



Office of the Inspector of Prisons



Annual Report for the years 2015 and 2016

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Foreword

In November 2007 the then Minister for Justice and Equality, Mr. Brian Lenihan, T.D., RIP, announced the appointment of the late Judge Michael Reilly, who was then Judge of the District Court, to the post of Inspector of Prisons. His appointment took effect from 1 January 2008 for an initial five-year period, which was extended for a further five years.

In announcing Judge Reilly's appointment the Minister said "*It is important that we have independent oversight of our prison regime I am confident that he will carry out his duties in a fair and impartial manner.*"

When the late Judge Reilly, took up the position as Inspector of Prisons the Irish Prison Service was at a cross roads. Much of the prison estate was old and in a dilapidated state, prisons were overcrowded, slopping out was more the norm rather than the exception, the problems associated with drugs in prisons mirrored the devastation being experienced in certain communities in society and gangs were emerging as a serious threat to the good order of many of our prisons.

As Inspector of Prisons he took his role very seriously, which is evidenced from the findings and recommendations in his 99 published reports - two published posthumously.

The late Judge Reilly took a particular interest in how children were treated within the Criminal Justice system. He was a strong advocate for children under 18 years detained in prison and brought his many concerns regarding their detention in St. Patrick's Institution and subsequently in Wheatfield Place of Detention to successive Minister's for Justice and Equality. He worked tirelessly (as is evidenced by his Reports on St. Patrick's Institution and in his Annual Report 2012) to ensure that an appropriate regime setting was put in place to cater for this cohort. Following an inspection of the children's Regime in Wheatfield Place of Detention in 2016, the late Inspector brought his serious concerns to the attention of both the Tánaiste and then Minister for Justice and Equality and to the Minister for Children and Youth Affairs.

This subsequently resulted in the transfer of responsibility for all juvenile offenders to the Minister for Children and Youth Affairs, allowing the ending of holding children in Wheatfield and the final decommissioning of St. Patrick's Institution.

In 2008 there were no Irish Standards for the Inspection of Prisons against which prisons could be benchmarked. The late Judge Reilly published Standards for the Inspection of Prisons and had over the years given advice, in numerous published documents, to the Irish Prison Service on many issues relevant to the treatment of persons in prison custody, including:-

International Best Practice on issues such as cell size, obligations owed to prisoners, use of special cells, disciplinary procedures, inspection reports etc.

In many of the Annual Reports and in particular in Chapter 6 of the Annual Report 2013/2014, reference was made to the operation of our prisons, most particularly the culture of the prisons. The late Inspector highlighted in that Annual Report and in many other reports, the absence of a functioning line management structure. He also highlighted failure by some staff to observe Standard Operating Procedures, inaccurate and at times misleading reports of incidents, poor record keeping and lack of supervision which, he found, resulted in operational deficiencies.

In January 2015 the late Judge Reilly wrote to the then Minister regarding the aforementioned concerns with a proposal to conduct a comprehensive review of the Culture of the Irish Prison Service. The Minister of the day was supportive of his initiative and provided the resources necessary to carry out this review.

The assistance of an internationally recognised expert - Professor Andrew Coyle, former prison Governor involved in driving organisational and cultural change within the Scottish Prison Service and Prison Service of England and Wales - agreed to work with Judge Reilly in undertaking the review.

This was a comprehensive review resulting in the publication, in November 2015, of the report titled:

‘Culture and Organisation in the Irish Prison Service A Road Map for the Future’

The 96-page report comprises, inter alia, an Executive Summary, which commended the many dedicated staff of the Irish Prison Service but also brought to light issues of concern. The Report suggesting *‘A Road map for the Future’* encompasses the following areas:-

- Structures of the Irish Prison Service;
- Relationships between Prison Service headquarters and prisons;
- Staffing structure in prisons;
- Relationship between management and staff in prisons;
- Staff learning and development.

It is hoped that the Director General of the Irish Prison Service and his senior management team will bring about the changes recommended in that Report.

In June 2016 a report titled *‘Review, Evaluation and Analysis of the Operation of the present Irish Prison Service Prisoner Complaints Procedure’* was published. This is a comprehensive review of the existing Prisoner Complaints Procedure. It documented many flaws in the existing process including its failure to provide a mechanism for an appeal of a decision on a Category A Complaint – the most serious category of complaint. It is hoped that the 17 Recommendations of this report, will be implemented as a priority.

In November 2016, just one day before Judge Reilly’s sudden and untimely death, he signed off on his final thematic report titled *‘Healthcare in Irish Prisons’*. This report, which was published posthumously, highlights the obligations to provide healthcare in prisons; the necessity for each prison to conduct a staffing needs analysis and a health needs assessment of prisoners.

This Office will continue to monitor the provision of healthcare to prisoners.

Judge Michael Reilly's sudden death in November 2016 shocked all who knew him. As an advocate of Human Rights within our prisons and a key contributor to the Criminal Justice system his knowledge and experience will be greatly missed. However, the important guiding principles contained in his reports were intended to influence positive change and inform how prisoners are managed within the prison setting. I have no doubt that his many reports will continue to be a guiding light to anyone interested in ensuring that the Human Rights of those in custody are protected.

The late Judge Reilly's reports are all available on our website:-

www.inspectorofprisons.gov.ie

CHAPTER 1

Introduction

- 1.1 This is the seventh Annual Report provided by the Office of the Inspector of Prisons to the Minister for Justice and Equality.
- 1.2 In the years since 2008 when the late Judge Michael Reilly took up the position as Inspector of Prisons much has been achieved by the Irish Prison Service in terms of improvements to the prison estate. A new prison was opened in Cork City during 2016. In other prisons, new prison wings have been constructed, new workshops have been or are being built. The prison population has been reduced and slopping out is virtually a thing of the past. All of these improvements are well documented in our published reports, in the reports of the Irish Prison Service and in public statements from successive Ministers for Justice and Equality.
- 1.3 In June 2016 the Tánaiste and then Minister for Justice and Equality launched the Irish Prison Service Strategic Plan 2016-2018. This is a comprehensive document which sets out specific goals, challenges and opportunities which it commits to achieve within defined timelines and at all times subject to accepted Human Rights norms. Consequently, the Irish Prison Service can, for the future, be benchmarked against the goals set out in its Strategic Plan and be held to account should slippage be detected.
- 1.4 In the period since 2008 the workload of the office has increased considerably. In recognition of the increased work-load my appointment was approved. I took up the position as Deputy Inspector to Judge Reilly in November, 2015. Following the death of Judge Reilly and pending the appointment of an Inspector of Prisons, I was appointed by the Minister to continue the work of the office.
- 1.5 In this report reference is made to reports on investigations into the circumstances surrounding the deaths of prisoners either in prison custody or

while on temporary release; ongoing visits by officials of this office to all of our prisons; and to thematic reports.

- 1.6 While the late Judge Reilly held the position of Inspector of Prisons he produced: Six Annual Reports, 11 Inspection Reports, 19 Thematic Reports and 63 Death in Custody Reports. In addition to the foregoing, many issues of concern were highlighted through correspondence to either the Governor of the relevant prison, the Director General of the Irish Prison Service and/or to the Minister for Justice and Equality, which, I am glad to say, resulted in several issues being rectified.
- 1.7 Combined with the role of inspecting prisons and investigating circumstances surrounding deaths in custody or temporary release, staff of the office, on a daily basis deal with a range of issues including responding to letters received under Rule 44 of the Irish Prison Rules, matters coming to light affecting the Human Rights of a prisoner requiring urgent and immediate attention which may involve a visit to a prison and/or meeting a prisoner and/or his/her family and/or management of the prison.

CHAPTER 2

Core Activities of the Office of the Inspector of Prisons

Our Approach

2.1 The purpose of this Office is to contribute to the improvement of conditions in the prison system in the Republic of Ireland. The independence of our function provides an important safeguard against mistreatment of prisoners through our inspections and by highlighting in our various reports deficiencies in the system. In making recommendations we seek to ensure prisoners are treated with dignity and respect for their Human Rights in accordance with national and international laws.

Role and Function

2.2 During 2015 and 2016 staff of this Office visited the 14 (now 13¹) institutions in the Irish Prison System. Eleven of these institutions are traditional ‘closed’ institutions. There are two open centres, which operate with minimal internal and perimeter security (Loughan House, Cavan and Shelton Abbey, Wicklow) and one ‘semi-open’ facility with traditional perimeter security but minimal internal security (the Training Unit, Dublin) – this Unit is no longer operational since May 2017².

2.3 The majority of female prisoners are accommodated in the purpose built ‘Dóchas Centre’ and the remainder are located in a separate wing of Limerick Prison.

2.4 The Inspector of Prisons has access to all areas of prisons within the Irish Prison Estate. This is without restriction and can include meeting with prisoners in private, reviewing documentation and prison records, security and consulting with prison management.

¹ Training Unit semi-open prison no longer operational since May 2017

² IBID

- 2.5 The duties, inter alia, include full inspection of prisons (announced and unannounced) which involve inspecting the conditions in prison and the treatment of prisoners; carrying out thematic inspections which include: Females in Custody, Healthcare, use of Close Supervision and Safety Observation Cells etc.
- 2.6 Following each Inspection a report with findings and recommendations is presented to the Minister for publication and a copy given to the Director General of the Irish Prison Service and to the Governor in-charge of the prison inspected.
- 2.7 We also investigate the circumstances surrounding all deaths in custody including those who die while on temporary release. I go into more detail on Prison Inspections and Investigations into Deaths in Custody in Chapters 6 and 7.

CHAPTER 3

Legislative Provision

Legislative Basis

- 3.1 The Remit of the Office of the Inspector of Prisons is set out in Part 5 of the Prisons Act 2007.
- 3.2 Under Section 30.5 of that Act, the Inspector of Prisons is independent in the performance of his or her functions.
- 3.3 Under Section 31.6 it is not the function of the Inspector to investigate or adjudicate on a complaint from an individual prisoner, but the Inspector may examine the circumstances relating to the complaint where necessary.
- 3.4 Under Section 32 of the Prisons Act 2007, the Inspector of Prisons must, *inter alia*, submit an Annual Report to the Minister for Justice and Equality on the performance of the Inspector's functions during the previous year. The Minister, subject to subsection 4, shall cause a copy of it to be laid before each House of the Oireachtas and to be published.

CHAPTER 4

Office Resources

4.1 **Staff**

1	Inspector of Prisons	- vacant since November 2016
1	Deputy to the Inspector of Prisons	- appointed November 2015
2	Higher Executive Officers	- 1 office based
1	Clerical Officer	
1	Duty Officer	

4.2 **Expert Panel**

In order to effectively fulfil the mandate of the Inspector of Prisons under the Prisons Act, 2007 it was agreed that an Expert Panel of suitably qualified persons, in specific relevant fields, would be established to assist with certain aspects of the work. The panel includes professional, legal, medical and academic experts who support the Office.

4.3 The duties expected of this panel include - but are not confined to - going into prisons (as and when required) for the purpose of inspecting the services provided to prisoners (education, vocational training, recreation, healthcare etc). Their mandate would also involve talking to prisoners, prison staff and/or those who provide services to the prisoners, examining records with particular emphasis on all relevant Human Rights issues and obligations.

4.4 I would like to acknowledge the tremendous support provided to me since joining this Office. At times, this involved staff working unsocial hours and without this commitment the work of the Office could not be undertaken in a timely and diligent way.

CHAPTER 5

Human Rights entitlements and Best International Practice

- 5.1 The Office of the Inspector of Prisons has a duty to monitor the treatment of those detained in our prisons and the conditions in which they are held. Inspecting prisons has an important preventative function as well as seeking to improve positive outcomes for prisoners.
- 5.2 Prisoners have the same rights as people living freely in our communities apart from those rights which they forfeit by reason of their imprisonment. These rights have been underpinned by International Treaties and Instruments. The Republic of Ireland has ratified a number of international Human Rights treaties and in the course of our work we take account of various treaties, instruments, declarations, standards and recommendations including:
- i. European Convention on Human Rights;
 - ii. Universal Declaration on Human Rights;
 - iii. The United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules);
 - iv. United Nations Convention against Torture and other Cruel, Inhumane and Degrading Treatment or Punishment;
 - v. European Convention against Torture and other Cruel, Inhumane and Degrading Treatment or Punishment;
 - vi. United Nations Covenant on Civil and Political Rights; and
 - vii. The European Prisons Rules.

CHAPTER 6

Prison Inspections

Inspections

- 6.1 The following is a brief explanation of the procedures that the Office has adopted and continues to follow in carrying out its mandate.
- 6.2 Side by side with announced visits, the Office of the Inspector of Prisons has made ad-hoc and unannounced visits to all prisons not alone during business hours but also during off peak hours including early morning and week-end visits. The purpose of these visits is to ensure that standards in all prisons are maintained and are not dependent on the arrival or non arrival of the Inspector. The ad-hoc inspections may occur randomly or on foot of confidential information received and/or on suspicion that policy/protocols are not being complied with. If during the course of these inspections the Inspection Team discovers matters of concern, the Inspector will bring these to the attention of the Governor of the prison and/or to such other persons as may be appropriate as set out in Section 31 (1) (c) of the Prisons Act 2007.

Detailed inspections of individual prisons

- 6.3 These inspections are thorough and last a minimum of two days. An in-depth analysis of all areas of the prison is carried out. The Inspection Team talk to prisoners, members of staff and examine records as deemed appropriate. Immediately following the inspection, matters of concerns detected during the inspection are brought to the notice of the Governor and his/her senior management team. The Governor is given a period of time within which to comment on and address the concerns. If any concern(s) cannot be met by local management these are taken up with the appropriate authority.

- 6.4 Within a timescale of three months after the initial inspection the Inspection Team will carry out another announced inspection of the prison. The purpose of this inspection is to:-
- again inspect all areas of the prison with particular attention given to those areas which initially caused concern; and
 - meet with the Governor, Senior Management, members of Staff, prisoners, visitors, representatives of the Visiting Committee, Branch Officers of the Prison Officers Association, Chaplains, Teachers, Doctors, Psychologists, Nurses, Probation Officers, Addiction Counsellors and others who provide Services to prisoners. These meetings are structured with advance notice given to all concerned.
- 6.5 The general – broadly consultative – approach adopted may not be possible in all cases if it immediately becomes apparent that matters of very serious concern such as serious Human Rights abuses need to be addressed as a matter of urgency. Should such a situation arise the matter(s) of concern is/are brought to the notice of the Minister immediately.
- 6.6 During 2015, priority was given to the drafting of a thematic report ‘ *Culture and Organisation in the Irish Prison Service A Roadmap for the Future*’ . However, in the course of research for this thematic report all prisons, including Irish Prison Service Headquarters, were visited. There was wide consultation including the establishment of focus groups to get a broad perspective and range of views. Consequently, there was no specific detailed inspections carried out that year.
- 6.7 In 2016 three inspections took place: the Training Unit, Cloverhill and Wheatfield prisons. The report on the Training Unit has been published and the other two reports are being finalised.

CHAPTER 7

Deaths in Custody

- 7.1 Responsibility for the independent investigation of deaths in custody or while on temporary release was vested in the Inspector of Prisons commencing in January 2012.
- 7.2 In conducting investigations into deaths in custody or on temporary release, the Office ascertains whether or not the prison environment, the prison conditions, the prison regimes or the actions or non actions of prison management, staff or others working within the prison system contributed in any way to the death of a particular prisoner.
- 7.3 In June 2014 a report was published outlining the reason for the involvement of the Office of the Inspector of Prisons in the investigation of deaths in custody or while on temporary release³. The main reason is to meet the criteria of an independent investigation which would satisfy the elements of Article 2 of the European Convention on Human Rights.
- 7.4 An individual report on each death is submitted to the Minister and these reports are published.
- 7.5 During 2015, there were 22 deaths (15 in custody and seven while on temporary release). As some deaths occurred during the latter part of 2015 investigations continued into 2016. In the course of the year 17 reports into deaths were presented to the Minister and published; one was in respect of a death which occurred in 2013, 11 reports in respect of deaths which occurred during 2014 and five reports in respect of deaths which occurred during 2015.

³ Report by Judge Michael Reilly Inspector of Prisons of his investigations into the deaths of prisoners in custody or on temporary release for the period 1st January 2012 to 11th June 2014

7.6 During 2016, there were 10 deaths (five in custody and five while on temporary release). As in 2015 some deaths occurred during the latter part of 2016 and investigations continued into 2017. In the course of 2016, 14 reports into the circumstances surrounding these deaths were presented to the Minister and published; 11 were in respect of deaths which occurred during 2015 and three were in respect of deaths which occurred during 2016.

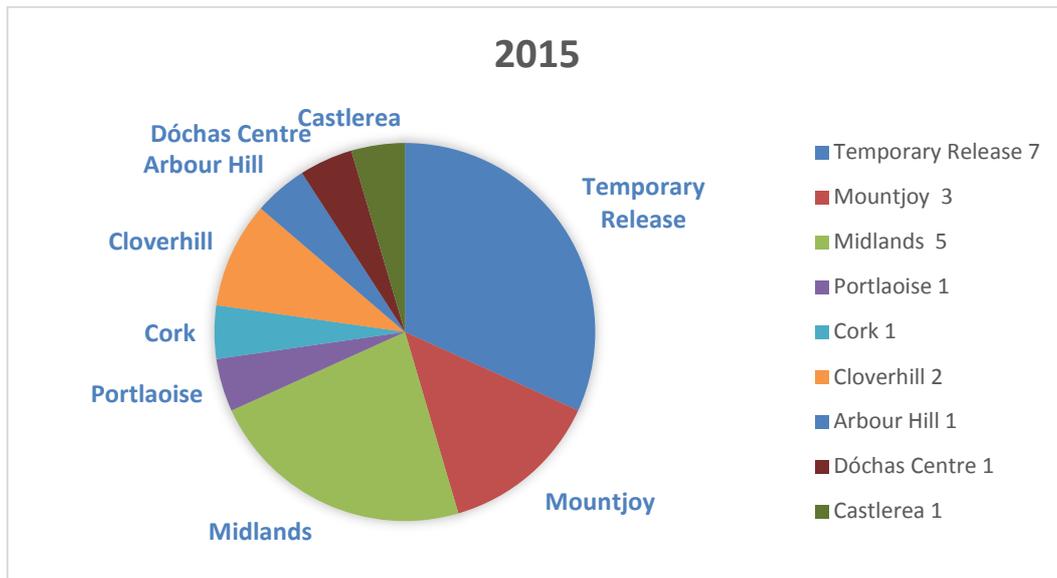
7.7 In each Report, findings and relevant recommendations were made.

In summary, the recommendations generally relate to:-

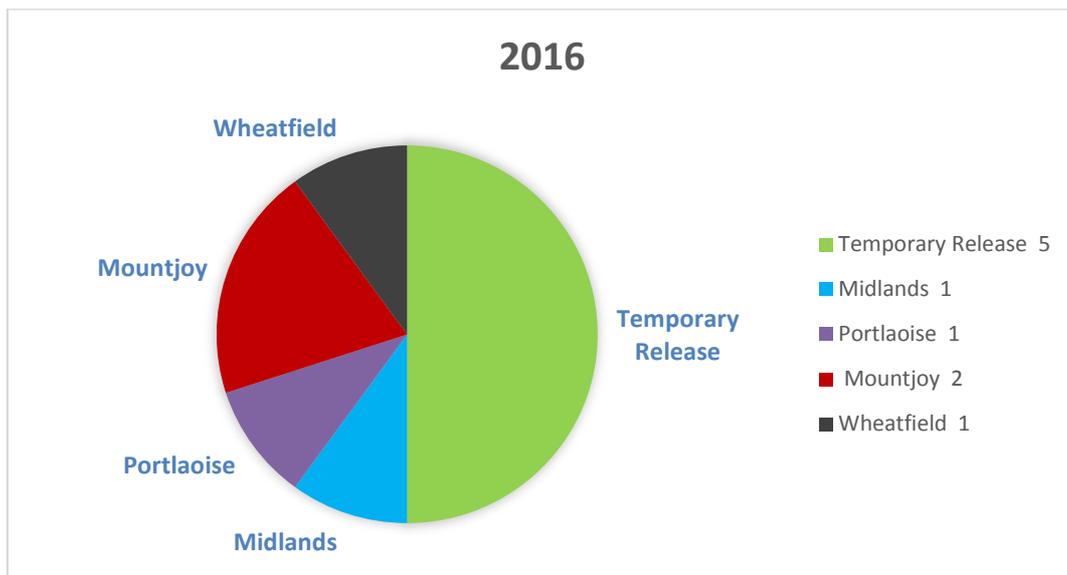
- Poor and/or inaccurate record keeping;
- Inadequate CCTV coverage;
- Failing to conduct checks on prisoners in accordance with Irish Prison Service Policies and/or Standard Operating Procedures.

7.8 This office will continue to monitor the implementation of the recommendations submitted in the 31 Reports presented to the Minister during 2015 and 2016.

Breakdown of the 22 deaths in custody and/or on temporary release during 2015



Breakdown of the 10 deaths in custody and/or on temporary release during 2016



CHAPTER 8

Matters of particular concern

8.1 During the course of the work of this Office in the years 2015 and 2016 a number of particular issues gave cause for concern and will continue to be a focus of our work in accordance with our Statutory remit. Of particular concern are the following:-

Line Management Structure

8.2 As has been highlighted in the 2013/2014 Annual Report, the late Inspector highlighted his concerns about deficiencies in line management structure within the Irish Prison system. This continues to be a source of ongoing concern.

Activities and Support Services

8.3 We will continue to monitor the access of prisoners to school, workshops, support and/or intervention services. Our ad-hoc visits to prisons, together with the inspection of prison records, discussions with staff, prisoners and service providers highlight the practice of the regular redeployment of staff from certain posts and activities. This practice consequently results in the closure of workshops, fewer attendees at school, limiting access to support and or intervention services and/or cancellation of accompanied temporary release. We are concerned that the practice of regularly redeploying staff from educational and support related activities will negatively impact on the rehabilitative opportunities for prisoners.

Prisoners presenting with Mental Health issues

8.4 There is growing concern at the level of prisoners within the prison system presenting with mental health difficulties. This presents a serious challenge for the Irish Prison Service Management. It is recognised that the prison system must work with all the relevant State Agencies to deliver high quality care to this cohort of vulnerable prisoners. It is the intention of this Office to closely monitor the response of the prison system to this subset of prisoners.

Restricted Regimes

8.5 In the course of our inspections, we have encountered prisoners on various ‘restricted regimes’ (some under protection, some for disciplinary and/or mental health issues). This Office recognises the challenge faced by Irish Prison Service management in seeking to keep prisoners in safe and secure custody. This Office will continue to closely monitor the regimes of such prisoners to ensure their Human Rights are protected and their respective regimes are compliant with National Legislation and International Treaties and Instruments, as outlined in Chapter 5 of this Report.

Contraband

8.6 The Office of the Inspector of Prisons recognises the efforts made within each prison to limit the opportunities to bring contraband into the prison system. However, our work suggests that contraband continues to enter the prison system and therefore existing preventative measures must be continuously evaluated and upgraded.