

An Assessment of the Irish Prison System

By the

Inspector of Prisons

Judge Michael Reilly

May 2013

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Judge Michael Reilly
Inspector of Prisons

20th May 2013

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Chapter 1

Introduction

- 1.1 In my various reports to date I have identified areas of concern. I have explained how certain practices do not meet International best practice. I have given guidance on how International best practice should be implemented. I have commented on the consequences of failure to implement such practice and I have suggested reforms in certain areas. I have published standards against which prisons should be benchmarked. I have engaged with the Minister for Justice and Equality (hereinafter referred to as the “Minister”), his officials, the Irish Prison Service and local management of prisons in an effort to ensure that our obligations as a Country to our prisoners are understood, that operating procedures are standardised throughout all prisons and that the advice that I have given in my various reports detailing best practice is being acted upon.
- 1.2 The areas of concern referred to in paragraph 1.1 are overcrowding, slopping out, mental and general health issues, the lack of dedicated committal areas in our prisons, the use of Safety Observation and Close Supervision Cells, investigations of deaths in custody and prisoner complaints. I dedicate a separate chapter to each of these issues.
- 1.3 In Chapters 2 to 9, I give an assessment on where the Irish Prison System stands at the moment regarding the areas of concern raised by me over the years and referred to in paragraph 1.2.
- 1.4 **I am satisfied that great strides have been made by the Irish Prison Service within the last number of years to address the serious concerns raised by me. These strides would not have been possible without the support and encouragement of the Minister and his officials.**
- 1.5 I have stated in paragraph 1.4 that great strides have been made. However, the physical characteristics of a prison or of a particular part of a prison or the

formulation of standard operating procedures will not necessarily guarantee adherence to accepted best practice. The Irish Prison Service and the local management of prisons must be proactive to ensure that there is no slippage in this regard.

- 1.6 I now have additional resources in my office (See Chapter 6 of my Annual Report 2012). Therefore, if slippages do occur, I will be in a position to monitor same and report as appropriate.

Chapter 2

Overcrowding in Prisons

- 2.1 On the 29th July 2010, I presented a report titled – *The Irish Prison Population – an examination of duties and obligations owed to prisoners* (hereinafter referred to in this Chapter as my ‘Obligations Report’) to the Minister. The purpose of that Report was to set out in clear and unambiguous terms the type of accommodation, the type and level of services and the regimes that we as a Country are obliged to provide for prisoners having regard to our international and domestic obligations and acknowledged best practice.
- 2.2 My reason for being so forthright in setting out our obligations towards our prisoners was in order that no one could claim to be surprised if we, as a Country, or individual prisons were criticised by regulatory agencies in the future for failing to adhere to our obligations if heed was not taken of this Report. I pointed out that a far more urgent reason for taking heed of our obligations was that if we as a Country or our Prison Service as an entity failed to adhere to our obligations we or our prisons faced the live prospect of litigation either in our Domestic Courts (as a result of the incorporation of the **European Convention on Human Rights** into Irish Law) or, in the **European Court of Human Rights** by way of an application under Articles 2, 3, 6 or 8.
- 2.3 In paragraph 1.3 of my Obligations Report I conceded that changes required of our prison system to deal with overcrowding could not occur overnight. **I stated that in the immediate short term certain levels of overcrowding might be necessary but this should only occur if a clear commitment were given to eliminate such overcrowding in a defined time.**
- 2.4 In my Obligations Report I stated that a countries obligation to its prisoners fell under three general headings – (a) accommodation, (b) services and

regimes and (c) prisoners safety. I pointed out that if a prison fails to meet one or a number of these conditions it is overcrowded.

2.5 In my Obligations Report I set out in detail the criteria to be adopted in order that the three obligations referred to in paragraph 2.4 would be met. The authorities and guidance which informed such criteria are set out in my said Report but briefly include, *inter alia*, the obligations imposed on us as a Country by our adoption of various International Treaties and Instruments, the Reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Jurisprudence of the European Court of Human Rights, the provisions of the Irish Constitution and our Domestic Laws, the Jurisprudence of the Irish Courts and Courts in other relevant jurisdictions and my observations of best practice in other countries. Therefore, in order to fully understand the provisions of this Chapter the reader should read same in conjunction with my Obligations Report.

2.6 In brief the criteria laid down in my Obligations Report are as follows:-

(a) Cell Accommodation

As a general principle cell sizes should conform to the following:-

- (i) For single occupancy - 7m^2 with a minimum of 2m between walls. Such cells should have in-cell sanitation. It would be preferable to have the sanitary facilities screened.
- (ii) For each additional prisoner - an additional 4m^2 (Example: 2 prisoners = 11m^2 , 3 prisoners = 15m^2 , 4 prisoners = 19m^2). Where two or more prisoners share a cell there must be in-cell sanitation which, in all cases, must be screened.

(b) Services and Regimes in Prisons

Services and regimes in prisons include, *inter alia*, education, structured vocational work training, recreation, exercise, religious observance, health,

welfare, diet, contact with family, visits, number of telephones, adequate probation, addiction and psychology services and appropriate laundry.

In paragraph 3.15 of my Obligations Report I stated that relevant structured activity should be available for all prisoners wishing to avail of same for a minimum of 5 hours each day of 5 days a week. **I pointed out that this would be in addition to out of cell time and recreation/exercise time.** In practical terms this means that prisons must provide relevant structured activity (which includes education) for approximately 80% of the prison population. The other 20% will be ill, be at court, have visits or be otherwise engaged.

(c) Prisoner Safety

This is self explanatory.

- 2.7 I am happy to report that the Irish Prison Service has accepted the advice given. In its **Three Year Strategic Plan 2012 – 2015** the Irish Prison Service has stated:-

“We will seek to align the capacity of our prisons in line with the guidelines laid down by the Inspector of Prisons in so far as this is compatible with public safety and the integrity of the Criminal Justice System”.

- 2.8 The Strategic Plan referred to at paragraph 2.7 commits the Irish Prison Service to undertake capital projects in order to replace outdated accommodation and facilities in:-

- Cork Prison – by building a new prison in the existing car park.
- Limerick Prison – by replacing A and B Wings.
- Mountjoy Prison – by the refurbishment of A, B, C and D Wings.
- Portlaoise Prison - in the longer term the refurbishment of E Block.

- 2.9 I should point out that long term prisoners should be accommodated in single cells. I make this point because all of the new accommodation cells built in recent years have a capacity, adopting the criteria laid down in paragraph 2.6(a), to hold two prisoners and in a minority of cases multiple prisoners. Therefore, in most prisons it must be accepted that numbers of cells designed for double occupancy will in reality be counted as single cells.
- 2.10 In the case of women prisoners, accommodation should be provided in single cells. In a very small minority of cases it may be acceptable to double up women prisoners but this should only be done where both prisoners agree or where family members express a wish to share accommodation.
- 2.11 In all cases cells must have in-cell sanitation which must be screened.
- 2.12 A serious complicating factor in computing the maximum numbers that could be accommodated in each prison is the high number of “protection prisoners” in the majority of the closed prisons. The amount of out of cell time that such prisoners enjoy ranges from reasonable to the bare minimum provided for in the Irish Prison Rules. Those prisoners who are on 23hour lock up have little or no access to the school, gym etc. They cannot engage in structured activity. In many cases such prisoners are accommodated two to a cell. The accommodation of such prisoners (two to a cell) even in double cells can amount to overcrowding.
- 2.13 Prisoners may be on protection for a number of reasons. The following are, but, a few examples. They may ask for protection because of actual threats from other prisoners, they may be members of gangs who are in conflict with other gangs in the prison, they may believe that they are under threat from all prisoners or they may be on protection at the instigation of prison management because of intelligence that they may be under threat from others in the prison.
- 2.14 The numbers of protection prisoners in each prison can vary from day to day in each prison.

2.15 On the 31st March 2013 there were 629 prisoners on protection in the Irish Prison System. In **Table 1**, I give particulars of the breakdown of such numbers prison by prison. This information was supplied to me by the Irish Prison Service.

Table 1

Prison	Total No. of Protection Prisoners on 31/03/2013	No. of Protection Prisoners on a Restricted Regime
Arbour Hill Prison	0	0
Castlerea Prison	56	0
Cloverhill Prison	107	17
Cork Prison	55	14
Dóchas Centre	0	0
Limerick Female	0	0
Limerick Male	43	8
Loughan House	0	0
Midlands Prison	130	2
Mountjoy Prison	115	115
Portlaoise Prison	3	0
Shelton Abbey	0	0
St. Patrick's Institution	37	37
Training Unit	0	0
Wheatfield Prison	83	10
Total	629	203

Reference to restricted regimes means that this cohort of prisoners are on 23 hour lockup.

2.16 I stated in paragraph 2.6(b) that – “relevant structured activity should be available for all prisoners wishing to avail of same for a minimum of 5 hours each day of 5 days a week. I pointed out that this would be in addition to out of cell time and recreation/exercise time. In practical terms this means that

prisons must provide relevant structured activity (which includes education) for approximately 80% of the prison population”.

2.17 The Irish Prison Service, at my request, undertook an audit of the structured activities including education available to prisoners in each of the prisons. This audit entailed a considerable amount of work on the part of the Irish Prison Service. I would like to express my gratitude to them for this research.

2.18 In conjunction with the Irish Prison Service and the local management of each prison I undertook an audit of all prisons in order to ascertain the maximum capacity of each prison in the Irish Prison System. **Table 2** sets out the results of such audit and gives the maximum capacity for each prison.

Table 2

Prison	Maximum capacity
Arbour Hill Prison	131
Castlerea Prison	300
Cloverhill Prison**	414
Cork Prison*	173
Dóchas Centre	105
Limerick Female*	24
Limerick Male*	185
Loughan House	140
Midlands Prison	777
Mountjoy Prison*	540
Portlaoise Prison	291
Shelton Abbey	115
St. Patrick’s Institution	191
Training Unit	96
Wheatfield Prison	642

*** Work is ongoing and until finished an accurate number cannot be given.**

**** Final figure not yet agreed.**

Loughan House and Shelton Abbey Open Centres are not overcrowded. They have accommodation in new purpose built wings and in the old buildings. Added capacity could be achieved by undertaking refurbishment work in parts of the old buildings. Having discussed the matter with the Irish Prison Service I am satisfied that extra capacity in these facilities is not needed at the present time. The Irish Prison Service will keep the matter under constant review.

- 2.19 **The maximum number referred to in paragraph 2.18 is based on the assumption that relevant structured activity (which includes education) is available for 80% of prisoners wishing to avail of same for a minimum of 5 hours each day of 5 days a week. This is in addition to out of cell time and recreation/exercise time. It is also based on the assumption that long term prisoners are entitled to single cells and that protection prisoners are not on 23 hour lock up and/or deprived of relevant structured activity and exercise.**

The audit referred to in paragraph 2.17 will, in the future, be the basis for calculating the numbers that should be accommodated in each prison. I will relate the information in the audit to what I find the actual position in each prison to be and will report on same in due course.

- 2.20 The Irish Prison Service publishes, on a daily basis, statistics detailing the prisoner population for each prison. These statistics give information under a number of headings. One column is headed – **“Bed Capacity per Inspector of Prisons”**. This is the maximum number that could be accommodated in each prison as detailed in paragraph 2.18 **and is based on the assumptions contained in paragraph 2.19.**

- 2.21 One must look at a number of factors including, *inter alia*, cell size, structured activities (including education), out of cell time, long term sentences and the numbers of protection prisoners when considering whether or not a prison is overcrowded. These factors can change from day to day in our prisons. Knowledge of such changes is wholly within the particular knowledge of the Irish Prison Service. **Therefore, any person reading the daily statistics of**

the prisoner population must not take the figures given for “Bed Capacity as per Inspector of Prisons” as being necessarily accurate for that particular day.

- 2.22 In its Strategic Plan, referred to at paragraph 2.7, the Irish Prison Service has committed itself to a reduction in the numbers of prisoners. This will involve a multi disciplinary approach involving, *inter alia*, the Probation Service, statutory and non statutory bodies, the communities and the Courts. **I endorse the imaginative and well thought out approach being taken by the Irish Prison Service in this regard.** I do not intend setting out in detail the steps being taken as such information is published on the Irish Prison Service website. It is encouraging to know that the Minister is supportive of this initiative.
- 2.23 **The provision of relevant structured activities for prisoners may well have resource implications for the Irish Prison Service. However, this cannot be taken as an excuse for failing to comply with our obligations as set out in this Chapter. In stark terms this means that workshops must be staffed on a full time basis, must be open and functioning, schools must be operating and that other relevant work must not be curtailed.**
- 2.24 **All prisoners must have equal opportunity to work in the workshops and to attend school. Therefore, in counting those who attend the workshops or the schools prison management must be vigilant to ensure that there is no double counting. What I mean is that the same prisoners must not be counted as attending in the workshop, the school, the gym etc. thereby giving the impression that a higher number of prisoners are so engaged when the reality is the opposite.**
- 2.25 Finally, I wish to acknowledge the major contribution being made by the Irish Prison Service to the reduction of overcrowding by the opening of a new accommodation wing in the Midlands Prison within the last year.

Chapter 3

Slopping out and Refurbishment

- 3.1 At every opportunity since my appointment as Inspector of Prisons in January 2008, I have referred to the practice of slopping out as Inhumane and Degrading Treatment. This has also been the view of such organisations as the CPT and others who have commented on this subject in the context of Irish Prisons.
- 3.2 In January 2008 slopping out was a feature in Mountjoy, Cork, Limerick and Portlaoise Prisons. There were 682 cells without in-cell sanitation. These cells measured between 6.24m² and 8.19m². In virtually all cases these cells were used for double occupancy.
- 3.3 I will deal with each prison individually.

Mountjoy Prison

- 3.4 In 2008, I enquired if it was feasible to install in-cell sanitation in Mountjoy Prison. I was informed that it was not.
- 3.5 In September 2010 the Irish Prison Service decided that in-cell sanitation should be installed in Mountjoy Prison. The old C Wing was closed in May 2011. It was refurbished and reopened in March 2012. All cells were fitted with toilets and wash hand basins. The C Basement which had been partly used as stores has been renovated as a cell area.
- 3.6 The B Wing was closed in April 2012. It was refurbished and reopened in December 2012. The B Basement which, before its closure, had multiple occupancy cells has been re-designed and now has single cells. All cells in the Wing have in-cell sanitation.
- 3.7 The A Wing was closed in December 2012. It is undergoing refurbishment and is due to open in September 2013.

- 3.8 The D Wing is due to close in September 2013 for refurbishment with a projected opening date of January 2015.
- 3.9 **In September 2013 when the D Wing is closed slopping out will be a thing of the past as far as Mountjoy Prison is concerned.**
- 3.10 The refurbishment completed to date has been of the highest quality. There is nothing to suggest that the work to be completed will not be of the same high standard.
- 3.11 All cells have in-cell sanitation. They have wash hand basins. All cells have been re-plastered, re-floored and have new windows of the “Limerick” design. They have adequate ventilation and natural light. New furniture including beds has been installed.
- 3.12 New shower blocks have been provided for each landing. New stairways have been installed. The end walls of each Wing have been replaced with glass block walls which increases the light in all areas. New floors have been laid on all landings. All areas have been painted.
- 3.13 As part of the refurbishment of the D Wing it is intended that new workshops will be provided in a new three storey purpose built facility.
- 3.14 A dedicated committal area has been provided in the C Basement. I refer to this in greater detail in Chapter 9.
- 3.15 **All the newly refurbished cells are now used as single cells and an undertaking has been given that they will not be doubled in the future. I accept this undertaking.**
- 3.16 The Minister and his officials, the Director General of the Irish Prison Service and his management team, the Governor of Mountjoy Prison, his management team and the officers in Mountjoy Prison are to be commended for facilitating and carrying out the refurbishment of the old Mountjoy Prison.

- 3.17 The refurbishment described above means that prisoners occupying 419 cells who in the past had to slop out now have or are about to have refurbished cells all with in-cell sanitation.
- 3.18 I am satisfied that, in so far as the provision of accommodation is concerned, Wings A, B, C and D in Mountjoy Prison do and will meet the highest of standards and will stand scrutiny by any inspection body.

Cork Prison

- 3.19 Cork Prison has 138 cells without in-cell sanitation. In all cases the cells, which are designed for single occupancy, are doubled.
- 3.20 The prison is not fit for purpose. It is dangerously overcrowded.
- 3.21 The Irish Prison Service in its **Three Year Strategic Plan 2012 – 2015** committed itself to replacing outdated accommodation and facilities. The Minister accepted this plan and secured the necessary funding.
- 3.22 A new Prison will be built in the car park adjacent to the old Prison. I have been informed that this Prison will have capacity for a maximum of 300 prisoners. It will have all necessary services.
- 3.23 It is expected that the new prison will be commissioned in March/April 2016.
- 3.24 If for any reason a decision is made not to build the new prison or if its construction is unduly delayed I would be in dereliction of my duty if I did not call for the closing of the existing Prison altogether.**

Limerick Prison

- 3.25 The A and B Wings of Limerick Prison comprising 55 cells are without in-cell sanitation. In many cases the cells, which are designed for single occupancy, are doubled.

3.26 In paragraph 6.7(a) of my Report on Limerick Prison dated 25th November 2011, I stated:-

“It appears that the options are either to replace these Divisions (Wings A and B) or refurbish same to a standard that would meet best international practice”.

3.27 The Irish Prison Service in its **Three Year Strategic Plan 2012 – 2015**, committed itself to replacing outdated accommodation and facilities.

3.28 As part of its Three Year Strategic Plan the Irish Prison Service proposed demolishing the A and B Wings and building a new wing in the grounds of Limerick Prison. I have been informed that this wing will have capacity for 100 prisoners. It will have all necessary services.

3.29 As part of the development referred to in paragraph 3.28 the Irish Prison Service proposed constructing a new women’s prison in the grounds of the existing Limerick Prison. I have been informed that this will have capacity for 40/50 women and will also have all necessary services.

3.30 The Minister has accepted the proposal and has secured the necessary funding.

3.31 It is expected that the new prison wings will be commissioned in January 2015.

3.32 In advance of the proposed development in Limerick Prison the B Wing has been decommissioned since 15th April 2013. This means that there are now 28 cells in A Wing of Limerick Prison without in-cell sanitation. I have been informed by prison management that protection prisoners who have restricted out of cell time and are not able to avail of structured activities will not be accommodated in A Wing.

Portlaoise Prison

- 3.33 There are 70 cells in the E Block of Portlaoise which can be used for accommodation purposes. These cells measure 6.24m². They do not have in-cell sanitation. On 20th February 2013 there were 53 prisoners in the E Block.
- 3.34 Cells in the E Block are used as single cells.
- 3.35 Prisoners in the E Block enjoy extended periods of out of cell time. They can also avail of structured meaningful activity each day.
- 3.36 In their latest Capital Expenditure Plan the Irish Prison Service has, as one of its strategic commitments, the refurbishment (including in-cell sanitation) of the E Wing in Portlaoise Prison. I accept this commitment and will keep the issue under review and report as appropriate.

General comment

- 3.37 **As can be seen from the above, apart from Portlaoise Prison, slopping out in all other prisons will be consigned to history by mid 2016.**

Chapter 4

Health Issues

- 4.1 In my Report titled - *Guidance on Physical Healthcare in a Prison Context* (hereinafter referred to as the “Healthcare Report”) which I presented to the Minister on the 18th April 2011, I stated that I concurred with the view of the CPT that:-

“Deficiencies have been identified in the Standard of healthcare provided in a number of Irish prisons”.

- 4.2 The purpose of the Healthcare Report referred to in paragraph 4.1 was to point to the guidance available from all relevant sources which, if accepted, would lead to best practice in the provision of healthcare in the Irish prisons.

- 4.3 The issue of healthcare can be divided into two categories – physical health and mental health. The Healthcare Report referred to above deals with physical health. In my Healthcare Report I stated at paragraph 1.6 that:-

“Prisoners have a right to health; they are entitled to the same healthcare as is available in the community.”

- 4.4 In paragraph 1.9 of my Healthcare Report I stated that the mental health of prisoners was a complex matter. In paragraph 1.11 of my said Report I stated that I would defer comment on this aspect of medical care until after the publication of the Report of the Commission of Investigation into the killing of Mr. Gary Douche. To date this Commission has not reported.

- 4.5 Since the publication of my Healthcare Report giving guidance on physical healthcare in a prison context I have had ongoing discussions with the Irish Prison Service as to how best they could meet their obligations to prisoners in a health context.

4.6 The discussions referred to in paragraph 4.5 revolved around three crucial areas, namely:-

- High Support Units
- Use of Safety Observation and Close Supervision Cells
- Dedicated Committal Areas

As these are major developments I will deal with them individually in Chapters 5, 6 and 7.

4.7 I am satisfied that with the opening of the areas described in paragraph 4.6 and with the relevant standard operating procedures for each being adhered to the Irish Prison Service and the relevant prisons have made enormous strides towards fulfilling their obligations to prisoners from a health point of view. The Irish Prison Service, the management of relevant prisons and the medical personnel must be complimented in this regard.

4.8 Despite the very positive developments described in this Chapter I am satisfied that the standard of healthcare can vary widely from prison to prison and that in certain instances the standard of healthcare is deficient. This may be due to a number of factors, including but not confined to:-

- The amount of time spent in prisons by contracted external professionals.
- Communication difficulties between not only prisoners and professionals but between professionals and prison staff including medical staff.
- A failure by certain professionals to maintain adequate records.
- A failure by certain people to appreciate that prisoners are entitled to the same degree of attention as those in the community.

I do not have the resources to carry out an audit of the healthcare in all prisons. **Therefore, I recommend that an Independent Audit of the Healthcare being provided in Irish prisons should be commissioned by the Irish Prison Service. The results of such an audit should be published.**

Chapter 5

High Support Units

- 5.1 When I was appointed Inspector of Prisons in 2008, I found that vulnerable prisoners and those with mental disorders who presented as being at risk of self harm to themselves or others were, in the main, accommodated in Safety Observation Cells. As such they were isolated from others for considerable periods of time. This practice was criticised by the CPT who considered it a contributor to the deterioration of the mental state of the prisoners concerned and described it as anti-therapeutic and characterised it as inhuman and degrading.
- 5.2 An exception to that described in paragraph 5.1 was to be found in Cloverhill Prison where a dedicated unit under the direction of a Consultant Psychiatrist from the Central Mental Hospital with appropriate medical back up provided vulnerable prisoners and those with mental disorders with appropriate medical care.
- 5.3 In numbers of my Reports I suggested, in robust terms, that the Irish Prison Service, in consultation with relevant medical experts from the Central Mental Hospital and elsewhere, should open dedicated units in relevant closed prisons in order that appropriate care, consistent with this Country's obligations, would be provided to this cohort of vulnerable prisoners.
- 5.4 I was particularly concerned with the situation in Mountjoy Prison where morbidity and mortality rates were a cause of concern. I was aware that Professor Kennedy and his team from the Central Mental Hospital were in discussion with the Irish Prison Service regarding this issue. I had numbers of meetings with the, then, newly appointed Governor of Mountjoy Prison and impressed on him the necessity of having such a unit.
- 5.5 Discussions took place between all relevant parties. I attended many meetings with officials of the Irish Prison Service in order to give advice as to best

practice and on other practical issues where my advice was relevant. Consensus was reached that a High Support Unit (HSU) was the most practical method of stratifying risk. Stratification of risk refers to placement of patients (in this case prisoners) in an environment that addresses the risk they present while, in keeping with *Principle 9.1* of the *United Nations Principles Regarding the Protection of Persons with Mental Illness*, imposing the minimum restrictions necessary.

- 5.6 The first HSU was opened in Mountjoy Prison in December 2010. One floor in the Medical Unit in the prison was identified as being suitable as a HSU. It comprises 10 bedrooms (cells). These have in-cell sanitation. There are appropriate educational and therapeutic areas in this unit.
- 5.7 The philosophy underpinning HSU's is the provision of a high standard of care to inmates, to minimise risk associated with their health status and plan effective continuity of care. All HSU's are structured physical environments with increased provision for observation but they should not be regarded as clinical areas, secure units or challenging behaviour units.
- 5.8 The HSU will provide increased observation by prison officers, support and short term targeted interventions by healthcare staff for those who:-
- Require assessment of their mental health status.
 - Are in an acutely disturbed phase of a serious mental disorder.
 - Require increased observation/support for a physical illness.
- 5.9 While the HSU is designed as a short term intervention there may be individual cases where, due to the level of risk/healthcare needs as presented, prisoners may remain in the HSU for longer periods.
- 5.10 Following an assessment by the healthcare team in favour of admission to the HSU a recommendation to this effect will be made and recorded.

- 5.11 All admissions to the HSU can only be authorised by a nurse/medic, doctor or psychiatrist.
- 5.12 Placement of a prisoner in the HSU is for the purpose of maintaining or protecting their physical, mental or psychological wellbeing where there may be:-
- Significant risk of harm to others.
 - Significant risk of harm to self.
 - Marked deterioration of mental state.
 - Need for increased physical observation.
 - Physical disability.
 - Sensory impairment.
 - Life limiting illness.
 - Vulnerability in the context of intellectual disability.
 - Psychological wellbeing.
- 5.13 The Chief Officer of the prison and the Acting Chief Officer of the HSU must be informed of the recommendation to transfer a prisoner to the HSU and operational clearance must be sought from the Chief Officer or his/her designate before any transfer takes place in order that safety from an operational perspective is maintained.
- 5.14 Interaction with prisoners in the HSU should be active and engaging with frequent verbal contacts to assist in the ongoing assessment of such prisoners.
- 5.15 All prisoners deemed capable should continue to engage in the regular activities available to prisoners such as education, gym, workshops etc. They should also have access to telephone calls, visitors, legal visits etc. unless these would pose a danger or not be in the best interest of the prisoner at the time. **Any recommendation that a prisoner should not be allowed avail of any normal rights for clinical reasons should be clearly recorded.**

- 5.16 During a prisoners time in the HSU ongoing monitoring and regular reviews will be carried out.
- 5.17 Assessment of the point at which a prisoner may be safely discharged from the HSU is a clinical decision to be made by the treating clinicians and is based on a comprehensive assessment of risk. All decisions will be recorded.
- 5.18 I have set out in brief in paragraphs 5.7 to 5.17 the rationale behind the HSU, the assessment procedures to be carried out, the care that the prisoner will receive and the exit mechanism. The Standard Operating Procedure for all HSU's is attached at **Appendix A**. I sought and got permission from the Director General of the Irish Prison Service to include this standard operating procedure in this Report.
- 5.19 The development of the HSU was an important milestone in the history of Mountjoy Prison. It has already impacted on making the Prison a safer and more humane environment for all detainees, and more specifically for its most vulnerable group of prisoners. I recommended that the HSU model in Mountjoy Prison should be used as a template for all other prisons.
- 5.20 The benefits or otherwise of the Mountjoy HSU were analysed after its first year in operation. 96 prisoners were admitted. A major mental illness was diagnosed in 29%, 20% required short-term increased support for crisis intervention and were found not to have a mental illness. A further 10% were deemed to be feigning symptoms of mental illness to seek refuge on the HSU. 7% had personality disorder as their primary diagnosis and 4% had a learning disability. The remaining percentage were prisoners who required a high degree of medical attention for reasons other than mental health issues.
- 5.21 The analysis found that there was no change in the rate of transfers from the Prison to the forensic hospital demonstrating that the HSU was not used as a substitute for hospital admission. Because the pathway between prison and hospital was via the HSU, there was better communication and continuity of

care, so that clinicians could have greater confidence in the physical and mental health and safety of patients, returned to the Prison from hospital.

- 5.22 On an economic analysis it was found that the initiative has been cost neutral to both the Health Service Executive and Irish Prison Service.
- 5.23 In addition to the HSU in Mountjoy Prison and the Unit in Cloverhill Prison, HSU's will operate in Wheatfield Prison and the Midlands Prison Campus with units offering less intensive intervention in Limerick, Cork and Castlerea Prisons. Prisoners from Limerick, Cork and Castlerea Prisons who are assessed as requiring admittance to a HSU will be transferred to such units in the bigger prisons. **I will pay particular attention to this aspect and will report immediately if I find that prisoners in prisons other than the large prisons of Mountjoy, Cloverhill, Wheatfield and the Midlands are being disadvantaged with regard to the treating of their vulnerabilities.**

Conclusion

- 5.24 The HSU has managed vulnerable and mentally ill prisoners in a more effective and humanitarian environment and has resulted in greater access to care and regular reviews by the prison In-Reach Team.
- 5.25 The introduction of the HSU has achieved the goal of improving compliance with human rights standards. **Prisons still remain unsuitable places for people with severe mental illness.** Once a severely mentally ill person has been sentenced, the options available are limited and must focus on reducing the negative impact of the prison environment on mental health.
- 5.26 The success of the HSU project in Mountjoy Prison is highlighted by the fact that it has won a number of prestigious awards. Internationally, it won the World Health Organisation (WHO) Best Practice in Prison Award which was presented at the WHO conference in Italy in October 2011. Nationally, the project won both the Excellence in Healthcare Management Award and the overall 'Duais Mhór' Award at the 2011 Irish Healthcare Awards. It was also awarded the best 'community-based innovation in quality of service delivery'

at the 2012 Biomnis Healthcare Innovation Awards. More recently the initiative won a 2012 Taoiseach's Public Service Excellence Award.

- 5.27 It is clear from this Chapter that the concept of the HSU is a ground breaking concept as far as Ireland is concerned. As I have stated in paragraph 5.26 it has also found favour with renowned international awarding bodies. Therefore it is only fair to give credit to Governor Edward Whelan, Dr. Damian Mohan (Consultant Psychiatrist), Mr. Enda Kelly (Healthcare Nursing Manager, Mountjoy Prison Complex) and their respective teams without whose drive the Mountjoy Project would, possibly, not have come to fruition.

Chapter 6

Safety Observation and Close Supervision Cells

6.1 After taking up my position as Inspector of Prisons on 1st January 2008, I became concerned that Safety Observation Cells and Close Supervision Cells were not being used solely for the purposes as intended.

6.2 On 26th August 2010, I submitted a Report titled – ***Report of an Investigation on the use of ‘Special Cells’ in Irish Prisons*** (hereinafter referred to as my ‘Special Cells Report’) to the Minister.

6.3 At paragraph 1.7 of my Special Cells Report I stated that:-

“I was concerned as to the use being made of ‘special cells’. It became clear to me that safety observation cells were not being used solely to accommodate prisoners who required frequent observation for medical reasons or because they were a danger to themselves. They were also being used for accommodation and management purposes”.

6.4 In my Special Cells Report I set out the characteristics that should apply to and be found in all safety observation and close supervision cells. I also referred to a comprehensive analysis of the use made of safety observation cells that I carried out over a 15 month period.

6.5 In Chapter 1 of my Special Cells Report I analysed the obligations that this Country owes to prisoners who must be accommodated in ‘special cells’. I stated in paragraph 1.10 that:-

“Many of our obligations to prisoners in safety observation and close supervision cells overlap. Additional obligations are owed to prisoners accommodated in safety observation cells. Our domestic obligations are to be found in our Constitution, the Irish Prison Rules,

the Irish Prison Service Health Care Standards and the Standards for the Inspection of Prisons in Ireland that I published. Our international obligations are to be found in the European Convention on Human Rights, the International Covenant on Civil and Political Rights, decisions of the European Court of Human Rights, the European Prison Rules and Reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)”.

- 6.6 In Chapter 6 of my Special Cells Report I made recommendations and gave guidance to the Irish Prison Service and to prison management on ‘housekeeping matters’ which, if followed, would ensure that proper use would be made of such cells and that appropriate records would be kept thus ensuring best practice.
- 6.7 In Chapter 7 of my Special Cells Report I suggested changes to the existing Irish Prison Rules.
- 6.8 Since the publication of my Special Cells Report I have been in constant contact with the Irish Prison Service giving guidance, where necessary, on the formulation of policy on the use of Safety Observation and Close Supervision Cells. This has resulted in the formulation by the Irish Prison Service of new Standard Operating Procedures for both types of cells. **The Director General of the Irish Prison Service and his officials must be complimented in this regard.** I have also had contact with the Minister’s officials concerning changes to the Irish Prison Rules. Changes have been made to the Irish Prison Rules to reflect best practice in the operation of Safety Observation and Close Supervision Cells. I will refer to each type of cell individually.

Safety Observation Cells

- 6.9 References to ‘patients’ in this Chapter is of course a reference to prisoners who are correctly described as patients when detained in Safety Observation Cells.

These cells must only be used in the best interest of the patient and only when a patient poses an immediate threat of serious harm to self and/or others and all alternative interventions to manage the patient's unsafe behaviour have been considered.

6.10 A new comprehensive Standard Operating Procedure was issued by the Irish Prison Service covering the use of all safety observations cells in the Irish Prison System. I attach a copy of the Standard Operating Procedure at **Appendix B**. The Director General of the Irish Prison Service granted permission for this Standard Operating Procedure to be included in this Report.

6.11 The following are some of the important issues covered by the Standard Operating Procedure:-

- **The Governor's authority to direct that a prisoner be accommodated in a safety observation cell is irrevocably delegated to medical practitioners and registered nurses only.** (Para 3.0)
- Placement is not prolonged beyond the period strictly necessary to prevent immediate and serious harm to the patient and/or others. (Para 5.3)
- Intervention is used in a professional manner and is based within ethical and legal framework. (Para 5.4)
- Intervention is used in settings where the safety of patients and staff is regarded as being essential and equal. (Para 5.5)
- The placement of a patient in a safety observation cell must only be initiated by registered medical practitioners and/or registered nurses. (Para 6.1)
- If placed by a nurse such placement must follow an assessment of the patient which must include a risk assessment. (Para 6.3a)
- The placement must be reviewed by a registered medical practitioner as soon as is practicable but not later than 24 hours after the commencement of such placement. (Para 6.3c)

- After the medical review the registered medical practitioner must discontinue the use of the safety observation cell unless he/she orders its continued use following consultation with the nursing staff. (Para 6.3d)
- If the registered medical practitioner orders the continued use of the safety observation cell the duration of such further order cannot be for more than 24 hours. (Para 6.3e)
- If initial placement is by a registered medical practitioner it must only occur after an assessment of the patient which must include a risk assessment. (Para 6.4a)
- The registered medical practitioner must indicate the length of the initial order but this cannot exceed 24 hours. (Para 6.4d)
- The patient must be informed of the reasons for, likely duration of, and the circumstances which will lead to the discontinuation of the placement in a safety observation cell, unless the provision of such information might be prejudicial to the patient's mental health, well being or emotional condition. (Para 6.6)
- As soon as is practicable, and with the patient's consent or where the patient lacks capacity and cannot consent, the patient's next of kin or representative must be informed of the patient's placement in a safety observation cell. (Para 6.7a)
- Patients must be observed at least once every 15 minutes. (Para 7.2)
- A nursing review of the patient in the safety observation cell must take place every 2 hours unless to do so would place the patient or staff at a high risk of injury. (Para 7.4)
- A medical review of the patient must be carried out by a registered medical practitioner every 24 hours. (Para 7.5)
- No period of placement can exceed 24 hours.
- An initial period of placement may be extended for a further 24 hours to a maximum of 72 hours. Such extensions can only be made by a registered practitioner. This power is exercised under an irrevocable delegated authority from the Governor. (Para 8.1)

- In certain defined circumstances the period of placement may exceed 72 hours. Strict rules then apply. (Para 8.2 and 8.3)
- A registered medical practitioner may end a placement in a safety observation cell at any time following discussions with the relevant medical staff. (Para 9.1)
- Placement may also be ended by a registered nurse in consultation with a registered medical practitioner. (Para 9.2)
- All uses of safety observation cells must be clearly recorded in the patient's clinical file on PHMS (Para 10.1) and in the Register for Safety Observation Cells. (Para 10.2).
- A copy of the Register for Safety Observation Cells must be scanned into the patient's clinical file and a copy must be available to the Inspector of Prisons upon request. (Para 10.3)
- All safety observation cell episodes must also be recorded in a log maintained by the Governor. (Para 10.4)

6.12 As can be seen from paragraph 6.11 the medical staff under **irrevocably delegated powers from the Governor** are the only persons who can place a patient in a safety observation cell. Similarly they are the only persons who can discharge a patient from such a cell.

6.13 **Despite the fact that the Standard Operating Procedure for the use of Safety Observation Cells has been circulated a significant number of disciplined staff including ACO's, Chief Officers and Governors still do not understand that it has been agreed that the medical staff are 'in charge' of the admission to and the discharge from such cells. This 'lack of understanding' is not confined to one particular prison.**

6.14 **The 'lack of understanding' referred to in paragraph 6.13 could be interpreted as pressure being brought to bear on the medical staff. Disciplined staff, particularly ACO's, Chief Officers and Governors, must appreciate that the medical staff, especially registered nurses, are professionals who do have the relevant assessment tools to carry out**

proper assessments and in the end are subject to their own regulatory authorities.

- 6.15 **If, after the publication of this Report, I find that pressure is being exerted on the medical staff in relation to the admission of patients to safety observation cells I will consider this a serious matter which should be brought to the attention of the Director General or in an extreme case the Minister.**

Close Supervision Cells

- 6.16 A new comprehensive Standard Operating Procedure covering all aspects of the use of close supervision cells in the Irish Prison System was introduced by the Irish Prison Service. I attach at **Appendix C** a copy of this Standard Operating Procedure. The Director General of the Irish Prison Service gave permission for this Standard Operating Procedure to be included in this Report.

- 6.17 Section 1.1 of the Standard Operating Procedure referred to in paragraph 6.16 provides:-

“Close supervision cells must only be used when it is necessary to protect the prisoner or others, to protect property, for reasons of security, for the proper management of the prison and/or to preserve good order and when all less restrictive methods of control have been or would, in the opinion of the Governor, be inadequate in the circumstances”.

- 6.18 The following are some of the important issues covered by the Standard Operating Procedure:-

- These cells should under no circumstances be used for normal accommodation. (Para 1.3)

- Prisoners who pose an immediate threat of serious **self** harm are not to be considered for relocation to close supervision cells. When staff has any concern in this regard the issue should be referred, with immediate effect, to a member of the healthcare team involved in the treatment of prisoners. (Para 1.4)
- Prisoners should never be placed in close supervision cells as a form of punishment. (Para 1.6)
- Prisoners in close supervision cells should continue to avail of visits and phone calls unless they have been formally withdrawn as a result of a breach of prison discipline. (Para 1.7)
- The initial decision to place a prisoner in a close supervision cell must be made at a grade of at least Assistant Chief Officer and then authorised by the Governor at the earliest opportunity. Once the initial decision is made it is for a period lasting no longer than 24 hours. (Para 3.1)
- The Governor may, in certain defined circumstances, require the prisoner's clothing, including underwear, to be removed. No prisoner shall be left unclothed but may be provided with appropriate prison issue clothing and footwear which should be freshly laundered. (Para 4.1 and 4.2)
- The prisoner should be seen by a doctor as soon as is practicable after the placement in the close supervision cell. The doctor is obliged to record observations of the prisoner and any requests or complaints made. If an allegation of assault is made the doctor must document the complaint and any signs of injuries. He/she must also have photographs taken of any injuries. (Para 5.1)
- The prisoner must be observed every 15 minutes. (Para 5.2)
- The Prison Governor and Doctor must visit each prisoner accommodated in a close supervision cell on at least a daily basis. (Para 5.3)
- A further period of detention, not exceeding 24 hours, commencing after the initial period of 24 hours may be made by the Governor but only after a local review has taken place and the Governor is satisfied

that the prisoner still requires such placement in accordance with the conditions set out in paragraph 6.17 of this Report. (Para 6.1)

- Further periods of 24 hours but not exceeding a total placement of 5 days may be directed by the Governor. After the expiry of 5 days the matter must be reported to the Director General of the Irish Prison Service. (Para 6.1 and 6.2)
- The decision to remove a prisoner from a close supervision cell must be made by the Governor following a local review. (Para 7.1)
- A Close Supervision log must be maintained by the Governor. The following information must be recorded in the Log:-
 - The date and time of the commencement of the order,
 - The reason for the transfer to the close supervision cell,
 - The person who authorised the transfer,
 - The reason, if applicable, why the Governor ordered clothing to be removed,
 - The time, duration and identity of persons visiting the prisoner in the cell,
 - The prisoner's demeanour when checked,
 - Details of the daily local review,
 - Details of any extension(s) of the initial order granted by the Governor,
 - Details of any subsequent order granting an extension granted by the Director General with the reasons for the extension,
 - Any requests or complaints by the prisoner,
 - The temperature of the cell which must be recorded twice daily,
 - Any other significant occurrences and any comments or observations of the Governor,
 - The date and time the prisoner was removed from the close supervision cell and the identity of the person making the decision. (Para 8.1)

6.19 All healthcare staff is obliged to maintain appropriate records of their involvement with a prisoner confined to a close supervision cell on the PHMS System.

General Comment

6.20 **The designation of Safety Observation and Close Supervision Cells with their appropriate Standard Operating Procedures has been a major step forward for the Irish Prison Service. The Irish Prison Service must be given credit for changing their work practices in this regard.**

6.21 The Irish Prison Service and the local management of prisons must be proactive in ensuring that the Standard Operating Procedures are adhered to.

6.22 **If the Standard Operating Procedures for both types of cells are strictly adhered to the Irish Prison Service, the Governors and managers of prisons need not fear criticism from my office or any external inspection agency as they would be operating to best international practice. I will maintain my vigilance and will report as appropriate.**

Chapter 7

Deaths in Prison Custody

- 7.1 In my Report titled – *Guidance on Best Practice relating to the Investigation of Deaths in Prison Custody* dated 21st December 2010 (hereinafter referred to as the ‘Deaths in Prison Custody Report’) I pointed out that in this Country three concurrent investigations are carried out where a death occurs in Irish Prisons. These investigations have been and are carried out by An Garda Síochána, the Coroner having jurisdiction and by the particular prison as an internal investigation.
- 7.2 I am satisfied that the investigations by An Garda Síochána and the Coroner are robust, independent and meet best practice. However, these investigations are only two of the necessary elements in the investigation of deaths in prison custody as, in the first instance, An Garda Síochána are only concerned as to whether or not there is a criminal element to be investigated and in the second instance the Coroner’s investigation establishes certain statutory facts.
- 7.3 The third and necessary element is, what has been to date, the internal investigation.
- 7.4 In Chapter 2 of my Deaths in Prison Custody Report I gave an overview of the then current internal investigation procedures following a death in the custody of the Irish Prison Service.
- 7.5 In Chapter 3 of my Deaths in Prison Custody Report I outlined in detail the elements necessary to satisfy **Article 2 of the European Convention on Human Rights**. I referred to relevant decisions of the **European Court of Human Rights** in order to put in context the ingredients necessary for a proper investigation of all deaths in prison custody.
- 7.6 I concluded that the then current internal investigation did not meet the criteria for an independent investigation which would satisfy the elements (other than

those referred to in paragraph 7.2 of this Report) of Article 2 of the European Convention on Human Rights as explained in the case of **Jordan -v- United Kingdom** (Judgment of 27th June 2000, at para.105) stating that:-

“The internal investigation is neither robust, independent nor transparent”.

7.7 I stated at paragraph 4.5 of my Deaths in Prison Custody Report:-

“The European Court of Human Right’s current position is that the procedural obligation may be satisfied through a combination of processes. The requirements do not need to be satisfied through a single process. I am satisfied that provided the investigation processes taken as a whole fulfil the Jordan requirements the procedural aspect of Article 2 should not be violated”

7.8 In paragraph 4.7 of my Deaths in Prison Custody Report I suggested two solutions which, in my view, would satisfy the requirements of best practice. In paragraph 4.7(b), in addressing one solution, I stated as follows:-

“Continue with the present investigation procedure conducted by An Garda Síochána and the Coroner and put in place an independent investigative procedure which would be robust and transparent in gathering all evidence, identifying and questioning witnesses and ensuring that all aspects surrounding the death including, inter alia, the actions of or the non actions of prison officers and others are identified. Such an investigation procedure allied to the Garda investigation and an inquest would, in my view, satisfy the criteria laid down by the European Court of Human Rights in the case of Jordan -v- United Kingdom and would not fall foul of the procedural requirements of Article 2 of the Convention on Human Rights”.

7.9 On 19th April 2012 the Minister announced the setting up of an independent process for the investigation of all deaths in prison custody in the following terms:-

“The Minister for Justice, Equality and Defence Mr. Alan Shatter T.D. announced that, following consultations with Judge Reilly, Inspector of Prisons, it had been decided that the death of any prisoner in the custody of the Irish Prison Service shall be the subject of an independent investigation by the Inspector of Prisons. This is in addition and without prejudice to existing mechanisms in place for the investigation of deaths including Garda investigations and inquests by Coroners”.

“All deaths of prisoners, including those arising from natural causes or suicide, will be the subject of an independent investigation by the Inspector. This will apply to prisoners who are in the custody of the Irish Prison Service, whether or not the death actually occurs within the prison walls, and to prisoners who have recently been let out on temporary release. In the context of his investigations, the Inspector will consult, as appropriate, with members of the family of the deceased. Under Part 5 of the Prisons Act 2007, the Inspector of Prisons is independent in the performance of his functions and there is an obligation to publish his reports”.

The Minister, in a press statement, expressed confidence that the Irish Prison Service and other relevant public sector agencies would co-operate with and indeed welcome my involvement in this area.

7.10 I have commenced investigations of all deaths occurring since 1st January 2012. It goes without saying that I will investigate all deaths of prisoners who at the time of their death are in the custody of the Irish Prison Service whether or not they are ‘within the prison walls’. I will also investigate certain deaths which occur while prisoners are on temporary release. As a rule of thumb I

will investigate those deaths which occur within 14 days of their release on temporary release.

7.11 I accept that I do not have statutory backing for such investigations. Apart from the provisions of the Prisons Act 2007 and the Irish Prison Rules I do not have powers to enable me compel witnesses to co-operate or to demand disclosure of documents. **The Minister is aware of this and is committed to strengthening my powers in this regard in upcoming primary legislation.**

7.12 In a spirit of openness and in order that all interested parties appreciate how I intend fulfilling my mandate I deem it appropriate that I should set out in clear and easily understood terms what my *modus operandi* will be. In the light of experience it may be necessary from time to time to refine my investigative process. If this is necessary I will refer to such changes in appropriate reports.

The aims of death in custody investigations are to:-

- **Establish the circumstances surrounding the death.**
- **Examine whether any change in operational methods, policy and practice, or management arrangements would help prevent recurrence of a similar death or serious event.**
- **Address any concerns of the family.**

7.13 My procedure for the investigation of deaths is as follows:-

- (a) I will be informed of all deaths, whether occurring in custody or on temporary release, as soon as is practicable.
- (b) I have agreed protocols with the Irish Prison Service whereby I will be supplied with certain information which is wholly within the procurement of the relevant prison. These protocols are more particularly referred to in sub-paragraphs (c) and (d) hereunder.

- (c) Within 7 days of a death in custody the Governor of the relevant prison will furnish me with a file which will include 34 separate sections as per a check list that I have agreed with the Irish Prison Service.
- (d) If a prisoner dies while on temporary release the Irish Prison Service will furnish me with a file which will include 11 separate sections as per a check list that I have agreed with the Irish Prison Service.
- (e) I will, where relevant, make contact with the next of kin of the deceased to arrange a meeting. As a rule of thumb this initial contact will be made within 14 days of the death. If the next of kin wish to meet with me a mutually suitable date and venue will be agreed. At this meeting I will explain my role and my *modus operandi* to the next of kin. I will canvas the views and/or concerns of the next of kin. I will explain to the next of kin that I will, where relevant, maintain contact with them and will, at the conclusion of the process, meet again with them for the purpose of informing them of my findings.
- (f) A desktop review of all documentation which will include C.C.T.V. will be carried out. **The medical documentation will, where necessary, be reviewed by an appropriately qualified medical expert.** The purpose of this desktop review is to enable me make a determination as to the form of investigation that will be conducted. The views and/or concerns of the next of kin will be taken into consideration when such determination is being made.
- (g) Where appropriate I will interview persons that I deem relevant to my investigation, I will examine all evidence in a robust fashion and will conduct such other enquiries as I consider relevant. Where appropriate I will be assisted by relevant experts.
- (h) At the conclusion of each investigation I will prepare a report. This report will, where relevant, include findings and recommendations. In

writing my reports I will be sensitive as to what personal information of a deceased person is included in such reports.

- (i) The result of my investigation will be published in whole or in part. This requires a subjective decision being taken by me where the public interest is a factor which must be weighed against the sensitivities of bereaved families. In **paragraphs 7.15 to 7.25, I set out the procedures that I intend to adopt which I am confident will satisfy the 'transparent' element of my investigative process.**
- (j) As soon as I have finalised my report but subject to paragraph 7.24, I will meet with the next of kin and give them an oral briefing on my investigation, on my findings and on any recommendations that I make.
- (k) It is my intention that, unless unforeseen circumstances arise, all investigations should be completed within 6 months of each death. In the event that any individual investigation takes longer than 6 months I will communicate with the next of kin to inform them of the progress of my investigation and give them an approximate timeframe for the conclusion of same.

7.14 Subject to the qualifications referred to in paragraphs 7.20 and 7.21, my reports will address the following:-

- I will find the facts. The standard of proof that I will adopt will be the civil standard of proof – on the balance of probabilities.
- I will make findings.
- I will make recommendations.

7.15 The writing and subsequent publication of any report on a death in custody can, in certain circumstances, pose problems.

- 7.16 Where the Minister, under Section 31.2 of the Prisons Act 2007, requests me to investigate a particular death and to submit a report to him there are no difficulties as the submitted report will be published by the Minister. I would not consider myself bound to protect any sensitivities as all facts, findings and recommendations would be contained in my report. The overriding consideration would be a public interest consideration.
- 7.17 In some cases a family may press to have a report dealing with a single death published separately. This would not pose a difficulty. I would submit my report to the Minister. Again I would not be bound by issues of family sensitivities.
- 7.18 In other cases, what can be published may be restricted to avoid intruding unnecessarily on the privacy of the deceased and highlighting the death by the publication of a stand alone report which may only add to the distress of the family.
- 7.19 The public interest is a factor which must be considered when deciding whether or not to publish reports. Matters which could fall within the definition of public interest would include the following:-
- Abuse of prisoners' rights.
 - Systemic or operational failures.
 - Shortcomings in procedures.
 - If findings and recommendations could lead to best practice in the future.

This is not an exhaustive list.

- 7.20 The public interest must be weighed against the sensitivities of the family. There will be cases where the public interest and the sensitivities of the family must be given equal weight. In such cases I will submit a stand alone report

on the relevant death. My report will differ from that proposed in paragraph 7.14 in the following respects:-

- I will not identify the deceased by name, give details of his/her address or personal details which would not be relevant in the public interest.
- I will give brief details of the facts.
- I will not identify family members.
- I will make findings and recommendations provided they fall within the criteria of the public interest as set out in paragraph 7.19.

7.21 There will be cases where there will be no public interest requirement to publish a stand alone report. In such cases, unless there is a reasonable request from the next of kin that a stand alone report should be published, I will not submit individual reports but will refer to those deaths in an Annual Report which I refer to in greater detail in paragraph 7.25.

7.22 I will present each stand alone report to the Minister. Subject to Section 31.4 of the Prisons Act 2007 the Minister will publish such reports as soon as practicable. In this regard I have been assured that the publication of such reports will not be delayed. When published each report will be uploaded onto my web site – www.inspectorofprisons.gov.ie

7.23 I will co-operate with An Garda Síochána in their investigations. I will immediately inform An Garda Síochána if I uncover any matter of a potential criminal nature which should be investigated.

7.24 Prior to submitting each report to the Minister I will enquire as to whether a Garda investigation is still ongoing into each particular death. If a Garda investigation is ongoing I will advise the Minister of this fact when submitting my report to him. **I will further advise that my report should not be published until after the conclusion of the Garda investigation or the finalisation of any criminal proceedings whichever is the later.**

7.25 Each year I intend submitting an Annual **stand alone** Report to the Minister which will deal with deaths in custody or on temporary release during the previous 12 months. I will give numbers, short details of each investigation, relevant findings, relevant recommendations, outstanding investigations and any other matters that I deem relevant.

7.26 In order to ensure that findings and recommendations are acted upon I have agreed with the Irish Prison Service that the Service will maintain a log of all findings and recommendations. This log will be constantly updated. It will contain information on the actions taken to ensure compliance with such findings and/or recommendations. This log will be available to me or any other inspection authority on a quarterly basis and more often on request. **I recommend that the information recorded by this exercise should be published by the Irish Prison Service in it's Annual Report.**

7.27 I wish to point out that my investigative procedure is not a process to apportion blame. Rather, it is a process designed to establish the facts surrounding each particular death, to try to answer the reasonable questions raised by the next of kin and to make findings and recommendations.

However, if matters are disclosed in my reports which require further investigation by the Governor then, if culpability is found, consequences must follow.

7.28 I will liaise with appropriate Coroners as appropriate.

7.29 **I am satisfied that the combination of a Garda Inquiry and the Coroner's Investigation and Inquest coupled with my Investigation and subsequent Report will mean that this Country is in compliance with its national and international obligations and meets the strict criteria laid down by the European Court of Human Rights when interpreting the procedural requirements of Article 2 of the Convention on Human Rights.**

7.30 As the procedure for investigating deaths of persons in prison custody or on temporary release is new in this Country I will revisit my procedures in the light of experience. I would also welcome any constructive suggestions in this regard. If necessary I will revise my procedures and in that eventuality will publish such revised procedures.

Chapter 8

Prisoner Complaints

8.1 In my Report titled – *Guidance on Best Practice relating to Prisoners’ Complaints and Prison Discipline* dated 10th September 2010, I pointed out that the procedure in operation in Irish Prisons relating to prisoner complaints fell short in that it was neither fair nor transparent, did not attract public confidence and did not operate to best international standards.

8.2 In August 2011 the Minister asked me to provide a report on a prisoner complaints procedures model that could be introduced in Ireland which would:-

- **Meet the criteria of best international practice;**
- **Be viewed as fair and transparent; and,**
- **Attract public confidence.**

8.3 On 26th March 2012, I submitted a report to the Minister titled – *Suggested Prisoner Complaints Model for Irish Prisons* (hereinafter referred to in this Chapter as my “2012 Complaints Report”).

8.4 My 2012 Complaints Report was divided into Chapters as follows:-

In Chapter 2, I spelled out the importance of having a complaints procedure which would meet the requirements of the Minister as set out in paragraph 8.2 above.

In Chapter 3, I set out the necessary elements which must be included in a complaints system.

In Chapter 4, I referred to the research that I carried out in order that the model that I recommended in Chapter 8 could be said to comply with our

international obligations, our domestic obligations, would be fair and transparent and would meet best international practice.

In Chapter 5, I detailed the necessary independent element which must form part of any prisoner complaints procedure and made the case that this oversight should be vested in the Office of the Inspector of Prisons.

In Chapter 6, I gave the results of my research into the number of complaints logged in all prisons over a 12 month period.

In Chapter 7, I proposed that prisoners' complaints could be divided into four categories, as follows:-

Category A Complaints

These complaints would be the most serious. Examples of these complaints could include allegations of assault, racial discrimination, serious intimidation and serious threats by prison officers. Such complaints could, if upheld, result in a finding of criminal misconduct but either way would be considered as serious breaches of prison discipline.

Category B Complaints

These complaints could be classed as mid category complaints falling between serious complaints and minor complaints. Examples of these complaints could include allegations of discrimination, verbal abuse by officers and inappropriate searches. Such complaints, if upheld, could be considered as breaches of prison discipline.

Category C Complaints

These complaints which could be classed as minor would be at the low end of the spectrum. Examples of these complaints could include allegations of missing clothes, not getting post on time, not getting appropriate exercise. These complaints are more in the nature of 'service complaints' and would arise, in the main, where prisoners

were dissatisfied with the level of service in the prison or by a particular officer. If upheld they would not attract a criminal sanction and, except in extreme cases, would not attract disciplinary sanctions.

Category D Complaints

These would be complaints alleging misconduct or mistreatment by professionals providing services to prisoners such as doctors, dentists etc.

In Chapter 8, I suggested a model that could be introduced for the investigation of each category of complaint referred to above.

- 8.5 On 8th August 2012 the Minister in endorsing the general principles set out in my 2012 Complaints Report stated:-

“It is my intention that a comprehensive complaints system based on the model proposed by the Inspector be introduced but it would be unrealistic to expect immediate implementation for every complaint in all prisons.

The first priority will be to address that category of complaints which have given rise to most concern. These are what the Inspector refers to as category “A” complaints alleging serious ill treatment, use of excessive force, racial discrimination, intimidation or threats. Amendments to the Prison Rules will be introduced as soon as possible to provide that such complaints will be examined by investigators from outside the Prison Service to ensure an effective and impartial investigation. The complainant will be kept informed and their reports will be automatically submitted to the Governor in question, the Director General and the Inspector of Prisons. The Inspector of Prisons will have oversight of the process from the very beginning. Some amendments to Section 31 of the Prisons Act 2007 are required to facilitate a formal role in the appeals process for the Inspector of Prisons and to enhance his investigatory powers in

dealing with non prison personnel and obtaining access to medical records”.

The Minister went on to refer to all other categories of complaints as outlined in my Report in the following terms:

“The other categories of complaints are of importance to the day to day living conditions of individual prisoners. The proposals envisage a major cultural change in the way complaints are addressed and recorded within the prison system affecting several thousand individuals. I have directed that Michael Donnellan, Director General of the Irish Prison Service draw up an implementation plan by next spring with a view to having the new complaints procedure for every category of complaint up and running in all prisons within the 3 year time frame of the Irish Prison Service’s Strategic Plan”.

Procedures for Category A Complaints.

- 8.6 The Irish Prison Service sought expressions of interest from suitably qualified persons for inclusion on a panel of investigators who would investigate Category A complaints. After a competitive process 22 investigators were placed on this panel. These investigators are from varying backgrounds but all possess the qualifications necessary to investigate serious complaints. I am satisfied that the investigators are independent contractors.
- 8.7 All Category A complaints made since 1st November 2012 are now investigated by the investigators referred to in paragraph 8.6. A number of historical complaints emanating from St. Patrick’s Institution have also been assigned to such investigators.
- 8.8 The Irish Prison Rules have been amended in line with the commitment made by the Minister on 8th August 2012. I had many meetings with the Minister’s officials and the Director General of the Irish Prison Service and his officials during the drafting stages of such Rules. Briefly, the amended Prison Rules provide as follows:-

- The Governor on being notified of a Category A Complaint must arrange for relevant material including CCTV recordings to be preserved, arrange for the prisoner to be examined and any injuries or marks recorded and photographed where physical force is alleged, arrange for the names of prison staff and other potential witnesses to be recorded and advise the complainant that the complaint is being investigated and the procedures involved.
- Within 7 days of being notified of the complaint notify the Director General of the Irish Prison Service and the Inspector of Prisons.
- The Director General shall appoint an investigation team comprising one or more persons to investigate the complaint. The Inspector of Prisons will be notified of such appointments.
- The investigators' powers are not fettered in any way. They will have access to persons, records etc.
- If the investigation is not completed within 3 months an interim report must be submitted to the Director General documenting the progress made and the reasons why further time is required. The Inspector of Prisons will be furnished with a copy of this report.
- On completion a final report will be submitted to the Governor, the Director General and the Inspector of Prisons.
- The Governor shall make his/her findings on the basis of the report that:
 - (i) there are reasonable grounds for sustaining the complaint, or
 - (ii) there are no reasonable grounds for sustaining the complaint, or
 - (iii) it has not been possible to make a determination as set out at (i) or (ii) above.

The Governor must state the reasons for his/her finding.

- The Governor shall decide what action if any should be taken on the basis of the report.

- The Governor shall advise the complainant and any person against whom the complaint was made of the general outline of the report and advise them of his/her findings.
- There are rules for instituting disciplinary procedures.
- A complainant shall be advised that if he/she is not satisfied with the outcome of the investigation, he/she may write to the Inspector of Prisons and the Director General of the Irish Prison Service stating why he/she is not satisfied.
- Rule 57B(2)(12) of the amended Prison Rules states – *“The Inspector of Prisons shall have oversight of all investigations carried out under this Rule, shall have access to any material relevant to any such investigation and may investigate any aspect that he or she considers relevant”*.

8.9 As I pointed out in paragraph 8.5 the Minister is committed to amending Section 31 of the Prisons Act 2007 to facilitate a formal role in the appeals process for the Inspector of Prisons and to enhance his investigatory powers in dealing with non prison personnel and obtaining access to medical records. **I would urge the Minister to bring forward such amendments as a matter of urgency.** I will be happy to engage with officials from the Minister’s Department in this regard.

8.10 Pending the amendment of Section 31 of the Prisons Act 2007, I will use my oversight powers, set out in Rule 57B(2)(12) of the amended Prison Rules and referred to in paragraph 8.8 above, not only for the purpose of such oversight but to ensure that where a complainant writes to me on being dissatisfied with the outcome of an investigation that I will specifically take account of matters raised by the complainant when examining the full complaint file.

8.11 In my Annual Reports I will refer to the number of Category A complaints submitted in the previous year, the numbers dealt with, my involvement and my general assessment on the robustness of the complaints procedure. I do not intend, in this Report or in my Annual Report 2012, commenting on those

investigations that have commenced since 1st November 2012 as such investigations are only in their infancy.

- 8.12 Paragraph 101 of the Report of the United Nations Special Rapporteur on her Mission to Ireland (19th - 23rd November 2012) states:-

“The Special Rapporteurnoted with concern during her visit the lack of an independent and effective complaints mechanism for those in detention centres. She received information about instances of intimidation of prisoners who wish to make a complaint, particularly at St. Patrick’s Institution for Young Offenders. While she takes note that, as of 1st November 2012, serious complaints by prisoners are subject to independent investigation beyond the internal complaints procedure under the Inspector of Prisons, the Special Rapporteur is of the view that a fully independent complaints mechanism would be more effective and help to ensure that complainants are protected against acts of retaliation”.

In paragraph 111(r) the Special Rapporteur recommends that the Government:-

“Establish promptly an independent and effective mechanism to receive complaints from those in prison, such as an independent ombudsperson, and, in the meantime, address allegations of intimidation of those attempting to submit complaints of human rights violations in the current system”.

- 8.13 In my 2012 Complaints Report I stated that a high number of serious complaints were withdrawn by the complainants. Since 1st November 2012 where complaints are withdrawn the reason for such withdrawal is now investigated by the independent investigators referred to in paragraph 8.6. I am satisfied that, subject to paragraph 8.6, the second part of the recommendation of the Special Rapporteur referred to in paragraph 8.12 is being addressed.

8.14 I wish to point out that prisoners have a significant part to play in the complaints procedure. They should co-operate with the investigative process. It is understandable, having regard to the complaints procedure operating heretofore, that prisoners may be reluctant to engage in the process. It is necessary that not only prison management but that all officers must be proactive in assuring prisoners that complaints will be investigated in a proper manner. This will require a change in culture for many members of the prison service not least those in positions of management. It will also be necessary that the investigations themselves are perceived by prisoners to be fair. One of the essential safeguards will be that where complaints are withdrawn that the reasons behind the withdrawal of such complaints will be investigated.

Procedures for categories B, C and D complaints

8.15 I have already stated in paragraph 8.5 that the Minister has recognised that these categories of complaints are of importance to the day to day living conditions of individual prisoners. The Minister stated that the proposals contained in my 2012 Complaints Report envisage a major cultural change in the way complaints are addressed and recorded within the prison system affecting several thousand individuals. He stated that he had directed that Mr. Michael Donnellan, Director General of the Irish Prison Service draw up an implementation plan by this spring with a view to having the new complaints procedure for every category of complaint up and running in all prisons within the 3 year time frame of the Irish Prison Service Strategic Plan.

8.16 It is **as necessary**, that the relevant criteria for the investigation of these complaints are published, as it is, that the new procedures for the investigation of Category A complaints are set out in this Report. **I would urge that the Director General bring forward the timeframe for having a robust complaints procedure for category B and C complaints up and running in all prisons. In this regard I am willing to meet with the Director General to give what advice I can on questions of best international practice and on what would be expected of our prison service by external inspection agencies such as my office or the CPT.**

- 8.17 Category D complaints are, as I have set out in paragraph 8.4, complaints against professionals. These can only be investigated by professional bodies. Prison management must ensure that prisoners are given every assistance to enable them process such complaints.
- 8.18 Until such time as a new complaints procedure is introduced for category B, C and D complaints I will continue my oversight of the current procedures.
- 8.19 I have drawn attention in previous reports to deficiencies in the methods used by prison management when investigating these complaints. I do not intend reiterating either the deficiencies or the advice that I have given as to the methods that might be employed which would meet best practice. I will continue to monitor the investigation of such complaints and will report on such investigations as appropriate. I will consider it a serious matter if I discover that category B and C complaints are not being investigated as they should be by the prison authorities and that prisoners are not being assisted by the prison authorities in advancing category D complaints to the relevant professional authorities.
- 8.20 I have already stated that the Minister brought forward amendments to the Irish Prison Rules. In the light of experience it has become apparent that certain further amendments are necessary. I have been in contact with officials from the Minister's Department in this regard. **I would urge the Minister to bring forward such amendments as a matter of urgency.**
- 8.21 **My ability to have greater oversight of the entire complaints system has been strengthened by the extra resources that the Minister has sanctioned for my office. I refer to such resources in Chapter 6 of my Annual Report 2012.**

Chapter 9

Committal Areas

- 9.1 In Chapter 4 of my Annual Report 2010, I made the case for a Dedicated Committal Area for all remand/committal prisons in the Irish Prison system in the following terms:-

“Each prison that accepts new committals/remands should have a dedicated committal area which should be used for no other purpose. Such committal areas should be adequate to accommodate all new committals/remands. Local management should be consulted in this regard.

All new committals/remands to the prison should be assessed in the dedicated committal area. They should be seen by, *inter alia*, a doctor, a nurse, a governor, a chief officer, a chaplain and an industrial manager. Only after an appropriate assessment should such prisoners be accommodated either on a landing in the prison, in a specialist unit or transferred to another prison as appropriate. This assessment should not take longer than 24 hours.

The compelling reason for the provision of such an area is that it would, in so far as is humanly possible, eliminate the potential for an incident such as that which gave rise to the Commission of Enquiry set up after a death in Mountjoy Prison”.

- 9.2 The Director General and the Irish Prison Service accepted that Dedicated Committal Areas should be provided in accordance with the advice given in my Annual Report 2010.
- 9.3 I have engaged with the Irish Prisons Service in order to agree a common operating approach for all prisons which would meet the criteria set out in paragraph 9.1.

- 9.4 The physical characteristics of a Committal Area should be as follows:-
- It must be an area dedicated for its purpose and not used under any circumstances for accommodation, management or any other purposes.
 - The cells in committal areas should not be counted in the accommodation numbers for specific prisons as set out in Chapter 2 of this Report. In other words the numbers set out in Chapter 2 should refer to beds available for accommodation purposes only.
 - All cells in committal areas should be single cells with in-cell sanitation.
 - All staff working in committal areas should be appropriately trained as the demands on such staff differ from those encountered in general prison duties.
 - Appropriate records should be maintained in all committal areas.
- 9.5 The first Dedicated Committal Area in the Irish Prison system was opened in Mountjoy Prison on 30th March 2012. The bottom landing in C Division was identified as an area suitable as a committal area. It is separate from the rest of the prison. It is a completely newly refurbished area. It has 22 new single cells all with in-cell sanitation which is screened. The area is bright, is properly painted and clean. There is a separate, newly constructed, shower block for this area. There is a Class Office and facilities for the other ‘service providers’ in the area.
- 9.6 Over numbers of months I have been involved with the Irish Prison Service, the Governor of the prison and the stakeholders in agreeing a standard operating procedure for this Dedicated Committal Area.
- 9.7 The Standard Operating Procedure is, in effect, a set of rules which govern the procedures to be followed in the Committal Area. The main features of the Standard Operating Procedure in the Mountjoy Committal Area are as follows:-

- (a) When the prisoner first arrives at the prison he will be processed in Reception. This will include, *inter alia*, searching the prisoner, recording his property, recording any visible marks, the showering of the prisoner, supplying him with the booklet of information, supplying him with his prison kit bag etc.
- (b) The prisoner is then brought to the Committal Area where he will be facilitated in making telephone calls to his family. The prisoner will be issued with teabags, milk and a snack if he arrives outside normal meal times. Each cell is equipped with a kettle.
- (c) The prisoner will remain in the Committal Area overnight but will not remain there for more than 24 hours. This is referred to as the 'committal period'.
- (d) During the committal period referred to at (c) the prisoner will be seen and interviewed by, *inter alia*, the following:-
- The Governor
 - The Chief Officer
 - The Doctor
 - The Nurse
 - The Probation Service
 - The Chaplain
 - The ISM officer
 - The Industrial Manager
 - The Listeners
- (e) Each of the persons mentioned at (d) above would in addition to all other matters explain to the prisoner their particular role in the prison and how their particular service could be accessed.
- (f) A record of the salient parts of interviews by the Governor, the Chief Officer, the ISM officer and the Industrial Manager should be kept in a journal maintained by the Governor.
- (g) A record of the interviews by the Probation Service should be maintained by the Probation Service.

- (h) The nurses in consultation with the doctor (where appropriate) and any other persons that they might deem relevant to consult should prepare a risk assessment of each prisoner. Details of the interviews, relevant medical histories, medical notes etc. should be recorded in the medical files.
- (i) If, following the risk assessment, the prisoner is deemed to be a risk to himself or others an appropriate care plan to manage such risk must be formulated by the medical staff and recorded.
- (j) Subject to confidentiality issues the results of such risk assessments should be communicated to the Governor, if appropriate, together with the care plan referred to at (i) above.
- (k) The Governor in consultation with his/her management team will carry out a separate management assessment of the prisoner. The purpose of this assessment is to enable an informed decision be taken from a management perspective as to where the prisoner should be accommodated. A record of such assessment must be maintained in the prison.
- (l) Only after the assessments referred to at (h) and (k) and the care plan referred to at (i) (if appropriate) have been completed should the prisoner be moved to a wing in the prison, to the High Support Unit (referred to in Chapter 5), to another prison or elsewhere. The decision by the Governor as to where the prisoner should be accommodated must have regard to the result of the risk assessment and to any representations or recommendations made by any of the persons mentioned at (d) above.
- (m) All records already referred to should be available for inspection by the Inspector of Prisons or other inspection authority.
- (n) Subject to confidentiality issues the results of all risk assessments and all care plans should be available for inspection by the Inspector of Prisons or other inspection authorities.

- (o) The prisoner will be photographed, finger printed and issued with prison identity cards.
- (p) The prisoner will be issued with the relevant forms to nominate his visitors and to supply telephone contact details of those that he may wish to have recorded on his visitor's list and telephone cards.
- (q) The prisoner, if new to the prison, will receive a briefing on the geography of the prison, where facilities can be accessed and be given (where possible) an orientation tour of certain sections of the prison during a period of normal lock down.

9.8 The Standard Operating Procedure which has been agreed for the Committal Area in Mountjoy Prison shall, subject to slight local variations, be that which will operate in all relevant prisons.

9.9 I have had meetings with the Director of Operations of the Irish Prison Service and the management of all relevant prisons with a view to identifying appropriate areas in each individual prison to be used as dedicated committal areas. Where possible, time frames for the opening of such areas have been agreed. I set out hereunder the agreed arrangements for all relevant prisons:-

Arbour Hill Prison

As this is a transfer prison it is not necessary to have a Dedicated Committal Area.

Castlerea Prison

The old Assessment Unit has been identified as suitable as a Committal Area. Certain construction and refurbishment work is being undertaken. It is intended that the area will have 10 single cells all with in-cell sanitation. This is an ideal area as it is removed from the general prison.

Cloverhill Prison

It would not be feasible to have a Dedicated Committal Area in Cloverhill Prison due to the high numbers of prisoners passing through this facility as it

is a remand prison. In reality the total prison is a Dedicated Committal facility where risk assessments are carried out on all newly admitted prisoners.

Cork Prison

B1 Landing in Cork Prison has been identified as a Committal Area. This has 12 cells. None of these cells have in-cell sanitation. Neither the location of the Committal Area nor the type of cells are ideal as a Committal Area but I am satisfied that this is the best that can be achieved pending the building of the new prison. This Committal Area is operating since mid April 2013.

Dóchas Centre

Parts of the area know as 'The Medical Unit' will be dedicated as a committal unit. This is an ideal location. This will require certain reconstruction and refurbishment of the area. This work is due to commence in June 2013.

Limerick Prison

D2 landing has been dedicated as a Committal Area. The Committal Area is in operation.

Loughan House

As this is a transfer prison there is no necessity for a Committal Area.

Midlands Prison

The 15 cells on Landing C1 Right have been identified as the Committal Area for this prison. This is an ideal location. The Committal Area is in operation.

Mountjoy Prison

I have already referred to this prison in paragraph 9.5.

Portlaoise Prison

As this is a transfer prison a Committal Area is not necessary.

Shelton Abbey

As this is a transfer prison a Committal Area is not necessary.

St. Patrick's Institution

The 5 cells on landing B2 – House 1 have been identified as a Committal Area for this prison. I am satisfied that this is the most appropriate area in this prison. The Committal Area is in operation.

The Training Unit

As this is a transfer prison there is no necessity for a Committal Area.

Wheatfield Prison

The 16 cells on 8F have been identified as a Committal Area for this prison. I am satisfied that this is an appropriate location. This area is in operation.

General Comments

- 9.10 I have stated that there is no necessity for a Dedicated Committal Area in the transfer prisons. While this is true it does not relieve either the medical staff or management in the transfer prisons of their responsibilities towards those prisoners who have already been assessed in another or other prisons prior to their transfer.
- 9.11 The medical staff has an obligation to advise the Governor of any care plan (see paragraph 9.7(i)) that may be in existence and to any issues disclosed in the medical files which might be relevant to the decision of the Governor as to where a prisoner should be accommodated. Proper records of any advice given should be maintained in the medical records.
- 9.12 A management assessment, as referred to in paragraph 9.7(k), must always be undertaken even if the prisoner has been transferred from another prison where such a management assessment has already been carried out.
- 9.13 As with all new initiatives certain teething problems can be anticipated. This may well be the situation with the operation of the Dedicated Committal Areas. However, the Irish Prison Service has been particularly at pains to point out what is expected of a prison in operating a Committal Area. I will

pay particular attention to this on all future visits to prisons and will report as appropriate.

- 9.14 **The introduction of Dedicated Committal Areas in our prisons is a milestone which should, in so far as is humanly possible, eliminate the potential for an incident such as that which gave rise to the Commission of Enquiry set up after a death in Mountjoy Prison. It should also place this Country to the forefront of International Best Practice.**

Appendix A

SOP for the High Support Unit

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1. POLICY STATEMENT

- 1.1 This policy is developed to provide guidance to staff on the use of Higher Support Units within the Irish Prison Service.
- 1.2 The policy underpins procedures for the provision of a high standard of care to prisoners in our care, minimise risk associated with their health status and plan effective continuity of care. The HSU is a structured physical environment with increased provision for observation but it should not be regarded as a clinical area, a secure unit or a challenging behaviour unit.
- 1.3 The IPS has committed to providing areas within prisons where prisoners, with specified needs, will receive a higher degree of support from both discipline and healthcare staff to ensure that those in most need of monitoring receive the appropriate inputs. These areas, to be called Higher Support Units, are a structured physical environment with increased provision for observation.

2. AIM(S) OF THE POLICY

- 2.1 This document is intended to communicate policy and best practice on the use of Higher Support Units with the IPS.

3. PURPOSE

- 3.1 The HSU will provide increased observation by prison officers, support and short term targeted interventions by healthcare staff for those who:
- Require assessment of mental health status
 - Are in an acutely disturbed phase of a serious mental disorder
 - Require increased observation/support for a physical illness
 - The HSU is designed as a short term intervention, however, there may be times when due to the level of risk/ healthcare needs presented prisoners remain on the HSU for longer periods of time.

4. RESPONSIBILITIES

- 4.1 It is the Governor's responsibility to ensure that all staff are aware of this policy.
- 4.2 The CNO is responsible for ensuring that healthcare procedures relating to assessment, liaison with ACOs and the Chief Officer regarding the movement of prisoners and documentation are followed.

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4.3 It is healthcare staff's responsibility to react appropriately to the prisoner's healthcare needs, and ensure that all clinical risks are assessed and managed appropriately, whilst maintaining the prisoners right to confidentiality.

4.4 The number of prisoners admitted to the HSU should be consistent with the number of beds available and prisoners in the HSU should not be doubled up.

5. PROCEDURE

5.1 Referral, Assessment, Admission and Discharge

5.1.1 The HSU will operate a referral-based service which will accept referrals to the healthcare team from a number of sources within the prison, including but not exclusive to:-

- Reception officers
- Class Officers
- ACO/Chief Officers
- Psychology
- Chaplains
- Self referral from prisoners

5.1.2 A pre-admission assessment will be undertaken by members of the healthcare team in collaboration with Prison Management

5.1.3 Referrals can be made by phone call to a nurse/medic who will arrange for a complete assessment to be undertaken.

5.1.4 On completion of this assessment a decision is made by the healthcare staff regarding whether the prisoner will be admitted to the HSU.

5.1.5 All admissions will be authorised by a nurse/medic, GP or psychiatrist in consultation with Prison Management.

5.1.6 The Chief Officer or ACO on duty must be informed of the recommendation to transfer of a prisoner to the HSU, and operational clearance from the Chief Officer/ACO must be sought before any transfer takes place in order that safety from an operational perspective is maintained.

5.1.7 Medical Confidentiality is dealt with on a need to know basis and issues of placement and risks must be communicated to the staff on the unit.

5.1.8 All notes regarding the assessment, recommendation and placement of a prisoner in the HSU will be documented in detail by the assessing member of the healthcare staff on PHMS. Relevant risks and issues in regard to the prisoner's placement in the HSU must be communicated to the ACO/CO and the staff in the HSU. A checklist of suitability for local

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activities is to be completed by the assessing professional after each visit to ensure timely, accurate and appropriate communication to staff in the HSU regarding each prisoner.

5.1.9 A record of the referral, assessment & outcome will be documented in the prisoners PHMS record.

5.2 Assessment

5.2.1 The decision to admit a prisoner to the HSU may be made at any time during a prisoner's time in custody. This will be following a discussion with the GP/treating doctor, CNO and assessing clinician in collaboration with prison management. In situations of immediate risk, any member of healthcare staff can make this decision (in consultation with prison management), informing the doctor/psychiatrist & CNO as soon as possible thereafter. Operational clearance must be sought from the Chief Officer/ACO in all cases without exception.

5.2.2 The decision to admit a prisoner to the HSU and the underlying reason should be clearly documented in the PHMS and communicated to the prisoner at the time.

5.2.3 There are a number of reasons why a prisoner may be considered for placement in a Higher Support Unit. These include, but are not limited to:

- Where a prisoner presents a significant risk of causing harm to others.
- Where a prisoner presents a significant risk of causing harm to self.
- Where a prisoner shows a marked deterioration of mental state.
- Where there is a need for increased physical observation.
- Where a prisoner has a physical disability
- Where a prisoner has been determined to be vulnerable in the context of Intellectual Disability.
- Where it has been determined that it is necessary for a prisoner's psychological wellbeing.

5.2.4 At all times the decision to place a prisoner in the HSU should be made in the context of a care management plan which defines the prisoner's primary diagnosis, clinical needs, treatment goals and expected outcomes. It is not appropriate to routinely admit a prisoner to the HSU without consideration of individual needs and possible benefits.

5.2.5 It is expected that placement in the HSU should be as brief as possible in the circumstances of the case. This will be supported by the identification and implementation of measures to reduce the risks that any prisoner presents with to minimise the time spent in the HSU. It is recognised that some prisoners may require to remain in the Higher Support Unit on a longer-term basis.

5.3 Admission

5.3.1 Once the decision has been made to admit a prisoner to the HSU, this should be explained to the prisoner and if possible this admission should be voluntary. Where this is not

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possible, the use of appropriately trained officers may be required to relocate the prisoner, and this should happen in line with all local policies and procedures. A nurse/medic has to be present during this procedure to ensure patient safety and for assessment post forced relocation.

5.3.2 Any item deemed inappropriate for a prisoner to retain must be removed and should be clearly documented by prison officers and stored in a safe place for return to the prisoner when leaving the HSU.

5.3.3 Operational clearance must be sought from the Chief Officer/ACO in all cases without exception.

5.4 Management of HSU Stay

5.4.1 The main purpose of the High Support Unit is the provision of an increased level of supervision and observation in a safe environment. This is supported with increased clinical inputs from both nurses and doctors, and the HSU prisoners will be reviewed clinically on a daily basis at minimum, and at increased intervals if indicated.

5.4.2 It is expected that placement in the HSU should be as brief as possible in the circumstances of the case; although in some case this may be longer term.

5.4.3 Interaction with the prisoner should be active and engaging, with frequent verbal contacts to assist in ongoing assessment of the prisoner, rather than a passive custodial one. All prisoners deemed to be capable should continue to engage in the regular activities available to prisoners e.g. education, gym, workshops etc.

5.4.4 Prison routines such as access to telephone calls, visitors, legal visits etc. should be maintained unless there is clear instruction that these would pose a danger or not be in the best interest of the prisoner at that time. Any recommendation(s) that a prisoner should not be allowed avail of any normal privilege for clinical reasons should be clearly recorded by the clinician in the prisoner's PHMS record and also in the Daily Communication Journal in the HSU.

5.4.5 All clinical staff must give a verbal handover to the prison officers working in the HSU prior to their departure from the HSU, and record pertinent information, being cognisant of confidentiality, in a Daily Communication Journal.

5.4.6 While in the HSU, prisoners should have access to appropriate clothing to maintain their dignity. It is not acceptable to routinely cloth prisoners in the HSU in alternative clothing.

5.4.7 All staff entering the HSU will record their attendance in a daily attendance book for the HSU.

5.4.8 Protocols regarding information sharing and protection of client confidentiality will be developed. These will support the effective assessment and management of risk in the prison

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environment, especially with regard to prisoners who may present with complex and high levels of need. These protocols will extend to all agencies involved in the healthcare of prisoners in the HSU.

5.5 Review Process

5.5.1 During a prisoners time in the HSU, ongoing monitoring and regular reviews will be conducted.

5.5.2 Care will be delivered using a multidisciplinary model where all participants are equally regarded. The HSU will provide increased observation by prison officers, support and short term targeted interventions by healthcare staff.

5.5.3 All prisoners will have access to daily review by the GP as per normal prison routine. A prisoner can request to be seen by the GP himself or staff can raise a concern with the doctor which may lead to the GP seeing the prisoner.

5.5.4 Prison healthcare staff will attend the HSU during the day at allocated times to administer medication and/or attend to any healthcare issues arising with prisoners. They can also be contacted by HSU prison officers at any time to attend to any presenting healthcare issues.

5.5.5 The Prison Inreach Psychiatric Service should attend to review prisoners during the allocated psychiatric clinics each week.

5.5.6 Other professionals can attend to review/assess progress with any prisoner under their care as they deem appropriate.

5.5.7 A multi-disciplinary meeting will be held once per week to review the progress of each prisoner in the HSU. The agencies in attendance on a regular basis should include inter alia: IPS healthcare staff; ACO in charge of HSU; class officer from HSU; Consultant Psychiatrist; Chief Nurse Officer; Senior Probation Officer; Community Forensic Mental Health Nurse (where available); Forensic Registrar (where available). Other professionals may attend on a more infrequent basis and in the event of complex cases a case conference may be facilitated. All weekly meetings will be formally minuted and circulated to attendees.

5.5.8 Formal mental, physical and risk assessments will be conducted on a regular basis on all prisoners in the HSU by the clinical staff and same recorded in the prisoner's PHMS notes with all risks and pertinent information communicated to the HSU staff team.

5.5.9 Identification and implementation of measures to reduce the risks that any prisoner presents with will minimise the time spent in the HSU.

5.6 Prisoners with special needs

5.6.1 Prisoners in the HSU may require attention for a range of special needs. Those from non-English speaking background may require an interpreter for interactions such as

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assessment of their mental state, the provision of information about their rights and the opportunity to make their needs known.

5.6.2 Prisoners in a state of delirium may be unable to make their needs known, and it is important to remember their vulnerabilities and fluctuating nature of this problem.

5.6.3 Attention should be given to prisoners who require levels of physical observation/withdrawing from substances and their physical state should be monitored and managed as appropriate.

5.6.4 Other special needs should be managed as clinically indicated.

5.7 Exit from HSU

5.7.1 Assessment of the point at which a prisoner may be safely discharged from the HSU is a clinical decision to be made by the treating clinicians, and is based on a comprehensive assessment of risk. This decision will be taken by the respective treating clinicians. All decisions to discharge from the HSU will be recorded on the prisoner's PHMS record.

5.7.2 The Chief Officer/ ACO on duty must be informed of a proposed transfer of a prisoner out of the HSU in order that safety from an operational perspective is maintained, and the prisoner is returned to a suitable location within the prison.

5.7.3 Where a prisoner needs to be discharged from the HSU due to competing clinical priorities, the CNO must liaise with the respective doctor(s) in charge of the prisoner in the HSU to ascertain which prisoner(s) can be most suitably accommodated elsewhere within the prison. This process must be clearly documented and include liaison with the Chief Officer/ACO of the prison with regard to where this prisoner should be accommodated. A documented priority contingency list in this regard must be maintained by the Multi-Agency Meeting at their weekly meeting and this will be communicated by the various disciplines at the meeting to their respective colleagues. This priority list will be noted in the formal minutes of the meeting.

5.7.4. In line with safe assessment and management of risk, where a prisoner is returned to a normal location within a prison consideration must be given by the clinicians as to whether he or she needs to be placed on the Special Observation List as a step down process, at least until reviewed at the next Multidisciplinary Special Observation List review meeting. It is the healthcare staff responsibility to react appropriately to the prisoner's healthcare needs, and ensure that all clinical risks are assessed and managed appropriately, whilst maintaining the prisoner's right to confidentiality.

5.8 Staff Training

5.8.1 The IPS provides training for all Recruit Prison Officers on mental health awareness. Staff allocated to work in HSUs will be provided with initial and ongoing training in mental health awareness training, in order to collaborate positively with healthcare staff.

Appendix B

SOP for the use of the Safety Observation Cell

Irish Prison Service <i>Prison Name:.....Standard Operating Procedure</i>	Ref. No.: 05/06/2012
Title: IPS POLICY ON USE OF SAFETY OBSERVATION CELL	Page: Page 1 of 10

1. Policy Statement

- 1.0 This policy is developed to provide guidance to staff on the use of safety observation cells within the Irish Prison Service.
- 1.1 Safety observation cells must only be used in the best interest of the patient and only when a patient poses an immediate threat of serious harm to self and/or others and all alternative interventions to manage the patient's unsafe behaviour have been considered. The decision making process must be clearly documented on PHMS.

2. Aim(s) of the Policy

- 2.0 This document is intended to communicate policy and best practice on the use of safety observation cells within the IPS.

3. Scope of the Policy

- 3.0 This policy applies to all members of the healthcare team involved in the care and treatment of a patient placed in a safety observation cell. The policy also applies to prison management and prison officers with regard to the provisions of Section 64 (1) and Section 64 (5) of the Prison Rules 2007. For the purposes of Section 64 (1) of the Prison Rules, the Governor's authority to direct that a prisoner be accommodated in a safety observation cell is irrevocably delegated to medical practitioners and registered nurses only. Section 64 (5) provides that a patient placed in a safety observation cell "shall be observed by a prison officer at least once every 15 minutes while he or she is being accommodated in a special observation cell". Nothing in this policy will detract from that requirement. Indeed, the provision of Section 64 (5) is an essential component in managing patients placed in safety observation cells.

4. Definitions

- 4.0 The Mental Health Commission in accordance with section 69(2) of the Mental Health Act 2001 defines seclusion as:

“the placing or leaving of a person in any room alone, at any time, day or night, with the exit door locked or fastened or held in such a way as to prevent the person from leaving.”

However in a prison this definition cannot be taken as literal, as imprisonment, by its nature, requires people to be confined in a locked area and possibly alone. In keeping with the guidance from the rules governing the use of seclusion, it is taken to mean that a prisoner be removed from ‘general population’ and placed in a safety observation cell, where authorised by a registered nurse or medical practitioner.

5. General Principles Underpinning the Use of Safety Observation Cells

The following key principles should underpin the use of safety observation cells:

- 5.1 This intervention is used in rare and exceptional circumstances and only in the best interest of the patient when he or she poses an immediate threat of serious harm to self and/or others.
- 5.2 Services must be able to demonstrate that they are attempting to reduce the use of safety observation cells. This includes considering all other interventions to manage a patient’s unsafe behaviour before deciding to use safety observation cells.
- 5.3 Placement in a safety observation cell is not prolonged beyond the period which is strictly necessary to prevent immediate and serious harm to the patient and/or others.
- 5.4 This intervention is used in a professional manner and is based within an ethical and legal framework.
- 5.5 This intervention is used in settings where the safety of prisoners/patients and staff is regarded as being essential and equal.
- 5.6 Use of this intervention is based on a thorough risk assessment.

- 5.7 Use of this intervention is based on the best available evidence and contemporary practice.
- 5.8 Cultural awareness and gender sensitivity are demonstrated when considering the use of and when using this intervention.
- 5.9 If a safety observation cell is required, consideration must be given on a case-by-case basis as to whether the approach best meets the needs of a particular patient.

6. Orders for Placement in a Safety Observation Cell

- 6.1 The placement of a patient in a safety observation cell must only be initiated by registered medical practitioners and/or registered nurses. This first placement will cease when such placement is reviewed by a registered medical practitioner within a 24 hour period and the second period of placement then commences. No subsequent period of placement in a safety observation cell shall exceed 24 hours.
- 6.2 The registered medical practitioner responsible for the care and treatment of the patient must be notified by the registered nurse who initiated the use of the safety observation cell as soon as is practicable and this shall be recorded on PHMS. Any placement in a safety observation cell should only be initiated following a thorough assessment of the patient and comprehensive details of such assessment and the reasons for such placement should be recorded on PHMS.
- 6.3 If the use of a safety observation cell is initiated by a registered nurse:
 - a) It must only occur following an assessment of the patient, which must include a risk assessment.
 - b) He or she must record the matter on PHMS and on the safety observation cell register (see Appendix 1)
 - c) There must be a review of the patient, by a registered medical practitioner, in the safety observation cell as soon as is practicable and in any event no later than 24 hours after the commencement of the placement in the safety observation cell. The findings of this review must be recorded on PHMS.
 - d) After the medical review, the registered medical practitioner must discontinue the use of the safety observation cell unless he or she orders its continued use following discussion with the nursing staff. The registered medical practitioner must record the matter on PHMS and indicate on the safety observation cell register that he or she ordered or did not order the continued use of safety observation cell.

- e) If the registered medical practitioner orders the continued use of safety observation cell, he or she must also indicate the duration of the safety observation cell order on the safety observation cell register. A safety observation cell order must not be made for a period of time longer than 24 hours from the commencement of the safety observation cell episode.
- f) As provided for under Section 64 (12) of the Prison Rules 2007, the Governor will maintain a log of patients placed in safety observation cells and the registered medical practitioner will be required to sign this log and note specific issues/requests, as appropriate. Where the patient is reviewed by a Consultant Psychiatrist, the Consultant Psychiatrist should be requested to sign this register. In the event of a refusal by the Consultant Psychiatrist to sign the log, an officer should note on the log that the consultation has taken place and its duration, as set out in Section 64 (12) (f) and (h).

6.4 If placement in a safety observation cell is initiated by a registered medical practitioner:

- a) It must only occur following an assessment of the patient, which must include a risk assessment;
- b) He or she must record the matter on PHMS and indicate on the safety observation cell register that he or she ordered the use of the safety observation cell;
- c) He or she must also sign the log maintained by the Governor and note specific issues/requests, as appropriate.
- d) He or she must also indicate the duration of the safety observation cell order on the safety observation cell register. A safety observation cell order must not be made for a period of time longer than 24 hours from the commencement of the safety observation cell episode.

6.5 The safety observation cell register should also be signed by the Consultant Psychiatrist responsible for the care and treatment of the patient or the registered medical practitioner, as soon as is practicable, and in any event within **24** hours.

6.6 The patient must be informed of the reasons for, likely duration of, and the circumstances which will lead to the discontinuation of the placement in a safety observation cell, unless the provision of such information might be prejudicial to the patient's mental health, well-being or emotional condition. In the event that this communication does not occur, a record explaining why it has not occurred must be entered on PHMS. A note of any discussion with the patient will be entered on the patient's PHMS file. A note should also be inserted in the log maintained by the Governor, as provided for under Section 64 (12).

6.7 a) As soon as is practicable, and with the patient's consent or where the patient lacks capacity and cannot consent, the patient's next of kin or representative must be informed of the patient's placement in a safety observation cell and a record of this communication must be entered on the patient's PHMS file. In the event that this communication does not occur, a record explaining why it has not occurred must be entered in the patient's clinical file.

b) Where a patient has capacity and does not consent to informing his or her next of kin or representative of his or her placement in a safety observation cell, no such communication must occur outside the course of that necessary to fulfil legal and professional requirements. This must be recorded on the patient's PHMS file. The patient should be requested to sign a document indicating that he/she does not consent to informing his/her next of kin or representative. This signed document should be scanned onto the patient's PHMS file and attached to the log maintained by the Governor, as provided for under Section 64 (12).

7. Monitoring of the Patient during Placement in a Safety Observation Cell

7.1 The patient must be reviewed thereafter according to the requirements set out in Appendix 2.

7.2 The provision of Prison Rules Section 64 (5) provide for a patient placed in a safety observation cell to "be observed by a prison officer at least once every 15 minutes while he or she is being accommodated in a special observation cell". Each observation will be recorded in the log maintained by the Governor.

7.3 A registered nurse will review the patient at least every 2 hours. This must include a record of the patient's level of distress and his/her behaviour. If the patient's unsafe behaviour has abated, his/her release from safety observation cell must be considered.

7.4 Following a risk assessment, a nursing review of the patient in the safety observation cell must take place every 2 hours, unless to do so would place the patient or staff at a high risk of injury. During this review, a minimum number of staff members, one of whom must be a registered nurse, will enter the safety observation cell and directly observe the patient to consider whether the episode of placement in a safety observation cell can be ended.

7.5 A medical review must be carried out by a registered medical practitioner every 24 hours.

- 7.6 Where a patient is sleeping, clinical judgement needs to be used as to whether it is appropriate to wake the patient for a nursing or medical review. In such instances medical reviews may be suspended. Nursing reviews must continue every 2 hours; however the nature of the nursing review will be such that clinical judgement will be used to determine if the patient should be woken. A registered medical practitioner must be ***on call to carry out a medical review during the night, should the need arise.***
- 7.7 The patient's individual care and treatment plan must address the assessed needs of the patient in the safety observation cell with the goal of bringing the placement in the safety observation cell to an end.

8.0 Renewal of Safety Observation Cell Orders

- 8.1 For the purposes of Section 64 (7) of the Prison Rules, the Governor's authority to extend the period that a prisoner may be accommodated in a safety observation cell is irrevocably delegated to medical practitioners only. A safety observation cell order may be extended by an order made by the registered medical practitioner, (where possible in consultation with a Consultant Psychiatrist), following an examination, for a further period not exceeding 24 hours to a maximum of 3 renewals (72 hours) of continuous placement in a safety observation cell.
- 8.2 If a decision is made by the registered medical practitioner responsible for the care and treatment of the patient concerned, to continue the placement in a safety observation cell for a total period exceeding 72 hours, the Director General and the Director of Care and Rehabilitation must be notified in writing, in the form specified (see Appendix 4), and thereafter on a weekly basis.

The following must be included:

- a) the range of therapeutic options considered; and
- b) the reasons why continued placement in a safety observation cell is ordered.

Where it is considered that the patient should remain in the safety observation cell and is on a waiting list for the CMH, the following process will apply:

1. Renewal Order
2. Notification to Director of Care and Rehabilitation and Director General
3. The Director General notifies the HSE that the patient requires admission to CMH (but patient will not be certified)

The fourth and subsequent placement order should give the reason for extension as no available place in CMH for patient.

- 8.3 If a patient has seven or more safety observation cell orders over a period of seven consecutive days, the Director General and the Director of Care and Rehabilitation must be notified in writing, in the form specified (see Appendix 5), and included must be the following:
- a) the range of therapeutic options considered; and
 - b) the reasons why a safety observation cell has been repeatedly used over the period of time.

Any continued use of a safety observation cell must be notified to the Director General and the Director of Care and Rehabilitation in writing, in the form specified (see Appendix 5) on a weekly basis.

9. Ending Placement in a Safety Observation Cell

- 9.1 A registered medical practitioner may end a placement in a safety observation cell at any time following discussion with the relevant nursing staff.
- 9.2 Placement in a safety observation cell may also be ended at any time by a registered nurse, in consultation with a registered medical practitioner.
- 9.3 The patient must be informed of the ending of an episode of a placement in a safety observation cell.
- 9.4 The reason for ending a placement in a safety observation cell must be recorded in the patient's clinical file on PHMS. Subsequent to a placement in a safety observation cell, the patient concerned must be afforded the opportunity to discuss the episode with members of the healthcare team involved in his or her care and treatment. A step down facility offering greater observation should be considered for patients discharged from a safety observation cell.
- 9.5 The log maintained by the Governor must also record the decision by the registered medical practitioner or registered nurse (in consultation with a registered medical practitioner) to end an episode in a safety observation cell, as set out in Section 64 (12) (d).

10. Recording of Safety Observation Cell Episodes

- 10.1 All uses of safety observation cells must be clearly recorded in the patient's clinical file on PHMS.
- 10.2 All uses of safety observation cells must be clearly recorded on the *Register for Safety Observation Cell* (see Appendix 1)
- 10.3 A copy of the register must be scanned into the patient's clinical file and a copy must be available to the Inspector of Prisons upon request.
- 10.4 All safety observation cell episodes must also be recorded in a log maintained by the Governor.

11. Child Patients/Prisoners

Rules pertaining to children will be addressed in a separate SOP.

12. Clinical Governance

- 12.1 Placement in a safety observation cell must never be used to ameliorate operational difficulties including where there are staff shortages.
- 12.2 **The prison must maintain a written record indicating that all healthcare staff members involved in the use of safety observation cells have read, signed and understand the safety observation cell policy.**
- 12.3 Each episode of placement in a safety observation cell must be reviewed by members of the healthcare team involved in the patient's care and treatment. A team meeting must take place no later than 5 normal working days (i.e. days other than Saturday/Sunday and bank holidays) after the commencement of an episode of placement in a safety observation cell (whether the placement has ended or not). The team meeting discussion shall be documented in the patient's clinical file on PHMS.
- 12.4 **Information gathered regarding the use of safety observation cells must be held in the prison healthcare area by the CNO and used to compile an annual report on the use of safety observation cells at that prison. This report will be forwarded to the Director of Care and Rehabilitation by 31st January each year – detailing data on the use of safety observation cells for each institution for the**

preceding calendar year. This report must be available to the Inspector of Prisons or relevant authority as deemed necessary, upon request.

- 12.5 Each patient should be provided with information regarding his/her episode of placement in a safety observation cell by members of the healthcare team involved in his/her care and treatment, unless the provision of such information might be prejudicial to the patient's mental health, well-being or emotional condition. Where information is provided to the prisoner, a note should be recorded on the patient's PHMS file. In the event that this communication does not occur, a record explaining why it has not occurred must be entered in the patient's clinical file on PHMS.
- 12.6 Before deciding to use a safety observation cell, all attempts to manage a patient's unsafe behaviour and reduce the use of safety observation cells must be demonstrated in the patient's file on PHMS.

13. Review of Standard Operating Procedure

- 13.1 This policy will be subject to a review by the end of May 2015.

Appendix C

SOP for the use of Close Supervision Cells

Irish Prison Service Policy on use of Close Supervision Cells

1 - Policy Statement and Guiding Principles

- 1.0 This Policy is developed to provide guidance to staff on the use of Close Supervision Cells within the Irish Prison Service
- 1.1 Close Supervision Cells must only be used when it is necessary to protect the prisoner or others, to protect property, for reasons of security, for the proper management of the prison and /or to preserve good order and when all less restrictive methods of control have been or would, in the opinion of the Governor, be inadequate in the circumstances.
- 1.2 The intervention is to be used in rare and exceptional circumstances and for the shortest period possible.
- 1.3 These cells should under no circumstances be used for normal accommodation.
- 1.4 Prisoners who pose an immediate threat of serious **self** harm are not to be considered for relocation to Close Supervision Cells. When staff have any concern in this regard the issue should be referred, with immediate effect, to a member of the healthcare team involved in the treatment of prisoners.
- 1.5 In the event that discipline staff have a concern regarding an individual prisoner, for example a concern that a prisoner may have ingested drugs, the prisoner should be placed in a Close Supervision cell and an immediate request should be made to healthcare staff for an assessment. The decision will be made by the nurse or registered medical practitioner as to whether it is considered appropriate, on clinical grounds, for the prisoner to be transferred to a Safety Observation cell. All such details will be recorded on the patient's PHMS file.
- 1.6 Prisoners should never be placed in Close Supervision Cells as a form of punishment
- 1.7 Prisoners located in Close Supervision Cells should continue to avail of visits and phonecalls unless they have been formally withdrawn as a result of a breach of prison discipline.

2 - Aims of the Policy

- 2.1 The document is intended to communicate policy and best practice on the use of Close Supervision Cells within the Irish Prison Service. It should also make a clear distinction between Close Supervision Cells which are used for managing violent or distressed prisoners and Safety Observation Cells which are to be used only for medical health reasons.

3 - Orders for Placement in a Close Supervision Cell

- 3.1 The initial decision to place a prisoner in such a cell must be made at the grade of at least Assistant Chief Officer and then authorised by the Governor at the earliest possible opportunity. This authorisation is to take place at the latest on the same day the initial placement occurs. Once the initial decision is made it is in effect for a period lasting no longer than 24 hours.
- 3.2 When a prisoner is relocated to such a cell an "Inmate Relocation Form" must be completed and returned to the Chief's Office. All such placements must be recorded centrally in the Close Supervision Log (a template of which has been provided to All Governors) which should also set out the reason behind the relocation.

4 - Clothing

- 4.1 The Governor may require a prisoner's clothing, including underwear, to be removed before the prisoner is accommodated in this type of cell where he or she considers that items or parts of the prisoner's clothing may be used by the prisoner to harm others, to cause significant damage, and such removal of clothing shall be carried out with due regard to decency and the dignity of the prisoner.
- 4.2 No prisoner shall be left unclothed in a Close Supervision Cell but may be provided with appropriate prison issue clothing and footwear which should be freshly laundered.

5 - Monitoring of the Prisoner while in the Close Supervision Cell

- 5.1 The prisoner should be seen by a Doctor as soon as is practicable after the placement in the Close Supervision Cell. The Doctor must record his or her observations of the prisoner and any requests or complaints made. If an allegation of assault is made the Doctor shall note and document the complaint and any sign of injuries and have photographs taken of such injuries. If the Doctor advises that the prisoner should instead be accommodated in a Safety Observation Cell this move should take place as soon as possible.
- 5.2 While in this type of cell the prisoner must be observed every 15 minutes
- 5.3 The Prison Governor and Doctor must visit each prisoner accommodated in a Close Supervision Cell on at least a daily basis
- 5.4 No prisoner is to be unlocked by one officer alone and the prisoner is to be closely monitored during time of unlock
- 5.5 Officers are to be present in the Close Supervision Cell when the prisoner is being visited by any person other than a prison officer. This includes visits by a Doctor,

however, every effort should be made to ensure that privacy and confidentiality is maintained during clinical consultations.

6 - Review of Orders

- 6.1 A new Order may be given after the initial period of 24 hours once a local review has taken place by the Governor and he or she is satisfied that the prisoner still requires such placement in accordance with the conditions set out at 1.1. above. Each such further direction will remain in place for a maximum period of 24 hours.
- 6.2 If the prisoner is accommodated in a close supervision cell for longer than 5 days, the Governor shall submit a report to the Director General explaining the reasons for same . The Governor may further extend this period but only after receiving written authorisation from the Director General for such an extension every 24 hours thereafter.

7 - Ending of Placement in Close Supervision Cell

- 7.1 The decision to remove a prisoner must be made and recorded by the Governor following a local review.

8 - Close Supervision Cell Log

- 8.1 The following information should be recorded in the Close Supervision Log (referred to at 3.2 above):
 - The date and time of the commencement of the Order
 - The reasons for transfer to the Close Supervision Cell
 - The person who authorised the transfer
 - The reasons why the Governor required a prisoner's own clothing to be removed and replaced with prison issue clothing
 - The time and duration of all visits to the Cell where the prisoner is located, including those by the Governor, Prison Doctor and any other member of staff
 - The prisoner's demeanour must be recorded by the officer completing and initialling the appropriate time section in the Close Supervision Log.

- Details of the daily local review into the case which is to include the view of the Governor as to whether a further Order should issue
- Details of any extension of the Order granted by the Governor
- Details of any subsequent Order to grant an extension by the Director General along with the reasons given by the Governor as to why the extension was necessary
- any request or complaint made by the prisoner
- the exercise yard and toilet area are to be checked before and after any period of exercise and the comments of the officer undertaking this check are to be recorded
- the temperature of the cell must be taken and recorded twice daily
- Any other significant occurrences and any other comments or observations of the Governor
- The date and time that the prisoner was removed from the Close Supervision Cell and the person who made this decision

9 - Review of Standard Operating Procedure

- 9.1 This Policy will be subject to a review by the end of 2012