

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Carl Russell, a prisoner at HMP/YOI Thorn Cross, on 7 October 2018

A report by the Prisons and Probation Ombudsman

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OUR VISION

To deliver high quality and timely independent investigations and work closely with partners to achieve tangible benefits for the safety and confidence of those in custody and under community supervision.

WHAT WE DO



WHAT WE VALUE



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The Prisons and Probation Ombudsman aims to make a significant contribution to safer, fairer custody and community supervision. One of the most important ways in which we work towards that aim is by carrying out independent investigations into deaths, due to any cause, of prisoners, young people in detention, residents of approved premises and detainees in immigration centres.

If my office is to best assist His Majesty's Prison and Probation Service (HMPPS) in ensuring the standard of care received by those within service remit is appropriate, our recommendations should be focused, evidenced and viable. This is especially the case if there is evidence of systemic failure.

Mr Carl Russell was murdered in Liverpool on 7 October 2022, while on resettlement day release from HMP/YOI Thorn Cross. He died of a gunshot wound to the head. He was 27 years old. I offer my condolences to Mr Russell's family and friends.

Merseyside Police continue to investigate the circumstances of Mr Russell's death.

Mr Russell had been at HMP/YOI Thorn Cross since 6 March 2018. Prison managers assessed him as suitable to be released on temporary licence and Mr Russell had successfully completed several release days. He had also been working with a local construction company in the community prior to his death.

My investigation found that HMP/YOI Thorn Cross correctly followed the guidelines as set out in the temporary release policy framework. At the time of his release, the prison were not aware of any immediate risks to Mr Russell's life.

This version of my report, published on my website, has been amended to remove the names of staff and prisoners involved in my investigation.

Adrian Usher
Prisons and Probation Ombudsman

September 2024

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The Investigation Process

1. HMPPS notified us of Mr Russell's death on 8 October 2018.
2. Due to the nature of Mr Russell's death, Merseyside Police asked the PPO investigator to suspend the investigation immediately. We suspended our investigation on 11 October 2018, while the police investigated the circumstances of Mr Russell's death. The investigation was then transferred to one of the original investigator's colleagues.
3. The investigator remained in regular contact with the police. Although the police investigation is still ongoing, they have agreed that the publication of this report will not hinder their investigation. The police kindly provided us with copies of transcripts of interviews completed with staff at Thorn Cross, and we have used these, plus Mr Russell's prison and medical records, to inform our report.
4. NHS England commissioned a clinical reviewer to review Mr Russell's clinical care at the prison.
5. We informed HM Coroner for Merseyside of the investigation. We have sent the Coroner a copy of this report.
6. Mr Russell's family have been supported by Merseyside Police family liaison officers. We contacted Mr Russell's mother in advance of issuing this report.
7. Neither HMPPS nor Mr Russell's family raised any factual inaccuracies with our initial report.
8. An inquest held on 20 April 2020 at Liverpool and Wirral Coroner's Court returned a verdict of unlawful killing on Mr Russell's death.

Background Information

HMP/YOI Thorn Cross

9. HMP/YOI Thorn Cross is an open prison holding Category D adult male prisoners and young male offenders. Greater Manchester Mental Health NHS Foundation Trust provides both physical and mental healthcare services. The integrated clinical and psychosocial substance misuse services are delivered by Change, Grow, Live (CGL). The healthcare centre is open from 7.30am to 5.30pm on Monday to Friday and from 7.30am to 12.15pm on weekends and bank holidays.

HM Inspectorate of Prisons

10. The most recent inspection of HMP/YOI Thorn Cross was in May 2023. Inspectors reported that as an open prison, prisoners were not locked up and good efforts were made to promote family ties, especially the use of temporary release (ROTL) for home visits. ROTL was also used extensively to support other regime and resettlement activity, including the many prisoners who worked in paid employment outside the prison each day.

Independent Monitoring Board

11. Each prison has an Independent Monitoring Board (IMB) of unpaid volunteers from the local community who help to ensure that prisoners are treated fairly and decently. In its latest annual report, for the year to 30 April 2023, the IMB reported that Thorn Cross had rehabilitation at the heart of everything it did. There was a clear strategy in place and the sentence planning and education provision within the establishment helped the prisoners towards a successful release. The prisoners benefited from good working relationships between prison staff, outside agencies and employers.

Release on Temporary Licence (ROTL)

12. Release on Temporary Licence (ROTL) facilitates the rehabilitation of offenders, by helping to prepare them for resettlement in the community once they are released. This includes, among other examples, finding work and rebuilding family ties. It is intended that this will lead to reduced reoffending in the long-term. There is no entitlement to ROTL, but the expectation is that it will be widely used with suitable offenders in open prisons where the resourcing and infrastructure best enable ROTL to be undertaken.

Key Events

13. On 22 July 2017, Mr Carl Russell was remanded to HMP Liverpool charged with handling stolen goods, going equipped for theft of a motor vehicle and failure to surrender to custody. On 1 August, he was sentenced to 10 months in prison. On 19 September, he was moved to HMP Hindley. Mr Russell progressed through his sentence and staff raised no concerns about him.

HMP/YOI Thorn Cross

2018

14. On 6 March 2018, Mr Russell was transferred to HMP/YOI Thorn Cross (open conditions) as part of his sentence progression.
15. His reception health screen recorded that Mr Russell was in receipt of pain relief for chronic pain due to a life-threatening injury suffered after a shooting in 2010. Mr Russell had been diagnosed with post-traumatic stress disorder (PTSD) following the same incident. Healthcare staff referred him to the relevant clinics and support groups for his ongoing care.
16. Mr Russell's prison offender manager (POM) completed his induction when he arrived at Thorn Cross. His POM recorded that Mr Russell hoped to be approved for home detention curfew (HDC - a scheme that allows certain prisoners to serve the last part of their sentence at home, or another suitable address, for up to a maximum period of six months) at his mother's address as he would be eligible from 10 October. She recorded that Mr Russell had no issues with illicit drugs. She told Mr Russell that he had to complete a 'lie down' period before he could apply for any resettlement leave or other release on temporary licence (ROTL, which allows prisoners periods in the community for work or to build family relationships). (Prisoners that transfer to a prison of a lower category are not allowed ROTL until they have been in the new prison for three months. This provides staff time to consider progress, assess risk and evaluate how someone is coping with open conditions and the responsibility that comes with it.)
17. On 14 March, Mr Russell applied for accompanied (escorted by an officer) and unaccompanied (no escorts) day release, although this could not be actioned until he had completed his 'lie down' period.
18. Mr Russell attended education and started a plastering course. He received frequent keywork sessions and staff did not raise any concerns about him.
19. On 24 April, a warrant was issued for Mr Russell to appear at Liverpool Magistrates Court on a charge of dangerous driving, which predated his imprisonment. He attended court that day. Mr Russell pleaded guilty, and the case was adjourned for sentencing at Liverpool Crown Court. Following his court appearance, Mr Russell was taken to HMP Liverpool (as he was remanded on another charge, he was recategorised to category C).
20. On 22 May, Mr Russell was sentenced to a further nine months in prison. His category D status was reinstated on 29 May, and he transferred back to Thorn

Cross. However, he had to start his 'lie down' period again which would end on 29 August.

21. In June, Mr Russell applied for accompanied resettlement day release to enable him to attend forthcoming hospital outpatient appointments relating to his existing injuries. It was noted that these applications would be submitted mid-July before the end of the 'lie down' period.
22. Mr Russell's POM continued to conduct keywork sessions with Mr Russell regularly. She did not raise any concerns about him and described his behaviour as excellent. Mr Russell worked in the prison kitchen and received positive reports.
23. On 28 August, a Release on Temporary Licence (ROTL) risk assessment board took place to consider Mr Russell's ROTL application and suitability for resettlement day release. The risk assessment process includes input from the Probation Service, and if relevant, the police. There is no evidence that the process highlighted any risks to Mr Russell's safety in the community. On 31 August, prison managers approved Mr Russell's application and he was granted three accompanied resettlement day releases.
24. On 7 September, Mr Russell attended hospital in Warrington for an outpatient's appointment. One officer accompanied him, and his behaviour was recorded as excellent. Mr Russell completed two further accompanied day releases without issue.
25. Mr Russell's POM said in her statement that on 29 September, Mr Russell had applied for unaccompanied day release for 7 October, using a resettlement day release travel plan (which is posted into a secure post box and emptied by administration staff). She authorised the application. She said that at that time, Mr Russell had been on unaccompanied work release at a local construction company (it is not clear for how long he had been doing this). She said that Mr Russell had been under her supervision for approximately 12 months, and he had never raised concerns with her about being under threat or expressed any concerns about his well-being.
26. The prison confirmed that ROTL arrangements for prisoners are not publicised so other prisoners would not know an individual's travel plans unless the prisoner chose to tell others.
27. On 7 October, Mr Russell was released on temporary day release. The usual hours for day release are 8.00am until 5.00pm. On the day of release, prisoners wait in the prison reception while staff check their travel plan and ensure that they have a copy of their licence which confirms they have been granted day release. Reception staff saw Mr Russell, checked his travel plan, and released him. A routine 'whereabouts' call was made by the prison and recorded at 10.00am. Mr Russell confirmed he had been collected from the prison by his partner and was on his way to his family home, no concerns were reported.
28. Later that day, a local news broadcast alerted staff at Thorn Cross to a shooting in the local area. The investigation was told that in such circumstances it was standard practice at Thorn Cross to contact all prisoners on day release to check their whereabouts and well-being. The prison contacted Mr Russell but when unable to

get through, contacted his partner as his nominated contact, who confirmed that he had been the victim of a shooting.

Contact with Mr Russell's family.

29. Due to the nature of Mr Russell's death Merseyside Police appointed police family liaison officers to support his family.

Support for prisoners and staff

30. The prison posted notices informing other prisoners of Mr Russell's death and offering support.

Post-mortem report

31. Due to the on-going police investigation, Mr Russell's cause of death has not been shared.

Findings

Release on temporary licence (ROTL) / Resettlement day release (RDR)

32. Release on temporary licence policy framework states that:
33. Prisoners may be released on RDR to undertake activities that are linked to objectives in their sentence plans. This is the key criterion and there is no list of approved activities but, in order to be lawful, its purpose must fall under one of the prescribed list of reasons for temporary release under Rule 9(3) of the Prison Rules. Primarily under this heading release must be to engage in paid or voluntary work, to receive instruction or training which cannot reasonably be provided in the prison, or to assist in maintaining family ties or transition from prison to the community.
34. The investigation has found that Mr Russell's resettlement day release followed the principles as set out in the framework, and that the prison was not aware of any risk to Mr Russell when making their decision to grant his release.
35. The investigation was told that it was and still is standard practice to complete 'whereabouts' calls with prisoners that are out on ROTL, such as that made to Mr Russell at 10.00am. The prison also said that at that time in 2018 it was likely that there were few prisoners on ROTL at any one time, and that one third of Thorn Cross prisoners came from the Merseyside area with a large number involved with or with links to Organised Criminal Gangs (OCG's.) Therefore, it would have been standard practice to follow up on any reports of incidents, such as Mr Russell's shooting, to check on the whereabouts and safety of those on ROTL.

Clinical care

36. The clinical reviewer concluded that the care Mr Russell at Thorn Cross was equivalent to what he could have expected to receive in the community.

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