



OIFIG AN CHIGIRE PRÍOSÚN
OFFICE OF THE INSPECTOR OF PRISONS

Death in Custody Investigation Report

Mr D
Aged 47
Mountjoy Prison
Full Temporary Release (FTR)
2nd April 2020

Report Date to Minister: 7th July 2022

Office of the Inspector of Prisons
 24 Cecil Walk
Kenyon Street
Nenagh
Co. Tipperary
 Tel: + 353 67 4221
 www.oip.ie

Table of Contents

1. Preface	4
2. Objectives	4
3. Methodology	4
4. Administration of Investigation	5
5. Family Liaison.....	5
6. Summary	6
7. Recommendations.....	7
8. Mountjoy Prison	7
9. Family Concerns	7
10. Chapter 1: Background	7
11. Chapter 2: Time in Custody	8
12. Chapter 3: Events after Time in Custody.....	9
13. Chapter 4: Events after Mr. D was Found Deceased	9
14. Recommendations.....	9
15. Closing	9
16. Support Organisations	10

Glossary

NoK	Next of Kin
OIP	Office of the Inspector of Prisons
IPS	Irish Prison Service
Act	Prison Act 2007
FTR	Full Temporary Release
CCTV	Closed Circuit Television
PO	Prison Officer
NoK	Next of Kin
RTR	Reviewable Temporary Release

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 requested the Inspector of Prisons to investigate deaths in prison custody. In 2018, clarification was received that the Inspector is also requested to investigate the death of any person which occurs within one month of their temporary release from prison custody. The Office is completely independent of the Irish Prison Service (IPS). The Inspector of Prisons and staff of the OIP are civil servants, however, they are independent of the Department of Justice in the performance of statutory functions.
- 1.2 We 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 transparency, and in order to promote best practice in the care of prisoners.

2. Objectives

- 2.1 The objectives for Inspector of Prisons investigations of deaths in custody are to:
 - Establish the circumstances and events surrounding the death, including the care provided by the IPS;
 - Examine whether any changes in IPS operational methods, policy, practice or management arrangements could help prevent a similar death in 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; and
 - Assist the Coroner's investigative 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.
 - Identify areas that may be pivotal in achieving or obstructing progress of the Department of Justice 2021 to 2023 Strategy 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, family and friends; 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. The Office of the

Attorney General has informed the IPS and the OIP that the provisions of the Prisons Act 2007 in relation to accessing healthcare /medical records of deceased prisoners in relation to investigations of deaths in custody cannot be relied upon. As an interim arrangement pending legislative amendment, the IPS has agreed to release such records with consent from Next of Kin (NoK). This inevitably leads in some instances to a failure to review healthcare/medical records where NoK is unknown, cannot be located, or refuses to provide consent. Mr. D's death occurred while he was on full temporary release (FTR) under non-suspicious circumstances according to An Garda Síochána. As such, It was not necessary for the NoK to provide consent to the OIP to access Mr. D's healthcare/medical records for the purpose of this investigation.

- 3.2 This report is structured to detail the events leading up to release from prison, and the IPS response after Mr. D was found deceased.
- 3.3 The cause of death is a matter for the coroner to investigate.

4. Administration of the Investigation

- 4.1 The OIP was notified of Mr. D's death on 02 April 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 Operations Directorate provided the OIP with all relevant information requested.

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 made contact with Mr. D's NoK, his brother, on 26 August 2020. The role of the OIP in relation to an investigation into his brother's death was explained. Mr. D's brother had no issues or concerns and explained their mother had been happy to see her son.
- 5.3 Although this report is for the Minister for Justice it will also inform several interested parties. It is written primarily with Mr. D's family in mind. The Office of Inspector of Prisons offers our sincere condolences to them for their loss.
- 5.4 The OIP are grateful to Mr. D's family and the Irish Prison Service for their contributions to this investigation.

6. Summary

- 6.1 Mr. D was aged 47 when he died at home on 02 April 2020 on full temporary release (FTR) from Mountjoy Prison.
- 6.2 He had been committed to Mountjoy Prison on 29 March 2019 to serve a three year sentence, 18 months of which was suspended. He had a remission date of 27 June 2020. This was Mr. D's first post-conviction committal although he had been remanded in custody briefly in 2009 and 2010.
- 6.3 Mr. D was on the standard level of the Incentivised Regime¹ because of medical issues.
- 6.4 He had engaged positively with prison-based pre-release services such as attending school and engaging with the probation service. His sentence was for non-violent offences.² On 6 March 2020, at a multi-disciplinary meeting, the Irish Prison Service identified Mr D as a suitable prisoner for reviewable temporary release (RTR).
- 6.5 Mr. D was granted full temporary release on 18 March 2020 to complete the custodial part of his sentence under the terms of the FTR agreement until 27 June 2020. From 27 June 2020, the 18 month suspended sentence would have commenced with the first 12 months under a probation supervision order imposed by the court.
- 6.6 Mr. D was released to reside at his mother's address in Dublin.
- 6.7 Mr D had engaged with the Probation Service during his time in custody. On 23 March 2020, following his release Mr. D contacted the Probation Service Office Haymarket, Dublin by telephone of his own volition and confirmed his home address.
- 6.8 The Probation Service subsequently sent Mr. D a letter outlining contact details and an invitation to continue contact by phone for his supervision due to COVID-19 restrictions.
- 6.9 A probation officer telephoned Mr. D's home in late May 2020 and on speaking to a family member became aware that Mr. D had passed away on 02 April 2020.

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.

² Due to the pandemic, the Minister for Justice had approved a number of actions to reduce the number of prisoners in custody to support a more effective infection control regime.

- 6.10 Mr. D was taking medication for existing heart problems. His medication was beside him when he was found on the morning of 2 April 2021.
- 6.11 An Garda Síochána informed the IPS that the death of Mr. D was non-suspicious. The cause of death is a matter for the Coroner.

7. Recommendations:

1. When Full Temporary Release is granted under the supervision of the Probation Service, the IPS must ensure Probation are informed of the date prior to release.
2. Where a person is on Temporary Release and under the Supervision of the Probation Service, the Irish Prison Service must advise the Probation Service when a death occurs of the person on release.
3. All appointments should be in place prior to the release of a prisoner on Temporary Release and not left to the person to make appointments.

8. Mountjoy Prison

- 8.1 Mountjoy Prison is a closed, medium security prison for adult men. It has an operational capacity of 755 and is the main committal prison for Dublin city and county.
- 8.2 At the time of his death, Mr. D was the fourth prisoner to die in the custody of the IPS in 2020 and the first from Mountjoy Prison.

9. Family Concerns

- 9.1 Mr. D's brother acted as NoK and did not raise any concerns.

10. Chapter 1: Background

- 10.1 Mr. D was 47 years old when he passed away at home. He had two children and lived in the Dublin area.
- 10.2 Mr. D was sentenced on 29 March 2019 to a period of three years imprisonment, with the final 18 months suspended.
- 10.3 Mr. D had a remission date of 27 June 2020. Following the custodial part of his sentence, he was required to place himself under the supervision of the Probation Service for a period of one year.

11. Chapter 2: Time in Custody

- 11.1 Mr. D was accommodated in Cell 2 on D Wing. He was on a standard level of the incentivised regime from committal date.
- 11.2 He engaged positively with prison-based pre-release services such as attending school and engaging with the Probation Service. He also engaged with the Resettlement Services regarding post-release medical and housing support.
- 11.3 Mr. D was serving a three year sentence for non-violent offences. Due to the pandemic, the Minister for Justice had approved a number of actions which included reducing the number of prisoners in custody to support a more effective infection control regime.
- 11.4 Mr. D was considered for RTR, under the Minister's criteria, during a prisoner review meeting on 6 March 2020. The meeting was attended by an Assistant Governor and eight staff from Chaplaincy, Probation Service, Education Service and the Counselling Service.
- 11.5 Mr. D was granted full temporary release³ and released on 18 March 2020 to complete his custodial sentence in the community ending on 27 June 2020. FTR would negate the requirements of returning to prison, therefore was more appropriate due to COVID-19 restrictions.
- 11.6 His release was subject to the following conditions:
- Be under the supervision of the Probation Service, including attending all appointments directed by the supervising officer and cooperate with all lawful directions of his supervising officer,
 - Be of good behaviour,
 - Not convey messages in/out of prison
 - Keep the peace,
 - Be of sober habits,
 - Not to enter a pub, club or other licence premises or off-licence premises,
 - Reside at [named address],
 - No Garda sign on condition, and
 - Agree not to change address from [named address] without new TR form.
- 11.7 Mr. D's release address was confirmed by the Integrated Sentence Management Officer at Mountjoy Prison following contact with his brother.
- 11.8 Mr. D was advised to attend his general practitioner on release for his prescription and was not provided with a supply of medication.
- 11.9 Although Mr. D engaged with Probation Service during his time in custody, his release was not brought to their attention until five days after he left Mountjoy Prison when he contacted the Probation Service of his own volition. On release from prison, a TR checklist was completed where the section asking if the Probation Service should be

³ FTR does not require weekly sign on in the prison.

informed is marked as 'N/A.' Mr. D was required to sign acknowledging his TR conditions, including reference to supervision by the Probation Service.

- 11.10 The Probation Service has confirmed they were not advised of Mr. D's release by the IPS, therefore he would not have been provided with the relevant paperwork in his release bag and appointments were not scheduled.

12. Chapter 3: Events after Time in Custody

- 12.1 Despite not receiving any notification of his probation arrangements Mr. D telephoned Haymarket Probation Office on 23 March of his own volition. He confirmed he was staying at his mother's address and then received a letter from his probation officer inviting him to get in touch by telephone due to COVID-19 restrictions.
- 12.2 A probation officer called the home number of Mr. D in late May 2020 and spoke to a family member who informed the officer that Mr. D had died on 2 April 2020. This was the first time the Probation Service knew of Mr. D's passing.

13. Chapter 4: Events after Mr. D Was Found Deceased

- 13.1 Mr. D was found unresponsive at home at 0700hrs on 2 April 2020. An Garda Síochána classified his death as non-suspicious. Mr. D had existing medical conditions and his medication was found beside him.
- 13.2 The IPS were informed of Mr. D's death by An Garda Síochána on 2 April 2020.
- 13.3 The IPS promptly reported the death to the OIP that same morning. It was later established that the Probation Service were not notified.
- 13.4 The cause of death is a matter for the Coroner to determine.

14. Closing

- 14.1 Mr. D had used his time in prison productively and engaged with the services available. In order to reduce the risks of COVID infections in prisons decisions were made for early release of a number of prisoners, including Mr. D. It is apparent that important information exchanges did not occur between the IPS and Probation Service, prior to Mr. D being released or at the time of his death.
- 14.2 Mr. D contacted his local Community Probation Office initiating his own supervision. Following his death, it was only when a probation officer called to speak with Mr. D that they learnt of his passing over Six weeks prior.

- 14.3 Documents completed at the time of Mr. D's release, including a checklist, did not achieve their purpose of ensuring all relevant parties were informed. These administration errors risk breaching a court order or allowing a prisoner to be released without supervision.
- 14.4 The failure of the IPS to not inform the Probation Service when a death occurs of a person under probation supervision, could result in upset for a grieving family and have a negative impact on the reputation of both the Probation Service and the IPS.

15. Support Organisations

- 15.1 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.
- 15.2 This document is now offered to the next of kin at the outset of an investigation. If anyone would like a copy of this document please go to www.oip.ie.