The death of a prisoner shortly after release on Home Detention Curfew from HMP Lincoln on 7 May 2004

Report by the Prisons and Probation Ombudsman for England and Wales

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1. Introduction

This is the report of an investigation into the circumstances surrounding the death of a prisoner. The man was released from HMP Lincoln on 7 May 2004 under the provisions of the Home Detention Curfew Scheme (HDC) on condition that he resided at Approved Premises in Lincoln. He did not arrive at the approved premises and was found dead on 11 May 2004 from a drug overdose.

I offer my sincere condolences to the prisoner's family, friends and others touched by his death. At 36, he was a relatively young man who died a lonely death.

This was one of the first cases referred to my office since I became responsible for the investigation of all deaths in prisons and approved premises on 1 April 2004. Although the prisoner died after leaving prison and before reaching the approved premises, I decided that his circumstances were within the spirit of my remit. I chose, therefore, to exercise my discretion as my terms of reference allow to examine his death and the decision to release him on HDC.

I am grateful to an Assistant Chief Officer of Lincolnshire Probation Area and her colleagues for the assistance they provided to my investigator. I wish equally to extend my thanks to the Governor of HMP Lincoln and her staff for their help.

This report makes two recommendations for the Prison Service and identifies two areas of good practice. I am particularly impressed by Lincoln's approach to overdose prevention and harm reduction for those prisoners it is releasing back into the community.

Stephen Shaw CBE **March 2005**
Prisons and Probation Ombudsman

2. Summary

The prisoner was sentenced to a total of nine months imprisonment on 18 March 2004 for four offences of assault. It was not his first period of imprisonment at Lincoln. He was known to use illegal drugs and alcohol in the community and had previous convictions for violent conduct. Nevertheless, he applied for and was successful in gaining release on HDC under the proviso that he would live at approved premises, comply with their conditions of residence, be fitted with an electronic tag and agree to be supervised by the National Probation Service. If he had not received HDC, his automatic release date would have been 14 July 2004.

On the morning of 7 May 2004, the prisoner was released on licence from HMP Lincoln. Despite the approved premises being approximately two miles from the prison, he did not arrive by the evening and his bed was withdrawn. I understand from Lincolnshire police that the prisoner was known to have travelled to Scunthorpe with friends on 10 May 2004 to obtain drugs. He was found dead at about 10:15 on 11 May in the refuse area of a block of communal flats.

3. Investigative Process

I was notified of the prisoner's death on 11 May and asked my investigator to conduct initial enquiries to determine the scope of the investigation. I was aware at the outset that neither the Prison Service nor the National Probation Service were technically responsible for the prisoner's well-being when he died.

Nevertheless, having learnt of the circumstances of the prisoner's death, I decided there might be value in explaining both the decision to release him on HDC and the advice HMP Lincoln gives to prisoners about to be released regarding their reduced tolerance to drugs.

As part of her enquiries, my investigator spoke to Lincolnshire Police and to staff at HMP Lincoln and the National Probation Service. My Family Liaison Officer contacted the prisoner's sister, who spoke of her brother's feelings before his death. Neither the prisoner's former partner nor his former wife whom he had named as his next-of-kin on his reception to prison in March 2004, wished to be involved in the investigation.

4. The prisoner's recent history at HMP Lincoln

On 25 June 2003, the prisoner was remanded in custody on charges unrelated to those for which he subsequently received a prison sentence. He disclosed to a Health Care professional whilst being interviewed on reception, that he used £35 worth of amphetamines a day. Assessed on 8 July 2003, at the mental health in-reach clinic held at the prison, he stated that a month and half previously he had taken a heroin overdose with the intention of dying but had been resuscitated. He described himself as "pissed off", tired and angry. It was noted that his risk to others was in not currently taking his medication. He was given bail on 14 October 2003 but returned to court on 30 December and was remanded in custody.

A Prison Custody Officer, also a member of the court staff, opened an F2052SH, a form used by the Prison Service to record concerns and detail support for prisoners who are at risk of suicide and/or self harm, after the prisoner told court staff that he was "in a bad way". He was upset about being sent to prison due to [unspecified] family problems and had been quite aggressive to escorting staff at court.

On arrival at Lincoln, the prisoner told Reception staff that he did not intend to harm himself but needed help with his drug addiction. Shortly afterwards he told an officer, who describes his behaviour as "very anxious and agitated", that he had taken a heroin overdose on 27 December and "says he will not kill himself now? Lots of domestic issues to be addressed."

The Manager of J wing (the location for prisoners newly received into the prison), noted that he knew the prisoner and that he did seem very low. The prisoner had stated that he wanted to kill himself because he had a terminal illness. He had apparently told friends and family in the past that he had liver cancer. In fact, this does not appear to have been the case although he had suffered from hepatitis. The wing manager concluded that the prisoner would need close observation for a few days and he was referred to the Health Care Centre. It was noted by a nurse that the prisoner was physically very poorly, that he had mental health problems but was refusing to go into Health Care. He was seen at 15:30 on 30 December by a doctor who concluded: "Main problem is anger!! Very slow to anger and a volatile individual. More likely to harm others than himself." He recommended observation and a single cell.

An entry in the prisoner's Record of Events (F2052A) (a record in which any day-to-day occurrences are noted by staff) says that he was "received on First Night Centre v.bad attitude towards the staff".

A review of the prisoner's case took place on 31 December. It was noted that his mood was still very low. Staff continued to observe him approximately four times an hour. On 1 January 2004, he appeared more positive in mood. A note in his medical record says that he said he is not suicidal and that his main problem was a "short fuse" and that the court staff working for Group 4 had misunderstood him. An unsigned entry on the F2052SH at 10:30 that day reads

> "…no evidence of mental illness - he is not suicidal. Has Hep B&C and liver cancer he has come to terms with his [unreadable] problem. In prison for affray, reduced check to level 1."

Regular intermittent checks are recorded until the last entry on 4 January 2004. No details of whether the form was closed are recorded on the front in the box provided.

On 10 February 2004, a member of staff recorded their suspicions that the prisoner might have been trying to get drugs brought into the prison. Also, he seemed upset and asked to speak to a Listener (a prisoner trained by the Samaritans, to provide peer support to prisoners who are at risk of self harm). It is noted in his medical record that staff were worried about his state of mind as he appeared angry and upset.

On 24 February, the prisoner was discharged from Lincoln for court at which he was given a 2 year Community Rehabilitation Order with conditions for psychological treatment.

5. Lincoln's documentation prior to the prisoner's death

On 1 March 2004, the prisoner appeared again at Lincoln Magistrates Court on other charges and was remanded in custody. According to the Prisoner Escort Record (PER), which accompanies all detained persons when they are on an escorted journey, he complained to a Custody Officer of severe pain to his ribs. It was also noted that he had a bruise to his face. At 10:15 he requested to see a doctor as he wanted medication.

At 10:40, he had an interview whilst at court with a person from Addaction, a charity which assesses persons with substance-abuse problems with a view to diverting them away from the criminal justice process. He disclosed that he felt like killing himself and, as a result of this, a Suicide/Self-harm Warning Form was initiated by staff at the court at 10:55. This detailed the cause for their concern:

> "Stated during assessment that was frustrated over failures of probation & courts to recognise his mental health problems & intended to 'top himself' as had tried to do in past with tablet overdose."

The form notes that the prisoner was located in a single cell and was observed intermittently. There is an entry "Doctor call out - DP appears depressed."
An entry on the PER at 11:12 states, "informed Control do not now require doctor". It is unclear from the documentation whether the doctor had been requested solely at the prisoner's behest or because of worries about his state of mind. In any event, no reasons were provided for the cancellation.

The prisoner was seen by a Reception Officer at HMP Lincoln and was screened by a Health Care Officer but it was decided not to open an F2052SH. Her professional opinion was she did not think it necessary. A Cell Sharing Risk Assessment form noted that he had a previous F2052SH but, while he had abused drugs or alcohol in the past, he was not currently dependent. He said that he had concerns about sharing a cell and would describe himself as a person who gets angry/frustrated quickly. Initially he was assessed as medium risk (which is defined as of no immediate risk but a situation that would need regular review). After the assessment, the HCO noted that the prisoner failed to engage with the screening process. She noted that she had the feeling that something was wrong. Coupled with knowledge of his previous behaviour and agitation/aggression, this could indicate a risk to others, the assessment concluded that unless he was taking medication, he would be a high risk to others.

Shortly after his reception, the prisoner's mother died. He was taken to see her at the hospital mortuary on 9 March 2004 as no funeral service was held. My investigator was unable to find any references in his prison record to his mother's death other than a print-out of his movements in and out of the prison. On 18 March, he was sentenced to a total of nine months imprisonment.

7. Home Detention Curfew assessment

Suitability Assessment (HDC1)

The process to consider the prisoner's application for Home Detention Curfew, a scheme where prisoners serving under four years can be released early provided they meet the criteria and do not pose an undue risk to the public was commenced on 24 March. The prisoner met the eligibility criteria in that he was serving less than four years, had served a quarter of his sentence and had not committed an offence which made him unsuitable.

The assessment form comprises six sections. Section One contained his personal details. Section Two: Prison Staff Members Report was completed by an officer on his landing. He commented on the form that the prisoner was:

"…usually always polite and relatively chatty … in the process of applying for the VDT [Voluntary Drug Testing] programme! No history of adjudications and no red warnings to date. He has got a supportive family … he tells me he needs more psychiatric support when not in prison."

Section Three: the Risk Predictor said there was a raised risk of reconviction for violent offending and a high risk of the prisoner being imprisoned within the next two years. Section Four is an initial review of the paperwork. A request was made for the Pre-Sentence Report and more information on the address the prisoner intended to stay at on release (a family friend) in case it was in close proximity to his victim.

Dated 9 October 2003, the Pre-Sentence Report detailed the prisoner's comprehensive drug abuse, emotional and physical abuse as a child, history of domestic violence and deep-rooted attitudes concerning violence as a means of solving problems. In assessing his risk of harm and the likelihood of re-offending, it acknowledged that his compliance with probation supervision had been good in the past, but his risk of re-offending was high. It identified four risk factors - sudden mood swings from feeling very low to suddenly becoming angry and aggressive, risk of harm to the general public, high risk of re-offending and a chaotic lifestyle. The prisoner had previously been referred to a Multi Agency Public Protection Panel (MAPPP) in 2000 but, having responded well to probation supervision, had been de-registered in March 2002. Regarding attempts to take his life, the report said:

> "the prisoner's medical records evidence a long history of self-harm including cutting himself and overdoses. He tells me that over the past two years he has deliberately injected himself with a heroin overdose, his last attempt being earlier this year. The prisoner tells me that at the time he felt he had nothing to live for following the breakdown of his relationship, being homeless and his ongoing dependency upon drugs and alcohol … the prisoner is assessed as being high risk of self-harm."

Section Five: Summary of comments by the Home Probation Officer strongly supported HDC to Approved Premises. The Home Probation Officer had visited the prisoner on 26 April at Lincoln where they discussed his proposed address. She considered it inappropriate as it was close to his victim and put

forward the possibility of him residing at the approved premises as a condition of his HDC, to which he agreed. Approved Premises, formerly known as Probation and Bail Hostels, are approved by the Secretary of State under section 9 of the Criminal Justice and Court Services Act 2000 to provide accommodation for the supervision and rehabilitation of persons convicted of offences. The hostel was contacted, he was accepted and a place reserved for him. She emphasised that, as the CRO was still in force, the prisoner would be able to attend appointments for treatment and he was keen to do so.

Section Six of the Assessment was completed on 29 April by a seconded Probation Officer to the prison. She concluded:

> "This is an exceptional case. He is assessed as a High Risk of re-offending and re-imprisonment and this is evidenced by his previous convictions and attached reports [Pre-Sentence Report] which detail mental health concerns. However, on 24 Feb 2004 he was given 2 yr CRO at Lincoln Crown Court with condition for psychological treatment. On 18 March 2004 he got this 9 month sentence. A hostel place is reserved for him which is suitable and which allows me to support his release on HDC."

The case was referred for an Enhanced Assessment, a more detailed consideration, due to the prisoner being at High Risk.

During this period, an entry in his medical record on 27 March noted that he declined to be seen by a Consultant Psychiatrist of Lincoln's psychiatric in-reach team.

On 30 March, the prisoner was allocated to HMP Ranby, a category C (medium security) prison. Prison Service guidance on HDC applications states that prisoners should not be transferred whilst assessment of their case is underway. This would appear to account for the prisoner remaining in Lincoln.

Enhanced Assessment (HDC4)

A Board to consider whether to grant HDC was convened on 5 May. It comprised of the seconded probation officer and an acting governor. The Board examined the high probability of his early re-offending. His previous convictions included offences of failing to surrender to bail in 1992, 1994 and 1999. The Board considered the strong support his Probation Officer had made in his favour and having acknowledged the facts that he would be managed by a High Risk team, that suitable accommodation in Approved Premises was available and that he could receive the psychological treatment he needed under the CRO, it decided to recommend that HDC be granted. The Deputy Governor, endorsed this decision on 6 May and the prisoner was notified that day.

On 7 May 2004, the prisoner was seen in the Reception area of Lincoln by a Principal Officer who has worked at the prison for a number of years and was

very familiar with him. As the PO in charge of discharging prisoners that day, he went through the administrative procedures. This included reading out his HDC licence conditions amongst which were that the curfew would begin that day and last until 14 July 2004, the date he would have been released if he was unsuccessful in getting HDC. He was required to reside at the approved premises and submit to a curfew which would be from 15:00 to midnight that day and from 19:00 until 07:00 every day. A tag would be fitted so that his movements could be monitored. The PO remembers the prisoner seeming in high spirits, quite happy with no concerns. He had expressed mock surprise at the prisoner being successful in getting HDC and that he had smiled at this. The prisoner was given the money he had accrued during his stay - £244.21 - and had left the prison seeming cheerful.

The Home Probation Officer, and the Manager of the approved premises, waited at the Approved Premises for the prisoner to arrive. They confirmed with the prison that he had been released and were concerned when he did not turn up, given that the prison was no more than a couple of miles away and several hours had elapsed. At 17:00, the Manager contacted Premier Monitoring Services, who were responsible for activating the electronic monitoring system, and withdrew the prisoner's place at the premises. The police were then notified of his non-appearance.

According to the post-mortem report, the prisoner was found on 11 May, slumped at the rear door of a communal block of flats with used hypodermic needles on him. Apparently recent injection marks were on the insides of both forearms.

8. National Probation Service considerations in recommending HDC

As part of the National Probation Service's (NPSs) assessment of the prisoner and how his needs would be managed, an on-going assessment document was created using the Offender Assessment System (OASys), a computer program where risks can be identified and analysed. On 7 May 2004, the Home Probation Officer completed the assessment. She identified that people at risk from the prisoner were the general public, future partners, his ex-partner and staff. She said that his problems with alcohol and drugs, his poor management of his emotions, fatalistic attitudes and negative attitudes towards women, could create circumstances where risk would be increased. She identified that motivational work and engaging with psychological/psychiatric treatment would be likely to reduce risk. The prisoner had received psychiatric treatment in the past but had been transferred back to prison after threatening to bite nursing staff in 2002 (he had previously bitten a police officer in 2000 and had hepatitis). According to the Probation Service, this limited the mental health treatment that was available to the prisoner as staff at a Regional Secure Unit did not feel able to keep him. His Probation Officer had previously written to the Forensic Consultant Psychologist on 20 April 2004 to say that the prisoner was still motivated to attend sessions and that he would be resident at the Approved Premises if granted HDC. The assessment set out a risk management plan to manage the prisoner in the community by supervision by the High Risk Team based in Lincoln and sharing information at Divisional Risk Meetings with other relevant public agencies such as the police.

Other strategies included pursuing the aim of securing psychological treatment, addressing his substance misuse with Addaction, and undertaking relevant offending behaviour programmes aimed at tackling his use of violence as a way of expressing his emotions.

A Risk Management Plan was also devised to counter any threat the prisoner might pose to staff at the hostel and at the NPS office, with specific instructions as to the actions staff should take if certain scenarios occurred. The plan noted, however, that he had been dealt with successfully in the past and had not made any threats to NPS staff. His Probation Officer was very experienced and was used to engaging with High Risk Offenders. His throughcare had been considered and supported with a detailed plan.

9. HMP Lincoln approach to drug counselling

HMP Lincoln is a Victorian prison opened in 1872. It holds up to 481 prisoners, both convicted and on remand. Counselling for substance addiction is voluntary. It is provided under the Prison Service's CARATS (Counselling Assessment Referral Advice and Throughcare) services by Compass, an organisation specialising in tackling problem drug use by intervention, relapse prevention and referral to community based groups, which provides services for prisons in Lincolnshire, Nottinghamshire and Hull.

At the time of the prisoner's last period in Lincoln, according to CARATS records he had not sought any contact with them.

As part of pre-release preparations, Lincoln have a prisoner development pre-release package run by staff and Custody to Work (part of the Department for Work and Pensions) although CARATS were part of it until last year. The emphasis is on making prisoners employable and providing skills for jobs. The pre-release course includes a relapse and overdose prevention course which lasts for one day.

The CARATS team at Lincoln consists of three prison officers and two staff from Compass - a Drugs Worker and a Resettlement Worker. At the time of writing, there were only three staff in post. The CARATS team explained to my investigator that, on reception, new prisoners are urine tested as part of a health screen. Where a significant presence of drugs is revealed, detoxification is provided. All new prisoners are spoken to individually by CARATS staff who explain their services and provide a referral form should they wish to seek further help with an addiction. As a follow up, the Probation Service also see new prisoners which gives them another opportunity to disclose a drug problem. They can also make a wing application at any time. Should a prisoner seek help, there is a waiting list to see a worker.

At the time of the prisoner's death, there was no requirement for CARATS to be pro-active if prisoners did not make contact with them prior to release. However, since 1 September 2004, CARATS have been running Overdose Prevention Groups (OPGs) for all prisoners the week before they are released. Each prisoner is asked if they wish to attend an OPG and its purpose is explained. Whilst attendance is not compulsory, prisoners are required to sign a compact to acknowledge that they have been given information about it. Each prisoner is given a Lincoln Harm Reduction Statement. This notes that one in ten deaths from a drug overdose is of a newly released prisoner. It alerts prisoners to their reduced tolerance to drugs and offers advice on harm reduction.

Those prisoners who agree to attend an OPG are also given a wallet with cards for drug agencies in the Lincolnshire area and practical advice on signs of overdose, what to do if it occurs, resuscitation techniques and further exploration of the Harm Reduction Statement. The OPGs discuss the issue of tolerance. Statistics of deaths due to low tolerance are provided during the session. Clients who have asked for CARATS help during their stay are given a release plan to manage themselves once back in the community.

10. Consideration and conclusions

The prisoner was vulnerable to self-harm. He recognised that he had mental health problems, but when an appointment for him to see a psychiatrist for assessment was made he declined to keep it. Whilst he carried a measure of anger in his daily life, he was not only a risk to others but, as his death has shown, at risk of harming himself. It is unclear when his previous F2052SH was closed before he was released in February 2004. It is also not apparent why a new one was not opened when he returned in March 2004, having said at court that he felt like "topping himself ". Lincoln should have made sure that those decisions and the reasons for them were clearly documented.

The prisoner's use of drugs to alleviate his mood was not tackled at Lincoln as, at the time he was there, there was no requirement for CARATS to be pro-active if prisoners did not make contact. I am pleased to see that CARATS outreach work has now been strengthened and that each prisoner to be released is personally reminded of the Harm Reduction Statement. This initiative should be supported by the provision of a fully staffed team.

The prisoner applied for HDC and met the eligibility criteria. The prison therefore had to weigh up whether he would pose an undue risk to the public. PSO 6700 on Risk Assessment for HDC states that prisoners must normally be released on HDC unless there are substantive reasons for retaining the prisoner in custody until their automatic release date.

There were reasons for and against giving the prisoner HDC. He was at high risk of re-offending and re-imprisonment and he had previous convictions for failing to surrender to bail. However, his Probation Officer strongly supported his application, he would have been managed by an experienced officer in a team specialising in High Risk offenders, he had a stable address at the hostel and he would have psychological treatment as part of his Community Rebilitation Order. As the Reviewing Officer of his HDC application rightly concluded, his was "an exceptional case".

The HDC decision could clearly have gone the other way. However, I can see no reason to criticise the Probation Service's recommendation that the prisoner be given HDC nor the Prison Service in granting it. The decision to grant HDC was finely balanced but, as the appropriate safeguards were in place, it was not unreasonable for him to have been released from prison early. It is important that people in the prisoner's situation are not excluded solely because they are seen as at high risk of re-offending, as long as they are manageable and do not place the public at undue risk.

The prisoner had a difficult early life and the effects of that stayed with him for the rest of his life. He was candid in disclosing to both prison and probation staff that he had attempted to take his life on previous occasions through his use of drugs. As he could appear "fine" a day after saying that he felt low, it was difficult for staff to gauge his mood particularly when, in their words, his behaviour became "demanding". Yet it was when he was at his most difficult that he most needed help. It may have been this paradox that led staff at Lincoln to come to a conclusion that he was more of a risk to others than to

himself - his death so soon after release shows that the risk to himself was never far from the surface.

There was always a likelihood that the prisoner would take drugs once released. When applying for HDC, he had said that he was in the process of applying to go on the Voluntary Drug Testing programme. This would suggest that he had some insight into his situation, but needed support and a structured environment to test his motivation to control his risk-taking behaviour. However, the most recent period he had spent in custody was too brief to make in-roads into a habit that had developed at a young age. It may be that being released from custody with a reasonable amount of cash proved too tempting.

It is clear that the National Probation Service had prepared comprehensive plans for the prisoner's release incorporating robust risk management, treatment, enhanced supervision and support. Sadly, as he did not manage to arrive at the approved premises, its effectiveness could not be tested.

Recommendations for HMP Lincoln

1. Where it is decided not to open an F2052SH form after receipt of a suicide/self-harm warning form, the reasons for that decision should be clearly documented in the prisoner's Record of Events (F2052A) and medical record (IMR).

2. The CARATS outreach team should be fully staffed.

Examples of good practice

1. Overdose Prevention Groups and individual Harm Reduction Statements for prisoners due to be released are examples of good practice which should be rolled out across the Prison Service.

2. Good communication between the Prison Service and the National Probation Service ensured that the prisoner would have received a continuity of care after his release from prison.