

Behind 'The Last Door': Prison Managers' Experiences of Accountability and Oversight

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Declaration

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Summary

Prison is a social institution that is often, and sometimes deliberately, obfuscated from public consciousness. It is commonly said that the walls of the prison function to keep the public out as much as to keep prisoners in. The experience of imprisonment is intrinsically disempowering; prisoners are deprived of their right to liberty and the deprivations and pervasive control of the prison environment means that further rights of the individual may be infringed upon. Through opening the prison up to scrutiny by external bodies, prison oversight presents an opportunity to shed light on prison conditions, the regime, and the treatment of people in custody. It is purported to offer a means for the prison system to operate with greater transparency and accountability of its conduct. In this way, the human rights and welfare of people in prison are proposed to be protected. Although, this proposition is not without its criticisms.

In recent years, oversight commitments for the Irish prison system have noticeably expanded, particularly with respect to human rights-based forms of oversight. However, there has been little empirical investigation of how these growing commitments have been experienced on the ground or what they mean for the prison administration. At the centre of this research is an exploration of how prison managers respond to these burgeoning obligations of oversight. This research captures the accountability culture of the Irish Prison Service, identifying what accountability – the obligation to explain one’s conduct with respect to shared standards and expectations – means and how it is understood by prison managers in this changing environment. It examines how the unique work setting of prison, in addition to the broader organisational culture, can shape managers’ views on accountability and how accountability is enacted. In particular, this research focuses on three specific human rights-informed mechanisms of oversight – the prisoner complaints system, the Office of the Inspector of Prisons (OIP), and the Committee for the Prevention of Torture (CPT). This research explores prison managers’ attitudes towards these three mechanisms and how they view their role in providing prison oversight. Additionally, it investigates prison managers’ accounts of their experiences with these three mechanisms in situ, exploring the strategies of engagement they assume when interacting with each.

This research is underpinned by literature from the fields of prison staff culture and prison oversight; this body of work contextually informs the perspective of prison management on oversight and accountability, as well as providing an understanding of the work that is the subject of scrutiny. In addition to this, this study draws upon the literatures of accountability and regulation to establish a theoretical understanding of how individuals engage and are motivated to engage with oversight. In this respect, two rather disparate areas of research are connected to address the phenomena of interest. These literatures are summarised in Chapters 2, 3, and 4.

In terms of its epistemology, this study is grounded in a social constructionist perspective; it places participants' experiences and constructions of the social phenomena of accountability and oversight at the heart of its investigation. Through a mixed methods research design, it investigates prison managers' interpretations of accountability and their experiences with the prisoner complaints system, the OIP, and the CPT, through a combination of interviews and surveys. This methodology is set out in Chapter 5, which also addresses some of the limitations and challenges of conducting this research.

The results of this study are presented in Chapters 6, 7, and 8. Chapter 6 provides a thick inductive description of the accountability culture of the Irish Prison Service, drawn from the perspective of prison managers. This description captures the distinctive considerations of prison as a setting for accountability work, the growing demand for accountability and oversight, as well as the personal and affective dimension of prison managers' accountability obligations. Following this, Chapter 7 examines prison managers' attitudes towards the prisoner complaints system. It discusses the diverse interpretations of complaint among prison staff – complaints that have constructive potentials as well as those that are viewed as a threat to the legitimacy of the prison and its staff. It establishes a typology of response strategies used in the prison environment for 'managing' such complaints. Next, Chapter 8 examines prison managers' attitudes towards the inspection and monitoring processes of the OIP and the CPT, respectively. It highlights important concerns raised by staff about the conduct of these processes. It also describes prison managers' experiences of engaging with these bodies, and the motivational postures they assume during these interactions.

Finally, Chapter 9 summarises the key findings and presents the conclusions and implications of this research. This chapter notes the appreciable limitations of oversight, recognising that oversight cannot be considered a panacea for major prison issues. Nevertheless, it concludes that prison managers play an influential role with respect to accountability and oversight, while acknowledging the variety of modes of response they assume towards oversight in the form of complaints, inspection, and monitoring prompts. This chapter reflects on the challenges and conflicts of oversight and accountability for the Irish Prison Service, noting the cultural 'work' that needs to be undertaken in order to support staff to fulfil these growing obligations. Within this chapter specific recommendations are posed for ways in which prison oversight could be improved upon. In addition to this, suggestions for future research are proposed.

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Abstract

Prison oversight is regarded by penology scholars as an essential means by which human rights and humane conditions in prison are upheld. However, despite significant growth in the number of oversight bodies in Ireland, significant issues regarding prison conditions and the treatment of people in prison still persist. In understanding prison oversight, prison managers present a key cohort for study; they are an essential conduit by which the human rights principles espoused by these mechanisms are translated to the prison environment. Drawing on the regulation and accountability literature as a theoretical framework, this research offers insight as to why engagement and compliance can vary. At the centre of this study is an empirical exploration of the accountability culture within the Irish Prison Service as well as prison managers' experiences with three human rights-led oversight mechanisms – the Office of the Inspector of Prisons (OIP), the Committee for the Prevention of Torture (CPT), and the prisoner complaints system. Interviews ($n = 35$) and surveys ($n = 369$) were used to explore prison managers' experiences of accountability and their attitudes towards these three mechanisms. The analysis provides insight into what it is like to experience accountability as a senior member of the Irish Prison Service and how perceptions of accountability are shaped by prison as a work environment. The findings reveal complex, variegated and highly individualised attitudes towards mechanisms of oversight, with varying degrees of motivation to engage. The implications of this research are explored with respect to understandings of the wider prison culture and understandings of human rights-based prison oversight. Recommendations are posed for improvements to the oversight and future avenues for research in this area are identified.

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Chapter 1: Introduction

1.1 Prison Oversight, Human Rights & Accountability

Prisons are places of detention in which people in custody are deprived of their liberty. Prisons can be understood as 'total institutions', an environment in which individuals are cut off from wider society and are tightly managed for a protracted period of time within a highly regulated and controlled space (Goffman, 1968). In being deprived of their liberty, prisoners are hugely dependent on prison staff (Mathiesen, 1965). The totality of the prison environment and the extent of its control inflicts the 'pains of imprisonment' (Haggerty & Bucerius, 2020; Sykes, 1958), in addition to undermining the autonomy and identity of the individual in custody (Goffman, 1968). As such, there is an innate power imbalance between prison staff and those in custody (Sykes, 1958). Furthermore, because prisons operate behind closed doors, there is the potential for this power to be abused.

While imprisoned, people in custody retain, and are entitled to, their fundamental rights (van Zyl Smit & Snacken, 2009). It is incumbent upon the state to provide safe custody of its prisoners and to ensure that people's rights are protected while imprisoned (European Prison Rules, 2020; Mandela Rules, 2015; Prison Rules, 2007). However, the nature of the prison environment can often infringe upon an individual's rights, for example: the right to freedom from torture and inhuman or degrading treatment, the right to private and family life, the right to freedom of assembly and association, the right to education, and the right to health care, among many others (European Convention on Human Rights, 1950). The possibility that these rights may be undermined or eroded accentuates the need for additional safeguards to be implemented in order to ensure that the rights of people in custody are respected and upheld (van Zyl Smit, 2007; 2010). It is proposed that prison oversight offers one means to attain this form of protection (Deitch, 2021).

Prison oversight is a process by which institutional transparency and accountability can be achieved (Deitch, 2010; 2012; 2021). Until approximately thirty years ago, oversight was demonstrably lacking for Irish prisons; the rise in oversight commitments can be attributed to two key factors. First, the ethos of new public management for the governance of public bodies became popularised in the late 1980s. New public management emphasised the standardisation of practice, greater centralised control, and the delivery of effective, economic, and efficient public services. This practice imposed an expectation of compliance, transparency, and accountability from public sector bodies (Hood, 1995; Power, 1994). This, in turn, has led to an increasing application of audit, regulation, and oversight processes to ensure that organisations are run appropriately and meeting expected standards. The principles of new public management have been embedded in the Irish prison system – although arguably not to the same extent as to what has been observed in the UK and Europe (see Chapter 2, Section, 2.2.2.3).

Secondly, there has been a growth in oversight activity for prisons and places of detention that has been informed by the principles of human rights. Contemporaneously, this period also saw the introduction of several key instruments including the International Covenant on Civil and Political Rights (ICCPR, 1976), the European Convention for the Prevention of Torture (ECPT, 1987), the United Nations' Convention Against Torture (UNCAT, 1987) which provide important protections for people in custody. To date, each of these has been ratified by Ireland, meaning that the state is legally obligated to observe their provisions in relation to the treatment of people in prison (Hamilton & Kilkelly, 2008). Furthermore, the introduction of the European Prison Rules (EPR) in 1987 has also been vital for introducing basic standards across European prisons. Along with the Mandela Rules (2015), the EPR have highlighted the importance of oversight at the domestic level by obliging states to establish independent national prison inspection bodies as well as formalised complaints mechanisms within prisons (European Prison Rules, 2020; Mandela Rules, 2015). As such, these mechanisms introduce a preventive form of human rights protection (van Zyl Smit, 2010).

Prisons are environments of punishment obfuscated from public view (Padfield, 2018). Prison oversight can be viewed as enhancing what Ellis (2021) terms the 'porosity' of the prison, the "*pre-defined openings in the structure of the prison institution through which influences may permeate*" (p.176). The presence of oversight bodies and their ability to enter, monitor, and report on aspects of prison life punctures the prison boundary (Armstrong, 2014; Deitch, 2021). Additionally, oversight is a means to ensure that minimum standards and entitlements are provided to people in custody. Nevertheless, scholars have also noted that there are appreciable limits to the extent to which human rights-led oversight can influence prison administration and prison policy. For example, Armstrong (2018) contends that prison administrations can use human rights principles to determine and satisfy the *minimum* standards for prison conditions. As such, human rights can be reduced to technical requirements and conditions to fulfil, as opposed to essential principles of dignity and integrity for people in custody.

Furthermore, despite the presence of human rights instruments and prison oversight, violations of rights continue to be observed in prison (Liebling, 2011). One reason for this is the variation in compliance and engagement with oversight. For example, past research has demonstrated that, at a state level, countries can respond differently to recommendations made by prison oversight bodies; they may fully commit to action and improvement, minimise the issues raised, eschew responsibility, or ignore the call to action (Daems, 2017; Koskeniemi & Lappi-Seppälä, 2018). It would be sensible to anticipate that one might also observe a variety of response strategies at the individual level among prison management towards oversight. Indeed, theoretical models from the field of regulation and accountability would provide support for this claim (Braithwaite, 1995; 2003; 2017; Hall et al., 2017).

Evidently, prisons systems in both Ireland and in Europe are facing greater duties towards oversight bodies than ever before. The growing level of scrutiny placed on the Irish Prison Service (IPS) will be

charted in Chapter 4. Added to this is Ireland's recent commitment to ratify the United Nations' Optional Protocol to the Convention Against Torture, thereby further expanding its national and international commitments to human rights-led prison oversight (Department of the Taoiseach, 2020). As a consequence of these developments, accountability obligations play an increasing role in the work of prison staff. Yet, it is a facet of prison work that penology scholars have given relatively little attention. Where research has been undertaken, studies have tended to focus on accountability obligations as experienced through a managerialist lens (see for example: Bennett, 2014; 2016; Cheliotis, 2006; 2008), as opposed to obligations towards external oversight bodies or human rights-led mechanisms. Therefore, the impetus for this research is to explore senior staff's accountability as it relates to their engagement with three oversight mechanisms in particular: the prisoner complaints mechanism, the Office of the Inspector of Prisons (OIP), and the Council of Europe's Committee for the Prevention of Torture (CPT). These three mechanisms are informed by the principles of human rights (Bicknell, Evans, & Morgan, 2018; van Zyl Smit, 2010; van Zyl Smit & Snacken, 2009), and are commonly encountered by prison management.

While the mandates for these three oversight mechanisms are clearly delineated through official remits and policy documents (ECPT, 1987; IPS, 2014; OIP, 2020a; 2020b), little is known as to how these oversight mechanisms are borne out in practice. Explicitly, it remains unclear what it is like to adjudicate on a complaint made by a prisoner or what it is like to undergo an inspection or monitoring visit by an external body. Essentially, there is a lack of knowledge as to how one enacts these accountability obligations in situ. Furthermore, it is not well understood how prison staff regard oversight or how they view its function in connection with prison work and their daily responsibilities. The exploration of these questions are at the centre of this research study.

Importantly, experiences of accountability and oversight are embedded within a sociocultural context. In order to comprehend how these forms of accountability are lived and experienced, it is essential that the culture of the prison as a work environment is also understood. Previous scholarship on prison staff has demonstrated that it is a line of work with a strong occupational culture, one in which its members are highly coalesced and demonstrate strong entitativity (Arnold, 2005; 2016; Crawley, 2006; Garrihy, 2020; Morrison & Maycock, 2021). Prison staff regard their work as something that is simultaneously poorly understood and underappreciated by those outside the prison walls (Crawley & Crawley, 2008). This perception can bolster feelings of in-group solidarity, but it also has consequences for out-groups who pass judgement on prison staff and their work. This attitude can serve to deflect scrutiny, the introduction of policy change, or calls for reform in that external actors are perceived as naïve and ignorant of the realities of prison work (Garrihy, 2020).

Accordingly, this study will explore the role of organisational culture and its influence with respect to staff's perceptions of accountability and engagement with oversight mechanisms. Past studies, as cited, indicate that prison staff culture is resistant to influences imposed from without. Similarly, Deitch

(2021) has proposed that prison staff – and prison management in particular – will be resistant to external oversight as it is regarded as a threat to their authority. While there has been consistent empirical evidence of strong in-group solidarity among prison staff (Arnold, 2005; Crawley, 2006), to date, there is little empirical evidence that would support Deitch's (2021) claim. This study will examine the interaction between prison staff culture and interpretations of accountability. It will explore how facets of prison as a working environment – a place of marked power asymmetries, work that centres on vulnerable people, an occasionally volatile work environment, and the use of modern public sector managerial tools – affect how accountability obligations are lived and experienced among prison staff.

In particular, this research will concentrate on the perspective of prison management. Prison managers are a central conduit for penal oversight in that they sit at the confluence of the governance of the prison and the receipt of the regulatory feedback and critique that oversight provides. For example, they are responsible for overseeing and adjudicating on matters of prisoner complaint (IPS, 2014); during prison inspection and monitoring visits they are the essential representatives of the prison under scrutiny (see Bennett, 2014; Coyle, 2010; Stojkovic, 2010). In either case, prison management are the individuals responsible for translating and implementing the outputs of oversight into practice within the prison. As such, it is important to understand *how* they interpret their accountability obligations and perceive these mechanisms of oversight. If oversight is viewed with apathy or indifference by prison staff then it can undermine its impact on the prison environment. If, however, oversight is viewed positively, then it is more likely that oversight will lead to effective change (Ayers & Braithwaite, 1995; Braithwaite, 2003; 2017).

Finally, the Irish prison system presents an appealing setting for this study. The influence of new public management and its emphasis on accountability and regulation, though pervasive in many European countries, is not as firmly embedded in the Irish prison system (Chapter 2, Section 2.2.2.3; see also Bennett, 2016; Cheliotis, 2006). The emphasis on measuring performance, internal audit, and performance targets is not as pronounced. As such, the concept of accountability in this context has not been dominated by the new public management perspective, its tools, and discourse. Research in this area can be contrasted with previous studies of prison administration in which new public management is more prevalent (see Bennett, 2016; Cheliotis, 2006; 2008; Crewe & Liebling, 2015; Dubois, 2018; Kennes & van de Voorde, 2015).

Furthermore, Ireland is not particularly litigious. This marks another departure from previous studies in this domain. In the US, by comparison, the courts are almost singularly responsible for delivering prison oversight (Armstrong, 2014; Deitch, 2010; 2012; 2021). A study on prisoner complaints conducted by Calavita and Jenness (2015) describes prison as a hyper-legal landscape in which prisoners are highly attuned to their entitlements and deploy legal terminology and policy to self-advocate. This description, however, does not resonate with the Irish context. This is not to imply that people held in Irish prisons place confidence in alternative mechanisms of prison oversight. Indeed, as will be described in Chapter 4, Ireland has been rather languid in its initiative to legislate for and

implement oversight mechanisms and the mechanisms themselves are not without issue. Nonetheless, Ireland poses an interesting context for oversight in that it is a setting in which the prevailing discourses observed in previous studies of penal oversight are not particularly dominant.

1.1.1 Research Focus & Justification

The justification for this research is threefold. Firstly, there is a significant gap in understanding how human rights-based oversight is experienced by prison staff, and in particular by prison management. This gap is notably salient when one considers the growing nature of accountability obligations towards mechanisms of prison oversight. These obligations now form a significant component of prison work that is, as yet, underexamined by empirical research. By exploring what it is like for prison managers to adjudicate on and respond to prisoners complaints, and what it is like to be the subject of a prison inspection or prison visit, this research will examine how these obligations are enacted and fulfilled in context.

Secondly, this research recognises that interpretations of accountability and oversight are necessarily embedded within the idiosyncrasies of the IPS's organisational culture. An understanding of what it is like to be accountable in this work environment cannot be divorced from the cultural nuance of this particular context. Owing to this, this research endeavours to explore what how interpretations of personal accountability and accountability obligations are shaped by this distinctive work environment. As such, this research makes an important contribution to literature on prison staff culture. Moreover, it emphasises the perspective and experiences of prison managers which – as will be discussed in Chapter 2 – is very often neglected within the literature.

Thirdly, as noted above, scholars have commented on the rather mixed reception that human rights and prison oversight receives. A key objective of this research is to investigate the response strategies of prison management towards oversight mechanisms in order to offer an explanation for this disparity at the individual level. All oversight necessarily involves a process of handover to those who are being overseen. By examining senior prison staff's perspectives, this research aims to further our understanding of the work of oversight bodies and to 'close the loop' through an exploration of where staff pick up where oversight bodies leave off. The pursuit of these questions cannot be understood through appeal to the penology literature alone. For this reason, this research will innovatively bring together literature on prison staff culture with existing theory and empirical literature on oversight, accountability, and regulation. In doing so, it contextualises the process of engaging with oversight with due consideration of the rather singular context of the prison.

1.2 Research Objectives & Design

The principal objectives of this research, outlined above, are to examine experiences of accountability and oversight among senior prison staff in the IPS. Accordingly, this research endeavours to establish a

description of the accountability culture within IPS, and provide an account of prison managers' experiences with the prisoner complaints system, the OIP, and the CPT. Specifically, this study will address the following questions:

1. How are accountability obligations understood in, and shaped by, the prison context?
2. What are prison managers' attitudes towards inspection, monitoring, and prisoner complaints?
3. What strategies do prison managers assume when responding to and engaging with these forms of oversight?

As mentioned, accountability obligations among prison management towards mechanisms of oversight is an area of prison culture that is relatively understudied. Because so much remains unknown, this research is inevitably exploratory in nature. This research assumes a social constructionist epistemological stance to explore the phenomena of interest in a manner that is grounded in the perspective of the research participants and the meanings that they establish within their own sociocultural environment (Burr, 2015).

This study utilises a mixed methods design, which entailed a combination of interviews and surveys. In-depth semi-structured interviews were used to explore prison managers' experiences of accountability and oversight. In combination, a survey was issued to both frontline staff and prison managers, which allowed for an examination of the experiences of managers in comparison to that of frontline staff. Overall, 35 participants took part in the interviews and 369 staff members responded to the survey. The research design is further detailed in Chapter 5.

1.3 Structure of the Thesis

This section summarises the structure presented in this thesis. Chapters 2, 3, and 4 establish the theoretical and empirical foundations for this research. Chapter 2 explores prison as a work environment and the key responsibilities of frontline and managerial staff. It draws upon existing literature on prison staff culture, focusing on the intractability of the culture and its resistance to external forces. Chapter 3 introduces key concepts of regulation and accountability that will provide the theoretical framework for understanding oversight in the prison context. This chapter discusses the need for oversight in the prison context, and more specifically oversight grounded in the perspective of human rights. Additionally, it details the three mechanisms at the centre of this study – the prisoner complaints system, the OIP, and the CPT. Chapter 4 details an historical sociology of the Irish prison system emphasising key political and policy developments regarding oversight and accountability. It provides important contextualisation for understanding prison oversight in the present.

Chapter 5 establishes the design and methodology for this research. This chapter outlines the study's social constructivist epistemology and its mixed methods framework for data collection. It details the design and construction of the interview and survey instruments, as well as the data collection procedures. Finally, this chapter reviews the practical design considerations for undertaking this study, ethical considerations, in addition to limitations of the study's design.

The key findings of this research are detailed in Chapters 6, 7 and 8. These findings are integrated and contrasted with the extant literature. Chapter 6 concentrates on the accountability culture of the IPS, providing a thick description of accountability within this unique setting elicited from practitioners' accounts. It explores staff's interpretations of the responsibility of accountability, and what it means to be accountable in the prison context. Chapter 7 describes prison managers' experiences with complaints made by people in custody. It describes their perceptions of complaints and the variety of strategies used by staff to 'manage' complaints. Chapter 8 explores prison managers' experiences of prison inspection and monitoring. It describes staff's attitudes, interactions, and motivations which underpin their engagement with both the OIP and the CPT.

Finally, Chapter 9 consolidates these three chapters to provide a discussion of the experience of oversight from the perspective of management, concentrating on the impact of prison culture, and the effectiveness of these processes. It evaluates the implications of this research and provides recommendations for the instantiation of prison oversight in this context.

Chapter 2: Prison Work & Prison Staff Culture

2.1 Introduction

This chapter provides a critical overview of the literature on prison staff culture, describing what it is like to work in an environment overtly characterised by power and punishment. Section 2.2 will introduce the concept of organisational culture, drawing on the work of Schein (2010). It will discuss the process of enculturation through which staff become immersed in this culture, adopting its values and assumptions. As the vast majority of prison staff – including management – begin their careers as prison officers, Section 2.2.1 will provide a description of prison work and culture from a frontline staff perspective. This section will concentrate on relationships with prisoners, power dynamics, discretion, and emotional labour. Following this, Section 2.2.2 will concentrate on prison culture from the perspective of prison management. It will discuss the work and remit of prison managers, the impact of managerialist practices, and the use of discretion.

Section 2.3 will introduce the interaction between prison staff culture and the scrutiny that is applied through external oversight. This section emphasises the wariness and apprehension of prison staff and prison administration with respect to their interactions with oversight bodies. This is an emerging area of research and as such, this section identifies key gaps and important areas for examination. The topic of prison oversight will be further expanded upon in Chapter 3.

Importantly, previous scholars have noted that there is a paucity of literature on the Irish prison system (Barry, 2017b; Garrihy, 2020). Owing to the lack of existing literature on the Irish context, this review draws upon empirical research on prison staff culture from abroad, particularly from the UK. This highlights a valuable contribution of this research in that it will provide important insight into Irish prison culture. This chapter has two key objectives: firstly, to provide an understanding of the work and working environment placed under scrutiny by the web of accountability (Chapter 3), secondly, to provide a strong basis for understanding the culture in which accountability is experienced by prison staff (Chapter 6).

2.2 Organisational Culture

The concept of culture is notoriously difficult to define (Goldstein, 1957). In organisational research, culture is regarded as “*a set of shared mental assumptions that guide interpretation and action in organisations by defining appropriate behaviour for various situations*” (Ravisi & Schulz, 2006, p.437). Culture is a persuasive and influential factor that often operates outside of its members’ conscious awareness. In all organisations there are values and norms present that shape and define the organisation and its members. In understanding organisational culture, behaviours that may initially

appear irrational to those external to the organisation can be comprehended and rationalised (Schein, 2010). Studying organisational culture is, therefore, a means to understand occupational life; but, it also provides the opportunity to understand how organisational goals are interpreted and met, to identify positive and problematic aspects of the work environment, and to determine how organisational change can be effectively implemented (Sinclair, 1993). It is for these reasons that the culture of prison staff and the Irish Prison Service (IPS) will be examined within this research; explicitly, to inform an exploration into the assumptions that underpin interpretations of accountability and interactions with oversight mechanisms.

Prison as a working environment is recognised as having a strong occupational culture (Crawley, 2006; Garrihy, 2020; Morrison & Maycock, 2021). It is one that is both powerful and persuasive. Crawley and Crawley (2008) note that the pressure for staff to conform in the prison setting is quite compelling. Understanding this impetus to conform requires understanding prison culture itself. Jex and Britt (2008) propose that organisational culture holds two major functions, these are internal integration and external adaptation. Internal integration refers to the social cohesion of group members within the organisation. This benefit is self-reinforcing in that it allows individuals to recognise and identify themselves as part of the group, and this in turn allows the group to endure. In the context of the prison environment, there is a deep recognition by staff of their occupation as an important component of their personal identity. In addition to this, the culture among prison staff is described as very being a very close-knit and integrated work environment (Bennett, 2016).

The second function, external adaptation, is a concept rooted in cultural anthropology. It proposes that organisational behaviours and beliefs have persisted because they have demonstrably proven to provide group members with the adaptations that equip them to meet the challenges of their environment. Organisational cultures stem from these beliefs and values and are maintained because they allow the group and its members to survive and flourish (Jex & Britt, 2008). In essence, culture persists because it 'works' for the majority of its members. Importantly, these cultural adaptations may not be regarded as conventionally positive qualities; for example, stoicism or aggression may be viewed as an asset in some organisational cultures and as a liability in others. As an example, dark humour, which could be viewed as inappropriate in some settings, is valued among prison staff for relieving tension and providing a coping mechanism (Barry, 2019; Nielsen, 2011).

Crawley and Crawley (2008) describe how the persona of the prison officer is cultivated gradually over time. During initial training, prison officers have their first experiences of enculturation into the ways of prison life (Morrison & Maycock, 2021). Enculturation is a process of socialisation by which an individual is exposed to, learns, and enacts the patterns and behaviours of a particular culture to the extent that it becomes normalised and ingrained at the individual level (Landy & Conte, 2012). A recent paper by Morrison and Maycock (2021) traced the enculturation process of recruit prison officers in the Scottish Prison Service. Focus groups with recruits before training began revealed a number of

preconceptions among recruits about prison work and the role of the officer. The recruits' training focused on security work as well as rehabilitative and reintegration work. However, the latter was less easily adopted by recruits who, at times, could be unsympathetic to people in custody or were unconvinced in the ability of prison work to serve a rehabilitative function.

The second phase of enculturation occurs when new recruits are immersed in the working environment. Often this experience entails tests and revisions to one's personal concept of what a prison officer should be (Crawley & Crawley, 2008). Morrison and Maycock (2021) describe how recruits' preconceptions of the role were challenged upon entering the prison. What was assumed to be a threatening and hostile environment was found to be surprisingly calm; although, recruits' concerns for their safety still abounded. The authors also noted that, as a recruit, it could be particularly challenging bringing optimism and new training values into contact with long-serving staff members. Morrison and Maycock (2021) note that recruits were quickly confronted with cynicism and negative articulations about the job from existing staff that were difficult to resist or push back against. The intractability of staff culture to perceived outsiders will be further explored in Section 2.3 which discusses the external scrutiny of prisons.

Crawley and Crawley (2008) note that it is difficult to carry out the work of a prison officer without *"reflecting on, and subscribing to, an extremely powerful (and sometimes disagreeable) set of customs, values, and norms"* (p.146). Transgressing cultural norms can lead staff to be viewed as being too 'soft' or not doing 'proper' prison work (Crawley, 2004). Scott (2012) proposes that the adoption of a 'working personality' results from sharing experiences, training, and a working environment with colleagues. These close interactions serve to produce common mind-sets for viewing the world of prison work and interpreting the behaviour of those within that sphere. This working personality resides within a broader occupational culture, but it establishes a shared understanding of what prison work is, how it operates, and the behaviours that are deemed acceptable or unacceptable within that culture.

In his ethnographic research with Irish prison staff, Garrihy (2020) describes that working long hours in an intense environment in which there is a real threat of danger functions to bolster in-group solidarity among prison staff. This is supported by research conducted by Arnold (2005) which also recognises strong camaraderie and solidarity among prison staff as a marked feature of the occupational culture. At the same time, there are strong expectations and social pressures that induce conformity. For example, Garrihy (2020) notes how non-conformists can be ostracised, met with the silent treatment, or not facilitated when it comes to swapping shifts or tasks. As a work environment, bullying is not uncommon among staff (Brewer & Whiteside, 2012).

Critically, culture is not consistent or homogenous across any organisation. Organisations are home to pockets of different subcultures. Subcultures are clusters of group members that regard themselves as a distinct group within the organisation. Their distinction may be founded on the basis of: holding a similar position in the organisational hierarchy; by virtue of the boundaries of their department or division; because of shared local culture and geography; through facing the same occupational issues; or because members share a similar professional background (Janson, 1994). Some organisational theorists propose that subcultures are the critical proponents and propagators for organisational culture (Sinclair, 1993). Within the literature, it is recognised that each prison has its own distinct culture (Crewe, 2007a; Crewe, Liebling & Hulley, 2011). Furthermore, empirical and ethnographic research has pointed to distinct subcultures of frontline staff, management, and central administration (Arnold et al., 2007; Bennett, 2016; Garrihy, 2020; Office of the Inspector of Prisons, 2015), groups which can be distinguished on the basis of hierarchy, occupational issues, and division of labour.

In 2015, a report into the culture of the Irish Prison Service (IPS) was undertaken by the Office of the Inspector of Prisons (OIP) and supported by former UK prison governor and prison researcher, Andrew Coyle. The report was compiled through prison visits and informal interviews with IPS staff. Given the paucity of research on Irish prisons, it is a key source for understanding Irish prison culture. Importantly, the outset of the report recognised that the IPS is a young organisation, and that there is something of a challenge in establishing an organisation-wide culture among prisons that had previously operated under almost independent leadership (OIP, 2015; see also Chapter 4). The findings of the report revealed that prison culture can vary dramatically from prison to prison, though little is offered by way of explaining how this variance is borne out or whether it proves problematic. In addition, and perhaps of greater concern, sharp organisational divisions were reported between frontline staff and management, and between management and IPS headquarters (OIP, 2015).

Organisational culture can be examined in many different ways. One approach is through the use of self-report measures, such as surveys, which can be administered to all levels of organisation. The responses of individual members are collated to generate an aggregated depiction of the of the organisation and its culture. This approach is a means to capturing organisational culture in a standardised and efficient way (Jex & Britt, 2008). However, Schein (1993) argues that this approach only addresses staff's conscious values and beliefs about the organisation; the basic underlying assumptions of the organisation's culture which are very often implicit or taken for granted, are not queried or probed. Additionally, these measures presuppose the aspects of culture that are important to the organisation and its functioning. In contrast, the use of ethnographic and qualitative methods permits access to the basic assumptions of the culture that cannot be addressed through explicit self-reporting (Jex & Britt, 2008). Within the present study, a combination of quantitative and qualitative methods will be used to explore the culture of accountability within the IPS (see Chapter 5).

Often there is a conflation between what a culture actually is and what a culture should endeavour to be. This implies a degree of rightness or wrongness about culture or aspects of culture. The extent to which culture is good, bad, effective, or ineffective, intrinsically depends upon the relationship between culture and the context in which it resides (Schein, 2010). Sinclair (1993) argues that there are two means by which to promote an ethical culture within an organisation. The first is to foster a unitary and cohesive culture that has embedded moral values. The second method argues that culture cannot be altered by the exertion of control from the top-down; rather, cultural change can only be promoted through engagement with the organisation's subcultures. Organisational culture research proposes that when culture can be understood it can be leveraged as a means to support organisational change (Schneider, Erhart, & Macy, 2013).

Owing to this, this research argues that an examination of prison staff culture – and specifically its culture with respect to accountability – presents an essential starting point for this research. The review of the literature above depicts a strong organisational culture in which it is difficult for staff to resist the pervasive pressure to conform to in-group values and attitudes. The sub-sections that follow will explore key aspects of prison culture as it relates to the work of frontline staff (Section 2.2.1) and prison management (Section 2.2.2). In doing so, these sections will provide insight into prison work and how prison work is accomplished – matters that form the subject of scrutiny for prison oversight. Additionally, this review of the literature provides important contextualisation for understanding the organisational culture of Irish prison system.

2.2.1 Prison Culture: Frontline Staff

Scholars note that, traditionally, prison research has predominantly focused on the prisoner community and that this has occurred at the expense of understanding the perspective of prison staff (Liebling & Crewe, 2012; Liebling, Price & Shefer, 2011). However, the topic of prison staff and prison work is an area of research that is now receiving increased attention (Arnold, 2016). Despite this, Hay and Sparks (2001) state that the role of the prison officer remains notoriously difficult to define in terms of its day-to-day tasks. Even with recognition of formal descriptions of the role, they argue that it remains poorly defined and its demands so contradictory that it is difficult to establish a clear role identity. It is an occupation that lies somewhere between custodian and carer. In a single day a prison officer can be “*a supervisor, custodian, disciplinarian, peacekeeper, administrator, observer, manager, facilitator, mentor, provider, classifier, and diplomat*” (Liebling & Price, 2001, p.44). In the subsections that follow, some of the key aspects of prison staff culture and prison work will be explored.

2.2.1.1 Staff-Prisoner Relationships & Power Dynamics

Prisons are places of striking power dynamics. In prison, authority is overtly visible in the guise of the procedures and practices that are used to govern daily life, to maintain order and safety among prisoners, and, ultimately, to uphold the prison regime (Foucault, 1975). Imprisonment is an experience

of significant disempowerment in which a person is subject to the loss of their autonomy and incurs significant threats to their self-identity (Goffman, 1968; Sykes, 1958). People in custody endure the 'pains of imprisonment' – the deprivations that are experienced as a result of being detained that go beyond the loss of one's liberty. These include moral condemnation, deprivation of goods and services, loss of heterosexual relationships, loss of autonomy, and the loss of personal security (Sykes, 1958). Subjected to continual surveillance and scrutiny from prison staff, prison is an environment in which prisoners are both physically and psychologically constricted (Crewe, 2011; Foucault, 1975; Goffman, 1968; Haggerty & Bucarius, 2020; Sykes, 1958).

Within this environment, prison staff are imbued with substantial power and authority over the prisoners in their charge for the purposes of maintaining order and custody (Crewe, 2007b; Mathiesen, 1965; Sykes, 1958). Placed in closest proximity to prisoners, frontline staff preside over the enforcement of the rules, the distribution of basic entitlements, the receipt of prisoner requests and queries, the instigation of disciplinary sanctions, and the conferral of privileges (Arnold, 2005; Butler & Maruna, 2016; Crewe, 2011; Hulley, Liebling & Crewe, 2012; Liebling & Price, 2001). It is a power that pervades almost every aspect of daily prison life, and what is more, it is a power that is exercised largely out of sight. The relationship between prisoners and staff is extremely revealing of the climate of the prison (Liebling & Arnold, 2004; Sparks et al. 1996), as such it is very often a key topic of examination for external oversight bodies.

While it is inevitable that security and order forms a major component of the prison officer role, it is not its sole function. It is a role that also requires the provision of care and humanity for people in custody (Arnold, 2005; Liebling & Price, 2001). Yet, these two functions can prove difficult to reconcile. For example, King (2009) explored the topic of prison work through interviews with prison staff in Australia. Her research demonstrated that staff recognise the twin aspects of care and security that their role requires, but admitted that these two aspects are very often conflicting. Consequently, King (2009) observes that prison staff are inclined to value and prioritise one aspect over the other. Likewise, Arnold (2005) notes that prison officers gravitate towards different aspects of the role. Some officers may be inclined toward a caring and compassionate aspects of the role; some may have a propensity for maintaining order and rule enforcement; and others see themselves as facilitators who look to ensure that prisoners' basic entitlements are met. However, for prisoners seeking out prison staff, this means that they must learn to distinguish these different instantiations of the prison officer.

The success of prison work is fundamentally dependent upon a delicate and nuanced exercise of power that is channelled through staff-prisoner relationships (Liebling & Price, 2001). Sparks and Bottoms (1995) recognise that prisons cannot function through coercive authority alone. In an environment in which staff are outnumbered by prisoners, prison inevitably requires the cooperation of prisoners in order to maintain daily functioning (Sparks & Bottoms, 1995; Sykes, 1958). Furthermore, Sparks, Bottoms, and Hay (1996) add that prisoners and staff share common goals, to a certain extent; both

place value on the safety and stability of the prison environment as it allows them to navigate the prison environment with greater predictability. Indeed, Coyle (2008) argues that staff-prisoner relationships are the key determinant of a prison's culture and atmosphere. Yet, staff-prisoner relationships are vulnerable and susceptible to threats to their legitimacy because of the innate imbalance of power and authority (Drake, 2008; Sparks et al., 1996).

Respect has been repeatedly highlighted within the literature as a key means by which positive staff-prisoner relationships can be fostered (Hulley et al., 2012; Liebling & Arnold, 2004; Quinn et al., 2021). Butler and Drake (2007) propose two forms of respect. The first is respect-as-consideration in which respect is linked to the recognition of human rights, the provision of basic entitlements, and demonstrating courtesy. It is respect in a professional sense, one in which the authors describe as the "*minimum level of respect*" for the provision of a humane regime and establishing legitimacy (p.125). The second form of respect is respect-as-esteem which relates to recognition of identity, status, and individuation. Butler and Drake (2007) note that this form of respect is more difficult to confer in prison, an environment in which a plurality of different social interpretations of respect come together.

Research by Hulley et al. (2012) has indicated that both respect-as-consideration and respect-as-esteem are valued by people in custody – for legitimacy and individuation, respectively. Hulley et al. (2012) also emphasised the importance of respect in a more instrumental way. Prisoners necessarily depend on staff to process and support their requests; as such, prisoners' conceptualisation of respect was extended to encompass the manner in which their issues are treated. Respect was demonstrated – or lacking – in the way in which staff recognised and attended to these needs, took them seriously, and were expeditious and effective in processing queries and requests. Additionally, Hulley et al. (2012) notes that prisoners prioritised the process itself rather than the outcome. In other words, regardless of whether a request went in their favour, prisoners valued a response that was fair, unambiguous, and without delay. The importance of being taken seriously will be returned to in Chapter 3 which will explore the experience of complaint in prison.

Crewe (2011) presents another interpretation of staff-prisoner relationships. He argues that positive relationships with prisoners are often encouraged by prison administrations in the interests of dynamic security rather than to serve ideas of respect or humane treatment. For the purposes of dynamic security, staff are instructed to mix with prisoners in order to glean intelligence or to pre-empt potential sources of disorder. Similarly, ethnographic research by Ugelvik (2014) notes that even the simple act of having a cup of coffee with a prisoner can, at the same time, be an exercise in interpersonal control. Conversely, Crewe (2011) notes that prisoners may have their own incentives for interacting with staff, such as seeking favours, enhanced privileges, or positive reports. On both sides, there is a sense of inauthenticity about the relationships that arise from the power dynamics of the environment. As Warr (2008) attests, there is obvious reluctance to place trust in someone who holds dominion and, however

positive the relationship may appear, there is always the possibility of consequences and the exercise of that power.

Crewe's (2011) work expands on the pains of imprisonment in light of the developments of the modern penal system. He argues that in the contemporary prison environment additional pains are found in the application of modern penal technologies such as risk categorisation, sentence planning, and incentivised regimes. In this respect, control is exerted over the prisoner not directly but at a distance through assessments in which the prisoner is expected to play a central role in their own self-governance. As such, the prisoner is effectively recruited as an instrument of the prison. Owing to this, Crewe (2011; 2009) describes how the experience of modern imprisonment is one of 'tightness'. While measures of traditional 'hard power' and authority rest in the background, the instruments of 'soft power' – staff-prisoner relationships, penal technologies, and self-governance – are consistently applied pressures.

2.2.1.2 The Use of Discretion

Prison rules and regulations are a crucial tool for prison work; but what the rules stipulate and how they are enforced in practice may differ greatly. As Sykes (1958) attests, stringent adherence to all the rules and regulations of the prison environment is not feasible. To maintain order, Liebling (2011) argues that prison officers often enforce their authority as opposed to the rules. Rules are a crude resource that are refined and interpreted using one's personal discretion and operational expertise. Consequently, there is a significant element of discretion in the day-to-day work of prison staff. For example, in the IPS, frontline staff have considerable discretion where it concerns reporting breaches of the rules that lead to the issuance of a disciplinary sanction (P19), and in their use of the incentivised regime (IR) system which governs a prisoner's levels of privileges within the prison based on 'good' behaviour. Though discretion can be used for constructive ends, prison oversight may query these deviations from official regulations.

Discretion is regarded as essential for the functioning of the prison (Garrihy, 2020). Liebling and Price (2001) state that, more often than not, it is the case that prison officers under-use their power as opposed to overusing it. Crucially, Liebling (2011) argues that because prison staff have long-term relationships with prisoners, the decision of whether to use discretion is evaluated with respect to the potential cost to this relationship. Interviews conducted by Haggerty and Bucerius (2021) with prison staff in Canada explored the topic of discretion and what prompts its use. Staff expressed that enforcing the rules in prison was a case of 'picking your battles', choosing instances in which it was appropriate to step in and exercise authority rather than exerting authority at every opportunity. Haggerty and Bucerius (2021) explain that an officer's use of discretion is individualised, but it is not arbitrary. It can be influenced by a variety of factors including the maintenance of positive relationships, demonstrating

one's disciplinary priorities, assessing the prisoner's individual history or influence within the unit, or how line management would view their decision.

Inevitably, the use of discretion prompts questions regarding the fairness and consistency of treatment for prisoners. Research by Garrihy (2020) emphasises that consistency is valued by people in custody; prisoners expressed preference for staff that were consistently supportive or callous, helpful or indifferent. In this regard, prisoners could have more security in their interactions with prison staff by 'knowing where they stood'. Similarly, in their research in the Belgian prison system, Boone and Kox (2014) found that prisoners appreciated the use of discretion and flexibility when it was exerted to their advantage. However, understandably, they found discretion and individualised treatment frustrating and unfair when it resulted in benefits for others, such as job assignments, that they themselves did not acquire. Interestingly, variation in the use of discretion can also be a source of frustration among staff. Haggerty and Bucerius (2021) describe how staff could be frustrated when their colleagues chose different 'battles' to fight or that their own 'lines in the sand' differed.

Sparks, Bottoms, and Hay (1996) propose that legitimacy stems from the provision of consistent outcomes that arise through the use of fair procedures. They argue that the fairness of outcomes is critically important because of the nature and insularity of the prison environment. In sharing the same space, prisoners encounter people in positions of authority far more frequently than those who are not in custody. Additionally, because of the confined environment of the prison, news of outcomes regarding procedural outcomes often travels quite quickly. The perceived fairness of these outcomes or the procedural justice of the overall system can, in turn, shape the legitimacy evaluations of others not directly affected by the procedure. Similarly, this aspect of the communication of decisions in the prison environment has been highlighted by Calavita and Jenness (2015) in their work on prisoner complaints, which will be further explored in Chapter 3.

2.2.1.3 Emotional Labour

Prison is recognised as a stressful work environment which requires a great deal of emotional labour (Arnold, 2005; Barry, 2019; Brewer & Whiteside, 2012; Crawley, 2002; Lambert et al. 2012). However, perhaps because it is a characteristically male-dominated and masculine environment (Bennett, 2016; Crewe, 2014) the organisational culture is one which encourages staff's emotions to be concealed or suppressed (Crawley & Crawley, 2008). On an individual level, being a prison officer requires emotional labour in that the role demands a degree of performance and emotional management. Prison staff must ensure that when emotion is displayed that it is done in the 'right' settings and in the 'right' manner. For example, despite the nature of the work, personal disclosures of stress are quite uncommon. Crawley (2006) describes how prison officers don a persona that is projected both to prisoners and to colleagues; this persona is traditionally a display of toughness, stoicism, and invulnerability.

On an interpersonal level, the relationships that exist between prisoners and staff can also be emotionally demanding (Crawley, 2004; 2006; Crawley & Crawley, 2008; Tait, 2011). Prisons are emotionally charged environments for a number of reasons, not least because people are held in custody against their will. They are places of anger, upset, distress, frustration, pessimism, and hope. Crawley (2006) proposes that an essential part of being a prison officer is learning to cope with these emotions in their interactions with prisoners. In addition, Crawley (2006) describes how staff must learn how to cope with the often unexpected emotions that prisoners provoke within themselves – compassion, sympathy, fear, frustration.

Suspicion and cynicism are commonly exhibited by prison staff. Crawley (2002) proposes that because of the prioritisation of security, staff are often encouraged to develop a sense of suspicion and to mentally interrogate the behaviour and motivations of prisoners. In her extensive research with prison staff, Arnold (2016) describes how the prominence of the security function is heavily emphasised in training. This often fosters a view of prisoners as untrustworthy and as a constant potential threat. As a result, it prompts a desire among prison staff to maintain emotional distance and boundaries. Warr (2008) adds that this cynicism can become unknowingly absorbed and that it is the true test of the nature of a prison officer as to whether they can resist becoming cynical or dehumanising those in their charge.

Finally, prison as a work setting is an unpredictable and edgy environment. Staff routinely encounter physical and psychological risks in the form of violence, threats, anger, distress, as well as physical harm (Crawley, 2002). Owing to the prevalence of risks in the workplace, Arnold (2005) describes that staff have a heightened sense of awareness for such incidents; she describes that they are often operating with unconscious anticipation of the next negative event to occur. Similarly, Crawley (2006) notes that anxiety is a common emotion among prison staff, in that working life within the prison is constantly fixated on what may happen. She adds that the constant mistrust of prisoners and ‘never knowing who to believe’ is an aspect of the work that is particularly draining and stressful. This fixation on the anticipation of negative events is important for understanding both prison work and accountability in prison, as will be explored further in Chapter 6.

2.2.2 Prison Culture: Prison Managers

While there is a growing body of literature on frontline staff, considerably less research has been conducted with staff occupying senior positions (Crewe & Liebling, 2015). This is despite the fact that their work bears a significant impact on prison life and prison culture. There are several examples of autobiographical accounts written by former Governors (for example, Lonergan, 2011) but there is little empirical work collated on the actual practice of governance or how these responsibilities are enacted in the working environment. Similarly, Bryans (2000) emphasises the lack of literature on the role and work of governors. According to Bryans this is, in part, because the literature has failed to

recognise the important contribution of this role. But, to another extent, he argues that this gap in the literature is also due to prison managers' reticence to take part in research, and their contentment to leave the role as one that is poorly understood. As such, this study will make an important contribution to the understanding of this cohort of staff and its occupational culture.

2.2.2.1 Overseeing the Prison

As head of a prison, the role of Governor is a unique profession. Historically, the position of Governor carries a certain mythos, respect, and grandeur because it is a role in which an individual has the capacity to effect real change (Bryans, 2008). There are few leadership roles so essentially constituted by power over the individuals in one's charge. A former Governor in the UK, Bryans (2000) describes the power and responsibilities of governors. In addition to having the responsibility of holding people deprived of their liberty, the Governor is entrusted with the power to segregate, put forwards transfers, confine prisoners to their cells, order searches, refuse family visits and privileges, and recommend temporary release. The extent of this authority further underscores the significance of this gap in the literature; senior prison staff act as the conduits for penal policy and furthermore have a substantial role in shaping the culture and feel of a prison (Byrans, 2007; DiIulio, 1987).

In Ireland, under the 2007 Prison Rules, the Governor is responsible for the strategic and operational management of their designated prison and is directly answerable to the IPS Director General and in turn the Minister for Justice. The scope of the role in managing an individual prison is all-encompassing. Rule 75(3) states that the Governor is required to *"develop and maintain a regime which endeavours to ensure the maintenance of good order and safe and secure custody and personal well-being of prisoners"* (Prison Rules, 2007), a statement that effectively covers all aspects of running the prison. In addition, Rule 75(5) states that the Governor must ensure that the Prison Rules are *"applied fairly, impartially and without discrimination and that all persons to whom these Rules apply are made aware of these Rules and of consequences of any breach"* (Prison Rules, 2007). The Governor is supported by staff at the preceding rank, Chief Officers, who are instrumental in the operational management of the prison (Barry, 2017a).

The work of prison managers is both broad and complex. Faugeron (1996) identifies the four functions of penal confinement that prison management are responsible for delivering, any of which can come under scrutiny through the application of oversight. First is the custodial function. By definition, the fundamental function of prisons is to deprive those in custody of their liberty and to, in some way, define the extent of freedom and autonomy that the individual has while in custody. As such, retaining the individual, preventing their abscondence, and constraining their liberty necessarily precedes all other prison functions. Therefore, Faugeron (1996) argues that this is an essential function from which all other functions must follow. The second is the restorative function. Most countries recognise that prison systems should fulfil a rehabilitative purpose (ICCPR, 1966; Mandela Rules, 2015). As such, the

custodial function is intended to give rise to the restorative function – a means of preparing the offender for their return to the community. This is often a critical point on which the perceived legitimacy of the institution hinges, although there is extensive debate as to the extent to which an innately coercive setting such as prison can provide effective rehabilitation (Faugeron, 1996; Sykes, 1958).

The third function is the controlling function (Faugeron, 1996). Prisons are innately coercive in that they are holding individuals against their will; doing so can only be achieved through structures of regulation and discipline (Coyle, 2007). Control is manifested through coercion, security, and order, but also in a softer guise through the need for prisoners to demonstrate engagement with the system and strides towards self-improvement. As previously described, Crewe (2009) details how the use of overt authority among prison staff has diminished and been replaced with soft power. Control is exerted at a distance through the use of penological tools and technologies, including privileges, sanctions, and reporting activities. It is a form of authority that is less coercive but more psychologically intrusive (Crewe, 2011).

The fourth function is the maintenance function which relates the provision of appropriate conditions and services. Prisons are essentially small communities unto themselves. The running of which requires a range of services including accommodation, food, laundry, education, maintenance and upkeep, vocational training, peer-support services, recreation facilities, utility maintenance, among many others. In brief, Faugeron's (1996) fourth function encompasses the not so insignificant matter of 'everything else'. As Mathiesen (1965) notes, to prison management, ensuring the 'smooth' administration of the prison is an end in itself rather than a means to an end.

2.2.2.2 Essential Attributes & Qualities

Described in Bryans (2000), a survey conducted with prison governors across the UK describes the demographics of the governor cohort. From this research three key findings stand out. 98% of the governors surveyed were male. 47% were over 50 years of age. 69% had over 20 years' experience within the prison service. While the sample for this survey is drawn from the UK and moreover using data collected more than twenty years ago, a similar homogeneity among prison managers can be observed within the contemporary Irish system. For example, the OIP (2015) report on the culture of the organisation describes a work environment that is notably male-dominated with a trajectory of management that resides almost exclusively within the organisation. The appointment of candidates external to the IPS remains quite exceptional (Garrihy, 2020).

Bennett's (2016) research explores the transition of prison staff into senior positions. He notes that the move from operational work into prison management is regarded by staff as a natural progression, though not something that was an active aspiration upon joining the service. In interviews with serving

governors, Bennett found that the desire to seek promotion to management level was motivated by staff seeking greater job satisfaction, witnessing the promotion of their peers, or a belief that they could exceed the performance of existing managers. Participants recounted how the transition into management requires some adjustment. Practically, the demands of the job are very different; but on a personal level, governors are expected to implement some social distancing and reshape their relationships with frontline staff. Bennett (2016) describes how, on assuming the role, new governors typically begin with observation and relationship-building in their new setting before looking to effect change.

Longevity within the organisation and operational experience are regarded by prison staff as important qualities for prison managers to possess; it signals knowledge, expertise and a practical understanding of prison work (Bennett, 2016). In Bennett's research, participants frequently alluded to not asking their staff to do something that they wouldn't do themselves. The implication of which is that managers had an appreciation of what these tasks entailed and the work environment. For some managers, this appreciation would go one step further in that they reported occasionally carrying out these tasks themselves in order to demonstrate their willingness to pitch in. However, Bennett (2016) adds that the cultural emphasis on operational knowledge can also serve to undermine prison managers who have entered the service through non-traditional routes.

Crewe and Lieblich (2015) propose that it is extremely difficult to identify the specific skills, and attributes that define a good governor. They note that it is not simply a matter of identifying good governors as managers who are attached to high-performing prisons – effective governors are often transferred and tasked with overseeing prisons that are facing difficulty. Additionally, what constitutes good governance or good leadership often depends on the specific culture and needs of the individual prison as much as it does on one's personal characteristics. In Bennett's (2016) research, staff described good managers as those who demonstrate good leadership, are visible in the workplace, are unafraid to challenge prisoners, and who can retain a link to the prison officer subculture. Similarly, Coyle (2007) emphasises that good leadership is an essential quality for those in the role of governor. He states that staff must have confidence in their governor's ability to direct and oversee the prison. The governor must inspire trust in both staff and prisoners. This requires good organisational ability in order to establish the parameters of what the institution is to achieve, how it will be achieved, and the acceptable conduct from staff and prisoners.

Styles of prison management can vary greatly. In his study of criminal justice practitioners, Rutherford (1993) captures the value and belief systems that underpin practitioner approaches. His research summarises a typology of credos that practitioners draw upon to inform their work. The first credo is that of punishment. This refers to ideas, beliefs, values, and sentiments in which the offender is subject to moral condemnation. The purpose of administering punishment is to inflict hardship and ultimately to control the offender, and the criminal justice authority should not be restricted in doing so.

Rutherford's (1993) second credo is that of humanitarianism. Fundamentally, this credo espouses empathy for offenders and that constructive and reformatory work can take place within the criminal justice system. It acknowledges the extent of the damage that the system can inflict while looking to minimise harm. Finally, the third credo is managerialism. This refers to ensuring the smooth and efficient execution of tasks. Managerialism is markedly amoral and does not subscribe to either the rehabilitative or punitive ideologies.

Rutherford (1993) proposes that elements of each may be present but that one's managerial style is usually dominated by one credo. With this said, in modern prison management the managerialist approach has had a considerable impact on modern prison management approaches (Bennett, 2016; Bryans, 2008; Cheliotis, 2006; Dubois, 2018; Liebling & Arnold, 2004). Because of its prevalence in contemporary prison management, the tenets of managerialism will be explored in greater detail in the subsequent section.

2.2.2.3 The Impact of Managerialism

New public management (NPM), or managerialism, refers to the importation of private sector practices to the public sector for the purposes of improving efficiency through business-minded perspectives (Hood, 1995). In HMPS in the UK, the rise of managerialism can be traced to the management crisis faced by prisons in the 1980s (King & McDermott, 1989). At a time of marked disorder and staff disenfranchisement, the prospect of managerialism pledged greater accountability and efficiency for public sector services. It offered a means to exert greater control and regulation over budgets, strategy, targets, performance, and ultimately greater efficiency throughout the prison service (Liebling & Arnold, 2004). More specifically, the managerialist ethos emphasises financial prudence, centralised administration, as well as greater standardisation and the curtailment of idiosyncratic practices (Bennett, 2016; 2019; Bryans, 2000; Cheliotis, 2008).

In addition, managerialism emphasises performance management through continual monitoring and measurement. One of the biggest organisational changes for HMPS has been the introduction of key performance indicators (KPIs) (Bennett, 2016). In the UK, the Prison Service has identified a number of key KPIs, each of which fall under the categories of: decency and health; organisational efficiency and effectiveness; regimes; safety; and security. These KPIs are used to provide a quantitative indication of the performance of each prison, and the prison service as a whole (Liebling & Arnold, 2004). This in turn led to the creation of the prison league table which ranked prison performance in England and Wales (Bennett, 2007). The use of league tables was met with mixed response; it fostered competitiveness in that staff would not want to see their prison perform poorly, but it also introduced a sense of threat in that poorly performing prisoners could be tendered out for privatisation (Bryans, 2008).

The use of quantitative measures carries a distinct appeal as they can be intuitively interpreted by those both internal and external to the prison service; for example, a prison with a low number of assaults can be understood as having a low level of disorder (Bennett, 2007). Additionally, Bennett (2016) notes that those who support the ethos of managerialism tend to prefer quantitative performance measures as they can quickly identify problem areas and translate these to concrete actions. Yet, there are several criticisms of this form of performance culture, perhaps the most significant of which targets the validity of KPIs as a measure of performance – such measures may not fully represent the goal or do so inaccurately. Liebling and Arnold (2004) point out that it is extremely difficult to attribute performance indicators to a highly experiential goal, such as order or safety, and, moreover, to then identify how those indicators themselves can be quantified. This ambiguity in the interpretation of the instrument means that there is scope for statistics to be massaged in order to present a more favourable representation.

Owers (2007), a former Chief Inspector with HM Inspector of Prisons, warns that equating prison performance with a level of attainment against benchmarks and performance targets runs the risk of creating an evaluation that is a representation of a ‘virtual prison’, one that is devoid of the actual lived experience of those who live and work in that setting. Relying on performance measures alone masks the realities, pains, moral issues, and inequalities that are present in prison life. To this, Coyle (2007) reminds us that the experience of imprisonment is an extremely personal one. He notes that for the prisoner there is little concern for the performance of prisons as a national service; the primary concern, understandably, is that the regime and treatment that they are subjected to within their own prison is both fair and just. Relatedly, another criticism of performance measures is that they simply fail to capture and evaluate what actually matters to those subjected to prison life. Very often, the aspects of prison life that performance measures neglect to address – those that are not easily captured or quantified – are the aspects of prison life that matter most to those in this environment (Liebling & Arnold, 2004).

The ethos of managerialism within the criminal justice system has been extensively debated. Loader and Sparks (2002, p. 88) define managerialism in the criminal justice system as *“a regime of efficiency and value-for-money, performance targets and auditing, quality of service and consumer responsiveness. This has represented an explicit – neo-liberal – attempt to inject into public criminal justice agencies private sector ‘disciplines’ and ways of doing things; one that has sought to fence-in the autonomy of justice professionals by means of national standards / objectives, more robust systems of financial accountability, and greater external scrutiny.”* For some theorists, the priorities of managerialism fundamentally conflict with the ability of a prison system to provide rehabilitation (Garland, 2001). Similarly, Feeley and Simon (1992) argue that prisons are no longer evaluated on the basis of what the prison service can offer the individual in terms of reform or rehabilitation but rather by way of what is measurable. They argue that this often introduces cynical and empty yardsticks of performance. As

such, they posit that modern penalty, under the direction of managerialism, has issues with recognising humanity.

Alternatively, there are those who argue that managerialism is simply a tool or a framework of practice; it can be rendered compatible with the provision of rehabilitation, humanitarian ideals, and legitimacy if that is the intended organisational objective (Liebling & Crewe, 2012; Rutherford, 1993). With this said, this is not what is observed in practice. For example, Sparks et al. (1996) note that managerialism has somewhat eroded the moral commitments of prison managers in order to prioritise performance; resultingly, the 'best' prison is now equated with the best 'performing' prison. As such, Wilson (2000), a former prison governor, notes that managerialism has promoted a culture of amoral practices among prison management. Consequently, managers subscribing to the humanitarian credo are becoming increasingly less visible – or perhaps less vocal – in the prison system. Wilson argues that the traditional role of governor, in which one "*had to understand prisoners, and be able to manipulate prison life to push it forward*" (p. 12), is in danger of becoming indiscernible from the work of any other manager. Prison work is based on relationships, and more specifically relationships with a vulnerable and disempowered group (Liebling, Price & Shefer, 2011). As such, there is an inescapable moral element to prison work. It is for this reason that it is alarming to consider this aspect of the prison work and prison management to be stripped away in the name of efficiency.

Managerialism has significantly transformed the work of prison management in England and Wales (Bennett, 2016; Bryans, 2007; Cheliotis, 2008) and its influence has similarly been observed in other European prisons systems (Dubois, 2018; Kennes & Van de Voorde, 2015). Cheliotis (2006) proposes three hallmarks of managerialism in modern prison management: hierarchical division of labour; competition through privatisation; and the introduction of 'blasé professionals' in management. With respect to these criteria, managerialism is present in the Irish context, but it cannot be said to be embedded to the same extent as in the UK. Certainly, the structure of the organisation is, and has historically been, obviously hierarchical. Greater centralised control of the Irish prison system has been observed in recent years and coupled with this greater impetus for prisons to implement standardised practices. In this way, significant decision-making power has shifted from prison governors to IPS Headquarters (IPS, 2016; see Chapter 4).

Yet, there are also notable ways in which the Irish prison system departs from the traditional features of managerialism. For example, while performance of the prison system is inevitably internally monitored by IPS Headquarters, there is no *formalised* KPI framework by which prisons are assessed. Prisons within the estate are not scored and compared through league tables as described in Bennett (2016). It is as though the measurement technologies of managerialism have not fully taken root. Additionally, there is no threat of privatisation for poorly performing prisons, (Cheliotis, 2006), as the Irish prison system is entirely in public control. Therefore, competition through performance is also absent.

Furthermore, managerialism has introduced a change in the skillset required of prison managers, seeking the 'professionals' Cheliotis (2006) describes. The role has become akin to that of a traditional manager – emphasising the delivery a good quality service and meeting the established agreed standards (Bryans, 2008). It encompasses skills of strategic planning, personnel management, budgeting and financial accountability, and media relations (Coyle, 2007). In Belgium, prison governors are often expected to complete educational training in management practices, and governors are beginning to be hired from outside the prison service (Kennes and van de Voorde, 2015). Similarly, this has also been observed in England and Wales (Bennett, 2016). In contrast, the Irish prison system has been slow to introduce external candidates based on their managerial experience – for management roles, prison expertise remains highly valued (OIP, 2015). Additionally, in Ireland, despite the considerable weight and responsibility of this role, staff do not receive any role-specific training upon promotion into the role of governor (OIP, 2015). The examples above illustrate that managerialism, though present, takes a somewhat diluted form in the Irish context.

2.2.2.4 Discretion & Flexibility

One of the consequences of attempting to standardise organisational practice and attain organisation-wide compliance is that governors feel as though there is significantly less agency and trust placed in their individual abilities (Crewe & Liebling, 2015). Under a managerialist approach, greater constraint is exerted from above by central management in terms of organisational objectives, values and priorities, the use of finance and resources, and organisational standards (Bennett, 2019; Kennes & van de Voorde, 2015). By consequence, the use of discretion or professional judgement by prison managers becomes increasingly difficult to deploy (Bryans, 2008). Bennett (2019) describes how, through managerialism, prison managers have been enlisted as corporate citizens to fulfil and achieve organisational objectives.

However, Cheliotis (2006) argues that the pervasiveness of the managerialist ethos and practices does not necessarily mean that managers are aligned with the organisation's aims. Nor does it mean that prison managers do not have the ability to exert agency within the confines of managerialism. Governors do not abjectly adhere to the directives or performance measures; similar to frontline staff, good governance requires a level of deviation from the rulebook and the use of discretion. Through interviews with prison managers, Bennett (2016) identifies how prison managers cautiously weigh the risks in the decisions that they make before acting, ensuring that their preferred decision can be defensible and grounded in the values of the organisation.

Similarly, Dubois (2018) conducted a study of the work of prison managers in Belgium. His research demonstrated the complexity of decision making at the managerial level. It demands a knowledge of prison law, organisational policy, political climate, and administrative procedure. Equally, decision making requires consideration of multiple variables germane to the individual situation – security risks,

a prisoner's well-being, ethics, among others. As such, Dubois (2018) argues that the decisions of management are not taken by simply applying organisational and bureaucratic rules. Rather, prison managers negotiate the space between themselves and the wider organisational structure, exerting their agency. He notes that decision making and discretion is a result of evolved practitioner expertise, termed 'phronesis', or knowing what needs to be done.

Furthermore, empirical evidence based on experiences on the ground demonstrate that discretion and flexibility remains. For example, Durand (2018) conducted an ethnographic study of prisoners' experiences with middle management, which observed 'hearings', one-to-one meetings with prison staff that centre on requests, issues, and complaints. The process is comparable to that of the Governor's parade in Irish prisons. Durand describes the meetings as a matter of bureaucratic power in that it involves the application of the general rules and standards – for example, what prisoners are entitled to in terms of visits. However, he notes that this is combined with discretionary power in that prison managers can interpret how these rules and standards are applied. The latitude with which the rules can be applied will be returned to in Chapter 7 which examines the management of prisoner complaint.

2.3 Prison Oversight and External Scrutiny

Prisons are closed environments with an extremely insular organisational culture. They are generally removed from the public eye and public consciousness. In addition to greater demands for internal accountability, modern prisons are also facing increasing levels of scrutiny with respect to oversight from external bodies (see Chapter 4). For prison staff, this presents a significant cultural change which entails opening the prison up to an influx of new external audiences. For the purposes of this research, three such mechanisms of prison oversight are of interest. These are the Committee for the Prevention of Torture (CPT), the Office of the Inspector of Prisons (OIP), and the prisoner complaints system. A description of each will be provided in Chapter 3.

Yet, little is known about how staff perceive external oversight and scrutiny, its function, and its effectiveness. It remains poorly understood how oversight shapes staff's experience of accountability and being accountable, if at all, in the prison environment. Furthermore, there is a lack of knowledge regarding how staff, and in particular management interact with these mechanisms. This represents a major gap in the literature that this research seeks to address. Section 2.3.1 below will summarise the available literature on the interaction between staff and penal oversight, through the lens of prison culture. Following this, Chapter 3 will examine staff-oversight relationships from a theoretical perspective, seeking to examine possible explanations for the nature of these interactions.

2.3.1 External Scrutiny

Liebling et al. (2011) note that prison work is work of 'low visibility', it goes largely unseen by all but prisoners. Perhaps because there is lack of visibility for this work there is also a lack of public knowledge as to what prison work entails. As previously described, this insularity also serves to foster and reinforce a very strong occupational culture. Crawley and Crawley (2008) describe how experiencing negative regard from those external to the organisation motivates those within to coalesce as a group. It promotes a perceived divide of 'us-and-them' and creates a defensive boundary around the group that further exacerbates the sense of isolation and insularity. This can lead to a wariness of the gaze of outsiders, whose motivation to scrutinise the prison is viewed as intrusive and unwelcome. For the purposes of this research, there is a need to understand the culture in which these perspective of oversight are grounded in.

Literature on prison staff culture indicates that there is strong degree of apprehension among prison staff with respect to external audiences entering the prison. Outsiders coming into the prison are regarded with trepidation. In some respects, this is framed as a case of risk to the organisation. Symkovych (2020) refers to this form of attention as 'negative visibility', prison management's fear of unwanted external attention and the possibility of external intervention. Similarly, in the UK, Murphy and Whitty (2007) argue that the introduction of human rights standards by external oversight bodies presents a source of risk and threat to the prison administration. The authors propose that oversight activities by the courts, prison inspectorates, Ombudsmen, and visiting boards – particularly those that find the prison system to be wanting – can in turn support the basis for litigation. Murphy and Whitty (2007) propose that the pressures of scrutiny can lead to the interpretation of human rights standards as a risk to be guarded against rather than a normative set of values that should be upheld within the prison system.

Importantly, the 'threat' of external scrutiny and negative visibility is present at the individual level as well as the organisational level – it is the experience of oversight at this level that is of particular interest to the objectives of this research. The literature hints at something of a pushback against oversight bodies by prison staff. As described, prison knowledge and expertise is highly regarded among staff (Bennett, 2016). Outsiders are viewed as not being particularly knowledgeable on the issue of prison work or the realities of prison life. Garrihy (2020) proposes that prison staff are quite confident that their work is professionally and legitimately conducted in a manner that can be understood within the confines of the prison environment. However, they believe that this cannot be appreciated by those external to the prison, whose views are unassailably 'politically correct'. As such, Garrihy (2020) notes that this perspective undermines the application of external scrutiny in that external audiences are viewed as ignorant of the realities of prison work. Professionalism is viewed through an entirely different cultural lens, and this allows staff to insulate themselves against criticism.

Complaints submitted by prisoners about issues of staff treatment or prison conditions can also be considered a source of negative visibility, formally drawing attention to issues within the prison (Symkovych, 2020). An important study by Calavita and Jenness (2015) explores the experiences of prison staff who are responsible for processing prisoners' complaints. This research reveals that complaints are often regarded as a threat to the organisation and something to be nullified. Similarly, Symkovych (2020) observes how prison managers responsible for dealing with complaints will seek to resolve prisoners' issues at the 'local level' or face-to-face. Addressing the issue before it is committed to paper means that it will not be recorded for posterity and therefore inaccessible to external oversight bodies such as domestic monitoring bodies and the media. It is thereby a means to minimise the visibility of the issue and the degree of attention it will receive. This is demonstrative of the wariness of scrutiny; it is these strategic interactions with mechanisms of oversight that this research seeks to explore.

Past research has indicated that, for prison staff, penal oversight is understood through the lens of blame. There is the perception that oversight is only triggered in the aftermath of things going wrong. For example, Coyle (2008) states that “[t]he prison as an institution does not attract a great deal of public attention in the normal course of events [...] the public generally become aware of prisons only when something goes wrong” (p.232). Further to this, research by Barry (2017b) examined prison staff's experiences with death in custody investigations as conducted by the OIP. Barry's research reveals that for many prison staff, these investigations were experienced negatively as a means to apportion blame and to assign individual responsibility. As such, the threat is not interpreted in terms of institutional liability but rather it is framed as a need for self-preservation and to protect oneself against potential personal liability and professional consequences.

The perception of 'blame' or criticism can be particularly frustrating in instances where prison staff feel they have no power to address the issues raised by external oversight. Research by Tomczak (2019) has explored prison staff's experiences with death in custody investigations conducted by the Prison and Probation Ombudsman in prisons in England and Wales. Her research indicates that the experience of oversight can be extremely discouraging and repetitive for prison management, in that oversight processes often repeatedly highlights systemic issues – such as low staffing levels, or poor mental health services – with which prison management do not have the power or authority to address. Tomczak (2019) advocates that, in order for oversight to lead to effective change, recommendations for change must be levelled at those with the ability to act.

Important insight has been offered by oversight practitioners who have described their experiences with prison management (for example, Bicknell et al. 2018; Casale, 2010; Owers, 2007). Crucially, these descriptions emphasise the need for positive professional relationships between prison management and inspection and monitoring bodies in order for prison oversight to run smoothly and for oversight to be effective. In addition to this, there have been some accounts of what it is like to experience

accountability through oversight offered by prison managers (Coyle, 2010; Stojkovic, 2010). Coyle and Stojkovic attest that prison oversight can lead to increased governmental attention to issues within prison. As such, prison oversight and external scrutiny can be viewed as a convincing and constructive opportunity for achieving positive change. These accounts offer rare glimpses into what the experience of prison oversight is like from the perspective of prison managers; however, there is a notable lack of empirical investigation into this area.

The studies summarised above provide important insights into understanding staff perspectives on prison oversight. However, they fail to provide a comprehensive picture of what it is like for prison management to experience scrutiny in this context, and to probe why these seemingly defensive attitudes to oversight arise. Additionally, there is a need for empirical exploration of prison managers' interactions with oversight bodies to understand how experiences of accountability and oversight are borne out in situ.

2.4 Summary

This chapter has provided an overview of prison staff culture, focusing in particular on that of prison management. Section 2.2 discussed the process of enculturation into an occupational culture that is remarkably powerful and persuasive. Prison staff culture is one of solidarity and insularity. Past research has demonstrated that it is a culture that it is difficult for an individual to push back against (Brewer & Whiteside, 2012; Crawley, 2006; Garrihy, 2020). Section 2.2.1 examined prison staff culture among those working in the frontline. It emphasised the importance of prisoner-staff relationships, the use of discretion, and the emotional labour that is involved in this line of work. Past research on the work of prison officers has highlighted the importance of discretion and the centrality of maintaining relationships with prisoners (Haggerty & Bucerius, 2021; Liebling, 2011).

Section 2.2.2 concentrated on the work of prison management. It established the role and remit of prison managers, particularly prison governors. The literature demonstrates that prison managers are not a uniform group; they can take many different forms, and vary greatly in the value they assign to priorities in the management of prisons (Rutherford, 1993). In particular, it explored the influence of managerial practices, noting that while these principles have been adopted within the Irish context it is perhaps not the same extent as what has been observed elsewhere. Managerialism can impose tight constraints on prison managers' individuation and their ability to exercise discretion. However, theorists maintain that they are still capable of exerting considerable agency within this framework (Bennett, 2016; Cheliotis, 2006).

Finally, Section 2.3 has described prison staff culture as it relates to experiences of penal oversight. It has summarised the key studies to date, while noting the lack of empirical study into this issue. It has

highlighted the importance of understanding prison oversight of prison management. Next, Chapter 3 will provide a description of penal oversight in the Irish prison context. In particular, it will introduce the role and remit of the Committee for the Prevention of Torture, the Office of the Inspector of Prisons, as well as the prisoner complaints system. Following this, this chapter will explore key theoretical frameworks for understanding staff's interactions with these three mechanisms of oversight.

Chapter 3: Accountability and Responding to Penal Oversight

3.1 Introduction

Oversight is a vital means by which transparency and accountability in public institutions are achieved (Deitch, 2021). Human rights and penology scholars have argued that prison oversight is essential for the protection of prisoners' rights and the promotion of humane conditions of detention (Deitch, 2010; 2021; Hamilton & Kilkelly, 2008; Rogan, 2019; van Zyl Smit, 2007; 2010). Despite the growing demands for oversight and accountability in modern prison management (Bennett, 2016; Cheliotis, 2006; 2008), little is known about how oversight is experienced from the perspective of those who are subject to this scrutiny, namely, prison managers. This presents a critical gap in the literature, as the implementation of actions arising from oversight mechanisms often rest with prison management. Consequently, this research will provide an important addition in understanding the work of these bodies from a perspective that, to date, has been neglected.

The objectives of this chapter are, firstly, to explore the demand for oversight in this context. It will describe the growing web of accountability (Frink & Klimoski, 1998) to which the Irish Prison Service (IPS) is subject and discuss the need for human rights-led approaches to oversight (van Zyl Smit, 2010). Secondly, this chapter will introduce the three mechanisms which will be the focus of empirical investigation of prison managers' experiences of oversight and accountability. It will detail the functions and limitations of these mechanisms as forms of oversight. Thirdly, this chapter will introduce the theoretical framework that will inform the exploration of prison managers' experiences of accountability obligations with respect to oversight. The application of these theories in the prison context is novel, and as such, this research makes an important contribution in this regard by connecting these bodies of literature.

Section 3.2 will introduce key concepts of accountability and oversight. It will discuss why human rights-led mechanisms of oversight are vitally important for the prison context, while acknowledging the limitations of their impact and effectiveness. Section 3.3 will focus on the three oversight mechanisms of interest for this research – the Committee for the Prevention of Torture (CPT); the Office of the Inspector of Prisons (OIP); and the prisoner complaints system. Finally, Section 3.4 will explore a theoretical basis for understanding prison managers' interactions with oversight at the individual level.

3.2 Understanding Oversight through Accountability

'Oversight' is an umbrella term that can be applied to a wide variety of activities undertaken with the purpose of monitoring or regulating behaviour (Deitch, 2021). It encompasses a large and varied collection of mechanisms, each with their own diverse objectives and remits (Deitch, 2010). Indeed, there are disagreements among scholars and oversight practitioners as to what is meant by oversight in the prison context. For example, van Zyl Smit (2010) regards prison oversight as a form of regulation; in contrast, bodies such as the OIP and the CPT unequivocally state that they do not regard themselves as regulatory actors.¹ Consequently, 'oversight' is a conceptually ambiguous and ill-defined term. Owing to this, literature which theorises as to how an individual interacts with, responds to, or complies with an 'oversight body', specifically, is lacking. It is for this reason that this study turns to the theoretical literature of regulation and accountability.

These two bodies of literature provide suitable grounds for exploring the perspective of prison managers on oversight, enabling an understanding that is positioned from the perspective of the individuals under scrutiny. Yet, examples of the application of theories of accountability and regulation in the prison context are scant, and even less research has sought to understand these concepts at the individual level. Consequently, this study makes an important contribution by exploring the application of these concepts in a novel context. Further to this, as will be discussed in Section 3.2.2, the prison environment introduces some important additional considerations for the implementation of oversight and accountability in this context.

3.2.1 Increasing Demands & The Web Of Accountability

Accountability refers to the implicit or explicit expectation that an individual may be called upon to justify their decisions or actions to a particular audience (Lerner & Tetlock, 1999). Bovens (2007) elaborates on the definition of accountability by identifying its constituent parts. He defines it as "*a relationship between an actor and a forum in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgement, and the actor may face consequences*" (p.450). Stemming from this interpretation is the implication that accountability is a social relation. It is a process of interaction and exchange; it involves the acts of communication and response – however successful this communication may be – between the actor and those seeking the account (Dubnick, 2005). A final important feature is that accountability, when defined in this manner, implies a that the forum holds a superior authority and is conferred with an entitlement to call the actor to account (Mulgan, 2000).

¹ As expressed by representatives of the CPT, OIP, and the Criminal Justice Inspection Northern Ireland at the PRILA: *Exploring Prison Oversight Conference*, November 2020.

As a process, accountability can be understood as unfolding over three phases. First, the actor informs the forum about their conduct and provides data on their procedures, performance, or the matter under assessment. They may justify any failings or shortcomings incurred. The actor – the account-giver – may be an individual, a group of individuals, or an organisation. In the second phase, the forum queries the actor regarding this data and the account they have provided. Finally, the forum is expected to pass judgment and there is the possibility of administering some form of consequence to the actor (Bovens, 2007). The ability of the forum to issue a consequence, whether sanction or reward, to the actor is the subject of much debate within the accountability literature. Some theorists argue that the ability to sanction is an essential defining criterion of the accountability forum (Lindberg, 2013), whereas others view it as a supplementary ability (Bovens, 2007). This research subscribes to the latter interpretation. Additionally, Bovens (2007) avoids using the term ‘sanction’ as it has a formal and legal connotation. Rather, the term ‘consequence’ is more suitable as it can imply a broad range of responses including, among others, the issuance of fines, disciplinary measures, recommended actions, or public reprimand.

Accountability relationships with oversight bodies are an important avenue by which the conduct of organisations can be controlled. It is in this respect that accountability shares essential commonalities with regulatory theory, in that oversight bodies seek to guide or ‘steer’ behaviour in line with an explicit set of expectations (Parker & Braithwaite, 2003; van Zyl Smit, 2010). Accountability can operate in both an *ex ante* and an *ex post* capacity, meaning that it can be exerted in both a prospective and retrospective capacity for the purposes of shaping behaviour. However, the capacity of accountability or regulatory bodies to actually affect or even modify an individual’s behaviour can vary greatly (Lerner & Tetlock, 1999). As will be described in Section 3.4, there is great individual variance in terms of how accountability relationships are enacted. This topic will be central to the explorations of prison managers’ experiences with the complaints system (Chapter 7) and bodies of inspection and monitoring (Chapter 8).

Importantly, the accountability relationship is also one of power. Returning to Mulgan’s (2000) argument, the account-seeker essentially holds superior authority over the account-giver by virtue of assuming the role of the forum. For example, both the OIP and the CPT hold unfettered access to all areas of the prison for the purposes of conducting their oversight activities (ECPT, 1987; Prison Rules, 2007). The experience of having one’s conduct judged and assessed by an external authority innately poses a threat to the account-giver in that there is the possibility that one may be judged unfavourably, in addition to the possibility of incurring negative consequences (Braithwaite, 1995). Moreover, not only is the account-giver beholden to provide account – as to refrain from doing so would prove harmful to the social relationship – but the account-giver must also provide his account through the ways and means that are established by the forum (Butler, 2005; Dubnick, 2005; Messner, 2009). This issue is of particular significance and will be further explored with respect to responding to prisoner complaints and interactions with oversight bodies.

In recent years there has been a surge in the demand for accountability sought from public institutions (Hood, 1995; Mabillard & Zumofen, 2017). The so-called ‘audit explosion’ has meant that organisations are now subject to frequent regulatory demands and scrutiny from oversight bodies (Power, 1994). Much of this change has been attributed to the predominance of new public management practices in Western societies, which has decentralised public administrative power but maintained control through stricter oversight and assessments of compliance with organisational strategy, practices, and performance standards (Aucoin & Heintzman, 2000; Hood, 1995). As described in Chapter 2, the impact of new public management has been observed in European prison systems (Bennett, 2014; 2016; 2019; Cheliotis, 2006; 2008; Dubois, 2018; Kennes & Van de Voorde, 2015; Liebling & Arnold, 2004) though its prevalence in the Irish context is perhaps less entrenched (Chapter 2, Section 2.2.2.3). There is an expectation from the public to know how public organisations are being run, how effectively they achieve their mandate, and for the organisation to exhibit growth and improvement. In addition to this, organisations must demonstrate transparency, accountability, and moreover a *willingness* to engage with these demands.

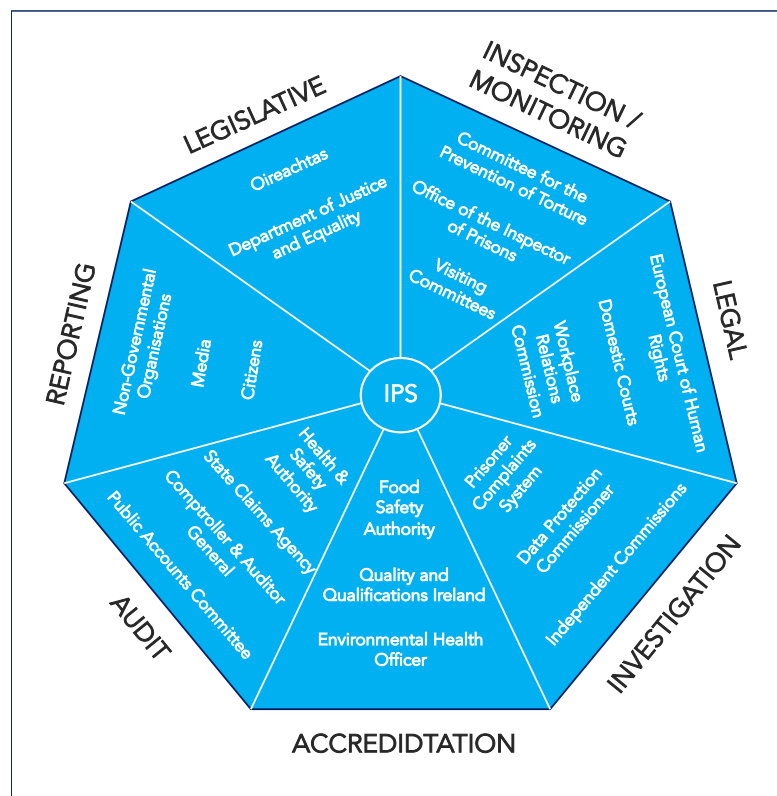


Figure 3.1: Web of accountability for the IPS, based on Deitch's (2010) seven functions of oversight.

In essence, these audiences for accountability make up the regulatory community. The regulatory community is a network comprised of various bodies with different value sets, standards, processes, norms, and objectives, but which all have a common and targeted interest in the workings of the organisation under scrutiny (Meidinger, 1987). Although, the term ‘community’ implies more

connectivity and interaction than perhaps occurs. Figure 3.1 captures, in part, the array of accountability audiences to which the IPS is subject. What may have once been characterised as a unidirectional oversight relationship between Irish prisons and a centralised administration under the Department of Justice (Butler, 2016) has become an increasingly complex and populous network. The regulatory space for both public and private organisations has expanded and evolved to encompass multiple nodes, it is an interconnected web of activity (Drahos & Krygier, 2017). The expansion of this 'web of accountability' (Frink & Klimoski, 1998) will be explored further in Chapter 4 which examines key development in penal oversight for the Irish prison system.

The increasing call for accountability has led some theorists to caution of an 'accountability overload' – a point at which the concentration of accountability mechanisms directed at an organisation reaches saturation. It is possible that rising demands for account can reach a point of diminishing returns (Bovens et al., 2008; Willems & Van Dooran, 2012) and that greater accountability does not necessarily lead to better outcomes (Dubnick, 2005). Bovens et al. (2008) warns that overload can occur when organisations are subjected to a web of accountability that is: time and resource intensive; poses contradictory evaluation criteria; expects an unrealistic level of performance; imposes standards that conflict with existing goals; or can only be satisfied through engaging in subversive behaviour. Additionally, Bovens (2010) cautions that public servants can quickly become adept at superficially meeting accountability demands. In other words, account-givers can learn to outwardly satisfice accountability demands with no real impact on service delivery or quality.

A further consequence is that public actors become overburdened with accountability work. This demand for account can, in turn, detract from their existing responsibilities within the organisation. This topic was explored in a recent study by Murphy and Skillen (2015) with a sample of public sector actors including nurses, teachers, and social workers. The findings of the study indicated that accountability work – the need to constantly document activity and performance for posterity, audit, inspection, or performance evaluation – has led to the experience of 'time compression' among public sector workers. The increase in accountability work alongside an unchanged number of core tasks results in the pressure to condense a larger number of tasks within the same timeframe or to dilute the time given to core tasks. Moreover, Murphy and Skillen (2015) note that for these public servants in client-facing roles, bureaucracy has come to impact negatively on relational work by reducing the time spent with clients and the quality of these interactions. Similar findings have been observed in the prison context; for example, Bryans (2007) has described how bureaucracy and paperwork, rather than relational work, have come to be the central feature in the work of prison managers.

Another issue pertaining to the growing complexity of the web of accountability is that of negativism. Mulgan (2003) comments that accountability can be both positive and negative in terms of its emphasis; it can highlight successes as well as failures. However, he notes that it is negativity that frequently dominates the process. Accountability usually centres on exposing system faults, breaches of law and

regulation, or other shortcomings. In this respect Mulgan (2003, p.29) states that “*the thrust of accountability is towards criticising*”. To this, Schillemans and Bovens (2011) caution that, where accountability demands are high, bodies seeking account can come to be viewed by those who are placed under scrutiny as *excessively* seeking faults and criticisms. This is an important possibility to consider when examining a context like prison which has previously been described as highly conscious of ‘negative visibility’ (Symkovych, 2020) and wary of external scrutiny (see Chapter 2, Section 2.3.1).

Despite these drawbacks, accountability is essential for ensuring that there is a check on the actions of the powerful; that organisations are delivering the services required and to an appropriate standard; and that the organisation is seeking to continually learn and improve (Aucoin & Heintzman, 2000). These three functions of accountability hold true when applied to the prison system as to any other sector. However, prison is also a context which presents additional considerations for accountability and oversight; this will be the focus of the subsequent section.

3.2.2 The Need for Oversight & Accountability in Prison

Prisons are akin to small communities. A diverse range of oversight mechanisms are required to survey and detect the wide variety of issues that can arise in such a complex environment – health and safety; educational standards; food quality; quality of medical services; financial management; human rights standards; professional standards; legal standards; among many others (Figure 3.1). In each case the prison, or its representatives, are expected to give account or to engage with these bodies and to explain its performance or conduct with respect to a particular set of standards (Lerner & Tetlock, 1999). If viewed through a new public management perspective (Chapter 2, Section 2.2.2.3), the IPS is a public concern; therefore, like any public institution public oversight is required (Seddon, 2010). However, prison is not just public institution; it is also a place of detention in which people are deprived of their liberty. As such, for the protection, dignity, and welfare of people in custody, there is a need for dedicated oversight and accountability mechanisms that are grounded in the principles of human rights.

In being deprived of their liberty, people in custody are necessarily disempowered and disadvantaged when it comes to defending their rights; they lack political capital to advocate for and advance issues that may improve conditions of imprisonment (Deitch, 2021). As van Zyl Smit (2007) attests, those who have already lost certain legal rights as a result of imprisonment are more vulnerable to further attrition of their rights while in prison. It is precisely for this reason that van Zyl Smit (2007) argues that additional safeguards must be put in place for prisons in order to ensure that people in custody are protected from this possibility. Relatedly, Deitch (2021) proposes that oversight yields significant benefits to people who are imprisoned in that it offers a means for them to share concerns or emerging issues with an independent body. However, as will be discussed subsequently, some scholars are beginning to query the effectiveness and impact of prison oversight (Armstrong, 2018; Padfield, 2018)

As described in Chapter 2, prison is a closed environment and a setting in which staff possess a substantial degree of power over those in custody. This imbalance of power has received much attention in the prison literature (Crewe, 2009; Mathiesen, 1965; Sparks & Bottoms, 1995; Sykes, 1958; Ugelvik, 2014). As with any environment in which power is possessed but exerted out of view, there is the potential for abuse of power to occur (van Zyl Smit, 2010). Indeed, Deitch (2021) pessimistically asserts that it is the natural inclination of institutions of power to drift towards neglect, abuse, and inhumane treatment. The Irish context is littered with examples of institutional wrong-doing and maltreatment. The Magdalene laundries, mother and baby homes, industrial schools, and more recently the Áras Attracta care home, are all testament to the fact that abuse of power can occur when people are placed in institutions outside of the public eye (Áras Attracta Swinford Review Group, 2016; Killian, 2015; O'Donnell & O'Sullivan, 2020; O'Rourke, 2011). These examples are illustrative of the need to safeguard people in places of detention who are essentially rendered vulnerable to this power. Prison oversight is purported to offer a means to ensure that power is not abused and that the conditions of imprisonment are, at minimum, appropriate and humane (van Zyl Smit, 2010).

Both the vulnerability of prisoners and the stark asymmetry of power are important features of the prison environment when considering oversight. However, debate remains as to whether prisons constitute an entirely unique setting for oversight. Seddon (2010) argues that prisons are not wholly unique in that they can be likened to other institutions in society; for example, psychiatric hospitals, nursing homes, or immigration and detention centres. These settings have also been labelled as 'total institutions' (Goffman, 1968), places in which elaborate procedures of control and punishment are designed to constrain the individual and cannot but have a detrimental effect on the individual's sense of self. Although there are obvious differences in terms of the function and structure of prison, the closed and potentially coercive nature of these other environments present certain similarities. Consequently, these other settings may offer the opportunity for identifying transferable lessons and good practices for oversight in prison (Seddon, 2010).

The importance of human rights-based oversight for places of detention has been repeatedly advocated by scholars in this field (Deitch, 2010; 2012; 2021; Rogan, 2019; van Zyl Smit, 2010; van Zyl Smit & Snacken, 2009). Deitch (2012) posits that judicial oversight alone is simply not sufficient to ensure the humane treatment of prisoners; litigation is a slow, reactionary, and individualised process. Further to this, Rogan (2009) argues that legal redress is often an unattractive solution for prisoners to pursue and, in the Irish context, it is one that is often met with little success. She identifies that a substantial proportion of Irish prisoners are serving short sentences, therefore the prospect of pursuing legal action is neither practical nor appealing. Litigation as such, needs to be one element within a suite of oversight mechanisms. This study will focus on three such human rights-informed mechanisms of oversight: the Committee for the Prevention of Torture and Inhuman or Degrading Treatment; the Office of the Inspector of Prisons; and the prisoner complaints system. These processes of oversight are

regarded as fundamental safeguards for ensuring that human rights are upheld, and for the prevention of torture and ill-treatment.

With this said, the extent to which human rights-based prison oversight can genuinely influence prison systems in terms of their policy and practice has been challenged. Scholars have pointed out that despite states' recognition of human rights instruments and a political commitment to upholding these standards, significant issues continue to be detected (Armstrong, 2018; Liebling, 2011). The implementation of human rights frameworks within the prison is universally viewed as positive. Yet, on this point, Armstrong (2018) cautions that the presence or absence of these principles is the focus of attention, while the manner in which they are implemented in practice often goes unexamined. She notes there are difficulties in translating abstract principles of human rights into technocratic prescriptions of policy and practice. In particular, the need for order and security is often prioritised by prison systems and this priority often conflicts with the *essence* of rights. Armstrong (2018) gives the example of the ability to one's own clothes in prison in the Scottish Prison Service, an entitlement which aligns with the principles of dignity and humanisation espoused by the European Prison Rules (2020) and the Mandela Rules (2015). However, wearing one's own clothes in a Scottish prison is subject to a host of exceptions on the grounds of security and the need to easily identify prisoners, meaning that prisoners often have to wear uniformed shirts when partaking in family visits. As such, the right is satisfied rather than meaningfully fulfilled.

Relatedly, Whitty (2011) argues that prisoners' rights are interpreted by the prison administration through the lens of organisational risk rather than through the lens of human rights principles. As described, the introduction of new public management has meant that the mitigation of risk as it relates to the management of individual prisoners and the overall regime has become an organisational priority (Cheliotis, 2006; Garland, 2001; Feeley & Simon, 1992; Whitty, 2011). Further to this, Murphy and Whitty (2007) argue that, for prison management, human rights introduce an additional set of risks in that the failure to uphold human rights' standards can lead to reputational or financial damage to the prison system. Whitty (2011) uses the *Napier v Ministers* case in Scotland as a high-profile example of this. In *Napier*, slopping out was judged to be degrading treatment and a breach of the plaintiff's human rights under Article 3 of the ECHR. The judgement resulted in extensive public and political criticism of the Scottish prison system, in addition to instigating legal proceedings from thousands of prisoners and former prisoners who were similarly affected.

Following the *Napier* judgement, Whitty (2011) argues that there is a heightened awareness in the criminal justice system of the potential impact of human rights and therefore rights-as-risk. Whitty (2011) notes how, as a consequence of the *Napier*, the Scottish Prison Service has directly linked human rights to its operational goals. Yet, Murphy and Whitty (2007) argue that prison administrations will act on human rights out of organisational preservation rather than out of a commitment to human rights principles. Similarly, Armstrong (2018) argues the language and principles of human rights can

become bureaucratised and conscripted as another tool used to the advantage of penal authorities. She notes how the *Napier* judgement also resulted in a major injection of capital funding to the Scottish prison system in order to upgrade existing infrastructure and to build two new prisons, thereby shielding the organisation from similar criticisms in the future.

Finally, Padfield (2018) posits that it is difficult to determine, without robust empirical evidence, the extent to which prison oversight has been successful in promoting better standards in prison. Padfield reflects on the contribution of a number of oversight bodies, including Her Majesty's Inspectorate of Prisons (HMIP) and the Prisons and Probation Ombudsman (PPO), noting that their inspection and thematic reporting activities provide important insight into prison life. However, she argues that it is difficult to directly connect the recommendations made in these reports to tangible outcomes in prison policy and practice. A further hinderance, as Padfield (2018) notes, is that HMIP and PPO only have the power to recommend, not to enforce the recommendations made. Additionally, Padfield cautions that where recommendations are ambiguous, or not tied to clearly defined standards of practice, it can be easy for recommendations to be rendered ineffectual and effectively ignored by those in government and the prison administration

There is strong consensus in the prison literature of the need to minimise the harm caused by the experience of imprisonment (van Zyl Smit, 2007; 2010; van Zyl Smit & Snacken, 2009). However, human rights-based mechanisms of oversight cannot be viewed as a panacea. The criticisms posed are well-founded and raise convincing arguments as to the limitations of the protections and the impetus for change that prison oversight can provide (Armstrong, 2018; Padfield, 2018; Whitty, 2011; Whitty & Murphy, 2007). Yet, at the same time, Deitch (2021), based in the US, illustrates a context in which prison oversight and human rights-based oversight is all but absent. Her work details the impact of pushing this responsibility solely towards the courts. The result is a prison system which lacks public transparency, offers little means to challenge poor material and regime conditions, and is ultimately stagnating with no impetus for improvement. With acknowledgment of these limitations, human rights-based prison oversight, although flawed, nonetheless provides a vital safeguard.

3.3 Mechanisms of Oversight in the Irish Prison System

The objective of this research is to examine prison managers' views on oversight and to explore what it is like to experience accountability as a manager in the prison context. Chapter 6 concentrates on the nature of the accountability culture within the IPS and prison managers' perspectives on their accountability obligations. Following this, Chapters 7 and 8 will focus on prison managers' attitudes towards and interactions with three specific mechanisms of oversight. These are the Committee for the Prevention of Torture (CPT), the Office of the Inspector of Prisons (OIP), and the prisoner complaints system. These three mechanisms were chosen as the subject for this research as they are grounded in principles of human rights. Additionally, they provide three distinct examples of how oversight is borne

out in the prison context. The following subsections discuss these three mechanisms in detail, noting their strengths and limitations.

3.3.1 The Committee for the Prevention of Torture (CPT)

The Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was established in 1989. The mandate of the CPT is intrinsically linked to Article 3 of the European Convention on Human Rights (1950), which states, "*No one shall be subjected to torture or to inhuman or degrading treatment or punishment*" and was the basis for the creation of the European Convention for the Prevention of Torture (ECPT) in 1987. The Convention solidified European states' position on ending the practice of torture in places of detention. In turn, Article 1 of this Convention established the Committee, the CPT (ECPT, 1987). The central responsibility of the CPT is to visit places of detention where people are deprived of their liberty in order to strengthen existing protections for these individuals against torture and ill treatment. Visits conducted by the CPT may take the form of periodic visits announced ahead of time, or ad-hoc unannounced follow-up visits. Thus, the CPT serves a preventive function of penal oversight (Evans & Morgan, 1992).

The CPT delegation has unfettered access to places of detention, as well as the ability to speak with staff and prisoners and to seek out any information that supports their inspection process (Bicknell et al., 2018). Under Article 8 of the Convention, states are obligated to comply with the CPT delegation and support their visits (ECPT, 1987). This is a powerful mandate coupled with an exceptional level of access; as such, the CPT are positioned as an essential oversight body for prisons with significant international reach (Daems, 2017). Furthermore, drawing upon its extensive work in states across Europe, the CPT has developed a number of *Standards*. The *Standards* are detailed guidelines for the treatment of people in custody, specifically concerning areas such as living space, the treatment of remand prisoners, women in custody, and the use of solitary confinement. While the *Standards* are not binding, they have been increasingly used as a resource for cases appearing before the European Court of Human Rights (van Zyl Smit & Snacken, 2009) as well as informing the development of penal law and policy in European states (Morgan, 2001).

According to Casale (2010), a former Director of the CPT, the work of the Committee seeks to illuminate the gaps that exist between policy and practice and to identify the organisational deficits that result in poor outcomes for prisoners. Morgan and Evans (1994) acknowledge that the presence of torture, per se, does not present a major concern in most contemporary European prisons; rather the CPT concentrates on any material or regimental conditions that may that inflict physical pain or mental anguish. As such, they propose that the work of the CPT is primarily concerned with monitoring prison conditions and prompting debate as to the acceptability of prison conditions. Casale (2010) states that the most common issues raised by the CPT relate to poor material conditions, time spent out of cell, the provision of meaningful activity, and prison overcrowding. Because the CPT acts as a preventive

mechanism it looks to identify aspects of the prison regime that may pose a prospective risk to prisoners. However, it cannot address individual concerns raised by prisoners (Morgan, 2001).

The composition of the delegation for a monitoring visit can vary; typically, the expertise of the delegation's members lies in the areas of law, human rights, and medicine (Bicknell et al., 2019). Casale (2010), in describing the work of the CPT, notes that in order for monitoring to gain credibility among prison staff the delegation must present itself as a neutral observer. She explains that although the objective of the work of the monitoring body is to ensure humane standards of treatment for prisoners, their process is not to find fault or assign blame. Casale (2010) also describes the need to demonstrate to prison staff that members of the delegation possess expertise, knowledge, and experience in this field. In particular, there is a need to demonstrate a deep familiarity with the prison environment and a clear understanding of the legislative and internal regulatory framework for the jurisdiction in which the prison operates. To this, Bicknell et al. (2019) have noted that the inclusion of a greater number of delegates with first-hand experience of working in places of detention would be a beneficial addition.

Using the information gathered during its visit, the CPT assesses the state's prison system. In its draft report, the CPT identifies areas in which the prison is performing well and perhaps, more crucially, aspects in which the prison is deemed to fall below acceptable standards (Bicknell et al., 2019). Van Zyl Smit and Snacken (2009, p.17) attest that the process of gathering "*empirical evidence of practices found during its prison visits*" constitutes a major strength of the work of the CPT. With this said, CPT reports, as documentations of the visit, offer little insight into exactly how the monitoring process is conducted on the ground. For example, reports do not detail how areas of priority for the visit are determined; what records are sought and how these are interpreted; how many prisoners were spoken to during the visit; how prisoners are selected for interview. These are notable omissions in terms of transparency for the conduct of the oversight process.

The report includes a series of recommendations for the state to act upon. The prison administration and government officials are invited to respond to the report and its findings. Although it is not mandatory, the vast majority of states agree to make the report public, publishing it alongside the state's own response (Morgan & Evans, 1994). Morgan and Evans (1994) argue that this action is indicative of recognition of the CPT as a significant oversight actor and states' willingness to comply with their work. Publishing the report makes public the shortcomings of the state and its prison system in the international forum. As such, it generates international attention and political pressure for states to address the issues raised. Crucially, however, the CPT do not have the power to administer sanctions to states that do not comply with their recommendations (Daems, 2017). Consequently, the success of the accountability process in bringing about improvement relies on the cooperation of the state and the prison administration (Cliquennois & de Suremain, 2018). Therefore, both state officials and prison management play a crucial role in terms of their willingness to engage with and champion the issues

highlighted. Prison managers' motivations to engage with the process of monitoring will be explored in Chapter 8, Section 8.4.

The work of the CPT can be interpreted through the application of Bovens' (2007) model of the accountability process. This description presents a linear and simplified overview of the stages of the accountability process. However, in reality, the process is more iterative and dialogical. The CPT seek account from the prison administration and government officials with respect to their mandate. These individuals are the actors or account-givers who produce the narrative of the account. They are tasked with supplying the necessary information sought by the accountability forum. In addition, the delegation are entitled to visit all areas of the prison and speak to any prisoner or staff member. The delegation may query the information that is put before them and the veracity of the account. However, it could be argued that it is difficult for the prison to distort the truth as the CPT delegation has unrestricted access to the prison and its documentation. Bicknell et al. (2018) remark that it is uncommon for the delegation to experience non-compliance on the ground.

To date, the CPT has conducted seven visits to Ireland – in 1993, 1998, 2002, 2006, 2010, 2014, and 2019. All of these visits have been announced. During its most recent visit, in 2019, the delegation visited Midlands, Cork, Arbour Hill, Cloverhill, and Mountjoy prisons. In their findings, the CPT (2020) highlighted concerns related to: local overcrowding which has led to people in custody sleeping on mattresses; the persistence of 'slopping out' practices; instances of verbal abuse by staff towards prisoners from the Traveller community and African descent; use of force against agitated or aggressive prisoners; the prevalence of inter-prisoner violence and intimidation; and gaps in record keeping associated with inter-prisoner violence and out of cell time for those on restricted regimes. The CPT (2020) also commented on positive developments in the Irish prison system, noting the opening of the new Cork prison, improved healthcare services, and a reductive in violent incidents in prison. The report was regarded by the Minister for Justice as the most positive CPT report on the Irish prison system to date (Dáil Debates, 2020).

Importantly, as van Zyl Smit (2010) points out, the CPT is not bound to interpretations of torture or ill-treatment set out by the European Court of Human Rights. It retains the liberty to develop its own interpretation; therefore, it can produce its own independent recommendations as to how prisons should best operate or function to prevent ill treatment for those in their custody. It is also empowered to draw upon a wide variety of human rights instruments for the purpose of making its recommendations (Morgan, 2001). However, as Snacken and van Zyl Smit (2013) note, the function of CPT as a penal oversight body is necessarily limited. The boundaries of Article 3 means that the reach of the CPT is confined to issues of torture and ill treatment, as such it cannot operate as "*an overall beacon for penal policy reforms*" (p.13). While undoubtedly influential as an oversight body, particularly at the political level, it is important to note that "*CPT findings are but one ingredient in a stream of policy consciousness*" (Morgan & Evans, 1994, p.156)

The CPT has experienced challenges with respect to the level of cooperation received from states. Daems (2017) notes that these issues are manifest in states' lack of follow-up or implementation of CPT recommendations. Daems' analysis of Belgian state responses to CPT reports reveals an arsenal of response tactics deployed by states to deflect responsibility and evade compliance. These include outright disagreement with the findings, downplaying the gravity of the findings, contesting the level of responsibility by pointing to social or economic factors, refusing to change or citing inability to implement change, and lack of response to the recommendations issued. Additionally, research conducted by Koskeniemi and Lappi-Seppälä (2018) examining state responses from Nordic countries has produced similar findings. Their analysis indicates that states respond will accept some criticisms but actively challenge others. Both studies are indicative that the work of the CPT does not go unchallenged.

Some scholars have taken an even more cautious evaluation of the work of the CPT, stating that there is a lack of empirical evidence to demonstrate that the CPT itself has been responsible for the promotion of better prison standards and improvements in European prison policy (Cliquennois & de Suremain, 2018; Padfield, 2018). In particular, Cliquennois and de Suremain (2018) caution that in order for the work of the CPT to be effective there is a need for good oversight practices to be in place at the national level, including access to the domestic courts, national authorities with responsibilities for human rights protection, as well as active non-governmental organisations.

3.3.2 The Office of the Inspector of Prisons (OIP)

The Office of the Inspector of Prisons (OIP) was established in Ireland in 2002 and placed on statutory basis in 2007 through the Prisons Act (2007). The Inspector of Prisons is appointed by the Minister for Justice and Equality. Under Section 31 of the Prisons Act (2007), the Inspector is responsible for examining the effectiveness of the management of the prison estate, compliance with national and international standards, the health and welfare of people in custody, the availability of programmes and facilities for prisoner participation, the conduct of prison staff, as well as general matters of prison security and discipline. As such, the OIP carries an extensive remit for the oversight of the prison system at the national level. The OIP is obliged to conduct regular inspections of all prisons. Much like the CPT, the OIP has unrestricted access to all areas of the prison estate and access to any and all documentation required to support their work (Prisons Act, 2007). The OIP presents its inspection reports, as well as an annual report, before the Minister for Justice and Equality. The work of the office has not been without criticism.

The OIP also assumes responsibility for the investigation of deaths in custody. Research with Irish prison staff has demonstrated that the experience of a death in custody imparts a significant emotional toll on the prison community. The subsequent investigation takes place at an emotionally raw time (Barry, 2017b; 2019). The purpose of these investigations is to establish the circumstances that led to

the death, to provide explanation to the deceased's family, and to prevent future deaths through the identification of necessary changes to policy and practice (Seneviratne, 2012; Tomczak, 2019).

Robust and independent monitoring practices are considered essential for the oversight of places of detention (van Zyl Smit & Snacken, 2009). However, some scholars have criticised the independence of the OIP, in that its reporting function is essentially overseen by the Minister for Justice. Specifically, Garrett (2016) calls attention to the fact that the Minister has the ability to omit, remove, or redact aspects of the Office's inspection reports that they regard as not being in the public interest. This discretion has been exercised in the past – an early report produced by the OIP was redacted in part by the Minister before publication (Irish Times, 2006; see also Chapter 4). Additionally, the Minister has the ability to delay the publication of inspection reports, which can mean that the release of reports can be steered to a more politically convenient time. The ability for the Minister to impose these constraints on the reporting activities of the office has been criticised on the grounds that it undermines the agency and independence of the office (Behan & Kirkham, 2016; Martynowicz, 2011).

Another major concern relates to the frequency with which the Office has conducted its inspections. While the mandate of the OIP is to conduct regular inspections, the Office has been criticised by the Irish Penal Reform Trust (IPRT) (2020) for not conducting a full inspection of any prison since 2017. This lack of activity has been particularly egregious in the past two years, which has seen a significant adverse impact on prison regimes and the conditions of imprisonments as a result of COVID-19 (IPRT, 2021). In recent years, the work of the OIP has been significantly hampered by a lack of resources. Regrettably, this is not uncommon among national prison oversight bodies (Bicknell et al., 2018). As a result of this underfunding, much of the work of the OIP has concentrated on its responsibilities with respect to deaths in custody (OIP, 2019). This is significant for the purpose of this research because – for many prison staff – death in custody investigations present their most recent interactions with the office.

In their 2019 annual report, the OIP identified a number of concerns within the Irish prison system. These included: access to healthcare; mental health; the provision of education and rehabilitative opportunities; and the use of restricted regimes. In particular, waiting lists for healthcare services were highlighted as a concern raised by prisoners through letters sent to the OIP under Rule 44.² The OIP (2020a) also reported that workshops and schools were often left without staff to escort prisoners to these activities or to conduct workshops. Staff were frequently redeployed to fill absences in other operational posts, thereby significantly affecting the accessibility and utilisation of the workshop and school facilities. Further to this, the high number of individuals placed on protection under Rule 63 or

² Under Rule 44 of the Prison Rules (2007), prisoners can write confidentially to the OIP.

removed from structured activity under Rule 62 was emphasised³ (OIP, 2020a). Access to purposeful activity was highlighted as a major concern for those on restricted regimes.

Naturally, the annual report for 2020 focussed on the considerable effect of COVID-19 on the prison system. In 2020, the OIP did not conduct full inspections but instead carried out a series of short visits to each prison to assess the impact of COVID-19 on the ground (OIP, 2021a). The report describes the substantial impact of the imposition of public health measures in prison, which led to significant curtailment of purposeful activities including school, work and training. Family visits were also suspended for a significant proportion of the year. The use of quarantine and isolation measures to hinder the spread of the virus were noted as being particularly detrimental, with such measures resulting in prisoners spending long periods 'behind the door' in de facto solitary confinement. Some positive findings were observed however. The report recognised the substantial reduction in the numbers of people in custody through the use of temporary release. In addition, the report commended the use of new technology solutions to support video calls with family members and the continuity of education (OIP, 2021a).

The 2020 annual report also highlighted the introduction of the *Inspection Framework for Prisons in Ireland*. The development of this framework has been a significant undertaking by the OIP (OIP, 2020b; 2021a), and marks the first comprehensive inspection framework implemented by the Office. The previous Chief Inspector, Michael Reilly, introduced the *Standards for the Inspection of Prisons in Ireland* in 2009. This document served as a preliminary set of inspection standards which drew upon existing international instruments such as the Mandela Rules and the European Prison Rules, as well as the work of the OIP and the CPT (OIP, 2009a). The inspection model described under the *Standards* advocated for the use of both announced and unannounced visits to Irish prisons. However, the specific details of the inspection process itself were still quite ambiguous. While self-described as "thorough" (OIP, 2009b, p.18), the procedural details of the inspection method in past reports were restricted to references of inspecting all areas of the prison, speaking with any prisoner or staff member, and the examination of records "as I deem appropriate" (p.20). Additionally, the reports were "reflective of an ongoing inspection and consultative process over a number of months" (OIP, 2009b, p.20), meaning that, methodologically, it was difficult to view them as a snapshot of the prison during clearly defined inspection period.

Owing to this, it is difficult to detect the application of the *Standards* in the OIP's inspection process and reporting activities during this period. Yet, it is important to note that the introduction of the *Standards* marked the first genuine attempt to introduce guidelines for prison inspection in Ireland (Martynowicz,

³ Rule 62 of the Prison Rules (2007) concerns the removal of a prisoner from structured activity on the grounds of preserving order. Rule 63 refers to keeping a prisoner separate from other prisoners for reasons of protection.

2011). In comparison, the *Inspection Framework* establishes five clear areas of focus by which prisons will be assessed (OIP, 2020b). These include: safety and security; respect and dignity; rehabilitation and development; health and well-being; and resettlement. Attached to each of these areas of focus are a number of assessment criteria by which performance can be evaluated and relevant evidence can be gathered; these have been informed by national law, international obligations, international guidance, and recognised best practice. Based on evidence gathered during the inspection, each prison will be assessed on a scale of poor to very good under each of the five areas of focus. As such, the new framework provides a clear model by which inspection will be conducted.

Furthermore, the framework also recognises the value of input from prison staff, and states that inspection processes will endeavour to be more inclusive of staff perspectives on prison matters. The new inspection model entails undertaking interviews and surveys with staff as well as prisoners, in order to gain an fuller understanding of prison life (OIP, 2020b). To date, a full inspection has not yet been completed using this model. Importantly, for the purposes of contextualising this research, the introduction of the *Inspection Framework* was introduced after data collection for this study had been completed.

3.3.3 The Prisoner Complaints System

When it comes to the possibility of a prisoner holding the prison to account directly, the options – when explored – are quite limited. In addition to litigation, one avenue open to prisoners are prisoner complaints systems. A complaint is an ‘accountability episode’ in which the complainant calls an authority to account for conduct that the complainant perceives as violating their expected standard of treatment (Lloyd-Bostock & Mulcahy, 1994). In the prison context, complaints procedures are very often described as a means of providing a necessary voice to prisoners (Calavita & Jennes, 2015), and are regarded as a fundamental safeguard against ill-treatment (CPT, 2018). However, as will be discussed in this section, there are significant limitations to complaint.

3.3.3.1 System Procedures

Under the Irish Prison Rules (2007) people in custody are entitled to raise grievances with the prison Governor, a member of the prison Visiting Committee, or the Minister for Justice. Under Rule 70 of the European Prison Rules, all European prisons are required to provide the means for prisoners to make a complaint to a competent authority within the prison (European Prison Rules, 2020). The European Prison Rules do not provide specific guidance as to the exact components required by complaints mechanisms; however, the Rule 70 and its commentary states that the process should be easily available, easy to use, and ensure that confidentiality of the complainant is maintained. Additionally, it is stated that prisoners should have the option to appeal any decision regarding their complaint to an independent body. The absence of a formalised complaints system in the Irish prison system was a

recurring source of criticism by the CPT during its pasts visits (CPT, 2003; 2007; 2011). A formal internal complaints system was finally introduced to all Irish prisons in 2014 (IPS, 2014).

Under this system, any complaint received is assessed and, depending on the nature of its content, is determined as belonging to one of six categories. These categories, A through F, are detailed in Table 3.1. All complaints are overseen by staff at Governor or Chief Officer grades. Governors and Chief Officers are responsible for categorising the complaints received, overseeing the investigation of the complaint matter, adjudicating on the complaint’s decision, and communicating the decision to the complainant. The investigation of a complaint can involve collecting evidence in the form of statements, CCTV footage, and paper records (IPS, 2014). Category A complaints present a special case as these complaints concern serious allegations of abuse, ill-treatment or assault. For Category A complaints, IPS headquarters assigns an external independent investigator to investigate the complaint. Based on the findings of their report, the investigator makes a recommendation as to how the complaint decision should be determined. However, the final determination of this decision rests with the prison Governor. At present, the complaints process does not offer the possibility to appeal decisions to an independent body, and thus lacks external oversight (Behan & Kirkham, 2016).

Table 3.1: Categories of Complaint under the IPS Prisoner Complaints System (2014).

Category	Description
A	Complaints concerning serious ill-treatment, any form of assault, or abuse.
B	Serious complaints that do not fall under the scope of Category A, e.g. excessive searching, discrimination, verbal abuse.
C	Complaints concerning service issues e.g. lost property, food, or visits.
	Complaints against professional services such as probation or healthcare.
E	Complaints submitted by visitors.
F	Complaints concerning decisions affecting the prisoner made by IPS headquarters.

This inclusion of an external appellant is deemed to be best practice. For example, Seneviratne (2012) describes that for prisoners in the UK who are not satisfied with the outcome of the investigation of their complaint, there is the possibility of approaching the Ombudsman to appeal the matter. This channel is open to all prisoners provided that the internal prisoner complaint procedure has been definitively explored and exhausted. For England and Wales, this role is fulfilled by the Prison and Probation Ombudsman (PPO), and in Scotland it is fulfilled by the Prison Ombudsman. Following their independent investigation of the grievance, the Ombudsman makes their recommendation which is, for the most part, upheld by the prison service. A review of the prisoner complaints procedure conducted by the OIP (2016) has advocated for the Irish complaints system to be overseen by an independent

appeals body. Indeed, the introduction of an independent complaints appellant has been advocated for as far back as the Whitaker report (1985; see also Chapter 4). The Ombudsman has been identified as the most suitable candidate to fulfil this function (OIP, 2019); however, this recommendation has yet to be implemented.

Both the OIP (2020a; 2021) and the CPT (2020) have issued significant criticisms of the current prisoner complaints system. Specifically, the OIP (2020a) has expressed concern in relation to prisoners' access to complaints forms, reprisal resulting from making complaints, delays before resolution, and a failure to communicate complaint decisions to prisoners. Additionally, the IPS is compelled by law to notify the OIP of Category A complaints, the appointments of investigators, and the submission of investigative reports (Prison Rules, 2007). As such, the OIP has an important, albeit limited, role in the external oversight of Category A complaints. However, the OIP (2021a) has determined that the IPS has failed to fulfil these obligations in relation to providing accurate and timely notifications. In its most recent visit, the CPT (2020) commented that the complaints system "*cannot be considered as fit for purpose*" (p.23). The report echoed issues raised by the OIP (2020a) regarding the long delays before resolution, lack of feedback provided to prisoners, and the issue of reprisal.

The CPT (2018) have published recommendations as to best practice principles for prisoner complaints systems. Grounded in their observations from prison monitoring across Europe, they advocate five principles for an effective complaints mechanism: availability, accessibility, confidentiality and safety, effectiveness, and traceability. These recommendations advocate that, first, all prisoners should be legally entitled to make complaints and it is vital that mechanisms to do so are made genuinely available. Second, all prisoners should be informed, both in writing and orally, about the complaints system and its procedures. Where necessary, appropriate supports should be made available to prisoners who require assistance in order to lodge complaints. Third, prisoners should have access to the complaints mechanism in such a way that guarantees the confidentiality of their complaint, and engaging with the process should not result in intimidation or reprisal. Fourth, the complaints system should process complaints be processed "*promptly, thoroughly, and expeditiously*" (CPT, 2018, p.4). Finally, the complaints procedure should be traceable, in that each prison service should maintain a confidential record of all complaints lodged and the outcomes.

3.3.3.2 Making a Complaint in Prison

Seneviratne (2012), writing on prisoner complaints in the UK, lists the variety of complaint matters that can arise in the prison environment. They include issues relating to: visits; food quality; loss of property; lack of opportunity for rehabilitation, training, and education programmes; lack of exercise facilities; administration processes; appeals regarding disciplinary sanctions; assaults; racism; and bullying, among other issues. Prisoner complaints can range from the seemingly trivial to major abuses of power. What is critical to remember, as Senerviratne (2012) points out, is that complaints assume greater

significance in prison as minor issues and injustices are felt with greater intensity. In Irish prisons, data on complaints received by the OIP reveals that the vast majority (63.8%) of complaints received in 2020, pertain to Category C issues (OIP, 2021a). Comparably, Category C complaints comprised 66.0% of complaints in 2019 (OIP, 2020a). For reference, a breakdown of complaints by category received in 2019, the year in which the majority of data collection for this research took place, is included in Appendix A.

Research on complaints made by prisoners is a relatively understudied aspect of prison life. However, research in other domains such as policing and healthcare has demonstrated the complexity of complaint, particularly in contexts in which the complaint concerns a person of authority (Allsop & Mulcahy, 1998; Gulland, 2011; Maguire & Corbett, 1991; McLaughlin & Johansen, 2002; Torrible, 2018). Past studies have raised important questions of determining when a complaint becomes a complaint, what it means to complain, and best practice for the satisfactory resolution of complaints (Gulland, 2011). The process that leads individuals to making a complaint can be interpreted as a pathway; along this pathway, individuals weigh up the costs and benefits of complaining before they commit to engaging formalised procedures (Mulcahy & Tritter, 1998).

From an organisational perspective, complaints mechanisms are a recognised accountability technique for any organisation (Allsop & Mulcahy, 1998). The presence of a complaints mechanism fosters organisational legitimacy, transparency, and good governance (French & Kirkham, 2009; Torrible, 2018). Gulland (2011) writes that complaints lodged against public services are a means to highlight recurring issues and can therefore be used as a management tool. This perspective has also been espoused by the CPT in relation to the management of complaints systems in prison (CPT, 2018). However, this function of complaint should be interpreted with caution. Research on complaints recognises that the complaints officially recorded by an organisation represent just a small fraction of the dissatisfaction that is actually felt by service users. By extension, the absence of recorded dissatisfaction – the absence of complaint – does not necessarily indicate the presence of satisfaction among service users (Mulcahy & Tritter, 1998).

For example, in a mixed methods study with users of the UK's National Health Service, Mulcahy and Tritter (1998) described how only approximately two-fifths of dissatisfied service users resorted to making a formal complaint. In some cases, those who did not complain explained that they lacked the knowledge as to how to go about making a complaint. For others, there was a sense of powerlessness in that pursuing the issue would not lead to significant change, or that their expectations of service standards were so low that lodging a complaint about the system would be a pointless exercise. Another group of dissatisfied users reported personal reasons for not complaining. They felt that their issue was too trivial to warrant complaint, they did not have the time the process demanded, or because they felt pursuing the complaint would not be worth their while. Mulcahy and Tritter (1998) caution that this

behaviour should not be viewed as 'lumping it'. Instead, dissatisfied service users have made a conscious evaluation and found that engaging with the process incurs a greater cost than benefit.

With this said, making a complaint in prison is radically different to making a complaint in other spheres because it is an oppositional undertaking against the imposing 'total institution' of the prison (Calavita & Jenness, 2015; Goffman, 1968). Similarly, Rubin (2017) notes that the act of submitting a complaint in prison is in effect a demonstration of micro-resistance. Behan and Kirkham (2016) acknowledge that the prison culture is such that prisoners may be hesitant to turn to the complaints system. They propose that this reluctance may be due to a lack of confidence in the likelihood of obtaining a satisfactory outcome, or out of fear of reprisal for making a complaint (Behan & Kirkham, 2016; OIP, 2016). There is a strongly held perception that making a complaint will only serve to 'make things worse' (Talbot, 2008). Additionally, there is the concern that prisoners who avail of the complaints system very frequently, or perhaps frivolously, can garner the unwanted reputation among both staff and prisoners of being serial complainers (Calavita & Jenness, 2015).

Influential research in this area has been conducted by Calavita and Jenness (2015) examined complaints submitted in Californian prisons. Their study found that among the thousands of complaints received and processed annually by California's Inmate Appeals Branch only a minuscule fraction of these are actually upheld and granted. Furthermore, of these, staff's responses tended only to partially address the issue at the heart of the complaint. Although the likelihood of receiving a positive outcome from the complaints process is extremely small, prisoners persist in using the system because it is one of the few oversight mechanisms open to them. Swearingen (2008) writing on this topic has argued that it is a complaints system that is designed to provide the veneer of an accountability mechanism, although knowingly ineffective by those in the prison administration. Through interviews with prisoners, Calavita and Jenness (2015) found that prisoners conferred legitimacy upon the complaints system despite openly identifying several significant, pervasive, and systematic issues with the process itself. Prisoners maintained that the process was fair and legitimate, and that, in spite of the overwhelming odds, their individual complaint stood a chance in receiving a favourable outcome. Subsequent research by Jenness and Calavita (2018) has emphasised that prisoners prioritise receiving a positive outcome over experiencing a fair procedure.

In accessing complaints system, Behan and Kirkham (2006) cite several practical issues that may hinder prisoners from making a complaint, such as low literacy skills or simply a lack of awareness of one's rights and entitlements. A report by Talbot (2008) further highlights some of the practical barriers in submitting a complaint. Talbot's research reports on the high prevalence of learning difficulties among prisoners in the UK. In speaking on the issue of complaints, the participants in her study express that written complaint forms are challenging and that some prisoners often have to seek out assistance in order to complete them. Prisoners who experience learning difficulties were more likely to attempt to approach a member of staff to resolve an issue rather than to turn to a formalised complaint form.

This approach raises an important point in relation to the recognition of complaints. An issue that is common to many complaints systems concerns how a complaint comes to be defined as a complaint. Many complaints procedures advocate that grievances that are first raised at the 'informal', 'low-level', or 'local resolution' stage. Both the CPT guidelines on best practice for prisoner complaints systems and the European Prison Rules advocate that, where possible, the resolution of grievances should first be attempted through dialogue before the complainant turns to a formalised mechanism (CPT, 2018; European Prison Rules, 2020). Similarly, the 'local resolution' approach has been a valuable introduction to the handling of complaints in the context of policing (Torrible, 2018). Although more suited to low-level issues, it offers the possibility of dialogue between the two parties that is concentrated on resolving the grievance rather than determining blame, reflective of restorative justice principles (McLaughlin & Johansen, 2002). Yet, when this occurs there may be a discrepancy in how the matter is viewed in the eyes of the complainant and whether this view is shared by the complaints authority. Owing to this, it can be unclear as to whether the matter constitutes a complaint (Mulcahy & Tritter, 1998). This ambiguity is further muddled, as often what is defined as a complaint is very much dependent on the organisation's system for recording complaints (Gulland, 2011) – therefore, complaints when not recorded are officially not complaints.

Torrible (2018) proposes that complaints can pose a threat to the organisation. Her research on complaints made against the police argues that complaints can erode organisational legitimacy. Complaints of wrong-doing, unprofessionalism, or abuse of power undermine the reputation of the organisation and the right for police to hold power in the eyes of those subjected to this power. When a prisoner makes a complaint, it is an act of 'censoriousness' (Mathiesen, 1965); they are calling attention to instances in which a person in a position of authority has deviated from agreed principles, norms, or expectations. As such, part of the resolution process entails the restoration of how the organisation is perceived (Torrible, 2018). Similarly, Symkovych (2020) recognises the threat of complaints in the prison context. Through his observation work, Symkovych describes how prison staff, where possible, will look to address issues with prisoners face-to-face through local resolution. In doing so, complaints are not formally recorded and therefore inaccessible to external oversight bodies. As a result of adopting this approach, the prison administration can mitigate the 'negative visibility' that comes with complaint.

A past report by the OIP (2016) on the complaints system has cited that there is a concern among Irish prison staff as to the perceived misuse of the system by prisoners. The report refers to staff's concerns about 'vexatious' complaints, or complaints that are submitted disingenuously in order to frustrate staff. In discussing complaints made against the police, Prenzler (2004) notes that this is an inevitable feature of all complaints mechanisms but that this should not undermine the ultimate purpose of complaints systems which is to hold bodies of authority accountable. Indeed, past research conducted by Jenness and Calavita (2018), has indicated that only a very small proportionate of prisoners use the complaints system as a means of retaliating against staff. Prenzler (2004) adds that, because of the

considerable barriers to complaint, many matters of grievance do not evolve to become formalised complaints. As such, it is important to give due attention to complaints that are submitted, particularly those that concern allegations of serious misconduct.

Finally, Behan and Kirkham (2016) propose that in order for a prisoner complaints system to be effectively implemented, one must thoroughly examine the penal culture of the prison. The prison must be supportive of prisoners using complaints as a mechanism of accountability, recognise the right to complaint, and ensure that the system is not merely perfunctory. Attitudes to prisoner complaint among management and their approaches to the handling of complaints will be the focus of Chapter 7.

3.4 Being Accountable: Responding to Prison Oversight

This chapter has described the web of accountability acting on the Irish prison system, with a particular focus on three human rights-led mechanisms detailed in Section 3.3. This Section will introduce theories of accountability and regulation that offer insight as to how interactions with these mechanisms may be understood at the individual level. Research on prison staff culture has indicated that there is a degree of trepidation among prison staff as to the ‘negative visibility’ that comes with oversight and accountability (Symkovych, 2020). Moreover, Deitch (2021) asserts that prison administration and frontline prison staff are likely to resist and push back against oversight. Yet, there is very little evidence to support this claim. On the other hand, the introduction of new public management has indicated that responsibilities of accountability and oversight are firmly rooted components in the management of modern prison systems (Bennett, 2016; Cheliotis, 2006; 2008).

Essentially, prison staff’s attitudes and interaction with mechanisms of oversight remain poorly understood because they have received little empirical investigation. Drawing predominantly on the work of Hochwarter et al. (2007), Sykes and Matza (1957), and Braithwaite (1995; 2003), this section establishes the theoretical foundations for understanding the perspective of prison managers on oversight. These concepts will be used to inform an empirical understanding of the accountability culture within the IPS (Chapter 6), as well as staff’s interactions with the prisoner complaints system (Chapter 7), and processes of inspection and monitoring (Chapter 8).

3.4.1 Felt Accountability

On an individual level, people experience accountability to different extents. For example, individuals who work in the same setting, face the same accountability expectations, deal with the same accountability mechanisms, and undertake the same level of accountability work can report varying degrees of intensity when it comes to the level of accountability they experience (Frink et al. 2008). A classic paper by Sinclair (1995) explores the rising demands for accountability among public sector managers in Australia and what this means for managerial work. Using interviews, Sinclair’s findings

illustrate how managers interpret accountability demands using both structural and personal discourses. Explicitly, there is recognition that accountability is a fundamental feature of being a manager, but that it is also a personal responsibility that carries significant moral meaning and weight. As Butler (2005) attests, when we give account we are necessarily enacting the responsibilities of our role.

To this end, Hochwarter et al. (2007) describes the concept of felt accountability. Felt accountability refers to the implicit or explicit expectation that one's decisions or conduct will be placed under scrutiny by a significant audience, with the potential for the receipt of rewards or consequences based on the audience's evaluation. The definition is practically indistinguishable from the definition of accountability posed by Lerner and Tetlock (1999) in Section 3.2.1, because in essence, accountability *is* felt accountability. Hochwarter et al. (2007) argues that accountability is best conceptualised from a phenomenological standpoint, as a subjective interpretation. Though recognising that there are objective external tools that are used to realise accountability – for example, the OIP's (2020b) inspection framework – this approach advocates that it is the subjective interpretations of these objective conditions that is of the greatest significance because it is these perceptions that underpin attitudes and behaviours of the account-giver.

Hochwarter et al. (2007) have developed a psychometric measure of felt accountability which has been applied in occupational domains such as administration (Hall et al., 2006), medium-sized business (Hall & Ferris, 2011), as well as among chief executive officers (Schillemans et al., 2020). On this, Hall, Frink, and Buckley (2017) attest that there is a need for more studies to be conducted in real-world settings as the felt accountability literature remains dominated by laboratory studies with limited ecological value. A modified version of this instrument, tailored to the specificities of IPS's accountability obligations, will be used within this study. This measure will be administered within the survey to capture managers' self-reports of felt accountability (Chapter 5, Section 5.7.3).

Understanding felt accountability also requires a deep comprehension of the work environment and the organisational culture that the individual is immersed in. Accountability cultures within an organisation can differ with respect to the number of accountability audiences, the value that is placed on accountability work, the strength of the accountability standards in place, and the culture of individualism versus collectivism within the organisation (Gefland, Lim, & Raver, 2004). Hall et al. (2007) argue that achieving an understanding of accountability demands that recognises their source, focus, salience, and intensity can contribute to an improved understanding of the subjective experience of felt accountability – in other words, what it is like to work in a specific environment and meet the accountability demands set in place by the web of accountability (Frink & Klimoski, 1998). It is this discussion of the contextual specificities that will be the focus of the accountability culture analysis presented in Chapter 6.

3.4.2 Power Dynamics

As previously mentioned, the accountability relationship is one of power in that the account-giver is, in some ways, subordinate to those seeking account (Mulgan, 2000). To this, Messner (2009) notes three important limitations that are imposed on the individual giving account. Firstly, the obligation to explain is in itself a burden and the demands of the associated accountability work can become increasingly burdensome (Hall et al., 2006; Murphy & Skillen, 2015). Once we have entered into an accountability relationship, that relationship offers us a recognition of the legitimacy of our position. Therefore, when an account is demanded, the actor cannot *not* account. Secondly, there is the added burden that the actor must objectively and thoroughly account for their conduct – inability to provide an explanation is not viewed by the account-seeker as acceptable (Messner, 2009).

Thirdly, Messner (2009) remarks that the process of giving account is necessarily limited by the nature of the process. Although accountability is considered to be a dialogical process, the manner in which account is sought is determined by the forum and its norms and standards. Naturally, this constrains the nature of the account that may be rendered as the forum ultimately determines what will and will not constitute an account. In creating a narrative of account, the account-giver must utilise the tools that are prescribed by the account-seeker in order to structure and shape their narrative (Dubnick, 2005). As Roberts (2009, p.299) explains, *“to give an account of myself I must perforce draw upon a normative structure that precedes and exceeds me... the very setting – the scene of accountability – will be working back upon my ability to give an account of myself.”* Its constitution is subject to the ideology of the forum that seeks it out, and the structures of the wider social context (Sinclair, 1995). For example, as described in Section 3.3.1, the CPT’s monitoring process is defined by Article 3 of the ECHR. Therefore, the account-giver are bound to the constraints of this framework and cannot introduce issues or considerations that fall outside of this remit.

Being subject to accountability innately poses a threat to the individual under scrutiny. Regardless of the outcome, the process essentially presents a challenge to the individual’s conduct, their values, their identity, and their capabilities within their role (Braithwaite, 1995). The techniques of neutralisation, developed by Sykes and Matza (1957), offer insight as to how individuals quell social condemnation from others towards their own seemingly socially unacceptable behaviour. These techniques include ‘denial of responsibility’, through which the individual evades responsibility for perceived wrong-doing or maintains that any wrong-doing was unintentional, thereby avoiding blame. Under ‘denial of injury’ the individual maintains that no harm was incurred by the victim, or that the harm they experienced was minimal. Relatedly, the ‘denial of the victim’ technique is used to refute the status of the victim as a victim, or that victim-status is in some way justified. Another technique is that of ‘condemnation of the condemners’ through which individuals push back at those who disapprove of their actions. Finally, through the technique of ‘appealing to higher loyalties’ the individual justifies their conduct in light of allegiance to their own social groups and normative standards.

Importantly, not all account-seekers possess the same level of power. Comparing the accountability relationship that exists between prisoners and prison staff through complaints with that of the relationship between prison staff and inspection and monitoring bodies demonstrates a stark contrast. On a practical level, complaints raise individual concerns, whereas inspection and monitoring reports provide a more aggregated look at issues within the prison. The power of a singular complaint and its potential impact is much less efficacious than that of a public inspection report. Additionally, inspection and monitoring bodies have influential tools at their disposal: resources, expertise, access, documentation, public interest, the possibility of public reprimand (ECPT, 1987; Prison Rules, 2007). This vests inspection and monitoring bodies with greater authority. For example, in his ethnographic research Symkovych (2020) describes how a prisoner's complaint with the potential to attract attention from external oversight bodies is viewed as more threatening than a complaint that is handled locally. The perceived threat of complaints will be explored with reference to Sykes and Matza's (1957) techniques of neutralisation in Chapter 7.

Nevertheless, accountability is an inherently social and relational process (Butler, 2005; Dubnick, 2005). It entails giving explanation to an 'other' and receiving an evaluation of conduct in light of the expectations and standards of that 'other'. Within such social arrangements people typically strive to maintain positive relationships within the oversight community and to seek out affirmative recognition of their status by their peers (Braithwaite, 1995; 2003). Braithwaite argues that the extent to which individuals are willing to establish positive relationships with these bodies will be determined by the extent to which they share social bonds and beliefs. This will be explored next in Section 3.4.3.

3.4.3 Motivational Postures

Parker and Braithwaite (2003) refer to regulation as 'steering the flow of events', an attempt to bring the conduct of others in line with the a particular set of standards favoured by the regulator. Charlesworth (2017) posits that this interpretation can also encapsulate the work and objectives of human rights-based oversight bodies. As described in Section 3.2, the regulation literature provides a useful theoretical basis for understanding the work of oversight bodies, and investigating accountability obligations from the perspective of those subject to oversight. Ayers and Braithwaite (1995) advocate that regulators must actively engage with the regulated and adapt their strategies based on an understanding of the context and the motivations of those they wish to regulate. Despite this, it is only recently that research has begun to attend to the perspective of those responding to the request for account (Drahos & Krygier, 2017). This research advocates that it is vital to understand how prison managers view oversight bodies and processes of oversight as this can inform and improve the implementation of oversight from both sides.

According to the regulation literature, inspection and monitoring are beneficial for the purposes of promoting institutional development. By providing an independent review of conditions and

experiences on the ground, they offer a means for organisational learning (Seddon, 2010; Shute, 2013). They can ensure that the organisation is continually seeking to improve by impartially benchmarking its performance against expected standards, international standards, or models of best practice (Braithwaite, Makkai, & Braithwaite, 2007). In addition, the publication of reports can garner public attention for substandard practices or unsatisfactory conditions, and in doing so create impetus for policy change, intervention, or the assignment of additional resources (Coyle, 2010; Raine, 2008). The multiple benefits of inspection and monitoring for institutional improvement have been observed in other sectors. For example, the positive impact of inspection has been shown to improve the quality of care in nursing homes in Australia by ensuring that practice is aligned with agreed standards (Braithwaite, Makkai, & Braithwaite, 2007). Research on school inspection in the UK has reported that the activities of the education inspectorate Ofsted facilitates comparison between the performance of the UK education system and that of its European counterparts (Baxter & Clarke, 2013). Additionally, Phillips (2021), in his study of probation staff undergoing inspection, has noted that inspection visits and reports give a rare opportunity for practitioners to reflect on their work and how it can be improved upon.

Similarly, Seddon (2010) has argued that inspection and monitoring can offer these benefits for institutional change within prison systems. Further to this, Deitch (2021; 2010) has written convincingly on the stagnation of conditions and the poor treatment of prisoners in the US penal system. She argues that this has occurred, in large part, because of the absence of oversight – with no consistent push for change or improvement on these fronts, little occurs. In England and Wales, Shute (2013) notes that oversight makes a vital contribution to the prison system in this respect. He argues that Her Majesty's Inspectorate of Prisons (HMIP) provides "*structured mechanisms for reflection, investigation, check, challenge, and comparison*" (p.495). Likewise, Raine (2008) attributes the work of HMIP to the improvement of standards of practice, material conditions, and facilities within prisons in England and Wales, by "*placing issues of prison conditions strongly in the public eye and consciousness*" (p.95). Similarly, writing on the work of the CPT in Belgium, Cliquennois and Herzog-Evans (2018) posit that its activities have triggered improvements to prisoner healthcare. Reports from CPT visits to Belgium throughout the 1990s repeatedly highlighted the lack of adequate healthcare provision and insufficient medical staff. These reports led to the introduction of national legislation which recognised prisoners' right to receive healthcare equivalent to that provided in the community. This has been a significant development; although the authors concede there are still considerable improvements to be made in that healthcare is not provided by the Belgian Ministry of Health, and the provision of psychiatric care continues to be insufficient (Cliquennois and Herzog-Evans, 2018).

With this said, literature on oversight as a means to foster institutional development within prison systems is very scant, and there is little by way of empirical evidence. This study looks to explore prison managers' experiences with oversight and their perspectives on these oversight processes; but the potential of oversight must not be overestimated. On this matter, Section 3.2.2 has already cautioned of

the considerable limitations of human rights-based oversight with respect to creating change within prison systems. Similarly, Section 3.3.1 has demonstrated that sometimes the recommendations posed in the CPT monitoring reports can simply go unheeded, as was observed in the Belgian prison system in research by Daems (2017). An additional difficulty, is that it is difficult to trace an institutional change or improvement to the efforts of one particular body (Padfield, 2018). However, Charlesworth (2017) argues that in the case of human rights-based oversight, the strength lies not in any one individual body but in the collective call and pressure of the regulatory network, to which they are part, to generate change.

An additional consideration is that the willingness to engage with oversight bodies can vary - and it is to this point that the objectives of this research study will attend. Braithwaite (1995; 2003) seeks to explain this variation through her theory of motivational postures. According to Braithwaite et al. (2007, p.138), motivational postures are defined as "*conglomerates of beliefs, attitudes, preferences, interests, and feelings that together communicate the degree to which an individual accepts the agenda of the regulator, in principle, and endorses the way in which the regulator functions and carries out duties*". The individual evaluates the body based on what they stand for, the rules they impose, how they perform, and whether they pose a threat to their own individual goals. The resulting posture determines the extent of social distancing that the individual will seek to put in place between themselves and the regulator or oversight body (Braithwaite, 1995). Individuals with positive evaluations, and therefore low social distancing, are more likely to voluntarily engage with the body and to defer to them. Conversely, individuals with negative evaluations will place greater social distance between themselves and the body and will be less likely to comply (Braithwaite, 2003).

Grounded in empirical research on oversight in nursing homes, Braithwaite (1995; 2003) inductively identified five postures that are adopted by staff in response to dealing with regulatory bodies: (i) commitment; (ii) capitulation; (iii) resistance; (iv) disengagement; and (v) game-playing. Commitment refers to a recognition that one's values and goals largely align with that of the oversight body. The individual, therefore, minimises the social distance between themselves and the oversight body. They feel a sense of moral obligation to defer to the directions of their authority and regard oversight as being in the interest of the common good. The second posture, capitulation, introduces a small measure of distance between the individual and the oversight body. Among these individuals, oversight is accepted as a legitimate authority. However, compliance arises out of the motivation to satisfy the demands of the oversight body, rather than out of a shared sense of duty or values.

The remaining three postures seek to hold the oversight body at a distance and are postures that enable tactics of defiance (Braithwaite, 2003). The third posture, resistance, is a stance that is adopted when one wishes to express their dissatisfaction with the oversight body, the fairness of its procedures, and the treatment it provides of those under scrutiny. Those who resist use their own power to speak out with the aim of pushing back on particular issues and how the oversight body itself needs to improve.

The fourth posture is disengagement. Disengagement occurs when the individual detaches from the oversight process and demonstrates apathy, avoidance, and the disregard of the body's demands. The final posture is game-playing, in which the individual actively tries to best the oversight body and identify means to evade compliance. The prevalence of this posture is comparatively rare (Braithwaite, 2003). Past research on experiences with prison oversight are lacking; however, an exploration of how oversight is received within the Irish prison system may uncover similar variation. The literature on prison staff culture indicates that staff are not always receptive to outsiders to the prison (see Section 2.3), and so it is anticipated that oversight could be met with a degree of scepticism or disengagement.

What is perhaps lacking in Braithwaite's (2003) model is a greater attention to how individuals serve their own self-interests within these relationships with oversight mechanisms, and what these interests might be. For example, Coyle (2010) provides a first-hand account of his own experience as a prison Governor in the UK while undergoing a visit from the CPT. He recounts that the picture painted by the CPT during their visit – which highlighted overcrowding, poor sanitation, and a lack of meaningful activity for prisoners within regime – provided a critical but accurate representation of the prison. Coyle argues that objective and independent reporting can offer a compelling and influential tool to bring about change. But Coyle's (2010) account, while clearly showing positive engagement with the CPT, is not easily categorised as being a straightforward example of commitment or capitulation. His focus is not on bringing the performance of the prison in line with what the CPT recommends, per se, but rather using this engagement with the CPT to address issues that the prison has long recognised.

Coyle (2010) proposes that oversight is something that can be embraced and utilised to bring about positive change for the prison. He explains how the findings of the inspection can be used to convince government and the central prison administration to act, which usually involves the provision of additional resources. Timeworn issues can assume greater urgency when they are highlighted by external audiences. Likewise, in the US context, Stojkovic (2010), a senior prison administrator, writes that prison oversight can, and should, be used by management as a means to highlight the challenges faced by prisons and ensure that they receive the necessary resources. In both perspectives, there is recognition that oversight can provide valuable insight and yield constructive change. However, it also highlights that those giving account are not just motivated to engage because of their regard for the oversight body – there is also an element of self-interest. This will be further explored in Chapter 8.

3.4.4 Accountability and Emotion

Drahos and Krygier (2017) propose that understandings of regulatory relationships need to be expanded to incorporate emotion. They argue that the literature has traditionally understood regulation strategies through the lens of rationality; for example, interpreting a willingness to engage as a means to reap reward or avoid sanction. However anger, pride, and shame can be important and persuasive motivations that partially formulate an individual's response to oversight (Drahos &

Krygier, 2017). Indeed, there is a strong body of psychological research that would advocate that emotions constitute a rational response and that the interpretive lenses of rationality and emotionality are not mutually exclusive (see Damasio, 1994; Scherer, 2011).

Previous research by John Braithwaite (1989) has examined the effectiveness of shame as a means to achieving regulatory compliance. Braithwaite argues that shame arises when individuals' experience social disapproval. Much like Sykes and Matza (1957), Braithwaite argues that it is reasonable to assume that people will look to minimise the possibility of social disapproval and condemnation in order to avoid feeling shame. The experience of shame can be catalyst for people to turn away from the social group and shared social norms, as described in traditional labelling theories (e.g. Becker, 1963). However, Braithwaite (1989) argues that shame can also function to develop or reinforce beliefs held by the group. He proposes that reintegrative shaming points out unacceptable behaviours and allow individuals to amend their behaviour accordingly; in this way, through experiencing shame, the individual comes to comply with shared standards.

Conversely, Harris (2017) proposes that the shame incurred through social disapproval can pose a threat to one's ethical identity. Social disapproval highlights instances when one has behaved in opposition to shared social values. It can also challenge our beliefs about a particular behaviour that we had previously considered appropriate. A violation of values that are held as important threatens one's sense of self, but also one's sense of self as an ethical person. In experiencing shame, the individual is motivated to act in order to resolve the dissonance that is felt between the behaviour that has been challenged and their ethical self. Importantly, Harris (2017) argues that the individual can only experience this shame if they are morally engaged, and value the opinions of those evaluating their behaviour. As previously described in Chapter 2, a key characteristic of prison staff culture is its strong in-group solidarity. There is something of a dismissiveness of outsiders and their perceived ignorance of prison work that helps to buffer staff against such external criticisms (Crawley & Crawley, 2008; Garrihy, 2020).

Furthermore, Harris (2017) queries whether the technique of shaming is appropriate in the context of oversight and regulation. Shame may be an unintended consequence of the oversight process. It may be the case that account-givers feel as though they are being shamed even if this is not a conscious strategy on the part of the oversight body. Nevertheless, it remains important to understand how and why perceptions of shame arise. Secondly, Harris (2017) argues that if shame occurs in response to social disapproval then it is likely that this emotional response is more commonly experienced among those who have a stronger affiliation with the oversight body and its objectives. Harris (2017) explains that the experience of social approval or disapproval is a function of one's relationship to and investment in a particular social group or community. Therefore, shaming techniques may simply function to garner compliance from those who already commit to the norms, goals, and standards of the oversight body.

To a lesser extent, research has been conducted on the role that pride can play in affecting compliance with oversight. Research by Braithwaite et al. (2008) has recognised the effective role that pride can play in regulating the behaviour of others. In particular, their research concentrates on the concept of 'humble pride' which refers to inner satisfaction with one's own accomplishments while recognising the contribution of others to our success. Braithwaite (2017) argues that regulatory relationships should seek to target humble pride. One way in which this may be achieved is through the use of positive reporting by oversight bodies (Aitken, 2021; Tomczak, 2019), which allows for recognition of good practice alongside essential criticisms. Positive and negative reporting by inspection and monitoring bodies will be further explored in Chapter 8.

3.5 Summary

Chapter 3 provided an overview of prison oversight. Section 2.2 established the need for accountability and oversight in prison. It described the accountability and oversight obligations of the IPS as a contemporary public body influenced by the practices of new public management (Cheliotis, 2006; 2008), noting the expanding web of accountability to which it is subject (see Figure, 3.1; Frink & Klimoski, 1998). Moreover, this section established the need for oversight to be underpinned by principles of human rights in order to protect vulnerable people in custody from further attrition of their rights (van Zyl Smit, 2007; 2010). Scholars have proposed that instruments of human rights introduce a novel risk that prison administrations must guard themselves against (Armstrong, 2018; Whitty, 2011). Yet, there is a paucity of empirical knowledge that demonstrates exactly how human rights-based oversight is experienced on the ground by prison staff and management. This research will address this gap by examining prison managers' experiences of accountability as mediated by monitoring, inspection and prisoner complaints.

Section 3.3 introduced the three oversight mechanisms which are the focus of this research – the CPT, the OIP, and the prisoner complaints system. It has described their function, their remit, as well as their limitations. Regarding inspection and monitoring, the literature indicates that there is a lack of clarity regarding how the procedures of these bodies are conducted. Additionally, the OIP has been criticised for a lack of regular inspection activity (IPRT, 2020). Furthermore, Padfield (2018) argues that there is difficulty in ascertaining the impact of the work of these bodies on prison conditions and penal policy. As described by Daems (2017) and Cliquennois and de Suremain (2018), the willingness for inspection and monitoring recommendations to be accepted and implemented can vary, which can also undermine the perceived effectiveness of these bodies. Chapter 8 will explore prison managers' attitudes towards the OIP and the CPT.

Regarding complaints, there are strong and recurring criticisms as to the procedures and conduct of the complaints system. Previous reports by the OIP (2020a) and the CPT (2020) have criticised the time taken to resolve complaints, fear of reprisal among prisoners, and poor communication of decisions.

Furthermore, the OIP (2016) has reported that prison staff hold the perception that prisoners deliberately misuse the system through 'vexatious' complaints. The complaints literature has demonstrated that complaints can pose a threat to organisations, and can produce somewhat defensive reactions (Symkovych, 2020; Terrible, 2018). Prison managers' experiences of responding to complaints will be the focus of Chapter 7.

Finally, accountability is a dynamic socio-relational concept. As discussed in Section 3.4, individual interpretations of accountability obligations and one's response to oversight bodies can vary greatly. Where an individual identifies and aligns with the goals of the oversight body they are more likely to comply and engage with oversight; but conversely, individuals may also wish to distance themselves from oversight (Braithwaite, 1995; 2005; 2017). Consequently, the theoretical literature indicates that interactions between oversight bodies and those they oversee can vary greatly. Naturally, this carries implications for the effectiveness of the oversight relationship; this will be examined further in Chapter 8 with respect to prison managers' interactions with the OIP and the CPT.

Next, Chapter 4 establishes an historical sociological enquiry of the penal oversight in the Irish prison system (Loader & Sparks, 2004). This analysis will identify major developments in penal oversight and penal policy in Ireland. As such, it provides important contextualisation for understanding the prison system and its oversight obligations in the present day.

Chapter 4: A Historical Sociological Enquiry of Penal Oversight in the Irish Prison System - Politics, Policy, and Penal Culture

4.1 Introduction

This chapter provides an overview of the modern history of the Irish prison system from the foundation of the state in 1922. It offers a historical sociological account of the Irish prison system, its objectives and ethos, as well as contextualising the status of prisons within Irish society. This description illuminates two points. The first is that up until the 1990s, prisons within the Irish prison estate operated as though they were independent entities – indicative of the authority of those in prison management over the direction and running of their prisons. Undoubtedly, this practice also had an impact on creating strong subcultures within the organisation and has resulted in a somewhat fragmented organisational identity (Officer of the Inspector of Prisons, 2015). Secondly, and more crucially for this research, this account demonstrates that up until recent years the Irish prison system was largely devoid of external scrutiny and prison oversight. This chapter argues that the small scale of the Irish prison system and the prison population resulted in prisons remaining a marginal area of policy until the late twentieth century. This chapter will demonstrate that, consequently, mechanisms of oversight and accountability are relatively novel additions to the Irish prison system and its operation.

4.2 A Brief History of Irish Prisons

Tracing the history of the Irish prison system in relation to its accountability provides crucial context for understanding the culture of accountability and attitudes towards oversight within the modern Irish Prison Service (IPS). As noted by both Garrihy (2020) and Barry (2017), there is a dearth of research on the Irish prison system. Nevertheless, by consolidating academic literature, IPS policy documents, government reports, media coverage, as well as reporting activities from penal oversight bodies, this chapter provides a historical sociological description (Loader & Sparks, 2004) of the Irish prison system and the factors that have shaped the contemporary landscape of penal oversight. The subsections that follow will detail major developments of penal policy and oversight from the foundation of the state to the present day.

The intention is to be purposefully analytical rather than to provide a broad historical narrative, with penal oversight serving as the core analytical focus. As Loader and Sparks (2004) note, this type of analysis requires the inclusion of perspectives from a host of different actors in order to fully capture

pertinent social and cultural influences. Here, perspectives from government, prison staff, oversight bodies, civil society organisations, and prisoners are brought together. Although, admittedly, owing to the limited available literature, in some cases these perspectives are represented to varying degrees. The analysis provided in this chapter will lay important foundations for the findings chapters on accountability culture (Chapter 6) and staff's interactions with mechanisms of penal oversight presented in Chapters 7 and 8.

4.2.1 Early 20th Century: The Periphery of the Carceral Landscape

The roots of the modern Irish prison system can be traced back to Sir Walter Crofton, the chairperson of the General Prisons Board in the mid-nineteenth century (Butler, 2016). Prior to the establishment of the General Prisons Board, Irish prisons were effectively independently run institutions overseen by the prison's gaoler. There was, however, some oversight in place. The Prison Inspection Act 1768 formally appointed local inspectors responsible for monitoring prison conditions, collating prison data, and reporting to the Inspector General of Prisons who in turn reported to parliament (Kilcommins et al., 2004; Osborough, 1985). The introduction of the Board was intended to overhaul Irish prisons and bring greater regulation and unified objectives for Irish prisons; and its establishment replaced the work of the Inspector General (Kilcommins et al., 2004; Smith, 1980).

Under the General Prisons Board the prison system in the mid-nineteenth century was regarded as quite progressive (Butler, 2016). The so-called Crofton system placed a strong focus on a prisoner's preparation for release and re-entry to the workforce. Prisoners moved through a series of stages within the prison system with the goal of gaining increasing privileges through good behaviour. Measures comparable with what would be regarded today as temporary release and community return were implemented in order to manage prisoner numbers (Kilcommins et al., 2004). Although commended both within Ireland and overseas (Smith, 1980), the model underpinning this system was undone with the introduction of the Prison Act, 1865. This Act attempted to achieve uniformity in prison conditions within the United Kingdom, and bring Irish prisons into alignment with penal practices throughout Britain under the direction of a centralised administration (Butler, 2016).

Following independence of the Irish free state in 1922, the management of the country's prisons became the responsibility of the Department of Justice and it has remained under the Justice brief since. At this time, there were nine local prisons and four convict prisons in operation; the average daily prison population in the country was under 700. Owing to their involvement in the 1916 Rising and the Civil War, many serving Dáil members had direct experience with Irish prisons. As such, the first Minister for Justice, Kevin O'Higgins, recognised the brutality and damage the existing system imposed on prisoners. He publicly advocated for prison numbers to be kept small, and for prisons to provide effective interventions that would rehabilitate and reform (Kilcommins et al., 2004). However, during this time, Ireland largely retained and maintained British penal ideologies and practices within its

prisons (Osborough, 1985) and few significant changes were implemented with respect to prison reform or the improvement of prison conditions (Behan, 2018; Kilcommins et al., 2004).

Nevertheless, two notable changes did take place during this time. The first was the abolition of the General Prisons Board in 1928; the consequence of which was that Irish prisons were directly overseen by the Minister for Justice. Government opposition criticised this development on the grounds that it would hinder independent reporting, and therefore insulate prison governance from criticism (Kilcommins et al., 2004). The second major development was the introduction of the Prisons (Visiting Committees) Act 1925. Visiting Committees (VC) are still in operation today and are an external oversight body assigned to monitor a specific prison. Each VC is comprised of volunteers from civil society, usually from the prison's surrounding community. While VCs were in operation prior to the Act, the appointment of members was made through local authorities. The provisions of the 1925 Act meant that committee membership would be determined by ministerial appointment. Again, this development faced criticism from government opposition; the appointment of members through ministerial connections arguably made them partial and undermined the possibility of providing oversight that was truly independent (Kilcommins et al., 2004).

The responsibilities of the VCs included monitoring prison conditions, reporting abuses observed in prison, hearing prisoner complaints, and publishing reports based on their visits. Additionally, at this time, VCs had the power to administer punishments to prisoners through the prison's disciplinary process (Rogan, 2009) – which, from a contemporary perspective, is perhaps difficult to reconcile with the duties of an oversight body. As described in further detail below, the adjudication role of the VCs and their avenue of appointment would prove to have significant consequences for the credibility of the VCs as an oversight body in the eyes of prisoners. The work of the VCs provides an essential – and until recently, arguably the solitary – form of oversight for Irish prisons (see Figure 4.1). Though scholars concede that VC reports can be irregularly published, terse, and can vary in their quality and approach (O'Donnell, 2008; Rogan, 2009), they provide a rare insight into life in Irish prisons.

The increasing centrality of the Department of Justice's role in prison oversight and direction meant that the prison system could easily become a conservative arena for policy and reform. Another factor that contributed to the stagnation of penal reform efforts during this period was the fact that the prisoner population was relatively small. The low numbers in custody can be attributed to a confluence of factors: low crime rates; the release of political prisoners following the War of Independence; sentencing leniency among the judiciary; emigration, in particular among young males; and the use of other social institutions contemporaneously to manage perceived deviant and immoral behaviour, as discussed below. Consequently, the relatively small scale of prison matters meant that there was no great urgency for progression or development in relation to penal ideology or practices (Kilcommins et al., 2004; O'Donnell, 2004). Thus, prison remained a marginal issue for public policy.

The prevalence of other forms of penal confinement is an extremely important factor in understanding the Irish carceral landscape during the twentieth century. While the numbers of people in prison remained quite low until the latter half of the twentieth century, there was a pervasive use of other social institutions for the purposes of reforming, rejecting, or confining those who did not conform to societal norms during this period (O'Sullivan & O'Donnell, 2007). These institutions included Magdalene laundries, mother and baby homes, industrial schools, workhouses, and psychiatric hospitals. Data gathered by O'Donnell and O'Sullivan (2020) conservatively estimates that in the 1920s and the 1950s 1% of the state's population were institutionalised at these sites. Subsequent inquiries into the operation of these institutions has highlighted the marked absence of public oversight and a dearth of record keeping (Commission of Investigation into Mother and Baby Homes, 2021; Killian, 2015; McAleese Report, 2013; O'Rourke, 2011; Ryan Report, 2009). As will become evident, the lack of public oversight is a criticism that can also be levelled at the prison system for a substantial portion of its history.

A considerable milestone in the history of the Irish penal system was the introduction of the Prison Rules 1947. In 1946, IRA prisoner Sean McCaughey sought to pressure the government for his release from Portlaoise prison through hunger strike (Irish Times, 1946a). Sean McCaughey alleged that during his four and a half years in prison that he had been kept in solitary confinement, refused fresh air recreation, and was not permitted to associate with other prisoners. Government opposition argued for an official inquiry into the conditions of Irish prisons. The Minister for Justice, Gerry Boland, acknowledged the veracity of these allegations but responded, "*There is no need for such an inquiry. The prison conditions here are well known to compare favourably with those in any other country*" (Irish Times, 1946b). The Minister continued that the regime and conditions were known to internal and external oversight bodies, in that the prisoners "*are frequently visited by members of the Visiting Committee... and the Inspector of the Prisons Division of the Department of Justice*" (Irish Times, 1946b). The death of Sean McCaughey, due to hunger strike, led to political debate as to the legitimacy of Irish prisons governed under rules inherited from the British system. The political response was the establishment of the 1947 Prison Rules (Rogan, 2016).

1947 also saw the establishment of the Prison Officers' Association (POA), the union for operational staff within the prison system. The union represented staff at all grades below governor level, and continues to do so today. Public statements made by the union give a rare window into how staff viewed the role of oversight at various points in the history of the prison system.

The 1950s was regarded as a period of stagnation in which there were no major developments in terms of penal reform. During this decade, Ireland experienced a period of harsh economic difficulty marked by high unemployment levels, increased cost of living, and youth emigration. The state experienced significant difficulty in providing for its citizens; improving the health of its prisons was far from being a priority for the government (Rogan, 2011). The prison population declined to its lowest point during

the 1950s when it fell to below 400 people in custody. Consequently, some prisons across the estate such as Sligo prison and Cork prison began to close (Kilcommins et al., 2004). Perhaps, another reason for this period of inactivity in terms of penal policy is that penal issues were of such a small scale so as to not warrant much attention (Rogan, 2011). Coverage of the work of the Visiting Committees in the national media was scant during this time, and what is reported is extremely anodyne. For example, reference to the annual report of the Mountjoy Visiting Committee states that “*conditions were found to be very satisfactory and no complaint was received from any prisoner*” (Irish Times, 1958).

4.2.1 Mid 20th Century: Internal Unrest & External Distrust

By the 1960s, there was a notable shift in the direction of the prison system towards the adoption of a rehabilitative ethos (Rogan, 2016). In 1960, the Criminal Justice Act introduced the measure of temporary release, through which the Minister for Justice could issue conditional release to prisoners to return to the community. Crucially, this measure was introduced not for the purpose of alleviating growing prisoner numbers, but expressly for the purpose of benefitting prisoners in preparation for their eventual release and future employment (Rogan, 2011). A major trigger for change in penal policy was the establishment, under then Minister for Justice Charles Haughey, of the Inter-Departmental Committee on Juvenile Delinquency, the Probation System, the Institutional Treatment of Offenders and their After-Care in 1962. The focus of the Committee was to identify optimal methods for crime prevention and the management of offenders.

Unusually for policy development at its time, the Committee drew on best practice and penal developments observed in Europe. Rehabilitation and prisoners’ return to the community emerged as a central objective for the work of the prison system. Furthermore, the Committee recognised penal reform as an aspect of wider social reform (Rogan, 2011). By way of example, some of the developments the Committee implemented during this time included: expansion to the education, work, and training services provided in prisons; strengthening the provisions for post-release employment for offenders; and supporting and endorsing the use of temporary release measures (Rogan, 2011; Wall, 2020). The progressive efforts during the 1960s are often attributed to the direction posed by Charles Haughey and his ambition to make a discernible mark during his time in office. With his departure from the Department of Justice the work of the Committee stalled considerably. Rogan argues that this is characteristic of Irish penal policy, with change and progression often being largely predicated on the aspirations and drive of individual personalities (Rogan, 2011).

Unlike the prison systems of the UK and the US which experienced a punitive turn in the 1970s, Ireland shifted towards a distinct form penal welfarism (Brangan, 2021). The introduction of the Prisons Act in 1970 presented a significant milestone in Irish penal policy. The Act expressly recognised rehabilitation as a core objective of the prison system (Behan, 2018). Yet, there remained a lack of exploration as to what rehabilitation entailed or what shape it could take within Irish prisons (Brangan, 2021; Rogan,

2016). During the early 1970s, improvements were made to existing training programmes to assist offenders' employment prospects, material renovations were carried out, and welfare and psychological staff were employed within the prison system. However, as before, the lack of insight into the realities of Irish prisons at the time meant that it was difficult to determine to what extent the commitment to rehabilitation permeated prison landings (Rogan, 2011).

The form of penal welfarism in effect at this time is termed by Brangan (2021) as 'pastoral penalty', an approach to penalty rooted in societal values and the importance of community. Based on interviews with Department of Justice officials from the 1970s, Brangan (2021) finds that the Department attempted to implement a rehabilitative perspective that did not centre on the prisoner assuming individual responsibility, but rather on rehabilitation through community support. Officials reported that enduring time in prison was recognised as harmful, and little in-prison educational supports or rehabilitative programmes were offered at this time (Brangan & Adams, 2022). New policy measures emphasised the use of temporary release which implicitly apportioned rehabilitative responsibility to the family, the Church, and the wider community.⁴ Pastoral penalty aimed to wholistically improve the prisoner's 'approach to living'. It sought to strengthen the prisoner's relationships with family and friends, their participation within the community, and their mental and physical well-being (Brangan & Adams, 2022).

Although pastoral penalty may have been the purported ethos of the prison system according to Department officials, Brangan and Adams (2022) concede that it may have been an approach that was more idealistic than functional. Indeed, the marginalisation of perceived 'deviants' within Irish society at this time (O'Sullivan & O'Donnell, 2007) casts doubts as to how readily embraced offenders were by their communities upon release. Furthermore, the ethos, objectives, and effectiveness of pastoral penalty could not have been easy to monitor through penal oversight. At this time, oversight was still solely fulfilled by the Visiting Committees and the Department itself (Figure 4.1). It is difficult to fathom how these forms of oversight could monitor the efforts of families, parishes, and communities to provide rehabilitation as these were not formal support arrangements or services. Therefore, there is little independent examination as to whether this was an effective approach to rehabilitation. Consequently, pushing the rehabilitative function beyond the prison walls and into the community meant that what was now a core objective of the prison system, at least according to the Prisons Act (1970), could easily go unchecked.

⁴ Additionally, on a practical level, the prison population increased in the late 1970s, and so the use of temporary release also alleviated the numbers of people in custody (Brangan, 2021).

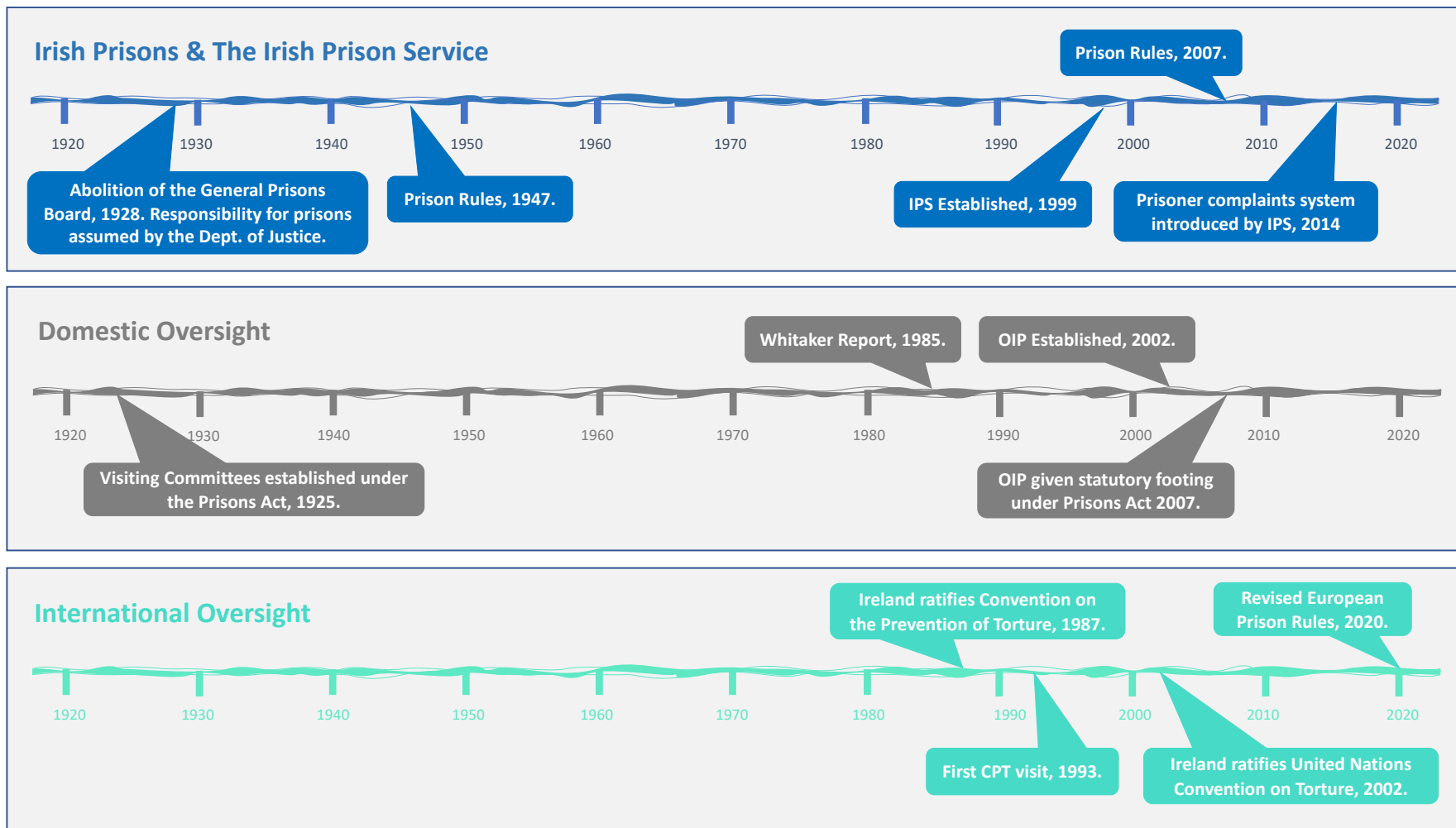


Figure 4.1: Timeline of milestone developments in the history of the Irish Prison Service and domestic and international prison oversight

From the late 1960s and into the 1970s the prison population began to rise. The numbers in custody reached 1,000 for the first time in the history of the state and the small scale of the prison system began to experience considerable strain (O'Donnell, 2004). Prison conditions were poor and inadequate: most prisoners had no in-cell sanitation and were required to slop-out; there was limited opportunity for productive time out of cells; and industry tasks were menial and not conducive to future employment prospects. However, there was little political impetus to improve conditions; penal reform and penal policy appeared to be only a matter of interest to those directly involved in prison reform or in civil rights organisations (Behan, 2018). Overcrowding further exacerbated material conditions and was a source of tension and disturbance within prisons (O'Donnell, 2004). Although the rising crime rate had been observed at the political level, no preparation was made by the state to cope with increasing prisoner numbers (Rogan, 2011). Despite indisputably poor conditions, Minister for Justice Patrick Cooney rejected criticisms levelled at Irish prisons. Like his predecessor Gerry Boland in 1946, Minister Cooney was content that, *"Not only did [conditions] compare favourably with the best in Europe, but they were in accord with, and in many respects, exceeded the standards set down by the Council of Europe"* (as cited in Behan, 2018, p.507).

As van Zyl Smit and Snacken (2009) attest, prison research is a form of external scrutiny in that it brings external actors into the prison to report independently on what is observed. The work of the Prison Study Group (PSG), a research group based in University College Dublin, presents a rare example of an independent perspective on prison life in Ireland at this time. Despite the change in political rhetoric surrounding the recognition of rehabilitation as a key objective of penal policy, the findings of the report indicated that the prison environment at this time was not conducive to rehabilitative aims (PSG, 1973). Explicitly, it highlighted the lack of sentence planning and provision of aftercare upon release. In addition, the report indicated the great difficulty for prison officers to assume this newly purported rehabilitative role when both the prison regime and Prison Rules constrained their ability to do so (PSG, 1973). For example, at this time prison officers were not permitted to call prisoners by their first names.

The PSG report is something of an anomaly as criminological research was not well-established in the country at the time, and the Department of Justice was not regarded as an accessible ground for researchers or other external actors. A further example can be observed in that, in the same year, the Irish Red Cross were denied access to Portlaoise prison to interview prisoners and prison staff regarding allegations of ill-treatment within the prison (Irish Times, 1973a). Indeed, the introduction to the PSG report notes the considerable lack of cooperation on the part of the Minister for Justice and the Department, describing it as a *"closed system"* and one that did not allow for *"an opportunity to examine the conditions and services directly"* (PSG, 1973, p.5). The authors add that the closed world of the prison *"can give rise to a kind of siege mentality in which all outside bodies, including study groups, are regarded with suspicion. This is a block to the free flow of ideas which is essential to making actual discussion possible"* (p.88). Nonetheless, the report by the PSG was one of the first highly publicised

external examinations of the Irish system, and provided an important foundation for subsequent reports on the system that followed.

The Troubles played a significant role in Irish penal policy, particularly during the 1970s. The number of politically aligned prisoners entering the Irish penal system began to substantially increase from the late 1960s and into the 1970s. This effectively created a distinction between two groups of prisoners within the prison system: ordinary prisoners and political prisoners (Brangan & Adams, 2022). Political prisoners posed a unique and novel challenge for the prison system (Rogan, 2011). Seeking political treatment and recognition while in custody, these individuals utilised prison disturbances and rallied vocal public support with respect to their cause (Behan, 2018). Major incidents – including the 1972 riot in Mountjoy, highly publicised escapes from the Curragh and Mountjoy, prisoner protests, in addition to several hunger strikes in the Curragh and Mountjoy – began to bring security concerns to the fore of penal policy. The Department of Justice experienced a period of fire-fighting; much of the attention given to penal matters which had appeared to be progressive in the previous decade was now occupied with how to manage the perceived threat posed by Republican prisoners. The emerging rehabilitative ethos was not deeply enough rooted to maintain a lasting influence on Irish penal policy (Rogan, 2011) as interest in the treatment of the ‘ordinary’ prisoner was overridden by the concerns posed by the potentially subversive cohort of political prisoners.

Up until the 1970s, it could be said that Irish prisoners were not particularly active in terms of self-advocacy, protest, and organisation. In comparison to political prisoners of this era, ordinary prisoners were not as unified or organised (Rogan, 2011). However, the 1960s and 1970s was a period of activism for social, economic, and political transformation across the United States and Europe that permeated public discourse in Ireland. The context of the Troubles and civil unrest in Northern Ireland gave added depth and significance to the issues raised by these movements on the island of Ireland (Behan, 2018). In the 1970s, both political and ordinary prisoners began to organise and campaign for improved conditions. While political prisoners were motivated by recognition of their status as such, Behan (2018) argues that, for ordinary prisoners, the focus of their activism was on their dissatisfaction with substandard prison conditions.

Republican prisoners were never formally granted status as political prisoners by the government but were granted ‘special category status’ within prison. This meant that they were in receipt of additional privileges unavailable to ordinary prisoners and experienced better conditions (Behan, 2018; 2020). For example, in Mountjoy in 1972 political prisoners were housed separately from ordinary prisoners, had free association, a later lock-up time of 10pm, could receive unlimited visits and letters, and had access to craft materials and musical instruments (Reinish, 2021). Reinish (2021) describes how this special treatment was cyclically won and lost; escapes and prison disturbances resulted in political prisoners being transferred to other prisons and the imposition of harsher regimes, where the cycle of protest and negotiation for differential treatment would begin again. By contrast, ordinary prisoners

were not afforded the same level of engagement with either government or the prison administration. Thus, although political prisoners brought public attention to prison conditions, their efforts to improve both conditions and prisoners' status did not extend to improving the lot of the ordinary prisoner (Behan, 2014). Indeed, their methods fundamentally relied on seeking differential treatment (Reinisch, 2021).

Crucially, at this time, there were few means by which ordinary prisoners could formally challenge their conditions. There were as always the courts, and also the possibility of complaining to the prison Governor or to the Visiting Committee. However, at the time, both the Governor and the Visiting Committee had the ability to administer punishments and were regarded as operating on behalf of the Department rather than for the well-being of prisoners (Wall, 2020). A sit-down protest was organised by prisoners in Portlaoise in 1972 to highlight dissatisfaction with visiting conditions, educational facilities, censorship of post and reading materials, among other issues. A list of grievances was compiled and given to the prison administration by what would become known as the Portlaoise Prisoners Union. The protest was eventually disbanded by the Gardaí and the army riot squad. The VC on arrival at the prison placed the prisoners involved on a punishment diet as well as loss of remission privileges (Behan, 2018; Wall, 2020).

It was particularly evident that prisoners at this time had a lack of faith in the Visiting Committees as an oversight body. Newspaper reports from this time are indicative that the perspectives of the Portlaoise VC and the POA were very much aligned, in that both groups viewed the allegations of mistreatment made by prisoners as unfounded (Irish Times, 1972). Among the demands issued by the protestors was a call for a reform of the Visiting Committees which they described as "*biased, sadistic and hypocritical*" (as cited in Behan, 2018, p.508). A further letter, smuggled out by Portlaoise Prisoners Union in the aftermath of the protest, stated that "*Is it any wonder that the prisoners have no faith in the present visiting committee? Most prisoners see the visiting committee as a group of men who come here every month or so to punish some prisoner and that seems to be their only function. **They have done nothing for the prisoners***" (emphasis added, Irish Times, 1973b).

Awareness of the Portlaoise Prisoners Union quickly spread to prisons across the country, leading to the creation of the Prisoners Union. On release, former prisoners continued this advocacy work on the outside forming the Prisoners' Rights Organisation (PRO). The work of the PRO entailed campaigning and activism, practical advice for prisoners and prisoners' families, as well raising public awareness of the reality of prison life (Behan, 2020). The PRO also published the *Jail Journal*, a magazine which illuminated prisoner issues and was banned within prisons (Behan, 2018). The *Jail Journal* was used to disseminate the objectives of the PRO but also communicated individual prisoner accounts to convey broader system issues such as mental health, healthcare, and education. Through the language of human rights the PRO aimed to build on the momentum of existing civil rights discourse present in the Irish and international media (Wall, 2020).

Wall (2020) claims that the PRO was not regarded as an 'approved' group in the same way as its counterpart the Howard League in the UK, perhaps because of its prisoner-led origins. Ryan (2003) describes such groups as 'acceptable pressure groups' – what are perceived to be reputable groups with ideologies that can be reconciled with that of government and department officials. For acceptable pressure groups, there is the possibility of establishing a reciprocal relationship with government and department officials, in which there is a mutual exchange of expertise and information to inform policy. By contrast, Rogan (2011) describes the activities of the PRO as being viewed as adversarial by the Department and it was received with great suspicion. In 1975 the Minister for Justice, Patrick Cooney, stated that he regarded the work of the PRO as seeking only to embarrass the state (Behan, 2018). The Minister was publicly dismissive of the efforts of the PRO and refused to recognise them as a legitimate entity that could contribute to the discourse of penal policy (Wall, 2020).

The campaign work of the PRO, alongside the efforts of Amnesty International and the Association of Irish Jurists, eventually lead to the MacBride Report (1982) a commission of inquiry into the Irish penal system. The report called for widespread reform of the prison system, a strengthening of prisoners' rights, and that the United Nations Standard Minimum Rules for the Treatment of Prisoners to be incorporated into the Prison Rules. However, the government was wholly unreceptive to the MacBride Commission and its objectives, dismissing the Commission as a 'self-appointed' inquiry. Like the PSG (1973) report before it, the MacBride Report (1982) plainly notes the refusal of cooperation on the part of the Department of Justice to engage with the Commission or to supply information for the report. Indeed, while speaking to the Seanad on the activities of the Commission, a member of the Commission and future President of Ireland, Senator Michael D. Higgins, stated, "*I have found our Department of Justice to be the most unreceptive group of people that I can possibly think of in relation to thinking about crime, punishment, punitive treatments and their alternatives*" (Seanad Debate, 29th February 1984).

In truth, the inability for the PRO to be viewed as an 'acceptable pressure group' (Ryan, 2003) meant that they had a limited impact on penal policy and reform (Rogan, 2011). However, they provided a major contribution by bringing public attention to the realities of Irish prison life. Their repeated calls for an official inquiry into the penal system – an undertaking that, despite numerous endeavours in the past, had to date never taken place in the history of the state – were never answered. Their work led to the MacBride report (1982), which in turn was a catalyst for first official inquiry into the prison system, the Whitaker report (Wall, 2020; Section 4.2.3). But, the measure of the contribution of prisoners' rights groups should not be narrowly confined to the realms of penal policy. As Jacobs (1980) attests the work of prisoner rights movements yield essential benefits for both the rights consciousness and self-esteem of those in prison.

4.2.3 Late 20th Century: Germinations of Penal Oversight

The 1980s was a period of much electoral competition, with several changes of government occurring within the decade. Therefore, the prison system experienced little consistency by way of Ministerial oversight and direction for penal policy. This, in part, led to the exertion of greater Departmental control over the operation of the prisons. During this decade, Ireland was again facing a period of significant economic austerity and high unemployment. Committals to prison and the prison population continued to rise, creating increased demand for additional prison capacity (Rogan, 2011). As before, overcrowding continued to lead to detrimental consequences for those living in prison. The Criminal Justice (Community Service) Act 1984 permitted judges to consider the use of community service orders as an alternative to custody. Seemingly progressive, the Act's introduction was mostly prompted by the fact that prisons could no longer cope with the number of committals.

In 1984, the Department established the Committee of Inquiry into the Penal System which was tasked with the first official inquiry into the penal system. This action was prompted by the recognition of overcrowding, poor conditions, and deaths in custody, in addition to poor industrial relations (Rogan, 2016). Calls for an independent inquiry into the conditions of prison life had been supported by the Prison Officers' Association following a riot at Mountjoy prison (Irish Times, 1985a). Among its many objectives, the Committee was tasked with examining the regime and conditions in the Irish prison system. The Committee's report, the Whitaker report (1985), was based on submissions of evidence, criminological research, consultation of penal practices from abroad, and visits to Irish prisons. The publication of the report was welcomed by the Prison Officers' Association (Irish Times, 1985b).

The Whitaker report was unequivocal in its recognition of the severe consequence that imposing a sentence of imprisonment entailed and in its position that prison should be used only as a last resort. Recommendations advocated by the Committee included: developing the utilisation of alternatives to custody; reducing the use of short-term sentences; improving education and training programmes within prison; and providing better reintegration and through-care for prisoners upon release (Whitaker Report, 1985). Crucially, the report drew upon the principles of human rights, and emphasised that “[t]he fundamental human rights of a person must be respected and not interfered with or encroached upon except to the extent inevitably associated with the loss of liberty” (p.12). The report received attention within the Oireachtas, sparking wider debate on the function and purpose of prison (Seanad Debate, 20th November 1985; 4th December 1985). Unfortunately, the recommendations of the Whitaker report were made during a social and political climate in which they received little traction; to date, many of the recommendations have not been implemented (Irish Penal Reform Trust, 2007; Irish Times, 2022).

The Whitaker report posed several recommendations for strengthening penal oversight structures. Comparable to the recommendations of the PRO, the Committee highlighted the need to foster greater

confidence in the VCs, alluding to the criticism that had been levelled at them in recent years. The report stated, “*We do not doubt that the members of the Visiting Committees, who volunteer their services free of charge, are conscientious and diligent in carrying out their duties but they are perceived by most prisoners, and indeed many other groups, as being ineffective or not altogether impartial*” (Whitaker Report, 1985, p.70). The report identified the appointment process, the close association of the committee with prison authorities, the adjudication role in disciplinary hearings, and the lack of critical reporting as the key issues that undermined the reputation of the VCs. The Whitaker report made a number of recommendations to address these shortcomings including ending the ministerial appointment process, abolishing the adjudication function, undertaking unannounced visits, and increasing the VCs’ availability to speak with prisoners (Whitaker Report, 1985).

In addition to this, the Committee recognised the need for an independent watchdog for the prison system as a whole. The Committee recommended the establishment of a prison inspectorate. The proposed responsibilities of the inspectorate were to continually monitor prison conditions and the treatment of prisoners and to report their findings periodically to the Minister for Justice (Whitaker Report, 1985). Recognising the lack of means by which prisoners could submit formal complaints about their experience of custody, the Committee also recommended extending the function of the Ombudsman to encompass the investigation of prisoners’ complaints. They advocated that this action would provide “*an ultimate safeguard against the possibility of abuses and act as a safety valve for prisoners who must surrender so much control over their affairs when they are imprisoned*” (p.71). Finally, the report also highlighted the need for significant improvements in statistics and data capture related to prisoners and the wider criminal justice sector (Whitaker Report, 1985).

The apathy towards the recommendations of the Whitaker report meant that throughout the late 1980s and 1990s the VCs remained the only domestic independent oversight body monitoring Irish prisons (Figure 4.1). A protracted dispute emerged in 1990 in which the VC for Mountjoy’s women’s prison alleged in their annual report that male staff in riot gear had entered the women’s prison and used excessive force to subdue prisoners. The then Minister for Justice, Ray Burke, initially refused to publish the Committee’s report, citing that there was no evidence for the allegations and querying why the VC had not raised these concerns when they were first observed (Irish Times, 1990a). Dates of the incident were later revealed to have been misreported by the Committee (Irish Times, 1990b). Additionally, the Governor of Mountjoy questioned the “*serious inaccuracy and vagueness*” of the report (Irish Times, 1990c). The POA also denied that the event had occurred as described and threatened legal action against the VC (Irish Times, 1990d; 1990e). The report was eventually published with the inclusion of statements from the POA and the Department of Justice disputing the veracity of the VCs’ claims. It is an episode in the history of penal oversight that demonstrates, firstly, the limitations of the VCs’ supposed independence in light of their ability to control the publication of their findings. Additionally, it underscores the vital importance of evidence for bolstering reporting.

As described, during the 1970s, the VCs had received public admonition from prisoners, the PRO, the PSG, and the Whitaker report. In addition, members of the Dáil levelled further criticism against this oversight body, querying its value, impartiality, as well as the cost of the VCs. Their credibility had been undoubtedly injured. The 1980s and 1990s presents clear attempts by the VCs to repair their reputation. Reporting activities by the committees are increasingly critical, in comparison to their previous prosaic, inoffensive reports. For example, the report of the Mountjoy VC in 1986 strongly criticises the availability of psychiatric support for prisoners and describes the extent of overcrowding as “*a most serious setback to the possibility of maintaining and developing a humane regime within the prison*” (Irish Times, 1987). Moreover, during the late 1980s and 1990s, the VCs demonstrated greater engagement with the Irish media with respect to their annual reports, thereby providing greater illumination of prisoner issues to the public.

In the late 1980s, significant developments were occurring for prison oversight from an international perspective. In 1987 Ireland ratified the Council of Europe’s Convention for the Prevention of Torture, Inhuman and Degrading Treatment or Punishment, which meant that it would subsequently be subject to monitoring visits from the Committee for the Prevention of Torture (see Chapter 3, Section 3.3.1). The United Nations’ International Covenant on Civil and Political Rights was ratified in 1989. Ireland was also a signatory to the United Nations’ Convention Against Torture in 1987, which was later ratified in 2002. Additionally, in 1987 the first version of the European Prison Rules (EPR) was established by the Council of Europe. While not legally binding, the EPR set out acceptable minimum standards for prison conditions in Council states such that respect for the individual’s human rights is maintained. Previously, in the face of criticism, past Ministers for Justice had claimed that the Irish prison system compared favourably with other states. Importantly, the introduction of these international instruments established a benchmark for prisons, a standard of reference against which current conditions and commitments to progress could be genuinely assessed (Hamilton & Kilkelly, 2008). The adoption of these instruments was a significant milestone for protecting human rights within prison and also for the recognition that Ireland should attempt to align itself with minimal international standards for prison conditions. However, as soft law instruments they are not binding, and for this reason it is essential that they are supported by dedicated monitoring bodies to monitor their implementation (van Zyl Smit, 2010).

During the early 1990s the work of the VCs reported significant concerns within the prison system. For example, the Mountjoy VC highlighted the indiscriminate use of temporary release as a solution to overcrowding (Irish Times, 1994a), poor prison hygiene and the process of slopping out which persisted in many prisons (Irish Times, 1994b), and the lack of adequate healthcare available to prisons (Irish Times, 1996). In addition, many reports from the VCs highlighted the magnitude of the drug problem experienced in many prisons across the country, but particularly in Mountjoy (Irish Times, 1994c).

The mid-1990s saw the introduction of a significant strategy document for the Irish prison system. *The Management of Offenders: A Five Year Plan* committed to, *inter alia*, the introduction of new prison rules, expansion of the prison estate, widespread prison refurbishment, and the creation of an independent inspectorate (Department of Justice, 1994). The *Plan* was greatly informed by the Whitaker report and reflected on the progress, or lack of, made on its recommendations in the interim. Furthermore, this strategy document directly referenced the need for human rights principles and human rights instruments to be incorporated in the operation of the Irish prison system. Within its guiding principles, the *Plan* recognised that the prison system must be “grounded in morality and respect for basic human rights” (p.17). Additionally, it established that the objectives and operation of the Irish prison system should seek to “promote the Standards to which the State has subscribed internationally” (p.22). The creation of the *Plan* was an ambitious strategy for the prison system and the Department, and one which recognised the value of human rights as guiding principles. Rogan (2011) notes that the motivations behind the creation of the strategy document are unclear. One possibility is that the rising prison population meant that penal policy was finally warranting attention. Alternatively, Rogan argues that it could be attributed to a greater commitment to long-term planning within the Department. A third possibility is that the prospect of peace in Northern Ireland could finally permit a return of focus to ‘ordinary’ as opposed to political prisoners (Rogan, 2011).

Unfortunately, dissolution of the government in 1995 meant that the *Plan* failed to gain traction under the next government. Although the *Plan* presented a unique long-term strategy document for the Department, there remained inaction on many of its commitments and it was eventually shelved by the new government (O’Donnell & O’Sullivan, 2001). However, government opposition in the mid-1990s maintained their calls for the introduction of the inspectorate (Dáil Debate, 21st February 1996; Dáil Debate, 19th June 1996; Dáil Debate, 21st October 1997). Those in government plainly stated that the creation of the inspectorate had been a matter of no great urgency for the Department. Speaking on behalf of the Minister, Deputy Currie, Minister for State at the Department of Justice stated in the years following the Whitaker report inaction had occurred on this front because:

“the view was taken within the Department that there were more pressing issues to be addressed, and that, because of the small size of our prison system, there was less urgency to consider such an appointment.” (Seanad Debate, 29th May 1996)

This quote encapsulates the low level of priority given to oversight structures within the Irish prison system because of its small scale. In this instance, the more pressing issues referred to by Deputy Currie were deemed to be prison accommodation and drug use in prison (Seanad Debate, 29th May 1996); issues that the VCs continued to highlight as persistent within the prisons they monitored. The focus of the Department at this time rested on prison expansion and the improvement of material conditions. The Minister for Justice at the time, Nora Owen, committed to establishing an inspectorate. However, she claimed that the decision to reformulate the management structure of the prison system impeded

an immediate appointment, stating that with this while this structure was under review appointment of the Inspector could not progress (Dáil Debate, 19th June 1996). As a result, the introduction of a dedicated national oversight body was stalled for several more years (Section 4.2.4).

By the mid-1990s, the crime rate in Ireland was in decline once more but, despite this, crime was emerging as a major public concern. Two high profile murders during the 1990s – that of journalist Veronica Guerin and Garda Jerry McCabe – brought the issue of law and order to the fore of public consciousness and matters of policy became heavily publicised and politicised. Furthermore, three highly publicised homicides in rural Ireland signified that crime was no longer an issue confined to urban Ireland. Crime control had become a political priority and a matter of ‘moral panic’ (O’Donnell & O’Sullivan, 2003). However, much of the political debate concentrated on the issue of limited prison capacity as opposed to improving rehabilitative prospects or tackling the root causes of crime (Rogan, 2011).

As mentioned, the government had determined that another expansion of the prison estate was necessary to cope with the increasing numbers of people committed to prison. Critically, the Irish economy was financially healthy enough to support this decision, which eventually led to the construction of Cloverhill, Castlerea, Midlands, and the Dóchas Centre – the largest expansion of the prison estate to date. However, O’Donnell (2004) notes that the Department of Justice at the time gave scant consideration to the justification or scale of the expansion or how it would align with the objectives of the prison system or projected capacity. By the late 1990s plans for Thornton Hall – a massive prison complex planned in north Dublin, at one point intended to provide occupancy for 2,200 prisoners – were in development as a means to address overcrowding and to ‘futureproof’ the prison system against rising committal numbers. The plans for Thornton Hall were eventually abandoned in the wake of the economic downturn in the late 2000s (Butler, 2016; Rogan 2011).

In 1998, the CPT undertook its second visit to Ireland. The delegation visited Mountjoy, Limerick, and Portlaoise prisons. The ensuing report criticised the outdated Prison Rules which had been in effect since 1947 and urged the state to take swifter action on its expressed intentions to update them (CPT, 1999). In relation to prison life, the report referenced the poor material conditions of the prisons visited, conditions which were further exacerbated by overcrowding. It also observed that the provision of additional occupancy by itself – as proposed by the government – would not provide a sustainable solution for overcrowding. The delegation expressed significant concern regarding allegations of mistreatment of prisoners and the lack of disciplinary sanctions imposed against staff in instances where these allegations were upheld. The report also advocated for the development of training programmes for prison staff including control and restraint, interpersonal communication skills, and human rights (CPT, 1999).

4.2.4 21st Century: Strengthening of Penal Oversight

Under Michael McDowell as Minister for Justice, the Office of the Inspector of Prisons (OIP) was finally established in 2002, addressing a recommendation made in the Whitaker Report (1985) seventeen years previous. The remit of the Office has been outlined in Chapter 3, Section 3.3.2. In summary, it is responsible for monitoring conditions across the prison estate and reporting its findings to the Minister. The scale of the new Office was perhaps not commensurate to the extent of its remit. In 2003, the OIP was staffed by just four individuals (Dáil Debate, 6th February 2003). The establishment of the OIP was welcomed by the CPT (CPT, 2003); but similarly, they also emphasised the necessity of providing the Office with adequate resources to meaningfully fulfil its function (CPT, 2003; 2007). An additional criticism was that the Office was not created on a statutory basis, as was originally committed to, and there were repeated calls by government opposition to address this (Dáil Debate, 29th January 2004; Seanad Debate, 22nd June 2005). The state had finally introduced a dedicated national oversight body. However, that the Office was significantly underequipped in these respects again raises the question as to the level of priority afforded to penal oversight.

The OIP was eventually granted a statutory basis in 2007 (Rogan, 2009). The introduction of the Office was an important addition in terms of external oversight, providing a more holistic and in-depth examination of Irish prisons than that offered by the VCs. During this decade, the OIP highlighted poor material conditions, overcrowding, poor healthcare facilities, violence and tension among prisons, and deficits in training and education for prisoners (Martynowicz, 2011). This provides essential scrutiny of conditions on the ground. However, even today, the Minister can choose to redact or remove aspects of the OIP's reports if the content is considered to jeopardise prison security, or is deemed not to be in the public's interest (Martynowicz, 2011). Indeed, the second report produced by the OIP was delayed considerably by the Minister for Justice before its eventual publication, with sections of the final report omitted (Irish Times, 2006). This highlights the ability of the Department of Justice to curtail the reporting function of the OIP, thereby undermining the effectiveness of the Office.

In 2014, the IPS introduced a formalised mechanism for the receipt of prisoner complaints. The absence of an independent prisoner complaints system was an issue that had been continually highlighted by the CPT in their previous visits to Ireland (CPT 2003; 2007). Additionally, the 2006 European Prison Rules stipulate that all prisoners should have easy access to a complaints mechanism that offers the possibility of independent review. Calls for independence in the management of prisoner complaints had been flagged as an issue as far back as the Whitaker Report (1985). While the introduction of the prisoner complaints procedure provided clarity of process and improvement to the recording of complaints (IPS, 2014), the process still does not provide a means for an external appeal (Behan & Kirkham, 2016).

Recently, the IPS introduced its *Governance Framework*, which establishes the corporate governance framework for the organisation. This document posits that the function of corporate governance is to delineate how the IPS is directed and controlled. The framework sets out the accountability structures and relationships of responsibility within the organization (IPS, 2016), which is a welcome step in providing organisational transparency. As described in the organisation's *Strategic Plan 2019-2022*, the *Governance Framework* "will radically alter how the organisation is governed and will support external oversight already in place by the Inspector of Prisons, the Committee for the Prevention of Torture and Inhumane and Degrading Treatment, the Comptroller and Auditor General and will ensure as an organisation [IPS] is fully accountable" (IPS, 2019, p.10).

However, it is important to note that the concept of 'corporate governance' is traditionally associated with the governance of private enterprises, although it is being increasingly implemented within other sectors. Much like new public management, the language of corporate governance is derived from entrepreneurial and capitalistic interests and so it is discordant when applied to social institutions. Corporate governance exists in many guises, however, central to all definitions of corporate governance is the principle of accountability. Solomon and Solomon (2004) offer the definition that "*corporate governance is the system of checks and balances, both internal and external to companies, which ensures that companies discharge their accountability to all their stakeholders and act in a socially responsible way in all areas of their business activity*" (p.14). While narrow definitions confine corporate governance to financial accountability and managerial decision making, broader definitions argue that it should actively incorporate the perspectives of a variety of stakeholders and wider society (Solomon & Solomon, 2004).

Following Solomon and Solomon (2004), the interpretation of corporate governance used in the IPS's *Governance Framework* represents a narrow interpretation of accountability. The framework established by IPS cites the exact definition of accountability set out in the Cadbury Report (1992)⁵, regarding corporate governance as "*the system by which organisations are directed and controlled*" (IPS, 2016, p.4). As such, the content of the document largely focuses on internalised relationships for oversight of the organisation. For example, the work of the executive management team, the strategy and policy group, the HQ management team, and the prison management team within individual prisons. By contrast, the dimension of external oversight – the nature of the organisation's relationship with the VCs, the OIP, or non-governmental organisations, for example – with the exception of references made in passing, is paid little attention. In its current form, the *Governance Framework*

⁵ The Cadbury Report (1992) is a report commissioned by the City of London in the wake of a series of business scandals in the UK in the 1980s. The report examined the role of boards of directors and the relationship between the board, executives, auditors, and shareholders. Its recommendations focus on the composition of the board, the inclusion of outside directors, and engagement with financial audit. The report recommends that companies self-assess and issue an annual statement of compliance with the Cadbury code (Boyd, 1996).

presents a missed opportunity to explore what accountability could mean within the organisation and to further solidify the relationships between IPS and external oversight bodies.

Finally, a recent development in the oversight and regulation of the Irish prison system is the newly revised European Prison Rules (2020). Although a soft law instrument, the EPR have been highly influential in terms of providing key legal standards and principles for prison management and the treatment of people in custody. The revised EPR places renewed emphasis on the importance of prison oversight through inspection and monitoring. New rules stipulate that prisons must be subject to independent monitoring, the findings of which must be made public, in order to ensure that the rights and dignity of prisoners are upheld (Rule 93.1). The introduction of Rule 93.4 also encourages cooperation between national and international monitoring bodies. Finally, Rule 93.6 states that the prison administration must respond to the recommendations posed by the independent monitors, thereby demanding greater engagement.

Looking ahead, there is potentially further growth in oversight for prisons. The state's current Programme for Government has committed to ratifying the United Nations' Optional Protocol to the UN Convention against Torture (OPCAT) (Department of the Taoiseach, 2020). This would mean that the state's sites of detention would also be subject to monitoring visits from the United Nations' Subcommittee on Prevention of Torture (SPT) for the purposes of preventing ill-treatment. In addition, the OPCAT also establishes a domestic pillar of oversight that feeds into the work of the SPT, known as a national preventive mechanism (NPM). The OIP has been identified as a most suitable candidate to fulfil this role (OIP, 2021b). The ratification of OPCAT would provide an additional layer of penal oversight, and one that is informed by human rights. However, while the UN Convention Against Torture was originally signed by Ireland in 2007, the state has been notably languid in its efforts to progress the ratification of its Optional Protocol. This inaction has been the subject of considerable criticism by non-governmental organisations such as IPRT who have stated that the provisions of OPCAT constitute a crucial safeguard for the human rights of people in custody that is absent (IPRT, 2021; 2020).

4.3 The Irish Prison Service

The Irish Prison Service (IPS) was established in 1996. Its mission statement is to provide "*safe and secure custody, dignity of care and rehabilitation to prisoners for safer communities*" (IPS, 2019, p.6). The IPS is an independent executive agency within the Department of Justice and is tasked with the governance of all Irish prisons. Responsibility for the prison system ultimately falls to the Minister for Justice (IPS, 2016). The IPS is overseen by a Director General who reports to the Minister. The Director General is supported by five Directors, who lead the following Directorates: Operations; Care and Rehabilitation; Staff and Corporate Services; Estate Management and Information Communication

Technology; and Finance. The work of the Director General is supported by the Executive Management Team.

In November 2018, at the beginning of fieldwork for this study, the prison population stood at 3,905 people in custody (IPS, 2018). The prison population rate for Ireland in 2018 was 80 per 100,000 (World Prison Brief, 2021a). For context, Ireland is currently twenty-first out of the twenty-seven EU member states in terms of its prison population rate (World Prison Brief, 2021b). Punitivism refers to harsh public attitudes toward crime and offenders, and the state's 'willingness' to punish (Lappi-Seppälä, 2008). Although punitivism is a complex concept that depends on a variety of different factors – including but not limited to, 'tough on crime' policies (Garland, 2001), sentencing practices (Frost, 2008), and the pervasiveness of other forms of carceral confinement deployed by the state (O'Donnell & O'Sullivan, 2020) – the prison population rate is generally accepted as a very important indicator. This figure, in comparison to that of other European states, would suggest that Ireland is comparatively less punitive.

There are no private prisons in Ireland. As such, the twelve prisons listed comprise the Irish prison estate in its entirety (Table 4.1). With the closure of St. Patrick's Institute for young offenders, the Irish prison system solely manages adult male and females over eighteen years of age. While there is no formal security classification system in operation, the majority of Irish prisons could be described as operating under medium security, though some prisons implement lower security restrictions. Two prisons – Loughan House and Shelton Abbey – are open centres, in which people in custody avail of greater privileges, responsibilities, and freedoms. Female prisoners are accommodated in either the Dóchas Centre, or the female unit in Limerick prison. Finally, Portlaoise prison, which has been historically linked to housing political prisoners, is regarded as high security.

The operation of the prisons is assisted by the work of four Prison Support Units: the Operational Support Group, which functions to control the entry of contraband in prisons; the Building Services Division, which oversees the maintenance and upkeep of prison facilities; the Prison Service Escort Corps which is dedicated to escorting prisoners to and from the courts and other appointments; and the IPS College which is responsible for delivering training and continuous professional development. The IPS also employs a number of administrative staff in its headquarters in Longford, who support the work of the prison system. Also employed on-site in the prisons are a number of specialist staff including nursing staff, doctors, chaplains, and psychologists.

Table 4.1: Prisons within the Irish prison estate.

Prison	Type	County	Male / Female	Capacity ⁶	% Capacity ⁷
Arbour Hill	Closed, Medium Security	Dublin	Male	138	99%
Castlerea	Closed, Medium Security	Roscommon	Male	340	85%
Cork	Closed, Medium Security	Cork	Male	296	98%
Cloverhill	Closed, Medium Security	Dublin	Male	431	101%
Dóchas Centre	Closed, Medium Security	Dublin	Female	105	125%
Limerick	Closed, Medium Security	Limerick	Male / Female	210(M) 28 (F)	100% 111%
Loughan House	Open, Low Security	Cavan	Male	140	84%
Mountjoy	Closed, Medium Security	Dublin	Male	755	90%
Midlands	Closed, Medium Security	Laois	Male	870	95%
Portlaoise	Closed, High Security	Laois	Male	291	77%
Shelton Abbey	Open, Low Security	Wicklow	Male	115	84%
Wheatfield	Closed, Medium Security	Dublin	Male	550	80%

The IPS has a clear hierarchical structure. Table 4.2 sets out the breakdown of prison staff grades within IPS, with indicative numbers of staff at each grade.⁸ All prison staff grades wear the IPS uniform, with the exception of Governor grades who wear plainclothes. For the purposes of this research the term ‘senior staff’ or ‘prison managers’ will be used interchangeably to refer to staff at grades of Chief Officer and above. This distinction was made on the basis of their responsibilities with respect to management and accountability work, which has been discussed in Chapter 2. In most prisons, the prison Governor, Assistant Governors and Chief Officers comprise the management team responsible for the running of the prison.

⁶ Capacity based on IPS bed capacity reported per prison, 1 November 2018 (IPS, 2018).

⁷ % Capacity based on IPS bed capacity reported per prison, 1 November 2018 (IPS, 2018).

⁸ Figures provided by IPS and correct as of May 2019.

Table 4.2: Breakdown of full time prison staff according to grade.

Prison Staff Grade	Number of Full Time Staff
Campus Governor	1
Governor I	2
Governor II	8
Governor III	12
Deputy Governor	1
Assistant Governor	34
Chief Officer I	12
Chief Officer II	56.68
Assistant Chief Officer	214.3
Work & Training Officer	315.5
Prison Officer	1777
Recruit Prison Officer	376
Total	2809.48

4.4 Summary

For much of its history, the oversight and accountability structures experienced by the Irish prison system were largely confined to the internalised mechanisms of the Department. Self-governed in its direction, an external oversight framework did not begin to emerge until, approximately, the last thirty years where its development then incurred rapid expansion. This chapter demonstrates that the scale of prison system for much of the first half of the twentieth century meant that prison and penal matters did not receive much public attention. It is argued that, for this reason, developments in prison oversight also remained dormant. It was only from the 1960s and 1970s onwards that the Irish prison system began to engage in self-examination as to what these institutions could and should provide as part of society. The 1970s was also a period in which the prison began to become an object of greater external scrutiny, with the publication of independent reports on prison conditions and the emergence of civil society groups advocating for prisoner rights. Additionally, the ratification of several human rights instruments during the 1970s and 1980s created international obligations by which the State had committed to benchmark itself against in terms of prison conditions and upholding the rights of those in prison.

Several pressure points within the history of the prison system have resulted in calls for inquiries into a system that would have otherwise continued unchecked. These fitful calls for accountability only serve to highlight the need for consistent monitoring and a continuous view of prison life that can potentially pre-emptively address the deficiencies and shortcomings that would otherwise trigger a post-hoc response. One exception for external oversight has been the continual presence of the VCs. The work of the VCs has received criticism on the grounds of their independence, efficacy, and the quality of their reporting (O'Donnell, 2008; Rogan, 2009; Whitaker Report, 1985). Moreover, the criticisms publicly levelled at the VCs by prisoners through the media and prisoners' rights groups demonstrates the need for oversight bodies to be viewed with trust, credibility, and legitimacy in the eyes of those in custody. Together, these criticisms cannot be ignored, and moreover they are telling of the essential features of an effective oversight body.

The addition of the CPT and the OIP have proven to be important milestones in the development of oversight. Additionally, the adoption of international instruments relating to the preservation of human rights for those in custody has provided crucial benchmarking for the standards of prison conditions. With this said, the state remains inactive on recommendations to ratify the United Nations' Optional Protocol for the Committee Against Torture (OPCAT), and on the issue of widening the remit of the Ombudsman to act as an appellant for prisoners' complaints (Whitaker Report, 1985). Additionally, the introduction of the *Governance Framework* by the IPS (2016) appears to be a missed opportunity to firmly and explicitly establish the nature of its collaborations with external oversight bodies from an organisational perspective.

This chapter has provided an historical overview of penal oversight in the Irish prison system, consolidating a variety of source material and perspectives. Next, Chapter 5, will set out the methodology used to explore experiences of oversight and accountability within the Irish prison system from an empirical perspective.

Chapter 5: Methodology

5.1 Introduction

Davis (2011) proposes that criminological research often attracts much attention; by virtue of its subject matter, it is an area that often garners morbid curiosity. But equally, it is an area in which research findings can have a significant impact on vulnerable groups, and this is particularly true of penological research. As such, Davis (2011, p.37) states that all criminological research “*must strive to be valid, ethical, relevant, effective, and rigorous*”. Using a mixed methods design, the objective of this research is to examine prison managers’ experiences of accountability within their place of work, exploring how the prison environment potentially shapes the nature of these experiences. Furthermore, this research will explore descriptions of accountability as experienced through the oversight mechanisms of prisoner complaints, inspection, and monitoring.

This chapter describes the methodology undertaken for this research. It details the research ethics, the paradigmatic considerations, the cohort under study, the methods administered and their respective procedures, the process undertaken for managing the integration of findings, as well as reflexive considerations. Following this, limitations of the research design and analysis will be discussed.

5.2 The PRILA Project

This research is grounded within a larger project titled, *Prisons: The Rule of Law, Accountability, and Rights*, (PRILA). PRILA is a five year project funded by the European Research Council under the Horizon 2020 Research and Innovation Programme (Grant Agreement Number: 679362). The objectives of the project are to examine how prison oversight is experienced by prison staff, prisoners, and oversight personnel. PRILA has examined the role of oversight in both the Irish prison system and in the European prison context. PRILA explores the role of domestic inspection bodies, international monitoring bodies, complaints mechanisms, and the courts as mechanisms of prison oversight, bringing together multiple perspectives on how these processes work in situ. Working as part of a team, in this respect, has been beneficial for this study specifically in terms of being able to draw upon a breadth of knowledge and multidisciplinary perspectives (DeHart, 2017).

The project was also supported by a Consultative Council, an advisory board of academics and practitioners who provided guidance and feedback on the project’s ongoing work. In particular, the council provided valuable feedback during the developmental stages of the data collection instruments used in this research (see Sections 5.7.1 and 5.8.1).

5.3 Research Ethics & Researcher Integrity

Ethics are foundational to the conduct of any study (Orb et al., 2001) and permeate all aspects of the research process. Ensuring that this study was conducted both ethically and with professional integrity was a priority. Accordingly, the discussion of ethics has been deliberately positioned to the fore of this chapter. Traditionally, research ethics have focused on the protection of participants with the intention of ensuring that they do not experience psychological or social harm as a result of either participation or research outputs. Undoubtedly, this is vital to upholding good research practice; however, research ethics also extends to the researcher themselves and their own conduct throughout the research process. According to De Vries et al. (2006), researchers should strive to document their research ethics in practice. Guillemin and Gillam (2004) propose an ethical framework for research which is comprised of two dimensions: procedural ethics and ethics in practice.

5.3.1 Procedural Ethics

Procedural ethics refers to seeking approval from ethics committees for the conduct of research (Halse & Honey, 2007). Carried out in the initial stages of the research process, the ethics application provides the opportunity for the researcher to identify ethical considerations at the nascent stages of the study's design. Consequently, it is an opportunity to build safeguards into the research design that will ensure participants' rights and safety are maintained as well as anticipating ethical issues that may be encountered in the field. The application process also offers space to evaluate the ever-present trade-off between the harm incurred by participants and the benefits of the research itself (Guillemin & Gillam, 2004), and to address how the burden of participation might be minimised.

Ethical approval was sought from within the research institution through the Faculty of Arts, Humanities, and Social Sciences (FAHSS) at Trinity College Dublin in October 2017. Approval was granted for all aspects of the study in November 2017, conditional on obtaining research approval from the Irish Prison Service (IPS) (Appendix B). An application was made to the IPS for research approval, and permission for the study was granted in August 2018 (Appendix C).

The FAHSS committee expressed some concern regarding maintaining the anonymity of interview participants. There was a recognition that as a relatively small organisation – and moreover because the research addressed a smaller sub-population within the organisation – that participants could be identifiable through the information they disclosed. Additionally, participants' allusions to their specific roles or responsibilities within the organisation could render them identifiable. Consequently, careful attention was paid to anonymisation during all stages of the analysis of the qualitative data (Section 5.7.3).

Another issue raised by the committee concerned the possibility that, during interview, participants may refer to incidents that are the subject of open investigation either within the complaints process, as part of a criminal investigation, or a matter that is currently before the courts. Participants were advised through both the study's information sheet and consent forms not to disclose any such information that could jeopardise ongoing investigations.

This study produced personal data both in digital (transcripts, audio recordings, survey responses) and hard copy (consent forms, demographic forms, survey responses). All physical data were stored in a locked cabinet on secure premises accessible only by key-card. Digital data were stored in password protected files on an encrypted hard drive throughout the duration of the project. Analytical work and aggregated data sheets were treated in the same way. This data was only accessible by the researcher. All data gathered by this research will be retained and stored on an encrypted hard drive for ten years beyond the end date of the project in line with Trinity College's (2014) research protocols.

5.3.2 Ethics In Practice

The second dimension referenced by Guillemin and Gillam (2004) refers to ethics in practice. Rather contentiously, some scholars propose that procedural ethics is an administrative act that provides little assurance that ethics are upheld in the field (Halse & Honey, 2007). Although the ethics application process was a very constructive step in the development of this research, the researcher agrees that ethics should not be merely performative. The concept of 'ethics in practice' refers to the navigation of daily ethical issues that are encountered in the course of research that are both subtle and unexpected. These ethically important moments are often things that are neither queried nor anticipated within the ethics application process but can prove to be extremely revealing about both the cohort and phenomena under study (Robinson, 2020).

Examples of ethical issues encountered during the conduct of this research included: survey and interview participants who were unconvinced that anonymisation or confidentiality protocols would be sufficient to conceal their identities; interviewees who disregarded advised instruction not to mention incidents that were under investigation; and the management of instances in which interviewees conveyed very insightful points, but nuanced contextual information needed to be carefully managed or removed entirely to protect the identity of the participant or those involved.

The researcher endeavoured to ensure that the findings of this study were communicated and returned to participants. This is essential for the ethical conduct of research in that participants' experiences are not simply gathered and co-opted for the interests of the researcher (Hintz & Dean, 2020). A briefing paper summarising the principal findings of the study was created and sent to all interview participants confidentially. Small batches of the paper were also distributed to each of the prisons and to the IPS

College. An online workshop was also organised with participants and members of IPS staff to share findings from the study. Additionally, any dissemination outputs from this research are shared with the research gatekeeper, who in turn disseminates findings of interest within the IPS.

Although it is not traditionally applied to ethics, Guillemin and Gillam (2004) propose that the practice of reflexivity can offer guidance in confronting ethical issues. Reflexivity is the recognition that the researcher is not an objective participant in the research process. Characteristics such as gender, age, race, political stance, class, attitudes, and personal experience can consciously or unconsciously shape decisions undertaken during the research process (Berger, 2015). The practice of reflexivity involves a continuous process of critical self-evaluation of one's positionality in order to observe potential biases that may shape the research process (Finlay, 2002). With respect to ethical issues, reflexivity entails recognition of the research's objectives and one's positionality with respect to knowledge creation. Therefore, reflexivity can alert researchers to ethical issues and guide them to solutions consistent with their ethical principles (Guillemin & Gillam, 2004).

5.4 Research Epistemology

This research draws upon a social constructionist perspective. Social constructionism is an epistemological stance that seeks to examine socially produced understandings of the world. It recognises that much of human life and behaviour exists in the manner in which does as a result of the significant influence of culture, social structures, and interpersonal factors (Galbin, 2014). Constructionism advocates that the meaning ascribed to social phenomena is a process of negotiation among actors within a given social setting. Any social phenomena can be experienced and interpreted in a myriad different ways, there are multiple realities of any given phenomena (Grey, 2009). Meaning is constructed through social interaction among members of a community or across communities, and is under constant revision (Bryman, 2012). A constructionist epistemology emphasises the importance of place, setting, and context as greatly informing an individual's views (Creswell, 2013).

Among the concepts of interest within this study were prison culture, oversight, and accountability – concepts that are innately sociocultural in that they are constituted and sustained through language, behaviour, social structures, and processes. Additionally, the site for this research – the prison environment – is one that scholars have described as particularly difficult to comprehend from an outsider's perspective (Drake, Earle & Sloan, 2015). These considerations supported the selection of social constructionism as an appropriate epistemological approach for this research. It is a perspective that entails a reliance upon on participants' interpretations of phenomena in order to identify patterns of meaning making that are used within the participants' own social world (Creswell, 2013).

5.5 Mixed Methods Design

Creswell and Plano-Clark (2011) note that the constructionist perspective is compatible with the use of mixed methods. Through constructionist mixed methods, research is built from the bottom up to identify broader patterns of understanding within a social context. Mixed methods is often referred to as the third research paradigm. It benefits from the deployment of both quantitative and qualitative methods. As an emerging paradigm, guidelines to the use of this approach to research are still developing. Much of the literature surrounding mixed methods as a methodological framework concerns the theoretical debate regarding the combination of two conventionally opposing methodologies (Bryman, 2006). Indeed, there is much contention in the research philosophy literature regarding the use of paradigms for mixed methods research as methods themselves can invoke particular epistemological allegiances (Shannon-Baker, 2016).

However, the connection between a method and its ontological and epistemological assumptions is not necessarily fixed and intractable (Bryman, 2021). Biesta (2010) advocates that paradigms are best interpreted as a position or mental model that is adopted in order to guide the research process, as opposed to a strict ideology that imposes exclusionary restraints. Under a technical interpretation of the mixed methods paradigm, *“research methods are perceived, unlike in the epistemological version [of this paradigm], as autonomous. A research method from one research strategy is capable of being pressed into the service of another”* (Bryman, 2012, p.631).

Greene et al. (1989) identify five advantages of the use of mixed methods. First, mixed methods provides complementarity through the provision of overlapping perspectives on the same social phenomenon. Second, it can aid research development in that, when deployed sequentially, the results from one method can be used to inform the development of the subsequent methods. Third, mixed methods allows for data triangulation, meaning that, through combining methods, the weaknesses of one method can be compensated for by the strengths of the other. Fourth, the use of multiple methods can uncover paradoxes, inconsistencies, contradictions, or insights that may not be identifiable when a topic is addressed through a single method alone. Finally, the use of mixed methods expands the breadth of the study. It is for these reasons that a mixed methods design was developed to explore staff's experiences of accountability and analysis using a combination of qualitative interviews and surveys.

Sofaer (1999) argues for the use of qualitative research methods in the examination of inarticulate social phenomena, and particularly where they are observed in unique settings. The paucity of research on staff's experiences of oversight and accountability in prison signalled that a qualitative exploration of this topic would be apposite. While there are many qualitative methods, semi-structured interviews were identified as the most appropriate for two reasons. Firstly, the unit of analysis concentrated on individual experiences within the prison environment. Interviews permitted the researcher to probe and gain insight into the organisational culture, providing important contextual grounding for

understanding both the perspective of the participant and the phenomena under study. The use of a semi-structured format flexibly allowed participants to deviate from the interview schedule and introduce observations they feel are germane (Kvale, 2007). Secondly, the research topics were potentially sensitive in nature in that they touched on perceived organisational issues highlighted by oversight mechanisms, as well as internal politics within IPS. Therefore, one-to-one interactions with participants were deemed appropriate for this reason (Bryman, 2012).

Because this research is exploratory in nature the use of data triangulation yields further benefits in terms of providing complementarity of findings, compensating for any one method's weaknesses, and assisting in the identification of inconsistencies within the data (Greene et al., 1989). For this purpose, surveys were used alongside the interviews. The interview component was regarded as the foundational aspect of the research as it provided a rich source of data and thick description of the phenomena of interest. As such, it was determined that it would be the first component to be undertaken as part of a sequential mixed-methods design.

The second component of the study entailed the administration of a survey to staff at the IPS. Surveys are used to obtain standardised information from a specific population of interest; as such, they provide a means of measuring the attitudes, opinions, and characteristics of a particular group (Sapsford, 2007). The survey questionnaire was finalised and administered after the completion of the interviews. Originally, it was envisaged to complete the analysis of the interview dataset and feed its findings forward into the survey questionnaire. However, the recruitment difficulties (Section 5.6.2) for the interview component of this study meant that the data collection period extended much longer than anticipated. Consequently, the analysis of the interview data was still in its preliminary stages while the questionnaire was finalised. Undoubtedly, the interview data helped to refine the focus and items of the survey, but it cannot be said to be systematically derived from the interview data.

Sections 5.6 and 5.7, which follow, present the details of these two methods of fieldwork. Through combining these methods, the key objectives of this study were:

- 1 To explore, through a constructionist approach, how accountability obligations are understood in, and shaped by, the prison context.
- 2 To identify prison managers' attitudes towards inspection, monitoring, and prisoner complaints.
- 3 To examine the strategies prison managers assume when responding to and engaging with these forms of oversight.

5.6 Interview Study

The pursuit of understanding social phenomena through a qualitative approach offer several strengths. Qualitative data offers a means to capture social phenomena as *embedded* within a specific social context. The data often offers thick description of phenomena in addition to offering insight into the meanings that participants' assign to phenomena, events, processes, and structures (Miles, Huberman & Saldaña, 2014). The interview method is regarded as optimal in situations in which (i) the research topic is exploratory, and (ii) the research focuses on uncovering the meanings people attach to a social phenomenon (Grey, 2009). As Kvale (2007, p.7) attests, the interview method provides a "*construction site for knowledge*". For these reasons, interviews were identified as the most appropriate method to begin the exploration of this topic.

The interview guide was developed using a semi-structured format. Semi-structured interviews adhere to constructionist assumptions in that they are not overly prescriptive; they enable participants to respond to questions in their own terms, drawing on their own experiences, and using their own language (Braun & Clarke, 2006; Qu & Dumay, 2011). Additionally, they offer an approach that is highly responsive to the interactional dynamics of the interview. They allow for changes to the ordering of questions, the inclusion of probes or follow-ups, and the omission or inclusion of questions as circumstance dictates (Grey, 2009). The development of the guide is discussed further in Section 5.6.1.

5.6.1 Materials

The construction of an interview guide requires one to "*develop as much expertise in relevant topic areas as possible so they can ask informed questions*" (Qu & Dumay, 2011, p.239). The interview guide was segmented into five sections, each rooted in the extant literature summarised in Chapters 2, 3, and 4. The first section was comprised of introductory questions that addressed the participant's time with the IPS, prison culture, and their views on prison work. The second section addressed perceptions of power, authority, fairness, and legitimacy in the prison context. The third section addressed perceptions of accountability and how it relates to the participant's role in prison management. The fourth section explored participants' experiences with the prisoner complaints system. Finally, the fifth section addressed experiences of prison inspection by the Office of the Inspector of Prisons (OIP) and prison monitoring by the Committee for the Prevention of Torture (CPT).

Rooted in a constructionist epistemology, the interview questions were purposefully open-ended. The intention behind this was to elicit participants' personal perspectives, experiences, and emotions, as opposed to exploring the phenomena of interest through predetermined categories. In doing so, the interviews produced rich data on these phenomena that drew on participants' lived world and own meaning making (Kvale, 2007).

The interview guide was reviewed by subject matter experts from the PRILA project's Consultative Council ($n = 3$). This expert review process gathered important feedback on the appropriateness and comprehensiveness of the guide with respect to the research objectives (Kallio et al., 2016). Following this, pilot interviews were conducted with two participants. The pilot interviews provided feedback on the intelligibility and relevance of the questions and whether they were effective in eliciting personal experiences (Kallio et al., 2016). The two pilot interviews were included in the final dataset. The feedback gathered from these two pre-testing measures were incorporated in the final version of the interview guide (Appendix D).

5.6.2 Participants & Recruitment

Prison managers represent a small proportion of staff within the IPS. This meant that the participant recruitment strategy was a critical aspect for the success of this research. Describing the challenges of prison research, Beyens et al. (2015) posits that prison by nature is a low trust environment. In a body of literature that has traditionally focused on prisoners, depictions of staff have been framed through this lens. There is natural scepticism among staff as to how they may be portrayed. Fortunately, in recent years, there has been growing recognition of the importance of prison research in Ireland, and studies have been conducted by researchers both within and without the Service (Barry, 2017a; 2017b; 2019; Garrihy, 2020; Roche, 2016). Research has become more commonplace but despite this, there is still some wariness of how the organisation will be represented and if the realities of prison life will be understood.

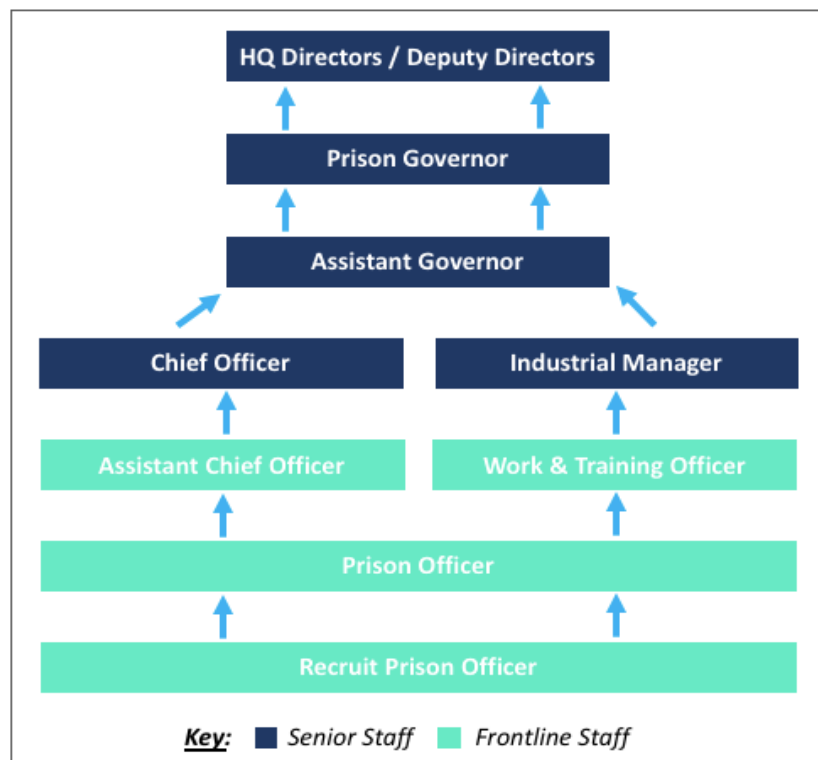


Figure 5.1: Staffing structure within the IPS.

The IPS is a hierarchical organisation in which staff are typically promoted through a series of operational grades (Figure 5.1). Staff members at the Chief Officer, Governor, and senior administrative grades hold considerable responsibilities and decision-making power with respect to overseeing the prison, managing staff, handling complaints, and implementing prison policy (Barry, 2019; O'Neill, 2013; Roche, 2016). Because of these responsibilities, staff at these grades comprised the cohort of interest for this research. Experience at these grades – whether currently serving or recently retired – was the single eligibility criterion for participation in the interview component of the study. This group is referred to as 'senior staff' or 'prison managers' interchangeably throughout this analysis.

An additional consideration is that prison research is intrinsically disruptive and intrusive. Consequently, Patenaude (2004) argues that it is important to establish a good partnership between the prison and the researcher in order to facilitate an understanding of the value of the research, negotiate entry, and minimise disruption. Prior to finalising the study's design and ethics applications, initial meetings were held with IPS Directors to present the research objectives, to outline the proposed methodologies for data collection, as well as to discuss minimising the demand that research activities would inevitably place on organisational resources. A suitable gatekeeper (Reeves, 2010) for the research was also identified within IPS. This individual was responsible for mediating between the researcher and the organisation in relation to disseminating advertisement of the study and its recruitment.

Archibald and Munce (2015) comment that although recruitment is integral to social scientific research researchers often underestimate the time and resource commitments that recruitment entails. Furthermore, recruitment strategies – and, moreover, the effectiveness of strategy implementation – are often omitted or obfuscated from discussions of research design. Kristensen and Ravn (2015) add that the process of recruitment is extremely dynamic and unpredictable; they caution that researchers must be persistent, tenacious, and willing to undertake the necessary emotional labour that the recruitment process entails. Both papers advocate for greater transparency in the reporting of recruitment procedures within qualitative research as it communicates who may have been included in and excluded from the research as a result of the process (Archibald & Munce, 2015; Kristensen & Ravn, 2015).

Difficulties were encountered in recruitment. Participation at the initial stages of the study was quite low. Adler and Adler (2001) explain that there are many reasons why people may be reluctant to partake in research, noting that this is particularly common among individuals who reside at the top of hierarchies of power. They add that potential participants can view research that intrudes on how power is exercised or impinged upon as particularly sensitive topics. Low initial recruitment was bolstered by revising and revisiting the strategies used in order to connect with potential participants. The strategies for recruitment entailed the following actions:

- Senior staff grades were informed by the researcher of the research project and its objectives at two monthly organisation-wide staff strategy meetings.
- The research gatekeeper arranged for emails to be circulated to eligible grades with information on the research objectives and the researcher’s details for contact regarding participation. Four reminder emails were circulated by IPS on the researcher’s behalf at the beginning, middle and towards the end of the qualitative data collection phase (Appendix E).
- Following a drop-off in participants, letters were sent to each prison Governor to ask them to raise awareness of the study among their staff and to advertise the survey within their prison using posters (Appendices F & G).
- To facilitate participation from staff at prisons that were not in close proximity to the university, the researcher organised meeting rooms at locations in Cork, Limerick, and Castlerea. Emails with the dates on which the researcher would be present at these locations were circulated.
- Some staff members who took part in the interviews also informally spread word of the research and encouraged colleagues to participate.

Interviews were conducted from November 2018 to May 2019. In total, thirty-five participants were interviewed. The sample size was guided by the principle of saturation, and is slightly above average for samples in qualitative research (Fusch & Ness, 2015; Mason, 2010). A demographic description of the interview participants is provided in Table 5.1. Eleven participants were at Chief Officer grade, twenty-one at Governor grades, and four held senior roles in the IPS administration. Of those who participated in the study, six participants were female. A gender imbalance within the sample was anticipated given the prevalence of male prison staff (Roche, 2016). The study aimed to be inclusive of experiences of accountability across all types of prisons within the estate. Accordingly, efforts were made to ensure experience at each of prisons was captured within the sample (Figure 5.2).

Table 5.1: Participant Demographics - Interview Study.

Demographic Variable		<i>n</i>	%	Mean
Age		35	-	51.63 years
Years with IPS		35	-	24.43 years
Gender	<i>Male</i>	29	82.86%	-
	<i>Female</i>	6	17.14%	-
Current Rank	<i>Chief Officer</i>	11	31.43%	-
	<i>Governor</i>	21	60.00%	-
	<i>Administrative</i>	3	8.57%	-
Current Status	<i>Serving</i>	30	85.71%	-
	<i>Retired</i>	5	14.29%	-

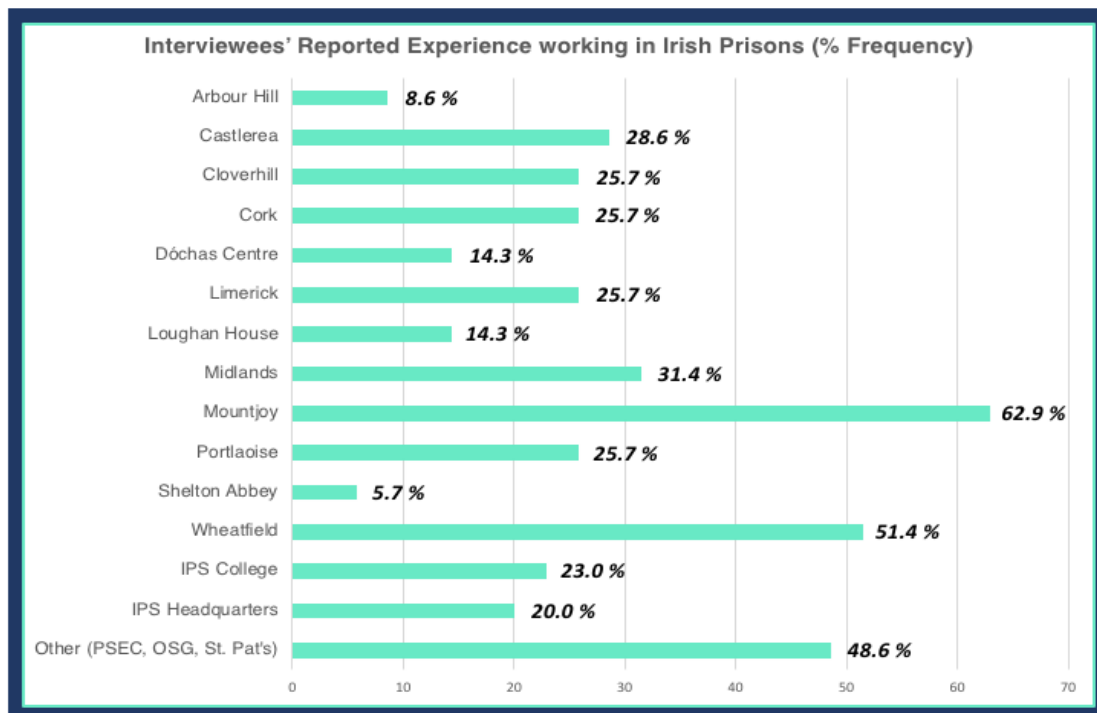


Figure 5.2: Reported experience among participants (n = 35) of prisons worked in across the IPS estate.⁹

5.6.3 Procedures

Participants were invited to participate in the interview at a location of their convenience. All interviews took place in a quiet, private space. Some participants were hosted in interview rooms at Trinity College ($n = 10$). The researcher also met with participants at private meeting rooms close to staff's place of work ($n = 3$), and one participant arranged to be interviewed by phone. Other participants opted to host the interview at their own place of work ($n = 16$), and the remainder of the interviews took place at a private space facilitated by the IPS Training College ($n = 5$).

Prior to beginning the interview, participants received a briefing sheet providing background on the study and its objectives, and a consent form (Appendices H & I). Upon consenting to take part in the study, participants were asked to complete a short demographic questionnaire (Appendix J). The interviews began with an opening statement that summarised the main interview topics. The researcher encouraged the participant to draw upon their own experiences, opinions, and observations as well as examples in order to illustrate the phenomena of interest as experienced in the prison context. Grounded in a social constructionist perspective, interviews were approached with a

⁹ Captured through participants' self-reports of prisons worked in over the course of their career on the demographics questionnaire (Appendix J).

willingness to assume the perspective of participants, to understand the world from their point of view, and to enter the field without preconceptions of the phenomenon (Fontana & Frey, 1994).

Notes were taken by the researcher during the interview and reflective notes were recorded at the end of each interview session. All interviews were recorded on an Olympus WS-853 Digital model Dictaphone, or through Audacity software on the researcher's laptop. The length of the interview sessions ranged from 39 minutes to 166 minutes, with a median session length of 86 minutes. All participants received a debriefing sheet at the end of the session, providing the researcher's contact information and details of staff support mechanisms (Appendix K).

5.6.4 Anonymisation

The audio files of each interview session were transcribed for the purposes of analysis. All interviews were transcribed verbatim. Poland (1995) advocates that the transcription process is critical for the purpose of ensuring data integrity; the analytic process stems from the content of the transcripts so it is exigent that they provide a faithful reproduction of the interview and authentically capture the participant's voice. Additionally, Braun and Clarke (2006) argue that transcription grants an early stage opportunity to observe patterns within the dataset. As such, transcription work provides a level of familiarity with one's data that should not be undervalued.

Once transcribed, the texts were read thoroughly for any details that could potentially identify participants. Anonymity, according to Scott (2005, p.243), refers to the *"degree to which the identity of a message source is unknown and unspecified; thus, the less knowledge one has about the source the harder it is to specify who the source is among possible options."* Tolich (2004) makes reference to traditional 'external confidentiality', through which the researcher makes conscious effort to suppress information used in research outputs that could potentially identify participants to external audiences. Crucially, he also refers to the issue of 'internal confidentiality' in which participants may be identifiable within their own social circle by virtue of what they have disclosed. Internal confidentiality particularly poses an issue in 'small population' research, studies that take place in insular, close-knit, or unique communities.

This was a particularly important consideration for the handling of data within this study. If not carefully managed, participants could be easily identifiable through their specific responsibilities or experiences. Indeed, this difficulty was also encountered by Bryans (2007) during his research with prison governors. Bryans concedes that even with his best efforts to conceal his participants' identities there was still the possibility those within the organisation could engage in a game of 'spot the Governor'.

The process of anonymisation is a difficult balancing act. It requires addressing two, often conflicting priorities – ensuring the protection of participants’ identities while also preserving the meaning, value, and integrity of the data that participants have shared (Scott, 2005). Importantly, it must be stated that anonymity is not equitable with confidentiality, but it is a critical means by which participant confidentiality is upheld (Wiles et al., 2008). Using the guidelines provided by Saunders et al. (2015), each transcript was reviewed with close attention to articulations that made reference to names, places, personal background, occupational details, relationships, and domain-specific details that could be attributable to a specific individual by either internal or external audiences. These changes included, but were not limited to, instances in the text which revealed: interviewee’s name; names of colleagues; names of prisoners; names of prisons; reference to one’s occupational positions; or reference to specific incidents. These details were either: (i) replaced with a more indefinite term or description, or (ii) redacted entirely.

Where several quotes attributed by one participant would, in combination, render the individual identifiable, the attribution was purposefully omitted. This practice is advised by Saunders et al. (2015). During the write-up of findings, attributions of quotations were also omitted where a specific feature or characteristic of a participant – usually related to one’s experience working with female prisoners or in an open centre, or specific responsibilities in IPS headquarters – could, in combination with other quotations, increase the possibility that the participant would be identified. Where participants referenced events to illustrate their point that were publicly reported on, but that they themselves did not take part in (for example, high-profile escapes, major court cases, inquiries or other matters that affected the IPS), these were retained in the text. A record was maintained of all changes made to the original transcripts.

5.6.5 Thematic Analysis

The interview dataset was analysed using thematic analysis. Thematic analysis is an analytic method used to identify, analyse, and describe patterns – or themes – within a qualitative dataset (Bryman, 2012). A theme is regarded as *“an abstract entity that brings meaning and identity to a recurrent experience and its variant manifestations. As such, a theme captures and unifies the nature or basis of the experience into a meaningful whole”* (DeSantis & Ugarriza, 2000, p.362). As an analytical technique thematic analysis is regarded as compatible with the constructionist perspective (Grey, 2009).

Braun and Clarke (2006) detail the procedure for thematic analysis as requiring six analytical stages (Table 5.2). Importantly, the analytic process is not linear but recursive, with earlier steps being revisited and repeated as required. An inductive coding approach was undertaken. Inductive coding is a bottom-up approach in which analysis is driven by the data itself and not led by existing theoretical assumptions (Howitt & Cramer, 2011). As a constructivist-informed approach, the latter stages of analysis were concerned with the identification of latent meanings present within the data – in other

words, going beyond the semantic content to query the assumptions, ideologies, and structures that shaped participants' articulations (Braun & Clarke, 2006). In addition, while reviewing themes, there was an abductive component to this analysis. Explicitly, parallels are drawn between the phenomenological explanations inductively generated through this study and that “*already experienced and explained in other situations*” (Timmermans & Tavory, 2012, p.171). For example, comparisons are drawn with the work of Sykes and Matza’s (1957) techniques of neutralisation in Chapter 7, and an expansion of Braithwaite’s (2003) theory of motivational postures is presented in Chapter 8. In this way, while still inductively grounded, the analysis is conducted in the line with the scientific principle of parsimony.

Table 5.2: Stages of thematic analysis, per Braun and Clarke (2006).

Analytical Stage	Stage Description
<i>1. Data Familiarisation</i>	The researcher immerses themselves in the data through repeated readings and actively searches for recurring patterns.
<i>2. Generating Initial Codes</i>	The texts are reviewed systematically and preliminary codes are applied to chunks of data based on their characteristics.
<i>3. Searching for Themes</i>	Preliminary codes are sorted, with codes that carry similar references and meanings clustered together - these clusters form the initial themes.
<i>4. Reviewing Themes</i>	The entire dataset is reviewed with reference to the newly developed themes: themes may be strongly or weakly supported at this stage; similar themes may be merged; discrepancies within a theme may require necessary revision to the coding framework; weakly supported themes may be discarded.
<i>5. Defining Themes</i>	The essence of each theme is determined. This requires review of each of the themes and their codes to ensure that their descriptions are clearly defined.
<i>6. Report Writing</i>	The findings of the analysis are put in dialogue with the literature.

Crucially, codes do not ‘emerge’ spontaneously from the data. The researcher actively identifies codes of interest, generates labels to describe these experiences, and collates the codes that they feel align most meaningfully to create themes. As such, it is difficult to conduct this process with full impartiality (Braun & Clarke, 2006). This, in turn, poses implications for the rigour of the analytical process. Indeed, qualitative approaches are often unjustly criticised for being anecdotal, impressionistic, and susceptible to the biases of the researcher (Koch & Harrington, 1998). Reliability and validity – concepts that are lifted from the positivist tradition and which are viewed as necessary features of quality research – are often sought in the evaluation of qualitative work. Some scholars resist engaging with these terms arguing that the imposition of assessments of rigour from a research tradition that has a fundamentally different epistemology is nonsensical (Golafshani, 2003).

In the conduct of this research, the researcher aimed to uphold the principles of reflexivity, traceability, and reliability. Firstly, within qualitative research the researcher must be conscious of any assumptions, preconceptions, and ideology that they inevitably bring to the process of data analysis. Here, the importance of reflexivity is emphasised again, in that there is a need to critically self-evaluate one's positionality within the research and how that might affect data interpretation and decision making during the process (Finlay, 2002). For this purpose, a research journal was used to record reflexive practice, rationale that guided analytic decision making, and the stages of the analytic process (Berger, 2015; Walker et al., 2013) (see Appendix L).

Secondly, and relatedly, thematic analysis is often criticised for lacking procedural detail when it comes to the reporting process (Howitt & Cramer, 2011). The recording of processual stages and decision-making during analysis is vital for traceability, in addition to transparency and research credibility (Miles, Huberman, & Santaña, 2014). For this reason, the work undertaken at each stage of the thematic analysis was recorded in a specific coding document for posterity. This included a record of code descriptions, theme creations, alterations to codes and themes, and each iteration of the coding framework. This record traces the process from code to conclusion. It therefore provides transparency, in that the representation and interpretation that the researcher produces aligns with what respondents have articulated (Nowell et al., 2017). The final coding framework arising from this process has been included in the appendices (Appendix M).

5.7 Survey Study

Survey research involves the investigation of specific characteristics and attitudes within a well-defined target population (Visser et al., 2001). Surveys have great utility in that a population sample can provide a broadly representative examination of a specific phenomenon within a target group (Grey, 2009). The objective of the survey was to explore opinions and attitudes of prison staff regarding accountability, and towards the specific oversight mechanisms of prisoner complaints, the OIP, and the CPT. The surveys also enable the experiences of prison managers to be contrasted with that of frontline staff, and as such to reveal important distinctive features of the management group. Additionally, the inclusion of this method allowed for triangulation with data gathered from the interviews.

5.7.1 Materials & Procedures

The development of the questionnaire involved several stages. First, the instrument was conceptually informed by a preliminary analysis of the interview data (Section 5.5). Loosely defined themes and recurring patterns (Braun & Clarke, 2006) identified from interview participants' reflections on accountability and their experiences with prisoner complaints, inspection, and monitoring informed the topics for inclusion. Following this, multi-item scales used in previous research were identified to measure some of the key variables of interest. The survey items pertaining to felt accountability were

adapted for the prison context from previous measures on felt accountability used by Hochwarter et al. (2007), as well as theoretical discussions posed by Butler (2006) and Messner (2009).

The instrument underwent three stages of pre-testing with feedback from each stage incorporated into subsequent iterations of the questionnaire. First, an early paper-based version of the survey was issued to four individuals for the purposes of expert review (Olson, 2010).¹⁰ Reviewers were selected on the basis of their practitioner, academic, or methodological expertise. The reviewers were asked to critique the questionnaire on its structure, appropriateness of terminology, and the relevance of the survey items. Next, the survey instrument underwent pre-testing through the use of a cognitive debriefing protocol (Presser et al., 2004). Two participants performed a cognitive walkthrough of a paper-version of the survey. This involves progressing through the survey item-by-item while thinking aloud, as a means to identify issues of terminology, participant relevance, and general usability. Finally, a pilot test of the online survey was conducted, with additional question probes included. The pilot was hosted online at the IPS College and conducted with a small sample of representative participants ($n = 11$). This feedback was incorporated into the final version of the survey instrument.

A common concern in the use of surveys as a method is that of social desirability bias. This refers to a distortion of one's responses in an attempt to convey a more socially acceptable belief or behaviour, or to present oneself in a more favourable light, resulting in a form of measurement error (Phillips & Clancy, 1972; Tourangeau & Yan, 2007). It is difficult to fully mitigate for this bias; however, self-administered survey modes have been shown to reduce such bias as the researcher is not present to capture the response (Lind et al., 2013). Additionally, the survey materials were careful to stress the importance of participant confidentiality and that responses would be accessible only by the researcher.

The final survey consisted of three sections (Appendix N). The first section concerned demographic information. The second consisted of questions related to prison work and working with prisoners. The third section examined general attitudes to accountability obligations. This section was then segmented into further specific questions pertaining to the respondents' opinions of the OIP, the CPT, and the prisoner complaints system.

The survey was hosted online through Qualtrics. A link to the survey was distributed to members of IPS through their work email addresses; notably, for most staff, these accounts can only be accessed while on IPS premises. The initial response rate was quite low (9.65%) which prompted the creation of a paper-based version of the survey. Potentially, the low response rate was due to the length of the survey. Another potential explanation is the somewhat sensitive nature of the survey topic; participants

¹⁰ Four reviewers aligns with the standard size for an expert review panel, as advocated by Olson (2010).

may have felt uncomfortable filling in the questionnaire in their workplace. Mixed-modes for survey administration are one means by which low response rates can be addressed as they offer participants alternative – and potentially more suitable – means to respond (Dillman et al., 2014). Accordingly, a paper-based mode was deemed to be a constructive solution as it would enable participants to complete the survey in their own time and in a place of their convenience.

The translation of the survey from online format to paper-based was informed by the guidelines proposed by Dillman et al. (2014) and Fanning (2005). Specifically, effort was made to ensure that the paper-based survey closely resembled the format, layout, and response options of the original mode insofar as possible. The inclusion of the paper-based version resulted in a very modest increase in responses.

5.7.2 Participants & Recruitment

This study focuses on the perspectives and experiences of prison managers. However, the inclusion of a frontline staff cohort provides a useful addition in that, through comparison, specific attitudes and experiences of the senior staff group can be identified. For this reason, staff at all operational grades were eligible to take part in the survey study. At the time of distributing the survey, the estimated operational staff numbers¹¹ within the IPS was reported to be 3,170. Of these, 129 were staff at senior grades (see Figure 5.1).

Like the interview study, recruitment for participation in the survey also proved to be challenging. The recruitment strategy involved several notification, advertisement, and follow-up measures to attract additional participants. Additionally, as noted, two modes of administration for the survey tool were produced. Following the discussion in Section 5.6.2 of the importance of transparency for recruitment procedures, the strategy entailed the following steps:

- Senior staff grades were informed of the research project and its objectives at two organisation-wide staff strategy meetings held monthly.
- Ahead of launching the online survey, each prison Governor received a pre-notification letter detailing the survey's objectives and the dates of data collection (Appendix O). Governors received posters to advertise the study within the prison.
- Approval was sought from IPS to advertise the study (Appendix P) on the homepage of staff's internal server.
- Email notifications including a link to the online survey were circulated among all prison staff by the research gatekeeper at the beginning, middle, and towards end of the survey's lifespan (Appendix Q).

¹¹ Figures requested from the Irish Prison Service, correct as of May 2019.

- Ahead of launching the paper-based survey, all Governors were notified of the study by phone call, and were asked to nominate a liaison responsible for setting up the survey materials at their prison.
- The liaison was sent a package of materials including instructions for set-up as well as poster advert for recruitment (Appendices R & S).
- Emails were circulated to all prison staff by the research gatekeeper notifying them of the availability of the paper-based version of the survey. These notifications were sent at the beginning, middle, and end of the paper-based survey's lifespan (Appendix T).

The survey was conducted from June to July 2019 in its online mode, and the paper version was administered during the month of November 2019. The final response rate for the survey across the two modes was 11.64%. Demographic descriptions of the final survey sample are presented in Tables 5.3-5.5. The overall demographics for the sample are presented in Table 5.3, and a breakdown of the senior staff and frontline staff samples are presented in Tables 5.4 and 5.5 respectively. Again, the sample sought to include staff from all prisons and units across the prison estate. All prisons are represented, with greater responses being observed at the larger prisons (Figure 5.3).

Table 5.3: Survey Demographics (n =369).

Demographic Variable		<i>n</i>	%	Mean (SD)
Mode	<i>Online</i>	306	82.9%	-
	<i>Paper</i>	63	17.1%	-
Age (years)		368*	-	46.26 (7.11)
Years with IPS		357*	-	17.79 (8.40)
Gender	<i>Male</i>	284	77.0%	-
	<i>Female</i>	85	23.0%	-
Current Rank	<i>Senior Staff</i>	40	10.8%	-
	<i>Frontline Staff</i>	286	77.5%	-
	<i>Non-Response</i>	43	11.7%	-

*Denotes some missing values due to non-response.

Table 5.4: Survey Demographics – Senior Staff Sample (n = 40).

Demographic Variable		<i>n</i>	%	Mean (SD)
Mode	<i>Online</i>	34	85.0%	-
	<i>Paper</i>	6	15.0%	-
Age (years)		40	-	50.00 (5.21)
Years with IPS		39*	-	23.77 (6.43)
Gender	<i>Male</i>	30	75.0%	-
	<i>Female</i>	10	25.0%	-
Current Rank	<i>Chief Officer</i>	16	40.0%	-
	<i>Governor</i>	19	47.5%	-
	<i>Administrative</i>	5	12.5%	-

*Denotes some missing values due to non-response.

Table 5.5: Survey Demographics – Frontline Staff Sample (n = 286).

Demographic Variable		<i>n</i>	%	Mean (SD)
Mode	<i>Online</i>	238	83.2%	-
	<i>Paper</i>	48	16.8%	-
Age (years)		285*	-	45.84 (6.82)
Years with IPS		276*	-	18.29 (7.83)
Gender	<i>Male</i>	243	85.0%	-
	<i>Female</i>	43	15.0%	-
Current Rank	<i>Recruit Prison Officer</i>	9	3.1%	-
	<i>Prison Officer</i>	186	65.0%	-
	<i>Assistant Chief Officer</i>	47	16.4%	-
	<i>Work & Training Officer</i>	44	15.4%	-

*Denotes some missing values due to non-response.

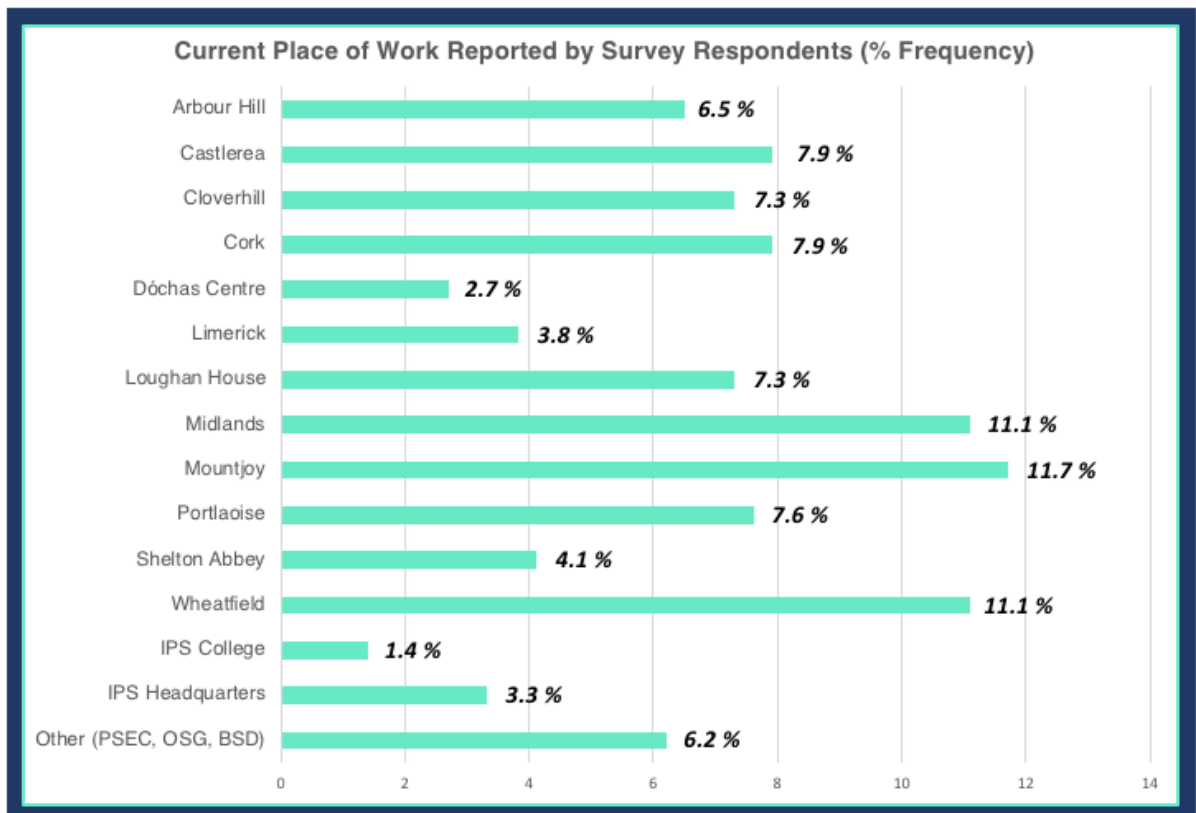


Figure 5.3: Current place of work reported by survey respondents (n = 368).

5.7.3 Data Preparation for Statistical Analysis

The survey data was collated and analysed through SPSS V26. Data from the online mode was exported from the survey host, Qualtrics, and converted to SPSS. Responses gathered through the paper-based mode were manually entered into SPSS. The dataset was cleaned prior to analysis. This involved identifying and addressing errors and inconsistencies in the dataset – such as missing responses, typos, or duplication in data entry – in order to improve the quality of the data. This practice is particularly important when merging datasets from two different sources (Rahm & Do, 2000).

Missing values are a common feature of survey datasets. This can occur for a variety of reasons; for example, when respondents refuse to answer an item, unintentionally skip questions, or when data is not properly recorded (Pigott, 2001). A missing value analysis was conducted on the cleaned dataset, which revealed no discernible pattern to the missing values within the dataset. Consequently, missing values were deemed to be missing completely at random (MCAR) (Rubin, 1976). There are many different approaches to handling missing data (Pigott, 2001). For example, complete-case analysis removes any incomplete cases from the dataset. Alternatively, available-case analysis draws upon all available data, even where a respondent's responses contain some missing values. This was selected as the most appropriate approach as it allowed for the retention of a greater number cases within a relatively small dataset (Agresti, 2018).

Notably, two novel scales were constructed. These scales aimed to measure respondents' felt accountability toward internal line management and felt accountability towards external oversight bodies. The proposed scales consisted of seven items and were modelled on Hochwarter et al.'s (2007) measure of felt accountability with the individual items tailored to the prison context. Factor analysis is used to assess the variability among a set of items; items that demonstrate similar variance can be clustered together to form a singular construct (Yong & Pearce, 2013). Principal axis factor analysis was conducted to assess the variability within the items of two proposed scales. This analysis revealed a single factor measurement for both scales; with internal felt accountability comprised of five items and external accountability comprised of seven items. Reliability of the scales was assessed using Cronbach's alpha, which indicated good internal reliability for both the internal felt accountability ($\alpha = 0.74$) and external felt accountability ($\alpha = 0.86$) scales.

Statistical analysis is used in each of the three findings chapters, and is integrated alongside the qualitative findings (Section 5.8). For each findings chapter, a record was maintained of the descriptive analyses and inferential tests undertaken – including the appropriate testing of statistical assumptions, analytical procedures, and analytic outputs. These records are available in the appendices (Appendices U-W).

5.8 Synthesis of Research Findings

The objective of mixed methods research is to produce a richer understanding of a phenomenon, to create a whole that is greater than the sum of its parts. This requires that the strands of the research are blended and consolidated; without meaningful integration of the data generated by its different components, a study cannot be said to be mixed methods (O'Cathain et al., 2010). Most commonly this integration is undertaken in the latter stages of analysis (Moran-Ellis et al., 2006). Mixed methods research often generates a wealth of data, and there are many different approaches to undertaking integration (Creswell & Plano-Clark, 2007). The approach to integration adopted within this research is that proposed by Moran-Ellis et al. (2006), that of 'following the thread', an inductive, exploratory approach, in which the data is iteratively revisited and interrogated. This involves choosing a specific phenomenon and exploring it within one dataset before following it through to the next, thereby consolidating a multi-faceted cluster of findings related to the phenomenon.

The two stands of the research were first analysed in isolation through their respective analytic approaches (see Sections 5.6.5 and 5.7.3) before being brought together. The integration of the data was supported by the use of data matrices (Creswell & Plano-Clark, 2007; Miles et al., 2014). This involves the creation of a table that positions the results of the individual research strands side-by-side columns to enable a visible comparison. Each row, or finding, can then be assessed as to the extent of the agreement across the two study strands. According to O'Cathain et al. (2010), results may demonstrate: broad agreement (convergence); partial agreement; be incongruous or inconsistent with

one another (divergence); or findings from recorded from one study strand may be absent in the other (silence). This practice supports both the interpretation and also the presentation of findings. A data matrix has been created for each of the findings chapters (Appendices X-Z).

5.9 Reflexivity & Positionality

Berger (2015) advocates that researchers must recognise their own situatedness and positionality in order to explore their potential effects on the phenomena under study. Such characteristics can affect interactions with participants, the data collection process, and the analysis and interpretation of data. Owing to this, reflexivity is an important practice in order to reflect on the influence of the researcher on the construction of knowledge within the activity of research. However, as Gooch (2021) notes, it is difficult to determine the full extent to which identity and positioning can affect research activities. There were many instances throughout the course of this research in which awareness of my positioning in terms of gender, class, education, knowledge, and values were made salient in the field and during analysis. This section will concentrate on a select few examples.

One influential aspect of my identity proved to be gender. Much has been written on the topic of conducting research in prisons as a female researcher and the additional considerations that gender can bring to bear on the data collection process (see collection of essays in Schlosser, 2021). There were instances in which gender became salient during the interview sessions. For example, participants apologised to me for swearing during the interview, or apologised for 'colourful' descriptions of the darker aspects of prison life. It made me aware that, within these interactions, participants could be perhaps be presenting somewhat sanitised accounts of the prison environment. However, Liebling (1992) notes, gender can also be something of an asset. As a female researcher, I also found that some participants were quite open and forthcoming, revealing deeply personal and emotional experiences related to their work.

Another important facet of my identity as a researcher was that I was conducting this research as an 'outsider' with a group in which there is a notably strong occupational culture and sense of in-group solidarity (Arnold, 2005). There were several instances during fieldwork in which participants or staff members who accompanied me around the prisons would look to 'test' my knowledge. This style of interaction was also encountered by Patenaude (2004) and Barry (2017b) and described in their accounts of fieldwork with prison staff. Past literature on prison culture has emphasised that operational knowledge and expertise is highly valued among those who work in prison (Bennett, 2016). In some instances, it was important to demonstrate in these exchanges that, while I was evidently not an insider, that I was somewhat knowledgeable on penology and the Irish prison system in order to gain credibility.

In other instances, being an outsider, or 'un-knowledgeable', presented an advantage of its own kind. It meant that participants would have to explicitly explain aspects of the prison culture or its procedures that, in a conversation among insiders, would have been otherwise tacitly assumed. More importantly, this was something I had to learn to identify within the interaction itself – to determine instances in which I was being tested, instances in which to hold back, and instances in which to concede I knew absolutely nothing on the matter. They were important junctures in negotiating the space between myself and the participant, and for establishing rapport.

Similar to how I deployed my knowledge of prison culture, participants were keen to demonstrate their own knowledge and familiarity with the world of research. Several participants mentioned their own academic pursuits related to criminology, or their desire to do so at a later date. Some mentioned theorists in penology whose work they admired, including Liebling, Crewe, Crawley, and Goffman. Some even sympathised about fieldwork and participant recruitment, sharing their own experiences. I welcomed these disclosures as they helped to bridge the gap between myself and the participant. They provided common ground, and participants' familiarity with research also meant that the interview process did not seem so alien. As Ribbens (1989) notes, even with best effort, interviews are an intrinsically unnatural exchange.

However, there were instances in which I was strongly aware of my status as an 'outsider' and that there was a low sense of trust among some of those taking part in the study. As a result, there could be something of a guarded formality within some of the interview sessions. I tried to mitigate this through developing rapport, and emphasising that the study sought individual experiences, that effectively, there were no 'right' answers to give. Nonetheless, there were instances in which it felt as though some interviewees were armoured with their occupational role: their answers were carefully constructed, caveats were well placed, and their words were managed. This caution usually began when the tape went on. Although, typically, as the interview progressed, this defensiveness would recede somewhat. One prison manager even cautioned me about the mistrust I would encounter as a researcher.

"I found a slight change in him as soon as the Dictaphone went on - he became more constrained and reserved in his speech." (Field Notes, April 2019)

"...they'll say all these nice things, because they'll be paranoid that whatever they say to you they will not have any trust in your confidentiality. They have no trust in confidentiality. [...] Thinking that somehow names will get back or people will be able to find out who said what." (Interview Participant)

Finally, a crucial aspect of my positionality as a researcher concerned my personal values and ideology with respect to the research topic. On a personal level, I was slightly sceptical as to how well these prison oversight mechanisms worked in practice for all stakeholders concerned – people in custody, the prison service and its staff, and oversight bodies. My reservations proved to deepen over the course of the research. Purposefully, I did not share my own views on prisoner complaints, inspection, and monitoring with participants in order to maintain neutrality. Furthermore, I explained before the interview began and through the briefing materials that the research sought and valued participants' own personal viewpoints and experiences.

Liebling (2001) notes that there is something of a preoccupation with 'side-taking' in prison research; audiences research often query whose 'side' the researcher is on. She reflects that sensitivity and understanding towards people in custody, as a vulnerable and disempowered group, is often validated and understood, whereas sympathy or allegiance towards power holders is often regarded as less palatable. Becker (2017) contests that neutrality cannot be achieved in criminal justice research, claiming that it is an innately political act which involves choosing a side. Conversely, Sykes (1958, p.136) asserts that research *must* be neutral, arguing that "*it is only by remaining firmly neutral in one's sympathies that a valid picture of prison life can be uncovered.*"

Yet, during some of the interviews I felt as though this neutrality was in question. There was the sense that by the very act of researching oversight mechanisms – mechanisms that are human-rights informed and operate chiefly for the protection of people in custody – that I had predetermined my allegiances in the eyes of my participants. Put more explicitly, I felt as though some participants inferred that I was firstly, automatically a proponent of these oversight mechanisms, secondly, that I considered them to be effective, and thirdly, that in being an advocate of these systems that my allegiance lay with people in custody. Even in asserting my neutrality as a researcher, there were still times were I felt as though I was viewed as more than just an outsider but also the 'ignorant spy' (Sparks, 1989 as cited in Liebling, 1992) – a naïve do-gooder checking up on the prison administration with a view to uncovering some wrong-doing.

"I felt that a lot of what he said was to showcase the positives of the organisation rather than engage with the questions I was asking." (Field Notes, April 2019)

"...he did not like my question about whether prisoners make good use of their rights while they are in prison, abruptly responding, 'They get their rights, Sarah. They get their rights.' Seemingly, he felt that by asking the question I was implying that prisoners were being denied their rights in some way." (Field Notes, March 2019)

“Because Governors **will** bullshit. [...] But it would be interesting to see can you get through the spin that I’m spinning out to you here now.” (Interview Participant)

Liebling (2001) describes that neutrality allows for an objective transition from empirical descriptions of ‘what is’ to ‘what ought to be’. Central to this endeavour is methodological and analytical rigour that supports the evaluation of the data. I endeavoured to maintain neutrality throughout data collection and analysis. My principal objective was to understand accountability and prison oversight from the perspective of my participants – examining how and why these meanings and viewpoints were so constructed (Chapters 6-8). From here, further reflections could be made on how prison oversight works and potentially how it could be supported and improved (Chapter 9).

5.10 Limitations

This chapter has identified many strengths of this research study. The mixed methods approach offered several benefits for the investigation of an exploratory topic (Section 5.5). Furthermore, the research design was supported by extensive pre-testing measures for its data collection instruments (Sections 5.6.1 and 5.7.1). Reflexivity practiced throughout the study assisted in the maintenance of ethical conduct, as well as continual reflections on the data collection and analytical processes (Section 5.8). Perseverance in the recruitment strategies ensured that the research achieved good participation from prison staff, and was inclusive of prisons across the estate. However, there remains some important limitations concerning the study’s design and the interpretation of findings – these are explored within this section.

Regarding the interviews, the reflexive considerations explored in Section 5.8 highlighted that there was a degree of hesitancy among some participants regarding taking part in the study. Consequently, this may bear influence on the data gathered. Importantly, this point is not made with a view to questioning the *veracity* of the accounts that participants provided during the interviews, but rather the manner in which they were provided. It is possible that participants spoke with more restraint and caution on these matters than they might in a more naturalistic setting.

Within all survey research there is inevitably a degree of measurement error; this is often discussed under the total survey error framework. Firstly, survey error can arise through sampling and the probability of selection for participation (Bautista, 2012). The sampling frame for this survey included prison staff at all grades and so could be considered inclusive of the whole population. However, the administration of the survey may have affected the likelihood of individual participation introducing coverage error. In the case of the online mode, all prison staff received a link to the survey through their staff email – but, based on duties, some staff may be better positioned to access their email than others.

In the case of the paper mode, the distribution of the surveys was dependent on the liaison officers; this may have fared better in some prisons than others.

Survey error can also arise through non-response error. The low response rate may affect the representativity of the sample; it may be the case that the views of those who chose not to respond to the survey differ in some systematic way from that of respondents (Bautista, 2012). Efforts were made to boost the response rate through the administration of the survey in two modes. In terms of non-response regarding individual survey items, no discernible pattern was observed during the missing values analysis. Therefore, data was assumed to be MCAR (Rubin, 1976).

Measurement error can arise in several different ways, including, but not limited to, poor question wording, lengthy questions, broken skip patterns in online questionnaires, ineffectual instructions, and poor visual design (Bautista, 2012). Efforts were made to identify and address these issues during the pre-testing phase. However, as with the interviews, the survey touched on some potentially sensitive topics, and consequently some measurement error was anticipated.

Additionally, there is a notable disparity between the size of the frontline and senior staff samples. While this is an inevitable consequence of frontline staff within the organisation greatly outnumbering those in management, this disparity nonetheless carries implications for statistical analysis. Shieh et al. (2006) note that this affects analysis by reducing statistical power, effectively meaning that there is an increased chance that the analysis will incur a Type II error and fail to detect a true effect.

A final issue concerns the factor analysis undertaken for the two felt accountability scales (Section 5.7.3). This analysis was conducted on the overall survey sample. Ideally, it would have been conducted within each staff group individually to assess if the construction of the scale had equivalent performance across the two groups. This is referred to as measurement invariance (Putnick & Bornstein, 2016). However, the small sample sizes for the two groups meant that a meaningful factor analysis could not be conducted on each group individually. As such, the reliability of the felt accountability scales is derived from the overall staff group, and measurement invariance cannot be assumed.

5.11 Summary

This chapter provided a comprehensive overview of the methodology undertaken within this research. The chapter began with a description of the study's ethical framework. Next, it explored the research epistemology and research design, before exploring the methodological procedures within the two strands of the study. Following this, it described the reflexive considerations that arose during the

conduct of this research, and how this may have informed the data collection process. Finally, it established some of the limitations of this study in terms of design and data interpretation.

The next three chapters present the findings of this research. Chapter 6 describes the accountability culture within Irish prisons in addition to the personal experiences of accountability among prison management. Chapter 7 details prison managers' views on complaints and their experience of engaging with prisoner complaints system. Chapter 8 reports on prison managers' attitudes to prison inspection by the OIP and monitoring by the CPT. These findings are consolidated for discussion in Chapter 9.

Chapter 6: Exploring the Accountability Culture of the IPS

6.1 Introduction

Chapter 3 provided an overview of the purpose of accountability and the oversight obligations faced by the Irish Prison Service (IPS). These demands for account have increased in recent years – in part motivated by managerialist principles adopted within public sector organisations and in part through a growing number of external oversight bodies. In turn, Chapter 2 summarised the existing literature on prison staff culture and what it is like to work in this unique environment. Juxtaposed, there is little overlap between these two bodies of literature. Consequently, this presents a significant gap in our understanding of staff perspectives on prison oversight. The objective of this chapter is to bridge this gap by examining prison managers' experiences of accountability, and exploring how prison culture and accountability obligations are interlinked.

This chapter discusses the accountability culture operating within the IPS. It describes the current landscape of accountability within the organisation; detailing the nature of accountability obligations and how staff perceive them, the growing demand for account, and the personal experience of being accountable in this context. Focussing primarily on interviews with senior prison staff, Section 6.2 will concentrate on the unique considerations for accountability posed by prison as a work environment. The findings indicate that although prison is not a setting without comparison, the prison environment itself has significant bearing on its accountability culture. Section 6.3 draws on both the qualitative and quantitative strands of this research to describe the increasing demand for account in this setting, and how staff perceive and respond to this demand. Finally, this section will explore the personal dimension of accountability and how the demand for account is lived and experienced by those in senior management.

This chapter examines experiences of accountability as they are shaped by the prison context. In doing so, it provides vital contextualisation for understanding staff perceptions of accountability and accountability mechanisms. As such, this chapter provides an essential foundation for understanding staff's attitudes towards and interactions with three such accountability mechanisms, the prisoner complaints mechanism, the Office of the Inspector of Prisons (OIP), and the Committee for the Prevention of Torture (CPT), which will be explored in Chapters 7 and 8. For reference, a matrix integrating the mixed methods findings presented in this chapter is included in Appendix X.

6.2 Contextualising Accountability: The Influence of the Prison Environment

As detailed in Chapter 4, accountability is a socio-relational construct. As Frink et al. (2008) summarise, accountability is a social relationship: it has clearly defined roles of account-giver and audience, and there are expectations as to what one's behaviour should be – whether formal or informal – against which the actions of the account-giver are evaluated. Accountability is a concept that bridges an individual to their organisation (Lerner & Tetlock, 1999). Because accountability is a socio-relational concept, the experience of engaging with accountability mechanisms and giving account, as well as one's felt accountability, is not constant across all settings. Therefore, an understanding of accountability must acknowledge the context in which it resides and relevant environmental influences that can shape individual dispositions towards accountability (Frink et al., 2008) and towards oversight bodies seeking account (Braithwaite, 1995; Braithwaite, Murphy & Reinhart, 2007). Johns (2006) describes context as “*situational opportunities and constraints that affect the occurrence and meaning of organisational behaviour as well as functional relationships between variables*” (p.386).

Section 6.2 will describe features of the prison as a work environment that – through participant accounts – proved to be particularly influential in terms of how accountability obligations are perceived and experienced. Specifically, this section will address: the perception of ‘prison’ as a unique context; the volatility of the working environment; and accountability as instantiated through paperwork and bureaucracy. In particular, it will concentrate on the qualitative findings, as qualitative methods are deemed more appropriate for capturing the nuance and complexity of cultural assumptions (Jex & Britt, 2010; Schein, 2010; Schneider, Erhart & Macey, 2013) that underpin understandings of accountability.

6.2.1 Prison as a Setting for Accountability: Power Dynamics

Drawing on the theoretical literature, Chapter 3 presented the possibility of prison as a unique context for accountability (see Section 3.2.2; see also van Zyl Smit, 2010). This section examines staff perceptions of prison as a setting for accountability, providing a much-needed empirical basis for these claims. The findings presented here illustrate that prison is a setting not entirely without comparison. For interview participants, other settings characterised by power asymmetries, loss of liberty, and vulnerable populations such as mental hospitals, care homes, and Magdalene laundries provided ready examples for comparison. Nonetheless, there are atypical contextual factors within prison which pose unique considerations for its accountability culture, and which in turn feed into staff attitudes towards accountability work and towards accountability mechanisms.

Through interviews with prison managers, several distinguishing characteristics of this environment were identified. For example, many references were made to the prison walls which physically and metaphorically shroud these institutions from view. There was a sentiment that prison was a

component of society that was more palatable if removed from public consciousness, and likewise the work of prison staff. As one participant described, *“what I get from people is, you know, it’s really behind the wall and they’re happy enough that it’s behind the wall”* (Participant 6). Yet, there was also recognition that this was something of an archaic view; with some participants expressing the need to push back against prisons as silent institutions, to reaffirm the idea of prisons as part of social life and instil their place in public consciousness. Participants often spoke about this in terms of ‘opening the doors’, connecting to outside agencies and the local community, and bringing outsiders inside the prison walls. Engagement with external accountability was also part of this process, as it lays bare a space that is too often hidden from public view.

As a setting, prison commands substantial influence over the configuration of the organisation’s accountability culture. There is a deep-seated recognition among participants that prison poses a distinct context for accountability work. This opinion stemmed from two intimately linked aspects of the power dynamic that operates in prison – explicitly, (i) that prison staff are imbued with a large degree of power, and (ii) that prisoners are significantly disempowered. These two aspects are undoubtedly sides of the same coin but pose different implications for the nature of accountability and the demand for account in this setting. In essence, it is precisely because prison work bestows staff with such power (Crewe, 2007b; 2011; Foucault, 1975; Sykes, 1958) that a high level of scrutiny must be directed upon staff; in addition, because prisoners are highly disempowered, there is a need for the greater levels of attention to be directed towards the protection and welfare of prisoners (van Zyl Smit, 2007).

Undeniably, staff, by virtue of their role, are equipped with a high degree of power over those in custody. This has been extensively captured in the prison staff literature (Crewe, 2011; Liebling, Price & Shefer, 2011), though its relationship to accountability obligations has been underexplored. Power of this kind demands commensurate accountability. As Participant 2 explained,

“Organisational-wise, bureaucratic-wise, transparency-wise we’re like any other government department. But the power, the added bit is the power I have over the quality of life of another human being is absolutely immense. I can determine by – still by using the rules, by true legitimacy – I can determine whether you have a good day or a bad day. I can determine whether you have a pleasant sentence or a negative, or a bad experience. And that’s just by, by abiding by the rules, you know?”

This quote illuminates the extent of the power that staff can hold over prisoners, should they choose to exert it. As previously described, discretion in the exercise of this power is vital for the maintenance of positive staff-prisoner relationships. Indeed, as a staff member, knowing when and how to appropriately and effectively turn to the one’s power is considered to be the hallmark of ‘the right

officer' (Liebling, Price, & Shefer, 2011). Participants acknowledged the extent of their powers over those in custody and that, consequently, their work should be subject to greater scrutiny and oversight. There is a recognised need for this power to be counterbalanced with effective accountability, in that, *"it would be wrong to have that responsibility and not be answerable to somebody"* (Participant 4). Similarly, Participant 22 remarked,

"I think it's important that we're more accountable, I suppose, like in some elements, given the power differential between the people in our care. Unless we hold people accountable for their actions it could become a dark place very quick"

Further to this, participants expressed that prisons, being closed institutions out of the public eye, are environments in which the abuse of power is ripe. Drawing comparisons to other 'total institutions' (Goffman, 1968), participants often cited high profile examples of institutional abuse in Ireland's history. Ireland has a documented legacy of abuse within its state-run institutions – such as the Magdalene laundries, mother and baby homes, and industrial schools (O'Sullivan & O'Donnell, 2012). These institutions have been framed by scholars as an important part of Ireland's carceral landscape (O'Donnell & O'Sullivan, 2020), in that they were sites used to house the so-called 'socially deviant' (O'Sullivan & O'Donnell, 2012). These institutions are no longer in operation – their role went into decline in the 1970s, although some continued to operate into the 1990s and 2000s. The experiences of those held within these sites of coercive confinement was typically degrading, punitive, and stigmatising (O'Donnell & O'Sullivan, 2020). Research and state inquiries into these accounts of abuse have frequently criticised the lack of accountability and external oversight, highlighting that a fundamental safeguard for people held in these environments was entirely absent (Commission of Investigation into Mother and Baby Homes, 2021; Killian, 2015; McAleese Report, 2013; O'Rourke, 2011; Ryan Report, 2009).

Participants conceded that it would be naïve to assume that prisons would be exempt from the abuse of power towards those in custody, given the prevalence of examples in Irish society. Furthermore, these examples exist in recent memory. As Participant 11 stated, *"while we are unique in that we're prisons, what can happen in a closed environment isn't unique."* Participants expressed the need for prison to be subject to accountability because they are environments in which power was bestowed on individuals but exerted out of sight.

"We only have to look at the other institutions in Ireland to see what power can do when it doesn't have the correct oversight and when it doesn't have the correct thought processes in decision making. We have the Magdalene homes and the orphanages and all of that - had told us. And the prisons always had the thing, you know, we're behind walls, no one was looking at us for all those

years. 'We're jailers we can do what we like.' Well, we can't do what we like. We are there as Governors to do what is right." (Participant 35)

Likewise, several participants disclosed instances of abuse of power that they themselves had witnessed over the course of their career. These incidents were often narrated as events of the past. They were carefully framed as vestiges of older, harsher regimes and a bygone staff culture. However, they served as an important reminder that abusive and unprofessional behaviour is a very real possibility in prison. As described in Chapter 5, there was an apparent cautiousness in participants' approach to the interviews; this undoubtedly extended to participants' willingness to openly discuss unprofessional behaviour. As such, it would be imprudent to comment on the extent to which abuse of power pervades contemporary Irish prison settings, or how staff regard its prevalence. Yet, on this point, Participant 32 cautioned, "*it just didn't happen one hundred years ago or yesterday, it will happen tomorrow.*"

The second corollary of the power differential relates to prisoners as a disempowered population. Interestingly, participants were quicker to acknowledge their own powers in comparison to recognising the vulnerability of prisoners – perhaps because the interviews were deliberately structured to probe personal experiences within one's role. Indeed, the latter was a perspective that was often shared by participants who also espoused strong professional convictions with relation to the rehabilitative ethos. Entering prison is necessarily disempowering as it deprives people of their liberty (Crewe, 2011; Haggerty & Bucerius, 2020; Scraton et al., 1991; Sykes, 1958). Augmenting this power differential is the fact that prisoners are highly dependent on staff members (Mathiesen, 1965). Comparisons were often drawn with care settings, health environments, and mental hospitals, each which carry similar power differentials. However, by comparison to people held in these settings, prisoners "*have no autonomy in that respect - they can't just get up and walk out*" (Participant 9).

Furthermore, people who enter prison very often do so with existing issues when it comes to physical health, mental health, trauma, literacy, and addiction (Armstrong, 2014; Gulati et al., 2019; IPRT, 2019; Mulcahy, 2018; World Health Organisation, 2019). As such, prisoners are a cohort that are vulnerable and rendered more so by experiencing these vulnerabilities within an environment that is not calibrated to support them. Staff often referenced the complex challenges posed by people in custody. Prison was described by many as a form of modern asylum; a holding place for individuals who had been failed by other social systems or, rather bleakly, "*the last port of call when it comes to lost causes*" (Participant 26). But even knowing the high prevalence of issues that many people enter prison with, interview participants conceded that Irish prisons were not equipped with adequate resources, specialised training, and effective opportunities for rehabilitation that would arm them to cope with these issues.

Although power dynamics are a striking feature of prison environment, some participants maintained that prisons were not unique settings for accountability. In their view, prisons should not be considered as exceptional or different from other work environments. Speaking on its unique aspects, one participant speculated that “*we have overstated those over the years*” (Participant 10). For these participants, their insistence that prison was not unique came from a position that such a label granted prison special dispensation, framing it as an environment that outsiders could not comprehend. They advocated that prison should not be treated with exception when it came to being accountable. Therefore, shrugging off the label of ‘prison as unique’ was important; prisons should not be permitted to eschew accountability commitments on the basis that they are somehow exceptional. For example:

“I don’t think it’s unique. I think, I think the prisons have convinced themselves that they’re unique but they’re no more unique than anywhere else in the world. They’re an institution that can be held to account. And I think that no more than the Catholic Church or hospitals or anywhere else they’re... They’ve four or five hundred people in them, two hundred staff, two hundred service users, prisoners, and it needs to be held to account.” (Participant 8)

“We’re different, but we’re not unique. Okay, the work is unique because we have humans in our care but the accountability is not unique. The structures are not unique, I don’t think. I think it’s put forward as an excuse in an awful lot of cases. ‘Oh we’re different. The rules don’t apply to us. We’re different.’ I don’t believe we’re different. We’re public servants the same as everybody else. We have a particular task to do and it’s different to the task everybody else does, but there you go. [...] We’re all unique but I don’t think it changes the rules. The rules are the same.” (Participant 35)

6.2.2 Prison as a Setting for Accountability: ‘Keeping the Lid On’

An important consideration for prison as a setting for accountability is that, for many staff, prison was viewed as a place in which situations had a natural tendency to go awry. Participants frequently disclosed extreme and violent situations that they had witnessed or to which they themselves had responded. Usually these examples centred on traumatic incidents of prisoner-staff violence, inter-prisoner violence, or prisoner self-harm. These events sporadically punctuated long careers but had lasting psychological impact on participants. Prison was regarded as a setting in which “*there will always be incident, there will always be trouble*” (Participant 14). Accordingly, prison work and prison management was undertaken with watchful anticipation of the next negative event to occur. There was an onus on staff, therefore, “*to keep the lid on things*” (Participant 34). Participant 17 explains,

“...everything can be fair and fine, and in a matter of seconds, it can just change. And it might be just the word you said to a prisoner or an Officer and they can just turn. All of a sudden, that lovely calm

fun attitude can just change to, you know, 'This is really serious now.' So, yeah, it's changeable all the time."

Parallels of this sentiment can be drawn with existing literature on prison staff culture. Liebling, Price and Shefer (2011) previously described that frontline staff perceive a good day in prison as one in which nothing comes to pass; a day without incident is regarded as positive. This is similarly reflected in work by Arnold (2005), in which she comments that prison staff have acute psychological awareness of the high potential for negative or violent events. As these theorists have noted, the implicit risks of the work environment affect how staff operate and perceive their role. Moreover, this research adds that this aspect of the work environment also affects how accountability is perceived; there is always the potential for incident but, coupled with this, there always is the possibility that one will be found in some way responsible. To this end, Participant 17 stated,

"...for me accountability is, 'What did I do?' That's really it, 'What did I do?' with regard to a situation. Whether it's a member of staff or a prisoner in the care of the prison here. 'What did I do?' So if the situation arises, or an issue arises, what did I do? And that to me is accountability. Did I do nothing? [...] Or did I do something?"

Steff who described accountability with negativity or trepidation often commented that it was a means to assign blame in the face of things going wrong. In particular, this perception of accountability as a vector for blame was commonly observed in relation to accountability as it is experienced *within* the organisation. Accountability towards internal line management is an important and inevitable facet of working in a hierarchical organisation; however, some participants expressed that they experienced a sense of division and lack of support from those in higher management at headquarters. They recounted that "*headquarters, sometimes, is quick to point the finger*" (Participant 17). One participant remarked, "*I think we have a little bit of a blame culture*" adding that the process of accountability often culminated in a question of "*Whose head is going to roll?*" (Participant 5). Another participant described their perception of accountability within the organisation as,

"Accountability in the Prison Service crops up when something goes wrong. 'Who's accountable here?', 'Who did wrong?' Was it the prisoners? Was it the staff? Was it lack of training? Was it lack of resources? [...] Accountability, you know, it's huge in the Prison Service. It's... But the underlying tenet of it is if something goes wrong, who do we blame? Unfortunately." (Participant 21)

Some participants also perceived accountability through external oversight as a process of blame or fault finding. In doing so, they described that the function of accountability bodies necessarily entailed that they must find fault. For example, one participant mentioned that this was a perception of prison

inspection that they felt, stating, *“you always feel that they’re out to do something, to find something, you know, that they want to find something wrong”* (Participant 25). Similarly, another commented that prison inspection, *“gravitated toward the problems”* while ignoring positive aspects of prison work or the prison’s regime (Participant 14). This point has also been raised by accountability theorists (Schillemans & Bovens, 2011). It is a perception that can undermine the legitimacy of the work of accountability bodies in the eyes of those under scrutiny, as it indicates that the accountability body finds fault in order to justify their work and their continuance. Prison managers’ experiences of inspection and monitoring bodies as being overly critical is discussed further in Chapter 8 (Sections 8.3.1.2-8.3.2.4).

Coyle (2008) has argued that success in the eyes of prison managers was frequently interpreted as the absence of failure. Similarly, accountability was viewed as a process that was only triggered by something going wrong. This perception carries important implications for the accountability culture. In describing their experience of accountability, Participant 21 commented, *“when things go right nobody comes near us. When things come wrong they have to. And I respect that.”* If prison is interpreted as a place in which there is an ever-present possibility of things going wrong then, provided there is effective oversight in place, there is also a heightened possibility of being held to account. For prison managers, this responsibility permeated all aspects of their role, in that *“almost every decision presents a risk”* (Participant 6). Even seemingly benign situations or decisions were taken in the shadow that they could later resurface with negative repercussions.

“if you’re in a bigger prison, it’s like your interactions are like speed-dating. It is so busy, and you’re boom, boom, boom, boom, boom. And the chances are that I will have made so many decisions that when you go back and look over it that you can’t stand over. But at the time you have to make them decisions. And you just move on because the next one is around the corner. The next mistake is only waiting to happen!” (Participant 12)

“the only things that are ever being investigated is where there’s a negative outcome [...] There’s no one going to check what you’re doing all the other times when you’re doing everything right.” (Participant 16)

However, prison culture is not homogenous; in many respects, a prison’s culture is singular and shaped by each prisons’ individual characteristics (Crewe, 2007a; Liebling & Arnold, 2004; OIP, 2015). Accountability culture, likewise, can assume different forms. For example, the apprehension of negative incidents and crises in the prison environment was a major concern for participants who worked in medium-security prisons. However, these issues naturally presented less of a concern for those working in open prisons. In these environments, security concerns, while not eliminated completely, were less pervasive. Here, prison was not an environment that was constantly on the cusp of ‘going

wrong'. Consequently, the demand for account posed by external oversight bodies also seemed to be lessened. In particular, managers from open prisons often cited how they did not feel that their prisons were a key focus for inspection and monitoring activities.

For example, one participant, based in an open centre, was very receptive to external oversight and fully acknowledged the benefits that it could bring. However, they commented that the prison they worked in would be a low priority for inspection and monitoring bodies as it did not often incur major issues,

“being the Governor in charge of Mountjoy brings a lot more issues that would be IOP and CPT-related, maybe - like, out of cell time, protection prisoners, SOCs and CSCs¹² and that - than the likes of here, because I really shouldn't have any huge CPT issues here.”¹³

As described, there is a perception that accountability in prison is triggered by adverse events, failings, and shortcomings. Open centres are not exempt from such criticisms. However, arguably, they do not face the same challenges as closed prisons when it comes to matters of security, discipline, drugs, contraband, and prisoner autonomy – or at least, not as acutely. Inspection and monitoring bodies target prisons where prisoner issues are most apparent and keenly felt – places where it is reasoned that oversight is most needed (Bicknell et al., 2018). However, in doing so, accountability is observed as a process that is only enacted where the issues are. For example, the presence of prison oversight bodies in open centres in Ireland is noticeably absent. This is substantiated by the fact that there has not been a formal visit to an open centre conducted by the CPT and, to date, only one such inspection by the OIP.

In the case of the CPT, as its visits are more infrequent, potentially, it is more sensible to concentrate visits to sites that pose the greatest risk for those in custody with respect to Article 3 (Bicknell, et al., 2018). However, the OIP, as the national inspectorate, is responsible for overseeing all prisons across the prison estate (Prisons Act, 2007). Furthermore, it is important to remember that inspection and monitoring bodies operate with a preventative focus – they attempt to identify and correct issues before harm is incurred (Deitch, 2010). Significant concerns can arise in any place of detention, and these may go undetected if some sites of detention are prioritised at the expense of others. With this in mind, there is an understandable basis for the emergence of attitudes among staff which frame accountability as something associated with adverse events or criticism. This perception among prison managers that

¹² SOCs refer to special observations cells, used for medical observation purposes. CSCs refer to close supervision cells, used to separate a prisoner for the purposes of order.

¹³ Participant number intentionally omitted.

inspection and monitoring bodies are preoccupied with finding issues or are drawn to negative findings will be further explored in Chapter 8.

6.2.3 Prison as a Setting for Accountability: Bureaucracy & Paperwork

Participants often conveyed that their accountability obligations were met through paperwork. Paperwork is a critical artefact of accountability in the prison setting. Disciplinary reports (known as P19s), half-sheets, complaints, complaint investigations, staff reports, incident reports, ledger books, prisoner files, medical records, emails, and notes from parade were listed, among others, as means of recording activity and decision making. Paperwork is a fundamental means by which accountability is enacted within the organisation. Indeed, the recent revisions to the European Prison Rules (2020) has underscored the importance of record keeping and file management. Record keeping and file management have also been highlighted previously under the Mandela Rules (2015). These are regarded as essential safeguards for the treatment of prisoners while at the same time facilitating the smooth management of the prison (van Zyl Smit & Slade, 2020).

Bryans (2008) has remarked that paperwork is a natural consequence of the adoption of managerialist practices into the prison environment; but the emphasis on paperwork and recording has meant that managers must redistribute their time accordingly. The reliance on record keeping and paperwork to achieve accountability aligns with new public management and managerialist principles for the public sector. Research on public sector workers by Murphy and Skillen (2015) has identified the experience of ‘time compression’ as a result of these increasing accountability demands. In other words, the additional bureaucratic workload required to satisfy audits, inspections, performance evaluations or other sources of scrutiny necessarily detracts time from core tasks. This is evident in the experience of Participant 14, who commented, *“there seems to be a concerted effort, that it suits everybody, to keep us absolutely with paper, drowning in paper. Whereas you would be a far better influence being a presence out in the prison.”*

Furthermore, Bryans (2007) comments that, the role of the Governor has transformed from the ‘mythical’ character who heads the prison to something very much comparable to a conventional manager. Bryans argues that the increase of paperwork has meant that prison managers in contemporary prisons are perhaps less visible in the prison than before. For some interviewees, this was an inevitable aspect of stepping into management; but for others, the necessity of paperwork undermined their ability to work with prisoners and was therefore something of a reluctant but necessary task. For example, Participant 7 commented,

“I believe the role now, if I were to describe it to someone, the first thing that comes into my head is not relationships it’s administration. Paperwork. And again, that’s from a compliance point of view.

And I'm not naïve enough to say it's a load of fucking crap, you know, paperwork, paperwork, paperwork. I know it needs to be there and I know why and I understand why. But what I believe it takes away from the role is the relationship element."

In essence, paperwork was required for posterity as it provided an important protection for staff should the organisation be called to account in the future. Litigation proved to be a ready example in this regard. Similarly, in recounting their experiences of inspection and monitoring visits, interviewees often cited that an examination of paperwork formed a central component of processes of oversight by the OIP and the CPT. Speaking on the need for good record keeping, Participant 14 described how a fight between two prisoners could appear to be resolved amicably, but that inquiry into the incident could later resurface months later, *"the fact that they're shaking hands or hugging or anything like that is not indicative that it won't raise its head in some way, shape, or form, down the road."* For those in management, there is always the risk that the prison will be called to account. As such, paperwork provided a critical protection for the organisation and its staff should the need arise.

In this regard, paperwork formed an indisputable component of management. To this, Participant 9 remarked, *"people are more willing now to record things, as they happen, in a timely manner, and that actually protects everybody. It protects the prisoner. It protects the staff. It leads to better accountability."* Yet, while there was strong acknowledgement of the importance of record keeping among management, interviewees felt that this was less recognised among frontline staff. They described how, in comparison, frontline staff were more reticent about recording information, and that reports could be quite tersely written. One participant commented, *"There's a tradition in the organisation that you write the least amount possible"* (Participant 8). Similarly, Participant 14 described chasing reports from prison officers following incidents,

"they frequently have to be reminded that they're obliged to submit a report, you know? And it can be quite defensive. 'I need a report on that.' 'What do you need a report on that for? Sure, you have the CCTV.' 'You're obliged to give a report. You have to set out-- You're here as a Prison Officer, you observed this, you're obliged to give the Governor a report on it. Thanks very much.'"

The findings above are indicative that prison managers appreciate the significance of record keeping; it is a key medium for enacting accountability. Furthermore, it provides a vital source of information for external oversight bodies. Yet, previous inspection and monitoring reports have frequently highlighted that record keeping in Irish prisons is often inadequate or incomplete. This criticism has been commonly raised by the CPT during their visits to Ireland (CPT, 2007; 2015). In their most recent report, the CPT (2020) highlighted significant gaps in the recording of inter-prisoner violence, and also gaps in the recording of out of cell time for prisoners placed on restricted regimes. By comparison, comments on record keeping are less commonly raised by the OIP in their reporting activities, despite

providing an important insight into recent activity within the prison. With that said, poor record keeping – particularly where it concerned the use of special observation cells, removals, and relocations – was a major source of criticism within the OIP’s (2012) report on St. Patrick’s Institute, published before its eventual closure.

This section has concentrated on three key elements of the prison environment that contribute to its accountability culture. Firstly, power is an inevitable characteristic of the prison environment (Crewe, 2007b; Foucault, 1975; Sykes, 1958; Ugelvik, 2014). These power dynamics stem from a confluence of factors – that prison staff are imbued with significant power; that prisoners are significantly disempowered; and that prison is an environment removed from public view. This research has demonstrated that each of these contributes to the recognised need among staff for accountability in this context. Secondly, prison is an environment with a heightened sense of risk. The nature of prison work is one that is unexpectedly punctuated by adverse events, with many staff awaiting when that next event may be. As these findings have demonstrated, this possibility necessarily affects how staff view themselves as objects of scrutiny for their role in these events. Finally, these findings identified the central role of bureaucracy and paperwork as a key medium for the conduct of accountability work.

6.3 Accountability Among Prison Managers

Section 2.2.2.1 described the considerable responsibilities of prison managers with respect to the running of prisons (Bennett, 2016; Bryans, 2007; 2008; DiIulio, 1987; Faugeron, 1996). Moreover, prisons are hierarchical organisations, meaning that those in senior management positions also carry significant accountability obligations. This is particularly true of prison Governors as, under the Prison Rules (2007), they carry the statutory responsibility for the prison. Owing to this level of responsibility, the role of Governor has often been described as a unique profession, although Bryans (2007) argued that in contemporary prisons the role is akin to other kinds of manager. Building on Section 6.2, which has established some of the distinctive aspects of the accountability culture of prison, this section concentrates on how accountability is experienced by those in prison management roles.

6.3.1 The Demand for Account

Increased responsibility within an organisation is inevitably matched with increased accountability. There was widespread recognition of accountability among interviewees and that the demand for account continually permeated their work, “*it’s a constant*” (Participant 18). In particular, there was a recognition among participants that the accountability of the prison Governor was distinct from that of other senior staff in that their answerability was all-encompassing. As one prison Governor described, “*anything that happens here – good or bad – it’s my baby*” (Participant 31). Similarly, this is reflected in how demands for account through the web of accountability are typically funnelled towards the

Governor. As one participant explained, *“all of our audit systems and our accountability is just with one person, it’s the Governor who is responsible for everything”* (Participant 18).

Although the Governor is surrounded by a management team, it is tacitly understood that they and they alone ultimately assume responsibility for the prison’s shortcomings; therefore, when it comes to accountability processes, they will be the one made answerable on behalf of the actions or inactions of their staff. One prison Governor summarised the totality of this responsibility by saying, *“for any aspect of anything that goes on in here, I am responsible”* (Participant 31). Likewise, those who were not the named Governor of the prison were highly cognisant of this fact. For example, Participant 25 explained that they were conscious of the answerability of the prison Governor when making decisions,

“in fairness to the Governor, he would stand over it, any decision I make – be it right, or be it wrong – he would stand over it, he would have to answer the question. So I’m very conscious of the fact that he is the one who will have to. So, yeah, everyday decisions you make down on the floor, you have to, you know, at the back of your mind you have to remember that someone else will have to answer.”

Additionally, the singular responsibilities of being the prison Governor could also be quite isolating. One participant described that the weight of the responsibility of management can only be fully understood when one assumes the role *“I think it’s a responsibility that you only begin to realise once you’re in the role, Sarah. And it can be quite daunting sometimes when you think, ‘Oh Jesus, this is my lot now...”* (Participant 33). Further to this, participants at governor grades spoke about how progressing into this role often demanded that they distance themselves from their former peers. A similar finding was described by Bennett (2016), which details staff’s transition into management roles. But there is still a sense of separation of the prison Governor from prison staff that stems from being at the apex of the prison. In this respect, the responsibility is singular. As one participant described,

“you know, if there’s ever a corridor of offices, the one nearest the end of the building is the Governor’s one. So there’s no one else you can go to if you’ve gone that far. And [I was asked] the question, ‘How do you feel about being the person at the last door?’”¹⁴

Participants also recognised the growth of accountability demands placed on the organisation both internally and externally. In the case of internal accountability, increasing demands can be attributed to macro-factors, in that the organisation was compelled to follow broader societal expectations with regards to organisational accountability (Bennett, 2016; Hood, 1995; Power, 1994) and meso-level

¹⁴ Attribution of the quote in intentionally omitted, as the participant mentioned that they had previously shared this story with colleagues.

factors in that there is a conscious directional effort of the organisation to demonstrate greater accountability (for example, IPS, 2016). Regarding external accountability, the web of accountability acting on IPS has undergone significant growth in recent years (see Chapters 3 and 4). Because of their obligations in management, it is likely that increases in accountability demands have been more keenly felt by senior staff. Felt accountability refers to the extent to which an individual internalises the implicit or explicit expectations that their decisions or conduct will be put under scrutiny by a particular audience (Hochwarter et al., 2007; Chapter 3, Section 3.4.1; Chapter 5, Section 5.10). The survey data, discussed subsequently, provided an opportunity to examine whether the experiences of prison management with respect to accountability diverged from that of frontline staff.

The descriptive statistics displayed in Table 6.1 indicate that internal felt accountability is higher among prison managers than among frontline staff. A comparison of the medians using a Mann-Whitney *U* test¹⁵ confirmed that there was a statistically significant difference between the two staff groups ($U = 8367.00, p < .000$), with a small effect size ($\eta^2 = 0.08$). This finding indicates that prison managers experience a greater level of internal felt accountability than frontline staff. This finding is consistent with the descriptions of accountability captured within the interviews and described previously, in that prison managers felt that the demand for account is very much concentrated at management level.

Table 6.1: Descriptives for internal felt accountability among frontline and senior staff.

	<i>n</i>	Median	SD
Frontline Staff	279	3.40	0.76
Senior Staff	40	4.00	0.68

Similarly, feelings of accountability toward external oversight bodies were also examined through the survey data. Again the medians reported for external felt accountability appear to be higher among senior staff in comparison to frontline staff (Table 6.2). Comparing medians through a Mann-Whitney *U* test¹⁶ indicated a statistically significant difference between these two groups ($U = 8749.00, p < .000$), associated with a small effect ($\eta^2 = 0.10$). This result indicates that external felt accountability is more intensely felt among senior staff than frontline staff. This result is perhaps unsurprising given that prison managers are more likely to engage with external oversight bodies as representatives of the prison; this point will be explored further in Chapter 8, Section 8.2.1 which describes prison managers' interactions with inspection and monitoring bodies.

¹⁵ A non-parametric Mann-Whitney *U* test was deemed appropriate as the data violated the assumption of normality (Appendix U).

¹⁶ A non-parametric Mann-Whitney *U* test was deemed appropriate as the data violated the assumption of normality (Appendix U).

Table 6.2: Descriptives for external felt accountability among frontline and senior staff.

	<i>n</i>	Median	SD
Frontline Staff	280	3.00	0.81
Senior Staff	40	3.64	0.74

These results indicate that prison managers experience greater levels of felt accountability towards both line management and external oversight bodies. Yet, this tells us little about how this sense of obligation affects prison managers' behaviour. Accordingly, the survey was used to explore the extent to which prison managers' decision making was influenced by felt accountability. Respondents were asked to report the extent to which they believed their actions were affected by the knowledge that they may be reviewed by line management. Additionally, the survey asked respondents to report the extent to which their actions were affected by oversight applied by external accountability bodies. These self-reports were then compared against measures of internal felt accountability and external felt accountability through Spearman correlations.

Interestingly, the results of the analysis did not produce a significant correlation between senior staff's self-reports of internal felt accountability and the extent to which they reported that their actions were affected by internal oversight ($\rho(40) = -0.042, p = 0.798$). Likewise, no significant correlation was detected when comparing participants' felt external accountability with their self-reports of how their decision making was affected by external bodies, ($\rho(40) = -0.118, p = 0.468$). Therefore, these findings imply that, although accountability is keenly felt, that neither internal accountability or external accountability substantially impact senior staff's daily decision making.

It was hypothesised that both felt accountability towards internal mechanisms and towards external mechanisms would affect self-reports of decision making. Previous research in this area has indicated support for this hypothesis, as increased feelings of accountability towards a particular audience should coincide with a greater desire to meet the expectations of that audience (Lerner & Tetlock, 1999). One possible explanation for these findings is the presence of accountability overload (Bovens, et al., 2008). As described, participants are aware of the substantial demand for account that has been placed upon them. Accountability theorists caution that increasing accountability demands at both the macro and micro level can reach a point of diminishing returns (Frink et al., 2008). Accountability overload or fatigue from these demands could offer one explanation as to why no relationship was observed between felt accountability and decision making.

Past studies have indicated that increased demands for accountability may also be accompanied by increased pressures in the workplace including time compression, as discussed by Murphy and Skillen (2015). As described previously, many participants acknowledged accountability work was an

extremely prevalent part of being a prison manager. Some went so far as to acknowledge that they felt it took time away from other more important tasks. Yet, only a few participants conceded that they experienced difficulty in coping with this level of demand. Prison has been previously described as a stressful work environment (Brewer & Whiteside, 2012; Crawley & Crawley, 2008). Coupled with this, it is also a work environment in which staff are reluctant to discuss or acknowledge the stress endured (Arnold, 2016; Crawley, 2006).

Among the few participants who overtly expressed stress with respect to accountability demands, it was clear that they felt that their workload was insurmountable. Importantly, it was not the case that these participants were opposed to or indifferent to the objectives of accountability bodies, but rather that the level of workload encountered had created feelings of burnout and ambivalence. Speaking on internal accountability, Participant 18 commented, *“After a while, nobody cares, right? Nobody cares whether it’s one lash or twenty lashes, it’s all the one.”* Comparably, in relation to responding to external oversight, Participant 22 explained,

“And the only explanation I can think of is that I am so accountable on so many levels and to so many people that in many ways I don’t really care anymore. And that, it’s a matter of, in a lot of ways it’s like firefighting. When I come in in the morning, I’ll deal with the biggest problem on my desk first, the one that could do the most harm to our little community here or me as an individual. [...] Sometimes you have so many tasks, and you’re accountable for so many things, it almost gets to the stage where you’re kind of going, ‘I’m never going to get to that.’”

6.3.2 The Personal Dimension

Previous research by Sinclair (1995) recognised the personal dimension of accountability. She notes that accountability encompasses personal values, emotions, and a sense of obligation that goes beyond the fulfilling structural and technical demands of one’s role. This dimension of accountability will be explored within this section. The extent to which an individual is inclined towards personal or structural interpretations of accountability can vary from person to person. As will be described, some prison managers prioritise the structural interpretations, in which accountability obligations are viewed rationally and clinically. Yet, for others, accountability is highly personalised; it is these accounts that are the focus of the following subsections. Specifically, these subsections will explore accountability as a moral duty, the emotional work associated with being accountable, and feelings of powerless in the face of accountability expectations.

6.3.2.1 Accountability as a Moral Responsibility

For some interviewees, accountability obligations were viewed with neutrality. Accountability was interpreted as a process to ensure that the prison was being run in line with its rules and expected

standards. In this respect, accountability was regarded unemotionally and was viewed as simply being part of the job. Participants spoke of accountability as a means to “*make sure that all the boxes are ticked and you’ve done everything according to the way it should be done*” (Participant 25). Framed as such, accountability is an unavoidable obligation indivisible from one’s responsibilities as a prison manager, but it is little else. It is not something to actively defend against, and it is not a moral imperative. This neutral perspective aligns with the tenets of managerialism in that it speaks to the achievement of standardisation of practice and monitoring of performance.

As described in Chapter 3, Sinclair (1995) noted a distinction between personal and structural discourses of accountability. Personal discourses are rooted in the individual’s own experiences, attitudes, and beliefs. They centre on the individual’s perception of the potential benefits (or exposure of vulnerabilities) associated with accountability. In contrast, within structural discourses, accountability is viewed as a technical property of one’s role. It is viewed amorally and rationally. Interviewees who spoke about accountability obligations as ‘part of the job’ were very much aligned with the latter. For example, in speaking on experiencing oversight through inspection and monitoring, some prison managers described it as a process that was simply to be endured and completed. These descriptions – detailed in Chapter 8, Section 8.4.2 – position prison managers as passive objects of scrutiny within a technical process.

Conversely, there were participants for which interpretations of accountability had a strong personal dimension. Past research on prison management has emphasised the considerable influence that personal values can have on shaping prison managers’ approach to prison work (Bryans, 2007; Rutherford, 1993). Many interview participants referred to drawing upon their own personal code or credo which provided guiding principles for their approach to prison work. For example, in their interactions with prisoners, one participant stated that they were always led by the principles of being “*firm, fair, friendly, and consistent*” (Participant 26). Another participant referred to the principles that informed their style of leadership, “*I always had three pillars to my leadership style which is honesty, integrity, and consistency*” (Participant 5). When it came to making decisions in which there was no clear right or wrong answer and policy did not provide a clear solution, many participants described turning to their own personal code or credo to guide their decision making. For instance,

“My compass, yeah. My guide in decision making comes from my upbringing. Which is what’s right and what’s wrong. And that should always be your compass, your moral compass. For sure. But, you know, ‘Can I stand over this? Can the ordinary man in the street really understand why I’ve made this decision? And is it fair?’” (Participant 35)

When understood in this way, accountability went beyond bureaucratic or managerialist functions and had a more personal basis. In this regard, one participant made the distinction, “*there is the official*

accountability and there is moral accountability" (Participant 16). Participants who viewed accountability as a moral responsibility spoke about the desire to make decisions for "*the right reasons*" (Participant 18), and that "*it's about standing up for what I believe is right*" (Participant 7). As illustrated in the quote from Participant 22 below, reconciling decision making with one's principles provided prison managers with assurance that they had taken the appropriate action.

"I always advise younger managers is that if you can honestly say that you've done the best that you could and you've done it in the interest of everybody and you can stand over your decision - you won't always find an optimum decision - but if you can say I did the right thing, that's how I live with it now."

These interpretations of accountability as a moral responsibility were often linked to a recognition of prisoners as vulnerable individuals and the acknowledgement that the experience of imprisonment was one of extreme disempowerment. An understanding of one's accountability as a prison manager therefore was imbued with one's duty of care towards prisoners and to act with their best interests in mind. For example, Participant 2 remarked, "*there's an extra onus on us in relation to accountability to be hugely conscious that our actions actually have a huge effect on the quality of life of another human being.*" Similarly, Participant 9 commented, "*if you're working for somebody you're providing a service, you're accountable. And even more so if they are vulnerable.*"

A sense of accountability grounded in moral principles and a recognition of the welfare of prisoners would, at first glance, appear to be a positive approach to one's responsibilities as a prison manager. But it is important to note that this is an interpretation that is assumed at the individual level, rather than one that is espoused by the organisational culture. An important corollary of this is that if moral accountability is absent in at the individual level then it will also be absent in the culture. Only two participants specifically raised this matter, but it is an important consideration. As one participant explained, "*we shouldn't have to rely on people being ethical because inevitably we're going to have some managers who aren't ethical and that will misuse their authority or power or influence*" (Participant 22). Likewise, Participant 13 described how the motivation to advocate for a prisoner could vary depending on the manager they encountered. They spoke of the significant impact that this could have on prisoners,

"I have a guy in [a prison I used to work in] that calls me his guardian angel. Now, I could say that's lovely and you know I feel really nice that he thinks about me that way. But I don't think about it that way. The way I think about that, Sarah, is that if that's the way he believes, that he got lucky because he met me then there's something terribly wrong with that system. It shouldn't matter who he meets. [...] It's wrong that he believes that he got lucky. There's something wrong with the system. He's not playing the [...] lottery [...] - this is his life." (Participant 13)

6.3.2.2 Accountability as Emotional Work

Accountability for those in senior positions could impose a significant amount of emotional weight. Previous literature has described the emotional toll of prison work among frontline staff (Barry, 2019; Crawley, 2004; 2002; Tait, 2011), but there remains a lack of understanding as to the emotional impact of prison work at the managerial level. Being a prison manager is an occupation that can inhabit a lot of space within the identity of the individual. One participant who had retired reflected on the expansive scope of their role and the accountability they felt as a prison Governor, *“It’s a title. It’s a title. But at the same time, I suppose, I lived the title, you know? I used to take personal responsibility for everything there, you know?”*¹⁷. It is a role in which the accountability is all-encompassing, and as such can have considerable emotional effects.

Many participants spoke about the emotional impact and toll of making decisions that affected prisoners and acknowledging that they had the power to affect prisoners’ lives. Speaking on their responsibilities and the extent of this power, Participant 7 stated, *“It can weigh heavily at times. Sometimes you feel like you’re playing god.”* In particular, the emotional burden of one’s responsibilities was acutely felt by those who were heavily invested in the well-being of prisoners and who prioritised rehabilitative aims. Relationships with prisoners demand great emotional investment (Crawley, 2004; Tait, 2011) and are a form of emotional labour (Hochschild, 1990). As described in Crawley (2002), it was not simply a case that prison managers could cast off the job upon leaving the prison environment. Participants who expressed strong emotional investment in their work often reported worrying about decisions they had made or actions they had taken, as depicted in the quotes below.

“The worst feeling in the world - and it’s happened to me lots of times - is driving home from work, teasing out what happened during the day, and focusing on one issue and bringing that home with you and kind of saying, ‘I didn’t do the right thing today. That is not the right thing.’” (Participant 22)

“I worried too much about it. [...] But that was me all my life I was the very same. I felt too accountable. A bit less would have been better. And I saw things, when things went wrong I saw it as my failure. You know, rather than as a system, as a system failure. I always felt, I felt very accountable if someone got injured, if somebody died, if somebody killed themselves through suicide. Even right back, you know? [...] Now, I didn’t, you know, you didn’t go around telling people that. But you did experience it. You didn’t sleep at night. Wake up in the middle of the night worried about prisoners. Is so-and-so okay? Like, on one level that’s good. But on another level that’s not good.” (Participant 32)

¹⁷ Participant number intentionally omitted.

Another powerful example concerned keeping prisoners safe within the prison. As will be discussed further in Section 6.3.2.3, staff recognised that they had limited power when it came to matters of staff discipline. Likewise, there was a sense of powerlessness in managers' ability to protect prisoners from staff members who abused power. For example, one participant recounted how they felt unable to protect prisoners from a staff member in their charge that they suspected of abuse of power; yet, the investigation of this individual concluded with no support for the allegation and meant that they continued to work in the prison. The quote below illustrates the immense sense of personal responsibility experienced by the participant,

"It never sits easy with me. Because I'm always conscious of, 'Am I doing enough?' And when something bad happens to a person here, particularly in relation to the officer abusing power, that really doesn't sit easy with me. I even feel it now as I'm talking, it hurts me, that I have allowed that happen on more than one occasion." (Participant 11)

Past research on prison staff culture has noted that there is often a personal cost attached to emotional investment in prison work (Arnold, 2016; Crewe & Liebling, 2015). This study builds on these past works to explore what it is like to be accountable in this context, identifying that being accountable presents its own form of emotional toll.

6.3.2.3 Powerlessness & Frustration

Coupled with the intensity of felt accountability and the demand for account (see Section 6.3.1), there was also a strong sense of powerlessness among many prison managers. Interview participants commented that the level of power at managerial level, and in particular at prison Governor level, was somewhat illusory. The power that had previously been attached to the Governor role was viewed as having been significantly eroded as a result of decentralisation. On this issue, participants particularly noted diminished power with respect to, *inter alia*, decisions concerning budgets; approval for facility improvements, repairs, or new equipment; staff discipline; prisoner transfers; and recommendations of prisoners for release programmes. For example, Participant 12 stated, "*a lot of the power has been, it's etched away so that when you try to do simple things you can't because you don't have the power to do them. [...] So it's a perception.*" They elaborated further, explaining,

"in many ways the Governor doesn't have a whole lot of power. You've no power to buy. You've no power to sell. You've no power to hire. You've no power to fire. You've no power to transfer prisoners. You've very little power over the decision making policy for prisoners on sentence planning, on exit strategies for prisoners, and services for prisoners. A lot of it is all farmed out. They'll say it's the multidisciplinary team. The Governor may chair the meeting but the Governor has little or no power to make these decisions. You guide it. But you don't have the power to get the

decision made. And that's what probably isn't realised. The label of the Governor, in the Irish context, is this all-knowing wise owl sitting there. It's far from it. You don't have the power to actually do it."

The counter to this point, by those who welcomed greater centralised control, is that it prevents the individualisation of prisons, prison regimes, and prison standards. Centralised control offers a means to introduce greater standardisation. The governance of prisons, as such, is less susceptible to the individualised direction of those in management (Cheliotis, 2006; Hood, 1995). An additional benefit is that people in custody in Irish prisons can expect the same standard of treatment, the same rules and conventions, regardless of the prison they are in. This is particularly important, as prisoners are entitled to this consistency – both to minimise uncertainty of navigating the prison environment, and also because it is essential for fostering legitimacy. The consequence, however, is that it inhibits the ability of those in management to act proactively, independently, and expeditiously.

In many interviews there was a strong indication of the prison-headquarters divide, an issue that has been previously captured in the OIP's (2015) report on IPS's organisational culture. It was evident that managers within the prisons felt a distinct lack of support from those overseeing their work. This was alluded to previously in Section 6.2.3. Many managers expressed the need to take risks in order to get results; however, IPS headquarters was characterised as being quite risk averse and unsupportive of managers' decisions. Two common examples raised by participants concerned the use of temporary release and matters of staff discipline. In the eyes of participants, the organisation was described as "*exceptionally risk-averse*" (Participant 15) and "*normally, the default setting is no*" (Participant 34). For some participants, this lack of support from IPS headquarters was experienced as very undermining.

As an example, prison managers felt poorly supported with respect to the issue of staff discipline. Prison managers felt significantly disempowered by both headquarters and the Department of Justice in relation to their ability to address serious incidents of unprofessionalism or abuse of power committed by staff in their charge. In many cases, prison managers felt that this was an issue that they were responsible for but that they were powerless to actually address. In such instances, where dismissal was warranted, participants explained that they were "*held back by the ears*" (Participants 12) in that they were prevented from 'managing out' problematic staff. As one participant described, "*Well, that's your second warning now. That's your third warning. You'll be managed out of this employment now. That's not going to really arise. You never have a feeling that that's going to arise in the prison system.*" (Participant 14). This was a particularly sore issue, and one participant speaking on this issue emphatically expressed,

"I know I have a small cohort of staff who I find very difficult to manage with the way they speak to prisoners, or the way they treat prisoners. And it's very hard to get them. And I know that might sound awful, but I would do everything in my power to get them. But I'm limited because they're cute oftentimes about where they do that. Now, they eventually get caught out. But they could have

done a lot of damage by the time we can get to them. And I believe there should be only one thing for them. They should be dismissed.” (Participant 13)

These viewpoints illuminate the conflicting pressures faced by those in management in relation to internal accountability. At once, they are cognisant of the high demand for accountability placed upon them, while at the same time they feel unsupported by their own line management to take necessary actions. In the case of staff discipline, the results can be somewhat cyclic – in that prison managers are ultimately held responsible for the failings of frontline staff despite feeling unable to take action against them. It is difficult to ascertain whether the lack of support from headquarters and the Department is genuine or merely perceived. Regardless, this perception affects prison managers’ accountability in that, as a result, they feel unable to take the decisions that they view as appropriate and correct.

Prison managers spoke about how these feelings of powerlessness filtered down to their capacity to effectively support prisoners. A few participants reflected on how they believed they were perceived by prisoners. They speculated that prisoners likely regarded them as having the necessary authority and influence to make key decisions such as arranging transfers or temporary release. Yet, the managers were keenly aware that this was not within their power. On this, Participant 13 commented, *“So, where’s my power? And a prisoner can’t, doesn’t get that. They think that you’re all powerful. You have [hundreds of] staff here. You’re a figure head. Jesus, you must be terribly important. But you’re not. Really.”* Similarly, speaking on their ability to shape a prisoners’ time in custody, one prison manager commented that it is frontline staff – those who have regular daily contact with prisoners – rather than those with decision-making power that have greater capacity to affect prisoners’ time and progression in custody.

“I’m not sure that I shape too many people’s experiences while they’re in custody. Shape, now. Okay, I can make a difference in some ways. [...] But I’m not sure that I shape people, if you know what I’m saying, in a kind of a, in any spectacular way, in any kind of out of the ordinary way. I would encourage people to spend their time, obviously, constructively, you know? But I don’t know, and this is I suppose, like, realistically, am I shaping people? I don’t think I am.” (Participant 28)

As Sinclair (1995) notes, there is substantial emotional impact associated with accountability, even more so when one views accountability obligations as personal. Feelings of powerlessness and frustration are an important emotional reaction as they convey the limitations of accountability expectations for prison managers, particularly when they feel they lack the ability to address the issues that come to their attention. This point will be further expanded upon in Chapter 8, Section 8.4.2 which discusses interactions with inspection and monitoring bodies; focusing in particular on how prison managers often feel they lack the capacity and support to address recommendations levelled at their prison.

6.4 Summary

This chapter has provided a summary of the accountability culture within the IPS as it is experienced by prison managers. In doing so, it has endeavoured to bridge the existing literatures on prison staff culture and accountability, establishing a novel description of how accountability is experienced in this distinct environment. It has presented three key findings which can be summarised as follows.

Firstly, prison, as a setting, introduces specific considerations for how accountability is manifested. It is a setting with considerable power dynamics. Prison staff are obliged to account for the power that they hold; likewise, they are obliged to reconcile this power with the fact that those in their custody are significantly disempowered. Another important facet of prison culture is that the environment is one of high risk; there is always the opportunity for incident and consequently, there are many instances in which staff will be called to account. Consequently, accountability is very often associated with negative events or with blame. These aspects of the environment provide important context for how staff's attitudes and beliefs towards their accountability obligations are established.

Secondly, prison managers experience a high demand for account. The expanding web of accountability has been described previously in Chapter 4. The findings presented in this chapter build upon this, establishing that this growing demand is particularly channelled towards senior staff within the prison, and that it is a demand that is keenly felt. In this respect, senior staff differed from frontline staff in terms of the extent to which they internalised these demands for account. Senior staff were identified as demonstrating higher levels of both internal felt accountability and external felt accountability in comparison to frontline staff – though these findings are associated with small effect sizes. This finding is indicative that accountability is another significant way in which the two occupational groups differ.

Thirdly, how accountability is experienced is subject to much nuance and individual variation. The extent to which prison managers adopt a personal interpretation of their accountability obligations can vary greatly. For some prison managers the moral and affective dimensions form significant aspects of their experience of being accountable. Additionally, accountability can be experienced alongside significant feelings of powerlessness and frustration, in that prison managers are not always vested with the capacity to fulfil accountability expectations.

As stated, this chapter has identified the aspects of prison as a work environment that contribute to its accountability culture. This thick description of the accountability culture has provided an essential foundation for understanding how prison managers interact with accountability mechanisms. To this end, the chapters that follow will examine prison managers' experiences of engaging with the prisoner complaints system (Chapter 7) and inspection and monitoring bodies (Chapter 8).

Chapter 7: The ‘Management’ of Prisoner Complaint

7.1 Introduction

This chapter examines prison managers’ engagement with oversight in the form of the prisoner complaints mechanism. All prisoners are entitled to make a complaint about their experience in custody. This is an entitlement enshrined in domestic law through the Prison Rules (2007), as well as within soft law instruments such as the European Prison Rules (2020) and the Mandela Rules (2015). A description of the complaints system in Irish prisons has been provided in Chapter 3, alongside a discussion of the function and efficacy of complaints in this context. Complaints can be submitted by prisoners to express their dissatisfaction with a wide variety of issues. The current formalised complaints system was introduced in all Irish prisons in 2013. Since then, examinations of the system have emphasised a lack of trust in the system among both prisoners and staff (IPRT, 2019; OIP, 2016) and have also highlighted a lack of procedural rigour and substantial delays in responding to complaints (CPT, 2015).

Prison managers, as adjudicators of complaint, have a unique responsibility. As described in Chapter 3, the complaints literature has tended to concentrate on the perspective of the complainant and the content of complaint (for example, Calavita & Jenness, 2013; Gulland, 2011; Jenness & Calavita, 2018; Lloyd-Bostock & Mulcahy, 1994; Talbot, 2008; Waters & Brown, 2000). Little is known about the perspective of those in positions of adjudication despite their substantial power over this process. There is a need to understand how complaints adjudicators, firstly, regard complaint and, secondly, how they determine the outcome of these grievances. Additionally, as agents and overseers of the system that is being complained about, there is a need to explore how personal accountability intersects with adjudication in this context. As such, the purpose of this chapter is to reflect on prison managers’ perceptions of complaints and their experiences of managing and responding to complaints under this system.

Chapter 6 described prison as a setting for such ‘accountability episodes’ (Lloyd-Bostock & Mulcahy, 1994). It detailed the accountability culture within the organisation, the personal dimension of accountability, and staff’s attitudes towards performing accountability work. This analysis has established important contextualisation for understanding staff’s engagement with oversight mechanisms that will be set out both in this chapter and the next. This chapter will outline prison managers’ perceptions of the prisoner complaints system. Drawing on the survey data, Section 7.2 will identify the specific aspects of this system that are linked to staff’s overall opinions of the system. Following this, in Section 7.3, data gathered from interviews with prison management will be used to explore the proposition that complaints pose a threat to staff. Finally, Section 7.4 will describe strategies

used by staff to ‘manage’ prisoner complaints. An analytical matrix of all the findings held within this chapter is included in the appendices (Appendix Y).

7.2 Attitudes towards the Prisoner Complaints System

Section 7.2 examines attitudes among staff at the Irish Prison Service (IPS) towards the prisoner complaints system. Attitudes were captured through a combination of interview and survey methods. This section compares the attitudes of senior staff and frontline staff. Notably, the two groups differ with respect to their occupational subcultures and in terms of their responsibilities regarding complaints (see Chapters 2 & 3). However, frontline staff and senior staff reside within the same organisational culture and culture of accountability. Both groups are familiar with the prisoner complaints system, though their experiences many come from slightly different perspectives. As such, frontline staff as a group, provide a useful comparator for understanding the attitudes and experiences of management.

7.2.1 Experience with the Complaints System

Respondents were asked to report whether they had had direct experience with the prisoner complaints system. As described in Chapters 3 and 6, responsibilities for the adjudication and investigation of complaints are one of the many accountability tasks assumed by prison managers. Perhaps unsurprisingly, given these responsibilities, 95% of senior staff respondents ($n = 40$) reported experience with the complaints system (see Figure 7.1a). In comparison to frontline staff, senior staff were far more likely to report having experience with the complaints system ($\chi^2 = 15.29$, $df = 1$, $p < .000$). Senior staff reported that their experience with the system was most commonly as a result of overseeing or carrying out the investigation of a complaint. Other reasons reported for one’s experience with complaints system included being the subject of a complaint or giving supporting evidence (see Figure 7.1b).



Figure 7.1a: Prison managers with experience of the complaints system (n = 40).

Figure 7.1b: Reported reasons for experience with the complaints system (n = 38).¹⁸

¹⁸ Survey respondents could select more than one response for their experience with the complaints system.

Respondents were also asked to indicate their overall opinion of the complaints system. Response options were measured on a five point Likert scale, with possible response options ranging from very negative to very positive. The results displayed in Figure 7.2 demonstrate that the senior staff group have somewhat favourable evaluations of the system with nearly half of respondents (47.5%, $n = 40$) expressing a positive opinion (see Figure 7.2).

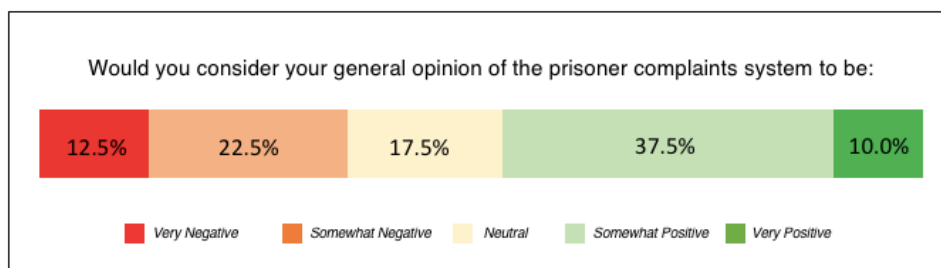


Figure 7.2: Respondents' overall attitude towards the prisoner complaints system ($n = 40$).

A two-tailed Mann-Whitney test was used to assess whether opinions of the complaints system among senior staff differed to that of frontline staff, by comparing the medians for each group (Table 7.1). The results of the Mann-Whitney U test indicate that there is a significant difference between the opinions of the senior staff and frontline staff groups towards the complaints system ($U = 8160.00$, $p < 0.000$). Specifically, senior staff reported more positive attitudes towards the complaints system in comparison to frontline staff. A small effect size for this statistic was calculated at $\eta^2 = 0.10$.

Table 7.1: Descriptive statistics for respondents' opinions of the complaints process.

	<i>n</i>	Median	SD ¹⁹
Senior Staff	40	3.00	1.24
Frontline Staff	271	2.00	1.09

Further explorations of the data were undertaken to try to explain what might be driving this difference between the two groups. Initially, it was speculated that frontline staff may have more negative opinions of the complaints system because – given the nature of their work and their close contact with prisoners – they are more likely to be complained about. One finding that emerged from the analysis was that respondents who reported being complained about (35.2%, $n = 338$), regardless of staff grade, had a more negative opinion of the complaints system than respondents who had not been complained about (64.8%, $n = 338$). The results of a two-tailed Mann Whitney test revealed that respondents who

¹⁹ The standard deviation measures the spread of the responses relative to the mean (Agresti, 2018).

had been the subject of a complaint were more likely to have a more negative opinion of the complaints system ($U = 10223.50, p = .01$), though this statistic carried a negligible effect size ($\eta^2 = 0.02$).

The survey also examined whether the proportion of those who had been complained about differed according to staff group. The results demonstrated that the proportion of staff who reported having been the subject of a complaint was comparable among both senior and frontline staff. 37.5% of senior staff reported having been complained about ($n = 40$), and similarly 39.5% of frontline staff reported having been the subject of a complaint ($n = 258$). The results of a chi-square test comparing these two figures revealed no significant difference ($\chi^2 = 0.06, df = 1, p = .806$). So, in effect, prison managers are equally likely to have been the subject of a complaint over the course of their career.²⁰ Yet, crucially, while occupying management roles and somewhat distanced from prisoners, senior staff are less likely to be the subject of complaint in their current position; thus, the *prospect* of incurring complaints is not the same for the two groups and this could be influential in terms of formulating opinions about the complaints system.

Additionally, complaints are purported to be a managerial tool, an asset in identifying issues in practice (CPT, 2018; Gulland, 2011; Maguire & Corbett, 1991). Therefore, for managers, the receipt of complaints may yield some small benefit in identifying issues within their prison. On the other hand, complaints do not serve this function for frontline staff and so they are not in a position to directly witness this benefit. To put it succinctly: it is possible that frontline staff's opinion of complaints is shaped by only witnessing the negative effects of complaints. Prison managers, in comparison, are better positioned to see the constructive potential of complaints which may lead to them having more positive attitudes. This issue will be returned to subsequently in a discussion of the constructive and destructive potential of complaints (Sections 7.3.1 and 7.3.2).

Although this explanation cannot be directly tested from the available data, some support for this interpretation comes from the finding that prison managers are far more likely to agree with the statement 'Prisoner complaints have led to improvements in Irish prisons'. 40% of senior staff ($n = 40$) agreed or strongly agreed with this statement in comparison to just 8.8% among frontline staff. A two-tailed Mann Whitney test comparing responses between the two groups revealed a significant difference, ($U = 8647.00, p < 0.000$), with a small effect size of $\eta^2 = 0.10$.

²⁰ A limitation of the survey's design is that it did not capture *when* respondents were the subject of the complaint, only *if* the respondent had experienced being the subject of a complaint. For managers, being the subject of a complaint is more likely to have been experienced while serving in front line ranks in their career.

Further support for this interpretation can be observed in the qualitative dataset. In interviews with prison managers, their opinions of the prisoner complaints system were generally neutral or positive; although, at the same time, they maintained that the system was in need of improvement. Despite this, the complaints system was viewed as “*an important part of our toolkit as a management system*” (Participant 12). This quote is particularly apt in illuminating – ‘our toolkit’, ‘a management system’ – for whom, among prison staff, the complaints system works for. In contrast, prison managers flagged that frontline staff had more negative experiences with complaints. Prison managers expressed the belief that frontline staff perceived the complaints system as something that sought to target them. Consequently, they described that there was a low level of trust and regard for the system among frontline officers, “*staff feel that it’s very much stacked against them*” (Participant 25).

7.2.2 Important Features of the Complaints System

The second objective of the survey was to explore prison managers’ attitudes towards the mechanics of the complaints system. In order to do this, survey respondents were asked to indicate their level of agreement with a number of item statements that related to specific aspects of the complaints system (see Table 7.2). Items were both positively and negatively phrased to minimise response acquiescence (Bryman, 2012). All responses were captured through a five point Likert scale, ranging from strongly disagree to strongly agree. A table of respondents’ percentage agreement with each of the items is displayed in Figure 7.3.

Table 7.2: Survey items concerning features of the prisoner complaints system.

Survey Item Statements
Responses to the following statements were indicated using a Likert scale: 1 = <i>Strongly Disagree</i> , 2 = <i>Somewhat Disagree</i> , 3 = <i>Neither Disagree nor Agree</i> , 4 = <i>Somewhat Agree</i> , 5 = <i>Strongly Agree</i> . Positively phrased statements are denoted with (P) and negatively phrased statements are denoted with (N).
The complaints system works. (P)
In general, I think the complaints system is unfair. (P)
The complaints system is necessary to give prisoners a voice. (P)
I have confidence in the process of the complaints system to reach the correct decision. (P)
The process by which complaints are resolve is clear to me. (P)
Prisoners do not have enough opportunity to make complaints. (N)
Prisoners who complain risk reprisal. (P)
The complaints system is misused by prisoners. (P)
The time taken to resolve a complaint is reasonable. (P)
Prisoner complaints have led to improvements in Irish prisons. (P)

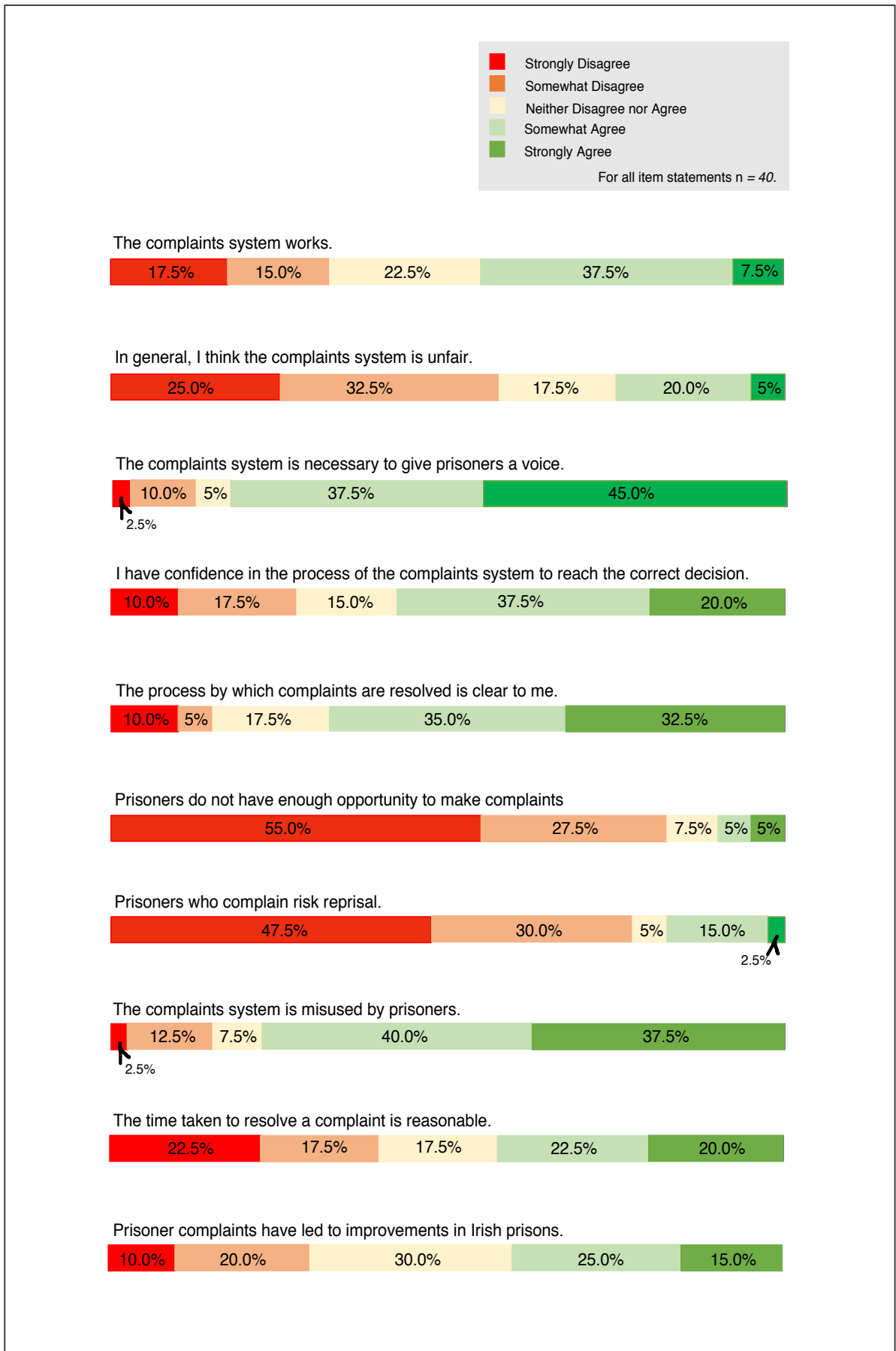


Figure 7.3: Participants' responses to statements related to the complaints system (n = 40).

Figure 7.3 overleaf depicts prison managers' responses to statements regarding the prisoner complaints system. Some items prompted strong opinions among prison managers. Prison managers largely disagree that people in custody in Irish prisons do not have opportunity to complain or that they risk reprisal in doing so. The findings are also illustrative of the complexity of views on the complaints system. For example, the vast majority of participants agreed that the complaints system offers prisoners a voice, but likewise a large majority also reported that the system is misused by prisoners. Mixed opinions are observed regarding the potential for complaints to lead to improvement, time taken for resolution, and whether the system itself actually 'works'. The analysis that follows will explore these opinions in greater depth, providing contrast with that of the opinions of frontline staff. Additionally, this analysis seeks to explore possible associations between these opinions and prison managers' general opinion of the system.

Table 7.3: Correlations between complaints system features and overall opinion.

Item Statement	Spearman's ρ	P-value	Confidence Interval ²¹
The complaints system works.	0.815**	0.000	(0.501, 0.948)
In general, I think the complaints system is unfair.	-0.550**	0.000	(-0.851, -0.146)
The complaints system is necessary to give prisoners a voice.	0.393	0.012	(-0.015, 0.694)
I have confidence in the process of the complaints system to reach the correct decision.	0.718**	0.000	(0.340, 0.884)
The process by which complaints are resolved is clear to me.	0.434**	0.005	(-0.021, 0.731)
Prisoners do not have enough opportunity to make complaints.	-0.048	0.771	(-0.487, 0.437)
Prisoners who complain risk reprisal.	-0.281	0.079	(-0.649, 0.228)
The complaints system is misused by prisoners.	-0.637**	0.000	(-0.833, -0.320)
The time taken to resolve a complaint is reasonable.	-0.577**	0.000	(0.141, 0.828)
Prisoner complaints have led to improvements in Irish prisons.	0.600**	0.000	(0.266, 0.812)

**Correlation is significant at the 0.01 level (two-tailed).

Using a series of Spearman correlations prison managers' responses on these item statements were compared alongside their overall opinion of the prisoner complaints system. In doing so, the Spearman correlations could be used to explore if a relationship existed between these individual features and

²¹ As a result of bootstrapping the dataset, some confidence intervals for the Spearman analysis cross 0.

respondent's overall evaluation of the system. The correlations also offered a means to identify the strength and direction of these potential relationships. Before the tests were undertaken, the data was assessed to assure that it met the assumptions necessary to conduct a Spearman analysis (Field, 2018). Assumptions of ordinal data and monotonicity were satisfied. As the sample was quite small ($n = 40$), bootstrapping was used to support the analysis (Field, 2018). Furthermore, because several comparisons were sought within the analysis the alpha value was raised to 99% to mitigate the possibility of incurring a Type I error.

The results of the analysis indicated that seven features of the system significantly correlated with respondents' overall opinion of the complaints system (see Table 7.3). Positive correlations were observed between one's opinion of the complaints system and where respondents believed that the system: is one that works; is one in which they have confidence in its process; that the process is clear; and that complaints lead to improvements. Where respondents were more inclined to agree with these statements, they also tended to report more favourable attitudes toward the complaints system overall. Negative correlations were observed between respondents' opinion of the system and where the system was deemed to be unfair, open to misuse by prisoners, and where participants believed that the time taken to resolve complaints was not reasonable. In other words, where respondents tended to agree that the complaints system demonstrated these features they also reported more negative attitudes towards the system.

These findings lend some support to the previous literature on complaints (see Chapter 3, Section 3.3.3). For example, guidance by the CPT (2018) on best practice for prisoner complaints systems has advocated that such systems need to utilise fair procedures and to be effective. The findings of this analysis demonstrates that where prison managers believe that the complaints system demonstrates fairness, they are also more likely to view the system favourably. Regarding effectiveness, prison managers who tend to view the system as one that 'works' are also more likely to have a positive opinion towards the complaints system overall. Furthermore, prison managers who view complaints as yielding improvements for prisons are also more likely to have a positive opinion of the complaints system. This is perhaps a more concrete indicator of an effective system, in that complaints are perceived to have the potential to bring about constructive changes.

In comparison, during the interviews prison managers were less overtly satisfied with the complaints system than the survey data would initially imply. The complaints system was recognised by senior staff as "*a management tool*" (Participant 4) and "*an important part of our toolkit*" (Participant 12). According to interviewees, the principal benefit of the complaints system for those in management was that trends in complaint could lead to the identification of recurring issues within the prison. However, interviewees were not entirely convinced that this function was actually being achieved; they believed that complaints were managed individually as opposed to being analysed to identify more global or

recurring trends. As will be described further in Sections 7.2.1 and 7.2.2 below, the capacity for improvement through complaints is reportedly quite limited.

Ensuring timely resolution is a factor that has been repeatedly emphasised for the provision of an effective complaints system in many different contexts (Allsop & Mulcahy, 1995; CPT, 2015; Seneviratne, 2012; Waters & Brown, 2000). The results of this analysis indicate a significant correlation between time taken to resolve a complaint and respondents' opinion of the system. Though, counterintuitively, the direction of the correlation indicates that respondents who *disagreed* that the time taken to resolve complaints was reasonable have *positive* opinions of the complaints process. In other words, staff acknowledge that the system takes a long time to reach a resolution for complaints but, regardless, they still view the system with positivity. This may be an indication that the provision of quick responses is not a prioritised feature of a good complaint system, and that prison managers view other features as more important.

Yet, within the interview data, the time required to resolve complaints was an issue that was repeatedly raised by the vast majority of participants. Overall, prison managers were dissatisfied with the length of time it took to resolve complaints. Participants recognised that the drawn-out process for resolution was unacceptable both to prisoners who complain and to staff who may be implicated by a complaint. For example, Participant 18 stated, "*a complaint needs to go in and it needs to be done in five days. 'You made a complaint, what's the story?' Bang, bang, bang, and off you go. It's just too long. It's absolutely shocking.*" The investigation and resolution of complaints, a responsibility that rests with prisoner managers, is a time-intensive task. Moreover it is one that prison managers are "*trying to squeeze [...] in along with the fifty, sixty, seventy other jobs that they do that day*" (Participant 24), an example of the 'time compression' described by Murphy and Skillen (2015). However, there was recognition among prison managers that these protracted resolutions to complaints reflected poorly on the system in the eyes of both prisoners and frontline staff.

Transparency has also been highlighted by the CPT (2018) as a necessary feature of a good complaints system. Reports arising from CPT visits to Ireland have often focussed on the importance of record keeping and documenting the process of complaints investigations (for example, see CPT, 2011). This was also reflected in the findings of the analysis; positive evaluations of the complaints system were associated with agreement that the process for resolving complaints was clear, as well as agreement that one had confidence in the complaints process. However, this research would argue that prison managers have a level of familiarity and knowledge of the complaints system that allows them to develop more favourable opinions of the system.

As adjudicators, prison managers were very knowledgeable on the procedures surrounding the processing of complaints. In interviews, many prison managers detailed the steps that a complaint passes through from submission, to investigation, to the determination of an outcome and its response.

However, these procedures are perhaps less clear to frontline staff. While frontline staff may be delegated some investigation responsibilities for specific complaints related their area of responsibility, their contact with the system is more irregular than that of senior staff. In interviews, managers highlighted that the introduction of the system was not coupled with appropriate training for frontline staff as to the function and protocols for dealing with complaints. As a result they felt as though “*the lack of training undermined staff buy-in*” (Participant 5) and “*there’s a lot of myth around it*” (Participant 33), which possibly contributes, in part, to the low regard for the system among frontline staff.

Further to this, attitudinal differences can be observed in the survey data regarding trust in the procedures of the complaints system. A comparison of frontline and senior staff responses to the survey item, ‘The process by which complaints are resolved is clear to me’ was also quite illuminating. Among prison managers, 67.5% reported that they agreed or strongly agreed with this statement, in comparison to only 13.4% of frontline staff. Comparing the two groups using a two-tailed Mann Whitney test revealed that frontline staff were much less likely than prison managers to agree that the complaints system offered clear procedures ($U = 9340.00, p < .000$) with a small effect size of $\eta^2 = 0.15$.

Additionally, prison managers and frontline staff also differed with respect to the level of confidence they placed in the complaints system. As described previously, there is perhaps greater fear of complaints among frontline staff. Unlike prison managers, they are more likely to be the subject of complaint. During the interviews, managers highlighted that they believed that frontline staff did not place much trust in the complaints system, and that some regarded its investigative procedures – particularly those that examined staff conduct or the allegation of abuse – as biased. On this, Participant 21 noted, “*The feedback I get from staff who have been interviewed, from time to time, is that they’ve already found you guilty and that [the investigators’] language is geared that way.*” Prison managers often commented on the need to build greater staff trust in the system, a system that frontline staff often felt targeted them.

The differing levels of trust in the system is also borne out within the survey data. When asked to respond to the item statement, ‘I have confidence in the process of the complaints system to reach the correct decision’, 57.5% of managers agreed or strongly agreed with this item. In contrast, among frontline staff only 15.1% agreed or strongly agreed with this statement. A two-tailed statistical comparison revealed that there was a significant difference between the responses of the two groups, ($U = 8664.00, p < .000$) with a small effect size of $\eta^2 = 0.10$. This finding is congruent with the qualitative findings.

This research provides support for the importance of particular features of the complaints system. System features of effectiveness, fairness, confidence in the system, clear process, and timeliness were all shown to correlate to prison managers’ evaluations of the complaints system. Many of these features

have been regarded as important within the prison complaints literature but without empirical evidence to support these claims (Behan & Kirkham, 2016; CPT 2018). This research provides a valuable contribution to the literature in this regard.

It is also worthwhile to examine the items that did not exhibit correlations with overall opinions of the complaints process, and to query why this might be the case. Hirschman (1970) has emphasised the importance of complaints systems in providing individuals with a platform to voice their dissatisfaction. In both their annual reports and the recommendations arising from their visits, the CPT (2011; 2018) have also highlighted the need to ensure that prisoners have easy access to complaints and that their safety is not jeopardised by making a complaint. However, item statements concerning voice and not fearing reprisal only demonstrated a weak but non-significant correlation with managers' opinions of the complaints system. Additionally, the analysis revealed that there was no relationship between the opportunity to make complaints and respondents' opinion of the complaints system. Notably, these three items are representative of aspects of the complaints system that bear importance for prisoners, or at the very least, are intended to serve the interests of prisoners rather than staff. And, perhaps, it is for this reason that they do not correlate to prison managers' evaluations of the system.

When a complaint is levelled against the prison the reaction of those with the obligation to respond is telling of the prison's institutional mechanics. Prison managers are uniquely placed as both adjudicators of the complaints system and governing agents of the prison that is under complaint. The manner in which complaints are viewed by this group is illustrative as to whom the institutional mechanics of handling complaint are intended to serve. As the findings above indicate, senior staff's perspective on the complaints system is positioned rather differently than the that of either frontline staff or prisoners. Further to this, the following sections within this chapter on experiencing and responding to complaint, will describe how complaint can often be 'managed' with a view to serving the interests of the institution.

7.3 Experiencing Complaints

Scholars writing on complaints note that complaints can pose a threat to the body that is being complained about (Gulland, 2011). They are a formalised indication of dissatisfaction (Mulcahy & Tritter, 1998). In prison, as is comparable with other contexts – for example, see Allsop and Mulcahy (1995) on complaints in healthcare settings – complaints pose a threat to staff members in many ways. Complaints flag behaviours or services as falling below expected standards. If a serious complaint against a staff member is found to be upheld, it can result in disciplinary action. Complaints, whether upheld or not, can threaten a staff member's reputation. Moreover, on a practical level, the receipt of complaints provides additional workload and stress for staff tasked with these responsibilities. As such, one can understand that complaints are not desirable events; however, they are a necessary accountability mechanism for any service or organisation.

This section examines how staff respond to complaints received within the prison. It is grounded in an inductive analysis of the interview data (see Chapter 5). This analysis reveals that staff perceive complaints as carrying power, albeit, in different ways. Broadly speaking, the power of complaints can be categorised in two ways: complaints may carry constructive potential or destructive potential. Simply put, complaints can work in congruence with the aims of the organisation and management – though not necessarily harmoniously – or they may overtly work against it.

7.3.1 Complaints with Constructive Potential

Complaints carry constructive potential in the sense that they offer the complainant a means to seek resolution, explanation, or redress in response to the issues that they have raised. In making a complaint, the prisoner has the ability to initiate an ‘accountability episode’. As such, complaints confer two constructive benefits for both the complainant and the recipient. Firstly, the very presence of a complaints mechanism grants prisoners a measure of empowerment in that they have the capacity to demand account from the prison system and prison staff (Butler, 2005). Although it must be said that while this is true of complaints mechanisms *in theory*, the reality of making a complaint can be a disenfranchising experience for complainants – for example, see prisoners’ perspectives on complaint (Calavita & Jenness, 2013); Waters and Brown (2000) for complaints made against police; or Gulland (2011) on complaints made against care services. A second benefit is that complaints, as an accountability episode, offer the means to resolve the threat to organisational legitimacy that has been called into question by the content of the complaint (Torrible, 2018). These two constructive potentials will be examined in turn below.

Firstly, during the interviews, almost all prison managers overtly recognised that prisoners were entitled to complain and moreover, that they had the right to complain. Where participants expressed issue with prisoner complaint it was not that prisoners *could* complain, but rather how they complained or what they complained about (see Section 7.3.2 and Section 7.4). As such, the complaints system was necessary for the purpose of giving prisoners a ‘voice’ (see Hirschman, 1970), or a platform to raise their grievances. The ability to complain was viewed by most participants as important in that the prison is compelled to provide “*some vehicle to be able to make complaints about the way they’re being treated, mistreated*” (Participant 19). Indeed, some participants expressed that the willingness of prisoners to come forward and complain was a positive indication of the prison regime. For example, in speaking about whether prisoners would be willing to turn to the complaints system to raise an issue, Participant 13 stated,

“I hope they would. I really hope they would. I would be upset if there was a survey done in my prison and prisoners didn’t feel safe to exploit [it] or come forward, that is something I would take personally.”

In addition to this, the presence of a formalised procedure was regarded as giving additional weight and empowerment to prisoners' complaints. A complaint once submitted must be attended to, its claims must be addressed, and the prisoner must be responded to. The matter becomes "*something that's on record*" (Participant 27). In this respect, the formalised complaints system establishes a clear and direct accountability relationship between staff and prisoners. And, just as Butler (2005) describes, such a relationship, once entered into, cannot be easily dismissed. By raising an issue through a formalised channel as opposed to through informal communication, action is required on the part of the prison. For example, Participant 1 explained,

"I think it's a great reflection on the prison and on the regime there that the prisoner has the confidence that **'I'm going to make a complaint about that and that by giving that complaint in I know that the Governor - or the Governors, or whoever, whoever it's going to be, pass it on to HQ, whatever - are going to deal with that problem.'** And I think that's a really, really positive reflection on the regime in the prison." (emphasis added)

Additionally, a benefit of a formalised system is it provides both complainants and respondents with established guidelines for the handling of complaints. This was a point that some staff members raised particularly in reference to comparison of the current complaints system with the previous informal system. They argued that where complaints are raised with staff members informally, the manner in which it was handled could depend on the complaint's recipient – with some staff members being more receptive to complaints than others. The introduction of formalised system removes that element of variability in that complaints are treated with greater consistency. This point was expressed by Participant 22,

"It's really important that prisoners have a voice. I feel as though they always have a voice with me. I make myself very accessible to staff and prisoners. Just who I am. But you can't rely on personalities. We could just as easily have a Governor here who wasn't as open and approachable, you know?"

However, it must be said that regardless of established policy guidelines for complaints within the organisation, not all staff approach complaints in the same way. Additionally, not all complaints receive the same level of attention. This point will be returned to in Sections 7.3.2 which focuses on the destructive potential of complaints, and how serious complaints can preoccupy staff's perceptions of complaints. Furthermore, Section 7.4 will examine staff's approaches to complaints, which demonstrates the variety of strategies that are utilised in managing and responding to complaints.

Another way in which complaints are regarded as constructive is that they give prisoners the capacity to call the prison to account. Complaints allow prisoners to bring attention to substandard treatment, regardless of whether the nature of their complaint is minor or severe. This is akin to Mathiesen's (1965) concept of censoriousness in which prisoners call attention to staff's deviation from expected norms and standards. As in other settings (Maguire & Corbett, 1991; Sanders & Young, 2003; Smith, 2004), the complaints system is a means for prisoners to seek accountability from staff on the issue of their grievance. The very presence of the mechanism itself is recognised by prison managers as keeping staff on their toes. That there is the possibility of complaint means that staff must maintain professionalism and cannot become complacent or lax in their duties towards prisoners. The presence of the complaints system was also viewed as effective in deterring the possibility of abuse of power on the part of staff. In this respect, Participant 2 reflected on the introduction of the complaints system stating that it instilled,

“cognisance there of accountability, and so certainly the level of complaints from prisoners in relation to excessive use of force did drop from when the complaints system was first introduced up to, shall we say, a two year period after that”

Similarly, to this effect, one prison manager summarised the function of the complaints system as, *“The process is justified. Being there. It keeps the good guys good and it makes the bad guys think twice. So, as I'd say I'm quite happy to operate within it, you know?”* (Participant 21).

In addition to calling attention to instances of substandard treatment and issuing a check on the power of staff, the presence of a channel for complaint and the ability to complain was also regarded as important for maintaining fairness in the prison environment. As previously described, for those in custody, prison is an environment with an inescapable imbalance of power (Crewe, 2007b). The ability to complain – though it, admittedly, cannot substantially rectify this imbalance – takes steps towards establishing fairness, in particular, where the prisoner perceives themselves to have experienced unjust treatment through the breach of expected standards. As Torrible (2018) argues, complaints call organisational legitimacy into question. The management of complaint, at least from an organisational perspective, offers the organisation a means to address this. For example, Participant 29 describes how the complaints system can offer a means to re-establish fairness,

“you need to have proper means of dealing with people's grievances, do you know? For any type of fairness. [...] It's only when you have a grievance or a complaint that you perceive that you might not have been treated fairly. And then it's the means then to kind of reset back then to a position where you, you are being treated fairly. Or that, whatever has happened to you, there is a consequence to the person who hasn't treated you fairly, you know what I mean? And that's the only way. Like, for fairness, that has to happen.”

In this respect, complaints call attention to a wrong-doing, dissatisfaction, or experience of substandard treatment. They offer a means for the organisation to correct itself and to re-establish legitimacy or at least to restore to the status quo of its reputation in the eyes of its accountability audience (Hirschman, 1970; Mathiesen, 1965; Rowe, 2020; Torrible, 2018).

7.3.2 Complaints with Destructive Potential

Complaints were as viewed by prison managers' as carrying destructive potential, in the sense that they represent a pushback against the prison. During interviews with prison managers, it was clear that there was something of a preoccupation with Category A complaints – complaints that concerned allegations of serious abuse or assault (see Chapter 3, Section 3.3.3.1, Table 3.1). Despite comprising only a small fraction of the total number of complaints received, the course of the interview very often turned to Category A complaints with respect to managers' experiences, examples, and issues with the system. It was clear from interviews that complaints of this nature – which according to the official IPS complaints statistics, are very often concluded as not upheld – inform staff's views of complaints, and in particular the destructive potential that these type of complaints can have.

It is important to note that Category A complaints account for a small proportion of the overall number of complaints received. For example, the annual figures for 2018 complaints puts this figure at 8% of all complaints received (IPRT, 2019). Further to this, only a small proportion of Category A complaints, scrutinised by external investigators and adjudicated on by the prison Governor, are found to be upheld. In 2018, only four out of the eighty Category A complaints received were found to be upheld. This means that upheld Category A complaints accounted for 0.41% of all complaints received in that year. This would suggest that the destructive potential of these complaints is somewhat overestimated by prison staff. Quite possibly staff perceptions of complaints, in this respect, are fed by the availability heuristic (Kahneman, 2011); in that highly salient or memorable events come to disproportionately inform one's interpretation of the likelihood of the occurrence of a particular event.

Category A complaints were cited by a small group of participants as being submitted by prisoners in reaction to prisoners' receipt of a P19, a disciplinary sanction. Though the sanctions themselves could not be undone through complaint, the system offered as a route by which prisoners could push back against the prison or the officers involved. Complaints in this respect were viewed as "*a retaliatory action*" (Participant 5). Participants gave examples of how allegations of a Category A complaint could arise as a reaction to disciplinary sanctions in instances where prisoners were found with contraband, in response to room searches, searches of the person, or during control and restraint procedures. Participant 22 described one such instance that they encountered, in which a prisoner submitted a Category A complaint in response to being moved from an area by prison staff after repeatedly refusing to do so.

“But I know in my heart and soul that that was that prisoner’s reaction to me, punishing him, for being non-compliant. And I see it on both sides. Staff do it. Prisoners do it. I think it’s human nature in lots of ways that we kind of throw all the toys out of the pram saying, ‘If you’re going to do this to me I’m going to do this.’ You know?” (Participant 22)

A second way in which complaints were regarded as having destructive potential concerned complaints that were viewed as being submitted by prisoners with the intention of frustrating the system. Examples were given by interviewees of complaints that were unfounded, complaints that were submitted under fake names, or complaints that had been submitted in facsimile numerous times. Such uses of the system were viewed by some as “*a way to interfere with the regime of the jail*” (Participant 16). For example, Participant 5, quoted below, makes reference to the ‘frequent flyers’ of the complaints system, a reference to prisoners who are renowned for submitting complaints.

“We have a number of frequent flyers in the complaints, that complain just to complain. They know there’s no basis to it. And it’s the same complaint over and over again, you know, rephrased, reconstructed, but the same issue. Erm, we get complaints about human rights abuses, or human rights breaches that just never happened. They just do it to be a nuisance.”

Many participants alluded to the time required to deal with complaints. Though only some of these participants continued to say that dealing with complaints diverted them away from their other responsibilities. In this respect, it was clear that, for these individuals, the management of complaints was viewed as an add-on, and not a responsibility that was fully integrated in their role. In particular, participants were frustrated that these complaints absorbed resources and took time away from their other tasks and responsibilities; paperwork is viewed as an obligation, but it is not prison work. This is very much in keeping with Bryans’ (2008) observations on paperwork in prison. He argues that an inevitable consequence of the paperwork demanded by managerialist practices is that it mires prison managers, keeping them at distance from the prison. As a result, Bryans argues that management are less visible and less aware of what is happening on the ground. This was very much evident in Chapter 6 in prison managers’ descriptions of the accountability culture and how accountability is instantiated in prison (Section 6.2.3). It is also apparent in the quotes below from Participant 7 and Participant 14 in their reflections on the management of complaint.

“So can you imagine one hundred and twenty odd that I’ve investigated, overseen, since I’ve come back? The time that takes, in paper work? It’s only me and the Chief. And the time that that takes away from me being out on the floor and being visible where I should be.” (Participant 7)

“...all that work could have been avoided. All that work which keeps people like me nailed to my desk, you know what I mean? Whereas if you can unravel all of that and you’re actually out and about more less of this stuff would go on.” (Participant 14)

Two participants, in particular, remarked on the gamesmanship surrounding handling such complaints. There was a need to appear outwardly unperturbed in the face of prisoners’ perceived efforts to frustrate them. For example, one participant commented on their experience of dealing with a prisoner who they believed frequently submitted complaints purely to pester staff. Similarly, Participant 33, below, describes how they had received numerous complaints from the same prisoner all concerning the same issue, and resorted to writing back with an identical response on each occasion. To some participants, this behaviour was regarded as an abuse of the complaints system, and it could lead some to view the system with a degree of cynicism.

“And the more we buy in to all of that and get annoyed by it? ‘That’s grand. You’ve made the complaint, we’ll investigate it’, she’s not getting us angry as far as she’s concerned. Whereas if we respond, ‘Another one?? God Almighty!’, to her, ‘I have them now...’”²²

“Sixteen complaints. All relating to food. I asked the question, ‘Is this not a breach of the process?’ and I was told, ‘No just keep taking his complaints.’ Now, it got to the stage where his complaints were answered by exactly the same answer that I gave to the previous one, all I did was change the date. Because I said, ‘If that’s the game they are going to play, this is the game I am going to play’. His complaint got answered but it was verbatim answered exactly the same way.” (Participant 33)

Though the effective management and investigation of complaints has been recognised as a time-consuming process (Allsop & Mulcahy, 1995), few studies of complaints have described the use of complaints systems to deliberately frustrate or antagonise staff. One exception is a study by Calavita and Jenness (2013, p.71) which revealed that some prisoners did use complaints as a means to ‘get back’ at staff. However, the proportion of their 120 randomly sampled prisoners who reported using the system for this purpose was notably very low, at just 5.7%. Among interviewees in this study, it was clear that there was a strong sense of frustration regarding the perceived misuse of complaints by prisoners in the Irish prison system. In the survey, 60% of prison managers agreed or strongly agreed with the statement, ‘Prisoners who submit a complaint that is proven to be false should face punishment’. Comparably, in interviews, many staff expressed similar sentiments consistent with this finding. For example, the idea that prisoners should face consequences for knowingly submitting false complaints is expressed in the quote below from Participant 27,

²² Attribution of the quote intentionally omitted.

“if it’s not founded, and it’s kind of knowingly put in as a false complaint there has to be repercussions for the prisoners as well. Otherwise, there will be no control over it. It will just be random complaints over, ‘He done this’ or ‘He done that’.”

As Calavita and Jenness (2015) have also described, prison is something of a unique context for complaints in that the complainant and the recipient of the complaint exist and reside in such close proximity to each other. To this, the findings of this research also adds that the use of complaints to antagonise may also be a unique feature of this setting. It is difficult to comprehend what it is like to experience the pains of imprisonment and the loss of one’s autonomy (Crewe, 2011; Haggerty & Bucerius, 2020; Sykes, 1958); frustration in prison is vented in many ways and, for some prisoners, complaints may provide one such avenue. In a sense, it represents prisoners own co-opting of institutional tools of soft power (Crewe, 2009; 2011), turning them back on the prison.

With this said, it is incumbent on prison staff – and those in prison management in particular – as caretakers of this system to ensure that the integrity of the system is maintained. This means acknowledging that in some cases complaints may carry destructive potential, but that this is part of what complaint in the prison environment entails. Specifically, people in custody whose autonomy has been significantly diminished will use the avenues and tools available to them to make themselves heard or to vent their frustration. Indeed, such examples are likely not to constitute the majority of complaints received by the system. Therefore, it is important that such instances do not overly or unduly influence staff’s attitudes towards the system.

7.4 Managing Complaints: Response Strategies

As will be described in the section below, some prison managers welcome complaints. But for others, complaints are regarded as a threat that needs to be mitigated. Complaints are indicative that a shared normative standard of behavioural expectations between prisoners and staff has been violated (Felstiner, Abel & Sarat, 1980). In making a complaint, prisoners are challenging those in a position of authority as to the legitimacy of their application of the rules and the provision of standards (Mathiesen, 1965). Understandably, viewing complaints as a threat – whether that threat is small, large, or merely perceived – may prompt the need for complaint recipients to engage in tactics that would nullify this threat. When an institution is complained about, the response reveals something about the institution itself. As such, this research will illuminate how complaints operate as an accountability mechanism, and for whom.

Complaints procedures are often referred to as providing people with a platform or a ‘voice’. Indeed, in the previous section, this was one way in which participants recognised complaints as having constructive potential. The use of the term ‘voice’ can be traced back to the work of Hirschman (1970)

who examined the function of complaint for consumers and business management. Customers' option to 'voice' dissatisfaction was placed alongside their option to 'exit' unsatisfactory consumer relationships when expectations are not met. As such, the term 'voice' and its associated terms is still often used in the complaints literature (see Schulenberg et al. (2017) and Holmberg (2019) on complaints made against police, and Behan and Kirkham (2016) on complaint in prison). However, in the context of prison, the idea of complaints mechanisms providing a 'voice' for prisoners can appear crude and uncouth in a context that is intrinsically characterised by the disempowerment of those in custody.

'Giving a voice' to prisoners by 'allowing' them to complain, on the surface, may seem empowering. However, it raises the question of why that voice was not present to begin with, who is in a position to bestow voice, and who determines when and to what extent that voice is heard. As such, Section 7.2 gave insight into the manner as to how that voice is perceived. Building on that analysis, this section will examine how that voice is responded to and identify a typology of response strategies described by prison managers. In each case, this analysis reflects on what the use of that strategy implies for the function of the complaints mechanism and for whose interests is intended to serve – the institution or the complainant. The term 'management' of complaint, rather than adjudication, is used purposefully as the implications of handling complaint extend beyond the task adjudication of itself.

This analysis utilises inductive thematic analysis to understand the strategies used by staff to defuse complaints. Comparison of these novel strategies is drawn, in part, from the techniques of neutralisation developed by Sykes and Matza (1957), described in Chapter 3. The theory was originally developed as an explanation of how delinquents self-justify their rejection of socially normative behaviour, but also how they neutralise condemnation levelled by others at their deviant behaviour. Specifically, there is considerable similarity where it concerns the defensive strategies described by interviewees. This analysis is intended to explore the strategies that are used by staff to respond to prisoners' complaints; but crucially, it is not intended to report on the *prevalence* of such strategies among staff.

A. Resolving Before Paper

One strategy for staff dealing with the dissatisfaction expressed by prisoners was to look to resolve the issue before it became a formalised written complaint. Both the CPT guidelines on best practice for prison complaints mechanisms and the European Prison Rules commentary advocates that, where possible, the resolution of grievances should first be attempted through dialogue before the complainant turns to a formalised mechanism (CPT, 2018; European Prison Rules, 2020, Rule 70). Similarly, the 'local resolution' approach has been a valuable introduction to the handing of complaints in the context of policing (Torrible, 2018). Although this approach is suited only to low level issues, it

offers the possibility of dialogue between the two parties that is concentrated on resolving the grievance rather than determining blame (McLaughlin and Johansen, 2002). This section examines the 'before paper' strategy, one that seeks to address germinating complaints. It will examine the corollaries of this strategy and what local resolution of complaint implies for the prison as an institution.

In interviews, early resolution through dialogue was supported by participants. Participants who advocated for this approach explained, "*sometimes something can be dealt with before it gets that far*" (Participant 9). Resolving a complaint before it got to paper was regarded as a means to expediently deal with the problem and was, therefore, regarded as a convenient pathway of resolution for both the prisoner and those tasked with responding to the complaint. Through the survey, support for this strategy was demonstrated by the vast majority of respondents. 90% of prison managers agreed or strongly agreed with the statement, 'It is better to try to resolve an issue with a prisoner in person, before they need to resort to making a complaint.'

Addressing an issue in person before it escalates to becoming a formalised complaint involves greater personal contact and communication between prisoners and staff. As such, there was an opportunity for a more relational or discursive approach to resolving the issue. As one participant noted, "*I was always trying get people to resolve stuff locally and without resorting to... I've always felt that once it goes into the formal, written thing, you've kind of lost it. [...] You've missed the point.*" (Participant 32). In contrast, the formalised approach of submitting a complaint in writing did not offer this possibility for personal engagement. As such, it was viewed as being less personalised and more detached in comparison. In a similar vein, one participant stated,

"if I took five minutes to sit down and go through that complaint with someone, the interaction would probably be more authentic and legitimate than the actual complaints system itself."
(Participant 7)

Many key studies on prison culture have emphasised that the relationship between prisoners and staff is a central component of prison life (Crawley, 2004; Liebling, Price & Shefer, 2011; Sparks et al., 1996; Sykes, 1958; Tait, 2011). The strategy of resolving a complaint before it reaches paper is rooted in relational work. In order for a complaint to be handled through this strategy, positive prisoner-staff relationships are a necessary prerequisite. This strategy demands that a prisoner must feel that they can comfortably disclose an issue to a staff member in person, and that that issue will be listened to, understood, and satisfactorily addressed. Moreover, on the part of staff, there must also be a willingness to recognise the constructive potential of complaint.

The adoption of this strategy may go some way to explaining the variance in the rates of complaint received across different prisons – although, it does not necessarily follow that a high level of complaint is indicative of poor relationships between prisoners and staff. For example, the complaints statistics for 2019 reveal that some prisons receive a very low number of recorded complaints. In fact, for the year 2019, remarkably, no complaints were registered at the prison estate’s two open centres, Loughan House and Shelton Abbey (Appendix A).²³ Similarly, research by Calavita and Jenness (2013) reported that rates of prisoner complaint appeared to vary with respect to security restrictions; they reported that higher rates of complaint were observed in high security settings than in prisons with lower security. Speaking on this pattern, a participant who had experience working in an open centre expressed that this type of environment was more conducive to resolving prisoners’ issues informally through dialogue with the staff. They remarked,

“I think the barriers between the staff and the prisoners, it’s not that they’re dropped – they don’t really exist. And everyone that’s here wants to be here. So I mean for issues then around conflict and, that doesn’t really exist because we all want to be here so we’re all happy to be here. And if there’s issue people can talk.”²⁴

Previous scholarship on complaints has described that, for a variety of reasons, many grievances do not progress to becoming formalised complaints (Mulcahy & Tritter, 1998). Early and local resolution by staff is one such way that a grievance can stray from the pathway of evolving to complaint. A corollary of this approach is that statistics of complaints received and processed also fails to capture the work that is being done by staff to resolve prisoners’ issues. ‘Complaints work’, like accountability work, is something that is equated with matched activities on paper which provide a record of the event; however, when complaints are resolved through this strategy, the work is relational rather than bureaucratic.

This strategy also has consequences for the recording of complaint, in that issues that do not evolve to become formal complaints are therefore never recorded. This approach has been previously noted in research by Symkovych (2020), in which prisoners’ complaints were purposefully addressed through local resolution in order to evade a formal record that could be visible to external audiences. Consequently, if this strategy of informal resolution is undertaken by staff and is advocated as best practice, it is important to also recognise that the complaints received are not representative of the full picture of prisoner dissatisfaction. If issues are responded to before they reach the formalised system then, from a managerial perspective, the numbers of complaints received does not necessarily tell us much about how prisons are performing. In keeping with this, 45% of survey respondents disagreed or strongly disagreed with the statement, ‘When a prison has a low number of complaints upheld, it is a

²³ Data obtained by request to Irish Prison Service, received on 14th July 2020.

²⁴ Attribution of the quote intentionally omitted.

positive indication of that prisons performance'. Critically, this may also undermine the viability of using a complaints system as a managerial tool, as is often promoted (CPT 2015; Maguire & Corbett, 1991), if the system itself is only capturing a partial picture of dissatisfaction and issues faced by prisoners.

The use of this strategy carries three implications for the prison as an institution. Firstly, to turn to this strategy requires that the institution continually invests in the development of positive relationships between prisoners and staff. The second implication is that official records of complaint cannot be considered as an objective measure of prison dissatisfaction, nor can they reflect the work that goes into resolving complaints. When matters of complaint are resolved in-person and before they reach paper they are therefore instances of both 'hidden complaint' and 'hidden accountability work'. Finally, stemming from this second point, when this strategy is used it calls into question the effectiveness of the complaints system as a managerial tool.

B. Encouraging Complaints

The interview data also presented several instances in which prison managers spoke of themselves and frontline staff promoting the use of the complaints system among prisoners. This strategy is referred to here as 'encouraging complaints'. In some respects, it may be a positive reflection on the culture and climate of a prison that people in custody feel as though they are in a position to speak out and raise issues regarding the conditions of their custody. The use of this strategy is an acknowledgement of the constructive potential of complaint. This section discusses the strategy of encouraging complaints and what the use of this approach implies for the management of complaint in prison.

Firstly, among participants who spoke of encouraging complaints, there was recognition that complaints could provide a genuine source of learning for management. In terms of accountability work, this strategy requires that managers are open to learning from complaints submitted from prisoners and open to getting things wrong. One participant described their outlook on complaints stating that "*finding something wrong can be a good thing because it can help you fix your procedures*" (Participant 5). In this respect, complaints were regarded as yielding a small benefit to prison managers. There was the possibility that complaint could identify issues within the prison.

Additionally, participants also explained that the submission of a formal complaint brought greater attention to an issue. When a prisoner commits an issue to paper they are initiating a formalised procedure; the submitted complaint cannot be ignored by the prison, it must be attended to. This is very much reflective of the constructive potential that a complaint carries when made through a formalised process, previously described in Section 7.3.1. Although, with this said, submitting a complaint does not guarantee that the response that ensues will be satisfactory for the prisoner. Some examples of

participants encouraging prisoners in their custody to utilise the complaints system are evident in the quotes below from Participants 7 and 35.

“No one ever came back to me about my property.’ I would actually say, ‘Do you know what? Maybe, I’m just making a suggestion here, fill out a complaint form.’ Because I know that if they fill out the complaint form, I’ll have to give it to the Chief, the Chief has to talk to the Officers at reception, and now it becomes more serious.” (Participant 7)

“I would say, ‘There’s a complaints box out there, if you really feel that what I’m saying to you is wrong feel free to put in a complaint and it will be investigated.’ And I encouraged my staff to tell them about the complaints system. And we started getting complaints. Which was good. I felt it was good.” (Participant 35)

By encouraging complaints, prison managers are recognising their accountability to prisoners. Prisoners have clearly defined rights and entitlements set out by the prison system and where these are not met then there is an obligation to remedy or explain this shortcoming. Under this strategy, prison managers are promoting the use of the complaints system for this purpose. Secondly, this strategy also carries an implicit recognition among its users of prisoners’ right to complain. There is a belief that the system can serve the interests of the prisoner in addressing the issue raised, as well as potentially serving the interests of prison management by identifying areas for improvement.

Previous studies of prisoner complaint have raised the question as to whether complaints mechanisms genuinely offer prisoners’ a platform to have their grievances addressed or if they are an accountability mechanism that is knowingly ineffective and therefore purely symbolic (Bierie, 2013; Calavita & Jenness, 2013; 2015). In effect, Swearingen (2008, p.1354), writing on the prisoner complaints procedure in California, describes it as one of “*cosmetic compliance*”. However, the recognition under this strategy of the constructive potential of complaint (Section 7.3.1) is indicative that the same criticism cannot be levelled at the complaints system in the Irish prison context – or at least not to the same extent. The use of this strategy implies a willingness to listen to and act on complaint.

It is positive to see that many staff members were willing to encourage complaints in their prison. Yet, returning to the literature, it is important to note that there are a variety of reasons why dissatisfaction may not always evolve to a formalised complaint. Allsop and Mulcahy (1995) reference several reasons why this is the case, including: lack of awareness regarding how to make a complaint or access complaint mechanisms, low baseline expectations of treatment, regarding complaining as futile, and viewing one’s complaint as trivial. The prison context presents these barriers in addition to others (see Seneviratne, 2012; Talbot, 2008), including low levels of literacy which can hinder prisoners ability to

make complaints through a system that requires them to submit their complaints in writing (Seneviratne, 2012).

However, in this study only a few participants mentioned the difficulties incurred by prisoners in accessing and using the system. For example, one participant described it as *“far too complex”* (Participant 31). Another described it as *“the most non-user friendly system you could possibly find”* adding that *“prisoners in general probably don’t understand how the system works”* (Participant 23). From the survey data, only 10% of respondents felt that prisoners did not have enough opportunity to make complaints. Rather, the vast majority of prison managers (82.5%) disagreed with the item statement, ‘Prisoners do not have enough opportunity to make complaints’, indicating that they felt that prisoners were afforded sufficient opportunities to do so (see Figure 7.4). Although prison managers feel assured that prisoners have the *opportunity* to complain, the barriers to complaint described above may actually preclude prisoners from engaging with this system.

Additionally, as has been previously described in the literature, the power dynamics of the prison environment can mean that prisoners feel as though their complaints are ineffectual when placed in insurmountable opposition to the prison (Calavita & Jenness, 2015). Prisoners often feel that the act of complaining will mean that they will face reprisal (Calavita & Jenness, 2015; 2013; CPT, 2020; 2018; Seneviratne, 2012). From the survey data, the possibility of reprisal as a result of making a complaint did not appear to present a major concern for prison managers. 77.5% of prison managers disagreed with the statement that prisoners who make a complaint face reprisal for doing so (see Figure 7.4).

C. Referring to the System

In comparison, some interview participants spoke about directing prisoners towards the complaints process in a more cynical way. This strategy is referred to as ‘referring to the system’. Descriptions of this approach were cognisant of the fact that the complaints system was not an effective channel through which prisoners could resolve their grievance or receive a satisfactory resolution. Yet, referring prisoners to the complaints system allowed prison managers and frontline staff to effectively side-step the resolution of prisoners issues, while at the same time preserving the veneer of accountability. It is an approach that views complaints as ineffectual. Additionally, it is indicative that, for some, the complaints system does very little to support the interests and well-being of prisoners.

In one respect, referring prisoners to the complaints system functioned as a means to ‘cool’ the matter of the complaint. As Hirschman (1970) describes, the submission of a complaint requires the complainant to incur a cost, namely the time and effort required to put forward their grievance. The effort required to submit a complaint – in addition, to the effort on the part of the complainant to overcome the barriers to complaint in prison, described above – meant that some grievances were

filtered out of becoming formally recorded complaints. For example, Participant 19, in describing the current complaints procedure in comparison to the previous system, stated,

“a positive change out of it is that when you say to someone, ‘Put it in writing’, an awful lot of those complaints that they like to whinge about disappear. They won’t put it in writing”

In addition to this, some participants described that they had observed prison officers directing prisoners to the complaints system in order to avoid addressing the issue themselves directly. The complaints system can serve as an outlet for the dissatisfaction of prisoners, without staff having to provide any meaningful engagement. This approach contrasts starkly with the approach of ‘resolving before paper’ described above, in which staff proactively seek to address prisoners’ issues and to reach a satisfactory resolution. By giving prisoners the option to “*put it on a complaints form and let it take its course*” (Participant 28) staff are shifting from relational work to bureaucratic work. For example, one prison manager explained,

“I know that some, in some places, you know, a prisoner would be going to a Class Officer and say, ‘I need a new telly.’ ‘Well there’s none in there.’ ‘Well, I need a new telly.’ ‘Well, there’s none in there.’ ‘Well, I need a new telly.’ ‘Well, I’ve told you there’s none in there.’ ‘I need a new telly.’ ‘Well, if you don’t like it put it on a complaint form.’ And the prisoner goes off and does it, puts it on complaint form and then that has to be... Whereas, I think that’s a misuse of the system. Because that’s just the Officer not doing his job.” (Participant 33)

Reliance on this strategy is also indicative of implicit confidence that the prisoners’ complaint, if submitted, will be ineffectual and that there will be no comeback on the officer. There is a sense of confidence in the complaints system among this group that the outcome will inevitably work in the favour of the prison. If there was not this assurance, it is doubtful that staff would offload ‘complaints work’ to the system. This sense of confidence in the system and the outcome it will yield is central to this response strategy; it is based on the belief that the system will ultimately side with the prison and not the prisoner. Equally, there are instances in the dataset where prison managers allude to the assurance that procedural adherence provides in this respect. If procedures are upheld then there is little room for complaint to take hold. If it is a case that complaints “*all being disproved that indicates that you probably have your decisions correct*” (Participant 5), then this leaves no space for decisions or actions to be queried. Complaints may be received and noted but with silent acknowledgement of what the outcome will be and that the exercise of complaint is somewhat pointless. For example, Participant 17 commented,

“you explain this is the rules this is the regulations and if you feel then that I haven’t answered your query or your complaint or your issue appropriately, there’s a complaints procedure there.”

The use of this strategy highlights how the prisoner complaints system can be both inefficacious and cynical. When viewed in this way, it becomes a dead-end system for prisoners seeking to raise their grievances, with little room for satisfaction. Framed as such, it bears comparison to the tokenistic systems of accountability through prisoner complaint described in Calavita and Jenness (2013; 2015), one that offers no genuine engagement on the side of those who are expected to be accountable. It allows for the avoidance of relational work. The presence of the system grants the outward appearance of a legitimate accountability mechanism, but it is one that is geared towards protecting the interests of the prison rather than the interests of the prisoner.

D. Trivialising & Undermining

A fourth strategy observed in the dataset was that some staff tended to trivialise and undermine the complaints that they received. As described by Seneviratne (2012), matters that may be naively considered minor grievances or inconveniences can be acutely felt by people in custody. The use of this strategy reveals that the significance of complaint can sometimes be minimised in the eyes of those tasked with responding. As such, complaints can be regarded as frivolous or petty or “*a moan more than a complaint*” (Participant 26). In particular, trivialising complaint was described in relation to service level complaints, in other words Category C complaints (see Chapter 3, Section 3.3.3.1 for a breakdown of complaints categories). One participant acknowledged this perception of complaints among some of their colleagues, commenting,

“Sometimes there is a tendency, I think, with some people in the prison to disregard it or treat it as trivial and not give it, I suppose, the level of attention and respect that it deserves.” (Participant 23)

Likewise, another participant described how the formalised system had, in their opinion, led to an increase in the number of complaints received, and that prisoners were utilising the system for ‘petty’ issues, “*They’re very frivolous, some of the complaints coming in now. Erm, they can complain about anything.*” (Participant 25). A stark contrast can be made here with the view expressed by participants in the previous section; wherein, the formalised complaints system was framed as *dissuading* prisoners from submitting complaints. Here, participants seem to view the current system as increasing the complaints received, an opinion that prisoners will use the system not out of a desire to address a genuine grievance but “*because it’s there*” (Participant 24). These contradictory positions highlight the complexity of prison staff’s views on complaint.

An additional demonstration of the undermining of complaints lies in the fact that there were several reports among participants of the outcome of a complaint not being communicated to prisoners. This is likely due to the fact that responding to complaints is a time-intensive process, and as a result complaints from the less serious categories are a casualty of this. One participant recognised this failure of the process, saying, “*I’d acknowledge in some instances that maybe there was incomplete records. Sometimes there were no answers.*” (Participant 14). Likewise, Participant 23 stated, “*sometimes then there’s that final communication of the result back to the prisoner, actually that link doesn’t happen and the chain is not complete.*” Indeed, lack of response or recognition of one’s complaint communicates to prisoners that the matter that they have raised is not being taken seriously.

As previously mentioned, the tendency to trivialise or undermine complaints largely concentrated on Category C complaints. In comparison, Category A complaints, which pertain to serious allegations of abuse, were not trivialised. Although, as described in Section 7.3.2, the *veracity* of Category A complaints could be called into question, the gravity of the allegation was never in doubt among prison managers. For Category C complaints, however, there were many mentions of “*time-wasting*” (Participant 25), “*spurious*” (Participant 19), “*nuisance complaints*” (Participant 24). Whereas serious complaints posed substantial concern, seemingly minor complaints did not seem to merit the same level of attention. Reflecting on this, Participant 2 explained how this could be problematic,

“The more minor ones actually are the ones that create the real problems. As I said, the likes of not getting your visit, your full length of visit, something mailed into you and not actually getting it, things with mail getting lost. It’s – There the real ones, the nitty gritty, that actually are the oil in the wheel of making a prison run smoothly. And yet, they’re the ones that are actually ignored. Not the big spectacular [...] they’re not in the spectacular, they’re in the mundane day-to-day things that we get wrong all the time”

In part, this perception of complaints was something of a managerial concern. More specifically, many interviewees commented that they felt that low-level complaints “*shouldn’t really be coming to me*” (Participant 15), that complaints of this nature should not reach management level. Indeed, the majority of complaints made in Irish prisons are categorised as Category C issues. According to the complaints figures obtained for the year 2019, Category C complaints comprised 65.4% of all complaints received.²⁵ Here, participants explained that day-to-day issues or problems should be resolved by the prisoner approaching their Class Officer, Assistant Chief Officer, or other relevant staff members directly. This opinion is summarised in the quote from Participant 31 below,

²⁵ Data obtained by request to Irish Prison Service. Data received on 14th July 2020. See Appendix A.

“a minor complaint, a Class Officer would look after it. So if it’s felt that a prisoner has to put something in writing about not having a cup or not having a pillow or something – something’s gone wrong there. That should never have come to be. So a minor complaint, there shouldn’t be a written minor complaint.”

This perspective aligns somewhat with the idea that local resolution or resolution through dialogue should be attempted first before turning to formalised complaint. And Participant 18 explained that the majority of prisoners’ issues are dealt with in this way, “*ninety-nine per cent of them will never go onto the complaints system*”. Yet, at the same time, the prisoner complaints system has been set up to handle all manner of complaints, from the minor to the severe. It cannot be, then, be surprising that low-level complaints would be incurred by the complaints system. Indeed, for some prisoners, complaining through a formal channel may be preferable than directly approaching a staff member with whom they have regular contact, as it may introduce unwelcome conflict.

As described, complaints can often be regarded by staff as minor issues. What is known about the issues that face people in custody is that these minor matters can take on great significance in prison; simply put, the small things matter in prison. In this respect, this strategy undermines prisoner complaint on two levels. Firstly, it undermines the content of the individual complaint. This strategy can be compared to the ‘denial of injury’ technique described by Sykes and Matza (1957) in which social disapproval for violating shared expectations are avoided by denying that any genuine injury took place. If the complaint is not really a complaint, then the prison does not have to recognise the prisoner’s dissatisfaction. Therefore, by assuming a strategy to minimise the extent of harm experienced, those tasked with responding to complaints can minimise the responsibility incurred during the accountability episode.

Secondly, at a broader level, this strategy is further undermining in that it implies that some staff have a preconception of what is *worthy* of complaint in prison. A further parallel can be drawn to the ‘denial of injury’ technique (Sykes & Matza, 1957) in that the boundaries of injury are redrawn and determined by those who are alleged to have caused the harm. Likewise, participants often made reference to ‘frivolous’ complaints – complaints that were not complaints. Similarly, another participant described,

“an awful lot of the complaints are spurious. They’re, they’re silly stuff. You know, I didn’t get two milks with the food. That, that shouldn’t be what the complaints are about.” (Participant 19)

Once again, the use of this strategy for managing complaints – to trivialise them – bears implications for understanding the function of complaints system and how it fits within the prison as an institution.

In minimising the significance of certain types of complaint, staff can re-frame what is worth complaining about. This calls to mind the concept of complaint as 'voice' described by Hirschman (1970), in that there is the possibility for prisoners to raise their grievances through the system but the degree to which their complaint will be taken seriously or heard is dependent on how it is received by staff. Here, prisoners' 'voice' through complaint is not sought to be amplified, as we have seen through other strategies, but instead stifled. The complaints system is not an accountability system that is consistently grounded in shared expectations of treatment, but rather one in which staff have the power to be selective with respect to what those expectations are. As such, this strategy undermines the possibility of the complaints system to provide a genuine accountability mechanism for the institution.

E. Reversing the Blame

Finally, a strategy of 'reversing the blame' was also identified within the dataset. Here, participants spoke of a defensive management of complaint; in that those tasked with adjudication would seek to identify the ways in which the complainant contributed to the matter of the complaint, thereby minimising the responsibility or role of the prison. Similarity can be drawn between this strategy and Sykes and Matza's (1957) technique of neutralisation, 'denial of the victim', in which the injuries incurred by the victim are framed as minimal in light of the circumstances, or were in some way justified. The perceived role of the complainant within the complaint is described by Participant 25 in the quote below.

"I mean, there's reasons at times for something having been done or the prisoner being made to do something, and they see it as they're being picked on but when you dig deep into it, there's a reason. The incident itself that the prisoner is complaining of may well have happened. But there's a reason for it."

As with 'trivialising and undermining', this strategy is also an attempt to thwart the complainant and their grievance. Complaints are framed in terms of their destructive potential, and as such need to be neutralised. Often this strategy was applied to Category A complaints, or more specifically complaints in which there was an allegation of an excessive use of force. In reversing the blame, those tasked with responding to complaint argue that the outcome would not have occurred if the need to initiate the procedure was not triggered by the prisoner. This was borne out in statements such as "*he hurt himself because he struggled*" (Participant 16) and "*this guy's behaviour is more responsible for the actions than anything else*" (Participant 26). It is a strategy that distances the adjudicator from responsibility and the possibility that there could be an issue within the application of the procedure. Instead it emphasises the complainant's role in the process and contributing to the harm caused.

This strategy is, in part, grounded in defensiveness and a desire for self-preservation or the preservation of control and order within the prison. Complaints, particularly high level complaints, threaten the legitimacy of the institution (Mathiesen, 1965; Torrible, 2018). As such, staff may be motivated to limit the damage insofar as is possible. There is an attempt to control how the complaint reflects on the prison or on the prison Governor. In dealing with complaint, "*you still have to protect the integrity of the place*" (Participant 31). For some, this tactic of damage limitation can become an automatic response to complaint. For example, one participant described what they had observed in their experience with complaints,

"There are a number of prisons that use, or have used, probably still to an extent, use the complaints system to defend their position. So it's almost as if... It's, it's, it's defend the complaint rather than investigate the complaint, do you understand what I'm saying? It's defend the prison by trying to disprove rather than investigate it and if it's right it's right, and if it's wrong it's wrong. So it's a, it's a, in some cases it's a non-evidence based approach. It's more an emotive reaction. And that's a defence mechanism because no Governor wants to be seen as caught out or embarrassed." (Participant 5)

Here, procedures play an important role in that once procedures are adhered to, allow the institution to be safeguarded from critique or blame. For example, speaking on the forced movement of a prisoner by staff and the possibility of an ensuing complaint, one participant stated that a prisoner "*could have bruising. If we feel the minimum amount of force was used we're covered.*" (Participant 11). Another participant recounted a complaint levelled at a colleague, rationalising "*under the [...] Act you're entitled to refuse*" (Participant 21). Compliance with procedure is a way of maintaining the status quo of the institution, and the procedures become self-reinforcing. However, for the purpose of accountability there needs to be room to query how established procedures are applied. This is not an easy task. Participant 29 summed this up by saying,

"...that thing about, 'Okay I don't feel that I have been fairly treated, but the person who treated me in this way absolutely followed procedures.' And it's hard to kind of marry the two in that the person will still feel that they, that they haven't been treated fairly but the person who was treating them in that manner was within their authority to do that, do you know that sort of thing? And I don't know how... I don't know how any complaint gets over that."

Some participants acknowledged that the incidents at the heart of a complaint can be perceived in different ways; the perceptions of staff and complainants may vary. Therefore, activities by staff – though the procedures may be standardised, trained, and correctly applied – may still be experienced as traumatic, excessive, or intrusive by prisoners or other complainants. For example, the quotes below

by Participant 29 and Participant 25 on prisoner and visitor complaints, highlight the differing perspectives that may emerge.

“...we manage large numbers of people with small numbers of people. Do you know? And like we have to, the system has to be robust enough to do that, and the procedures have to be robust enough to do that. [...] But that then leads to, like, people not being treated fairly even though, you know, nobody has really done them wrong, if you know what I’m saying.” (Participant 29)

“...it’s very subjective. The, the visitor feels that they’ve been absolutely disrespected, degraded, their dignity – particularly when it comes to searching – and the Officer says, ‘No, I carried it out as per standard operating procedure’, and you have a difference of opinion.” (Participant 25)

Similarly, this is an issue regarding complaint that was highlighted in the recent annual report of the Prison and Probation Ombudsman (PPO) (2020). The PPO act as the independent appellant for complaints submitted to prisons in England and Wales. Their report uses the example of allegations by prisoners of sexual assault occurring during the full search process, explaining that while these procedures are undertaken appropriately, they remain by their nature “*intrusive, embarrassing, and uncomfortable, and could well be perceived as a sexual assault by a prisoner who had never undergone such a search before and who did not know what to expect*” (p.27). This is one such example, but it illustrates the need for a clear explanation as to why a procedure is being applied and what it entails. The PPO (2020) propose that this communication could mitigate complaints received.

The strategy of ‘reversing the blame’ is problematic for the institution in that it negates the possibility that complaints can be used as a source of learning for the organisation. In taking an automatic defensive stance or seeking to mete some of the responsibility of the complaint back towards the complainant, the system cannot effectively provide accountability. Those tasked with giving account are attempting to avoid being the focus of scrutiny. Moreover, what learning can be gleaned from complaint if procedures are not allowed to be scrutinised? This highlights the need for complaints, in particular where they contain serious allegations, to be approached with objectivity rather than a defensive mentality. Adjudicators of complaint need to query not only the substance of the complaint, but what the complaint means for the application of procedure and where learning and improvement can be obtained.

7.5 Summary

This chapter explored prison managers’ experiences of the prisoner complaints system; its contribution is a novel in-depth examination of the perspective of the adjudicators of complaint *on* complaint. In

doing so, it provides new insight into the experience of adjudication procedures that are most commonly examined from the perspective of the complainant (see Calavita & Jenness, 2013; Dâmboeanu et al., 2020; Gulland, 2011; Jenness & Calavita, 2018; Lloyd-Bostock & Mulcahy, 1994; Talbot, 2008; Waters & Brown, 2000). This analysis has borne many important findings.

Firstly, the complaints system is complex and multifarious, it can be experienced in many different ways. Perspectives on complaint can vary according to one's position in the organisation. The perspective of those who adjudicate on complaint and, therefore, can witness how grievances can assist the organisation, is much different from those who are more likely to be the subject of complaint or to be in receipt of their destructive potential. The importance of complaints mechanisms have been advocated by scholars as both a vital means by which accountability is upheld and an important tool for organisational improvement (Rowe, 2020; Torrible, 2018). While this is recognised by prison managers, it is not an opinion that is uniformly shared throughout the organisation. Moreover, while prison managers feel that this is the intended purpose of the system, they are sceptical as to whether the complaints system, in its current form, fulfils this aim.

Secondly, complaints carry a measure of power, which offers utility to users of the system. This power can offer constructive or destructive potentials. Complaints can be used positively to constructive effect, in that the complaints system provides a channel for prisoners to draw attention to issues that they feel are significant. Complaints also offer prisoners the means to exert a small but effective reminder to staff of their accountability obligations. Complaints can also be used for destructive ends. Staff perceive that complaints can be used by prisoners as a retaliatory action in response to the receipt of disciplinary measures, or that they can be used with the intention of frustrating staff. It is important to reiterate that while a small proportion of such complaints may enter the system, they should not unduly influence staff's perceptions of complaint as a whole.

Thirdly, this research demonstrates that there is a substantial difference as to how complaint is experienced in the Irish system and that of the US, where, to date, the bulk of study on prisoner complaints have taken place (Biere, 2013; Calavita & Jenness, 2013; 2015; Jenness & Calavita, 2018; Swearingen, 2008). In the US, arguably, internal complaints mechanisms are purely tokenistic in their provision of accountability. In contrast, this analysis has described a highly flawed and problematic system; however, what is also evident is that adjudicators of complaint are willing to recognise, listen, and address complaint. Yet, simultaneously, there are strategies for managing complaint that seek to do the opposite, to stifle the potential of complaint. With this said, the possibility of complaint, in a form that is efficacious, is possible – complaints can be constructive.

Fourthly, there are a variety of strategies for managing complaint. This study has identified five such strategies through inductive analysis. The term 'management' of complaint is used here as it is an

activity that goes beyond simply determining the outcome of a grievance or responding to the complainant. How complaint is viewed – whether positively or cynically, constructively or destructively – affects how complaint is managed and the strategies that staff may adopt. Complaints may be resolved proactively, they may be encouraged, offloaded, trivialised, or bureaucratised. Each of these strategies, in turn, carries implications for the institution itself; in that some strategies see staff fully acknowledging their accountability obligations while other strategies, in contrast, undermine the ability of the complaints system to offer genuine accountability.

The subsequent findings chapter, Chapter 8, will examine the experiences of prison managers with inspection and monitoring bodies. The OIP and the CPT are two examples of external prison oversight mechanisms, and as such they provide another opportunity to understand prison managers' accountability obligations in context. As will be described, there are many parallels with respect to experiences of complaint and experiences of inspection and monitoring. Chiefly, these processes of oversight can be interpreted as advantageous to managers or they can be viewed as an encumbrance and a burden. Much like complaint, these perspectives can affect prison managers' propensity to engage with external oversight, as will be explored next.

Chapter 8: Responding to Inspection & Monitoring

8.1 Introduction

The oversight of prisons through inspection and monitoring is purported to safeguard the rights of people in custody; these mechanisms are proposed to provide a means for “*opening up these closed worlds and uncovering possible problems*” (van Zyl Smit & Snacken, 2009, p.166). In this respect, oversight allows for greater transparency and accountability for places of detention (Deitch, 2010). Crucially, scholars argue that oversight is essential for promoting humane conditions of imprisonment. Yet, the impact and experience of oversight on the ground remains underexplored. Despite this, the revised European Prison Rules (2020) places renewed emphasis on the importance of inspection and monitoring activities. In particular, van Zyl Smit and Slade (2020) note that the revised rules stipulate that the recommendations made by independent prison oversight bodies *must* be considered by the prison administration. The new rules state that the prison authorities have an obligation to respond and to publicly state whether they will adopt these recommendations, or if not, to explain why the recommendation will not be acted upon. This revision further underscores the importance of oversight for prison administrations.

As Aitken (2021) attests, oversight bodies are, rather ironically, dependent on the institutions they oversee. In this respect, prison managers play an essential role in prison oversight. Even though, formally, inspection and monitoring may be directed at a system-level, the work of management, as overseers of the individual prisons, is a core subject of scrutiny. Furthermore, prison management is tasked with implementing changes within their prison to satisfy the recommendations of oversight bodies. As such, prison managers are a vital conduit for the outcomes of inspection and monitoring. Yet, despite this, there is a substantial gap in the literature concerning the views of prison management on these bodies and their processes of oversight. Little is known about the nature of the interaction between prison managers and oversight bodies, their attitudes towards inspection and monitoring visits, or how engagement occurs between these two parties.

This chapter sets out to address this gap. It focuses on two prison oversight bodies grounded in the principles of human rights: Ireland’s national prison inspectorate, the Office of the Inspector of Prisons (OIP), and the Committee for the Prevention of Torture (CPT), an international prison monitoring body established by the Council of Europe. The role and remit of these two bodies has been previously outlined in Chapter 3. Chapter 6 has described the accountability culture within the Irish Prison Service (IPS). It provides vital contextualisation of what it is like to experience accountability as a manager in this context. The objective of this chapter is to examine prison managers’ perceptions and experiences of inspection and monitoring with respect to the work of the OIP and the CPT. While the function and

remit of these two bodies differ, there are considerable overlaps and commonalities in how their work is perceived by prison staff.

Section 8.2 will explore staff's attitudes towards the OIP and the CPT as captured through survey data and interviews. Following this, Section 8.3 will examine the specific features of these inspection and monitoring processes that are linked to staff's attitudes. Finally, Section 8.4 will explore prison managers' experiences of accountability through their interactions with these two oversight bodies. This analysis will draw upon the work of Braithwaite (1995; 2003) to provide a revised typology of motivational postures. It will then expand on Braithwaite's (1995; 2003) theory to examine how these postures both underpin and motivate engagement with oversight to varying degrees. An analytical matrix of all the findings held within this chapter has been included in the appendices for reference (Appendix Z).

8.2 Attitudes towards Inspection and Monitoring

This section will explore attitudes among IPS prison staff towards inspection by the OIP and monitoring by the CPT, integrating findings from the interview and survey data. Consequently, discrepancies may be observed within prison managers' experiences, as the use of a mixed methods framework may result in a convergence or divergence of the findings obtained by the survey and interview methods (Appendix Z). This is a strength of mixed methods research as it allows for a fuller and more nuanced examination of the phenomena under study. Where divergence occurs, in particular, these differing accounts will be explored.

Within Section 8.2, comparisons will be drawn between attitudes reported by senior staff and frontline staff. The purpose of this comparison is to identify where prison managers diverge from frontline staff with respect to their experiences of accountability towards these two oversight bodies. As described previously in Chapter 2, the two groups differ in terms of their role and responsibilities and are nested in different occupational subcultures; however, as another group embedded within the prison environment and prison culture, frontline staff provide a helpful comparator for understanding the experiences of management.

8.2.1 Contact with the OIP and the CPT

A fundamental question explored by this analysis concerned respondents' contact with the oversight bodies. Chiefly, it was important to ascertain where this contact occurs. As part of the survey, respondents were asked to report whether they had experience with the OIP and the CPT. The vast majority of prison managers taking part in the survey (97.5%, $n = 40$), reported having met the OIP (Figure 8.1a). Reported reasons for contact with the OIP are displayed in Figure 8.1b. Most commonly, prison managers reported contact as a result of a prison inspection or in relation to an investigation of

a death in custody. In comparison, the proportion of prison managers who reported contact with the CPT was lower, at 66.7% (Figure 8.2a). This is likely attributable to the fact that visits to Irish prisons by the CPT take place less frequently. Of those who reported contact with the CPT ($n = 26$), the most common reason for contact was due to a monitoring visit, providing information to the delegation, or contributing to a response to the CPT's report (Figure 8.2b).

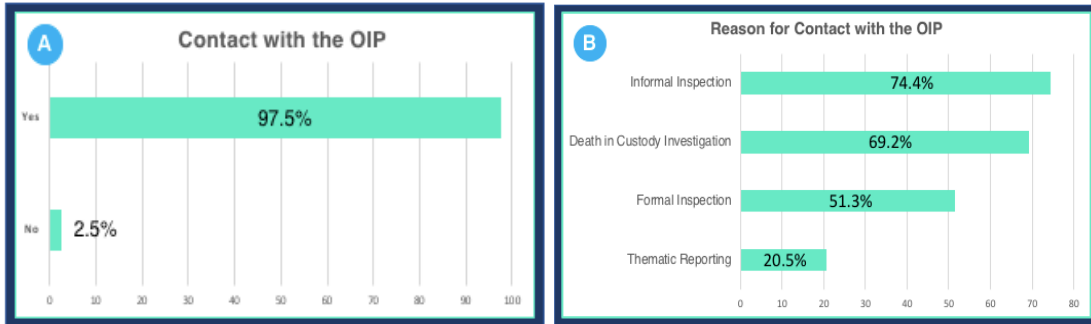


Figure 8.1a: Percentage of managers with reported contact with the OIP ($n = 40$).

Figure 8.1b: Frequency of reported reasons for contact with the OIP among managers ($n = 39$).



Figure 8.2a: Percentage of managers with reported contact with the CPT ($n = 39$).

Figure 8.2b: Frequency of reported reasons for contact with the CPT among managers ($n = 26$).

The staff survey was also distributed to frontline staff. This enabled a comparison of reported contact among the two staff groups. Juxtaposed with that of prison managers, the proportions of frontline staff who reported contact with the OIP (41.1%, $n = 282$) and the CPT (17.0%, $n = 282$) appear to be considerably lower than that of senior staff (see Figures 8.3a and 8.3b). Contact reported among frontline staff was statistically compared with that of senior staff through a chi-square test. The results of the analysis revealed that senior staff were more likely to report contact with both the OIP ($\chi^2(1, n = 322) = 44.58, p < .000$) and the CPT ($\chi^2(1, n = 322) = 47.85, p < .000$) than frontline staff.

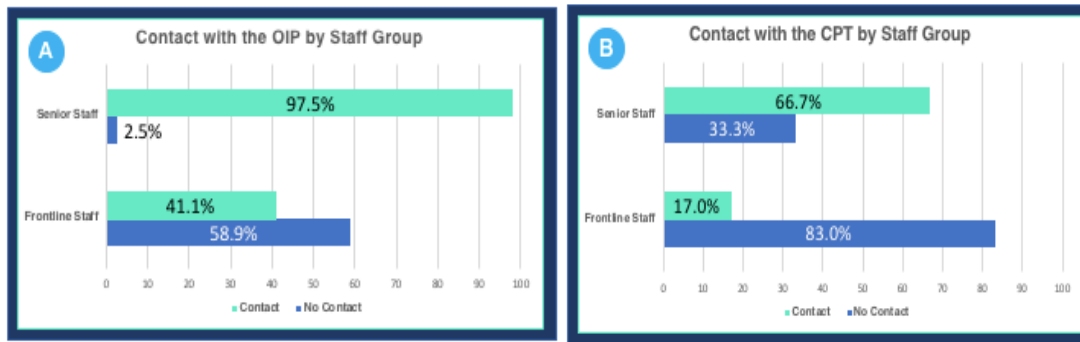


Figure 8.3a: Contact with OIP reported among senior (n = 40) and frontline (n = 282) staff.
Figure 8.3b: Contact with CPT reported among senior (n = 39) and frontline (n = 283) staff.

This finding is quite intuitive given this group’s managerial responsibilities – as managers, it is readily anticipated that they would have greater contact with those seeking accountability from the prison. However, the finding is also illustrative of the nature of contact between oversight bodies and the prison, in that oversight is a process that occurs predominantly between management and the oversight body. This is also reflective of the accountability culture established in Chapter 6, both internally and externally. It is a structure in which the obligation for account is funnelled towards management, “*all of our audit systems and our accountability is just with one person, it’s the Governor who is responsible for everything [...] that’s what it’s set up as*” (Participant 18).

The survey data indicates that prison management are the principal point of contact when it comes to oversight by the OIP and the CPT. As this point of contact, senior staff play an important role in the oversight process in that, without clear frontline representation, they communicate on behalf of the prison and its staff. Through the account they provide, prison management effectively determine the narrative of the staff perspective – what issues are raised and how this is communicated to oversight bodies. Although, on the surface, prison managers appeared content for their staff to engage with oversight bodies, they also expressed reluctance regarding frontline staff approaching the OIP or CPT with an issue *before* it had been raised within the internal management structure. To do so was regarded as undermining or potentially ‘blindsiding’ for management. While senior staff were clear that they would not impede staff speaking with oversight bodies, the obvious preference was that staff would raise an issue or a concern with management initially, “*just to get the heads-up, you know?*” (Participant 25). Likewise, Participant 33 explained,

“If they hadn’t approached me first, I wouldn’t be best impressed. If they had approached me first and I’d done nothing about it well, then, you know, mea culpa, like. But I like to think that the door is open and that if you have an issue you’ll come and talk to me. But don’t throw me under the bus (laughs) when the Inspector is driving it, for no reason!”

Further to this, through the survey, prison staff were asked about how they regarded the OIP and the CPT in terms of their approachability. The vast majority of senior staff agreed or strongly agreed with the statement 'I would be happy to approach the OIP with a concern I might have' (76.9%, $n = 39$). In comparison, just 28.5% of frontline staff agreed with this statement ($n = 116$).²⁶ Survey respondents also received the same item with respect to their experiences with the CPT. Similarly, 53.9% ($n = 26$) of senior staff agreed that they would be comfortable approaching the CPT with an issue in comparison to just 22.9% ($n = 48$) of frontline staff. Comparing the two groups through a Mann Whitney test indicated that there was a significant difference between the attitudes of the two groups ($U = 804.50$, $p = 0.03$), with a small effect size ($\eta^2 = 0.06$). These findings illuminate another important aspect as to how contact occurs between oversight bodies and the prison. They reveal that there is much greater reluctance among frontline staff in comparison to prison management when it comes to approaching oversight bodies.

Senior staff are influential figures in the prison environment; they have the possibility to impart a particular culture among their staff – one that is open to working alongside external bodies or one that is not. As described in Chapter 6, the role of the governor and prison management remains influential in terms of setting the tone for the prison and its culture (see Bryans, 2007). Though they are by no means the singular influence, they have the capacity to communicate the behaviours that will and will not be tolerated. In this regard, prison managers can communicate downwards to their staff as to whether approaching oversight bodies is deemed acceptable or unacceptable. On this point, Participant 11 candidly said,

"I can guarantee you, there's a few who wouldn't be happy. And, you see, if it comes from management, 'You don't go to the Inspector of Prisons' then you don't go to the Inspector of Prisons. Because you'll be ostracised. You're ratting again."

Similarly, past research on prison staff culture has emphasised strong in-group solidarity as a salient feature of this work environment (Arnold, 2005; Morrison & Maycock, 2021). As such, there is a strong tendency among staff not to 'break ranks' or to go against the wishes of the group. To this, Crawley and Crawley (2008) note that solidarity among prison officers is a means to insulate the group against criticism – whether from management, the media, so-called 'do-gooders', or other external audiences. They further add that it is not uncommon for this to extend to staff maintaining "*secrecy in the face of both internal and external investigations against them, either as individuals or as a group*" (p.138).

²⁶ A Mann-Whitney U test to statistically compare the responses of these two groups could not be conducted as the assumption of homogeneity, assessed through Levene's statistic, was not upheld ($F = 9.86$, $df = 1$, $p = 0.002$).

8.2.2 Opinions on Inspection and Monitoring

Through the survey, respondents were asked to indicate their general opinion of the OIP's inspection process and the CPT's monitoring process. These responses were measured on a five point Likert scale, ranging from very negative to very positive. Respondents also had the option to select 'no opinion' if this was appropriate. The results revealed that prison managers' opinion towards the OIP's inspection process are generally quite favourable, with 61.5% of respondents indicating positive attitudes ($n = 39$) (see Figure 8.4). In comparison, attitudes towards the CPT were more varied. 46.2% of prison managers who had reported contact with the CPT ($n = 26$) reported a positive opinion of their inspection process (see Figure 8.5).

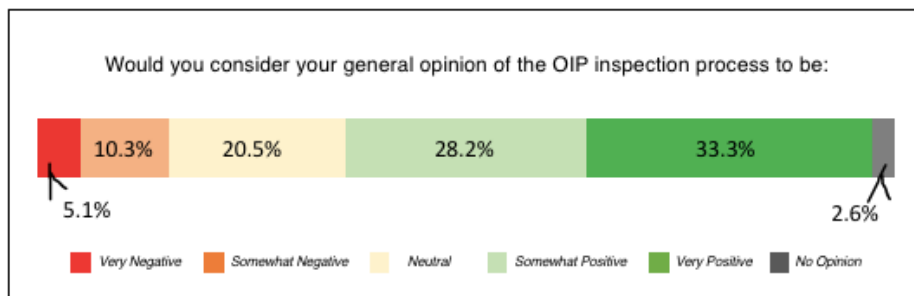


Figure 8.4: Respondents' of attitude towards the OIP inspection process ($n = 39$).

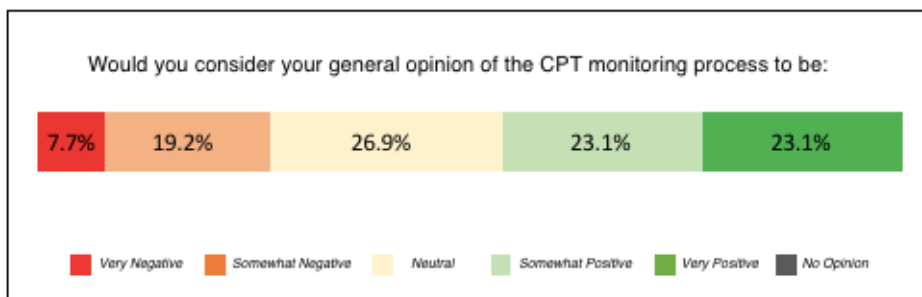


Figure 8.5: Respondents' of attitude towards the CPT monitoring process ($n = 26$).

The attitudes of prison managers towards the OIP and CPT oversight processes could be compared with that of the frontline staff group through a Mann Whitney tests. This allowed for an exploration of potential differences in the attitudes of these two groups towards oversight. Among prison managers, 61.5% reported having a very positive or somewhat positive opinion of the OIP's inspection process ($n = 39$) (Figure 8.4). In comparison, among frontline staff, just 18.2% reported a positive opinion ($n = 115$). Comparing the opinions of the senior staff and frontline staff towards the OIP inspection process, the results of a Mann Whitney test indicated that there was a significant statistical difference in their reported attitudes ($U = 3412.50, p < .000$). The effect size for this statistic was calculated to be $\eta^2 = 0.19$, denoting a small effect. This finding indicates that a substantial difference exists between the attitudes

of the two groups; specifically, senior staff are more likely than frontline staff to express a positive opinion towards the OIP's inspection process.

Attitudes among senior staff and frontline staff towards the CPT's monitoring process were also compared. As illustrated by Figure 8.5, attitudes towards the CPT's monitoring process among senior staff were largely positive; with 46.2% of this group expressing a somewhat positive or very positive opinion. Among frontline staff, just 17.0% reported a positive opinion of the CPT monitoring process ($n = 47$). As before, a Mann Whitney test was conducted to compare the attitudes of these two groups.²⁷ The results indicate that there is no significant difference between the two groups ($U = 686.00, p = 0.10$). Therefore, the attitudes of prison managers and frontline staff towards the CPT monitoring process are effectively quite similar.

The majority of participants acknowledged that the OIP and CPT contributed to institutional development and the initiation of change within the Irish prison system. For some participants, inspection by the OIP presented a *"learning opportunity"* (Participant 15). The independence of the OIP was valued for identifying areas for improvement, in that *"if you've worked your way up through the organisation, it's very hard to see the wood for the trees"* (Participant 8). The OIP offered a fresh perspective or *"a different lens"* (Participant 7) through which it could challenge the status quo. Examples of positive organisational developments attributed to the OIP included the introduction of standardised committal procedures, a formalised prisoner complaints system, checklists for prisoners placed in special observation cells, in-cell sanitation, and physical improvements to the prison estate. In comparison, other participants were reluctant to attribute developments to the work of the OIP, citing that its recommendations amounted to *"stuff we would be and should have done anyway"* (Participant 22) or *"stuff we have been canvassing for, for years"* (Participant 27). As such, some participants viewed organisational developments as largely intrinsically driven and downplayed the ability of the OIP to bring about change.

Likewise, the work of the CPT was considered valuable for instigating institutional change and development. Among the changes attributed to the work of the CPT, participants listed: revised policies and greater transparency regarding the use of special observation and close supervision cells; increased out of cell time for prisoners, particularly those on protection, consistent with the Mandela Rules; and resources for in-cell sanitation to address slopping out. Often the work of the CPT was compared to that of the OIP. In this respect, the *"political influence"* (Participant 5) of the CPT and its reporting activities was perceived as particularly persuasive. That reports called international attention to the Irish prison system and its shortcomings imposed greater urgency for change among those in the Department of Justice and the prison administration. On this, Participant 8 commented, *"it's Ireland's international*

²⁷ The assumption of homogeneity, as assessed through Levene's statistic, bordered on significant ($F = 4.00, df = 1, p = 0.05$).

reputation that's at stake [...] there's more willingness to listen to what they say." In general, inspection and monitoring were acknowledged to yield valuable benefits for the organisation. This study concentrates on *how* the processes of inspection and monitoring are perceived by prison staff on the ground (Section 8.3), and the nature of engagement by staff with these oversight bodies (Section 8.4). It is here that a more nuanced picture begins to emerge as to the strengths and weaknesses of inspection and monitoring processes and these specific oversight relationships.

8.3 Important Features of Inspection and Monitoring Processes

Following this, survey respondents were asked to respond to a series of statements, providing their opinion on specific features of the OIP's inspection process and the CPT's monitoring process. The objective of the analysis was to identify features of inspection and monitoring that are linked with positive opinions among senior staff. The item statements included in the survey are listed in Table 8.1. All responses were captured using a five point Likert scale, ranging from strongly disagree to strongly agree. Participants' responses to the statements related to the OIP are displayed in Figure 8.6. Responses concerning the CPT monitoring process are displayed in Figure 8.7.

Table 8.1: Survey items examining features of the OIP inspection process and CPT monitoring process.

Survey Item Statements
Responses were gathered using a Likert scale: 1 = <i>Strongly Disagree</i> , 2 = <i>Somewhat Disagree</i> , 3 = <i>Neither Disagree nor Agree</i> , 4 = <i>Somewhat Agree</i> , 5 = <i>Strongly Agree</i> . Positively phrased statements are denoted with (P) and negatively phrased statements are denoted with (N).
I think that the OIP / CPT has sufficient contact with our prison. (P)
The process by which the OIP / CPT arrives at its findings is clear to me. (P)
The OIP / CPT does not understand the realities of prison work. (N)
The OIP / CPT favours prisoners over staff. (P)
The OIP / CPT ignores the good work performed by prison staff. (P)
I would be happy to approach the OIP / CPT with a concern I might have. (P)
Reports from the OIP / CPT accurately represent the prisons they visit. (P)
The recommendations arising from OIP / CPT inspections are reasonable. (P)
I am made aware of recommendations arising from OIP / CPT reports. (P)
The work of the OIP / CPT has led to improvements in Irish prisons. (P)

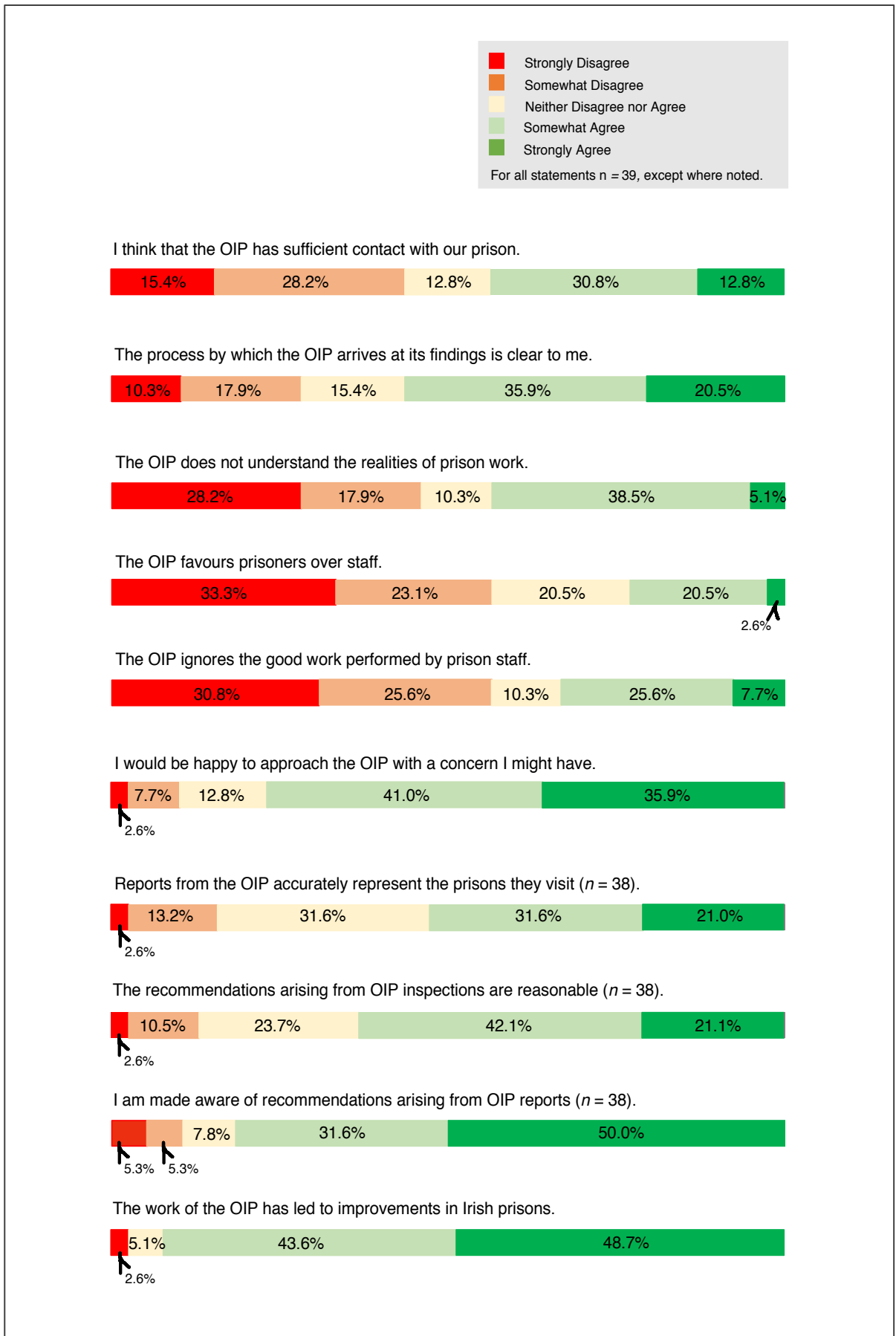


Figure 8.6: Participants' responses to statements related to the OIP inspection process.

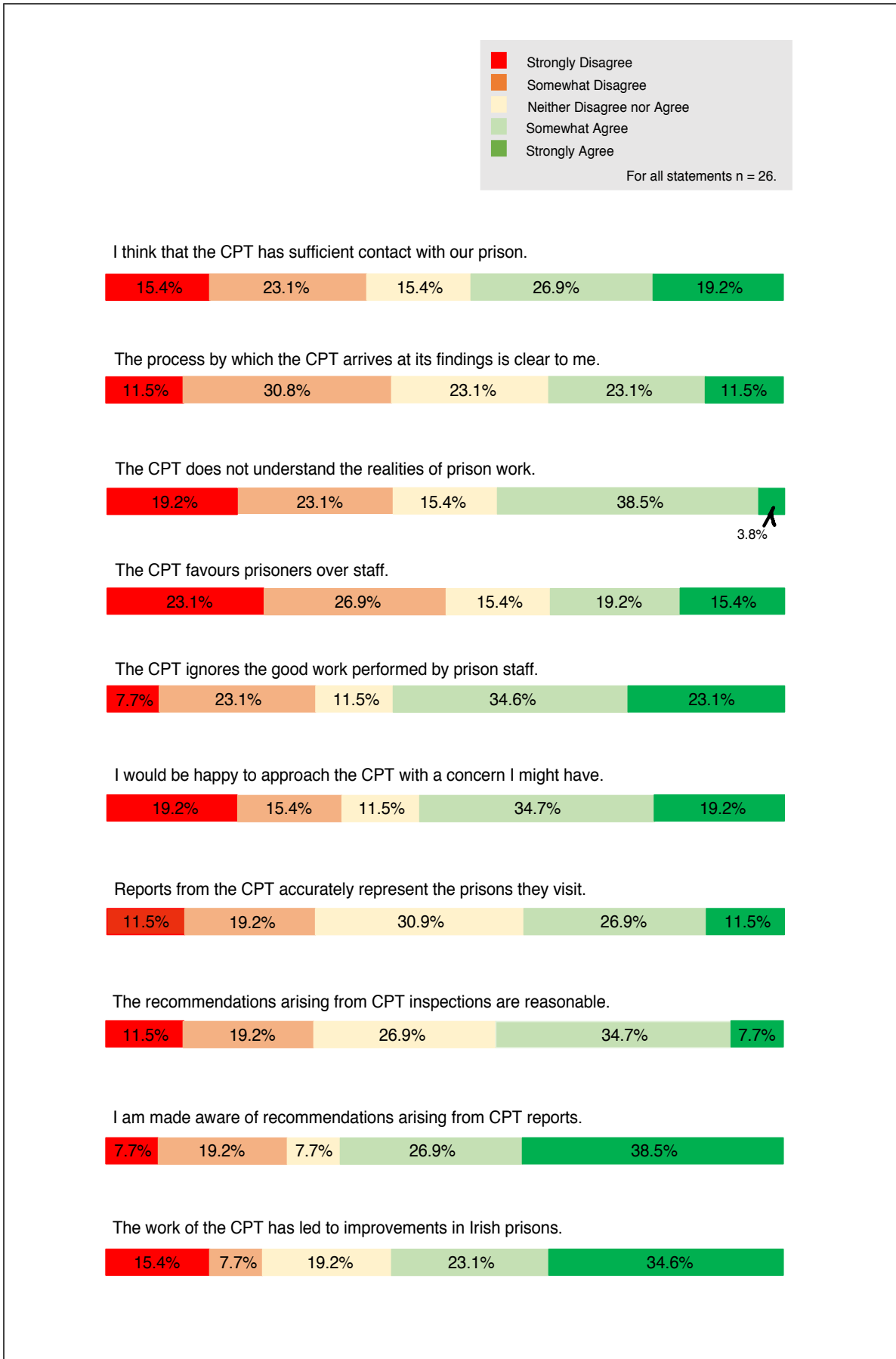


Figure 8.7: Participants' responses to statements related to the CPT monitoring process.

The analysis carried out adheres to the same procedural format as that undertaken for the complaints system, described previously in Chapter 7. Prison managers' responses on the individual item statements pertaining to the OIP and CPT (Table 8.1) were compared against their general opinion of the OIP inspection process or the CPT's monitoring process. The goal was to identify what – if any – specific aspects of inspection or monitoring have an established link with participants' overall opinion of the process. Correlation analysis explores where a relationship may exist between two variables; it also provides an indication of the nature, strength, and direction of these possible relationships (Field, 2018). Although it is acknowledged that this analysis cannot identify causal drivers of respondents' attitudes towards OIP inspection and CPT monitoring, it can identify features that are statistically linked to these attitudes. Therefore, as exploratory groundwork, it provides important insight into what is likely to matter to staff in terms of a good inspection or monitoring process.

8.3.1 Perceptions of the OIP Monitoring Process

Turning to the OIP data first, Spearman correlations were used to examine prison managers' responses on each of the individual OIP item statements in order to assess if they were linked to respondents' overall opinion of the OIP's inspection process. Likewise, an identical procedure was applied to examine potential correlations between the survey items related to the CPT monitoring process and respondents' overall opinion of the CPT monitoring process. Before the Spearman analysis was conducted, the dataset was assessed to verify that it met the necessary assumptions (Field, 2018). Assumptions of ordinal data and monotonicity were satisfied. Owing to the very small sample sizes ($n = 37$ for the OIP items, and $n = 26$ for the CPT items), bootstrapping was used to support the analysis. Finally, because the analysis entailed comparisons across multiple items, the alpha value was raised from the default 95% to 99% to mitigate the possibility of incurring a Type I error.

Table 8.2: Correlations between OIP inspection features and overall opinion.

Item Statement	Spearman's ρ	P-value	Confidence Interval ²⁸
I think that the OIP has sufficient contact with our prison.	0.198	0.233	(-0.308, 0.582)
The process by which the OIP arrives at its findings is clear to me.	0.483**	0.002	(0.032, 0.819)
The OIP does not understand the realities of prison work.	-0.316	0.054	(-0.716, 0.179)
The OIP favours prisoners over staff.	-0.221	0.183	(-0.658, 0.299)
The OIP ignores the good work performed by prison staff.	-0.578**	0.000	(-0.812, -0.128)

²⁸ As a result of bootstrapping the dataset, some confidence intervals for the Spearman analysis cross 0.

I would be happy to approach the OIP with a concern I might have.	0.177	0.287	(-0.310, 0.619)
Reports from the OIP accurately represent the prisons they visit.	0.277	0.093	(-0.231, 0.654)
The recommendations arising from OIP inspections are reasonable.	0.109	0.514	(-0.397, 0.523)
I am made aware of recommendations arising from OIP reports.	0.195	0.240	(-0.238, 0.656)
The work of the OIP has led to improvements in Irish prisons.	0.257	0.120	(-0.194, 0.673)

**Correlation is significant at the 0.01 level (two-tailed).

8.3.1.1 The OIP & Clarity of Process

Firstly, a positive correlation was observed between evaluations of the OIP's inspection process and the item relating to clarity of process (see Table 8.2). This indicates that there is a positive association between respondents' agreement that the inspectorate has a clear inspection process and respondents' overall evaluation of the OIP inspection process. In general, prison managers tended to agree with the statement, 'The process by which the OIP arrives at its findings is clear to me.' As displayed in Figure 8.6, 56.4% of survey respondents indicated that they agreed or strongly agreed with this statement ($n = 39$).

The data collected through the survey allowed for a comparison of the experiences of prison managers and frontline staff in this respect. Through the survey, the majority of prison managers reported that they found the OIP inspection process to be clear. However, in comparison, just 13.8% of frontline staff respondents agreed or strongly agreed with this statement ($n = 115$). A comparison of the two staff groups through a Mann Whitney test revealed that there was a significant difference in terms of their responses ($U = 3493.00$, $p < .000$), with a small effect ($\eta^2 = 0.18$). Prison managers were much more likely than frontline staff to regard the OIP inspection process as clear. Again, this highlights an important distinction in how prison inspection is experienced by these two groups, and suggests that transparency of inspection methods could be improved among the frontline group.

An understanding of the OIP's inspection methodology was a topic that was frequently raised by prison managers during the interview component of the study. Yet, notably, there is a stark contrast between the results of the survey and that of the interviews where it concerns clarity of process. For example, the language and principles of human rights which are central to the objectives and practices of the OIP (see OIP, 2021b) were not evident in staff's descriptions of the work of the Office on the ground. More commonly, participants likened the process to that of an audit; this was how participants interpreted

and understood the process to which they were subject. Moreover, participants were unclear as to the work of the Office with respect to how inspections were conducted. Even among those who had experienced inspections undertaken by the OIP, accounts of what the process entailed were still quite vague. For example, one participant commented, *“I don’t know how they do that [...] they’ll look around and talk to people, yeah, and then go off and write their report”* (Participant 26). Likewise, another stated, *“no, I don’t think they went into much detail in explaining how he went about his work or anything. We knew that he was coming in to visit. He would say, ‘I’m going to do these visits over the next year.’ He’d do them. He’d report on them, good and bad. And then he’d just put it all in his report.”* (Participant 31).

For some participants, the absence of processual clarity did not trigger any concern. It was as though the work of the Office is matter for the Office, and not for those who are the object of its scrutiny. For example Participant 16 stated, *“I don’t think it’s clear how they arrive at their findings. But I think, you agree with them most of the time, to be honest.”* But for a select few others, a transparent methodology was evidently a valued component of an inspection process. In particular, these interviewees emphasised that there is a need to understand how findings were arrived at and the grounds for making the recommendations that appeared in inspection reports. The traces of this process were not always apparent to prison managers and, as a result, it had consequences for how inspection reports were perceived. For example, referring to the OIP’s grounds for making recommendations, Participant 32 stated,

“It was anecdotal. It was, a lot of it was written like prose. It was like, you know.... Like, there has to be evidence. You have to have evidence to say here’s what we saw, here’s the dates, here’s the times, here’s how it was. You know, and it has to be specific. [...] And there has to be evidence. And in my view, you should be able to say, ‘Well, could you show us that evidence?’”

In some instances, this absence of an explicit methodology had a delegitimising effect on the process and outcomes of inspection in the eyes of the participant. Here, it was argued that, as an oversight body, an inspectorate needs to demonstrate transparency both with respect to its method and its findings. Speaking on this issue, Participant 6 stated,

“if the Inspector’s Office is determined to look at our prisons and, I suppose, have a level of outside accountability that people can have faith in, well, the first thing to do is to start off by looking at how they do their job, not how we do ours. At their method of looking at things, right?”

It is important to note that this research was conducted prior to the OIP introducing its new inspection framework (OIP, 2020b). This framework, detailed in Chapter 3, clearly outlines the inspection process of the Office and its standards for assessment. At the time of the interviews, plans and objectives for the

new framework had been shared with management at the IPS, including Directors and prison Governors. Participants appeared to welcome this new inspection model. They cited that it would provide greater clarity in terms of understanding the expectations of the Office, the Office's remit, and its inspection process. On the introduction of the proposed changes to the inspection process, Participant 29 remarked,

"I know the new Inspector has, has, has a kind of a plan to formalise the inspections. And to give us a kind of a, a guideline as to what she will be inspecting. And, like, standards that we are to achieve. And, like, she will, you know, inspect on the basis of those standards. Which hasn't been the case up until this point. Like, it has been kind of, you know, it has been almost as if a few people wander in and look around the place and talk to a few people and then go off and write a report without there being any kind of, like, what standards do they expect? So, I think the new Inspector, I think that's the plan, as she's going to develop standards, inform us of the standards, and inspect us on the basis on those standards."

On this matter, the link between clear process and perceived credibility of the work of the Office was again emphasised. The new framework with its inclusion of explicitly defined standards and inspection practices (OIP, 2020b) was regarded as a positive development in that it would provide prison management with greater transparency as to the accountability process and explicitly state the standards that prisons would be measured against. As such – though, crucially, the framework had not been yet experienced by prison managers in practice – the new process was regarded as favourable in that the standards for accountability were made explicit and therefore provided the process with objectivity. To this end, Participant 18 stated,

"It just needs to be fair. And it needs to be, like, her work needs to be auditable as well. In that, when the Inspector of Prisons comes in and she comes in with the report, you need to be able to sit down with the report and say, 'By the way, that's not in the framework. That's not... Why were you asking about gender balance or why were you asking about the sexuality of a Governor? Like, what's that got to do with it?' So it needs to be that everyone knows where they're coming from."

The importance of having a transparent and explicit process was established through the survey in that it correlated to respondents' opinion of OIP inspection. However, the interviews with senior staff were extremely revealing as to *why* clarity of process is valued among prison managers, and furthermore its implications for the perceived legitimacy of a prison overseer.

8.3.1.2 The OIP & Negative Reporting

A significant negative correlation was observed between the item 'The OIP ignores the good work performed by prison staff' and respondents' general opinion of the inspection process. This finding implies that where respondents agree with this statement they are more likely to have a more negative opinion of the OIP's inspection process. The majority of survey respondents disagreed with this item. 56.4% of respondents ($n = 39$) disagreed or strongly disagreed with this statement (see Figure 8.6). However, this finding diverged substantially from the findings that emerged from the interviews in which participants often spoke about inspection reports concentrating on criticisms or negative findings.

Negative reporting was a topic that was raised quite frequently in the interviews with prison managers. Many interviewees expressed that prison inspection by the OIP tended to focus on negative findings, concentrating on things going wrong in prison. While there was recognition that inspection must report on the prison's shortcomings, failures, or issues identified during the visit, there was a feeling that reporting is fixated on the negative and does not attempt to acknowledge what is going right or what is working well. For example, as summarised by Participant 1 in relation to their experiences with the OIP, *"if you're going to give a report, well, give a fair report and give positives and negatives. Because if you keep reporting negatively, well, people just give up."* As a result, inspection was equated with criticism in a way that is not necessarily constructive. As a result, some interviewees were quite despondent or apathetic towards inspection. This sentiment will be further explored in Section 8.2 which examines engagement strategies.

Some participants took this view one step further in expressing that the OIP actively seeks to find fault or that it is 'led by an agenda'. In other words, that the inspection team is perceived to have already pre-empted or determined what they will report on before they enter the prison. As such, the reporting of negative findings could be viewed with a great deal of cynicism. For example, Participant 26 remarked, *"I always feel anyway they know what they're looking for before they come in."* When framed in this way, the role of prison management in giving account during inspection becomes very passive; if the oversight body are already perceived as having determined what the outcome of the inspection will be, then there is little that active engagement will achieve. When the inspection process is viewed as being 'led by an agenda' it undermines the ability for a positive accountability relationship between the oversight body and the inspected.

Through the survey, the majority of prison managers indicated that they did not believe that the OIP process overly concentrated on negative reporting. As stated, 56.4% of senior staff respondents disagreed with the item statement, 'The OIP ignores the good work performed by prison staff'. In marked contrast, 72.4% of frontline staff agreed or strongly agreed with this item ($n = 116$). Comparing the two groups, revealed that that this difference in attitudes was statistically significant ($U = 908.50, p$

< .000), with a small effect size ($\eta^2 = 0.22$). This result implies that the perception that the OIP overlooks positive work carried out by prison staff is far more prevalent among frontline staff than among prison management. This is indicative of another key point of difference in the experiences of prison managers and frontline staff with regard to inspection.

Prison oversight will, by virtue of its function, uncover criticisms of the prison. With this said, previous research on prison oversight by Tomczak (2019) has argued that justified critique should be presented alongside praise and the recognition of good practice. Tomczak notes that this has been successful in other domains as a means to improving engagement. The issue of negative reporting was similarly noted by Aitken (2021) in his interviews with staff from the Prisons and Probation Ombudsman (PPO). His research noted that PPO staff were keenly aware that prison work often goes unrecognised. The findings of the interview study revealed that PPO staff are conscientious in their reporting language, making effort not appear adversarial or accusatory. In the case of Irish prison staff – at least among the frontline group, in particular – negative reporting is commonly experienced. The new inspection framework developed by the OIP (2020b) may go some way to address these perceptions. Under the newly established assessment standards, reporting will identify prisons’ performance on a scale from poor to very good, which will allow for the explicit recognition of good practice.

8.3.2 Attitudes towards the CPT Monitoring Process

Identical procedures were applied to the analysis of the survey data pertaining to the CPT’s monitoring process. Notably, the survey data sample for the CPT analysis is smaller ($n = 26$) as fewer participants reported contact with the CPT. This was also the case with the interview dataset in that not all participants had experienced a CPT visit. The results of the Spearman analysis for the CPT survey items identified four significant correlations between features of the monitoring process and respondents’ overall opinion of monitoring by the CPT (see Table 8.3). This section will examine each of these correlations in turn and reflect on them in light of managers’ experiences gathered through the interviews.

Table 8.3: Correlations between CPT inspection features and overall opinion.

Item Statement	Spearman’s ρ	P-value	Confidence Interval ²⁹
I think that the CPT has sufficient contact with our prison.	-0.004	0.985	(-0.632, 0.641)
The process by which the CPT arrives at its findings is clear to me.	0.528**	0.006	(-0.118, 0.905)

²⁹ As a result of bootstrapping the dataset, some confidence intervals for the Spearman analysis cross 0.

The CPT does not understand the realities of prison work.	-0.560**	0.003	(-0.902, 0.036)
The CPT favours prisoners over staff.	-0.614**	0.001	(-0.936, -0.029)
The CPT ignores the good work performed by prison staff.	-0.578**	0.002	(-0.933, -0.033)
I would be happy to approach the CPT with a concern I might have.	0.381	0.055	(-0.198, 0.830)
Reports from the CPT accurately represent the prisons they visit.	0.216	0.290	(-0.468, 0.783)
The recommendations arising from CPT inspections are reasonable.	0.328	0.102	(-0.265, 0.846)
I am made aware of recommendations arising from CPT reports.	0.027	0.896	(-0.542, 0.566)
The work of the CPT has led to improvements in Irish prisons.	0.242	0.233	(-0.351, 0.741)

**Correlation is significant at the 0.01 level (two-tailed).

8.3.2.1 The CPT & Clarity of Process

This analysis indicates that respondents' opinion regarding the clarity of process positively correlates to their overall opinion of the CPT's monitoring process (see Table 8.3). In other words, this finding indicates that where respondents believe that the CPT monitoring process is clearly understood they are also more likely to report a more favourable general evaluation of CPT monitoring. Similarly, as described in Section 8.3.1.1, clarity of process was also linked to positive evaluations of the OIP inspection process.

Through the survey, the majority of prison managers indicated that they did not have a particularly clear understanding of the monitoring methodology used by the CPT. Only 34.6% of prison managers ($n = 26$) agreed or strongly agreed with the item statement, 'The process by which the CPT arrives at its findings is clear to me' (see Figure 8.7). Among frontline staff, this proportion was substantially lower; just 8.4% of frontline staff respondents reportedly found the CPT monitoring process to be clear ($n = 48$). However, a comparison of the two groups found no significant difference in their attitudes ($U = 773.00, p = 0.08$). Consequently, both prison managers and frontline staff could be regarded as lacking clarity with respect to the CPT's methodology.

Comparably, interviews with prison managers who had experienced a visit from the CPT also spoke about the delegation's monitoring process with mixed opinions. For some, the process was described in vague terms, "they basically come in, walk around, observe, talk to staff, talk to prisoners. They might

interview the likes of myself" (Participant 20). Many participants pointed to the use of records as a particularly important data source for the delegation. Others spoke about the process positively, but as was the case with the OIP, prison managers lacked specificity as to how a monitoring visit was conducted. For example, Participant 16 described the monitoring process by saying, "*it is a fairly, it's a very robust investigation. And they go into every corner of your prison, maybe your record keeping, and every single thing.*"

The correlation analysis indicates that clarity of process is important for prison managers' opinions of CPT monitoring. However, knowledge of the CPT's methodology seems to be lacking among prison staff, and in particular among frontline staff. Similar findings were also observed in the case of respondents' opinions on the work of the OIP. In both cases, prison staff appeared to be the object of scrutiny, but without due knowledge as to how they were being scrutinised. Among participants, understandings of the work of the CPT seemed to be fixated on the issue of torture as opposed to broader concerns of ill-treatment of people in custody and wider issues of human rights. For some participants, the concept of torture occurring in the contemporary Irish prison was inconceivable and rather alienating. This, in a sense, allowed participants to somewhat distance themselves from the objectives of the CPT as an oversight body. This suggests that greater efforts could be made by both the CPT and the prison administration to communicate what is involved in an monitoring visit and how recommendations are founded.

8.3.2.2 The CPT & Understanding Prison Work

A positive correlation was identified between the CPT's perceived understanding of prison work and respondents' overall opinion of their monitoring process. Prison is an environment that is difficult to penetrate; and prison work is often regarded by staff as something that is poorly understood by outsiders (Crawley & Crawley, 2008). Accordingly, it can be easy for prison staff to dismiss the opinion of outsiders as being naïve or poorly informed (Garrighy, 2020). Further to this, Aitken (2021) has indicated that oversight bodies must work towards establishing their reputation as a credible authority on prison matters; in part, this requires developing a knowledge-base on prisons and prison issues. In his study with personnel from the PPO, Aitken describes how his participants were very mindful of the challenges and realities of prison work and that this was appreciated by prison staff.

Data collected from the survey indicated that prison managers were somewhat divided on this issue. 42.3% of respondents agreed or strongly agreed with the statement, 'The CPT does not understand the realities of prison work', while an equal proportion, 42.3%, disagreed or strongly disagreed with the statement ($n = 26$, see Figure 8.7). These mixed opinions were also evident in the interview dataset.

Among prison managers who had experienced a CPT visit, the perceived expertise of the delegation was an important factor in establishing the credibility and legitimacy of their role as prison monitors. More specifically, this perceived expertise was determined through the composition of the delegation. Often the visiting team possess experience in areas such as human rights, law, healthcare, psychology, and prison management (Bicknell et al., 2018). An added dimension to this expertise was noted in the fact that CPT delegations have the benefit of visiting prisons around Europe as a basis for comparison. On this point, Participant 24 explained that having international experience means that the delegation *“have seen from the super end of the spectrum to the really poor end of the spectrum.”* Additionally, Participant 16 added that this enabled a frank dialogue with the delegation as to the reality of the challenges encountered. They commented, *“you’re dealing with professionals, like, you’re dealing with people who are dealing with this all over the world, they’re going into worse prisons they’re finding bigger obstacles, like, you’re not going to be able to plámás them”* (Participant 16). As such, experience with prison systems around Europe as a basis of comparison was viewed as an asset.

Yet, for a few interviewees, *“local knowledge”* was also regarded as an important factor in understanding and contextualising challenges experienced by the prison (Participant 14); this was a form of knowledge that the CPT lacked. For example, Participant 14 explained that the prison they worked in may experience a higher level of incidents of prisoner-on-prisoner violence in comparison to other prisons within the estate. To this participant, it was an indelible feature of that prison, but importantly they wanted to convey that *“there’s a context”* behind the figures of violent incidents. The participant indicated that they felt that issues such as these might not be well-understood by an international monitoring body. Similarly, Participant 5 referenced the challenges faced by the IPS in relation to securing funding during the national recession, which hindered the state’s ability to address recommendations made by the CPT. Yet, despite this, Participant 5 commented that this would still not be viewed by the CPT as a satisfactory reason for a lack of progress.

Former president of the CPT, Silvia Casale has underscored the importance of knowledge and expertise for CPT monitoring delegations (Casale, 2010). Bicknell et al. (2018) have noted that repeated visits to states and the same sites of detention have allowed the Committee to build up a knowledge-base of local issues and points of concern over time. Additionally, as part of the early stages of the visit itinerary, the CPT delegation will meet with national oversight bodies and NGOs to ensure that they are informed of current issues. With this said, the CPT have previously acknowledged that the composite of delegations could also be improved upon through the inclusion of more committee members with operational prison knowledge (CPT, 2017).

8.3.2.3 The CPT & Perceived Bias

The Spearman analysis revealed a negative correlation between the item ‘The CPT favours prisoners over staff’ and respondents’ overall opinions of the CPT monitoring process. Therefore, respondents

who believed that the visiting delegation were in some way biased towards prisoners were more likely to have a negative opinion of the CPT's monitoring process. Casale (2010) has stated that in order for the CPT to gain credibility and acceptance among practitioners, that the delegation must be perceived to be a neutral observer. With this said, prison is an environment in which there is a marked divide between prisoners and staff (Sykes, 1958). Consequently, neutrality may be difficult to maintain when the work of the CPT is fundamentally underpinned by safeguarding the well-being of prisoners.

Within the survey, 50% of prison managers disagreed or strongly disagreed with the statement, 'The CPT favours prisoners over staff' ($n = 26$, Figure 8.7). Consistent with this finding, this sentiment was also not very prominent in the interviews with prison managers. Only a few interviewees felt that the CPT delegations they had encountered had treated prison staff with suspicion during their visits. To this end, for example, Participant 16 observed, "*They take the word of the complainant*" and likewise Participant 35 commented, "*they believed everything that the prisoners said to them*" (Participant 35). Similarly, from a staff perspective, Participant 5 noted, "*Any I've dealt with before that just didn't believe what you were saying to them.*" Although not very prevalent in the dataset, instances such as these highlight how the experience of oversight can make salient the boundaries between prisoners and staff.

Casale (2010) argues that it is vitally important that CPT reports are supported by concrete examples of evidence gathered on the ground during the visit. With the findings of this research in mind, it is argued that this is an important consideration in building trust in the ensuing recommendations. Additionally, while prison monitoring has a preventive focus, active engagement with oversight can provide effective benefits for the prison management. This will be further discussed in Section 8.4.1.

8.3.2.4 The CPT & Negative Reporting

A negative correlation was observed between the statement 'The CPT ignores the good work performed by prison staff' and respondents' overall opinion of their monitoring process. The survey revealed that 57.7% of respondents agreed or strongly agreed with this item statement ($n = 26$, Figure 8.7). Similar to what was observed in the data related to the OIP, interviewees also claimed that the CPT monitoring process concentrated on highlighting the prison's shortcomings. As with the OIP, negative reporting was experienced as being very demoralising. This was described by Participant 1,

"my problem with the CPT is that they never acknowledge, they very seldom acknowledge, positive steps that have been achieved. They still just focus on the negative, all the time. [...] And all they ever focus on is where we have not managed to meet the standards. They very seldom focus on, 'Well, in the three years since our last visit we have seen that you have really, really tried' and it becomes dispiriting"

Notably, several issues that participants offered as common examples of negative critique given by CPT were not necessarily within the control of the prison management to concretely address. These issues included: overseeing prisoners with severe mental health difficulties, prison overcrowding, and the management of protection prisoners. These are issues of which prison management are keenly aware as they bear considerable impact on the operation of the prison. However, they are systemic issues far beyond the power of management to rectify. As such, critique of systemic issues is experienced as highly frustrating when it is directed at – or is perceived to be directed at – prison management, when they have little power to respond. For example, this frustration is evident in the quote below from Participant 5. Speaking on the CPT’s justified criticism of the degrading practice of slopping out in Irish prisons they likened the process to ‘getting kicked’.

“So, the CPT criticised us for many years for still having slopping out – and they were right. But they never factored in the fact that the government never gave us money to correct them for many years. So we’re getting kicked every three to five years by the CPT as a Prison Service, but yet Finance never gave us anything to address the issue. So that’s the kind of environment you’re dealing with. They never criticised Finance for not giving us the money, you know that kind of way? It focuses on the Service rather than the global picture.” (Participant 5)

The perception of negative reporting is an important finding in understanding how oversight is experienced by prison management. Tomczak (2019) argues that it is not necessarily the case that prison oversight always seeks to identify faults or criticisms. As example, in her examination of death in custody investigative reports produced by the PPO, she notes several instances in which no recommendations are made. Further to this, the most recent visit by the CPT to Ireland took place after these interviews were conducted; the report arising from this visit was not entirely negative. The CPT recognised progress that had been made in the Irish prison system, at the same time noting areas that could be significantly improved upon (CPT, 2020). The Minister for Justice stated that the report was “*the most positive account on Ireland since the process began in 1987*”, referring, in particular, to the positive feedback on healthcare and reductions in overcrowding (Dáil Debates, 10th December 2020).

8.4 Motivational Postures & Strategies for Engagement

Section 8.2 explored aspects of inspection and monitoring that correlated with prison managers’ overall attitudes towards these oversight processes. In particular, it identified that the point of contact between oversight bodies and the prison most commonly lies with prison management. It demonstrated that prison managers are more likely to have a positive opinion of both the CPT monitoring and OIP inspection than frontline staff. Additionally, Section 8.2 identified the importance of a clear methodology, the need to highlight good practice within prison alongside negative findings, and the utility of knowledge and expertise relevant to the prison environment. These factors were valued by prison management with respect to the conduct of inspection and monitoring.

This section examines participants' propensity towards engagement with oversight bodies, how they view the overseer in relation to themselves and their own goals as prison managers. For some prison managers, there will be congruence between their goals and that of the overseer; for others the relationship will be viewed as more oppositional. Concentrating on an examination of the interview data, this section will establish a typology of stances towards the OIP and CPT as prison overseers which vary in their degree of receptiveness and engagement. This analysis has been constructed through inductive thematic analysis. However, through coding, strong parallels with the work of Braithwaite and her theory of motivational postures (Braithwaite, 1995; 2003) emerged. As such, the analytical process draws upon a combination of thematic analysis and abductive analysis techniques (Timmermans & Tavory, 2012; Deterding & Waters, 2018). This process seeks to build connections to existing theoretical material in order to explain the phenomena of study parsimoniously through reference to established concepts.

As outlined in Chapter 3, Braithwaite's (1995; 2003) theory of motivational postures presents a lens for understanding the nature of an oversight relationship by examining the degree of social distance that the regulated seeks to place between themselves and the regulator. Where an individual has a positive attitude towards the oversight body and shares their goals and objectives they are more likely to constructively engage with the oversight process. In contrast, where the regulated views the regulator with negativity or hostility, then they are more likely to effect a greater level of distance between themselves and the work of the oversight body. The analysis below finds some support for the postures identified by Braithwaite, while also expanding upon her original theoretical model.

Building on these postures, this section will explore strategies for engaging with oversight used by prison managers. Specifically, it will describe three strategies used by prison managers in their interactions with oversight bodies: active engagement, passive engagement, and disruptive engagement. This analysis posits that each of the motivational postures identified in this research can be linked to the utilisation of one of these three strategies.

8.4.1 Active Engagement: Postures of Commitment & Leverage

Roughly half of the interview participants held positive regard for the prospect of oversight by the OIP or the CPT. This posture was labelled 'commitment' and its interpretation is highly aligned with Braithwaite's (1995) original description. As Braithwaite (2003) proposes, commitment is reflected in a positive orientation towards the oversight body. The individual acknowledges the value of oversight and ascribes status to the overseer. For those with postures of commitment, oversight is viewed as serving the common good (Bartel & Barclay, 2011). As such, individuals who are 'committed' do not seek to maintain or introduce distance between themselves and the oversight body; rather, there is a forthright willingness to engage.

Similarly, interviewees who demonstrated commitment recognised the necessity of prison oversight and that this necessity is rooted in one's obligations and moral responsibilities as a prison manager. When commitment is expressed there is high alignment between the goals of the individual and the goals of the oversight body. For example, commitment is very evident in the quote by Participant 3 on their regard for the work of the OIP: *"I think they're an essential element in all prisons and I believe that."* Beyond this, there was also recognition that oversight was more than just an obligation, but that it could be a beneficial and worthwhile experience. For example, Participant 35 commented, *"certainly they bring change by even announcing a visit. There's no doubt about it. [...] I welcome all people who oversee the prisons."*

It is important to note that those who espouse commitment are not wholly uncritical of the accountability process by the oversight body. Many participants who were committed still noted ways by which oversight through inspection and monitoring could be improved upon. For example, Participant 13 commented that they would like to see the CPT draw keys during their visits as freedom of movement would make the delegation appear more impartial to both staff and prisoners. As another example, Participant 15 noted the lack of follow-up on the implementation of recommendations. Yet, despite these comments, there remains strong recognition that the benefits of prison oversight – whether for the prison itself or for personal gain, as described next – outweigh these criticisms. Indeed, the criticisms are constructive in nature, focussing on how the oversight process could be improved.

A novel posture that was identified through the analytical process was that of 'leverage'. Individuals expressing leverage also recognised the value of oversight interactions, but this was manifested in a slightly different way than the posture of commitment. Specifically, a leverage posture is one in which the individual enters the oversight interaction seeking an outcome that serves their own goals. While there may still be significant common ground between the overseer and the individual in terms of prison oversight, the interaction is approached from the perspective of what the individual can gain for themselves or for the prison through the interaction. This still demonstrates high alignment with the work of the oversight body; in order for the posture of leverage to be effective the individual must be deeply cognisant of the goals of the overseer and where common ground exists. For example, Participants 22 and 1 speak on their motivations for engagement with the OIP:

"some managers have the same goal as [the Inspector] had. His goal was to improve the rights and the environment for the people in our care and my goal was exactly the same. We mightn't always agree about how we might get there, but we kind of worked more or less a partnership and we would use each other to achieve a common purpose. So it's kind of pragmatic" (Participant 22)

"If this helps me help prisoners well then I should take every bit of advice or criticism on board that's going to help me do it. And that's why I do it." (Participant 1)

Leverage may initially appear to be a cynical approach to adopt in responding to oversight. However, it is a position that can be appreciated when one considers the extent of scrutiny that management face while simultaneously lacking the power to effect desired change – this has been previously described in examining the feelings of powerlessness within the organisation’s accountability culture (Chapter 6). In this sense, oversight presents an opportunity to empower and equip prison management to take steps towards desired results. For example, Participant 9 speaking ahead of the CPT’s 2019 visit to Ireland, considered the monitoring visit to be an opportunity; although, at the same, time they were cognisant that not all of their colleagues would share that perspective.

“I know the CPT are coming next year, and I see it as, ‘Well, you know, if we want to get a few things, now is our chance.’”

Furthermore, Participant 11 in the quote below, describes how oversight bodies can direct new attention and momentum to well-worn issues that management have previously highlighted through their own channels. Among those who expressed commitment or leverage, external bodies such as the OIP and the CPT are regarded as possessing authority and influence. As such, this enabled them to spotlight significant issues and prompt action.

“A lot of change happened here because [the Inspector] would come in and find it. I never tried to hide. My attitude is if there’s something wrong let’s find it and deal with it. And if somebody with his clout is saying it’s wrong, I could be banging that drum every day of the week and nobody listens but if he comes in and puts it in his report?”

Indeed, when it comes to inspection on a national level – where, crucially, there is the potential for a more sustained relationship between prison management and the oversight body – the utilisation of leverage seems to be acknowledged – and even facilitated – on the part of the OIP. During the interviews, prison managers frequently made reference to the fact that the OIP showed willingness to highlight issues that prison management raised so that they would receive wider attention. Undoubtedly, this may provoke concerns about independent reporting, in that the Inspectorate could be used as an envoy for the concerns of the Prison Service. However the relationship was described as cooperative for the purpose of attaining mutual goals, and the Inspectorate retains the final word. For example, Participant 13 and Participant 22 describe their interactions with the previous Inspector below,

“The Inspector of Prisons has always supported Governors. Michael Reilly [the previous Chief Inspector] would always have a quiet word at the end of an inspection with me and say, ‘What do you want me to report so I can put it in the report to support you?’ Always. Now, he might, he’s still going to write his report and it might be slightly damning. But not everything is going to be perfect.

It can't be. It just can't be. But [...] if you engaged with him, and you were open and honest with him, he was very supportive." (Participant 13)

"And certainly, I think, taking that approach over the years, especially with Judge Reilly [the previous Chief Inspector], I developed a relationship with him where he'd come down and say 'Would it be useful if I put this into my report?' Like, if I'm walking around with him and I say, 'Well, I can't get this area done because I've asked for the resources from the organisation a thousand times, they're telling me I can't do anything about it.' And he'd say, 'Well, I'll put that in my report and we'll get that done.' And that's marvellous." (Participant 22)

The postures of commitment and leverage both demonstrate a high degree of alignment with the objectives of prison oversight, though they are underpinned by different motivations. Under these postures, prison oversight is regarded as valuable and can offer constructive benefits. Where participants expressed commitment, they were open to engaging with these oversight mechanisms. When asked about their experiences with the OIP and the CPT during inspection and monitoring visits, individuals expressing postures of 'commitment' and 'leverage' were also found to demonstrate what this research terms 'active engagement'.

For example, as described above, prison managers would seek to raise issues they felt were pertinent and could gain greater momentum if raised through the platform of the OIP or the CPT. In other examples present in the dataset, prison managers displaying commitment and leverage made conscious efforts to pre-emptively ensure that overseers would have access to materials that they expected the prison would be examined on during inspection and monitoring visits – documents, figures, and record books. Additionally – and specifically in relation to engagement with the OIP – this group of participants also made reference to maintaining communication with the inspectorate outside of the formal inspection process.

Active engagement refers to decidedly seeking to confront and engage the process of oversight or accountability. As described in Chapter 3, accountability is an asymmetrical relationship in that there are considerable constraints on the account giver in terms of the nature of their participation (Butler, 2005; Messner, 2009). Indeed, the descriptions of the OIP and CPT processes in Section 8.3 are indicative that prison managers feel as though they are the objects of scrutiny. This research would argue that where commitment and leverage are demonstrated, individuals will seek to participate in as much as the oversight process allows. This is in keeping with Braithwaite's (2003) theory of motivational postures in that she argues that those who display commitment will seek to minimise the social distance placed between themselves and the regulator. However, what this means in practice is not fully explicated by Braithwaite (1995; 2003). Here, this research expands on Braithwaite's proposal and argues that postures that seek minimal social distance will turn to active engagement strategies.

8.4.2 Passive Engagement: Postures of Capitulation & Indifference

According to Braithwaite, capitulation is a posture that is characterised by a mostly positive attitude towards the oversight body. However, in contrast to the posture of commitment, capitulation presents a more shallow or superficial commitment to the goals of the overseer (Braithwaite, 2003). Unlike commitment, where accountability is valued and regarded as a moral responsibility, capitulation postures view oversight with neutrality. The obligation towards oversight bodies is a part of one's role, a duty to be fulfilled. Generally, oversight is regarded as benign so long as one recognises and defers to the overseer's authority. For example, in the quote below, Participant 4 describes the implementation of recommendations arising from OIP reports below; there is recognition of an onus to act, but it is motivated out of obligation rather than commitment.

“Well [...], we are clear that where a recommendation can be implemented we will implement it. I'm not saying that we always agree with it, but we're saying that we will do it.”

For those who spoke about oversight through the lens of capitulation, passive engagement with oversight bodies was rationalised by virtue of the fact that inspection and monitoring is a task to be completed. Simply put, it *"is what it is"* (Participant 5). Those who expressed capitulation were not attempting to sidestep their accountability duties. As mentioned, responding to oversight was recognised as part of one's role as a prison manager. However, there was a sense of detachment in that oversight was almost viewed as operating in parallel to the prison management. It was regarded, not as a moral responsibility to open up a closed environment with vulnerable people to the scrutiny of external bodies, but rather a task to fulfil. Responding to oversight was viewed as its own responsibility and something to overcome rather than something that could feed into or support one's own work and objectives, as we have seen with the commitment and leverage postures described previously. Through capitulation, prison managers seek a straightforward and tolerable route through the inspection process. Often this is borne out through cooperation with the overseers but with a level of disinterest.

Those who 'capitulate' view the overseer as capable of being sympathetic towards the prison's shortcomings. Among many interview participants, the posture of capitulation was quite prevalent. Several participants expressed positive sentiment towards inspection but at the same time highlighting aspects of the inspection process that they thought could be improved. Critiques of inspection and monitoring processes were more forthcoming among this group.

Under Braithwaite's (2003) theory, the posture of 'disengagement' is characterised by a high degree of apathy towards the regulator and low level of willingness to engage with their work. Additionally, there is something of a disruptive element to disengagement as it is described by Braithwaite, in that the individual admits that they are willing to be uncooperative towards the oversight body. In keeping with

disengagement, the analysis of this dataset revealed that a sense of disinterest or a low prioritisation of the work of oversight bodies was quite common among participants. However, these perspectives on oversight lacked this secondary component whereby one's apathy would lead them to be deliberately uncooperative. As such, the posture identified within this study differs from that described by Braithwaite (2003). As such, to differentiate from Braithwaite's original conceptualisation, it is argued that this posture is one of 'indifference' rather than one of 'disengagement'.

An examination of the dataset revealed two recurring factors that underpinned expressions of indifference. Firstly, indifference could arise in instances where participants felt that oversight was 'missing the point' or was failing to capitalise on its potential. In this respect, prison managers often described how inspection and monitoring are focussed on pointing out issues at the expense of overlooking wider systemic problems. As such, it allows prison management to take a step back from these criticisms because they are beyond their remit. For example, Participant 8 below describes how issues can be identified without clarity as to how they will be resolved.

"we become ambivalent as an organisation to criticism. Because no one-- They're systematic failures and no one is being held to account for any part of them, and the problems are being named as systematic problems sometimes or else as all one person's problem. And the problem isn't broken down into its constituent root causes. So everyone just becomes ambivalent, you know?"

Secondly, and more commonly, participants noted that inspection and monitoring often raised important issues but failed to direct accountability towards those who held the power to act. In many cases, though prison managers regarded oversight recommendations as their personal responsibility, they conceded that they themselves were without the authority to address them independently. To do so would require an appeal to "*a higher level of accountability*" (Participant 13), or more explicitly greater involvement from the Directorates, Department of Justice, and the Minister for Justice. These actors are, in fact, part of the oversight process in that they are made aware of the recommendations that arise from OIP and CPT reporting and called upon to act (Hamilton & Kilkelly, 2008; Martynowicz, 2011). However, the perception among prison management is that these actors do not provide the requisite support – often a matter of resources – to enact these changes.

This perceived lack of support fed into feelings of indifference towards inspection and monitoring because it left staff in a position with no recourse to fix the criticisms they felt were levelled at them. For example, Participant 22 was openly frustrated in the quotation below. The participant describes how the prison they worked in could be rightfully criticised for failing to keep workshops open, while at the same time, they as a manager did not have the authority to approve additional resourcing to ensure they are kept open.

“[The Care and Rehabilitation Directorate] will never be held accountable for all our workshops being closed on a daily basis. Because they will, convenient to say, ‘That’s a matter for the local Governor.’ [...] if I don’t have the resource to do it I have no choice but to close them. I want them all open. But the reality is they’re all going to be closed for the next couple of weeks at the end of the quarter. But nobody’s ever going to point to [them] and say, ‘What are you doing about this?’ They will all come here and say, ‘Oh, this is disgraceful.’ And the Inspector will say, ‘[This prison] has a wonderful suite of things, but it’s never open.’ And they’ll say, ‘Well, that’s the local management.’ And we’re used to that. And we just go ‘Meh. Well.’ You know? I’m still doing my best.”

In both the case of capitulation and indifference, there is a sense of resignation towards the process of oversight. Both are postures characterised by the fact that responding to oversight is an obligation that forms part of one’s role as a manager; it is regarded as something to be endured and provides the individual with little in return. For this reason, this analysis argues that individuals with these postures invoke strategies of passive engagement. Active engagement, as described in the previous section, can be understood as trying to purposefully participate in the oversight process whether to serve the interests of the oversight body or one’s own interests. Passive engagement, in comparison, seeks to take a step back from the process. It does not look to assist nor obstruct oversight. For prison managers adopting these postures, engagement manifests itself in the form of cooperation or disinterested facilitation.

Through passive engagement, participants are demonstrating minimal interaction with the process of oversight. Unlike the commitment and leverage postures, those who express capitulation have resigned themselves to the fact that they cannot influence or shape the inspection process – they view their input as futile. The individual considers themselves to be the object of scrutiny as opposed to having the opportunity to be an active participant in the process. In the case of capitulation, arguably, this occurs because the individual does not fully recognise the value of oversight and how it can benefit their role. Indeed, the criticisms that capitulators raise about prison oversight bodies – which may, of themselves, be entirely founded and valid – can undermine their ability to regard oversight as beneficial because they see the process itself as being flawed. As such, capitulators take the approach to do the minimum that needs to be done in order to get through the oversight encounter. They will facilitate the inspection, they will heed the recommendations, but their commitment to doing so is superficial.

In contrast, those who demonstrate indifference will also turn to passive engagement strategies, but this is underpinned by a different motivation. Specifically, here, prison managers are detaching themselves from the process. They are ambivalent towards oversight and what it can offer. As experiences with oversight remain negative, there is a lack of confidence in the ability of oversight to deliver real change. This can be understood through the culture of accountability described in Chapter 6 in which prison managers feel that they are tasked with a huge demand for account from a wide variety of audiences. For those expressing indifference, prison oversight was viewed as just one more

set of expectations and standards to meet, or similarly just one more set of criticisms to take on board. As such, postures of capitulation and indifference are associated with minimal or shallow engagement.

It could be argued that passive engagement is not necessarily problematic. It does not seek to undermine oversight, and it does not seek to disrupt the process. However, there remains the potential to narrow the distance that those who capitulate and those who are indifferent place between themselves and an oversight body. To overcome this, firstly, there is a need to ensure that prison staff are motivated to engage, by making clear the benefits that oversight can have when it works in tandem with those that they are overseeing. To use the words of Participant 18, *“there needs to be a win in it for people as well [...] people need buy-in. You have to have a balanced approach to it, ‘This is why we’re doing it. This is it if we do it. This is if we don’t do it.’* This buy-in is evident in the postures of commitment and leverage but absent in postures of capitulation and indifference.

Secondly, addressing the critiques raised and the practical implementation of oversight recommendations are responsibilities that prison management perceive rests with them – even if they may feel as though they lack the power to enact them. To this end, Participant 32 advocated the need to ensure that prison staff are ‘brought along’ with the objectives of oversight and encouraged to take ownership. A similar point was raised by Aitken (2021) in his research on the work of PPO personnel, who oversee death in custody investigations. Aitken’s participants explained that to achieve good cooperation PPO staff are *“careful to avoid accusatory language in their reports and strive to formulate recommendations in the most precise, actionable way possible”* (p.6). Similarly, Participant 32 commented,

“I think there’s a craft in writing recommendations. Yeah. And I think the less punitive they are and the less righteous they are, and the more humane and the more ordinary and the more, kind of, joining in – I think that’s what’s got a better chance of getting people involved in change. Whereas if you are too punitive, and you’re too crushing of people, I think there’s a, there’s a tipping point where people kind of join you in saying, ‘Yes, I’m going to help you to sort this out’ or they’re going to say, ‘You know what? I’m not going to help. I’m actually going to be passive here.’ So, I think, and again, it’s a way of writing. Do you want to be punitive or do you want to help to get people involved?”

Finally, further to this, and most crucially, there is a need to ensure that prison management are actually supported to deliver on the recommendations that are raised through inspection and monitoring. As described above, this is not currently the case, as prison management who lack the efficacy to act on recommendations are not given the support to do so. This finding is in keeping with the sense of powerlessness expressed by prison managers in respect to their accountability obligations, described in Chapter 6. It also aligns with previous research conducted by Tomczak (2019) regarding the importance of directing accountability from prison oversight towards those who are both responsible

and have the capacity to action the recommendations received. Prison managers' accounts of their experience with the CPT highlights that often the issues identified and named within the prisons they manage are systemic issues. Indeed, the issues reported are issues that they are all too familiar with.

8.4.3 Disruptive Engagement: Defensiveness & Resistance

A novel posture of defensiveness was identified within the dataset. Defensive behaviours were frequently observed in participants' descriptions of their experiences with internal accountability and line management within the organisation. Indeed, defensiveness is a common theme in the culture of accountability described in Chapter 6. This chapter outlined how prison management often feel as though they are singularly responsible for the faults of the prison. In turn, they regard accountability work, such as record keeping and documentation of their decisions, as a vital means to protect themselves from potential incidents and prospective reviews of their decision making.

Defensiveness was apparent in relation to recollections of internal accountability encounters, but comparatively less so when it came to inspection and monitoring. The posture of 'defensiveness' towards oversight is established within this research as a recognition that the oversight body presents a threat that needs to be guarded against. Those with defensive postures regard the objective of oversight as a means to highlight the shortcomings and failings of the prison. It is an instance of the 'negative visibility' described by Symkovych (2020). Among these individuals, the potential benefits of oversight are overlooked or minimised in comparison. As such, prison managers adopt a defensive stance in that they feel the need to minimise the threat incurred. For example, in the quote below Participant 5, describes a defensive posture observed among some of their colleagues with respect to prison inspection.

“when focusing on a, on a prison, inadvertently it is focusing on that prison Governor, so it's, it's more personalised if a prison is directly criticised because it's inadvertently a criticism of the Governor. Whether you like it or not, it's, it's -- And that builds on the point I made earlier that, of some of my colleagues being defensive and trying to hide stuff. Nobody wants to be embarrassed. But in saying that, if a Governor has enough character to say, 'Yeah, we got it wrong but we're fixing it' or 'We're going to fix it' and that they're criticism is right. But we're just not there yet across the board. There's still that closed ranks mentality. Parochial to an extent. 'Not in my back yard. It never happened here. It would never happen here.'”

The perceived threat posed by oversight bodies appeared to be predicated on incurring feelings of fear and shame. Interactions with oversight bodies provoke defensive postures where the individual is trying to curtail the fear of being portrayed negatively or feelings of shame regarding not meeting an expected standard. This was evident in management's dealings with both the CPT and the OIP. In the

words of Participant 2, *“of course, any inspection makes you feel like you’re being judged, any inspection makes you feel vulnerable, I suppose, for want of a better term.”* As a result, defensiveness could be deployed in two respects. First, on an individual level, in order to protect oneself from direct criticism or accountability, *“everyone tries to cover themselves”* (Participant 15) to minimise one's role in an event under scrutiny. And secondly, defensiveness can occur at an organisational level, in which there is an attempt to *“circle the wagons”* (Participant 16).

Braithwaite's (1995) original conception of the posture of resistance is characterised by two key beliefs. Firstly, that the oversight delegation has predetermined that it will find fault. The individual believes that the oversight body is impossible to satisfy and that oversight necessarily must find issue in order to sustain itself. The individual recognises that attempting to sway the oversight body is impossible because they cannot be reasoned with. In addition, if the oversight body is not cooperated with they will only become more severe.

The second element of Braithwaite's (2003) description of the resistance posture is that the individual believes that there is a need to pushback against the oversight body, a belief that they are being intimidated. It is this secondary element of Braithwaite's posture that is absent in descriptions of resistance observed within the dataset. In contrast to the other postures, resistance was less evident from first-hand accounts. Rather interviewees spoke about resistance as they had witnessed it among their peers and other staff members. Participant 7 described the perspective of their colleagues as, *“I got a sense when I was a younger Officer that people within the organisation see audits or the Inspector of Prisons or IPRT or anyone that’s going to criticise the organisation as **adversary**”* (Participant 7, participant’s emphasis). Another description of resistance was conveyed by Participant 1 in the quote below. Notably, this participant makes a distinction between how oversight is experienced by those higher up in the organisation and those working on the ground; it may be the case that prison staff are more likely to feel the negative effects of oversight such as shame.

“...the Minister and the Director General and, if you like, the Executive Management Team of the Prison Service probably see these reports as very positive things and we make changes. Staff see it as a very negative. And the minute, the Inspector himself used to tell me that he used to get a very, very negative vibe from staff and the cooperation was very, very slow. And the CPT probably much the same. People don’t want to be found, people are reluctant to be found they’re lacking somewhere. [...] we probably don’t take criticism too well but to be fair from a service point of view we’ll sit down and try and resolve it. From the people on the ground it’s not received, not received so well.”

It is important to reflect on why resistance is less represented in the dataset through first-hand descriptions. It could be the case that this posture is simply not very prevalent among prison

management. As the attitudinal data in Section 8.2 would indicate, positive attitudes towards the OIP and the CPT are expressed by the majority of prison managers (see Figures 8.4 and 8.5); although, in contrast, negative attitudes towards these bodies are quite prevalent among frontline staff. It could be the case that resistance is simply less common at the managerial level. Another possible explanation is that interviewees don't want to appear outwardly resistant, or to be publicly dismissive of their managerial obligations of accountability. Yet another possibility is that those who are resistant towards oversight are simply not the type to participate in research interviews.

Within the interviews, the posture of resistance was largely characterised by an adversarial relationship between the individual and the oversight body. Whereas those who commit, leverage, capitulate, or disengage with oversight are satisfied to work alongside these bodies to varying degrees, those who demonstrated resistance seek to establish and maintain distance between themselves and their overseer (Braithwaite, 2003). Within the dataset, those described by their peers as displaying resistance were viewed as placing themselves in stark opposition to oversight bodies – a very clear boundary is defined. These individuals view prison overseers as “*the enemy*” (Participant 2); as “*adversary*” (Participant 7), and their presence renders staff “*automatically suspicious*” (Participant 25).

For participants who spoke first-hand of oversight through resistant postures, oversight bodies were afforded little credibility. Prison oversight bodies are required to have “*some kind of understanding*” (Participant 17, participant's emphasis) in order to provide satisfactory feedback and this understanding was evidently deemed to be lacking. As discussed previously, this is an important feature associated with opinions of oversight processes. There is a clear line drawn between ‘us’ and ‘them’. With oversight bodies held at a such a distance, it is easy for them to be painted as having a poor knowledge of the realities of the prison environment. As previously described in Section 8.3.2.2, perceived expertise can affect how the oversight body is perceived in terms of its legitimacy. To this effect, one participant commented that “*most of them have no idea*” (Participant 6). Similarly, regarding the OIP, Participant 17 stated,

“I wouldn't pretend to go into a hospital and know the runnings, the day-to-day running of a hospital, right? So neither would [the Inspector] coming into a prison know the day to day runnings of the prison, and why did this happen. It is, as I said before, it's not always black and white.”

Further to this, oversight through inspection and monitoring is viewed as an unwanted imposition conducted by those who are ill-informed, naïve, and can do little to advance prison conditions. As an example, one participant summed up their thoughts on receiving an inspection as,

“I still have [X amount of] prisoners in there to look after, [and so many] staff, and I have to do my job. You want me to sit down and dot the t’s and cross the i’s and have everything nice and polite for you?” (Participant 30)

This research argues that participants who demonstrate resistant and defensive postures towards inspection and monitoring bodies are more likely to turn to disruptive strategies. These are described as strategies in which the individual looks to impede the inspection and monitoring process. For example, as Participant 5 contrasts their own approach with that of some of their colleagues, “...everyone has their own way. I’m, as I say, more direct and open. [...] Some will try to frustrate inspections and hide stuff, just, you know?” Indeed, disruption is difficult for prison management to actually achieve as they are mandated to assist with inspection and monitoring visits to the prison (ECPT, 1987; Prisons Act, 2007). Additionally, the OIP and CPT have unfettered access to all areas of the prison and all documentation that is needed to support the achievement of their work (ECPT, 1987; Prisons Act, 2007). Therefore, the ability for management to effectively be disruptive is quite minimal.

One way in which disruption does occur is through pushback against oversight bodies. This tactic was employed by those with both defensive and resistant postures. When ‘pushing back’ against oversight, those who are defensive will seek to insulate themselves or the prison against critique. Most often, they will look to rationalise or justify shortcomings that are raised by inspection and monitoring, rather than accept and act on this critique. Justification in the form of security concerns or lack of resources were referred to within the interviews as the “*trump card*” (Participant 15) and “*ace card*” (Participant 22, below), means to quash criticism or to justify decisions taken. For example, as Participant 22 describes,

“...the shameful thing in my view is that we use the excuse of - and I’ve probably done it extensively throughout this interview - is that we use the excuse of not having adequate resources for achieving stuff that we should be doing anyway. Because we all know as managers that that’s kind of our ace card. That if the Inspector says to me, you know, ‘The place was shabby, dirty, and grubby’ and I’ll say, ‘I don’t have the resources to do that. I’ve asked them to paint it a million times and they’re never going to do it.’ And that’s the reality.”

As such, defensive pushback closes off the possibility of constructive engagement. Comparably, in the case of postures of resistance, because the work of oversight bodies is viewed with little regard, pushback against inspection and monitoring can be even more overt and apparent than among those who are defensive. Resistance is, in part, motivated by a perceived lack of legitimacy in the work of oversight bodies. For example, Participant 17, stated “*show me how I can do it better*” and Participant 30 stated, “*you want gold star service you provide the gold star resources*”.

Another way in which disruption is manifested concerns the rhetoric surrounding the validity of inspection and monitoring, done so, not with the purpose of honest critique, but with the intent of undermining the work of oversight bodies. In this sense, disruptive strategies are not overt. Rather they take on more nuanced forms as opposed to outright acts of resistance. Disruptive strategies in this context centre on creating a culture of resistance through espousing oppositional view of oversight bodies, culturally permitting the acceptability of defensive behaviours. For example, as described previously in Section 8.2.1, Participant 11 spoke of how a staff member approaching the OIP could be regarded by one's colleagues as "*ratting*". Similarly, another participant spoke about encountering the CPT earlier in their career with great trepidation and feeling as though they should maintain their distance,

"And when they came to visit [...] I was only in my first few months [...] I wasn't volunteering any information that I wasn't asked, you know?" (Participant 14)

This is perhaps a more problematic manifestation of the disruptive strategies. Whereas pushback against oversight findings can be an initial response – one that may subside after the report and its recommendations are digested – the strategy of maintaining or even building the boundary between oversight bodies and staff has a more dispersed and sustained effect. In this way, resistant postures can become tolerated or come to be culturally acceptable means of engaging with oversight.

8.5 Summary

As described in Chapter 4, the literature on oversight and accountability advocates that it is vitally important to understand these processes from the perspective of those who are the object of scrutiny. This is a viewpoint that is only beginning to receive attention in the literature. Yet, crucially, it is only by understanding the perspective of the scrutinised that we can then begin to understand how they perceive and engage with oversight bodies, and consequently their willingness to action oversight recommendations. With this in mind, the objective of this chapter was to examine prison managers' experiences of oversight through inspection and monitoring. In particular, this analysis has focussed on: the nature of contact and how oversight occurs; attitudes towards inspection and monitoring processes; and the variety of strategies that prison managers use to engage with oversight. This chapter has identified several important findings in this respect.

Firstly, by concentrating on the experience of senior staff, this research has distinguished many ways in which the experience of inspection and monitoring among those in management differs from that of frontline staff. This research attests that prison management present a distinct occupational cohort, a distinction that was previously proposed by Bennett (2016). With respect to inspection and monitoring, the results of the survey indicate that prison managers are far more likely to serve as the principal point

of contact for these processes of oversight. Therefore, they play an essential role in that, firstly, they have a greater opportunity to engage with oversight and, secondly, they effectively determine the account that is provided on behalf of the prison.

Recently, the OIP (2020b) launched a new inspection framework which has stated that future oversight activities will incorporate greater input from all prison staff. However, as the results of this research have conveyed, prison staff – depending on their position in the organisation – can have very different attitudes towards oversight. The survey findings revealed that prison managers consistently express more positive opinions towards oversight in comparison to frontline staff. For example, prison managers were found to express more positive general opinions of oversight processes (towards both the OIP and CPT); they were more willing to approach an oversight body (OIP); they reportedly had a clearer understanding of the inspection and monitoring methodologies (for both the OIP and CPT); and they were less likely to perceive the inspectorate as unduly concentrating on negatives in their reports (OIP). It is proposed that engagement with staff should be mindful of these differing perceptions of oversight among staff – this is a point that will be returned to in Chapter 9.

Secondly, this research has highlighted several important features of inspection and monitoring processes from the perspective of prison managers. Specifically, participants highlighted the importance of explicit oversight methodologies and standards; prison expertise; objectivity; and balanced reporting that includes both critique and good practice. While these factors have been previously cited by scholars in this field (Bicknell et al., 2018; Casale, 2010), this study provides novel empirical evidence for these claims. Furthermore, the data gathered through the interviews indicates that these aspects of oversight are important contributory factors in establishing credibility and legitimacy in the eyes of those under scrutiny.

Finally, grounded in interviewee's past experiences with the OIP and the CPT, this research examined engagement strategies with the OIP and the CPT. Drawing on past research by Braithwaite (1995; 2003), the analysis observed the existing postures of commitment, capitulation, and resistance in this context. Additionally, it inductively identified within the dataset the novel postures of leverage, indifference, and defensiveness. Taken together, these six postures provide an understanding of what it is like to experience and respond to scrutiny through inspection and monitoring. Furthermore, it is argued that these postures affect prison managers' willingness to engage with oversight – whether actively, passively, or disruptively. Suggestions for fostering active engagement among prison staff will be explored in Chapter 9.

Next, Chapter 9 will bring together the overall findings of this research under five thematic headings. This summary will provide a basis for discussing the wider implications of this research for oversight

and accountability in the prison environment, identifying ways by which oversight in the prison context could be strengthened, as well as highlighting new areas for future study.

Chapter 9: Discussion

9.1 Introduction

Scholars in this field have highlighted the exigency of oversight for places of detention. A recent article by Deitch (2021) argues that independent external oversight is vital for ensuring transparency and accountability in prisons. She comments that oversight supports people in custody by providing an independent and impartial audience for grievances. Deitch adds that oversight also affords benefits for prison administration in that it contributes to the creation of safer environments for both staff and prisoners (Coyle, 2010; Deitch, 2021). Moreover, from a human rights perspective, oversight is regarded as an essential tool for ensuring that the rights of people in prison are upheld and for mitigating the possibility of ill-treatment (Rogan, 2019; van Zyl Smit & Snacken, 2009). However, the extent to which prison oversight effectively fulfils these important functions – or the extent to which oversight *can* fulfil these functions – remains underexplored.

An examination of how oversight is experienced on the ground, particularly among prison managers – the individuals who lie at the interface of accountability through oversight – presents a crucial first step to understanding oversight in this context. It allows an exploration of how the human rights principles advocated by these mechanisms come to be instantiated within the prison through the activities of staff. The closing chapter of this thesis consolidates the principal findings of this research, presented in Chapters 6, 7, and 8, under five key thematic headings. Drawing upon the prisoner complaints system and inspection and monitoring as two exemplars of accountability mechanisms, these themes will capture: the significance of prison as a setting for accountability; the unique role undertaken by prison managers with respect to accountability; the limitations of prison oversight; the variety of responses prompted by the mechanisms of prisoner complaints, and inspection and monitoring; and the need for greater clarity regarding the process and function of accountability through these oversight mechanisms. Following this, Section 9.7 will pose seven recommendations for both the prison administration and oversight bodies as to how these mechanisms can be ameliorated.

This chapter reviews the findings of this research thematically with respect to the existing literature on prison culture, accountability, and prison oversight. It provides important reflections on how accountability is enacted in this context, as well as recommendations for change to policy and practice. Limitations of this study have previously been noted in the methodology chapter, Chapter 5; reviewing the findings will present some additional limitations for consideration in light of the study's design and the interpretation of its findings. Finally, suggestions for avenues of future research in this field are identified throughout.

9.2 The Significance of Prison as a Setting for Accountability

Accountability is ubiquitous in both the public and private sector; it is regarded as a 'golden concept' in that few would argue that organisations should be subject to less accountability (Bovens, 2007; 2010). But, it is also a complex social concept rooted in social relationships (Frink et al., 2008), and subject to much individual variation (Hochwarter et al., 2007). At the individual level, accountability is shaped by one's personal beliefs and attitudes, one's organisational culture, and the nature of the accountability relationship one enters into. Sinclair (1995) states that an understanding of accountability "*will be enhanced by recognising the multiple ways in which accountability is experienced, rather than by attempting to override this chameleon quality*" (p.219). This research has explored what it is like to be accountable as a manager in the prison context, and in doing so it has endeavoured to capture some of this complexity.

Although accountability and oversight obligations have steadily increased and are playing a larger role in the work of prison staff (see Chapters 2, 3, and 4), few studies have examined how these obligations are experienced by staff. In this respect, this research makes an important contribution to the literature on contemporary prison work and prison staff culture, capturing this important yet neglected facet of prison work. Drawing on the experiences of senior staff, Chapter 6 described how the prison environment introduces several distinct features that affect how accountability obligations are perceived and experienced. That prison is a setting which inevitably inflicts a stark asymmetry of power between prisoners and staff has been addressed many times within the literature (Crewe, 2009; Mathiesen, 1965; Sparks et al., 1996; Sykes, 1958; Ugelvik, 2014); it is a recognised and pervasive feature of the prison environment. Further to this, this study has built upon previous research to empirically demonstrate that these power dynamics play an important role in shaping staff's perspectives on accountability. Specifically, participants recognised the fundamental need for commensurate measures of accountability to counterbalance their power. This need was described as being grounded in the considerable power held by prison staff, that prisoners were significantly disempowered, and that the prison environment is largely out of view from the public eye.

Consensus was not fully apparent among prison managers as to whether prison constitutes a truly unique environment in terms of the accountability responsibilities it confers. For example, participants readily drew comparisons between prison and psychiatric hospitals, as well as historic institutional settings in Ireland – places that O'Donnell and O'Sullivan (2020) would deem to be other sites of carceral confinement. Some prison managers reported that maintaining the perception that prison is in some way exceptional only served to allow the prison administration to distance themselves from the critique posed by external audiences. This research would contend that prisons are distinct environments but they are not necessarily unique. As Seddon (2010) has proposed, there is a wealth of learning to be gained in observing how oversight is implemented in comparable settings; perhaps it is a case that these similarities rather than differences should be emphasised when it comes to oversight.

It is recommended that future research in this area extends to examine oversight models, best practice, and lessons learned from these settings that could be applicable to the prison context.

Interview participants described prison as a work environment in which there is the constant possibility of things going awry. Some prison managers remarked that they equate success in prison with the absence of failure. In both respects, days that pass without incident are interpreted by staff as small victories. A consequence of working in an environment that is prone to negative incidents is that it bears implications for how accountability is experienced. This research revealed that there is a heightened sense of accountability among prison staff and that this constituted an important aspect of the accountability culture. Specifically, because accountability is very often paired with the aftermath of negative events, defensive outlooks and distrustful perceptions regarding the purpose of accountability can very easily take root. As this aspect of the accountability culture is intrinsic to prison as a work setting – an environment of high risk, volatility, and one that is typically out of public awareness for long periods of time – this presents a strong possibility that these findings may be generalisable to staff culture in other prisons. As such, this study contributes to the wider prison culture literature by identifying characteristics of prison accountability culture that could readily be explored through empirical investigation in other prison systems.

Specific to the Irish prison system, when examining accountability within the organisation, some participants expressed that accountability was often interpreted by prison staff as a vector for blame. Similar experiences have been previously identified by Barry (2017b) in her research with IPS staff on investigations of deaths in custody. However, the current study argues that the association between accountability and blame runs much deeper within the organisational culture. It is a work environment in which there is a real and present risk of violence, injury, and death. There is a pervasive sentiment within the organisation of being afraid to be found responsible and, coupled with this, an overriding feeling of a lack of support provided internally by line management at IPS headquarters. This is vital for understanding how accountability and oversight operate within IPS at an everyday organisational level. It is important to recognise the challenges of being accountable *within* the organisation – where trust and in-group solidarity are quite robust – before extending outwards to consider the staff's engagement with external oversight bodies.

Given the prevalence of accountability obligations, this is an aspect of the workplace culture that needs to be addressed by the organisation. While this research offers a starting point, it is for the IPS to analyse, establish, and determine what accountability means within the organisation and the values and practices it should endeavour to instil among its members. This perhaps constitutes the most fundamental recommendation arising from this research (Section 9.7). In essence, it is recommended that the organisation challenges the perception that accountability is a reactive process triggered only by negative incidents, and instead attends to the fact that accountability should be ever-present and within the fabric of the organisation and its membership. Aviation and healthcare are two sectors in

which accountability culture has been deeply embedded through 'just culture' (Dekker, 2017). Dekker describes just culture as the antithesis of blame culture, one in which staff are supported and encouraged to report errors or oversights in order to promote learning and improvement within the organisation. The principles of just culture may offer some guidance as to how to foster a more constructive accountability culture within the IPS.

Past literature on prison staff culture has identified that prison staff often feel that their work is poorly understood and without due recognition (Crawley & Crawley, 2008). Garrihy (2020) notes that staff can be sceptical of outsiders, viewing them as naïve to the realities of prison life and what prison work entails. Indeed, this perception was highlighted in staff's experience of prison monitoring conducted by the CPT. Findings derived from the survey indicated that knowledge of the 'realities' of prison work was valued by prison staff and positively correlated with opinions of the CPT's monitoring process. Within the regulation literature, positive relationships are prominently highlighted as they are conducive to good regulatory outcomes (Ayers & Braithwaite, 1995). Similarly, Aitken (2020) has observed that an effort to understand prison work and the prison context is important in building relationships between oversight personnel and prison staff. Owing to this, this research argues that building familiarity, knowledge, and expertise of the prison environment should be an integral part of the work of prison oversight bodies.

Scholars in the field of accountability and regulation have commented that there is a paucity of literature conducted in real-world settings. Hall et al. (2017) note that many past studies in this field have been laboratory-based and rely on artificial tasks to explore accountability obligations. The current study offers a granular and context-based examination of accountability and oversight as it is experienced within a real organisational setting. Therefore, it has provided valuable insight in this respect and a strong contribution to the oversight and accountability literature. Concurrent with Hall et al. (2017), it maintains that accountability should not be divorced from its social and contextual factors. The findings have demonstrated how both the work environment and wider aspects of the organisational culture are distilled into staff's perceptions of accountability. They permeate staff's attitudes and perceptions of mechanisms of accountability and oversight.

Further to this, the impact of wider sociocultural influences acting upon the Irish prison system are important to consider when reflecting on the results of this study. The bearing of human rights oversight and new public management perspectives on oversight and accountability have been acknowledged and explored within this research, particularly in Chapters 3 and 4. Cognisance of these wider sociocultural factors is often absent in regulation and accountability literatures which seek to examine these phenomena from an exclusively individualised perspective, ignoring the wider social milieu in which the individual operates. In contrast this study has provided an in-depth examination of individual level experiences of accountability within a real-world setting while also attending to the influence of higher level macro-factors which have permeated this environment.

For example, as noted, the Irish prison system and its accountability culture have been modestly shaped by the practices of new public management (NPM). The adoption of NPM principles within the Irish prison system has not been implemented with the same intensity as has been observed in the UK. Obligations of oversight and accountability are undoubtedly increasing for the IPS (see Chapters 3 and 4). Furthermore, accountability work in IPS has become strongly bureaucratised with an emphasis on paperwork and record keeping (Chapter 6, Section 6.2.3). Yet, the focus is placed on bureaucracy as a means of achieving transparency and accountability, rather than as a means of attaining the principles of efficiency, effectiveness, and economy at the heart of conventional NPM. Unlike the UK, the accountability culture of the IPS does not emphasise performance, measurement, categorisation, or the minimisation of risk to the same extent. As such, the work of Irish prison managers is qualitatively different with respect to its accountability demands than what has been observed in previous studies (Bennett, 2014; 2016; Cheliotis, 2006; 2008). The sociocultural and organisational influence of NPM is one of degree. Accordingly, this research would advocate that the extent of its influence needs to be acknowledged in future studies which examine prison oversight and accountability at the individual or, indeed, the organisational level.

A further consideration is the influence of human rights-led oversight and human rights instruments on the accountability culture of IPS. Prison oversight is firmly established within European prison systems in comparison to the stark absence of oversight that is observed in the US (Deitch, 2021; Rogan, 2019; van Zyl Smit & Snacken, 2009). However, as detailed in Chapter 4, the Irish state has been remarkably slow to adopt and implement human rights-informed mechanisms of oversight. The OIP and the prisoner complaints system have both only been established within the last twenty years, despite protracted calls for their introduction. The CPT, though it has been in place longer, provides oversight in a manner that is more episodic than consistent. As such, human rights-based oversight has a relatively short history in the Irish context. Consequently, the influence of human rights on the IPS's accountability culture is not clearly manifest in the way in which the organisation approaches its accountability obligations. While there is recognition within the organisation of the need to be accountable towards people in custody, this is not necessarily understood through the lens of human rights. This will be further discussed in Section 9.6.

Regarding these sociocultural factors, the Irish context presents an example that bears neither an absence nor an excess of these two influences. Consequently, it presents an interesting case for study. This research recognises that broader societal structures bear substantial influence on the work and working culture of Irish prison managers with respect to oversight and accountability. As the extent of these and other sociocultural influences can vary, future research on oversight and accountability cultures within prison should recognise and explore the variegated experiences that can reside across different sociocultural contexts.

Nevertheless, overall, the attitudes among prison managers' towards prisoner complaints, inspection, and monitoring captured within this study were found to be generally positive. The valuable contribution and necessity of oversight was accepted by prison managers. Indeed, accountability with respect to one's oversight commitments was acknowledged by participants as an essential component of modern prison management, as will be explored further in Section 9.3. However, as summarised in Section 9.6, although general attitudes were positive, prison managers maintained several reservations regarding specific aspects of these oversight processes.

9.3 The Essential Role of Prison Managers in Prison Oversight

Oversight is an aspect of modern prison management that has been underexplored within the literature on prison staff culture. The findings of this research posit that prison managers are at the centre of oversight activity in prisons; their role inevitably poses them as both the subject of scrutiny as overseers of the prison and also as a vital source for oversight bodies in determining the account rendered. Owing to this, managers present a distinctive and important cohort for understanding accountability through oversight in prison. This study enriches the extant literature on two fronts: first, by providing an in-depth examination of an understudied staff cohort, and secondly by depicting how oversight obligations are experienced as an aspect of modern prison management that has previously been neglected. As detailed in Chapter 6, accountability is an important feature of the work environment and a high level of demand for accountability rests with senior staff. Crucially, this study has provided compelling evidence that senior staff experience accountability in a manner that substantially differs from that of frontline staff. Overall, this research has demonstrated considerable differences among these two occupational groups, particularly with respect to their level of contact with accountability mechanisms, their attitudes towards accountability processes, and their reported felt accountability.

The integral role of prison managers with respect to accountability was further supported by findings from the survey which identified that senior staff were much more likely than frontline staff to report contact with the prisoner complaints system, the OIP, and the CPT (see Chapter 7, Section 7.2.1 and Chapter 8, Section 8.2.1). A consequence of this – specifically when it comes to external prison oversight in the form of inspection and monitoring – is that much of the account provided by the prison is determined by those in management; the opportunity for engagement with staff at a frontline level is limited. Furthermore, the findings of the survey revealed that frontline staff are less willing to approach either the OIP and the CPT. The contribution of prison managers to external oversight is vitally important – they are ideally placed to provide a top-down view of significant issues and developments within the prison. However, by comparison, engagement with frontline staff is less frequent even though this cohort of staff have more regular contact with prisoners.

Examining prison managers' experiences of accountability also revealed that they report high levels of felt accountability. Felt accountability refers to the extent to which an individual cognitively internalises the expectations of a particular accountability audience for their own behaviour and actions (Hall et al., 2017; Hochwarter et al., 2007). Even though members of an organisation may be subject to the same mechanisms of accountability and oversight, their subjective experience of felt accountability can radically differ. The findings of the survey demonstrate that senior staff reported higher levels of felt accountability towards both internal line management and external oversight bodies when compared to frontline staff. Again, this finding underscores a discernible difference between these two occupational groups in terms of how they experience accountability. Reflecting on the theoretical literature, this poses an interesting finding. Felt accountability varies individually; yet, at the same time it is possible to identify pockets and occupational groups within organisations in which individuals share accountability experiences that are distinct from other groups. Accountability, while culturally-grounded, is not uniform across the organisation. As such, this finding further highlights the importance of conducting accountability research in real world settings; research of this kind can better inform our theoretical knowledge of these concepts in situ, as well as bringing a sensitivity to potential group differences within these organisational structures.

Additionally, this research identified that accountability obligations can impose a notable emotional toll. As described in Chapter 6, Section 6.3.3, the emotions associated with accountability can be acutely felt as evidenced by prison managers' descriptions of the moral and emotional weight of their accountability obligations. These accounts illuminate the affective dimension of the authority of prison managers, an aspect of prison staff culture that has not yet received much attention. On this, Drahos and Krygier (2017) have noted that the emotional dimension of accountability and regulatory work is something that, to date, been neglected in the regulation literature. This study has provided a novel contribution to the accountability and oversight literature, identifying that accountability work is not purely a clinical and dispassionate process. Rather, queries of accountability and one's accountability obligations can provoke significant emotional responses. Future studies may wish to expand on this line of research; for example, exploring the effects of shame and pride as affective motivations for accountability work as previously highlighted by Braithwaite (1989) Braithwaite et al. (2008) and Harris (2017).

Further to this, this finding contributes to the existing literature on emotions and prison staff culture, which remains an understudied area (see Barry 2017a; 2017b; 2019; Crawley, 2002; 2004; 2006; Tait, 2011). It introduces a new area of the affective topography of prison work, touching on the emotional weight and responsibilities of prison work.

In summary, this research aimed to capture the perspective of prison managers in relation to their experiences of oversight. In doing so, it revealed the unique responsibilities of prison management in this regard. The use of the survey instrument proved to be particularly useful in comparing the

experiences of senior staff with that of frontline staff, identifying several ways in which experiences differed among these two occupational groups. However, a limitation of this study's design is the level of depth afforded to the perspective of frontline staff, in that interviews for this group were not conducted. Future research may wish to focus on the perspectives of accountability among frontline staff as their experiences have been shown to differ in kind from those who work at managerial level. Because of their close proximity to prisoners, inquiry into the experiences of this group could be particularly informative in terms of how accountability work is conducted at the 'coal-face', as opposed to at the administrative level.

9.4 Acknowledging the Limitations of Prison Oversight

Many scholars in the field of penology have espoused the importance of oversight for places of detention (Deitch, 2021; Rogan, 2019; van Zyl Smit & Snacken, 2009). Chapter 3 discussed the need for human rights-informed oversight as a means to safeguard the rights and well-being of people in prison. This research does not argue against the importance of oversight, but rather it cautions of the considerable limitations that prison oversight encounters. As a result, oversight cannot be regarded as a panacea for the many complex issues and challenges experienced by people in custody and prison staff. Indeed, this research has exhibited many ways in which prison oversight does not operate entirely smoothly or effectively.

For example, Deitch (2021) has claimed that prison oversight yields a kind of Hawthorne effect³⁰ in that the mere act of overseeing prisons, in and of itself, changes the course of the prison institution. Conversely, this research has demonstrated that despite the high levels of internal and external felt accountability reported among senior prison staff, these measures are not associated with a discernible effect on prison managers' reported behaviour. More specifically, internal felt accountability was not correlated with self-reports of the extent to which prison managers reported that their actions were affected by the possibility of being reviewed through internal oversight. Likewise, there was no correlation between measures of external felt accountability and the extent to which prison managers reported that their actions were affected by the possibility of being reviewed by an external oversight body. This is indicative that the effects of the *presence* of oversight and the possibility of scrutiny is not in itself enough to change behaviour – the effects of oversight are not sustained in this way. This finding identifies a significant limitation of oversight, thus challenging existing scholarship and proponents of penal oversight. It begs the question as to whether oversight can be rendered more effective with respect to staff engagement and 'steering' behaviour (see Section 3.4.3). This research recognises that the potential for oversight mechanisms to offer this is limited.³¹ However, what is perhaps more

³⁰ The Hawthorne effect refers to behavioural changes in an individual that arise from the knowledge that they are being observed, rendering them more likely to comply with the wishes of the observer (Wickstrom & Bendix, 2000).

³¹ Arguably, major structural changes to the nature of these mechanisms (such as granting powers of enforcement for inspection and monitoring bodies or the introduction of an external appellant for the complaints mechanism) could

amenable to change is staff's attitudes towards these mechanisms and their broader oversight obligations. To this effect, Section 9.7 proposes a series of recommendations that concentrate on exploring accountability culture and staff attitudes, strengthening existing oversight relationships, and promoting positive attitudes towards oversight and its processes.

Nevertheless, during interviews, prison managers *did* acknowledge that several positive outcomes could be attributed to the work of prison oversight. For example, Chapter 7 discussed the constructive potential of prisoner complaints in calling attention to unprofessional behaviour. Additionally, in Chapter 8 participants described how inspection and monitoring processes had been used to constructive effect in the past by drawing attention to significant issues such as committal procedures, slopping out, or inter-prisoner violence. In this respect, as Deitch (2021) attests, there are indeed benefits of oversight for the prison administration. This is perhaps where prison oversight is at its most effective, where it uses its reporting capabilities to draw attention to specific issues and demand action.

Yet, relatedly, the recommendations arising from inspection and monitoring can be a source of frustration for prison management. As described in Chapter 8, prison managers are often held accountable for high-level issues within their prison that are beyond their authority to rectify. As such, when accountability is directed to those without the matched capacity to act, the implementation of recommendations cannot progress. This finding presents another striking example of the limitations of oversight. Aligned with previous work by Tomczak (2019), this research would argue that, when making recommendations, oversight bodies need to be cognisant of directing them towards those with the ability and resources to initiate genuine change. Firstly, this poses a vital consideration for the work of oversight bodies when it comes to recommendation making. Secondly, it introduces an important consideration for the literature on penal oversight; in seeking to assess the contribution of oversight to matters of penal policy and reform, there is a need to examine the pragmatics of how oversight processes and the monitoring of recommendations are instantiated.

A further example of the considerable limitations of oversight can be observed in the case of prisoner complaints. The oversight literature continually posits that complaints offer a fundamental safeguard to prisoners from ill-treatment (CPT, 2018; OIP, 2016). Prison managers recognised that complaints can have constructive potential in that they can draw attention to unprofessional conduct, specifically where it concerns the abuse or ill-treatment of prisoners. This function is significantly hampered by prison managers' inability to act when it comes to staff discipline, as detailed in Chapter 6, Section 6.3.2.3. Without the ability to issue such consequences, it is difficult to see how the complaints system can be said to function as a safeguard in this respect.

prove more effective in this respect; however, this study and the recommendations posed concentrate on the accountability mechanisms studied in their current form.

Additionally, complaints systems are intended to function as a managerial tool by providing managers information on recurring issues within the prison (CPT, 2018). However, interviews revealed that complaints are not systematically used to identify trends in issues occurring within the prison. As such, they have minimal ability to be used in a preventative capacity. It is proposed that annual thematic reporting on complaints could be a beneficial addition for identifying recurring issues and for organisational learning in this regard. While undoubtedly a means to frame complaints as beneficial for prison administration, oversight bodies and complaints scholarship should take caution not to overstate the extent to which complaints can fulfil this function, in particular, where complaints as a managerial tool is not matched with appropriate measures on the ground.

9.5 Variation in Response Strategies to Oversight

In her empirical research with public sector executives, Sinclair (1995) described accountability as an elusive 'chameleon-like' concept. Similarly, accountability scholars have acknowledged that accountability is highly subjective and context-specific in that there are many different factors that underpin how an individual responds to a particular accountability mechanism (Frink & Klimoski, 1998; Hall et al., 2017; Lerner & Tetlock, 1999). The current study concurs with these perspectives. A central theme arising from this research concerns the diversity of modes of response to oversight in the form of both prisoner complaints as well as inspection and monitoring. Cooperation, engagement, and willingness to comply with oversight on the part of those who are overseen is desirable; and while it does not guarantee success, it increases the prospect of good oversight outcomes (Braithwaite, 2017).

Scholars have raised compelling criticisms of the impact of human rights principles within prison and the ability of human rights instruments to substantially impact prison conditions and prison policy (Armstrong, 2018; Murphy & Whitty, 2007; Whitty, 2011). Despite states' commitments and obligations with respect to human rights standards in prisons, there remains: scepticism towards human rights; inconsistent uptake of instruments, principles, and recommendations; and human rights violations continue to be observed. While previous research in this area has concentrated on the state level (Daems, 2017; Koskeniemi & Lappi-Seppälä, 2018), this study posits that additional variance occurs at the individual level within the prison administration. Specifically, it argues that, firstly, prison managers are significant conduits in relation to the implementation of human rights in prison. Secondly, it argues the differential adoption and instantiation of human rights principles advocated by prison oversight mechanisms is, in part, explained by prison managers' views of these mechanisms and their willingness to 'buy-in' and engage.

As described in Chapter 7, prisoner complaints proved to be a complex and controversial issue. The need for a formalised mechanism to support prisoners' right to complain was widely supported by prison managers who took part in the interview study. Yet, at the same time, participants expressed very nuanced opinions and attitudes to complaint. Section 7.3 detailed how complaints could be viewed

through the lens of their constructive or destructive potentials – in other words, the benefit or the harm that complaints could yield. Depending on how complaints were perceived, prison managers described a number of different response strategies that were used to manage complaint. This analysis introduces a novel application of Sykes and Matza's (1957) techniques of neutralisation for understanding managers' differing modes of response. These included: resolving an issue before it got to paper; encouraging the submission of formal complaints; referring prisoners to the complaints process to avoid dealing with issues directly; trivialising or undermining complaints; and reversing the responsibility within the matter of the complaint.

This analysis demonstrates that the complaints system in its current form is multifarious. Prison managers do not view share a uniform view of complaints; and likewise, all matters of complaint are not approached uniformly. Prison managers utilise a variety of strategies to manage complaints within their prison, and these strategies are not necessarily mutually exclusive. Some strategies demonstrates recognition of the importance of complaint and prisoners' right to complain. But rather problematically, some strategies are cynical attempts to quash the issues raised or indeed the complainant themselves. A significant consequence of this multifariousness is that users of the system can never be sure which 'system' they will encounter when they submit a complaint. As such, establishing prisoners' trust and confidence in the complaints system – which has been repeatedly advocated as fundamental for its effectiveness (CPT, 2015; IPRT, 2020; OIP, 2012) – will undoubtedly be difficult to achieve. This study has provided a detailed examination of a relatively underexamined aspect of prison life in the forms of complaints. Unlike past studies (Calavita & Jenness, 2013; Dâmboeanu et al., 2020; Jenness & Calavita, 2018), it has shed light on complaints from the perspective of those who adjudicated on complaint as opposed to complainants. In doing so it has provided a novel addition to the literature.

A review of the prisoner complaints system by IPS is currently underway (OIP, 2021). However, the diversity of approaches in managing complaint suggests that IPS as an organisation needs to engage in a dialogue as to the purpose of complaints and the right to complaint with staff at all levels. As evident from the descriptions among staff regarding the perceived destructive potential of complaint, there is still some cynicism directed towards complaints, and perceptions that the complaints system is misused by prisoners. As noted by Prenzler (2004) in his research on complaints in policing context, there will always be a small proportion of complaints that are submitted disingenuously, but it is essential that this minority does not colour views of the system and its intended function. Moreover, Prenzler (2004) adds that the significance of complaints that *are* received is elevated by the fact that the many people who have a grievance will not complain owing to the significant barriers to complaining against a person of authority. It is proposed that greater staff engagement through training on the topic of complaints and the function of complaints could be beneficial in this regard.

Similarly, when it came to engagement with the OIP and the CPT, prison managers described a number of different response strategies. The identification of these strategies built upon existing theoretical

work by Braithwaite (1995; 2003; 2017; Braithwaite et al. 2007; Braithwaite et al. 2008), as set out in Chapter 3. Braithwaite (1995) argued that individuals make an evaluation of an authority based on their own personal values and the extent to which they feel the authority aligns with these values. This evaluation, in turn, determines their motivational posture – the extent of distance they look to place between themselves and the authority. From an analysis of the interview data presented in Chapter 8, this research identified previously established postures of commitment, capitulation, and resistance (Braithwaite, 2003), in addition to the newly identified postures of leverage, indifference, and defensiveness. Thus, this research contributes to the existing theoretical literature by providing additional exemplars of postures towards oversight bodies. By expanding the theoretical literature in this way, this, in turn, may assist in understanding accountability and oversight relationships in other settings.

This research expands on Braithwaite's theoretical work in that motivational postures towards inspection and monitoring bodies were linked with different styles of engagement. Some prison managers sought to actively engage with the oversight bodies, viewing oversight as a productive opportunity; for others oversight through inspection and monitoring was something to be abided; finally, some prison managers took a more disruptive approach. The description of these strategies is demonstrative of the variety of ways in which oversight bodies can be engaged with. Evidently, some patterns of engagement are more constructive than others. Identification of these postures is an important foundational step in understanding *how* oversight is perceived on the part of those who are the subject of scrutiny. As such, this research has important implications for literature on prison staff culture and understanding oversight in prison; but additionally, it poses interesting considerations for oversight bodies themselves, providing practical and useful insight into the oversight process from the perspective of those that they oversee. Explicitly, it provides a means for oversight practitioners to recognise the attitudes, behaviours and perspectives that they may encounter within settings of this kind, and to apply this knowledge to foster better oversight relationships.

However, as an inductive study with an exploratory focus, a limitation of this study's design is that it does not provide an indication of the prevalence of the response strategies used in relation to complaint or the motivational postures deployed towards oversight. Nevertheless, the descriptions provided within this study may lend themselves to subsequent research and the development of instruments to survey and capture the extent to which these behavioural patterns are utilised on the ground.

Moreover, this research presents findings of interest for the IPS in that it captures the organisation's response to external oversight. Motivational postures are derived from personal attitudes and experience (Braithwaite, 1995); therefore, they are not fixed and can evolve over time. Understanding how these attitudes and perceptions of oversight bodies are formed at an individual level is therefore crucial to building towards a more productive relationship between IPS and these bodies. Braithwaite (2003) argues that when the interests and views of the oversight body and those who are overseen

align the overseen will look to minimise the social distance placed between the two. In this regard, Section 9.7 contains some recommendations for change that may yield more positive attitudes towards oversight in the form of inspection and monitoring. Specifically, providing training for staff at all grades on the function of external oversight and its relationship to individual and organisational accountability could be very conducive for this purpose. Furthermore, at an organisational level, the variety of response strategies deployed by prison managers again raises the question as to what type of postures the IPS wants to promote within their organisation when it comes to engaging with external oversight.

9.6 Clarifying Oversight Functions and Processes

As mentioned, positive relationships between oversight bodies and those that they oversee are conducive to better oversight outcomes (Braithwaite, 2017). Accordingly, it is important to understand the perspectives of those placed under scrutiny and their views on oversight. One objective of this research was to ascertain the aspects of inspection and monitoring processes that were important to prison staff. As identified through the survey, clarity of oversight processes demonstrated a strong positive correlation to senior staff's opinions of the OIP and the CPT (see Chapter 8, Sections 8.3.1.1 and 8.3.2.1). However, at the same time, the survey and interview data also indicated that both prison managers and frontline staff lacked clarity as to how these processes were carried out on the ground. Frontline staff, in particular, reported less clarity regarding inspection and monitoring activities.

Messner (2009) and Roberts (2009) have argued that being accountable means using the framework of expectations of another, and thus its explanatory constraints, in order to explain our conduct. In exploring the human rights mechanism of complaint, the language of human rights was deployed to some extent in participants' recognition of the function of the complaints system and prisoners' right to complain (Chapter 7, Section 7.3.1). However, human rights discourse was not obviously embedded in participants' descriptions of their experiences with inspection and monitoring. Neither was the language of human rights conscripted as a tool of the establishment in order to protect the prison administration, as described within Armstrong's (2018) analysis of the Scottish Prison Service. Rather, prison inspection and monitoring has been somewhat conflated with the language of audit and traditional inspection. Audit is another, albeit very technical, form of oversight in which meeting established standards is typically indicative of good performance. However, within a human rights perspective, meeting the standards is viewed as the base minimum for performance. Therefore, that staff view these human rights-led forms of oversight through the lens of audit is somewhat problematic in that there is a certain misalignment when it comes to understanding the function and framework of these oversight mechanisms. To this, there is impetus on the oversight bodies to convey and elucidate their role.

Lerner and Tetlock (1999) have proposed that people respond more positively to bodies of authority when they view their demand for accountability as legitimate. Conversely, where demands for account

from a body are regarded as illegitimate, the accountability process can break down. For this reason, it is recommended that oversight bodies such as the OIP and the CPT should endeavour to provide greater clarity regarding their role and processes of inspection and monitoring. Part of the oversight and accountability training for staff proposed in Section 9.4 could incorporate an explanation of the oversight processes themselves, their methods, and the standards for inspection. The new inspection framework recently launched by the OIP (2020b) is a welcome development in this respect as it makes explicit the inspection process as well as the standards of assessment. The introduction of the inspection framework also poses a compelling opportunity for further study. Continued research in this area, building on the findings established in this study, could investigate the impact of the new inspection framework on Irish prison staff's attitudes towards the OIP and their engagement with prison oversight in this form.

Another aspect of inspection and monitoring raised within the interviews and surveys concerned the use of negative reporting. The survey findings indicated that opinions among senior staff towards the CPT negatively correlated with their belief that the body concentrated on reporting negative findings. Similarly, the issue of negative reporting was raised by prison managers during the interviews with respect to both the OIP and the CPT (see Chapter 8, Sections 8.3.1.2 and 8.3.2.4). The interviews illustrated that negative reporting can be extremely discouraging for prison staff, in particular where staff feel as though they are 'responsibilised' but, yet, not in a position of sufficient authority to address the criticisms raised.

Importantly, oversight bodies must be objective and impartial in their reporting; it is not their duty to be sympathetic to prison staff. However, as previous scholars have noted, there is important organisational learning to be obtained from the recognition of good practice and what is working well within prison, as much as from critique (Tomczak, 2019). This research would agree with this position. The new inspection framework proposed by the OIP (2020b) proposes to report both positive and negative findings observed during inspection visits. Again, this provides an interesting opportunity for future research by way of exploring how this shift in the inspection model affects staff's perceptions of the Office and their willingness to engage with oversight.

9.7 Recommendations for Change to Policy and Practice

The key findings from this study have been summarised thematically within the previous sections of this chapter. Grounded in these findings, this section sets out seven recommendations for changes to policy and practice for both the prison administration and oversight bodies. It is argued that, based on the empirical evidence gathered within this study, the implementation of these recommendations would lead to substantial improvements to the instantiation of these mechanisms, in addition to strengthening oversight relationships with these external bodies.

First, and most fundamentally, this research recommends that IPS examine how accountability, oversight obligations, and oversight objectives fit within its organisational culture more broadly. There is a growing level of accountability obligations experienced by staff at IPS (Chapter 4), which is most acutely felt by those in management. However, at present the organisational culture is not one in which these accountability obligations comfortably reside (Chapter 6). Explicitly, there remains defensive and indifferent attitudes toward complaints, inspection, and monitoring that prove problematic and undermine the potential of these accountability mechanisms. Hall et al. (2007) advocate that organisations should look to firmly embed the concept of accountability within organisational culture. This involves deep consideration of what accountability should look like within the organisation, how this should be reflected in staff behaviour, and how answerability for one's actions in the workplace should be internalised by staff (Hall et al., 2007). This requires an re-examination of the wider organisational culture in order to take steps towards a culture that is inclusive of these changing accountability obligations and committed to fulfilling them in a meaningful way. The *IPS Corporate Governance* document is one policy instrument through which the nature of these obligations could be formally explored and explicitly established (IPS, 2016). This is a demanding yet essential undertaking for the organisation, as culture cannot be changed from without (Schein, 2010).

Second, and relatedly, it is recommended that the value of oversight for the organisation, once explored and identified, should be thoroughly communicated within IPS. In reflecting on how accountability through oversight fits within the organisation and its culture, IPS needs to ascertain how these processes can be beneficial and constructive and not merely obligations to be fulfilled. In interviews, prison managers noted several ways in which organisational learning and positive change has been gleaned from these processes in the past – though perhaps examples were more readily apparent for inspection and monitoring than in the case of the complaints system. As demonstrated within this research, prison managers have greater exposure to accountability through these oversight mechanisms, and thus greater awareness of the potential returns for the organisation. At present, however, these perspectives on accountability and oversight are more individualistic than culturally-embedded. Furthermore, perspectives on accountability mechanisms are much different among frontline staff. Therefore, it is recommended that the function and value of oversight is not something that should be targeted at prison managers alone, but needs to be communicated to staff at all levels.

Third, it is very apparent that there is a need for better communication regarding the processual aspects of these mechanisms both within the IPS as well as between the IPS and external oversight bodies. Regarding inspection and monitoring, this was evident in the fact that prison staff at both frontline and managerial levels lacked clarity as to how these processes were conducted in practice. Owing to this, this study recommends that oversight bodies such as the OIP and the CPT should endeavour to provide greater clarity regarding their role and processes of inspection and monitoring. This entails providing explicit descriptions of the methods by which oversight is conducted; expounding the principles and instruments of human rights that underpin the inspection model; detailing comprehensible standards and areas of assessment; and establishing a clear link between the evidence gathered and the

recommendations made. Likewise, it is important that IPS also takes responsibility for communicating this information to both management and staff, whether through staff training or informational materials. For both parties, details of oversight processes should be communicated in a manner that is clear, succinct, easily available, and accessible.

Likewise, on complaints, there was a clear divide between prison management and frontline staff as to how the investigative mechanisms were both understood and regarded. This was particularly evidenced by the survey findings. Here, it is again recommended that training be provided for staff at all levels as to the function and process of complaints within the Irish prison system. It is proposed that this additional training could allay negative perceptions of complaint. In particular, training should pay particular attention to prisoners' right to complain, complaints as a means to safeguard the welfare of prisoners, communicating decisions to both prisoners and staff affected, and the use of complaints as an organisational tool.

Fourth, there should be recognition that increased oversight demands are coupled with an accompanying cost. Oversight necessarily introduces a demand on resources. In the case of inspection and monitoring, there is a need to support the demands of the visit. This can involve visit preparation, meeting with the delegation and providing account, facilitating the delegation's movements within the prison, addressing requests for records and documentation, or actioning recommendations arising from the visit. This is something that oversight bodies need to be mindful of during their visits. Likewise, resourcing issues were also evident in relation to addressing the obligations of the complaints system. Interviewees spoke of the time-intensive demands of investigating and responding to complaints (see Section 7.2.2). Here, it is recommended that accountability tasks should be matched with appropriate resourcing. This requires IPS to recognise the additional burden that meeting these obligations imposes, and to resource these tasks appropriately if they are to be meaningfully fulfilled.

Fifth, it is recommended that oversight through inspection and monitoring activities should endeavour to capture all perspectives. Understandably, for oversight bodies that are grounded in human rights the experiences of people in custody are vitally important to ascertain. But, staff engagement is also critical for revealing persistent and systemic high-level issues, and it is an important informational resource to avail of. Yet, this research has demonstrated that the nature of engagement with the oversight body tends to be confined to prison management. Thus, the lack of engagement with frontline staff – those who have regular close contact with prisoners – is a missed opportunity for oversight bodies to be apprised of critical issues within the prison. Owing to this, it is recommended that the CPT and the OIP make greater effort to include frontline staff engagement in their oversight activities. This has been incorporated into the OIP's (2020b) new inspection framework through the use of staff surveys, but could equally be adopted by the CPT.

Sixth, the findings of this study indicate that the reporting activities of oversight bodies should identify good practice alongside critique, and that positive reporting could be implemented to greater effect by the OIP and the CPT. The existing literature affirms that organisational learning is a core function of oversight (Aucoin & Heintzman, 2000). Findings from the interviews and surveys indicate that the content of inspection and monitoring reports was perceived to be prevalently negative. Consequently, the effect for prison management could be more discouraging than encouraging. While positive points are dotted throughout reports, positive reporting could be more deliberately focused. As such, it is recommended that inspection and monitoring activities could actively highlight positive findings or innovations within prisons that are examples of best practice or where minimum standards are exceeded and why they have proven to be effective. It is argued that this approach to reporting could promote change through recognition in addition to through critique.

Finally, it is essential that the outcomes of oversight are coupled with the power to act if they are to be efficacious. In the case of serious allegations handled by the complaints system, it is clear that, at present, prison managers do not have the ability to act on conclusions of staff misconduct (Section 6.3.2.3). Inevitably, this undermines the ability of the process to provide accountability. As such, it is proposed that management needs to be empowered through organisational policy to act on such cases where grounds for dismissal are necessary. In the case of inspection and monitoring, recommendations received by management are not always issues that are within their capacity to address. As such, in line with previous research (Tomczack, 2019), this study argues that recommendations must be directed towards those with the ability to act if they are to secure change. Otherwise, recommendations can be without true ownership and become ineffectual as a result.

9.8 Summary

The objectives of this research were to understand how accountability obligations are understood within, and influenced by, the prison environment. It sought to understand prison managers' attitudes towards inspection, monitoring, and complaints, as well as the strategies used when responding to these forms of oversight. The key findings of this research are summarised within this chapter according to five overarching themes: the significance of prison as a setting for accountability; the unique role undertaken by prison managers with respect to accountability; the limitations of prison oversight; the variety of responses prompted by the accountability mechanisms of prisoner complaints and inspection and monitoring; and the need for greater clarity regarding the processes and function of these oversight mechanisms. Following this, it presented a series of recommendations by which the complaints system, inspection, and monitoring could be ameliorated within the Irish context. In combining disparate areas of research, the current study contributes to the existing literatures on prison culture, prison management, prison oversight, accountability, and regulation. It provides an in-depth mixed methods exploration of a facet of prison work that has been previously understudied.

Regarding prison culture and prison work, this study offers a novel account of accountability obligations as a central component of contemporary prison management. The findings recognise that accountability forms a considerable part of the work of prison staff, and that the emphasis on accountability work is keenly felt by those in management. However, an important conclusion of this research is that these obligations are being undertaken in an organisational culture that does not optimally support their fulfilment. Explicitly, obstacles within the organisational culture are manifest in perceptions of a blame culture, a lack of support from line management, and the emotional burden that accountability obligations can impose. Moreover, there is a lack of alignment between the objectives of the oversight mechanisms with the goals of the organisation. It is recommended that these aspects of the culture must be addressed to allow for more constructive perspectives on accountability and oversight among prison staff. Here, lessons can be drawn from other prison systems, other coercive settings, as well as from practices of 'just culture'.

In examining prison managers' experiences with the complaints system, the OIP, and the CPT, a range of response strategies were observed. Some prison managers are highly committed to mechanisms of human rights-led oversight, while others look to minimise these obligations insofar as is possible. Consequently, these mechanisms – each of which, in their own way, seek to advocate for particular standards of treatment in prison – can result in drastically different instantiations of oversight. In some cases, oversight through inspection, monitoring, and complaint is viewed as a valuable tool and is met enthusiastically, in other cases, it is met with indifference. Inevitably, this raises the question as to how to ensure that the most constructive instantiations of oversight are arrived at. To this, greater engagement as well as incorporation of staff perspectives on oversight work are viewed as important stepping stones for improvement.

Notably, prison oversight encounters several obstacles identified within this research. It may be viewed by as a tick box exercise and so the practice of oversight lacks proper recognition of the principles it intends to uphold. It may be met with disinterest by people on the ground tasked with accountability obligations. Its recommendations may be misdirected or left with individuals who lack the impetus to action them. The recommendations proposed in this chapter are intended to take steps towards improving the effectiveness of oversight in prison. Through an examination of the organisational culture, staff training, procedural transparency, and investing in oversight relationships it is envisaged that prison oversight can be strengthened and improved.

Finally, it is important to return to the objectives of prison oversight. Oversight aspires to provide openness, transparency, and accountability. Additionally, from a human rights perspective, oversight provides a fundamental protection for prisoners, ensuring that their rights are safeguarded in prison. However, oversight is a process of focused and incremental change. Its positive impact lies not in revolutionary changes or sweeping reform, but in the continual pressure for action and the gradual advancement of conditions. Despite the significant limitations raised, the presence of oversight remains

essential, particularly for a component of society that is often – and sometimes deliberately – shielded from public view. In this respect, as described by one participant in this study, the crux of prison oversight is “*always about pushing. Pushing, nudging, nudging.*”

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