

THE PAROLE BOARD ANNUAL REPORT 2009

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Chairman's Foreword

1. As can be seen from the statistics enclosed in this annual report, the Board has had a satisfactory year with far more cases referred to it than in the previous year (2008 - 66) and, therefore, happily with far more cases dealt with than heretofore. This from the Board's point of view is satisfactory and it shows we are carrying out our work with the resources that are available to us. We cannot in the current climate expect additional resources. We have to utilise what we have to the very best effect. For example, there were a total of fifty eight interviews of prisoners conducted by the Board members in the year under review. This compares with thirty three in the preceding year. The individual members and the entire staff of the Board are to be warmly commended on their efforts in this regard.
2. It must always be appreciated that cases that come before the Board are not new cases. These are cases that have been dealt with by the Courts effectively a minimum of four years previously. Thus, if we express any comments on the type of crimes that are more prevalent before us, these comments date back to the situation as it was a number of years ago – in fact, it dates back to the time when the crimes were committed. Everything in this report must, therefore, be taken in this light. Commencement of a prosecution sets off a chain of events that is effectively brought to finality when a case comes before the Courts.
3. The Judiciary assisted by the Court Services have full and sole jurisdiction in dealing with the issues that come before them and where appropriate guiding a Jury in serious cases – a Jury which represents the people of Ireland in the administration of justice. Once a trial has been completed and there is a guilty verdict, it falls to the Trial Judge to pass sentence on the accused person.
4. We only have jurisdiction to make recommendations to the Minister in cases where a life sentence is imposed, or if that sentence is a finite sentence exceeding seven years. When they are thus sentenced they are entitled to a remission of 25% of the sentence imposed. Other jurisdictions have a higher remission than 25% and whilst the Irish Law contains provision under certain specific circumstances for a higher rate of remission than 25%, this has only been very rarely permitted. This is of importance in the public eye when comparing a sentence passed here with a sentence imposed in the United Kingdom for a similar offence. The sentence passed in the United Kingdom would often seem longer because they have far higher remission available and parole, therefore, more easily available. In practice there is little difference between the sentencing policy in the United Kingdom or in Ireland.

5. Prisoners who are sentenced in the UK, but obtain permission to serve their sentence in Ireland, come under the Irish regime and thus the remission of a finite sentence is that which would apply in this Country and not in the United Kingdom. Also the Parole Board make recommendations to the Minister which happily the Minister usually (though not always) accepts. A problem can be created in a sentence imposed on Irish people who come back to serve that sentence here, particularly for armed offences when recent experience has shown us that sometimes very severe sentences can be imposed. This often places us in an awkward position in making recommendations to the Minister or to such persons.

 6. When a life sentence is imposed in the United Kingdom, it is accompanied by a tariff which is a recommended length of time which the prisoner must serve before he/she becomes available for parole. The tariff is decided by the Trial Judge and the approval of the Chief Justice. Again, if a prisoner elects to serve his sentence in Ireland where the tariff system does not apply he does not get the benefit of the tariff system and must serve his sentence in accordance with the regulations in force here.

 7. Our Board does not favour the tariff system. Some prisoners convicted of murder utilise their time in prison extremely well, do everything they can to rehabilitate themselves, show an appropriate degree of remorse for the crime they have committed and do everything they can to put themselves in a position where they are not regarded as high risk to the public any more. These prisoners will be given full advantage by us for what they have done and once a commensurate time has been served if a prisoner works to rehabilitate himself, this will be a major factor in considering our attitude to the recommendations that we then make to the Minister.

 8. Conversely, if prisoners do not avail themselves of their time to their best advantage, or if they continue to pose high risk to the public, this will, of course, tell against them. The safety of the public at large is top of our priorities. It is virtually impossible to recommend parole for prisoners who are still on drugs or even on methadone. If a prisoner offends, however rarely, in the supervised confines of a prison, then clearly if released, they would pose a greater danger to the public.
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9. During the year I was privileged to be invited to address the Judiciary at one of their all embracing Conferences where they discuss all aspects of their work. These Conferences are a modern innovation and are an absolute superb idea enabling the Judiciary to extend knowledge beyond the subject which they deal with in Court.

10. This enabled me to explain how we saw our role, how we saw it as complementary to the sentences that Judges impose and how our principle role is effectively managing these sentences so that prisoners would be afforded the best opportunity to rehabilitate themselves. It also enabled me to explain to the Judiciary that prisoners released on remission having served their sentence are, as a rule, not subject to any form of supervision whereas persons released on temporary release (as parole is officially called) are subject to supervision by the hardworking and industrious Probation Service.

11. Prisoners released on remission are as a rule, as I said, unsupervised, although where certain sex offenders are now sentenced supervisory Orders can be made. The Prison Service do exemplary work in this regard and it would, in our view, lessen the rate of offenders repeating their crimes if they were supervised and if this helped them integrate themselves back into public life and avoid the company of those who led them into a life of crime in the first place.

12. It is clear that some matters are given greater priority than others and upon reading the past reports of our Board and on reading the recommendations we made in those reports it is very gratifying to see the number that have now been followed up. It is a number of years now since we dealt with the carrying of dangerous offensive weapons. It is several years since we indicated that the knife must so far as possible be taken out of Irish Society. The same applies to the carrying of guns and also other such lethal weapons. A person who carries them can be expected under certain circumstances to use them. It is welcoming to see that our industrious Minister for Justice and Law Reform has introduced a large number of reforms dealing with criminals and these are much to be valued. Only recently the Minister launched the Victims Charter and Guide to the Criminal Justice System, a very welcome development indeed, yet another initiative that has been brought to finality. It is very rewarding from our point of view to know that the Minister takes our recommendations so seriously and has done so much over the previous years to carry these into effect.

13. We have, therefore, viewed with considerable interest the Minister's desire to bring in a system of electronic tagging as a means of keeping track of certain prisoners on release. There is no doubt that if a prisoner voluntarily agrees to such tagging it would be easier for us to recommend parole. If prisoners do not wish to be tagged implications can be drawn from this.
 14. There are organisations which consider such tagging might impinge upon prisoners' human rights, but it must be realised that prisoners themselves have interfered with their victim's human rights. In some cases they have interfered with the most fundamental right of all, the right to life. The victims of crime were in the past ignored in our society. Recently, the insistence of Judges on victim impact statements has gone a long way to bring some form of relief to such victims.
 15. This year as in previous years there has been considerable debate on crimes committed by prisoners on temporary release. To set the record straight I should say that only one person released on temporary release following a recommendation from this Board has transgressed again. This has been emphasised not only by the Minister but also by the opposition spokesmen when discussing law and order.
 16. Of course, the consequences of a person who is released on parole from a life sentence and breaking the law again are terribly severe. They are re-arrested, put back in prison and they have to go through the whole process again before a Board which will feel let down by their previous conduct. Similarly, there will be a marked reluctance both by the Board and by the Minister to give them any further leeway for a long period.
 17. The sad thing is that prison does not appear to hold much fear for persons who have been in prison and who re-offend. Nonetheless, the consequences of offending whilst on bail on a charge or whilst on temporary release on a different charge must be sufficiently firm to ease the public's mind and the public's fears on the matter.
 18. Over the last number of years we have been devastated by the vast increase in the drug trade. This has brought misery to so many people and has caused so much crime that the drug culture must be the biggest problem facing the authorities. Gangland warfare, of course, follows this but it must be our prime duty to help and assist the Gardaí who have done such great work in dealing with these twin evils. They must be commended, and they deserve the support of every citizen in the Country.
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19. We have always found difficulty in obtaining a copy of the Book of Evidence as used in the trial of any prisoner. This had been caused by the fact that the trial had always taken place years before we required sight of the Book of Evidence. This has now been resolved, thanks to the good offices of the Judges presiding in the Central Criminal Court, particularly the Senior Judge, the Chief Justice and the President of the High Court. We are grateful for their help and also the help given to us by the Director of Public Prosecutions and the Chief Prosecuting Solicitor, all of whom have been of great assistance.

20. We are very fortunate for the help and assistance that the parole system gets from each and every member of the Board. They each bring their own talents to bear, each and every one of them their time without query and work uncomplainingly. Their common sense, their attention to detail, highly educated and sophisticated way that they consider each case shows their dedication. Each and every one of them deserve and have earned my deepest gratitude.

21. To Feargal MacSuibhne and his willing staff, I send the thanks of all the Board and the Board's appreciation for the manner in which they carried out their work. Fran Murphy and Sarah Reilly were with us for the year. Elaine Dodd, Robert Scott and Miriam Mulligan left during the year and Michael Grange and Lisa Fogarty joined us. To all of them our sincere thanks. The members of the Department of Justice and Law Reform led by their enlightened Minister and Secretary General were at all times most helpful and considerate. Serena Bennett, Paul McKay and Christy Nolan left us during the year. To all of them I send my sincere thanks for their great efforts. During the year we welcomed Shane McCarthy and Noel Lennon to the Board. Sadly, at the time of writing, Noel has recently passed away and I would like to send my sincere sympathy to his wife Anne and family. In his short time with us Noel proved a most dedicated and conscientious Board member whose contributions to our discussions were very highly valued.

22. To all of them I send my sincere thanks for helping us to carry out the task entrusted to us which I hope we have done for the benefit of our real clients who are the general public of Ireland.

Gordon A Holmes.
Chairperson

10 August 2010

Introduction

The Parole Board was established by the Minister for Justice, Equality and Law Reform to review the cases of prisoners with longer term sentences and to provide advice in relation to the administration of those sentences. The Board commenced its operations in 2001. This is the Eight Annual Report of the Parole Board and it relates to the Board's activities in 2009.

Before the Parole Board can review the case of any prisoner, his or her case must first be referred to it by the Minister for Justice and Law Reform. As a general principle, it is only the cases of those serving sentences of eight years or more that are reviewed by the Board. In the normal course of events, the Board aims to review individual cases at the half-way stage of the sentence or after seven years, whichever comes first. Prisoners convicted of certain offences are ineligible for participation in the process. These include:

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



In addition, persons sentenced to a term of imprisonment for the possession of drugs under subsections 3A and 3B of Section 27 of the Misuse of Drugs Act 1977 as amended by Section 5 of the Criminal Justice Act, 1999 may also not be eligible for review by the Board. The Minister for Justice and Law Reform may, however, refer the case of any prisoner to the Board for review.

When formulating its recommendations, the Board is primarily concerned with the risk to members of the community which the release of a life sentence prisoner or the early release of a determinate sentence prisoner would pose. The main factors taken into account in each individual case are:

- nature and gravity of the offence
 - sentence being served and any recommendations made by the Judge
 - period of the sentence served at the time of the review
 - threat to safety of members of the community from release
 - risk of further offences being committed while on temporary release
 - risk of the prisoner failing to return to custody from any period of temporary release
 - conduct while in custody
 - extent of engagement with the therapeutic services and likelihood of period of temporary release enhancing reintegration prospects.
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The cases of 83 prisoners were referred to the Board for review during the year. This was a 26% increase on the number referred during the previous year (66 in 2008). All prisoners referred to the Board are invited to participate in the process. During 2009, 64 prisoners accepted the invitation while 10 declined. At year end, some 9 had not indicated whether or not they wished to participate.

The total caseload for 2009 was 230 – i.e. cases at various stages of the review process. This includes the new cases as well as those which were at second or subsequent review stage. Second or subsequent reviews generally take place on an annual basis in the case of prisoners serving less than 10 years and within 3 years in other cases.

During 2009, the Board made recommendations to the Minister for Justice, Equality and Law Reform in 88 cases, a 31% increase on the recommendations made in the previous year (67 in 2008). The Minister did not make a decision in 1 of the cases as the prisoner was released on remission prior to the decision. In 3 cases, the Minister did not agree with the recommendations of the Board. In 5 cases the Minister accepted the recommendations with conditions. At year end there were 2 cases pending with the Minister. The recommendations in the remaining 77 cases were accepted by the Minister.

Staff of the Secretariat continued to make presentations to, and meet with, groups of prisoners with a view to supporting the work of the Probation and Psychology Services and in an effort to provide factual information about the Board's review process, directly to the prisoners involved.

The Parole Board would like to acknowledge that it would not be able to fulfil its function without the high level of cooperation from the Irish Prison Service, the Probation Service, the Prison Psychology Service and the Department of Justice and Law Reform. In addition the Board is assisted in individual cases by other agencies and by Prison Chaplains.

Membership of the Parole Board

Dr. Gordon Holmes.....	Chairman
Ms. Serena Bennett	Community Representative (to June 2009)
Ms. Mary Burke.....	Dept. of Justice, Equality and Law Reform
Mr. Willie Connolly.....	Irish Prison Service
Mr. Pat Crummey	Community Representative
Mr. Michael Donnellan	Probation Service
Mr. Noel Lennon (RIP)	Community Representative (from October 2009)
Mr. Paul Mackay	Community Representative (to June 2009)
Mr. Frank McCarthy.....	Community Representative
Mr. Shane McCarthy.....	Community Representative (from July 2009)
Dr. Michael Mulcahy	Consultant Psychiatrist
Mr. Christopher Nolan	Community Representative (to June 2009)
Mr. Tim O'Donoghue.....	Community Representative
Mr. Eamon Nolan.....	Community Representative



Alternate Board Members

Mr. Gerry McNally Probation Service

Mr. Derek Brennan..... Irish Prison Service

Staff of the Secretariat

Mr. Feargal MacSuibhne..... Assistant Principal Officer

Ms. Fran Murphy Higher Executive Officer

Ms. Miriam Mulligan Executive Officer (to October 2009)

Mr. Michael Grange..... Executive Officer (from October 2009)

Ms. Sarah Howard Clerical Officer

Mr. Robert Scott..... Clerical Officer (to August 2009)

Ms. Lisa Fogarty Clerical Officer (from August 2009)

APPENDIX A (i)

Cases Referred to the Board - 2009

	Number of Cases	%
Cases Referred to the Board for Review	83	100
Invitation to Participate Accepted	64	77.2
Invitation to Participate Declined	10	12.05
Invitation to Participate not Determined	9	10.84

APPENDIX A (ii)

Cases Referred - Yearly Comparison

	2005	2006	2007	2008	2009
Cases Referred to the Board for Review	109	58	74	66	83
Invitation to Participate Accepted	65	59	40	52	64
Invitation to Participate Declined	19	22	3	8	10
Invitation to Participate not Determined	25	2	33	34	9



APPENDIX B (i)

2009 Caseload

	Number of Cases	%
Cases Referred to the Board for Review	83	36.09
Cases Carried Over from 2008*	147	63.91
Total Caseload	230	100

**Refers to cases at various stages*

APPENDIX B (ii)

Total Caseload - Yearly Comparison

	2005	2006	2007	2008	2009
Cases Referred to the Board for Review	109	58	74	66	83
Cases Carried Over	88	144	152	146	147
Total	197	202	226	212	230

APPENDIX C (i)

Prisoner Interviews 2009

Institution	Number of Prisoners	%
Arbour Hill	13	22.42
Castlerea	5	8.62
Cork Prison	1	1.72
Dóchas Centre	1	1.72
Limerick Prison	2	3.45
Midlands Prison	12	20.69
Mountjoy Prison	3	5.17
Portlaoise Prison	1	1.72
Shelton Abbey	2	3.45
The Training Unit	7	12.07
Wheatfield	11	18.97
Total	58	100

APPENDIX C (ii)

Prisoner Interviews - Yearly Comparison

Institution	Number of Prisoners				
	2005	2006	2007	2008	2009
Arbour Hill	7	6	5	5	13
Castlerea	0	7	1	3	5
Cork Prison	3	2	0	1	1
Dóchas Centre	0	0	0	0	1
Limerick Prison	2	5	5	2	2
Midlands Prison	6	9	9	8	12
Mountjoy Prison	3	3	6	6	3
Portlaoise Prison	1	1	5	1	1
Shelton Abbey	0	0	0	1	2
The Training Unit	0	4	4	2	7
Wheatfield	3	10	2	4	11
Total	25	47	37	33	58

APPENDIX D (i)

Offence Analysis of Cases in Which an Invitation to Participate was Accepted in 2009

Offence	Number of Prisoners	%
Murder	23	35.94
Manslaughter	2	3.13
Sex Offences	13	20.31
Drug Offences	10	15.63
Robbery/Larceny	5	7.81
Burglary/Aggravated Burglary	1	1.56
False Imprisonment	1	1.56
Other Offences	9	14.06
Total	64	100

APPENDIX D (ii)

Offence Analysis of Cases - Yearly Comparison

Number of Prisoner

Offence	2005	2006	2007	2008	2009
Murder	16	23	16	24	23
Manslaughter	11	9	5	6	2
Sex Offences	9	11	7	7	13
Other Against the Person	4	2	3	0	0
Drug Offences	5	3	4	3	10
Robbery/Larceny	7	9	4	7	5
Burglary/Aggravated Burglary	1	0	0	2	1
False Imprisonment	6	2	0	0	1
Other Offences	7	1	1	3	9
Total	66	60	40	52	64

APPENDIX E (i)

Sentence Length Analysis of Cases in Which an Invitation to Participate was accepted in 2009

Sentence Length	Number of Prisoners	%
8 Years	11	17.9
8 <= 10 Years	19	29.69
10 <= 12 Years	1	1.56
12 <= 14 Years	1	1.56
14 <= 16 Years	2	3.13
16 <= 18 Years	0	0.00
18 Years or More	5	7.81
Life	25	39.06
Total	64	100



APPENDIX E (ii)

Sentence Length Analysis - Yearly Comparison

Number of Prisoners

Sentence Length	2005	2006	2007	2008	2009
8 Years	20	15	7	13	11
8 <= 10 Years	14	12	8	6	19
10 <= 12 Years	8	2	3	4	1
12 <= 14 Years	1	2	2	1	1
14 <= 16 Years	2	2	3	1	2
16 <= 18 Years	0	2	1	1	0
18 Years or More	4	0	0	4	5
Life	17	25	16	22	25
Total	66	60	40	52	64

APPENDIX F (i)

Recommendations Made to the Minister for Justice, Equality and Law Reform - 2009

	Number	%
Recommendations Accepted in Full	77	87.5
Recommendations Accepted in Part	5	5.68
Recommendations Not Accepted	3	3.41
Released on Remission Prior to Decision	1	1.14
Ministerial Decisions Pending	2	2.27
Total	88	100

APPENDIX F (ii)

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

	2005	2006	2007	2008	2009
Recommendations Accepted in Full	42	64	66	62	77
Recommendations Accepted in Part	2	4	4	0	5
Recommendations Not Accepted	2	3	1	2	3
Cases Referred Back to the Board	0	0	0	0	0
Released on Remission Prior to Decision	0	0	0	3	1
Ministerial Decisions Pending	0	2	2	0	2
Total	46	73	73	67	88