

Report on an Inspection of St. Patrick's  
Institution by the Inspector of Prisons  
Judge Michael Reilly

26<sup>th</sup> June 2012

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Inspector of Prisons Judge Michael Reilly**

Presented to the Minister for Justice and Equality pursuant to  
Part 5 of the Prisons Act 2007.

Judge Michael Reilly  
Inspector of Prisons

26<sup>th</sup> June 2012

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## **Acknowledgement**

I would like to thank the many people both in St. Patrick's Institution and elsewhere who spoke openly to me, who shared their experiences with me and who outlined their concerns to me. For reasons that are obvious such names must remain anonymous.

I would also like to thank my small team – Ms. Larkin, Ms. Slattery and Mr. Byrne for their help and dedication. As a team we worked long hours, sometimes unsocial hours, and for that I thank them.

Judge Michael Reilly  
Inspector of Prisons

26<sup>th</sup> June 2012

## Chapter 1

### **Introduction**

1.1 This Report is the culmination of a thorough investigation into all aspects of St. Patrick's Institution (hereinafter referred to as St. Patricks) carried out over a considerable period.

1.2 The Mission Statement of the Irish Prison Service for the period the subject of this Report was:-

*“...to provide safe, secure and humane custody for people who are sent to prison....”*

1.3 A combination of, *inter alia*, weak management, the culture in the prison, the inattention to human rights norms, prisoners on protection and the prevalence of drugs means that St. Patricks has not lived up to the mission statement of the Irish Prison Service.

1.4 **Paragraph 1.3 is not to be taken as an indictment of the vast majority of officers who, in the course of their work, show respect to and understanding of the prisoners in their care. They act in a professional manner when at times circumstances can be very challenging.**

1.5 Chapter 2 gives an overview of the prison, its services and regimes.

1.6 Chapter 3 sets out in stark detail major concerns relating to St. Patricks.

1.7 On the 23<sup>rd</sup> May 2012, I briefed the Director General of the Irish Prison Service, the Campus Governor of the Mountjoy Complex and the Governor of St. Patricks on my serious concerns detailed in Chapter 3 and on a number of

the issues referred to in Chapter 2. I set out in Chapter 4 the responses of the Irish Prison Service and local management to such concerns and issues.

1.8 I set out my conclusions in Chapter 5.

## **Chapter 2**

### **An overview of St. Patricks, its services and regimes**

- 2.1 St. Patricks was established in 1904 in Clonmel. It moved to the present site in 1956. It now caters for male persons aged between 16 and 21 years. In reality it is two separate entities - B Division for children aged 16 and 17 years and C and D Divisions for adults aged 18 to 21 years. Another area known as the Unit caters for one section of prisoners who, because of the nature of their particular crimes cannot be accommodated with other prisoners. The Unit caters for both children and adult prisoners.

The grounds of St. Patricks are well maintained.

#### **Detention of children in St. Patricks**

- 2.2 The detention of children in St. Patricks has been consistently criticised since 1985 when, in the report of the Committee of Enquiry into the Penal System, the Chairman Dr. T.K. Whittaker recommended the closing of St. Patricks as soon as possible. His report stated that:-

*“Rehabilitation is not possible as the physical and environmental conditions are such as to nullify any personal developmental programmes. The facilities and services required could not be provided even in a renovated St. Patricks”.*

- 2.3 The detention of children in St. Patricks has also been criticised by the United Nations Committee on the Rights of the Child, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Committee on Social Rights, the Council of Europe Commissioner for Human Rights – Thomas Hammarberg and my office.
- 2.4 On the 2<sup>nd</sup> April 2012 Frances Fitzgerald TD Minister for Children and Youth Affairs stated that she had secured funding to end the detention of children in St. Patricks. I welcome this significant announcement.

- 2.5 Commencing on 1<sup>st</sup> May 2012 all newly remanded or sentenced 16 year olds will be detained in the children's detention facilities at Oberstown. Within a period of 2 years it is the intention that all those under 18 years of age who need to be detained will be sent to dedicated child specific facilities on the Oberstown Campus. This in effect means that by May 2014 all children will have been removed from St. Patricks.
- 2.6 It is clear from my findings in this Report that the detention of children in St. Patricks should end as a matter of urgency. It is my view that the timeline for ending the detention of children (May 2014) should be revisited.
- 2.7 There is another practical reason why the detention of children in St. Patricks should be discontinued as a matter of urgency. At present 16 and 17 year old children are detained in B Block. This has accommodation for 44 prisoners in single cells all with in-cell sanitation. It also has excellent school, vocational training and indoor recreation facilities. As of 14<sup>th</sup> June 2012 there were 2, 16 year old children and 17, 17 year old children in St. Patricks. It is anticipated that this number will probably level out at between 17 and 22 children when the 16 year old children are moved to the children's detention facilities at Oberstown (paragraph 2.5). Children cannot be accommodated, engage in educational and vocational training or participate in recreational pursuits with adults. Therefore, from the date that the 16 year olds are moved approximately half the accommodation in the B Division will be vacant at a time when all prisons are experiencing severe overcrowding. The schools, workshops and recreational areas will also only be used to 50% of their capacity. Therefore, there will be resource implications for the Irish Prison Service not alone in the management of man power but in the provision of education, vocational training and recreation to a small cohort of prisoners.

### **Accommodation in the prison**

- 2.8 There are 44 single cells on B Division. There are 81 single cells on C Division together with one three person cell. There are 76 single cells on D Division. There are 14 single cells in the Unit. All cells have in-cell

sanitation. There is one Safety Observation Cell and one Close Supervision Cell in the Unit. The maximum capacity of the prison is 218.

- 2.9 The prison is not overcrowded.
- 2.10 On many of my visits to the prison many of the cells were dirty, needed painting and did not have adequate furniture. Many other areas were dirty, unhygienic and with broken equipment.
- 2.11 On a number of my visits cells in the Unit were cold. Some had broken windows. I recorded temperatures of 16°C.
- 2.12 The Safety Observation Cell has the characteristics of the old padded cell. It meets all of the requirements of a Safety Observation Cell. The interior of the Close Supervision Cell is of a Velstone finish which is hard wearing and durable. This cell meets the requirements of a Close Supervision Cell.
- 2.13 There are inadequate records relating to the detention of prisoners in the Safety Observation and Close Supervision Cells covering the period under review.
- 2.14 On the 26<sup>th</sup> August 2010, I presented a report to the Minister titled – ***Report of an investigation on the use of ‘Special Cells’ in Irish Prisons.*** This report was published on the 22<sup>nd</sup> October 2010 and gave guidance as to the use to be made of Safety Observation Cells. On all of my visits to St. Patricks, when I had occasion to examine the records maintained for the Safety Observation Cell, I brought to the attention of management that in the majority of cases this cell was being used for management purposes. I pointed out that this was not in accordance with best practice. **I am sorry to report that my advice was ignored.**

### **Recreational facilities**

- 2.15 There are four yards for exercise – one for children (B Yard), one attached to the Unit, the C Yard and the D Yard. The C Yard has now been taken out of

commission. The reason for this is the quantity of drugs and contraband being thrown into this yard from outside the prison.

- 2.16 All yards are drab. Prisoners mostly congregate in groups in the yards as there is rarely any structured activity for the prisoners.
- 2.17 There are adequate indoor recreational facilities for both children and adults in St. Patricks.
- 2.18 There are four gyms - one for children, one in the Unit, one in C Division and one in D Division.
- 2.19 There is a well-equipped modern sports hall in St. Patricks.
- 2.20 The time spent in the yards and in the recreational areas differs depending on whether prisoners are on protection or not. Prisoners on protection are entitled to a minimum of one hours exercise each day. In certain cases prisoners on protection do not get this minimum exercise. Weather conditions, the numbers on protection, the presence of gangs and the difficulties associated with keeping these gangs apart also means that prisoners may get limited access to the yards.
- 2.21 Young persons between the age of 16 and 21 years need exercise and fresh air. They can avail of both while in the community. When such persons are in prison it is essential that they receive this exercise. If these young people do not receive exercise this leads to – frustration, to fighting and to other forms of anti-social behaviour.
- 2.22 The prisoners in St. Patricks do not have the capacity to organise structured activity for themselves while “exercising” in the yards. Even if they did have the capacity the lack of such aids as footballs etc. militates against the organisation of any activity.

2.23 It is wrong to observe children aged 16 and 17 years old standing in corners of yards either talking in groups or silently on their own when they should be engaging in active sports.

### **Workshops**

2.24 There are a number of workshops operating in St. Patricks as follows:-

- Painting and decorating. This is available to the adult prisoners. Up to 4 prisoners can be engaged at any one time. This leads to accreditation from City and Guilds.
- Industrial Skills. This is no more than framing and embroidery – arts and crafts. It does not lead to accreditation. Most of the work produced goes to charities such as the Special Olympics etc. Up to 4 adult prisoners can be accommodated.
- Woodwork. This is available to the children. It is open approximately 85% of the time and can accommodate up to 8 prisoners provided there are sufficient officers on duty. It leads to accreditation from City and Guilds.
- Industrial cleaning. This workshop can train up to 5 adult prisoners. It leads to accreditation from BISCS.
- Computer workshop. This can accommodate up to 10 adult prisoners mostly from the C Division. Pre-ECDL courses are completed. Accreditation is from SQA. At present online testing is being extended to this workshop. This workshop produces a considerable amount of work for charity and is much in demand.
- The laundry. This can accommodate up to 8 adult prisoners. It does not lead to accreditation.
- The main kitchen. This accommodates up to 8 adult prisoners and leads to a basic food hygiene certificate awarded by FSAI. The kitchen has won many awards.
- Basic food. This teaches children cooking skills, kitchen hygiene, the nutritional value of foods, waiting at table' skills and the value of

different foods. This facility can accommodate up to 7 on any one day. It is a sought after and very worthwhile workshop.

- There are cleaners on all landings.

A general criticism from all workshops is that supplies for the workshops are not delivered on time.

The supervisors and officers in all workshops are a dedicated group who take a personal interest in the development of the people in their care.

### **Kitchen**

- 2.25 The kitchen has modern equipment. It operates a 28 day rolling menu for prisoners. It receives awards for its excellence. Prisoners can achieve accreditation in basic food hygiene from FSAI.
- 2.26 The diet of prisoners is well attended to. While certain prisoners might complain about the food I am satisfied that, in this regard, the prison fulfils that which is required of it.
- 2.27 Prisoners get their last meal at approximately 4pm. They then get supper at approximately 7pm. Many prisoners complain that they are hungry as it is approximately 16 hours between their last substantial meal in the day and breakfast the following morning.

### **Laundry**

- 2.28 The laundry is well equipped with modern equipment. Unfortunately it does not lead to accreditation.

### **School**

- 2.29 There are two schools in St. Patricks – the old school which caters for prisoners aged 18 to 21 years and the B School which caters for children aged 16 and 17 years. Both schools are large enough and well equipped for purpose. I stated in paragraph 3.6 in my report titled – *The Irish Prison Population an examination of duties and obligations owed to prisoners* dated

the 29<sup>th</sup> July 2010, that an independent education audit should be commissioned by the Irish Prison Service.

- 2.30 I have been unable to reconcile my observation of the small number of prisoners who appear to attend education with the published statistics of same.
- 2.31 On all of my visits to the prison when I had occasion to visit the schools prisoners did not present at the schools until approximately 10am and at times much later. On all occasions there was a break from schooling from approximately 11am to 11.20am (at times later) and prisoners were returned to the prison at approximately 11.50am. The schools again operated from approximately 2.15pm until approximately 3.45pm. This is at variance to paragraph 2.35(d).
- 2.32 Prisoners in the Unit do not attend the school. Art classes are conducted for prisoners in the Unit on 3 to 4 days per week. I have been informed that other education such as literacy and numeracy education are available to prisoners in the Unit but I have not been able to verify that this is the situation. In fact **all prisoners** in the Unit complain that apart from Art they receive no further education.
- 2.33 Prisoners on protection do not go to school. I have been informed that teachers are deployed throughout the prison in those areas where prisoners are on protection to provide education. I have not seen this in practice. Prisoners on protection complain that they do not receive any education while on protection.
- 2.34 It is a fact that a significant number of prisoners have had little or no education prior to their committal to St. Patricks with many unable to read or write. This may be seen as an indictment of society. In St. Patricks I met many prisoners who complained that they would leave without in any way having bettered themselves. Prisoners in other prisons who had spent their earlier life in St. Patricks told similar stories. I am satisfied that this is true. **It is an**

**indictment of St. Patricks that many prisoners leave without having had a chance to better themselves.**

2.35 The independent education audit referred to in paragraph 2.29 has been completed. This audit makes the following points:-

- (a) The Prison Education programme in St. Patricks is provided under the auspices of the Dublin Vocational Education Committee (CDVEC).
- (b) The Education Centre in St. Patricks at the date the audit was completed had an allocation of 20 whole-time equivalent teaching posts. 10 teachers worked in the centre on a full time basis, while the remainder were part-time, job sharing or working between different Dublin prisons.
- (c) The present school buildings and the present services are adequate and fit for purpose.
- (d) The official length of the 'school day' is currently 4 hours and 30 minutes.
- (e) The prisoners are very young, impressionable and vulnerable who come from poor socio-economic backgrounds, may be early school leavers and have addiction or mental health issues.
- (f) The effective management of the learners is both challenging and demanding and many of the learners present with difficult behavioural issues, the majority having had negative experiences of community-based education.
- (g) There are days when the teachers are not in a position to fulfil their contractual hours due to non-attendance of learners or unplanned closures. Operational issues regularly impact on the opening and closing times of classes and workshops and on the numbers in attendance on any given day, with the school depending on IPS staff to escort learners to and from classes. Reasons for such interruptions include attendance at alternative activities (e.g. programmes addressing offending behaviour or vocational training), visits to the doctor/dentist, or visits by family or friends.

On other occasions the learners may be on temporary release or may be absent due to health or addiction issues. In these cases the teachers are rarely informed in advance of such absences where such would be known to the prison authorities.

- (h) According to the official attendance figures as supplied by IPS the average attendance in the school for the month of March 2011 was 44.7%. A sample week dating 21<sup>st</sup> - 25<sup>th</sup> March indicated 95 learners participating in education out of an overall prison population of 225 i.e. 42.2%. IPS relies for its information on figures provided by the Education Centre in St. Patricks.
- (i) According to the official figures which are provided by the Education Centre in St. Patricks referred to at (h) above a sample attendance over 5 days in March 2011 indicated that 16 teachers were in attendance on the Monday morning. However, the author of the audit was independently supplied with attendance figures for the same period by the Education Centre which indicated that on the same Monday morning only 9 teachers were in attendance. The audit concludes that:– ***“the reasons for such wildly inconsistent data are not understood and it is unclear what the actual attendance figures are for either teachers or learners”***. The audit goes on to point out that:– ***“The current system in place for recording attendance in all prisons, including St. Patricks, does not take into account how many subject areas the learner has attended per session, i.e. class duration.***
- (j) The audit concludes that:–

***“The methodology of data gathering is flawed and jeopardises the validity and reliability of IPS and Educational Centres’ research and statistical analysis. A new system for recording attendances needs to be created and standardised across all prisons and should reflect the number of classes and days the unique learner attends, the actual time a learner spends in each class, if it is a class leading to accreditation and if so, then at what precise level. The new system should allow***

*presentation of participation figures as a percentage of the overall population as well as the sub-population who are actually available for education.*

*.....it is recommended that CDVEC now undertake a root and branch review of learner outcomes in St. Patricks.*

*CDVEC should revisit its mission statement as part of this process and take on board the tenets of Article 40(1) of the United Nations Convention of the Rights of the Child. The two education centres in St. Patricks require different strategic planning approaches. It is now necessary for all the partners in the process, including the IPS, the VEC and the head teacher to sit down and agree a more comprehensive centre plan and education programme for the two centres.*

*..... The head teacher and the teaching staff should set about developing a more systematic and strategic curricular programme that will attract learners to education and benefit them..... As things stand, many learners are studying options that do not lead to accreditation.*

*..... CDVEC along with all other VECs involved in prison education should introduce a teacher mobility policy aimed at rotating staff across various educational settings at appropriate stages in their careers and on a planned basis. A number of teachers at St. Patricks and in other prisons have been teaching in prison education for very long periods and could benefit from opportunities to work in other educational environments, notwithstanding notable contributions to prison education in some cases”.*

- 2.36 The CDVEC responded to the audit. In certain respects, including the methodology used, the CDVEC has criticised various aspects of the audit.

- 2.37 The audit confirms my findings as set out in paragraphs 2.30 to 2.34. I endorse the findings in this audit.
- 2.38 I should point out that the findings of the audit referred to in this section or my observations referred to in paragraphs 2.30 to 2.34 should come as **no surprise** to those providing education in St. Patricks in that the Ombudsman for Children in her report – **Young people in St. Patrick’s Institution** published in 2011 highlighted many of the issues raised in the instant audit and in this Report. Her report was not acted on.
- 2.39 It is clear from this section that the provision of education in St. Patricks depends on a number of agencies working together, namely – prison management, the management of the Education Centre, DCVEC and others detailed in the audit.
- 2.40 **For future inspections of St. Patricks and all other prisons I intend exploring the possibility of having, as part of my inspection team, experts in the field of education in order that any subsequent report will have within it a section on the education being provided based, not only, on my observations but backed up by a professional assessment of that which is being provided.**

### **Healthcare of prisoners**

- 2.41 There is a fully equipped surgery in St. Patricks. The Institution has the services of a General Medical Practitioner who attends each morning and at other times on request. A Consultant Psychiatrist, a Registrar and a Nurse attend from the Central Mental Hospital. There is a full time Psychologist. There is a Chief Nurse Officer, 6 Nurses and 2 Medics.
- 2.42 I am satisfied that all healthcare staff act in a professional and caring manner, operating under very difficult circumstances and conditions at times.
- 2.43 There are a number of sex offenders in St. Patricks. A youth sex offenders’ programme has been developed in the prison. This, unlike the sex offenders’

programme in Arbour Hill Prison, is designed specifically for young offenders. It is now in its third year of operation and originally operated under the umbrella of POBAL. I am satisfied that this programme is working successfully.

- 2.44 The psychology service in the prison is over stretched. Therefore, a significant proportion of the Psychologist work consists of crisis management. In 2011 the Psychologist received 145 referrals and met 115 prisoners. The Psychologist is an integral part of the multi-disciplinary team which provides healthcare and support to prisoners in St. Patricks.
- 2.45 Consideration should be given to replicating a number of programmes at present operating in Wheatfield Prison in order that the young people incarcerated in St. Patricks could take greater responsibility for their own personal development. The promotion of knowledge of healthcare and principally primary healthcare should be more creative.
- 2.46 It is important that those outside contractors who are providing healthcare in St. Patricks should not be curtailed in the healthcare that they provide by reason of officers not being available to escort them to various parts of the prison.
- 2.47 On occasions it is necessary for prisoners to be sent from the prison to the out-patient departments of hospitals for urgent medical treatment. In all cases such referrals are made by the prison doctor or other like professional.
- 2.48 I received anecdotal evidence from prisoners and other sources that such referrals (paragraph 2.47) were often delayed for hours or days. Because of medical confidentiality issues I do not have access to the prisoner medical files. Consequently, I was unable to verify whether or not this was the reality of the situation.
- 2.49 I commissioned a snapshot review of the healthcare provided in St. Patricks. This review was carried out by **Dr. Ide Delargy MB, MICGP, MRCGP**. Dr.

Delargy is the Director of the Substance Misuse Programme at the Irish College of General Practitioners and National GP Coordinator for the HSE Addiction Services.

This review limited itself to the minimum standards of documentation and clinical standards expected in a primary care setting. This review is comprehensive.

The review found that:– *“The quality of the medical records was of a high standard. Entries were generally made in a timely fashion and were legible, appropriate and easily retrievable. The prison doctor made regular and appropriate entries with clear instructions and directions when necessary. It was evident from the medical records that when the prison doctor ordered specific medical investigations or directed that a patient be monitored in a particular way, his instructions were carried out appropriately e.g., blood sugar monitoring in a diabetic patient”*.

The review confirmed the anecdotal evidence referred to in paragraph 2.48 stating that:– *“These delays are completely unacceptable and carry potential serious risks for patients if their medical condition is not addressed in a timely fashion”*.

The author of the review makes the important point that decisions relating to the treatment of prisoners, as authorised by a doctor, are, in many cases, taken by prison personnel for operational reasons stating as follows:-

*“Of additional concern with regard to these delays was the fact that the decisions not to facilitate a prisoner in getting to hospital were made by operational, non-clinical staff. These decisions appeared to be based purely on operational grounds without any recognition of the severity or otherwise of the clinical condition. This is an issue which requires urgent attention and resolution”*.

The review also deals with other important issues where **present practices are unacceptable**. I endorse all of the findings and recommendations contained in this review. The complete review should be read in conjunction with this Report. Therefore, same is attached to this Report as **Appendix B**.

### **High Support/Vulnerable Persons Unit**

- 2.50 It is of the utmost urgency, because of the age group of prisoners and their vulnerability, that a unit for vulnerable persons be provided in St. Patricks. This unit could be modelled on the High Support Unit in Mountjoy Prison or the Vulnerable Persons Unit in Cloverhill Prison. The establishment of such a unit should not be used as an excuse for not transferring prisoners to the Central Mental Hospital or other medical facility where the prisoners' needs would be best catered for. The unit should not be used as a long term facility, neither, should it be used for accommodation, management or any other purpose. It should be a dedicated facility for prisoners in an acute disturbed phase of serious mental illness or for those requiring increased observation for physical illness. It should be a unit with increased observation of prisoners by appropriately trained staff and nurses. The size of the unit should be dictated by the needs of the prison and in this regard the views of the medical personnel must be taken into consideration.
- 2.51 The opening of such a unit would, based on the documented experiences of Mountjoy and Cloverhill Prisons, contribute to the reduction of time spent by prisoners in the Safety Observation Cell and would help in the reduction of self-harm or potential suicide.
- 2.52 Depending on the model chosen a Low Support Unit may also need to be provided in St. Patricks.

### **Addiction services**

- 2.53 Addiction services are provided by Merchants Quay. The services provided are of a high level and are of benefit to those prisoners who can avail of such services.

- 2.54 It is the view of the addiction service that approximately 70% of all prisoners have, prior to coming into St. Patricks, used illicit substances. In many cases they are crossed addicted. Alcohol, benzodiazepines and hash are the main addictive substances.
- 2.55 A course – **Motivational Enhancement Therapy** is a group therapy course run over six sessions. This course takes approximately three weeks with two sessions each week. The course can accommodate between one and ten prisoners. The addiction services tend to work on a one to one basis with the children. This course has achieved positive results.
- 2.56 Not all prisoners have access to the addiction services due to the prevalence of gangs and the fact that a considerable number of prisoners are on protection and therefore on 23 hour lock up.

### **Chaplaincy**

- 2.57 Chaplains are an essential part of any prison system.
- 2.58 The workload of the chaplaincy service has increased, not alone in St. Patricks but in all prisons, since the Probation Service has ceased to provide welfare support.
- 2.59 The number of Chaplains has been reduced in all prisons. This is the situation in St. Patricks. This is impacting greatly on the lives of prisoners in St. Patricks.

### **Prisoners contact with family and the outside world**

- 2.60 Prisoners in all prisons maintain contact with their families, friends and the outside world by telephone, by letter and by visits.
- 2.61 There is an adequate number of telephones in St. Patricks.

- 2.62 Letters are channelled through the censor's office. There are adequate facilities for dealing with all mail. Prisoners' post has not always been dealt with as expeditiously as it should be. This problem is common to all prisons.
- 2.63 The visitor waiting area is accommodated outside the prison perimeter wall. This is the area in which visitors are processed prior to their entry into the prison. The needs of the visitors used to be catered for by volunteers from the St. Vincent de Paul but this has now ceased. The area has basic services and equipment. On a number of my visits the area was dirty. Many of the doors on the visitors' lockers were broken. The area needed painting. As of the date of this Report these matters have been attended to.
- 2.64 As a general rule all visits are screened visits.
- 2.65 Family visits can be booked. These take place in a more relaxed setting where prisoners can have contact with their families. These visits must be booked and if a prisoner is deemed entitled to such a visit such visits can take place once a month.
- 2.66 Logistical difficulties arise for many families visiting prisoners in St. Patricks in that such families may have to travel considerable distances. All children and the majority of young adults are remanded to or sentenced to St. Patricks irrespective of where they normally reside. It is often the case that a child or young adult may receive at most one visit per month. Visits, especially those from families, are important in all prisons but are vitally important for children and young adults.

### **Prisoners Clothing**

- 2.67 As a general rule prisoners in St. Patricks are not allowed wear their own clothing. They wear prison issue track suit bottoms, polo shirts and winter jackets. They are also issued with under clothes, socks and runners.

- 2.68 All track suit bottoms are grey in colour. The polo shirts are in four colours – yellow, green, brown and red and are issued depending on the status of the prisoner.
- 2.69 The colour coding of prisoners is of benefit to those working in the prison as it readily identifies prisoners but it also has the effect of ghettoizing prisoners further.
- 2.70 A balance must be struck between the two competing forces referred to in paragraph 2.69. The Governors and senior management must revisit this issue.
- 2.71 Best practice dictates that prisoners should be allowed wear their own clothes. I endorse this in the general. In the case of St. Patricks a cogent argument can be made for prisoners wearing prison issue clothing provided such clothes are age appropriate, are of good quality and condition, are proper fitting and are clean.
- 2.72 It is the wish of all prisoners that they should wear their own clothes. However, I have talked to many parents and families of prisoners who have explained that if prisoners were allowed wear their own clothes pressure would be put on families to provide clothing which many of them would be able to ill afford. This is a persuasive argument.
- 2.73 The prison issued track suit bottoms and polo shirts as presently worn by prisoners are in the main inadequate in that they are:-
- ill-fitting
  - in bad condition with holes and tears in many places
  - dirty

## **Interaction between the Health Service Executive and prisoners in St. Patricks**

- 2.74 A significant proportion of children remanded to or sentenced to St. Patricks have a prior involvement with the Health Service Executive. It is rare that such children will ever inform the Governor or any other person in St. Patricks that they have a prior involvement with a Social Worker or that they are the subject of a Care Order.
- 2.75 When a child is remanded to or sentenced to St. Patricks the Court Service should notify the Health Service Executive and the Department of Children and Youth Affairs. An appropriate protocol should be put in place in order that the Health Service Executive (who has responsibility for such children) would know of the whereabouts of such children. Under this protocol information on such children in the possession of the Health Service Executive should be made **immediately available** to the appropriate personnel in St. Patricks. This would mean that a proper care plan could be put in place for such children which would in certain respects replicate that which might be in place in the community. An example would be where, under a Care Order, a close relative of a child might be precluded from having access to the child in the best interest of the child in the community, but, if this fact is not known to St. Patricks such relative may be given access to the child either as a visitor or by telephone. If this relative had, for example, a history of abusing the child and if this was known to St. Patricks it is certain that contact would not be allowed. If this were not known it is entirely feasible that inappropriate contact could, in theory, take place.
- 2.76 Certain protocols should also be in place between the Court Service, the Health Service Executive and St. Patricks in order that young adults between the ages of 18 and 21 years of age who have a prior involvement with the Health Service Executive would continue to avail of the supports from the Health Service Executive while in prison.
- 2.77 In my view, it is wrong that, just because a person under the age of 21 years is either remanded or sentenced to St. Patricks, the services that such person has been availing of are discontinued for the duration of such remand or sentence.

## **Probation**

- 2.78 In addition to a Regional Manager St. Patricks is served by a Senior Probation Officer, two full time Probation Officers, one part time Probation Officer and one part time Administrator.
- 2.79 The Probation Service attends multi-disciplinary meetings in the prison. Part of the work of the Probation Service is in assisting in the reintegration of prisoners on release. The Irish Prison Service will identify those to be released and the Probation Service will identify what is or can be put in place in the community.
- 2.80 When prisoners are sentenced without any other order, such as a Supervision Order On Release there is no role for the Probation Service post release. The Court Service and the sentencing Judges should be made aware of this.

## **Integrated Sentence Management**

- 2.81 As of the 1<sup>st</sup> May 2012 there was no full time Integrated Sentence Management Officer appointed in St. Patricks. As of that date 88 prisoners were enrolled in Integrated Sentence Management with 36 waiting assessment.
- 2.82 Integrated Sentence Management is operating in name only in St. Patricks.

## **Reception Area**

- 2.83 This is the area where prisoners are processed prior to their entry into the prison. Most of the area was clean on all of my visits. A number of showers were dirty and certain areas required painting.
- 2.84 Information for prisoners on what they might expect in St. Patricks was in booklet form but only in the English language. Certain information in the booklets was inaccurate.
- 2.85 There were no details in journals (or elsewhere) as to the time that prisoners enter and leave the reception area, of requests made or other relevant information.

2.86 On the 27<sup>th</sup> March 2012, I discovered that there was no call bell in one of the holding cells. This has been rectified.

### **Library**

2.87 The library in St. Patricks is well equipped. It has a wide selection of books and caters for many nationalities.

2.88 There are a number of tables in the library. Prisoners are required to sit two at a table. I have been informed that this is for security purposes. Up to recently prisoners were not allowed play cards in the library despite being allowed play other board games where only 2 participated. I was informed that the reason card playing was prohibited was that it would disrupt those who were reading or who wished to educate themselves in the library. I do not accept this explanation. Many prisoners are practically illiterate. The supervision of prisoners, sitting two at a table, cannot be said to be for the betterment of those prisoners, rather it was, in my view, for management control purposes. Since I brought this matter to the attention of management and suggested it be changed I am informed that prisoners are now allowed play cards in the library. I will be monitoring this in the future.

2.89 Prisoners are, at times, obliged to take their recreation in the library. This is unacceptable as this “recreation” is in substitution for exercise and fresh air. On one of my visits, during a very warm day, prisoners were “taking their exercise” in the library. All of the prisoners complained to me stating that on such a warm sunny day it was wrong that they were not allowed out for exercise. I accepted that their complaints were reasonable.

### **Tuck Shop**

2.90 The tuck shop is adequately provisioned.

### **Practice of religion or other beliefs**

2.91 Prisoners on protection or some of those in gangs complained that they were unable to attend to their religious or other beliefs.

### **Moving prisoners around the prison**

2.92 This is a problem in all prisons. Prisoners are escorted by prison officers around the prison as they are not permitted to wander freely. I have noted, during my visits, that prisoners are not always escorted on time to such places as the school, visits etc.

### **Visiting Committee**

2.93 The Visiting Committee appointed to St. Patricks appears to be carrying out its mandate in accordance with the Prisons (Visiting Committees) Act 1925 and Prisons (Visiting Committees) Order 1925.

2.94 The Visiting Committee meets once a month and also visits the prison on at least one further day each month.

2.95 The Chairman of the Visiting Committee raised a number of matters with me as follows:-

- There should be greater use made of external sporting organisations to ensure both internal and external competition.
- Video link facilities should be extended where possible.
- Incentivised projects and regimes should be identified and introduced.
- Families, especially mothers, should be brought into the prison when prisoners are getting certificates.
- The lowest common denominator seems to determine what is to be done in the prison.

2.96 I endorse the views of the Visiting Committee.

### **Services provided by outside agencies**

2.97 In addition to the people who provide normal services to prisoners such as teachers, probation officers, external health workers etc. other persons and organisations give assistance to prisoners in numbers of ways. I do not intend, in this Report, giving a finite list of all such service providers but do, in

**Appendix A**, attach the names of a number of organisations that I have identified as providing services to the prison and to prisoners. All of these external bodies provide services which are appreciated by and contribute to the wellbeing of prisoners and their re-integration into society. I apologise to those organisations that, through inadvertence, I may have omitted.

### **New CCTV**

2.98 Shortly after being appointed Inspector of Prisons I brought to the attention of the Irish Prison Service the fact that CCTV coverage of much of St. Patricks was totally inadequate.

2.99 The Irish Prison Service and local management must be complimented for installing CCTV in most of the complex. There are still certain “black spots” where CCTV must be installed. I have advised management as to these areas.

### **Drugs and contraband in St. Patricks**

2.100 Illegal drugs and contraband are a problem in all prisons. It appears that the problem is worst in St. Patricks. St. Patricks forms part of the larger Mountjoy Complex and is situated in a densely populated urban area.

2.101 Drugs and contraband get into prisons in a number of ways of which the following are the most common:-

- By being thrown over the perimeter walls into the yards.
- By being brought in by prisoners’ visitors.
- By being brought in by prisoners. This can be on their persons or internally.
- By being brought in by persons working in the prison or providing services to the prison.

2.102 I have been informed that the vast majority of drugs and contraband come in over the walls.

2.103 In the past two years nets were erected over the four yards in an effort to prevent drugs and contraband being thrown over the walls into the yards but despite this worthwhile initiative significant quantities of drugs find their way into the yards.

2.104 The drugs are thrown over the walls only at times that the prisoners are exercising. They are thrown from public areas outside the prison. It seems that there are two solutions:-

- That members of An Garda Síochána patrol those public areas from where the drugs are thrown during periods of exercise time in the prison.
- That the yards are covered. **If this option were to be contemplated the design of any covering would need to take account of the rights of prisoners to fresh air and light.**

2.105 As most visits in St. Patricks are screened visits drugs cannot get to prisoners by this route.

2.106 Airport type screening of all persons entering St. Patricks is carried out at the Main Gate. Management must always be vigilant to ensure that this screening is carried out efficiently and thoroughly but with regard to best practice and human dignity.

### **Dedicated Committal Area**

2.107 There is no Dedicated Committal Area in St. Patricks.

2.108 All new committals/remands to the prison should be assessed in a Dedicated Committal Area where prisoners should be detained in separate cells pending such assessment. They should be seen by, *inter alia*, a doctor, a nurse, a governor, a chief officer, a chaplain, a probation officer and an industrial manager. Only after an appropriate assessment should such prisoners be accommodated either on a landing in the prison, in a specialised unit or

transferred to hospital as appropriate. In normal circumstances this assessment should not take longer than 24 hours. This assessment should identify any risk associated with the placement of the prisoner in the prison with a plan for the management of such risk if identified.

### **Dedicated Drug Free Area and Incentivised Regimes**

- 2.109 At present D3 Landing is dedicated as a Drug Free Area. In order for an area to be drug free prisoners must want to be accommodated in such an area. A strict regime must be in operation to ensure that the area remains drug free.
- 2.110 Because of the problems associated with prisoners on protection and the prevalence of gangs in the prison management must be proactive in ensuring that all prisoners who wish to be drug free in the prison are able to avail of the assistance needed and that drug free areas are not the sole preserve of prisoners from certain geographic areas of the country or those who belong to certain factions.
- 2.111 Incentivised regimes for compliant prisoners or those who make the effort to change their lives must be a recognised feature of life in St. Patricks.

## **Chapter 3**

### **Major concerns**

- 3.1 I have stated at paragraph 1.1 that this investigation into St. Patricks has been conducted over a considerable time.
- 3.2 It is necessary, at this point of my Report, to set out in detail how and in what manner I have gathered information which has informed my concerns as expressed in this Chapter.
- 3.3 At the outset I should say that if one were to write a report on St. Patricks based on one or two visits one might accept that St. Patricks was run in accordance with best practice and that the rights of prisoners were vindicated. This is not the position as I have found it in St. Patricks.
- 3.4 My investigation into St. Patricks is not based solely on my numerous visits to the Institution, on my conversations with prisoners, prison officers, representatives of the Prison Officers Association, the service providers to the prison and prison management but also reflects the views of very many former inmates of St. Patricks, of many people who worked over the years in St. Patricks, of many people and organisations who provided services to St. Patricks and a great cross section of people with an interest in and a knowledge of St. Patricks. Therefore, I have been able to cross check concerns either found by me or raised with me through a number of unrelated other sources. I am satisfied that all of the concerns raised in this Chapter are real concerns that must be taken seriously and addressed if St. Patricks is to provide safe and secure custody for its prisoners, is to follow best international practice and is to have regard to human rights norms.
- 3.5 This Chapter is divided into subsections which articulate my serious concerns.
- 3.6 I am conscious that the running of any prison is no easy task. I am also conscious that the management of young prisoners aged 16 to 21 years

imposes huge demands on all prison personnel. I have taken this into consideration. Therefore the difficulties associated with the management of this cohort of prisoners cannot be used to excuse certain actions and inaction which are quite obviously contrary to best practice and an infringement of human rights.

### **Use of ‘Special Cells’**

- 3.7 ‘Special Cells’ are either Safety Observation Cells or Close Supervision Cells. I have given guidance on the use of such cells in my report – *Report of an Investigation on the use of ‘Special Cells’ in Irish Prisons*.
- 3.8 In layman’s terms Safety Observation Cells are cells which are used for short periods of time for prisoners who need to be placed in such cells where they are perceived, *inter alia*, to be a danger to themselves. Such prisoners should be placed in these cells only on the direction of a member of the medical team. Strict protocols exist regarding the use of such cells. Prisoners placed in these cells are obliged to wear an under garment and a poncho style over garment (in medical terms referred to as refractory clothing). The reason for this is to prevent them doing harm to themselves.
- 3.9 Close Supervision Cells are used for management purposes. In layman’s terms this may be where a prisoner has done damage to his cell, assaulted another prisoner etc. and where in the opinion of management and for security reasons the prisoner should be placed in such a cell for a short period of time. Strict protocols exist regarding a prisoner’s confinement in such a cell. **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 prisoners clothing may be used by the prisoner to harm others or to cause significant damage. Removal of clothing should be carried out with due regard to decency and the dignity of the prisoner. In such a case the prisoner should not be left unclothed but must be provided with appropriate prison issue clothing and foot wear.**

3.10 The Safety Observation Cell and the Close Supervision Cell in St. Patricks are located in the Unit.

3.11 A Journal titled – **Forcible Removals/Relocation Journal** is completed when prisoners are moved within the prison. It states on this journal:-

*“In line with IPS policy this journal is to be completed in all instances where force has to be used against an inmate”.*

3.12 There are books containing **Removal/Relocation Forms** which must be completed in duplicate. The preamble to these forms is as follows:-

*“This form must be completed in full by the supervising officer present when an offender is either placed in restraints or relocated in an unfurnished room. Completed forms to be submitted to the Clerk in the General Office for transmission to the Irish Prison Service”.*

3.13 The detail recorded in the Forcible Removals/Relocation Journal should, by definition, be replicated in the Removal/Relocation Form.

3.14 I requested that I would be supplied with all records relating to the Forcible Removals/Relocation Journal and the Removal/Relocation Forms. I examined all entries in the Forcible Removals/Relocation Journal and the carbon copies of the Removal/Relocation Forms for the period - **1<sup>st</sup> April 2011 to 31<sup>st</sup> March 2012** that were made available to me. The records that I had been supplied with showed that there were 220 instances of prisoners being removed or relocated as per the Forcible Removals/Relocation Journal. There were only 132 Removal/Relocation Forms completed. From the records supplied to me I was satisfied that in 88 instances the forms did not mirror the information contained in the journals. I was informed that this discrepancy could be explained by the fact that a decision had been taken in the prison that the relocating of any prisoner for whatever purpose would be recorded in the journal but that only those cases where some form of force was used would this be recorded on the Removal/Relocation Forms. **I do not accept this**

**explanation as it is clear from my perusal of the Forcible Removals/Relocation Journal that in many cases where control and restraint (hereinafter referred to as C&R) was, quite obviously, employed there is no record of this in the relevant books containing the Removal/Relocation Forms.**

Since I completed this part of my investigation I have been informed by management in St. Patricks that they have located 13 forms which mirror the information contained in the journal. This means that on their figures in 75 instances there were no forms to mirror the information in the journals. This points to the inadequacies in the record keeping in St. Patricks. The difference between my numbers and those of the prison does not impact in any way on my findings.

- 3.15 Of the 220 relocations 186 were to the Unit. As the records are inadequate I am unable to say with certainty where and to what cells these prisoners were relocated to. It is clear from the records, such as they are that the majority ended up in either the Safety Observation Cell or the Close Supervision Cell.
- 3.16 75 of the relocations were carried out using C&R techniques. Of these 75 relocations 31 involved children (16 and 17 year olds).
- 3.17 I have already stated at paragraph 3.8 that Safety Observation Cells should only be used for “medical” reasons. I gave this advice initially in my report titled - *Report of an Investigation on the use of ‘Special Cells’ in Irish Prisons*. On all of my visits to St. Patricks, when I had occasion to examine the records relating to the Safety Observation Cell in the Unit, I gave similar advice as I found that, in the majority of cases, prisoners had been placed in this cell for management purposes. **I am sorry to report that my advice was not taken.**
- 3.18 I was informed on a number of occasions that all prisoners placed in the Safety Observation or Close Supervision Cell would have to strip and wear the prison issue clothing which, as I have explained in paragraph 3.9, is only appropriate

for a Safety Observation Cell and then only when such cell is being used for purpose.

3.19 In order to be quite clear on this and on a number of other issues I asked to meet the Deputy Governor, the Assistant Governor, the Chief Officer and the Campus Governor on the 9<sup>th</sup> May 2012. At that meeting I was told that the position was as I have outlined it. This meant that all prisoners placed in either the Safety Observation or Close Supervision Cell for **management purposes** were, **in all cases**, stripped of their clothing and required to wear an under garment and a poncho style over garment.

3.20 I have stated at paragraph 3.9 that if the clothing was to be removed from a prisoner when such prisoner was placed in a Close Supervision Cell this should only be done after a determination by the Governor. **There are no records available to me to indicate that any determination was ever made in these instances.**

3.21 Many of the prisoners in St. Patricks were at some period in their lives physically and/or sexually abused. **It is in this context, that I consider the requirement to undress when placed in a Safety Observation or Close Supervision Cell for Management purposes to be degrading and a form of punishment, intimidation and abuse.** There are no explanations that can lead me to accept that, in all cases, human dignity was respected or that all cases warranted the actions taken.

#### **Use of C&R procedures**

3.22 I stated at paragraph 3.16 that 75 relocations were carried out using C&R techniques and of these 31 involved children.

3.23 In St. Patricks, as in all prisons in this country, when C&R is employed to relocate a prisoner three officers and a supervisor are engaged. An officer is in control of each of the prisoners arms and uses techniques which put 'locks' on such arms. This effectively immobilises the prisoners' arms. Another officer controls the prisoners head. The prisoner is then walked in a crouched

position or carried to the relocation area. At all times an ACO or some other officer acting as a supervisor supervises such relocation and ensures that the techniques used are in conformity with the procedures outlined in the Irish Prison Service Control and Restraint Manual.

3.24 As soon as the relocation has been completed the Supervising Officer is obliged to complete the Removal/Relocation Form referred to in paragraph 3.12. I have already pointed out in paragraph 3.14 that this form has not been completed in all relevant cases.

3.25 Numbers of prisoners, who were the subject of relocation using C&R techniques, complained that they had offered to walk to the new relocation area but were refused. From my wider investigations into St. Patricks I am satisfied that an offer to “walk” is not granted. At my meeting on the 9<sup>th</sup> May 2012 referred to at paragraph 3.19, I enquired as to the official prison position on this point. I was informed that once a decision was made to relocate a prisoner using C&R techniques then such techniques were used for the duration of the relocation despite any articulated willingness on the part of the prisoner to walk. I was also informed that, from the time that a decision to employ C&R techniques was made until the final relocation of the prisoner was effected, the Supervisor would not review the decision to continue the use of such techniques. **This does not accord with best practice or with the published procedures set out in the Irish Prison Service Control and Restraint Manual.**

3.26 It is clear from the Irish Prison Service **Control and Restraint Manual** that C&R techniques are only to be used as a **last resort**.

3.27 The manual referred to at paragraph 3.23 states:-

*“At every stage officers should use their inter-personal skills whenever possible to conclude the incident. The inmate must continually be given the opportunity to comply. However a three person team should deploy as a last resort when;*

*All other methods of persuasion have failed or judged unlikely to succeed, and unless restrained the inmate will injure himself, other inmates, or a member of staff, or the inmate's behaviour is likely to escalate the situation further, or is a risk to the security, good order of the establishment".*

3.28 In order to satisfy myself that the advice in the manual referred to in paragraph 3.27 represented the up to date procedures to be employed when C&R is used I posed a number of questions to the National Co-ordinator of C&R in the Irish Prison Service. The following are the questions with appropriate answers:-

Q: In what circumstances is C&R to be used?

A: Control and restraint is used as a last resort. At this point all avenues have been exhausted e.g. talking, all forms of communication and the prisoner is of a volatile nature that he has become a threat to himself or staff.

Q: When a decision to use C&R is taken is this decision subject to constant review by the ACO or Supervisor from the time C&R is employed until the relocation of the inmate?

A: When the decision is taken to use C&R an ACO/Supervisor is appointed to oversee the move. The ACO/Supervisor is responsible to ensure that the C&R team are carrying out the move in the correct manner and as outlined in the C&R Manual. The Supervisor would be constantly reviewing the given situation when C&R is used and would evaluate if C&R needs to continue. This would all depend on the level of threat offered by the prisoner.

Q: If an incident occurs where immediate C&R action is taken who supervises such action and is such supervisor obliged to continually review as to whether C&R was to continue to be used?

A: When immediate C&R action is taken and is a response to a spontaneous incident the most senior Officer present would be responsible until an ACO/Supervisor is present and they would take over supervising a move and this would be continually under review and in cases like this the ACO/Supervisor has often reassessed the situation and has reverted to a hands on approach. Again this would depend on the behaviour and level of threat and type of incident that has been dealt with.

3.29 Best practice dictates that a member of the medical team should be present during all relocations. Where this is not possible a member of the medical team should be informed of any such relocation as soon as practicable thereafter. Due to the inadequacies of the records kept I am unable to say if this happened in all cases as in certain cases there is no mention in the records of a nurse or other member of the medical team either being present or subsequently informed.

3.30 **It is clear that in St. Patricks once C&R has been decided on there is no review carried out. This does not accord with the Irish Prison Services own guidelines or International best practice.**

#### **Removal of clothing by force**

3.31 In St. Patricks when a prisoner is relocated to a Safety Observation or a Close Supervision Cell the prisoners' clothes are removed. If the prisoner refuses to voluntarily remove his clothes they are removed by force.

3.32 The Irish Prison Service Control and Restraint Manual gives guidance on how clothes should be removed from a volatile prisoner. Again I posed queries to the National Co-ordinator of C&R in the Irish Prison Service. The following are the questions asked and the answers given:-

Q: If an inmate is relocated to a Safety Observation or a Close Supervision Cell using C&R techniques and refuses to change

out of his/her normal clothes what procedure is employed to remove the inmates' clothes?

A: In relation to removing prisoners clothing, from prisoners who are refusing to cooperate, there is a method used in Control and Restraint, where clothing can be removed in a controlled manner. The prisoner would be brought to a kneeling position and starting with the upper part of his body locks would be extended one at a time until all upper clothing is removed. To remove jeans etc the top button would be opened before the prisoner is put in a prone position and the prisoner's lower garments etc would be removed.

Q: If force is used to remove any inmates clothes is the inmate left on the floor of the relocation cell without any clothes on but with an under garment and poncho style over garment available for him/her?

A: If force is used to remove prisoners clothing, the prisoner is left without any clothes on but with an undergarment and poncho style over garment available to him/her and also blankets would be available.

3.33 I have already stated at paragraph 3.9 that if the clothing were to be removed from a prisoner when such prisoner was placed in a Close Supervision Cell this should only be done after a determination by the Governor. There are no records available to me to indicate that any determination was ever made in these instances in St. Patricks.

3.34 I had heard from numbers of sources that in certain instances clothes were ripped or cut off prisoners in the Close Supervision and Safety Observation Cells. I uncovered evidence of this in a number of cases – the latest incident being on the 11<sup>th</sup> April 2012. During an unannounced visit to the prison on that night, while inspecting cells in the Unit, I inspected the Close Supervision Cell. A prisoner had been relocated to this cell using C&R techniques. The Prisoner's own t-shirt (not prison issue) had been cut off him using a Hoffman

knife. The prisoner had marks, which looked of recent origin, around his upper arms and neck. He stated that these injuries were sustained while his garments were being cut off him. I found the t-shirt outside the cell and this was identified by the prisoner. I brought this to the attention of management before 9am the following morning.

- 3.35 In the 31 relocations involving children these children were relocated to the Unit. In accordance with the procedure operating in St. Patricks these children were required/forced to strip when relocated for management purposes.
- 3.36 **I again refer to my views expressed in paragraph 3.21 and reiterate my comments that the removal of clothing by force, as described in this section for management purposes, can only be described as degrading and a form of punishment, intimidation and abuse.**

#### **Prisoner complaints**

- 3.37 In the 12 month period **1<sup>st</sup> April 2011 to 31<sup>st</sup> March 2012** there were 28 complaints made by prisoners in St. Patricks. Of these 13 related to alleged assaults by officers or serious inappropriate action taken by officers. **In the majority of these cases I am satisfied that the investigations carried out were flawed, were incomplete and could not be said to accord with best practice.**
- 3.38 My Report titled – *Guidance on Best Practice relating to Prisoners’ Complaints and Prison Discipline* dated 10<sup>th</sup> September 2010 was published on 22<sup>nd</sup> October 2010. This report, as is clear from the title, gave guidance on best international practice citing authorities, rules etc. **I am sorry to report that the advice given was not acted on in St. Patricks.**
- 3.39 In a significant number of cases, having made a complaint, prisoners then signed a form stating that they did not wish to proceed further with the complaint. I am satisfied from my investigations that threats are made to prisoners and inducements are offered in order that they would not make

complaints in the first instance or, if having made them, in order that such complaints would be withdrawn.

3.40 I read all of the complaint files and inspected all records held in the prison relating to prisoners complaints for the 12 month period – **1<sup>st</sup> April 2011 to 31<sup>st</sup> March 2012**. In no case was any complaint upheld. This may well be justified if it were not for the fact that I uncovered evidence which would suggest that, at the very least, an acknowledgement might have been made to the prisoners concerned confirming that their version of events was being taken seriously. The following summary of five cases, which is but a sample, will explain what I mean:-

- An allegation was made that a prisoner had an altercation with a prison officer. The prisoner stated that he was refusing to carry out an instruction and was grabbed by the officer. In the adjudication section the adjudicating Governor stated that he (the Governor) discussed the matter with the prisoner who accepted that he was to blame by not doing what he had been told. Of significance is the opinion of the Chief Officer who investigated the complaint who stated in his report that he was - *“of opinion that Officer X could have acted in a more professional manner and should not have deemed it necessary to adopt a hands-on approach to place inmate X in his cell”*.
- A complaint was made by a prisoner that he had been improperly restrained. In the adjudication section it is noted – *“No evidence to support allegation”*. However the Chief Officer who investigated notes – *“There is evidence to support that the officers in this complaint acted unprofessionally”*.
- A complaint by a prisoner that he had been grabbed by the neck by a named officer. The adjudication section stated – *“Complaint not upheld. No evidence to suggest unnecessary force was used – no evidence of any force used”*. The Chief Officer who carried out the

investigation noted – *“Officer X should be spoken to and advised to adhere to procedure when dealing with problematic and difficult inmates”*.

- An allegation that a named officer grabbed a child in a headlock and pulled him up the stairs and threw him into his cell. The adjudication section stated – *“Complaint not upheld – no evidence to suggest unnecessary force was used”*. The Chief Officer who investigated stated – *“In conclusion this incident should have been dealt with in a more professional manner by Officer X. I am of the opinion that there was no need for Officer X to have reacted in this manner which resulted in him placing this inmate in a headlock”*.
- A complaint that having been placed, at his own request, in a Safety Observation Cell named officers removed the prisoner using C&R techniques. The adjudication section states – *“There was nothing to indicate from the CCTV footage that excessive force was used”*. **This is a serious incident. The removal of the prisoner was authorised by a Chief Officer for operational reasons. The removal was to the reception area. If a prisoner is in a Safety Observation Cell he should only be removed from that cell by order of a doctor. There does not seem to have been any investigation into the circumstances surrounding the removal of this prisoner. The file also discloses that the prisoner at a later date stated that he wished to withdraw the complaint. There has been no investigation as to the reasons for such a change of heart.**

3.41 From my investigations I am satisfied that prisoners are actively discouraged from making complaints and that when they do efforts, mostly successful, are made to get them to withdraw such complaints. I am also satisfied that prisoners feel that to support a complaint as a witness will be to their disadvantage in the prison.

## **P19 – Prisoner disciplinary measures**

- 3.42 When prisoners contravene prison disciplinary regulations such misconduct is reported on a P19 form which forms the basis of an adjudication process in the prison as to whether or not the prisoner has been in breach of such regulations. The penalties for breach of regulations are many and varied and range from a warning to loss of remission.
- 3.43 I wish to point out, at the outset, that the maintenance of discipline in any prison is necessary. It is also necessary that sanctions apply for breaches of prison discipline. These sanctions must be real sanctions. However, the imposition of sanctions must be fair and must be seen to be fair. The procedure employed must be robust and accord with best international practice.
- 3.44 Many prisoners complained about the unfairness of the complaints procedure. They complained that P19s were used for “no reason at all”. I do not accept that this is true in the majority of cases but I am satisfied from my wider investigation of St. Patricks that a small minority of officers, for whatever reason, are economical with the truth when it comes to dealing with P19s.
- 3.45 Many prisoners complained that the P19 procedure was being abused. I also received this information in my broader investigation of St. Patricks.
- 3.46 It proved difficult to get accurate information as to exactly what the incidents of misconduct amounted to, the identity of the complaining officers and the punishment (if any). The reason for this difficulty was that the recording of such information was inadequate.
- 3.47 I examined, in detail, a random number of the P19 files. I concluded that as most of these forms were inadequately filled up it would be a waste of my time to trawl through all of the P19 forms. Therefore, I am not in a position to say whether the disciplinary hearings were conducted in accordance with best practice, if the complaints of the prisoners were reasonable or if the punishments for breaches of prison discipline were proportionate.

3.48 I compared the numbers of P19's in St. Patricks with the numbers in other prisons. In the period – **1<sup>st</sup> April 2011 to 31<sup>st</sup> March 2012** a total of 2,752 P19's were issued and adjudicated on in St. Patricks.

3.49 I set out hereunder in **Table 1** the numbers of P19's issued in all prisons during the period under review. In this table I also include the maximum number of prisoners detained on any one day in such prisons during the relevant period. My purpose for including this information is for comparative purposes only but, **taken in the round**, it could suggest a disproportionate use of the P19 procedure in St. Patricks and possible corroboration of the views expressed to me as referred to in paragraphs 3.44 and 3.45

**Table 1**

<b>P19's issued from the 1<sup>st</sup> April 2011 to 31<sup>st</sup> March 2012</b>		
<b>Prison</b>	<b>Number of P19's</b>	<b>Max No. in prison during the relevant period</b>
Arbour Hill	15	154
Castlerea	457	390
Cloverhill	1,291	487
Cork	552	321
Dóchas Centre	199	143
Limerick	580	329
Loughan House	363	158
Midlands	803	620
Mountjoy	1,940	697
Portlaoise	380	287
Shelton Abbey	153	110
St. Patrick's Institution	2,752	231
Training Unit	87	124
Wheatfield	992	709

3.50 I have stated at paragraph 3.49 that the information contained in **Table 1** could suggest a disproportionate use of the P19 procedure. I set out hereunder details of two incidents that in my view does suggest that this might be the situation:-

- A prisoner who was a landing cleaner took a shower after his work. He had not sought permission to take a shower from the Class Officer. Had he asked his request would have been granted. He received a P19. At the

hearing he was warned as to his behaviour. In my view this matter should have been resolved informally.

- A prisoner, who when making a phone call, inadvertently pulled the telephone lead out of the socket. He voluntarily reported this to the officer. He received a P19. This was dismissed at the hearing but in my opinion it should never have been the subject of a P19 complaint.

3.51 I pointed out in paragraph 6.4 of my report titled – *Guidance on Best Practice relating to Prisoners’ Complaints and Prison Discipline* that **Section 56 of the European Prison Rules** states that disciplinary mechanisms should be mechanisms of last resort and, where possible, mediation should be used to resolve disputes. In paragraph 6.7, I referred to **Section 57.1 of the European Prison Rules** which state that – “*only conduct likely to constitute a threat to good order, safety or security may be defined as a disciplinary offence*”.

3.52 I have stated in paragraph 3.47 that I have not examined all P19 files and that those that I did examine were not properly completed. I wished to get details of the numbers of P19’s issued to different age categories of prisoners for certain specific breaches of prison discipline. I also wished to get details of the resulting punishments with further details of the maximum punishment for each category of breach of discipline for each age category.

3.53 I asked personnel in St. Patricks to extrapolate from their records this information. I would like to acknowledge the work done by St. Patricks and by officials in the Irish Prison Service in supplying such detail to me. I reproduce hereunder in **Tables 2 to 4** the information made available to me.

**Table 2**

<b>P19's where the punishment resulted in a prohibition on contact with family</b>			
<b>AGE</b>	<b>*Personal Visits</b>	<b>**Phone Calls</b>	<b>***Letters</b>
16	5	17	0
17	12	37	0
18	12	31	0
19	23	57	1
20	10	36	
<b>For each age group the maximum period of such punishment</b>			
<b>Age</b>	<b>* Personal Visits</b>	<b>**Phone Calls</b>	<b>***Letters</b>
16	14	62	0
17	30	60	0
18	35	35	0
19	60	56	56
20	35	35	0

\*Prohibition on Personal Visits

\*\*Prohibition on using Phone calls

\*\*\*Prohibition on Sending or receiving Personal Letters

**Table 3**

<b>P19's where the punishment resulted in loss of remission</b>	
<b>Age</b>	<b>Number of prisoners</b>
16	25
17	73
18	100
19	233
20	164
<b>For each age group the maximum period of such loss of remission</b>	
<b>Age</b>	<b>Maximum period of loss of remission</b>
16	8
17	14
18	14
19	14
20	14

**Table 4**

<b>P19's where the punishment included loss of privileges for 56 days From 01/04/2011 – 02/03/2012 on PRIS and from 03/03/2012 – 31/03/2012 on PIMS</b>	
<b>Age</b>	<b>Number of prisoners</b>
16	0
17	0
18	2
19	3
20	4

3.54 My Report – ***Guidance on Best Practice relating to Prisoners’ Complaints and Prison Discipline*** (hereinafter in this section referred to as “my report”) dated 10<sup>th</sup> September 2010 was published on 22<sup>nd</sup> October 2010. This report, as is clear from the title, gave guidance on best international practice citing authorities, rules etc. **I am sorry to report that, in certain respects, the advice given on dealing with prison discipline was not acted on in St. Patricks.**

3.55 The information in **Tables 2 to 4** is self-explanatory. Therefore, I wish to point to the relevant sections of my report which gives guidance on the particular punishments for the breaches of discipline referred to in **Tables 2 to 4.**

#### **Contact with family**

3.56 In paragraph 6.16 (c) of my report I referred to a Report of the CPT and a Rule of the European Prison Rules in the following terms:-

**Report on Ireland CPT/Inf (2007) 40** stated at paragraph 95 that:-

*“visits between a prisoner and his relatives should under no circumstances be withdrawn for a prolonged period”*

This is reiterated in **Rule 60.4 of the European Prison Rules** which states:-

*“Punishment shall not include a total prohibition on family contact”*

In paragraph 6.17 of my report I pointed to the importance of children maintaining contact with their families which I stated was stressed in many International Instruments which advocate **that only in exceptional circumstances, and having due regard to the best interests of the child,** should contact between a child and his/her family be withdrawn as a disciplinary measure.

It is clear from **Table 2** that, in the period under review, 5 children aged 16 years were dealt with under the disciplinary procedure which resulted in prohibition of contact with family by way of visits. The longest period of loss of contact was 14 days. 12 children aged 17 years were deprived of family visits with the maximum period being 30 days. 60 young adults aged 19 years of age were deprived of family visits with the maximum period being 60 days. The other statistics speak for themselves.

### **Loss of remission**

3.57 In paragraphs 6.11 to 6.14 of my report I referred at length to loss of remission as a punishment.

In paragraph 6.12 of my report I referred to the case of **Campbell and Fell v UK (7 EHRR 165)** where the **European Court of Human Rights** considered that where a prisoner was subject to prison discipline proceedings which might lead to deprivation of liberty there was a strong presumption that the proceedings were substantively very similar to a criminal trial and for that reason attracted the due process requirements of a fair trial as set out in Article 6 of the Convention.

In paragraph 6.13 of my report I referred to the case of **Ezeh and Connors v UK 39 (EHRR 1)** where the **European Court of Human Rights** determined that where a potential sanction for a prison disciplinary breach is a loss of remission the defendant is entitled to legal representation before a prison disciplinary hearing. In these cases the maximum penalties that could have been imposed had been 42 days loss of remission and the actual sanctions imposed were 40 and 7 days respectively. This position was confirmed and strengthened by the **European Court of Human Rights** in the cases of **Young v UK (Application No 60682/00, Judgment of 16 January 2007)** where the prisoner received a sanction of 3 days loss of remission and **Black v UK (Application No 56754, Judgment of 16 January 2007)** where the prisoner received a sanction of 5 days loss of remission.

It is clear from **Table 3** that, in the period under review, 25 children aged 16 years lost remission with the maximum period being 8 days, that 73 children aged 17 years lost remission with the maximum period being 14 days and that 233 young adults aged 19 years lost remission with the maximum period being 14 days. The other statistics speak for themselves.

**I wish to make clear that, in appropriate cases, a disciplinary sanction which includes loss of remission is perfectly permissible and legal provided that the safeguards outlined above are complied with and that the length of such loss of remission is proportionate.**

### **Loss of privileges**

- 3.58 In my report I stated at paragraph 6.15 that under **Rule 60 of the European Prison Rules** it is provided that punishments shall be in accordance with National Law, that the severity of the punishment shall be proportionate to the offence, that all forms of inhuman or degrading punishment shall be prohibited, that punishment shall not include a total prohibition on family contact, **that solitary confinement shall only be imposed as punishment in exceptional circumstances for as short a time as possible** and instruments of restraint shall never be applied as a punishment.
- 3.59 I stated at paragraph 6.16 of my report that in their various reports the CPT has elaborated on what it considers inappropriate sanctions. I pointed out that in its **Report on Ireland CPT/Inf (2007) 40** the CPT at paragraph 92 criticised the imposition of loss of all privileges for up to 56 days stating that this amounted to, *de facto*, solitary confinement. The report further stated at paragraph 94 that:– “*although the implementation of a regime under which prisoners are segregated from other prisoners for prolonged periods may, in exceptional circumstances, be justified for reasons of order and security, the application of such a measure as a punishment is unacceptable*”.
- 3.60 Despite the advice given in my report it is quite clear from Table 4 that on 9 occasions in the period under review – **1<sup>st</sup> April 2011 to 31<sup>st</sup> March 2012** prisoners lost all privileges for 56 days.

### **Prison Staff – Interaction with prisoners**

- 3.61 There are approximately 198 officers of all grades working in St. Patricks. The vast majority of these officers interact in a professional, courteous and proper manner with all of the prisoners. However, a small minority of officers do not live up to that which would be expected of a disciplined force.
- 3.62 I am satisfied that this minority of officers (paragraph 3.61), by their physical and other actions, intimidate and instil fear into prisoners (both children and young adults) and in particular into those who could be classed as the most vulnerable. They bully prisoners. They provoke retaliation by prisoners which results in P19 disciplinary measures being taken.
- 3.63 I am satisfied there is bullying and intimidation of prison officers and staff by a small minority of other prison officers.
- 3.64 I am satisfied that prisoners who have spoken to me since my appointment as Inspector of Prisons have been questioned by certain officers as to what was discussed. I have informed prison management of this and warned that any repercussions affecting prisoners who had spoken to me would be taken very seriously by me. I am satisfied that prison management took my warnings seriously but, unfortunately, I am satisfied that prisoners were questioned about their conversations with me subsequent to my bringing this matter to the attention of management.
- 3.65 There is indifference on the part of certain prison staff to reasonable queries or requests raised by prisoners. These queries could range from a query about showers to the reason that the exercise yard had been closed. These are in the nature of “service enquiries”. A failure to answer reasonable queries increases the tension within the prison which can lead to prisoners demonstrating their despair in other ways. I experienced such indifference at first hand when I raised the issue of cold showers with a Class Officer. I was told by the officer that the officer did not know if the showers were cold as – “I do not take showers in that place”.

- 3.66 A small number of prison staff seems to resent being asked questions by me relating to matters that I am entitled to investigate. In one particular case I was told by a senior experienced officer that – “If you don’t ask the right question you won’t get the right answer”. A number of officers seem to be unaware of their obligations (referred to in the Prisons Act 2007 and the Irish Prison Rules 2007) to co-operate with me in my role as Inspector of Prisons.
- 3.67 There is considerable shouting directed by a minority of officers at prisoners. Sometimes this takes the form of un-parliamentary language. I and my team have witnessed this. Such language usually provokes a response in like language which in certain cases results in a P19 complaint.
- 3.68 When a prisoner, after lock down, wishes to get help or attract the attention of prison staff he presses the call bell in his cell. This alerts prison staff. In addition a red light is displayed outside the cell door. A common complaint of prisoners is that this call for assistance is ignored for considerable periods. I am satisfied, not alone from my conversations with prisoners but from my wider investigation that this does happen in a minority of cases. This can lead to further disruption as prisoners use other methods for attracting attention such as flooding their cells.
- 3.69 The common areas in St. Patricks are no smoking areas. It is bad example to the prisoners for a small minority of officers to smoke in such areas as smoking by prisoners in these areas can lead to a P19 complaint.
- 3.70 I am satisfied that the culture in the prison as outlined particularly in this section of this chapter but also elsewhere in this Report is one that has built up over the years and is not only of recent origin.
- 3.71 **I am satisfied that if the issues referred to are not checked and eradicated they have the real potential to corrupt good officers whose only desire is to go about their work in a proper and professional manner.**

### **Protection prisoners**

- 3.72 At any one time approximately one third of the prisoners in St. Patricks are on protection. Approximately two thirds of those on protection are on 23 hour lock up. **This applies to both the children and the young adult prisoners.**
- 3.73 The reasons for prisoners being on protection vary. In certain cases prisoners request that they wish to go on protection as they are either under direct threat from others in the prison or perceive that they are under threat. In other instances they are on protection simply because they come from a particular geographic area of the country or because of their cultural ethnicity. The prevalence of gangs in the prison, which reflects that which is on the outside, is also a problem as vulnerable prisoners can be forced to join a gang or do so of their own volition as they perceive that by doing this they are safer. This can lead to such prisoners ending up on protection.
- 3.74 When prisoners are on 23 hour lock up they effectively have little or no contact with teachers, addiction services, the gym, religious observance, the library or with the many voluntary external bodies who do excellent work with those prisoners who have access to them.
- 3.75 I have already stated at paragraph 3.6 that the running of any prison is a difficult task and that the incarceration of children and young adults poses great difficulties for prison management. However, from my thorough investigation of St. Patricks it is my view that using 23 hour lock up has been the preferred option considered by management as the solution to the maintenance of safety in the prison to the exclusion of any other option.
- 3.76 It is appropriate that I detail certain situations that I encountered in the prison. This list gives a flavour of what I encountered but is only a small representation of similar incidents. The incidents that I refer to were found by me during unannounced visits to the prison when I asked to have cells opened on a random basis.

- In September 2009 I encountered a number of prisoners in individual cells on accommodation landings. These prisoners had been involved in a riot in the prison and had lost 56 days privileges and were in effect in solitary confinement. Their cells had been stripped of such things as television. They had no contact with the outside world. These cells were not designated as Close Supervision Cells. If such prisoners were in Close Supervision Cells they would be subject to the rules governing such cells such as that the doctor would attend each day and that appropriate records would be maintained. No records were being maintained for the prisoners referred to above or for the cells themselves. I found these prisoners only because I was making a thorough search of the prison as I had information that prisoners were being held in what was described to me as “isolation”. On 9<sup>th</sup> December 2009, I enquired of management as to whether the doctors were informed that prisoners on punishment were, in some instances, being held in “normal cells”, albeit, stripped out as outlined above. I was informed that unless such prisoners were in ‘Special Cells’ the doctors were not informed. I have been informed that since 9<sup>th</sup> December 2009 this practice has ceased.
- I met a prisoner from Cork who was over 18 years of age. It was his first time in prison. He was on 23 hour lock up and did not know why. He stated that the only person that he spoke to each day was the dinner guard who gave him his dinner. He only got a visit once a month. He was afraid.
- On a recent night visit to the prison I asked to have a cell in the Unit opened. This was occupied by an 18 year old who was on virtual 24 hour lock up. He told me that he was on protection from everybody in the prison and had been in the Unit for approximately 2 months. It was obvious to me that this prisoner had suffered recent serious damage to his right eye. I enquired as to what had happened to him and he told me that he injured his eye when he had fallen off the bed. I did not

believe this explanation. This prisoner was frightened when talking to me. This was obvious from his demeanour. This fear was not alone directed towards prisoners. He was also afraid of prison staff. This was the first time that any prisoner, in any prison, had displayed such fear in my presence. Because of his fear he refused to talk further to me. Early the following morning I reported my findings to management. I suggested that the prisoner be moved to a safer place in the prison which he was. I am aware that a Garda investigation and an internal investigation are presently underway. Management are aware that I intend keeping strict oversight of the internal investigation. I have stated that any attempt to frustrate the investigation would be taken so seriously by me that it would warrant my reporting same to the relevant authorities.

- I met a child in a cell on C Wing. He was on 23 hour lock up as he was on protection. He had been moved from the B Wing (the children's wing) to this cell shortly before I visited him. The bed clothes had not been changed after the previous occupant. The bed clothes were dirty, the toilet was blocked and he had no running water. I brought this to the attention of management but **the bed clothes were not changed for 4 further days**. C Wing is for adult prisoners aged 18 to 21 years.
- I met a child on B Wing who was on 23 hour lock up. This child was quite fragile. He explained to me that he was now talking to himself.
- On the 12<sup>th</sup> day of a particular month on one of my unannounced visits I met a child in a cell on B Division. He was on virtual 24 hour lock up. This prisoner was allowed out on Temporary Release from St. Patricks on the 13<sup>th</sup> of the previous month. The terms of his release included signing on at a Garda Station in his home city and signing on in St. Patricks each Tuesday. Between the 13<sup>th</sup> and the 20<sup>th</sup> of that month the prisoner signed on at the Garda Station each day. He

presented at St. Patricks on the 20<sup>th</sup> of the month and signed on. He again signed on in the Garda Station for each of the next 7 days. He then presented himself at St. Patricks on the 27<sup>th</sup> of the month. He had again travelled with his mother. His mother waited in the waiting room outside the gate. The prisoner was brought into the prison. He thought he was signing on. He was then taken to reception. He was asked if he had any problems etc and it was only then that he realised that he was being kept in the prison. He was then brought to the cell where I found him. He informed me that the Governor told him that he shouldn't have been let out on TR as there was "nothing set up on the outside". He explained that he had other problems with the prison which, while very serious, I deal with later in this paragraph. I understand that the primary problem in this case was that his post release supervision had not been agreed with the Probation Service. At a meeting with management on the following day that I had requested I stated that it was my view that it was not the prisoner's fault that post release supervision had not been agreed. I stated at the meeting that even if the prisoner should not have been granted TR that was not the point because the reality was that he had been granted TR and had not broken any of the terms of same and therefore had an expectation that his TR would have been continued on the 27<sup>th</sup> of the month. I stated that, in my view, an arguable case could be made in the High Court on an application for his release. At my meeting with management referred to above a senior member of the Management Team conceded that the events as outlined by me and as stated here in short form were correct. The prisoner had also told me that between the time that he was taken back into custody and the time of my visit that the only time he was allowed out of his cell was to get his dinner and to talk on the telephone. He informed me that he was never allowed to the yard. He told me that his mother tried to get to visit him once a week but this was difficult as she suffered from a disability. He told me that no one ever came to talk to him. He told me that he had received a P19 approximately 3 or 4 days before I found him. He stated that he had been calling for attention and had had his red light (call bell) on for a

considerable time. He stated that in an effort to attract attention he had flooded his cell. He stated that when his cell was opened he was grabbed by the throat by an officer. He did not submit a complaint form as he was afraid. He also complained of a lack of showers. Subsequent to my intervention the TR for this prisoner was restored. I am not aware whether there has been any investigation into this matter.

3.77 When I visit any prison I never inspect all the cells or talk to all the prisoners or others working in the prison. If I am inspecting cells on a random basis I visit approximately 10% of cells in the area or areas being inspected. Sometimes I “target” a specific area if I have particular concerns or “intelligence” about such an area. I make this point lest anyone reading this report might be under the mistaken belief that the particular incidents that I have referred to in this section or in other parts of this Report were the only such incidents in the prison. They are a small representative sample. I cannot say if I would have found other incidents but it is significant that on each of my visits to St. Patricks where I have, on a random basis, visited cells I have always found situations, such as detailed, which have caused me concern.

3.78 In all of my reports to date I have reported on what I have found in prisons and left comment to others. **However, I would be in dereliction of my duty if I did not say that locking up 16 and 17 year old children for 23 hours a day offends against all that should be expected of a civilised society in the 21<sup>st</sup> Century.**

### **Miscellaneous**

3.79 It is clear that various members of staff, at all levels, in St. Patricks are not suited to working with children and young adults. The reasons may vary. The following are a number of the obvious reasons:-

- Many officers working in St. Patricks have not been adequately trained to deal with young people. Training to deal with the cohort of prisoners who are accommodated in St. Patricks requires more than

that which is given to officers who have to deal with adult male prisoners in other prisons.

- Officers do not receive sufficient on-going training to deal with young prisoners.

**I wish to point out that any deficiency in training given to officers working with children and young adults cannot be used as an excuse for ignoring or violating the human rights of anyone incarcerated in St. Patricks.**

- 3.80 Only officers who express a wish to work in and are deemed suitable should be assigned to St. Patricks. This applies equally to management.
- 3.81 I am satisfied that there is not a proper management structure in St. Patricks. Because of this situation there is not a defined, robust line structure down to officers on the landings. Morale in the prison is low. It is necessary that, at all times, a senior governor is appointed to St. Patricks. Such a governor must have a stated interest in being in charge of St. Patricks and his/her tenure should suggest that he/she is not merely “marking time” before taking up another position in the Prison Service.
- 3.82 I checked class journals on a random basis. I found that in certain cases inappropriate comments were inserted by officers in such journals. Such comments are an indication of a mindset in those officers who wrote such inappropriate comments.
- 3.83 I published *Standards for the Inspection of Prisons in Ireland* on 24<sup>th</sup> July 2009. I published a *Juvenile Supplement* on 1<sup>st</sup> September 2009. The Juvenile Supplement contains 32 standards. **It is clear from this Chapter and from other parts of this Report that, in at least 13 respects, these standards, as they relate to children, were either ignored totally or not followed to the letter.** The Standards that I refer to are - 197, 200, 201, 204, 205, 211, 215, 216, 217, 218, 219, 220 and 226.

### **Conclusion – An undesirable culture in St. Patricks**

3.84 **To say that there is a culture in St. Patricks where the human rights of some prisoners are either ignored or violated is a serious statement. Individual instances, where the rights of prisoners appear to have been ignored or violated, may not indicate a culture. However, when the number of instances, found by me and outlined in this Chapter, are taken together the cumulative effect can only lead to the conclusion that there is a culture in St. Patricks which results in the human rights of some prisoners (children and young adults) being either ignored or violated.**

## **Chapter 4**

### **Response of Irish Prison Service and local management to Concerns raised in this Report**

- 4.1 On 23<sup>rd</sup> May 2012, I raised all major matters that I have highlighted in this Report with the Director General of the Irish Prison Service, the Campus Governor of the Mountjoy Complex and the recently appointed Senior Governor of St. Patricks. I asked that they would consider the points raised by me.
- 4.2 This Chapter details the response of the parties to the grave concerns detailed in Chapter 3. This Chapter also details the responses to the more serious deficiencies identified in Chapter 2. Where relevant, times are given for addressing my concerns and other issues.
- 4.3 The IPS acknowledges that there are deficits in the management structure. A new governing Governor has been appointed. The remainder of the management structure is being assessed and solutions, namely, staff movements and assignments are being developed. The complete new management structure is to be in place by mid August 2012.
- 4.4 The IPS and the newly appointed Governor of St. Patricks accept that the issues as outlined in Chapter 3, which have led to the culture referred to in paragraph 3.84, are systemic issues which will be tackled in a comprehensive and targeted way by both prison management and the IPS Headquarters. A specific strategy is to be drawn up to address these issues. A separate strategy will be devised in order to revisit the timelines for the continued detention of 17 year old children in St. Patricks. In this regard the IPS will engage in consultations with the Minister for Justice and Equality, the Secretary General of the Department of Justice and Equality, the Minister for Children and Youth Affairs and the Secretary General of the Department of Children and Youth Affairs. A specific date for the finalisation of such strategies cannot be

given at present. In the interim all children will be accommodated on B3 Landing.

- 4.5 The IPS and the Governor of St. Patricks accept that improved training for prison officers working in St. Patricks must be undertaken as a matter of urgency. The IPSTDC (Irish Prison Service Training and Development Centre) are developing a programme for all staff (prison officers, teachers, healthcare staff etc) working in St. Patricks. This programme will be introduced in late 2012.
- 4.6 New Guidelines for the Imposition of Disciplinary Sanctions are to be introduced by the IPS within the next 2 months. I have been involved with the IPS over a period of months in the drawing up of such guidelines. The IPS will arrange for staff training as soon as the guidelines have been agreed and circulated. Priority will be given to the training of all staff working in St. Patricks.
- 4.7 The IPS and the Governor of St. Patricks accept the findings in this Report that the Safety Observation and Close Supervision Cells were not always used for purpose. The IPS has introduced and circulated to all prisons new Standard Operating Procedures for both Safety Observation and Close Supervision Cells. I have advised, where relevant, during the drafting of such SOPs and am satisfied that, if the Standard Operating Procedures are adhered to, the prisons in Ireland will adhere to best international practice. The Standard Operating Procedures were introduced in all prisons on 5<sup>th</sup> June 2012.
- 4.8 New arrangements were introduced in St. Patricks on 5<sup>th</sup> June 2012 to provide that a member of the medical team be present (if practicable) during all periods when C&R is used. If a member of the medical team is not present the medical team must be informed immediately. Training is being provided to all supervising officers. All other disciplined staff engaged in the use of C&R will have completed refresher training in C&R techniques by the end of September 2012.

- 4.9 Pending the introduction of a comprehensive Complaints Procedure the Governor will, on a weekly basis, check all complaints and ensure that the current procedures are being adhered to.
- 4.10 The IPS and the Governor of St. Patricks accept the criticisms contained in the review of the prison healthcare as referred to in paragraph 2.49 and as detailed in **Appendix B**. Appropriate procedures are being put in place in order that the recommendations in the review will be carried out. Such procedures will be operative from 15<sup>th</sup> July 2012.
- 4.11 New procedures have been introduced to ensure that records are being maintained which record appropriate removals and relocations of prisoners.
- 4.12 A new Dedicated Committal Area will be in operation by the end of August. This will be located on the B2 Landing. This is an area which is separate from the remainder of the landing and is fit for purpose. The operating procedures for this Committal Area will mirror those in Mountjoy Prison.
- 4.13 The IPS and the Governor of St. Patricks accept the urgent need for a Vulnerable Persons Unit. It will operate in the C Base (in other parts of this Report referred to as the 'Unit'). It will provide a bespoke programme for those in custody which takes into account their emerging mental health problems, their age profile and their developmental stage. This programme involves a multiagency approach which includes the Governor, the Consultant Psychiatrist, the Psychologist and the local Healthcare Staff. While it will be based on the philosophy of the Vulnerable Persons Unit in Cloverhill Prison it will be developed specifically for the benefit of the young people (of all ages) in St. Patricks.

It is acknowledged that the environment in which the programme should operate must be such that it encourages engagement by such young prisoners as opposed to further isolating them from their peers. In other words it must provide the support that they need. It is essential that a culture is developed

which is appropriate to such a facility. Relevant training for all personnel will be provided.

Experience in Cloverhill and Mountjoy Prisons has shown that any such programme needs, as part of the team, a community psychiatric nurse who has enough dedicated time to develop and maintain community links in order to provide a seamless service for those prisoners in the programme.

The IPS and the Governor of St. Patricks have stated that this Vulnerable Persons Unit should be operating by the end of September 2012.

If, in the opinion of the medical staff in St. Patricks, a prisoner needs to be accommodated in a High Support Unit such prisoner will be moved to the High Support Unit in Mountjoy Prison.

The Healthcare Team in St. Patricks will be complimented by the recent extension of the remit of the Mountjoy Complex Healthcare Nurse Manager to St. Patricks.

- 4.14 In an effort to minimise drugs and contraband entering the prison by being thrown over the walls into the yards additional security arrangements are being considered including enhancing the OSG staff, installing CCTV in the family visiting boxes and being vigilant that drugs do not get in on persons entering the prison. For operational and security reasons I do not propose disclosing these measures. An Garda Síochána has increased its presence patrolling outside the walls during periods of prisoner recreation. This has had a dramatic effect in that the flow of drugs and contraband has been dramatically reduced. The Governor is actively engaging with the local Superintendent of An Garda Síochána in this regard. All security arrangements will be kept under constant review.
- 4.15 The IPS and the Governor of St. Patricks accept the deficiencies identified in this Report in the education being provided in the prison. The Governor is dedicated to working with the Head Teacher, the VEC Co-ordinator of

Education for the Dublin prisons and the other agencies identified in the audit report and in this Report. The Governor will implement the proposals in the audit report in so far as they are within his power to do so including ensuring that prisoners are escorted to the school on time. The Governor will undertake daily inspections of both school areas in order to ensure that the school is providing the best possible service to the prisoners.

- 4.16 A committee has been established to devise and implement plans for the provision of an incentivised regimes programme in the prison. This plan is to be finalised by the end of July 2012.
- 4.17 The Governor has agreed that he will address the other areas where I have identified deficiencies in St. Patricks. These areas include, *inter alia*, the cleanliness of the prison, painting, provision of adequate furniture, the mending of broken windows and equipment, the provision of structured activity for the prisoners, the provision of healthcare programmes, the provision of additional addiction and other services, the provision of new appropriate clothing for all prisoners, the installation of additional CCTV etc.

## Chapter 5

### Conclusions

- 5.1 I am satisfied that the grave concerns outlined in this Report are being taken seriously by both the Irish Prison Service and the Governor of St. Patricks. I have stated that a new Senior Governor has been appointed to St. Patricks who is committed to driving change. In order to do this the Governor must ensure that the culture referred to in paragraph 3.84 is changed, that morale is lifted and that all officers work towards a common goal. He will require the on-going support of the Irish Prison Service and the Campus Governor of the Mountjoy Complex. The Governor must also appreciate that, because the prisoners under his control are, in the main, a vulnerable cohort of young prisoners, his approach, subject to considerations of safe custody and good order, should perhaps be that of encouragement and support rather than containment and control.
- 5.2 In order that St. Patricks can comply with the new mission statement of the Irish Prison Service - “...*Providing safe and secure custody, dignity of care and rehabilitation to prisoners for safer communities.....*” - it is necessary for two things to occur, namely:-
- (a) the deficiencies outlined in Chapter 2 be dealt with, and,
  - (b) the culture outlined in Chapter 3 which has led to serious human rights abuses be changed.
- 5.3 The deficiencies identified in Chapter 2 can be attended to in the short term. I will continue to visit the prison, mostly unannounced. I will report to the Minister as appropriate but not later than 1<sup>st</sup> November 2012 on progress in this regard. **It would be reasonable to expect that by that date all deficiencies will have been attended to.**
- 5.4 I acknowledge that it is difficult to change a culture. **However, if St. Patricks is to play its part as a worthwhile entity in the Irish Prison System it is**

**imperative that this culture is changed.** It is equally difficult to monitor a change in culture.

In order to evaluate the degree of improvement in the culture of St. Patricks I will keep my eyes and my ears open. This approach has led to me being able to uncover the serious human rights abuses outlined in Chapter 3 of this Report.

Due to the seriousness of the situation in St. Patricks my monitoring of the prison will not cease with the presentation of this Report to the Minister. I will continue to visit the prison, mostly unannounced. I will continue to talk to persons both inside and outside the prison as I have done in the past. If I do not detect a rapid improvement in the overall culture I will report immediately to the Minister.

**If I detect an immediate rapid improvement in the culture I will defer reporting to the Minister until January 2013 on this vitally important aspect – the culture in St. Patricks.**

- 5.5 **I am confident that, despite the deficiencies and abuses of human rights as detailed in this Report, St. Patricks has the ability to play its part as a worthwhile entity within the Irish Prison System provided management shows leadership and courage and all members of staff step up to the challenge.**

## Appendix A

### Agencies and External Links

Youth Justice Service
IPS Regimes Directorate
Garda J.L.O. Scheme
Ombudsman for Children's Office
Oberstown
Finglas Youth Services
Southhill Youthreach
Talbot Centre
Crinion Programme
Copping On Programme
Treo
Focus Ireland
Edenvilla
Rialto Prison Links
Inchicore Prison Links
Tallaght Prison Links
CARP
YAP
Le Cheile
Bray Addiction Team
Crosscare
Tallaght Travellers Youth Service
Peter McVerry Trust
Don Bosco House
Youth Action Castlebar
Orchard Children's Services
Midlands Youth Service
Swan Youth Service
Freshstart
Úisce
PACE
Children's Right Alliance
H.M.P. Young Offenders Centre Hydebank
Hear Our Voices
Springboard
Candle Trust

## Appendix B

### **Healthcare Audit**

**An Audit of Healthcare in St Patrick's Institution carried out by Dr. Ide Delargy MB, MICGP, MRCGP at the request of Judge Michael Reilly, Inspector of Prisons.**

#### **1. INTRODUCTION**

St Patricks is an institution which looks after young male offenders between the ages of 16 and 21 years.

The Healthcare Directorate comprises the Chief Nurse Officer, with eight other members of the surgery staff. There are six staff members who are RGN trained nurses and two medics, former prison officers who have additional medical training. A GP attends the prison to run a daily clinic from Monday to Friday. In addition there are 2 addiction counsellors working full-time with the service. There is also an In-Reach team from the Central Mental Hospital under the direction of a Consultant Psychiatrist with two psychiatric nurses as part of the team who are working part-time in St Patricks.

All medical notes are computerised on the Prison Health Management System (PHMS). Each discipline can enter notes into the file of each prisoner. This is a comprehensive recording system which can be searched under many different criteria.

#### **2. INVESTIGATION**

At the request of the Inspector of Prisons, an audit of the work of the Healthcare Directorate was conducted. This audit reviewed a number of aspects of the healthcare provided. As it was not possible to review all aspects of healthcare in the available timeframe, it was decided to prioritise certain key criteria. These criteria were adapted from the National Hospitals Office Code of Practice for Healthcare Records Management. While many of the criteria outlined in the document are not applicable to the prison setting, there were a number of key criteria which reflect the minimum acceptable standards in healthcare. These standards include:-

### Documentation Standards:-

- notes are contemporaneous, dated and signed
- notes are easily retrievable
- notes are legible and clear
- notes describe the clinical condition

### Clinical Standards:-

- the medical team are responsive to the clinical situation
- appropriate action taken in response to the clinical situation
- clinical follow up: instructions of the doctor were carried out appropriately
- referral to outside agencies (hospitals) are made in a timely fashion
- appropriate communication/appointments with other disciplines
- referral letters in the patient file
- discharge summaries from other agencies located in the patient file
- investigation results located in the patient file

## **3. METHODOLOGY**

Two separate approaches to the Audit were undertaken.

### **Audit 1**

The PHMS was searched for all patients referred to outside agencies during the period 1<sup>st</sup> April to 30<sup>th</sup> April 2012. All patients who had been referred either as an emergency or who were due for an appointment for any reason in a hospital or other clinic were identified and each file was reviewed.

### **Audit 2**

Ten current prisoner files were selected on a random basis. Each PHMS file was then reviewed, paying particular attention to the documentation and clinical standards as set out above.

## **4. FINDINGS AND CONCLUSIONS**

### 4.1 General Standards:-

The Healthcare Staff in St Patrick's Institution are working hard to deliver a high standard of healthcare care in a complex medical setting. The delivery of healthcare is facilitated by a well designed computerised record keeping system, the PHMS, which has numerous functionalities. The facility to log all entries is readily available and the facility to review all activities and interventions is readily accessible. There is a responsive approach to Mental Health with the In-Reach Psychiatrist from the Central Mental Hospital and good accessibility to assessments by this team when requested.

### 4.2 Standard of Record Keeping

The quality of the medical records was of a high standard. Entries were generally made in a timely fashion and were legible, appropriate and easily retrievable. The prison doctor made regular and appropriate entries with clear instructions and directions when necessary. It was evident from the medical records that when the prison doctor ordered specific medical investigations or directed that a patient be monitored in a particular way, his instructions were carried out appropriately e.g., blood sugar monitoring in a diabetic patient.

### 4.3 Audit Findings

- Delays in Treatment:

There were 12 cases in the time period under review which required referral to hospital or another outside agency (e.g., dental, physiotherapy). One of these cases was a pre-planned movement to another prison. In 5 of the twelve cases reviewed, delays were noted in transferring the patient to Hospital. These delays related to patients who had been referred as emergencies to the A&E Department by the prison doctor; they were not patients who had pre-planned appointments in out-patients or other non-acute settings. Delays in getting the prisoner transferred ranged from five hours to in excess of forty eight hours. The medical conditions which required referral included swallowing a foreign body, a possible hand fracture, a possible fractured jaw, assessment of head

injury, assessment of assault with possible head injury. In almost all cases, the reason noted for the delay was due to inadequate levels of staffing, and therefore there were no prison officers available to accompany the prisoner to hospital. These delays are completely unacceptable and carry potential serious risks for patients if their medical condition is not addressed in a timely fashion. Of additional concern with regard to these delays was the fact that the decisions not to facilitate a prisoner in getting to hospital were made by operational, non-clinical staff. These decisions appeared to be based purely on operational grounds without any recognition of the severity or otherwise of the clinical condition. This is an issue which requires urgent attention and resolution.

- Refusal of Treatment:

There were a number of examples of patients refusing to remain in A&E to wait for a medical assessment. This refusal was signed off by the prison officer accompanying the patient. On one occasion a prisoner refused to go to hospital, and again this refusal was dealt with and signed off by a prison officer. This is an unacceptable practice; such scenarios require management by healthcare professionals who are in a position to explain the risks and consequences of not accepting the recommended medical intervention to the prisoner.

- Referral and Discharge Communication

Referral letters to outside agencies were easily retrievable in the PHMS and appropriate clinical detail was provided. Inter-disciplinary referrals are made through the PHMS and were easily accessible and retrievable.

Discharge letters from A/E and results of tests e.g., X-Rays, scans and other investigations conducted in A&E were not communicated in writing and were often communicated verbally. It was frequently the prison officer accompanying the prisoner to hospital who communicated the results to healthcare staff. On some occasions the nurse officer on duty was required to contact the hospital to obtain the results verbally. However, in the cases

reviewed for this audit, there was no formal written communication from the hospital regarding interventions or investigations undertaken. As per standard practice in primary care in the community setting, it is appropriate that patients should return to prison with a letter from A&E detailing the investigations undertaken and results of these investigations along with the diagnosis made. This will minimise the possibility of inaccurate or incomplete reporting. This needs to be addressed as a matter of urgency.

## **5. RECOMMENDATIONS**

- 5.1 If there are operational reasons why a patient cannot be transferred to hospital, this must be communicated in writing to the healthcare staff. In turn, this information must be relayed to the Prison Doctor for a further decision. It is important that the nursing officers are made aware of any delays in transfer of patients so that the patient can be monitored appropriately while arrangements are being put in place.
  
- 5.2 If a prisoner refuses to attend hospital or to follow recommended medical advice, healthcare staff should be notified. The prisoner should then be re-assessed by the Nurse Officer who is able to explain the potential health risks to the prisoner. If the prisoner continues to refuse to attend hospital or comply with medical advice, he is then doing so with informed consent and it should be the Nurse Officer who signs off on the patient refusal. It is unacceptable practice that a prison officer be the one to accept the patient's refusal to attend hospital.
  
- 5.3 Where a patient refuses to remain in A&E prior pending medical assessment, the patient should not leave the hospital until they have signed themselves out against medical advice. This should be done in the presence of a nurse or doctor from the A&E Dept or the relevant hospital department who can explain the potential risks to the prisoner. It is unacceptable practice for a prison officer to sign the "refusal to wait form" as the prisoner must do so with informed consent

5.4 A culture of ongoing audit and review should be introduced to the healthcare service in St Patrick's Institution with a view to improving healthcare standards within the prison.

**SUMMARY:**

This review was a snapshot review of the healthcare provided in St Patrick's Institution. It limited itself to the minimum standards of documentation and clinical standards expected in a primary care setting. **Further audits and reviews will facilitate improvements to the standard of care provided and should be considered as essential in terms of risk management and quality assurance in a healthcare setting.**