

PENTONVILLE PRISON RE 'D'

Procedures

Investigation Chairman: Mr Stephen Shaw CBE

Introduction

In February 2006, the Court of Appeal ordered an Article 2 compliant investigation into the near suicide of Mr D at HMP Pentonville on 27 December 2001. The investigation's Terms of Reference are attached at Annex A.

2. The Investigation will be carried out by Mr Stephen Shaw CBE, who will have sole responsibility for the report.
3. This document sets out the procedures that the Investigation has decided to adopt.

Website and contact details

4. The Investigation will establish and maintain a website, which may be found at the following address: www.ppo.gov.uk/d-Inquiry
5. The correspondence address for the Investigation is as follows:

Solicitor to the Investigation
Mr Laurance O'Dea
Treasury Solicitors Office
One Kemble Street,
London,
WC2B 4TS

Tel: 020 7210 3215
Fax 020 7210 3167

E-mail: Laurance.ODea@tsol.gsi.gov.uk

6. The Solicitor to the Investigation will be Mr Laurance O'Dea. Counsel to the Investigation will be Mr Keith Morton.

Interested parties

7. Family of Mr 'D' represented by Messrs Bindmans.
Prison Service represented by Treasury Solicitor
8. The Investigation has in addition invited Inquest to apply to become Interested Parties. Any other individual or body wishing to apply to be accorded Interested Party status should submit that application to the Solicitor to the Investigation as soon as possible and in any event no later than 16 October 2006. Each application will be considered and determined by the Investigation Chairman.

List of Issues

9. The Investigation will provide Parties with a List of Issues setting out the matters within its Terms of Reference it proposes to investigate. The List of Issues may be subject to amendment as the Investigation progresses.

Document gathering

10. The Investigation requests Parties and anyone who holds documents which they consider are relevant to its work to supply those documents to the Investigation. .

11. Any person who is in possession of relevant documents should contact the Solicitor to the Investigation as soon as possible so that the necessary arrangements can be made for their delivery. Where necessary, the documents will be copied and returned to their owners.

12. Consideration of the documents received may reveal the need for the Investigation to see further documents, and additional requests for documents may be made as a result.

The investigation Core and Library bundles

13. Documents provided to the Investigation which are considered likely to be relevant to its work will be included in the Investigation Core Bundles.

14. Copies of the Investigation Core Bundles will be distributed to Interested Parties to assist with the preparation of any written statements and for use at the Investigation's public hearings. The provision of the Investigation Core Bundles will be subject to a suitable confidentiality undertaking and redaction where necessary.

15. Particular documents may be provided to persons and bodies who are not Interested Parties as and when appropriate.

16. It may prove necessary from time to time to make additions to the Investigation Core and Library Bundles. The Investigation will make arrangements for the copying and distribution of such further documents as may prove necessary.

Preliminary evidence gathering

17. The Investigation has obtained such records as can be found relating to the care of Mr 'D' whilst at HMP Pentonville in 2001. It will also obtain other relevant documents, including local and national policy documents relating to the care of individuals when held in custody. Copies of the redacted material may be placed on the website in due course.

18. The Investigation has been provided with and conducted some taped interviews with people identified as having been involved in Mr 'D's care and with others who were identified as being able to offer insight into more general matters relevant to Mr 'D's care at Pentonville. Transcripts of those interviews will be distributed to the Interested Parties (subject to a suitable confidentiality undertaking) and placed on the website in due course.

19. The Investigation will seek the views of Interested Parties in formulating future lines of questioning to be obtained through interview or written statements.

Written statements

20. All persons who are considered to have relevant evidence will be asked to provide a written statement save where the Chairman is satisfied that a transcript of an interview is sufficient. Other persons who believe that they may be able to give relevant evidence should contact the Investigation as soon as possible indicating the evidence they would like to give.

21. The Investigation will produce a preliminary list of the persons from whom it wishes to receive statements and/or the topics within the Terms of Reference upon which it seeks evidence. Consideration of the documents and statements provided may lead to the identification of other persons from and/or topics in respect of which statements will be desirable and further requests may be made in due course.

22. Requests to Parties for written statements will be made by the Solicitor to the Investigation. They will identify the topics with which the Investigation wishes the statement to deal. Persons requested to provide a statement should also have regard to the Investigation's Terms of Reference and List of Issues when considering the topics he or she should address in the statement.

23. Persons requested to provide a statement may supply copies of statements made in connection with other proceedings. Should a statement fail to address any of the topics with which the Investigation is concerned, a request for a further statement providing clarification or focusing on areas of particular concern may be made.

24. Prior to the commencement of the Investigation's hearings, copies of the statements provided to the Investigation will be distributed to the Interested Parties. The provision of the statements will be subject to a suitable confidentiality undertaking.

Sharing of information provided to the Investigation

25. This is an Article 2-compliant Investigation and it will be conducted in an open and transparent manner. The Investigation will normally assume that all the material which it receives may be distributed to the Interested Parties and referred to at the Investigation's hearings.

26. Where a person considers that any part of a document, statement, transcript or other material should not be treated in this way, he or she should inform the Solicitor to the Investigation of the reasons for this view when the document or statement is provided. The Investigation will consider each such representation on its merits and deal with it as it considers appropriate.

Pre hearing meeting

27. Before oral hearings are conducted, the Investigation will meet the Interested Parties and their legal representatives to discuss:

- procedural matters relevant to the conduct of the hearings;
- which witnesses should be called; and
- lines of inquiry.

The Chairman will consider the views of the Interested Parties but the conduct of the hearings and selection of witnesses is a matter entirely for him.

Opening statements

28. At the commencement of the Investigation's hearings, Counsel to the Investigation and the representatives of the Interested Parties will be afforded the opportunity to make opening statements to the Investigation. Such opening statements will be subject to the timetable for the Investigation's hearings, which will be produced and published in due course.

Attending the Investigation's hearings

29. In some cases, the Investigation may ask a person who has provided a statement or been interviewed by the Investigation to appear before the Investigation and give oral evidence in public. Oral evidence from a witness will only be required for one or more of the following purposes:

- to clarify any matters in the statement which are not sufficiently clear;
- to amplify any matters in the statement in respect of which further information is required;
- to afford the witness the opportunity of addressing matters raised by other statements or documents, or the oral evidence of other witnesses, which are relevant to his or her evidence;
- to test the accuracy or reliability of any matters in the statement;
- to explore disputes of fact, controversial issues or questions of opinion;
- to afford the witness the opportunity of responding to potential criticisms to which he or she may be subject in the Investigation's final report;
- to afford Interested Parties the opportunity to hear at first hand the evidence of the witness;
- to deal with any other matter the Chairman considers appropriate.

30. Counsel to the Investigation will prepare a provisional list of those persons from whom he considers it appropriate to receive oral evidence. This provisional list will be made available to the Interested Parties who will be given the opportunity to comment upon it. The final decision as to which persons should be asked to give oral evidence will be made by the Investigation Chairman, advised by Counsel to the Investigation.

31. A person requested to give oral evidence may apply to be represented during his or her evidence.

Notice of matters requiring explanation

32. Before any person is requested to give oral evidence at the Investigation's hearings, he or she will normally be sent a letter setting out the main issues that Counsel to the Investigation intends to address in the course of questioning. The issues set out in the letter should not be treated as a definitive list as it may be that further issues emerge in respect of which the witness may be able to provide relevant evidence. The letter is designed to assist the witness (and his or her representative) in preparing for the Investigation's hearings by identifying at least some of the matters about which the Investigation is particularly concerned.

33. Insofar as it may prove possible to do so, the Investigation will endeavour to provide witnesses with a list of the main documents to which they are likely to be referred by Counsel to the Investigation in the course of questioning.

34. In some cases, the letter will also include a list of matters in respect of which Counsel to the Investigation considers it possible that the witness might be subject to criticism. It should be emphasised that the matters listed in this way will have been identified during a preliminary review of the documents provided to the Investigation, and in no way represent the settled view of the Investigation Chairman on any of the issues to which they relate. Each witness will be given the opportunity to address each potential criticism during the course of his or her oral evidence. Letters of the type described will be confidential between the Investigation and the witness concerned.

35. If new matters relevant to the evidence of a particular witness come to light after that witness has given evidence at the Investigation's hearings, the Investigation will ensure that the witness is afforded the opportunity of responding to those new matters where fairness so requires. Such an opportunity may be afforded by inviting the witness to provide a further statement or (at the discretion of the Investigation Chairman) inviting that witness to give further oral evidence.

Questioning of witnesses

36. Persons who are requested to give oral evidence to the Investigation will be subject to questioning by Counsel to the Investigation and the Investigation Chairman. Lines of questioning may, however, be suggested by the Interested Parties to Counsel to the Investigation in advance. Questions will relate solely to matters within the Investigation's Terms of Reference. Before dismissing a witness, the Chairman may consider with the Interested Parties whether there are any further matters that the witnesses should be asked to address. If the Chairman is satisfied that further questions should be asked he will ask Counsel to the Investigation to do so.

37. A list of the witnesses who are to give oral evidence at the Investigation's hearings will be posted in advance on the Investigation website.

Transcripts of the Investigation's hearings

38. Transcripts of the evidence taken at the Investigation's hearings will be published on the Investigation website. The statements of those persons who give oral evidence at the Investigation's hearings will be posted on the Investigation website on the day after they give evidence. The statements/transcripts of interview of those persons who do not give oral evidence will be posted on the Investigation website after their statements/transcripts of interview have been introduced into evidence by Counsel to the Investigation at the Investigation's hearings.

Closing statements

39. Once the evidence at the Investigation's hearings has been concluded, the Investigation Chairman will invite Counsel to the Investigation and the representatives of the Interested Parties to submit closing statements in writing. This will not be an opportunity to introduce new evidence. Submission of statements will be subject to such rules as the Chairman considers appropriate. In addition Counsel to the Investigation and the representatives of the Interested Parties will be afforded the opportunity to make closing oral statements. These will be subject to such time limits as the Chairman directs.

Flexibility

40. The procedures set out in this document will be applied with such flexibility as the Investigation Chairman considers appropriate. They will normally be departed from only if unforeseen problems of a practical kind arise. In such cases, the Interested Parties will be consulted.

Publication

41. The Chairman will submit a report to the Secretary of State. Subject to any necessary redaction, the report will be published contemporaneously on the Ombudsman's website.

ANNEX A

Terms of reference

“Having regard to the Court of Appeal judgment of 28 February 2006, to conduct an Article 2-compliant investigation into and report to the Secretary of State for the Home Department on the circumstances surrounding the near suicide of a young man (Mr D) at HMP Pentonville on 27 December 2001. In particular:

- To establish the circumstances and events, especially as regards management of Mr D by the Prison Service, including considering any information about how prisoners at risk of self-harm were cared for at Pentonville, and to consider relevant outside factors.

- To examine whether any change in operational methods, policy, practice or management arrangements would help prevent suicide and self-harm in Pentonville and other prisons.
- Where possible, to examine relevant health issues and to assess Mr D's clinical care and consider any wider policy issues arising.
- To provide explanations and insight for Mr D and his family.
- To examine the extent to which the recommendations of the earlier internal Prison Service investigation have been implemented.
- To consider the implications for future investigations into near suicides."

29 September 2006.