

Inspector's overview

This review has been a difficult one to undertake and complete, primarily for two reasons. First, there was a lack of reliable system level data recording instances and frequency of routine restraint use across the prison estate. Second, there was an element of ambiguity in existing Departmental policies and procedures, particularly as they related to the issues examined in this report.

Despite these limitations, we could rely on some data and case studies to form useful conclusions and make three recommendations. We were pleased that the Department supported our recommendation around better record keeping and supported in principle our recommendations around restraint use being aligned to individual risks and the use of restraints on pregnant women.

We accept that the routine use of restraints is a reasonable and understandable strategy to maintain community safety and the security and good order of prisons. We did, however, identify some exceptions to this general rule. The use of restraints should be based on specific risks in circumstances where a prisoner:

- is unconscious
- has a terminal illness
- is elderly or frail
- has significant mobility issues
- is pregnant.

The Department in their response to this report advised us that they have recently undertaken a review of relevant policies as part of their Custodial Operational Policy and Procedures Project (COPP). We were told that the revised restraints policy had recently been approved for implementation. This and other related policies are now in the implementation phase but we understand that they are not yet fully operational.

Further analysis of the suite of draft policies identified several that relate to the issues covered in this report around restraint use during prisoner movements and escorts. Specifically, one of the draft policies stipulates that during external escorts, prisoners from maximum and medium security prisons should be restrained at all times with limited exceptions (e.g. a medical condition dictates otherwise, the prisoner is more than 6 months pregnant, the prisoner is rated at minimum security following completion of a risk assessment). Similarly, in certain circumstances prisoners from minimum security prisons may be escorted unrestrained (e.g. where a risk assessment has been undertaken, on the authority of the Superintendent, or where other assessments authorise the prisoner to be outside the prison).

The exceptions identified in the draft policies would allow prisoners of a kind contemplated in Recommendations 2 and 3 of this report to be escorted outside of a prison without restraints.

The only difficulty we see is that although discretion will exist to exercise these exceptions, it still requires some motivation on the part of a Superintendent or other staff member to trigger the process of seeking or implementing an exemption. We fear that the reality is that there will be

inconsistent application of these policies between facilities and, over time, the norm will be that all prisoners are restrained.

Ultimately, it is a matter for the Department when and how they use restraints. The intent of our report and recommendations was to highlight circumstances where restraints ought not be routinely used and our hope is that this will be the effect of the exemptions available in the new policies. The absence of a specific requirement to consider the risks identified above prior to the routine use of restraints leaves us less confident that this is what will come to pass.

I want to acknowledge the cooperation and assistance we have received from key personnel in the Department in replying to our many requests for information and clarification over the course of the review. It is also important to acknowledge the people within our office who have made a significant contribution, particularly Erica Giles (who has now returned to her home agency) and Rowena Davis for their work in undertaking the review and drafting this report.

Eamon Ryan
Inspector

11 May 2020