Joint Committee on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025
30 September 2025

Opening Statement by Saoirse Brady, Executive Director, IPRT

IPRT thanks the Committee for the opportunity to provide observations on the proposed legislation, as when enacted and commenced, it will have a significant impact on the criminal justice system. These proposals must be considered in the context of a severe prison overcrowding crisis with almost 5,500 people in custody living in unacceptable and in some instances, inhumane and degrading conditions.

IPRT has long campaigned for the increased use of non-custodial sentencing options to tackle the overcrowding crisis and reduce the use of short-term custodial sentences. These can have long-lasting negative effects, including family disruption or loss of contact with social or community services, or employment. We believe this Bill takes us one step closer to making the principle of prison as a last resort a reality.

The proposed reforms to community service orders (CSO) are welcome, particularly the obligation on the court to provide reasons for its decision to impose a custodial rather than a community sentence. We would recommend that this data is collected to monitor sentencing trends to inform further legislative proposals.

CSOs when used effectively, can benefit the individual and broader society through community participation, improving self-esteem and maintaining links with families and support networks. However, where used ineffectively, CSOs can have low completion rates and while they can address recidivism, this also requires access to adequate and appropriate supports, services and employment.

IPRT urges the Committee to consider how people can be supported to complete community sentences up to 480 hours in practical terms. IPRT believes that to be effective, CSOs should be targeted at addressing the underlying issue connected to the offence and more therapeutic options should be included. Potential barriers to completion should also be considered and supports put in place to help people in employment or with care responsibilities.

IPRT recommends that Head 25 is amended to ensure proportionality in the calculation of community service order hours. We also recommend that the legislation is explicit that CSOs cannot be used in place of other non-custodial sentences, for example fines where that would currently be the sanction.

Moving now to the proposed introduction of 'incapacitant or pepper spray' for general use by Prison Officers in Irish prisons. We have outlined in detail in our submission why IPRT strongly opposes this proposal.

IPRT does not believe that arming Prison Officers will meaningfully address safety concerns and may in fact exacerbate tensions. In fact, recent data indicates a reduction in prisoner on staff direct physical assaults. As an intervention specifically designed to cause severe pain, the use of incapacitant spray has significant human rights implications, particularly on the right to be free from torture and inhuman or degrading treatment or punishment. The decrease in staff assaults raises questions as to the necessity and timing of this proposal.

The Council of Europe's Committee for the Prevention of Torture, the UN Committee against Torture, the Office of the UN High Commissioner for Human Rights and the UN Special Rapporteur on Torture have all reiterated the dangers inherent in its use, and have highlighted circumstances where its use may amount to ill-treatment or should otherwise be prohibited including against people with certain characteristics or vulnerabilities. It cannot be used in confined or crowded spaces or at a height. This is clearly outlined in the Garda guidance on its use. Therefore, it is difficult to see how it could be used appropriately or proportionately in the current context of overcrowded prisons.

IPRT recommends that Head 20 is removed in full and that Prison Officers are not armed with incapacitant spray.