

Report of an investigation by
Judge Michael Reilly, Inspector of Prisons,
into the handling of the sentencing, release
and post release procedures in a criminal matter

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by Judge Michael Reilly, Inspector of Prisons.

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Note from the Department of Justice and Law Reform:

On legal advice, this report has been redacted prior to publication where non-relevant personal information was originally included. These redactions do not alter the matters at issue in the report.

Chapter 1

Introduction

- 1.1 This report identifies a litany of flawed systems, outmoded work practices and the failure of organs of the 'justice family' to communicate with each other which combined with lapses of judgment, misjudgements and inattention to detail ended in tragic consequences, namely, the death of Mr. Noel Keegan.
- 1.2 This report does not set out, nor should it be used, to scapegoat public servants, who, because of systemic failures in systems and a lack of oversight by superiors, did not adhere to the highest standards. The report should be used to address such failures, to provide appropriate oversight and to act as a warning to public servants at all grades that they must be careful and scrupulous when attending to their public duties in order that the general public can have complete confidence in the system that operates in the area covered by this report.
- 1.3 In Chapter 4, I refer to a sentence imposed on Martin McDonagh on the 28th April 2009 and the consequences that flowed from such conviction. The major failure was, for the reasons set out in this report, that the appropriate warrant for Martin McDonagh was not issued by the Circuit Court Office in Longford between the 1st May 2009 and the 5th January 2010. The combination of this failure by Longford Circuit Court Office to issue the warrant and the absence of appropriate checks and balances meant that Martin McDonagh did not begin to serve the sentence imposed on the 28th April 2009 until the 5th January 2010. This sentence should have commenced on the 1st May 2009.
- 1.4 In Chapter 5, I refer to a sentence imposed on Martin McDonagh on the 22nd April 2009 and the consequences that flowed from that conviction. It will be seen that Martin McDonagh was granted temporary release on the 27th November 2009 subject to conditions as he was nearing the end of such sentence. I am not critical of the fact that Martin McDonagh was granted

temporary release, rather, I point to many failures across three agencies, namely, the Irish Prison Service, An Garda Síochána and the Probation Service. These failures cannot be explained away by reference to inattention to detail by junior members of these services, rather, management should have been aware of the deficiencies in such systems. It will be seen that if proper procedures had been in place and adhered to Martin McDonagh would have been deemed "unlawfully at large" not alone subsequent to the 14th December 2009 but between the 28th November 2009 and the 14th December 2009. Procedures could then have been in place to effect his apprehension subsequent to the 28th November 2009.

- 1.5 It is clear that relevant information in the possession of the agencies mentioned in this report was not shared between such agencies. It is also clear that certain information was not shared within agencies. This lack of sharing of information contributed to Martin McDonagh being unlawfully at large for the period mentioned above and to the fact that he did not commence his second sentence for eight months after it had been imposed. Information technology is a vital instrument in ensuring that relevant information is shared both between agencies and within agencies. Therefore, I refer to this important aspect in Chapter 6 as a stand alone issue in order that recommendations that I make can be placed in context and understood.
- 1.6 This report suggests a way forward which should lead to iron clad procedures being put in place to ensure that the mistakes such as those identified will not reoccur. My recommendations are divided into two sections - those that should be implemented immediately and those that should lead to enhanced work practices.
- 1.7 During the course of my investigation I received total cooperation from all persons and agencies involved. I was granted full access to all files and computer records. I would like to express my appreciation to the very many people who in one way or another provided me with all the information that I sought.

Chapter 2

Appointment and methodology

Appointment

- 2.1 I was asked by the Minister for Justice, Equality and Law Reform (hereinafter in this report referred to as the "Minister") to undertake an investigation into an issue that had arisen which was of a serious and urgent concern.
- 2.2 On the 13th January 2010 the Minister briefed me that on the 31st December 2009 a Mr. Noel Keegan was assaulted in Longford Town and tragically died following the assault. A Mr. Martin McDonagh was subsequently charged with the alleged assault. It transpired that, while Martin McDonagh was released from Castlerea Prison on the 27th November 2009, he had in fact been convicted in Longford Circuit Criminal Court and sentenced to four years imprisonment at Tullamore Circuit Criminal Court on the 28th April 2009.
- 2.3 I agreed to carry out the investigation. On the 16th January 2010 the Minister signed my Warrant of Appointment.
- 2.4 My terms of reference as set out in the said Warrant of Appointment are:-
- a to investigate the manner of and procedures applicable to the recording and communication of the sentencing of Martin McDonagh in Tullamore Circuit Court on 28 April 2009;*
 - b to establish (i) whether a warrant recording this sentence was issued by Longford and/or Tullamore Circuit Court Offices and (ii) was received by Castlerea Prison;*
 - c to make inquiries with any other relevant persons and authorities including An Garda Síochána and the Probation Service;*
- in the light of the outcome of (a), (b) and (c) to make any recommendations that may be necessary for changes in the system of administration in respect of committal warrants or to make any other recommendations that may be deemed appropriate*
- and to submit a report as a matter of urgency.*

Methodology

- 2.5 This investigation is not a court of law or a trial of any alleged wrongdoing by any particular person or group of persons. Rather it is an exercise designed to establish the facts and the lessons to be learned. Therefore, I decided that where issues were in dispute, I would resolve such issues by setting the standard of proof as being on the balance of probabilities.
- 2.6 I conducted this investigation in accordance with the requirements of constitutional and natural justice.
- 2.7 I inspected all relevant records held on file or electronically in Longford Circuit Court, Tullamore Circuit Court, Castlerea Prison, Longford Garda Station and the Probation Service. I received a briefing on the working of the PULSE system and inspected the PULSE system in relation to all entries concerning Martin McDonagh. I received detailed reports from the County Registrar, Tullamore, the County Registrar, Longford, the Governor of Castlerea Prison, the State Solicitor for Longford, the Superintendent, Garda Síochána, Longford, the Probation Service and members of An Garda Síochána and the Irish Prison Service. These reports were generated as a result of queries raised by me. I requisitioned and obtained transcripts of relevant proceedings held in Longford Circuit Criminal Court on the 22nd, 23rd and 24th April 2009 and in Tullamore Circuit Criminal Court on the 28th April 2009.
- 2.8 Any individuals in any way likely to be affected by any observations, comments or conclusions in this report were afforded the opportunity to examine the relevant portion of the report in draft form as it might affect them and were invited to address any issues so raised. All such observations were taken into account by me when finalising this report.
- 2.9 My first task was to ascertain why Martin McDonagh had been released from prison on the 27th November 2009 when he had been sentenced to 4 years imprisonment at Tullamore Circuit Criminal Court on the 28th April 2009.

2.10 As will be seen later in this report I discovered that:-

- (a) Martin McDonagh was not serving the sentence of 4 years imposed at Tullamore Circuit Criminal Court on the 28th April 2009,
- (b) When Martin McDonagh was released on the 27th November 2009, he was released on temporary release from a sentence of 2 years imposed at Longford Circuit Criminal Court on the 22nd April 2009, referred to at 3.1(a) and in detail in Chapter 5, and,
- (c) During the course of my investigation surrounding the release of Martin McDonagh on the 27th November 2009 I discovered many inadequacies in the temporary release procedure which, while applicable in this investigation, are inadequacies generally within the Criminal Justice System. I have paid particular attention to these inadequacies in order that recommendations in this area could be placed in context and understood.

2.11 I have carried out my investigation under two broad headings -

- (a) The sequence of events prior to the sentencing of Martin McDonagh to 4 years imprisonment at Tullamore Circuit Court on the 28th April 2009, the failure by Longford Circuit Court Office to issue the warrant relating to the sentence referred to at 2.10 (a) and the involvement of three agencies, namely, The Courts Service, the Garda Síochána and the Irish Prison Service (Chapter 4).
- (b) The sentencing of Martin McDonagh at Longford Circuit Criminal Court to 2 years imprisonment on the 22nd April 2009, his release on temporary release on the 27th November 2009 and the involvement of

three agencies, namely, the Irish Prison Service, the Garda Síochána and the Probation Service (Chapter 5).

Chapter 3

Undisputed Facts

- 3.1 The following facts are not in dispute:-
- (a) On the 22nd April 2009 Martin McDonagh was sentenced at Longford Circuit Criminal Court to 2 years imprisonment backdated to the 11th November 2008 and with the final 6 months suspended on conditions. The relevant reference is **Record No. LD0011/08 - D.P.P. -v- Martin McDonagh and JS**. His release date allowing for remission was the 14th December 2009.
 - (b) On the 21st, 22nd, 23rd and 24th April 2009 Martin McDonagh was before Longford Circuit Criminal Court, where, because of lack of time on the 24th April 2009, his sentencing was adjourned to Tullamore Circuit Criminal Court on the 28th April 2009, where he was sentenced to 4 years imprisonment the warrant not to issue until 12 noon on the 1st May 2009. The relevant reference is **Record No. LD0020/08 - D.P.P. -v- FK, PN, Martin McDonagh and MK**.
 - (c) On the 28th April 2009 Martin McDonagh was not in Tullamore Circuit Criminal Court when he was sentenced. He was in Castlereagh Prison serving the sentence of 2 years referred to at (a) above.
 - (d) On the 27th November 2009 Martin McDonagh was released from Castlereagh Prison on temporary release for the remainder of the sentence of 2 years imposed on the 22nd April 2009 as referred to at (a) above.
 - (e) When Martin McDonagh was released on temporary release on the 27th November 2009 such release was subject to conditions. The original of the temporary release form was retained by the prison and a copy given to Martin McDonagh.

- (f) The terms of the temporary release, as referred to at (e) above, were not communicated to any other person or body least of all An Garda Síochána.
- (g) The terms of the temporary release referred to at (e) above included, *inter alia*, a condition that Martin McDonagh sign on each day at his local Garda Station and report to the prison at 4 pm on the 4th December 2009. Longford Garda Station was Martin McDonagh's local Garda Station. Martin McDonagh failed to observe these conditions.
- (h) **Information included here has been redacted as it is information personal to Mr. McDonagh and does not relate to the matters at issue in this Report.**
- (i) On the 14th December 2009 Castlerea Prison informed, by letter, The Sergeant in Charge, Fógara Tora Section, Technical Bureau, Garda Headquarters that Martin McDonagh was unlawfully at large from the prison. A copy of this letter was sent to the Sergeant in Charge of Longford Garda Station on that date. This copy letter was received at Longford Garda Station on the 17th December 2009.
- (j) On the 27th December 2009 Martin McDonagh was arrested in Longford Town, charged with criminal damage and released on bail to appear at Longford District Court on the 26th January 2010.
- (k) On the 1st January 2010 Martin McDonagh was arrested and on the 2nd January 2010 appeared before a special sitting of Longford District Court charged with assault. He was remanded in custody to appear before Longford District Court on the 5th January 2010.

Profile of Martin McDonagh

- 3.2 Martin McDonagh [**information included here has been redacted as it is information personal to Mr. McDonagh and its omission does not alter the matters at issue in the Report**]. He is known to the Gardaí. He has 15 convictions over the period December 2004 to April 2009. His offences range from breaches of the Public Order Acts, Road Traffic Acts, Firearms and Offensive Weapons Act to breaches of section 3(1) of the Non Fatal Offences Against the Person Act 1997. He was fined for the offences under the Public Order Acts, fined and disqualified for the offences under the Road Traffic Acts, fined and imprisoned for the offences under the Firearms and Offensive Weapons Act and imprisoned under the Non Fatal Offences Against the Person Act 1997.

Chapter 4

4 year sentence imposed on the 28th April 2009 and subsequent events

- 4.1 Martin McDonagh pleaded guilty to an offence of assault contrary to Section 3(1) of the Non Fatal Offences Against the Person Act 1997 at Longford Circuit Criminal Court on the 3rd February 2009. He was one of four accused. The relevant reference is - **Record No. LD0020/08 - D.P.P. -v- FK, PN, Martin McDonagh and MK.** His case and that of his three co-accused was adjourned to Longford Circuit Criminal Court on the 21st April 2009. The sentencing of all four ultimately took place at Tullamore Circuit Criminal Court on the 28th April 2009. The relevant dates as far as this investigation is concerned are the 21st, 22nd, 23rd and 24th April 2009 in Longford and the 28th April 2009 in Tullamore.
- 4.2 Martin McDonagh was before the Circuit Criminal Court in Longford on the 21st April 2009 on two separate matters - a Circuit Court trial (referred to at Chapter 5) and the instant trial.
- 4.3 Martin McDonagh appeared in custody from Castlerea Prison at Longford Circuit Criminal Court on the 21st April 2009. His co-accused, namely, FK., PN., and MK., appeared on bail.
- 4.4 Neither of Martin McDonagh's trials referred to at 4.2 above were reached on the 21st April 2009. His trials were adjourned to the 22nd April 2009.
- 4.5 On the 21st April 2009 Martin McDonagh was returned to Castlerea Prison in custody. A remand warrant was issued by Longford Circuit Court directing his attendance on the 22nd April 2009. This warrant is on the Castlerea prison file. A copy of this warrant is on the Circuit Court File.
- 4.6 On the 22nd April 2009 Martin McDonagh was brought from Castlerea Prison in custody to Longford Circuit Court. On that date he was dealt with in the

first of his trials referred to in Chapter 5. A committal warrant was prepared and issued by the County Registrar in Longford for this sentence. A copy of this warrant is on the Circuit Court file. The original is on the Castlerea prison file.

4.7 The instant trial was not reached on the 22nd April 2009. It was adjourned to the 23rd April 2009. A remand warrant was issued by Longford Circuit Court directing Martin McDonagh's attendance on the 23rd April 2009. The original of this warrant is on the Castlerea Prison file. A copy of this warrant is on the Longford Circuit Court file.

4.8 It should be noted that by the evening of the 22nd April 2009 Martin McDonagh was in Castlerea Prison on two different warrants - the committal warrant for the 2 years (referred to in Chapter 5 of this report) and a remand warrant for his production on the 23rd April 2009 in the instant case.

4.9 On the 23rd April 2009 Martin McDonagh was produced in Longford Circuit Court in custody. His trial was part dealt with and eventually adjourned to the 24th April 2009. There is no evidence in the Circuit Court Office in Longford that a remand warrant was prepared and no evidence of such a warrant in the Castlerea prison file. I am satisfied that no such warrant was prepared. A warrant should have been prepared by Longford Circuit Court Office as on that date Martin McDonagh was remanded in custody until the following day.

4.10 In a submission to me the Longford County Registrar stated:-

"Longford Circuit Court Office officials did not refuse to furnish Remand Warrant to Prison Wardens in Longford Circuit Court. No warrant was sought by Prison Wardens from officials in Longford Circuit Court Office on the 23rd April 2009".

I accept the truth of this statement but must point out that the issue of a warrant should not be dependent on a request from prison officials.

- 4.11 There is a note in the Castlerea Prison file from the prison escort personnel that Martin McDonagh's sentence was adjourned to the 24th April 2009.
- 4.12 The fact that the remand warrant referred to at 4.9 did not issue from Longford Circuit Court Office on the 23rd April 2009 did not have adverse consequences was that Castlerea Prison relied on the note generated by the prison escort personnel on the 23rd April 2009 as their authority to produce Martin McDonagh in Court on the 24th April 2009.
- 4.13 The sentence hearing of all four accused did not conclude on the 24th April 2009 and the trial was adjourned to the 28th April 2009 in Tullamore Circuit Court. The learned Circuit Court Judge at the conclusion of the proceedings in Longford Circuit Court on the 24th April 2009 excused the attendance of all parties at Tullamore Circuit Criminal Court on the 28th April 2009, stating".....*Now, I appreciate that Tullamore is a very distant location for many of the people involved in this case, so I don't actually require anyone's attendance. People can arrange -- counsel even, solicitors -- can arrange with colleagues to take judgment and warrants would issue with a time factor to permit that execution without the necessity even for the accused to be present, because of the -- I apprehend the expense and inconvenience of many of these people to go to such a place".* Counsel for Martin McDonagh enquired - "*In respect of Mr McDonagh, just to clarify, he is in custody, Mr McDonagh's attendance at all in Tullamore isn't necessitated then next Tuesday Judge?*". The learned Circuit Court Judge answered - "*It is not*".
- 4.14 It is the usual practice in the Circuit Court that, in criminal cases whether an accused is on bail or in custody and where such cases are not concluded, that the order made is that the case is 'adjourned' to whatever is the appropriate date. The Presiding Judge does not always indicate whether the accused is to be remanded in custody or on continuing bail. It is the common practice in the District Court for the Presiding Judge in similar circumstances to indicate in his/her order when putting the matter back to a future date that the accused is either 'remanded on bail', or, 'remanded in custody' as the case may be or the case is simply 'adjourned' when the question of bail or custody does not arise.

- 4.15 A remand warrant was not prepared on the 24th April 2009 directing the return of Martin McDonagh to Castlerea Prison but Martin McDonagh was returned to Castlerea Prison by the prison escort personnel. One can only presume that the authority for returning Martin McDonagh to Castlerea Prison was that he was serving the sentence imposed on the 22nd April 2009 as referred to in Chapter 5 of this report.
- 4.16 There is a note, dated the 24th April 2009, on the Castlerea Prison file from the prison escort personnel stating that the sentencing of Martin McDonagh had been adjourned to Tullamore Circuit Criminal Court on the 28th April 2009 but that Martin McDonagh was "*not required*".
- 4.17 On the 24th April 2009 the County Registrar in Longford forwarded the relevant Court File, Record No LD0020/08 to her colleague in Tullamore Circuit Court.
- 4.18 It should be noted at this stage that three of the accused, namely, FK, PN and MK were on bail and Martin McDonagh was in custody.
- 4.19 On the 28th April 2009 sentences were handed down to the four accused including Martin McDonagh. There was a dispute in court as to whether Martin McDonagh had been remanded in custody to the 28th April 2009 but I have resolved this by referring to the extract from the transcript of evidence referred to at 4.13 above.
- 4.20 In sentencing Martin McDonagh on the 28th April 2009 to four years imprisonment the learned Circuit Court Judge stated - "*As I understand it, Martin McDonagh is in custody not on this case, so that as far as I am aware he is not entitled to any credit for time on remand until now. The warrants are not to issue before 12 noon next Friday, purely because of logistics between here and their home base at Longford*".
- 4.21 It was known to the Court, to Counsel and the Gardaí that Martin McDonagh was in prison on the 28th April 2009.

- 4.22 It is only in exceptional circumstances that a person who is in custody is sentenced in their absence. There were no exceptional circumstances in the instant case as far as Martin McDonagh was concerned. The expense to the State of bringing Martin McDonagh to Court or the inconvenience to Martin McDonagh or the Irish Prison Service could not be considered as exceptional circumstances. It was known to the learned Circuit Court Judge, to Counsel for the prosecution and the defence and to the Gardaí that Martin McDonagh, unlike his co-accused who were on bail, could not appear in Court as he was in the custody of the State in Castlerea Prison.
- 4.23 The County Registrar in Tullamore by letter dated the 29th April 2009 returned the relevant court file to her colleague in Longford advising of the sentences passed and stating that the warrants were not to issue before 12 noon on Friday 1st May 2009. This letter was received by the County Registrar in Longford on the 30th April 2009. A copy of this letter is exhibited at **Appendix 1**.
- 4.24 Four warrants were created on the computer system in Longford Circuit Court Office which reflected the sentences imposed on Martin McDonagh and his three co-accused. These warrants were created in the sequence in which the names of the four co-accused appeared on the Court list, namely, FK, PN, Martin McDonagh and MK. I was in a position to get this information by inspecting the relevant backed up files retained by the Courts Service. I am satisfied that all four warrants were created in sequence and prior to 12.04 hours on the 1st May 2009. From the time that these warrants were created they have remained on the Longford Circuit Court computer system. I refer further to these warrants at 4.29 to 4.31 when I deal with the printing of such warrants. Three of the accused - MK, PN and Martin McDonagh were to serve their sentences in Castlerea Prison and FK was to serve his sentence in St. Patrick's Institution.
- 4.25 In order to issue the warrants, previously created in electronic form, as detailed at 4.24 above, it would be necessary to print the warrants from the system and have them sealed and signed by the County Registrar.

- 4.26 On the 1st May 2009 three of the accused, namely, FK, PN and MK presented themselves at Longford Garda Station to be taken into custody to commence their sentences.
- 4.27 On the 1st May 2009 the County Registrar in Longford issued the three warrants for the three accused mentioned at 4.26 above and they were given to the Gardaí. There are copies of these three warrants on the Court file. The originals of these warrants are in the relevant prisons, namely, Castlerea Prison for MK and PN and St. Patrick's Institution for FK. Copies of these warrants are exhibited at **Appendix 2** of this report.
- 4.28 The County Registrar in Longford is of the opinion that a warrant for Martin McDonagh was also issued on the 1st May 2009 and posted by ordinary post to Castlerea Prison.
- 4.29 At 4.24 I stated that I would refer in greater detail to the generation, storage and ultimate printing of warrants. I examined the computer records maintained by Longford Circuit Court Office. Committal warrants for Castlerea Prison emanating from Longford Circuit Court are created in electronic form and maintained in chronological date order in an omnibus folder designated 'Castlerea (Male) File'. This is a live file which is updated as new warrants are issued or when existing orders have to be amended in any manner. A similar file designated ' St. Pat's (Detention)' is maintained for warrants for St. Patrick's Institution.
- 4.30 From my examination of the computer records I am satisfied that the 'Castlerea (Male) File' was modified at 12.04 hours on the 1st May 2009. I am further satisfied that a document or documents were printed from this file on that date.
- 4.31 When I was satisfied that the warrants for Martin McDonagh and his co accused had been created electronically and were maintained I endeavoured to ascertain if all such warrants had been printed on the 1st May 2009. It is not possible to ascertain which warrants were printed from the 'Castlerea (Male)

File' on the 1st May 2009. In normal course the computer system would show the date and time of the printing of a document, the name and number of pages of the document and by whom the document was printed. I have been informed by the IT Section of the Courts Service that such information is not backed up. Such records have been overwritten and are not available.

4.32 In a submission to me the County Registrar stated that she had interviewed the official from Longford Circuit Court Office whose logon name is shown as the person who last saved the 'Castlerea (Male) File' on the 1st May 2009. This official stated that she had no specific recollection of the file but stated that if the warrants had been prepared by her she would as a general practice have prepared the warrants one at a time.

4.33 In her submission to me the County Registrar stated:

"Once the 4 warrants had been generated electronically and printed they were placed with the Circuit Court File record No. LD 0020/08 and placed before the County Registrar in accordance with the normal office procedure. The County Registrar checked the draft warrants with the record of the sentences noted on the Court Sheet on the file. The County Registrar then also checked the draft warrants with the note of the Circuit Court decision set out in letter dated 29th April 2009 from Tullamore Circuit Court Office in this case. The contents of the warrants were thus checked twice. The County Registrar is of the strongest belief that she signed 4 warrants. The County Registrar brought the file with the signed warrants to the general Circuit Court office close to 12 noon that day. Thereafter, the Circuit Court seal would have been affixed by officials of the Circuit Court office to each warrant to authenticate the warrants thereby issuing the 4 warrants. The warrants would then have been photocopied".

There is no evidence to support the statement that all four warrants were printed and placed before the County Registrar. There is no evidence on the Longford Circuit Court File of a copy of the warrant for Martin McDonagh which would in the submission of the County Registrar have been

"photocopied". There are copies of the warrants of his co accused on the Court File.

- 4.34 During the course of my investigation I was supplied with an Affidavit of MO'B, an official of Longford Circuit Court Office in which she sets out her belief that the warrant for Martin McDonagh was issued by Longford Circuit Court Office and posted to Castlerea Prison on the 1st May 2009. A copy of this Affidavit is included at **Appendix 3**.
- 4.35 There is no evidence in the Castlerea Prison file of the warrant referred to at 4.28 above or any evidence that it had been sent to the prison. Copies of the warrants for Martin McDonagh's co accused namely MK, PN and FK are on the Court file and the originals are in Castlerea Prison and St. Patrick's Institution.
- 4.36 I have been informed that it is not the practice of the Circuit Court Office in Longford to retain copies of all warrants issued from that office. I have also been informed that it is not the practice of the Office to attach a covering letter to warrants sent from the Circuit Court Office in Longford with the exception of Suspended Sentence Orders which are sent by post to Castlerea Prison. I have been further informed that warrants are not sent by registered post to Castlerea Prison but are sent by ordinary post.
- 4.37 I should point out that in the following instances copies of relevant warrants are on the Court File and the originals are in the relevant prisons:
- (a) Remand warrant for Martin McDonagh issued by Longford Circuit Court on the 21st April 2009 to compel his attendance on the 22nd April 2009. The original is in Castlerea Prison (Paragraph 4.5).
 - (b) Committal warrant for Martin McDonagh issued on 22nd April 2009 by Longford Circuit Court which referred to a sentence imposed on that date. The original is in Castlerea Prison (Paragraphs 4.6 and 5.1).

- (c) Committal warrant for JS (a co accused of Martin McDonagh) issued by Longford Circuit Court on the 22nd April 2009. The original is in Castlerea Prison (Paragraph 5.1).
- (d) Remand warrant issued for Martin McDonagh on the 22nd April 2009 by Longford Circuit Court to compel his attendance on the 23rd April 2009. The original is in Castlerea Prison (Paragraph 4.7).
- (e) Committal warrant for FK (a co accused of Martin McDonagh) issued by Longford Circuit Court on the 1st May 2009. The original is in St. Patrick's Institution (Paragraph 4.26).
- (f) Committal warrant for PN (a co accused of Martin McDonagh) issued by Longford Circuit Court on the 1st May 2009. The original is in Castlerea Prison. (Paragraph 4.26).
- (g) Committal warrant for MK (a co accused of Martin McDonagh) issued by Longford Circuit Court on the 1st May 2009. The original is in Castlerea Prison (Paragraph 4.26).

4.38 I am satisfied from the evidence available to me, the statements from relevant persons and submissions made, and, having regard to the standard of proof as set out at 2.5 that the warrant for Martin McDonagh, reflecting the sentence of 4 years imposed at Tullamore Circuit Criminal Court on the 28th April 2009 to date from the 1st May 2009, (a) did not issue from Longford Circuit Criminal Court on the 1st May 2009 and, therefore, (b) was not received by Castlerea Prison.

4.39 The Prosecuting Garda in this trial attended each day at the Circuit Court both in Longford and Tullamore. He was aware that Martin McDonagh was in prison when sentenced on the 28th April 2009.

4.40 Nobody completed a report on the trial and sentencing of Martin McDonagh in the instant case. The nearest that anyone came to reporting on this case was a

brief return made by the State Solicitor in Longford to his superiors and the Prosecuting Garda, on 29th April 2009, placing a reference to the sentence imposed in the 'intelligence' section of the PULSE system.

4.41 All criminal matters that come before the District Courts nationwide are tracked through the District Court on the Criminal Case Tracking System. This system picks up each case as it is initiated and follows it through its various stages until the case is concluded. The final decision, namely, the result of the case is recorded on the Criminal Case Tracking System. All such results as generated on the system are transmitted electronically to An Garda Síochána. There is an interface between the Criminal Case Tracking System and the PULSE System as operated by An Garda Síochána. When the result of each case is transmitted by the Court to the Gardaí and because of the interface as described, the result of each case appears on the Pulse System under the heading 'Court Outcome'.

4.42 The Criminal Case Tracking System is confined to cases in the District Court. There is no comparable electronic system to track cases through the Circuit Court. Therefore, unless the Pulse System is updated manually the results of cases passing through the Circuit Criminal Court will not appear on the PULSE System under the heading 'Court Outcome'.

4.43 Garda Headquarters directive Number 192/08 "Introduction of PULSE Release 4.5 & the Criminal Justice Interoperability Pilot Project (CJIPP)" governs the recording of court outcomes on PULSE as outlined hereunder. *"Only Court outcomes for cases heard in the District Court and District Court Appeals will be sent electronically by the Court Service's Criminal Case Tracking System (CCTS) to PULSE. Court Outcomes for Higher Courts will continue to be recorded manually on PULSE by the Prosecuting Member"*.

The manual recording as outlined above should be reviewed by a supervising officer. In the instant case the sentence of 4 years imposed on Martin McDonagh was not recorded in the Court Outcome Section of PULSE but reference was made to the sentence in the "intelligence" section of PULSE.

- 4.44 On the 5th January 2010 - the day that Martin McDonagh appeared at Longford District Court as referred to at 3.1(k) above members of An Garda Síochána attached to Longford Garda Station made enquiries of Castlerea Prison as to whether Martin McDonagh was serving the sentence of four years imposed on the 28th April 2009. They were informed that he was not serving this sentence. As a result Longford Circuit Court office was contacted. Suffice is to say that as a result of the above contacts a warrant referred to as a "duplicate warrant" was issued by the County Registrar in Longford Circuit Court and sent to Castlerea Prison. This was the warrant that had been generated in electronic form prior to 12.04 hours on the 1st May 2009 as referred to at 4.24 above. I am satisfied that this warrant was first printed, sealed and signed by the County Registrar on the 5th January 2010. A copy of this duplicate warrant is on the Circuit Court file.
- 4.45 The Garda position is that none of the members of the Gardaí were aware that Martin McDonagh was not serving the sentence of four years imposed on the 28th April 2009. They state that they only became aware of the fact that Martin McDonagh should have been in prison subsequent to his arrest for an alleged assault on the 31st December 2009.

Chapter 5

2 year sentence imposed on the 22nd April 2009 and subsequent events

- 5.1 Martin McDonagh was sentenced to 2 years imprisonment at Longford Circuit Criminal Court on the 22nd April 2009. This sentence was back dated to the 11th November 2008. 6 months of this sentence was suspended and he was subject to post release supervision. His release date with remission was the 14th December 2009. Martin McDonagh's co-accused JS was also sentenced to a term of imprisonment on the 22nd April 2009. Copies of the committal warrants for both accused are on the Circuit Court File in Longford Circuit Court and the originals are in Castlerea Prison.
- 5.2 On the 25th November 2009 Martin McDonagh's case was discussed at the monthly review meeting in Castlerea Prison. The bodies involved in this review included Castlerea Prison Management, the Irish Prison Service and the Probation Service attached to Castlerea Prison. None of these bodies were aware that Martin McDonagh had been sentenced to 4 years imprisonment to date from the 1st May 2009. Because of certain outstanding issues concerning his post release supervision Martin McDonagh was not certified for temporary release on that date. On the 26th November 2009 the Probation Service confirmed that they were in a position to supervise Martin McDonagh in the community. Accordingly, Martin McDonagh was approved for temporary release subject to such supervision in the community on the 26th November 2009 and was so released on the 27th November 2009. The supervision in the community which was to be a term of the temporary release included, *inter alia*, that Martin McDonagh was to link up with the Probation Service with an appointment to be given by the nominated supervising Probation Officer, Athlone and attend a meeting with the nominated supervising Probation Officer at Longford Courthouse on the 2nd December 2009 at 11 am. These terms were not communicated to, or known by, the community based Probation Officers.

- 5.3 On his release on the 27th November 2009 Martin McDonagh signed the temporary release form which provided *inter alia* that he was to sign on at his local Garda Station each day and that he was to report to the prison (Castlerea) on the 4th December 2009 at 4 pm. Longford Town Garda Station is Martin McDonagh's local Garda Station. The temporary release form did not contain the special condition referred to at 5.2 above, namely, that he link with the Probation Service and attend the meeting at Longford Courthouse on the 2nd December 2009. A copy of the temporary release form is included at **Appendix 4.**
- 5.4 The terms of the temporary release as signed by Martin McDonagh were not communicated to An Garda Síochána in Longford. It is not the official practice of Castlerea Prison to communicate terms of temporary release to An Garda Síochána or any other person or body.
- 5.5 Martin McDonagh failed on the 28th November 2009 and on all subsequent days to sign on at Longford Garda Station. He was therefore in breach of a term of his temporary release. He could have been certified as being unlawfully at large from the 28th November 2009 had the terms of his temporary release being communicated as per 5.4 above. No enquiry was made by the prison authorities in Castlerea Prison as to whether Martin McDonagh was in fact signing on at Longford Garda Station.
- 5.6 Martin McDonagh had no contact with the Probation Service subsequent to his release on temporary release on the 27th November 2009. He did not receive letters specifying appointments from the nominated supervising Probation Officer, Athlone as she was working off an old address for Martin McDonagh. As this condition, namely to have contact with the Probation Service, was not one of the written conditions of the temporary release I do not consider this non contact to have constituted a breach of such temporary release. The senior community based Probation Officer did not report the failure to make contact with Martin McDonagh to Castlerea Prison or to any other body.

- 5.7 Martin McDonagh did not attend the meeting with the nominated supervising Probation Officer at Longford Courthouse on the 2nd December 2009 at 11 am. As this condition was not one of the written conditions of the temporary release I do not consider Martin McDonagh's failure to attend this meeting as a breach of his temporary release. The nominated supervising Probation Officer did not report Martin McDonagh's failure to attend this meeting to Castlerea Prison.
- 5.8 Martin McDonagh did not attend at Castlerea Prison at 4 pm on the 4th December 2009 or on any subsequent day to sign on as he was obliged to do under the terms of his temporary release. This was a breach of his temporary release. The system used in Castlerea Prison is that prisoners who are obliged under the terms of their temporary release to sign on at the prison are signed in as committal prisoners and signed out again almost immediately. This exercise is carried out by the officer on gate duty. When I commenced my investigation there was no dedicated register for prisoners on temporary release in Castlerea Prison. There was no tracking system for such prisoners. There was no dedicated senior officer in Castlerea Prison whose responsibility it was to monitor such prisoners and/or to sign off on such monitoring.
- 5.9 On the 14th December 2009 (being 10 days after he failed to sign on in the prison) Castlerea Prison notified The Sergeant in Charge, Fógra Tora, Garda Headquarters by letter that Martin McDonagh was unlawfully at large from the prison. This letter was signed on behalf of the Governor. A copy of this letter is included at **Appendix 5**. A copy of this letter which was to go to the Superintendent Longford Garda Station was sent by the prison to the Sergeant in Charge of Longford Garda Station on the same date. The letter was received by the Acting Sergeant in Charge of Longford Garda Station on the 17th December 2009. The explanation given by Castlerea Prison for the delay of 10 days is that the next review of prisoners on temporary release did not happen until the 11th December 2009. Since I commenced my investigation Prison management in Castlerea Prison have introduced a new system whereby the identity of prisoners deemed unlawfully at large are recorded on a

daily basis with both Fógra Tora and the relevant Garda Station being informed by post.

- 5.10 The Fógra Tora Section of An Garda Síochána issues four bulletins per month for police use only. I do not intend for security and operational reasons to detail the various types of information disclosed in these publications. Suffice is to say that they *inter alia* detail the names of persons wanted by An Garda Síochána. Between the 11th December 2009 (the date on which Castlerea Prison informed Fógra Tora that Martin McDonagh was unlawfully at large) and the 2nd January 2010 (the date that Martin McDonagh was returned to prison *albeit* on another charge) two issues of Fógra Tora were circulated to members of the Garda Force. Neither of these issues contained any reference to Martin McDonagh. I examined all issues of Fógra Tora for the period 14th January 2009 to the 25th February 2010. There is no reference to any prisoners being unlawfully at large during this period apart from two individuals whom the Gardaí wished to interview in connection with separate offences where reference is made to them being unlawfully at large. I have been informed that, for legal reasons, the information relayed to Fógra Tora that a prisoner is unlawfully at large is filed in that section of An Garda Síochána and is not relayed to any individual member or any particular station. I am aware that there are numbers of prisoners unlawfully at large at any one time. It is reasonable to pose the question - 'what purpose is served by prisons, and in the instant case Castlerea Prison, notifying Fógra Tora that a prisoner is unlawfully at large'.
- 5.11 When I was briefed on the operation of the PULSE system I was informed that a reference is never put on the system to the effect that a prisoner is unlawfully at large. This apparently is because of Data Protection concerns as outlined in the *State (Murphy) v Keilt [1984] IR 458*. I deal more comprehensively with Information Technology issues in Chapter 6.
- 5.12 The letter referred to at 5.9 above was not forwarded to the Superintendent's office in Longford Garda Station.

- 5.13 The letter referred to at 5.9 above was circulated to Units B, C and D in Longford Garda Station on receipt of same on the 17th December 2009. The members of these Units were briefed as to the contents of this letter. Confirmation of this is to be found on acknowledgments signed by each unit member.
- 5.14 The Acting Sergeant in Charge of Longford Garda Station on the 17th December 2009 was also the Unit Sergeant of Unit A. The members of this unit were not briefed on the contents of the letter referred to at 5.9 above until the night of the 26th December 2009 and then only by the placing of a copy of the letter with other correspondence for such members. I am satisfied that the members of Unit A were unaware of the contents of the letter when going on duty on the night of the 26th December 2009.
- 5.15 **Information included here has been redacted as it is information personal to Mr. McDonagh and does not relate to the matters at issue in this Report.**
- 5.16 At 12.45 am on the 27th December 2009 Martin McDonagh was arrested in Longford Town on suspicion of having committed an offence to wit - criminal damage. He was brought to Longford Garda Station and detained by the member in charge. He was detained in the station and ultimately released at 5.40 am on bail to appear at Longford District Court on the 26th January 2010 having been charged with criminal damage. Unit A was on duty on the night/morning of the 26th/27th December 2009.
- 5.17 The actions of the Gardaí as described at 5.16 above led to the creation of an incident on the PULSE system and the preparation of the relevant charge is also documented on PULSE.
- 5.18 Martin McDonagh was ultimately returned to Castlerea Prison on the 2nd January 2010, *albeit*, after having been arrested, charged and remanded in custody as described at 3.1(k) above.

5.19 As far as I can ascertain from my investigation I have concluded that -

- (a) In excess of ten members of varying ranks of the station party in Longford Garda Station for the relevant period knew, or had previous dealings with, Martin McDonagh. The relevant period was prior to the 27th December 2009.

- (b) In excess of twenty five members of varying ranks of the station party in Longford Garda Station knew, or should have known, that Martin McDonagh was unlawfully at large at some time during the relevant period. The relevant period was between the 17th December 2009 and the 1st January 2010 (when Martin McDonagh was arrested as described at 3.1(k)). These members were either briefed as described in paragraph 5.13 or should have briefed themselves having had the relevant briefing material circulated to them as described in paragraph 5.14.

5.20 In view of the matters disclosed in paragraphs 5.12 to 5.14 and 5.16 to 5.19 above I can only conclude that the apprehension of persons unlawfully at large is not given the priority it merits at senior management level. It appears to me that procedures by way of protocols to cover this situation are not robust enough.

Chapter 6

Communications between the Criminal Justice Agencies

- 6.1 For security and operational reasons I do not intend in this report to give precise details of the operation of the various electronic and other systems employed by the various Criminal Justice Agencies. I will make reference to the agencies and the systems they use but only to place in context the recommendations that I make for the more efficient use of the technology employed.
- 6.2 An Garda Síochána operate the PULSE system. This has a capacity to record and store a great variety of information. This system is the primary source of information on suspects for An Garda Síochána. Manual systems back up the electronic system. For the reasons set out at 6.1 above I will not elaborate on the types of information recorded and stored or on the method used for accessing this information.
- 6.3 If an incident occurs such as described at paragraph 5.16 when Martin McDonagh was arrested on the 27th December 2009 an "incident" is created on PULSE and the fact that he was charged appears on PULSE. A person so involved will either be given a PULSE number or will have an existing PULSE number. A person may have a number of PULSE numbers. For the reasons set out at 6.1 above I do not intend spelling out how this occurs. On a periodic basis these numbers are merged.
- 6.4 The PULSE system does not record such details as that a prisoner is unlawfully at large. It does record the fact that a person is wanted on warrant if that be the case. I am informed that the reason that information on prisoners unlawfully at large is not incorporated in PULSE is that there are Data Protection issues involved. Therefore a member of An Garda Síochána accessing PULSE for profile information will not be aware from the system that a person is unlawfully at large.

- 6.5 Information that is entered on the PULSE system is verified in accordance with instructions and protocols that members of An Garda Síochána must adhere to when entering information on the system. I am satisfied that there are sufficient checks and balances in place but again for the reasons set out at 6.1 above I will not expand on my reasons for this belief.
- 6.6 Garda Headquarters Directives such as the Directive referred to at 4.43 and other important information relevant to the day to day Garda operations are posted on the Portal of the Garda Síochána website. This information is in addition to equally important information, which would not be classed as relevant to day to day operations. As the Portal of the Garda Síochána website is not integrated with the PULSE System important information and directives are not readily available to members of the force.
- 6.7 The Irish Prison Service operates an electronic system for the recording of information. The primary source of information in the Irish Prison system is generated manually before being loaded into the electronic System. Again for the reasons set out at 6.1 above I will not elaborate on the information recorded and stored or the method used for accessing this information.
- 6.8 Certain information on prisoners and the status of prisoners is transmitted by the Irish Prison Service to An Garda Síochána on a daily basis in electronic form known as 'The Prisoner Log'. This information is not incorporated into the PULSE System but stands side by side with the PULSE System as an independent source of additional information. Because the systems are not integrated Gardaí wishing to obtain information on the status and history of a suspect would need to perform time consuming secondary checks on this secondary system. This secondary system would not be readily available to all members of An Garda Síochána.
- 6.9 In Chapter 7 of this Report I make recommendations for the integration of electronic recording systems. In reading these recommendations the following must be kept in mind:-

- (a) If systems are integrated protocols must be in place to ensure that information created by different agencies is correct. If robust protocols were not in place this could lead to litigation.
- (b) The agency disseminating information generated by a number of agencies would be legally responsible for the accuracy of such information.
- (c) The success of all systems, be they stand alone systems or integrated systems, relies on the validation of the accurate identification of individuals referred to in such systems. In Ireland there is no unique National Identification Number or other reliable form of identification for all individuals. This is a political issue and is not a matter for me to comment on.

6.10 I have been informed that it would be possible to integrate the 'Prisoner Log' with the PULSE System. By integrating these two systems the 'Person Details Screen' on the PULSE System could, potentially, be extended to indicate whether a suspect was "in custody", "unlawfully at large", "on day release", "attending court while in prison custody", "in hospital while in prison custody" or "on temporary release". This would ensure that PULSE users would have a single point of reference to check the status and history of a suspect without the need to perform secondary checks on separate systems.

6.11. In paragraph 4.41 I have outlined the procedure adopted in the District Court for tracking criminal cases through that Court. This is through the Criminal Case Tracking System which, because it has an interface with the Garda System, means that the result of each case appears on the Pulse System under the heading 'Court Outcome'. This information is readily available to all members of An Garda Síochána. The Criminal Case Tracking System is not operational in the Circuit Criminal Court.

Chapter 7

Recommendations

I stated in paragraph 1.6 that my recommendations will be in two sections - those that should be implemented immediately and those that should lead to enhanced practices. Certain recommendations fall into the two categories. In this connection recommendation B.3 is important.

A- To be implemented immediately

- A.1 Warrants, committal or remand, should be issued by appropriate court offices in all cases.**
- A.2 A register of warrants should be maintained in all Circuit Court Offices which should show *inter alia* the name of the accused, particulars of the case, the time and date of the issue of the warrant and who it was given to (specifying if given by hand or sent by post).**
- A.3 If a warrant referred to at recommendations 1 and 2 above is handed to a prison officer or a member of An Garda Síochána an appropriate receipt for same should be retained by the Circuit Court Office. (It should be a matter between the Courts Service, The Irish Prison Service and An Garda Síochána to agree on appropriate protocols).**
- A.4 If a warrant referred to at recommendations 1 and 2 above is posted to the appropriate prison it should be posted by registered or recorded post. It should be accompanied by a covering letter, a copy of which should be retained on the Court File. The appropriate prison should also be notified in electronic form.**
- A.5 Copies of all warrants referred to at recommendation 1 above should be maintained on the Court File.**

- A.6 **If a 'deferred sentence' is imposed the appropriate Circuit Court Office should notify the appropriate prison of this fact.** (Appropriate protocols should be put in place between the Irish Prison Service and the Courts Service to provide for this. If proper protocols are put in place these should provide the necessary checks and balances to ensure that such sentences do not "slip through the net").
- A.7 **Except in exceptional circumstances prisoners in custody should always be in Court when sentenced.** (The convenience of the accused, the Irish Prison Service, the Gardaí, the Court or any persons appearing in the Court should never be a reason for the non production of such accused for sentencing).
- A.8 **Temporary Release Forms should contain all terms of such release as discussed at a pre release meeting by all relevant agencies in clear and unambiguous terms.**
- A.9 **A copy of all Temporary Release Forms should be sent to all agencies having an interest in the temporary release of a prisoner particularly An Garda Síochána.** (Such notification should be in electronic and hard copy form. Where appropriate notification should be conveyed by telephone. Verification of the transmission of such notification and the receipt of such notification should be maintained).
- A.10 **A Register of prisoners on Temporary Release should be maintained in all relevant Garda Stations. This Register should contain the terms of the temporary release and where appropriate the signature of the relevant prisoner obliged to sign on with the dates and times of such signing.**
- A.11 **If prisoners do not sign on at a nominated Garda Station as required by the terms of the temporary release the appropriate prison should be notified. Appropriate protocols should be put in place to provide for such notification.**

- A.12 **Appropriate protocols should be established by the relevant authorities to ensure that all terms of temporary release are being adhered to in order that the appropriate prison will be aware if any such terms are breached.**
- A.13 **As soon as is practicable after a prisoner has breached a term of his/her temporary release the relevant prison should deem that prisoner as being 'unlawfully at large'**
- A.14 **As soon as a prisoner has been deemed 'unlawfully at large' the Garda Síochána should be notified. In particular the relevant Garda Station should be so notified. Appropriate protocols should be in place to provide for such notification, which should at a minimum, provide that such notification should be in both electronic and hard copy form. The appropriate Garda Station should also be notified by telephone. The protocol should provide for a verification process of such notification. (It is a matter for the authorities to decide if a specific section of An Garda Síochána should be the lead agency to coordinate the notification of prisoners being unlawfully at large)**
- A.15 **All notifications as provided for in Recommendation 14 above should be addressed to the Superintendent of An Garda Síochána for the appropriate Garda District. It should be the responsibility of such Superintendent to ensure that all members in his/her District are aware of the contents of such notification.**
- A.16 **Periodic reviews of prisoners deemed 'unlawfully at large' should take place and should involve *inter alia* the Irish Prison Service and An Garda Síochána.**

B- To lead to enhanced practices

- B.1 When a criminal case is 'adjourned' in the Circuit Criminal Court it should be made clear by the Court as to whether an accused is 'remanded in custody', 'remanded on bail' or that his/her case is simply 'adjourned'. This order should be noted and if appropriate should form part of the transcript. (It should not be left to the Registrar of the Court to interpret the meaning of 'adjourned'. This might be dealt with in the Rules of the Court or by direction of the President of the Court. I have not researched this matter.)**
- B.2 Information relating to important directives to all members of An Garda Síochána which presently appears on the Portal of the Garda Síochána website should be incorporated into a specific section of the PULSE System.**
- B.3 There should be an interface between the Irish Prison Service computer system, particularly the 'Prisoner Log' and the PULSE System operated by An Garda Síochána. Appropriate protocols should be introduced. (My comments at 6.9 may be relevant in this regard).**
- B.4 Relevant information should be shared between appropriate sections of all State agencies.**
- B.5 The 'Personal Details Screen' on the Pulse System should be extended to indicate whether a suspect is "in custody", "unlawfully at large", "on day release", "attending court while in prison custody", "in hospital while in prison custody" or "on temporary release". (If legislation is required to overcome obstacles such as data protection it should be enacted. This recommendation, while under the heading 'to lead to enhanced practices, is important. If the detail envisaged by this recommendation had been available on the PULSE System on the 27th December 2009 it is unlikely that Martin McDonagh would have been released on bail).**

B.6 The Criminal Case Tracking System that operates in the District Court should be rolled out in the Circuit Criminal Court.

Appendices

Where reference is made to Martin McDonagh's co-accused I have redacted their names and substituted initials. Likewise, I have redacted one paragraph from the Affidavit of MO'B as this relates to a matter that is not relevant to this investigation.

Appendix 1 Letter dated 29th April 2009 from County Registrar Tullamore to County Registrar Longford

Appendix 2 Copies of warrants dated 1st May 2009 for FK, PN and MK

Appendix 3 Affidavit of MO'B dated 15th April 2010

Appendix 4 Copy of Temporary Release Form for Martin McDonagh dated 27th November 2009

Appendix 5 Letter from Castlerea Prison dated 14th December 2009 to Fógra Tora certifying that Martin McDonagh was unlawfully at large

Note: On legal advice, a number of items of information, personal to individuals, have been redacted from the Appendices. The information redacted does not materially alter the Report.

COUNTY OF LONGFORD

Return of Prisoner under Rule Order or Sentence at a Circuit Court Sitting held in said County commencing on Tuesday the 21st day of April, 2009

Accused Pulse I.D.: 1010474

Rec. No.: LD0020/08

Date of Conviction: 21st April 2009

Before whom tried: Judge Kennedy

Pleaded: "Guilty".

Name: F [REDACTED] K [REDACTED]

Date of Sentence: 28th April 2009

Where tried: Circuit Court, Longford

CRIME	SENTENCE
<p><u>Count No. 1</u></p> <p>Assault causing harm contrary to section 3(1) of the Non Fatal Offences against the Person Act, 1997.</p>	<p>3 years Detention.</p>

WARRANT

To: The Governor, St. Patrick's Institution, North Circular Road, Dublin 7

Receive into your custody the body of the above-named person convicted at a Circuit Court Sitting held at the Courthouse, Longford in the County of Longford on the 21st day of April 2009 and sentenced on the 28th day of April 2009 at Tullamore Circuit Court before Judge Kennedy and cause said person so convicted to undergo the sentence as set out above.

Dated this 1st day of May 2009.

Time: 12.00 noon

County Registrar for Longford

COUNTY OF LONGFORD

Return of Prisoner under Rule Order or Sentence at a Circuit Court Sitting held in said County commencing on Tuesday the 21st day of April, 2009

Accused Paise I.D.: 1473193

Rec. No.: LD0020/08

Date of Conviction: 3rd February 2009

Before whom tried: Judge Kennedy

Pleaded: "Guilty".

Name: P [REDACTED] N [REDACTED]

Date of Sentence: 28th April 2009

Where tried: Circuit Court, Longford

CRIME	SENTENCE
<u>Count No. 1</u> Assault causing harm contrary to section 3(1) of the Non Fatal Offences against the Person Act, 1997.	2 years Imprisonment.

WARRANT

To: The Governor, Castlereagh Prison, Castlereagh, Co. Roscommon

Receive into your custody the body of the above-named person convicted at a Circuit Court Sitting held at the Courthouse, Longford in the County of Longford on the 3rd day of February 2009 and sentenced on the 28th day of April 2009 at Tullamore Circuit Court before Judge Kennedy and cause said person so convicted to undergo the sentence as set out above.

Dated this 1st day of May 2009.

Time: 12.00 noon

County Registrar for Longford

Return of Prisoner under Rule Order or Sentence at a Circuit Court Sitting held in said County commencing on Tuesday the 21st day of April, 2009

Accused Pulse I.D.: 1701003

Rec. No.: LD0020/08

Date of Conviction: 3rd February 2009

Before whom tried: Judge Kennedy

Pleaded: "Guilty".

Name: M. K.

Date of Sentence: 28th April 2009

Where tried: Circuit Court, Longford

CRIME	SENTENCE
<u>Count No. 1</u> Assault causing harm contrary to section 3(1) of the Non Fatal Offences against the Person Act, 1997.	1 year Imprisonment.

WARRANT

To: The Governor, Castlereagh Prison, Castlereagh, Co. Roscommon

Receive into your custody the body of the above-named person convicted at a Circuit Court Sitting held at the Courthouse, Longford in the County of Longford on the 3rd day of February 2009 and sentenced on the 28th day of April 2009 at Tullamore Circuit Court before Judge Kennedy and cause said person so convicted to undergo the sentence as set out above.

Dated this 1st day of May 2009.

Time: 12.00 noon

County Registrar for Longford

Affidavit of M [REDACTED] O B [REDACTED]


I, M [REDACTED] O B [REDACTED] of The Circuit Court Office, Courthouse, Longford, Co. Longford, Higher Executive Officer, being aged eighteen years and upwards hereby make Oath and say as follows:

1. I make this Affidavit from facts within my own knowledge save where otherwise appears and where so appears I believe the same to be true and accurate.
2. I was the Court Registrar at Longford Circuit Court sitting on the 21st April 2009 (together with the County Registrar), and also the afternoon of the 22nd April 2009, the 23rd April 2009 and on the 24th April 2009.
3. The case of DPP V. F [REDACTED] K [REDACTED] P [REDACTED] N [REDACTED] Martin McDonagh and M [REDACTED] K [REDACTED] File Record No.LD0020/08, commenced hearing on the 23rd April 2009. It was adjourned at approximately 4pm on that date to the 24th April 2009. An application then commenced In Camera in respect of a Family Law matter. When this concluded, I returned to the Circuit Court Office. I did not refuse to furnish a Remand Warrant to Prison Officials at Longford Circuit Court on the 23rd April 2009. To the best of my recollection, no Remand Warrant was sought from Longford Circuit Court Office on that date.
4. The case resumed before the Circuit Court Judge on the 24th April 2009. At the conclusion of the defence submissions, the Circuit Court Judge adjourned the sentencing of the four Defendants to Tullamore Circuit Court on the 28th April 2009 and directed that he did not require any of the Defendants to be present in Tullamore when sentence would be handed down, including Martin McDonagh who was already in custody.
5. When the Circuit Court concluded on the 24th April 2009, I returned to the Circuit Court Office and arranged for the file in this matter to be sent by registered post that evening to Tullamore Circuit Court Office. I also telephoned them to alert them to this.
6. I note from an examination of the file that it was received back from Tullamore Circuit Court Office on the 30th April 2009. I say and believe that four Warrants were prepared and left with the Circuit Court file on the County Registrar's desk for approval and signature at approximately 10.30 a.m. on the 1st May 2009. I knew that the Circuit Court Judge had directed that the four warrants were not to issue before 12 noon on that day. I placed a Yellow "Post-It" Note on the outside of the file for the County Registrar's attention stating "Warrants to issue at 12 noon".

- 7. I recall querying other staff members in the office in the course of the morning of the 1st May 2009 if the Warrants had been signed. When the Warrants had been signed by the County Registrar I and another staff member would have sealed the Warrants and photocopied them. [REDACTED] Three warrants - those for F [REDACTED] K [REDACTED], P [REDACTED] N [REDACTED] and M [REDACTED] K [REDACTED] were placed in an envelope addressed to Longford Garda Superintendent and I arranged for the delivery of this envelope to Longford Garda Station.
- 8. The Warrant for Martin McDonagh would have been placed in an envelope addressed to The Governor, Castlerea Prison as I was aware that Martin McDonagh was already in custody, having received a custodial sentence on the 22nd April 2009 at Longford Circuit Court.
- 9. I have no reason to believe that the envelope containing the Warrant for Martin McDonagh was not posted.

[REDACTED]

Sworn by the said M [REDACTED] O'B [REDACTED]
 At Longford in the County of
 Longford this 25th day of APRIL
 2010 before me a Commissioner for
 Oaths/~~practising solicitor~~ and I know the
 Deponent.


 Commissioner for Oaths/
 Practising Solicitor.

CRIMINAL JUSTICE ACT, 1960

TEMPORARY RELEASE NOTICE

Temporary Release From: Castlereagh Prison

This notice is to inform you that you, prisoner number 40168, Martin Mc Donagh, of [REDACTED] are being released from Castlereagh Prison for the period from 10.00 on 27-NOV-2009 to 16.00 on 04-DEC-2009 for the purpose of

To link up with Probation Service, as per appointment provided.
Reside with family.

TR Type: Pre-Release/Resocialisation WRTR

and that your release is subject to the following conditions, with which you are obliged to comply during the period of your release:

- 1 Shall reside at the address above
- 2 Shall not enter a pub, club or other licensed premises or off-licence premises
- 3 Shall be of sober habits
- 4 Keep the Peace
- 5 Do not convey messages in/out of Prison
- 6 Be of Good Behaviour
- 7 Report to Prison on 04-DEC-2009 at 16.00
- 8 Report daily to Longford Garda Station

Local E.S.

Signature 
Governor / Officer for the time being in charge of Castlereagh Prison

Date: 27-11-09

Note: Failure to return on or before the expiration of the period of temporary release or breach of any of the conditions attached to the period of temporary release is an offence under section 6 of the Criminal Justice Act, 1960 and punishable on conviction by imprisonment for a term not exceeding six months.

I hereby acknowledge that I am aware of the terms and conditions of my temporary release stated above which have been explained to me and of the time when my period of release expires. I also acknowledge that the grant of this period of temporary release shall not confer an entitlement on me to grant of further such releases. I have been given a copy of this notice.

Signature or mark: 
Person being released

Date: 27-11-09

Signature of Witness: _____

Date: 27-11-09

Tel: (0907) 21227
(0907) 25219
Fax: (0907) 25221



Governor's Office,
Castlereagh Prison,
Harristown,
CASTLEREA,
Co. Roscommon.

Date : 14-12-09

The Sergeant in Charge
Fogra Tora Section
Technical Bureau
Garda Síochána Headquarters
Phoenix Park
Dublin 7

Re: Martin Mc Donagh Date of Birth : [REDACTED]

Address : [REDACTED]

I am to inform you that the above named inmate failed to return from temporary release on 14-12-09 and is currently unlawfully at large from this prison.

Sentence : 18 months

Offence : Assault Causing Harm

Imposed at : Longford Circuit Court

Sentence took effect from : 22-4-09

COPY

As the above named is unlawfully at large he can be arrested without a warrant and lodged in Castlereagh Prison (Section 7, Criminal Justice Act, 1960).

Copy to /

The Superintendent, Longford Garda Station.

[Signature]

Governor