

# STATES OF JERSEY



## H.M. PRISON, LA MOYE: REPORT ON THE TEMPORARY RELEASE OF PRISONERS

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Presented to the States on 9th December 2003  
by the Home Affairs Committee

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STATES GREFFE

**Prepared for the Home Affairs Committee by Dr. D.A. King**

The Prison Governor and his staff co-operated to the full with the enquiries made in relation to this report, demonstrating a degree of openness and candour which were both appreciated and commendable. This was reflected in the approach of the Committee President who stressed that there would be no obstacles regarding access to material or the report's findings. Thanks are also extended to all those who were interviewed for this report, their names are given in Appendix 1.

Throughout this report a prisoner is referred to as "he" for simplicity.

It should be remembered that there are both sex prisoners.

All recommendations are given in **bold type**.

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## **1. TERMS OF REFERENCE PREPARED BY THE DEPARTMENT OF HOME AFFAIRS**

### **Background**

In common with prisons in the United Kingdom, H.M. Prison La Moye operates a temporary release scheme for prisoners. The Home Affairs Committee may grant temporary release under Rule 73 of the Prison (Jersey) Rules 1957. Consequently, temporary release itself is not in question. At its meeting on the 16th January 2003, the Home Affairs Committee delegated this function to the Prison Governor pursuant to Article 36A(1)(c) of the States of Jersey Law 1996.

There are 3 main forms of temporary release; outside work, unescorted home leave, and the temporary release monitoring scheme (TRMS) otherwise known as 'tagging'. Tagging was introduced at H.M.P. La Moye in April and has been highly successful. The same could be said of outside work and home leave, especially when compared to the United Kingdom. The accepted method of measuring the success rate of these schemes is to express the number of breaches of licence as a percentage of the overall number of days of temporary release granted. Up to the end of August 2003, there had been a total of 6,318 days of temporary release authorised and breaches of licence equating to 10 days giving an overall success rate for 2003 of 99.85%. However, there have been several breaches in recent months which, in a small community, have given rise to adverse media coverage and public concern about the manner in which temporary release is administered and authorised. Risk assessment is carried out before temporary release is granted but a risk assessment panel is involved in TRMS only.

Against this background, the purpose of the report, which will be prepared by Dr. Debbie King, is to inform the Home Affairs Committee about the procedures that are in place to manage temporary release and how these were applied in recent cases of breach of licence. A report will be presented to the States but individual prisoners will not be identified publicly.

- 1.1** Gather information about the operation of the temporary release scheme and any other material considered relevant, either by reference to documents or by personal interview.
- 1.2** Carry out a review of the eligibility criteria and procedures for granting temporary release. This should detail what the criteria are, when they were approved by the Home Affairs Committee and the procedure followed in order to authorise temporary release.
- 1.3** Give an overview of the risk assessment process and give an opinion as to whether this could be extended to all forms of temporary release. With regard to those prisoners who breached their temporary release licence, state how they fit into the eligibility criteria, whether a risk assessment was carried out, what conclusions were reached by the risk assessment process, who authorised their temporary release and the nature of the breach that ensued. Give brief details of the offences which gave rise to their custody, sentence received and the expected release date. The Consultant is to have regard to the need to respect the confidentiality of prisoners at all times, particularly in any document for publication. Prisoners should not be able to be publicly identified.
- 1.4** Having regard to the need to maintain prisoners' confidentiality, review the list of prisoners on the outside work scheme and confirm that they meet the eligibility criteria.
- 1.5** Draw conclusions about the operation of temporary release and make any recommendations that are deemed appropriate.
- 1.6** Report to the Home Affairs Committee within a month unless an extension of time is granted during the reporting period. Prisoners should not be able to be identified in any document intended for publication or that is not for the attention of the Home Affairs Committee.

## **2. TEMPORARY RELEASE FROM H.M. PRISON LA MOYE**

- 2.1** The Home Affairs Committee has requested that the 3 forms of unescorted temporary release be examined

for the purposes of this report. They are –

- **Unescorted temporary release to engage in outside work** ~ Prisoners may in certain circumstances be granted permission to leave the confines of the prison in order to gain work experience or to undertake a normal job, returning in the evening.
- **Unescorted temporary release for home leave** ~for example individual visits to family and friends for a variety of reasons, ranging from serious matters such as ill-health/death in the family to more regular visits to aid resettlement.
- **Early release from prison subject to electronic monitoring** ~since April 2003 some prisoners have been considered suitable for early release but are subject to certain conditions. They are supervised by the Probation Service and must abide by a night time curfew. They must wear an electronic device, called a “tag”, on their ankle which is monitored by Securicor Jersey Limited to ensure they remain at the designated address during the curfew hours.

2.2 Prisoners can also be granted escorted temporary release in certain circumstances. It is sometimes used when there is a pressing compassionate reason such as family ill-health, and is generally used before unescorted temporary release is granted to test out the feasibility of unescorted release. Senior Prison Staff stated that remand prisoners leaving the prison confines for any reason would always be escorted. Prisoners are usually escorted by one officer. Prisoners are also escorted when they leave the confines of the prison to attend Court if they have yet to be tried or sentenced. Such prisoners are usually transported to and from the prison in a secure vehicle. Prisoners also occasionally take part in community projects and some sporting events as a group and this is generally also escorted.<sup>[1]</sup> The Prison Governor has confirmed that the legal authority for escorted temporary release, The Prison (Jersey) Rules 1957, is the same as for unescorted release (see below) but prisoners requesting escorted release do not have to meet the same eligibility criteria as unescorted prisoners, their release being supervised.

2.3 The Home Affairs Committee has not requested that escorted temporary leave be examined for this report but it has been necessary to refer to it upon occasions.

2.4 Overall there is some confusion over the term “temporary release”, the term being used differently in various documents and during interviews conducted for this report. The Prison (Jersey) Rules 1957 do not define temporary release and there seems to be no prison policy statement making it clear what differentiates the various forms. Elsewhere the recommendation will be made that it would be helpful to have one clear policy and procedural document on temporary release, **any such policy document should include an explanation of the different forms of temporary release.**

### 3. THE AUTHORITY TO GRANT TEMPORARY RELEASE

3.1 The quoted authority for the granting of temporary release is Article 73 of the Prison (Jersey) Rules 1957.

3.2 Article 73 states –

“(1) A prisoner serving a sentence of imprisonment may be temporarily released from prison by the Prison Board<sup>[2]</sup> for such time or times and subject to such conditions as may be determined by the Board either –

- (a) for the purpose of engaging in employment or receiving instruction or training; or
- (b) in such other circumstances as may be approved by the Board.

(2) If the Prison Board is satisfied that a prisoner so released has broken any of the conditions on which he was released, it may by order recall him to prison notwithstanding that the time for which he

was released has not expired.”

- 3.3 It can be noted that this rule seems only to apply to convicted prisoners “serving a sentence of imprisonment” being able to be released. However, the Preliminary to Part II of the Prison (Jersey) Rules 1957 states that the “Rules in this Part apply to all classes of prisoners except in so far as they are inconsistent with the Special Rules”. It would appear from a layman’s interpretation of the Law that Rule 73, which is in Part II of the Rules, can be applied to remand prisoners also.
- 3.4 It can also be noted that the rule specifically refers to prisoners being permitted to be temporarily released to engage in work and training. Paragraph b, however, widens the conditions to refer to any circumstances at all, provided they have been approved by the Board.
- 3.5 This provision in the Prison (Jersey) Rules 1957 also gives the legal authority for prisoners to be released under the Temporary Release Monitoring Scheme under electronic surveillance, this being clarified by the Law Officers’ Department when the scheme was set up.<sup>[3]</sup> The Prison Governor confirmed that where a prisoner is granted temporary release on compassionate grounds this is also done under the authority of Article 73 of the Prison (Jersey) Rules 1957.

#### 4. THE HISTORY OF TEMPORARY RELEASE IN JERSEY

- 4.1 Staff recall a measured introduction to the idea of prisoner release in Jersey, with tentative first steps being taken in the early 1990s under the previous Prison Governor, Mr. K. Wheeler. The first available reference to prisoners’ release from Jersey’s prison is dated 24th September 1993 when the then Prison Governor sought the Prison Board’s approval of a new idea to introduce a “system of home leave”. The Prison Board minutes read –

24th September 1993  
Prisoner Home Leave 46/10(232)

The Board received an oral report from the Prison Governor regarding his proposal to introduce a ‘home leave’ scheme. The Board recalled that longer sentences were being served at H.M. Prison, La Moye, and noted that benefits might be gained in allowing a system of ‘home leave’ in certain circumstances at the total discretion of the Prison Governor.

The Board noted that it might be appropriate to release certain prisoners for a short period, for example 10 a.m. to 5 p.m. on one day as a reward for consistent good behaviour, not to be confused with parole, where the entire sentence was shortened.

The Board, while recognising the risk that occasional errors could be made, authorised the Prison Governor to implement the experimental scheme of ‘home leave’ as described to the Board during this meeting.

- 4.2 The Prison Board therefore approved a home leave scheme in 1993. (Though it is not specified whether this refers to unescorted or escorted home leave, or both, the former may probably be assumed.) It is clear that at this point, the earliest authority found, the Prison Governor is given “total discretion” regarding this experimental system of home leave.
- 4.3 In March 1995 there are references in Prison Board Minutes<sup>[4]</sup> to the Prison Board noting “details of prison inmates being released during the day to take part in temporary employment schemes, and noted in two particular cases that the employers wished to employ the prisoners on release”. The Board also noted that: “Assisting prisoners to find employment towards the end of the sentence was one way of helping them to avoid re-offending. The Board supported the development of opportunities for the rehabilitation of prisoners in this way, and gave the Prison Governor discretion to determine the periods of time inmates could be released on this basis, having due regard to the individual circumstances of each case.”

- 4.4 The Prison Board therefore approved the existence of a scheme allowing prisoners to attend “temporary employment schemes” in 1995. Whilst noting that this occurred “towards the end of the sentence” no particular boundaries were set, the Prison Governor again being authorised to use his discretion “to determine the periods of time inmates could be released on this basis”.
- 4.5 On a date unknown the Prison Governor issued a paper to all officers outlining the new “qualification periods for temporary release” which were to come into effect on 1st January 1999. It was at this point that new forms were also introduced as “it has been felt for some time now that more feedback and information is necessary for a valued judgement to be made regarding inmates being temporarily released for home leave, work experience etc.” (It is these forms which were later praised by the Home Office Chief Inspector of Prisons when H.M. Prison La Moye was inspected in 2001).
- 4.6 The qualification periods introduced as of January 1999 were as follows, and were only applicable to prisoners serving over 18 months’ imprisonment –

<i>SENTENCE</i>	<i>TEMPORARY RELEASE QUALIFYING PERIOD</i>	<i>NUMBER OF VISITS AT TWO PER MONTH</i> <i>No visits during the last two weeks</i>
18 months	During last two (2) months	4 visits
24 months	During last three (3) months	6 visits
30 months	During last four (4) months	8 visits
36 months	During last five (5) months	10 visits
42 months and over	During last six (6) months	12 visits
Sentences falling between guidelines will qualify for the preceding period. E.g. a sentence of twenty-two months would be rounded <u>down</u> to eighteen months.		

- 4.7 The development of temporary leave can be seen from H.M. Prison La Moye Annual Reports. The Annual Reports gave brief details of temporary release in the following format: “**Temporary Releases:** A total of x temporary releases were granted during the year with x being for work experience. There were x breaches of discipline.” and show temporary release developing in the following way –

<i>Annual Report for Year of:</i>	<i>Number of temporary releases that year</i>	<i>Number and percentage of the total which were for work experience</i>		<i>Number of breaches and their percentage of the number of total releases</i>	
1998	1,260	1,096	87%	8	0.6%
1999	1,889	1,726	91%	5	0.3%
2000	1,324	1,142	86%	8	0.6%
2001	1,414	1,142	81%	10	0.7%

The Annual Reports also stated every year under “Employment of prisoners” that: “Most prisoners were employed in the Prison Industries which produced an income of £x.” but no other details are given.

- 4.8 The statistics do not refer to the number of people involved in temporary release.
- 4.9 In April 2001 H.M. Prison La Moye underwent an inspection by the Home Office Chief Inspector of Prisons. This was to be an important influence on some of the future temporary release developments.

The Inspection will be discussed more fully later in this report.

- 4.10** The former Prison Governor, Mr. K. Wheeler, retired in December 2001 after 23 years of service, having earned the comment from the Chief Inspector of Prisons in the Inspection Report of April 2001 that: “He deserves Jersey’s thanks for all that he has done over the years<sup>[5]</sup>”. He was succeeded by Mr. M. Kirby who came from the United Kingdom Prison Service. Mr. Kirby’s last posting was as Prison Governor of H.M.P. Low Newton in Durham which was converted during his tenure in office from a male juvenile remand centre to a women’s prison. That prison subsequently gained very positive reports and was awarded a Performance Level 4 (i.e. top) rating in the Home Office’s “League Table” of prisons<sup>[6]</sup>. Mr. Kirby had previously worked in the capacity of governor status, but not officer in charge, of H.M.P. Frankland, Durham which was also awarded the top performance category and was one of 5 prisons singled out for particular praise as “High Performing”.
- 4.11** At the point of the new Prison Governor’s arrival, then, temporary release for both home leave and work purposes was already in place.
- 4.12** On 28th February 2002 the Home Affairs Committee received an application from the new Prison Governor for authority to authorise overnight temporary release. His application referred to the previous Committee delegation of authority in 1993 “when it was anticipated that the temporary release would be for one day for example from 10 a.m. to 5 p.m.”. He stated that: “Certain situations have arisen in recent years when requests for overnight Temporary Release have been deemed to be appropriate, for example when a prisoner has been admitted to outside hospital. In such circumstances the authority of the committee is sought.” The Prison Governor requested that this authority be delegated to himself and this was done, the minutes stating that “The Committee ... delegated authority to the Prison Governor to allow prisoners to be temporarily released from H.M. Prison, La Moye, in accordance with Rule 73 of the Prison (Jersey) Rules 1957, as amended, subject to reports being submitted to the Committee for its information from time to time”<sup>[7]</sup>. This is the first instance of the Home Affairs Committee delegating this authority.
- 4.13** In July 2002 the temporary release scheme underwent internal review within the H.M.P. La Moye and changes were made. There are various references, written and verbal, indicating that at this point (i.e. immediately prior to the review) prisoners could become eligible for temporary release at the half way point of their custody time, i.e. at one third of their sentence (“custody time” being the time remaining after one third of the sentence has been deducted for good behaviour). For example, in a much later paper dated 13th May 2003 prepared for the Committee when it was reviewing the temporary release schemes, the Prison Governor stated that: “The major change was that we put a ceiling on the length of time that prisoners could be involved in outside work of 16 months. Prior to this, prisoners had been eligible after serving one third of their sentence. This had meant that a number of prisoners were becoming involved in the scheme for considerable periods.” The origin of this “half of custody time” criteria is obscure. The prison has been unable to trace a written authority.
- 4.14** In effect the criteria were also revised downwards in that temporary release could now become available for those serving at least 12 months’ imprisonment, where before the lower threshold had been 18 months. This was in line with the Home Office Inspection Report which had been of the opinion that “the non-availability of temporary release to shorter term prisoners was overly restrictive and should be reconsidered in the interests of improved resettlement practice”<sup>[8]</sup>.
- 4.15** After the review of July 2002 new eligibility criteria were issued within the prison in a document called “Annex B”. These will be given later in the report.
- 4.16** The temporary release scheme then came to be used far more extensively. There was a large increase in the number of temporary releases between 2001 and 2002, 4,122 more approvals being given in 2002 than in 2001 (see the table below). The latest figures quoted give 6,318 temporary release days for 2003 up to the end of August.

<i>Annual Report for Year of:</i>	<i>Number of temporary releases that year</i>	<i>Number and percentage of the total which were for work experience</i>		<i>Number of breaches of discipline and their percentage of total releases by day</i>	
2001	1,414	1,142	81%	10	0.7%
2002	5,436	4,504	81%	25	0.5%

- 4.17** As can be seen, though the number of temporary releases increased, performance as measured by the prison was not affected, the “success rate” for 2001 having been 99.3% and 2002 being 99.5%. These statistics refer to the number of releases in days, not individuals or “episodes” of temporary release. The Prison Governor refers to an expected failure rate in the United Kingdom Prison Service as between 2% to 5%<sup>[9]</sup> i.e. a success rate of between 95% and 98%. Further, he states that in the United Kingdom only failure to return is recorded as a breach, whereas the Jersey statistics record all breaches of discipline. The Jersey statistics therefore compare very well.
- 4.18** (At this point an interjection needs to be made about the use of this performance measure. Without detracting from the success of the scheme overall, the practice of referring to the number of breaches as a percentage of the number of days of release does not appear to be a meaningful statistic by which the public can measure performance. It is a performance measure, and it may be the one used by United Kingdom authorities, but it is not considered by the author to be a fair measure of success or failure. Due to the high number of days of release, a potentially “unreasonable” number of breaches could still give an overall “success rate” in the high 90% range. The absolute value of the number of breaches is what is important to the public when one considers prisoners’ temporary release into a small island community. Twenty-five breaches of discipline during 2002, regardless of being a 99.5% “success rate”, may not be publicly acceptable as an absolute figure. **The Home Affairs Committee should create an additional performance measure for temporary release which refers to their expectations concerning the absolute number of breaches of discipline in any given year.** In addition, care needs to be taken to refer to the data consistently. The Annual Reports refer to all breaches of discipline, including such failures as failed alcohol or drugs tests, breaches of curfew or prison discipline. The statistics for 2003 as quoted in the terms of reference for this report, like United Kingdom statistics, only refer to failure to report back to the prison or the commission of a further offence, given as 10 out of 6,318 temporary release days to August. The number of all breaches of discipline in 2003 is higher according to the author’s analysis of the data. Though the Committee is evidently in full possession of the data, public statistics need to be consistent and clear.)
- 4.19** In December 2002 a new Home Affairs Committee was formed. It was of mixed membership, some members having served on the previous Home Affairs Committee, some members new to Home Affairs, and some members completely new to the States. At its first meeting on 16th January 2003 the Committee delegated to the Prison Governor “the power to allow prisoners to be temporarily released from H.M. Prison La Moye and to recall him or her to prison” under the terms of the Prison (Jersey) Rules 1957. The minute further states under Scope of Delegation: “Notification to be submitted to the Home Affairs Committee at the earliest opportunity”<sup>[10]</sup>. At this meeting the Home Affairs Committee delegated a number of functions to the Chief Officers of the various departments under its control. Its officers had put the list of functions to be delegated before the Committee as they felt this to be good practice. It is doubtful whether it was legally necessary to renew the delegated function regarding temporary release as the Committee is, from a layman’s understanding, a continuing body from earlier Committees, regardless of its membership. The delegation was in the event more of a procedural exercise, no papers being presented to assist the Committee to either understand or review the function on that occasion, though it clearly expected more information regarding the scope of the delegation at a later date.
- 4.20** On 23rd May 2003 the then Home Affairs Committee reviewed the risk assessment process of the temporary release schemes for outside work and home leave. The President had requested a review in the light of a recent breach by a prisoner. The Committee received a written report from the Prison Governor; a copy of the forms used in the assessment process (outlined later in this report); and the document called simply “Annex B’ which lists the eligibility criteria agreed following the internal prison review of 2002

(also referred to later). This appears to be the first time a Committee received any detailed information about the operation of temporary release at H.M. Prison La Moye. (Though the previous Home Affairs Committee had received a very positive Home Office Inspection Report which, whilst not giving great operational detail, had praised and encouraged wider use of temporary release.) The Committee “noted the conditions under which a prisoner might be eligible to participate either in work outside the Prison or to be granted home leave and endorsed the report accordingly.”<sup>[11]</sup>

**4.21** The next development in terms of temporary release occurred earlier this year. In April 2003 a system of temporary release from prison under electronic monitoring and supervision by the Jersey Probation Service was introduced in Jersey, called the Temporary Release Monitoring Scheme or TRMS. The scheme is intended to “allow the supervised early release of low risk offenders back into the community, thus relieving overcrowding at the Prison and enabling offenders to maintain themselves and their families through gainful employment.”<sup>[12]</sup>

**4.22** There had first been consideration of such a scheme in 2000 when the Chief Probation Officer, Mr. B. Heath, produced a report on electronic monitoring for the Home Affairs Committee setting out the aims, legal position, and scheme options, in which he supported its introduction. It was not proceeded with at that time, but was later taken forward when there was then a recommendation in the Report of the Home Office Inspection of H.M. Prison La Moye of April 2001 that: “The use of Electronic Surveillance (Tagging) should be considered as a means of reducing the custodial population at remand hearings or early release stages of custodial sentences”.<sup>[13]</sup> A working party was formed consisting of the Prison Governor, the Chief Probation Officer, The Deputy Chief Officer of Police, a Member of the Centeniers’ Association and a Member of the Law Officers’ Department. The working party recommended that electronic monitoring be introduced in Jersey, clarified the legal position, and prepared a blueprint for how the scheme would operate in terms of eligibility, risk assessment, supervision and breach procedures.

**4.23** On 26th September 2002 the Home Affairs Committee noted the recommendations of the working party and recorded its support of the proposal.<sup>[14]</sup> After a tendering process TRMS was introduced in April 2003.

**4.24** From the start, then, TRMS was introduced differently in Jersey, being developed in partnership with outside agencies rather than being an internal prison scheme with little outside consultation. There was excellent preparatory work undertaken and clear documentation provided regarding philosophy, legal standing, policy and procedure. It was also “launched” in an attempt to ensure that key players in the criminal justice system and the public were informed of its existence. Seminars were held for States Members and various agencies in March 2003.<sup>[15]</sup> It is also understood that presentations were made to the Courts, the Honorary Police, and the media.

**4.25** Between the TRMS electronic monitoring scheme’s inception in April 2003 and October 17th October 2003, 67 prisoners were eligible for TRMS but only 50 made applications to be considered for the scheme. The 50 applications were considered by the assessment panel, the Prison Governor subsequently refusing 21 and granting 29. Of the 29, 4 licences have been breached, though none for further offending, a success rate of 86% in terms of individuals. In one case the licence was breached only because the prisoner lost his address, a condition of the scheme, and he has since been reinstated.<sup>[16]</sup>

## **5. THE BACKDROP TO TEMPORARY RELEASE IN JERSEY**

### **Prisoner numbers**

**5.1** Whilst there is no evidence whatsoever to indicate that individual decisions concerning temporary release have been influenced by the high prison population, it is an extremely important backdrop to the scheme. It has been well reported in Jersey that its prison has for some time been struggling to cope with the demands made of it. With a certified normal accommodation and operational capacity of 149<sup>[17]</sup> the prison has been holding numbers in excess of that at times. The following extract from the H.M. Prison

La Moye Annual Report of 2002 shows the increasing population over time –

	1998	1999	2000	2001	2002
Daily average prison population	114	126	129	140	144
Greatest number of prisoners on any one day	131	144	141	164	158
Least number of prisoners on any one day	105	107	117	127	122

In the same report the Prison Governor states that: “Inmate numbers continued to remain at a high level throughout 2002, causing overcrowding in all areas of the prison.” More recently the Prison Governor has reported to the Committee<sup>[18]</sup> the following population trends during 2003, giving a forecast to the year end based on the most recent average monthly growth figure (11 per month) and taking planned releases into account –

2003:	June	July	Aug.	Sept.	<i>Oct. Forecast</i>	<i>Nov. Forecast</i>	<i>Dec. Forecast</i>
Month end prison population	169	179	187	176	177	182	191

He stated that: “During June 2003 it became clear that the population had increased and was likely to increase further during the year to levels that were not sustainable within the currently available accommodation.”

The prison has coped admirably with the prisoner numbers by implementing a variety of measures –

- **Increasing the accommodation available** either by new build (a new wing is currently under construction; shared cells; the use of portacabins; and converting existing spaces to prisoner accommodation e.g. a gymnasium and a television room converted to dormitories.
- **Transferring prisoners to the United Kingdom.** This is a very expensive option, Annual Reports of the prison giving the sum expended on this in 2001 being £833,000 and £798,592 in 2002. The Prison Governor’s forecast for 2004 stands at present at a likely 41 prisoners in the United Kingdom with an estimated annual cost of £1.6 million<sup>[19]</sup> though it may be possible to reduce costs if the Jersey prisoner numbers fall allowing for some prisoners in the United Kingdom to be returned to Jersey.
- **The TRMS electronic monitoring scheme.** Whilst the aim of TRMS is rehabilitative in that it is “to provide for the safe reintegration of prisoners into the community through a combination of Probation supervision and electronic monitoring tagging”, nonetheless prisoner numbers have been a stated motivator behind the scheme. In a Briefing to the Committee on electronic monitoring dated 11th September 2002 the Prison Governor stated that: “The scheme is intended to allow the supervised early release of low risk offenders back into the community, thus relieving the overcrowding at the Prison...With a modest outlay the scheme has the potential to remove pressure on prison places and generate significant cost savings”.
- **Temporary release for home leave.** Though not specifically set up to relieve overcrowding, the system of home leave has assisted the prison to manage high numbers. Staff commented that without home leave being available they would have had difficulty coping with the numbers of prisoners at certain times. This is particularly the case over the weekends when there are fewer activities for prisoners, and staffing levels may be lower. It was also noted that 23 prisoners were

permitted several days' temporary leave over the Christmas 2002 period.

- 5.3** Of course, a high prison population is not only an issue of managing the physical accommodation of prisoners, but is also about the prison atmosphere and security; costs; and the impact on staff. In an October report to the Home Affairs Committee the Prison Governor recently estimated an additional staffing requirement of 5 new members of staff at a cost of £175,000<sup>[20]</sup>. There were also several references made during interviews for this report to the negative impact of such prisoner numbers on staff overtime levels. In the same report the Prison Governor quoted a figure of "Excess overtime worked to the end of July 2003 being £211,444." (Ironically however it was reported that the increase in escorted home leave put additional pressure on staff overtime levels.) There was also a suggestion of staff sickness levels being high, always an indicator of the stresses on an organisation.
- 5.4** The increase in prisoner numbers has been put down to the incidence of drug offending and the longer prison sentences now being passed in such cases, which have in effect created a 'bottle-neck effect' at La Moye. The Home Office Inspection team of April 2001 stated that they "were aware of the changing pattern of crime in Jersey and the way in which this was reflected in the sentences laid down by the Courts. Given upward trends in serious drug offences, for instance, we were not surprised to find an increasing prison population with longer sentences having been imposed in comparison with a decade ago."<sup>[21]</sup>
- 5.5** "A Review of Criminal Justice Policy in Jersey" prepared by Professor A. Rutherford for the Home Affairs Committee referred to Jersey having a high prison population "by any measure", calculating that the average daily population in 2001 (140) when combined with prisoners held in the United Kingdom (41) gave a total population of 181 which "translates into a rate of 208 per 100,000."<sup>[22]</sup> The Home Office Statistics Office states that in 2000 the number of prisoners in England and Wales was the second highest in Western Europe when expressed at a rate per 100,000 – it was 124/100,000. Only Portugal was higher at 127/100,000.<sup>[23]</sup> It is not clear whether these figures can be directly compared to Jersey but they are nonetheless given for information. Professor Rutherford also commented on how sharply the Jersey Prison population had risen since the early 1990s, "from 74 in 1991 to 141 in 2001, an increase of 88%" and he concluded that "Jersey's incarceration rate should be reduced". Professor Rutherford's research led him also to conclude that: "the growth in prison population has been almost entirely driven by very substantial increases in lengths of prison sentences" and he recommended that the Courts reconsider sentence lengths in the light of developments during the seven years since their guidance judgment on trafficking.

### **The absence of a Parole System in Jersey**

- 5.6** Unlike the United Kingdom, Jersey has never had a system of Parole, i.e. early release for prisoners serving over 4 years who are considered by the Parole Board as suitable for release under the supervisor of the Probation Service. Though again a rehabilitative measure, Parole has an obvious impact on prisoner numbers in the United Kingdom. The Jersey prison has had no such legislation to help relieve prison numbers. Here prisoners are normally eligible for release at the two-thirds point of their sentence (their Estimated Date of Release or EDR), the remaining third being deducted for good behaviour provided the prisoner has not breached prison rules and lost some "remission".

### **Jersey has to cater for all categories of prisoners**

- 5.7** H.M. Prison La Moye has to cater for every category of prisoner, unlike United Kingdom prisons where prisoners can be allocated to a range of prisons from high to low security according to their status. Jersey is unable to separate out low-risk prisoners and manage them at a lower risk level as would an open prison in the United Kingdom. All are managed at the same level of security. The Home Office Inspection of April 2001 recommended that lower security, hostel-type provision be developed "to house those approved for the Working Out scheme who, by definition, no longer need the full containment of inner prison accommodation". In the event a hostel provision was not considered feasible but the Prison Governor reports that an extended work and home leave scheme was felt to be a possible substitute to the

hostel idea to some degree. This desire to treat low-security prisoners differently was, then another driver for the development of temporary release. The temporary work and home leave schemes could be said therefore to partly reflect the way in which low security prisoners might have been dealt with in the United Kingdom.

### **The Home Office Inspection of April 2001**

- 5.8** The Home Office Inspection of H.M.P. La Moye in April 2001 was a significant event as it was the first of its kind in Jersey and was headed by Her Majesty's Chief Inspector of Prisons himself, Sir David Ramsbottom. The Inspection report was to have an effect on temporary release developments.
- 5.9** The report praised the existence of the "Working Out Scheme" saying it was "impressive" and "clearly met the specific requirements of an Island community." The report went on to say: "Our observations suggested that the scheme struck a fair balance between the needs of individual prisoners and the wider public interest."<sup>[24]</sup> The Inspection team recommended that: "The potential to expand the Working Out Scheme to greater numbers of women and young men should be considered".<sup>[25]</sup> The report was critical of the fact that the then eligibility criteria "effectively excluded any prisoner serving a sentence of less than 18 months' from temporary release<sup>[26]</sup> and recommended that "the non-availability of temporary release to shorter term prisoners is overly restrictive and should be reconsidered in the interests of improved resettlement practice."<sup>[27]</sup> The Chief Inspector had therefore recommended an expansion of the schemes.
- 5.10** As stated above, the Home Office Inspection also dealt with the issue that H.M. Prison La Moye has to cater for every category of prisoner and thus had "all the disadvantages of a multi-functional prison, which held prisoners of every different kind of status"<sup>[28]</sup>. The inspection report recommended hostel type accommodation be built to house low-security prisoners which was to become another driver to expand home leave.
- 5.11** The Inspection Report also criticised the visiting facilities at H.M.P. La Moye declaring them: "amongst the poorest we have seen". The Report recommended that "the physical conditions in which visits take place should be radically improved to bring them up to an acceptable condition and the lack of facilities, particularly for those with children, should be addressed."<sup>[29]</sup> Again, this is reported as being a motivator to extending home leave. Though supervised family visits were conducted in a community facility for a period, it was felt that home leave would be a better way for families to retain their ties.
- 5.12** There were several ways then in which the Home Office Inspection provided motivation to extend temporary leave practice at H.M.P. La Moye.

## **6. THE ELIGIBILITY CRITERIA AND PROCEDURES FOR GRANTING UNESCORTED TEMPORARY RELEASE FOR HOME LEAVE OR WORK**

### **Eligibility criteria for temporary release for home visits and work**

- 6.1** The current eligibility criteria for temporary release for home leave or work date from the internal prison review of the schemes in July 2002. When the criteria were changed it was decided that it would be difficult to change prisoner's expectations overnight so those sentenced before 16th July 2002 "would continue to be considered under the existing scheme". There are therefore two sets of criteria depending on date of sentence.
- 6.2** The criteria are not available on one policy document and from different sources<sup>[30]</sup> it has been ascertained that the current eligibility criteria for temporary release for home leave or work is as follows –
- Only convicted prisoners can apply for home leave or work experience.
  - If sentenced before 16th July 2002: The prisoner has to be serving a sentence of more than 18

months imprisonment.

- If sentenced after 16th July 2002: The prisoner has to be serving a sentence of more than 12 months imprisonment.
- If sentenced before 16th July 2002: as long as the prisoner is serving 18 months or more he becomes eligible after serving half of his custody time (i.e. half the length of time remaining on a prison sentence after one third remission for good behaviour has been deducted or at the one third point).
- If sentenced after 16th July 2002: and sentenced to between one and four years the prisoner becomes eligible after serving half of his custody time.
- If sentenced after 16th July 2002: and sentenced to above 4 years' imprisonment the prisoner is only entitled to temporary leave or work experience during the last 16 months of the sentence.
- All prisoners should have had no adjudications (i.e. for breaches of discipline within the prison) within the previous 6 months of the application.
- Prisoners should have no appeals outstanding.
- Prisoners should agree to urine/swab testing for alcohol/drugs.

### **Procedures to be followed in relation to risk assessment and decision-making for temporary release for home leave or work experience**

The assessment/decision-making procedures were set up under the previous Prison Governor and were praised by the Home Office Inspection Team in April 2001. The procedures should be as follows –

Step 1 Prisoner puts in an application for temporary release on Form TR1.

Step 2 A TR2 form is commenced logging the sending and receiving of other forms. There are four TR2 forms, though there is no definition on them –

TR2 (a)	For work experience
TR2 (b)	For resettlement
TR2 (c)	For compassionate reasons
TR2 (d)	For home leave.

Step 3 An information request is sent to the Police on Form TR3(a).

Step 4 An information request is sent to Prison Security on Form TR3(b). This is a thorough form looking at offending/behaviour history and any risks posed, including to victims/children.

Step 5 An information request/information sheet is sent to a prospective employer on Form TR3(c).

Step 6 An information request is sent to the prisoner's Personal Officer on Form TR3(d).

Step 7 An information request is sent to the prisoner's Wing Unit Manager on Form TR3(e).

Step 8 An information request is sent to the Prison Healthcare Department on Form TR3(f).

Step 9 Head of Prison Custody completes a risk assessment on Form TR3(g).

Step 10 An information request should be sent to the Probation Service on Form TR3(h).

Step 11 Form TR3(i) entitled Risk Assessment and Decision is completed.

If temporary release is granted –

Step 12 The Police are notified of the temporary release on Form TR4.

Step 13 Prisoners are issued a licence upon their release, which can include special conditions. They must carry this with them at all times.

### **Prisoners’ “entitlement” to home leave should it be granted**

**6.4** Other criteria are available which refer to the amount of home leave prisoners can receive if they pass through the assessment process positively and home leave is granted. **Again these were not available on one clear policy paper.** The prisoners’ application form TR1 states –

“Sentenced to 12 months to 4 years = can apply for home leaves/work experience after serving half of custody time. **Entitlement 2 visits per month.**

4 years and over can apply for home leaves/work experience within 16 months of prospective release date. **2 visits per month.**

Sentenced before 16th July 2002 can apply for **overnight stays last 4 months.**

Sentenced after 16th July 2002 can apply for **overnight stays last 6 months.**

**Only 2 visits per month whether it be overnight, day release or one of each type.**

### **Procedures in the event of breach**

**6.5** In the event of a breach, prisoners usually lose their access to the work or home leave schemes, though some, it will be seen, can earn re-acceptance onto the schemes. Serious breaches, e.g. re-offending, are referred to the Prison Board of Visitors (comprising Jurats of the Royal Court) for adjudication, the Board being able to order loss of remission of a given number of days.

### **General comments re eligibility and assessment for work scheme and home leave**

**6.6** There is a lack of clarity and transparency regarding temporary release policy. **It would be helpful if there was one policy document setting out the eligibility criteria clearly, along with other policy information.**

**6.7** **The criteria can also be complicated to understand, mainly due to the split eligibility criteria. The time might be right to consider one set of criteria for all prisoners.**

**6.8** **Eligibility criteria:** The key eligibility criteria concerning unescorted temporary release is the issue concerning the date at which a prisoner can become eligible. Prisoners serving between one and 4 years and prisoners sentenced before 16th July 2002 serving over 18 months, can become eligible for home leave and work experience once they have served half of their custody time. The wording “custody time” requires some explanation. It refers to the length of time remaining on a prison sentence after one third remission for good behaviour has been deducted. All Jersey prisoners are granted one-third remission on their sentence for good behaviour and are released at the two-thirds point if no remission is lost. This becomes the prisoner’s Estimated Date of Release (EDR) and is calculated as soon he is admitted to the prison after sentence. Thus, on a 3-year prison sentence the “custody time” which will be served is 2 years. Custody time commences when the prisoner enters into custody, which is not necessarily the same as the point of sentence if there has been a remand in custody. (This will be discussed later in the report.) The Estimated Date of Release will change if the prisoner loses remission as a result misconduct, the Board of Visitors deciding how many days of remission will be lost.

**6.9** The impact of a prisoner becoming eligible at the half way point of his custody time can be shown in the following examples. It should be stressed this is an eligibility date for the earliest point of temporary release, not a right, and that prisoners would need to gain approval for temporary release for home visits and work leave as of this date.

- Sentenced to less than one year’s imprisonment: No prisoner can be eligible.
- Sentenced to one year’s imprisonment: Prisoner becomes eligible to apply for temporary release after serving 4 months in custody.
- Sentenced to 2 years’ imprisonment: Prisoner becomes eligible to apply for temporary release after serving 8 months in custody.
- Sentenced to 3 years’ imprisonment: Prisoner becomes eligible to apply for temporary release after serving one year in custody.
- Sentenced to 4 years’ imprisonment: Prisoner becomes eligible to apply for temporary release after serving 16 months in custody.
- Prisoners serving longer than 4 years’ imprisonment have split criteria, as stated above – those sentenced before July 2002 are eligible at the half of custody time point, those sentenced after July 2002 can only become eligible when they have 16 months or less custody time left to serve.

**6.10** This can be compared to the scheme which operated as of January 1999 as follows –

<i>SENTENCE</i>	<i>TEMPORARY RELEASE QUALIFYING PERIOD AS OF JANUARY 1999</i>	<i>CURRENT TEMPORARY RELEASE QUALIFYING PERIOD</i>
12 months	Not available under 18 months	During last 4 months
18 months	During last two (2) months	During last 6 months
24 months	During last three (3) months	During last 8 months
30 months	During last four (4) months	During last 10 months
36 months	During last five (5) months	During last 12 months
48 months	During last six (6) months	During last 16 months
Over 4 years	During last six (6) months	For prisoners sentenced after July 2002; during last 16 months

**6.11** Once again it is necessary to stress that temporary release refers to just that – temporary release for home visits and work, not full-time release into the community such as in a Parole scheme.

**6.12** For comparative purposes information was obtained on the system operating in England and Wales. This is for information only as Jersey is free to determine its own eligibility criteria of course.

- (Temporary release should not be confused with Parole which is actual release from prison under the supervision of the English or Welsh (or Jersey for returning prisoners) Probation Service. Parole only applies to long-term prisoners serving four years or more, and must be approved by the Parole Board which is an independent body whose members are drawn from a variety of backgrounds. Long-serving prisoners sentenced after 1st October 1992 can become eligible for parole at the half way point of sentence.)
- Release on temporary licence exists in England and Wales<sup>[31]</sup>. Unconvicted and Category A

prisoners are not able to apply for any form of temporary licence. Category A is the highest security category whose escape would be highly dangerous to the public.

- There are three forms of temporary release: compassionate licence; facility licence; and resettlement licence.
- Compassionate licence is granted for exceptional personal reasons such as going to funerals, getting married, visiting a dying relative; and for young offenders whose parents cannot visit them due to illness or incapacity.
- Facility licence is for – (a) “regime-related activities” such as community projects; training and educational activities; and for young offenders some team sports activities; (b) “official purposes” such as visits to legal advisers; and (c) “to attend a job interview or to obtain accommodation”. C and D category prisoners may be eligible after completing at least a quarter of their sentence, including remand time. Adult prisoners in closed prisons may be granted day release only. Young offenders and adults in open conditions may be released overnight if necessary.
- Resettlement licence is intended “to maintain family ties and links with the community; to make suitable arrangements for accommodation, work and training on release”. The following criteria exist –
  - ◆ Less than one year sentence: not available for adult prisoners, young offenders may be considered.
  - ◆ One to 4 years’ sentence: one-third of sentence or 4 months after the sentence, whichever is the longer, must have been completed.
  - ◆ 4 years’ sentence or longer: adult prisoners may apply no earlier than their parole eligibility date (usually half way point of sentence) and must have received their parole decision. If parole is to be granted release on resettlement licence may be taken four weeks before the release date.
  - ◆ How often and for how long prisoners are released on resettlement licence depends on the purpose and need of the release. Except at open prisons and resettlement units this will never be more frequently than every eight weeks. Each period may be between one and 5 days excluding travel.

**6.13** These and the Jersey criteria are the same in relation to unconvicted prisoners; adult prisoners serving less than one year; and those serving one to 4 years’ imprisonment. For prisoners serving over 4 years’ imprisonment the England and Wales criteria can be more restrictive as resettlement licence is only available during the last 4 weeks before release for those prisoners with a positive parole decision. In relation to prospective entitlement, England and Wales can also be more restrictive, depending on how many days are granted, (one to 5 days every 2 months as opposed to 2 visits per month in Jersey Conditions for open prisons were not given.

**6.14** Some international comparisons regarding temporary leave were made with several European countries, Canada and New Zealand. These are given in Appendix 2. Temporary release facilities exist in all of the countries examined. The details vary but arrangements are generally available for compassionate leave; temporary home leave; and leave to go to work outside of the prison establishment. Quite typically the privilege of being able to take a job outside of the prison and return to the institution in the evening is available to prisoners in open prisons towards the end of their sentence. Some jurisdictions combine work and home leave, again this is in the final stages of an open prison sentence.

**6.15** Some people interviewed for this report stated that, whilst they supported the idea of temporary release, they felt that the eligibility criteria in Jersey were too generous.

- 6.16** The temporary release of prisoners, even for work or home visits, is, of course, a serious issue and a matter of public interest. The temporary release system adopted by the prison did not go through a process of legislation. It did not need to of course, the authority being delegated to the Prison Governor through existing legislation. The legislative process would, though, have brought some advantages. Firstly, the law drafting process in Jersey would have included a consultation period with all interested parties. This not only serves the purpose of improving draft legislation but, equally importantly, it informs key people/agencies who have an interest in a proposed Law of its contents. Legislation also requires political debate, which performs the joint functions of informing the public, through its elected representatives, and gaining a mandate for the Law. Because the temporary release system did not require legislation it did not automatically go through these steps, and the level of knowledge of the scheme and ownership of the scheme in the wider community is therefore in doubt. Certainly from the interviews conducted for this report there can be seen to be – (a) a lack of detailed knowledge of the scheme on the part of some key individuals and criminal justice agencies; and (b) a lack of ownership or support for the way in which the scheme operates. (Though not for the idea of temporary release *per se* which has much support in principle.)
- 6.17** In the absence of a law drafting process ensuring consultation, debate and ownership, the prison or the Prison Board/Home Affairs Committee could, at any stage in the past, have conducted its own consultation exercise but this does not appear to have been done. This might have gained support for the scheme, or conversely, it might have affected the eligibility terms which were drawn up. The current and previous Prison Governors did give various media briefings about temporary release, which some would say informed the public to a degree. Also, since the formation of the Home Affairs Committee, both Chief Officers of the States of Jersey Police and the Jersey Probation Service are often present in Committee meetings. However it is felt that neither of these measures replaced a more formal consultation process with those departments or other bodies such as the Courts; the Law Officers; the Honorary Police; the Child Protection Team of the Health and Social Services Department; and Victim Support Schemes. (It must be said here that Jurats of the Royal Court are very involved in prison matters as 7 serve on the Prison Board of Visitors, and one might have assumed the Royal Court was being kept informed of temporary release development, if only very unofficially, by these means. However, discussions with 2 Jurats serving on the Board confirmed that the Board's business rarely involves them in temporary release issues and hence they were not well-informed on its details. This was not, therefore, an alternative to consultation.)
- 6.18** One key individual in the consultation process would have been Jersey's Attorney General. In addition to being the chief Crown Prosecutor, Her Majesty's Attorney General has a role of "Partie Publique" which means that he represents the public interest in all matters, within the jurisdiction of the Royal Court, including in this instance criminal justice matters. This function is the reason why the Attorney General present '*conclusions*' to the Royal Court as to what the appropriate sentence in his opinion should be in any given case, a task which prosecutors do not have in the United Kingdom; although it is interesting that a change along the Jersey lines is being considered there. In interview, Her Majesty's Attorney General confirmed that he would expect to be consulted on, and at the least made aware of, the principles of when and how prisoners are being released into the community as this is a matter of public interest. He would have preferred the opportunity to have considered how the rehabilitation of the offender; condign punishment; the rights of the victim; public safety, and public confidence were being balanced in any proposed temporary release scheme. This is, as he aptly put it, "justice in the round". In the role of Crown Prosecutor he stressed the importance of having a co-ordinated criminal justice system, with all its members including the Courts also being consulted and aware of the details of the temporary release of prisoners.
- 6.19** **Due to the lack of knowledge and support for the current criteria amongst Jersey's criminal justice system and the community, it is recommended that the Home Affairs Committee review the eligibility criteria for temporary release for work and home leave, and consult with other key players in the Jersey criminal justice system in the process.** Various blueprints have been outlined above and give various options for debate: the original criteria drawn up by the previous Prison Governor; the current criteria; the criteria for England and Wales; a mixture of these; or a completely new set. These

should provide a useful starting block for discussion. A typical way forward in the States of Jersey is for an officer group from key interested departments to debate and draw up a proposal for the Committee to take out to wider consultation. It is not felt that a proposal can be put forward here; this exercise needs the viewpoints, involvement, and support of partners in the criminal justice system and elsewhere. The advantages would be greater consensus and transparency.

**6.20 Risk assessment procedures in general:** The procedures for risk assessment and decision-making were drawn up during the term of office of the previous Prison Governor. They appear to be the blueprint of a thorough risk assessment process and were praised as an example of good practice by the Home Office Inspection team of 2001.

**6.21 The Prison Psychologist:** Since these procedures were drawn up a new post of Prison Psychologist has been created at H.M.P. La Moye. Though the risk assessment blueprint above seems to be a good one as it stands, the Prison Psychologist is not involved. This is in contrast to the risk assessment process for the TRMS electronic monitoring scheme and will be discussed further in the next section.

**6.22 The Probation Service:** Though the assessment process claims to involve the Jersey Probation Service, interviews both at H.M.P. La Moye and at the Probation Service revealed that the Probation Service are not, in fact, included in the process. Forms are not being sent to them and there is no clear reason for this. This is felt to be an omission in the process. **It is recommended that the assessment process systematically includes the Probation Service.** On some occasions the prison was in possession of the Social Enquiry Report prepared by the Probation Service for the original offence. This would be helpful to any risk assessment process but it would not cover more recent information of which the Probation Service might be aware. It is also understood that, in an unprecedented move, the Probation Service has given the Prison Governor complete remote access to the Service's entire computer records, the software not yet being developed which would give him restricted access (to prisoners' records) only. This is an excellent example of the 2 Services working collaboratively, giving priority to the sharing of information in order to protect the public. It is not clear how much the access to the computer records system has been used in the risk assessment process to date, there is no reference to it in the assessment packs. The 2 Services could discuss this further and determine whether such access to records could be a suitable substitute for the TR3(h) Probation Form. It is suspected, however, that it would not adequately replace contribution from probation staff themselves.

**6.23 Loss of 'entitlement':** There are no guidelines about loss of entitlement after a breach, it being a matter of discretion for the Prison Governor. This will be discussed later and a recommendation made **that the Home Affairs Committee decide their stance on this issue.** Options are – (a) the status quo of Prison Governor discretion; (b) prisoners only allowed back on the schemes after a breach under certain conditions set by the Committee; or (c) prisoners who breach the scheme lose their access to the schemes completely.

## **7. THE ELIGIBILITY CRITERIA AND PROCEDURES FOR GRANTING TEMPORARY RELEASE UNDER THE TEMPORARY RELEASE MONITORING SCHEME (TRMS)**

**7.1** The Prison Governor presented a Briefing Paper to the Home Affairs Committee in September 2002 setting out the background and procedures for TRMS. It is understood the TRMS clerk also has a guide/checklist for the collation of papers. The Probation Service produced 2 clear documents concerning TRMS policy and procedures, entitled "Briefing for Probation Officers" and "TRMS Guidance". There are also excellent, clear handbooks published by Securicor Jersey Ltd. for prisoners on the TRMS scheme and their families.

### **Eligibility criteria for temporary release for temporary release under the temporary release monitoring scheme**

**7.2** The eligibility criteria for TRMS are as follows –

- The prisoner must be sentenced to at least 6 months' imprisonment or youth detention.
- He must have served at least one third of the sentence.
- He must have no more than 6 months until his EDR (Estimated Date of Release).
- He must be serving his sentence in Jersey.
- He must apply for TRMS.
- He must have a suitable release address.
- He must be considered suitable by the Prison Governor.

**7.3** There was only one point raised by interviewees concerning TRMS. The Magistrate drew attention to an arithmetical inequality for certain prisoners due to the fact that TRMS is only available for prisoners sentenced to 6 months or more. A prisoner serving 6 months' imprisonment could be accepted on the scheme after serving 2 months' imprisonment. A prisoner serving 5 months' imprisonment, and hence not eligible for TRMS, would have to serve his sentence until his EDR, i.e.  $3\frac{1}{3}$  months. On this point the Chief Probation Officer reported that TRMS had been pitched at the 6 month starting point in order to manage the potential numbers and acknowledged that there may now be room to review the eligibility criteria for TRMS. The Prison Governor concurred. **The eligibility criteria for TRMS could be reconsidered as part of any review of temporary leave arising from this report.**

### **Procedures to be followed in relation to risk assessment and decision-making for temporary release under the Temporary Release Monitoring Scheme**

**7.4** Procedures are as follows –

Step 1 Application Forms TRMS(1) given to eligible prisoners – the forms also have guidance attached for the prisoners' information.

Step 2 Prisoner makes an application for TRMS(1).

Step 3 Prison issues the same "internal contribution Form" TRMS (2) to several people/departments, including –

- the prisoner's Personal Officer;
- the Prison's Healthcare Department;
- the Prison's education staff;
- the Prison's Psychologist;
- the Probation Service.

Amongst other matters the form asks for comments on "Potential threat to personal safety" and whether there is a "high risk of early re-offending".

Step 4 The Prison's Security Department completes Form TRMS(3) giving security information, including any previous history of absconding, breach of bail, as well as behaviour whilst in custody.

Step 5 Prison issues a request for information from the Police on Form TRMS(6).

- Step 6 The Prison contacts the Magistrate/Assistant Magistrate for any comments on the prisoners they sentenced.
- Step 7 The Probation Service carries out their enquiries regarding the prisoner's suitability for the scheme and completes a Home Circumstances Report on a standard pro forma. The Probation Service has issued guidance to its staff regarding the assessment process, see below. The Probation Service's enquiries should always include a visit to the proposed release address.
- Step 8 The Prison's TRMS clerk collates all the information using Form TRMS(8) to check off whether responses have been received from all sources.
- Step 9 A decision-making panel meets, comprising the Prison Governor, the Prison Probation Officer, and the Prison Psychologist to discuss and assess the prisoner's suitability and any risks posed.
- Step 10 During that meeting the Prison Governor makes his decision as to the prisoner's suitability or otherwise for the TRMS scheme.

#### **Procedures to be followed after the decision-making process**

- Step 11 Prisoner is informed of the outcome of the assessment process on either Form TRMS(4) (Acceptance) or Form TRMS(5) (Refusal).
- Step 12 The Prison's TRMS clerk liaises with Probation and Securicor Jersey Ltd. over release date and time.
- Step 13 The Police are informed of the prospective release.
- Step 14 The Prison issues a licence which can include special conditions.
- Step 11 Prison staff fit the electronic tag on the prisoner on the day of release, and the prisoner reports home at the prearranged time for the first appointment with the supervising probation officer and Securicor staff, when the device is activated. The prisoner wears the device until his prison sentence EDR, being monitored for adherence to the curfew throughout that time, usually from 9 p.m. to 7 a.m every day.

#### **Procedures after release and in case of breach**

- 7.5** Practice guidance has been issued by the Probation Service concerning supervision of prisoners on the TRMS scheme. These include a standard of at least 10 interviews in the first 3 months and at least 6 interviews in the next 3 months, with a home visit at least once a month throughout the supervisory period.
- 7.6** If there is any breach of the licence, curfew or otherwise, the prisoner is recalled by the Prison Governor, there being no need for a Court appearance unless there is further offending. If the licence is revoked by the Prison Governor the States Police arrest the prisoner as being unlawfully at large.

#### **Differences between this scheme's procedures and the home leave/work experience procedures**

- 7.7** Clear written policy papers and guidance are available to staff and prisoners.
- 7.8** There was more support and confidence expressed in the TRMS electronic monitoring scheme during interviews for this report. Those interviewed were extremely supportive and impressed by the electronic monitoring scheme. It seems to have the backing of a range of people, aided perhaps by the different way in which it was launched.
- 7.9** A small but maybe significant point is that TRMS literature clearly referred to it being a privilege not a right, with probation staff being instructed to explain this to prisoners at the outset. This language is

preferred to the term 'entitlement' in the temporary leave documentation. There was anecdotal and written reference in some of the prisoner applications to prisoners viewing, quite wrongly of course, the 'entitlement' for temporary leave as a right. Language can send out an appropriate message and help dispel these perceptions.

- 7.10 Assessment by the Probation Service takes place. The probation assessment process always includes a home visit and concludes with a written report which examines not only the prisoner's offending history, but also who he will be residing with if released. It concludes with an assessment and whether any special licence conditions should be included if TRMS is approved. Some completed home circumstances reports were viewed and were considered thorough, **though consideration should be given by the Probation Service as to whether the pro forma could include a clear recommendation as to suitability for TRMS, in addition to the probation officer's overall assessment. This would be considered more helpful to the Prison Governor's decision-making.**
- 7.11 Victims' issues are clearly and systematically addressed in this scheme. Firstly, when the prisoner completes his application on Form TRMS(1) he is required to "provide the name and age (if under 18) of all other people who will be living at the proposed address and their relationship to you." The prisoner must also disclose whether he has been convicted or cautioned for any offence involving those residents at the address or living in neighbouring properties". Secondly, the Probation Service practice guidance on TRMS give instructions to probation staff regarding victims' issues. These include liaison with victim and child protection agencies; if a victim is contacted to explain the nature of TRMS and the fact that, whilst the decision on TRMS is the Prison Governor's, they can have their concerns represented and be kept generally informed of decisions and release. The instructions contain precautionary measures, for example whether conditions should be inserted into the TRMS licence to protect victims, though taking care not to exactly disclose victims' addresses.
- 7.12 Assessment includes the Prison Psychologist. This is a relatively new post at H.M. Prison La Moye and is a considerable step forward for the Prison Service. The current prison psychologist, Mrs. R. Emsley, is Chartered Forensic Psychologist and is involved in delivering work programmes to prisoners, both in groups and individually, as well as providing risk assessments. This is a commendable development for the prison. Again some completed Psychology assessments for TRMS were viewed and impressed as thorough, highly professional, and clear as to any risks posed to the public. As with the Probation Service, victims' issues were also addressed where information was available. The psychologist made clear recommendations as to suitability based on her professional judgement. The psychologist's involvement in the risk assessment process for this scheme is a considerable improvement on the risk assessment of the home leave/work experience scheme. Clearly there would be advantages of receiving input from the Prison Psychologist in the risk assessment process for all forms of temporary release. Depending on the numbers of prisoners being assessed for home leave/work experience, however, this would have obvious workload/resource implications for this one member of staff. However, **as there are clear advantages to having forensic psychological input into assessment, the Prison Psychologist should also participate in the assessment process for home leave and work should resources allow.**
- 7.13 There is a contribution from the Magistrates in this scheme. It is understood that this was at the request of the Magistrate during the briefing process with the Courts. The Royal Court did not make a similar request during its briefing session.
- 7.14 A panel is formed for the decision-making process ensuring the process is shared between the Prison Governor, the Prison Psychologist and the Prison Probation Officer. Though the final decision is the Prison Governor's alone and he can technically either approve or refuse an application regardless of the views of the other panel members, the panel formula does nonetheless lend itself to more informed and shared decision-making. This is not to say that the decision-making process for the home leave and work schemes does not include the views of others (they should have given their input on the appropriate forms) or that it necessarily makes for inferior quality decisions. A panel system would not guarantee better decision-making but rather puts in place a system that should ensure measured debate about suitability takes place. There was an example quoted of the TRMS assessment panel refusing a prisoner approval for release under electronic monitoring where the prisoner had already had home leave. Having

a panel assess all cases prior to temporary release would remove such anomalies.

- 7.15** Several of those interviewed for this report commented on their preference for having a panel involved in the decision-making process for all forms of temporary release. Some also proposed that there be an independent member to more fully represent the public interest. One would not want to create an unwieldy or over-bureaucratic system but the idea of an independent viewpoint and independent oversight has merit and would probably increase public confidence in the schemes.
- 7.16** **The creation of a panel system for the assessment and decision-making process for all forms of temporary release is commended to The Home Affairs Committee should this be feasible. The existing make-up of the Prison Governor, the Prison Psychologist, and the Prison Probation Officer appears to work very well with TRMS and could be extended to cover the original decision regarding home leave and outside work scheme suitability. The addition of an independent member is also recommended to provide independent oversight and increase public confidence.**
- 7.17** A panel system for all forms of temporary release would have obvious resource implications. The existing panel for TRMS considered 50 applications between April and October 2003, refusing 21 and granting 29. To include all temporary release would put additional workload burdens on the Prison Governor, the Prison Psychologist, and the Prison Probation Officer. Whilst there would be an equal additional burden on all three, it is understood that the additional demand could be particularly unmanageable for the Probation Service. The Prison Probation Officer post does not officially “exist” and is not currently funded, the post being covered by the Probation Service stretching its resources elsewhere as a short-term measure. It is understood that steps are being taken by the Home Affairs Committee to make this a permanent post. Nonetheless **the resource implications of creating a panel will need to be carefully considered by the Home Affairs Committee.**
- 7.18** One further point to note is that when stating that they commended the idea of a panel, several people interviewed commented that they preferred the idea of a panel “making the decision”. However, from a layperson’s understanding of the Prison (Jersey) Rules 1957, even if a panel were to exist, only the Prison Governor could make the final decision, it being an authority delegated to him by the Committee.
- 7.19** Finally, this scheme has a helpful resource in that permission was gained for a part time TRMS clerk to manage the administration. This is an important difference bearing in mind the comments made elsewhere in this report on the problems with the administrative process for the other forms of temporary release. Whilst visiting the prison it was clear that the senior staff were struggling with the workload demands of the administrative system for home leave and outside work.

## **8. A SUMMARY OF AN ANALYSIS OF EIGHT CASES WHERE BREACH OCCURRED**

- 8.1** The Home Affairs Committee requested that 8 particular cases which resulted in breach be examined and the following questions answered –
- 8.2** With regard to 8 prisoners identified by the Committee as being of particular concern, state –
- how they fit into the eligibility criteria,
  - whether a risk assessment was carried out,
  - what conclusions were reached by the risk assessment process,
  - who authorised their temporary release, and
  - the nature of the breach that ensued.

- 8.3 The Home Affairs Committee has been furnished with the analysis of the 8 cases in full. Quite rightly the Committee has been anxious to pay due attention to issues of individual prisoner confidentiality, hence the findings of that analysis have been summarised here and identities protected.

## SUMMARY OF RESULTS

### Prisoner profile:

- 5 prisoners had been sentenced by the Royal Court, 3 in the Magistrate's Court.
- The shortest prison sentence was 6 months (Magistrate's Court) and the longest 6 years.
- Main offences: 5 were offences of violence and 3 were offences of dishonesty.
- All 8 cases related to temporary release for home leave and work. None related to the TRMS electronic monitoring scheme.

### The eligibility criteria:

Prisoners must be convicted. "Annex B" states that only convicted prisoners can be considered for temporary release. (This presumably means unescorted temporary release.)

- All eight prisoners were convicted prisoners.

Prisoners must be serving one year or longer. The criteria state that temporary leave is only available for prisoners serving a sentence of one year or more.

- 7 of the 8 prisoners were serving sentences of one year or longer.
- One prisoner was serving a sentence of 6 months' imprisonment.

Prisoners must have served at least half of their actual custody time. The criteria state that prisoners serving one to 4 years' imprisonment can become eligible for temporary leave once one half of the actual custody period has been served. For prisoners serving 4 years' imprisonment or longer there must be at least 16 months of the sentence remaining.

- 3 of the 8 prisoners met this eligibility criterion.
- 4 prisoners did not meet this eligibility criterion and were granted temporary release prior to their eligibility dates: one 3 days before, one 7 days before, one 16 days before and one 3 months before the eligibility date.
- In one case this criterion did not apply as the prisoner was on escorted temporary release. (For information only, he had been granted escorted temporary leave 7 months after a 6-year sentence of imprisonment had been served).

There are other eligibility criteria listed on the TR1 prisoner application form. These are that: prisoners should have had no adjudications (i.e. for breaches of discipline within the prison) within the previous 6 months of the application; prisoners should have no appeals outstanding; and prisoners should agree to urine/swab testing for alcohol/drugs.

- It was not possible to verify from the records examined whether these criteria had been met. The assessment process did not, for example, have a tick-box formula for checking off systematically whether prisoners had complied with these conditions before their applications had been made. Sometimes

reference was made to these criteria in other assessment documents, for example either the Medical Department or the Security Department made a comment on their assessment documents such as “Refer to swab test results”, but these were not filed with the assessment packs. Misconduct was also referred to where appropriate by the Security Department. It is likely that prisoners are not permitted to make applications if swab test results have been positive or there has been a history of misconduct. It was stressed by prison staff that prisoners had to behave well and be drug-free for some time before earning what is known as “enhanced prisoner status” which is a gateway to home leave and work. It is possible that this system provides the check that these additional criteria are met. However, **consideration could be given to the TR2 “log” form registering officially that the criteria regarding conduct and swab tests have been met.**

### **Risk assessments:**

#### Was the assessment process commenced?

- In 7 cases the assessment process was commenced.
- In the eighth case the prisoner was on escorted home leave and so procedures did not require the assessment process to be invoked.

#### Was the assessment process completed? i.e. was there a full dossier of completed forms?

- In no case was there Probation Service participation despite a form existing for this. No Probation Forms were sent out to that Service from the prison. This is discussed below.
- In 2 cases the assessment process was otherwise complete (i.e. save for Probation Service forms).
- In 5 cases the assessment process was not complete. See below.
- In the eighth case the prisoner was on escorted home leave and so procedures did not require the assessment process to be undertaken.

3 of the 5 cases where the assessment process was incomplete lacked a contribution from the person to be visited during the unescorted temporary home leave. In all 3 cases this was relevant as the cases did refer to visits to a partner or girlfriend, and in one case there was a history of domestic violence. In 2 cases mention was made by the prisoner of children being present during the prospective home leave. A visatee form is even more important in both scenarios and raises victim and child protection issues which are covered below.

There are 4 TR2 forms relating to temporary release i.e. for – home leave; work experience; resettlement; and compassionate leave. This form logs the assessment forms going out and being received back. The home leave form includes a “box” for the “visatee” form to be logged out and in, the work experience one does not. In one of the cases where a visatee was not contacted the form was a work experience form. This may be why the visatee was not sent a form. That prisoner, however, did go on to have home leave. There is clearly room for confusion here and **the prison needs to ensure that the assessment matches the circumstances of the temporary release.** In the other 2 cases the correct home leave TR2 form was used but the visatees were simply not contacted.

#### What was the conclusion of the assessment process?

- The TR3(g) “Risk assessment and decision” forms simply logged whether temporary release was granted or not and rarely contained comments.
- In 5 cases an assessment process had been undertaken at some point and a TR3(g) “Risk assessment and decision” form recorded that temporary release was granted.

- In 2 cases an assessment process was not concluded.
- In one case the prisoner was on escorted home leave and so procedures did not require the assessment process to be undertaken.

Who authorised release for temporary release which resulted in breach?

- In 5 cases there was clear authorisation of the prisoners being granted temporary leave in a general, or “global”, sense by the Prison Governor at the end of the assessment period i.e. the prisoner was deemed suitable for temporary leave and a TR3 form was signed. However the particular temporary release episodes which led to breaches were not always separately authorised by anyone. These 5 prisoners committed a total of 9 breaches, some more serious than others. In only 3 of these 9 episodes was the particular temporary release authorised by the Prison Governor.
- In the 3 cases where no global authorisation existed from the assessment period the prisoners committed 5 breaches. In only one of these instances was the particular temporary release episode which led to the breach authorised by the Prison Governor. However there were generally earlier examples of individual temporary releases being authorised by the Prison Governor. From staff interviews it was ascertained that where a previous authorisation existed, this was taken as still in force until further notice. These practices are discussed below.

The nature of the breaches

- The breaches are given below. 6 of the 8 prisoners committed more than one breach. This is discussed below.

<i>Type of breach</i>	<i>Offence committed</i>	<i>Failed to return to the prison at end of release period</i>	<i>Failed to return to the prison and offence committed whilst at large</i>	<i>Absconded from escort</i>	<i>Breach of licence curfew (Home by 9 p.m.)</i>	<i>Contraband /swab test failure</i>
Number of incidents	4	3	1	2	2	2

**Issues raised during the examination of the eight cases**

Administrative Systems

- 8.4** It took a relatively long time to examine the 8 cases, partly because the relevant information was not in one place in the (paper) system. It was therefore difficult to get a clear, complete picture of a prisoner’s history and record on temporary release from the recording/filing system. Staff reported feeling under-resourced administratively and this may be part of the problem. Alternatively one could say that the scheme outgrew the available administrative resources.
- 8.5** 3 senior managers have stand-alone computers but these are not linked. One senior officer had commendably taken it upon his own initiative to commence a computerised partial recording system of temporary release on his computer.
- 8.6** **This administrative system needs an overhaul. At the least, if certain papers have to be filed in**

**different places, there should be one central log giving the overall picture, otherwise information can fall through the cracks.** It would be better to have the records on a computer system, and better still to have a PC LAN (Local Area Network) connecting the senior managers to the same data. **The Home Affairs Committee should examine the feasibility of a computerised record-keeping system.** A small network may not be too costly and could reap big rewards in terms of improved information-sharing and time savings. **Obviously any steps towards computerisation should go through the appropriate States of Jersey channels, not least to ensure the system marries with others, particularly those within the Jersey criminal justice system.**

#### **Eligibility dates and time spent on remand in custody**

- 8.7** In one of the cases examined, a prisoner's eligibility date for temporary release was technically before he was actually sentenced by the Court due to the period of time he had spent on remand in custody. Though he was sentenced to 16 months' imprisonment by the Royal Court, unescorted home leave commenced about 5 weeks after sentence. This is a feature of a system which works on half of the actual custody time served where remand periods can be long for whatever reason. This is a difficult issue. If one moved to a system which worked from date of sentence this would penalise prisoners who have experienced a long remand period and would be seen as inequitable. The existing system does have repercussions, however, for a small community like Jersey. It is possible for members of the sentencing Court and, perhaps more importantly, victims of crime to see offenders at liberty very soon after their Court appearance. This carries the risk of undermining the public's confidence in the criminal justice system.
- 8.8** Of course even if the temporary release eligibility date were to be calculated back from the Estimated Date of Release, rather than half of custody time, the impact of a long remand period is similar.

#### **When the assessment process should be invoked**

- 8.9** As mentioned above, assessment had been undertaken in relation to commencing work, but home visits also took place. This added to the problem of ensuring that visitees were contacted. There is also reference to unescorted temporary release having taken place prior to an assessment process being completed. **The assessment process must be invoked prior to any unescorted temporary leave, whether work or home visit.**

#### **Input into assessment**

- 8.10 Probation Service:** It was noted that no forms were sent to the Probation Service during these assessments for temporary release. As stated elsewhere in this report this reflected the general picture in the wider scheme. Reasons for this were unclear. Some prison staff were under the impression that Probation had declined involvement at some stage in the past, Probation staff had no knowledge of this and stressed their willingness to share information with the prison if this could help the assessment process. They gave examples of having given the prison staff access to their court reports on offenders, computer-held records and paper files at various times.
- 8.11** An examination of Probation Service files by Probation staff confirmed that, had they been involved in the risk assessment process, officers would have had relevant information to contribute in these 8 cases. In one particular case very important information concerning victim and child protection would have been shared. Whether this would have been new information to the prison, or whether a different decision would have been made regarding release in these cases, is not certain. However, it would be safer to ensure that the Probation Service is consulted about risk in the future. As stated elsewhere in this report, **it is recommended that the assessment process includes the Probation Service systematically.**
- 8.12 Visitees:** Another omission in the assessment processes was that of the visitee in cases where temporary unescorted home leave was being considered. This is an obvious weakness but is of particular concern when partners are being visited where there is a history of domestic violence or when children are being visited. Prison staff need to ensure that there are no issues within the home which would make home leave inadvisable. **All visitees should be consulted during the assessment process prior to temporary**

## home leave being granted.

**8.13** This raises another issue of how to deal with changing circumstances. How to know, for example, whether a home leave has been problematic and that future home leave should be suspended. At present there seems to be no feedback “loop” from visitees after a visit. Such a loop used to exist. It was noted that when the previous Prison Governor issued temporary release guidelines to come into effect on 1st January 1999 this matter was addressed. Quote: “Before each Home Leave the Temporary Release Officer must contact the prospective visitee to ascertain: That the previous visit was problem free; That the visitee agrees to a further visit; That the information previously given remains correct and if not to amend.” The number of temporary releases has increased significantly since that time, and it could become an onerous task for a pressed workforce to contact visitees after every visit. **However, it is felt that some system could and should be devised that allows prison staff to become alerted to problems with outside home visits.** For example, at the least visitees could be asked to contact the prison if a period of home leave has been unsuccessful and they feel at risk in some way. Of course should the number of home leaves decrease then it may not be too time-consuming for Prison Officers to contact visitees directly. This issue of how to deal with changing circumstances is linked to authorising release and is discussed further below.

## Child Protection

**8.14** In 2 of the cases where there was unescorted home leave children were mentioned in prisoners’ applications for home leave, and no mention was made of any procedures being invoked to verify whether any risks were posed. This is not to say that all prisoners pose a threat to children but in one case there was a history of threats made to a child having been noted in the prisoner’s paperwork. It was picked up in the Security Department’s report but apparently not acted upon. Further investigation of this case revealed that this was a matter where child protection procedures should have been invoked and do not appear to have been. This is felt to be a serious weakness in current procedures.

**8.15** **The protection of children must be paramount in the temporary release scheme.** It is noted that the Home Office Inspection of 2001 recommended that a child protection policy be introduced at H.M. Prison La Moye and such a policy was put in place in 2002. However, **the prison needs to ensure that its assessment procedures are strengthened in relation to child protection. The Child Protection Team from the Health and Social Services Department should be invited to review temporary release practice to ensure that child protection matters are being properly addressed. Any recommendations made by the Child Protection Team should be actioned as a priority.** They may well take the view that, prior to permitting any prisoner to be released to visit an address where children reside, checks are made to determine whether risks are posed. Reference to the “at risk register” may become part of the assessment process therefore.

## Victims’ issues

**8.16** Examination of the assessment process drew attention to victims’ issues. One temporary release in particular was authorised despite very strong objections from the victim of the original, serious offence against the person. Other cases where victims strongly objected to release were brought to the fore during the interviews conducted for this report. The position of victims is, of course, emphasized in Jersey where victims and released prisoners can, and it is understood actually have, come face to face in public.

**8.17** Victims’ issues are complex and various criminal justice agencies here and in the United Kingdom have wrestled with how to balance the needs of victims with the aim of rehabilitating the offender. It is generally decided that victims’ viewpoints should be seriously considered and they should be kept informed of events, but the victim should not be the driver of decisions (e.g. concerning sentence or release). Often victims are involved in the criminal justice process to give their viewpoint of the offences (through victim impact statements) but are made aware of the limits to their impact on decision-making. In some cases the system has to respond to the protection needs of the victim by inserting conditions into prisoner release licences. Victim Support Schemes and the Probation Service often liaise with victims on behalf of the criminal justice system.

- 8.18 There is evidence of consideration being shown to victims in the cases examined (Probation and the Jersey Victim Support Scheme have been involved in approaching at least one family and conditions were inserted into at least one licence regarding not approaching a victim's home area) and it is understood that victim support agencies in Jersey have already been approached by the Probation Service to play a part in keeping victims informed, but there is no stated policy on involving them in some way in the assessment process or on informing them automatically of prisoners' releases so that they can be prepared for this.
- 8.19 Victims' issues seem to have been more clearly addressed when the H.M. Prison La Moye and the Probation Service worked together to set up the TRMS electronic monitoring system. The TRMS guidance document for probation officers pays due attention to the needs of informing, involving and protecting victims.
- 8.20 **The prison should have a clear written policy outlining how victims' issues are being addressed in the wider temporary release scheme, giving due attention to how victims are to be kept informed and, if necessary, protected.**

#### Authorising release

- 8.21 During examination of these 8 cases many request forms for temporary release were viewed, not just the incidents which led to the breaches, as prisoners fill in a new form for every home leave (though not once placed on the work scheme). Typically the Prison Governor authorised temporary release on the forms himself, the forms bearing his approval and signature, and sometimes comment.
- 8.22 Not every temporary release form bore an authorisation from the Prison Governor, however. Sometimes a TR1 form was signed by the Deputy Governor, sometimes the TR1 was authorised and signed by no-one on the understanding, it was reported, that a previous authorisation was still in force, sometimes backed up by verbal confirmation that the Prison Governor's approval still stood. It appears to have become accepted practice, therefore, that once the Prison Governor had authorised a temporary release then that authorisation stood until it was rescinded. It was therefore considered unnecessary to seek his authorisation in writing each time there was an application for home leave. In the eight cases studied the prisoners committed a total of 14 breaches and in only 4 cases was that particular episode of temporary release specifically authorised.
- 8.23 This needs discussion. It could be seen as sensible that once a prisoner has been assessed as suitable for home leave that that authorisation should stand for all home leave which follows. It could be argued that it would make the system unwieldy and over-bureaucratic if every home leave is personally authorised by the Prison Governor. However, circumstances can change, both in terms of the prisoner's behaviour within the prison and his behaviour outside on a visit. The practice of not authorising every temporary leave in writing does not systematically provide for that change in circumstance to be considered prior to the next home leave being granted. The word systematically is stressed because this is a small, very hands-on, senior management group and matters impacting on home leave may usually be communicated verbally quite adequately. However there was one incident in the cases studied where an opportunity for internal communication was missed which, if handled differently, might well have affected a release decision which ended in a breach. This was where the Prison Psychologist had been asked to undertake a piece of work with a prisoner who had committed a previous breach before he was re-considered for further home leave. However, further home leave was granted by the Prison Governor before her work had been completed and without her making a contribution to the fresh decision. **On balance, therefore, it would seem safer for each home leave to be authorised afresh once any changes in circumstances have been considered. Each request (TR1 form) from a prisoner for temporary release for home leave should be authorised and signed.**
- 8.24 **It is also recommended that each authorisation is done by the Prison Governor in person. This is a delegated authority from the Committee and it is doubtful whether such a function can be delegated further down the management line. The Home Affairs Committee could, however, take legal advice on this. Prisoner applications would have to be sufficiently in advance to allow for**

**periods when the Prison Governor is out of the Island/on leave.**

#### **Authorising release prior to the eligibility date**

- 8.25** In some of the cases examined prisoners were granted temporary release before their eligibility date. (See also the snapshot examination of work scheme members as of 3rd October 2003.) This time criterion originated during the internal review of the criteria in 2002. It is felt though that even internally agreed criteria should have been followed, otherwise there is a danger that procedures are undermined, other prisoners expect the same privileges, and ultimately temporary release loses credibility. The internally agreed criteria have since received the endorsement of the Home Affairs Committee (in May 2003). It is suspected that at this point the criteria became Committee “policy” giving all the more reason for them to have been followed.
- 8.26** **Prisoners should not be considered for, or granted, temporary release prior to their eligibility date unless there are compelling compassionate reasons for doing so.**

#### **Compassionate leave**

- 8.27** One prisoner was granted unescorted home leave several times before his eligibility date. On one occasion mention was made by his personal officer to that application being made “on compassionate grounds” due to family ill-health, but there was no authorisation recording this as driving the decision to grant the leave. The other occasions where this prisoner had temporary release before being eligible did not mention compassionate reasons. Neither was it mentioned in the other cases where prisoners had temporary leave before they were eligible. **Where temporary release is granted on compassionate grounds which override the eligibility criteria this should be clearly recorded.**
- 8.28** Some of the people interviewed for this report stressed that they would expect that compassionate leave would only be used in serious circumstances and sought reassurance that this was the case. It is understood that no local definition for compassionate leave exists in the Jersey prison system, reference being made to United Kingdom procedures. H.M. Prison Service’s Prisoners’ Information Booklet<sup>[32]</sup> states that: “Compassionate leave can be granted only where you have exceptional personal reasons for release such as: visiting dying relatives; going to funerals; other tragic personal circumstances; if you are a primary carer; to get married; for religious ceremonies; to attend medical appointments; if you are a young offender whose parents cannot visit the prison due to illness or incapacity.” **These are excellent criteria and should be more formally adopted at H.M.P. La Moye in any policy documents prepared on temporary release as per recommendations in this report.**
- 8.29** It was noted that during 2003, 222 temporary releases for compassionate leave have been granted to the end of August.<sup>[33]</sup> Whilst there are no grounds for doubting the seriousness of these cases, it does strike as a high number of serious circumstances, even though it refers to “days”. It is felt that a cautionary note should be struck concerning the use of compassionate leave. Care must be taken to ensure that it is not interpreted too widely and that the grounds are sufficiently serious to warrant this special privilege, otherwise both the criteria themselves and public confidence could become undermined. Though there is no evidence that they have not been, it is worth stressing here that **as a rule the Home Office criteria should always be followed.**
- 8.30** It was also interesting to note that, whilst on several occasions the Prison Governor referred other prisoners’ applications for temporary release on compassionate grounds to the Home Affairs Committee because they fell outside of the eligibility criteria, in other cases he did not. It is unclear why there should be different practices and a ruling on this would be helpful. There is no criticism intended of the Committee’s decisions in such cases but as a rule the author feels uncomfortable with compassionate leave decisions being made by the Home Affairs Committee. It seems inappropriate for Committee Members to be dealing with such a level of detail rather than policy and it seems out of place for them to be so deeply involved in such sensitive and highly personal issues. Perhaps if a Panel were to be formed to aid in the decision-making process for temporary release this Panel could replace the Committee being

the final arbiter in such matters. **The Home Affairs Committee should review its role in the granting of temporary release on compassionate grounds and decide on what grounds, if any these matters should come to the Committee or whether such decisions could be made by the suggested assessment panel.**

#### **Other reasons for home leave**

- 8.31** Following media coverage of some of the temporary release breaches, some interviewees also queried the reasons why temporary release was given. In many people's minds it should be granted for a specific and important reason. The Magistrate, for example, referred to the need to balance risk factors against the importance of any home visit.
- 8.32** Research for this report showed that home leave often took place for what can be described as resettlement purposes, to keep in contact with family and friends, not always for a specific activity or strong reason. **If 'resettlement' is one of the main purposes of the high incidence of home leave this should again be clarified in the recommended policy document and this philosophy communicated externally.**

#### **Should there be additional criteria for granting temporary release**

- 8.33** The existing criteria for eligibility have been given above. 2 other matters bear consideration.
- 8.34** One issue is that 5 of the 8 prisoners examined for this report were granted temporary release after a previous breach of some kind had occurred; in another case there had been a suspected breach. All of these prisoners went on to have temporary release after these breaches, though in one case the prisoner went on to have escorted leave only. In 3 cases the previous breach was serious. There were 2 escape whilst on temporary home leave, in one case to the United Kingdom, unescorted home leave being again granted 3 months after this prisoner was returned to H.M. Prison La Moye. In another case a prisoner was authorised to have temporary leave for work purposes reinstated 6 weeks after he committed an assault whilst on temporary release. **It is felt that this threatens public confidence in temporary release and a more cautious approach is highly recommended. Prisoners who have committed serious breaches of temporary release should either lose the privilege of temporary release entirely or have it withdrawn for a substantial period of time. The Committee should decide its stance on the issue of subsequent eligibility for temporary release after a breach and in the case of serious breaches whether prisoners should lose the privilege completely. If the Committee does not wish to make a blanket rule other options would be to refer such cases to either the Board of Visitors or the proposed assessment panel to adjudicate on.**
- 8.35** It is noted that this matter may have been already partly addressed. The Prison Governor stated to the Committee on 28th July 2003 that: "Any inmate who fails to return to the prison at the designated time, or commits an offence whilst on temporary release will no longer be eligible for temporary release." If this has become a new Committee policy it should be recorded as such in any policy and procedure document prepared as per the recommendations of this report.
- 8.36** Another issue which may require further decision is whether all offenders, no matter what their original offence, can theoretically be eligible for temporary leave should other criteria be met. Some of the original offences here and on the outside work scheme were serious crimes. The argument that all class of offenders should have an equal opportunity to earn temporary release, and that individual circumstances should always be considered, is however a persuasive one. It is understood that it was for this reason that the TRMS senior officer working party decided after debate that there should be no restrictions in terms of offence type for temporary release on electronic monitoring and all offenders could technically be eligible. As an aside, Prison Officers also stressed the need to have an incentive scheme in a prison and that denying a prisoner rewards to work toward can bring man-management problems. The criteria for England and Wales also do not make a restriction as regards the original offence. **On balance the author does not recommend a blanket rule denying some prisoners the potential access to temporary leave as there may be some individual circumstances where it is acceptable, particularly after the passage of time. One option would be to not make an absolute restriction but to instruct the proposed**

assessment panel that seriousness of original offence and its impact on the community and the victim should be strong deciding factors when balancing the various elements of risk and benefit. The reason and need for temporary release would have to outweigh the seriousness of the offence, in addition to a favourable risk assessment needing to be in place. The sentencing court could also be invited to comment if they see fit. However it is considered that this is a matter for the Committee to decide therefore it is recommended that the Home Affairs Committee decide whether there should be further guidance issued regarding the original type of offence committed.

**Amount of time some prisoners are out of prison on the schemes, i.e. at liberty**

**8.37** In February 2002 the Home Affairs Committee delegated the function to the Prison Governor to authorise “overnight” temporary leave. There is a restriction given on the prisoner’s TR1 application form that states that prisoners can only have 2 visits per month whether it is overnight, day release or one of each type. It was beyond the scope of this report to research whether this condition was generally met throughout the schemes.

**8.38** However, in 2 of the 8 cases records showed that the prisoners were in full-time employment and had had “weekend” overnight home leave. During discussions with a number of prisoners for the purposes of this report it became apparent that others had full-time employment and weekend home leave. The result of being granted both types of temporary leave simultaneously is that some prisoners have at times spent Monday to Thursday night only in the prison, being at work in the day and being permitted to go home Friday night to Monday morning. The number of such prisoners is not known and would in any case be no more than the number typically eligible for the work scheme. Still it is occurring in some cases and is probably not what the public, the Courts or others associate with “temporary” release. A sample of statistics for April, June and August 2003 was examined. This showed –

	<i>April</i>	<i>June</i>	<i>August</i>

2003			
Number of prisoners on work scheme <u>and</u> on temporary release for home leave	26	20	17
Number of prisoners just on work scheme	11	5	4
Number of prisoners just receiving temporary release for home leave	24	30	38
<b>Total</b>	<b>61</b>	<b>55</b>	<b>59</b>

- 8.39** Analysis of the cases where prisoners had temporary release for both work and home leave showed that in some of the cases the temporary release did refer to whole weekends. For example, in April 2003: 20 of the 26 prisoners who had both work and home leave had weekend leave at some point: 14 of them had one or 2 weekends at home, 3 had 3 consecutive weekends at home and 3 had 4 consecutive weekends (i.e. every weekend) at home. In June 2003: 7 prisoners had every weekend at home. More comprehensive figures would require more detailed research over a longer time period.
- 8.40** It may be that behind this development is the issue that H.M.P. La Moye has to cater for all categories of prisoners. Perhaps some of these prisoners with extended periods at liberty would have been in open prisons in the United Kingdom. However this is not clear and is in any case not agreed policy in Jersey, the only criteria existing for the temporary release of prisoners being those endorsed by the Home Affairs Committee in May 2003.
- 8.41** This practice needs review as it threatens to undermine the public's confidence in the scheme. There is also the issue of whether longer periods of temporary release could run the risk of blurring the edges between home/work temporary leave and TRMS electronic monitoring, particularly as "tagged" prisoners are under strict conditions of certain curfew every night.
- 8.42** **Though it is recommended elsewhere that the Committee consult on the criteria for temporary release and draw up a new policy document, the opinion is given here that the amount of time some prisoners have been at liberty does not fall into the definition of temporary release and should be restricted. The practice of combining home leave and work has aggravated the issue and also needs review. One idea would be to reinstate the original frequency of 2 visits (i.e. day visit or overnight) per month and limit overnight stay, where it is granted, to one night only (which appears to be what the Committee originally intended when it approved "overnight stay").**
- 8.43** **In any review of the criteria for temporary release, attention must be paid to how the home/work temporary leave and TRMS electronic monitoring schemes marry.**

#### **Temporary release for home leave over the weekend period**

- 8.44** It could be considered unwise to release prisoners for overnight home leave over the weekend period, particularly young offenders, this being a time when there is a high risk of offending. This is a risk which is clearly recognised by the prison as temporary release licences for home leave usually include a 9 p.m curfew and a condition not to enter licensed premises. These conditions are, however, difficult to police. In one of the 8 cases reviewed a prisoner breached his temporary release licence by breaking the 9 p.m curfew condition, and in another a prisoner went into licensed premises. An approach was made to the Honorary Police to assist with monitoring compliance with the conditions but unfortunately this could not be accommodated due to manpower problems. Again it is a poor advertisement for temporary release if prisoners are seen out socialising or drinking at night. Worse still if this leads to re-offending.
- 8.45** It could be said that if a prisoner is intent on abusing the trust confided in him he can do so on any night of the week. It could also be said that, despite these risks, the temporary release statistics still demonstrate a high level of compliance on the part of prisoners, though the number of such curfew breaches would

probably be a hidden statistic. Even so, in the absence of a policing system it is felt that **overnight home leave over the weekend period should only be cautiously authorised for some prisoners, particularly young offenders and prisoners with a history of alcohol-related offending.**

### **Escorted temporary leave**

**8.46** Escorted leave is not part of this report's remit in general. However one of the 8 prisoners in this review absconded from his singleton escort whilst on escorted leave. It was also noted in this analysis that escorted temporary release does not include formal risk assessment. It is understood that allocating singleton escorts has been a long-standing practice at H.M.P. La Moye, pre-dating the current Prison Governor's arrival, and though it has generally worked satisfactorily consideration is now being given to having 2 escorts for every escorted temporary release. This would be a much safer option but would have a significant impact on resources. Staff reported that the growth in escorted temporary leave had already had a big impact on overtime levels. Should it be decided that all escorts are doubly manned it is recommended that the occurrence of escorted leave is reduced accordingly.

## **9. A REVIEW OF THE OUTSIDE WORK SCHEME**

**9.1** The Home Affairs Committee requested that this report should "review the list of prisoners on the outside work scheme and confirm that they meet the eligibility criteria". A 'snapshot' examination was made of the prisoners on the scheme on the 3rd October 2003, and the Committee was furnished with the confidential details. A summary of the findings is given below.

### **9.2 Prisoner profile**

- On 3rd October 2003 there were 16 prisoners on the outside work scheme.
- All 16 prisoners had been sentenced by the Royal Court.
- 10 prisoners had been sentenced for drug offences, 4 for offences of violence, and 2 for offences of dishonesty.
- Sentence length ranged from 15 months (shortest) to 11 years imprisonment (longest).

### **9.3 Eligibility**

- 15 of the 16 prisoners had not reached the date at which they were eligible for unescorted temporary release when they were granted their first temporary release. The range was 2 weeks before the eligibility date (shortest) to 9 months and 3 weeks before (longest).
- However, 5 of these prisoners had been released before their eligibility dates for compassionate reasons and actually started work after their eligibility date for temporary release.
- In the remaining 10 cases the prisoners started work before their eligibility date. Sometimes there were sound reasons for this, e.g. the prisoner had actually found a job and would be eligible for temporary release in the near future; they were looking for work before release; or there were financial pressures on the family. The fact remains however that they commenced work before being eligible. In 3 other of the 10 cases the prisoners were allowed to commence work because they would have been classic candidates for open prison in the United Kingdom. On these grounds these 3 prisoners commenced work 3, 5, and 7 months before being eligible. There is no provision in the Jersey criteria, however, to give prisoners "open prison" status.
- 4 of the 16 prisoners were still not eligible for unescorted temporary release at the time the snapshot was taken. The range was 4 weeks (shortest) to 3 months and 2 weeks (longest).

## Other points to note

- 9.4 All 16 prisoners had, at some point in time, been approved for temporary release by the Prison Governor (though, as with the home leave cases examined earlier, some approvals referred to earlier temporary release events).
- 9.5 One prisoner had been working, and therefore living, in the United Kingdom. It is not known for how long. This practice is questioned as it does not appear to fall into the notion of “temporary release”. Neither does it comply with the statement on the TR1 application form which referred to home leave being limited to 2 visits per month. **It is recommended that prisoners are not granted permission to work in other jurisdictions.**
- 9.6 This review of work scheme files revealed 2 other incidents of unescorted temporary release (not for work purposes) to the United Kingdom. During the wider research for this report 2 other cases were noted of temporary release to Madeira on special grounds with Committee authorisation.
- 9.7 Staff reported that no authorities in the receiving jurisdictions were informed of the prisoner movements. It is not known whether any protocols exist about serving prisoners moving to other jurisdictions. Certainly it used to be the case that Probation staff always informed the States of Jersey Police when United Kingdom parolees were being released to Jersey. **This needs to be clarified, perhaps with the Law Officers’ Department, in order to determine whether there are any protocols which need to be complied with. It is in any case recommended that prisoners are permitted temporary leave to other jurisdictions only in exceptional circumstances. At the least it is recommended that Police Forces in the United Kingdom be informed when a serving prisoner is temporarily in their area.**
- 9.8 4 of the prisoners on the work scheme had had previous breaches of the scheme. It is understood the Home Affairs Committee subsequently removed them from the scheme. Breaches whilst on temporary release are discussed elsewhere in this report.

## 10. A DISCUSSION OF SOME OF THE ISSUES RAISED IN THIS REPORT

- 10.1 The temporary release of prisoners for outside work and home leave has been occurring in Jersey since the early 1990s. It had a cautious introduction under the previous Prison Governor and operated quietly, out of the spotlight, with the Prison Governor being delegated a great deal of discretion to operate it.
- 10.2 With the advent of a new Prison Governor the number of temporary releases expanded significantly, growing from 1,414 to 5,536 between 2001 and 2002, the latest figures for 2003 being quoted as 6,318 up to the end of August.
- 10.3 There were various forces driving this increase. One was the serious issue of the high prison population as a result of serious drug offending in Jersey and the Courts’ strict sentencing policy as regards such crimes. In the absence of a Parole Scheme H.M.P. La Moye could only cope with the consequent overcrowding by converting prison facilities, constructing new buildings, and paying for prisoners to be transferred to United Kingdom prisons to serve their sentences.
- 10.4 Another driving force was that the new Prison Governor had been recruited in the wake of an important Home Office Inspection which made 147 recommendations for future practice. The temporary release schemes for outside work and home leave were praised and recommendations were made to extend their provisions to more prisoners. Other recommendations were made concerning lower security accommodation for low-security prisoners, and visiting facilities, which also gave an incentive to develop the use of home leave. The former Home Affairs Committee had sanctioned the Home Office Inspection findings in July 2001 and authorised the implementation of all 147 recommendations.
- 10.5 When the new Prison Governor was recruited it was into this atmosphere of desired change. It even

permeated the selection process for the post, candidates being required to give a presentation on how they would implement the Home Office Inspection's recommendations. In addition, when the Committee approved the Inspection recommendations the Prison Governor had its authorisation to extend temporary leave in some ways (e.g. lowering the eligibility threshold from 18 months' imprisonment to 12 months) but not for all the changes which were to be later made.

- 10.6** The period following his recruitment was to be extremely busy for the new Prison Governor but he nonetheless went on to have many achievements. As well as coping with the prison population and its effects, a remarkable 114 of the 147 Inspection recommendations have evidently been implemented. The TRMS electronic monitoring scheme was also introduced. The new Prison Governor was involved with the introduction of TRMS since its inception, working closely in partnership with the Jersey Probation Service. This scheme's procedures have been described very positively in this report and it was seen to have the confidence and support of the people who were interviewed during its fact-finding stage.
- 10.7** Perhaps it is another measure of achievement that, despite the huge demands that such a period of significant and fast change makes of staff, those interviewed or encountered conveyed a sense of being motivated by the incentive and rehabilitation-based practices and style which now exist at H.M.P. La Moye. There was also a healthy atmosphere in the prison itself despite the high population. This was mirrored in external interviews where on the whole those interviewed displayed a great deal of respect, and incidentally much personal liking, for the Governor.
- 10.8** The temporary release system underwent internal review at the prison in July 2002 and a new set of criteria regarding eligibility and 'entitlement' was introduced. At this point neither the Committee nor the wider criminal justice system nor the public were invited to endorse the changes. The effects were that neither fellow members of the Jersey criminal justice system nor the public were properly informed of, consulted on, or prepared for the changes. Consequently there appears to be little mandate for, or ownership of, the new criteria in the wider community. This did not help when the inevitable breaches occurred, no such schemes being risk-free. The idea of having a "mandate" might seem ephemeral but it is considered to be very important, particularly if one wants to ensure an integrated criminal justice system and political and public support.
- 10.9** The key change, in the author's view, was that (though the criteria became more restrictive for longer-serving prisoners) some prisoners could become eligible for temporary release after serving half of their "custody time", in effect a third of sentence. As time spent on remand in custody counts towards custody time some prisoners could have been seen out of the prison by sentencers or victims quite shortly after sentence. Even if their release was only for one day the effect would be the same. This has particular repercussions on an Island the size of Jersey.
- 10.10** Apart from the eligibility criteria and the growth in the schemes, temporary release has been extended in other ways in the last 2 years. One development was that some prisoners were granted temporary release to other jurisdictions. Another was that some prisoners were granted considerable periods of time at liberty upon occasions due to the effect of combining outside work and weekend home leave so that in effect they were spending only Monday to Thursday night in custody at times. In one case a prisoner was granted permission to work, and hence live, in the United Kingdom.
- 10.11** These developments marked significant changes from the previous way in which temporary release operated prior to 2002. It was not just one change, e.g. to eligibility criteria, that occurred but several, alongside a significant increase in the number of releases themselves. It is the pace and magnitude of the change which has caused surprise and some disquiet to some interviewees.
- 10.12** From the author's lay viewpoint, as Prison Governors were granted total discretion in the post to operate temporary release, the current postholder probably did not exceed his legal authority by making such significant changes. It is considered, however, that it would have been preferred practice if wider consultation had taken place before there was such a change to the eligibility criteria, to the number of prisoners granted temporary release, and to the amount of liberty some, though possibly only a few, prisoners were allowed. Though international comparison showed that other jurisdictions grant prisoners

extended periods at liberty, usually towards the end of an open prison sentence, the idea for such practices has no mandate in Jersey. In particular it is felt that the other members of the criminal justice system, in particular the Attorney General and the Courts, should have been made more aware of, and consulted on, the developments at the prison, a viewpoint mirrored by several of those interviewed for this report.

- 10.13** There is then the question of whether such different practices constituted a “policy” change which would normally be endorsed by the Committee. (The Jersey Prison Governor’s Job Description states that the postholder should “initiate and develop policies for the effective operation of the prison... and advise the President of the Home Affairs Committee on these developments.”) Whether or not the changes did constitute policy change is perhaps a matter of opinion rather than a rule, but (though the Committee would have known about the growth of the schemes from the statistics) at the least it would probably have been wiser to have had the Committee’s official and unequivocal backing of all the developments.
- 10.14** As regards the Committee itself, usually Committees are encouraged to focus on policy issues and distance themselves from operational matters, these being the domain of a chief officer. The following can also be said. Unlike the new TRMS electronic monitoring scheme, which went through comprehensive scrutiny and policy formulation with the Committee, this Home Affairs Committee “inherited” temporary release which had been a longstanding practice at H.M.P. La Moye. Previously Prison Boards/a Home Affairs Committee had approved various elements of temporary release in principle and delegated its operation to the Prison Governors. There was for some time no indication that there were any concerns about the running of temporary release. Even now it enjoys a very good success rate overall in terms of compliance. At the first sign of a potential problem the Committee President requested a full briefing of the risk assessment procedures and received one in May 2003, which included reference to the criteria given in the document called “Annex B”. Lastly this report was commissioned. From personal experience it can be said that it is, in fact, quite difficult to see how temporary release operates in the round unless one does some calculations regarding the eligibility criteria, researches files, and spends some time at the prison seeing it in operation or interviewing prisoners. It is only then one can see the impact the remand time in custody can have on the eligibility date for temporary release in some cases, and how much time a prisoner can in fact spend out of the prison if he is both on the work scheme and being allowed weekend home leave. Only research could examine whether the criteria were being followed.
- 10.15** The way in which Committees delegate functions might also be queried. It is understood that the States Greffe does not issue advice to Committees on this matter. In the absence of any guidance the following is based on opinion: that in the final analysis it would seem to be good practice if Committees were fully apprised of the implications of any delegated function and made clear what limits, if any, they wish to place on it. The current Home Affairs Committee can be said to have “re-delegated” the function to administer temporary release in January 2003. It is doubtful whether it needed to do so, previous delegations still being in force, and in the event this can be said to have been a procedural exercise. However it was recorded that notification regarding the scope of the delegation would be submitted to the Committee at the earliest opportunity. The Committee must have expected to revisit this delegated authority reasonably quickly but received no further briefing on it as a specific agenda item, though a review of risk assessment was called for by the President in May.
- 10.16** The analysis of 8 particular prisoner histories and the outside work scheme membership as of 3rd October 2003 further revealed that sometimes the prison’s internal criteria were not followed. In particular that some prisoners were granted temporary release prior to their eligibility dates. It could be the case that, technically, the Prison Governor has the authority to authorise temporary release prior to the time criteria, as the power to temporarily release prisoners was delegated to him by the Committee. There has also been some discussion with interviewees that “guidelines” still leave room for professional discretion. The view was taken in this report that even “guidelines” should be followed, except in compelling compassionate cases, otherwise they can become undermined and lose any meaning or credibility. However, when the Home Affairs Committee requested the May 2003 briefing they were presented with a set of papers, including the “Annex B” document and the prisoners’ TR1 application form, both of which set out the temporary release criteria. In fact, though the word “guidelines” has been used by interviewees when

describing these papers, that word does not appear in the papers themselves<sup>[34]</sup> and the Prison Governor's accompanying report asks the Committee "to note and endorse the eligibility criteria introduced in July 2002". The Committee "noted the conditions under which a prisoner might be eligible either in work outside the Prison or to be granted home leave and endorsed the report accordingly"<sup>[35]</sup> It is suspected that at this point the criteria became Committee "policy" but this may need appropriate verification. If this is the case it is concluded that the criteria should have been followed and this was not a matter of discretion.

**10.17** The exception to this may well have been when the executive decision was taken to grant temporary release for compassionate reasons. It is not possible to tell from the records whether this was always the case in those instances where eligibility criteria were not followed. The study of the work scheme members showed that 5 of the 15 prisoners allowed to start work before their eligibility date were permitted to do so for compassionate reasons. In the remaining 10 cases Governor discretion was used to grant early temporary release, either because there was a sound reason to grant the leave or because it was viewed that the prisoner fulfilled the definition of an open prison candidate in the United Kingdom.

**10.18** There were other issues raised in the report, including assessment practices, child protection and victim practices, authorising release, and administrative systems and record-keeping. Appropriate recommendations have been made.

## Conclusion

**10.19** Prisoners spoke persuasively of the advantages of the home leave and work schemes. They communicated clearly that temporary release was a great motivator – an incentive to behave well in prison, to become drug-free, and to try to address their offending behaviour. They stressed that, in their view, it was no easy option to be accepted onto the schemes. Many found it very difficult to change their behaviour in order to become accepted. Some prisoners spoke of this being the motivator which helped them to become drug-free for the first time for some considerable period. With such a high population of drug offenders in the prison this is an important point. They praised how the schemes had lifted spirits and made for a better atmosphere in the prison, those who had different experiences comparing the atmosphere favourably to other prisons where prisoners lacked such incentives. Prisoners also spoke persuasively of the personal benefits of being able to hold down a job, and the practical benefits and the pride they could take in supporting their families. The prisoners' views and experiences on the schemes were powerful arguments for some form of temporary release to be continued in Jersey.

**10.20** Almost without exception, those interviewed supported in principle the idea of prisoners being given temporary release prior to their actual release. The benefits were seen of allowing prisoners to maintain their family ties, establish a work pattern, earn money to support their families, and to otherwise prepare for their release in order to increase the chances of its success. There is a great deal of support for the idea in itself. What was queried, once some cases came to light, were the criteria that were being followed. To paraphrase several interviewees the developments were felt to be too much, too quickly, too soon for Jersey.

**10.21** Whilst this report has highlighted several issues which need addressing, 2 things should be stressed in conclusion. **The idea of temporary release seems to have wide support in principle and this has been on the whole a very successful scheme. The latter point should not be lost. It is hoped that when change is considered Jersey does not throw the baby out with the bathwater. After a consultation exercise, policy on the eligibility criteria, the scope, and the limits of temporary release could be agreed or confirmed, procedures rectified, and a re-vamped scheme which would then have the mandate of the criminal justice system could recommence. There is good reason to believe that with proper handling the Committee and H.M.P. La Moye could re-launch temporary release in such a manner as to gain the confidence of the community.**

**10.22** On a wider point, a crucial backdrop to this report has been the high prison population which reportedly is in large part the result of the number of drug-related offences in Jersey and the Courts' sentencing policy in these matters. Jersey seems to be locked into trying to solve this problem from one end of the spectrum,

by allocating more resources to the prison for construction, staff overtime, and United Kingdom prison bills. Part of the solution may in fact lie in change at the other end of the spectrum. Elsewhere, the Jersey Courts have been urged to reconsider their sentencing policies in relation to drug offenders, Professor Rutherford urging consideration “as to what long drug sentences actually achieve, apart from overstretching the prison and the public purse”. He concluded that “a reconsideration is required of the sentencing tariff for the supply and importation of drugs” contending that “such a move should not be equated with a softening of approach to supply and importation” but “an appreciation that these individuals are more likely to be deterred by an increased risk of being caught than by a heftier prison sentence in the event of being caught.<sup>[36]</sup>” A change in sentencing policy, if it occurred, would need to go hand-in-hand with strong prevention measures as part of Jersey’s substance misuse strategy. It is not known whether a review of sentencing policy would bring about change, whether for example Jersey is tied to United Kingdom precedents in this matter or whether the Courts still consider that the policy is apt, but **it is felt that a debate on sentencing policy in Jersey in relation to drug offences should be had. With the passage of time, attitudes may have shifted and the time could be right for review. It is understood that the Home Affairs Committee are in the process of formulating a criminal justice policy. There could be no better time to open up debate on this crucial issue for the Jersey Prison Service.**

## 11. SUMMARY OF RECOMMENDATIONS

### Recommendations concerning temporary release for work and home leave policy

- 11.1** The idea of temporary release seems to have wide support in principle and this has been on the whole a very successful scheme. The latter point should not be lost. It is hoped that when change is considered, Jersey does not throw the baby out with the bathwater. After a consultation exercise, policy on the eligibility criteria, the scope, and the limits of temporary release could be agreed or confirmed, procedures rectified, and a re-vamped scheme which would then have the mandate of the criminal justice system could recommence. There is good reason to believe that with proper handling the Committee and H.M.P. La Moye could re-launch temporary release in such a manner as to gain the confidence of the community.
- 11.2** Following decisions on policy there should be a one policy document prepared, clearly setting out the philosophy, legal basis, eligibility criteria, procedures and boundaries of temporary release, along with any other policy information. Any such policy document should include an explanation of the different forms of temporary release. If ‘resettlement’ is one of the main purposes of home leave, this should again be clarified in the recommended policy document and this philosophy communicated externally.
- 11.3** Without detracting from the success of the scheme overall, the practice of referring to the number of breaches as a percentage of the number of days of release does not appear to be a meaningful statistic by which the public can measure performance. The Home Affairs Committee should create an additional performance measure for temporary release which refers to their expectations concerning the absolute number of breaches of discipline in any given year.

### Eligibility

- 11.4** Due to the lack of knowledge and support for the current criteria amongst Jersey’s criminal justice system and the community, it is recommended that the Home Affairs Committee review the eligibility criteria for temporary release for work and home leave, and consult with other key players in the Jersey criminal justice system in the process.
- 11.5** The eligibility criteria can be complicated to understand, mainly due to the split eligibility criteria. The time might be right to consider one set of criteria for all prisoners.
- 11.6** It is felt that some cases concerning the authorisation of further temporary release after breaches, threaten public confidence in temporary release, and a more cautious approach is highly recommended. Prisoners who have committed serious breaches of temporary release should either lose the privilege of temporary

release entirely or have it withdrawn for a substantial period of time. The Committee should decide its stance on the issue of subsequent eligibility for temporary release after a breach, and in the case of serious breaches whether prisoners should lose the privilege completely. If the Committee does not wish to make a blanket-rule, other options would be to refer such cases to either the Board of Visitors or the proposed assessment panel to adjudicate on.

- 11.7** It is recommended that the Home Affairs Committee decide whether there should be further guidance issued regarding the original type of offence committed. On balance the author does not recommend a blanket-rule denying some prisoners the potential access to temporary leave as there may be some individual circumstances where it is acceptable, particularly after the passage of time. One option would be to not make an absolute restriction for serious offences but to instruct the proposed assessment panel that seriousness of original offence, along with its impact on the community and the victim, should be strong deciding factors when balancing the various elements of risk and benefit. The reason and need for temporary release would have to outweigh the seriousness of the offence, in addition to a favourable risk assessment needing to be in place. The sentencing court could also be invited to comment if they see fit.
- 11.8** In any review of the criteria for temporary release, attention must be paid to how the home/work temporary leave and TRMS electronic monitoring schemes “marry”.
- 11.9** Consideration could be given to the TR2 “log” form registering officially that the criteria regarding conduct and swab tests have been met.

#### **Assessment**

- 11.10** The assessment process must be invoked prior to any unescorted temporary leave, whether work or home visit.
- 11.11** The prison needs to ensure that the assessment matches the circumstances of the temporary release.
- 11.12** It is recommended that the assessment process systematically includes the Probation Service.
- 11.13** There are clear advantages to having forensic psychological input into assessment. The Prison Psychologist should also participate in the assessment process for home leave and work should resources allow.
- 11.14** All visitees should be consulted during the assessment process prior to temporary home leave being granted. It is also felt that some system could and should be devised that allows prison staff to become alerted to problems with outside home visits.
- 11.15** The protection of children must be paramount in the temporary release scheme. The prison needs to ensure that its assessment procedures are strengthened in relation to child protection. The Child Protection Team from the Health and Social Services Department should be invited to review temporary release practice to ensure that child protection matters are being properly addressed. Any recommendations made by the Child Protection Team should be actioned as a priority.
- 11.16** The prison should have a clear written policy outlining how victims’ issues are being addressed in the wider temporary release scheme, giving due attention to how victims are to be kept informed and, if necessary, protected.

#### **Authorising release**

- 11.17** Prisoners should not be considered for, or granted, temporary release prior to their eligibility date unless there are compelling compassionate reasons for doing so.
- 11.18** It is recommended that prisoners are not granted permission to work in other jurisdictions.

- 11.19** Unescorted temporary release to other jurisdictions needs to be clarified, perhaps with the Law Officers' Department, in order to determine whether there are any protocols which need to be complied with. It is in any case recommended that prisoners are permitted temporary leave to other jurisdictions only in exceptional circumstances. At the least it is recommended that Police Forces in the United Kingdom be informed when a serving prisoner is temporarily in their area.
- 11.20** Though the resource implications will need to be carefully considered, the creation of a panel system for the decision-making process for all forms of temporary release is commended to the Home Affairs Committee should this be feasible. The existing make-up of the Prison Governor, the Prison Psychologist, and the Prison Probation Officer appears to work very well with TRMS and could be extended to cover the original decision regarding home leave and outside work scheme suitability. The addition of an independent member would also be recommended to provide independent oversight and increase public confidence.
- 11.21** Each home leave should be authorised afresh once any changes in circumstances have been considered.
- 11.22** Each request form from a prisoner for temporary release for home leave should be authorised and signed. It is further recommended that each authorisation is done by the Prison Governor in person. This is a delegated authority from the Committee and it is doubtful whether such a function can be delegated further down the management line. The Home Affairs Committee could, however, take legal advice on this. Prisoner applications would have to be sufficiently in advance to allow for periods when the Prison Governor is out of the Island/on leave.
- 11.23** Where temporary release is granted on compassionate grounds which override the eligibility criteria this should be clearly recorded. The Home Office criteria for compassionate leave should be more formally adopted at H.M.P. La Moye in any policy documents prepared on temporary release as per recommendations in this report. As a rule the Home Office criteria should always be followed.
- 11.24** The Home Affairs Committee should review its role in the granting of temporary release on compassionate grounds and decide on what grounds, if any, these matters should come to the Committee or whether such decisions could be made by the suggested assessment panel.

### **“Entitlement”**

- 11.25** Though it is recommended elsewhere that the Committee consult on the criteria for temporary release and draw up a new policy document, the opinion is given here that the amount of time some prisoners have been at liberty does not fall into the definition of temporary release and should be restricted. The practice of combining home leave and work has aggravated the issue and also needs review. One idea would be to reinstate the original frequency of 2 visits (i.e. day visit or overnight) per month and limit overnight stay where it is granted, to one night only (which appears to be what the Committee originally intended when it approved “overnight stay”).
- 11.26** Overnight home leave over the weekend period should only be cautiously authorised for some prisoners, particularly young offenders and prisoners with a history of alcohol-related offending.

### **Administration system**

- 11.27** The administrative system needs overhaul. At the least, if certain papers have to be filed in different places, there should be one central log giving the overall picture otherwise information can fall through the cracks. The Home Affairs Committee should examine the feasibility of a computerised record keeping system. Obviously any steps towards computerisation should go through the appropriate States of Jersey channels not least to ensure the system marries with others, particularly those within the Jersey criminal justice system.

### **Recommendations concerning the Temporary Release Monitoring Scheme**

- 11.28** Though probation home circumstances reports were considered thorough, consideration should be given by the Probation Service as to whether the pro forma could include a clear recommendation as to suitability for TRMS, in addition to the probation officer's overall assessment. This would be considered more helpful to the Prison Governor's decision-making.
- 11.29** The eligibility criteria for TRMS should be reconsidered as part of any review of temporary leave arising from this report.

#### **Wider Issues**

- 11.30** It is felt that a debate on sentencing policy in Jersey in relation to drug offences should be had. With the passage of time attitudes may have shifted and the time could be right for review. It is understood that the Home Affairs Committee are in the process of formulating a criminal justice policy. There could be no better time to open up debate on this crucial issue for the Jersey Prison Service.

**LIST OF PEOPLE INTERVIEWED FOR THE PURPOSES OF THIS REPORT**

**The following people were interviewed for the purposes of this report –**

Senator W. Kinnard (President, Home Affairs Committee)  
Connétable K.P. Vibert (Vice-President, Home Affairs Committee)  
Deputy J.A. Hilton (Former Home Affairs Committee Member)  
Deputy P.J. Rondel (Home Affairs Committee Member)  
Deputy F.J. Hill, BEM, Deputy of St. Martin

Location: H.M. Prison La Moye –

Mr. M. Kirby, Prison Governor H.M.P. La Moye  
Mr. C. Bertram, Deputy Governor H.M.P. La Moye  
Mr. N. Watkins, Senior Unit Manager H.M.P. La Moye  
Mr. S. Davies, Temporary Release Manager H.M.P. La Moye  
Mrs. R. Emsley, Prison Psychologist H.M.P. La Moye  
Prisoners at H.M.P. La Moye

W.J. Bailhache Q.C., Her Majesty's Attorney General  
Jurat R.M. Bullen, MBE, Member of H.M. Prison La Moye Board of Visitors  
Jurat G.C. Allo, Member of H.M. Prison La Moye Board of Visitors

Mr. B. Heath, Chief Probation Officer, Jersey Probation Service  
Miss A. Ormesher, Probation Officer, Jersey Probation Service  
Mr. G. Power, QPM, Chief Officer, States of Jersey Police  
Superintendent J. Pearson, Head of Operations, States of Jersey Police

Written correspondence with –  
Mr. B.I. Le Marquand, The Magistrate.

## TEMPORARY RELEASE – SOME INTERNATIONAL COMPARISONS

<b>Temporary release provisions</b>	
<b>Some international comparisons</b>	
<p>Caution: These international comparisons have been made from information available on the Internet<sup>[37]</sup> which may not be up-to-date in all cases.</p>	
<b>Country</b>	<b>Information obtained</b>
The Republic of Ireland	<p>“There are two kinds of temporary release: Day-to-day temporary release. This is normally to go to a job outside the prison during the day and return to the prison at night. This is usually considered when a prisoner is coming close to the end of their sentence. Full temporary release either for a specified period or until the end of the sentence. This is normally granted on compassionate grounds in cases where urgent family or domestic circumstances arise. It is also considered if a prisoners has been progressing well on day-to-day temporary release.”</p>
Northern Ireland	<p>“The Prison Service ... helps prisoners maintain links with their families in a number of ways, including providing visiting facilities above statutory requirements and also through various home leave schemes and the prisoners’ telephone system.</p> <p>The range of <a href="#">temporary release schemes</a> has been developed to provide both determinate and life sentence prisoners with structured and planned releases towards the end of their sentences. The schemes also allow the Prison Service to respond swiftly and sympathetically to bereavement and very serious illness and to long-term infirmity or disability which prevent prisoners’ close relatives from visiting.</p> <p>The Pre-Release Home Leave Scheme, designed to prepare the prisoner for return to the community, enables eligible prisoners nearing the end of their sentences to take a number of periods of temporary release prior to their final discharge from prison. Following a review of the Scheme in September 1998, the method of allocating leave was changed to reflect the period of time actually served in custody. Previously leave had been granted on the basis of the sentence being served. This change resulted in a small benefit to a number of longer serving prisoners.</p> <p>The temporary release schemes are perhaps the most valued and respected privilege available to prisoners. This is evidenced by the very low rate of prisoners failing to return.”</p>
France	<p>“<b>Prisons:</b> These are divided into top-security prisons, reintegration-oriented centres and open prisons. Those sentenced to long terms of imprisonment and high risk inmates are sent to top-security prisons (maisons centrales).</p> <p>Those whose sentences are shorter or who show definite potential for social rehabilitation are placed in reintegration-oriented centres.</p> <p>Convicted persons given sentences involving day release may have employment, follow a course of study or a training programme outside prison. Once their daily activity is over, they must return to the open prison to which they are assigned.”</p>

	<p>“In some cases, such as the death or imminent death of a relative, inmates can leave confinement for short periods of time”.</p>
Germany	<p>“Several amenities are provided for the German prisoner.  1) Work release: The individual under certain circumstances is allowed to work outside of the prison and return to the prison after work. Some institutions have established a separate wing or separate quarters outside of the prison for those on work release; 2) Temporary (day basis) release: Prisoners are allowed to leave the prison either with or without supervision by a staff member. Emergency leave may also be granted in life-threatening situations involving a family member; 3) Vacation. This involves release of an inmate for a period of anywhere between 6 to 21 days depending upon the circumstances and the particular inmate.”</p>
Spain	<p>“Leave is permitted in the case of the death or grave illness of a parent, a spouse, a son or daughter, or a sibling. Leave permits are also used as a means to prepare the inmates for living outside the institution after finishing the prison term. These types of permits must not exceed 7 consecutive days nor 36 or 48 days per year and are given according to the treatment phase of the inmate. To be granted a permit, the inmate has to have a record of good behaviour and must have completed at least one-quarter of his sentence.”</p>
Canada	<p>“Temporary releases may be in one of the following forms:  Escorted temporary absence is release in which an offender, either alone or in a group, leaves the institution accompanied by one of several escorting officers.  Unescorted temporary absence is a release of limited duration for medical, administrative, community service, family contact, personal development for rehabilitative purposes, or compassionate reasons, including parental responsibilities.  Work release is a structured program of release established for a specified period of time involving work or community service outside the penitentiary. This type of program is supervised by a staff member or other person or organization authorized by the institutional head.”</p> <p>“Temporary Absence programs are used in provincial prisons and allow inmates to be released, unsupervised, for a mandated period of up to 15 days. If they do not return, they are deemed absent without leave (AWOL). Since prisoners can be given a back-to-back series of 15 day releases, these programs are sometimes used as an early release mechanism for provincial prisoners (avoiding the initial parole process). Temporary absence is generally granted by the prison superintendent for humanitarian reasons. For example, the inmate may be needed to attend to a family matter or require care that is only available at a hospital. The program also gives pre-parolees time to situate themselves with housing and employment. Most prisons do not allow conjugal visits, however provincial prisons allow inmates to be released on a weekend pass for conjugal visitation”.</p>
New Zealand	<p>“The following general purposes have been approved by the Minister for Corrections as purposes for temporary release under Section 21 of the Penal Institutions Act 1954: Temporary release to assist integration; home leave; pre-release temporary release; temporary release to seek</p>

	<p>employment; temporary release to attend the birth of the inmate’s own child; temporary release to attend church services; temporary release to attend treatment and rehabilitation centres for assessment; compassionate temporary release; temporary release into police custody; temporary release for inmates who require admission to hospital; temporary release for medical and other treatment.”</p> <p>“Other than in an emergency, the planning and approving of a temporary release is to be managed as part of an inmate’s sentence plan.”</p> <p>“Temporary release can only be undertaken in conjunction with a temporary release sponsor approved by the Superintendent.”</p> <p>“Temporary release must be approved for a period fixed by a Superintendent or the Chief Executive.”</p> <p>“Weekend home leave and work parole (release for employment on an arranged job during the day) is ... available as a privilege to some medium and minimum security inmates, especially inmates nearing the end of their sentence.”</p> <p>“At present some inmates can be released from prison to go to work, returning to jail at night, with their wages used to compensate victims. The law doesn’t currently set out the purpose of temporary release, and it doesn’t say who is eligible or the maximum length of release.”</p>
Netherlands	<p>“Dutch prisons are characterized as closed (high security), semi-open (normal security) and open institutions (minimal security). Inmates in open institutions may be allowed to pursue an education outside of the prison. “</p> <p>Prisoners in half-open institutions: “once every four weeks they are allowed to return home for a weekend”.</p> <p>“Prisoners in open institutions usually work outside of the prison.”</p> <p>“Inmates spend only their evenings and nights in these institutions. During the day they go to work or attend a training course outside the institution. They are permitted to return home on weekends. Naturally it is up to a selection officer to determine whether the individual in question is ready for this kind of freedom. Placement in open institutions occurs during the very final phases of detention in the prison system.”</p> <p>“As their release date approaches, inmates have increasingly greater contact with the outside world. Leaves may be granted during the last year of detention. This rule applies to convicted prisoners in prisons and detention centres. In principle, inmates in these institutions are entitled to six separate weekend leaves during their final year of detention. Inmates in half-open institutions are entitled to go home once every four weeks. Open institutions close on weekends. The inmates there return home every weekend.”</p>
Denmark	<p>“<i>Guidelines (for prisoners) on serving custodial sentences:</i></p> <p>Leaves: Most inmates in an <i>open prison</i> receive regular leave every third weekend (“orlov”) if their custodial sentence is of 5 months or more. You can first be allowed a leave after 4 weeks’ residence in the prison and, in some cases, this will be even longer. If your custodial sentence is shorter, you can receive a leave in connection with a visit. Leaves from a <i>closed prison</i> are not so common and are not granted as early as in an open prison. If you misuse the leave, for example by failing to return, attempting to smuggle alcohol or narcotics in or by</p>

	<p>committing a criminal act, your right to leaves can be withdrawn. If you are in an open prison, you also risk being transferred to a closed prison.</p> <p>All inmates have the possibility of leaves for special purposes, for example if close relatives or friends are seriously ill or die.</p> <p>Permission for a leave always requires that there is a purpose that can be approved and that there is no risk of abuse. Leaves can in certain circumstances be with an accompanying person.</p> <p>Work and education: You are required to engage yourself in work or education and you will be paid work money.</p> <p>In special cases you can receive permission to work or study outside the prison (“frigang” – leave) or to provide your own occupation in the prison.”</p> <p>“In the open prisons weekend leaves are granted every third week to prisoners with a low risk of recidivism. A prisoner in a closed institution may obtain similar rights to weekend leave when he has served one fourth of his sentence. At some time during incarceration about one third of the prisoners in closed prisons are granted occasional leaves. The total number of leaves per year is about 57,000. More than half of these are so-called work leaves where an inmate leaves the prison to go to work or to take part in educational activities in society.”</p>
Sweden	<p>“Under the work release system, an inmate of a prison may be permitted, during working hours, to work or pursue an educational training course, or to take part in some other form of organized activities outside the prison. In 2002, 465 people began taking part in this scheme”.</p> <p>Prisoners are able to have “leave” and “furloughs” but no details are given.</p>
Norway	<p>“In special circumstances, they (prisoners) are allowed to leave prison for short periods, such as to visit a sick relative.”</p>

[1] Report to the Home Affairs Committee by the Prison Governor dated 13th May 2003.

[2] The Prison Board has now been replaced by the Home Affairs Committee.

[3] See Prison Governor’s “Briefing to the Home Affairs Committee Electronic Monitoring (Tagging) Proposal” 11th September 2002.

[4] Prison Board Minutes 31st March 1995.

[5] Report on a Full Announced Inspection of H.M.P. & YOI La Moye Jersey 2-6 April 2001 by H.M. Chief Inspector of Prisons page 4.

[6] Performance Level 4 = “Exceptionally High Performing and consistently meeting or exceeding targets” H.M. Prison Service Prison Service Quarterly Performance Rating System [www.hmprisonservice.gov.uk](http://www.hmprisonservice.gov.uk)

[7] Home Affairs Committee minute 28th February 2002 Prison – Overnight temporary release 1046/10(270): “The Committee in accordance with Article 36A of the States of Jersey Law 1966, as amended, delegated authority to the Prison Governor to allow prisoners to be temporarily released from H.M. Prison, La Moye, in accordance with Rule 73 of the Prison (Jersey) Rules 1957, as amended, subject to reports being submitted to the Committee for its information from time to time. The Committee requested that the matter be presented to the States as an R.C. at the soonest available opportunity.”

- [8] *Report on a Full Announced Inspection of H.M.P & YOI La Moye Jersey 2-6 April 2001 by H.M. Chief Inspector of Prisons paragraph 9.12 page 106.*
- [9] *Report to the Home Affairs Committee by the Prison Governor dated 13th May 2003.*
- [10] *Home Affairs Committee minute 16th January 2003 Delegated powers 561/191.*
- [11] *Home Affairs Committee minute 22nd May 2003 1046/10(270).*
- [12] *Prison Governor's "Briefing to the Home Affairs Committee Electronic Monitoring (Tagging) Proposal" 11th September 2002.*
- [13] *Report on a Full Announced Inspection of H.M.P. & YOI La Moye Jersey 2-6 April 2001 by H.M. Chief Inspector of Prisons. Recommendation 10.65 page 125.*
- [14] *See Home Affairs Committee Minutes of 26th September 2002 1046/11/1(87).*
- [15] *See Home Affairs Committee Minutes of 27th March 2003 1046/11/2(87).*
- [16] *Statistics furnished by the Prison Governor in a report to the Home Affairs Committee dated 17th October 2003.*
- [17] *Report on a Full Announced Inspection of H.M.P. & YOI La Moye Jersey 2-6 April 2001 by H.M. Chief Inspector of Prisons, page 13.*
- [18] *Report to Home Affairs Committee dated 17th October 2003.*
- [19] *Report to Home Affairs Committee dated 17th October 2003.*
- [20] *Report to Home Affairs Committee dated 17th October 2003.*
- [21] *Report on a Full Announced Inspection of H.M.P. & YOI La Moye Jersey 2-6 April 2001 by H.M. Chief Inspector of Prisons page 112.*
- [22] *"A Review of Criminal Justice Policy in Jersey" by A Rutherford & A Jameson page 104.*
- [23] *Prison Statistics England and Wales available on [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)*
- [24] *Report on a Full Announced Inspection of H.M.P. & YOI La Moye Jersey 2-6 April 2001 by H.M. Chief Inspector of Prisons, paragraph 9.15, page 106.*
- [25] *Report on a Full Announced Inspection of H.M.P & YOI La Moye Jersey 2-6 April 2001 by H.M. Chief Inspector of Prisons, paragraph 9.17, page 107.*
- [26] *Report on a Full Announced Inspection of H.M.P & YOI La Moye Jersey 2-6 April 2001 by H.M. Chief Inspector of Prisons, paragraph 9.11, page 105.*
- [27] *Report on a Full Announced Inspection of H.M.P & YOI La Moye Jersey 2-6 April 2001 by H.M. Chief Inspector of Prisons, paragraph 9.13 page 106.*
- [28] *Report on a Full Announced Inspection of H.M.P & YOI La Moye Jersey 2-6 April 2001 by H.M. Chief Inspector of Prisons, paragraph 4, page 15.*
- [29] *Report on a Full Announced Inspection of H.M.P & YOI La Moye Jersey 2-6 April 2001 by H.M. Chief Inspector of Prisons, pages 93 to 94.*
- [30] *Prisoners' request form TR1 and "Annex B".*
- [31] *References: The Prison Rules 1999 – Consolidated November 2000 Laid before Parliament 11th March 1999 Statutory Instruments 1999 No. 728; Prisoners' Information Booklet 2002 H.M. Prison Service.*
- [32] *Prisoners' Information Booklet 2002 produced by H.M. Prison Service Chapter 6, pages 130-131.*
- [33] *Letter to the President of the Home Affairs Committee from the Prison Governor 15th September 2003.*
- [34] *Annex B has the heading "Temporary Release Information" and states that "with effect from 16th July 2002 the following conditions for home leave/work experience will apply..." and the TR1 form is headed "Application for Temporary Release" and states "You may only apply for Temporary Release if you meet the following criteria..."*
- [35] *Home Affairs Committee minutes 22nd May 2003 1046/10(270).*
- [36] *A Review of Criminal Justice Policy in Jersey by A. Rutherford and A. Jameson, page 109.*
- [37] *Sources: The World Factbook of Criminal Justice Systems, Bureau of Justice Statistics –[www.ojp.usdoj.gov](http://www.ojp.usdoj.gov);*

*International Corrections and Prisons Association: [www.icpa.ca](http://www.icpa.ca); The Republic of Ireland government website: [www.oasis.gov.ie](http://www.oasis.gov.ie); The Northern Ireland Prison Service website: [www.niprisonservice.gov.uk](http://www.niprisonservice.gov.uk); The Correctional Service of Canada website – [www.csc-scc.gc.ca](http://www.csc-scc.gc.ca); “Swedish Prison and Probation Service – [www.kvv.se](http://www.kvv.se); New Zealand “Prison Management Reviewed” – [www.maf.govt.nz](http://www.maf.govt.nz); [www.corrections.govt.nz](http://www.corrections.govt.nz); The Dutch National Agency of Correctional Institutions: [www.gevangenis.nl](http://www.gevangenis.nl); The Danish Ministry of Justice: [www.jm.dk](http://www.jm.dk); Directorate of Prisons and Probation, Denmark; [www.kriminalforsorgen.dk](http://www.kriminalforsorgen.dk); Prison and Probation Department Norway: [www.odin.dep.no](http://www.odin.dep.no).*