

**STATEMENT TO BE MADE BY THE PRESIDENT OF THE HOME AFFAIRS COMMITTEE TO
THE STATES ON TUESDAY 7TH OCTOBER 2003**

Members will be aware that there have been instances recently of prisoners failing to observe the conditions of their temporary release under Rule 73 of the Prison Rules. In view of the public interest in these occurrences and the concern expressed by some States members, I should like to make a statement about the temporary release scheme and the conditions under which it operates. By so doing, I hope to be able to put into perspective the few occasions recently on which prisoners have broken the conditions of their release.

Members will recall that HM Prison La Moye had its first inspection by Her Majesty's Chief Inspector of Prisons in 2001. The subsequent report made 147 recommendations, 114 of which have been implemented. Of those that have not, 14 are linked with the redevelopment of the prison estate (12 of which will be implemented during this and next year's building programme); 7 are areas outside of the Prison Governor's control such as the setting up of a Prison Ombudsman, transferring prisoners to court, the Island's provision for mentally ill offenders, the introduction of parole and a sex offender register; and the remaining 12 have yet to be actioned mainly because of their resource implications. A number of recommendations referred to the resettlement of prisoners. The Chief Inspector was concerned that, with only one Prison, La Moye had to fulfil all the responsibilities that in the UK would be divided among a range of establishments of graduated levels of security. In the UK a prisoner will invariably begin his or her custody on remand in a secure local prison and will usually spend a short time there after sentence before being allocated to an establishment which best fits his or her need for secure or open conditions. The Chief Inspector recommended that temporary release and outside work should be made available in Jersey for short sentenced prisoners, where previously only those serving in excess of 18 months were considered including women and young offenders. In the UK, a prisoner will progress from closed secure conditions to less secure training establishments and eventually finish their sentence in an open or resettlement prison. We do not have such an infrastructure in Jersey and it is a requirement that La Moye performs all these functions.

In the UK, the timing of these moves through to open conditions is governed by risk assessments carried out as a part of the sentence planning process. A system of risk assessment was already in place at La Moye at the time of the inspection. The inspection team were impressed with the risk assessment system at La Moye and took away examples of the documentation used as an example of best practice. They were concerned, however, that sentence planning was not co-ordinated with temporary release; consequently, the Prison Governor has been carrying out the necessary training and support for prison staff in order that sentence planning could be brought in earlier this year.

Quite clearly, temporary release for prisoners will not always be successful and the expected recall rate in UK prisons is between 2% and 5%. Anything better than this is considered to be a demonstration of success. The recognised method of measuring temporary release performance is by counting the number of days upon which prisoners were released. During 2002, there were 5,436 days of temporary release in Jersey with only 5 incidents involving failure to report or the committing of a further offence. This was a success rate of 99.9%. For 2003, up until the end of August there had been a total of 6,318 days of temporary release. Of these, similar breaches occurred on 10 days giving a success rate of 99.85%. The Prison Rules acknowledge that breaches may occur by giving the Committee the power to recall prisoners who transgress. The only guaranteed way of eliminating potential failures is not to let prisoners out at all. However, this would severely frustrate the resettlement aims of the prison and has the potential to create an unhealthy atmosphere in which prisoners would have nothing to work towards and hence no motivation to conform to the rules or regime available or to prepare for the time when they will need to fit back into society.

At this point, I should like to apprise members of the severe overcrowding problem with which the Committee and the prison authorities are having to grapple, although I hasten to add that overcrowding is not a criteria taken into account when considering eligibility for temporary release. The prison has an operational capacity of 149 inmates in a prison that was designed to house prisoners for a maximum period of 18 months. It was envisaged that prisoners sentenced to longer terms would be transferred to the United Kingdom. The prison population has been rising steadily for several years - due mainly to the substantial custodial sentences given in respect of drug trafficking offences - and reached a peak in August this year of 187. The present prison population stands at 177 but is set to exceed 200 by the end of the year. There are an

additional 56 prisoners accommodated in UK prisons, 31 of whom the Island pay for at a cost in the region of £38,000 per prisoner per annum.

Members ought to be aware that Jersey's prison population is in the upper quartile of European prison populations. In terms of the rate per 100,000 population, our average prison population was 208 in 2001, 226 in 2002, and is expected to be 257 by the end of this year. This puts Jersey on a par with Eastern European states such as Armenia, Romania and the Czech Republic and significantly higher than Guernsey and the Isle of Man.

The prospect of overcrowding was one of the drivers for the Committee's prison redevelopment programme and the introduction of electronic monitoring. Funding was provided through the 2003 capital programme for the construction of a 37-cell accommodation block which is currently under construction and will be ready for occupation in mid-December. Further funding is available in 2004 for the construction of a replacement female wing and the prison also has a place in the 2006 capital programme. As a shorter term measure, in April the Committee brought in electronic monitoring, otherwise known as tagging, and there are currently 14 low risk prisoners on this scheme. To date, tagging has been operating very successfully. The Finance and Economics Committee has assisted the Home Affairs Committee in dealing with the more immediate problem by providing additional funding to allow further prisoners to be sent to UK prisons.

Temporary release can take the form of home leave or work experience and is normally restricted to sentenced prisoners. Before any prisoner is allowed temporary release for either home leave or work experience, they will have had a number of escorted home leaves with a prison officer. Information from these escorted home leaves is used to inform the decision making process. Occasionally remand prisoners have been granted escorted home leave if there have been strong compassionate reasons such as a family illness or death. The criteria for temporary release were reviewed by the Committee at its meeting on the 22nd May 2003. They are detailed and vary with the length of sentence being served; however, I am happy to provide any member with a copy of the criteria should they wish.

Understandably, recent breaches of the conditions of temporary release have attracted much media attention. As often happens in such cases, in the course of informing the public media reports have tended to sensationalise the facts. The most recent of these was the Jersey Evening Post article of the 2nd October 2003, which referred to "the deepening prison home leave crisis". Given the success rate for this year of 99.85% the manner in which individual breaches have been reported have tended to distort the overall picture. That is not to say that the Committee has been complacent in not taking such incidents seriously. After a prisoner on escorted home leave escaped from his escort on the 14th September 2003, the Committee suspended all home leave, other than for prisoners on the outside work scheme, until it could discuss the situation fully at its meeting on 26th September 2003. On the 26th September, the Committee had a day long meeting at which it discussed the temporary release scheme as its last item. The Committee decided to suspend all forms of home leave, other than escorted releases on compassionate grounds, pending a review of the eligibility criteria. Unfortunately, that evening a young offender who was already on home leave is alleged to have become involved in the assault on the Esplanade which resulted in the hospitalisation of another youth. However, no charges have been laid against this young offender at present. Because of that incident, the Home Affairs Committee held another meeting on Friday the 3rd October 2003, to discuss the situation further. As a result, the Committee has decided to commission an independent report which will look at the procedures and criteria for granting temporary release, the risk assessment process, and the circumstances surrounding recent breaches of temporary release licence. Upon receipt of this report, the Committee will review the eligibility criteria and take any other action that might be deemed appropriate. The Committee believes that it would be in the public interest for this report to be compiled by a person independent of the Home Affairs area. The Committee would like to be able to consider a report by the end of October so I am taking steps to identify an appropriate person for the task in the next few days. The report will be made available to the States once the Committee has considered it. During the reporting period, home leave will remain suspended. Outside working for those currently on the scheme will continue, although the Committee will be reviewing the list of participants.

In the longer term, the Committee is making determined efforts to look at the way we currently deal with prisoners in the Island and whether the present arrangements are in the best interests of the community at large and the prisoners themselves. We are doing this through the development of a criminal justice policy

which has never before been laid down by a Committee of the States. In drawing up the new policy we will consult all the people with an interest including members of the public. We have yet to decide what form the public consultation will take but are taking steps to identify the most effective means of creating that engagement. Amongst other things, the policy will look at the various steps in the process from an offence being committed to an offender being dealt with, the interaction of criminal justice agencies during that process, the sentencing options available to the courts and the management of offenders sentenced to a period of custody.

In conclusion, I should like to stress that any breach of a temporary release licence is of serious concern to the Committee, and I believe that it has responded appropriately when these breaches have occurred. However, I would ask members to bear in mind the longer term value to both prisoners and the community of being able to operate a temporary release scheme. Taking into account the overall number of days spent on temporary release, the conditions of licence have been strictly observed by the vast majority of prisoners admitted to the scheme. It is creditable that this has been achieved against the backdrop of prison overcrowding and under-funding that I have described. I will report to the States again once the independent report the Committee has commissioned has been received.