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Re: Department of Justice Consultation on Jury Reform

Dear colleagues,

I would like to thank you for your recent invitation to contribute to the consultation on jury reform. While we did not have capacity to make a more comprehensive submission at this time, I wanted to send on some observations on key points arising in the consultation document.

Established in 1994, IPRT is Ireland's principal independent non-governmental organisation working for systemic penal reform and change. Our vision is a just, humane Ireland where prison is used as a last resort. We advocate for a progressive criminal justice system that prioritises alternatives to prison, upholds human rights, and champions reintegration. We do this through conducting research, campaigning, and changing attitudes.

Our observations relate mainly to the issues highlighted in Chapter Five of the consultation document, including disqualification from jury service based on the type of offence, sentence received, the time since the offending occurred, and the approach to persons on remand.

Disqualification

The current disqualifications under Section 8 of the Juries Act 1976 are significant and, in many cases, impose lifelong disqualifications on people with certain convictions. IPRT acknowledges the need for public confidence in the jury system but urges that any reforms be underpinned by principles of fairness, proportionality, and respect for the rehabilitative process.

IPRT has reservations about the current blanket exclusion from jury service for life which applies to anyone who has been convicted of any offence for which they have received a sentence of life imprisonment. We understand it would not be practical or possible for someone currently in custody to serve on a jury. However, we question the policy of excluding all individuals who may have served their sentence, been granted parole and who are currently living in the community on licence, solely based on their past actions. This blanket exclusion could serve to undermine the principle of rehabilitation whereby a person has been so successful in their progression journey that they have been deemed no longer to pose a risk to public safety and have been released under probation supervision. We urge reconsideration of this position to allow for a review mechanism in each case after a fixed period. This approach would balance public confidence in juries with the recognition that individuals can rehabilitate and reintegrate into society.

Similarly, IPRT believes that, while somewhat more proportionate, a wholesale 10-year ban from serving on a jury because of the length of sentence served would not appear to be wholly proportionate. The paper refers to excluding individuals for whom a sentence for a term greater than 12 months (including a suspended sentence) has been handed down. It takes no account of the work that someone may have undertaken to change any offending behaviour or the rehabilitation efforts they have undergone.

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We welcome that there does not appear to be any recommendation to continue to exclude individuals who were sentenced to detention as a minor. The current legal position under the 1976 Act refers to the exclusion of a person who had served at least a three-month sentence in St Patrick's Institution which was formerly used to detain boys under the age of 18.

In terms of spent convictions, the consultation paper refers to the Law Reform Commission's recommendations around the Criminal Justice (Spent Convictions) Bill 2012. However, the proposed provisions in the Bill have been superseded by the enactment of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016. Under this legislation a single conviction resulting in a custodial sentence of one year or less or a non-custodial sentence of two years or less can become "spent", as long as certain other conditions are met. This means that after a certain period, a person no longer has to disclose their conviction in certain circumstances. IPRT believes this legislation did not go far enough for several reasons. Foremost among them, it sets a blanket seven-year rehabilitation period for all qualifying convictions. There is no relationship between the severity of the sentence and the rehabilitation period, and for people who committed more than one offence (other than minor motoring or public order offences) in the past, their conviction will not become spent no matter how long ago the offences were committed. Furthermore, this means that the period of time referred to by the Law Reform Commission before a person could serve on a jury after receiving a conviction is out of step with current legislative provisions. It is important that the prevailing legislation relating to spent convictions is reflected in any reform, particularly given the scope for further changes in this area, given the introduction of a Private Members Bill on this topic in 2018 and the Department of Justice's 2020 consultation on spent convictions. The recommendation should reflect the shortest possible disqualification period possible.

Persons remanded in custody awaiting trial, and persons remanded on bail awaiting trial

The consultation paper also asks whether a person remanded in custody awaiting trial or a person remanded on bail awaiting trial should be disqualified from jury service. The current position under the Juries Act 1976 is that they are not currently disqualified. Again, while we acknowledge that logistically it may not be possible for someone in custody to attend a trial for jury service, if someone is out on bail then there would be no logistical impediment. IPRT recommends the retention of the current provision not to exclude people in pre-trial detention as we would have concerns that a blanket exclusion from jury service for someone who is awaiting trial but has not been convicted of any offence, could undermine the presumption of innocence which is a cornerstone of our legal system. If concerns arise about specific cases where there are concerns that serving on a jury may pose a conflict of interest or risk to impartiality, such issues should be addressed on a case-by-case basis rather than blanket disqualification.

Jury vetting

In relation to vetting, IPRT believes that Garda vetting should only be used in situations where it is directly relevant to the activity the person is seeking to undertake.

Furthermore, IPRT has in the past been contacted in instances where the disclosure of records by the Garda National Vetting Bureau have incorrectly included spent convictions in disclosures, which were later removed by the Bureau. Given the potential for human error, if consideration is being given to the use of the National Vetting Bureau list, transparency in how the vetting process is conducted is essential to maintain public trust. Individuals should have the right to be informed if they are disqualified and be provided with a clear explanation of the reasons for their disqualification. An appeals mechanism should be introduced for individuals who believe they have

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been unjustly excluded from jury service due to errors or misinterpretations during the vetting process.

IPRT is concerned about the broader implications of these recommendations on reintegration. Civic participation, including jury service, is a fundamental aspect of reintegration for individuals with past convictions. Any reform must strike a balance between ensuring the integrity of the jury system and fostering a society that supports rehabilitation and second chances.

We in IPRT hope that these observations are useful and can help inform any reforms to the jury system which is essential to the fair administration of justice. Please do let us know if you require anything further.

Best regards,



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