

They were described as "psychiatric waiting rooms" in a major study just a week before the violent death of a Mountjoy prisoner put the spotlight once again on the failings of Irish prisons. With Ireland incarcerating over 300 people a year who have a six-month prevalence of severe and enduring mental illness, Eoin Bassett asks if it is the prisoners or the policy that is mad.

# BIGHOUSE OR MADHOUSE?

There are various accounts of the murder of Gary Douch, the 21-year-old who was beaten and strangled to death in the basement of Mountjoy Prison. Whatever the differences, all accounts agree that it was a brutal death and that it was committed by a man who reportedly suffers from schizophrenia and who had recently returned to Mountjoy from the

Central Mental Hospital (CMH).

According to the director of the CMH, Dr Harry Kennedy, Irish prisons have become "waiting rooms" for psychiatric patients. Research published in the June issue of the Irish Journal of Psychological Medicine has painted a grim picture of mental health in Irish prisons. The survey found that 60 per

## CENTRAL FINDINGS

Researchers from the Central Mental Hospital under the direction of the CMH director, Dr Harry Kennedy, have completed and published a number of papers in the Irish Journal of Psychological Medicine that found:

- 37 per cent of female inmates and 17 per cent of male inmates suffer from a major depressive order.
- 40 per cent of female inmates and 25 per cent of male inmates have deliberately harmed themselves.
- 65 per cent of female inmates and 80 per cent of male inmates had a drug or alcohol disorder in the previous six months.
- Eight per cent of female inmates and four per cent of male inmates have suffered from psychosis in their lifetime.

The United States courts have recognised that solitary confinement itself can cause a very specific kind of psychiatric syndrome often involving random violence, self mutilation and suicidal behaviour.

## IPRT COURT ACTION

Last September, the High Court ruled the Irish Penal Reform Trust was entitled to represent mentally-ill prisoners in legal proceedings against the State. The State is currently appealing to the Supreme Court. The IPRT is seeking a declaration from the courts that detaining mentally-ill prisoners in padded cells breaches their constitutional rights and is contrary to human rights obligations.

IPRT executive director, Rick Lines,

explained: "Essentially, what has been happening is that the case has been dragged on for a number of years on the issue of *locus standi*. The government has been arguing that the IPRT as a third party doesn't have the authority to bring forward a case in this regard, since we weren't directly harmed by it. Justice Gilligan ruled in September [in the High Court] that we do in fact have the credibility to bring forward a case

and that's the point that the government is now appealing to the Supreme Court."

The appeal is due to be heard next year, according to Claire Hamilton.

"Depending on the outcome of that appeal, we'll be able to proceed or not with the main substantive action," she said. If that proves successful, possibly thousands of prisoners could sue the State.

cent of female and 35 per cent of male inmates have suffered from mental illness at some stage of their lives and that 40 per cent of women and 25 per cent of men in prison have attempted suicide or committed self harm.

According to Fine Gael deputy health spokesman and president of the Irish Association of Suicidology, Dan Neville, mentally-ill offenders should be "afforded the option of a treatment programme" instead of prison. "This report

again highlights the scandalous way in which the psychiatric services are under resourced, and how people who need medical intervention are ending up in prison," he said. "In most cases, these prisoners are convicted for petty crime and are not a danger to society. We must address this issue, for the sake of the ill prisoner and, in certain circumstances, for the protection of other prisoners."

The authors of the report cited

research that said the growth in mental illness in prisons coincided with the closure of psychiatric institutions. Executive director of the Irish Penal Reform Trust (IPRT), Rick Lines said: "In fairness to the prison service, generally prison officials and prison officers recognise that there are too many mentally-ill people in prison. They don't belong there and they themselves aren't equipped to deal with the needs of mentally-ill people. Unfortunately, the



In 2004, David Murphy received an out-of-court settlement of 20,000 from the State for the "inhuman and degrading" way he had been treated while in Mountjoy Prison.



Minister for Justice, Michael McDowell on a visit to the Safety Observation Cells, at Dublin's Cloverhill Prison.



Dan Neville, Fine Gael deputy health spokesman and president of the Irish Association of Suicidology.

prison service is charged with taking care of the people who wind up there, but they don't actually have any control over who shows up at their door."

A spokesperson for the Prison Officers Association said: "Prisons have little option but to accept the people committed to their custody. There's little doubt that a significant proportion of those committed to prison do have considerable mental-health difficulties. Currently, there are a number of developments in relation to the health care areas in prisons, including the introduction in recent years of nurses into the prison service. Healthcare in prisons is developing hugely at present.

"On a daily basis, prison officers deal with these people and they deal with their requests, and it's the job of prison officers to care for all the people in their care, including people with mental-health difficulties. There are obviously medical and psychological services attached to prisons and they would also have a roll to play," the spokesperson said.

Neville believes the treatment of mentally-ill prisoners is an affront to the human dignity of both prisoners and the prison staff. "The government has failed disgracefully in developing the psychiatric services, and its resources have been reduced from 11 per cent of the health budget in 1997 to seven per cent in 2006. What chance is there for

the prison population, the most marginalised group in society, of receiving any consideration with regard to their needs for mental-illness treatment?"

In his recently-written paper, Dr Kennedy called for forensic mental health services to be integrated into a single agency under the Health Service Executive (HSE). Lines supported the call, saying: "We're quite supportive of the idea of removing the health services from under the auspices of the Department of Justice and actually integrating the health services as a whole under the Department of Health and the HSE. This is something that has been done in the UK. It's a project they've been working on over there for the last two or three years – to actually have the prison health services delivered under the National Health Service."

Shortly after Kennedy's criticisms and calls for change, the Inspector of Prisons recommended in his annual report that an adequate number of psychologists be appointed immediately to all prisons. He also called for the Department of Health to take responsibility for mentally-ill prisoners. However, he also described the attitude of the Minister for Justice and officials at the Department of Justice towards reform as "frightening and fascist".

#### THE MURPHY CASE

In 2004, David Murphy received an out-of-





Dr Valerie Bresnihan, who carried out a report into the treatment of David Murphy in Mountjoy Prison.

court settlement of 20,000 from the State for the "inhuman and degrading" way he had been treated while in prison, as outlined in the European Convention of Human Rights. The 38-year-old had spent a minimum of 133 days in padded cells in Mountjoy between 1997 and 1998; at least 79 of which, were consecutive days in isolation, according to a report carried out by Dr Valerie Bresnihan on behalf of Murphy's solicitors.

Murphy was diagnosed with a severe personality disorder in 1999/2000 and had made numerous suicide attempts. It is clear from the entries in the prison records that in many instances, Murphy was committed to the pads precisely because he was mentally unwell, feeling suicidal, depressed or paranoid. According to Bresnihan, entries record comments such as "depressed, to stay in pad", yet only once from the records available to her was it queried why Murphy was in the pad in the first place. According to Bresnihan, the pads were clearly a substitute for appropriate treatment.

The padded cells in Mountjoy are no longer in use. Bresnihan described them as "sealed, stuffy and dark" and there were no call buttons, with prisoners banging on the door to attract attention. Prisoners were placed in the pads in their underwear and very difficult prisoners were kept naked

"for their own protection", according to one document from the Department of Justice received by Bresnihan.

New observation cells are now in use, which are a marked improvement. However, the new cells are still being used as a substitute for treatment because the prison service refuses to – in its own words – "medicalise" the prisons by providing suitable therapeutic accommodation and staff, according to Bresnihan.

While welcoming the improvements, Rick Lines voiced concerns. "Ultimately, we have to recognise that there are two issues regarding the use of isolation for mentally-ill prisoners, the physical conditions in which they're housed, and the policy in which they find themselves in isolation to begin with," he said.

The records detailing Murphy's time in the pads are far from complete and, in a number of cases – for example, the entry and exit dates relating to Murphy's stay in the padded cells are missing and the dates of entry not always sequentially written. There are also many unsigned medical entries. According to Bresnihan, it was evident that several doctors' signatures were not signed by the doctors themselves. It is clear from the report that the medical profession do not control all the decisions regarding entries to the pads and that medical and security boundaries are unacceptably blurred.

In a statement about his punishment contained in the report, Murphy said: "That night I tried to kill myself as I was being blamed. They put me in the basement for protection. I was in there for five weeks and I lost track of time. I was not handcuffed but I was in a body belt." John Loneragan, governor of Mountjoy at the time, admitted that Murphy was unfairly placed in the pads in this instance. Murphy –who has been in and out of institutions since the age of 12 – was so ill that he drank his own urine. He was refused toilet paper in case he set himself on fire, and had to slop out.

Murphy was also committed to the pads while awaiting transfer to and from the CMH, where he was a patient a number of times. When he was transferred back to Mountjoy after one of these stays in 1997, it was felt that Murphy's problems were largely based on his personality disorder. According to Valerie Bresnihan, Irish forensic psychiatry does not cater for the treatment of people who suffer from severe personality disorders.

#### SEVERE PSYCHIATRIC HARM

The United States courts have recognised that solitary confinement itself can cause a very specific kind of psychiatric syndrome often involving random violence, self mutilation and suicidal behaviour. Psychiatrist Dr Stuart Grassian of the Harvard Medical School is one of the few to have studied the affects of solitary confinement. In his opinion, solitary confinement – that is confinement of a prisoner alone in a cell for all or nearly all of the day, with minimal environmental stimulation and minimal opportunity for social interaction – can cause severe psychiatric harm. He added: "The restriction of environmental stimulation and social isolation associated with confinement in solitary are strikingly toxic to mental functioning, while the harm caused by such confinement may



Rick Lines, executive director of the Irish Penal Reform Trust.

## NORTHERN PRISON SERVICE

The head of Northern Ireland's prison service, Robin Masfield, said recently that up to 90 per cent of the north's prisoners have mental health or other personality disorders. Masfield added that two thirds of the estimated 1,500 inmates had the reading and mathematical ability of an 11-year-old or younger, and he warned that many were long-term unemployed with chronic disease and alcohol addiction. He was speaking at a conference in Lisburn on promoting healthy prisons. The health and social services authorities will take over responsibility for welfare in prisons from next April.

The prison service director said that they had appointed a manager for prisoner health and established addiction services and other policies, but lobbyists claimed that inmates with serious difficulties should not be behind bars.

Masfield said that good links between the health and prison services were essential and added that jails should provide a standard of health care better than that available in the community. "We have established a three-year programme with the University of Ulster to improve mental health screening on committal at Maghaberry, the high-security prison," he added.

result in prolonged or permanent psychiatric disability." It can be seen as a cycle where the mentally ill are isolated in padded cells, with their condition worsening as a result.

Signed into law last April, the Criminal Law Insanity Act 2006 established a new independent Mental Health (Criminal Law) Review Board, which will have responsibility for people convicted of crimes but who become mentally ill while serving their sentences. The review board will also regularly examine all cases of detention of people found not guilty by reason of insanity.

In relation to murder, the act introduces a court judgement of 'not guilty by reason of insanity' and the concept of diminished responsibility. The act also allows courts to refer people for appropriate care rather than to prison. According to Irish Penal Reform Trust chairperson, Claire Hamilton, "If you plead insanity and you're successful, then essentially there's no limit on your detention. It's until the minister feels fit to release you. So it's eminently sensible to protect the constitutional right to liberty that you have a review board in place."

Continuing, Hamilton noted: "What you're doing to people when you put them in prison is punishing them when you should be treating them. The solution is to go back, the problem should be treated at the sentencing stage – there should be alternatives for judges. What I would welcome in the insanity act is more than just the stark choice of pleading insanity or nothing, but that you can involve a defence of diminished responsibility."

### MENTAL HEALTH COURTS

It is Neville's belief that the government should introduce "two distinct but co-ordinated systems"; one outside the pris-

ons in the community, and one inside the prisons. He is calling for a mental health court system: "We must deal appropriately with psychiatric illness before it becomes criminalised. Consideration must be given to establishing a mental health court system.

"These courts should have the option of imposing a carefully-monitored individual plan of mental health treatment for low risk, mentally-ill prisoners, instead of a prison sentence. However, a court system will not be sufficient unless it is part of a well-planned and co-ordinated monitoring and service provision programme that involves the mental health services. Such an approach would involve the court services, the Departments of Justice and Social and Family Affairs, the probation and welfare services, and the Health Service Executive all functioning in partnership," Neville said.

The IPRT have looked at the possibility of mental health courts. "We're not opposed to them in principle, but we also don't think that they're a panacea," Lines said. "We think that they would be part of a broader solution but, as with drug courts, there are some problems with the concept of them and they're only ever going to be applicable to a small number of offenders. Part of the problem with mental health courts is that they're essentially still part of the criminal justice system, so you're actually still bringing people into that system rather than diverting them into the health system," he explained.

"The improvement of mental health services in prisons would improve the working conditions of prison officers," he concluded. "The State has a duty of care to prisoners and a duty to everyone else to make sure that these troubled people are given treatment."

*Gary Douch was buried in Fingal cemetery on 22 August.*