



Oifig An Chigire Príosún
Office of the Inspector of Prisons

Mr A
12th February 2020
Aged 67

Cork Prison
At Cork University Hospital
(Compassionate Temporary Release)
12th February 2020

Death in Custody Investigation

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Glossary

▪ Act	Prisons Act 2007
▪ OIP	Office of the Inspector of Prisons
▪ CCTV	Close Circuit Television
▪ CNO	Chief Nurse Officer
▪ CTR	Compassionate Temporary Release
▪ CUH	Cork University Hospital
▪ DNR	Do Not Resuscitate
▪ HIQA	Health Information and Quality Authority
▪ Inspector	Inspector of Prisons
▪ IPS	Irish Prison Service
▪ NoK	Next of Kin
▪ Office	Office of the Inspector of Prisons
▪ TR	Temporary Release
▪ SOP	Standard Operating Procedure

INTRODUCTION

1. Preface

- 1.1 The Office of the Inspector of Prisons (OIP) was established by the Department of Justice under the Prisons Act 2007 (the Act). Since 2012, the Minister has instructed the Inspector of Prisons to investigate deaths in prison custody. This includes the death of any person which occurs within one month of their temporary release from prison custody. The OIP also carry out regular inspection of prisons. The Office is independent of the Irish Prison Service (IPS). The Inspector of Prisons and staff of the OIP are independent of the Department of Justice in the performance of statutory functions.
- 1.2 The OIP can make recommendations for improvement where appropriate; and our investigation reports are published by the Minister for Justice, subject to the provisions of the Act, in order that investigation findings and recommendations are disseminated in the interest of public transparency, to promote best practice in the care of prisoners.

2. Objectives

- 2.1 The objectives for investigations of deaths in custody are to:
 - Establish the circumstances and events surrounding the death, including the care provided by the Irish Prison Service (IPS);
 - Examine whether any changes in IPS operational methods, policy, practice or management arrangements could help prevent a similar death in the future;
 - Ensure that the prisoner's family have an opportunity to raise any concerns they may have, and take these into account in the investigation;
 - Assist the Coroner's investigation and the States obligation under Article 2 of the European Convention on Human Rights, by ensuring as far as possible that the full facts are brought to light and any relevant failing is exposed, any commendable practice is identified, and any lessons from the death are learned; and
 - Identify areas that may be pivotal in achieving or obstructing progress of the Department of Justice 2021 to 2023 Strategy Statement to create a 'Safe, Fair and Inclusive Ireland' (Goals 2 and 3).

3. Methodology

- 3.1 Our standard investigation methodology aims to thoroughly explore and analyse all aspects of each case. It comprises interviews with staff, prisoners, next of kin (NoK); analysis of prison records in relation to the deceased's life while in custody; and examination of evidence, such as CCTV footage and phone calls.
- 3.2 This report is structured to detail the events leading up to Mr. A's death and the events that followed.

4. Administration of Investigation

- 4.1 The OIP was notified of Mr. A's death on the 12 February 2020. A standardised checklist of information requirements from the IPS to assist an investigation into deaths in custody (while on Temporary Release) is in place. The IPS Director of Operations provided the OIP with all relevant information requested.
- 4.3 The cause of death is a matter for the coroner.

5. Family Liaison

- 5.1 Liaison with the deceased's family is a very important aspect of the Inspector of Prisons role when investigating a death in custody.
- 5.2 The OIP contacted Mr. A's NoK, his daughter, on 15 April 2020. The role of the OIP in relation to the investigation of her father's death was explained. She had no concerns of the IPS and was complementary of the escorting prison officers at the hospital. She did state although temporary release was granted, it would have been better for the family if it had been sanctioned sooner.
- 5.3 Although this report will inform the Minister for Justice and several interested parties, it is written primarily with Mr. A's family in mind. The OIP offers its sincere condolences to them for their sad loss.

INVESTIGATION OVERVIEW

6. Summary

- 6.1 This is a brief summary, the details of the investigation and the findings are contained in paragraphs 9 to 13 below. The recommendations are contained in paragraph 7 for ease of reference and are again contained in the action plan attached to this report.
- 6.2 Mr. A was aged 67 years and married with children and grandchildren when he died while on admission to Cork University Hospital (CUH) on 12 February 2020.
- 6.3 Mr. A was committed to Cork Prison on 06 May 2015 with a remission date of 29 October 2022. He was categorised as an enhanced prisoner on the Incentivised Regime.¹
- 6.4 Mr. A had regular interactions with prison medical services for cancer and other issues not relevant to this report.
- 6.5 Mr. A had been moved to the Midlands Prison and on 10 January 2020 he was transferred back to Cork Prison with a poor prognosis.
- 6.6 On 13 January 2020, Mr. A was admitted to CUH as an in-patient with a prison escort for security.
- 6.7 On 20 January 2020, the Prison Governor submitted an application to the IPS Director of Operations for Mr. A to be granted temporary release on compassionate grounds (CTR).
- 6.8 On 05 February 2020, the Director of Operations submitted the application for CTR to the Minister for Justice.
- 6.9 On 11 February 2020, the Minister for Justice approved the application and the prison escort at the hospital was stood down.
- 6.10 On the afternoon of 12 February 2020, Mr. A passed away in the care of CUH.

7. Recommendation(s)

1. Decisions for compassionate temporary release, especially where end of life care is being administered, should be decided expeditiously to respect dignity in death for the prisoner and for a family to be allowed privacy. Once an application is made by a

¹ The Incentivised Regimes Programme provides for a differentiation of privileges between prisoners according to their level of engagement with services and behaviour. The objective is to provide tangible incentives to prisoners to participate in structured activities and to reinforce good behaviour, leading to a safer and more secure environment. There are three levels of regime – basic, standard and enhanced, with different privileges associated with each regime level.

Governor, policy should dictate the timeframes for responses and escalation where delays occur.

2. Every effort should be made to ensure that all those involved in the incident participate in the debriefing sessions (critical incident review) to ensure they are afforded an opportunity to process the event and reflect on its impact.
3. When temporary release is permitted on compassionate grounds, such as end of life care, the conditions attached to CTR should be proportionate, and reflect the situation of the prisoner and respect sensitivities of the family.
4. The IPS should establish an end of life and palliative care policy.

8. Cork Prison

- 8.1 Cork Prison is a closed, medium security prison for adult males with an occupational capacity of 296 beds. It is the committal prison for counties Cork, Kerry and Waterford.
- 8.2 Mr. A was the first death of a prisoner from Cork prison in 2020; and the first death in IPS custody that year.

FINDINGS

9. Family Concern

- 9.1 Mr. A's daughter was complimentary of the prison officers who conducted escort duties at CUH. However, she wished Mr. A could have been granted temporary release sooner to allow his family to spend more time with him in privacy during the final days of his life.

10. Background

- 10.1 Mr. A was 67 years old when he passed away in hospital. He was married with children and grandchildren and came from the Munster area.
- 10.2 Mr. A was committed to Cork Prison on 06 May 2015 to serve a ten year sentence and was due for release on 29 October 2022.
- 10.3 He had previously attended hospital for a number of medical appointments and treatments relating to his illness. Following his return to Cork Prison from Midlands Prison on 10 January 2020, he was admitted to CUH on 13 January 2020 with advanced stomach cancer.
- 10.4 On 12 February 2020, Mr. A passed away in CUH.
- 10.5 The cause of death is a matter for the coroner.

11. Hospital Admission and Application for Temporary Release

- 11.1 On 10 January 2020, the prison's Chief Nursing Officer (CNO) informed the IPS Clinical Lead that Mr. A was being transferred back to Cork from the Midlands Prison. The plan was to administer palliative care.
- 11.2 On 13 January 2020 Mr. A was referred as an inpatient to CUH for treatment. On the same day the CNO contacted the IPS Clinical Lead requesting advice regarding 'DNR [Do Not Resuscitate] or any other plan going forward.'
- 11.3 On 14 January 2020, the CNO corresponded with IPS Clinical Lead and the National Operational Nurse Manager advising that Mr A had been admitted to hospital with a poor prognosis and the Prison Doctor was concerned that management of his care in prison was not suitable.
- 11.4 On 14 January 2020, the IPS Clinical Lead inquired of the CNO if an application for 'compassionate release' (CTR) had been made for Mr. A.
- 11.5 On 15 January 2020, the CNO advised the IPS Clinical Lead that the Governor of Cork Prison was submitting an application for CTR.

- 11.6 On 15 January 2020, the IPS Clinical Lead inquired of the CNO if the hospital had given timelines and if the situation required either palliative care or end of life care.
- 11.7 On 16 January 2020 the IPS Clinical Lead corresponded with the CNO confirming the IPS did not have a 'DNR Policy' but advised they would follow the HIQA (Health Information and Quality Authority) guidance and that of their own professional bodies.²
- 11.8 On 16 January 2020 the CNO contacted the IPS Clinical Lead advising Mr. A had become extremely unwell.
- 11.9 On 16 January 2020, the Prison Doctor wrote to the Governor of Cork Prison recommending temporary release on compassionate grounds (CTR) for Mr. A who had been diagnosed with stage 4 terminal cancer of unknown origin. The Prison Doctor stated Mr. A will not live long enough to serve his sentence and thought Cork Prison was not suitable for end of life care.
- 11.10 On 18 January 2020, Mr. A's Consultant Medical Oncologist sent an email to the Governor of Cork Prison recommending temporary release for Mr. A and transfer to Marymount Hospice. He also disclosed Mr. A's condition was of an advance nature and not curable and that he had informed Mr. A's family his prognosis is limited and best case scenario was months, worst case weeks.
- 11.11 On 20 January 2020, the Governor submitted an application by email to IPS Director of Operations for compassionate temporary release (CTR). The application included the representations of the Consultant Medical Oncologist and the Prison Doctor, both of whom recommended CTR. The Governor proposed CTR could be authorised under section 4.1(b) of the CTR Policy.³
- 11.12 On 21 January 2020, the Prison Doctor again wrote to the Prison Governor advising that Mr. A was terminally ill and approaching end of life care and should be considered for CTR to have a dignified death.
- 11.13 On 21 January 2020, the Consultant Medical Oncologist wrote a letter to Cork Prison 'C/O the Chief Medical Officer' advising Mr. A was terminally ill with a prognosis of weeks to months and requesting compassionate temporary release be considered.
- 11.14 On 22 January 2020, the Director of Operations emailed the IPS Clinical Lead requesting an assessment before considering CTR and asked whether Cork Prison staff could meet Mr. A's medical needs, and if not could this be done by insourcing 'palliative and other necessary services.'

^{2 2} <https://www.hse.ie/eng/about/who/qid/resourcespublications/tool-box-talks/end-of-life-care-cpr-and-dnar-decisions.pdf>

³ Compassionate temporary release on grounds of health and health related humanitarian grounds – Policy PIN—28 Care and Rehabilitation Directorate 02/03/2017

- 11.15 On 22 January 2020, the CNO wrote a report explaining a review had been conducted of Mr. A's case by a Consultant from Marymount Hospice on the 21 January 2020 and it was their plan to discharge Mr. A into the care of the Community Palliative Care Team for management of his end of life care. The CNO explained that end of life care is an important part of palliative care treatment and if Mr. A were discharged to the prison the existing cohort of nursing staff would require their end of life, palliative care and oncology competencies to be updated.
- 11.16 On 23 and 24 January 2020, emails were exchanged between the CNO and IPS Care and Rehabilitation Directorate to explore the feasibility of Mr. A returning to prison for end of life care.
- 11.17 On 24 January 2020 the CNO emailed the IPS Clinical Lead and the National Operational Nurse Manager advising that the CUH Oncology Department were waiting to arrange a discharge plan for Mr. A. and the hospital proposed a case conference be held to assess the care plan. The CNO also stated that due to Mr. A having a permanent abdominal drain his care would be difficult to manage in prison. The CNO arranged to attend the hospital on the 26th January 2020 to assess Mr. A's situation and arrange a case conference.
- 11.18 On 24 January 2020 the IPS Clinical Lead updated the Director of Operations including providing the views of those caring for Mr. A. The Director of Operation requested clarity on why discharge had been mentioned as it had been suggested Mr. A was unlikely to leave a hospital setting.
- 11.19 On 05 February 2020, the National Operational Nurse Manager informed the Director of Operations that a meeting had been held between prison healthcare staff and hospital staff and that Mr A's health had deteriorated, with a life expectancy of a few weeks. It was no longer possible to manage his care within the prison estate and such was the gravity of his presentation that there was no discussion about further onward progression and it was expected he would be nursed to end of life in CUH.
- 11.20 On 05 February 2020, the Director of Operations submitted an application for CTR to the Minister for Justice based on health grounds citing:
- Section 104 and Criteria (a) to (d)⁴ under Section 105 of the Prison Rules 2007
 - Criterion 1⁵ of the IPS Policy Document on "Compassionate temporary release on grounds of health and health related humanitarian grounds".⁶
- 11.21 Mr. A was to be subjected to the normal conditions of temporary release (TR) including: to be of good and sober habits, to abide by any conditions of TR and not to

⁴ (a) The life of a prisoner will be endangered by continued imprisonment, (b) a prisoner is unlikely to live until the expiration of their sentence, (c) a prisoner is unfit for continuous imprisonment or that particular prison's regime, and (d) the mental or physical state of any prisoner is being significantly impaired by their imprisonment.

⁵ Prisoners with a terminal illness where death is anticipated within a short time scale.

⁶ Section 5 of the Criminal Justice Act 1999 is the legislative provision for granting TR to persons convicted of offences including Section 15(a) mandatory sentence for drug offences, namely trafficking.

come to the adverse attention of Gardaí, with the Minister reserving the right to cancel the TR at any time should any of those conditions be breached.⁷

11.22 On 11 February 2020, the National Operational Nurse Manger informed the Director of Operations that Mr. A was unlikely to live until the end of week. The Deputy Director of Operations contacted the Minister's Private Secretary highlighting the urgency for a decision given the medical update. The Minister for Justice approved Mr. A's compassionate temporary release on 11 February 2020, which the IPS were advise of by email at 17:44hrs.

11.23 Mr A. died on the afternoon of the 12 February 2020.

11.24 There is no evidence that a critical incident review was conducted.

12. Closing

12.1 The daughter of Mr. A was complimentary of the prison officers who provided escort duties at CUH. However, she did feel that the passing of Mr. A would have been more dignified if there had been additional time for the family to be with him in privacy during the final days of his life.

12.2 There was no evidence that a cold debrief was held. In previous investigation reports the OIP recommended there should be a hot and cold debrief, for example Mr. I 2018 and Mr. O 2018. The OIP is reassured that the Irish Prison Service has reviewed its Critical Incident Policy. The Irish Prison Service Standard Operating Procedure (SOP) titled 'Critical Incident Reporting and Debriefing Procedures' came into effect on 1 July 2020. The new SOP provides for the holding of both a hot and cold debrief following a critical incident such as a death in custody and ...*"should include, to the greatest possible extent, all the staff involved in the incident."*

12.3 The conditions that were attached to Mr. A's CTR appear disproportionate to his circumstances. When deciding CTR conditions the IPS should take into consideration the circumstances of the individual prisoner and negative perceptions disproportionate conditions may cause for a family.

12.4 During the 22 days from 20 January 2020 to 11 February 2020 three prison officers were required to conduct escort duties at CUH around the clock.

12.5 All medical staff independently corroborated the view that Mr. A was in the advanced stages of a terminal illness from the time of his admission to CUH on 13 January 2020. The Prison Doctor, Hospital Consultant and Hospice Consultant all recommended CTR. The Operations Director sought clarity of 'discharge' and raised the possibility of administering end of life care in prison.

⁷ The full terms and conditions of the TR are: 1) Be of good behaviour; 2) Do not convey messages in/out of Prison; 3) Keep the Peace; 4) Return to Cork Prison on date and time listed above; 5) Shall be of sober habits; 6) Shall not enter a pub, club or other licensed premises or off-license premises; 7) Shall reside at CUH; 8) Agree not to change address from CUH without a new TR form.-

- 12.6 The absence of an IPS policy for palliative and end of life care for prisoners may have contributed to misinterpretations of the situation and a delay in the submission of an application for CTR and the subsequent decision making. The Prison Governor made the initial submission for CTR on 20 January 2020, the Director of Operations submitted the application to the Minister some 16 days later on the 5 February 2020. CTR was granted on the 11 February 2020, less than 24 hours before Mr. A was deceased.
- 12.7 There is no dispute Mr. A was provided with proper care in the final stages of his life. But as his daughter has highlighted it was felt the family's privacy and their father's dignity would have been improved had CTR been granted sooner.
- 12.8 Where a mandatory sentence is imposed decisions on CTR are for the Minister's determination.
- 12.9 The absence of an IPS policy for palliative and end of life care should be addressed to provide clarity to all involved. While CTR does have a policy, palliative and end of life care needs distinct guidance for prison staff and the process to be adopted including timeframes, monitoring and appropriate escalation once an application for CTR is proposed in these circumstances.
- 12.10 Following submission of this report to the IPS an End of Life Palliative Care Policy has been implemented for all Prisons in Ireland.
- 12.11 The OIP would like to pass on our thanks to the family of Mr. A for their assistance in this case and to again pass on our sincere condolences.

13. Support Organisations

- 13.1 Those who are affected by a death in custody can obtain assistance or advice from a number of charities and support groups. The Office of the Inspector of Prisons has an information pamphlet for relatives and friends of someone who dies in the custody of a prison. Further information can be found on the OIP website at www.oip.ie.