

IRISH PRISONS AND COVID-19: LESSONS LEARNED FROM THE PANDEMIC

Introduction

As Ireland emerges from the emergency phase of the pandemic, there are many lessons for the authorities in regards the management of COVID-19 within prisons. The Irish Prison Service (IPS) made significant efforts, and had success, in keeping people safe from COVID-19 during this period.¹ However, this took a huge toll as restrictions had a devastating impact on people in prison. IPRT is clear that we must learn from the past two and a half years to avoid future negative impacts on prisoners and their families.

This short briefing identifies just three of the key lessons learned:

1. Penal moderation is imperative and possible 📄
2. Restrictions in prison must be proportionate and time-limited ⚖️
3. Communication and accountability are key 🗣️

Lesson 1: Penal moderation is imperative and possible 📄

A reduced prison population is crucial to ensuring that prisons can respond to crisis scenarios effectively and with minimum harm to those detained. In the context of COVID-19, both in the initial² and later³ stages of the pandemic, there was a consensus that reducing the size of prison populations would reduce the impact of the pandemic on prisoners.⁴ While IPRT welcomed the initial swift reduction in prison numbers at the onset of the pandemic,⁵ it has been disappointing to see

the slow but steady creep upwards in numbers since 2021 (with the numbers in custody at an average of 3,794 in 2021⁶ and more recently rising to over 4,000 since May 2022).⁷ It is crucial that we do not miss the opportunity presented by the pandemic to reduce prison numbers and to keep these numbers low. As IPRT has stated previously, this must be done through “all possible measures”.⁸

1.1 Sentencing Practice and Use of Diversion

IPRT has consistently emphasised the ineffectiveness of short sentences in deterring further crime,⁹ a point echoed by the Director General of the IPS who has noted international research that shows “community-based sanctions are much more effective for people who do not pose a great risk to public safety.”¹⁰ Despite this, in 2020, 78 per cent of all sentenced committals to Irish prisons were for 12 months or less.¹¹ It is important to note that there has been a trend in short sentence committals spanning almost a decade, as almost two out of every three sentenced committals between 2012 and 2021 were for 90 days or less.¹² This needs urgent attention and IPRT welcomes the recently published Penal Policy Review and Action Plan,¹³ and awaits the outcome of the Department of Justice review of the Criminal Justice (Community Service) (Amendment) Act 2011.¹⁴

1.2. Early Release

IPRT commends the use of early release measures such as Temporary Release (TR) in the early stages of the pandemic, which allowed TR for ‘low risk’

prisoners serving sentences of less than 12 months for non-violent offences and those with less than six months remaining on their sentence.¹⁵ This increased use of TR (from 316 people in February 2020¹⁶ to 551 people in April 2020¹⁷) did not appear to result in any particular rise in offending.¹⁸ Given the success of TR in contributing to reduced prison numbers in 2020, it is disappointing that recent figures suggest a drop off in the number of people being given TR.¹⁹ IPRT urges the IPS to retain its focus on providing TR to those who are eligible and recommends that the Department of Justice consider other early release measures such as: removing the statutory bar on TR for those convicted of certain firearms / drugs offences;²⁰ increasing the periods of standard and enhanced remission;²¹ and expanding access to Community Return and Community Support Scheme programmes.²²

1.3. Pre-Trial Detention

The use of pre-trial (remand) detention was a particular concern during the pandemic,²³ with the IPS reporting a 4.4% increase in the average number of people being held on remand in 2020 compared to 2019.²⁴ While 2021 snapshot figures indicate a possible reduction in the number of people being held in pre-trial detention, more recent data in 2022 suggests a level of remand that surpasses pre-pandemic levels.²⁵ For example, IPRT notes an almost 20% increase in the average number of people held on remand each month during 2022 (to date) compared to the average number of people held on remand each month during 2021.²⁶ This is particularly concerning given that these individuals may not yet have been convicted of a crime. The high numbers of people on remand have been attributed to “garda efficacy, judicial reluctance to grant bail, accused person’s inability to put forward a monetary bail, prisoner’s legal representative not seeking bail, absence of places in a remand prison, bail requiring an application to High Court or other factors”.²⁷ IPRT repeats its call for the Department of Justice to investigate these – and other – potential reasons for the continued over-use of pre-trial detention in Ireland.²⁸

1.4. Parole Board

On 31 July 2021, the Minister for Justice fulfilled her commitment to establish a new, independent Parole Board.²⁹ Despite an increase in the time needed to be served before being considered for parole (from seven to twelve years), IPRT broadly agrees that long-term “the new independent Parole Board will considerably improve the system as it currently operates”.³⁰ It is important, however, that the new Parole Board consider the impact of COVID-19 on access to services that are crucial for life-sentenced prisoners to fulfil their parole requirements, some

of which the Office of the Inspector of Prisons (OIP) has said have “experienced significant delays”.³¹ It is also crucial that the IPS ensures people in prison are able to meet their parole requirements even during periods of restrictive measures.³²



Recommendations

1. The Department of Justice and Irish Prison Service should use all measures at their disposal to ensure the sustained reduction of the prison population.
2. The Irish Prison Service should facilitate life-sentenced prisoners in fulfilling all parole requirements insofar as possible and even during periods of restrictions.

Lesson 2: Restrictions in prisons must be proportionate and time-limited

Restrictive measures during the pandemic had a severe impact on the mental health of people in prison, many of whom were already struggling,³³ and in turn had a detrimental impact on a prison system that was stretched in terms of mental health services.³⁴ As a result of COVID-19 measures, prisoners reported experiencing: anxiety and loneliness;³⁵ reduced time out-of-cell;³⁶ and prolonged and sometimes repeated periods of isolation where there was very little meaningful human contact³⁷ and often no access to basic routines such as showering³⁸ and time in outside air.³⁹ Such measures must not continue as Ireland exits the emergency phase of the pandemic, and action must be taken to avoid a return to such extreme restrictions in the future and to address the mental health impacts of the past two and a half years.

2.1 Lack of Out-of-Cell Time

Lack of out-of-cell time was a particular issue of concern throughout the pandemic. The OIP highlighted in its COVID-19 Thematic Reports that people held in isolation in some prisons had significantly less than two hours meaningful human contact and were in “de facto solitary confinement” for 23 hours or more each day.⁴⁰ This is despite the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) affirming that even people in medical isolation should be provided with meaningful human contact every day.⁴¹ The high numbers of people being held in solitary confinement⁴² (has continued in the first half of 2022 including people on 23- and 24-hour lock up.⁴³ The impact on people has been

devastating, with experiences of isolation being described as “hell”⁴⁴ and by one prisoner as “the worst two weeks of his 12 years in prison”.⁴⁵ Given the profound negative psychological impact of solitary confinement on prisoners,⁴⁶ it is important that in future such isolation / quarantine measures are used for as short a time as possible and include access to at least two hours out-of-cell time, outdoor exercise and meaningful human contact every day.

2.2. The Impact of Restrictions on Contact with Family

Welcome initiatives were introduced by the IPS during the pandemic to facilitate family contact such as the roll-out of in-cell telephones,⁴⁷ introduction of video calls,⁴⁸ and ‘Family Emails’ pilot scheme in Mountjoy Prison.⁴⁹ However, these measures must be used to supplement rather than replace physical visits. The provision of in-person visits was stopped completely at times and fluctuated throughout 2020 and 2021⁵⁰ and – even when resumed at different points – remained subject to significant restrictions such as being shorter in duration, limited to only two people and requiring the use of Perspex screens.⁵¹ Even when restrictions were significantly eased in the community in February 2022, visits to prison continued to take place behind screens with no physical contact permitted between prisoners and family members (despite all individuals wearing masks).⁵² These measures had a negative impact not only on prisoners but also on their children and families.⁵³

Since May 2022, many of the restrictions on physical visits have been eased but the number of in-person visits available to prisoners in closed prisons has not yet returned to pre-pandemic levels (not less than one visit from relatives or friends each week of not less than 30 minutes duration for a prisoner over the age of 18, as provided for by the Prison Rules 2007⁵⁴) despite a welcome increase in the number of visitors allowed in July 2022.⁵⁵ IPRT welcomes the indication that the IPS is working towards “the full restoration of physical visits to pre-pandemic levels on a phased basis”,⁵⁶ and will continue to urge that such steps are taken without undue delay and that any decisions to suspend physical visits are proportionate and “lifted as soon as they are no longer required”.⁵⁷



Recommendations

3. The Irish Prison Service should conduct and publish an investigation of the impact of COVID-19 on the mental health of people in prison, and its plans for addressing the harms caused.

4. The Irish Prison Service should review, publish and regularly update its plans for the use of isolation / quarantine measures in the future.
5. The Irish Prison Service should, without further delay, restore physical visits to pre-pandemic levels in all prisons and take all measures necessary to ensure that physical visits are not fully suspended in the future.
6. The Irish Prison Service should ensure that virtual visits and telephone calls are retained as a supplement to physical visits as they are restored to pre-COVID levels.

Lesson 3: Communication and accountability are key

As closed institutions, prisons are difficult to subject to external scrutiny. This was particularly true during the pandemic, when so much of the contact between prisons and the community was necessarily shut down. Significant lapses in up-to-date communication about the prison response to COVID-19, and delays in the publication of reports from inspection bodies, compounded these difficulties and exacerbated the stress and frustrations of prisoners and their families. Such gaps in communication and accountability must be urgently addressed to avoid a repeat of this situation in the future.

3.1. Communication About COVID Restrictions

Throughout the pandemic, information about the unwinding of restrictions was sporadic and limited. Information often came from answers to parliamentary questions,⁵⁸ information on the IPS website (which was brief and done by way of news bulletins),⁵⁹ and reports from monitoring bodies such as the Inspector of Prisons and the Prison Visiting Committees (that were often delayed in publication). The IPS Family Information Booklet, while welcome, was not updated after its publication in September 2020⁶⁰ despite recommendations from the Action for Children and Families of Prisoners Network to do so.⁶¹

In addition to the lack of external transparency about restrictions in prisons, issues arose throughout the pandemic on how people in prison were informed about COVID restrictions. The OIP’s COVID-19 Thematic Reports reported issues including inadequate information on COVID-19 provided⁶² and the frequency and accessibility of COVID-19 information materials.⁶³ Up-to-date and accessible information for prisoners was, and remains, crucial to ensuring their wellbeing and assuring them that steps are being made towards easing restrictions and living with COVID-19 within prisons.

3.2. Inspection and Accountability

OIP and Visiting Committee reports during the pandemic period were welcome but IPRT remains concerned by the length of time it has taken to publish some of these reports. While acknowledging that the process for inspection, report writing and final submission will take time, some reports were published up to 10 months after the initial inspection took place.⁶⁴ This is too long and means that the inspection reports were not as useful as they could be. Similarly, the first Visiting Committee Reports pertaining to the pandemic period were only published in March 2022.⁶⁵ These reports relate to visits that took place in 2020 (in the earlier part of the pandemic) and therefore do not offer crucial insights about the later stages of the pandemic in prisons.⁶⁶

Despite repeated calls⁶⁷ the IPS' Framework for Restrictive Measures for Living with COVID-19 - its plan to unwind restrictions in prisons - was never published.⁶⁸ The IPS COVID-19 Contingency Plan, which IPRT understands plans for the reactivation of restrictions when there is an outbreak in a prison, also has not been made publicly available for "security and operational" reasons.⁶⁹ This is of serious concern when this plan continues to dictate the level of restrictions placed upon people in prison. The lack of transparency around easing restrictions further means that it has been impossible to tell whether restrictive measures were at all times "necessary" and "restricted in time" in line with the recommendations of the CPT.⁷⁰

3.3. Parliamentary Oversight

The Prison (Amendment) Rules 2020 (SI No 250/2020), which allow a Governor or the Director General to suspend, restrict or modify entitlements to physical exercise, recreation, training and visits,⁷¹ remain in place. These amendments have no sunset clause and appear to have received very little scrutiny before they were brought into force. To date, the Minister has only indicated that she will direct her Department to review the amendments "with a view to revoking [them] if possible".⁷² This is despite the fact that Ireland is no longer in the emergency phase of the pandemic and all other COVID-related measures ended in March 2022.⁷³

IPRT repeats its significant concerns about the scope of these amendments and again invites the Minister to revoke this Statutory Instrument, or at the very least amend its provisions so as to limit the scope of its reach (e.g. by restricting decision-making only to the Director-General and/or limiting any modifications, suspensions etc to COVID-19 as opposed to "an infectious disease").



Recommendations

7. The Department of Justice should empower the Office of the Inspector of Prisons to publish its reports independently of the Minister for Justice and review timelines for publication of Prison Visiting Committees reports as part of the ongoing review of the Prison Visiting Committees.⁷⁴
8. The Irish Prison Service should ensure that people in prison are provided with timely and prison-specific information about restrictive measures in the event of COVID-19 outbreaks in the future (as similarly recommended by the Office of the Inspector of Prisons).⁷⁵
9. The Minister for Justice should revoke the Prison (Amendment) Rules 2020 without further delay, or at the very least amend its provisions to limit their scope.

Conclusion

As Ireland learns to live with COVID-19, it is important that all criminal justice agencies learn from the past two and half years of the pandemic so that the prison system can successfully manage the spread of COVID-19 while avoiding the harmful effects of the restrictions seen during this period. In addition to the recommendations made throughout this short briefing, IPRT calls for all criminal justice agencies to keep the mental health, wellbeing and personal development of human beings in our prisons at the forefront of their approach to COVID going forward.



RECOMMENDATIONS

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- 3. The Irish Prison Service should conduct and publish an investigation of the impact of COVID-19 on the mental health of people in prison, and its plans for addressing the harms caused.**
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- 9. The Minister for Justice should revoke the Prison (Amendment) Rules 2020 without further delay, or at the very least amend its provisions to limit their scope.**

Endnotes

- 1 See, [Civil Service Excellence and Innovation Awards 2021](#)
- 2 See, [Penal Reform International Coronavirus Briefing \(2020\)](#)
- 3 See, [Edge, C. et al., \(2021\)](#)
- 4 A US study found that the controlled reduction of the prison population reduced infection rates in overcrowded prisons by 8 times in comparison to mask wearing (2.5 per cent) and visiting bans (1.2 per cent), see, [Reinhart, E. & Chen, D.L., \(2021\)](#)
- 5 4,235 in custody on 11 March 2020, 3,833 in custody on 7 April 2020.
- 6 Average of 'average number in custody' from January to December 2021, see, [Irish Prison Service Monthly Information Notes](#)
- 7 See, [Irish Prison Service Monthly Information Note – May 2022, June 2022 & July 2022](#)
- 8 See, [IPRT, \(2021\). Irish Prisons and Covid-19: One Year On. Rec. 2, P.3](#)
- 9 See, [Progress in the Penal System \(PIPS\), \(2021\). P.26](#)
- 10 See, [Joint Committee on Justice debate -Tuesday, 29 Mar 2022: Rehabilitative Opportunities within the Prison System: Discussion](#)
- 11 See, [Irish Prison Service Annual Report 2020. P.34](#)
- 12 See, [Department of Justice Request for Tenders \(2022\)](#)
- 13 See, [Criminal Justice Policy: Review of Policy Options for Prison and Penal Reform 2022-2024](#)
- 14 See, [Department of Justice Request for Tenders \(2022\)](#)
- 15 See, [PQ on Prisoner Releases, 23 June 2020](#)
- 16 See, [Irish Prison Service Monthly Information Note – February 2020](#)
- 17 See, [Irish Prison Service Monthly Information Note – April 2020](#)
- 18 Approx. 6% of those released on TR between March and June 2020 (55 of 852) were re-committed to prison, mainly for breaching conditions and/or non-violent offences. [PQ on Prisoner Releases, 23 June 2020](#)
- 19 The annual average of people on TR in 2021 (321) was lower than 2020 (341), while figures from June 2022 show an average of only 276 people on TR. See, [Irish Prison Service Monthly Information Note – June 2022](#)
- 20 See, [Strategic Review of Penal Policy \(2014\), Rec 29](#)
- 21 See, [Department of Justice Press Release \(2013\)](#)
- 22 See, [Joint Committee on Justice and Equality Report on Penal Reform and Sentencing \(2018\)](#)
- 23 See, [IPRT, \(2021\). Irish Prisons and Covid-19: One Year On. Rec 2.](#) See also, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Cloverhill Prison - 18 - 19 March 2021, and Mountjoy Prison Visiting Committee Annual Report. P.12](#)
- 24 See, [Irish Prison Service Annual Report 2020. P.3](#)
- 25 See, [Irish Prison Service Monthly Information Notes for 2022, 2021, 2020 and 2019](#)
- 26 Derived from averaging the monthly average number of people on remand. See, [Irish Prison Service Monthly Information Notes for 2022 and 2021](#)
- 27 See, [Mountjoy Visiting Committee Annual Report \(2020\). Pp. 11-12](#)
- 28 See, [IPRT, \(2021\). Irish Prisons and Covid-19: One Year On. P.3](#)
- 29 See, [Department of Justice Press Release \(2021\)](#)
- 30 See, [Department of Justice Press Release \(2021\)](#)
- 31 See, [Wheatfield Prison Visiting Committee Report \(2020\) P.47](#)
- 32 See, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Shelton Abbey – 22 – 23 April 2021. Rec 16](#)
- 33 Research estimates that people in prison are 4 times more likely to experience severe mental health issues than the general population, see [Gulati, et al., \(2021\)](#)
- 34 on 23rd Dec 2021, 23 prisoners were awaiting transfer to the CMH, with an average of 21 people on the waiting list for transfer in 2021. On 23rd Nov 2021, the ratio of psychologists to people in prison was 1 psychologist to every 257 prison beds. Information obtained from the Irish Prison Service on 18 Nov 2021; and from the National Forensic Mental Health Service on 23rd Dec 2021.
- 35 See, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Wheatfield Prison - 6-7 April 2021. P.34.](#) Research in England and Wales on the impact of COVID found that 1 in 3 prisoners showed symptoms of "severe anxiety disorder", see [User Voice & Queen's University \(2022\)](#)
- 36 In 2021, people in prison received an average of only 6 hours out-of-cell time, See, [Progress in the Penal System \(PIPS\), \(2021\)](#)
- 37 See, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Wheatfield Prison - 6-7 April 2021. P.3](#)
- 38 See, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Mountjoy Men's Prison 1 - 4 March 2021. P.3](#)
- 39 See, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Cork Prison – 31 May – 1 June 2021. P.44](#)
- 40 See, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Cork Prison – 31 May – 1 June 2021. P.45](#)
- 41 See, [Principle 6 of Council of Europe \(2020\), Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease pandemic](#)
- 42 See, [Rule 44 of Mandela Rules](#)
- 43 See, [Irish Prison Service Census of Restricted Regime Prisoners January 2022 & Census of Restricted Regime Prisoners April 2022](#)
- 44 See, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Limerick Prison – 6 -7 April 2021. P.31](#)
- 45 See, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Wheatfield Prison - 6-7 April 2021. P.34](#)
- 46 Shalev, S. (2014). [Solitary confinement as a prison health issue in World Health Organization \(WHO\). Prisons and Health. Copenhagen: WHO.](#)
- 47 See, [PQ 117 on 02 Feb 2022 and Irish Examiner \(2022\)](#)
- 48 Information received in a meeting between Action for Children and Families Network and the Irish Prison Service on 8 September 2021.
- 49 See, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Mountjoy Men's Prison 1 - 4 March 2021](#)
- 50 See, [Progress in the Penal System \(PIPS\), \(2021\) P.18](#)
- 51 See, [Irish Prison Service News September 14th, 2021](#)
- 52 See, [Irish Prison Service Website - Visit a Prison](#)
- 53 See, [Minson, S. \(2021\)](#)
- 54 See, [Irish Prison Rules 2007, Section 35 \(1\)](#)
- 55 See, [Irish Prison Service News May 4th 2022 and Visit a Prison](#)
- 56 See, [PQ on Legislative Programme, Thursday - 10 February 2022](#)
- 57 See, [Council of Europe \(2020\). CPT issues follow-up statement](#)
- 58 See, [PQ on Prison Service, Thursday - 27 January 2022](#)
- 59 See, [Irish Prison Service Press Statement: Covid-19 in the Prison System - 28 February 2021](#)
- 60 See, [Irish Prison Service Family Information Booklet \(2020\)](#)
- 61 See, [Action for Children and Families of Prisoners Network meeting with the Irish Prison Service - Oct 7, 2021.](#)
- 62 See, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Cloverhill Prison, 18 – 19 March 2021 and COVID-19 Thematic Inspection of Cork Prison, 31 May – 1 June 2021](#)
- 63 See, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Wheatfield Prison – 6-7 April 2021](#)
- 64 See, [COVID-19 Thematic Inspection of Midlands Prison, which took place in June 2021, and was published in April 2022. Timeframes between submission to Minister and publication are here.](#)
- 65 See, [Department of Justice Visiting Committee Annual Reports 2020](#)
- 66 Publication of the 2021 Visiting Committee reports is outstanding
- 67 See, [IPRT, \(2021\). Irish Prisons and Covid-19: One Year On. Rec 7](#)
- 68 See, [PQ 718 on 10 March 2021](#)
- 69 See, [PQ 769 on 22 March 2022](#)
- 70 See, [Principle 4 of Council of Europe \(2020\), Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease \(COVID-19\)](#)
- 71 [SI No 250/2020, Prison \(Amendment\) Rules 2020](#)
- 72 See, [PQ 560 on 31 May 2022](#)
- 73 See, [Citizen's Information, Covid-19 Public Health Measures](#)
- 74 See, [Irish Prison Service News – July 8th 2022](#)
- 75 See, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Portlaoise Prison 22 - 23 April 2021. P.3](#)