics of the operation of the Programme, including the number of persons admitted to it.

### **Juvenile Offenders.**

197. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if the relevant sections of his Department have adequate dialogue with the Department of Health and Children and the Department of Education and Science with particular reference to the need to identify and cater for children at risk due to involvement in juvenile crime, non-attendance at school, absent from the home or school without leave or authority and presenting a danger to themselves or others; the regularity of discussion with the other Departments in this regard; and if he will make a statement on the matter. [22240/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The coordination of responses between Government Departments in respect of children at risk of involvement in crime and other troubling behaviour has been identified as a

priority issue within my Department. New structures, which foster greater dialogue between the relevant Departments, have recently been established to address the matter.

In October 2004, an internal project team was established within my Department to examine the scope for rationalising and restructuring the delivery of the State's services in the area of youth justice, in accordance with the legislative basis provided for in the Children Act 2001. Publication of the Report on the Youth Justice Review was approved by Government in December 2005. The Government agreed to the implementation of the report's recommendations in addition to a number of other youth justice reforms.

Among the reforms agreed was the establishment of the Irish Youth Justice Service, on a non-statutory basis, as an executive office of the Department of Justice, Equality and Law Reform. The Service will focus on developing a National Youth Justice Strategy, achieving the full implementation of the Children Act 2001, assuming responsibility for children's detention and improving the delivery of services for young offenders.

While matters relating to school attendance and child care and protection issues are the responsibility of the Ministers for Education and Science and Health and Children respectively, the Report on the Youth Justice Review recognised that cross-departmental cooperation is essential to meet the needs of "at risk" children. The newly established Irish Youth Justice Service will be responsible for establishing a Youth Justice Oversight Group comprising representatives of relevant Departments and agencies from the Justice, Health and Education sectors, to drive the implementation of a national youth justice strategy in an integrated and coordinated manner. The Service will also develop local youth justice teams, where appropriate, to enhance local service delivery around offending behaviour.

The Irish Youth Justice Service comes within the remit of my Department but will operate within the strategic environment of the new Office of the Minister for Children to ensure that a joined-up approach to service delivery is achieved. This Office was established by Government in December 2005, to bring greater coherence to policy making for children. Children now have a stronger voice on issues that affect them, through the Minister for Children, Brian Lenihan TD, who attends Cabinet meetings. The OMC focuses on harmonising policy issues that affect children in areas such as early childhood care and education, youth justice, child welfare and protection, children and young people's participation, research on children and young people and cross-cutting initiatives for children.

The Irish Youth Justice Service will work closely with colleagues in the Departments of Health and Children and Education and Science

to coordinate services for children at risk. The new administrative arrangements established by the Government, will strengthen and enhance these links to deliver a coordinated response to the needs of young people at risk.

198. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if adequate resources are available to the relevant sections of his Department to combat juvenile or petty crime; and if he will make a statement on the matter. [22241/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In recent years there has been a renewed focus on the State's response to youth crime and youth justice issues. In October 2004, a project team was established within my Department to examine the youth justice system and make recommendations for any improvements necessary. The project team's recommendations were approved by Government last December. The recommendations included the establishment of the Irish Youth Justice Service (IYJS), which is now in the process of being established as an executive office of my Department. The IYJS will focus on developing a National Youth Justice Strategy, achieving the full implementation of the Children Act 2001, assuming responsibility for children's detention and improving the delivery of services for young offenders.

A National Director has recently been appointed to head up the new Service and provision has been made for any set up costs. Discussions will be held with the Department of Finance in regard to the arrangements for future resources and staffing requirements necessary to address the remit of the Service. In light of the outcome of these discussions, resources with respect to youth justice currently within my Department will come under the auspices of the Irish Youth Justice Service. Significant resources are currently being made available through the Garda Diversion Programme and the Probation and Welfare Service.

Garda Youth Diversion Projects are a community-based, multi-agency crime prevention initiative which seek to divert young persons from anti-social and/or criminal behaviour. The projects are funded by the Department of Justice, Equality and Law Reform and are administered by the Community Relations Section of the Garda Síochána.

A budget of €6.6 million has been provided for the Garda Youth Diversion Projects and Local Drugs Task Force projects in 2006. This represents an increase of 21% on last year's budgetary allocation. It is my intention that 100 schemes will be established nationwide before the end of 2007.

The Garda Juvenile Diversion Programme provides that, in certain circumstances, a young person under 18 years of age, who freely accepts

responsibility for a criminal incident, may be cautioned as an alternative to prosecution. The Programme operates under the supervision and direction of the Garda National Juvenile Office and is implemented throughout all Garda divisions by 94 specially trained Gardaí, known as Juvenile Liaison Officers (JLO's). In 2005, the Department of Justice, Equality and Law Reform allocated €96,750 towards the cost of training and the expenses associated with the holding of restorative conferences.

Aspects of the Children Act come within the remit of the Probation and Welfare Service, including family conferencing, supervision orders and community sanctions. I have secured an additional 30 staff specifically for the purpose of implementing the provisions of the Act relevant to the Service. In the current year the Service has been allocation €1.9 million current and €1.3 million capital for the implementation of the Children Act.

Also the Probation and Welfare Service funds 66 projects which support the work of the Service in managing offenders in the community. Of these, 40 offer a service to young offenders. All Gardaí have responsibility to deal with policing issues as they arise and there are a number of Community Gardaí in place throughout the country. Community policing is essential in preventing crime, addressing peoples' fear of crime and building up relationships with young people. While An Garda Síochána is the main agency tasked with crime prevention and investigation, other players are also involved.

Garda management makes every effort to provide a highly visible presence on the streets of our towns and villages. Uniform and detective units, with Divisional traffic Corps, supplemented by Community policing units and Garda Mountain Bike Units have a pro-active approach to policing anti-social/public disorder issues by immediate intervention, arrest and prosecution or advice, as appropriate.

I am further informed that Operation Encounter which was introduced by Garda management in 2002 targets public disorder offences including assaults and offences committed by underage persons under the Intoxicating Liquor Act 1998. Operational figures, which are provisional at this time, indicate that in excess of 337,000 offences have been detected so far under Operation Encounter.

### Crime Levels.

199. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if he is satisfied that the Criminal Assets Bureau has available to it the sufficient resources, facilities and technology to ensure its ability to deal with crime levels; and if he will make a statement on the matter. [22242/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Garda authorities inform me they are satisfied that sufficient resources are available to the Criminal Assets Bureau to enable it operate effectively.

The Criminal Assets Bureau has been at the forefront of the fight against organised crime in this jurisdiction since its inception in 1996. The manner in which the Bureau operates has, in that 10 year period, come to be viewed, both domestically and internationally, as a very successful model for targeting persons seeking to derive profits from criminal activities. The assignment of staff to the Bureau from An Garda Síochána, the Revenue Commissioners and the Department of Social and Family Affairs ensures a multi-disciplinary, co-ordinated and integrated approach to the identification, freezing and seizure of criminal proceeds, the assessment and collection of unpaid taxes, and the recovery of social welfare overpayments.

The resources available to the Bureau, including manpower, facilities and technology, are kept under continuous review to ensure that it is fully able to fulfil its statutory remit. In this context, in late 2005 following consultation with the Garda Commissioner my Department secured Department of Finance sanction for two additional specialist staff for the CAB. These staff — a Financial Crime Analyst and a Forensic Accountant — have recently been recruited. I can assure the Deputy that the resources available to the Criminal Assets Bureau will continue to be kept under constant review to ensure it remains fully effective in confiscating the ill-gotten gains of criminals and their associates.

*Questions Nos. 200 and 201 answered with Question No. 185.*

#### **Garda Strength.**

202. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the strength of An Garda Síochána as of 1 June 2006; the strength of the force on 1 June 2002; and if he will make a statement on the matter. [22245/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities, who are responsible for the detailed allocation of resources, including personnel, that the personnel strength (all ranks) of An Garda Síochána as at 1 June 2002 and 2006 was 11,754 and 12,391, respectively. I am pleased to advise the Deputy that the serving strength of the Force is to receive a significant additional boost with the attestation of approximately 275 new members today (8 June).

I should add that the current recruitment drive to increase the strength of the Garda Síochána to 14,000 members, in line with the commitment in the Agreed Programme for Government, is fully on target. This will lead to a combined strength,

of both attested Gardaí and recruits in training, of 14,000 by the end of this year. The first group of newly attested Gardaí under the accelerated recruitment programme came on stream in March and a further 275 newly attested Gardaí will do so every 90 days thereafter. The Garda Commissioner will now be drawing up plans on how best to distribute and manage these significant additional resources.

#### **Juvenile Offenders.**

203. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the strength of the JLO service; the extent to which sufficient resources are available to the service to carry out its function; and if he will make a statement on the matter. [22246/06]

204. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if it is intended to provide extra personnel, resources or facilities to enable the Junior Liaison Service carry out its function in accordance with its statutory requirements and current and future demands; and if he will make a statement on the matter. [22247/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 203 and 204 together.

I wish to refer the Deputy to my reply to Question No. 25 (ref: 22147/06) today.

#### **Garda Stations.**

205. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of Garda stations closed or otherwise made redundant in the past seven years; the number of new stations opened in the same period; and if he will make a statement on the matter. [22248/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The information in the detail sought by the Deputy has been requested from the Garda authorities and I will contact the Deputy directly when this information is to hand.

#### **Garda Equipment.**

206. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if An Garda Síochána is sufficiently equipped in respect of Garda cars, technology or body armour with particular reference to increasing the obvious needs; and if he will make a statement on the matter. [22249/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Garda authorities are satisfied that the technology required to assist in the fight against crime is available to them. An Garda Síochána constantly evaluate all available technology with a view to determining the technology best suited to their needs. Significant resources are being invested in technology for the Gardaí



to assist them in the exercise of all their functions. The capital allocation for IT in 2006 is €33.323 million representing an increase of €5.065 (18%) on the 2005 outturn.

One aspect of technology I am particularly committed to is the delivery of a state-of-the-art digital radio service for An Garda Síochána. To this end, the procurement of an outsourced Managed Service by the Department of Finance on behalf of An Garda Síochána, other blue light services and some non-commercial public bodies, is well underway. While the exact timeframe for roll-out will be subject to contract negotiations with the successful bidder, the implementation of the new service is planned to commence later this year. The total allocation for communications for 2006 is €12.9 million.

Significant investment has taken place in the Garda fleet over the last few years which has resulted in an increase in the size of the fleet from 1,898 vehicles at the end of 1997 to 2,155 vehicles at present — an increase of 13.5%. Of the 2,155 vehicles in the Garda Fleet 1,538 are Garda cars. The Government Supplies Agency has, in recent days, awarded contracts to a number of companies for the supply of vehicles to public bodies. The Garda authorities have finalised their vehicle requirements for this year and will very shortly order a considerable number of new vehicles from these suppliers on foot of these new contracts. In relation to “Body Armour” I can inform the Deputy that my Department, on behalf of the Garda Síochána, has issued Requests for Tender (RFTs) for the supply and delivery of 12,500 Anti Stab/Ballistic Vests and 3,000 Retractable Batons. There is also a provision in these RFTs to purchase a further 4,700 vests and a further 12,000 Batons, if required, over the duration of the contract. These tenders are currently being evaluated by the Garda authorities and contracts are expected to be in place for the supply of these items in the near future.

I want to see Gardai provided with all necessary equipment up to best international practice. This is not just an aspiration. I am providing and will continue to provide the necessary resources for this to happen.

### Visa Applications.

207. **Mr. Timmins** asked the Minister for Justice, Equality and Law Reform the position in relation to a person (details supplied) in County Wicklow who has applied for a visa for another person; and if he will expedite the matter. [22263/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am pleased to inform the Deputy that the visa application in question was approved on 6th June, 2006.

### Garda Vetting Service.

208. **Mr. Boyle** asked the Minister for Justice, Equality and Law Reform if there has been recent interaction between his Department and the Gardaí regarding the advancing of the State's vetting capabilities to allow for checks on certain categories of volunteers. [22268/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Garda Central Vetting Unit (GCVU) was established in January 2002 to deal with the then known demand for criminal record vetting. I am pleased to report that, under the guidance of a multi-agency implementation group, the vetting service of the GCVU is currently undergoing major expansion. This is being made possible, in part, by the provision of significant additional human and other resources. In particular, the GCVU's staffing complement has more than doubled, from 13 to 30 personnel. Minister Brian Lenihan has played an important role in driving this project forward and I want to recognise his personal contribution in this respect.

Since the Unit's successful decentralisation to custom-designed office accommodation in Thurles, County Tipperary, significant changes have been made to its work processes in order to streamline the processing of vetting applications. The extension of the vetting service of the GCVU is proceeding in a planned and structured manner in consultation with, inter alia, Government Departments and Agencies responsible for child and vulnerable adult care. This consultation will extend to the Department of Community, Rural and Gaeltacht Affairs.

The expansion of the Garda vetting service to new sectors is occurring by means of a phased roll-out to an increasing number of organisations in the child and vulnerable adult care sectors. This expansion will continue until vetting is available in respect of all personnel working in a full-time, part-time or voluntary capacity with children and vulnerable adults.

### Asylum Applications.

209. **Mr. M. Higgins** asked the Minister for Justice, Equality and Law Reform the implications for such decisions as he has made, or is likely to make, in relation to Afghan refugee asylum applicants in view of the fact that Afghanistan is not a party to the United Nations Conventions relating to the status of the refugees 1951 or the 1967 protocol. [22269/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In relation to the treatment of returnees by the authorities in their countries of origin, it should be borne in mind that before a deportation decision is made in any individual case, the Minister for Justice, Equality and Law Reform must have regard to the eleven factors contained in Section 3 (6) of the Immigration



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Act, 1999 (as amended) and the provisions of Section 5 of the Refugee Act, 1996 (as amended) on the Prohibition of Refoulement.

This means that the safety of returning a person to their country of origin, or refoulement as it is commonly referred to, is fully considered in every case when deciding whether or not to make a deportation order. This means in practice that a person shall not be expelled from the State or returned in any manner whatsoever to a State where, in my opinion, the life or freedom of that person would be threatened on account of his or her race, religion, nationality, membership of a particular social group or political opinion. The legislation requires that this consideration is given before the deportation decision is made. In arriving at such decisions, the Department of Justice, Equality and Law Reform uses extensive country of origin information drawn from different independent sources, including the UNHCR, in evaluating the safety of making returns to third countries. I am satisfied that all national and international protection obligations will be observed in the context of any deportations to Afghanistan which are made in the future.

*Question No. 210 answered with Question No. 73.*

#### **Residency Permits.**

211. **Mr. M. Higgins** asked the Minister for Justice, Equality and Law Reform the reason Ireland has not yet signed the 2004 EU Council Directive on residence permits, or the 2005 Council of Europe Convention on Action Against Trafficking in Human Beings, both of which would allow for residence permits for victims while they receive counselling and consider whether they are able to give evidence on foot of their ordeal. [22271/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have already outlined on a number of occasions Ireland's position on the European Council Directive on residence permits for victims of trafficking. In practice this Directive does not require us to do anything which we cannot already do under our existing immigration legislation and practice. It would require more formalised procedures that we currently have, but in any event we have the ability to deal with trafficking victims on a case by case basis, dealing appropriately with their needs. I am keeping an open mind on future participation in this Directive.

As regards the signing and ratifying of the 2005 Council of Europe Convention on Action against Trafficking in Human Beings, I am taking the necessary steps to bring Irish criminal law into line with the requirements of the Convention. I am also examining the other provisions of the Convention and I am keeping the matter under

review. Legislation creating an offence of trafficking in persons for the specific purpose of sexual or labour exploitation is contained in the draft Criminal Justice (Trafficking in Persons and Sexual Offences) Bill which is at an advanced stage of preparation in my Department. This Bill will comply with the EU Framework Decision on combating trafficking in persons for the purpose of sexual exploitation and will also fulfil the criminal law requirements of two other international trafficking instruments, including the 2005 Council of Europe Convention on action against trafficking in human beings.

#### **Human Trafficking.**

212. **Mr. M. Higgins** asked the Minister for Justice, Equality and Law Reform the reason Ireland, while it has signed the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000) has not been transposed into Irish law, with the result that such trafficking is not illegal here; and if he will make a statement on the matter. [22272/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Criminal Justice (Trafficking in Persons and Sexual Offences) Bill should be published later this year and enacted in the lifetime of this Dáil. The primary purpose of the legislation is to allow for compliance with the Framework Decision on combating trafficking in human beings (for the purpose of their sexual and labour exploitation) and the Framework Decision combating the sexual exploitation of children and child pornography.

At present under the Child Trafficking and Pornography Act 1998 it is a serious offence to traffic a child into, through or out of Ireland for the purpose of the child's sexual exploitation. Also, under the Illegal Immigrants (Trafficking) Act 2000 it is an offence for a person to organise or knowingly facilitate the entry into the State of a person whom he or she knows or has reasonable cause to believe to be an illegal immigrant or a person who intends to seek asylum.

The Protocol to prevent and punish trafficking in persons, supplementing the UN Convention against transnational organised crime (the Palermo Protocol) and two other international instruments, the Council of Europe Convention on action against trafficking in human beings (CAHTEH) and the Optional Protocol to the UN Convention on the rights of the child on the sale of children, child prostitution and child pornography, were also taken into account in the preparation of the proposed legislation.

213. **Mr. M. Higgins** asked the Minister for Justice, Equality and Law Reform if he will confirm that the only non-Governmental organisations (details supplied) operating here with the mandate of helping persons being trafficked for

purposes of prostitution only receives €25,000 from the Government to carry out its work; his views on whether this sums indicates that the Government is not giving this matter sufficient attention; his further views, as has been suggested by representatives of the organisation, on the fact that there is a lack of awareness among Gardaí on the way in which to deal with victims of trafficking; and if there are plans to increase funding for these services. [22273/06]

**Minister for Justice, Equality and Law Reform**

**(Mr. McDowell):** My Department has provided substantial funding to Ruhama (more than €1.6m in total from 2002 to 2005) and I understand that funding is also provided by the Health Service Executive. The funding provided relates to the organisation's overall objectives, of which assisting persons trafficked for sexual exploitation is an important part.

Insofar as my Department is concerned, Ruhama receives time bound assistance of €381,000 under the Equality for Women Measure to enable them to develop a model of intervention that would help women in prostitution overcome the barriers they faced in joining mainstream social economic or community education schemes.

In addition, Ruhama received a grant of €26,768 to enable them to engage a coordinator in 2005 to combat trafficking in persons for the purpose of sexual exploitation; they also received a contribution of €12,000 to set up 'Ireland-en-Route', an interagency forum established to address the problem of trafficking in women and children for sexual exploitation.

I can further advise the Deputy that my Department through the Probation and Welfare Service has also provided funding to Ruhama for a number of years. An annual grant of €275,000 was paid in 2005 and a similar amount has been approved for the current year. This project has successfully helped women to exit prostitution and to take up educational opportunities, training, employment or to develop enterprises.

In addition to providing the above support, victims of trafficking who wish to return to their countries of origin may be assisted through the voluntary return programmes operated by the International Organisation for Migration (IOM), which has been operating a number of voluntary return programmes in Ireland since 2001. While emphasising the dignity and security of the return, the IOM ensures that all returnees have appropriate transit and post-arrival assistance from IOM missions in countries of transit and destination, and, in some cases, assistance in reintegrating in the destination country. The overall budget for the operation of the Voluntary Assisted Return Programme for 2006 is €838,174.17. While this programme mainly consists of irregular migrants and failed asylum seekers who wish to return to their country of origin, it also includes victims of trafficking.

Regarding the level of Garda resources tasked with preventing human trafficking, a joint task force, which pools the resources of specialist Garda units and detective units, has been established. The Garda National Immigration Bureau (GNIB) acts as the lead unit for the task force. Other specialist units involved include the Garda Bureau of Fraud Investigation, the Garda National Drugs Unit, the National Bureau of Criminal Investigation and the Criminal Assets Bureau. The GNIB includes a number of sections that have an investigative role and thus play a significant part in the prevention and detection of human trafficking.

In view of the exponential growth in the level of immigration in Ireland in recent years, all members of An Garda Síochána are advised of the need to be mindful of the possibility of trafficking in women for sexual exploitation. If evidence of trafficking for such purposes is disclosed in any case, investigations are conducted.

A training programme has been prepared for delivery to key Garda personnel throughout the State. This training programme has been designed specifically to enable members of An Garda Síochána identify victims of trafficking whom they encounter in the course of their duties, to ensure that members fully understand the complexity of the phenomenon and that victims receive appropriate assistance from all the relevant agencies.

Finally, I would like to draw the Deputy's attention to the US State Department's Trafficking in Persons Report 2006, which was published on 5 June and highlights the approaches taken by 158 countries, and which states that the Irish Government "has shown openness and leadership" in tackling human trafficking.

It further states that the Government "has demonstrated strong leadership and initiative in addressing trafficking through law enforcement means" and "vigorously investigated cases of suspected trafficking reported by NGOs, potential victims themselves, and those reported in the media". The report also states that the "Government of Ireland demonstrated strong engagement with international organisations, NGOs, and potential source countries on trafficking" and that "NGOs reported excellent co-operation with government and police officials, particularly at the operational level".

*Question No. 214 answered with Question No. 56.*

**Disability Act 2005.**

**215. Mr. Stanton** asked the Minister for Justice, Equality and Law Reform further to Parliamentary Question No. 33 of 9 March 2006, if the Attorney General has completed the formal drafting on an order to give effect to the National Disability Authorities code of practice in relation to Sections 26, 27 and 28 of the Disability Act 2005; when he expects these sections to come into

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effect; and if he will make a statement on the matter. [22275/06]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I can confirm that under the Disability Act 2005, I have declared by order, on 6 April 2006, that the code of practice prepared by the National Disability Authority in relation to sections 26 (on accessibility to services provided by public bodies), 27 (on accessibility of services supplied to public bodies) and 28 (on access to information through communication formats) of the Act, is an approved code. Sections 26, 27 and 28 of the Act came into operation on 31 December 2005 as provided for in the Act. The NDA is organising a number of seminars regarding these sections of the Act and the code for Government Departments and public bodies.

### Special Educational Needs.

216. **Ms C. Murphy** asked the Minister for Education and Science the policy development and strategies which are being considered in view of the evolving nature of information and interventions for children with specific or special learning needs; and if she will make a statement on the matter. [22031/06]

**Minister for Education and Science (Ms Hanafin):** I wish to advise the Deputy that officials of my Department continually meet with representatives of children with special educational needs (SEN) including various disability bodies, parents of children with disabilities and SEN, educationalists in colleges of education and university special education course deliverers. My officials participate in international committees that focus on the area of SEN; many undergo post-graduate courses in SEN and are aware of recent publications in the area of SEN. Consequently, they are familiar with recent developments in SEN, both in information and interventions. This enables my officials to contribute to policy development and to changes in strategies and practices.

Recent evidence of such policy development and strategies include the general allocation of learning support/resource teachers to all primary schools and the associated publication of an advice circular to these schools. Revised Guidelines on Learning Support have also issued to schools and my Department is currently preparing Guidelines on the inclusion of students with SEN at Post-Primary level.

The Deputy is aware of the enormous progress made over the past number of years in relation to increasing the number of teachers in our schools who are specifically dedicated to providing education for children with special educational needs. At primary level there are now approximately 5,000 teachers in our primary schools working directly with children with special needs. This compares to fewer than 1,500

in 1998. Indeed, one out of every five primary school teachers is now working specifically with children with special needs.

At second level approximately 1,654 whole time equivalent additional teachers are in place to support pupils with special educational needs. This compares to approximately 200 teachers that were in place in 1998 for such pupils. In addition, there are 532 whole time equivalent learning support teachers.

Enormous progress has also been made in relation to increasing the number of Special Needs Assistants (SNAs) who specifically cater for the care needs of children with special educational needs. There are over 7,300 whole time equivalent SNAs in primary and second level schools supporting children with special needs. My Department also provides funding for the purchase of assistive technology and/or specialised equipment where appropriate.

The Deputy will be aware that the National Council for Special Education (NCSE) became operational with effect from 1st January 2005. The functions of the NCSE as set out in the Education for Persons with Special Educational Needs Act, 2004 include:

- advising my Department in relation to any matter relating to the education of children and others with disabilities;
- consulting with such voluntary bodies as the Council considers appropriate, (being bodies whose objects relate to the promotion of the interests of, or the provision of support services to, persons with disabilities) for the purposes of ensuring that their knowledge and expertise can inform the development of policy by the Council and the planning and provision of support services, and
- conducting and commissioning research on matters relevant to the functions of the Council and, as it considers appropriate, to publish in such form and manner as the Council thinks fit the findings arising out of such research.

I am aware that the NCSE is currently preparing Guidelines on the Individual Education Plan Process in the context of its obligations under the Education for Persons with Special Educational Needs Act 2004.

In addition, my Department's Teacher Education Section has developed a strategy designed to meet the continuing professional development needs of personnel working with children with special educational needs. This involves a major expansion of the range of post-graduate professional training programmes available to teachers in the special needs area and the ongoing development of the Special Education Support Service (SESS) to support schools staff locally.

I can confirm that I will continue to prioritise the issue of special needs education and, in co-operation with the National Council for Special Education and the education partners, ensure



that all children with special educational needs are adequately resourced to enable them to meet their full potential.

### **Schools Recognition.**

217. **Mr. Crowe** asked the Minister for Education and Science if parents have the right to choose for their children to be taught through the medium of Irish in schools here; and, if so, if she will formerly recognise a school (details supplied) in County Wicklow in order to ensure that the 80 plus children there are not denied the chance to be educated through the State's first language. [22032/06]

**Minister for Education and Science (Ms Hanafin):** A decision will be made on the application to establish a new Gaelscoil in West Wicklow within days. The reason the decision was deferred at the time that the list of new schools was announced was to allow for consideration of the impact that recognising this school would have on the existing schools in the area, plans for the expansion of which are well advanced. The New Schools Advisory Committee recommended in their report to me that this issue be considered.

The Chairperson of the Commission on School Accommodation has just carried out a review and further analysis of key data in relation to the population projections for the area. I have now received his report on the matter which I am considering. I am very conscious of the need for a decision to be made as soon as possible so that parents know what the situation will be for September and I expect to make my decision known within days.

### **Departmental Agencies.**

218. **Ms Burton** asked the Minister for Education and Science if she has reviewed the membership of the Grangegorman Development Agency and the lack of representation on this agency of the student body of the Dublin Institute of Technology; her views on appointing a student representative to the body; and if she will make a statement on the matter. [22033/06]

**Minister for Education and Science (Ms Hanafin):** The relocation of DIT, which is currently spread over 30 different sites in Dublin, to a 65-acre campus in Grangegorman is a major priority for this Government. The move will enable the Institute to provide better academic and support services for its nearly 20,000 students. It will also allow for much greater academic and social interaction between students of many different disciplines, providing a dynamic environment for a broad third level education in the heart of Dublin city centre. It also has great potential to regenerate an underdeveloped area of the North Inner city.

I recently announced the appointment of Mr. John Fitzgerald, City Manager, Dublin City Council as Chairman of the Grangegorman Development Agency and I am now actively considering the other appointments to the Agency. The general aim of the Agency is to oversee the Development of the lands at Grangegorman on behalf of the Departments of Education and Science and Health and Children, the Dublin Institute of Technology and the Health Service Executive.

The Grangegorman Development Agency Act 2005 provides for a total membership of 15 in the agency including the Chairperson and Chief Executive Officer. There is no specific provision for a student or staff representative from the DIT. The legislation does provide that 2 ordinary members of the agency will be nominated by the President of DIT and it is clearly a matter for the President to determine who to nominate having regard to the functions of the agency set out in the Act and its governance role in relation to the development.

The legislation recognises the student body of DIT specifically among the stakeholders that should be represented on the Consultative Group provided for in Section 22 of the Act. Up to 2 members of the Consultative Group can come from the student body.

My officials recently met the President of DIT Students' Union and explained how the Consultative Group will give the stakeholders an opportunity to outline their views and participate fully in the Grangegorman development. The Act also provides for the Consultative Group to hold as many meetings as may be necessary to maintain an adequate communications strategy concerning the development of the Grangegorman site. The Consultative Group reports to the Chairperson of the Agency.

### **School Accommodation.**

219. **Mr. Naughten** asked the Minister for Education and Science if she will review the grant aid provided to a school (details supplied) in Co. Roscommon for its capital project in view of the significant differential between the vocational educational committee costs and the funding allocated to date; and if she will make a statement on the matter. [22050/06]

**Minister for Education and Science (Ms Hanafin):** A grant of €425,000 was sanctioned under the 2006 Permanent Accommodation Scheme to enable the Vocational Education Committee to provide 5 additional classrooms at the College referred to by the Deputy. The Committee submitted an appeal in the matter and the level of grant aid was increased to €595,000 to provide 7 additional classrooms. The initiative allows management authorities to address their accommodation and building priorities with a



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guaranteed amount of funding and gives them control of the building project.

### Departmental Correspondence.

220. **Mr. Naughten** asked the Minister for Education and Science if she will furnish a final response to correspondence; and if she will make a statement on the matter. [22052/06]

**Minister of State at the Department of Education and Science (Miss de Valera):** My Department is investigating the general position as outlined by the Deputy in the correspondence provided and a reply will issue as soon as possible. The provision of the names and addresses of the pupils affected would assist in the investigation of the specific case referred to by the Deputy.

### Schools Building Projects.

221. **Mr. Naughten** asked the Minister for Education and Science the reason for the delay in approving funding for a building project for a school in Co. Roscommon; the status of the project; and if she will make a statement on the matter. [22057/06]

**Minister for Education and Science (Ms Hanafin):** The proposed refurbishment and extension project for the School referred to by the Deputy is at an early stage of architectural planning. Additional Stage 2 (Sketch Scheme) documentation was requested from the school authorities and is currently being examined by the Technical Staff in my Department. Department officials will be in contact with the school authorities when this examination has been completed. A decision on which school building projects will advance to tender and construction will be considered in the context of the School Building and Modernisation Programme 2006-2010.

### School Staffing.

222. **Mr. Naughten** asked the Minister for Education and Science the position in relation to Parliamentary Question No. 315 of 15 December 2005; and if she will make a statement on the matter. [22060/06]

**Minister for Education and Science (Ms Hanafin):** The review of the one teacher schools is ongoing. As part of the review, Inspectors of my Department have been asked to submit reports on the individual schools involved. These reports on the individual schools involved are expected to be available shortly. Discussions will be held with representatives of the interested parties when all of the reports have been received and considered.

### State Examinations.

223. **Ms Cooper-Flynn** asked the Minister for Education and Science if it is possible for a person (details supplied) in County Mayo to be allowed to sit their LCVP exam as they were unable to sit their exam on the date scheduled due to illness. [22063/06]

**Minister for Education and Science (Ms Hanafin):** The State Examinations Commission has statutory responsibility for operational matters relating to the certificate examinations, including organising the holding of examinations. In view of this, I have forwarded your query to the State Examinations Commission for direct reply to you.

### Schools Building Projects.

224. **Mr. Crowe** asked the Minister for Education and Science the status of the application for additional accommodation for a school (details supplied) in County Donegal in view of the fact that the completed application and ready to go tender has been with the Primary Building Section of her Department since Spring 2002. [22064/06]

**Minister for Education and Science (Ms Hanafin):** An application for capital funding towards the provision of a general purpose room, staff room, multipurpose room and storage capacity has been received from the school to which the Deputy refers. The project has been assessed in accordance with the published prioritisation criteria for large scale building projects and is being considered in the context of the School Building and Modernisation Programme 2006 — 2010.

### Youth Services.

225. **Mr. McGuinness** asked the Minister for Education and Science if she will provide further funding to a programme (details supplied) in County Kilkenny to enable a second youth worker to continue to be employed beyond October 2006; and if she will make a statement on the matter. [22065/06]

**Minister of State at the Department of Education and Science (Miss de Valera):** The project referred to by the Deputy is currently in receipt of funding under the Special Projects for Youth Scheme and was allocated €52,647 by my Department in 2005.

An application for an additional youth worker post has been received by the Youth Affairs Section. My Department is at present giving consideration to this request and to all other applications made for youth work funding in 2006, having regard to the overall provision for the youth sector. A decision in this regard will be given as soon as possible.

### Teacher Registration.

226. **Mr. McGuinness** asked the Minister for Education and Science the reason a person (details supplied) in County Kilkenny was refused registration as a secondary school teacher on 8 February 2006 in view of the fact that their registration was accepted by her Department on 5 December 1996; if she will investigate the case and expedite a response based on the 1996 decision and the fact that they have been teaching full-time since then; and if she will make a statement on the matter. [22066/06]

**Minister for Education and Science (Ms Hanafin):** The person concerned first applied for registration as a secondary teacher in January 2006. Her application for admission to the Register of Secondary School Teachers was refused on the basis that her primary degree was not one deemed suitable by the Registration Council for the purpose of teaching at second level.

A suitable degree is a degree or equivalent award from a nationally-recognised degree awarding authority, the course for which was of at least 3 years' duration and the final examination for which included at least one subject from the post-primary schools curriculum. The person's degree is a B.A. in Psychology, the final examination for which did not include any subject suited to the post-primary curriculum.

The statement dated 5 December 1996 was, when viewed in the context of the January 2006 application for registration, deemed to have been issued in error. This is based on the fact that no formal application to the Registration Council for assessment of this qualification, for which a fee was payable, was received from this person prior to the issue of this statement or subsequently.

The Registration Council was, at the time of the application for registration in January 2006, the designated authority for the recognition of qualifications for the purpose of teaching in secondary schools. The Teaching Council has, since its establishment on 28 March 2006, taken over the role of designated authority for the recognition and registration of all teachers. The Teaching Council is based in Block A, Maynooth Business Campus, Maynooth, Co. Kildare (Tel: 01-6517900).

The person has been advised that, if she has status as a recognised teacher in another member State of the European Economic Area (EEA), she may be entitled to recognition in this State under the terms of Directive EC89/48 which deals with the mutual recognition of professional qualifications within EEA countries. To pursue this route, she must make formal application to the Teaching Council for the assessment of her qualifications and address any shortfalls identified as required of her by the Council.

### School Staffing.

227. **Mr. Cregan** asked the Minister for Education and Science the numbers of national school teachers nationally for each of the past 10 years; the way in which the numbers of teachers compare with earlier decades; the way in which the extra teachers have been used; the number who are used as special needs or resource teachers; the improvements in class sizes over recent years; and if she will make a statement on extra teaching resources to schools in disadvantaged areas. [22085/06]

**Minister for Education and Science (Ms Hanafin):** The details requested by the Deputy are as follows. The details refer to the position as at 30th June of the year in question except in the case of 2006 where they relate to the position as at 31st March.

Year	Total Teachers
1996	21,052
1997	21,035
1998	21,100
1999	21,500
2000	21,850
2001	22,850
2002	23,935
2003	24,700
2004	26,039
2005	26,282
2006	27,595 (provisional).

The numbers of teaching posts in 1966, 1976 and 1986 were 14,614, 17,055 and 21,125 respectively.

As can be seen from these statistics, there have been major improvements in school staffing in recent years. The additional posts created were utilised to reduce class sizes and the pupil teacher ratio and to provide for the needs of pupils from disadvantaged areas and those with special educational needs.

Today there is one teacher for every 17 children, the lowest pupil teacher ratio in the history of the State. Average class size has been reduced from 27 to 24.

Aside from decreasing average class size, the unprecedented increase in school staffing in recent years has also greatly improved the services provided for children with special needs and those from disadvantaged areas.

With regard to the number of teachers in our schools who are specifically dedicated to providing education for children with Special Educational Needs, the position is that at primary level there are now approximately 5,000 teachers in our primary schools working directly with children with special needs, including those requiring

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learning support. This compares to fewer than 1,500 in 1998.

In relation to support for children from disadvantaged areas, the Deputy will be aware that last year I launched a new action plan for educational inclusion, DEIS (Delivering Equality of Opportunity in Schools), one aspect of which will be more staffing for the most disadvantaged schools. Under the plan, there will be a reduction in class sizes to 24:1 at senior level and 20:1 at junior level in the 180 primary schools serving communities with the highest concentrations of disadvantage. The plan provides for an extra 300 posts across the education system over the course of a five year period — some of these are teaching posts and others are support staff. I expect that approximately 150 extra teaching posts will have been created in primary and post-primary schools by the end of the 2006/07 school year under the DEIS plan.

This Government has clearly demonstrated its commitment to improving staffing in our primary schools by hiring thousands of extra teachers in recent years and we will continue to make progress on this issue.

#### **Schools Building Projects.**

228. **Mr. Wall** asked the Minister for Education and Science the position of a school building programme for a primary school (details supplied) in County Kildare; and if she will make a statement on the matter. [22099/06]

**Minister for Education and Science (Ms Hanafin):** The process of appointing a design team to the school building project referred to by the Deputy is under way and will be completed shortly.

229. **Mr. Wall** asked the Minister for Education and Science the position of a school building programme for a primary school (details supplied) in County Kildare; and if she will make a statement on the matter. [22100/06]

232. **Mr. Wall** asked the Minister for Education and Science the position of a school building programme for a primary school (details supplied) in County Kildare; and if she will make a statement on the matter. [22103/06]

**Minister for Education and Science (Ms Hanafin):** I propose to take Questions Nos. 229 and 232 together.

The process of appointing a design team to the building projects referred to by the Deputy is underway. An advertisement seeking design team consultants will be posted on the public procurement portal, [www.etenders.gov.ie](http://www.etenders.gov.ie), shortly.

230. **Mr. Wall** asked the Minister for Education and Science the position of a school building

programme for a primary school (details supplied) in County Kildare; and if she will make a statement on the matter. [22101/06]

**Minister for Education and Science (Ms Hanafin):** The school building project referred to by the Deputy has been included in my recently announced list of 40 major school building projects that will progress to tender and construction on a rolling basis over the next 12 to 15 months.

My Department's Building Unit arranged a general information meeting for these schools to guide them through the process involved in moving projects to tender and construction. This meeting was held on Tuesday 30th May in Tullamore and the school in question attended the meeting.

231. **Mr. Wall** asked the Minister for Education and Science the position of a school building programme for a post primary school (details supplied) in County Kildare; and if she will make a statement on the matter. [22102/06]

**Minister for Education and Science (Ms Hanafin):** I am pleased to inform the Deputy that a letter issued to the school in question on the 10th April 2006 authorising them to proceed to tender and construction for the proposed school building project.

*Question No. 232 answered with Question No. 229.*

#### **Schools Recognition.**

233. **Ms O'Sullivan** asked the Minister for Education and Science if she is satisfied regarding the voluntary contribution of a school (details supplied) in County Dublin which has temporary recognition from her Department; if she is further satisfied in relation to the level set for the voluntary contribution in that school; and if she will make a statement on the matter. [22167/06]

**Minister for Education and Science (Ms Hanafin):** The issue of voluntary contributions at the school referred to by the Deputy is being examined in the context of the schools application for permanent recognition. Officials of my Department are currently in contact with the management authority of the school on this matter.

#### **School Accommodation.**

234. **Mr. Wall** asked the Minister for Education and Science the steps her Department is taking to ensure that all applicants for places in secondary and primary schools in County Kildare are facilitated; the number of schools in the county indicating spare places capacity; and if she will make a statement on the matter. [22168/06]

**Minister for Education and Science (Ms Hanafin):** Details on applications for places in the individual schools in County Kildare are not readily available in my Department. I am satisfied that between them the schools in County Kildare can cater for the demand presenting. However, if the Deputy is aware of any particular school with accommodation difficulties for the coming school year he should advise them to contact officials in the School Planning Section of my Department immediately.

#### **Physical Education Facilities.**

235. **Mr. Wall** asked the Minister for Education and Science the number of schools with physical education facilities in County Kildare; the number of physical education teachers employed by her Department in the schools in the county; the number of applications for funding with her Department for the provision of physical education facilities for such schools; and if she will make a statement on the matter. [22169/06]

**Minister for Education and Science (Ms Hanafin):** The information requested by the Deputy is not readily available in my Department.

#### **School Staffing.**

236. **Ms C. Murphy** asked the Minister for Education and Science the number of staff within her Department whose duties are concerned with the area of special education for secondary school students and prospective secondary school students; if there is no such member of staff, the reason for same; if she has plans or intentions to create such a post; and if she will make a statement on the matter. [22170/06]

**Minister for Education and Science (Ms Hanafin):** My Department provides a range of supports to second level schools to enable them to cater for students with special educational needs and this involves a large number of staff.

The supports in question include remedial and resource teaching support, special needs assistant support and funding for the purchase of specialised equipment which concerns staff in the National Council for Special Education, Teacher Allocations and the Assistive Technology area. Other sections concerned with the area of special education include Transport, Accommodation, Teacher Education Section, National Educational Psychological Service (NEPS), the National Education Welfare Board and the State Exams Commission.

My Department will continue to ensure that the necessary resources are made available for the education of children with special needs.

#### **Grant Payments.**

237. **Mr. Kehoe** asked the Minister for Education and Science if she will award a partial maintenance grant for a student (details supplied) in County Carlow who is studying the FETAC level five course on childcare for children with special needs. [22258/06]

**Minister for Education and Science (Ms Hanafin):** The Maintenance Grant Scheme for Students attending Post Leaving Certificate courses is administered by the Vocational Educational Committees on behalf of my Department.

Under the Scheme eligible students may continue to receive grant assistance for the normal duration of an approved course subject to the usual terms and conditions of funding. In this regard clause 6.3 provides, *inter alia*, that: "A grant is tenable for the normal duration of the approved PLC Course and is renewable annually subject to satisfactory participation, attendance and the approval of the Vocational Education Committee".

Grants may not be paid in respect of a second period of attendance at the same level for a course approved for the purposes of this scheme, irrespective of whether or not a grant was paid previously. The Vocational Educational Committee will have discretion to waive this provision in exceptional circumstances such as serious certified illness.

I understand from Carlow VEC the awarding body in this case that the candidate referred to by the Deputy has entered one previous PLC Course at FETAC level 6 (formally known as FETAC level 3) and didn't complete the course. She is now pursuing a FETAC level 5 (formally known as FETAC level 2) Course. I regret that under the above provisions of the PLC Scheme the candidate in question is ineligible to receive any PLC funding in respect of her current course.

Where funding in respect of a repeat period of study at the same level is awarded on the basis of exceptional circumstances, such as serious certified illness, it would generally be where the student has suffered from a serious illness that has directly impacted on their ability to successfully complete the period concerned.

#### **Physical Education Facilities.**

238. **Ms Burton** asked the Minister for Education and Science in relation to the 10 year promise by the Government to build a gym in Castleknock College, the funds she has allocated; when she expects the gym to be open to the pupils of the school; the nature of the contract to build the gym; and if she will make a statement on the matter. [22259/06]



**Minister for Education and Science (Ms Hanafin):** I am pleased to advise the Deputy that the project to build a physical education hall in Castleknock Community College has been approved to proceed through the architectural planning process and on to tender and construction. It is not possible at this point to state when the project will be completed.

### School Transport.

239. **Mr. M. Higgins** asked the Minister for Education and Science further to a meeting with persons (details supplied) in County Galway regarding the removal of the school bus service to a school the progress made in this regard; if the bus service will be resumed; if so, when this will be and if not, the reasons for this decision; and if she will make a statement on the matter. [22260/06]

**Minister of State for the Department of Education and Science (Síle de Valera):** There has been no reduction in the number of buses providing school transport to the school referred to by the Deputy in the details supplied. The pupils in question were availing of transport on a concessionary fare-paying basis under a three for two seating arrangement. However, under Regulations recently made by the Minister for Transport, seat belts must be used in buses, where fitted, which means that the three for two seating arrangement no longer applies on school buses fitted with seat belts.

Bus Éireann has put arrangements in place to accommodate the children on a one seat per child basis on both buses to the school in question. Priority is being afforded to eligible pupils but some of those who applied for concessionary transport can be accommodated. However, the demand for concessionary transport exceeds the number of spare seats available.

I should point out that concessionary transport is not guaranteed. Pupils may only avail of concessionary transport if spare seats are available on school buses and this is determined on a term-to-term basis by reference to those who are fully eligible for transport under the terms of the school transport scheme.

Significant investment has been made by the Government to address capacity shortfalls arising from the phasing out of the three for two seating arrangement on school buses. A programme for Bus Éireann to acquire a number of new and modern second-hand buses is well advanced. In addition, Bus Éireann has hired-in over 220 additional vehicles from the private sector and the general situation is being kept under review.

### Local Authority Staff.

240. **Ms C. Murphy** asked the Minister for the Environment, Heritage and Local Government

the number of additional staff local authorities have sought sanction for in order to introduce the rental accommodation scheme; the number which have been approved per local authority; the basis on which they will be employed; and if he will make a statement on the matter. [22037/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The number of additional staff sought by local authorities for the introduction of the rental accommodation scheme and the number approved is set out in the table below. In the main, these posts are contract posts which are subject to review by after 12 months.

Local authority	Number
	Sought-Approved
Cavan County Council	22
Clare County Council	44
Dún Laoghaire/Rathdown County Council	33
Galway City Council	33
Galway County Council	44
Kildare County Council	33
Laois County Council	43
Limerick County Council	22
Longford County Council	22
Louth County Council	22
Mayo County Council	33
North Tipperary County Council	22
Roscommon County Council	33
Sligo County Council	22
Waterford City Council	22
Westmeath County Council	44
Wicklow County Council	22

241. **Ms C. Murphy** asked the Minister for the Environment, Heritage and Local Government the number of staff each local authority is allowed to employ on a permanent basis and the number, since a cap has been put on the employment of additional staff, who have been sanctioned; their locations; and if he will make a statement on the matter. [22038/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Based on information supplied by local authorities, the number of permanent posts in local authorities at 31 March 2006 (expressed in whole time equivalents) and the changes in comparable figures from June 2003 are set out in the table below. In addition to the permanent staff, local authorities employed 3,098 additional staff at 31 March 2006 (whole time equivalents), including contract staff, national development plan project staff, site supervisory staff and seasonal/temporary staff.

Local Authority	Permanent Staff at end of March 2006 (wte)	Changes since June 2003
<i>County Councils, Including Town Councils</i>		
Carlow	305	0
Cavan	457.6	27.5
Clare	840.5	3
Cork	2,403.41	-3.29
Donegal	992.5	5
Dún Laoghaire/ Rathdown	1,285	-37
Fingal	1,457.9	-49.1
Galway	884.2	-3.23
Kerry	1,088.08	-30.02
Kildare	820.5	16.5
Kilkenny	561	74
Laois	359.2	-29.3
Leitrim	293.75	1.25
Limerick	740	-7
Longford	335.8	32.7
Louth	661.39	34.06
Mayo	1,067.5	58
Meath	621.33	38.83
Monaghan	414.02	15.39
Offaly	432	6.5
Roscommon	509	-14
Sligo	504.69	1
South Dublin	1,330.8	-12.2
North Tipperary	457	66
South Tipperary	672.5	-22.5
Waterford	523.5	-0.5
Westmeath	484.5	28.5
Wexford	771.95	18.43
Wicklow	758.65	27.4
<i>City Councils</i>		
Cork	1,422	5
Dublin	6,339.25	-20.25
Galway	414.5	-22.5
Limerick	501.2	-78.8
Waterford	383	6

### Community Development.

242. **Mr. Naughten** asked the Minister for the Environment, Heritage and Local Government if he will approve funding for a project (details supplied) in County Roscommon under the social and community facilities capital scheme 2006; and if he will make a statement on the matter. [22046/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** All eligible projects submitted under the Social and Community Facilities Capital Scheme will be appraised against the assessment criteria which are set out in guidelines issued to local authorities. When

this appraisal process is complete a number of projects will be selected for grant aid. It is envisaged that allocations will be made to successful projects by the middle of this year.

### Water and Sewerage Schemes.

243. **Mr. Naughten** asked the Minister for the Environment, Heritage and Local Government the status of the application for funding to upgrade the north east Roscommon regional water supply; and if he will make a statement on the matter. [22054/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The North East Roscommon Water (Augmentation) Scheme is

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approved for construction under my Department's Water Services Investment Programme 2005-07 at an estimated cost of €7.12 million.

Further consideration will be given to Roscommon's County Council's Preliminary Report for the scheme on receipt of the additional information my Department requested from the Council last April. Approval of the Preliminary Report will allow the Council to prepare contract documents for the scheme.

#### **Architectural Heritage.**

244. **Mr. Naughten** asked the Minister for the Environment, Heritage and Local Government if he will review the funding for architectural protection grants; if he has satisfied himself regarding the level of funding which is available; and if he will make a statement on the matter. [22056/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In March 2006, I approved allocations totalling €18.56 million on built heritage projects for the present year. This will be spent on the conservation and restoration of some of the premier built heritage properties in the country in public ownership as well as certain privately owned properties. These proposals include a provision of €6 million for the scheme of architectural protection grants administered by local authorities and ensure that the level of funding for this scheme will be on a par with 2005.

My Department also funds and administers a scheme of conservation grants under the Urban and Village Renewal Programme. For 2006, I have approved grants in respect of 70 projects to the value of almost €1.25 million. My Department separately provides grants for thatched buildings. In 2005, grant-aid to the value of €563,000 supported 124 thatching projects.

The Heritage Council, which is funded through my Department, also supports building conservation projects under its Buildings at Risk scheme. In 2006, the Council is grant-aiding 74 projects to the value of €1.2 million.

While I am satisfied with present levels of funding for schemes to conserve the built heritage, all such funding will be kept under review.

#### **Recycling Policy.**

245. **Mr. Kenny** asked the Minister for the Environment, Heritage and Local Government the amount of funding available to South Dublin County Council for recycling facilities in the Lucan, Palmerstown and Clondalkin areas for each of the years 200 to 2006; and if he will make a statement on the matter. [22087/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The information requested is not available in my Department in the form requested.

South Dublin County Council together with the three other Dublin local authorities forms a waste management planning region, for which Dublin City Council is the lead authority. Dublin City Council has acquired a premises in the South Dublin administrative area intended for use as a materials recovery facility. Some €6.4 million in grant assistance was provided by my Department towards the acquisition of this facility in 2004, and late last year I approved in principle a further €10 million in grant assistance towards the fit out and engineering works required to bring the facility into operation. Subject to the appropriate planning and licensing processes, it is expected that this facility when completed will be one of the largest of its kind in Europe and will have the capacity to deal with the commingled dry recyclables collected throughout the Dublin region.

In addition, in November 2002 South Dublin County Council was allocated €48,000 in grant assistance towards the provision of 13 bring centres.

A subvention in relation to the operational costs of local authority bring centres and civic amenity sites has been provided since 2003. In the case of South Dublin County Council the subvention provided has been €294,850 in 2003, €255,400 in 2004 and €277,680 in 2005. Further such funding will again be available later this year.

#### **Planning Issues.**

246. **Dr. Cowley** asked the Minister for the Environment, Heritage and Local Government the progress his Department has made in its discussions with the local authorities regarding the incentive to zone land exclusively for community use and his views on whether people would support the idea on this basis, but if it was for private development would not support it; his views on whether this is the way to deal with such matters and to keep the price low; and if he will make a statement on the matter. [22156/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I am not aware of discussions between my Department and local authorities, as referred to in the Question.

The zoning of land for particular purposes is a function of local authorities within the development plan process, as set out in the Planning and Development Act 2000. My Department actively engages with local authorities on a range of initiatives towards community improvements. Local authorities will generally have regard to potential financial implications of zoning exclusively for community use, and may prefer to adopt an integrated approach to the planning requirements of an area in consultation with the relevant stakeholders.

To assist local authorities in this process, I recently published Draft Guidelines on Development Plans for Planning Authorities for public consultation which set out, *inter alia*, the need for

development plans to include objectives for the integration of the planning and sustainable development of the area with the social, cultural and community requirements of the area and its population. The closing date for comments and submissions on the Draft Guidelines is 21 July 2006.

### **Water and Sewerage Schemes.**

247. **Mr. Wall** asked the Minister for the Environment, Heritage and Local Government if his Department has had an application for funding under any of the grant systems within his remit for the provision of a sewerage scheme (details supplied) in County Kildare; and if he will make a statement on the matter. [22172/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** My Department has not received proposals from Kildare County Council in relation to a sewerage scheme at the location mentioned. Neither was such a proposal included in the list of schemes submitted by the Council in November 2003 in response to my Department's request to all local authorities to undertake assessments of the needs for capital works in their area and to prioritise their proposals on the basis of the assessments. The priority lists were taken into account in the framing of subsequent phases of the Water Services Investment Programme published in 2004 and 2005.

Local authorities have recently been asked by my Department to carry out new needs assessments for their areas and to submit the results to the Departments by 31 July 2006. This will afford Kildare County Council an opportunity to review its water and wastewater infrastructural priorities, including those for the location in question. The priorities emerging from the new assessments will inform future phases of the Water Services Investment Programme.

It is also open to Kildare County Council itself to undertake small public water and sewerage schemes under the devolved Rural Water Programme for which I have allocated the Council €2.327 million in 2006.

### **Environmental Policy.**

248. **Mr. Kehoe** asked the Minister for the Environment, Heritage and Local Government the ruling to cutting of ditches and hedges overgrowth on public roadways; the legislation which is in place for same; when this was enacted and the reasoning; and if he will make a statement on the matter. [22173/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Section 40 of the Wildlife Act 1976 made it an offence for a person to cut, grub, burn or otherwise destroy any

vegetation growing in any hedge or ditch during the period from 15 April to 31 August.

The Wildlife (Amendment) Act 2000 extended this period by 6 weeks to cover the period from 1 March to 31 August and also included a provision that during this period the cutting, grubbing or destroying of vegetation in the course of any works being duly carried out for reasons of public health or safety by a Minister of the Government or a body established or regulated by or under a statute will not be an offence.

Hedgerows are an important reservoir of biodiversity and habitat for birds, insects, wild flowers and other wildlife during the summer breeding season. The purposes of these legislative provisions are to protect bird life during the nesting season, to prevent forest fires, and to protect vegetation and wildlife habitats during the months of growth and reproduction. However, provision is also made for certain works which are necessary for public health and safety.

### **Water and Sewerage Schemes.**

249. **Mr. Wall** asked the Minister for the Environment, Heritage and Local Government if his Department has received an application under any scheme operated by his Department for funding in the provision of a new sewerage scheme (details supplied) in County Kildare; and if he will make a statement on the matter. [22174/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In January 2001, my Department approved Kildare County Council's application for funding for a proposed sewerage scheme at Rathangan under the Serviced Land Initiative. The Council subsequently sought approval for the proposal as a major capital project under the Water Services Investment Programme where it would attract a higher level of Departmental funding.

The proposal was ranked eighth in the list of wastewater schemes submitted by Kildare County Council in November 2003 in response to my Department's request to local authorities to undertake fresh assessments of the needs for capital water services works in their areas and to prioritise their proposals on the basis of the assessments. The priority lists were taken into account in the framing of subsequent phases of the Water Services Investment Programme published in 2004 and 2005. Because of the priority afforded to the scheme by the Council, it had not been possible to include it in the Programme. However, the approval of the scheme under the Serviced Land Initiative remains in place. Moreover, all authorities have recently been asked by my Department to carry out new needs assessments for their areas and to submit the results to the Departments by 31 July 2006. This will afford Kildare County Council an opportunity to review its water and wastewater infrastructural priorities, including those for the location in question. The



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priorities emerging from the new assessments will inform future phases of the Water Services Investment Programme.

**Building Regulations.**

250. **Mr. Curran** asked the Minister for the Environment, Heritage and Local Government if, with regard to the Building Control Bill 2005, he intends to include a section in relation to the

registration of engineers; and the status of the Bill. [22175/06]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The title of Chartered Engineer is already protected under the Institution of Civil Engineers of Ireland (Charter Amendment) Act 1969 and the Building Control Bill 2005 does not alter this. It is hoped that the Committee Stage of the Bill will begin before the end of the current Dáil session.