



Irish Penal Reform Trust
Marco Community Resource Centre
1 Green Street,
Dublin 7, Ireland.

T: +353 1 8741400
E: info@iprt.ie
W: www.iprt.ie

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Re: Submission to the assessment of the efficacy of Irish bail laws

Dear Mr. Staines,

Many thanks for your invitation to make a written representation on the efficacy of Irish bail laws. This brief addresses issues arising from the questions set out in your letter.

(i) Rates of remand detention

The rates of people being held in remand detention, and the duration of their stay, have been continuously increasing. As of 21 August 2025, nearly 1 in 5 people in the Irish prison system are in pre-trial detention.¹ The number of people in pre-trial detention had increased by 15 per cent since the Council of Europe Committee on the Prevention of Torture and Inhuman or Degrading Treatment ('the CPT') last conducted a visit in 2020. There has been a steady rise in the proportion of the prison population being held in pre-trial detention, and an increase in the length of time they are spending in custody awaiting trial. There are instances where people are spending more time in remand custody than the length of the sentence handed down to them should they be found guilty.²

At the end of 2023 the proportion of remand trial prisoners in custody for one year or more was nine per cent compared with six per cent at the start of 2020.³ In 2021 the number of persons held on remand grew significantly throughout the year increasing from 615 in January 2021 to 867 in November. The average number held on remand in

¹ Irish Prison Service, [*Prisoner Population on Thursday 21 August 2025*](#).

² Future Prison Capacity Working Group, [*Report to the Minister for Justice*](#) (2024) p. 31.

³ Ibid.

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2021 was 712 and while this decrease (-3.5 per cent) on the 2020 figure reflects the reduced committals it is higher than the 2019 figure. There is also evidence of a longer duration of remand on average. The proportion of remand prisoners in custody for a period of one year or more increased from five per cent of all remand prisoners in March 2020 to 12.7 per cent of all remand prisoners in December 2021.⁴

Research carried out by IPRT in 2016 demonstrated that the majority of people charged with an offence are released on ‘station bail’ and do not come before the courts to make a bail application.⁵ For those who are brought before the court, the standards and tests set out in *People (Attorney General) v O’Callaghan*⁶ and the Bail Act 1997 apply. The fact that bail applications are dealt with on a case-by-case basis is fundamental in ensuring that someone is placed in pre-trial detention where only strictly necessary however this approach also leaves scope for inconsistencies on the application of the rules from day-to-day, circuit-to-circuit.

(ii) Remand prisons in the State

Cloverhill Prison is a purpose-built remand prison in Dublin which holds the majority of the men who are remanded into custody. While Cloverhill is the only purpose-built remand prison in the State, the majority of prisons in the State accommodate remand prisoners, including: Mountjoy, Wheatfield, Midlands, Portlaoise, Cork, Limerick and Castlerea.

For women in remand custody, both Limerick Women’s Prison and the Dóchas Centre (Mountjoy Women’s Prison) are used to accommodate remand prisoners. It is important to note that there are disproportionate numbers of women in remand custody. The remand female population has increased by 96 per cent since 2021 (21 per cent in 2022 and 62 per cent in 2023).⁷

The 2024 *Irish Prison Service Annual Report* outlines that 38 per cent of the overall prison population were being held in pre-trial detention, compared to 25 per cent in 2018.⁸ The rate of committals to prison for women for pre-trial detention in 2023 was almost 60 per cent, a nine per cent increase since 2017. In June 2024, an average of 25 per cent of women in prison were on remand, compared to 18.5 per cent of the male prison population. IPRT is concerned by this trend and believes pre-trial detention should be a measure of last resort, particularly in light of the right to the presumption of bail under the *O’Callaghan* principles.

(iii) Prison capacity and overcrowding

⁴ Irish Prison Service, [Annual Report 2021](#) (2022).

⁵ Irish Penal Reform Trust, [The practice of pre-trial detention in Ireland](#) (2016) p. 9.

⁶ [1966] 1 IR 50.

⁷ Future Prison Capacity Working Group, [Report to the Minister for Justice](#) (2024), p. 31.

⁸ Irish Prison Service, [Annual Report 2024](#) (2025).

In July 2024, the CPT published its most recent report on places of detention in Ireland.⁹ The Committee highlighted several entrenched areas of concern, including overcrowding and deteriorating safety standards in prisons. The report details harrowing accounts of squalid conditions created by overcrowding, with up to four prisoners sharing a cell built for single occupancy, sharing an unpartitioned toilet.

Overcrowding exacerbated the situation for prisoners held in restricted segregation for protection reasons, who often spend up to 22 or even 23 hours a day locked in their cells. The Committee also highlighted the ‘degrading and counterproductive’ use of ‘closed supervision cells’ (CSCs) and Safety Observation Cells (SOCs) in Cloverhill. The most recent figures on restricted regime prisoners ([July 2024](#)) show that Cloverhill prison has a disproportionate number of prisoners on restricted regimes.

Since 2023 we have continued to break new prison overcrowding records. The number of people in Irish prisons has led to three and sometimes even four people being held in cells designed for one person, with record numbers sleeping on rubber-lined mattresses on the floor.¹⁰ IPRT is concerned that the conditions experienced by people in Irish prisons due to overcrowding amount to degrading and inhuman treatment. In its 2020 report, the CPT noted concern that at the time of visiting Cloverhill prison there were 3 people sleeping on mattresses on the floor. As of 27 August 2025, there are 44 people sleeping on mattresses on the floor, with the issue becoming so prevalent that the Irish Prison Service has now had to include it as a category in its daily prisoner population reports.¹¹

Overcrowding affects every aspect of prison life. As well as creating confined and squalid conditions for prisoners, overcrowding has led to staff shortages and the closure of prison schools and workshops and on occasion the cancellation of family visits. This significantly reduces opportunities for rehabilitation and for people to spend time out of their cells. People being left in overcrowded cells for longer periods is contributing to increased tensions and violence, making prisons less safe for both prisoners and staff.

(iv) Prison conditions

Prison conditions across the general prison estate are inadequate and unacceptable. In May 2024, the Committee visited five prisons including both female prisons. In all prisons visited, it observed that “three or four prisoners were held in cramped, squalid spaces with insufficient ventilation”.¹²

⁹ The Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, [Report to the Irish Government on the visit to Ireland](#) CPT/Inf (2025) 22.

¹⁰ Irish Prison Service, [Prisoner Population on Wednesday 27 August 2025](#).

¹¹ Ibid.

¹² Ibid (n. 8) p. 5.

In its 2023 annual report, the Office of the Inspector of Prisons noted that the situation found by the Inspectorate during its May 2023 inspection of Cloverhill Prison was particularly grave.¹³ At the outset of the inspection, 152 people (one third of the prison's population) were being held four to a cell measuring less than 12 square metres, with one occupant sleeping on a mattress on the floor in each of these 38 cells. The in-cell toilets were not partitioned, and prisoners were eating breakfast, lunch and dinner in these highly-confined, stuffy and malodorous spaces. People in prison were provided with only one set of clothes and between one to three pairs of socks and underwear over a seven-day period. When people were allowed to wear their own clothing, they washed these clothes in sinks and dried them in their cells.¹⁴ The Inspector also noted with grave concern that people on remand and those sentenced were accommodated together, contrary to international human rights standards.

In its report, the CPT noted that there was an increase in allegations of ill-treatment, excessive use of force and inter-prisoner violence, with Cloverhill being singled out as particularly problematic. These included slaps, kicks and punches to the face, head and torso. These allegedly happened either in prisoners' cells, in areas not covered by CCTV in the reception centre and/or in escort prison vans. The Committee details one of the most serious incidents that it encountered, which involved 'Prisoner 1' held at Cloverhill Prison.¹⁵ The prisoner was beaten by 'Officer A' while in transit from the Criminal Courts of Justice to Cloverhill Prison. Footage of the incident was captured by recently-installed CCTV, which the officer was unaware has been installed. The prisoner suffered from significant disabilities commensurate with a head and brain injury. This incident is an important example of the conditions and how the overcrowding crisis has fueled tensions in prisons, not just in the general prison population but in Cloverhill Prison specifically. While remand prisoners have not been convicted of an offence, being held in pre-trial detention does not afford 'special treatment'. Time spent in remand custody subjects a person not only to the deprivation of their liberty, but to the conditions in prison which are now being flagged as reaching the threshold of inhuman and degrading.¹⁶ The denial of bail does not exist in a vacuum, and the IPRT's position is that when considering whether bail should be granted, the Court should consider prison conditions as a factor.¹⁷ This aligns with the position of the CPT, whose 2025 report recommends that 'whenever a prison in the Irish prison estate has reached that limit, no further persons should be admitted to that establishment'.¹⁸ Alternatives to custody are set out in section (vi) below.

¹³ Office of the Inspector of Prisons, [Annual Report 2023](#) (2024) p. 5.

¹⁴ Ibid (n. 7) p. 21.

¹⁵ For a full account of the incident, see paras. 38 – 40.

¹⁶ Ibid.

¹⁷ For further discussion, see: Thomas O'Malley, *Sentencing: A Modern Introduction* (Calrus Press, 2025) 182 – 184.

¹⁸ Ibid, para. 32.

(v) Rates of mental illness among the remand population

The rates of people with mental illness and psychiatric needs in Irish prisons has continued to rise, with reports from oversight bodies continuously recommending reforms in the area.¹⁹ An even higher rate of people are committed to remand custody, however, often for minor offences which otherwise would not result in time spent in prison.²⁰ A 2024 report from the Irish Prison Service outlined that the rate of self-harm was two times higher among prisoners on remand than those sentenced in 2020 (3.0. versus 1.5 per 100) and 2021 (3.1 versus 1.5 per 100).²¹

When a prisoner is in remand custody and has been charged with a minor offence, a referral may be made to a local civil psychiatric hospital, with a view to the prisoner being diverted there, including being bailed to the hospital with the condition that they reside/receive treatment there (their ultimate diversion from custody then sometimes being successfully achieved, subject to a voluntary or statutory report being supplied to the court and the court's agreement). Despite this system being in place in theory, the Office of the Inspector of Prisons in its thematic report on mental health in prisons noted that in practice psychiatrists have suggested that low secure beds in civil psychiatric facilities are pretty much absent, describing "getting agreement for transfer to hospital is like horse trading", suggesting that obtaining treatment in a civil psychiatric hospital depended upon contacts and favours.²²

As a result of these difficulties mentally ill people in remand custody charged with minor offences are frequently not accepted for psychiatric hospital admission at the time of arrest or during the trial process, remaining in prison without the benefit of in-patient psychiatric hospital treatment. These people are then released into the community, often with no reliable psychiatric follow-up, only to find themselves back in the same vulnerable position that led to their low-level offending such as poverty, homelessness and substance use, before re-offending and re-entering the criminal justice system. In the Office of the Inspector of Prisons thematic report on mental health in prisons, an example was given of a person who had been convicted of 100 minor offences.²³ From the perspective of a bail application before the Court, applying the relevant principles, it is clear why a person who has 100 prior convictions would not receive bail. This is demonstrative of a broken system, which leaves

¹⁹ Office of the Inspector of Prisons, [Thematic Inspection: An Evaluation of the Provision of Psychiatric Care in the Irish Prison System](#) (2023); High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector, [Final Report](#) (2022).

²⁰ The most recent data on this issue is nearly 20 years old, with the rise in prison population it is estimated this figure has increased. HG Kennedy et al, *Mental Illness in Irish Prisoners: Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners* (National Forensic Mental Health Service 2006).

²¹ Irish Prison Service, [Self-Harm in Irish Prisons](#) (2024).

²² Ibid, para 3.76.

²³ Office of the Inspector of Prisons, [Thematic Inspection: An Evaluation of the Provision of Psychiatric Care in the Irish Prison System](#) (2023) para 3.81.

someone repeatedly going through the revolving door of the criminal justice system without addressing the underlying causes of their offending behaviour.

(vi) Prison expansion and alternatives to prison

Increasing prison capacity and building new prisons is often raised as a solution to the prison overcrowding crisis, despite it being well-documented that no State has built its way out of a prison overcrowding crisis. If Government plans to build two new prisons at the Thornton Hall site in Dublin and in Cork come to fruition, there will be a prison population nearly three times that judged a sensible maximum by the Whitaker Committee in 1985, when the fear was that the prison population would rise above 4,000.²⁴ Each new-build prison in the State has had to operate beyond its capacity, the most recent example being Limerick Women's Prison surpassing its capacity within weeks of opening. It continuously remains one of the most overcrowded in the State. While general population growth may be cited as a justification for expanding the prison estate, lessons can be learned from the female prison estate.

The numbers on remand have increased at a faster rate than the overall prison population increase and are a significant driver of the current increased prison population.²⁵ Between 2019 and 2024, the number of individuals on remand have steadily increased, with a 29 per cent rise during that period. The number of individuals on remand has steadily increased. As of June 2024, 79 per cent of individuals on remand were detained for one to six months, 19 per cent were detained for six months to two years and two per cent were detained for over two years.²⁶

Even where bail has been granted, challenges remain on the affordability of the bail bond or recognisance which results in the person being held in remand custody despite having been granted bail. The Office of the Inspector of Prisons has noted that at its most recent inspection, a number of people in Cloverhill Prison had low bail amounts set by the courts. For example, on 18 May 2023, the Inspector observed that 11 people in the prison had bail set at 100 euros or less, while another 26 persons had their bail set at less than 500 euros.²⁷ The Inspectorate observed that Cloverhill Prison was acting as a "social safety net" as a result of wider systemic failures to address causes of offending, such as drug addiction and homelessness. Without engaging with these root issues, the issue of over-reliance on prison detention will not be fully addressed.

²⁴ T.K. Whitaker, *Report of the Committee of Inquiry into the penal system* (Stationary Office, 1985).

²⁵ Future Prison Capacity Working Group, [Report to the Minister for Justice](#) (2024).

²⁶ Ibid.

²⁷ Office of the Inspector of Prisons, [Annual Report 2023](#) (2024).

In 2019, the CPT recommended that the Irish authorities take steps to tackle the phenomenon of local overcrowding in prisons through promoting greater use of alternatives to imprisonment and remand detention, notably as regards short sentences.²⁸ In its 2024 report, the Committee was not convinced that sufficient steps have been taken in this regard. The general position of penal reform experts is that to properly address the prison overcrowding crisis, the prison population must be reduced. This aligns with nationally representative public polling, conducted by Red-C and commissioned by IPRT in October 2024, which found that most people believe that crime prevention would be better achieved by tackling crime at its roots and investing in person-centred approaches.²⁹ A significant 68 per cent of respondents felt that expanding prison capacity will not reduce crime with 71 per cent indicating that offenders with mental health conditions should receive treatment in a dedicated facility instead of being sent to prison.³⁰

On the issue of reducing rates of remand custody, the numbers of people in prison awaiting trial can be reduced with relatively simple, practical supports. In the youth justice system, the Bail Supervision Scheme began as a pilot in Dublin in 2016, with the evaluation demonstrating that there was a 72 per cent reduction in reoffending (six months post-scheme versus six months pre-scheme).³¹ Of the young people who successfully completed the programme, 85 per cent were given a non-custodial sentence. The scheme was rolled out to greater Dublin, Cork and Limerick in 2021. The project evaluation in 2019 found that the BSS enabled young people at high risk of bail denial to adhere to bail conditions and reduce reoffending by effectively supporting their caregivers. There is currently no bail supervision scheme in operation in the adult criminal justice system.

The Department of Justice *Review of Policy Options for Prison and Penal Reform 2022-2024* recommended developing a pilot Bail Supervision Scheme for women and other vulnerable members of the prison population, including those with mental health needs.³² The Review includes a detailed analysis of a similar scheme in Scotland, which found that the net benefits of supervised bail as an alternative to remand over the three years examined were between £2 million and £13 million.³³ This analysis aligns with the findings of the evaluation of the Bail Supervision Scheme in Irish youth justice and builds on a previous proposal in a 2021 report by the Probation Service, *Towards a 'Best Practice' Approach to Working with Women who Offend* to “ascertain the feasibility of a structured bail supervision and support

²⁸ Council of Europe Committee on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, [Report to the Government of Ireland on the visit carried out from 23 September to 4 October 2019](#) (2020) para. 29.

²⁹ Red-C, IPRT, [Public attitudes polling on prison and criminal justice](#) (2024).

³⁰ Ibid.

³¹ Department of Children and Youth Affairs, [Evaluation of the Bail Supervision Scheme for Children](#) (2019).

³² Department of Justice, [Review of Policy Options for Prison and Penal Reform 2022-2024](#) (2022).

³³ Ibid, p. 43.

programme for women”.³⁴ In this vein, IPRT welcomes Minister O’Callaghan’s recent statement that “[i]n relation to pre-trial detention, work has commenced on the development of a pilot Bail Support Scheme for women which aims to provide an alternative to custodial remand”.³⁵ We hope that this could lay the groundwork for future developments in terms of bail support for adults in the wider system to divert them from prison where appropriate and provide them with the wraparound supports they require to turn away from criminality and address the root causes of their offending.

IPRT is available should you wish to discuss any of the above or require further information.

Yours sincerely,



Niamh McCormack BL
Legal, Policy and Public Affairs Manager

Sent by electronic mail.

³⁴ The Probation Service, [*Towards a ‘Best Practice’ Approach to Working with Women who Offend*](#) (2021) p. 5.

³⁵ Dáil Éireann Debate, 15 July 2025, [Ministers Questions 739, 743, 771](#).