



# IPRT Briefing on Detention of Children in St. Patrick's Institution

## Introduction

St. Patrick's Institution is a medium security prison where male offenders between the ages of 16 and 21 years are detained. Although children under 16 years are detained in the Children Detention Schools, boys over 16 years continue to be detained in St. Patrick's, an environment considered wholly inappropriate for their needs. This is an arbitrary distinction on the ground of age which has no basis in law<sup>1</sup>.

IPRT has consistently called for an immediate end to the detention of children in St. Patrick's, as has the Ombudsman for Children and the Children's Rights Alliance. Moreover, international human rights bodies, including the UN Committee on the Rights of the Child and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), recommend that the prison be closed and that **the detention of children in the prison system cease**.

## Figures

- *Annual total figure:* In 2010, there were a total of 221 children aged 16 and 17 committed to prison, including two girls. This mean 219 boys were committed to St. Patrick's<sup>2</sup>, which is a slight decrease on the 2009 figure of 227 children.
- *Daily population:* On 15th June 2011 there were 41 boys aged 16 and 17 in St. Patrick's<sup>3</sup>; on 7th Dec 2009 there were 49 children so held<sup>4</sup>; on 5th Dec 2008, there were 38 children in custody in the prison.<sup>5</sup>

## Imprisonment of Children

- The arrest, detention or imprisonment of a child should be a measure of last resort and for the shortest appropriate period of time.<sup>6</sup> If detention is deemed necessary, it should be in a regime appropriate to children.<sup>7</sup>
- The ethos and regime at St. Patrick's is one of adult imprisonment and the standards – health, education, recreation and visits – are not oriented towards or designed to meet the needs of children. Staff have no particular qualifications in child care, and the prison regime means the children spend much of the day locked up, enduring screened visits with their family, uniformed officers and Victorian prison architecture – all wholly inappropriate for children.
- Following criticism by the CPT, certain measures have been taken to accommodate some, but not all, 16- and 17-year old boys in a dedicated wing of St. Patrick's Institution. However, these 16 and 17 year olds routinely access areas common to all inmates. Furthermore, the high number of children who seek protection continue to be held in cells in the parts of the prison where adult prisoners are held.
- The ongoing practice of detaining children in that institution **does not fully comply with international human rights standards**.

## Conditions in St. Patrick's

- In 1985, the *Whittaker Report* assessed St. Patrick's Institution as totally inappropriate for holding children in custody; the Institution was assessed as having a "demoralising effect" and the conditions of detention as potentially leading to "the psychological deterioration of the young offenders [...]"<sup>8</sup>

1 The Children Act 2001 defines a child as anyone aged under 18 years.

2 Irish Prison Service *Annual Report 2010*

3 Dáil Questions, 21st June 2011: <http://www.kildarestreet.com/wrans/?id=2011-06-21.1343.0>

4 Dáil Questions, 10th December 2009: <http://www.kildarestreet.com/wrans/?id=2009-12-10.1598.0>

5 Irish Prison Service *Annual Report 2008*

6 Article 37 (b) UN Convention on the Rights of the Child (CRC) and Rules 1 and 2 of the UN Rules for the Protection of Juveniles Deprived of their Liberty 1990.

7 Committee on the Rights of the Child (2007) *General Comment No.10 (2007) Children's rights in juvenile justice*. CRC/C/GC/10, 25 April 2007

8 Whittaker, T. K. (1985) *Report of the Committee of Inquiry Into the Penal System*. Dublin: Stationery Office

- Over twenty years later, in 2006, the CPT expressed their concerns about the continuing use of St. Patrick's Institution, which the Committee considered to be "unsafe" for the children and staff alike. The CPT stated:  
*"The CPT's delegation noted the widespread availability of drugs within the establishment and the consequences it engendered in terms of bullying and inter-prisoner violence, and it met numerous prisoners who were the victims of such violence. [... In] St. Patrick's Institution, some prisoners regularly did not avail themselves of the opportunity for outdoor exercise due to their fear of being bullied and/or assaulted by other inmates."*<sup>9</sup>
- There have been improvements in the regime (since the 1980's), including capital investment in the new school building. However, despite this great educational facility, the ethos and regime is still one of imprisonment.
- The Inspector of Prisons noted in 2009 that 25% of the juvenile population in St. Patrick's Institution request to be held on protection, **fearing for their own safety**.
- The use of single separation of children for reasons of protection, which can involve up to 23-hours lock up with limited access to education, physical activity, and association, is of very serious concern.

## Complaints

- Children held in St. Patrick's Institution have no access to an independent complaints mechanism unlike children in the Children Detention Schools. The Ombudsman for Children cannot accept individual complaints from children held in St. Patrick's<sup>10</sup> and has called for an extension of her remit to accept complaints from children so held.

## A Solution?

- The government has put forward the new National Children Detention Facility, on the Oberstown campus in Lusk, as a solution. When built, children will be transferred there from St. Patrick's; we welcome this.
- In 2010, €53m was allocated to the Irish Youth Justice Service, an increase of 19% on 2009 to "enable the Service to proceed with the construction of a new Juvenile Detention Facility."<sup>11</sup> In 2011, €39m was allocated to the IYJS, **a decrease of 24%**; just €500,000 of this was assigned to capital spend.
- The most recent update by the Minister for Justice stated that the OPW is in the process of preparing the required tender documentation, and that the decision on funding will be informed by the outcome of the current Government review of capital projects across all departments. No timescale was indicated.<sup>12</sup>
- Even if the new facility is completed by mid-2013, which seems unlikely, in the intervening years **hundreds of children<sup>13</sup> will have had the negative experience of detention in St. Patrick's Institution**.

## Our Recommendations

1. **The imprisonment of children in St. Patrick's Institution must cease immediately and a plan put in place to allow for the gradual transfer of children from the Institution to the Children Detention Schools.**
2. **The remit of the Ombudsman for Children must be extended to allow individual complaints from children held in prison on the same basis as children detained elsewhere. In addition, an independent complaints mechanism must be established to respond to the complaints of all children in detention.**
3. **Child care legislation and standards that apply to the detention of children in other settings must apply to children in St. Patrick's Institution, including those regarding health, education, child protection and the qualifications and training of staff.**

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<sup>9</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) report to the Government on its visit to Ireland, October 2006: <http://www.cpt.coe.int/documents/irl/2007-40-inf-eng.htm> (paragraph 39)

<sup>10</sup> Exclusions apply to only three groups: children held in prison, children in the Defence Forces, and children in dealings with the Gardaí. However, an Ombudsman for the Defence Forces and a Garda Ombudsman both exist; there is no Prisoner Ombudsman.

<sup>11</sup> Dept of Justice Press Release, 9th December 2009: <http://www.justice.ie/en/JELR/Pages/Justice%202010>

<sup>12</sup> Dáil Question, 20th September 2011: <http://www.kildarestreet.com/wrans/?id=2011-09-20.1811.0>

<sup>13</sup> Around 225 children pass through St. Patrick's Institution every year, as documented in the Irish Prison Service *Annual Reports*.