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Deaths in Prison Custody: Information for Families and Others Affected.

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IPRT
Irish Penal Reform Trust

IPRT Information Booklet

Deaths in Prison Custody: Information for Families and Others Affected



IPRT
Irish Penal Reform Trust



June 2012

The Irish Penal Reform Trust (IPRT) is Ireland's leading non-governmental organisation campaigning for the rights of everyone in the penal system, with prison as a last resort. IPRT is committed to reducing imprisonment and the progressive reform of the penal system based on evidence-led policies. IPRT works to achieve its goals through research, raising awareness, building alliances and growing our organisation. Through its work, IPRT seeks to stimulate public debate on issues relating to the use of imprisonment, including on sentencing law and practice in Ireland.



This booklet has been funded by the Irish Research Council for the Humanities and Social Sciences. It is part of a project between Dr Mary Rogan of the Dublin Institute of Technology and the Irish Penal Reform Trust to raise awareness of the rights of prisoners and how those rights may be vindicated.

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When a person dies in prison

It is a very distressing time when a family member or loved one dies in prison. Quite apart from the upset caused by any death, families and friends of prisoners sometimes feel that they don't know where to get the information they would like to have at a time that is both sad and stressful. This booklet is designed to provide some information about what may happen after a person dies in prison and what the law requires in these circumstances. It also gives you details of organisations you can contact if you would like further information and/or assistance in dealing with this time of grief.

How to use this booklet

This booklet aims to help you to understand what the law says about when a person dies in prison. It is a summary of some legal rules and decisions of the Courts. We have included a section called 'Key Words' at the beginning which we hope will help you better understand this document. **This booklet does not and should not replace legal advice for your own particular situation.**

We can't advise you on your individual situation or on the law. We have done our best to make sure the booklet is accurate but we cannot be responsible for any mistakes or things left out. Also, rules and laws change over time and this booklet may not be up to date when you use it. You should make sure that you find out what the current position is on any particular issue from the prison, a Coroner, or your solicitor.

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KEY WORDS

Barrister

Specialist in litigation (legal actions) and advocacy (speaking up for or acting on behalf of a client). Usually barristers are instructed by a solicitor rather than dealing directly with the person taking the case.

Case

A legal dispute between two parties (individuals or organisations or the State) that is settled by a court or by some other legal process.

Coroner

A person who is in charge of an inquest into a person's death.

Custody

Being kept by the Gardaí or in prison.

European Court of Human Rights

The court that hears cases from people whose rights under the European Convention on Human Rights have been affected.

European Convention on Human Rights (ECHR)

Also known as the Convention for the Protection of Human Rights and Fundamental Freedoms. This is an agreement that protects various rights such as the right to a fair trial, the right to privacy and the right to freedom of expression and association. The impact of the ECHR was strengthened in Irish law in 2003. Article 2 of the European Convention on Human Rights states that everyone has the right to life, and it requires an effective investigation into the death of a person in custody.

Governor

The Governor is in charge of the day-to-day running of the prison. They are responsible for management, security, the safety of prisoners and staff, making sure sentence management plans are followed and ensuring the delivery of services to prisoners.

Inspector of Prisons

The Inspector visits prisons and writes reports on human rights problems relating to physical conditions, healthcare, and complaints. In April 2012 the Government announced that the Inspector will investigate all deaths of people in the custody of the Irish Prison Service. Although the Inspector's recommendations are not law, they sometimes lead to positive changes in prison policy.

Inquest

An inquest is an official, public enquiry, presided over by a public official called a Coroner (and in cases of a death in prison, involving a jury) into the cause of a sudden, unexplained or violent death. If a death cannot be explained, an inquest may be held to establish the facts of the death, such as where and how the death occurred.

Irish Prison Service (IPS)

The Irish Prison Service is responsible for the management of prisons and the safe and secure custody of prisoners.

Judgment

A formal decision made by a court.

Legal Advisor

A solicitor or barrister

Legislation

The law.

Litigation

Taking legal action in court to settle a dispute.

Next-of-kin

"Next-of-kin" is not defined in any legislation. As a general rule, next-of-kin are, in order, spouses or civil partners, children, parents, and siblings.

Prison custody officer

This is the person who is with a prisoner when they are taken from or to a prison. They may be a member of the prison service or a member of the Gardaí.

Prison doctor

The prison doctor is employed by the Irish Prison Service (IPS) to look after prisoners' health. They should follow the same rules as if they were working in the community and cannot reveal any confidential medical information about the prisoner to any prison staff.

Prison nurse

The prison nurse is employed by the IPS to look after prisoners' health. They should follow the same rules as if they were working in the community and cannot reveal any confidential medical information about the prisoner to any prison staff. They are there to speak for the prisoner and help them with any medical needs they may have.

Remand prisoner

A remand prisoner is someone charged with committing an offence who is not given bail and has to stay in prison until their trial.

Solicitor

A solicitor is a lawyer or legal advisor who deals directly with a person taking a legal case.

State agents

Employees of the government who carry out the functions of the State, for example the Gardaí, prison officers, the army or local authorities. The ECHR also calls them 'Government actors'.

RIGHTS & DUTIES

General Information

The State gets its power from the people of Ireland through the Constitution of Ireland (Bunreacht na hÉireann). The Constitution sets out some of the rights of people who live in Ireland. We also have rights under the European Convention on Human Rights (ECHR). All State agents, including prison officers, must act in line with the Constitution and the ECHR.

The Courts decide what the Constitution means. All laws must respect the principles in the Constitution. The law must also follow the ECHR and the decisions of the European Court of Human Rights.

The Irish Prison Service and all state agents must act in line with the law and the judgments made in court. Otherwise, they may be acting against the law. If you have any doubts about the way a person who died in prison has been treated by the prison authorities, or if you feel their rights were not respected, you may wish to contact the Gardaí. You may also wish to contact a solicitor, for which there may be a charge. At the end of this booklet you will find a list of organisations that you may wish to contact if you have a concern about the death of a person in prison.

Ireland is under a duty to protect the right to life of prisoners

The Irish Constitution (Bunreacht na hÉireann) and the European Convention on Human Rights provide for the right to life. The Irish Courts have said that prisoners have the right to have their lives protected from serious endangerment. The European Court of Human Rights has also recognised that the State is under a duty to protect the lives of those in its custody. The right to life is contained in Article 2 of the European Convention on Human Rights.

Under the European Convention on Human Rights, prison authorities are under a duty not to take life intentionally or through the use of force which 'goes too far' or is 'disproportionate' in, for example, maintaining order within the prison. What 'disproportionate' means depends on the circumstances of the events leading up to the death.

The authorities must also take steps in order to prevent deaths where possible. Threats to life may arise from the conditions of the prison itself, from other prisoners, or indeed from the prisoner him or herself. It is not, of course, possible to prevent all deaths in prisons, but the authorities must take reasonable steps to prevent deaths.

The European Court of Human Rights has said that a State has failed to protect a person's right to life under the European Convention on Human Rights if its prison authorities knew or ought to have known of a risk to the person's life and did not take reasonable steps to avoid it.

Where a person is killed by another prisoner, if the prison authorities knew or ought to have known of the existence of a real and immediate risk to life, there may be a breach of Article 2. This might be, for example, because the authorities did not screen who should share a cell, or because systems which allow prisoners to raise the alarm were not working.

The State is also obliged to provide medical assistance in order to protect the health and physical well-being of prisoners and to reduce opportunities for a person to self-harm. The State is not obliged to take steps which would infringe the ability of prisoners to have control over their own body to an unacceptable level. The prison authorities must also have special regard to the particular vulnerability of mentally ill prisoners. The European Court has also said that the State may also be in breach of the right to life where the healthcare given to a prisoner is seriously inadequate and causes a person's death.

Ireland is under a duty to investigate deaths of prisoners

Under the European Convention on Human Rights, Ireland is under an obligation to provide an effective system to hold those responsible for deaths in prisons to account. When a person dies in custody, there is an important obligation on the authorities to account for the person's treatment while s/he was detained. This applies whether or not the death was caused by the agents of the State, that is, those working on its behalf. An effective investigation is necessary in order to ensure that failings which gave rise to a death are subject to public scrutiny and remedy. A proper investigation is necessary in order to minimise the risk of similar deaths in the future, to lessen public concern and to attempt to give justice to the bereaved.

The European Court of Human Rights has said that the right to life under Article 2 of the Convention requires that there be an investigation into a death in custody which fulfils certain minimum requirements. These are:

- It must be started by the State (i.e. not through, for example, a legal case taken by the deceased's family).
- It must be independent of those implicated or who might be responsible for the death. It should be carried out by somebody outside the prison system and be independent in its actions and procedures.
- It should be prompt. What 'prompt' means depends on the individual circumstances. It is important that the authorities act quickly in carrying out an investigation so the public can see they are not ignoring wrongdoing or are covering something up. Acting quickly is also important because the passage of time can affect the amount and quality of evidence and prolong the ordeal for the family involved. It is not possible to say with certainty what length of time will be considered unacceptable by the European Court of Human Rights, but in the past, delays of several years have been held not to breach the Convention.
- It should be open to public scrutiny (examination).
- The investigation must be capable of giving rise to a finding of responsibility and to enable the eventual prosecution of those responsible through obtaining relevant evidence.
- Finally, the next-of-kin of the deceased must be given an opportunity to participate and be involved to the extent necessary to safeguard their legitimate interests. For example, the European Court has held that families should receive information about the progress of an inquiry and be able to receive the evidence given about the death of their family member.

The European Court of Human Rights has stated that no particular model or kind of investigation is required by the Convention. However, the investigations must fulfil these conditions.

Must there be a full public inquiry in every case?

No. A full public inquiry is not required in all circumstances. All investigations must be open to public scrutiny in order to comply with Article 2 of the European Convention on Human Rights. However, what this means depends on the circumstances. It is not possible to state with certainty when a full public inquiry, where all the evidence and hearings are heard in public, is required. An inquest into a death in prison, described in more detail below, is held in public and its findings are also publicly available. However, an inquest has only limited ability to make findings as to what occurred.

Some guidance as to when a full public inquiry is required can be found in previous cases decided by the European Court of Human Rights. In some circumstances, publication of the report into the death will be enough to fulfil the requirements of Article 2 and no public inquiry will be required. In one case, the Court stated that a public inquiry was necessary where the deceased was a vulnerable individual who had lost his life in a horrendous manner due to a series of failures by public bodies which had a responsibility to guard his welfare. This case involved very particular circumstances and it does not mean a public inquiry must be held into all deaths in prison.

A full public inquiry may not be required in all circumstances, especially where other investigations are extensive and produce a public report.

Who will be notified when a person dies in custody?

Under Rule 47 of the Prison Rules 2007, when an adult prisoner (i.e. a person over the age of 18) dies, the Governor of the prison is obliged to notify 'as soon as may be' the next-of-kin whom the prisoner had previously nominated.

Rule 47(3) states that where a prisoner who is under 18 dies, the Governor shall inform a parent or guardian of the person, or a spouse if the prisoner was married. If the Governor has been unable to inform any of these people, s/he should inform the nominated next-of-kin instead. For these purposes, a prisoner includes a person detained in St Patrick's Institution.

Under Rule 47(7) of the Prison Rules 2007, if a prisoner dies while in prison the Governor must ensure the following are also notified as soon as possible after the death:

- a) the Coroner who deals with the area in which the prison is located,
- b) the Garda Síochána,
- c) the Minister for Justice and Equality,
- d) the Director General of the Irish Prison Service,
- e) the prison doctor,
- f) the chaplain,
- g) the Inspector of Prisons, and
- h) the Chair of the Visiting Committee to the prison.

INVESTIGATIONS INTO PRISON DEATHS

Why, and in what circumstances, did my family member/loved one die?

When a person dies in prison you may have questions about the circumstances of his or her death. A number of investigations into the death may take place:

- an inquest
- an investigation by the Inspector of Prisons
- Other kinds of investigations

What is an inquest?

An inquest is an inquiry, directed and run in accordance with a law called the Coroners Act, by a official called the Coroner. Inquests are held where a death has been sudden, unexplained or violent. An inquest is held in public and its purpose is to explain the cause of death. An inquest will establish the identity of the person who died, when, where and how the death occurred, and the information necessary to register the death.

The Coroner has the power to require witnesses to attend the inquest. It is for the Coroner to decide which witnesses should give evidence at the inquest and the order in which they should give their evidence. A person who refuses to attend as a witness may be prosecuted and fined. The Gardaí help the Coroner with his/her inquiries and take statements. The Coroner may require a post-mortem examination (a special medical examination carried out on the body of the deceased person).

If an inquest is held because of the death of a person in prison, then there will be a jury at the inquest. The jury decides on the cause of death and can give a verdict. However, a verdict reached by an inquest jury or a Coroner cannot blame any person or institution for a death, because the law that deals with Coroners' inquests states that no criminal or civil liability (or fault) can be determined by an inquest. The inquest is designed to find out what caused the death, rather than who is to blame. It is not like a hearing in the Courts where two parties argue over who was at fault. The purpose of the inquest is to establish the facts surrounding the death and put them on public record.

Family Involvement in an Inquest

The family of the deceased is entitled to attend the inquest, but family members are not required by law to be there. The family should be informed of the date and place of the inquest. If the family and next-of-kin attend the inquest, it is not obligatory to have legal representation (a solicitor and/or barrister) to act on their behalf. However, they may wish to do so. There may be a charge for legal representation. Members of the family may ask questions of the witnesses either themselves or through their legal representative about the circumstances of the death. A representative of the Chief State Solicitors Office, which acts in legal matters on behalf of the State, may also be present.

The witnesses may include prison officers and prisoners. If you think you have information relevant to the inquest you should let the Coroner know, or tell a member of the Gardaí.

Verdicts of Inquests

The verdicts available to the jury at the end of the inquest are limited to accidental death, misadventure, suicide, an open verdict, natural causes and unlawful killing. A verdict of misadventure is similar to one of accident but means that the deceased or others were carrying out an intended action (for example a planned surgical operation) but there was an unintended outcome (in this example, the death of the patient). An open verdict means there was not enough evidence to return any other verdict. Where an inquest jury reaches a verdict of unlawful killing, the jury cannot name any person alleged to be responsible for that unlawful killing.

If the jury at the inquest fails to agree on the cause of death, the Coroner can either accept the majority decision of the jury or if the decision is tied, discharge the jury (ie. put an end to that particular jury's involvement) and hold a new inquest.

The jury may also make a recommendation about how such deaths can be prevented in future. The Courts in Ireland have said that the inquest may only establish the medical cause of death and it may not look at the wider circumstances in which the person died. For example, the inquest may not explicitly comment on whether certain policies or practices within the prison may have caused the death. However, sometimes recommendations made by a jury can include recommendations that a certain policy or procedure be reconsidered or re-examined.

Reporting of Inquests

All inquests held in Ireland are conducted in public and may be reported in the media. There is no official report of an inquest. It is possible to obtain a copy of the post-mortem report and any depositions (like statements) taken at the inquest, including a copy of the verdict once the inquest is over. There is usually a fee for this. Inquest papers or documents are not necessarily available prior to the inquest being held, but you could ask the Coroner for papers in advance. The Coroner is not obliged to give them to you. After the inquest, the Coroner will, if requested, make copies of documents available to families. All witness depositions, post-mortem reports and records of the verdict are kept by the Coroner and can be made available to the public on request.

An inquest may be adjourned or delayed if there is a criminal investigation ongoing into the death. This is because the Coroner does not want the trial of any person to be put at risk by a finding of the inquest regarding how the prisoner died.

If you are involved in the inquest of a family member and have any specific questions, you should contact the Coroner dealing with the inquest. An information leaflet about the work of the Coroners is available from www.coroners.ie. The Coroner Service Victims' Charter is available from the Victims of Crime Office. (Contact details are included at the end of this booklet.) More information is also available from the Citizens Information Board.

Investigations by the Inspector of Prisons

Since April 2012, the Inspector of Prisons carries out investigations into the deaths of all people in the custody of the Irish Prison Service, whether or not the death occurred within the prison walls. All deaths of prisoners, including those arising from natural causes or suicide, will be the subject of investigation by the Inspector. The Inspector will also investigate the deaths of prisoners who have recently been let out on temporary release.

The Inspector is able to consult with members of the family of the deceased person. It is not clear how this will operate in practice, but it is likely the Inspector will put procedures in place to allow meetings and discussions with the family. If you have concerns about these procedures, you should contact the Office of the Inspector of Prisons. If you remain concerned about your involvement, you might consider seeking the advice of a solicitor, for which there may be a charge, and/or making your concerns public. You can read more about whether you might wish to get involved in campaigning in this booklet.

Reports given by the Inspector must be made public. It is not clear how much information the report will contain, but it is likely that the identities of those involved will be not be published. It is also likely that the Inspector will make recommendations about how things might be done differently by the Irish Prison Service to prevent future deaths. It is also not yet clear if there will be any obligation on the Irish Prison Service to make its response to the recommendations public, or to make the changes the Inspector recommends.

You can read more about whether the procedures for investigating deaths fulfil the requirements of Irish law and the European Convention on Human Rights later in this booklet.

What about other kinds of investigations?

There may also be other investigations depending on the nature of the death. Under Rule 47(8) of the Prison Rules 2007, the Governor of a prison in which a prisoner dies must submit a report to the Minister for Justice and Equality on the death as well as provide any other information the Minister requires as soon as possible.

The nature of the investigation carried out by the Governor may vary depending on the prison, but reports will usually be given by prison officers to a Chief Officer about the circumstances of the death. The Governor will also include in the report details regarding the prisoner's history while in prison, the result of any criminal investigation, medical evidence and the results of the post-mortem. It should be noted that the Inspector of Prisons said in 2010 that he could find "no consistent procedure for the investigation of prisoners' deaths across the Irish Prison Service".

There may be an investigation by the Garda Síochána if criminal activity is suspected as being involved in the death.

One death in Mountjoy Prison has been investigated by a body known as a 'Commission of Investigation'. A senior counsel (barrister) is conducting the investigation. This was established under a piece of legislation called the Commission of Investigations Act 2007. This inquiry was not carried out in public and, as of May 2012, had not reported.

There may be a criminal trial because somebody may have committed a crime which is related to the death. If a person pleads guilty to the crime there will be no trial, only a sentence. A trial will only take place if the person pleads not guilty.

Where the prison doctor conducts an examination of the body of a person who has died in prison or has given medical treatment to a prisoner who dies from the condition being treated or during medical treatment, the doctor is obliged to keep a record of cause of death, treatment of the person, time of death and the names of anyone present when the prisoner died. The prison doctor does not carry out a formal investigation into all circumstances of the death.

You may think a person or the prison authorities caused the death through negligence, or by not taking the reasonable care that they owed to the prisoner. You might consider taking a case on the person's behalf in the Courts. To do this, you may wish to get legal representation, for which there may be a charge. If you wish to pursue this option you should talk to a solicitor. It is very important to note that a family taking this kind of case will not mean that the State's obligations under the European Convention on Human Rights are fulfilled. In order to vindicate, or respect, the right to life of the prisoner, investigations into the death must be started by the State itself.

Does Ireland have an Ombudsman for Prisoners?

No. In England and Wales, and Northern Ireland, an Ombudsman investigates all deaths in prison. In most instances, these investigations are held privately and the family is involved. The family and the prison service can comment on the investigator's draft report before it is made public. Recommendations are made in these reports. There is no legal requirement on the prison authorities to make the changes the Ombudsman suggests.

ISSUES OF CONCERN

Are there shortcomings in our current system for investigating deaths in prisons?

Whether an investigation complies with the requirements of the Constitution and the European Convention on Human Rights depends on the circumstances of the case. There may be a number of investigations and if all of them together fulfil the requirements of the European Convention on Human Rights then that will be sufficient.

Some general points can be made about shortcomings in the Irish system of investigating deaths in prisons. There are questions as to whether the way in which we investigate deaths in prison complies with the European Convention.

Limitations of Verdicts

An inquest may answer the questions you have concerning the death of your family member or loved one. However, a jury at an inquest into a death in prison can only give certain verdicts. The jury cannot 'tell the story' of how the person died. For example, if there are problems with the practices in the prison such as how medical care operates or in decisions about who should share cells, the jury cannot say these contributed to the death or that they formed part of the background of the death, though it can make non-binding recommendations. A verdict in which the jury can tell this kind of story is called a "narrative verdict".

In England and Wales, inquests can give rise to "narrative verdicts". This is because the highest court there held that the other kinds of verdicts, which were the same as those we still have in Ireland, did not comply with the requirements of the European Convention on Human Rights where a person died and the State might have been in some way responsible for the death. This decision is not part of Irish law, but it is possible - though not certain - that an Irish court would also find that limited verdicts do not comply with the Convention in situations where state authorities might be in some way at fault when a person dies in custody.

Legal Aid

The next-of-kin of a person who has died in prison are not entitled to legal aid at an inquest, that is, to be legally represented at no cost to them. However, in a small number of cases, discretionary payments have been made by the Department of Justice and Equality to cover the cost where a person died in the care of the State or in custody, or where the State was directly involved in the death. To seek such payment, you should contact the Department of Justice and Equality. These payments are not required under Irish law and it is up to the Department to decide if you will receive assistance. If you are not successful, you may wish to consider speaking to a solicitor, for which there may be a charge.

Legal aid is available to some families at inquests in the United Kingdom where the inquest is into the death of a person in circumstances where state authorities might have been involved in some way. This is subject to the family's financial position. The Courts in the United Kingdom have said that the European Convention on Human Rights requires the provision of free legal aid in these circumstances.

Delays or Suspending of Inquests

There may also be a difficulty if a criminal prosecution is started into the death of a person in prison and the inquest is suspended to await its outcome. If the accused pleads guilty, evidence may not be heard about the circumstances of the death. The inquest may not be re-opened. In these circumstances, the European Convention may not be complied with. There may also be delays to the inquest because of any such suspension. Generally speaking, the time between the death of the prisoner and the inquest can vary according to what part of the country the inquest will be held in. It is also the case that the next-of-kin are not legally entitled to receive the evidence which will be given at the inquest in advance, or have the opportunity to comment on it.

Proposed Changes to the Law

Changes have been proposed to inquests in Ireland under the Coroners Bill 2007. It is not clear, however when this Bill might become law, or indeed if it ever will. It is important to emphasise that the Bill is only a proposal for a new law; it is not part of current Irish law.

The Bill proposes that legal aid will be given to the family of the deceased for the purposes of the inquest in certain circumstances. These are where the person died in a prison or other institution administered by or on behalf of the state and “there is significant public interest” in the person receiving legal advice or representation. What will be “sufficient public interest” is decided by the Minister for Justice and Equality who must look at all of the circumstances of the case.

The Bill also proposes to allow inquests to result in recommendations designed to prevent recurrences of such deaths, prevent other hazards to life, or bring to the attention of the relevant bodies deficiencies in systems or methods of work which give rise to public concern. Where such a recommendation is made, the body receiving it must reply in six months. It appears that the Bill will also allow the inquest to comment on the circumstances of the death.

Other Investigations

Aside from inquests, other kinds of investigations also have shortcomings. Those carried out by the Irish Prison Service are not independent of the prison system. There may also be no public report of such investigations and no ability to compel witnesses to attend any inquiry.

Trials of criminal offences arising out of a death in custody have a limited role for the family of the deceased. A trial is held in public and will decide if the person is guilty or not guilty of a crime. The fact that it is held in public and determines who is criminally responsible for the death, means that having a trial may be enough to satisfy the requirement of the European Convention on Human Rights. However, in most cases, a trial cannot examine any failures in policies in the prison which led to the circumstances of the death, and there is limited or no involvement of the next-of-kin in the process. A trial may not, therefore, be enough for the purposes of the European Convention on Human Rights and another kind of investigation might be necessary.

If a trial takes place, an inquest may be opened and then adjourned or postponed. The Inspector of Prisons has expressed concern that when this happens, Article 2 may not be complied with.

The Commissions of Investigations Act 2004 has been used once to date to investigate a death in prison. The legislation which governs this kind of investigation is not designed specifically for deaths in prisons. There is no automatic entitlement to free legal aid for families, nor must the report of the Commission be made public in every case.

Changes to the investigation of deaths of prisoners: the role of the Inspector

There has been a significant change in the procedures for investigating a death in prison in recent times. In April 2012 the Minister for Justice and Equality announced that the Inspector of Prisons will investigate the deaths of all those in the custody of the Irish Prison Service, even if they were not in a prison at the time of the death. This is an important development and should improve the way in which prisoners' deaths are investigated significantly. When this booklet was printed (in May 2012) it was too early to say how these investigations will work in practice.

It is essential that the investigations the Inspector carries out comply with the requirements of Ireland's Constitution and the European Convention on Human Rights mentioned above. The Inspector is independent of the Irish Prison Service and the investigations must be independent in practice also. The Inspector must ensure that the legitimate interests of the family are safeguarded, that the investigation is carried out promptly, and that it allows responsibility for the death to be given. The Inspector of Prisons will publish his report into the death, which is important under the European Convention on Human Rights.

It is not yet clear if the Inspector of Prisons will have the power to require witnesses (such as prison officers) to attend or give evidence, or whether the Inspector will have the legal power to require people to give him documents relevant to the investigation. Without these powers, investigations carried out by the Inspector may still not meet the requirements of the European Convention on Human Rights.

It is also important that the Inspector puts in place procedures to deal with families in order to safeguard their interests. Families must be given the opportunity to comment on any draft report and the ability to ask questions of the prison authorities. If this is not possible, the investigation may not comply with the European Convention on Human Rights.

Some situations, such as where a prisoner dies at the hands of another in circumstances where there have been failures in policies within the prison will still require a full public inquiry under Article 2 of the European Convention on Human Rights. This means that the evidence is heard in public.

The European Convention on Human Rights requires that investigations into a death must as a whole meet its requirements. The different investigations may meet the requirements in different ways. Whether or not this is the case is complex and depends on the circumstances. As always, if you have a concern about the nature of the investigations you may consider talking to a solicitor.

QUESTIONS YOU MIGHT HAVE

What if I am not satisfied with the investigations which have taken place?

In many cases, an inquest, together with the investigation by the Inspector, will answer the questions you have about how your family member or loved one died.

However, as has been seen above, there are questions as to whether our methods of investigation into deaths in custody fulfil what is required under Article 2 of the European Convention on Human Rights. This depends on all the circumstances of the investigations which have taken place. It is not possible to say with certainty what is required in every situation and you should bring any legal issues you are concerned about to the attention of a solicitor.

If you are not satisfied that an inquest, investigation by the Inspector, or any other kind of investigation has been a sufficient investigation into your family member or loved one's death, or you feel that the requirements under the Irish Constitution and the European Convention on Human Rights mentioned here have not been fulfilled, you could consider contacting your solicitor. There may be a charge for engaging legal advice. You may also wish to contact a T.D.

Public Campaigns

Some families may wish to get involved in campaigning publicly. If you do, you should consider this option very carefully as campaigning can take long periods of time and create stress and frustration for you and your family. Families may find media attention difficult and upsetting. If you do wish to campaign publicly, you could consider contacting members of the media, politicians and campaigning organisations, such as the Irish Penal Reform Trust. The Irish Penal Reform Trust cannot provide you with individual advice, but it can draw attention to general concerns about prison issues and the deaths of prisoners.

It is recommended that you contact a solicitor, particularly if you want to take action or say anything before an inquest, any trial, or other kinds of investigation. You may also wish to contact support services which can help you in the process of grieving.

Other families may wish to avoid publicity and try to move on with their lives. If you have concerns about the actions of the media you can contact the Broadcasting Authority of Ireland or the Press Ombudsman, the details for which are given at the end of this booklet.

What if I have concerns about the role of the prison authorities in the death?

You may have questions about the role the prison authorities played in the death of your family member or loved one. If you are concerned that a crime may have been committed, you should report this to the Garda Síochána.

If you would like to be represented at an inquest so that you may ask questions about the death you may wish to contact a solicitor. There may be a charge. Questions can be asked on your behalf. You should also contact the Coroner in advance.

You should contact the Inspector of Prisons who will investigate the death of your loved one and inform him of the concerns you have.

You may want a different kind of independent inquiry or a public inquiry into the death. In this case, you might consider writing to a T.D., contacting people who work in the media, and/or a solicitor. There may be a charge for obtaining legal advice.

You may wish to take a case against the prison authorities or the State on your loved one's behalf or your own behalf. If so, you should contact a solicitor.

The question of whether the prison authorities were responsible for a death in some way involves complex areas of law and you should seek legal advice if you have concerns.

What practical help can I get when a person dies in prison?

As well as the issue of investigations, the death of a family member involves many difficult practical and emotional issues with which you might need help.

The Irish Prison Service should ensure that the next-of-kin of an adult prisoner or the parent, guardian or spouse of a person under 18 are notified when a person dies in prison.

Where an inquest is to be held, the Coroner is usually able to allow burial or cremation once the post-mortem examination of the body has been completed. You should contact the Coroner overseeing the inquest about this matter. The death of a person can be registered once the inquest gives its verdict.

Should you need it, there is the possibility of obtaining financial assistance to deal with funeral expenses. You may apply to the Department of Social Protection for what is called an "Exceptional Needs Payment". This is a single payment to help meet essential, once-off, exceptional expenditure, which a person could not reasonably be expected to meet out of their weekly income. You may be eligible for an Exceptional Needs Payment to help you with the cost of a funeral if your income is low. Each case is decided on its merits by the Department of Social Protection's representative (formerly known as the Community Welfare Officer) at your local health centre. Further information is also available from the Citizens Information Board.

Bereavement is a time of great emotional stress and upset. There are organisations which you may wish to contact to assist you in dealing with your loss. These are listed in the 'Contacts' section under 'bereavement/counselling'. The Citizens Information Board has produced a guide for those affected by bereavement. This guide provides practical information on tax affairs, emotional support, social protection payments, and access to money. The Irish Hospice Foundation has also produced a series of booklets aimed at the bereaved and those who support them. Contact details for the Citizens Information Board and the Irish Hospice Foundation are also in the 'Contacts' section of this booklet.

How can I get a solicitor if I do not have one already?

If you do not have a solicitor, you can contact the Free Legal Advice Centres. The Free Legal Advice Centres cannot represent you directly, they can only give you advice. IPRT may be able to help you by referring you to the Voluntary Assistance Scheme run by the Bar Council and the Law Society. You can find solicitors in the telephone book or advertised on the internet.

I am a prisoner and I have been affected by the death of another person in prison

It can be very distressing for all those in the prison when a prisoner dies. You may wish to seek the support of the prison's listening service, medical assistance or visit the psychology service in the prison. You may also wish to speak to the chaplain. Apart from their religious ministry, chaplains have a 'pastoral' role. The chaplain will listen to you, support and encourage you at times of trauma, crisis, illness or grief. You can speak to a chaplain if you have concerns about any issue, including worries about your health, your family, legal matters, your emotional well-being and so on. They will always treat everything you say as confidential.

If you have information or concerns about a person's death, you could talk to staff or the Governor. You may be asked or wish to give a statement about the death to the Gardaí or in the course of another kind of investigation into the death. You may wish to write to the Inspector of Prisons or to speak to your own solicitor.

Under Rule 44 of the Prison Rules 2007, you are entitled to write a letter to certain people or bodies including your solicitor, a member of the Visiting Committee, the Minister for Justice and Equality, the Inspector of Prisons, the Irish Human Rights Commission and the International Committee of the Red Cross. These letters must not be opened by the prison authorities before they are sent. Letters received from these bodies should be examined no more than to ensure that the letter is what it says it is. If it is to be opened it should only be opened in your presence.

Where can I find out more?

You may have questions about the things you have read in this document or about the death of a person in prison. You may wish to contact the organisations listed in the next pages.

CONTACTS

ASYLUM SEEKERS AND REFUGEES

Irish Refugee Council

This non-governmental organisation (NGO) speaks for refugees and asylum seekers.

Second Floor, Ballast House

Aston Quay, Dublin 2

Tel: (01) 764 5854

Email: info@irishrefugeecouncil.ie

www.irishrefugeecouncil.ie

Integration Centre

This non-governmental organisation is a network of community and voluntary groups working to achieve full integration in Irish society of asylum seekers, refugees and immigrants.

18 Dame Street, Dublin 2

Tel: 01 645 3070

Email: info@integrationcentre.ie

www.integrationcentre.ie

Refugee Legal Services

This is a specialised office of the Legal Aid Board. It provides confidential and independent legal services to people applying for asylum and on immigration and deportation matters.

Dublin:

48/49 North Brunswick Street

Georges Lane, Dublin 7

Tel: 01 646 9600

Email: dublinrls@legalaidboard.ie

Timberlay House

79/83 Lower Mount Street, Dublin 2

Tel: 01 631 0800

Email: dublinrls@legalaidboard.ie

Cork:

North Quay House

Popes Quay, Cork

Tel: 021 455 4634

Email: corkrls@legalaidboard.ie

Galway:

Seville House

New Dock Road, Galway

Tel: 091 56 2480

Email: rlsgalway@legalaidboard.ie

UN High Commissioner for Refugees

This United Nations (UN) agency coordinates efforts to protect refugees and resolve challenges facing refugees.

Merrion House, Suite 4

1-3 Lower Fitzwilliam Street, Dublin 2

Tel: 01 631 4613

www.unhcr.ie

BEREAVEMENT/COUNSELLING

Barnardos Bereavement Counselling for Children

Barnardos

Christchurch Square, Dublin 8

Ireland

Tel: Helpline 01 473 2110 (Mon-Fri, 10am-12noon, Wed 12-2pm)

Email: bereavement@barnardos.ie

www.barnardos.ie/what-we-do/specialist-services/bereavement-counselling.html

Console

Console is a national organisation supporting people in suicidal crisis and those bereaved by suicide

All Hallows College

Grace Park Road

Drumcondra, Dublin 9

Tel: 01 857 4300 (Mon-Fri 9am - 5:30pm)

Fax: 01 857 4310

Email: info@console.ie

www.console.ie

Irish Hospice Foundation

4th Floor, Morrison Chambers

32 Nassau Street, Dublin 2

Tel: 01 679 3188

Fax: 01 673 0040

Email: info@hospice-foundation.ie

www.hospice-foundation.ie

Rainbows Ireland

Rainbows Ireland is a peer-support programme to assist children, youth and adults who are grieving a death, separation or other painful transition in their family.

National Office
Loreto Centre
Crumlin Road, Dublin 12
Tel: 01 473 4175
Fax: 01 473 4177
Email: ask@rainbowsireland.com
www.rainbowsireland.com

National Association of Widows in Ireland

Coleraine House
Coleraine Street, Dublin 7
Tel: 01 872 8814
Email: info@nawi.ie
www.nawi.ie

National Association of Widowers and Deserted Husbands Association

54 Foster Terrace
Ballybough, Dublin
Tel: 01 855 2334

Widowed Young Ireland

Reighmore House
Kilmacanogue, Wicklow
Email: info@widowedyoung.ie

CHILDREN AND YOUNG PEOPLE

Children's Rights Alliance

The Children's Rights Alliance is a partnership of non-governmental organisations working to secure the rights of children in Ireland. They do this by campaigning for the implementation of the United Nations Convention on the Rights of the Child. You can contact the Alliance if you have any questions about your rights as a child or young person.

4 Upper Mount Street, Dublin 2
Tel: 01 662 9400
Email: info@childrensrights.ie
www.childrensrights.ie

Office of the Ombudsman for Children

This office gives advice to the government on children and young people. It also does research and handles complaints.

Millennium House
52-56 Great Strand Street, Dublin 1
Tel: 01 865 6800
Free-phone: 1800 20 20 40
Email: oco@oco.ie
www.oco.ie

CORONERS

Names, addresses, and telephone numbers for Coroners can be obtained from your local authority (county or city council) or can be found on the Department of Justice and Equality's website www.justice.ie or at www.coroners.ie

You can also make enquiries to the address below:

Coroner Service Implementation Team

Department of Justice and Equality
Athlumney House
IDA Business Park
Johnstown
Navan, Co Meath
Tel: 046 909 1323
Fax: 046 905 0560
Email: CSITMAIL@justice.ie

CRIMINAL JUSTICE

An Garda Síochána

The Irish police service

Garda Headquarters
Phoenix Park, Dublin
Tel: 01 666 0000
Garda Confidential Line: 1 800 666 111
Emergencies: 999
www.garda.ie

Courts Service of Ireland

The Courts Service manages the courts, including court facilities. It maintains the court building, provides support services for judges and gives information on the court system to the public.

15 - 24 Phoenix Street North
Smithfield, Dublin 7
Tel: (01) 888 6000
www.courts.ie

Garda Síochána Ombudsman Commission

The Commission deals with complaints made by the public about the conduct of Gardaí. If you have a complaint to make against a Garda, you should contact the Commission.

150 Abbey Street Upper, Dublin 1
Tel: 01 871 6727
LoCall: 1890 600 800
Email: info@gsoc.ie
www.gardaombudsman.ie

Office of the Director of Public Prosecutions (DPP)

The DPP is in charge of prosecutions on behalf of the state and the people of Ireland.

14-16 Merrion Street, Dublin 2
Tel: 01 678 9222
www.dpp.ie

Victims of Crime Office

Department of Justice and Equality
51 St. Stephen's Green, Dublin 2
Tel: 01 602 8661
Fax: 01 602 8634
Email: vco@justice.ie

EMBASSIES

If you need to contact your embassy or consular office in Ireland, the best thing to do is to contact the Department of Foreign Affairs where you will get information about your embassy or consular office.

Department of Foreign Affairs Consular Section

69-71 St. Stephen's Green, Dublin 2

For the Munster area:

Consular Services
Department of Foreign Affairs
1A South Mall, Cork

Tel: (01) 408 2308/ 408 2585/ 408 2302
www.dfa.ie

GOVERNMENT

Department of Justice and Equality

This government department deals with a broad range of issues such as criminal and civil law reform, equality, property issues and asylum and immigration matters.

Pinebrook House
71-74 Harcourt Street, Dublin 2
Montague Court, Montague Street, Dublin 2
Tel: 01 602 8202
LoCall: 1890 221 227
Email: info@justice.ie
www.justice.ie

Department of Foreign Affairs

This government department deals with international issues and Ireland's interests abroad.

69-71 St. Stephen's Green, Dublin 2
Tel: 01 4780822
LoCall: 1890 426 700
www.dfa.ie

Citizens Information Board

This is a national agency which is responsible for giving information and advice on social services and money matters. It also provides advocacy services. Information is available in person, by phone or on the website.

Tel: 0761 07 4000
www.citizensinformation.ie

There are 268 offices which provide information to people. You should call the telephone helpline or visit the website to find the one closest to you.

Department of Social Protection

Social protection information booklets, leaflets and application forms

Publications are available:

- By telephoning Lo-call 1890 20 23 25
- From your Local Social Welfare Office
- From your local Post Office
- On the internet at www.welfare.ie

Other Government Departments

To get information about other government departments, you should contact the citizens information services. You can find a list of all government departments, agencies and bodies on www.gov.ie.

HEALTH MATTERS

Medical Council of Ireland

The Medical Council regulates doctors to practise medicine in Ireland. Should you wish to make a complaint against a doctor, send your complaint to the Medical Council in writing, stating the name and address (if known), of the doctor, together with complete details concerning the complaint, to:

Professional Standards

Medical Council

Kingram House
Kingram Place, Dublin 2
Tel: 01 498 3100
Email: complaints@mcirl.ie
www.mcirl.ie

An Bord Altranais (The Irish Nursing Board)

The role of An Bord Altranais regulates the practice and professional conduct of nurses and midwives in Ireland. You may make a complaint about the conduct of a nurse to the Fitness to Practise Committee of An Bord Altranais. Complaints must be addressed to the Office of the Chief Executive Officer stating the nature of the complaint and identifying the nurse(s) involved in the complaint.

Office of the Chief Executive Officer

18/20 Carysfort Avenue,
Blackrock, Co. Dublin
Tel: 01 639 8500
www.nursingboard.ie

IMMIGRATION

Immigrant Council of Ireland

The Immigrant Council of Ireland is a non-governmental organisation that promotes the rights of migrants through information, legal advice, advocacy, lobbying, research and training. The Council is also an independent law centre.

2 St Andrew Street, Dublin 2
Tel: 01 674 0202
Email: admin@immigrantcouncil.ie
www.immigrantcouncil.ie

LEGAL MATTERS

Bar Council

This is the representative and regulatory body for barristers. If you are looking for a barrister or have a complaint about your barrister, you can contact the Bar Council.

Bar Council Administration Office
Four Courts, Dublin 7
Tel: 01 817 5000
Email: barcouncil@lawlibrary.ie
www.lawlibrary.ie

The Law Society of Ireland

This is the representative and regulatory body for solicitors. If you are looking for a solicitor or have a complaint about your solicitor, you can contact the Law Society.

Blackhall Place, Dublin 7
Tel: 01 672 4800
Email: general@lawsociety.ie
www.lawsociety.ie

Legal Aid Board

The board is responsible for legal aid if people can't afford legal assistance. It provides legal aid in relation to civil issues – such as suing for personal injury or applications for asylum. It does not deal with criminal issues.

Head Office:

Quay Street, Cahirciveen, Co. Kerry
Tel: 066 947 1000
LoCall: 1890 615 200
Email: info@legalaidboard.ie

Dublin Office:

47 Upper Mount Street, Dublin 2
Tel: 01 644 1900
www.legalaidboard.ie

Irish Human Rights Commission

The Irish Human Rights Commission (IHRC) carries out enquiries and can provide legal assistance or initiate legal proceedings in cases concerning human rights.

4th Floor Jervis House,
Jervis St, Dublin 1
Tel: 01 858 9601
Fax: 01 858 9609
Email: info@ihrc.ie
www.ihrc.ie

Free Legal Advice Centres

This non-governmental organisation provides basic, free legal services to the public, including legal advice.

13 Lower Dorset Street, Dublin 1
Information and Referral Line: 1890 350 250
Tel: 01 874 5690
www.flac.ie

MEDIA

Broadcasting Authority of Ireland

2 - 5 Warrington Place, Dublin 2
Tel: 01 644 1200
Email: info@bai.ie
www.bai.ie

Office of the Press Ombudsman

1 - 3 Westmoreland Street, Dublin 2
Tel: Lo-call 1890 208 080
Fax: 01 674 0046
Email: info@pressombudsman.ie
www.pressombudsman.ie

PEOPLE WITH A DISABILITY

Inclusion Ireland

Inclusion Ireland is a national voluntary organisation working to promote the rights of people with an intellectual disability in Ireland.

Unit C2, The Steelworks
Foley Street, Dublin 1
Tel: 01 855 9891
Email: info@inclusionireland.ie
www.inclusionireland.ie

National Disability Authority

This is the state agency on disability issues. They provide advice to the government on disability issues.

25 Clyde Road, Dublin 4
Tel: 01 608 0400
Email: nda@nda.ie
www.nda.ie

Irish Deaf Society

This organisation provides support to people who have a hearing disability.

30 Blessington Street, Dublin 7
Tel: 01 860 18 78
Minicom: 01 860 1910
Text: 086 380 7033
E-mail: info@irishdeafsociety.ie
www.irishdeafsociety.ie

National Council for the Blind

This organisation offers support and services nationwide to people experiencing difficulties with their eyesight.

Whitworth Road, Drumcondra, Dublin 9
Tel: 01 830 7033
LoCall: 1850 33 43 53
Email: info@ncbi.ie
www.ncbi.ie

PRISONS

Committee Against Torture (CAT)

The Committee is made up of 10 independent experts who make sure the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by its State parties is followed. Every four years the Committee examines State reports and makes recommendations for improvements.

Petitions Team
Office of the High Commissioner for Human Rights
United Nations Office at Geneva
1211 Geneva 10 (Switzerland)
Tel: +41 22 917 97 06
Fax: + 41 22 917 9022
E-mail: petitions@ohchr.org
www2.ohchr.org/english/bodies/cat/

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

The Committee visits places of detention including prisons and mental institutions in Europe and writes reports on the conditions there. It recommends improvements in conditions of detention and carries out follow-up visits to see if they have been made.

Council of Europe

F-67075 Strasbourg Cedex
France
Tel: +33 3 88 41 39 39
Fax: +33 3 88 41 27 72
E-mail: cptdoc@coe.int
www.cpt.coe.int

Inspector of Prisons

The Inspector visits prisons and writes reports on human rights problems relating to physical conditions, healthcare, programmes for prisoners and prison management.

Office of the Inspector of Prisons

24 Cecil Walk, Kenyon Street
Nenagh, Co Tipperary
Tel: 067 42210
Fax: 067 42219
E-mail: info@inspectorofprisons.gov.ie
www.inspectorofprisons.gov.ie

Irish Prison Service

The Irish Prison Service is responsible for management of prisons and the safe and secure custody of prisoners. You can find out the contact details for all prisons by contacting the Irish Prison Service.

IDA Business Park,
Ballinalee Road, Longford, Co. Longford
Tel: 043 333 5100
Fax: 043 333 5101
Email: info@irishprisons.ie
www.irishprisons.ie

Irish Penal Reform Trust

This organisation campaigns for the rights of people in prison and for prison reform.

4th Floor, Equity House
16-17 Upper Ormond Quay, Dublin 7
Tel: 01 874 1400
Email: info@iprt.ie
www.iprt.ie

Parole Board

The Parole Board's main role is to advise the Minister for Justice, Equality and Defence in relation to the administration of long-term prison sentences.

31-35 Bow Street, Dublin 7
Tel: 01 872 0280
Fax: 01 872 0316
E-mail: info@paroleboard.gov.ie
www.justice.ie/en/JELR/Pages/Parole_Board

TRANSLATION AND INTERPRETATION

Irish Translators and Interpreters Organisation

This body represents translators and interpreters. If you are looking for a translator or interpreter, you could contact them for advice.

C/o Irish Writers' Centre
19 Parnell Square, Dublin 1
Tel: 087 673 8386 / 01 872 6282
www.translatorsassociation.ie

OTHER

Data Protection Commissioner

The Data Protection Commissioner is responsible for upholding the data protection rights of individuals and dealing with organisations that breach those rights.

Canal House, Station Road
Portarlinton, Co. Laois
Tel: 057 868 4800
LoCall: 1890 252 231
www.dataprotection.ie

International Red Cross

Based in Geneva, Switzerland, the International Red Cross works worldwide to provide humanitarian help for people affected by conflict and armed violence and to promote the laws that protect victims of war.

19 Avenue de la paix CH 1202 Geneva
Tel: +41 22 734 60 01
Fax: +41 22 733 20 57
Email: webmaster@icrc.org
www.icrc.org/eng/

DEATHS IN PRISON CUSTODY: information for Families and Others Affected

Dr Mary Rogan and the Irish Penal Reform Trust

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16-17 Upper Ormond Quay
Dublin 7
T: 01 874 1400
E: info@iprt.ie
W: www.iprt.ie

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