



Oifig An Chigire Príosún
Office of the Inspector of Prisons

Investigation Report Into the circumstances surrounding the sudden illness and death of Mr X

Criminal Courts of Justice
Parkgate Street,
Dublin 8.

Date of death 8 December 2021.

[Submitted to Minister: 13th July 2023]

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GLOSSARY

ACO	Assistant Chief Officer
AGS	An Garda Síochána
CCTV	Close Circuit Television
CCJ	Criminal Court of Justice
DiC	Death in Custody
GSOC	Garda Síochána Ombudsman Commission
IPS	Irish Prison Service
NoK	Next of Kin
OIP	Office of the Inspector of Prisons
PO	Prison Officer

INTRODUCTION

1. Preface

- 1.1 The Office of the Inspector of Prisons (OIP) was established under the Prisons Act 2007 (the Act). Since 2012, the Chief Inspector of Prisons has been obliged to investigate all 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 carries out regular inspections of prisons. The Office is independent of the Irish Prison Service (IPS). The Chief Inspector of Prisons and the staff of the OIP are independent of the Department of Justice in the performance of their statutory functions.
- 1.2 The OIP can make recommendations for improvement where appropriate. Our investigation reports are published by the Minister for Justice, subject to the provisions of the Act, in order that investigation findings and recommendations can be disseminated in the interest of public transparency, to promote best practice in the care of prisoners.

2. Objectives

- 2.1 The objectives of 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 contribute to meeting the State's obligations 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'.

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 The OIP investigations is one of two investigations to examine the circumstances surrounding the death of Mr. X. The Garda Síochána Ombudsman Commission (GSOC) conducted the other investigation.

- 3.3 The OIP investigation was confined to the time Mr. X spent in the custody area of the Criminal Court of Justice (CCJ) where he was in the temporary custody of the Irish Prison Service. The GSOC investigation focused on Mr. X's engagement with and time spent in the custody of An Garda Síochána (AGS).

4. Administration of Investigation

- 4.1 On 8 December 2021, Mr. X was in the temporary custody of the IPS when he became unwell and collapsed in a holding cell, prior to his court appearance before the CCJ. Mr. X's death was pronounced in hospital later that day. The OIP was notified of Mr. X's death on Wednesday, 8 December 2021 by Acting Director of Operations, Irish Prison Service.
- 4.2 As Mr. X had only been in the temporary custody of the IPS for a short period, the OIP sought direction from the Minister for Justice, through Assistant Secretary as to whether the death should be investigated by the OIP under section 31(2) of the Prisons Act 2007. The OIP was advised to conduct an investigation and the Inspectorate was informed that the Garda Síochána Ombudsman Commission (GSOC) would also be conducting an investigation.
- 4.3 The OIP investigation has been confined to the hand-over by AGS of Mr. X into the temporary custody of the IPS in the CCJ. The IPS provided the OIP with all information/documentation requested in the course of our enquiries.
- 4.4 GSOC conducted its investigation under section 102 of the Garda Síochána Act 2005 which states that:

"The Garda Commissioner shall refer to the Ombudsman Commission any matter that appears to the Garda Commissioner to indicate that the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person."

The GSOC investigation focused on the engagements by members of AGS with Mr. X including his arrest, handover to the temporary custody of the IPS and his removal by ambulance from the CCJ to the Mater Misericordiae University Hospital.

5. Family Liaison

- 5.1 Liaison with the deceased's family is a very important aspect of the OIP investigations.
- 5.2 Mr. X's NoK, his sister nominated Mr. X's brother in-law as the point of contact for the OIP. The OIP had regular contact with the family. The role of the OIP in relation to the investigation was explained to the family over the telephone on Wednesday 5 January 2022 and also at an 'in person' meeting on 3 March 2022.
- 5.2 As Mr. X had never been in prison, the family enquired as to why the OIP was investigating the death and particularly as GSOC had also launched an investigation. The reason for the two investigations was explained to the family.
- 5.3 Mr. X's family informed the OIP that Mr. X had been in poor health with a number of medical conditions and he required medication at regular and specific intervals during the course of the day. The family advised the OIP that AGS had been provided with explicit details of Mr. X's illnesses and the medication he required which he had in his possession on the morning of his arrest. The family asked the OIP to ascertain if Mr. X had access to his prescribed medication while in the CCJ. The family had numerous other questions and concerns. The OIP advised the family that a number of their questions fell outside the remit of the OIP and they were more appropriate for GSOC to consider in the course of their investigation. The family confirmed that they had also provided GSOC with the list of questions. The OIP held a meeting with GSOC on

the 4 August 2022 to ensure that they were aware of the family questions which related to Mr. X's engagement with AGS. The matters raised by the family relevant to the OIP investigation are referred to in **Chapter 6**.

- 5.4 Although this report will inform the Minister for Justice and several interested parties, it is written primarily with Mr. X's family in mind. The OIP offer our sincere condolences to them for their sad loss.

INVESTIGATION

6. Family Concern

6.1 Members of the OIP met with family of Mr. X ‘in person’ on the 3 March 2022. At this meeting, the family provided a list of 30 questions/concerns. These questions/concerns related to Mr. X’s time in the custody of both AGS and temporary custody of the IPS. The OIP discussed the questions with the family and as a number of their questions related to Mr. X’s time in the custody of AGS they were advised that GSOC was the appropriate authority to deal with those questions. This was confirmed in a meeting with GSOC. The questions which fell within the remit of the OIP were identified to the family and related to:

1. The timeline of Mr. X’s temporary custody at the CCJ;
2. Access to his medication while in the CCJ;
3. The handover process by members of AGS into the temporary custody of the IPS; and
4. The circumstances in which Mr. X passed?

These matters are addressed in this report.

7. Criminal Courts of Justice

7.1 Mr. X was never committed to prison and was neither on remand or convicted while in the temporary custody of the IPS in the CCJ. His temporary custody was to facilitate his appearance before the Court on foot of a bench warrant which had been issued on 29 April 2010. Mr. X was placed in the temporary custody of a governor of the IPS by AGS under the Courts and Court Officers Act 2009 which states that:

Section 6. — (1) *A prisoner may be placed in the temporary custody of a member of the Garda Síochána where the placement is for a purpose referred to in section 7.*

(2) *A person who is lawfully in the custody of the Garda Síochána may be placed in the temporary custody of a governor where the placement is for a purpose referred to in section 7.*

(3) *Without prejudice to the generality of subsections (1) and (2), a person who is placed in temporary custody under either of those subsections may be placed in a place in or adjacent to a court building in which the appearance or hearing referred to in section 7 concerned is to be held.*

(4) *A prisoner or a person who is lawfully in the custody of the Garda Síochána who is not placed in temporary custody under subsection (1) or (2) may be placed in a place referred to in subsection (3) for a purpose referred to in section 7.*

Purposes of temporary custody.

Section 7. — *A prisoner or other person may be placed in temporary custody under section 6 for the purposes of facilitating—*

(a) a court appearance by that person, or

(b) his or her participation, as a witness or in another capacity, in a court hearing involving him or her.

Section 9.— *(1) A prisoner who is placed in temporary custody under section 6(1) shall be deemed, for the duration of the placement, to remain in the custody of the governor in whose custody he or she was before being so placed.*

(2) A person who is placed in temporary custody under section 6 (2) shall be deemed, for the duration of the placement, to remain in the custody of the Garda Síochána.

7.2 Mr. X was in the temporary custody of a governor of the IPS at the CCJ for the purpose of a court appearance. Prior to this he was in the custody of AGS and when Mr. X was removed by ambulance from the CCJ he was again in the custody of AGS.

8. Background

8.1 The family informed the OIP that as a result of a “*minor traffic incident*” involving Mr. X, members of AGS checked PULSE¹ and became aware that he had an outstanding bench warrant for failure to appear before the Courts in April 2010.

8.2 Mr. X was arrested by appointment at Clondalkin Garda Station at 09:00 on 8 December 2021. The OIP were informed that in the months preceding the death of Mr. X, he had been rushed to hospital with a cardiac related issue. Mr. X’s partner reported that Mr. X had provided AGS with details of his health issues including a list of prescribed medication and informed Gardaí that he had to take a self-administered injection at specific times during the day. Mr. X had the medication he required in his possession when he was arrested and when he was placed in the temporary custody of the IPS.

8.3 Mr. X was transferred by patrol car from Clondalkin Garda station to the CCJ to appear before the Court. On arrival at the CCJ, he underwent a Covid-19 screening test and was then escorted by Gardaí to the IPS Reception Desk and handed over to the custody of the IPS. Mr. X was then placed in a holding cell awaiting his appearance before the Court. While in the cell he became seriously ill. Mr. X was transferred to Mater Misericordiae University Hospital where his death was pronounced.

8.4 Mr. X was 42 years old at the time of his passing. He was a father who had a long term partner. He resided in the Leinster area.

9. Events 8 December 2021

9.1 Members of An Garda Síochána arrested Mr. X by arrangement at Clondalkin Garda Station, Dublin 22 on the morning of the 8 December 2021.

9.2 At 10:09:17 Mr. X arrived at CCJ in the custody of two members of AGS.

9.3 Due to the COVID-19 pandemic, the IPS created a temporary Healthcare Screening post at the CCJ. The purpose of this post was to conduct Covid-19 related checks on those arriving at the custody area of the CCJ. There were no further responsibilities attached to the Healthcare Screening post in the CCJ.

¹ The PULSE system – ‘Police Using Leading Systems Effectively’ system – is an **electronic database on which information in relation to investigations, interactions with the public, complaints, and other data is recorded and stored.**

- 9.4 The Covid-19 checks on the 8 December 2021 were conducted by a Healthcare Care Assistant. The screening comprised a questionnaire entitled 'Garda Prisoners Entering the CCJ' which was dated 8/12/21. There was no provision for a signature. The form had six questions relating to Covid-19 symptoms. Other information recorded was the Escorting Garda's shoulder number, their Garda Station, Prisoner Name, Date of Birth, temperature and time. The temperature was taken at 10:10 and was recorded as 34.6°C. A normal body temperature, measured with an axillary thermometer, varies between 35.4°C and 37.2°C. According to Health Care Assistant Mr. X *"voiced no complaints he denied having any unexplained changes in his base line health care in the past 10 days."* Mr. X was then escorted by the Garda to the Reception desk.
- 9.5 Officer 1 was assisting at the Reception Desk and assisted in processing Mr. X. Officer 1 reported that *"at no time did he mention any medical condition"*, Officer 2 reported that they *"processed the prisoner"*. Officer 2 also reported that *"At no time did he or the Gardaí present give any indication that he was feeling unwell."* The GSOC investigators will also review the handover process in the course of their investigation which will include interviewing and taking statements from the escorting Gardaí.
- 9.6 At 10:17 when the committal process was completed, Gardaí departed the custody area of the CCJ and Mr. X was placed in a holding cell where he was in the temporary custody of the governor of the IPS under the terms of the Courts and Court Officers Act 2009, referred to in **section 7** of this report.
- 9.7 The OIP were provided with a copy of the *"Prisoner Transfer Document to Criminal Justice Complex"* which Gardaí handed to IPS Reception Officers. This document recorded that Mr. X was arrested at 09:00 on Wednesday 8 December 2021. Under the heading *"Medical Condition Psychiatric Condition"* it was recorded that Mr. X had *"high blood pressure, blood clots"* and he had not been provided with medication while in the custody of AGS. The document listed four medications that Mr. X had been prescribed and in his possession, however, there was no specific detail relating to the time this medication was to be taken, just the name of the medication, one of which was an antibiotic and another was an injection. Mr. X's behaviour was described as *"good" on the 'Prisoner Transfer Document'*.
- 9.8 The OIP did not receive a record of personal belongings taken into possession by the Reception staff, nor is there a record of the items handed over to Gardaí when they departed the CCJ to follow the ambulance to the hospital or to the NoK following the death of Mr. X. However, from reports received, it has been established that medication which Mr. X had on arrival at the CCJ was placed in locker 7 by IPS personnel.
- 9.9 At 10:17 Mr. X was placed in cell 1 on A landing by PO 1, the cell was shared with Prisoner A and Prisoner B. Efforts were made by the OIP to contact Prisoner A who, following his Court appearance, was released from custody. Despite numerous attempts, including sending postal correspondence and seeking assistance from AGS who called to his last known address, the OIP were unable to contact Prisoner A.
- 9.10 At 10:25:40 PO 1 completed checks on cell 1. At 10:30:06 Prisoner B was placed into cell 1 with Mr. X. At 10:38:38 Prisoner B was removed from cell 1 to attend court. At 10:46:52 PO 1 completed a cell check on cell 1.
- 9.11 In his report, PO 1 stated that he responded to a cell call alarm activation by Mr. X who requested his medication. Mr. X informed PO 1 that he had to take a self-administered injection at 11:00. PO 1 stated that he advised Mr. X that he was not authorised to administer medication and would inform the nurse. On examination of CCTV footage, PO 1 was viewed at 10:49:33 communicating with prisoners through the cell 1 door. At 10:51:15 PO 1 was speaking to PO 2 at the end of the A landing.

- 9.12 PO 1 reported hearing a loud bang from cell 1. At 10:52:28 PO 1 was viewed on CCTV footage quickly returning to cell 1, appeared to be visibly concerned and immediately requested assistance. PO 1 stated that he found Mr. X face down on the cell floor with Prisoner A hunched over Mr. X. As per CCTV footage viewed, Officers ran towards cell 1 and on their arrival PO 1 opened the cell door. Officers reported putting Mr. X in the recovery position and described Mr. X as being short of breath, visibly perspiring and red in the face.
- 9.13 Prisoner A informed the officers that Mr. X was standing in the cell before collapsing to the floor.
- 9.14 At 10:54, the Health Care Assistant entered cell 1. The Health Care Assistant reported finding Mr. X on the cell floor and requested the Officer to call emergency services immediately. The Health Care Assistant helped officers in providing CPR.
- 9.15 Almost immediately ACO 1 exited cell 1. ACO 1 reported that he retrieved Mr. X's medication from locker 7. ACO 1 returned to cell 1 at 10:55, Mr. X was receiving CPR and the retrieved from the locker was not administered.
- 9.16 At 10:58, ACO 1 entered the Control Room and instructed PO 5 to call for an ambulance.
- 9.17 ACO 2 contacted the Gardaí who had placed Mr. X into the custody of the IPS and informed them of the situation. The Gardaí were asked to return to escort Mr. X to hospital. As per CCTV footage, at 11:00:43 two members of AGS arrived on A landing and waited outside the cell door.
- 9.18 At 11:03:32, ACO 1 exited cell 1 and retrieved the defibrillator machine from the ACO's Office which is located near the main reception. At 11:03:40, ACO 1 re-entered the cell carrying the defibrillator. ACO 1 reported that the defibrillator first directed no action before giving a second direction to start compression.
- 9.19 At 11:09, Paramedics arrived at the CCJ, entered cell 1 and took over resuscitation attempts from IPS staff. The Paramedics were followed by members of the National Ambulance Service and Dublin Fire Brigade arriving at the CCJ and entering cell 1 at 11:12 and 11:13 respectively.
- 9.20 At 11:29 members of Dublin Fire Brigade and ambulance personnel placed Mr. X on a wheeled stretcher with the automatic chest compression device actively providing compressions as he was removed from the CCJ.
- 9.21 At 11:33, Mr. X was transferred from the CCJ to the Mater Misericordiae University Hospital via ambulance. Members of AGS followed behind the ambulance to the hospital. Mr. X returned to the custody of AGS on leaving the CCJ. Chief Officer 1 recognised the seriousness of Mr. X's condition and secured cell 1.
- 9.22 Chief Officer 1 informed the OIP that he later received a phone call from a member of AGS attached to Store Street Garda Station informing him that Mr. X had passed away in the Mater Misericordiae University Hospital. Chief Officer 1 immediately activated the IPS Death in Custody protocol, which included notifying the governor, getting reports from officers on duty and keeping cell 1 secured.
- 9.23 According to the reports received from the Officers on duty in the CCJ, they only became aware that Mr. X required medication when he requested his injection shortly before he collapsed in the holding cell.

10. Critical Incident Meeting

- 10.1 Governor with responsibility for the Prison Service Escort Corp held a critical incident meeting on 9 December 2021 at which staff discussed the incident. PO 1 stated that within minutes of Mr. X informing him that he required medication he had collapsed. Officers who initially responded to cell 1 believed Mr. X had a seizure. Governor thanked officers for their swift response and actions, despite the sad outcome.

11. Recommendations

The Office of the Inspector of Prisons has made four recommendations:

- 1 A Person Escort Record should be introduced and completed for every movement of a person into or out of prison custody whether by Irish Prison Service staff or by members of An Garda Síochána. This should include details of all medication; when each item is prescribed to be administered; risk of self-harm and vulnerability in addition to security considerations. It should also include any significant comments or threats made by a detained person in connection with their safety or the safety of others. (A similar recommendation was made in Death in Custody Report Ref Ms X 2019 and was accepted by the Irish Prison Service. An example of a Person Escort Record was provided as a footnote in Report Ref Ms X 2019 and is again provided at footnote 2 in this report).
- 2 As individuals are being placed in the temporary custody of the Irish Prison Service by An Garda Síochána for the purpose of their appearance in Court, the Irish Prison Service should assign a nurse to the Criminal Court of Justice to conduct a Nurses Committal Interview². Where concerns come to light and/or where the person has to take medication at specific intervals and/or time, the nurse should make arrangements for a prison Doctor to prescribe the required medication to be administered by the Irish Prison Service nurse during their temporary custody.
- 3 The Irish Prison Service should introduce a 'Personal Belongings Record' to be completed by the Criminal Court of Justice Reception Officer. The written record should record all items of personal belongings, including medication taken into possession by the Irish Prison Service while the person is in their custody and where it is retained i.e. locker 7. The form should have provision for signatures when taking possession of personal belongings and when returning the belongings to include the time signed-out, who signed it out and to whom. The Record should be signed by the Reception Officer, the person being placed into custody and witnessed by a member of An Garda Síochána, if present.
- 4 A Standard Operating Procedure should be developed by the Irish Prison Service to provide Healthcare personnel with clear guidance when a person requiring immediate and/or ongoing healthcare attention is presented by An Garda Síochána to be placed into the temporary custody of the Irish Prison Service.

² Person Escort Policy 2019 HMPPS - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/988643/per-paper-detailed-guidance-hmpps.pdf

12. Closing

- 12.1 Mr. X was in poor health when an outstanding 10 year old bench warrant was executed by AGS for his appearance before the CCJ. Prior to the arrest of Mr. X, An Garda Síochána were provided with details of Mr. X's medical conditions and medication prescribed to treat same. This level of detail was not provided to the IPS during the handover process.
- 12.2 Mr. X was arrested by arrangement on the morning of the 8 December 2021 and conveyed to the Criminal Court of Justice by AGS where a Healthcare Assistant carried out a Covid-19 health screening and recorded his temperature as 34.6 at 10:10.
- 12.3 Mr. X's temperature on arrival at the CCJ was recorded as 34.6 which was below the normal range which varies between 35.4°C and 37.2°C. The Healthcare Assistant in her report stated that Mr. X "*voiced no complaints at the time as per the screening assessment he denied having any unexplained changes in this base line health care in the past 10 days.*" As Mr. X's temperature was below what is considered 'normal body temperature', it should have raised concerns and warranted further questioning regarding his general health and medication. As the person was being received from the custody of AGS and not know to the IPS healthcare personnel, the advice of a qualified nurse or doctor should, in the circumstances, have been sought and their advice recorded in an official record.

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