



CPT/Inf (2007) 41

**Response of the Government of Ireland
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Ireland**

from 2 to 13 October 2006

The Government of Ireland has requested the publication of this response. The report of the CPT on its 2006 visit to Ireland is set out in document CPT/Inf (2007) 40.

Strasbourg, 10 October 2007

Response of the Government of Ireland to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Ireland from 2nd to the 13th October, 2006

September, 2007

Introduction

Background

The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) made its fourth visit to Ireland from 2nd to the 13th October, 2006 pursuant to Article 7 of the European Convention which established the CPT. As is normal practice in the case of a periodic visit, the CPT wrote to the Irish Authorities on 1 December, 2005, announcing that a delegation of the CPT would visit Ireland sometime in 2006. On 20th September, 2006, the CPT indicated that the visit would begin on 2nd October, 2006 and end on the 13th October, 2006. On the 25th September, 2006 the CPT made known the preliminary list of places it wished to visit.

The details of the visit, including the composition of the delegation, places visited and the CPT's recommendations, comments and requests for information are contained in its report to the Irish Government. This report was adopted by the CPT on 9th March, 2007 and sent to Ireland on 30th March, 2007.

The response of the Irish Government to the recommendations, comments and requests for information contained in the report of the CPT on its visit to Ireland from 2nd to 13th October is set out in this document. For ease of reference this response follows the format of the CPT's report on the visit as contained in its report of the 9th March, 2007 apart from a few instances where it was considered necessary to quote from the main body of the CPT report rather than from the summary of recommendations in the interest of completeness.

Publication

The information gathered by the CPT in relation to its visit, its report and its consultations with the authorities concerned is confidential. However, whenever requested to do so by the Government concerned, the Committee is required to publish its report, together with the comments of the Government. In the interest of openness, transparency and accountability, the Irish Government has decided to ask the CPT to publish its report and the Government's response thereto.

Immediate observations under Article 8, paragraph 5 of the Convention

At the conclusion of the visit, the CPT delegation invoked the provisions of Article 8, paragraph 5, of the Convention as regards the use of 'leather muffs' in Castlerea Prison and St. Patrick's Institution for Young Offenders; the availability of outdoor exercise for all prisoners on protection; the unsuitability of the holding cells of less than 4m² on the B1 Landing in St. Patrick's Institution; the practice in Castlerea Prison of stripping prisoners placed in close and special observation cells and providing them with paper underwear (nappies); and the conditions of cells on wing C2 of Mountjoy Prison.

In reply of 29th November, 2006 the Irish authorities provided information on the measures being taken in the light of the delegation's immediate observations.

**Response to Recommendations, Comments and Requests
for Information arising from the Visit of the CPT to Ireland
from 2nd to the 13th October, 2006**

1. INTRODUCTION

D. Co-operation between the CPT and the Irish authorities

Comment

The degree of co-operation received during the visit from the Irish authorities was very good, both at central and local level.

The CPT trusts that appropriate instructions will be given to prison establishments to ensure that the inviolability of correspondence between the CPT and prisoners is assured. (paragraph 5)

Response

The Government is committed to giving its fullest co-operation to the CPT as was evidenced by the advance detailed briefing material and the high level of co-operation given to the delegation at all times during the visit.

It is the policy of the Irish Prison Service not to open correspondence between prisoners and the CPT. Any breaches of policy that might occur from time to time are failures of implementation and are regretted. The Director General of the Irish Prison Service has issued a reminder on the policy to all Prison Governors. It should also be noted that the policy has now been given a statutory underpinning in the Prison Rules 2007. Rules 44 and 45 specifically exclude correspondence with the CPT from being opened and examined by the prison authorities.

11. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary Remarks

In the course of their preliminary remarks on their findings following their 2006 visit to a number of Police establishmentsnoted that the most significant development since the CPT's previous visit in 2002 is the adoption of the Garda Síochána Act 2005. This legislation introduces various changes to existing police practice and management; for example, it establishes a Garda Síochána Inspectorate tasked with ensuring that the resources available to the Garda are used in the most effective and efficient manner. The Act also introduces an independent Garda Síochána Ombudsman Commission to deal with all police complaints, in line with previous CPT recommendations (see CPT/ Inf (2002) 36, paragraph 18);..... The CPT welcomes the establishment of the Garda Síochána Ombudsman

Commission and looks forward to following its work. (paragraph 10)

The CPT trusts that the Ombudsman Commission will make full use of its powers to inspect police premises unannounced. (paragraph 11)

Response

The Government is pleased to note the welcome given by the Committee to the establishment of the Garda Síochána Ombudsman Commission, which commenced operations on 9 May 2007.

The 2005 Act, which established the Ombudsman Commission, is a significant reform of the legislative structure in which An Garda Síochána operates and is managed. The 2005 Act also provided for the establishment of the Garda Síochána Inspectorate which in its operations to date has made a valuable contribution in providing advice on the efficiency and effectiveness on the operations and administration of An Garda Síochána.

The Government is pleased to note the experience of the CPT's delegation that many persons with whom they spoke indicated that they had been correctly treated while in Garda custody. That said, the Government regards with the utmost seriousness any incident in which the treatment of a person in Garda custody falls short of the high standards required.

Request for information

It is too early for the CPT to comment in detail on this newly established complaints mechanism... The CPT would like to receive clarification from the Irish authorities on whether it remains possible for complaints concerning members of the police service to be dealt with by the Garda itself. (paragraph 12)

Response

Under the Garda Síochána Act 2005 every complaint from a member of the public made to a member of the Garda Síochána at a Garda station must be referred to the Ombudsman Commission. Complaints may also, of course, be made direct to the Ombudsman Commission. Decisions on admissibility of complaints, whether made at Garda stations or direct, are matters for the Ombudsman Commission – a member of the Garda Síochána on receipt of a complaint from a member of the public at a Garda station has no role to play in sifting complaints for admissibility purposes prior to their transmission to the Ombudsman Commission.

The most serious complaints, involving death or serious injury, must be investigated by the Ombudsman Commission itself. In other cases, it is a matter for the Commission, exercising its independent judgment, to decide whether it should itself investigate it or whether it should refer it to the Garda Commissioner for investigation.

The Ombudsman Commission is empowered to refer a case to the Garda Commissioner for investigation with or without supervision and can take over a case if it is not satisfied with the progress or even the outcome of an investigation.

In addition, the Ombudsman Commission is empowered to issue guidelines providing for the resolution, by mediation or other informal means, of admissible complaints. The intention here is that more minor complaints can be resolved informally. This informal resolution mechanism cannot be used in respect of complaints involving death or serious harm to a person and other complaints about conduct that appears to constitute an offence.

To conclude, therefore, every complaint made by a member of the public to a member of the Garda Síochána at a Garda station must be referred to the Ombudsman Commission. While the legislation empowers Garda involvement in the investigation of or resolution of complaints, their role in that regard is tightly circumscribed and remains under the ultimate control of the Ombudsman Commission.

Request for information

The CPT would like to be informed about the measures taken to address the concerns raised by the Morris Tribunal in relation to ill-treatment issues. (paragraph 13)

Response

The Government has strongly condemned the instances of gross misconduct by individual members of An Garda Síochána identified by the Morris Tribunal. It has introduced a number of major initiatives, both legislative and administrative, both in response to those findings and as part of a wider programme of Garda reform. These include:

Garda Síochána Ombudsman Commission: The Garda Síochána Act establishes a new Garda Síochána Ombudsman Commission to replace the Garda Síochána Complaints Board. The three person Ombudsman Commission has extensive investigative powers, is well resourced with independent investigative expertise and opened its doors to the public on 9 May 2007.

New Discipline Regulations: The new Garda Síochána Discipline Regulations 2007 (S.I. No. 214 of 2007) provide for a far more streamlined and rigorous system of discipline for Gardaí. This is a central element in the Government's response to the findings of the Morris Tribunal. The Government accepted the views of the Tribunal that the current disciplinary regulations for the force needed to be replaced by a new, less complex approach which would be swift and fair with a simple appeal process. The new regulations follow well-established principles in the public sector and beyond. They are more streamlined and stripped of the complexities of administration and legal formalism which were criticised by the Tribunal.

Whistleblower Regulations: The Garda Síochána (Confidential Reporting of Corruption or Malpractice) Regulations 2007 (S.I. No. 168 of 2007) provide for the establishment of a charter containing guidelines and mechanisms for the confidential reporting of allegations of corruption or malpractice within the force. These regulations, and the Charter which the Garda Commissioner will introduce on foot of them, will provide a channel for protected confidential reporting of corruption and malpractice by members of An Garda Síochána and civilian employees in the force. The Ombudsman Commission will be kept informed of all reports made under this system.

Accountability: One of the principal themes running through the five Tribunal reports to date has been the necessity for a requirement for all members to have an immediate duty to account to their superiors in relation to their actions whilst on duty. The Garda Síochána Act 2005 imposes such a duty. Section 39 of the Act provides that a member shall account for any act done or omission made by the member whilst on duty and that failure to do so can result in dismissal.

Power of Dismissal: In addition to the sanctions provided for in the discipline regulations, which include dismissal, the Commissioner has also been given a separate power, in section 14 of the Act, to dismiss a member below the rank of superintendent, with the consent of the Government, where he or she is of the opinion that the member's continued membership would, by reason of his or her conduct, undermine public confidence in the Garda Síochána.

Civilian Expertise and HRM: Other initiatives which have been taken include:

- the appointment of the four-person civilian expert group chaired by Mr Maurice Hayes (former Senator) to advise the Garda Commissioner on the development of management and leadership skills for senior officers, including the promotion of a culture of performance management and accountability,
- the development of Garda human resource management, including the forthcoming appointment of a civilian Director of HR, and the development of specialist skills and enhanced training for members and staff of the Garda Síochána.

Reform of selection procedures: It is clear from the findings of the Morris Tribunal, and more generally, that the selection procedures in the Garda Síochána must be such as to identify and select the most suitable members for promotion to higher ranks.

The Garda Síochána (Promotion) Regulations 2006 (S.I. No. 485 of 2006) have now been put in place by Government. The new regulations bring about significant modernisation of the system for promotion within the force. They formalise the requirement for promotion to be based on merit and for all competitions to be held in a manner which is fair, impartial and objective, in line with best practice, consistent throughout, and open, accountable and transparent. In particular, they require every Garda promotion selection board to have on it a majority of external civilians.

Professional standards: The Government has also approved the establishment of a ***Professional Standards Unit in the Garda Síochána***. This unit has responsibility for addressing performance, effectiveness and efficiency across all levels of policing activity. The establishment of this unit will enable the Garda Síochána to ensure that organisational efforts and initiatives are driven strategically and that value for money and international best practice in professional, ethical and human rights standards are maintained.

It should also be recalled that the Morris Tribunal is still sitting and has yet to report on the detention module of its work which is expected to deal extensively with allegations of ill-treatment in custody. It is understood however that this work is well advanced, and the Government will, of course, give serious consideration to any recommendation which the Tribunal may make.

Request for information

The CPT would like to receive copies of the adopted versions of both the new disciplinary regulations and the Garda ‘whistleblowers’ charter. (paragraph 14)

Response

Copies of the new Garda Síochána Discipline Regulations 2007 (S.I. No. 214 of 2007) and The Garda Síochána (Confidential Reporting of Corruption or Malpractice) Regulations 2007 (S.I. No. 168 of 2007) have been forwarded to the CPT.

2. Allegations of ill-treatment

Comment

A majority of the persons met by the CPT’s delegation, which carried out the 2006 visit, made no complaints about the manner in which they were treated while in the custody of the Gardaí. However, as had been the case during previous visits, a considerable number of persons did allege verbal and/ or physical ill-treatment by Gardaí. (paragraph 15)

In a number of cases, the delegation's medical doctors found that the persons concerned displayed injuries and scars which were consistent with their allegations of ill-treatment (paragraph 16)

Recommendation

In light of the information at its disposal, the CPT recommends that senior police officers remind their subordinates that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions. (paragraph 18)

Response

The Government notes the finding of the CPT's delegation that in the majority of cases the persons met by the delegation made no complaints about the manner in which they were treated while in Garda custody. Nevertheless, the Government is not in any way complacent in this regard and is at one with the Committee in strongly condemning any acts of ill-treatment of persons in Garda custody.

The Government is concerned to learn of the four individual cases the Committee have noted of alleged abuse of arrested persons on their visits to Castlerea Prison, Mountjoy Prison, St. Patrick's Institution and Cloverhill Prison, and the case noted on their visit to Cork. It notes the findings of the Delegation's medical personnel and accepts that if the injuries were received as alleged then the police officers concerned acted in an improper manner. However, it is not possible for the Government to respond to these or other particular instances of alleged abuse in the absence of specific information which would facilitate their investigation.

The Government wishes, however, to reiterate its absolute commitment to preventing and, where they occur, detecting any abuses of the rights of persons in Garda custody. Those rights are extensively set out in the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987 as amended. All serving and Student/Probationer members of An Garda Síochána are instructed on their duties and responsibilities under the Regulations. These Regulations also form part of the Continuous Professional Development Core Programme for all serving members of the force. Any issues arising in the Courts or advised by the Director of Public Prosecutions and which impact on the way in which the Regulations are enforced are circulated to members of the Force by way of directive from Garda Headquarters for the information and compliance of all members.

In addition, the Garda Síochána Code obliges all Gardaí to maintain the highest professional standards in relation to the care of detainees, and any action which falls below these standards is liable to disciplinary sanction. Furthermore, all members of An Garda Síochána are reminded regularly about the use of force in their duties being no more than is strictly necessary in the prevailing circumstances and all members are required to be familiar with and adhere to the Garda Síochána Code. In this regard the recommendation by the CPT has been brought to the attention of the Garda Commissioner for implementation and a directive has issued from Garda Headquarters for the information and compliance of all members.

The Government also underlines the additional importance of the measures taken (as set out in responses above) with regard to the Garda Discipline Regulations, the Confidential Reporting of Corruption or Malpractice Regulations and the establishment of the independent Ombudsman Commission.

Comment

As stated in the report on the 2002 visit (CPT/Inf (2003) 36), the CPT welcomes the introduction of mandatory audio-video recording in the interrogation rooms of Garda stations..... The findings during the 2006 visit suggest that audio-video recording in the interrogation rooms of Garda stations may have been a significant contributing factor to reducing the amount of ill-treatment alleged by persons detained under the above-mentioned legislation.

By contrast, the CPT's delegation found that persons arrested and interviewed by the police,.....whose interviews were not usually audio-video recorded, ran a greater risk of ill-treatment by Garda officers..... (paragraph 19)

Recommendation

The CPT recommends that audio-video recording be used for all interviews, irrespective of the nature of the offence. (paragraph 19)

Response

The provisions of the Criminal Justice Act 1984 (Electronic Recording of Interviews) Regulations 1997 (S.I. No. 74 of 1997) provide for the electronic recording of interviews with suspects detained in Garda stations pursuant to the following provisions of Acts of Parliament:

- Section 4 of the Criminal Justice Act 1984,
- Section 30 of the Offences Against the State Act 1939,
- Section 2 of the Criminal Justice (Drug Trafficking) Act 1996, and
- Section 2 of the Criminal Justice (Drug Trafficking) Act 1996 as modified by section 4(3) of that Act.

A total of 232 interview rooms in 130 Garda stations have been equipped for the electronic recording of interviews and are now operational.

The Electronic Recording of Interviews Regulations provide that an interview is not required to be electronically recorded only in very limited circumstances, such as where the equipment is unavailable due to fault, or already in use when the interview is to commence. The Garda member in charge must consider on reasonable grounds that the interview should not be delayed until the fault is rectified or the equipment becomes available. An interview may not be recorded where it is not practicable to do so (e.g. if the interviewee simply refuses to co-operate). In any such case, the Garda member in charge must ensure that an appropriate note appears in the custody record of the person concerned stating that the interview was not electronically recorded and the reason for this. It should be emphasised that these are exceptional cases, and the Garda authorities advise that up to 98% of interviews with detained persons are recorded.

The Government also wishes to inform the Committee that Electronic Recording of Interviews Regulations are currently under review and new Regulations are likely to be made in the coming months to take account of changes in the legislative environment.

Comment/Recommendation

The Irish authorities have made commendable efforts to stamp out ill-treatment by members of the Garda Síochána. The introduction of the new legislation, as described above (see paragraph 10), is illustrative of this effort, as is the pilot project at Store Street Garda Station in Dublin whereby most parts of the station are being monitored with CCTV cameras. The CPT encourages the Irish authorities to pursue their stated intention to equip all Police Stations with such cameras..... Nevertheless, the CPT wishes to re-emphasise the important role of the judicial and prosecutorial authorities in the prevention of ill-treatment....

Recommendation

The CPT recommends that, whenever criminal suspects brought before a prosecutor or judge allege ill-treatment by law enforcement officials, the prosecutor/judge record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the prosecutor/judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment.

Further the Irish authorities are encouraged to pursue their stated intention to equip all police stations with CCTV cameras. (paragraph 20)

Response

The Government welcomes the finding of the Committee as to the efforts made by the Irish authorities against any ill-treatment of persons by the Garda Síochána. CCTV systems have been installed in the cell and prisoner handling areas of Pearse Street, Store Street and the Bridewell Garda Stations in Dublin and work is ongoing with a view to installing similar systems in Sligo and Letterkenny Garda Stations as part of the ongoing pilot programme. The experience of the Garda Authorities to date at the locations where the CCTV has been installed has been positive with a reduction in the number of reported complaints noted. The Government remains committed to taking all necessary and practical measures to ensure that the rights of persons held in Garda custody are upheld at all times.

In relation to the recommended role for Judges, this is understood to refer to a presiding Judge in a relevant court. In this jurisdiction the doctrine of separation of powers under the Constitution means that the judiciary is independent in the exercise of its judicial functions. It is therefore for Judges to determine in any particular case how to deal with an allegation of ill treatment. It is not open to the Government to direct the judiciary in the exercise of their functions. The Irish authorities have, however, written to the Presidents of all courts drawing their attention to the recommendation.

It should be noted, however, that Judges in this jurisdiction are diligent in ensuring that the human rights of prisoners are respected and in particular their right to bodily integrity. Similarly it is the Government's experience that defence lawyers in this jurisdiction act robustly in protecting their clients' interests and, where appropriate, draw allegations of ill-treatment to the attention of the Judge and arrange for appropriate medical examination of the prisoner where necessary. The Government is not aware of any instances where prisoners have been discouraged from complaining in genuine cases.

3. Conditions of detention

Comment/Recommendation

Material conditions at police facilities were in general satisfactory for the periods of detention involved which, save rare exceptions, did not exceed 48 hours. The cells were of adequate size, equipped with toilet facilities and could be properly heated.

The CPT recommends that steps be taken to remedy the shortcomings observed as regards conditions of detention at Galway's Mill Street Garda Station. (paragraph 21)

Response

The Government welcomes the view of the Committee that the material conditions at police facilities were in general satisfactory for the short periods of detention involved. Shortcomings were identified at Mill Street Garda Station in Galway with regard to the call systems and the heating/ventilation in the cells. The call systems in the cells at this station were removed as they had been damaged by persons in custody and used as implements for self-harm. Both immediate and medium-term measures are being put in place to address this issue. A Garda is now detailed at all times in the cell area in this station and has overall responsibility for the welfare of persons in the cells. The replacement of the call system in the cells is being pursued as a matter of urgency. The heating/ventilation systems in the cells are standard for cells in Garda stations. The ventilation system is designed only to be used intermittently in order to clear the air and a direction to this effect as to its use has been issued to Gardaí on duty in the cell area.

A major programme of updating of Garda Accommodation is currently underway and one of the prioritised projects is the replacement of the Mill Street Station with a modern facility. This will include the provision of new cells and ancillary facilities for persons in custody.

Recommendation / Request for information

The CPT recommends that steps be taken to ensure that persons held in detention for more than 24 hours are, as far as possible, offered the opportunity of outdoor exercise every day and access to shower facilities. Further, it would like to receive statistics concerning the number of persons held in police custody for longer than 48 hours in 2005 and 2006. (paragraph 22)

Response

Where persons are detained in Garda stations for a period in excess of 24 hours they are afforded, if possible and following risk assessment, an opportunity to avail of exercise. In general, showering facilities would not be available in most Garda stations. However, all such detained persons are afforded the opportunity to wash at hand basins where applicable.

The following table indicates the numbers of persons held in Garda custody for over 48 hours by Garda Division or National Unit in 2005 and 2006. In each of the years in question 23 out of 32 Garda Divisions or National Units had no detentions of persons for over 48 hours:

Garda Division	2005	2006
Dublin Metropolitan Region East	3	1
Dublin Metropolitan Region South Central	1	0
Dublin Metropolitan Region North	5	13
Dublin Metropolitan Region South	0	6
Dublin Metropolitan Region West	6	6
Cork City	1	0
Drogheda	8	8
Letterkenny	1	0
Portlaoise	0	2
Sligo	0	3
Thurles	0	2
Waterford	4	3
Galway	1	0

3. Safeguards against ill-treatment of detained persons

Recommendation

The CPT recommends that the Irish authorities ensure that the right of detained persons to inform a third party of their choice of their situation is fully effective in practice, and that all detained persons are fully informed of their rights as from the outset of their detention.(paragraph 23)

Response

The Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987 as amended specify the detailed procedures to be followed in relation to persons in Garda custody, including an entitlement to have another person notified of his or her being in custody and the entitlement to consult a solicitor. The Garda Authorities are satisfied that there are no grounds to believe that members in charge of Garda stations are not discharging their functions as required by and in accordance with the Custody Regulations. It should be noted that these Regulations require the Garda member in charge to ask the person concerned or cause him or her to be asked to sign the custody record to acknowledge that he or she has been informed of his or her rights. However, the Regulations do not oblige an arrested person to do so and in the event that an arrested person refuses to do so, that refusal is recorded.

Comment/ Request for information

The CPT's delegation noted that the right of access to a lawyer was guaranteed from the very outset of custody and that detained persons had the right to talk to their lawyer in private. However, a lawyer was not permitted to be present during any interrogation conducted by the police....

The CPT would like to receive the comments of the Irish authorities on the possibility for a lawyer to be present during an interrogation conducted by the police. (paragraph 24)

Response

As the Committee acknowledges, a person in Garda custody has a right to reasonable access to a solicitor and to consult with his or her solicitor privately. This right is guaranteed in the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987 and amendments thereto. The right of access to a solicitor for an arrested person has been supplemented by the extension of the free legal aid system to circumstances such as these. The Government is satisfied that this system is working well and is an important contribution to safeguarding the rights of persons in custody in Garda stations.

The right of an arrested person to have a solicitor present during questioning has not been upheld previously by the Irish Courts. While recognising the committee's views, the Government is not convinced of the need to make legislative change in this matter at this time. The Government is of the view that the current arrangements provide important guarantees of the rights of arrested persons in this regard. The Government will, however, keep the matter under review given the importance that the Committee attaches to the issue.

B. Prison Establishments

1. Preliminary Remarks:

Recommendation

The CPT calls upon the Irish authorities to ensure that new prison rules are adopted as a matter of priority. (paragraph 27)

A Ministerial order was signed on 29 May 2007 giving effect to the Prison Rules 2007 from 1 October 2007.

Comment/Recommendation

The authorities informed the CPT that a new Youth Justice Service had been established...with responsibility for children and juveniles placed in custody and for youth policy. The process of transferring responsibility for the management of children's detention schoolsis under preparation.

As regards St Patrick's Institution for Young Offenders...the Committee understands that the Youth Justice Service will take over responsibility for the care of 16 and 17-year old boys in due course.

The CPT recommends in the meantime that appropriate measures be taken to ensure adequate separation between children and young adults in St. Patrick's Institution, in accordance with the principles laid down in the United Nations Convention on the Rights of the Child and the European Prison Rules.(paragraph 28)

Response

The Irish Youth Justice Service took over responsibility for the detention of boys under the age of 16 (at the time of remand or committal) and girls under the age of 18 years (at the time of remand or committal) from the Department of Education and Science with effect from 1st March, 2007. Planning for the redevelopment and replacement of the existing children detention facilities has already commenced and the new facilities will provide accommodation for 16 and 17 year old boys. When the Irish Youth Justice Service is in a position to take responsibility for this group of boys, they will be detained in children detention schools entirely separate from adult prison facilities.

In the interim the separation of children and young adults in St. Patrick's Institution has taken place in so far as is possible given the physical limitations of the St. Patrick's site. The Special School (B Division) was opened in April, 2007 specifically for this purpose. It has a bed capacity of 44 and is self contained. Inmates aged 16 and 17 now have a residential area, communal dining area, and education, work training and recreational areas that are separate from young adults. This has created a separate and enhanced regime for them. A small number of 17-year-olds with specific individual needs are kept in the young adult part of the institution. These include sex offenders (C Unit) and vulnerable inmates (C3 landing) who for their own protection are accommodated separately.

It should be noted that Part 156A of the Children Act 2001, which became operational with effect from 1 March 2007, designated St Patrick's Institution as the sole institution within the Irish Prison Service to which 16 and 17 year old males could be committed on remand or sentence. Since then, it has not been possible to guarantee an immediate placement of all such committals in the Special School (B Division). When the number of such prisoners exceeds 44, priority is given to the 16-year-olds and those 17-year-olds who cannot be accommodated in the Special School are accommodated in the drug-free D Division of the main institution.

Comment

The Irish authorities recognise the necessity to modernise and expand the prison estate....

The CPT strongly encourages the Irish authorities to invest the necessary resources into the existing prison estate to ensure that all prisoners are kept in appropriate conditions of detention. (paragraph 29)

Response

The Irish Prison Service is currently investing significant resources in major capital projects including the replacement of the four prisons on the Mountjoy campus (Mountjoy, Training Unit, Dochas Centre and St Patrick's Institution), Portlaoise Prison, Cork Prison and the older parts of Limerick Prison. Between them, these comprise nearly 40% of the entire prison estate. At this point in time, approximately 72 percent of prisoners in custody have in-cell sanitation and the completion of the projects above will end the practice of slopping out entirely. The Capital projects which the Irish Prison Service is engaged in are as follows:

(a) Thornton Hall Prison PPP Project

The case for closing Mountjoy has been well documented over the years. Redeveloping the existing 20 acre site at Mountjoy is neither financially viable nor practical from an operational perspective. The Government approved the development of a new prison complex on a green field site to replace Mountjoy.

Building a new prison campus on a new site will open up new opportunities. The replacement of the outdated and inappropriate facilities at Mountjoy and the design of the new Prison Complex at Thornton Hall have been informed by the need to deliver regimes that support rehabilitation. The development of a green field site means that the Irish Prison Service will have the room to develop progressive rehabilitative facilities, introduce single person cells with in cell sanitation and shower facilities. The proposed new prison complex, when complete, will provide accommodation for 1,400 prisoners in a range of security settings with all the support facilities such as education, work training and medical facilities expected in a modern prison system.

The size of the Thornton site allows considerable flexibility for a campus style development with modern work practices as well as allowing the Irish Prison Service to plan for the future.

It is anticipated that the new prison will be completed in 2010.

(b) Munster Region Prison Complex

The Irish Prison Service has identified the need to construct a new prison complex to serve the Munster area and replace Cork Prison. The new facility will provide single cell accommodation with proper in-cell sanitation and shower facilities as well as offering significant benefits in the areas of work training, educational and medical services.

The Government has approved the assignment of land at Kilworth (160 acres) to the Irish Prison Service as the designated site for the new prison.

(c) Shelton Abbey (Open Centre)

Work has been completed on the provision of a new purpose built 44 bed accommodation units. The Irish Prison Service is also planning to construct a further 36 bed unit.

(d) Loughan House (Open Centre)

The provision of a new 60 bed accommodation block has been completed. In addition, construction work on a new education unit has been completed recently.

(e) Limerick Prison

A new services block (Education, medical, consultation rooms, etc.) is nearing completion. This new unit will be an important addition to the prison and will provide enhanced facilities for prisoners. The fit out of this new block is currently underway.

(f) Wheatfield Prison

It is the intention of the Irish Prison Service to construct a 144 bed unit with in-cell sanitation and shower facility in all cells, each measuring 13m². Work is already underway on the preliminaries to expedite the construction phase. The construction programme will be approximately 18 months duration and the target for completion is end 2008.

(g) Portlaoise Prison

Construction work on the provision of a new accommodation block (with in-cell sanitation and shower facility in all cells, each of which measures 11m²) for 138 offenders is well advanced. It is envisaged that the building will be completed in December 2007 and that fit out and commissioning of the new facility will take place in January/February 2008.

(h) Castlerea

Construction of a new 52 space remand unit and 14 space segregation unit (with each cell measuring 11m²) is now underway and is expected to be completed in the 2nd half of 2008.

Construction work on the provision of 2 extra houses at the Grove area of the Prison (12 places) has been completed.

2. Allegations of Ill-treatment

Comment/Recommendation

The CPT's delegation observed that the majority of prison officers were attempting to deal in a humane manner with the prisoners in their charge and this was borne out in the interviews with inmates.

However, in all the prisons visited, the delegation received a number of allegations of verbal abuse and of physical ill-treatment of inmates by certain members of staff (paragraph 30)

Recommendation

The CPT recommends that the Irish authorities continue to deliver at regular intervals the message that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions. More specifically, prison officers must be made fully aware that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that once a prisoner has been brought under controls there can be no justification for additional use of force (paragraph 33)

Response

Staff are made fully aware that any form of ill-treatment of prisoners, including verbal abuse, is not tolerated. The Irish Prison Service will continue, as recommended, to deliver this message. All allegations of ill-treatment are thoroughly investigated and if warranted, disciplinary measures against staff would follow. The Prison (Disciplinary Code for Officers) Rules, 1996 and the Prison Rules, 2007 address this issue.

In parallel, prison officer training emphasises concepts of humane treatment and awareness of international instruments, as well as an appreciation of the ethical context within which prisons must be administered. All technical skills that are taught are underpinned by a belief in the dignity and humanity of everyone involved in prisons. All training programmes emphasise the need to treat prisoners as individuals with humanity and respect and to act within the law at all times.

Control and Restraint techniques are employed only as the final stage of a process of intervention. Using force unnecessarily or using undue force constitutes a breach of discipline under the Prison (Disciplinary Code for Officers) Rules, 1996 (First Schedule, Section 11). Rule 93 of the Prison Rules 2007 deals specifically with this matter. The relevant provisions include a requirement on prison officers to report each incident which involved the use of force to the Governor (specifying the circumstances that gave rise to force having to be used and, also, the nature and degree of force used) and a requirement on the Governor to ensure, where required, that the prisoner concerned is examined by a healthcare professional.

The Irish Prison Service has a very advanced Control and Restraint training programme which is on a par with and exceeds international best practice. All officers are required to undertake this training as part of their basic training and officers undertake a refresher course at specified periods during their service.

Recommendation

The CPT recommends that a prisoner against whom any means of force have been used should have the right to be immediately examined and, if necessary, treated by a medical doctor. The examination should be conducted out of the hearing and preferably out of the sight of non-medical staff, and the results of the examination should be formally recorded and made available to the prisoner.

Further, a central register should be kept logging instances when prison officers resort to force or apply control and restraint techniques on a prisoner. (paragraph 34)

Response

The Prison Rules 2007 (Rule 93(3)) place an obligation on the Governor of a prison to ensure that a prisoner against whom force has been used is examined by a healthcare professional. All prisoners have access to medical care, as and when required, regardless of the cause of their medical complaint.

The CPT can be assured that medical examinations are conducted out of the hearing and sight of non-medical staff except where specific security issues arise (for example, to protect medical staff at their own request). The right of prisoners to receive copies of their medical records on request is fully recognised. This can be on direct request in line with professional practice guidelines or through application under the Freedom of Information Act.

It is also standard practice, and a legal requirement under the Prison Rules 2007 (Rule 93(4)), that a report is furnished to the Governor of a prison whenever the use of force has been necessary. The report must specify the circumstances that gave rise to force having to be used and, also, the nature and degree of force used. These reports will form the basis for a central register to be monitored by the Security Unit which is being established to oversee the range of security measures as detailed in response to paragraph 38.

Comment

As in 2002, the delegation formed the impression that senior management was determined to take appropriate action when allegations of ill-treatment of inmates by staff came to their attention...

That said, the CPT's delegation has serious concerns as to the effectiveness of the investigations carried out by the Garda Síochána into allegations of ill-treatment by staff. In the course of the visit, the delegation had the possibility to examine a number of such complaints and it would appear that the necessary requirements of thoroughness and timeliness were not being met. Further, there appeared to be no automatic recourse to a medical examination each time a prisoner alleged that he had been assaulted by a member of staff.(paragraph 35)..... For instance, at Castlerea Prison the delegation examined three cases from 2006. (paragraph 36)

Response

During the delegation's visit to Castlerea Garda Station, it sought and was given access to three investigation files relating to complaints made by prisoners in Castlerea Prison to An Garda Síochána alleging assaults by Prison Officers. Arising from the issues raised a review of procedures has taken place and arrangements have been put in place whereby all allegations of assault on prisoners by Prison Officers are to be notified in the first instance to the local Garda District Officer who will then ensure that the matters involved are investigated thoroughly and expeditiously.

Request for information

The CPT would like to receive the comments of the Irish authorities on the proposal for an independent body to deal with complaints by prisoners. (paragraph 37)

Response

Prisoners have a number of avenues open to them if they wish to make a complaint, i.e., they can make a complaint to a member of staff, the Governor, the Prison Visiting Committee, the Gardaí, the Prison Chaplain, the Prison Doctor, the Minister and the Courts. Prisoners may also write to the European Commission of Human Rights and, of course, the CPT. In addition, they may request to meet with officials from Irish Prison Service Headquarters to discuss any issue of concern.

Furthermore, the Prison Rules 2007 provide for enhanced grievance procedures for prisoners. Under Rule 57, prisoners have the right to request a meeting with an officer of the Minister. The Governor is obliged to forward the request to the Director General of the Irish Prison Service who will designate an officer to visit the prisoner and hear any request or complaint. Subject to requirements of security, good order and the government of the prison, a meeting with the prisoner will take place within the view but out of hearing of a prison officer (unless the officer of the Minister requests the meeting be out of view also). The officer can make a recommendation to the Governor or bring the complaint to the attention of the Governor for him or her to deal with. The Director General can give a direction to the Governor in the matter and the Governor must comply.

Comment

The Committee is also very concerned when it discovers a culture which is conducive to inter-prisoner intimidation and violence. In the view of the CPT's delegation, at least three of the prison establishments visited can be considered as unsafe, both for prisoners and for prison staff (notably, Limerick and Mountjoy Prisons and even St. Patrick's Institution). The extent of the inter-prisoner violence in these prisons is worrying, and the increasing numbers of persons seeking the protection of prison management is a symptom of this development.....The increased use of and demand for drugs within prisons is fuelling a younger, more aggressive prison populationFurther aggravating factors include the existence of feuding gangs.....the lack of an individualised risk and needs assessment for all prisoners, the lack of space and poor material conditions in prisons. (paragraph 38)

Response

While the prison regime is designed to limit the scope of acts of violence, it is not possible to completely eliminate the possibility of such acts in prisons holding a high proportion of violent offenders without introducing a regime that would be unacceptable. The CPT has rightly identified an emerging problem with violence in Irish prisons. While not accepting that within a prison context the three prisons mentioned could be classified as unsafe, nevertheless it is accepted that further measures are required to address the issue and this is expanded upon below.

The growth of organised criminal gangs outside prison has had obvious consequences within the prison system itself. The manner in which these groups operate on the outside is now, in fact, being mirrored on the inside and presents a significant challenge to the Irish Prison Service.

In order to respond to these challenges and to ensure safe and secure custody, significant efforts are made by prison authorities on a continuous basis to prevent the flow of contraband - primarily mobile phones, drugs and weapons, - into our prisons, by for example, the installation of nets over exercise yards, vigilant observation of prisoners by staff, upgraded CCTV monitoring, the use of modern cameras and probes to assist in searching cells etc., the use of metal detectors, the use of screened visits and the use of daily prisoner and cell searches. In addition, plans to avail of technological options for dealing with the use of mobile phones within prisons are at an advanced stage.

While the efforts described above have gone a long way in thwarting the attempts by prisoners and visitors to bring contraband into prison, it has become clear that in order to successfully deal with this problem and to deny access to contraband, a number of new security initiatives need to be introduced as a matter of urgency targeting staff, visitors and prisoners. In this regard, Government approval has recently been secured for a new range of initiatives which form a security package which, when introduced, will allow the Irish Prison Service to ensure that serious criminals and criminal gang members can not direct their operations from behind bars or exert influence over other prisoners.

The new security initiatives comprise:

- The establishment of a Drug Detection Dog Service;
- The introduction of security screening for all personnel entering our closed prisons;
- The establishment of an Operational Support Group; and,
- The opening of a new remand segregation unit for serious drug and criminal gang members.

The Irish Prison Service is currently rolling out these measures across the prison estate.

In relation to the number of prisoners on protection, this is regarded by the Irish Prison Service as an indicator of the steps taken in individual prisons to ensure in so far as possible the safety of prisoners. The fact that prison management immediately separates prisoners seeking protection from the general prison population or from specific prisoners identified as presenting a threat, clearly demonstrates prison management's commitment to ensuring safety and security.

It is at the committal stage that the majority of prisoners who seek protection express their wish. External influences imported to the prison on committal include gang rivalry, drug debts and perceived cooperation with the police. On committal, all prisoners are interviewed by the Governor and based on all the information available, a decision is made as to where a particular prisoner will be accommodated. In some instances, prisoners are transferred to other establishments.

(a) Gangs

As previously outlined, a significant number of measures are in place and further measures are currently being put in place to deal with the issue of inter gang feuding/violence.

(b) Drugs Policy

It is acknowledged that drugs present a major challenge to the Irish Prison Service and in this context, the Irish Prison Service Drugs Policy & Strategy, entitled *Keeping Drugs out of Prison* was launched in May 2006. The implementation of this Policy & Strategy has seen an intensification of efforts in the prison system to eliminate the availability of illicit drugs within prisons.

The Policy has provided for a range of new measures aimed at eliminating the supply of drugs into prisons, notably: enhanced visit security, the introduction of passive drug detection dogs and mandatory drug testing. At the same time, it has provided for continued investment in services within prisons to reduce the demand for illicit drugs in the prisoner population and meeting prisoners' treatment and rehabilitative needs.

Individual prisons have also introduced measures specific to their needs. For example, St Patrick's Institution has recently adapted its visit areas so that screened visiting is the norm, with enhanced CCTV cameras. Camera coverage has also been improved in the "C" exercise yard to help eradicate bullying and trafficking of contraband. In addition, operations by the Garda Síochána resulted in over 70 arrests of individuals attempting to traffic contraband, mainly over the boundary walls to the yards.

The intended introduction of mandatory drug testing across the prison system will provide a more accurate indication of the extent of drug abuse amongst prisoners individually and will identify those prisoners whose behaviour needs to be challenged. The Irish Prison Service is currently making arrangements for the introduction of this system.

(c) Activities

As regards provision of purposeful activities, the Irish Prison Service is committed to providing, in so far as possible, work, education and exercise activities to all prisoners. Prison regimes are discussed in greater detail below, in response to specific recommendations by the CPT. The capital programme of construction and enhancement will provide the necessary infrastructure for expanded provision of purposeful activities.

Many improvements have already been made. In St. Patrick's Institution, for example, new workshop, educational and recreational areas mean that all inmates have an opportunity to engage in purposeful activities every day. Furthermore, the opening of the Special School for under-18s reduced the pressure on the old Education Unit and workshops. The closing of the yards during the day period throughout the working week has also contributed to a greater uptake of other activities.

Implementation of an individual risk and needs assessment will be a core element of the Integrated Sentence Management (ISM) system that is being introduced in the Irish Prison Service. The system is being piloted in two prisons at present and will be rolled out progressively thereafter. Information on ISM is included in the proposed Chief Officer training programme.

Under the new system, prison officers nominated as Personal Officers will receive training which, it is envisaged, will include a mentoring role in assisting the prisoner contribute to development, implementation, and review of their individual sentence management plans and to act as a conduit between the prisoner and the multi-disciplinary team.

Measures to address the conditions that exist in some prisons are described elsewhere in relation to the prison building programme.

Request for information

The CPT was also informed about a violent incident that took place in the exercise yard in St. Patrick's Institution on 26 December, 2005.....

At its final talks with the Irish authorities on 13 October 2006, the CPT recommended that the authorities undertake a thorough and independent investigation into this serious incident and its aftermath.... The CPT would like to be informed about the outcome of the investigation. (paragraph 43)

Response

The Irish authorities wish to advise that the incident on 26 December 2005 was investigated by the Irish Prison Service Operations Directorate. This investigation found that there was insufficient staff assigned to supervisory duties in the exercise yard on the day in question. The measures taken in the aftermath of the incident were necessary to safeguard staff and ensure the safety and well-being of the prisoners themselves. The placement of the prisoners in close observation cells and the use of restraints was subject to normal safeguards such as medical supervision. The subsequent disciplinary measures were proportionate to the seriousness of the incident.

Measures taken since the incident include improved Garda activity at the perimeter wall to reduce drugs being thrown over and ensuring appropriate numbers of staff are assigned to ensure that order is maintained in the exercise yard. It should be noted that the increase in activities such as workshops and education for inmates in St. Patrick's Institution has decreased the amount of time inmates are in the exercise yards. The measures taken by the Irish Prison Service to achieve a drug-free prison system are detailed earlier in this document.

Request for Information

The CPT looks forward to receiving the results of the inquiry into the death of a prisoner in Mountjoy Prison on 1 August, 2006. (paragraph 41)

Response

The inquiry conducted by Mr Michael Mellett submitted its report to the Minister for Justice, Equality and Law Reform. The Minister felt that a review going beyond the scope of the Mellett investigation's terms of reference was warranted and that a detailed sworn inquiry was essential. He announced on 23 April 2007 the establishment of a Commission of Investigation under the Commissions of Investigation Act, 2004. The independent Commission is headed by Ms Gráinne McMorrough, Senior Counsel and has full statutory powers to investigate the matter and to take sworn evidence. The terms of reference of the Commission of Investigation include a review of policies, practice and procedures regarding the safety of prisoners in custody whether in prison, a place of detention, the Central Mental Hospital or other institution. It is intended that the findings of the Commission of Investigation will be made public and a copy of the report will be forwarded to the CPT in due course.

Recommendation

The CPT recommends that the Irish authorities take concerted action to tackle the growing phenomenon of inter-prisoner violence, in the light, *inter alia*, of the remarks made. (paragraph 42)

Response

The Irish authorities fully support the further development of inter-personal communication skills for staff but, in the experience of the Irish Prison Service, allegations of poor relations are not borne out. In fact, a high level of interpersonal skills is widely distributed among officers and the positive relationship between staff and prisoners contributes enormously to the running of the prisons.

Training in the process of dynamic security is delivered to all recruit prison officers and Assistant Chief Officers and is included in the new Chief Officer training programme. All Training Liaison Officers are also trained in the delivery of this programme and in tactical decision making which enforces dynamic security principles. Training Liaison Officers will then ensure that the skills are passed on to serving prison officers.

With regard to the CPT remarks that prison staff are unlikely to be able to protect prisoners if they lack effective management support, the Government would point to the fact that the importance of effective support and development of staff under supervision is included in Assistant Chief Officer and Chief Officer training programmes. Training in the immediate management of inter-prisoner violence is the focus of both conflict resolution skills training (for Recruit Prison Officers, ACOs and Chief Officers) and effective Control and Restraint techniques. Strategy, proactive contingency planning and management of imminent violence are modules in the Chief Officer training programme.

3. Staffing Issues

Request for information

The CPT welcomes the comments of the Irish authorities on the staffing issues raised. (paragraph 45)

Response

The need to have inmates involved in productive education and vocational activities is viewed as being of paramount importance and every effort is made to ensure that there is as little as possible disruption to such activities.

The comprehensive and fundamental new organisational and working arrangements which were introduced in early 2006 resulted in a period of profound change in the Irish Prison Service during which the decades long problem of dependency on excessive prison overtime was finally confronted - a confrontation which unavoidably impacted on long developed prisoner regimes.

The Committee will be aware that a situation had developed in the Irish Prison Service whereby the capital budget and every other budget within the system was being diverted to fund overtime expenditure. This reached a peak in 2003 when €60 million was spent on overtime - approximately 20% of the entire prison budget.

These new working arrangements will not only restore but actually enhance prisoner regimes in the years ahead, particularly in terms of improving access to services, the availability of better facilities, and making more productive use of out-of-cell time for prisoners.

The current position in this regard is that shortcomings are no longer a significant problem and disruption to services does not occur on a regular basis. Accordingly, the problems identified by the CPT have been largely addressed.

Furthermore, some 35 additional staff have been appointed to Mountjoy Prison since the CPT's visit, including seven for the Medical Unit. A full complement of staff is now in place in the Medical Unit.

When shortfalls occur due to staff absences, efforts are made to ensure services are not reduced by reallocating staff from elsewhere. When such staff are not available, some services are inevitably affected.

As regards St Patrick's Institution, an additional 21 staff have been appointed since the CPT visit. This has facilitated the opening of the new School facilities for the under 18s.

Recommendation

The CPT recommends that the Irish authorities invest the necessary resources into developing and providing training courses for prison officers to assist them in meeting the evolving challenges within the prison system. (paragraph 46)

Response

The Irish authorities wish to advise the CPT that any allegation that prison officers have incited violence among prisoners is treated with the utmost seriousness by the Irish Prison Service and should any officers be found to be engaging in such activities they would be dealt with promptly in accordance with disciplinary procedures. However, the Irish Prison Service has found no evidence to support the allegation but will continue to fully investigate any allegation of a breach of discipline by its staff.

There have been isolated incidents involving prison officers in alcohol related issues but any officers found to be under the influence of alcohol are dealt with promptly and in accordance with agreed procedures. The Irish Prison Service has advised that there is no evidence to support the allegation that this is a common occurrence in any prison.

The Irish Prison Service fully supports the further development of inter-personal communication skills for staff but, in its experience, allegations of poor relations are not borne out. In fact, a high level of interpersonal skills is widely distributed among officers and the positive relationship between staff and prisoners contributes enormously to the running of the prisons.

The Irish authorities acknowledge that training was restricted for a time prior to and during the transition to the new additional hours working arrangements as training had historically been done on overtime. The Committee is correct when it states that the new system makes provision for staff training. Now that the new working arrangements have been established, the training elements are being actively pursued.

The Irish Prison Service is fully committed to delivering training on a continuous basis for all grades. The following is an outline of some of the initiatives currently underway in relation to training:

- a "First-Line Management" course accredited by the international Institute of Leadership and Management was launched and has been taken by many Assistant Chief Officers.

- an "Operational Development Management" course will be launched shortly for Chief Officers.

- a new two-year programme for Recruit Prison Officers accredited with the Institute of Technology, Sligo and ending in a Higher Certificate in Custodial Care will replace the current nine-week induction training programme. The new course is seen as a focus for courses for all grades of prison staff. The course includes modules on communications and interpersonal skills, prison craft, education and mentoring, human rights and ethics. This innovative approach was lauded by both national and international experts on the course validation board.

Training Liaison Officers (TLOs) have been appointed in all closed institutions. The TLO's function is to support training and development for serving institution staff. All TLOs undertake an induction course to prepare them for their role. The course content was developed and delivered on a partnership basis with external consultants. TLOs have been rolling out training programmes for all staff within their institutions, initially focused on "hard skills" training (such as control and restraint techniques and use of breathing apparatus). Subsequent priorities include human rights, intercultural awareness and racism.

all Governor Grades have recently completed training modules on communications, influencing and negotiation, performance reporting and financial management, command training and exercises, tactical decisions, strategy development for incident management, code of conduct and Performance Development.

an extensive training needs analysis has been conducted by the Training and Development Centre.

In keeping with Council of Europe Recommendation No. R (97)12 training comprises elements of theory and practice; it seeks to avoid concentrating on training that is too remote from practical realities while acknowledging the importance of a theoretical basis. The reported criticism that too few instructors had recent operational experience does not reflect the reality. At the time of the CPT visit, the longest serving uniformed training staff member had been 2 years and 4 months with the Training and Development Centre, well within international guidelines of delivery of practical training. Currently, half the uniformed training staff are less than 6 months in the Centre. All uniformed training staff have extensive and diverse operational experience and continue to maintain contact and keep informed of all operational developments within the service. All end of course evaluations have indicated that training staff meet expectations of course participants. A fine balance is required between "recent operational experience" and the required experience to successfully deliver training.

4. Conditions of detention

a. Material conditions

Recommendation / Request for Information

The CPT recommends that the Irish authorities pursue vigorously their efforts to bring the standard of living conditions in Mountjoy Prison up to a decent level.

In relation to the C2 Wing, the CPT would like to receive information on the nature of the renovations mentioned in the letter of Irish authorities dated 29 November 2006. (paragraph 50)

Response

The construction of the new prison campus at Thornton is the only viable long term solution to the problems identified by the Committee and will ultimately resolve these issues and, in this context (as indicated earlier) the new prison complex will be completed in 2010.

However, as an interim measure, the following steps have been taken in Mountjoy Prison:

A major programme of work has been undertaken in the B Block of Mountjoy Prison. A new holding area has been provided, as well as new cells with in-cell sanitation and a sprinkler system.

In relation to the C2 wing, the wing was closed and fully refurbished to include new observation panels, sliding window facilities, new flooring, new recreation area and new exercise yard.

The A2 and A3 wings have been refurbished, providing 84 refurbished single cells, and toilet areas on B and D wings have been renovated.

It is agreed that the practice of slopping out is unacceptable. Current projects are aimed at the provision of full modern in-cell sanitation in all prison accommodation. At this point in time, approximately 72 percent of prisoners in custody have in-cell sanitation. The remaining cells that do not have this facility will be refurbished or replaced within the next few years.

Recommendation

The CPT recommends that the Irish authorities take concrete steps to provide inmates in A and B Blocks in Limerick Prison with conditions comparable to those in C and D Blocks. (paragraph 51)

Response

The removal of A and B Blocks in Limerick Prison and their replacement with modern prisoner accommodation forms part of a draft development plan for the final phase of modernisation work at the prison. However, plans in this regard have been delayed for some time pending the resolution of a High Court case in which the Prison Service is seeking to repossess a plot of land adjacent to the prison. The court judgement is awaited in this case.

Recommendation

The CPT recommends that appropriate steps be taken to rectify the deficiencies highlighted in paragraph 52 in respect of St. Patrick's Institution. (paragraph 52)

Response

While the Irish authorities accept the need for a rolling refurbishment of the Institution, it is committed to the replacement of the complex by the introduction of the new Thornton Hall Development in North County Dublin, which will be a regime oriented complex for inmates.

Recommendation

The CPT recommends that efforts be made to improve the state of repair of cells in C Wing at Cork Prison and that, as far as possible, only one prisoner be placed in a cell of 9m² and certainly no more than two. (paragraph 53)

Response

The Irish authorities have identified the need to construct a new prison complex to serve the Munster area and replace Cork Prison. The new facility will provide single cell accommodation with proper in-cell sanitation facilities as well as offering significant benefits in the areas of work training, educational and medical services. The Government has approved the assignment of land at Kilworth (160 acres) to the Irish Prison Service as the designated site for the new prison.

The "C" wing comprises three floors and was opened in 1987. The two upper floors accommodate "protection" prisoners, while "ordinary" prisoners are accommodated on C1. As recently as 2004, the late Inspector of Prisons observed that the cells in the wing were bigger, newer, and fresher than those on "A" or "B" divisions".

The CPT noted one instance of three prisoners sharing a cell which required one of them to sleep on a mattress on the floor. The policy in Cork Prison is that a maximum of two prisoners be accommodated in a cell. However there were exceptional circumstances in relation to the specific incident referred to by the CPT. The prisoners in question required protection not just from prisoners in the general population but also from other protection prisoners on the landing.

The CPT further noted that food had just been served while the chamber pots remained unemptied. The three protection prisoners in question had been given a number of opportunities during the day to empty their chamber pots to ensure that they were empty before bringing food into the cell. Furthermore, it is practice in the prison to facilitate inmates on protection to use the toilet facilities during the day when it is safe for them to do so.

Recommendation / Request for information

The CPT recommends that the Irish authorities pursue vigorously multi-faceted policies designed to put an end to overcrowding in prisons, having regard, *inter alia*, to the principles set out in Recommendation No. R (99) 22 and other pertinent Recommendations of the Council of Europe's Committee of Ministers. The Committee would like to receive detailed information on the measures being taken by the Irish authorities in this respect. (paragraph 55)

Response

Our current and ongoing investment of significant public resources into the specific capital projects already outlined (paragraph 29) will provide for modern prison accommodation designed to provide a range of rehabilitative services for prisoners.

In tandem with the upgrading of our prison estate the Irish authorities are also pursuing other non-custodial options such as the greater use of Restorative Justice. A National Commission on Restorative Justice has been established and is due to present an interim report by end 2007 with a final report in 2008. This would be in addition to the wide range of non custodial sanctions already available to the courts.

Recommendation

The CPT calls upon the Irish authorities to eradicate “slopping out” from the prison system. Until such time as this is achieved, concerted action should be taken to minimise its degrading effects. (paragraph 56)

Response

As mentioned previously, the Irish Prison Service is well advanced in the plan to eliminate completely the practice of slopping out.

b. Regime

Recommendation

The CPT recommends that greater efforts be made to provide inmates in Mountjoy and Limerick Prisons with purposeful activities. (paragraph 58)

Response

The level of regime activities in Mountjoy is constricted by the outdated physical infrastructure at that site. This is a significant part of the rationale for the building of a modern new prison at Thornton Hall in Co. Dublin. Currently the following activities operate at Mountjoy: fabric shop, printing/computers, advanced IT, woodwork, health and safety, metal shop, concrete shop, waste management, work party, industrial work party, school, library, kitchens and bakery.

The completion and commissioning of a purpose built services block at Limerick Prison in the coming months will allow significant expansion in the number of purposeful activities for prisoners. Currently the following activities operate at Limerick: industrial skills workshop, kitchen, laundry, gym, waste management, health and safety, education, library, industrial cleaning, craft shop, computers and building skills.

Recommendation

The CPT recommends that the Irish authorities take the appropriate measures to improve the regime of activities (including sport, educational and vocational training and rehabilitative classes) and other rehabilitative services offered to young offenders at St. Patrick’s Institution. (paragraph 59)

Response

At the time of the CPT visit, St Patrick's Institution was in the process of opening new purpose built workshops. In the following months all the new workshops were opened and industrial staff employed. For the first time this allowed the Institution to close the exercise yards during the day and give every inmate access to a purposeful activity. The opening of the Special School in May 2007 increased the activities and allowed a greater choice for inmates. All inmates now have access to activities, most of which lead to a recognised Certificate. The Education Department is fully aware of the need for literacy classes and assesses each inmate on committal. Individual coaching is provided for inmates identified as having special needs such as poor literacy skills. An additional 21 staff have been appointed to St Patrick's Institution since the CPT's visit. Almost half of prisoners (49%) participated in education during 2006, and 22 percent were involved for more than 10 hours per week.

All inmates in St. Patrick's Institution are engaged in constructive activity with the exception of remand inmates. Remand inmates are not required to work, other than to clean their own rooms and areas, however, they are encouraged to participate in other activities.

As already outlined, the development in Thornton is being built to a design that is based on regime orientation and will provide facilities that are on par with or exceed best international practice. This is, as already mentioned, the only viable long term solution to the issues outlined by the CPT.

Request for information/ Recommendation

The CPT would like to receive information about the education and training courses being offered in Cloverhill Prison, including the numbers of inmates participating in them.

More generally, the CPT recommends that efforts to develop programmes of purposeful activities of a varied nature (work, preferably with a vocational value; education; sport; recreation/association) be intensified. (paragraph 60)

Response

Cloverhill is a Remand Prison and prisoners there, because of their unconvicted status, are not obliged to participate in activities. A new school began functioning at Cloverhill in 2006 and this service is expanding. In addition prisoners at Cloverhill have access to gym and library services, and work in the kitchen and laundry. Furthermore, a new remand block will soon be under construction and this will, when complete, provide a wide range of services.

Recommendation

The CPT recommends that the approach followed at Wheatfield Prison as regards regime activities is positive and should be replicated, as far as possible, in other prison establishments in Ireland. (paragraph 61)

Response

The Irish authorities can assure the Committee that the regime in Wheatfield is replicated in many of our prisons, including Castlerea, the Midlands Prison and Arbour Hill. The developed regime at Wheatfield prison is a good example of what can be achieved in a modern prison building with adequate space and facilities for rehabilitative and purposeful activities. It is the intention of the Irish Prison Service that this type of regime will be provided for all prisoners as a result of the ongoing capital programme.

c. Prisoners on protection

Recommendation

The CPT would like to receive confirmation that all prisons are abiding by the instruction to Governors by the Director General of the Irish Prison Service “to ensure that prisoners on protection are offered a minimum of one hour of outdoor exercise on a daily basis” (paragraph 63)

Response

The Irish authorities can confirm that all prisoners on protection are being offered a daily minimum of one hour outdoor exercise.

Recommendation

The CPT recommends that the Irish authorities give due consideration to the situation of prisoners placed on protection, in the light of the remarks made in paragraph 64. (paragraph 64)

Response

All of the measures identified by the CPT are incorporated in the Irish Prison Service’s management of protection prisoners. All prisons review prisoners’ needs at the point when they request placement on protection and subsequently in the light of changing needs and requirements. Inmates on protection are seen on the same basis as any other inmate by the Doctor, Nurse Officer, Psychologist and Psychiatrist and have the same access to dental care and addiction services. They are seen regularly by the Nursing staff to monitor for deterioration in their physical or mental health.

Request for information

The CPT would like to be informed about developments as regards the conditions of detention and treatment of the prisoner in the segregation unit of Wheatfield Prison referred to in paragraph 65. (paragraph 65)

Response

The conditions of detention pertaining to the prisoner referred to was recently the subject of legal proceeding instigated by the prisoner. The Court considered the nature of the threat against the prisoner and found that the duty of care of the Governor to the prisoner and staff outweighed the prisoner's wish to free association in the prison. The prisoner has access to an exercise yard, gymnasium and counselling services. He is now accommodated in a cell which is similarly furnished to those occupied by other prisoners.

Request for information

The CPT would like to be informed about the reviews and safeguards in place in relation to placements on protection. (paragraph 66)

Response

The overwhelming majority of prisoners on protection are there by their own request. Many are in protection wings because of the nature of their crimes. It is very rare to have inmates placed on protection against their own will. Such action is only taken where a credible threat to their safety is known to exist and the period of protection lasts only for the duration of the threat. The action is typically prompted by specific intelligence from the Garda Síochána or from within the Irish Prison Service and the decision is taken at the highest levels of management. The prisoner is advised of the nature of the threat.

Any prisoner who requests to be taken off protection is reviewed on request by the prison management. It is policy and practice to review prisoners regularly in the light of changing needs and requirements. Prisoners can challenge their placement on protection by appeal to the Governor in the first instance and then the Director General or the Minister. They may also appeal to the Visiting Committee and ultimately, as in the case described earlier, through the courts.

5. Health-care Services

a. Staffing and facilities

Comment / Recommendation

The CPT comment that an annual report on the state of the medical services in the Irish Prison Service would be beneficial.

Further the CPT recommends that a comprehensive clinical pharmacy service be introduced across all Irish prisons. (paragraph 68)

Response

Information on the current state and development of Prison Healthcare Services is included in the Irish Prison Service Annual Report. In line with the Committee's recommendation, the Irish authorities will undertake to ensure that a specific annual report on medical services is compiled.

Steps have been taken to provide professional pharmacy oversight as part of an overall pharmacy service development. It is hoped to have augmented services in place in all prisons by end 2007.

Recommendation

The CPT reiterates its recommendation that Mountjoy Prison benefit from at least the equivalent of a full-time doctor and that nurses with a psychiatric specialisation should be recruited at Mountjoy Prison and St. Patrick's Institution. Further, St. Patrick's Institution should benefit from the equivalent of one half-time general practitioner and one half-time specialist in child and adolescent psychiatry. (paragraph 69)

Response

It is the view of the Irish authorities that a full time doctor should be appointed in each closed prison and be given responsibility for clinical oversight of all health services in addition to the normal duties of the medical officer. However, the Irish authorities wish to advise that there is a general shortage of GPs in Ireland and the Irish Prison Service seek to recruit in this very competitive market.

It is a priority of the Irish authorities that the particular skills of any nursing staff recruited should match the needs in any particular location. The Irish Prison Service is seeking to develop specialist services for particular groups (child and adolescent psychiatry, addictions) as resources become available, in conjunction with community providers on the basis of service level agreements.

Recommendation

The CPT recommends that a psychologist be recruited on a full-time basis in Cloverhill Prison and that a specialist in addictions attend the prison at least three half-days a week. (paragraph 70)

Response

A full time psychologist is currently attached to Cloverhill Prison. A specialist service in addictions is available on up to two half-days per week. Subject to the availability of resources the Irish authorities would intend to expand such provision to seek to adequately provide for all appropriate needs.

Recommendation

The CPT recommends that at Limerick, Cork and Castlerea Prisons, the number of hours for which a doctor is actually present be substantially increased. At Limerick Prison this entails the services of at least one full-time doctor.

Further arrangements for access to the medical services to be changed at Limerick Prison, in the light of the remarks in paragraph 71 and at least one full-time qualified nurse to be recruited at Cork Prison. (paragraph 71)

Response

Following an industrial dispute and doctors' strike in 2004, a new contract was agreed based around a firm contractual commitment to actual attendance on a designated number of hours per week.

Unfortunately, however, there has been an ongoing failure on the part of a number of doctors to adequately meet the terms of the contract. Therefore, the Irish Prison Service has been engaged in an industrial relations process with the doctor's union (Irish Medical Organisation) seeking to ensure that all prison doctors holding contracts honour the requirements (including time commitments) of these contracts. The particular difficulties experienced affect a number of prison locations.

It is certainly desirable that access to doctors in various prison locations should be sufficient to facilitate the provision of various medical services in line with recommended best practice (as outlined in the guidance contained in the Irish Prison Service Healthcare Standards).

In order to achieve this, as outlined above, the Irish Prison Service is currently giving consideration to recruiting full time doctors who would have overall clinical responsibility for the delivery of healthcare services in individual institutions.

In Cork prison, prisoners are examined in the prison surgery by the prison doctor, who is accompanied by the medical orderly. It is the intention of the Irish Prison Service to assign a nurse to Cork Prison as soon as possible.

Recommendation

The CPT recommends that steps be taken to ensure that health-care staff are no longer placed under the authority of a senior prison officer. (paragraph 72)

Response

Nursing Managers, who will oversee the professional practice and organisation of the work of nurses and other healthcare staff, are currently being recruited. However, the Irish authorities wish to advise the CPT that all staff working in the prison will remain under the authority of the Governor who is responsible for the operational oversight of the delivery of healthcare in each individual institution.

Request for Information

The CPT would also like to receive information on the data protection safeguards in place as regards the system of electronic prisoner health-care records and the timelines for its application throughout the prison system. (paragraph 73)

Response

It is a fundamental healthcare professional requirement, supported and re-iterated by the Irish Prison Service Healthcare Standards, that all healthcare interventions should be comprehensively documented and recorded. The relevant national legislation in relation to data protection safeguards applies to electronic health care records of prisoners. The professional responsibility to safeguard and ensure the maintenance of healthcare records on a confidential basis applies irrespective of the means of storage. All staff using computers are reminded of their obligations under the Data Protection and Freedom of Information Acts. Most prisons are using the computerised PMRS medical records system, which will be extended to outstanding prisons as rapidly as practical.

b. Medical examination on admission and confidentiality

Recommendation

The CPT recommends that steps be taken to ensure that the practice in Ireland is brought into line with the considerations set out in paragraph 75 concerning the contents of the record drawn up following a medical examination of a newly admitted prisoner. The result of the medical examination referred to above should be made available to the prisoner concerned. (paragraph 75)

Response

The guidance contained in the Irish Prison Service Healthcare Standards regarding the need for adequate and thorough assessment and recording of all healthcare interventions reflects the CPT recommendations in this respect. In addition to the Standards, there are existing procedures already in place and, in order to copperfasten and improve the committal procedures, the Irish Prison Service recently issued a comprehensive set of procedures to be followed in all prisons for committals both on sentence and on transfer.

Prisoners may have access to their prison medical records on request either directly or under the terms of the Freedom of Information Act. The prisons visited by the CPT have confirmed that newly committed prisoners are examined by the nurse officer or prison medic on duty and examined by the Medical Officer within 24 hours.

Recommendation

The CPT recommends that the health-care standards relating to screening upon admission be systematically applied in all prisons. (paragraph 76)

Response

The Irish Prison Service Healthcare Standards are in the process of being reviewed and individually issued to all prison healthcare staff. The pro-forma health screening tool is being redesigned to capture all salient information and it is intended to incorporate this within the electronic patient record.

Recommendation

The CPT reiterates its recommendation that all medical examinations of prisoners be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers. (paragraph 77)

Response

It is Irish Prison Service healthcare policy that the standard of privacy and confidentiality afforded to prisoners in the course of healthcare intervention should broadly mirror the professional requirement applying in the general community, subject to any safety factors applying in individual cases. Where prisoners have to attend medical examinations outside the prisons, most often in hospitals, escorting prison officers are required to be handcuffed to prisoners at all times for security reasons. This is a necessary procedure to prevent escape and is informed by experience. Within prisons, Medical Officers are normally accompanied by a Nurse Officer or Medic during medical examinations. The Medical Officer may ask the Nurse Officer or Medic to leave the examining room during certain examinations. Security is a constant concern given the demanding nature of many of the clients seeking to put pressure on the Medical Officer to provide medication that the prisoners themselves request. Discipline staff are not present at medical examinations save in exceptional cases. All information discussed in the surgery is of a confidential nature.

c. Drug-related issues

Recommendation

The CPT recommends that all necessary steps be taken to ensure the implementation of the various elements of the drug strategy programme “Keeping drugs out of prisons” throughout the prison system. (paragraph 79)

Response

Significant progress has been made in implementing the Irish Prison Service Drugs Policy “Keeping Drugs Out of Prisons”. This has involved the allocation of a range of dedicated staff, including nurses, prison officers, psychologists and addiction counsellors, to support these various programmes. Specific developments in the area of drug treatment include:

a contract for 24 addiction counsellors to cover all prisons has been awarded and counsellors are already coming on stream; this will, in conjunction with other developments, lead to an increase of nearly 1,000 hours per week of prisoner access to addiction counselling;

7 Nurse Officers and 5 Prison Officers have been allocated to dedicated drug treatment teams in those prisons that have significant needs; this will improve service quality in prisons which receive a large number of prisoner committals with addictions; the Dormant Accounts Fund has provided funding for four community groups to provide addiction counselling and support to prisoners while in prison and on release in the community;

additional Consultant in Addiction and Registrars Prisons Sessions have been established and resourced, significantly improving the quality, coordination and availability of drug treatment in prisons;

a Consultant-led infectious disease service has been contracted from St James' Hospital to provide treatments to prisoners who suffer from these diseases; it is hoped to expand this service to other sites;

a tender for dedicated drug treatment pharmacy services will issue in the coming weeks, again supporting improved quality and availability of treatment services; and

a psychologist dedicated to drug treatment has been appointed at Mountjoy Prison.

The policy envisages a multifaceted approach towards tackling the problems associated with substance misuse in the prison environment. There is particular focus on the need to assist prisoners who indicate a serious desire to tackle their drug problem and the policy states that appropriate treatment for substance misuse related problems should be available regardless of where a prisoner is located.

The Irish Prison Service has obtained significant extra resources to facilitate this and the policy is in the process of being rolled out on a phased basis. While it is intended that any treatment which is clinically indicated as being appropriate and necessary should be available to prisoners, this provision will continue to require the coordinated input and co-operation of various agencies, both internal and external to the prison. In particular it will require the co-operation of relevant community agencies to ensure the continuity of such treatment on release.

A range of security measures aimed at keeping contraband, including drugs, out of Irish prisons are also being rolled out across the prison estate as outlined in the response to paragraph 38. In addition to the specific new measures listed at the response to paragraph 38, efforts are made on a continuous basis to reduce trafficking by the installation of nets over exercise yards, vigilant observation and early intervention by staff, upgraded CCTV monitoring, the use of screened visits (for all visits in Cloverhill Prison and St Patrick's Institution and for selected visits in other prisons), and searches of prisoners, cells and property.

Recommendation

The CPT recommends that greater psycho-social counselling be offered to prisoners on methadone substitution programmes. Such programmes should be available in all prisons in Ireland. (paragraph 80)

Response

The Irish authorities wish to advise the CPT that the Irish Prison Service has recently awarded a contract for the provision of addiction counselling services to all prisons in Ireland. This will involve the appointment of 24-whole time addiction counsellors across the prison estate. The contract for this service has been awarded to a community based voluntary group who have long experience of providing this service and who have excellent knowledge of the client group.

Addiction counsellors are already in place in some institutions and are expected (subject to successful recruitment) to be in place in all institutions by end 2007. This service will provide individual and group counselling supporting the range of drug treatment options (detoxification, maintenance etc.) available in the prison system. This is additional to the prison based services such as the Psychology Service and Probation Service, as well as the large number of community based groups, which provide psycho-social support to drug addicted prisoners.

Recommendation

The CPT encourages the Irish authorities to adopt preventive programmes to reduce the transmission of blood-borne viruses. (paragraph 81)

Response

The Irish authorities are expanding the range and improving the quality of the interventions and supports offered to drug addicted prisoners and it is this approach that is considered will best serve prisoners and the community.

Prisoners suffering from infectious diseases are referred to specialist hospital services and the Irish Prison Service acts on the basis of the clinical advice received. Prisoners diagnosed with HIV and Hepatitis B or C continue to receive treatment whilst in custody and this treatment is generally in line with what is available in the community. The Irish Prison Service continues to expand and improve these services in line with the commitments in the Drugs Strategy and Policy. The Irish authorities are of the view that the most effective manner in which to reduce the transmission of blood-borne diseases is through the elimination of drugs and drugs paraphernalia from prisons. The authorities do not believe that the de facto tolerance of drugs abuse that is a corollary of the harm reduction measures suggested is an appropriate response in the context of Irish prisons.

Cognisance of the limited literacy of many of the client group is to the forefront of staff in developing and delivering all programmes and interventions.

d. Psychiatric care and suicide prevention

Comment /Request for information

The CPT's delegation noted that there was an increased provision of psychiatric services within most of the prisons visited as compared with the previous visit...

The CPT would appreciate the comments of the Irish authorities on the issues raised in paragraph 82 concerning psychiatric care in prison. (paragraph 82)

Response

The development of a range of mental health services is dependent on the availability of suitably skilled therapists. This applies both in the general community and more specifically in the prison context. The Irish Prison Service has undertaken on-going dialogue with the management of the Central Mental Hospital aimed at both improving prison-based access to psychiatric services and to expedite the transfer of prisoners deemed to require in-patient care to that hospital. The prioritisation of prisoners for admission is a matter for the Central Mental Hospital clinical staff. All patients on the waiting list for transfer from prison to the Central Mental Hospital are assessed by the Central Mental Hospital's in-reach teams at least once a week and the prioritisation of the waiting list is reviewed and amended according to clinical need on a weekly basis.

Comment / Recommendation

The CPT wishes to stress that acts of self-harm and suicide attempts frequently reflect problems and conditions of a psychological or psychiatric nature. The prisoners concerned should be assessed by properly qualified health-care staff with a view to determining the cause of their actions. (paragraph 83)

The CPT reiterates its recommendation that a consistent and care-user oriented suicide prevention policy be developed (paragraph 84)

Response

Steps are in train to co-ordinate the clinical management of health care staff working within the prison system. In addition it would be desirable to have available when required a suitable skill-mix of staff to facilitate assessment of prisoners engaging in self-harm. All prisoners engaging in acts of self-injury are assessed by medical staff and referred as appropriate. It is standard practice that incidents of self-harm or suicide are reviewed by the Suicide Prevention Committee. Wheatfield Prison report that any prisoner who shows intention of self harm is reviewed by the psychiatrist immediately. The Irish authorities wish to advise the CPT that St Patrick's Institution completely refute the allegation of lack of follow up support for inmates who had attempted suicide or had committed acts of self-harm. On the contrary, they are referred to the Medical Officer immediately and are always seen at the first available opportunity. Their case is always discussed at the Suicide Awareness Group meetings and they are automatically referred to the Psychiatrist and/or Psychology immediately after the incident. This is standard practice in all prisons.

The Irish authorities also wish to advise that “Reach Out”, the National Strategy for Action on Suicide Prevention was published in 2005. One of the strategy’s key objectives is to reduce the level of suicidal behaviour in prisons as recorded by the Irish Prison Service and the National Parasuicide Registry. The key actions in relation to this objective are:

- (a) Establish a formal partnership between prison health services and the HSE in order to support mental health promotion and suicide prevention in prison settings;
- (b) Determine the range, extent, nature and quality of psychological support services for prisoners, those on remand and those recently released from prison, including those supports provided by voluntary organisations such as the Samaritans;
- (c) Review existing best practice guidelines, information resources and staff training in relation to prisoner support, conflict resolution and critical incident response in prisons; and
- (d) Based on the outcomes of (b) and (c), develop and implement support services, information resources and staff training to support suicide prevention and mental health promotion in prison settings, for those on remand and for those recently released from prison.

Comment/ Recommendation

While welcoming improvements to special observation cells, the CPT expressed concern that the new design of the special observation cells does not eliminate all potential ligature points... The prison authorities should also take additional measures to ensure that the special observation cells are appropriately heated. (paragraph 85)

Response

The Irish authorities wish to advise the CPT that the Irish Prison Service working group established to design the new special observation and close supervision cells endeavoured to eliminate all ligature points, as far as practical. The group regards the design as particularly successful in preventing self-harm and suicide for the category of prisoner periodically detained in these cells.

As regards heating, warm air heating systems are provided in the special observation and close supervision cells. External temperature sensors are installed which activate heating elements in the cell. Additional bedding and clothing are also issued on request to prisoners.

6. Other issues

a. Immigration detainees

Recommendation

The Committee calls upon the Irish authorities to review the current arrangements for accommodating persons detained for immigration offences. (paragraph 86)

Response

The Irish authorities would point to the fact that detention associated with immigration related matters is used to the least extent possible and generally speaking such persons are held in detention for a relatively short period of time when the need does arise. Therefore, the number of deportees detained at any particular time pending removal from the State is low. The Irish authorities would again point out that persons held on immigration related matters, including those with deportation orders are, unless the subject of a conviction, in general kept apart from convicted persons while in detention.

The Irish Naturalisation and Immigration Service (INIS) is in ongoing discussions with the Irish Prison Service in relation to detention facilities for immigration offenders at the proposed new prison at Thornton Hall with the aim of providing a separate purpose built facility for immigration offenders at the new complex that conforms to best international standards. The number of persons detained on immigration related matters outside of the greater Dublin area is small and they will, where practicable, continue to be detained for the shortest possible period.

b. Discipline

Recommendation

The CPT calls upon the Irish authorities to ensure that the proposed new disciplinary system is adopted and implemented as soon as possible. (paragraph 88)

Response

Although the imposition of disciplinary penalties was still governed by the 1947 Prison Rules at the time of the delegation's visit, a number of changes had been made to procedures, including a mechanism for appeal to the Director General of the Irish Prison Service. The new provisions in the Prisons Act 2007 and the Prison Rules 2007 become operational from 1 October 2007. As the CPT acknowledges, these provisions incorporate the essential safeguards raised by it in previous reports.

Recommendation

The CPT recommends that prisoners placed in close-observation cells for disciplinary reasons are provided with suitable clothing throughout their stay in such a cell. (paragraph 91)

Response

Prisoners are not placed in close-observation cells for disciplinary reasons. The Irish authorities can assure the Committee that the practice of leaving prisoners in close-observation cells with only paper underwear and blankets was limited to a small number of cases and has now ceased entirely. Prisoners in such cells are issued with refractory gowns or allowed to wear normal prison attire.

Recommendation

The CPT calls upon the Irish authorities to review the operation of D Unit in Cork Prison in light of the remarks made in paragraphs 93 and 94. . In particular, efforts should be made to provide inmates in D Unit with psychological support and appropriate activities, and to develop possibilities for them to associate with other prisoners. More generally, appropriate steps should be taken to ensure that application of the provisions of Clause 13 (d) of the Prisons Bill does not lead to situations of the kind which currently prevail in Unit D of Cork Prison. (paragraph 94)

The Committee recommends that Clause 13 (d) (ii) be revised accordingly. (paragraph 95)

Response

Prisoners placed in the segregation block ("D" Unit) in Cork Prison are in general transferred from other prisons for disciplinary reasons. The periods of confinement in the area are up to 56 days depending on the seriousness of the breach of prison discipline. The prisoners are transferred on foot of **serious offences** such as serious assaults on prison staff or other prisoners, escape or attempted escape or causing serious disruption in the prison.

Prisoners confined to the area are dealt with in accordance with the Prison Rules and have access to outdoor recreation, to education and library material, and to a gymnasium. They also have normal access to the Probation Service staff, chaplains, medical and dental services, and doctor and psychologist. All the prisoners are treated as special observation prisoners. A Governor grade visits any prisoner in the D Unit on request during the Governor's daily parade.

The Irish authorities agree with the desirability of prisoners maintaining maximum contact with their families but does not accept that forfeiture of visits can never form part of the disciplinary process. Accordingly, the Irish authorities intend to retain the practice of prohibiting family visits as part of the disciplinary process.

c. Contact with the outside world

Comment/ Recommendation

The CPT encourages the Irish authorities to look into the possibility of extending visiting arrangements.

The CPT recommends that steps be taken to improve the visiting facilities in Mountjoy and Limerick Prisons. (paragraph 96)

Response

Problems with acoustics and privacy on visits in Mountjoy and Limerick Prisons are acknowledged. In Limerick, the only way in which improvements could be made in these areas is if the number of visits allowed per week was reduced from two to the national average of one. The acoustics and privacy could be improved but at the cost of space which would have to be compensated for in the reduced number of visits. This is not the preferred option at the moment.

Request for information

The CPT would appreciate the comments of the Irish authorities on the possibility of increasing the security measures prior to and following a visit instead of systematically stopping all contact visits. (paragraph 97)

Response

All visits are screened in Cloverhill Prison and St Patrick's Institution, save where exceptional circumstances arise (such as the death of a family member). Screened visits are necessary for security reasons in both establishments. In Cloverhill Prison, the high turnover of remand prisoners makes nomination and identification of visitors difficult and raises the risk of trafficking of contraband. It should be noted, of course, that the remand prisoners do not typically remain long in the prison before committal to another prison on sentence or release on bail or acquittal. St Patrick's Institution also receives remand prisoners and experienced problems of visitor control and attempts at trafficking contraband. The move to screened visits in St Patrick's was completed in July 2007. All other prisons have open visits with an option for screened visits in certain circumstances, such as a positive indication on a visitor by a drug detection dog or suspicion or history of passing contraband. The policy relating to screened visits has been given statutory underpinning in the Prison Rules, 2007 (Rule 36(7)).

Request for comment

The CPT would appreciate the comments of the Irish authorities on the remarks made in paragraph 98 concerning the confidentiality of prisoners' correspondence with their lawyers. (paragraph 98)

Response

It is the Irish authorities policy that prisoners are entitled to send a letter to their legal advisors and that the letter is sent without delay and without it being opened. Likewise letters to prisoners from their legal advisors are given to prisoners without delay and are only opened to the extent necessary to determine that they are indeed letters from legal advisors. Any examination is in the presence of the prisoner to whom the letter is addressed. The policy has been given statutory underpinning in the Prison Rules 2007 (Rule 44).

d. Inspection procedures

Request for information

The CPT would like to be informed about the resources allocated to the Inspector of Prisons further to the enactment of the Prisons Act 2007. (paragraph 99)

Response

The Irish authorities wish to advise that the provision of additional resources to the new statutory office of the Inspector of Prisons was being arranged when the Inspector of Prisons passed away in July, 2007. The matter will be pursued following the appointment of the next Inspector.

Request for information

The CPT would like to receive confirmation that the Children's Ombudsman may visit prisons where children are being accommodated. (paragraph 100)

Response

If an individual detained in the Irish prison system and who is less than eighteen years of age wishes to see the Ombudsman for Children, then the Irish authorities will facilitate access to that person.

However, the Ombudsman for Children does not have statutory functions relating to the inspection of, or investigations of complaints in, prison institutions. The statutory powers of inspecting prison institutions and hearing prisoner complaints are vested in the Inspector of Prisons and the Prison Visiting Committees.

e. Transport of prisoners

Recommendation

The CPT recommends that the Irish authorities review the system of transportation of prisoners in the light of remarks made in paragraph 101. (paragraph 101)

Response

As far as reasonably practicable whilst in transit, prisoners are offered access to toilet facilities at intervals of no more than two and a half hours at specific secure locations. Supporting arrangements are in place with Prisons to facilitate toilet stops. The Irish Prison Service is aware of only one complaint in the last eighteen months. The Service is not aware of any escort from Mountjoy to Cork performed by PSEC that took up to eight hours. PSEC escorts on this route average four hours. In light of this comment by the CPT, PSEC managers and staff have been reminded to adhere strictly to the stated policy.

In relation to ventilation in the transport vehicles, when PSEC commenced operations in November 2005 the vehicle fleet was made up primarily of second hand vehicles purchased from the UK. There were difficulties in some cases with the heating and air conditioning systems in these vehicles. Currently, following a tendering competition, over 50 percent of the fleet is less than two years old and within the next year this figure will rise to 74 percent. The tender specification obliged the vehicle provider to meet specific standards in regard to ventilation, heating and air-conditioning equivalent to those used by the United Kingdom's Home Office. The Irish Prison Service is satisfied that the new vehicles meet these standards and that an acceptable level of comfort is provided to the prisoners. The remaining 26 percent will all be phased out by 2009. Notwithstanding this, the vehicles are maintained to a high standard. All vehicles receive a safety inspection by an external contractor every two months to ensure that they are fit for purpose.

In relation to handcuffing of prisoners inside secure cubicles, it is policy that the majority of prisoners remain handcuffed within the vehicle cellular compartment. As there is a low staffing level associated with the use of cellular vehicles, the policy is designed as a control measure to support the security of escorts and the safety of staff performing the escorting function. The practice has not caused any instance of harm to a prisoner since PSEC commenced operation in November 2005. Also it assists in preventing prisoners from self-inflicting injuries.

C. Psychiatric establishments

1. Preliminary remarks

Comments

The CPT visit took place in the context of a major overhaul of the legal framework for both civil and forensic psychiatry. The main elements of the Mental Health Act 2001 came into force on 1 November, 2006 and the Criminal Law (Insanity) Act 2006 entered into force in June, 2006. (paragraph 102)

...the Mental Health (Criminal Law) Review Board was not yet operating at the time of the visit. The CPT trusts that the Mental Health (Criminal Law) Review Board will begin to operate in the near future (paragraph 105).

Response

The Irish authorities wish to advise that the Mental Health (Criminal Law) Review Board has been operating since 14th December, 2006.

Requests for information

The CPT sought information on the outcome of the proceedings in the case initiated by a patient in the Central Mental Hospital referred to in paragraph 105. (paragraph 105).

This case was taken against the Department of Justice, Equality and Law Reform and was successfully resolved when the Minister for Justice appointed the members of the Mental Health (Criminal Law) Review Board.

Request for information

The CPT sought confirmation that a designated psychiatric centre, where involuntary patients under the 2006 Act are placed, should always be an “approved centre” as defined by the Mental Health Act 2001. (paragraph 106)

Response

The interpretation put forward by the CPT is correct in the case of persons who are detained in a designated centre on the basis of unfitness to plead or having been found not guilty by reason of insanity under sections 4 and 5 of the Criminal Law (Insanity) Act, 2006. However, it may be necessary to clarify that similar protections and safeguards also apply in the case of persons who, having been convicted and imprisoned by a court, are transferred to a designated centre following the onset of mental disorder during the period of their imprisonment in accordance with section 15 of the Act. This matter is currently being examined by the Irish authorities.

2. The Central Mental Hospital

a. Introduction

Comment

The CPT encourages the Irish authorities to continue with their efforts to improve patient care in the Central Mental Hospital (paragraph 107)

The Health Service Executive is fully committed in continuing to develop services and infrastructure at the Central Mental Hospital. A comprehensive programme of service developments is approved for 2007 and investment in the physical infrastructure of the Central Mental Hospital remains a priority for the Health Service Executive. A capital investment programme to support service improvements is in place.

b. Patient's living conditions

Comment

The CPT would welcome the construction of a new hospital. In the meantime, the Irish authorities should continue to make efforts to provide decent living conditions to patients in the current premises of the Central Mental Hospital (paragraph 111)

Response

See response to paragraph 107 above.

Recommendation

The CPT recommends that closed units, in particular Unit 1, should not be opened before they have been renovated (paragraph 112)

Response

The Health Service Executive is intending to open Unit 1 in 2007 as a second male admissions unit. This has been viewed as a service priority and resources are currently in place to support this service development. A comprehensive programme of refurbishment has been underway in Unit 1 since January 2007. This unit is now serviceable and will meet appropriate standards as both an "approved" and a "designated" centre.

Recommendation

The CPT recommends that the Irish authorities carry out the renovation of the segregation cells of Unit A as soon as possible (paragraph 113)

Response

The Irish authorities wish to advise the CPT that management at the Central Mental Hospital has developed a design brief to refurbish Unit A. This project has been included within the Health Service Executive's capital planning process and the project team is refining the project design to meet current and future anticipated requirements. It is anticipated that the renovation will commence in early 2008 and be completed in early 2009.

c. Staff resources and treatment

Comment

The CPT would appreciate the comments of the Irish authorities on the possibility of involving psychologists more directly in the individual therapy sessions provided to patients. (paragraph 115)

Response

At the time of the CPT's visit to the Central Mental Hospital four fully qualified Clinical Psychologists together with two Psychology Assistants were employed within the five multidisciplinary teams. Psychology has always been and continues to be an integral part of multidisciplinary team based working within the Central Mental Hospital. This is further demonstrated by the fact that psychologists share a common working base with their multidisciplinary team colleagues. Psychologists are engaged in both the provision of individual and group therapies on all units within the Central Mental Hospital.

Recommendation

The CPT recommends that a patient's consent to treatment is properly recorded (paragraph 116)

Response

Part 4 of the Mental Health Act 2001 (Consent to Treatment) applies to all patients detained under the Mental Health Act 2001. Since the full commencement of the Mental Health Act 2001 in November 2006, consent to treatment for all patients is dealt with in accordance with the statutory structure.

d. Seclusion

Recommendation

The CPT recommends that the Irish authorities continue to take the necessary measures to reduce resort to seclusion as well as, in those cases where it is still used, the length of consecutive time spent in seclusion (paragraph 117)

Response

The rules on the use of seclusion made by the Mental Health Commission under Section 69(2) of the Mental Health Act 2001 are fully complied with and are part of the Health Service Executive's strategy to reduce the use of seclusion. In addition, the use of increased staff to patient ratios particularly in Units A, B and 4 is succeeding in the reduction of seclusion. Other strategies include:

1. The introduction of RAID (Behavioural based treatment to manage challenging and disturbed behaviour). This is delivered by nursing staff with supervision from Clinical Psychologists.
2. Enhancements in the content of training that is delivered to all staff in the therapeutic management of violence.
3. Management at the Central Mental Hospital have also introduced a multidisciplinary Seclusion Monitoring and Review Group (SMARG).

Request for Information

The CPT would like to receive the comments of the Irish authorities on the question of registering as seclusion a night bridging two daytime periods of seclusion. (paragraph 118)

Response

The Irish authorities wish to advise the CPT that Management at the Central Mental Hospital regard any episode of seclusion involving night time hours (i.e. 21.00 to 08.00) as seclusion. Since the full implementation of the Mental Health Act 2001, effective from November 2006, the Mental Health Commission has issued rules regarding the use of seclusion under Section 69(1) of the Mental Health Act. The Commission has prescribed a new improved form for the purposes of recording the use of seclusion. The Central Mental Hospital in utilising this form now provides a higher than minimum standard of recording by documenting night time hours as part of a continuous period of seclusion.

Request for information

The CPT would like to be informed in detail about the plans to establish the four Intensive Care Rehabilitation Units (ICRUs). Further, the CPT encourages the Irish authorities to make strenuous efforts to improve access to regular psychiatric facilities for forensic patients (paragraph 120)

Response

The Irish authorities wish to advise the CPT that the Health Service Executive has established a project team to advance the development of a new forensic mental health facility. This project team is engaged with many stakeholders in terms of advancing its plan of work. In particular, the project group has engaged with the "A Vision for Change" policy implementation group and the Health Service Executive's "Expert Advisory Group" to discuss possible national configurations for forensic and associated mental health services.

The establishment of intensive care rehabilitation units is clearly directly outside the terms of reference of the Central Mental Hospital Project group but the group's initial report will make reference to the optimum configuration of any national mental health infrastructure which is necessary to support an appropriately functioning forensic mental health service. The importance of the provision of intensive care rehabilitation units will be central to this group's initial report.

The National Forensic Mental Health service at the Central Mental Hospital now provides a special team for Court Liaison to divert mentally disordered offenders from the criminal justice system to "regular" psychiatric facilities wherever possible.

In addition, the provision of a second male admissions unit in the refurbished Unit 1 is intended to provide for those admitted subject to Section 4(6) of the Criminal Law (Insanity) Act 2006, further facilitating the diversion of the mentally ill from the criminal justice system wherever possible.