Report on an Inspection of Mountjoy Prison by the Inspector of Prisons Judge Michael Reilly

24th March 2011

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Presented to the Minister for Justice and Law Reform pursuant to Part 5 of the Prisons Act 2007.

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Acknowledgements

I received a high level of cooperation from all people involved in my inspection of Mountjoy Prison. I would like in particular to thank Governor Whelan, Chief Officer Robbins and all members of management for their consent willingness to assist me in all aspects of my inspection. I would also like to thank the many staff who accompanied me and my team around the prison often at unsocial hours and during break times.

I would like in particular to thank all the persons that I spoke to including prison staff, prisoners, those that provide services to prisoners and visitors to the prison for their forthright and candid views.

I am indebted to my small team not only for their attention to office duties but also for their diligence in carrying out inspections sometimes during unsocial hours. They are Ms. Linda Larkin (Office Manager), Ms. Aoife Watters (Researcher), Ms. Michelle Ryan and Mr. John Byrne. They are a dedicated interested and cohesive team who worked long hours and for that I thank them.

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Chapter 1

Introduction

1.1 On 13th August 2009, I submitted a Report (hereinafter referred to as the '2009 Report') to the Minister for Justice, Equality and Law Reform (hereinafter referred to as 'The Minister') on Mountjoy Prison.

1.2 In the 2009 Report I stated that numerous matters would have to be attended to, that new procedures would have to be put in place and that regime changes would have to occur if I was to be satisfied that prisoners' rights could be vindicated, that safe and secure custody could be provided and that the prison would be a safe place for staff to work in.

1.3 In the 2009 Report I set out in general terms the work that should be carried out, the procedures that should be put in place and the regime changes that should occur. I stated in paragraph 1.11 of my 2009 Report that:

> *"If my recommendations as outlined at Chapter 8 are acted on Mountjoy Prison can continue, in the short term, to play an important role in the Irish Prison System where safe and secure custody can be provided in an environment which respects human rights and human dignity, that is safe for staff to work in and where prisoners live in a structured environment."*

1.4 I stated at paragraph 1.8 of the 2009 Report that I would submit a further Report to the Minister within twelve months of the submission of my original Report. In my Report covering the period 15th March 2009 to 10th September 2010, I stated at paragraph 1.9 that –

> *"Over the last number of months I have detected a marked improvement in certain aspects of the prison. For this reason I will defer submitting a further Report to the Minister on Mountjoy Prison*

until the end of this year when I will deal with, inter alia, all matters raised in my original Report on the Prison."

1.5 I have visited the Prison on numerous occasions over a six month period up to 11th March 2011 both during the day and at night. The majority of these visits have been unannounced. A new management structure was put in place in mid 2010.

1.6 In my 2009 Report I made sixteen recommendations. I deal with the response of the Irish Prison Service and local management to these recommendations in Chapters 2 and 3.

1.7 In Chapter 7 of my 2009 Report I dealt with serious concerns that I had relating to the investigation of complaints by prisoners. I was not in a position in 2009 to deal fully with this issue as I did not wish to jeopardise any criminal investigation that might be carried out. A Garda investigation and an investigation on behalf of the Irish Prison Service have been carried out. I deal comprehensively with such investigations in Chapter 3.

1.8 I received an extensive briefing in September 2010 on the planned projects for Mountjoy Prison for the remainder of 2010 and for 2011 from the Governor, his senior management team and other specialist units from the Irish Prison Service that the Governor considered could add substance to the presentation. I refer to these projects in Chapters 4 and 5. I would welcome such an initiative from all prisons on a yearly basis.

1.9 I am pleased to report that there has been a sea change for the better in many aspects of the prison. I accept that proposed changes cannot, in all cases, be implemented overnight. I am satisfied that if the present planned projects for Mountjoy Prison are brought to fruition and if the advice that I have given in various Reports (referred to in Chapter 6 of this Report) is followed the prison, subject to paragraphs 1.10 and 1.11, should be in a position to provide safe and secure custody in an environment which respects human rights and human

dignity, that is safe for staff to work in and where prisoners can live in a structured environment.

1.10 I have referred to the practice of 'slopping out' in Mountjoy Prison and other prisons as inhuman and degrading. For as long as 'slopping out' is a feature of imprisonment in Mountjoy Prison the endorsement contained in paragraph 1.9 is qualified.

1.11 I have referred to the overcrowding in Mountjoy Prison and other prisons. For as long as overcrowding is a feature of imprisonment in Mountjoy Prison the endorsement contained in paragraph 1.9 is also qualified.

1.12 This Report does not deal with the following issues:-

(a) how prisoners' complaints are being dealt with at present,
(b) how prison discipline is being administered at present,
(c) how special observation and close supervision cells are being used at present and whether appropriate records are being maintained,
(d) whether current procedures are in place to deal with deaths in custody, and
(e) whether appropriate healthcare is available to all prisoners.

1.13 The reason that I have not addressed the matters set out at paragraph 1.12 is that I have now given guidance in various Reports (referred to in Chapter 6) on what best practice should be in relation to these issues. The Irish Prison Service and local management, not alone in Mountjoy Prison but in all prisons, have had the benefit of the ***Standards for the Inspection of Prisons*** and the guidance contained in my Reports and should now be under no illusion as to what is expected of them in order to comply with best practice. For this reason I will expect that as and from 1sr July 2011 Mountjoy Prison and all prisons will comply with 'best practice'. I will refer to this in greater detail in my Annual Report for 2010.

1.14 I do not refer in this Report to the educational services being provided in the prison. I have referred to the educational services that are provided in all prisons in my Report dated the 16th September 2010 titled ***'Report of the Inspector of Prisons covering period 15th March 2009 – 10th September 2010'*** where I stated that a value for money audit should be conducted by or on behalf of the Irish Prison Service into such educational facilities. The reason I suggested that this should be conducted by or on behalf of the Irish Prison Services is that I do not have the expertise or the resources to enable me carry out such an investigation.

1.15 On the 14th October 2010 a serious riot occurred in Mountjoy Prison. This involved a large number of prisoners. It started in the A Division recreation hall and proceeded to the A Yard. A stand off ensued. Considerable damage was done to the fabric of the prison and the yard. A number of prison officers and prisoners were injured. As soon as I became aware of the riot I received a comprehensive oral briefing from the Governor. I attended at the prison. I spoke to prisoners and prison officers. Tension was high in the prison. Verbal allegations of assault were made by prisoners. I viewed the extensive CCTV coverage of the whole incident. I was satisfied that I did not have to concern myself further with this incident. This is not to say that any individual complaints could be ignored by prison management. Such complaints (if any) should be investigated in accordance with best practice.

Chapter 2

Response to recommendations in 2009 Report

Recommendation 1 - Overcrowding to be eliminated by reducing the population to 540 or under.

2.1 I stated that this could be achieved by the end of 2009 with the opening of 400 additional prison places in other prisons. Since my 2009 Report was published various changes have occurred in Mountjoy Prison such as the re-opening of the Separation Unit. These changes have altered the numbers that should be accommodated in Mountjoy Prison. The following table is an overview of the cell accommodation in use as of the date of this Report. It also includes a column detailing the maximum number of prisoners that should be accommodated in the prison having regard to the criteria set out in my Report dated 29th July 2010 where I gave guidance on best practice on cell size and prisoner accommodation. It will be noted that I have not included cells on Landing C1 as this has been taken out of commission pending the refurbishment of the C Basement. I refer later to C1 and C Basement at paragraphs 2.2, 2.3 and 2.5.

Landing	Number of same size cells	Size of cells LxBxH metres	Square metres	Cubic metres	Sanitation Y/N	Screened Y/N	Maximum Accommodation
A1	23	3.97x2.12x2.8	8.42	23.58	N	-	23
	1	4.6x3.42x2.8	15.73	44.04	Y	Y	3
A2	8	3.43x2.15x2.8	7.37	20.63	N	-	8
	34	3.98x2.15x2.8	8.56	23.97	N	-	34
A3	8	3.35x2.1x2.8	7.04	19.71	N	-	8
	34	3.9x2.1x2.8	8.19	22.93	N	-	34
B1	25	3.95x2.15x2.8	8.49	23.77	N	-	25
B2	29	3.9x2.14x2.8	8.35	23.38	N	-	29
	1	3.9x4.7x2.8	18.33	51.32	N	-	4
B3	31	3.9x2.1x2.8	8.19	22.93	N	-	31

B Basement	2 Assessment cells	3.9x2.1x2.7 3.9x2.1x2.7	8.19 8.19	22.11 22.11	N Y	- -	- -
	8	4.0x4.5x3.1	18.00	55.80	Y	Y	32
	2	4.0x2.08x2.65	8.32	22.05	Y	N	2
	2	2.7x1.97x2.68	5.32	14.26	N	-	Should never be used
	6	4.0x2.10x2.7	8.40	22.68	Y	N	6
C2	22	3.97x2.15x2.8	8.54	23.91	N	-	22
C3	30	3.94x2.2x2.75	8.67	23.84	N	-	30
D1	20 5	4.0x2.1x2.8 3.45x2.1x2.8	8.4 7.25	23.52 20.30	N N	- -	20 5
D2	35 10	4.0x2.1x2.8 3.45x2.1x2.8	8.40 7.25	23.52 20.30	N N	- -	35 10
D3	35 10	4.0x2.1x2.8 3.45x2.1x2.8	8.40 7.25	23.52 20.30	N N	- -	35 10
Medical Unit (F Wing) F1 High support unit	9 1 Safety Observation cell	3.97x2.37x2.7 2.3x3.3x2.7	9.41 7.59	24.41 20.49	Y Y	N N	See paragraph 2.4
F2	7 1	3.97x2.37x2.7 5.0x4.0x2.7	9.41 20.00	24.41 54.00	Y Y	N Y	7 4
F3	9 1 Safety Observation Cell	3.97x2.37x2.7 2.3x3.3x2.7	9.41 7.59	24.41 20.49	Y Y	N N	9 -

F4	7 1	3.97x2.37x2.7 5.0x4.0x2.7	9.41 20.00	24.41 54.00	Y Y	N Y	7 4
F5	9 1 Safety Observation Cell	3.97x2.37x2.7 2.3x.3.3x2.7	9.41 7.59	24.41 20.49	Y Y	N N	9 -
F6	7 1	3.97x2.37x2.7 5.0x4.0x2.7	9.41 20.00	24.41 54.00	Y Y	N Y	7 4
Separation Unit (E Wing) E1	6	4.65x2.7x3.66	12.55	45.93	Y	Y	12
E2	6 1 Close Supervision Cell	4.65x2.7x3.66	12.55	45.93	Y N	Y N	12 -
E3	5	4.65x2.7x3.66	12.55	45.93	Y	Y	10
E4	8 1 Close Supervision Cell	4.65x2.7x3.66	12.55	45.93	Y N	Y N	16 -
E5	5	4.65x2.7x3.66	12.55	45.93	Y	Y	10

2.2 I have not included in the above table the cell accommodation on C1 Landing as this landing is closed at present pending the refurbishment of the C Basement. This work is ongoing and will be completed by the end of June 2011. The accommodation of the prison will thereafter increase as per the following table.

Landing	Number of same size cells	Size of cells LxBxH metres	Square metres	Cubic metres	Sanitation Y/N	Screened Y/N	Maximum Accommodation
C1	10	3.9x2.1x2.8	8.19	22.93	N	-	10
	2	4.69x3.97x2.8	18.62	52.14	N	-	8
	1	4.6x3.98x2.8	18.31	51.27	Y	Y	4
C Basement	26 Committal Cells	4.00x2.10x3.05	8.40	25.62	Y	Y	26
	8 Segregation Cells	4.00x2.10x3.05	8.40	25.62	Y	Y	8

2.3 It is clear from the above tables, based on the criteria set out in my Report dated 29th July 2010 in which I deal with, *inter alia*, cell capacity, that the maximum number of prisoners that should be accommodated in Mountjoy Prison as of the date of this Report should not exceed 517 prisoners. This figure will increase to 573 prisoners when the C Basement has been refurbished and C1 Landing has been reopened.

2.4 If the cells on F1 (the high support unit) are all occupied the prison population could increase to 582. These cells should only be used to accommodate prisoners who need specialist short term treatment as set out in paragraphs 2.20 to 2.22.

2.5 Apart from a number of "trustee prisoners" who would act as cleaners in the area the committal cells in the C Basement should be used only for the purposes set out in paragraphs 2.16 to 2.18. They should not be used for ordinary accommodation or management purposes. The Prison Governor should be vigilant in this regard.

2.6 On the 8th March 2011 Mountjoy Prison held 710 prisoners. The stated bed capacity according to the Irish Prison Service was 630 whereas as can be seen from paragraph 2.3 the maximum number that should have been accommodated was 517. This means that on that date the prison population

stood at 137% of capacity based on the criteria set out in paragraph 2.3 of my Report dated 29th July 2010.

2.7 I wish to point out once again that the term 'bed capacity' is a misleading term not only to the national audience but also to outside agencies with an interest in prison regimes. It is no more than a statement that either beds or bunks to accommodate those numbers are in place in the particular prison. It ignores the size of the cells, international best practice, rulings of the European Court of Human Rights and Reports of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

2.8 On the 13th August 2009 (the date of the submission of my last Report on Mountjoy Prison) the numbers in prison were 620 with a stated bed capacity of 590. In my recommendation dealing with the elimination of overcrowding I stated that this could be achieved by the end of 2009 with the opening of 400 additional prison spaces in other prisons. I stated that the Irish Prison Service should ensure that obstacles were not created to frustrate the orderly reduction in the Mountjoy Prison population. This recommendation has been ignored.

2.9 The prison population of Mountjoy Prison should be capped at a maximum of 600 prisoners.

2.10 I, and any reasonable person, would accept that in certain circumstances a degree of overcrowding may be acceptable. The circumstances where such overcrowding could be deemed acceptable is where prisoners are doubled up when cells are taken out of commission in the short term to enable refurbishment work to proceed. If this is to occur the situation should be explained to both prisoners and staff and a timeframe for the completion of such work should be given. This timeframe should in all cases be adhered to.

2.11 Enhanced regimes and services have been provided in Mountjoy Prison which, if operating to capacity, are adequate and have the potential to provide structured activity for approximately 500 prisoners. With a population of 700 prisoners there are at any one time in excess of 200 prisoners "walking the

yards" or doing nothing. At certain times activities are curtailed because posts are stripped due to staff shortages. Certain courses provided in the workshops now led to accreditation, this is to be welcomed. I do not purpose dealing in detail with this subject but will return to same in a subsequent Report when I will give details of such courses together with details of such accreditation.

2.12 Despite the apparent lack of space it would be possible to create additional workshops by erecting a number of new workshops in the A Yard adjacent to the A Workshops. This would not have a deleterious effect on the yard facilities available for recreational purposes. I have discussed this with the Governor and Management who consider this recommendation reasonable. If this were done, if appropriate staff were detailed to such workshops, if the workshops were working to capacity and if the population was capped at 600 prisoners there would be worthwhile activity for practically all prisoners for five days of each week. I recommend that such workshops should be constructed.

Recommendation 2 - The Separation Unit to be opened by the end of 2009 and protection prisoners from B Base be moved there.

2.13 The Separation Unit has been opened. The unit has five divisions and can accommodate a maximum of 60 prisoners all in double cells. The cells have 'in-cell' sanitation which is screened. There is adequate natural light and ventilation. There are two close supervision cells.

2.14 The Separation Unit has adequate showers for all prisoners, has three exercise yards, has a properly equipped gymnasium, has adequate room for school facilities and a doctor's surgery.

2.15 Prisoners on protection are accommodated in the Separation Unit. These prisoners have been relocated, in the main, from C2 Landing and the B Base. There are a number of gang members in this unit.

Recommendation 3 - A dedicated committal area for prisoners be provided.

2.16 I referred at paragraph 5.2 of my 2009 Report to a meeting that I had with the Director General of the Irish Prison Service and others. At this meeting it was suggested that the B Base could be used as an area for committal prisoners. For operational reasons I accept that it has not proved possible to use the B Base as a committal area. The Irish Prison Service and local management identified an unused area under C Wing which had not been operational for many years. Refurbishment work is ongoing in this area which is now referred to as the C Base. There will be thirty-four single cells - all with 'in-cell' sanitation, adequate light and fresh air. This work is being carried out to a high standard

2.17 Part of the C Base will be dedicated as a committal area which will be used for no other purpose. There will be twenty-six cells in this area.

2.18 All new committals to the prison will be assessed in the new committal area in the C Base. They will be seen by, *inter alia*, a doctor, a nurse, a governor, a chief officer, a chaplain and an industrial manager. Only after an appropriate assessment will such prisoners be accommodated either on a landing in the prison, in a specialist unit or transferred to another prison as appropriate.

2.19 There will be eight further cells in the C Base, separated from the committal area, which will be used for operational purposes as Segregation Cells.

Recommendation 4 - A dedicated area for vulnerable prisoners to be provided.

2.20 This recommendation has been acted on. Unit F1 of the Medical Unit has been designated as a high support unit for vulnerable prisoners. There are nine single cells each with 'in-cell' sanitation and one safety observation cell. They have been refurbished to a high standard. They have adequate natural light and ventilation.

2.21 This high support unit is properly staffed and has the benefit of the Inreach Team from the Central Mental Hospital under the direction of a consultant psychiatrist.

2.22 Prisoners in this area are assessed on a daily basis by the medical team and when and where appropriate are transferred to the Central Mental Hospital, back to the main prison or to another prison. The establishment of this high support unit should not be used as an excuse for not transferring prisoners to the Central Mental Hospital where such prisoners need the medical and other care provided in such hospital. This high support unit should not be used as a long term facility.

Recommendation 5 - The provision of a drug free support unit.

2.23 There is a drug free support unit in the Medical Unit. This is a small unit and does not have the capacity to deal with the potential numbers of prisoners who would wish to avail of such a unit. The Governor is actively looking at the possibility of dedicating a greater area of the prison as a drug free support unit. I have been informed that such an area should be identified by 1st July 2011 and will be in operation by 1st September 2011.

Recommendation 6 - Prisoners' complaints to be dealt with in an open and transparent manner in accordance with law and best practice.

2.24 In my 2009 Report I expressed serious concern about the investigation of sixty-seven complaints that had been lodged by prisoners between the 1st January 2008 and the 14th May 2009. Of these a significant number related to allegations of assault, bullying, intimidation or harassment by prison officers. The complaints book did not contain adequate information. In some cases the names of the officers complained of were not recorded. The investigation of many of the complaints did not appear to be finalised. I stated at paragraph 7.6 of my 2009 Report that:-

> *"I talked to prisoners and others in the prison system. I examined the files relating to the complaints that had been made to me. The contemporaneous complaint forms completed by the prisoners, the complaints made to me by the prisoners and my further investigations, details of which I cannot disclose for operational and investigative reasons, suggested to me that if the allegations, or any of them, were*

true would amount to a most serious situation and that a thorough investigation should be undertaken".

2.25 I was so concerned that I briefed the Minister through the Secretary General of the Department of Justice, Equality and Law Reform on the evening of the 19th February 2009. On the 20th February 2009 a Garda investigation was initiated and the Irish Prison Service commissioned an independent investigation.

2.26 I stated at paragraph 7.11 of my 2009 Report that I was not in a position at that stage to comment further on this matter or on the ongoing investigations. I stated that I hoped to be in a position to comment further when the investigations referred to at paragraph 2.25 above had been finalised.

2.27 The concerns raised by me on the 19th February 2009, my knowledge of events at that time and subsequent events including the Garda and Irish Prison Service investigations are of such importance that they cannot be dealt with in an omnibus Chapter such as this. Consequently I deal with all these issues in Chapter 3.

Recommendation 7 - Ending the practice of 'slopping out' by providing a "toilet patrol" at times prisoners are under 'lock down'.

2.28 Since taking up the position of Inspector of Prisons on the 1st January 2008 I have, in virtually all Reports, referred to the practice of 'slopping out' as being 'inhuman and degrading'.

2.29 I am pleased to report that the Irish Prison Service and local management in Mountjoy Prison are taking active steps to end this practice in the prison. All cells in the C Base will have 'in-cell' sanitation when completed. 'In-cell' sanitation is to be installed in all cells in the C Division which will mean that sixty-five cells will have 'in-cell' sanitation. It is proposed that this facility will be screened. I am informed that this work will be completed before the end of July 2011. This is a major step and my strong recommendation is that it should be rolled out throughout the prison.

2.30 A number of cells have been equipped with commodes which replace the 'slop out' buckets. As this is a new innovation and is being tried on a pilot basis I am not in a position to give a view on the effectiveness of such an arrangement but from what prisoners have told me this arrangement does not address the problem. This practice should not be used as an excuse for delaying the installation of 'in-cell' sanitation in all cells as recommended in paragraph 2.29.

2.31 Until such time as 'in-cell' sanitation is provided in all cells a "toilet patrol" should be established in this and all prisons that do not have 'in-cell' sanitation. This patrol should operate at all times that prisoners are locked down.

Recommendation 8 - Rubbish bins must be emptied on a regular basis.

2.32 In my 2009 Report I was critical of the fact that rubbish bins were not emptied on a regular basis. The bins provided at that time were not adequate. They were used not only as rubbish bins but frequently as receptacles for the contents of 'slop-out' buckets. This meant that the bins and surrounding areas were filthy on numbers of landings.

2.33 I am happy to report that all rubbish bins are being emptied on a regular basis. I have inspected the prison on many occasions unannounced both during the day and at night and have found all bins empty, clean and fit for purpose.

Recommendation 9 - All areas of the prison be kept clean.

2.34 In my 2009 Report I stated at paragraph 4.19:-

> *"Numbers of areas were dirty - at times filthy. Toilets were dirty and sometimes blocked, urinals were overflowing, wash hand basins were dirty, floors were covered with water and other liquid and hand driers were not working. The area around the rubbish bins had pieces of food on the floor, were generally dirty and untidy and at times liquid could be seen seeping from them.*

I stated at paragraph 4.20, 4.21 and 4.22 that some landings, stairs, recreation areas and all yards were dirty.

2.35 I am happy to report that all of the areas that caused me concern have been cleaned. In all cases they have been power hosed and steam cleaned.

2.36 The sanitary/washing facilities and the areas around the rubbish bins on the landings are clean and have been clean on all of my recent visits. Toilets do get blocked from time to time but are immediately freed, urinals are not seen to be overflowing, all landings and stairs are clean as are recreational areas and the yards.

2.37 A painting programme for all of the prison has been undertaken and as of the date of this Report all landings and other 'public' areas of the prison have been painted. All landings are now maintained and polished to a high standard. The painting and cleaning work is done by prisoners under supervision.

2.38 There has been a major financial investment in new cleaning equipment. Prisoners have been and are being trained in the use of such equipment. This means that all parts of the prison both indoors and outside are and should in the future be clean. This investment will lead to considerable savings in the future as outside agencies will no longer be required to do the majority of this work.

2.39 An Industrial Cleaning Supervisor has been appointed with responsibility for the cleaning of the entire prison. An officer of similar grade with similar responsibilities should be appointed in all prisons.

Recommendation 10 - Cells to receive attention.

2.40 I pointed out in my 2009 Report that the majority of the cells in the main prison block and in the B Base were dirty and unkept and that many needed repainting and some total refurbishment. I pointed out that numbers of cells did not have adequate furniture such as chairs, tables or storage facilities. Some cells had broken beds.

2.41 I pointed out that sufficient numbers of 'slop out' buckets were not provided. I stated that cockroaches and mice were a problem. I found that not all cells had working 'alarm bells'. I pointed out that a majority of cell windows were broken or not working and that locks on certain cell doors were not working properly.

2.42 I stated in my 2009 Report that the smell of sewage was evident on landings at certain times and that this permeated into the cells.

2.43 A major scheme of refurbishment of all cells is taking place. This entails repainting cells, mending broken windows, replacing damaged beds and installing appropriate furniture. The new windows and furniture are being made in the workshops in the prison by prisoners under instruction and supervision. New Irish Prison Service style windows are to be installed in the B Base. I am informed that this work will be completed by the end of May 2011. These windows, because of there specifications, cannot be made in the workshops.

2.44 The refurbishment of the cells is being carried out in a structured way and I have been informed that all cells should be completed to an appropriate standard by the end of 2011.

2.45 An adequate number of 'slop out' buckets are now provided.

2.46 Cockroaches and mice are still a problem in certain areas but the management of the prison are taking appropriate steps to try to eradicate this problem.

2.47 In my recent visits to the prison I found all alarm bells working in the cells and the locks on cell doors working.

2.48 The smell of sewage is far less evident on the landings due to the repairs carried out to broken and leaking equipment.

Recommendation 11 - Broken and leaking equipment to be replaced and/or repaired.

2.49 A concerted effort has been made by management to repair all broken and/or leaking water pipes, broken and/or leaking sanitary facilities, broken 'in-cell' alarm bells and broken hand driers.

2.50 Toilets, wash basins, urinals, slop hoppers and showers have been replaced where necessary.

2.51 The water pressure in the areas which experienced restricted water pressure has now been improved.

2.52 The windows in the toilet and wash areas have been replaced.

2.53 It is prison policy that when equipment is broken it is immediately repaired or replaced.

Recommendation 12 - Staff facilities in the main prison should be improved.

2.54 The facilities provided for staff as outlined in paragraphs 4.40 and 4.41 of my 2009 Report have been replaced.

Recommendation 13 - CCTV coverage should be increased.

2.55 Since taking up my position of Inspector of Prisons I have been concerned that certain strategic areas of the prison did not have adequate CCTV coverage. I have had many meetings with the Governor on this issue where I outlined my serious concerns.

2.56 A concerted effort has now been made by prison management to increase the CCTV coverage in the prison and to integrate old stand alone systems into one main system. New equipment has been sourced which enhances the visual definition in all CCTV recordings. The Medical Unit, which had no CCTV coverage, now has blanket CCTV coverage in all appropriate areas. Other areas such as the stairs to the B Base are now also covered.

2.57 There are cameras at the main gate. This ensures that the main gate is only used for purpose. A record is now kept of when and why the main gate is opened and for what purpose.

2.58 All incidents can be viewed in real time or later in a central area by specifically dedicated staff.

Recommendation 14 - Prisoners must attend school and workshops on time.

2.59 The situation in this regard has improved. One main reason for the delay in getting prisoners to school and workshops on time was that certain prisoners had to wait to have their methadone dispensed to them. Management have changed this procedure which now entails the dispensing of methadone at a number of centres in a more structured and time efficient manner. I have also been told that prisoners who are waiting to see the doctor are triaged which also improves the situation. I will report further on this matter in later Reports.

Recommendation 15 - The use of the school and workshops should be maximised.

2.60 Certain improvements have been made in this regard. New courses are being run in the workshops. The overcrowding in the prison and the failure to provide adequate appropriately trained staff are the main negative contributing factors to the maximising of the present workshop facilities.

Recommendation 16 - All prison officers to wear some form of identification on their uniforms when on duty.

2.61 I have referred to this in many reports setting out the compelling reasons why officers should wear identifying marks or numbers. My comments at paragraph 3.9(f) demonstrate how, when investigations are taking place, it is essential that prisoner officers can be readily identified. This issue which is not confined to Mountjoy Prison should be attended to immediately across the entire prison service.

General comment.

2.62 I have already stated in this Report that a new management team have taken over in Mountjoy Prison. The bulk of the work required to comply with the recommendations outlined in my 2009 Report and referred to in this Chapter has been attended to since the new management team was put in place.

Chapter 3

Investigation of prisoners' complaints

3.1 I was constrained in my 2009 Report from giving details of my concerns relating to complaints made by prisoners. My reason for doing this was that I did not wish to jeopardise any criminal investigation that might be carried out.

3.2 As I have stated at paragraph 2.25 two investigations were initiated on the 20th February 2009 - a Garda investigation and an investigation by the Irish Prison Service.

3.3 The Garda investigation was led by a Detective Chief Superintendent with a team of experienced officers. The Irish Prison Service investigation was led by an internationally renowned expert on Prisons. Because of the calibre of the investigation teams I decided that it was not necessary for me to carry out a further investigation on this matter.

3.4 At the request of the Secretary General of the Department of Justice, Equality and Law Reform I briefed both investigation teams. I brought to their knowledge my concerns and gave details of a number of incidents which I considered would enable both investigation teams carry out a full and thorough investigation. Both investigations have concluded. I propose dealing with the Garda investigation and the Irish Prison Service investigation under two subheads in this Chapter. I will then give my overview of such investigations and my comments on this issue.

Garda Investigation

3.5 The Garda investigation team identified forty-six complaints alleging, *inter alia*, assaults and intimidation by prison officers during the period - 1st January 2008 to the 29th February 2009. I have received a full briefing from the Detective Chief Superintendent of his investigation. I have examined all of the investigation files relating to the forty-six complaints. I have examined the methodology used by the Gardaí in their investigation and have seen the

comprehensive Reports furnished to the Director of Public Prosecutions in relevant cases.

3.6 I am satisfied that the Garda Investigation was robust and thorough.

3.7 I should point out at this stage that a criminal investigation is different in nature from any other investigation in that a criminal investigation seeks to ascertain whether a criminal act has been committed and if so whether a person of persons should be prosecuted. The bar is therefore at a higher level than in other investigations.

3.8 It is clear from the Garda investigation that injuries were received by a number of prisoners but for a variety of reasons it was not possible to mount a criminal prosecution. A suspicion of involvement is not sufficient reason for mounting a prosecution. In a number of cases the Gardaí were satisfied that something had happened but because of lack of evidence a prosecution could not proceed.

3.9.1 The Gardaí identified a number of issues that militated against a full investigation of which the most important are:-

(a) a reluctance by prisoners to co-operate with the inquiry,
(b) the absence of forensic evidence,
(c) inadequate medical records in the prison,
(d) difficulties in identifying witnesses due to the transient prison population,
(e) a reluctance by witnesses to co-operate with the investigation, and
(f) the difficulty in identifying prison officers as they do not wear identifying marks or numbers. This led to great time wasting as the investigation team had to engage in an unnecessary trawl of prison officers who, had they been wearing identifying marks, could have been eliminated as not being involved at an early stage of the investigation.

3.10 It is clear from the Garda investigation and from my briefing by the investigation team that certain deficiencies as identified by the Gardaí should and can be rectified. The following matters must be addressed and, where appropriate, protocols between agencies must be established:-

(a) A designated prison officer or officers should be appointed to take any complaint that a prisoner wishes to make. This officer should, as it were, be a guardian of and represent the prisoner. It would be that officer's duty to gather all CCTV evidence, identify witnesses, preserve evidence and where necessary help the prisoner to make the complaint. This officer would be acting on behalf of the Governor and should never be a person implicated in the complaint.

(b) A protocol should be in existence whereby An Garda Síochána has a liaison officer whose duty it is to take complaints from prisoners. The Gardaí should be informed by email from the prison immediately a complaint suggesting a criminal act has been made. Where a complaint is referred to An Garda Síochána the District Officer should ensure that a member of An Garda Síochána is detailed to investigate the complaint. In all cases contact should be made by the investigating Garda with the prisoner within twenty-four hours of the complaint being notified to An Garda Síochána.

(c) Except in exceptional circumstances and for good operational reasons prisoners, who have made complaints which have been relayed to the Gardaí, should not be moved from the prison until such time as they have been interviewed by a member of An Garda Síochána.

(d) Potential witnesses should similarly not be moved to other prisons until identified by and spoken to by the investigating Gardaí.

(e) In cases of serious complaints and where practicable, and, subject to the maintenance of good order and security, consideration should be given to the deferment of holding P19 disciplinary hearings until after serious complaints have been investigated where the substance of the P19 complaint forms a part of the prisoner's complaint.

(f) Proper records should be maintained.

(g) Prisoners and prison officers should be informed in all cases of the outcome of a criminal investigation.

3.11 Procedures should be put in place in the prison to ensure that prison officers will not be subject to unfair scrutiny where vexatious complaints are made.

3.12 Of the forty-six complaints investigated by An Garda Síochána twenty-three files were submitted to the Director of Public Prosecutions for his decision as to whether a prosecution should be mounted. The Director of Public Prosecutions directed no prosecution in all twenty-three cases. I am satisfied from my briefing and from my perusal of the files that this was a correct decision. The Detective Chief Superintendent made a decision under Section 8 of the Garda Síochána Act 2005 not to forward files to the Director of Public Prosecutions in the remaining cases as he decided that no *prima facia* case existed. I am again satisfied that this was a correct decision.

3.13 One cannot say whether there would have been a different outcome if the Garda investigations had been carried out as soon as the initial complaints had been made to the prison authorities. What is certain is that if such investigations had been commenced and concluded after a robust investigation conducted immediately after the complaints were made both those making the complaints and those complained of could have had confidence in the complaints procedure in so far as it related to a Garda investigation.

3.14 A number of the recommendations emanating from this investigation have already been addressed by An Garda Síochána and the Irish Prison Service.

Irish Prison Service Investigation

3.15 I have stated at paragraph 3.4 that I briefed the enquiry team set up by the Irish Prison Service. This team has reported to the Irish Prison Service.

3.16 I do not intend for security and operational reasons to refer to all matters referred to in the Report of this enquiry team. In my briefing of the enquiry team I gave incidence of allegations of assault on and/or the ill treatment of prisoners. The enquiry team carried out a thorough investigation. They gave incidence of events in the prison which led them to make findings. They also made recommendations to the Irish Prison Service.

3.17 In their Report the enquiry team referred to a number of cases where they saw fit to give details of. These were the same cases that caused me most concern. These related to serious incidents which led in some cases to prisoners requiring hospital treatment for very serious injuries. In certain cases CCTV evidence which was available to the enquiry team, as it was to me, showed numbers of officers (up to ten in one case) entering prisoners cells and remaining there for a number of unexplained minutes (over five in one case). No explanation was given for these unorthodox actions by prison officers. The evidence does show that subsequent to these events prisoners presented with serious injuries. The Garda investigation team were aware of the incidents referred to in this paragraph but because of a number of the issues raised in paragraphs 3.7 to 3.9 it was not possible to mount a prosecution.

3.18 It is not necessary in this Report to reiterate the details found by the enquiry team in the specific cases that they have referred to as their conclusions speak for themselves. It is only fair that I quote from these in there entirety as follows:-

> *"Mountjoy is the biggest prison in the system and has been required to operate throughout the relevant period with a prisoner population*

greatly in excess of its design capacity. In addition, it has been short of a considerable number of first line managers (Assistant Chief Officers) for some time. The prison has had to accommodate over 190 new recruit officers in the last two years. Each of these factors has placed a strain on all systems and facilities.

Many of the failures we have identified have been aggravated by the above mentioned. It is also possible that many of the failures are system failures and may be manifest in other establishments. It is clear that there has been a build up of allegations of excessive use of force and direct assault by staff in the last nine months and that the management response to these has been less than satisfactory. The result is the beginnings of a culture of impunity, advantage of which is being taken by a group of staff: a group which may well grow in number unless speedy action is taken to enforce the law. Our recommendations include not only a robust use of existing possible responses, but also changes in practices to ensure that prisoners have available to them mechanisms for raising issues of concern in a way which prompt openness and accountability in all official action. Management must also be supported in taking steps to identify and deal with any staff who are failing to reach the standards expected of prison officers. Adherence to the Rule of Law promotes good order and discipline in every environment.

Insufficient records made it extremely difficult for us to track reports and follow the sequence of events in almost all cases. The system used for recording complaints and other administrative happenings was haphazard and ineffective. The failure of management to enter the sequence of events from start to finish further complicated matters.

It was clear that there was no standard procedure in place for seeking Garda assistance or investigation. It appeared that this was mainly done by telephone and often not recorded. The failure formally to

record such communications resulted in the loss of valuable information.

The practice of suspending internal investigations on the commencement of a Garda investigation has resulted in an accumulation of dormant cases. Failure to conduct investigations within the parameters of the code of discipline has resulted in serious incidents remaining unaddressed for considerable periods of time. This has undermined the confidence of both staff and prisoners in the system and in the management of the prison.

Management inaction pursuant to a letter, outlining serious concerns of staff members and other agencies in relation to ill treatment of prisoners, further undermined the confidence and morale of those staff who had taken the time and trouble to bring these matters to the Governor's attention.

While the prison is covered by CCTV cameras, there is a number of blind spots in key areas, the stairwell to the B basement being a prime example. Management was aware of this but no efforts were made to rectify the situation. Furthermore, CCTV footage is only examined when concerns are raised or there is a perception that an investigation may be necessary.

Judging from the video evidence in a number of cases, the absence of supervisory grades was very obvious. In other situations supervisory grades present took no action. In effect this meant that the staff were left to their own devices.

The system for recording injuries received by prisoners was a cause of concern to the investigation. We came across cases where injuries were inflicted on prisoners during removals or on escorts and no record was made of such injuries in any journals. Furthermore, a doctor visited a badly injured prisoner (whose injuries were clearly

obvious) and no proper notes of these injuries were made in the journal.

The failure to have standard operational procedures in place for the removal of prisoners from cells, or for the recording of injuries no matter how minor, impedes any ensuing investigation.

While we were informed that there were systems in place for conducting investigations into incidents it was evident throughout our investigation that these systems were sadly lacking.

From our review it would appear that the management of the prison is not aware of the shortcomings that exist in the system for reporting allegations made or incidents that occur. It is obvious that a breakdown in communication exists between senior and middle management in relation to prison policy and adherence to specific procedures.

The Governor and his senior management team have responsibility for the safety of prisoners. Accordingly there is an onus on the Governor to ensure the control of the prison at all times, including being in a position to detect emerging problems."

3.19 The investigation team made a number of recommendations. I do not propose in this Report elaborating on the recommendations for security and operational reasons. Suffice is to say they cover all aspects of the deficiencies found as enumerated at paragraph 3.18.

3.20 The Irish Prison Service has been proactive in responding to the recommendations of the enquiry team. Where appropriate protocols are being put in place and prison management, not alone in Mountjoy Prison but in all other prisons, are and, have been informed as to their duties having regard to the said recommendations.

Overview

3.21 It was clear to me in February 2009 that in the period 1st January 2008 (when I first took up my appointment) to the 19th February 2009 numbers of serious complaints which had been made by prisoners, in some cases alleging ill-treatment by prison officers, were not being properly investigated (if at all) and that prison management in Mountjoy Prison either did not understand their obligations to prisoners where complaints were made or were at best inattentive to their obligations to such prisoners.

3.22 I was satisfied that a culture of abuse of prisoners was emerging amongst a small group of prison officers in Mountjoy Prison. I cannot say whether this was in existence prior to my appointment in January 2008. Governors and senior management must always be conscious of their obligations. This obligation extends beyond investigating actual complaints. Their duty is to ensure that this abuse does not occur.

3.23 In February 2009, I was in the process of drafting standards for the Inspection of Prisons. I published these standards on the 24th July 2009 which, *inter alia*, set out in general terms the standards that I expect to see implemented by prisons when dealing with prisoners' complaints.

3.24 In order that there could no ambiguity as to the obligations that prison management have when complaints are made by prisoners I have given further guidance as to international best practice in this regard in a Report dated 10th September 2009 titled ***'Guidance on Best Practice relating to Prisoners' Complaints and Prison Discipline'***.

3.25 My published standards for the inspection of prisons, my Report of best practice relating to prisoners' complaints and prison discipline, the Report of the enquiry set up by the Irish Prison Service and my comments in this Chapter taken together give sufficient guidance to Mountjoy Prison and other prisons as to what their obligations are when prisoners make complaints.

3.26 I will expect that as and from the 1st July 2011 all prisoners' complaints will be dealt with in accordance with best practice, that proper records will be maintained, that the procedure for dealing with complaints will be transparent and that I will not find deficiencies in the system. If after the 1st July 2011, I find that proper procedures are not being followed, that proper records are not being maintained or that the procedure is not transparent I will be led to the inescapable conclusion that management is indifferent to their obligations to adhere to best practice.

3.27 I would like to point out that the Director General of the Irish Prison Service took immediate action after he became aware of my concerns by setting up the enquiry referred to in paragraphs 3.2 and 3.3. I am satisfied that this was an independent and robust enquiry.

3.28 The enquiry referred to in paragraph 3.27 made a number of specific and general recommendations. I have been informed that the Irish Prison Service have acted on these recommendations and have introduced protocols to be followed in the future.

3.29 I have similarly been informed that the Director General and the Irish Prison Service are proactive in ensuring (as far as is possible) that the deficiencies identified in this Chapter are remedied.

3.30 If all of the recommendations of the Irish Prison Service enquiry team are followed this should contribute to best practice in the future.

3.31 Where wrongdoing on the part of prison staff is alleged and where a robust examination of the evidence supports this a disciplinary investigation must be initiated. This is necessary in order that prisoners, their families and others could have confidence in a transparent system. In other words if wrongdoing is detected consequences must follow. Governors, senior management and all prison staff must never feel that they are immune from such investigations.

3.32 I am not aware as to whether an investigation such as suggested at paragraph 3.31 has been initiated in the instant case.

3.33 It is important that prisoners who make complaints, the persons against whom the complaints are made and the general public have confidence in the complaints procedure. In the cases that I uncovered it is fair to say that the prisoners making the complaints could not have been satisfied with the complaints procedure or lack of it. By extension society was equally disadvantaged.

3.34 I think it is fair to say that the actions that I took in briefing the Minister on the 19th February 2009 were justified and that my concerns were vindicated by the subsequent enquiries by An Garda Síochána and the Irish Prison Service.

3.35 I will keep the issue of prisoners' complaints, not alone in Mountjoy Prison but in all prisons, under constant review and if from the 1st July 2011, I find any failures to comply with best practice I will bring this to the immediate attention of the appropriate authority.

Chapter 4

Projects completed in 2010

4.1 Numerous projects have been completed in 2010 which compliment existing services and add value to the regimes and services provided in the prison. The following projects which have been completed give a flavour of such enhanced regimes and services:-

- A smoking and rain shelter introduced for visitors at the search area
- All internal landings, walls, railings and stairwells painted
- All slop hoppers and toilets replaced where necessary on landings
- New cleaning procedures put in place for all yards
- Integrated Sentence Management for prisoners introduced with fully trained officers
- New tuck shop provided in D Yard
- Survey conducted of all gym equipment and new equipment installed where required
- New waste recovery programme commenced in the TV shop - a computer workshop
- Booked visits introduced
- New telephone system introduced for prisoners
- Additional prisoner telephone points introduced in A Yard, B Base and D Yard
- Additional searching procedures introduced for staff, contractors and all persons entering and leaving the prison
- Outside food deliveries for staff during night tours of duty ceased
- Nets erected to cover certain external recreation yards
- Enhanced facilities for prison staff

Chapter 5

Projects for completion in 2011

5.1 In addition to the projects referred to in this Report the following projects are due for completion by the end of 2011:-

- The removal and replacement of the ceilings in B and C Division
- Replace all existing lead flashings on roofs, vents and valleys over A wing workshops
- Replace wire mesh on landings on D Wing with powder coated mesh
- Install IPS standard windows in B Base
- Convert old bakery building in D Division to new shower facility with twelve shower cubicles
- Remove and replace existing gym building in D Wing
- Provide a new keys office with enhanced security procedures which will include a new tracking system for all keys
- Continue to upgrade the CCTV system
- Provide enhanced and new servery areas for prisoners
- Existing generators in Mountjoy Prison to be removed and replaced
- Erect nets over remaining yards
- Carry out repairs to eight designated areas of roadway and grounds totalling 2845m^2 when all other work has been completed

Chapter 6

Relevant reports

1 'Standards for the Inspection of Prisons' published 24th July 2009.

2 'Standards for the Inspection of Prisons – Juvenile Supplement' published 1st September 2009.

3 The Irish Prison Population – an examination of duties and obligations owed to prisoners dated 29th July 2010.

4 Report of an Investigation on the use of 'Special Cells' in Irish Prisons dated 26th August 2010.

5 'Guidance on Best Practice relating to Prisoners' Complaints and Prison Discipline' dated 10th September 2010.

6 'Guidance on Best Practice relating to the Investigation of Deaths in Prison Custody' dated 21st December 2010.

7 'Standards for the Inspection of Prisons – Women Prisoners' Supplement' published 1st February 2011.