



**Call for Input for the Thematic Report of the Special Rapporteur on Torture  
regarding Current Issues and Good Practices in Prison Management**

**Submission by the Irish Penal Reform Trust**

**8 December 2023**

**Submitting Stakeholder: Irish Penal Reform Trust**

Established in 1994, the Irish Penal Reform Trust (IPRT) is Ireland's principal independent non-governmental organisation working for systemic penal reform and change. Our vision is a just, humane Ireland where prison is used as a last resort. We advocate for a progressive criminal justice system that prioritises alternatives, to prison, upholds human rights, and champions reintegration. We do this through conducting research, campaigning and changing attitudes.

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## Introduction

1. The Irish Penal Reform Trust (IPRT) welcomes the opportunity to inform the Thematic Report regarding current issues and good practices in prison management ('the Thematic Report') of the Special Rapporteur on Torture ('the Rapporteur').
2. While not intended to be comprehensive, this submission provides information to the Rapporteur regarding many of the issues highlighted by the Rapporteur in the 'Call for Input'. As you will note throughout the submission, there are some areas highlighted by IPRT that are 'current issues' only, and some that contain elements of both 'current issues' and 'good practice'.
3. IPRT wishes to draw the Rapporteur's attention to recent submissions made by IPRT to other UN bodies, including the [Committee for the Elimination of Discrimination against Women](#) (CEDAW, September 2023), the [Human Rights Committee](#) (ICCPR, May 2022), and the [Committee on the Rights of the Child](#) (CRC, August 2022). These submissions address many of the issues raised here in more detail and include further issues that may be of interest.
4. IPRT also wishes to highlight its flagship annual publication, [Progress in the Penal System 2022](#) (PIPS 2022), which provides an overview of conditions in the Irish penal system as of the end of 2022. This publication is the latest in a series of annual reports that benchmarks the rate of progress in the Irish penal system against a set of standards that are informed by international human rights standards and best practice in penal reform. IPRT urges the Rapporteur to review *PIPS 2022* alongside this submission.

## Areas of particular focus

### Overcrowding: Current issue

5. As of 23 November 2023, nine of the 12 closed prisons in Ireland were operating either at or over maximum capacity (100% up to 115%).<sup>1</sup> The remaining closed prisons and the two open prisons were operating between 94% and 99%.<sup>2</sup> The occupancy of the entire prison estate stood at 105% of total bed capacity,<sup>3</sup> which compares to 99% on 1 December 2022,<sup>4</sup> and 87% on the same week in 2021,<sup>5</sup> 87% in 2020,<sup>6</sup> 95% in 2019<sup>7</sup> and 92% in 2018.<sup>8</sup> The Council of Europe has stated that capacity levels above 90% should be treated as 'high risk'.<sup>9</sup>

<sup>1</sup> Irish Prison Service, *Prisoner Population on Wednesday 23rd November 2023* (IPS 2023) <[www.irishprisons.ie/wp-content/uploads/documents\\_pdf/23-November-2023.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/23-November-2023.pdf)> accessed 27 November 2023.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Irish Prison Service, *Prisoner Population on Thursday 1st December 2022* (IPS 2022) <[www.irishprisons.ie/wp-content/uploads/documents\\_pdf/01-December-2022.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/01-December-2022.pdf)> accessed 27 November 2023.

<sup>5</sup> Irish Prison Service, *Prisoner Population on Wednesday 1st December 2021* (IPS 2021) <[www.irishprisons.ie/wp-content/uploads/documents\\_pdf/01-December-2021.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/01-December-2021.pdf)> accessed 27 November 2023.

<sup>6</sup> Irish Prison Service, *Prisoner Population on Tuesday 1st December 2020* (IPS 2020) <[www.irishprisons.ie/wp-content/uploads/documents\\_pdf/01-December-2020.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/01-December-2020.pdf)> accessed 27 November 2023.

<sup>7</sup> Irish Prison Service, *Prisoner Population on Monday 2nd December 2019* (IPS 2019) <[www.irishprisons.ie/wp-content/uploads/documents\\_pdf/02-December-2019.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/02-December-2019.pdf)> accessed 27 November 2023.

<sup>8</sup> Irish Prison Service, *Prisoner Population on Monday 3rd December 2018* (IPS 2018) <[www.irishprisons.ie/wp-content/uploads/documents\\_other/03-December-2018.xlsx](http://www.irishprisons.ie/wp-content/uploads/documents_other/03-December-2018.xlsx)> accessed 27 November 2023.

<sup>9</sup> Council of Europe, *White Paper On Prison Overcrowding* (CoE 2016) <<https://rm.coe.int/white-paper-on-prison-overcrowding-cm-2016-121-add3-e/16807c886b>> accessed 27 November 2023.

6. The prison population in Ireland has increased considerably during 2022 and 2023, putting pressure on the prison system to provide adequate facilities and conditions for people in custody and for staff. When prisons are operating at or near their capacity, it becomes more difficult to maintain order, control the movement of prisoners, and prevent the spread of infectious diseases. The impact of prison overcrowding on the ability to deliver meaningful and productive activities cannot be underestimated.
7. The European Committee for the Prevention of Torture, in its 2020 report on Ireland, stated it “is not convinced” by the creation of additional capacity by placing a second bed in a single occupancy cell, which “puts an increased strain on the existing prison resources in terms of access to activities, provision of services and supervision and support by staff”.<sup>10</sup> It also noted that “actual prison capacity is usually lower than the official figures”, and offered examples of the use of mattresses on floors even when the number of prisoners was lower than the official capacity.<sup>11</sup>
8. It is important that published capacity figures reflect the lived reality in Irish prisons, and that figures do not distort that reality. Published capacity figures are currently provided only by the IPS. Previously, maximum capacity limits were first set by the Office of the Inspector of Prisons (OIP) in 2013<sup>12</sup> and were included in published prisoner population data until 18 February 2020.<sup>13</sup> These limits took into account factors such as access to structured activity, exercise time, access to more than one hour of out-of-cell time for protection prisoners and access to single cells for long-sentenced prisoners.<sup>14</sup>
9. A reduction in the *per capita* number of prison officers due to increasing prisoner numbers poses difficulties with accessing services and activities. Shortages of officers mean that prisoners cannot always be escorted safely around the prison or moved from cells to activities.<sup>15</sup>
10. **IPRT considers that further guidance on effective methods of reducing the number of people in custody and minimising the impact of overcrowding could be beneficial in an Irish context.**

### Women in the criminal justice system: Current issue and potential good practice

11. While women make up approximately 4% of the daily prison population in Ireland, in 2022 they comprised 11.5% of committals.<sup>16</sup> Women are disproportionately handed down short

<sup>10</sup> CPT, *Report to the Government of Ireland on the Visit to Ireland Carried out by the CPT from 23 September to 4 October 2019* (CoE 2020), 20 <<https://rm.coe.int/1680a078cf>> accessed 27 November 2023.

<sup>11</sup> Ibid.

<sup>12</sup> Office of the Inspector of Prisons, *An Assessment of the Irish Prison System by the Inspector of Prisons Judge Michael Reilly* (OIP 2013) <[www.oip.ie/wp-content/uploads/2022/02/An-Assessment-of-the-Irish-Prison-System.pdf](http://www.oip.ie/wp-content/uploads/2022/02/An-Assessment-of-the-Irish-Prison-System.pdf)> accessed 27 November 2023.

<sup>13</sup> See February 18 and 19 2020, Irish Prison Service, ‘2020 Prison Populations’ (IPS 2020) <[www.irishprisons.ie/information-centre/statisticsinformation/2015-daily-prisoner-population/2020-prison-populations/](http://www.irishprisons.ie/information-centre/statisticsinformation/2015-daily-prisoner-population/2020-prison-populations/)> accessed 27 November 2023.

<sup>14</sup> Office of the Inspector of Prisons, *An Assessment of the Irish Prison System by the Inspector of Prisons Judge Michael Reilly* (OIP 2013) <[www.oip.ie/wp-content/uploads/2022/02/An-Assessment-of-the-Irish-Prison-System.pdf](http://www.oip.ie/wp-content/uploads/2022/02/An-Assessment-of-the-Irish-Prison-System.pdf)> accessed 27 November 2023.

<sup>15</sup> Department of Justice, *Annual Report 2021 Mountjoy Prison Visiting Committee* (DoJ 2023)

<[www.gov.ie/pdf/?file=https://assets.gov.ie/260830/e4a9f2f9-b31b-42c7-9552-966496f14bff.pdf](http://www.gov.ie/pdf/?file=https://assets.gov.ie/260830/e4a9f2f9-b31b-42c7-9552-966496f14bff.pdf)> accessed 27 November 2023.

<sup>16</sup> Houses of the Oireachtas, ‘Prison Service’ (19 April 2023) <[www.oireachtas.ie/en/debates/question/2023-04-19/89](http://www.oireachtas.ie/en/debates/question/2023-04-19/89)>

sentences compared to men; with almost 85% of all women committed under sentence in 2022 for less than 12 months, compared with 65% of males.<sup>17</sup>

12. While this growth of the female prison population reflects a global trend,<sup>18</sup> the rate at which the average number of women in custody has risen compared to men is profound, with an 11.6% increase for men between 2017 and 2022, compared to 20% for women.<sup>19</sup>
13. A new prison facility providing additional closed prison spaces for women opened in Limerick in 2023.<sup>20</sup> The facility, which replaced a much older building, has a design based on the principles of rehabilitation and normalisation. However, it is still a closed prison with features associated with medium-level security.<sup>21</sup>
14. While IPRT welcomes the modernisation of the female estate, this expansion is contrary to the long-standing policy consensus that community-based responses to less serious offending are more effective.<sup>22</sup> While this facility will go some way towards addressing overcrowding, without first or at least simultaneously addressing the significant numbers of women in prison on pre-trial detention, for non-payment of fines, and for very short sentences, the facility is destined to be overcrowded again.
15. **While the opening of a facility focused on rehabilitation and normalisation is a potentially good practice (though it is a recent development so will need to be monitored), it remains a concern to IPRT that the female prison estate has been expanded.**

### Solitary confinement ('restricted regime prisoners'): Current issue

16. As the Rapporteur is aware, the use of solitary confinement (i.e., 22+ hours in cell a day) in prisons is damaging to the individual and should only be imposed in exceptional cases, as a measure of last resort and for as short a time as possible.<sup>23</sup> Furthermore, prolonged solitary confinement (i.e. isolation lasting 15 or more consecutive days) should be entirely prohibited.<sup>24</sup> Rule 27 of the Irish Prison Rules 2007 makes clear that prisoners have a right to two hours out-of-cell time per day at an absolute minimum.<sup>25</sup>

<sup>17</sup> Aodhán Ó Riordáin TD, 'Prison numbers released to me from a PQ...' (X, 18 August 2023)

<<https://twitter.com/AodhanORiordain/status/1692422907811483664>>

<sup>18</sup> Penal Reform International, *Global Prison Trends 2022* (PRI 2022) <<https://cdn.penalreform.org/wp-content/uploads/2022/05/GPT2022.pdf>> accessed 27 November 2023.

<sup>19</sup> IPS, *Annual Report 2017* (IPS 2018) <[www.irishprisons.ie/wp-content/uploads/documents\\_pdf/IPS-annualreport-2017.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf)> and Kildare Street, 'Prison Service' (19 April 2023) <[www.kildarestreet.com/wrans/?id=2023-04-19a.233](http://www.kildarestreet.com/wrans/?id=2023-04-19a.233)> both accessed 27 November 2023.

<sup>20</sup> Key Foy, 'A gym, a salon and ensuite rooms – we take a look around the new Limerick Women's Prison' *Irish Independent* (26 July 2023) <[www.independent.ie/irish-news/crime/a-gym-a-salon-and-ensuite-rooms-we-take-a-look-around-the-new-limerick-womens-prison/a532804390.html](http://www.independent.ie/irish-news/crime/a-gym-a-salon-and-ensuite-rooms-we-take-a-look-around-the-new-limerick-womens-prison/a532804390.html)> accessed 27 November 2023.

<sup>21</sup> Kildare Street, 'Prison Service' (1 February 2022) <[www.oireachtas.ie/en/debates/question/2022-02-01/609/](http://www.oireachtas.ie/en/debates/question/2022-02-01/609/)> accessed 27 November 2023.

<sup>22</sup> Department of Justice, *Strategic Review of Penal Policy: Final Report* (DoJ 2014)

<[www.gov.ie/pdf/?file=https://assets.gov.ie/137203/a2f65a3d-9402-490e-98d7-3d154661acae.pdf](https://www.gov.ie/pdf/?file=https://assets.gov.ie/137203/a2f65a3d-9402-490e-98d7-3d154661acae.pdf)> accessed 27 November 2023.

<sup>23</sup> Rule 60.6 of the EPR states "Solitary confinement shall not be imposed as a disciplinary punishment, other than in exceptional cases and then for a specified period, which shall be as short as possible and shall never amount to torture or inhuman or degrading treatment or punishment." [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016809ee581](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809ee581)

<sup>24</sup> Rule 44 of the Mandela Rules states, "Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days." [https://www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E-book.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf). [10 May 2022].

<sup>25</sup> Rule 27(1) of the Prison Rules 2007, as amended by the Prison (Amendment) Rules 2017. <https://www.irishstatutebook.ie/eli/2017/si/276/made/en/print>.

17. Despite a 2017 commitment to abolishing solitary confinement in Ireland,<sup>26</sup> a considerable number of people continue to be held on 22- and 23-hour lock-up. As per the most recently published quarterly data, there were 108 people being held on solitary confinement, but 766 people were on a restricted regime (i.e., 19+ hour lock-up).<sup>27</sup>
18. While snapshot census data have enabled NGOs, academics, media, and others to analyse some of the trends on the use of solitary confinement and other restricted regimes in Ireland, we have no oversight of the total number of people subjected to solitary confinement across any given period.
19. The restriction of a prison regime can occur for various reasons ranging from medical to protective purposes, but solitary confinement and other restricted regimes (19+ hours confinement) are most commonly used in Ireland for the purpose of protecting a person from others.<sup>28</sup> In the absence of data on lengths of time, it is difficult to assess how long people are choosing to be held in these environments rather than accessing less restrictive regimes.
20. **IPRT considers that further guidance on practical measures to reduce the number of people on solitary confinement, as well as examples of good practice in the collection and publication of data relating to the practice, could be beneficial in an Irish context.**

### COVID-19 in Irish prisons: Current issue and potential good practice

21. Arising from the COVID-19 pandemic, there are many lessons for the authorities in regards the management of infectious diseases within prisons. There are a range of issues relating to the COVID-19 response in Ireland detailed in IPRT briefings that might be of interest to the Rapporteur.<sup>29</sup>
22. While the rate of infection in prisons in Ireland was comparatively low, this came at a cost. Lack of out-of-cell time was a particular issue of concern throughout the pandemic. The OIP highlighted in its COVID-19 Thematic Reports that people held in isolation in some prisons had significantly less than two hours meaningful human contact and were in “de facto solitary confinement” for 23 hours or more each day.<sup>30</sup>
23. However, the COVID-19 pandemic also fast-tracked many welcome developments in Irish prisons, including the roll-out of video calls and in-cell telephones. The use of video calls expanded considerably in response to the pandemic; a total of 227 prisoner video calls took

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<sup>26</sup> IPS, *Elimination of Solitary Confinement – Policy Document* (IPS 2017) <[www.irishprisons.ie/wp-content/uploads/documents\\_pdf/Elimination-of-solitary-confinement-Policy.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/Elimination-of-solitary-confinement-Policy.pdf)> accessed 27 November 2023.

<sup>27</sup> IPS, *Census of Restricted Regime Prisoner July 2023* (IPS 2023) <[www.irishprisons.ie/wp-content/uploads/documents\\_pdf/July-2023-Restriction.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2023-Restriction.pdf)> accessed 27 November 2023.

<sup>28</sup> Rule 63, *Prison Rules 2007, S.I. No. 252/2007*. As of July 2023, of 766 people on restricted regimes, 741 were ‘on protection’ (Rule 63). Of these people on Rule 63, 703 were there at their own request. [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/July-2023-Restriction.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2023-Restriction.pdf).

<sup>29</sup> IPRT, *Irish Prisons and Covid-19: Lessons Learned from the Pandemic* (IPRT 2022) <[www.iprt.ie/site/assets/files/7125/iprt\\_irish\\_prisons\\_and\\_covid-19\\_-\\_lessons\\_learned\\_from\\_the\\_pandemic.pdf](http://www.iprt.ie/site/assets/files/7125/iprt_irish_prisons_and_covid-19_-_lessons_learned_from_the_pandemic.pdf)>; and IPRT, *Irish Prisons and COVID-19: One Year On* (IPRT 2021) <[www.iprt.ie/site/assets/files/6901/covid-19\\_in\\_prisons\\_one\\_year\\_on.pdf](http://www.iprt.ie/site/assets/files/6901/covid-19_in_prisons_one_year_on.pdf)> both accessed 27 November 2023.

<sup>30</sup> OIP, *COVID-19 Thematic Inspection of Cork Prison – 31 May – 1 June 2021* (2022), 45 <[www.oip.ie/wp-content/uploads/2021/12/8.-COVID-19-Thematic-Inspection-of-Cork-Prison-31-May-2021-to-01-June-2021.pdf](http://www.oip.ie/wp-content/uploads/2021/12/8.-COVID-19-Thematic-Inspection-of-Cork-Prison-31-May-2021-to-01-June-2021.pdf)> accessed 27 November 2023.

place between August 2018 and July 2019,<sup>31</sup> whereas 53,276 video calls were completed during 2022.<sup>32</sup> Up to March 2023, approximately 1,500 phones had been installed in cells. Work is underway to progress in-cell telephones in several other prisons, with plans for these to be operational by the end of 2023.<sup>33</sup> However, these developments arose due to the suspension of in-person visits for extended periods.

24. **While there were some practices in Ireland that could inform responses for future pandemics (see IPRT briefings on COVID-19 for further information), it is important that in future isolation measures are used for as short a time as possible and include access to at least two hours out-of-cell time, outdoor exercise and meaningful human contact every day.**

### Monitoring and oversight mechanisms: Current issue

25. One of IPRT's longstanding concerns about prison oversight in Ireland is that the Office of the Inspector of Prisons (OIP) does not have the authority to publish its reports directly. The Minister for Justice has the power to publish or withhold OIP reports.<sup>34</sup>
26. The Minister is currently withholding publication of **three** completed OIP reports into the Dóchas Centre (the largest of two female prisons) on the basis of 'legal advice'.<sup>35</sup> This includes a three-day monitoring report, a section 31(2) investigation report carried out by the OIP at the Minister's request, and a supplementary report completed following the section 31(2) investigation. For context, the Minister can request a section 31(2) investigation into "*any matter arising out of the management or operation of a prison*";<sup>36</sup> the request itself is significant and conveys the serious nature of the concerns. These reports were submitted to the Minister in August 2020, February 2022, and July 2022.<sup>37</sup>
27. There has been no public reassurance that the issues that prompted the investigations have been satisfactorily resolved. While details are not known, media reports suggest that issues include the "*manipulation of prisoners by some staff members and the use of prisoners by some staff to target other staff members*".<sup>38</sup> The year prior, the Dóchas Centre Chaplaincy Service reported incidences of "*verbal abuse, xenophobic remarks, threatening language and pointed exclusion/favouritism of others*".<sup>39</sup>

<sup>31</sup> IPRT, *Progress in the penal system: Assessing progress during a pandemic* (IPRT 2021) <[www.iprt.ie/site/assets/files/6925/progress\\_in\\_the\\_penal\\_system\\_2020.pdf](http://www.iprt.ie/site/assets/files/6925/progress_in_the_penal_system_2020.pdf)> accessed 27 November 2023.

<sup>32</sup> IPRT, *Progress in the penal system: A framework for penal reform* (2022) (IPRT 2023) <[www.iprt.ie/site/assets/files/7214/progress\\_in\\_the\\_penal\\_system\\_2022.pdf](http://www.iprt.ie/site/assets/files/7214/progress_in_the_penal_system_2022.pdf)> accessed 27 November 2023.

<sup>33</sup> Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

<sup>34</sup> Prisons Act 2007, s 31(4).

<sup>35</sup> Kildare Street, 'Prison Service' (30 May 2023) <[www.kildarestreet.com/wrans/?id=2023-05-30a.1448](http://www.kildarestreet.com/wrans/?id=2023-05-30a.1448)> accessed 27 November 2023.

<sup>36</sup> Prisons Act 2007, s 31(2).

<sup>37</sup> Kildare Street, 'Prison Service' (30 May 2023) <[www.kildarestreet.com/wrans/?id=2023-05-30a.1448](http://www.kildarestreet.com/wrans/?id=2023-05-30a.1448)> accessed 27 November 2023.

<sup>38</sup> Mick Clifford, 'TD's Call for More Capacity in Prisons Displays Ignorance of Penal Policy' *Irish Examiner* (5 May 2022) <[www.irishexaminer.com/opinion/commentanalysis/arid-40865414.html](http://www.irishexaminer.com/opinion/commentanalysis/arid-40865414.html)> accessed 27 November 2023.

<sup>39</sup> IPS, *Dóchas Chaplain's Report 2019* (IPS 2020) <[www.irishprisons.ie/wp-content/uploads/documents\\_pdf/CR\\_Dochas-Centre-2019.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/CR_Dochas-Centre-2019.pdf)> accessed 27 November 2023.

28. In 2022, the UN Human Rights Committee called on Ireland to “*improve transparency related to the conditions of detention of women detainees, including by publishing the Dóchas reports*”.<sup>40</sup> This recommendation has not yet been implemented.
29. Sixteen years after becoming a signatory to the Optional Protocol to the Convention against Torture (OPCAT), Ireland has not yet ratified it. Ireland is currently without a National Preventive Mechanism.
30. That said, the General Scheme of the Inspection of Places of Detention Bill, intended to ultimately ratify OPCAT, was published in 2022 with the Bill receiving welcome parliamentary oversight during pre-legislative scrutiny conducted in October 2022.<sup>41</sup> While publication of this Bill is a significant positive development, IPRT retains concerns about the provisions of the General Scheme and the Bill’s ability to meet the objectives of OPCAT in its current form.<sup>42</sup>
31. Furthermore, given the lengthy delays in ratification to date, IPRT has continued to urge the Irish State ratify OPCAT and make a declaration postponing the implementation of their obligations under Part III (relating to visits from the SPT) or Part IV (relating to NPMs) for a period of three years (extendable by a further two years), as afforded under Article 24 of OPCAT. Immediate ratification would further signal Ireland’s commitment to OPCAT and preventing torture in places of detention and help ensure the current momentum is not lost.
32. **IPRT considers that any guidance on the ratification of OPCAT could be beneficial in an Irish context.**

### Complaints procedures: Current issue

33. The introduction of a revised prison complaints system is long overdue, with rollout initially planned for 2019.<sup>43</sup> Ireland’s current complaints system has faced repeated domestic<sup>44</sup> and international<sup>45</sup> criticism. The OIP’s most recent annual report noted that the “*failure to replace the current system is indicative of the priority it is receiving*”.<sup>46</sup>

<sup>40</sup> UN Human Rights Committee, ‘135th session, Summary record of the 3886th meeting\*’ (UN OHCHR, 14 July 2022) <<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsm0BTkOuDPNIMXWuPwondGwvt%2FG20y uKJteV9hb3OZaTpdfqhTFpkC6DTfQB%2FJbgag8vY9%2BJCOPpaeYR7Z%2BFfl6bO%2BhWNGU0ECv%2Fk%2By7roi>> accessed 27 November 2023.

<sup>41</sup> Houses of the Oireachtas, ‘Joint Committee on Justice: General Scheme of the Inspection of Places of Detention Bill 2022’ (18 October 2022) <[www.oireachtas.ie/en/debates/debate/joint\\_committee\\_on\\_justice/2022-10-18/3/](http://www.oireachtas.ie/en/debates/debate/joint_committee_on_justice/2022-10-18/3/)> accessed 27 November 2023.

<sup>42</sup> Irish Penal Reform Trust, *IPRT Submission to the Joint Committee on Justice on the General Scheme of the Inspection of Places of Detention Bill 2022* (IPRT 2022) <[www.iprt.ie/site/assets/files/7114/iprt\\_submission\\_on\\_general\\_scheme\\_of\\_the\\_inspection\\_of\\_places\\_of\\_detention\\_bill\\_5\\_august\\_2022.pdf](http://www.iprt.ie/site/assets/files/7114/iprt_submission_on_general_scheme_of_the_inspection_of_places_of_detention_bill_5_august_2022.pdf)> accessed 22 March 2023.

<sup>43</sup> Houses of the Oireachtas, ‘Inspector of Prisons’ (30 January 2019) <[www.oireachtas.ie/en/debates/question/2019-01-30/148/#pg\\_148](http://www.oireachtas.ie/en/debates/question/2019-01-30/148/#pg_148)> accessed 27 November 2023.

<sup>44</sup> See *Annual Report 2021, Annual Report 2020, and Annual Report 2019*. Office of the Inspector of Prisons, ‘Annual Reports’ (Oip.ie, 2023) <[www.oip.ie/publications/annual-reports/](http://www.oip.ie/publications/annual-reports/)> accessed 27 November 2023.

<sup>45</sup> UN Human Rights Committee, ‘Concluding observations on the fifth periodic report of Ireland\*’ (UN OHCHR 2003) <<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsm0BTkOuDPNIMXWuPwondGwvt%2FG20y uKJteV9hb3OZaTpdfqhTFpkC6DTfQB%2FJbgag8vY9%2BJCOPpaeYR7Z%2BFfl6bO%2BhWNGU0ECv%2Fk%2By7roi>> accessed 27 November 2023.

<sup>46</sup> Office of the Inspector of Prisons, *Annual Report 2021* (OIP 2022) <[www.oip.ie/wp-content/uploads/2022/09/Office-of-the-Inspector-of-Prisons-Annual-Report-English.pdf](http://www.oip.ie/wp-content/uploads/2022/09/Office-of-the-Inspector-of-Prisons-Annual-Report-English.pdf)> accessed 27 November 2023.



34. Recent Irish research reveals prisoners' lack of faith in the system.<sup>47</sup> Some participants referred to a lack of response to submitted complaints, others felt that they were actively discouraged by staff from submitting complaints, while some felt that submitting a complaint could potentially worsen their situation.<sup>48</sup>

### Mental health provision: Current issue and potential good practice

35. The UN Human Rights Committee, in its Concluding Observations to Ireland in 2022, noted its concerns about the 'disproportionately high rate of persons in prison with severe mental health issues compared with that of the general population, and the lack of sufficient mental health services in detention facilities to support them'.<sup>49</sup>
36. As of 31 December 2022, there were 2,259 prisoners on the IPS Psychology Service waiting list, which represented approximately half of all prisoners in custody at the time<sup>50</sup> This demonstrates the high level of mental health need across the prison population.
37. However, the establishment and the publication of the final report of the High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector is an example of welcome practice and leadership by the Irish State.<sup>51</sup>
38. **While we have seen welcome commitments in this area in Ireland, progress has not yet been entirely forthcoming. IPRT considers that further guidance on the development of policies and practices relating to the placement and care of people with mental health and addiction challenges in prison could be beneficial in an Irish context.**

### Groups with specific needs

#### Transgender people in prison: Current issue

39. The IPS currently has no policy relating to the placement and treatment of transgender people in prison. The OIP first recommended the development of a national policy on the safe custody of transgender prisoners in an inspection report published in 2021.<sup>52</sup> The IPS has confirmed that it hopes to finalise a transgender policy in Q3 2023.<sup>53</sup> However, as of late

<sup>47</sup> Sophie van der Valk and Mary Rogan, 'Complaining in Prison: "I suppose it's a good idea but is there any point in it?"' (2023) 264 Prison Service Journal <[www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20264%20January%202023\\_0.pdf](https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20264%20January%202023_0.pdf)> accessed 27 November 2023.

<sup>48</sup> Ibid.

<sup>49</sup> UN Human Rights Committee, 'Concluding observations on the fifth periodic report of Ireland\*' (UN OHCHR 2003) <<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsieXFudRZs%2FX1ZaMqUUOS%2BbcAGuuCi6I4I7uiVhbuLp%2F2IGSD7bncJzrRhGdU%2Buuibeg7sXz%2F5gGDvOE3%2BT1IgNlx3fUqWN8gmOpFITIqn>> accessed 28 March 2023

<sup>50</sup> Sinn Fein, 'Prisoners waiting over 2 years for mental health treatment – Mark Ward TD' (*Sinn Fein*, 7 June 2023) <<https://vote.sinnfein.ie/prisoners-waiting-over-2-years-for-mental-health-treatment-mark-ward-td/>> accessed 27 November 2023.

<sup>51</sup> Department of Justice, 'High Level Taskforce on the mental health and addiction challenges of persons interacting with the criminal justice system' (DoJ 2023) <[www.gov.ie/en/collection/18cb1-high-level-taskforce-on-the-mental-health-and-addiction-challenges-of-persons-interacting-with-the-criminal-justice-system/](https://www.gov.ie/en/collection/18cb1-high-level-taskforce-on-the-mental-health-and-addiction-challenges-of-persons-interacting-with-the-criminal-justice-system/)> accessed 27 November 2023.

<sup>52</sup> OIP, *COVID-19 Thematic Inspection of Limerick Prison 6-7 April 2023* (OIP 2021) <[www.oip.ie/wp-content/uploads/2021/08/Limerick-Prison-COVID-19-Thematic-Inspection-Report-2021.pdf](https://www.oip.ie/wp-content/uploads/2021/08/Limerick-Prison-COVID-19-Thematic-Inspection-Report-2021.pdf)> accessed 27 November 2023.

<sup>53</sup> See status update 9 March 2023, LMCT18 Limerick Prison. Office of the Inspector of Prisons, 'Inspections Recommendation Monitoring' (*Oip.ie*, 2023) <[www.oip.ie/inspections-recommendation-monitoring/](https://www.oip.ie/inspections-recommendation-monitoring/)> accessed 27 November 2023.

November 2023, there has been no further information or when the policy might be published.

40. IPRT is concerned that, while the policy is in development, the small number of transgender people in prison may be subject to inhuman treatment, with reports that transgender women have been (and may continue to be) subject to prolonged solitary confinement.<sup>54</sup>
41. **IPRT considers that further guidance on the development of policies and practices relating to the placement and care of transgender people in prison could be beneficial in an Irish context.**

### Travellers in the criminal justice system: Current issue and potential good practice

42. Despite work by non-governmental organisations, including the Traveller Justice Initiative (TJI) and Pavee Point, to support the State in rolling out ethnic equality monitoring,<sup>55</sup> data are still not regularly published on the proportion of Travellers in prison. A recent report published by IPRT outlined significant gaps in data, with almost a quarter of cases in the IPS dataset on all committals over a 12-month period having no ethnicity recorded.<sup>56</sup>
43. Existing data suggest that Traveller women are overrepresented in prison. Previous research identified that although Travellers represent 0.7% of the national population,<sup>57</sup> they account for an estimated 22% of female prisoners and 15% of male prisoners.<sup>58</sup> More recently, during the OIP's 2019 visit to the Dóchas Centre, 24% of the population identified as being from the Traveller Community.<sup>59</sup>
44. Young Travellers are significantly over-represented in youth detention making up 27% of the total number of young people in Oberstown Children Detention Campus (where under 18s are held in custody in Ireland) in 2022, while representing only 1.2% of the general population.<sup>60</sup> Despite this over-representation, there is only brief mention of the specific needs of Traveller youths in the State's *Youth Justice Strategy 2021-2027*.<sup>61</sup>

<sup>54</sup> OIP, *COVID-19 Thematic Inspection of Limerick Prison 6-7 April 2023* (OIP 2021) <[www.oip.ie/wp-content/uploads/2021/08/Limerick-Prison-COVID-19-Thematic-Inspection-Report-2021.pdf](http://www.oip.ie/wp-content/uploads/2021/08/Limerick-Prison-COVID-19-Thematic-Inspection-Report-2021.pdf)>; and Paul Healy, "'Dangerous" transgender prisoner Barbie Kardashian will NEVER be allowed to mix with female inmates' *Irish Mirror* (22 March 2023) <[www.irishmirror.ie/news/irish-news/dangerous-transgender-prisoner-barbie-kardashian-29526551](http://www.irishmirror.ie/news/irish-news/dangerous-transgender-prisoner-barbie-kardashian-29526551)> both accessed 27 November 2023.

<sup>55</sup> Houses of the Oireachtas, 'Joint Committee on Key Issues affecting the Traveller Community debate' (21 October 2021) <[www.oireachtas.ie/en/debates/debate/joint\\_committee\\_on\\_key\\_issues\\_affecting\\_the\\_traveller\\_community/2021-10-21/2/](http://www.oireachtas.ie/en/debates/debate/joint_committee_on_key_issues_affecting_the_traveller_community/2021-10-21/2/)> accessed 27 November 2023.

<sup>56</sup> David Doyle et al., "Sometimes I'm missing the words": *The rights, needs and experiences of foreign national and minority ethnic groups in the Irish penal system* (IPRT 2022) <[https://iprt.ie/site/assets/files/7076/iprt\\_the\\_rights-needs\\_and\\_experiences\\_of\\_foreign\\_national\\_and\\_minority\\_ethnic\\_groups.pdf](https://iprt.ie/site/assets/files/7076/iprt_the_rights-needs_and_experiences_of_foreign_national_and_minority_ethnic_groups.pdf)> accessed 27 November 2023.

<sup>57</sup> Central Statistics Office, *Press statement census 2016 results profile 8 – Irish Travellers, ethnicity and religion* (CSO 2017) <[www.cso.ie/en/csolatestnews/pressreleases/2017pressreleases/pressstatementcensus2016resultsprofile8-irishtravellersethnicityandreligion/](http://www.cso.ie/en/csolatestnews/pressreleases/2017pressreleases/pressstatementcensus2016resultsprofile8-irishtravellersethnicityandreligion/)> accessed 27 November 2023.

<sup>58</sup> Rachel Doyle, 'Hearing their Voices' *Traveller Women in Prison* (SSGT 2017) <[www.ssgt.ie/wp-content/uploads/2017/11/Hearing-their-Voices-Traveller-Women-in-Prison.pdf](http://www.ssgt.ie/wp-content/uploads/2017/11/Hearing-their-Voices-Traveller-Women-in-Prison.pdf)> accessed 27 November 2023.

<sup>59</sup> OIP, *Annual Report 2019* (OIP 2021) <[www.oip.ie/wp-content/uploads/2021/03/OIP-Annual-Report-2019.pdf](http://www.oip.ie/wp-content/uploads/2021/03/OIP-Annual-Report-2019.pdf)> accessed 27 November 2023.

<sup>60</sup> Oberstown, *Annual Report 2022* (Oberstown 2023) <[www.oberstown.com/wp-content/uploads/pda/2023/07/Oberstown-Annual-Report-2022-FINALE.pdf?t=64a6a8119bc58](http://www.oberstown.com/wp-content/uploads/pda/2023/07/Oberstown-Annual-Report-2022-FINALE.pdf?t=64a6a8119bc58)> accessed 27 November 2023.

<sup>61</sup> For example, the *Youth Justice Strategy 2021 – 2027* only appear to briefly refer to Travellers under Action 2.9.6 – "Ensure that GYDPs reach all relevant young people in the community, including those from minority and hard-to-reach groups (such as young people of migrant background, Traveller and Roma communities)." [www.justice.ie/en/JELR/Youth\\_Justice\\_Strategy\\_2021-2027.pdf/Files/Youth\\_Justice\\_Strategy\\_2021-2027.pdf](http://www.justice.ie/en/JELR/Youth_Justice_Strategy_2021-2027.pdf/Files/Youth_Justice_Strategy_2021-2027.pdf)

45. However, an example of good practice in this area is the development of a new initiative to meet the needs of young Travellers and their families at the facility, including the recruitment of a Traveller Youth Worker.<sup>62</sup>
46. **IPRT considers that further guidance on the collection of ethnicity data in order to inform service delivery in prison could be beneficial in an Irish context.**

## Conclusion

47. For further and more comprehensive information about the penal system in Ireland and all the issues set out in this submission, please refer to the most recent edition of IPRT's annual flagship report, *Progress in the Penal System: A framework for penal reform (2022)*.<sup>63</sup>
48. IPRT thanks the Special Rapporteur on Torture for considering these issues.

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<sup>62</sup> St Stephen's Green Trust, 'Exciting job opportunity - to improve the outcomes for young Travellers in Oberstown...' (X, 26 June 2023) <<https://twitter.com/SSGTIrl/status/1673283876825845761>> accessed 27 November 2023.

<sup>63</sup> IPRT, *Progress in the Penal System: A framework for penal reform (2022)* (IPRT 2023) <[www.iprt.ie/site/assets/files/7214/progress\\_in\\_the\\_penal\\_system\\_2022.pdf](http://www.iprt.ie/site/assets/files/7214/progress_in_the_penal_system_2022.pdf)> accessed 27 November 2023.