

**OFFICE OF THE INSPECTOR OF PRISONS**

**Annual Report 2008**

To the Minister for Justice, Equality and Law Reform

I am pleased to forward my Annual Report for 2008 pursuant to Section 32 (1) of the Prisons Act 2007.

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Judge Michael Reilly  
Inspector of Prisons

6 May 2009

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# CHAPTER 1

## Acknowledgements

- 1.1. It is clear from reading this, my first Annual Report, that I made many visits to all the Irish Prisons. I wish to thank the Governors and the various people that I met for their cooperation during such visits.
- 1.2. I wish to thank the Director General of the Irish Prison Service, Mr. Brian Purcell and his staff for their constant cooperation during the last year.
- 1.3. I would like to thank the Secretary General of the Department of Justice, Equality and Law Reform, Mr. Seán Aylward and the senior officials in the Prison Policy Division of the Department Mr. James Martin, Ms. Mary Burke and Mr. Brendan Eiffe for their logistical assistance to me in establishing my office. This assistance, which was much appreciated, was provided without question despite the fact that I am independent in the carrying out of my mandate from the Department.
- 1.4. I wish to thank particularly those many people mentioned either personally or by organisation who gave of their time to advise and assist me on many aspects of the prison system.
- 1.5. I am grateful to those who contributed and continue to contribute to the consultation process that I have initiated concerning sentence management and mental health issues.
- 1.6. I would like also to thank all those who are not mentioned either in this short acknowledgment or in the text of my report and who, in one way or another, assisted me during the year.
- 1.7. I am indebted to my small team not only for their attention to the running of the office but also for their diligence in carrying out inspections sometimes

during unsocial hours. They are: - Mr. James Woods, a retired prison governor, Ms. Linda Larkin who is in charge of administration in my office and Ms. Aoife Watters who is responsible for research in my office and who assisted me in drafting this report. They are a dedicated, interested and cohesive team.

## CHAPTER 2

### Introduction

- 2.1 Throughout this report the Minister for Justice, Equality and Law Reform shall be referred to as the Minister and the Department of Justice, Equality and Law Reform shall be referred to as the Department.
- 2.2 I was appointed Inspector of Prisons on the 21<sup>st</sup> November 2007 to take effect from 1<sup>st</sup> January 2008. My remit is set out in Part 5 of the Prisons Act 2007 and more particularly explained in Chapter 3 of this report.
- 2.3 Under Section 32.1 of the Prisons Act 2007, I must *inter alia*, submit an Annual Report to the Minister on the performance of my functions during the previous year. This is my first Annual Report and deals with my activities during 2008 and up to the 15<sup>th</sup> March 2009.
- 2.4 My staff consists of a retired prison governor, an office manager, a researcher and a clerical officer (still to be appointed). This is adequate for my present purposes but I shall probably refer to the issue of resources in later reports.
- 2.5 Immediately after my appointment I visited all the prisons for the purpose of familiarising myself with the layout, the design capacity, the educational facilities, the vocational training facilities, the recreational facilities and the general conditions under which prisoners are detained. These were announced visits. I have also during the course of the year carried out further announced and unannounced visits. These unannounced visits were carried out during the night, the day and at weekends.
- 2.6 Chapter 4 gives a brief summary of what I achieved during my first year as Inspector of Prisons.
- 2.7 In Chapter 5 of this report I set out the methodology (inspection process) that I adopt in carrying out my inspections.

- 2.8 During the year I carried out an in-depth inspection of Loughan House Open Centre and of Castlerea Prison. In accordance with my obligations under the Prisons Act 2007 I submitted these reports to the Minister.
- 2.9 I commenced an in-depth inspection of Mountjoy Prison on 25<sup>th</sup>/26<sup>th</sup> November 2008. I will be presenting my report to the Minister on concluding my inspection.
- 2.10 During the course of one of my inspections I found that certain prisoners' complaints had not been investigated to conclusion. I brought my concerns in this regard to the attention of the Minister on the 19<sup>th</sup> February 2009. I will refer in greater detail to this serious issue in a further report at an appropriate time.
- 2.11 I stated in my Interim Report that my tenure as Inspector of Prisons would be characterised by independence and fairness.
- 2.12 My independence is guaranteed by Section 30 (5) of the Prisons Act 2007 and is demonstrated by consistency in demanding that prisoners are treated in accordance with international norms and that prisons are operated to best practice.
- 2.13 I hope to deal fairly with people be they prisoners, prison officers, officials of the Irish Prison Service or people in general. I will listen to all constructive suggestions. It is not part of my approach to catch people out. However, this can never be taken to suggest that I overlook faults that I discover or that I could be considered a 'soft touch'.
- 2.14 I stated in my Interim Report that I would set standards which the Minister and the general public would wish to see. I will publish these Standards within the coming months in order that the Minister, all relevant bodies and the general public will be aware of the standards that I will expect implemented in Irish Prisons. Chapter 6 of this report sets out the methodology I used when formulating these standards.

- 2.15 In my Interim Report I stated that I had identified a number of areas that caused me particular concern – of which overcrowding, the sentence management of prisoners, inter prisoner conflict, the prevalence of drugs and mental health issues were the most significant.
- 2.16 Chapter 7 of this report deals comprehensively with the serious issue of overcrowding. On a number of occasions during the year and most particularly on the 27<sup>th</sup> February 2009, because of my serious concerns for safety or life, I brought this issue to the attention of the Department and the Irish Prison Service.
- 2.17 The sentence management of prisoners is a complex issue. I have consulted with a wide range of people and bodies. This consultation process is ongoing. I will be in a position to publish a document during this year which, I am confident, will stimulate debate on this important subject and act as guidance to the Irish Prison Service and the Department to bring in this much needed reform. I have approached the question of the management of prisoners from the basis of rehabilitation and their ultimate integration into society. Chapter 8 of this report sets out the progress that I have made to date on this subject.
- 2.18 I stated in my Interim Report that ‘if prisoners have mental health problems they as prisoners of the State have an absolute right to treatment in an appropriate setting’. I further stated that ‘it cannot be said that this right is respected as matters stand’. I am still of this view. This is a subject that requires debate. In Chapter 9 of this report I outline the work I have done to date on this subject. When I conclude my consultation process I will publish a document which should form the basis for a debate as to how and by whom prisoners with mental health problems should be treated. I will include in such document references to the provision of all health services in our prisons.
- 2.19 The prevalence of drugs and contraband in prisons is an international problem and not confined to Ireland. Chapter 10 puts the problem of drugs in context and details certain measures that have been taken to deal with the situation. It

is a topic that I will keep under review and will refer to as appropriate in later reports.

- 2.20 Inter prisoner conflict is a problem in our prisons. I have identified certain prisons where the situation is worst. While I have not to date done any in-depth study on this topic I deal with certain aspects of inter prisoner violence in Chapter 11. I will return to this problem in later reports.
- 2.21 Chapter 12 deals with Juveniles in our prison system.
- 2.22 Chapter 13 deals with deaths in our prisons within the last year and includes suggestions that the Irish Prison Rules should be changed to provide for additional reporting.
- 2.23 Chapter 14 deals with the future plans for the prison estate. It also deals with the expected expansion in the prison population. I pose a number of questions and suggest some possible answers.
- 2.24 In my reports on Loughan House Open Centre and on Castlerea Prison I have had to draw attention to the fact that areas of both institutions were dirty, untidy and in need of general maintenance. It is unacceptable that I and my team have to bring such matters to the attention of local management. It is also unacceptable that I should find that essential safety features such as call bells in cells were not functioning. I mention these matters not for the purpose of criticising both institutions but in order that management in all institutions are under no illusion as to their responsibilities. If after the publication of this report I find that I have to refer again to such matters I will take this as an indication of disinterest by management.
- 2.25 During my announced and unannounced inspections of prisons I have received total cooperation from management, staff, the various organisations and people who work in the prisons whether as professionals or otherwise, visitors to the prisons and from prisoners.

2.26 In all future Annual Reports I will include a brief description of all prisons in the Prison Estate and will deal in such reports with the conditions, the numbers of prisoners and any other matters that I deem appropriate.

## CHAPTER 3

### Remit of the Inspector of Prisons

- 3.1 Part 5 of the Prisons Act 2007 placed the Inspectorate on a statutory footing with effect from 1<sup>st</sup> May 2007. I was appointed Inspector of Prisons on the 21<sup>st</sup> November 2007 to take effect from the 1<sup>st</sup> January 2008, succeeding the late Judge Dermot Kinlen. I am independent in the performance of my functions from both the Department and the Irish Prison Service.
- 3.2 My remit is set out in Part 5 of the Prisons Act 2007. Pursuant to Section 31 of the Act I am obliged to undertake regular inspections of all 14 prisons within the Irish Prison Estate. Section 32 obliges me to submit an annual report and a report on each individual full inspection of prisons to the Minister. When dealing with individual prisons in accordance with Section 32(2) I have to address the following issues;
- (a) *its general management, including the level of its effectiveness and efficiency,*
  - (b) *the conditions and general health and welfare of prisoners detained there,*
  - (c) *the general conduct and effectiveness of persons working there,*
  - (d) *compliance with national and international standards, including in particular the prison rules,*
  - (e) *programmes and other facilities available and the extent to which prisoners participate in them,*
  - (f) *security, and*
  - (g) *discipline.*
- 3.3 The Prisons Act 2007 further provides that the annual report and the reports on individual prisons shall be laid before each House of the Oireachtas and subsequently published, save for the exceptions contained in Section 32(4) of the Act.

- 3.4 The Act also provides that I may, and shall if asked by the Minister, investigate any matter arising out of the management or operation of a prison and shall submit a report to the Minister on the any such matter.
- 3.5 It is not within my remit to investigate individual complaints from prisoners. However, if I receive a number of similar complaints from prisoners I may choose to investigate the circumstances surrounding these complaints.
- 3.6 On my appointment I found that there was no formal inspection process in operation or a published set of standards by which prisons should be judged. I believe that in order to comply with my statutory remit a formal inspection process and a set of standards are required. These matters are dealt with in Chapters 5 and 6.

## CHAPTER 4

### The year in brief

#### Initial Visits

4.1 Following my appointment as Inspector of Prisons I visited all 14 prisons in the State on the dates outlined below. The purpose of these visits was to familiarise myself with the layout, the design capacity, the educational facilities, the vocational training facilities, the recreational facilities and the general conditions under which prisoners are detained. I also took the opportunity to introduce myself to the individual Prison Governors and members of staff. These visits were all announced visits.

9 <sup>th</sup> January 2008	Mountjoy Prisons Dóchas Prison
10 <sup>th</sup> January 2008	St Patrick's Institution Training Unit
16 <sup>th</sup> January 2008	Cloverhill Prison Arbour Hill Prison
17 <sup>th</sup> January 2008	Wheatfield Prison
23 <sup>rd</sup> January 2008	Loughan House Open Centre Castlerea Prison
24 <sup>th</sup> January 2008	Midlands Prison Portlaoise Prison
30 <sup>th</sup> January 2008	Cork Prison
31 <sup>st</sup> January 2008	Limerick Prison
5 <sup>th</sup> February 2008	Shelton Abbey

- 4.2 In order to familiarise myself with the operation and management of the Irish Prison Service I visited the Irish Prison Service's Headquarters in Longford on 13th/14<sup>th</sup> February 2008. I received a thorough briefing from senior officials, including the Director General of the Irish Prison Service, on all matters pertaining to the Irish Prison System and on the proposed new prison complex at Thornton Hall.
- 4.3 On the 20<sup>th</sup> February 2008 I visited Beladd House, the Irish Prison Service Training and Development Centre. I observed and was briefed by the Governor on all training programmes for all grades (up to Governor level) in the Prison Service. Recruit prison officer training now leads to accreditation through Sligo Institute of Technology. This is a worthwhile development, intended to ensure professionalism within the Service.

### **Prison Inspections**

- 4.4 Following my familiarisation tour of all prisons (paragraph 4.1) my inspection process got underway. I have undertaken other numerous inspections of all prisons, which included night and week-end inspections.
- 4.5 I have carried out two full inspections in accordance with my inspection process. The reports of my inspections on Loughan House Open Centre and Castlerea Prison have been submitted to the Minister as will my report on Mountjoy Male Prison when my inspection is completed.

### **Full Prison Inspections Undertaken up to March 2009**

#### Loughan House Open Estate

22 <sup>nd</sup> /23 <sup>rd</sup> April 2008	Initial unannounced inspection
18 <sup>th</sup> /19 <sup>th</sup> June 2008	Announced inspection
7 <sup>th</sup> August 2008	Unannounced inspection
26 <sup>th</sup> August 2008	Unannounced inspection
18 <sup>th</sup> December 2008	Unannounced inspection
23 <sup>rd</sup> January 2009	Unannounced inspection

### Castlerea Prison

29 <sup>th</sup> /30 <sup>th</sup> July 2008	Initial unannounced inspection
24 <sup>th</sup> /25 <sup>th</sup> September 2008	Announced inspection
20 <sup>th</sup> October 2008	Unannounced inspection
10 <sup>th</sup> December 2008	Unannounced inspection
18 <sup>th</sup> December 2008	Unannounced night inspection
23 <sup>rd</sup> January 2009	Unannounced inspection
12 <sup>th</sup> February 2009	Unannounced inspection

### Mountjoy Male Prison

25 <sup>th</sup> /26 <sup>th</sup> November 2008	Initial unannounced inspection
16 <sup>th</sup> /17 <sup>th</sup> /18 <sup>th</sup> February 2009	Announced inspection
21 <sup>st</sup> January 2009	Unannounced inspection
26 <sup>th</sup> January 2009	Unannounced night inspection
25 <sup>th</sup> February 2009	Unannounced inspection

Please note the Mountjoy Male Prison Inspection was ongoing at the time of the submission of this report.

### **Inspections following Disturbances in Prisons**

- 4.6 Following the disturbance in Mountjoy Male Prison on Saturday 12<sup>th</sup> July 2008, I visited the prison on the 14<sup>th</sup>/15<sup>th</sup> July 2008. I concluded that the reason for the disturbance was not in fact overcrowding, as reported in the press, but was a reaction to the introduction of new search procedures for visitors to the prison. I refer briefly to this matter at paragraph 10.5. I will refer to this disturbance in greater detail in my forthcoming report on Mountjoy Male Prison.
- 4.7 A disturbance occurred in Portlaoise Prison on the 15<sup>th</sup> October 2008. I attended the prison on the 16<sup>th</sup> October 2008 and deemed I did not have to take further action.
- 4.8 Both such visits indicate my desire to independently monitor what is happening in Irish prisons.

### **Meetings which took place during the year**

- 4.9 I met, on separate occasions, HM Chief Inspector of Prisons for England and Wales, Dame Anne Owers, DBE and HM Chief Inspector of Prisons for Scotland, Dr. Andrew McLellan. The purpose of these meetings was to ascertain the inspection process as employed in those jurisdictions and to take relevant advice which would assist me in carrying out my mandate.
- 4.10. I met with numerous groups and individuals throughout 2008/2009 to discuss areas of mutual interest including *inter alia* Ms. Brid Clarke from the Mental Health Commission, Professor Andrew Coyle Director of the Centre for Prison Studies, Kings College London, Dr. Patrick Devitt Inspector of Mental Hospitals, Mr. Liam Herrick Director of the Irish Penal Reform Trust, Dr. Gordon Holmes Chairperson of the Parole Board, Professor Harry Kennedy Director of the Central Mental Hospital, Judge Mary Martin Chairperson of the National Commission on Restorative Justice, Chaplains from the Irish Prison Service, Commissioners from the National Commission on Restorative Justice and representatives from the Law Society, and the Prison Officers Association.
- 4.11. I travelled to Strasbourg to meet with representatives from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT- Council of Europe) and to a conference organised by the International Penal and Penitentiary Foundation. I visited the Shannon Clinic in Belfast with the Mental Health Commission and the Central Mental Hospital in Dundrum, Dublin. The purpose of these meetings was to gain advice which would be helpful in fulfilling my mandate.
- 4.12. As stated elsewhere in this report I consulted with a wide group of individuals and organisations in relation to the sentence management of prisoners. This process is ongoing.

### **Research**

- 4.13 As identified in my Interim Report there are a number of areas relating to the conditions and treatment of prisoners which cause me particular concern -

mainly overcrowding in Irish prisons, the mental health of prisoners and the sentence management of prisoners. I am continuously conducting research into these issues. Overcrowding is dealt with comprehensively in Chapter 7 of this report. As stated at paragraphs 2.17 and 2.18 it is my intention to deal comprehensively in later reports with the sentence management of prisoners and the mental health of prisoners, although they are discussed in some detail in this report.

- 4.14. As discussed in Chapter 6, I will produce a set of standards to use during my inspections and it is my intention that this document will be published in the coming months. An explanatory memorandum will follow.

## CHAPTER 5

### The Inspection Process

5.1 In my Interim Report of September 2008 I briefly outlined the procedure I intended to adopt to comply with my statutory duties in visiting prisons. On taking up the position of Inspector of Prisons I found that there were no set procedures in existence for the inspection of prisons. The purpose of this chapter is to explain to the Minister and the general public the procedure that I have adopted and will follow in carrying out my mandate.

#### **Ad hoc inspections**

5.2 Side by side with announced visits I have made and will make ad hoc unannounced visits to all prisons not alone during business hours but also during off peak hours. By this I mean during the night and at week ends. These visits would not be for the purpose of wrong-footing anyone but simply because, in my view, inspection systems which are entirely predictable as to timing no longer carry any measure of public credibility. The purpose of these visits is to ensure that standards in all prisons are maintained and are not dependent on the arrival or non arrival of the Inspector. If during the course of these inspections I discover matters of concern I will bring these to the attention of the Governor of the prison concerned and or to such other persons as may be appropriate as set out in Section 31 (1) (c) of the Prisons Act 2007.

#### **Detailed inspections of individual prisons**

5.3 I explained in my Interim Report that I would also carry out detailed inspections of a number of prisons each year. The prisons will be selected on a random basis and will not follow any particular sequence. These inspections will be thorough. A separate report of such inspections will be submitted to the Minister for each prison so inspected.

5.4 Initially my team and I will carry out an unannounced inspection of a prison. I will arrive at approximately 9 am and the inspection will last a minimum of

two days. I will carry out an in depth analysis of all areas of the prison. I will talk to prisoners and members of staff. I will examine records as I deem appropriate.

- 5.5 Immediately following this inspection I will bring to the notice of the Governor by letter, and the Irish Prison Service (if relevant), matters of concern (if any) detected during the inspection. I will give the Governor a period of time within which to comment on and deal with my concerns. I will ask the Governor to complete a questionnaire which will give me technical information on the running of the prison.
- 5.6 In the weeks following my initial inspection I will work with management of the prison to ensure that my concerns are dealt with. If my concerns cannot be met by local management I will take up such matters with the appropriate authority. I will expect full cooperation from management and the Irish Prison Service in this regard. To date I have received this cooperation.
- 5.7 Approximately 2 or 3 months after my initial inspection I will carry out an announced inspection of the prison. The purpose of this inspection will be twofold: -
- I will again inspect all areas of the prison but will pay particular attention to those areas which initially caused me concern, and
  - I will meet with prisoners, visitors, representatives of the visiting committee, senior management, branch officers of the Prison Officers Association, members of staff, chaplains, teachers, doctors, dentists, nurses, probation officers, addiction counsellors and others who wish to see me or who provide services to prisoners. I will of course also meet the Governor. These meetings will be structured with advance notice to all.
- 5.8 Between my initial unannounced inspection (paragraph 5.4) and my announced inspection (paragraph 5.7) and up to the submission of my report, I

will make further announced and unannounced visits both during ‘working hours’ and ‘off peak hours’ as I deem appropriate.

- 5.9 My reports on individual prisons will not reflect one particular point in time; instead they will be reflective of an ongoing inspection and consultative process over a number of months. My reports will offer an accurate representation of the conditions of each individual prison.
- 5.10 The general – broadly consultative – approach I have adopted will not be possible in all cases if it immediately becomes apparent to me that matters of very serious concern such as serious human rights abuses need to be addressed as a matter of urgency. If these occur I will bring these to the notice of the Minister immediately and will take such further steps as I deem appropriate.

## CHAPTER 6

### Standards in Prisons

- 6.1. Up to my appointment Ireland did not have a published set of standards by which prisoners, prison staff or the general public could readily understand the inspection process employed by me in carrying out my mandate under the Prisons Act 2007.
- 6.2. Article 10 of the International Covenant on Civil and Political Rights confers an obligation on Ireland to treat all persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person.
- 6.3. International best practice under Principle 29 of the Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment requires that a system of independent monitoring be established so that transparency and accountability of the prison system can be achieved. Therefore, it is important that I measure prisons and the detaining of prisoners against appropriate standards.
- 6.4. I have stated at paragraph 2.14 that I will publish standards.
- 6.5. The standards will be derived from international, regional and national best practice. Account will be taken of the standards that apply in many countries including England and Scotland and in the province of Western Australia. The publications of such reputable bodies as the Council of Europe (including its committee the CPT) and the United Nations has been of great assistance as was the guidance obtained from the CPT. Advice was also obtained from Professor Andrew Coyle of the International Centre for Prison Studies, Kings College, London, Dr. Andrew McLellan, H.M. Chief Inspector of Prisons for Scotland and from the International Penal and Penitentiary Foundation. I will also take account of the relevant decisions of the European Court of Human Rights when formulating these standards.

- 6.6. There are numerous international standards regulating the treatment of persons deprived of their liberty. Many of these have been determined by the United Nations and ratified by Ireland thereby making them legally binding on this State. The principles in these treaties are reinforced by non-binding International Instruments which although not having the force of law possess great authority as they are internationally accepted as being best practice in the treatment of prisoners and the management of prisons.
- 6.7. Regional Standards come from Europe. The Council of Europe has developed a number of standards relating to the treatment of prisoners and the conditions in prisons in the form of binding instruments and non-binding instruments which reinforce issues dealt with by the various United Nations Treaties and Instruments.
- 6.8. National standards are those derived from the Irish Constitution, Domestic Laws and relevant rules.
- 6.9. The standards will be presented in seven separate sections to follow the format of Section 32(2) of the Prisons Act 2007.

## CHAPTER 7

### Overcrowding in Prisons

- 7.1. Overcrowding in prisons is an international problem. In Ireland the problem is acute.
- 7.2. The Irish Prison Service has no control over the number of prisoners entering our prisons. The system must take all persons who are remanded in custody while awaiting trial or sentence in addition to all sentenced prisoners.
- 7.3. If the prison population equated with the stated bed capacity of our prisons one might assume that overcrowding was not an issue. This is far from the truth as this chapter will show.
- 7.4. I accept that in certain cases because of the numbers in Irish Prisons and because of the limited accommodation in such prisons that doubling up of prisoners in cells is inevitable. I accept that, in this context, a distinction must be drawn between some of the accommodation cells in Mountjoy, Cork and Limerick prisons and those in newer prisons such as Wheatfield and The Midlands. The former were constructed in the 19<sup>th</sup> century, are small with little light and ventilation and no in cell sanitation. Whereas the latter are larger, have adequate light and ventilation and are equipped with in cell sanitation. Doubling up of prisoners in cells should only be accepted as a temporary measure (which should be kept under constant review) and should, except in exceptional circumstances, never happen with the following classes of prisoners:-
  - a. Prisoners on 23 hour lock up
  - b. Prisoners who are kept in their cells longer than normal
  - c. Prisoners serving life sentences
  - d. Prisoners serving long sentences
  - e. Male or female prisoners who because of their type of prison accommodation do not enjoy the norms of privacy as other prisoners

- f. Prisoners who, because of their mental, medical or physical conditions, could not be deemed suitable for such multiple cell occupancy.
- 7.5. To fully understand how severe the overcrowding problem is one must understand the design capacity of each of our prisons. The design capacity of our prisons may not, in all cases, represent the *de facto* situation at present as structural alterations to prisons and prison cells have taken place over the years. What has not changed is the design capacity of presently occupied cells that have not been altered since they were constructed.
- 7.6. I do not intend in this chapter to deal with the situation in each individual prison. I have taken Mountjoy Male Prison, Cork Prison and Limerick Female Prison to illustrate the difference between design capacity and bed capacity. The same will be found in other prisons to the same or lesser extent. I will refer, in individual reports on prisons, to this problem as I have done in my 2008 report on Castlerea Prison.
- 7.7. I have endeavoured in this report, in the following paragraphs, to give the design capacity of the cells occupied as ‘accommodation’ cells and then to give the bed capacity as of the 16<sup>th</sup> February 2009. This exercise has proved difficult. Therefore the figures may not in some cases be exact and for this I apologise. Any inaccuracies will not however significantly distort the picture.

### **Mountjoy Prison**

- 7.8. Mountjoy Prison when opened in 1850 had 500 cells constructed for individual occupation. Since then many parts of the prison have been altered or demolished.
- 7.9. The majority of cells designed as single cells measure 3.91m x 2.06m with a minority measuring 3.43m x 2.06m.
- 7.10. The following chart sets out the original design cell and bed capacity of the accommodation cells presently in use and the stated bed capacity of such cells

as of the 16th February 2009. In counting these cells I have only taken into consideration the ‘accommodation’ cells and not those specifically used as ‘assessment’, ‘time out’ or ‘cladded’ cells.

<b>Original Design Capacity v Present Bed Capacity of Accommodation Cells</b>							
<i>Original Design Capacity</i>				<i>Present Bed Capacity</i>			
Landing	Single	Other	Design Capacity	Single	Double	Other	Current Bed Capacity
<b>A1</b>	23	1x4	27	12	11	1x4	38
<b>A2</b>	42		42	36	6		48
<b>A3</b>	42		42	36	6		48
<b>B1</b>	25		25	22	3		28
<b>B2</b>	29	1x4	33	25	4	1x4	37
<b>B3</b>	31		31	26	5		36
<b>C1</b>	10	3x4	22	1	9	3x4	31
<b>C2</b>	22		22	9	13		35
<b>C3</b>	31		31	23	8		39
<b>D1</b>	26		26	14	12		38
<b>D2</b>	45		45	42	3		48
<b>D3</b>	45		45	41	4		49
<b>B Base</b>	6	8x4	38	6		8x4	38
<b>Medical Unit</b>	48	3x4	60	48		3x4	60
	425	64	<b>489</b>	341	84	16	<b>573</b>

7.11. In counting the bed capacity of four man cells in the main building I have accepted that when these cells were created, by knocking three cells into one, the capacity of such newly created cells was for 4 prisoners in each. Similarly for this exercise I have counted the multiple occupancy cells in the B Base as holding 4 prisoners although in my view they should only accommodate 3 prisoners.

7.12. It can be seen from the above that the design capacity of the cells in use as of the 16<sup>th</sup> February 2009 was for 489 prisoners whereas the stated bed capacity of these cells as of the same date was 573.

7.13. To achieve a stated bed capacity of 573, 84 single cells were doubled with bunks added.

- 7.14. When the population of Mountjoy Prison exceeds 573 the overflow numbers are accommodated on mattresses on the floor in cells already occupied, in cells not meant for that purpose or in holding cells in the reception area.
- 7.15. Since 1<sup>st</sup> January 2008 Mountjoy Prison has consistently operated far beyond its design bed capacity and also beyond its stated bed capacity.
- 7.16. On 24<sup>th</sup> February 2009 the population of the prison was 660. The overflow numbers were accommodated on mattresses on floors, in cells not meant for that purpose and on mattresses in the reception area where 15 prisoners were kept for the night. These prisoners were accommodated in 3 holding rooms with 8 in one room.
- 7.17. I was so concerned at the situation that I wrote on the 27<sup>th</sup> February 2009 to the Department and to the Irish Prison Service expressing my fear that this practice could lead to possible serious injury or loss of life.
- 7.18. None of the 376 cells on A, B, C and D wings have in cell sanitation. The prisoners occupying these cells must 'slop out'. The design capacity of these cells is 391 (See figure 1 above). On 16<sup>th</sup> February 2009, 521 prisoners were accommodated in these cells. According to the stated bed capacity there were beds (either single or bunks) for 475 prisoners. This meant that 46 were on mattresses on the floor or accommodated in cells not meant for accommodation purposes.
- 7.19. There is no privacy in any of the cells detailed at paragraph 7.18 above for prisoners to attend to their personal needs. The sanitary facilities available are pots or buckets.
- 7.20. The procedure of 'slopping out' has already been alluded to by my predecessor Mr. Justice Kinlen and by the CPT as inhuman and degrading treatment. I agree that it does amount to inhuman and degrading treatment.

- 7.21. The process of attending to personal needs by prisoners without privacy should not be tolerated in any civilized society and also amounts to inhuman and degrading treatment.
- 7.22. The prisoners accommodated on C2 landing and in B Basement are ‘protection prisoners’. They are locked in their cells for 23 hours a day for protection purposes.
- 7.23. There are 22 cells on C2 landing with a design capacity for 22 prisoners (See figure 1 above). 13 of these cells have been doubled up by the addition of an extra bunk in each. The stated bed capacity on the 16<sup>th</sup> February 2009 of C2 was 35. On that date there were 46 prisoners accommodated on this landing. 11 were on mattresses on the floor or in cells not meant to be used for accommodation purposes.
- 7.24. There are 6 single and 8 four man cells in B Basement. This gives a bed capacity of 38. On the 16<sup>th</sup> February 2009 there were 48 prisoners in this area. 10 were on mattresses on the floor or in cells not meant to be used for accommodation purposes.
- 7.25. Accommodating prisoners in excess of the design capacity in these conditions where they are on 23 hour lock up is inhuman and degrading.
- 7.26. As stated in paragraph 2.9 I am engaged in an inspection process of Mountjoy Prison. I will elaborate in my report on the prison on this problem and other matters of concern.

### **Cork Prison**

- 7.27. The main block of Cork Prison was originally designed to accommodate 140 prisoners in single cells. It is a small prison.
- 7.28. At present 124 of the original cells are in commission as ‘accommodation cells’. Various works have been carried out in the prison which has resulted in

12 cells, each to accommodate 3 prisoners, being constructed. There are 2 cells on B1 landing which have been classed as 'holding cells'.

- 7.29. The segregation unit of Cork Prison comprises 10 single cells of which 2 are 'cladded cells'.
- 7.30. The design bed capacity of Cork Prison is therefore for 168 prisoners.
- 7.31. 114 of the originally designed single cells have been doubled up which gives a stated bed capacity in the 'accommodation cells' of 282.
- 7.32. If the prison population of Cork Prison were to be 282 the prison would be overcrowded by 114 prisoners.
- 7.33. Cork prison has constantly operated in excess of its stated bed capacity during the period covered by this report. On 13<sup>th</sup> February 2009 the prison population was 308. This meant it was operating at 140 over its design capacity and 26 over its stated bed capacity.
- 7.34. When the population of Cork Prison exceeds the bed capacity the extra prisoners are accommodated on mattresses on the floor in some cases in cells already operating in excess of their design capacity or in cells not meant to be used for accommodation purposes.
- 7.35. None of the 136 cells in the main block have in cell sanitation.
- 7.36. Cork Prison always has a number of 'protection prisoners' who are on either restricted or 23 hour lock up. On 13<sup>th</sup> February 2009 there were 71 'protection prisoners' in Cork Prison.
- 7.37. My remarks at paragraphs 7.19, 7.20 and 7.21 above apply equally to the situation in Cork Prison.

### **Limerick Female Prison**

- 7.38. Limerick Female Prison is a relatively new prison which has a design capacity for 10 prisoners in single cells in the 'accommodation' area.
- 7.39. The cells have in cell sanitation. This area of the cells is screened from the observation window in the door. The sanitary and washing facilities are not screened from the rest of the cell.
- 7.40. All 10 cells have been doubled up and now contain bunk beds. The stated bed capacity of Limerick Female Prison is 20 – double the original design capacity.
- 7.41. Limerick Female Prison operated at or above its stated bed capacity of 20 on a number of occasions during the period covered by this report. On 27<sup>th</sup> June 2008 there were 29 female prisoners in Limerick Prison – almost treble the design capacity. This amounts to inhuman treatment.
- 7.42. When the population exceeds 20 the extra numbers are either accommodated on mattresses on the floor, thereby trebling the design capacity of such cells, or, are accommodated in special cells which are never meant to be used for accommodation purposes.
- 7.43. Where 2 or more female prisoners share a cell each must in most cases attend to their personal needs in full view of and within feet of the other or others. This is both inhuman and degrading to those accommodated in these cells.

### **Effects of overcrowding generally**

- 7.44. When prisons are overcrowded there is an air of tension throughout such prisons.
- 7.45. Existing facilities for prisons (in some cases totally inadequate) are geared to cater for a population which is based on the design capacity of such prisons.

- 7.46. When prisons are overcrowded the existing facilities (even if adequate to cater for the design capacity) are not sufficient to deal with such increase in population.
- 7.47. The facilities that I speak of include:-
- School facilities
  - Workshop facilities
  - General work facilities
  - Recreational facilities
  - Catering facilities
  - Laundry facilities
  - Medical facilities
  - Rehabilitation facilities
  - Showering and personal hygiene facilities
  - Visiting facilities
  - Searching facilities.
- 7.48. Overcrowding puts extreme pressure on management and all officers working in such prisons.
- 7.49. When prisons are overcrowded certain posts are 'stripped' of their officers to provide cover in more sensitive and important areas. This is done for security reasons. It amounts in nearly all cases to facilities for prisoners being withdrawn.
- 7.50. Overcrowding can lead to inter prisoner violence. (See Chapter 11). When this leads to inter prisoner violence it cannot be said that prisoners in such overcrowded prisons are safe.
- 7.51. I understand that, as I write this report, the Irish Prison Service are making arrangements to double up cells in a number of prisons to accommodate the ever increasing prison population. This will exacerbate an already serious situation.

## CHAPTER 8

### Sentence Management

- 8.1. One of the purposes of prison should be the rehabilitation of people who have committed crime. The ultimate goal of any sentence management system should be to rehabilitate prisoners thereby enabling them to re-integrate into the community on their release as law abiding citizens.
- 8.2. The single most obvious advantage of a proper sentence management system would be a noticeable decline in the recidivism rate.
- 8.3. Sending people to prison to be warehoused has negative consequences for both the prisoner and society at large. It must be recognised that prisons need to be places where change can occur. The majority of prisoners have multiple social problems and prison is very often the first place where these problems are identified. If these problems, having been identified, are not dealt with the prisoner on leaving prison will in many cases fail to re-integrate properly into society, drift back to his life of crime still facing his underlying problems and ultimately ending up back in prison.
- 8.4. There should be a sentence plan for all convicted prisoners with a sentence of 12 months or more. This should cover the period from the prisoner's committal to his release. This plan should be individualised to cater for each prisoner but overall it should provide for *inter alia* education, vocational training, offence and offending related needs, welfare needs, health needs, the individual circumstances of the prisoner and address any other issues which come to light which may inhibit such prisoner's rehabilitation. The prisoner should be aware from the outset what is expected from him/her if he she engages with the services available, if extra remission is possible and his/her release date. It is generally considered important that the prisoners are involved in the discussions relating to the sentence plan thereby encouraging them to take responsibility for themselves. As sentence management lasts for

a prisoner's duration in prison and following release the plan must respond as the needs of the prisoner change.

- 8.5. Different approaches are adopted as regards the sentence management of prisoners in different jurisdictions, but from my initial research they appear to possess a number of similar features. A system based on incentives appears to be the most effective. For example the prison system in South Australia is based on incentives which include better accommodation, transfer to lower security prisons, working on prison farms, the granting of day leave etc<sup>1</sup>. An incentive based system could be more effective than the automatic entitlement to privileges and/or remission. A prisoner may engage more pro-actively if he wants to earn certain privileges/remission rather than being forced to engage. It may encourage good behaviour amongst prisoners. An incentive based system may also be of greater benefit to society as a prisoner may have achieved something on his/her own merits and may have developed a sense of responsibility, encouraging him/her to lead a life free from crime.
- 8.6. It is further evident from research that a prisoner's release needs to be prepared well in advance. Graduated release can play an important role in the successful rehabilitation of prisoners particularly longer-term prisoners to enable them resettle into the community. Sentence management can place a large emphasis on the provision of pre-release and post release programmes. There needs to be a smooth progression from life in prison to life in the community. All but a minority of prisoners find it difficult to return to life in the community.
- 8.7. Involvement in employment and vocational training (both pre and post-release) can play a role in the successful rehabilitation of prisoners. Research in England<sup>2</sup> and the USA<sup>3</sup> showed that involvement in employment and training programmes had the potential to reduce a prisoner's likelihood of re-offending significantly.

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<sup>1</sup> See [www.corrections.sa.gov.au/prisons/](http://www.corrections.sa.gov.au/prisons/)

<sup>2</sup> See Cook, S., "Inside Track", The Guardian Newspaper February 5<sup>th</sup> 2003

<sup>3</sup> Uggen, C., & Staff, J., "Work as a Turning Point for Criminal Offenders", (2001) 5(4) Corrections Management Quarterly 1-16

- 8.8. There are many different cohorts of prisoners within the Irish prison system, each with specific requirements including *inter alia* mentally ill prisoners, juveniles, long-term prisoners/lifers, sex-offenders, prisoners on protection, female prisoners and prisoners who are classified as low-risk. In this context, different prisons should have different roles to play within a sentence management system. Prisoners should initially be assessed to determine the risk they pose and the type of education, programmes, training and/or treatment that would be most suitable to their individual needs. Prisoners might then gradually progress through the prison system. Modern prisons such as Wheatfield Prison should be ideal to facilitate the sentence management of smaller groups, such as protection prisoners as it is divided into smaller units, each having its own facilities and services. At present the overcrowding experienced in Wheatfield militates against its potential worth in any sentence management of prisoners. The open prisons and the Training Unit could have a very important pre-release role in any sentence management system. At present the open prisons at Loughan House and Shelton Abbey are, to an extent, used to cope with the overcrowding in the closed prisons and therefore in their current use could only play a minor role in the effective management of prisoners through the prison system.
- 8.9. The Irish Prison Service has developed an Integrated Sentence Management System (ISM). The core goal of ISM is to move to a prisoner centred approach in the management of custodial sentences. During the Summer of 2008 the system was piloted at Wheatfield and Arbour Hill Prisons. Newly committed prisoners serving a sentence of one year or more are eligible to take part in the ISM. 20 prisoners from Arbour Hill and 45 from Wheatfield agreed to take part. Eligible prisoners are assessed within 72 hours of committal to identify the particular needs of the prisoner in a multitude of areas including *inter alia* accommodation, education and offending behaviour. A Personal Integration Plan is then compiled. This is reviewed at intervals, depending on whether the prisoner is participating in standard ISM or enhanced ISM. Finally, a pre-release plan is prepared approximately 9 months prior to a prisoner's release.

- 8.10. At present the prisoners in the pilot scheme are all at different stages in the process. During 2009 it is intended to consolidate and complete the pilots at the 2 prisons, carry out a process evaluation, make necessary system changes and mainstream the revised models in Wheatfield and Arbour Hill. The Strategy Statement of the Department for the period 2008-2010 sets a target for ISM that 20% of newly sentenced prisoners with sentences of 1 year and upwards will be offered participation in ISM by the end of 2010. ISM is due to start in the Dóchas Women's Prison, the Training Unit and St. Patrick's Institution in 2009 with the intention of meeting the Department's target by 2010. In this regard I note the welcome commitment contained in The National Development Plan 2007 – 2013.
- 8.11. ISM is an innovative and positive initiative which I welcome. It could be built upon in a more comprehensive sentence management structure where incentives and a graduated release element would play an equally important part.
- 8.12. I welcome the consultation document issued by the Department dealing with the treatment of sex offenders in Irish Prisons. This initiative would compliment a structured sentence management scheme for this coterie of prisoners.
- 8.13. It is interesting to note that a system of sentence management operated in Mountjoy Prison between 1964 and 1974 for prisoners serving a sentence of 6 months or over. Anecdotal evidence suggests that this was a worthwhile experiment which, unfortunately, lapsed.
- 8.14. A system of Positive Sentence Management is in operation in St. Patrick's Institution at present. A thorough assessment of this system has not yet taken place.
- 8.15. Under the Child Care (Placement of Children in Foster Care) Regulations 1995 and the Child Care (Placement of Children in Residential Care)

Regulations 1995 the Health Service Executive is obliged to prepare a Care Plan for all children taken into Care. This is a comprehensive plan for the future of the child. It is tailored to the specific needs of the child but can and will be amended as necessary to cater for any changing circumstances as they occur. A system of sentence management could take the positives from such Care Plans.

- 8.16. There are many other issues that need to be considered before an effective sentence management system could be considered. The following should be addressed:- a) the training of staff, b) the integration of the various necessary agencies, c) the dissemination of relevant information to all appropriate parties, d) whether an increase in bureaucracy (paper-work) might be considered too much, and, e) whether the piecemeal provision of services in the community at present would be sufficient. The major obstacle facing the successful implementation of a sentence management system in Irish prisons is the high incidence of overcrowding in our prisons. This will need to be addressed.
- 8.17. As the Office of Inspector of Prisons is an independent Office it is not for me to prescribe the exact system of sentence management that should operate in Ireland; that is for the Irish Prison Service in conjunction with the Department. I have embarked on a wide consultation process to decipher what might be considered for Ireland and what works in other jurisdictions. On the completion of my consultation process I intend to publish a report which will provide details of a suggested way forward. I am confident that this report will stimulate debate on this important subject and act as guidance to the Department and the Irish Prison Service when bringing in much needed reform.

## **CHAPTER 9**

### **Mental Health issues**

- 9.1. In my Interim Report I stated that the issue of mental health in our prisons is a matter of great concern to me. I stated that I would address the issue in subsequent reports.
- 9.2. I have had consultations with Professor Harry Kennedy and members of his team from the Central Mental Hospital (CMH), with Dr. Patrick Devitt, Inspector of Mental Health Services, with the Mental Health Commission, with the Irish Prison Service and various others with an interest in this subject.
- 9.3. I have visited the CMH, the Shannon Clinic in Belfast and the CMH Prison Inreach programme in Cloverhill Prison.
- 9.4. I have had extensive briefings on the working of both the CMH and the Inreach Programme in Cloverhill Prison.
- 9.5. I intend extending my consultation process in order to get a complete picture of all the facilities available to prisoners who not alone suffer from mental health problems but require basic health care in our prisons.
- 9.6. This is a very complex matter as it involves many agencies.
- 9.7. I intend in the future to publish a report on all issues of health care in our prisons with a particular emphasis on the very important issue of mental health.

## CHAPTER 10

### Prevalence of drugs in Irish prisons

- 10.1. The availability of drugs in prisons poses a continuing challenge for the Irish Prison Service. It is important that the Service does not just concentrate on eliminating the supply of drugs to prisons but side by side with this it must provide adequate resources for the rehabilitation and treatment of drug addicted prisoners. Prisoners are entitled to a standard of healthcare, which includes drug treatment programmes, equivalent to that available in the community.
- 10.2. The Irish Prison Service is committed to providing a drug free prison service. This is still an ambitious aspiration. As mentioned in my Reports on Loughan House Open Estate (2008) and Castlereagh Prison (2009) it is evident that drugs are available in Irish prisons.
- 10.3. In recent years much has been written in the press about the prevalence of drugs in prison. I uncovered evidence of illicit drug use in our prisons. During my inspection of Loughan House Open Centre (2008) I found that of the 553 prisoners transferred there from other prisons in 2007, 529 were selected for drug testing. Those not selected were elderly or prisoners with other medical complaints. 12.48% of those selected refused or failed to be tested. A refusal or failure was deemed by management for the purpose of their statistics as a positive finding. Of those tested, 31.76% tested positive for illicit drugs. Taking those who tested positive and those who either refused or failed, the percentage testing positive in 2007 was 44.24%. (The most common drug was cannabis). Given that this is supposed to be a coterie of prisoners who are drug free this is a matter of serious concern and suggests that the overall level of drug abuse in our prisons is very high. This prompts the observation that drugs were available in the closed prisons that these prisoners came from. The prisons from which transferred prisoners tested

positive were Castlerea, Wheatfield, Midlands, Limerick, St. Patrick's Institution, Mountjoy, Portlaoise and Cloverhill.

- 10.4 There are numerous methods by which drugs get into our prisons. For many years drugs have been thrown over the perimeter walls of prisons, brought in by prisoners' visitors, through internal secretion (usually committal prisoners or following temporary release), concealed inside other goods destined for prisoners and unfortunately by some members of staff.
  
- 10.5. The Irish Prison Service has, for the last two years, made a concerted effort to reduce the supply of illicit drugs entering the prisons. The measures taken include inter alia the introduction of the following: - the drug detection dog service, the Operational Support Units, modern technology used during cell searches, enhanced perimeter security, enhanced security screening for all people entering the closed prisons and innovative prison designs intended to ensure greater security- e.g. placing prison yards in the centre of prisons. These measures have reduced the flow of drugs into our prisons. Indeed, the riot in Mountjoy Prison in July 2008 as mentioned at paragraph 4.6 was a reaction to the new screening procedure of visitors as opposed to overcrowding, as was reported in the press.
  
- 10.6. The B.O.S.S. Chair (Body orifice security scanner) which was piloted in Cloverhill Prison has now been introduced into three other prisons. Further chairs will be in operation in a further 4 prisons later this year. This high tech chair enables the detection of weapons, telephones and other contraband that are hidden in body cavities. When a person sits on the chair it scans the person's body cavities in a non-intrusive manner and an alarm will sound if contraband is detected.
  
- 10.7. I would like to refute suggestions made by prisoners and prisoners' visitors to me that the screening and searching procedure of visitors to prisons are personally invasive and go beyond what might be considered acceptable. The screening is comparable to that at airports. Drug detection dogs are a feature of the screening process. Visitors are not strip searched or partially strip

searched as has been alleged. I observed these screening and search procedures being carried out on numerous occasions. My staff and I have undergone the same screening procedure as does everyone entering prisons. I am satisfied that a person's dignity is fully respected by prison officers at all times. Management must always be aware that the potential exists in these situations for a degree of harassment and must be vigilant to guard against this as visitors to prisons are always in a vulnerable position. In this connection I should point out that prison officers do not wear any personal identification. This would create difficulties for a member of the public or a prisoner to readily identify any particular officer should they have reason to do so. If during the screening and searching procedure drugs or other contraband are found or the officers conducting such searches suspect that drugs or contraband are concealed in or on the persons being searched the Gardai are called and take over the situation.

- 10.8 It is important that prison officers can be readily identified. Therefore all prison officers should be assigned an Identity Number (similar to that issued to Gardai). This should be worn on all uniforms at all times when on duty.
- 10.9 I consider that more could have been and should be done by the Irish Prison Service to inform both prisoners and prisoners' visitors as to the exact procedure entailed in the screening and searching. Perhaps the installation of monitors in the visitors' waiting room demonstrating exactly what the procedure entails, provided on a rolling basis similar to that in airports, could reduce the confusion surrounding the procedure.
- 10.10. The Irish Prison Service has increased the availability of drug rehabilitation and treatment services for prisoners. Such services include *inter alia* provision of detoxification programmes, methadone maintenance programmes, education programmes, addiction counselling, drug therapy programmes and an increased service from psychologists. Some prisons have drug-free landings or units which can aid prisoners in their detoxification efforts. Not all of the services mentioned above are available in all prisons. Methadone maintenance is not available in all of the closed prisons. Notwithstanding this,

1840 prisoners were treated on methadone maintenance programmes in 9 prisons in 2007. A structured drug detoxification programme is only available in Mountjoy Prison with only 9 places available at any one time. There are no treatment or rehabilitative services available in open/semi open prisons. A significant percentage (paragraph 10.3) of prisoners transferred to Loughan House Open Centre had traces of drugs in their systems on transfer. This makes the argument for having drug treatment facilities in such prisons. If such prisons were constructively used in an overall prison management system (Chapter 8) such facilities might not be necessary.

10.11. The Irish Prison Rules 2007 introduced specific provisions for mandatory drug testing of prisoners. This is not done in all prisons. The Irish Prison Service should consider as a matter of urgency introducing mandatory testing of all prisoners in all prisons as is done in Loughan House Open Centre. The advantages of mandatory drug testing of all prisoners would be twofold: - a) the extent of the problem would be immediately apparent, and, b) appropriate planning to deal with the problem could take place.

10.12. There should be specific areas in all prisons designated 'drug free' areas. These should be introduced immediately. Lack of such areas can jeopardise the rehabilitation efforts of prisoners, can put in vain the efforts of those providing assistance and can contribute to the ongoing problems associated with prison life where drugs are endemic.

10.13. I will in future reports on individual prisons refer to this topic should same be appropriate.

## CHAPTER 11

### Inter prisoner conflict

- 11.1 The State owes a duty of care to prisoners in their custody. Due to the rise in the level of violence amongst prisoners the provision of safe custody is an ever increasing problem. This may well mirror the increased level of violence in society as a whole. Anecdotal evidence from prisoners, prison officers and others working in or providing services to the prisons suggests ongoing incidents of violence amongst prisoners. The tension in various prisons is palpable. In their latest report on Ireland, the CPT highlighted its concern as regards the level of violence amongst prisoners<sup>4</sup>.
- 11.2 Bullying and intimidation can occur in any area of any prison. Management must at all times be conscious of this as not all incidents are reported – prisoners in many cases preferring to deal with such issues in ‘their own way’. It is important that management investigate any allegations of violence or intimidation amongst prisoners.
- 11.3 The existence of gangs in Irish society has escalated into the prison system and this is a huge cause of intimidation and violence amongst prisoners. This has resulted in large numbers of prisoners being placed on protection. On the 24<sup>th</sup> February 2009 there were 825 prisoners on protection in 9 prisons. This constitutes 22% of the total prisoner population on that date. However, it represents 26% of the prison population in the 9 prisons. This is not atypical. This causes logistical problems for management in ensuring the provision of safe and secure custody. Prisoners either request to be placed on protection or management will place them on protection for management reasons or due to the nature of their offence. For the majority of these prisoners if they were not placed on protection their lives or safety would be in danger. Prisoners placed on protection can be confined to their cells for up to 23 hours a day.

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<sup>4</sup> CPT/ Inf (2007) 40, Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 2 to 13 October 2006 at paras. 38- 43

- 11.4. Prison management try to provide safe and secure custody for the escalating number of prisoners in the Irish prison system. Prison overcrowding and protection prisoners are the greatest problems facing management in this regard. Various other factors which militate against this include:- a) spontaneous violent outbursts amongst prisoners, b) lack of facilities for prisoners which causes boredom, c) lack of work or any worthwhile constructive activity, d) shortage of telephones which causes anger among prisoners as very often it is their only form of communication with family and friends, e) the fact that prisoners are in a confined space thereby causing frustration, f) the fact that drugs are not as freely available as they were causes irritability, g) the fact that other prisoners are taking drugs increases levels of aggressiveness, and, h) poor and inhuman prison conditions causes anger. A simple incident in prison can push an already irritable prisoner completely over the edge.
- 11.5 When management are doubling up prisoners in cells or placing prisoners in other cells with multiple occupancy it is critical that a thorough risk and needs assessment is undertaken on all such prisoners.
- 11.6. I will in all full reports on individual prisons refer to this topic in detail should same be necessary.

## CHAPTER 12

### Juveniles in the Irish Prison System

- 12.1. Placing juveniles in detention for the most serious crimes will always be a feature of the criminal justice system. International standards define a juvenile as “*a child or young person who, under the respective legal systems may be dealt with for an offence in a manner which is different from an adult*”<sup>5</sup>. Under the Children Act 2001 a child is defined as a person also under the age of 18<sup>6</sup>.
- 12.2. The Children Act 2001 provides that a court shall only impose a sentence of detention on a child where “*it is the only suitable way of dealing with the child*”<sup>7</sup>. Whilst in detention it is imperative that the best interests of the juvenile are taken into consideration<sup>8</sup>. International best practice dictates that juveniles should not be detained alongside adults<sup>9</sup>. The only institution under the auspices of the Irish Prison Service to detain male juveniles, over the age of 16 years, is St. Patrick’s Institution. Young offenders aged 18 to 21 years are also detained in St. Patrick’s Institution. All other juveniles are detained in Children Detention Schools which are operated by the Irish Youth Justice Service, an executive office of the Department. Female juveniles are not detained in any of our prisons.
- 12.3. Juveniles are to be detained in St. Patrick’s Institution pending the completion of a new unit for juveniles at Lusk, Co. Dublin. The first phase of the new unit is scheduled to be completed during 2012. It will provide accommodation for the 16 and 17 year olds at present detained in St. Patrick’s Institution.

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<sup>5</sup> Rule 2(2)(a), UN Standard Minimum Rules for the Administration of Juvenile Justice 1985 (Beijing Rules)

<sup>6</sup> Section 3(1) Children Act 2001

<sup>7</sup> Section 143(1) Children Act 2001

<sup>8</sup> Article 3 UN Convention on the Rights of the Child 1989 (CRC)

<sup>9</sup> Article 10(3) International Covenant for Civil and Political Rights, Article 37(c) (CRC), Rule 26(3) Beijing Rules, Rule 59(1) Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures

- 12.4. St. Patrick's Institution accommodates both remand and sentenced juveniles. At any one time approximately one third of the population in St. Patrick's Institution are juveniles.
- 12.5. I was informed that approximately 25% of the juvenile population are on protection at any one time. It is a sad reflection on society that the lives of boys as young as 16 are under threat whilst in custody by reason of their involvement in the gang rivalry that has manifested itself as a subculture in modern Irish society.
- 12.6. It is a universally accepted principle that any period of detention shall serve to rehabilitate a juvenile<sup>10</sup> and facilitate him/her to assume a constructive role in the community upon his/her release. The provision of education and vocational skills are considered to be one of the most important elements in a juvenile's rehabilitation efforts<sup>11</sup>, together with treatment programmes.
- 12.7. I have been informed that Positive Sentence Management is being introduced in St. Patrick's Institution on a phased basis.
- 12.8. The maintenance of family contact is of particular importance in a juvenile's life<sup>12</sup>. It is invaluable to the successful re-integration efforts of juveniles following their release. As St. Patrick's Institution is the only centre for the detention of male juveniles aged 16 and 17 this can impose considerable logistical problems for visiting families and friends who have to travel considerable distances.
- 12.9. St. Patrick's Institution, like the majority of other prisons, is frequently overcrowded.
- 12.10. It is clear from international best practice that a specialised regime is required for juveniles the aim of which must be their rehabilitation. The United

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<sup>10</sup> Rule 12, UN Rules for the Protection of Juveniles Deprived of their Liberty

<sup>11</sup> Rule 26.1 Beijing Rules

<sup>12</sup> Art. 37 (c) CRC

Nations Committee on the Rights of the Child has stated that separate facilities should be in place for children deprived of their liberty which include distinct, child-centred staff, personnel, policies and practices<sup>13</sup>. Detaining juveniles, who possess specific requirements, in a prison setting with adult prisoners militates against their rehabilitation potential. Detaining a juvenile in a prison environment cannot be in his best interests.

- 12.11. The reason that I have included this chapter is because the State is responsible for the vindication of children's rights as contained in various instruments. The point of having a separate juvenile justice system is to protect juveniles' rights as they are more susceptible to human rights abuses and have different needs to adult offenders.
- 12.12. I intend carrying out a full inspection of St. Patrick's Institution during this year and in this connection trust that my comments in this Chapter will be of assistance to the Irish Prison Service, the management, and those providing services in St. Patrick's Institution.
- 12.13. Every effort should be made to expedite the completion of the new unit for juveniles at Lusk, Co. Dublin
- 12.14. I fully endorse the use of alternative sanctions for juveniles and trust that detention is used strictly as a last resort.

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<sup>13</sup> Committee on the Rights of the Child, General Comment No. 10, Children's Rights in Juvenile Justice (Forty-fourth session, 2007), U.N. Doc. CRC/C/GC/10 (2007), at p. 18

## CHAPTER 13

### Deaths occurring in Prisons

- 13.1. Rule 47 (7) of the Irish Prison Rules 2007 provides: - *“If a prisoner dies while in prison the Governor shall, forthwith, notify or cause to be notified”* – *inter alia* the Inspector of Prisons. Sub rule 8 provides: - *“Where a prisoner dies while in prison the Governor shall as soon as may be after the prisoner’s death, prepare, and submit to the Minister, a report and such other information as he or she may require in relation to the prisoner’s death”*.
- 13.2. 4 male prisoners died in prison in 2008.
- 13.3. 6 male prisoners and 1 female prisoner died in hospital in 2008.
- 13.4. I requested full reports on all deaths whether in prison or on transfer to or in hospital. I have received total co-operation from the relevant prisons. I have not, as yet, received final reports in a number of cases because either there are ongoing investigations or inquests have not been concluded.
- 13.5. If any matters of concern arise I will refer to these either in my next Annual Report or if they are serious matters of concern I will bring these to the Minister’s notice or to the notice of the appropriate authority.
- 13.6. In order that I can give accurate information of the number of prisoners dying while in the prison system I suggest that Rule 47 (7) of the Irish Prison Rules 2007 be amended to provide that I be notified of all such deaths whether in prison, in transit between prisons, in transit to hospital or in hospital.
- 13.7. I suggest that Rule 47 (8) of the prison Rules 2007 be amended to provide that the report as provided for in that sub rule be also submitted to me.

## CHAPTER 14

### Future developments in the Irish Prison System

- 14.1. In common with virtually every country the prison population in Ireland shows a steady and worrying increase.
- 14.2. On the 2<sup>nd</sup> January 2008 the prison population was 3197. On 3<sup>rd</sup> June 2008 it had increased to 3597. On 2<sup>nd</sup> December 2008 it stood at 3718 and on 13<sup>th</sup> March 2009 it had further increased to 3828. There is no reason to believe that the figure will not keep increasing.
- 14.3. In the 14 months referred to at paragraph 14.2 the prison population had increased by 631 or 20%. During this period two additional wings were opened – one each in Loughan House Open Centre and Shelton Abbey with a design capacity for 110 prisoners.
- 14.4. In 2009 it is anticipated that approximately 380 new prison spaces will be provided – 141 in a new block in Portlaoise Prison, 63 in a new block in Castlerea Prison and 176 in a new block in Wheatfield Prison. This is the design bed capacity of these new facilities.
- 14.5. The opening of new prison accommodation as outlined above is a welcome development and represents the ongoing commitment of the Irish Prison Service and the Department to the upgrading and extension of the Irish Prison Estate as did the opening of two new wings at Loughan House Open Centre and Shelton Abbey referred to at paragraph 14.3 above.
- 14.6. As I have already stated the Irish Prison System has no control over the number of persons entering our prisons. The prisons must accept all persons on remand (whether awaiting trial or sentence) in addition to all prisoners committed to prison by the Courts. In this context I suggest at paragraph 14.14 issues that need to be addressed.

- 14.7. It is proposed to build a new prison complex at Thornton Hall, Co. Dublin. This is situated approximately 6 miles from Dublin City Centre. I have been given a thorough briefing (paragraph 4.2) on the Thornton Hall Project. The location of this proposed prison or any other prison is a matter of policy for Government and does not fall within my remit. The design capacity of this prison will be for approximately 1400 prisoners all in single cells. For security reasons I do not intend in this report to give specific details of the layout of the proposed prison. The plans reveal imaginative thinking for the accommodation of prisoners, for the segregation of prisoners, for the provision of relevant workshops, for the provision of relevant educational facilities, for the provision of excellent recreational facilities both indoor and out , for the provision of all relevant medical facilities and appropriate facilities for all the ‘service providers’ to prisoners and the prison.
- 14.8. When, for considerations of safety and security, prisoners are segregated or are on protection such segregation cannot, in a new prison, be an excuse for depriving such prisoners of appropriate educational, vocational and recreational facilities. Lock up for extended periods would also be unacceptable.
- 14.9. I have been advised that the construction timeframe for the new prison at Thornton Hall is approximately 3 years from the time the contract is awarded. It had been anticipated that the contract would have been awarded in the latter half of 2008. It is now anticipated that the contract will be awarded in late 2009. This timeframe is subject to the successful completion of contract negotiations with the preferred tenderer. Pressures on the international financial markets also have the potential to impact on all major capital projects.
- 14.10. I will closely monitor the building of any prisons to ensure that none of the facilities as planned for are reduced. I will monitor the day to day occupancy of such prisons and will compare same with the design capacity. I will refer as appropriate to these matters in subsequent reports.

- 14.11. As I have outlined throughout this report the prisons in Ireland are overcrowded. This brings with it all the negative aspects of prison life and the dangers that I have referred to.
- 14.12. I understand that as I write this report the Irish Prison Service are making arrangements to double up cells in a number of prisons to accommodate the ever increasing prison population.
- 14.13. I am conscious that in the present economic situation the ambitious building programme already started (paragraphs 14.3 and 14.4) may be deferred.
- 14.14. If additional accommodation for prisoners with all appropriate facilities is not provided two questions must be asked. I am aware that in asking these questions and suggesting some answers I am straying outside my remit as set out in the Prisons Act 2007 but feel that in any civilized society answers must be provided to these obvious and important questions: -
- Is the accommodation of prisoners in overcrowded prisons as detailed in chapter 7 acceptable?
  - If it is not acceptable and in the absence of new prisons what can be done?
- 14.15. Any political and / or societal debate on an acceptable level of accommodation for prisoners must take into account all Human Rights issues and our State's obligations under relevant International Treaties, Agreements and Instruments. This should be a reasoned debate.
- 14.16. If the overcrowding of prisons is deemed unacceptable either new prison accommodation must be provided or alternatives to prison must be found.
- 14.17. Initiatives such as the Fines Bill 2009 are a welcome development. If implemented it could take up to 2.17% or approximately 75 prisoners out of the prison population on any one day.

- 14.18. Consideration should also be given to dealing with debtors, who cannot pay their bills, in a non custodial manner.
- 14.19. At present, and pending the acquisition or construction of appropriate accommodation, illegal immigrants who face no other charges, are held in our prisons which is inappropriate.
- 14.20. Restorative Justice Initiatives and Community Courts have the potential in the medium to long term to reduce the prison population. I am conscious of the work done by the National Commission on Restorative Justice chaired by Judge Mary Martin in this regard.
- 14.21. Restorative Justice Initiatives have an important role as a sentencing option for Courts in deflecting persons from further criminality.
- 14.22. Initiatives such as those that might be contemplated in the context of Restorative Justice could well form part of, and, be incorporated into a sentence management plan for appropriate prisoners. After due assessment these prisoners might serve part of their sentences while on temporary release and during this period could be subject to such initiatives. If this were to be the case it would reduce the prison population.
- 14.23. My suggestion as set out at paragraph 14.22 is one of many possible initiatives that could be considered as a means of reducing the prison population. As I have stated at paragraph 14.14 it does not fall within my remit to suggest solutions but solutions must be found.
- 14.24. I am aware that the running of any prison is no easy task and I am conscious of the reality that resources for all public services are, understandably, limited. However neither of these could be accepted for disregarding or denying individual human rights.
- 14.25. If initiatives cannot be found which will dramatically reduce the prison population to the extent that individual human rights are neither disregarded or

denied it is imperative that new prison accommodation is sourced as soon as possible. In any event even if the prison population can be reduced this would not obviate the need to replace the unacceptable accommodation in some of our prisons most notably in Mountjoy, Cork and Limerick.

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