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CPT/Inf (2000) 1

Report to the United Kingdom Government on the visit to the United Kingdom and the Isle of Man carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

from 8 to 17 September 1997

The United Kingdom Government has requested the publication of this report.

At the request of the United Kingdom Government, the CPT has decided to omit from the published version of this report certain passages of professional legal advice from the Solicitors Department of the Metropolitan Police, to which its delegation had access, for reasons of legal professional privilege.

Strasbourg, 13 January 2000

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Copy of the letter transmitting the CPT'S report

Strasbourg, 27 March 1998

Dear Mr Nash,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the United Kingdom Government drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to the United Kingdom and the Isle of Man from 8 to 17 September 1997. The report was adopted by the CPT at its thirty-fifth meeting held from 9 to 12 March 1998.

I would draw your attention in particular to paragraph 4 of the preamble, in which the CPT requests the United Kingdom authorities to provide, within six months, a report on action taken upon its visit report. It would be most helpful if the United Kingdom authorities could provide a copy of their report in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

Ivan ZAKINE
President of the European Committee for
the prevention of torture and inhuman
or degrading treatment or punishment

Mr Ronald Peter NASH
Human Rights Policy Department
Foreign and Commonwealth Office
GB - LONDON SW1 2AH

PREAMBLE

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to the United Kingdom and the Crown Dependency of the Isle of Man from 8 to 17 September 1997.

2. The visit was carried out by the following members of the CPT:

- Mr Claude NICOLAY, President of the CPT, Head of the delegation
- Ms Nadia GEVERS LEUVEN-LACHINSKY
- Mr Demetrios STYLIANIDES.

They were assisted by:

- Ms Odile DIAMANT-BERGER (Head of the Forensic Medical Emergency Service at the Hôtel-Dieu Hospital in Paris) (expert)
- Ms Melanie ROE (interpreter)

and accompanied by the following members of the CPT's Secretariat:

- Mr Trevor STEVENS (Secretary of the CPT)
- Mr Mark KELLY.

3. The visit to the United Kingdom and the Crown Dependency of the Isle of Man was one which the CPT considered to be "required in the circumstances" (cf. Article 7, paragraph 1, of the Convention).

In the light of all the information at its disposal, the Committee concluded that the time had come to carry out a detailed examination of the efficacity of existing legal remedies in cases involving allegations of ill-treatment by police officers in the United Kingdom. The visit also afforded an opportunity to review the measures being taken by the United Kingdom authorities to tackle the growing problem of overcrowding in prisons in England and Wales.

As regards the Isle of Man[1], the visit focused on conditions of detention in the Crown Dependency's Prison, about which the CPT had recently received critical reports.

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[1] Which was visited from 12 to 16 September 1998 by a sub-group of the delegation (Ms Gevers Leuven-Lachinsky, Mr Stylianides and Mr Stevens).

4. The facts found during the visit are set out under sections I (United Kingdom) and II (Isle of Man) of this report. The various recommendations, comments and requests for information formulated by the CPT are summarised in Appendix I (United Kingdom) and II (Isle of Man).

The CPT requests the United Kingdom authorities to provide, within six months, a report setting out details of the measures adopted to implement the Committee's recommendations and their reactions and responses to its comments and requests for information.

I. UNITED KINGDOM

A. Introduction

5. The delegation met three Home Office Ministers, together with certain of their senior officials: Mr Alun MICHAEL MP, Minister of State with responsibility for police matters, Ms Joyce QUIN MP, Minister of State with responsibility for prisons, and Lord WILLIAMS OF MOSTYN QC, Parliamentary Under-Secretary of State with responsibility for human rights and for the Islands.

In the context of its examination of legal remedies for police misconduct, the delegation met Dame Barbara MILLS QC, Director of Public Prosecutions, Mr John CARTWRIGHT, Deputy Chairman of the Police Complaints Authority, and representatives of the Police Federation and the Association of Chief Police Officers. It also held discussions on the subject of overcrowding in prisons in England and Wales with Mr Richard TILT, Director General of HM Prison Service and with other senior officials from HM Prison Service.

All of these meetings took place in a frank and constructive atmosphere.

6. The delegation held a series of meetings with practising lawyers, representatives of non-governmental organisations and other individuals who were able to supply it with relevant information. The Committee is most grateful for the assistance provided by the persons concerned.

Further, on 15 January 1998, the Head of the delegation held a fruitful meeting in London with Judge Gerald BUTLER QC, who had been appointed to conduct an independent review of certain aspects of decision-making within the Crown Prosecution Service.

7. The delegation also visited the following places of detention:

Police establishments

- Brixton Police Station;
- Notting Hill Police Station;
- Peckham Police Station;
- Streatham Police Station.

Prisons

- HM Prison, Dorchester;
- HM Prison The Weare.

8. The co-operation received by the CPT's delegation before, during and after the visit can be qualified as excellent.

Particular reference should be made to the fact that the delegation was granted unrestricted access to all of the files which it requested from the Crown Prosecution Service, the Police Complaints Authority, the Metropolitan Police Solicitors Department and the Complaints and Investigation Branch of the Metropolitan Police. The approach adopted by the United Kingdom authorities to the provision of this information - which was necessary for the CPT's delegation to carry out its task - was entirely in accordance with the provisions of Article 8 (2)(d) of the Convention.

The CPT also wishes to acknowledge the valuable assistance which its delegation received from the liaison officers appointed by the United Kingdom authorities and, in particular, from Ms Fiona SPENCER and Ms Sue HARLING of the Human Rights Unit at the Home Office.

B. Legal remedies for police misconduct

a. preliminary remarks

9. The existence of effective mechanisms to tackle police misconduct is an important safeguard against ill-treatment of persons deprived of their liberty. In those cases where evidence of wrongdoing emerges, the imposition of appropriate disciplinary and/or criminal penalties can have a powerful dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment.

10. The question of the efficacity of legal remedies for police misconduct in the United Kingdom has been a subject of interest to the CPT for a number of years.

As regards, more particularly, England and Wales, the report on the CPT's 1994 visit referred to the case of Mr Treadaway (cf. paragraph 29, below) who, in July 1994, was awarded some £50,000 in civil damages against the Chief Constable of the West Midlands Police Force.[2] The Committee requested to be informed of any action taken in the light of that decision. In their response, the United Kingdom authorities indicated that, after due consideration, it had been decided that neither criminal nor disciplinary proceedings should be taken against any of the police officers concerned (cf. paragraph 16 of document CPT/Inf (96) 11 and page 6 of document CPT/Inf (96) 12).

Subsequently, in June 1996, the CPT received information about a number of cases in which substantial damages had been awarded to persons who alleged that they had been assaulted by officers of the Metropolitan Police. The Committee raised three such cases (involving awards of £222,000, £150,000 and £64,000) with the United Kingdom authorities and requested to be informed of whether the police officers involved in those cases had been or would be the subject of criminal or disciplinary proceedings. The response of the United Kingdom authorities indicated that this was not the case (cf. the President of the CPT's letter of 25 June 1996 and the reply of the United Kingdom authorities, dated 6 September 1996).

11. More recently, the CPT has received information from non-governmental organisations and other sources which refers to a lack of public confidence in police complaints procedures. In particular, it has been advanced that there is now a marked tendency for members of the public to pursue their grievances against the police through the civil courts, rather than have recourse to the formal complaints system. Moreover, it has been suggested that, even in cases where there may be considerable evidence of wrongdoing by police officers, it is rare for criminal and/or disciplinary proceedings to be brought and even rarer for police officers to be convicted or disciplined.

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[2] Mr Treadaway had claimed that, whilst held at Bromford Lane Police Station, Birmingham in April 1982, his hands were handcuffed behind his back and a plastic bag was repeatedly placed over his head until he agreed to sign a confession. The trial judge in the civil case concluded that Mr Treadaway's treatment by members of the (now disbanded) West Midlands Serious Crimes Squad had amounted to "nothing less than torture".

12. Having regard to all of the information at its disposal, the Committee decided that the time had come to carry out a visit, inter alia to examine in detail the efficacity of the procedures currently followed in England and Wales when allegations come to light of ill-treatment of detained persons by police officers.

13. The police complaints and discipline procedures for England and Wales are set out in Part IX of the Police and Criminal Evidence Act 1984 (PACE) and in a number of statutory instruments (SIs). This Act *inter alia* established the Police Complaints Authority (PCA), which has an independent status and may not include amongst its members any person who is, or has been, a police officer. The quite distinct procedures which apply in Northern Ireland and in Scotland are not examined in this report.

Given that the bulk of the allegations received by the CPT concerned the Metropolitan Police, the Committee's delegation focused its attention on that force.

14. In the course of the visit, the delegation held talks with, and examined files at: the Crown Prosecution Service (CPS); the PCA; the Metropolitan Police Solicitors Department, (MPSD) and the Complaints and Investigation Branch of the Metropolitan Police, (CIB). The delegation also sought the views of representatives of the Police Federation and the Association of Chief Police Officers.

In addition, on 15 January 1998, the Head of the CPT's delegation held a meeting in London with Judge Gerald Butler, who had been appointed to carry out a review of CPS decision-making in cases involving deaths in police or prison custody or possible serious assault charges against the police.

15. On the basis of the information gathered by the CPT's delegation, the following sections of this report provide an overview of the complaints, criminal and disciplinary procedures currently followed in England and Wales when allegations come to light of ill-treatment of detained persons by police officers. The report also sets out the facts found by the delegation regarding a number of cases in which members of the public have successfully sued for civil damages or received substantial out-of-court settlements on grounds including assault by Metropolitan Police officers.

This chapter concludes with the CPT's assessment of the procedures presently used to process complaints about police misconduct, and of the efficacity of criminal and/or disciplinary proceedings as legal remedies for police misconduct. In the light of that assessment, the Committee makes a number of proposals.

b. complaints against the police

16. Complaints against the police must be made to the police force which employs the officers whose conduct is being called into question. Oral complaints may be made at any police station and written complaints should be addressed to the "chief officer" of the force concerned (or the police officer to whom that function has been delegated). If complaints are sent to the PCA (cf. paragraph 13), the Authority will forward them to the relevant police force.

17. PACE provides that chief officers of police shall record all complaints which are submitted to them (Section 85 (1)). According to the PCA:

> "In the overwhelming majority of cases this causes no problem. However, there are occasions when a force refuses to record and the complainant seeks the assistance of the Authority. Although we have no powers to intervene in such cases, informal discussions can sometimes resolve the difficulty.
>
> Nevertheless, if the force remains adamant, there is nothing the Authority can do about it. Not unreasonably when faced with such a situation, complainants question the fairness of a system which allows the body being complained about to decide whether or not the matter should be pursued. They also question the effectiveness of a public watchdog which does not have the basic power to decide that a complaint should be investigated."[3]

18. Complaints which have been recorded are referred to the Complaints and Discipline Department of the force concerned (in London, to "Area Complaints Units" - ACUs - or, in more serious cases, to the Complaints and Investigation Branch - CIB). Police officers in those departments will then consider whether the complaint can be resolved informally. Informal resolution of complaints can only proceed if the complainant agrees and the relevant police officer is satisfied that "the conduct complained of, even if proved, would not justify criminal or disciplinary proceedings" (PACE, Section 85 (10)(b)).

19. If a complaint cannot be resolved informally, the chief officer will appoint an "investigating officer" ("IO") to carry out a formal investigation. In the vast majority of cases, the IO will be a police officer from the force about which the complaint is being made, although the chief officer may exceptionally decide to appoint a police officer from another force.

20. Two types of investigation are possible: those performed without external supervision and those "supervised" by the PCA. The majority of investigations are unsupervised. In such cases, the IO will carry out a formal investigation and submit a report directly to the chief officer of the force concerned (or his delegate). It is then for that officer to determine "whether the report indicates that a criminal offence may have been committed by a member of the police force for his area" (PACE, Section 90 (3)(b)(i)).

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[3] cf. page 43 of the 1995/96 Annual Report of the PCA, and page 48 of the Authority's 1996/97 Annual Report, reiterating this view.

However, all recorded complaints which allege that the conduct of a police officer has resulted in death or serious injury to some other person must be referred by the police to the PCA, which must supervise the investigation of the complaint.

Recorded complaints which include certain other categories of serious allegations must also be referred to the PCA.[4] Further, the PCA enjoys a statutory power to require a chief officer to submit any complaint which has not been referred to it (cf. section 87 (2) of PACE). Moreover, even if no complaint has been made by a member of the public, chief officers have a discretion, under section 88 of PACE, voluntarily to refer to the PCA any matter which "appears to indicate that an officer may have committed a criminal offence or behaved in a manner which would justify disciplinary proceedings". The PCA may decide to supervise the investigation of these latter categories of complaints and of matters not involving a complaint voluntarily referred to the Authority by the police, if it considers that it is in the public interest to do so.

21. In PCA supervised cases, the Authority is required to approve the chief officer's appointment of the investigating officer, and a member of the Authority is appointed to supervise the IO's investigation. The supervising member of the PCA will confer with the IO in order to ensure that evidence has been preserved and that measures have been taken to identify witnesses and suspects. Agreement will be reached upon a plan of investigation and general lines of inquiry and, thereafter, the supervising PCA member and PCA civil servant caseworkers will remain in contact with the IO, usually by telephone and/or letter. However, the day-to-day conduct of the investigation remains in the hands of the IO, and it is the IO's sole responsibility to draft the investigation report.

An IO's report on a supervised investigation is submitted to the PCA (together with a copy of all the evidence gathered and statements / transcripts generated during the investigation), and a copy is sent to the chief officer of the force concerned. The supervising PCA member must then determine whether or not the investigation has been satisfactorily completed. Once the member is so satisfied, the PCA will send the chief officer a statutory "appropriate statement" (cf. section 89 (7) of PACE) to that effect. However, at this stage, the Authority is not required to express a view on what action should be taken on the basis of the IO's report.

22. If, in the view of the chief officer, the report submitted by an IO after an investigation (whether supervised or unsupervised) indicates that a criminal offence may have been committed by one of his police officers, a copy of the report will be sent to the Director of Public Prosecutions (the DPP), who is the head of the Crown Prosecution Service (the CPS). In such cases, after the CPS has considered the question of criminal charges (on which cf. paragraphs 26 to 30), the chief officer is obliged to send the PCA a "section 90 memorandum" which states whether he has brought (or proposes to bring) disciplinary proceedings in respect of the conduct which was the subject of the investigation and, if not, giving his reasons (PACE, Section 90 (5)).

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[4] Namely: assault occasioning actual bodily harm, an offence under section 1 of the Prevention of Corruption Act 1906 or any "serious arrestable offence" (such as, for example, causing death by dangerous driving).

In cases where the CPS decides that criminal proceedings should be brought, the chief officer will often be obliged to recommend that no disciplinary proceedings be brought since, under the so-called "double jeopardy" rule, police officers cannot presently be disciplined in respect of facts which are in substance the same as those on which they have faced criminal charges (PACE, Sections 104 (1) and (2)[5]). On the other hand, the fact that the CPS decides not to bring criminal proceedings does not preclude the chief officer from recommending to the PCA that disciplinary proceedings should be brought.

If, by contrast, the chief officer is of the view that the IO's report does not indicate that a criminal offence may have been committed, the CPS will not receive a copy of the IO's report. However, a section 90 memorandum must still be sent to the PCA, setting out the chief officer's views on whether disciplinary proceedings should be brought (PACE, Section 90 (7)).

23. The PCA is under a statutory obligation to "review" all section 90 memoranda which are submitted to it, and to decide whether or not to accept the chief officer's recommendation on the bringing of disciplinary proceedings. If the PCA disagrees with a chief officer's recommendation that disciplinary proceedings should not be brought, it may recommend that such proceedings be brought, and if the chief officer does not comply with that recommendation, it may direct him to bring disciplinary proceedings[6].

24. To sum up, acting on the basis of an investigating police officer's report following an unsupervised or PCA supervised investigation, the CPS may decide to being criminal proceedings or the chief officer of police may, after having obtained the views of the PCA, decide to bring disciplinary proceedings against a police officer. The efficacity of these legal remedies against police misconduct will be discussed in the two sections which follow.

25. However, it should be noted at this stage that a significant proportion of complaints about the police are not processed in the manner outlined above, because they are withdrawn by the complainant or because the police are granted a PCA "dispensation" from the need to investigate. In the year 1996/97, 14,286 (39%) of the 36,731 recorded complaints against the police in England and Wales were either withdrawn or the subject of a dispensation. The PCA will usually grant a chief officer's request for a dispensation if the Authority considers that a complaint is anonymous, repetitious, vexatious, oppressive, an abuse of the procedures, if more than twelve months have passed between the incident and the complaint, or if it is not "reasonably practical" to carry out an investigation. In the year 1996/97, the PCA granted dispensations in just over half (5,238 out of 10,243) of all the police complaint cases which it considered.

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5 The Police Act 1996, Section 103 (3) and Schedule 9, Part II made provision for the repeal of these provisions, but, at the time of the visit, the repeal had not been brought into force.

6 According to Section 92 of PACE, the Authority also has the power to direct that a case be submitted to the CPS even though the chief officer has decided not to do so. However, the delegation was informed that the Authority has rarely if ever exercised this power and provision is made for its repeal in Section 103 (3) and Schedule 9, Part II of the Police Act 1996, as from a day to be appointed under Section 104 (2) of that Act.

Moreover, only a low proportion of complaints which are investigated in accordance with the procedures set out in paragraphs 18 to 24 are found to be substantiated, and even fewer lead to criminal and/or disciplinary proceedings against police officers. In the year 1996/97, 834 complaints against the police in England and Wales (i.e. 8 % of formally investigated complaints, 2 % of all recorded complaints) were found to be substantiated, and criminal and/or disciplinary proceedings were taken in 141 cases (i.e. 1.3 % of formally investigated complaints, 0.4 % of all recorded complaints).

c. criminal proceedings against the police

26. As already mentioned (cf. paragraph 22), it is for the DPP, as Head of the CPS, to determine whether criminal proceedings should be brought against a police officer. In practice, these decisions are delegated to lawyers employed by the CPS, who are known as Crown Prosecutors.

The CPS applies the Code for Crown Prosecutors (the Code) when making decisions as to whether prosecutions should be brought.

27. According to the Code, there are two stages in the decision to prosecute. The first stage is known as the *evidential test*, and if a case does not pass this test, it will not be allowed to proceed, no matter how important or serious it may be. The evidential test requires that:

> "5.1 Crown Prosecutors must be satisfied that there is enough evidence to provide 'a realistic prospect of conviction' against each defendant on each charge. They must consider what the defence case may be and how that is likely to affect the prosecution case.
>
> 5.2 A realistic prospect of conviction is an objective test. It means that a jury or a bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged."

If a case is deemed to pass the evidential test, Crown Prosecutors must apply the *public interest test*. According to the Code:

> "6.1 The public interest must be considered in every case where there is enough evidence to provide a realistic prospect of conviction. In cases of any seriousness, a prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour."

The Crown Prosecution Service will only bring a prosecution when a case has been deemed to pass both of these tests.

28. In applying the evidential test in the context of possible criminal proceedings against police officers, the Crown Prosecutor's task amounts to considering whether an investigating police officer has gathered "enough evidence" against another police officer, in most cases from the same force.

As indicated above, that evidence must be enough to provide "a realistic prospect of conviction". In reality, it is extremely rare for police officers to be convicted of a criminal offence as a result of an investigation arising out of a complaint. For example, during the year 1996/97, only 1 Metropolitan Police officer was convicted of a criminal offence as a result of an investigation arising out of a complaint.[7] This should be viewed against an annual number of complaints against that force of between five and six thousand, of which, in recent years, over two thousand per year have involved allegations of assault.

It has been suggested that Crown Prosecutors' awareness of the relatively low likelihood of securing a conviction against a police officer may tend to create a vicious circle, in which an increasingly higher standard of proof is required in order to justify the bringing of charges against police officers, leading to an ever-reducing number of cases passing the evidential test. Although such a situation would not be in conformity with the Code[8], many of the practising lawyers with whom the CPT's delegation spoke remarked upon the apparent reluctance of the CPS to bring criminal charges against police officers.

29. Concerns about the process and quality of CPS decision-making in cases involving consideration of possible criminal charges against police officers came to a head shortly before the CPT's 1997 visit. In late July 1997, three decisions by the CPS not to prosecute police officers were the subject of challenges by judicial review (the first occasion on which judicial review had been employed to that end).

Two of the cases concerned deaths in police custody (those of the late Messrs. Shiji Lapite and Richard O'Brien), in respect of which inquest juries had returned verdicts of unlawful killing. The purpose of an inquest is to establish the facts surrounding a suspicious death, rather than to attribute blame to the individuals who may have caused or contributed to the death. Nevertheless, the criminal standard of proof applies in inquest proceedings and, in the cases in question, the coroner had made clear to the juries concerned that a verdict of unlawful killing could only be returned if they were satisfied that this had been proved "beyond a reasonable doubt".

The third was that of Mr Derek Treadaway (cf. paragraph 10), who had been awarded substantial civil damages for "tortuous and criminal" assaults by police officers. In principle, this decision was reached on "the balance of probabilities" - the (lower) civil standard of proof. However, as the trial judge made clear, in civil cases where the actions in respect of which damages are sought could amount to criminal conduct, the judge or jury must be satisfied that the plaintiff's claim has been proved "to a high degree of probability".

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7 cf. Appendix 4.3 of the 1996/97 Report of the Commissioner of Police of the Metropolis.

8 cf. for example, section 4.12 of the Explanatory Memorandum to the Code, which makes clear that: " ... Crown Prosecutors should not be looking for the same high standard of proof [i.e. the standard of "beyond a reasonable doubt"] that a jury or bench of magistrates needs to find before it can convict. This is too high a standard for the Crown Prosecution Service to require and it would tend to usurp the role of the court. A test based on 'more likely than not' means just that. It requires Crown Prosecutors to weigh the adequacy of the evidence in order to decide whether a conviction is more likely than an acquittal. Only where it is clear that there is no realistic prospect of conviction should Crown Prosecutors decide not to prosecute."

30. On 23 and 24 July 1997, the DPP consented to the quashing of her decision not to prosecute in the Lapite and O'Brien cases and, on 31 July 1997, the Divisional Court quashed her decision not to prosecute in the Treadaway case. As a result of these decisions, "additional safeguards" were put in place by the Attorney General (the Minister who is accountable to Parliament for the work of the CPS). Henceforth, no prosecuting decision will be taken by the CPS in cases involving deaths in police or prison custody or possible serious assault charges against the police without independent advice from Treasury Counsel (i.e. from barristers retained by the Government). If the DPP disagrees with the advice given by Treasury Counsel, she must inform and consult the Attorney General and his Deputy (the Solicitor General).

These additional safeguards are to remain in place until consideration has been given to the findings of Judge Gerald Butler's review into CPS decision-making in such cases (cf. paragraph 6).

d. disciplinary proceedings against the police

31. As indicated above (cf. paragraph 22), the decision as to whether disciplinary proceedings should be brought against a police officer is made by the chief officer of the police force which employs the officer concerned, after considering the report prepared by an investigating police officer appointed by that chief officer.

Whilst it is true that all disciplinary decisions by chief officers are subject to "review" by the PCA (cf. paragraph 23), certain of the practising lawyers and representatives of non governmental organisations met by the delegation expressed doubts as to whether the PCA is properly equipped to carry out this role in a meaningful way. Emphasis was placed upon the fact that, even in respect of "supervised" investigations (cf. paragraphs 20 and 21), the PCA is wholly dependent upon evidence gathered by an investigating police officer of possible misconduct by other police officers, in most cases employed by the same force. It was also suggested that, when conducting reviews, members of the PCA may, on occasion, be unduly swayed by disciplinary recommendations made by chief officers (or their delegates).

The force of these criticisms appeared to be buttressed by certain of the documents seen by the CPT's delegation during the visit.

32. Particular reference should be made to the case of the late Mr Shiji Lapite (cf. paragraph 29) in which, following the decision of the CPS not to prosecute the police officers involved, the PCA decided not to require the chief officer (in this case, the Director of the Complaints and Investigation Branch of the Metropolitan Police, to whom the relevant functions of the chief officer are delegated) to bring disciplinary charges against those officers.

In the course of examining PCA papers on this case, together with the member of the Authority who had reviewed the matter, the delegation noted that, on 19 August 1996, the member concerned had written to the Director of the CIB in the following terms:

> "The Authority is very concerned about the many contradictions in the various accounts of the incident given by the officers and others, which bring into question the reasonableness of the force used by the officers to restrain Mr Lapite.

> In view of those concerns and on the basis of **all** the evidence, including that brought out at the inquest, the Authority believes, at this stage, that a recommendation to charge both officers would be appropriate".

However, the Director of the CIB did not bring disciplinary charges. Instead, in a letter dated 20 September 1996, he concluded that:

> "On this occasion, I have sought the advice of counsel and that advice has now been obtained. Having examined all the evidence contained in the statements, the exhibits and the transcript of the inquest, together with the points raised by the Authority, counsel and I are of the firm opinion that there is insufficient evidence of unnecessary violence to provide a realistic prospect of a finding of guilt against either officer.
>
> Recommendation
>
> With the benefit of counsel's advice, your letter has prompted a further scrutiny of the evidence in this case. I remain of the view that it falls short of that needed to supply any prospect of findings of guilt. It continues to be my opinion that disciplinary charges against either officer would therefore be inappropriate".

The "chief officer's" opinion prevailed, and no disciplinary proceedings were brought against the police officers concerned. However, on 23 July 1997, in the context of the judicial review proceedings to which reference was made in paragraph 29, the PCA accepted that it had failed to give proper consideration to the evidence when reviewing the chief officer's disciplinary decision in this case.

33. Further, in those cases where disciplinary charges are brought, it appears that police officers may evade the charges by obtaining medical retirement. The PCA has long been concerned by this and, in its most recent Triennial Review, it commented that:

> "We recognise that new Home Office guidance was issued on this subject in 1992, but this does not appear to have resolved the problem. If more effective action is not taken this situation will continue to undermine public faith in the discipline system."[9]

It would seem that a solution to this problem has not yet been found. According to the Metropolitan Police Commissioner's most recent annual report, in addition to the 121 police discipline cases completed during 1996/97:

> "33 officers resigned or retired while under investigation, five officers resigned or retired after criminal charges but before trial and nine officers resigned or retired after charging but prior to disciplinary hearing. Of these, five officers were suspended at the time and twenty three were medically discharged."[10]

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9 page 19 of the Triennial Review of the PCA, 1991-94

10 cf. footnote * to Appendix 4.4 of the 1996/97 Report of the Commissioner of the Metropolis.

34. In those few cases which reach the stage of a disciplinary hearing[11], that hearing is usually conducted by the chief officer sitting alone (although, in London, hearings may be conducted by a "disciplinary board" of 3 senior police officers).

Hearings are held in private; even the complainant is excluded if there are no witnesses, if the accused police officer pleads guilty, and when punishment is being considered.[12] The case against the accused officer is presented by another police officer. Lawyers may only be present if they are assisting the accused officer, or the police officer presenting the case against him. At the discretion of the chief officer conducting the hearing, a complainant may be permitted to question an accused officer who has chosen to give evidence.

Unless an accused police officer admits the disciplinary charge against him, it must be proved to the criminal standard i.e. "beyond a reasonable doubt" (whereas for other "disciplined forces" - including the prison service - the civil standard of proof of "the balance of probabilities" is applied). Moreover, unlike in ordinary criminal proceedings, police officers have retained the so-called "right to silence" in the context of disciplinary proceedings. In consequence, no adverse inferences may be drawn from the fact that a police officer facing disciplinary charges elects to remain silent.

35. The effectiveness of the current police disciplinary system has been criticised by a number of authorities, including the PCA and the Royal Commission on Criminal Justice[13]. Senior police officers have added their voices to these criticisms. As recently as 4 December 1997, the Metropolitan Police Commissioner told a House of Commons Select Committee that up to 250 officers in his force are criminal or dishonest and that his disciplinary powers to deal with such officers are inadequate; he commented that "the pendulum has swung heavily in favour of bad officers."[14]

36. Reform of the police disciplinary system has been mooted since March 1993, when the Government published a consultation paper on the subject. The legislative basis for change was provided by the Police and Magistrates' Courts Act 1994 and the Police Act 1996; however, almost all of the more far reaching changes proposed (which included a change to the civil standard of proof and the abolition of the "right to silence") require secondary legislation which, at the time of the delegation's visit in September 1997, had yet to be introduced.

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11 In the Metropolitan policing area in 1996/97, for 9,919 complaints completed, a total of 28 discipline cases were completed on charges arising from a matter about which a complaint had been made. Ibid. Appendices 4.1 and 4.4.

12 cf. regulation 22 of the Police (Discipline) Regulations 1985 and the Guidelines for Chief Officers on Police Complaints and Discipline Procedures, Annex B.

13 cf. paragraphs 96 to 103 of Chapter 3 of the Report of the Royal Commission on Criminal Justice (London, HMSO, 1993).

14 Q. 930, p. 118 of Volume II of the Home Affairs Select Committee Report on Police Disciplinary and Complaints Procedures (December 1997).

In December 1997, the House of Commons Home Affairs Select Committee completed an inquiry into police disciplinary and complaints procedures. The Select Committee concluded that: "there is a great deal of justified dissatisfaction with elements of the disciplinary and complaints systems. Improvements to the procedures are necessary if the system is to succeed in dealing with, and if necessary removing, officers who are corrupt or guilty of misconduct and if the public is to have full confidence both in the system and in the police as a whole".[15]

The Select Committee has recommended a number of measures designed to improve the procedures concerned (cf. paragraph 54), which are currently under consideration by the Home Secretary.

e. civil proceedings against the police

37. On the basis of the information set out above, it is apparent to the CPT that - for some considerable time - public confidence in the efficacity of criminal and disciplinary proceedings as legal remedies for police misconduct has been at a low ebb.

Certain of the Committee's interlocutors have suggested that this has fuelled a tendency for members of the public to pursue their grievances against the police through the civil courts. In this connection, the Committee has noted that, in 1996/97, there were a total of 1178 civil actions and threatened civil actions against the Metropolitan Police Commissioner and that, in 305 cases, damages amounting to £ 2,658,000 were paid.[16]

38. In the course of the 1997 visit, the CPT's delegation examined a number of cases in which plaintiffs had either succeeded in claims for civil damages or received substantial out-of-court settlements on grounds including assault by the Metropolitan Police. It studied official documents relating to those cases, paying particular attention to the legal advice provided to the chief officer (in the person of the Director of the CIB) by the force's in-house legal service, the Metropolitan Police Solicitors Department (MPSD).

The following cases are of particular illustrative value.

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15 Ibid. Volume I, at pages xvi to xvii.

16 cf. Appendix 5 of the 1996/97 Report of the Commissioner of the Metropolitan Police.

Case 1 Mr Gerald - jury award

39. In July 1996, in the context of civil proceedings before the Central London County Court, Mr Gerald complained that, after his arrest on 15 May 1990, he had been assaulted by a police officer or officers while held in a police vehicle. He alleged that a blow to his face had been followed by a series of others which had been inflicted before and after he had fallen, or been forced, to the floor of the vehicle.

When examined by a Forensic Medical Examiner at Harrow Road Police Station on 15 May 1990, Mr Gerald displayed injuries which included: florid swelling below both eyes, with sub conjunctival haemorrhage, bleeding from the left nostril, an abrasion to the right side of his lower lip, scuffing over the right side of his upper fibula, tenderness of the second, third and fourth metatarsals of his right foot. A subsequent x-ray of his right foot revealed that the metatarsals concerned had been fractured. Certain of these injuries are clearly visible in photographs of Mr Gerald which were taken within a few days of his arrest.

40. Mr Gerald claimed damages against the Commissioner of the Metropolitan Police for assault and battery, false imprisonment and malicious prosecution. The following are excerpts from written exchanges between the MPSD and senior police officers from Metropolitan Police 1 Area Headquarters (1 Area HQ) and the CIB.

Text omitted - see cover.

In July 1996, a jury awarded Mr Gerald a total sum of £125,000 in damages[17].

Case 2 Mr Racz and Mr Murphy - settlement

41. In July 1997, in the context of civil proceedings in the Central London County Court, Mr Racz and Mr Murphy complained that, at the time of their arrest on 29 June 1991, they had been assaulted by police officers. Mr Racz alleged that he had been roughly handled and pushed into a police vehicle with such force that he had landed on his face. Mr Murphy alleged that he had been punched in the stomach and ribs, that he had received further blows after he had been pushed face down onto the ground and that a police officer had grabbed him by the hair and banged his head on the ground. In addition, he alleged that his right wrist had been handcuffed to his right ankle and his left wrist to his left ankle and that, whilst so restrained, he had received a severe blow to the groin.

17 This award was subsequently reduced to £50,000 on appeal.

Mr Racz complained that he had suffered bruising as a result of the manner in which he had been arrested. On the afternoon of the day of his arrest, Mr Murphy was transported by ambulance to the Accident and Emergency Department of a local hospital, where a doctor recorded his allegations of assault and complaints of pain in the right cheek and left testes. On examination, Mr Murphy was found to display redness over the cheeks, tenderness over the right cheek bone and traces of recent bleeding from the nostrils. His abdomen was soft with mild tenderness and the left side of his scrotum was tense, swollen and tender.

42. Mr Racz and Mr Murphy claimed damages against the Commissioner of the Metropolitan Police for assault and battery, false imprisonment and malicious prosecution. In that context, an MPSD lawyer sent the following memorandum to the Director of the CIB:

Text omitted - see cover.

The case was subsequently settled by payment of £20,000 to Mr Racz and £30,000 to Mr Murphy on 20 August 1997.

Case 3 Mr Nightingale - settlement

43. In the context of civil proceedings in the High Court of Justice, Mr Nightingale complained that, on 30 April 1994, he had been attacked without warning by a Metropolitan Police dog called "Bizzo", the handler of which had then allowed it to maul his left leg for around two minutes.

After being bitten, Mr Nightingale was handcuffed and taken to Chelsea Police Station by the dog handler and another police officer, where the custody officer ordered that he be taken to a local hospital. On examination at the Casualty Department, he displayed a ragged wound of some four centimetres in diameter on his left leg. According to a later medical report drawn up by a Consultant Plastic Surgeon: "This required radical debridement and fasciotomies due to damage to the underlying muscle. The subsequent defects have been skin grafted leaving significant cosmetic deformities and tethering of the muscle which is restricting his ability to walk properly and fully mobilize his ankle. In addition, he has pain in the leg when walking and swelling in the ankle. He has also suffered significant anxiety and depression as a result of the incident and has been referred to a psychiatrist for treatment of this."

44. Mr Nightingale made a complaint about the manner in which he had been treated and co-operated with the IO's investigation, which was supervised by the PCA. His complaints were found to be unsubstantiated; however, the PCA criticised the police officers concerned for handcuffing Mr Nightingale after he had been bitten, and failing to take him straight to hospital. Both officers received "words of advice" about this.

In the course of parallel civil proceedings, additional eyewitness evidence emerged which materially undermined the evidence given by the police officers concerned. The following extracts are taken from MPSD memoranda to the Director of the CIB:

Text omitted - see cover.

The case was settled on 23 May 1997, when Mr Nightingale accepted a payment of £40,000.

Case 4 Mr and Mrs Ademuyiwa - settlement

45. In July 1997, in the context of civil proceedings in the Central London County Court, Mr and Mrs Ademuyiwa complained that they had been assaulted by police officers at the time of their arrest on 28 September 1993. Mr Ademuyiwa alleged that one of his arms had been twisted behind him and that handcuffs had been too tightly applied to his wrists, causing him great pain. Mrs Ademuyiwa, who was some eight months pregnant at the time, alleged that a police officer had gripped her by the throat, that she had been forcibly pushed into a police vehicle and that, during the journey to Stoke Newington Police Station, a police officer had knelt on her back.

Mr Ademuyiwa complained that his injuries had included swollen and cut wrists, while Mrs Ademuyiwa complained of pain in her back and lower abdomen. It is clear that these injuries were less serious than those in the three other cases cited above. However, as may be seen below, MPSD lawyers had identified another difficulty with this case.

Text omitted - see cover.

The case was settled on 10 July 1997, when each Plaintiff accepted a payment of £10,000.

46. Naturally, when a chief officer is confronted by a civil action, it is only to be expected that he will wish take legal advice, with a view to disposing of the matter in the most cost-effective manner. The nature of that legal advice, given in good faith by MPSD solicitors, is not, in itself, of concern to the CPT. Moreover, there will certainly be cases where a chief officer considers himself well-advised to settle out of court for a sum which is less than that which might be awarded by a jury in the event of the claim succeeding.

What is striking is that, in common with all of the other cases which were examined by the CPT's delegation, no criminal proceedings were taken against any of the police officers involved in any of the four cases cited above, either before or after the completion of civil proceedings. Neither, with the exception of the Nightingale case, were disciplinary proceedings taken before or after the civil proceedings. The case of Mr Nightingale is, in itself, notable in that disciplinary proceedings were not re-opened even after additional eyewitness evidence emerged in civil proceedings, which discredited the accounts given by the police officers concerned during the investigation of Mr Nightingale's complaint.

f. assessment and proposals for action

47. The information gathered by the CPT's delegation during its 1997 visit raises serious questions about the independence and impartiality of the procedures presently used to process complaints about police misconduct.

The delegation's findings also cast doubt upon the efficacity of criminal and/or disciplinary proceedings as legal remedies for police misconduct.

48. From the very beginning of the complaints process, at which stage the police retain sole discretion as to whether to record a complaint, through an investigation conducted and controlled by police officers, to the moment at which a police officer is required to assess the criminal and/or disciplinary implications of that investigation, the police themselves maintain a firm grip upon the handling of complaints against them.

49. Furthermore, the police retain a substantial degree of influence over whether criminal and/or disciplinary proceedings are brought against officers who have been the subject of a complaint.

In particular, the question of whether criminal proceedings should be brought will only arise if the "chief officer" of police considers that an investigating police officer's report indicates that a criminal offence may have been committed by one of his officers. Moreover, in those cases where chief officers determine that the CPS ought to consider whether criminal charges should be brought, the CPS remains dependant upon evidence which has been gathered by an investigating police officer.

The decision as to whether disciplinary proceedings should be brought against a police officer is a matter for the chief officer. Although such decisions are reviewed by the PCA, the Authority is not in a position to look beyond the evidence which has been collected by an

investigating police officer.

50. The CPT is also concerned by the manner in which the CPS and the PCA exercise their respective roles in cases involving possible criminal and /or disciplinary proceedings against police officers.

The information gathered in the course of the visit suggests that, on occasion, the CPS may be applying an unduly high threshold when considering whether there is sufficient evidence to justify bringing criminal proceedings against police officers. This consideration is particularly relevant as regards cases where inquest juries have concluded - beyond a reasonable doubt - that a person in police custody has been "unlawfully killed". It should also be recalled that, having regard to their nature and gravity, a civil court may require allegations against police officers to be proved to a very high degree of probability. It follows that the formal distinction between the civil and criminal standards of proof is not an entirely convincing explanation for a failure to bring criminal proceedings against police officers whose conduct has been called into question in civil proceedings.

As for the PCA, in its present form, the Authority appears ill-equipped to carry out the "watchdog" role in which it has been cast. The Authority's current functions are very tightly circumscribed and, perhaps in consequence, there is little public confidence in the PCA's independence. Indeed, in the Authority's own 1996 public attitude survey: " ... the proportion of those who regarded the Authority as independent declined from 41 to 39 per cent. This was the lowest figure so far recorded."[18] Consideration is being given to increasing the powers of the PCA; however, the CPT is not certain that this alone will be sufficient to restore public confidence in the efficacity of police complaints and disciplinary procedures as legal remedies for police misconduct.

51. The Committee has also noted that it is comparatively unusual for police officers to face a disciplinary hearing on a charge arising from a matter about which a complaint has been made. In this respect, the CPT was particularly concerned to learn that it remains possible for police officers to evade disciplinary charges by obtaining medical retirement.

Moreover, the current arrangements for disciplinary hearings do not inspire confidence in the fairness of the disciplinary system. In particular, hearings are held in private, usually with police officers acting as adjudicators, prosecutors and counsel for the defence.

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[18] cf. page 48 of the 1995/96 Annual Report of the PCA. No figures are available for 1997 because "the unexpected three-year programme of deepening cuts in our grant now makes it impossible for the Authority to undertake any further attitude research for the foreseeable future. This is a matter of considerable regret" (cf. page 57 of the 1996/97 Annual Report of the PCA).

52. Other evidence gathered by the CPT's delegation tended to confirm that many members of the public now seek to pursue their grievances against the police through the civil courts, rather than have recourse to a complaints system which they regard as discredited. In this respect, the CPT is particularly concerned to note that, even in cases where evidence of serious misconduct by police officers emerged in the context of such civil proceedings, no criminal or disciplinary action was subsequently taken against the officers concerned.

The CPT has been informed by the United Kingdom authorities that if a civil action reveals evidence of conduct which could amount to criminal wrongdoing by a police officer, the police are under an obligation to inaugurate an investigation and to send the results to the CPS, for consideration of whether criminal proceedings should be brought. It is also open to the chief officer, in the light of evidence which emerges during civil proceedings to (re)consider the possibility of disciplinary action. However, this had not happened in any of the cases which were examined by the CPT's delegation and senior police officers working for the CIB could not recall a single case in the Metropolitan Area in which such steps had been taken.

Of course, the CPT is not suggesting that the mere fact that civil damages have been paid or an out-of-court settlement has been reached should, in every case, lead to criminal or disciplinary action against police officers. However, such cases should, at the very least, trigger an independent re-examination of the criminal and/or disciplinary implications of the evidence which has emerged in civil proceedings. The fact that, at present, this rarely happens[19] does little to dispel the impression that police officers who engage in conduct involving the ill-treatment of detained persons are frequently not brought to account for their actions.

53. To sum up, in the light of all of the information gathered before, during and after the visit, the CPT has formed the view that, as matters stand, many victims of police misconduct may have little realistic prospect of other than pecuniary redress. From the standpoint of the prevention of ill-treatment of detained persons by police officers, such a situation cannot be considered satisfactory.

54. Many of the CPT's concerns about police complaints and disciplinary procedures are echoed in the recent Home Affairs Select Committee report (cf. paragraph 36). In this respect, the CPT wishes to endorse a number of the Select Committee's recommendations for improvements, and in particular:

- mandatory registration by the police of all "representations which could constitute a complaint", a possibility to appeal to an independent body if the police and the complainant disagree about the need for registration, and provision for the PCA to receive complaints directly in cases where the Authority is satisfied that the complainant has "good reason" for not wishing to lodge the complaint with the police (paragraphs 49 and 50 of the Select Committee's report);

[19] cf. however, paragraph 10 (second sub-paragraph) above, concerning the Treadaway case.

- the PCA to be given the power and funds to commission independent investigation "in cases where there is reason to believe that the existing process is proving inadequate" (paragraph 83);

- investigation by an outside police force to "become a more regular occurrence than it is at present" (paragraph 84);

- adjudication panels for police disciplinary hearings "to include at least one independent member" (paragraph 99);

- the rules on the "right to silence" which are applicable to criminal proceedings also to be applied to police disciplinary proceedings (paragraph 109);

- the civil, rather than the criminal, standard of proof to be applied when determining guilt in police disciplinary proceedings (paragraph 125);

- repeal of the provisions which prevent a police officer convicted or acquitted of a criminal offence being charged with an equivalent disciplinary offence (paragraph 129);

- chief officers to show "greater commitment" in the exercise of their powers to verify whether a police officer is "genuinely sick as claimed" (paragraph 155);

- regulations to make clear that a chief officer should be allowed to "complete disciplinary hearings in the absence of an accused officer in any case considered appropriate" (paragraph 157);

- chief officers to be able "to go ahead with disciplinary proceedings in advance of criminal proceedings where the CPS indicates that it is satisfied that those proceedings will not be prejudiced" (paragraph 166).

The CPT recommends that steps be taken to implement these measures.

55. The Home Affairs Select Committee has also recommended that the Home Office conduct a "detailed feasibility study of different possible arrangements for an independent complaints investigation process", adding that, "If the present system, as reformed, continues to enjoy only low credibility, then independent investigation will have to be considered (cf. paragraph 81 of the Select Committee's report).

As already indicated, the CPT itself entertains reservations about whether the PCA, even equipped with the enhanced powers which have been proposed, will be capable of persuading public opinion that complaints against the police are vigorously investigated. **In the view of the CPT, the creation of a fully-fledged independent investigating agency would be a most welcome development. Such a body should certainly, like the PCA, have the power to direct that disciplinary proceedings be instigated against police officers. Further, in the interests of bolstering public confidence, it might also be thought appropriate that such a body be invested with the power to remit a case directly to the CPS for consideration of whether or not criminal proceedings should be brought.**

In any event, **the CPT recommends that the role of the "chief officer" within the existing system be reviewed.** To take the example of one Metropolitan Police officer to whom certain of the chief officer's functions have been delegated (the Director of the CIB), he is currently expected to: seek dispensations from the PCA; appoint investigating police officers and assume managerial responsibility for their work; determine whether an investigating officer's report indicates that a criminal offence may have been committed; decide whether to bring disciplinary proceedings against a police officer on the basis of an investigating officer's report, and liaise with the PCA on this question; determine which disciplinary charges should be brought against an officer who is to face charges; in civil cases, negotiate settlement strategies and authorise payments into court. It is doubtful whether it is realistic to expect any single official to be able to perform all of these functions in an entirely independent and impartial way.

56. As regards the conduct of disciplinary hearings, the presence of "at least one independent member" on adjudication panels, as proposed by the Home Affairs Select Committee, would certainly represent a step forward. However, given that police disciplinary hearings should be, and be seen to be, impartial, **the CPT considers that it would be preferable if the independent element on adjudication panels were to preponderate.**

57. The approach of the CPS as regards the bringing of criminal proceedings against police officers is currently subject to review by Judge Butler.

Without prejudice to the findings of the Butler review, the Committee wonders whether part of the problem may not lie in the current formulation of the "evidential test" set out in the Code for Crown Prosecutors. The Code's requirement that prosecutors form a view on whether a conviction is "more likely than not" may be creating confusion about the strength of evidence which is required in order to justify bringing criminal proceedings, particularly as regards prosecutions -such as those against police officers - where Crown Prosecutors know that past conviction rates have been low. **The CPT would like to receive the comments of the United Kingdom authorities on this question.**

Reference should also be made to the high degree of public interest in CPS decisions regarding the prosecution of police officers (especially in cases involving allegations of serious misconduct). Confidence about the manner in which such decisions are reached would certainly be strengthened were the CPS to be obliged to give detailed reasons in cases where it was decided that no criminal proceedings should be brought. **The CPT recommends that such a requirement be introduced.**

58. Finally, evidence of ill-treatment by police officers which emerges during civil proceedings merits far closer scrutiny than it presently receives. **The CPT recommends that an independent review be carried out of all cases during the past two years in which there have been successful claims for civil damages / out-of-court settlements for sums in excess of £10,000 on grounds including assault by police officers. The review should seek to identify cases where, having regard to the nature and gravity of the allegations against the police officers concerned, the question of criminal and/or disciplinary proceedings against those officers should be reconsidered. More generally, the review body should be requested to propose measures designed to ensure that, in future, all such cases lead to an independent (re-)examination of whether criminal and/or disciplinary proceedings should be brought against police officers.**

C. Other police-related issues arising out of the visit

a. conditions of detention

59. The delegation's visits to four London police stations reaffirmed the CPT's already positive impression of conditions of detention for persons suspected of criminal offences who are taken into police custody. The police cells seen were all of a reasonable size, suitably lit and ventilated, and equipped with means of rest. Persons obliged to spend the night in custody were provided with a clean mattress and blankets. Further, all detained persons had ready access to toilet and washing facilities. On this latter point, the CPT was pleased to note that, in contrast to the situation observed in 1990, the custody suite at Brixton Police Station was now equipped with a shower facility.

Nevertheless, **the CPT would like to recall that anyone held in custody for an extended period (24 hours or more) should, as far as possible, be offered outdoor exercise every day.**

b. formal safeguards against ill-treatment

60. The CPT has already commented favourably, in previous visit reports, on the formal safeguards against ill-treatment of persons in police custody which apply in England and Wales.

One noteworthy development since the Committee's last visit is the move towards greater use of closed-circuit television (CCTV) in custody centres. Following a special report, "Lessons from Tragedies", on deaths in police custody in the Metropolitan Police Area, CCTV is to be gradually introduced in police custody centres throughout the capital. The CPT's delegation was able to observe the system operating at Brixton Police Station, where it covered the entire custody suite (excluding the interior of the cells and the shower facility) and the station yard. The delegation was also informed that the station's vehicles used for transporting detained persons were equipped with a CCTV camera.

The CPT welcomes this development and **would like to be informed whether such CCTV monitoring of custody areas is to be extended nationwide.**

61. The CPT remains concerned that, in exceptional circumstances, persons taken into police custody may be denied access to a lawyer for a certain period of time.

This issue was already explored in the report on the 1994 visit (cf. CPT/Inf (96) 11, paragraphs 38 to 40), and the CPT recommended that the right of a detainee to have access to another lawyer, when access to a specific solicitor is delayed, be the subject of a legally binding provision (at the time, the requirement that in such circumstances detained persons should be offered access to another solicitor was referred to only in a Note for Guidance in the Code of Practice for the detention, treatment and questioning of persons by police officers). In their response (cf. CPT/Inf (96) 12, page 12), the United Kingdom authorities indicated that they were willing to consider upgrading the Note for Guidance on this subject to a full provision of the Code; however, at the time of the CPT's most recent visit, this had not yet been done, and the delegation's discussions with a senior police officer suggested that a denial of access to any lawyer for a number of hours could be authorised in very exceptional cases.

Under these circumstances, **the CPT must reiterate the above-mentioned recommendation**.

62. Further, the CPT has some misgivings as regards the record drawn up following a medical examination of a person detained by the Metropolitan Police. The Committee considers that such records should contain (i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) an account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii).

As presently drafted, the Metropolitan Police Medical Examination Form does not guarantee that Forensic Medical Examiners will record all such information. **The CPT recommends that the form be revised accordingly.**

63. Finally, the delegation was informed at Brixton Police Station that it was not unknown for detective officers to enter the custody suite. Apparently, there is no Standing Order to prohibit this practice.

In the CPT's opinion, it would be advisable for the presence in custody suites of police officers involved in the investigation of offences to be avoided. **The Committee would like to receive the comments of the United Kingdom authorities on this question.**

c. restraint techniques

64. The CPT has taken note of a number of cases which raise concerns about the safety of certain restraint techniques employed by police officers.

The case of the late Ms Joy Gardner, who died of "hypoxic ischaemic brain damage" on 1 August 1993, after having been bound and gagged by members of the (now disbanded) SOI(3) Metropolitan Police Deportation Group, was raised in the Committee's 1994 report.[20] Further, reference has already been made to the inquest verdicts of unlawful killing in the cases of the late Messrs. Shiji Lapite and Richard O'Brien (cf. paragraph 29). Mr Lapite died of "asphyxiation" on 16 December 1994, after being placed in a neckhold and Mr O'Brien of "postural asphyxia" on 4 April 1994, after having been restrained by three police officers.

Other cases of deceased detainees who have ceased to breathe after having been restrained by Metropolitan Police officers have included the late Mr Wayne Douglas, who died on 5 December 1995 of "hypertensive heart disease", linked by an inquest jury to "positional asphyxia", and the late Mr Ibrahima Sey, who died on 16 March 1996 of "acute exhaustive mania" having been handcuffed, sprayed with CS gas and restrained by several police officers. In October 1997, an inquest jury concluded that Mr Sey had been "unlawfully killed".

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20 cf. paragraph 172 of document CPT/Inf (96) 11.

65. Following the death of Ms Gardner, a review of authorised restraint techniques was carried out, and revised guidance was issued to all police forces.[21] The CPT also understands that the Metropolitan Police issued guidance on positional asphyxia in October 1995 and that this was updated in January 1997. Nevertheless, the CPT is concerned that the current guidance may not yet be sufficient to prevent death or serious injury, especially as regards the use of more contentious forms of restraint, such as neckholds. Reference should be made, in this respect, to the instructions on neck restraints shown to the CPT's delegation. According to operational guidance issued by the Assistant Commissioner of Metropolitan Police 1 Area:

> "Amendments to training manuals will be issued in due course ... In the meantime, officers should be aware that:
>
> - neck restraints are not included within any of the modules of police defensive tactics training;
> - the use of such methods to restrain offenders who are attacking or violently resisting officers is not encouraged; and
> - there are inherent dangers in the use of any neck restraint.
>
> There is a risk of grave injury or fatality to the offender. Officers must be made aware of this and consider it, should they use such methods. This is not to say that the use of neck restraints is unlawful. As with any use of force, the question to be considered is: "WAS IT REASONABLE IN THE CIRCUMSTANCES?".

In the view of the CPT, framed in such a manner, this advice may well be of questionable utility to police officers called upon to effect difficult arrests.

66. The CPT fully recognises that effecting an arrest is often a hazardous task, in particular if the person concerned resists arrest and/or is someone whom the police have good reason to believe represents an immediate danger. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and by police officers) without this being the result of an intention to inflict ill-treatment. However, no more force than is reasonably necessary should be used when effecting an arrest. As regards more particularly the use of restraint techniques, the use of such means should always be an exceptional procedure, applied for the shortest possible time. In this respect, **the CPT would like to receive copies of all current guidance issued to police officers on the use of restraint techniques, together with details of the methods used to train police officers in the application of that guidance and of the regularity of such training.**

The Committee would also like to be informed of any specific measures which have been taken by the United Kingdom authorities in the light of the verdict of the inquest jury in the case of the late Mr Ibrahima Sey.

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[21] cf. page 45 of document CPT/Inf (96) 12. The review inter alia recommended a complete end to the use of means of immobilising the mouth; this was accepted by the Home Secretary and included in the revised guidance issued to all police forces.

D. Prison overcrowding

67. Prison overcrowding is an issue of direct relevance to the CPT's mandate. An overcrowded prison entails cramped and unhygienic accommodation; a constant lack of privacy (even when performing such basic tasks as using a sanitary facility); reduced out-of-cell activities, due to demand outstripping the staff and facilities available; overburdened health-care services; increased tension and hence more violence between prisoners and between prisoners and staff. This list is far from exhaustive.

68. The eradication of overcrowding in prisons has featured prominently in the ongoing dialogue between the United Kingdom authorities and the CPT since the Committee's first visit in 1990. In the report on its 1994 visit, the CPT expressed concern about significant rises in the prison population in England and Wales. Those rises, which had consistently exceeded official population projections, had rendered invalid a previous prediction by the United Kingdom authorities that the average prison population and available accommodation would come into balance in 1995.

The Committee recommended that a very high priority continue to be given to measures designed to bring about a permanent end to overcrowding.[22]

69. In their response of February 1996, the United Kingdom authorities affirmed that the Prison Service attaches a high priority to reducing overcrowding, referred to plans to provide additional prison places and noted that:

> "The prison population is currently projected to average 54,300 by the year 2000 / 01. By that date the Prison Service plans to provide sufficient accommodation to hold this number of prisoners without the need to overcrowd."[23]

70. The prison population in England and Wales has continued to rise in recent years, consistently outstripping each successive revision of population projections.

On 16 January 1998, the prison population stood at 62,970. According to the July 1997 HM Prison Service *Audit of Prison Service Resources*, the prison population had risen by some 17,000 (or almost 40%) in the four years to June 1997. The *Audit* concluded that:

> "The main factor in future performance is likely to be the level of overcrowding, and the extent to which this is supported in terms of additional staff and resources for purposeful activity for prisoners. The assessment is that on current expenditure plans, and latest population projections, there will have to be a large further increase in overcrowding without any additional resources. If this is the case, then performance is likely to decline: the level of purposeful activity provided per prisoner will continue to fall ..., there will be an increase in the average time prisoners spend locked in their cells ..., performance on good control and security will be affected..."[24]

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22 cf. paragraph 79 of document CPT/Inf (96) 11.

23 cf. page 16 of document CPT/Inf (96) 12.

24 cf. paragraph 26 of the *Audit of Prison Service Resources.*

71. Faced with this situation, the Prison Service is attempting to manage the prison population having regard to both the uncrowded capacity of the prison estate (which is known as the "planning CNA[25] in use") and another figure, known as the "usable operational capacity". The usable operational capacity "represents the degree of overcrowding which the Director General [of the Prison Service] judges to be the maximum safe level, taking account of both the physical constraints and the additional risks to control and security."[26]

According to the projections set out in the *Audit*, there is no realistic prospect of the prison population and available accommodation coming into balance in the foreseeable future. On the contrary, it is predicted that the prison estate is likely to remain close to - or even exceed - its "maximum safe overcrowded capacity" until at least the year 2000.

Nevertheless, in the course of discussions with the CPT's delegation, the prison authorities stressed that "safe overcrowding" has, thus far, been contained within local prisons (which hold principally persons awaiting trial or serving short sentences); it has not affected training prisons (which hold convicted prisoners serving medium to long sentences). Further, they stressed that there was currently no "tripling" in cells designed to hold one prisoner and that they were intent on avoiding such levels of occupancy in the future. Similarly, they were committed to avoiding the present difficulties leading to a reintroduction of "slopping out" or the use of police cells to accommodate prisoners.

72. The Committee welcomes the determination of the United Kingdom authorities to avoid any return to "tripling" and slopping out in prisons or to the use of police cells to hold Prison Service prisoners. However, it has misgivings about the very notion of "safe" overcrowding; misgivings which were confirmed by the information gathered in the course of a brief visit to an establishment which the United Kingdom authorities consider to be "safely overcrowded" - HMP Dorchester.

73. HMP Dorchester was built in the Victorian era and now serves as a local prison. Despite having an in use CNA of 147, the establishment was accommodating 233 inmates on the day of the delegation's visit (70 on remand and 163 convicted), a figure slightly below its useable operational (i.e. safely overcrowded) capacity of 238[27].

In view of the overcrowding, most of the prisoners at HMP Dorchester were being held two to a cell in cells designed for one; the cells in question measured 8 to 8.5 m². Although quite acceptable for one person, a cell of such a size represents cramped accommodation for two, especially if - as was the case at HMP Dorchester in September 1997 - out-of-cell time is limited. The fact that the cells were equipped with an unpartitioned toilet facility also rendered them unsuitable for use by more than one person. Of course, the ending of slopping out is a significant step forward. However, it remains the case at HMP Dorchester - and no doubt, in many other local prisons - that prisoners are obliged to comply with the needs of nature in the presence of another person in a confined area which is used as their living quarters.

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25 CNA = certified normal accommodation.

26 cf. footnote 2 to Table 6 of the *Audit*.

27 On one day shortly before the visit, the number of inmates had reached 248.

Only 50 % of the inmates were offered organised activities - a job or education - and out-of-cell time in general was not satisfactory: some six to seven hours on weekdays, falling to two to three hours on weekends. Vulnerable prisoners held in D Wing were subject to a particularly impoverished regime - a situation which certain of them deeply resented - and convicted inmates without a job were also frequently being denied out-of-cell association during the day. Admittedly, a long-running dispute between the local prison officers' trade union and prison management was not facilitating efforts to improve the situation. However, it was also apparent that the establishment simply did not have the resources to meet the legitimate demands of 233 prisoners for purposeful out-of-cell activities of a varied nature.

Notwithstanding the above, it should be said that the establishment was on the whole clean and tidy, and that staff-inmate (as distinct from staff-management) relations appeared to be positive. Further, the delegation formed a good opinion of the establishment's health care service (though the practice of health-care officers being frequently diverted from their duties in order to cover general staff shortages is highly regrettable, and the problem of the long-standing vacancy for a dentist needs to be addressed as a matter of urgency), and would have liked to have been in a position to study in depth what appeared to be an interesting drug rehabilitation programme.

Nevertheless, the lasting impression was of an overstretched establishment, the consequences of which were being felt by inmates and staff alike.

74. In a letter dated 20 May 1997 addressed to the President of the CPT, the United Kingdom authorities outlined a number of measures being taken by the Prison Service "to cater for a prison population that has risen sharply and rapidly ... these include:

- Four new prisons being built in partnership with the private sector - the first will be ready to use by the beginning of 1998.

- New houseblocks are being built within existing prisons. The first of these will come into use from mid-1997.

- Prefabricated units are being installed in several prisons. The first places in these are already in use.

- The refurbishment of large Victorian prisons is being speeded up."

Further, on 25 July 1997, the Home Secretary announced additional Prison Service spending of £43 million intended to address the problem of overcrowding.

75. The Committee has also taken note with interest of certain criminal justice measures recently proposed by the Home Secretary.

Particular reference should be made to the Home Secretary's decision not to implement Section 4 of the Crime (Sentences) Act 1997[28], "given current pressures on prison capacity and available resources".[29] A number of other proposed measures, including implementation of the recommendations of the Narey Review of Delay in the Criminal Justice System, action to tackle sentencing disparities and the introduction of "community safety orders", also have the potential to alter the balance between the prison population and available accommodation.

However, the Home Secretary has made clear his view that "The number of people who end up in prison is a function of how many commit crimes and how many are caught, and of entirely independent decisions made by magistrates and judges".[30] This has led him to reject suggestions that he might issue a circular to the courts asking them to exercise restraint in the use of imprisonment, stating that: "I regard the courts' decisions about the use of imprisonment as a matter for them, within the limits set by Parliament. It would not be appropriate for me to instruct the judiciary on the use of their discretion."[31]

76. The CPT has no intention of suggesting that the reduction of the prison population should be a primary policy goal. However, it is a fundamental requirement that those committed to prison by the courts be held in safe and decent conditions. For so long as overcrowding persists, the risk of prisoners being held in inhuman and degrading conditions of detention will remain.

To return to the example of HMP Dorchester, even if conditions there are "safe" according to Prison Service criteria, in the view of the CPT they can hardly be qualified as decent. Both material conditions of detention and the regime offered to many of the establishment's inmates left much to be desired. "Safe overcrowding" should not be allowed to become the benchmark, even in local prisons.

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28 This provision would introduce a three-year minimum sentence for third-time domestic burglars.

29 cf. Parliamentary Written Answer No. 372 of 30 July 1997.

30 cf. the Home Secretary's statement to the House of Commons of 30 July 1997.

31 cf. the Home Secretary's reply to an open letter from the Penal Affairs Consortium, dated 19 August 1997.

77. In the report on its 1994 visit, the Committee expressed the view that the United Kingdom authorities must be prepared to make more radical efforts to address the problem of overcrowding. More particularly, it emphasised that the effectiveness of action to tackle this problem might be enhanced by the active participation of agencies other than the Prison Service (cf. paragraph 79 of document CPT/Inf (96) 11). In the light of all of the information gathered before, during and after the 1997 visit, the Committee remains unconvinced that providing additional accommodation will, alone, offer a lasting solution to the problem of overcrowding. As was recognised in the conclusions of the 12th Council of Europe Conference of Directors of Prison Administration (November 1997), to address overcrowding effectively will almost certainly also require solutions to be sought at the legislators' and sentencers' level.

In this context, reference might usefully be made to Committee of Ministers' Recommendation R (92) 17 concerning consistency in sentencing, and more particularly to recommendation B 5 (i), according to which "custodial sentences should be regarded as a sentence of last resort, and should therefore be imposed in cases where, taking due account of other relevant circumstances, the seriousness of the crime would make any other sentence clearly inadequate"[32]. Due account should also be taken of Committee of Ministers' Recommendation R (80) 11 concerning custody pending trial, which sets out the general principle that "no person charged with an offence shall be placed in custody pending trial unless the circumstances make it strictly necessary. Custody pending trial shall therefore be regarded as an exceptional measure and it shall never be compulsory nor be used for punitive reasons".

The CPT recommends that the United Kingdom authorities redouble their efforts to develop and implement a multifaceted strategy designed to bring about a permanent end to overcrowding.

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32 The Explanatory Memorandum to Recommendation R (92) 17, inter alia provides the following commentary on this recommendation: "In view of the clear adoption by the Council of Europe of the policy of restraint in the use of imprisonment, this might be a topic suitable for legislative restrictions on sentencers. But, whatever the method used to implement the policy, it should be linked with more detailed guidance for judges. In order to ensure consistent answers to the question, "which varieties of offence are too serious for non-custodial sanctions?", consideration should be given to the development of criteria."

E. HMP The Weare - the prison ship

a. preliminary remarks

78. In order to cope with the rising prison population, the United Kingdom authorities have been obliged to innovate. One result has been the previously-mentioned notion of "safe overcrowding"; another, the novelty of a floating prison, HMP The Weare, which was purchased from the United States and began to receive prisoners in June 1997. Prison Service officials told the delegation that it was not intended that HMP The Weare become a permanent feature of the prison estate; however, they were unwilling to hazard a guess as to how long it might remain in service.

The CPT would like to make clear at the outset that it has no objection as a matter of principle to a floating prison, provided it is moored to the shore.

79. HMP The Weare is berthed in Portland Harbour and consists essentially of a five-storey structure (plus a lower barge deck). Its CNA (and usable operational capacity) is 400. Prisoner accommodation is located on levels 2 to 5; each level is divided into two units, a unit being designed to hold up to 50 prisoners.

At the time of the delegation's visit, the prison had 291 inmates, all of whom were category C prisoners[33] over the age of 25 with less than nine months of their sentence remaining. It was envisaged that the establishment would be operating at full capacity by October 1997.

80. The decision to bring into service a prison ship had given rise to considerable comment in the United Kingdom, and doubts were initially expressed as to whether the vessel would comply with health and safety standards. However, major refurbishment work was subsequently carried out and by the time of the delegation's visit, everyone appeared to be satisfied that the establishment provided a physically safe environment.

b. ill-treatment / staff-inmate relations

81. The CPT's delegation received no allegations of ill-treatment of inmates by the staff of HMP The Weare. More generally, the delegation observed that relations between staff and inmates - who interacted in close proximity - were of a positive nature.

Nevertheless, the delegation detected a certain degree of tension within the establishment.

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[33] Category C prisoners are those who cannot be trusted in open conditions, but who do not have the resources or will to make a determined escape attempt.

82. This tension appeared to be caused in part by teething troubles linked to the rapid (too rapid in the view of some of the delegation's interlocutors) increase in the establishment's inmate population. Many prisoners were clearly frustrated about two matters in particular: kit changes (which were not occurring at appropriate intervals) and pay (arrangements for which were apparently not operating properly, causing difficulties as regards inter alia the purchase of telephone cards). **The CPT would like to be informed of whether these difficulties have now been resolved.**

83. Further, some prisoners were unhappy about the manner in which their transfer to HMP The Weare had taken place. They alleged that, prior to their transfer, they had been given misleading information about the regime within the establishment, which was more restricted - and in particular offered less contact with the outside world - than they had been led to believe. Certain staff members with whom the delegation spoke indicated that they believed there was some truth in these allegations. Obviously, such a state of affairs would be most undesirable.

The CPT would like to receive the comments of the United Kingdom authorities on this question.

c. conditions of detention

84. Material conditions of detention at HMP The Weare compared favourably with those prevailing in the nearby Dorchester Prison (cf. paragraph 73).

The cells measured approximately 12.5 m², which is an adequate size for the planned occupancy level of two prisoners per cell. Further, the cells were equipped in a satisfactory manner and in particular had a fully-partitioned sanitary annexe which included a shower.

However, conditions were less favourable in the cells facing the inner well of the ship. In particular, access to natural light was far from ideal in those cells and they were more exposed to noise from machinery on the ship.

All the cells had satisfactory artificial lighting and were equipped with air conditioning (though complaints were heard that the noise generated by the latter could prove disturbing at night), and access to natural light was good in the cells facing the outside of the ship. Nevertheless, some prisoners regretted that the cells did not have access to fresh air; **the CPT invites the United Kingdom authorities to explore whether it would be possible to provide such access.**

85. Notwithstanding the above remarks, in view of the rather low ceilings (2.3 m) and - as regards cells facing the inner well - the limited access to natural light, particular care should be taken to ensure that out-of-cell time remains adequate. At the time of the visit, out-of-cell time appeared to be in the region of 7 to 8 hours per day, but the CPT was subsequently informed that it exceeded 10 hours per day (seven days a week); **the Committee would like to receive up-to-date information on this question.**

86. Each unit had a well-equipped association area (chairs, television, pool table, payphones, hot-water boiler, etc.) to which prisoners had access for several hours a day. However, it is noteworthy that prisoners in a given unit had no contact with prisoners in other units. Several persons remarked to the delegation that such a restrictive approach as regards prisoner association was akin to that followed vis-à-vis category B prisoners [34].

Prisoners also had regular access to a gymnasium of a good standard situated on level 5, and there were plans to open a weight training area on the shore. Further, all prisoners were offered outdoor exercise on a daily basis. **However, the two exercise areas - one on the ship, one on the shore - left something to be desired;** the former was exposed to noise from machinery on the ship, and neither of them lent themselves to sports activities.

87. The delegation was not in a position to assess the quality of activities offered to prisoners, as they were still at an early stage of development. It was planned that all prisoners would have some form of employment (work or education). However, the information provided to the delegation suggested that much of the work activity envisaged would consist of cleaning duties. A light assembly workshop was due to open shortly after the visit, but would provide employment for only 24 inmates. The provision of appropriate employment to sentenced prisoners is a fundamental part of the rehabilitation process. Consequently, **the Committee recommends that the United Kingdom authorities seek to develop opportunities for purposeful work (preferably with vocational value) for prisoners at HMP The Weare.**

The CPT would also like to receive an account of the different forms of organised activities (education, work, sport) currently offered to prisoners at the establishment, including information on the number of prisoners involved and the amount of time they spend on those activities.

The Committee would also appreciate information on progress made in developing the prison's library; it was in an embryonic form at the time of the visit.

88. Bearing in mind that the inmate population consists of prisoners coming to the end of their sentences (cf. paragraph 79), the delegation inquired about planned pre-release programmes. The prison's management affirmed that the prisoners transferred to HMP The Weare would not need such a programme. However, from information subsequently forwarded to the Committee, it would appear that pre-release courses are now to be provided. **The CPT would like to receive further information on this subject.**

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[34] Category B prisoners are those for whom the very highest conditions of security are not necessary but for whom escape must be made very difficult.

d. health care

89. At the time of the delegation's visit, a general practitioner visited the prison three mornings per week, an arrangement which was shortly to be extended to five mornings per week. Further, a weekly half-day visit by a dentist had recently been organised. In addition, a doctor was always on call in the event of emergency.

The establishment also had three full-time qualified nurses and a health-care officer, the presence of a nurse being ensured from 8.00 am to 8.00 pm during the week (8.30 am to 5.00 pm at weekends). All newly-arrived prisoners were seen by a nurse on arrival, and by the doctor at the first consultation.

As for the health-care service's facilities - situated on level 4 - they were of an excellent standard, and medical files and registers were found to be well kept.

No complaints were heard by the delegation concerning access to medical care.

90. Having regard to the inmate population (291) as well as the declared policy of only transferring healthy prisoners to the establishment, the health-care resources at the time of the delegation's visit could be considered sufficient. **However, if the establishment's inmate population has now reached its capacity of 400, the CPT believes that a more frequent attendance by a general practitioner and reinforcement of the nursing staff should be considered. Further, it is clear that a more frequent attendance by a dentist should be foreseen.**

Further, **the CPT recommends that steps be taken to ensure that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the prison's premises, including at night and weekends.**

e. contact with the outside world

91. It is very important for prisoners to be able to maintain good contact with the outside world. Above all, they must be given the opportunity to safeguard their relations with their family and friends, and especially with their spouse or partner and their children. The continuation of such relations can be of critical importance for all concerned, particularly in the context of prisoners' social rehabilitation. The guiding principle should be to promote contact with the outside world; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature or considerations linked to available resources.

92. Prisoners at HMP The Weare were allowed to receive a visit every week, and a given visit might last up to 1½ hours. The visits room - located on level 3 - was one of the best which has been seen by a CPT delegation. The facility was bright and spacious, and visits took place under open conditions with prisoners and their families/children seated around a table. The rooms set aside for visits from lawyers and for visits under closed conditions were also quite satisfactory, and the presence of a play area for small children is also to be commended.

In addition to visits, prisoners had ready access to telephones (cf., however, paragraph 82) and the usual possibilities to send and receive correspondence.

93. Nevertheless, a number of prisoners affirmed that at HMP The Weare, their contact with the outside world was in fact inferior to that in their previous establishments, a situation which they found especially frustrating as they were approaching the end of their sentences. In particular, it was alleged that home leave possibilities were less good at HMP The Weare than elsewhere, and that the isolated location of the establishment rendered it difficult for family members to visit.

As regards the first point, **the CPT would like to receive information on home leave possibilities for prisoners at HMP The Weare.**

As regards the second point, it is indisputable that Portland is a rather remote part of the United Kingdom. The time and expense involved in getting there must certainly prevent the family members of many prisoners from making regular visits. **The CPT invites the United Kingdom authorities to consider ways of facilitating visits to prisoners at HMP The Weare.**

The CPT would also like to be informed of whether thought has been given to moving the vessel to a more central location.

II. ISLE OF MAN

A. Introduction

94. When ratifying the European Convention for the prevention of torture and inhuman or degrading treatment or punishment on 24 June 1988, the United Kingdom declared that the Convention was ratified inter alia in respect of the Isle of Man.

95. The Isle of Man is an island of some 570 sq kms situated in the Irish Sea, midway between Cumbria and Northern Ireland. It has approximately 72,000 inhabitants.

The Isle of Man is not part of the United Kingdom. It is a Crown Dependency with its own legislative assembly, Tynwald, and its own legal and administrative system. On purely domestic matters, including issues related to the deprivation of liberty, the Isle of Man enacts its own legislation and the Island's police force and prison service are the responsibility of the Isle of Man authorities.

The United Kingdom Government is responsible for the Island's defence and international relations and the Crown is ultimately responsible for its good government. In this connection, the delegation had a fruitful meeting with the Home Office Minister with responsibility for the Isle of Man, Lord WILLIAMS of MOSTYN QC.

96. The delegation met Mr Donald GELLING MHK, Chief Minister, Mr Richard CORKILL MHK, Treasury Minister, Mr John SHIMMIN MHK, a Member of the Department of Home Affairs, and Mr Michael KERRUISH MLB, QC, Attorney General. It also met a number of senior Manx officials, including Mr Fred KISSACK, Chief Secretary, Mr David CREEK, Chief Executive of the Department of Home Affairs, Ms Rosie CROSBY, Prison Governor, and Mr Alan CRETNEY, Deputy Chief Constable. In addition, the delegation held discussions with His Honour H.W. CALLOW, Police Complaints Commissioner for the Isle of Man.

All of the delegation's meetings with the Manx authorities took place in an open and positive spirit.

97. In addition, the delegation had an informative meeting with Mr J.B. MOFFATT, General Secretary of the Celtic League.

98. As already indicated (cf. paragraph 3), the delegation focused its attention on the Crown Dependency's Prison. However, it also took the opportunity to examine the treatment of persons detained by the Isle of Man police. The delegation visited the following places of detention:

- Isle of Man Prison, Douglas;
- Headquarters of the Isle of Man Constabulary, Douglas;
- Castletown Police Station;
- Peel Police Station;
- Ramsey Police Station.

The delegation enjoyed rapid and unlimited access to these places, and all information requested was made available.

More generally, the delegation received excellent cooperation at every level, in full accordance with Article 3 of the Convention.

B. Isle of Man Prison

a. preliminary remarks

99. The Isle of Man Prison is the only prison on the island. The core of the establishment (Wings A and B) dates back to 1891, to which an extension (Wings C and D) was added in 1989.

The establishment is called upon to perform the functions of an entire Prison Service. All types and categories of prisoner are accommodated: remand prisoners; convicted prisoners (serving both short and long terms); males and females, young offenders (17 to 21 years old) and, in exceptional cases, juveniles (i.e. 10 to 16 years old). A formal agreement exists under which a local person sentenced to a term of imprisonment of 4 years or longer by a Manx court can be transferred to an English prison to serve his sentence, the cost being borne by the Manx Government. However, in practice, except under very special circumstances, it is normally only prisoners serving life sentences who are transferred under this agreement.

To cater in a satisfactory manner for such a wide range of persons deprived of their liberty would be a tall order for any establishment. In the case of the Isle of Man Prison, the difficulties have been compounded by the restricted and outmoded nature of the existing premises and, in recent years, by overcrowding.

100. To examine conditions of detention at the Isle of Man Prison is to travel a well-trodden path. They have been addressed by five different bodies over the last eight years: by Her Majesty's Inspectorate of Prisons in 1990, a Committee of Inquiry into a disturbance at the prison in 1991, the Scottish Prison Service in 1995, the Select Committee of Tynwald on Law and Order in 1996, and a Committee of Inquiry into the deaths of two prisoners, which presented its report in April 1997. The reports of all of these bodies have drawn attention to serious shortcomings in the prison, criticism which has been echoed in the annual reports of the establishment's Board of Visitors.

In the course of its visit in September 1997, the CPT's delegation saw for itself that the situation in the Isle of Man Prison leaves a great deal to be desired, in particular as regards the material conditions of detention in Wings A and B and activities offered to prisoners throughout the establishment.

101. The Manx authorities informed the delegation that it had now been accepted at political level that something had to be done about the prison.

The following broad policy objectives for prison redevelopment had been identified.

a) To provide 150 prisoner places in single cells -

- with integral sanitation
- built to a high degree of physical security
- with separation of different classes of prisoner.

b) To provide a structured regime, including -

- organised and purposeful work
- skills training
- physical education activities
- a programme of education classes
- reformative programmes.

As regards the precise development strategy, two options were being studied: redevelopment of the existing prison site, to be expanded by taking in adjoining property; a new prison on a Government-owned site near Douglas.

102. The CPT fully endorses the broad policy objectives referred to in paragraph 101. If they are met, the Isle of Man will enter the 21st Century with a Prison Service worthy of the name. In particular, there will be a real prospect of social rehabilitation of prisoners. The outlay involved should be seen as a good investment.

It is not the CPT's task, nor does it presume to have the technical competence, to offer advice on which of the development strategy options would be the most suitable. However, the Committee would stress that political approval and effective implementation of one of the options is required without further delay. The present unsatisfactory state of affairs has been allowed to drag on for too long.

The CPT recommends that the Isle of Man authorities agree as a matter of urgency on a prison redevelopment strategy capable of meeting the policy objectives referred to in paragraph 101, and vigorously pursue the implementation of that strategy.

103. Whichever option for redevelopment is chosen, it appears certain that it will take some three to four years to complete the work. In the meantime, measures must be taken to alleviate certain of the most serious problems within the prison. The measures concerned will be identified later in this report.

However, attention should be drawn to one most welcome measure already taken by the Isle of Man authorities, namely the taking out of service of the former segregation unit located under A Wing; the delegation's observations confirmed that conditions of detention in that part of the prison must have been unacceptable.

The delegation was informed that a new segregation/reception unit was to be built; this development would have the two-fold advantage of releasing space in C Wing (which was being used as a temporary segregation unit) for prisoner accommodation and replacing the existing - totally inadequate - reception facility. **The CPT trusts that the new segregation/reception unit will be brought into service in the near future.**

b. ill-treatment

104. No allegations were received by the delegation of physical ill-treatment of inmates by staff at the Isle of Man Prison. More generally, the delegation observed that relations between inmates and staff were positive in nature. Although many inmates made it clear that they were dissatisfied with their conditions of detention (and, in particular, the lack of constructive activities), they acknowledged that staff and management were doing their best with the resources at their disposal.

105. However, the CPT has strong reservations about the treatment of three prisoners being held in the temporary segregation unit in C Wing. Following their escape from the prison some three months earlier, they had been the subject of disciplinary sanctions. At the time of the visit, they were subject to removal from association under Rule 45 of the Prison Rules (on which, see paragraph 155), in the interests of the maintenance of good order and discipline. The prisoners were allowed 30 minutes outdoor exercise per day; they spent the remainder of the day locked in their cells. Further they were handcuffed during all periods spent outside their cells, including during their outdoor exercise period and apparently even when receiving visits.

106. Firstly, the CPT must stress that the possibility of taking at least one hour of outdoor exercise per day is widely recognised as a fundamental safeguard for every prisoner. Meeting this requirement is arguably all the more important as regards prisoners who are being denied other out-of-cell activities.

The CPT recommends that steps be taken immediately to ensure that all prisoners placed in the segregation unit at the Isle of Man Prison are offered at least one hour of outdoor exercise every day.[35]

107. Secondly, the practice of routinely handcuffing prisoners when outside their cells is highly questionable, all the more so when it is applied for a prolonged period of time. It is axiomatic that handcuffs should never be applied as a punishment. Further, to be handcuffed when receiving a visit could certainly be considered as degrading for both the prisoner concerned and his visitor.

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[35] Additional remarks are made later in this report concerning the regime being applied to the three prisoners concerned (cf. paragraph 156).

The Governor was adamant that there was nothing punitive about the measure; it was necessary to prevent an escape, of which the prisoners concerned had shown themselves quite capable in the past. Whilst recognising the force of that argument, the CPT considers that the use of handcuffs over a prolonged period as a precaution against escape is not acceptable. Other means can and should be found of countering such a risk. The Committee would add that its misgivings on this point are all the greater given that the delegation gathered information which suggested that all prisoners placed in the segregation unit as a punishment or under Rule 45 (good order and discipline) were handcuffed during outdoor exercise.

The CPT recommends that the practice of handcuffing prisoners placed in the segregation unit whilst outside their cells be the subject of an urgent review, in the light of the above remarks.

108. The CPT also has concerns about the treatment being received by two young offenders, who had been placed in strip (i.e. unfurnished) cells on the ground floor of C Wing as they were considered to be at high risk of suicide. This matter will be discussed in the context of medical issues (cf. paragraphs 135 to 139).

c. conditions of detention

- material conditions

109. The Prison Governor had recently estimated that if cells originally designed for one person were to be used for single occupancy, there would be places for 53 prisoners. On the first day of the delegation's visit, the prison was accommodating 82 prisoners (72 of whom were convicted), a relatively low number compared with the recent past. Throughout most of the preceding month (August 1997), the inmate population had exceeded 90, and the Governor pointed out that the establishment on occasion held more than 100 prisoners.

110. A and B Wings were accommodating respectively male adult prisoners (42) and male young offenders (12), convicted and on remand. C Wing also accommodated male adult prisoners who were sentenced and the ground floor was being used as the temporary segregation unit (19 prisoners in total).

Nine female prisoners, both adults and young offenders, were being held in D Wing. No juveniles were being detained; however, in view of the unusually high number of female prisoners, one cell in the ground-floor juvenile unit in D Wing was accommodating a female prisoner.

111. A typical cell in A and B Wings measured slightly over 9 m². Although of a good size for one person, a 9 m² cell represents cramped accommodation for two (especially if out-of-cell time is limited) and excessively cramped accommodation for three. At the time of the delegation's visit, most of these cells were accommodating two persons. There was no triple occupation of cells of this size; however, the cells were equipped with three beds and the delegation was informed that prisoners often were held three to a cell.

A and B Wings each had one slightly larger cell. The 11.5 m² cell in A Wing, equipped with five beds, was accommodating three prisoners at the time of the visit. This cell offered only mediocre living space for three persons and was quite unsuitable for holding a higher number. The 11 m² cell in B Wing was accommodating two prisoners and provided adequate living space for such an occupancy rate; however, it was equipped with four beds.

112. The negative effects of the high cell occupancy rates were exacerbated by the fact that the cells in A and B Wings were not equipped with integral sanitation; a slopping out system was in operation.

As was indicated in the report on its 1990 visit to the United Kingdom (cf. CPT/Inf (91) 15, paragraph 47), the CPT considers that the act of discharging human waste in a bucket or pot in the presence of one or more other persons, in a confined space used as a living area, is degrading for everyone concerned. A slopping-out system has a number of other consequences which are scarcely less objectionable. The CPT therefore greatly welcomes the Isle of Man's policy objective of integral sanitation in single cells (cf. paragraph 101).

113. The cells in A and B Wings were adequately lit (including access to natural light) and ventilated and, in addition to beds, were equipped with a table, chairs and lockers. However, a number of the cells were in a poor state of decoration.

114. Reference should also be made to a 23 m² dormitory on the ground floor of A Wing which - together with two cells on the first floor - was used to accommodate prisoners who, in their own interests, were segregated from other inmates under Rule 45 of the Prison Rules. The dormitory enjoyed good access to natural light and ventilation; further, its occupants had access at all times to a quite distinct sanitary annexe, thereby avoiding the need for slopping out. It was accommodating five prisoners at the time of the visit, an occupancy rate which might under the circumstances be considered as acceptable. However, the delegation observed that the dormitory contained eight beds (i.e. four bunk beds).

115. Material conditions of detention were better in the recently-constructed C and D Wings. Prisoners were in general held one to a cell. The cells were bright and well-equipped, and contained inter alia a toilet and washbasin. As regards the latter, it should nevertheless be noted that they were not partitioned from the rest of the cell; ideally, in-cell sanitary facilities should be fully partitioned from the prisoner's living space.

116. However, the delegation observed that one cell in C Wing and one in D Wing were each being used to accommodate two prisoners. The rather limited size of the cells (approximately 7 m²) as well as the unpartitioned nature of their sanitary facilities rendered them quite unsuitable for such an occupancy level.

A 17 m² dormitory in the women's unit - designed in principle for four prisoners - was also slightly overcrowded at the time of the visit, but the prisoners did have access to a quite distinct sanitary facility.

117. It might be added that staff fared little better than inmates as regards material conditions. Particular reference should be made to the prison officers' mess, which was a distinctly modest facility.

- activities

118. Everyone with whom the delegation spoke - prison management, prison officers, members of the Board of Visitors, probation officers, inmates - stressed that the Isle of Man Prison was not in a position to provide prisoners with a satisfactory regime. The delegation's observations confirmed that this was indeed the case.

The establishment had no workshops or vocational training facilities, no outside area in which inmates could engage in sport, and scarcely any premises for educational activities (there was one room which had the triple function of chapel, library and classroom). These shortcomings would be a matter of serious concern in any prison and are inadmissible in an establishment which is called upon to cater for such a variety of types and categories of prisoner. The fact that, despite this handicap, there was a programme of activities of sorts is evidence of the dedication and ingenuity of the prison's management and staff.

119. There was work for 47 prisoners. However, half of the jobs only involved cleaning or orderly duties and most of them did not occupy prisoners for more than a few hours a day. Only a small proportion of the jobs - e.g. catering, building maintenance - could be considered as having vocational value.

Tutors visited the establishment on a weekly basis to give courses on various subjects and set homework. In addition, some educational work was done via distance learning courses. However, the provision of education activities was clearly hampered by the lack of facilities. Further, at the time of the visit, courses in certain subjects had been suspended due to the unavailability of tutors, and computer courses had been indefinitely suspended due to repeated damage to equipment. The inadequacy of educational activities was particularly striking as regards the young offenders, and the delegation was informed that there was no education provision whatsoever for such persons on remand.

The only sports activity consisted of occasional access to a weights room. Prison officers responsible for physical education stated that they could provide two 45 minute sessions per day in the room (10 prisoners per session). However, this activity had been cancelled for female prisoners due to workload considerations. As already indicated, there were no outside sports activities. The former main exercise yard had been used for sport in the past, but had been withdrawn from service some time ago on the grounds that it was insecure. As regards the one exercise yard which remained (originally intended only for C and D Wings), it was quite unsuited to sports activities.

120. As regards other activities, there was a certain amount of group work and counselling (anger management, chaplaincy discussion group, sex offender treatment) which might occupy a prisoner for a few hours a week.

Further, with the exception of the Rule 45 prisoners, inmates in A and B Wings had an association period of 2 hours every other day during the week and each day at weekends. During those periods they could watch television and play darts and table tennis. However, it appeared to follow from the system in force that a newly-arrived prisoner might have to wait some time before he became entitled to association. Female prisoners had daily access to a well-equipped association area, as did male prisoners in C Wing. The latter prisoners, all of whom had work, benefitted from an enhanced regime, out-of-cell time being 10 hours or more per day.

As far as the delegation could ascertain, the basic requirement of one hour of outdoor exercise per day was being met, with the exception of the prisoners referred to in paragraph 105.

121. In the CPT's opinion, the basic aim should be to ensure that all prisoners spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities - work, preferably with vocational value, education, sport, recreation/association.

Regimes for sentenced prisoners should preferably be more favourable and prisoners serving lengthy sentences should, as far as possible, be offered individualised programmes. Further, prisoners approaching the end of their sentences should be provided with pre-release courses.

Young offenders, whether on remand or sentenced, should be offered a full programme of educational, recreational and other purposeful activities; physical education should constitute an important part of that programme.

122. It is clear that the above-mentioned requirements were far from being met in the Isle of Man Prison.

The bulk of the prisoners in the establishment were not guaranteed a satisfactory amount of out-of-cell time every day, and out-of-cell time could on certain days be very limited indeed. This was particularly the case for prisoners without work. Further, the activities offered to prisoners when out of their cells left much to be desired. The regimes offered to young offenders as well as to Rule 45 (Own Protection) prisoners were particularly impoverished.

Certainly, sentenced prisoners in C Wing were guaranteed a satisfactory amount of time out of their cells every day; however, the activities offered to many of the prisoners concerned during that time were not of a suitable quality or sufficiently varied.

Hopefully, a significant increase in staff resources which was about to come on stream at the time of the delegation's visit will enable improvements to be made in the area of activities.

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123. Fundamental improvements to the existing conditions of detention will no doubt not be possible until the proposed prison redevelopment has come to fruition. However, efforts must be made in the meantime to palliate the present situation.

124. It is clear that overcrowding in the Isle of Man Prison has recently gone beyond a tolerable level. Endorsing the remarks made by its delegation at the end of the visit, **the CPT recommends that the necessary steps be taken to ensure that:**

- **the standard-sized cells in A and B Wings do not accommodate more than two prisoners;**

- **cells A12 and B7 do not accommodate more than three prisoners;**

- **the A Wing dormitory does not accommodate more than six prisoners;**

- **the cells in C and D Wings accommodate only one prisoner.**

125. In order to alleviate the consequences of the slopping out system, **the CPT recommends that prison officers receive clear instructions to the effect that when a prisoner held in a cell without integral sanitation requests to be released from his cell during the day for the purpose of using a toilet facility, that request is to be granted without delay.**

The CPT also recommends that the recesses be kept in a proper state of repair and hygiene. Several prisoners complained that the sluice/urinal facility in the A Wing recess overflowed into the shower area, and the delegation observed during a slopping-out period that this complaint was founded.

Further, **the CPT invites the Isle of Man authorities to bear in mind the remarks made in paragraph 115 when making arrangements for in-cell sanitary facilities in the context of the prison redevelopment.**

126. As regards regime issues, **the CPT recommends that the Isle of Man authorities strive to enhance the activities offered to prisoners, having regard to the remarks in paragraphs 121 and 122. In particular, steps should be taken to improve the regimes offered to young offenders and Rule 45 (Own Protection) prisoners.**

Further, the reintroduction of outdoor sports activities for all prisoners, both male and female, should be seen as a priority. In this latter connection, the Isle of Man authorities should explore the possibility of bringing back into service the former A and B Wing exercise yard.

d. health care

- preliminary remarks

127. As already mentioned (cf. paragraph 100), a Committee of Inquiry had recently considered the circumstances of the deaths of two prisoners in the Isle of Man Prison. In the context of that inquiry, the establishment's health-care service had been reviewed by a Health-Care Adviser from the North West Area of HM Prison Service, Dr V. Foot. Dr Foot's report was made available to the delegation and the Isle of Man authorities provided information on the follow-up action envisaged.

128. Specific reference shall be made to certain parts of Dr Foot's report in the following paragraphs. More generally, the CPT trusts that work on implementing most, if not all, of the recommendations made in her report (which were endorsed by the Committee of Inquiry) and the other recommendations of a medical nature made by the Committee of Inquiry shall progress rapidly. **The CPT would like to receive information on this subject.**

- staff and facilities

129. A general practitioner visited the prison six days a week. His working hours were not clearly defined; he informed the delegation that in practice he usually spent between 30 minutes to 2 hours per day in the establishment and was on call at other times.

In addition, there were four hospital officers, three of whom were qualified nurses. However, they were also prison officers and as such were frequently required to carry out duties unrelated to health care. There was no provision for the presence of a hospital officer at night.

A consultant psychiatrist visited the establishment from time to time, on average once every week to fourteen days. There were no regular visits by a psychologist, though apparently the consultant psychiatrist might arrange for such a visit in a specific case.

As for dental care, prisoners were in principle taken to outside private practices. However, the delegation was informed that difficulties could arise due to shortages of staff for escort duty.

130. The former cramped and generally unsuitable prison surgery had recently been replaced by a new medical facility (comprising a doctor's room, nurses' area and pharmacy) which was spacious and well-equipped. Medical files were of a good quality. The prison still remained without suitable premises for the ongoing supervision of sick prisoners; however, it was planned to remedy this lacuna by earmarking space for this purpose in the planned new segregation unit (cf. paragraph 103).

As regards the support of outside hospital services, prisoners could be referred to the Noble (general) Hospital, which inter alia possessed a secure room. Further, mentally ill prisoners could in principle be transferred to Ballamona (psychiatric) Hospital; however, such transfers were a rare occurrence. The information gathered by the delegation suggested that there was considerable scope for developing the interface between the prison and Ballamona Hospital.

131. Dr Foot's report contains recommendations designed to place the visiting general practitioner's relations with the prison on a firmer footing, to provide a properly resourced mental health team for the prison and to enhance interaction between the prison and Ballamona Hospital. **The CPT wishes to endorse those recommendations.** The existing arrangements in these areas are not fully satisfactory; in particular, steps need to be taken better to safeguard the mental health of prisoners.

Similarly, **the Committee wishes to express its support for the recommendation that steps be taken to ensure that, other than in an emergency**, **the prison's hospital officers be deployed exclusively to health-care duties.** In the same context, **the CPT recommends that someone qualified to provide first aid, preferably with a recognised nursing qualification, should always be present in the prison, including at night and weekends.**

Further, **the CPT would like to receive the comments of the Isle of Man authorities concerning the apparent difficulties in ensuring prompt access to a dentist, and to be informed of whether they consider the current and envisaged support for the prison from the Island's general hospital infrastructure to be sufficient.**

Moreover, the CPT invites the Isle of Man authorities to review the conditions under which medical consultations with female prisoners take place at the prison. For organisational reasons it was not always possible for such prisoners to be taken to the new medical facility, and the room in which consultations took place in D Wing was not suitably equipped for this purpose.

- medical screening on admission

132. In the CPT's opinion, every newly-arrived prisoner should be properly interviewed and physically examined by a medical doctor as soon as possible after his admission; save for in exceptional circumstances, that interview/examination should be carried out on the day of admission, especially insofar as remand establishments are concerned. Such medical screening on admission could also be performed by a fully qualified nurse reporting to a doctor.

The information gathered by the delegation suggested that new arrivals at the Isle of Man Prison would be seen by a doctor fairly rapidly. However, there was no guarantee that they would be seen by health-care staff on the day of their arrival, especially if they were already known to the prison's staff.

133. On this subject, Dr Foot recommended that all new receptions be assessed by health care staff on the day of arrival and that such assessments be properly recorded to include a formal assessment of suicide risk. **The CPT endorses that recommendation.**

- caring for the suicidal

134. Following two deaths by hanging in the prison, in December 1995 and June 1996, and the subsequent Committee of Inquiry, this subject was inevitably to the forefront of the minds of many persons in the prison. There was a patent anxiety not to "lose" another prisoner. This is perfectly understandable. However, information gathered by the delegation suggested that this anxiety might have led to inappropriate - and even counterproductive - methods being used when faced with a suicidal prisoner.

135. In the course of the visit, the delegation's attention was drawn to two young offenders who were being held in strip cells on the ground floor of C wing. Due to lack of time, the delegation was not in a position to examine their cases in depth and more particularly to discuss them with medical staff. However, after interviews with the two prisoners concerned, consultation of relevant files and discussions with management and staff, it became clear that: each of the prisoners had been held in the strip cells for a number of weeks; at the outset they had been placed in the cells as they were considered to be at high risk of suicide; it had subsequently been decided that they could be returned to normal locations, but neither prisoner wished to return there; the two prisoners had been denied mattresses for a considerable number of days, the mattresses having been returned shortly before the delegation's visit.

As regards the reason for the denial of mattresses, two divergent explanations were given: on the one hand, it was advanced that the denial of a mattress was necessary as the prisoners were suicidal; on the other hand, it was indicated that the prisoners had now been cleared for return to normal location, and that the denial of a mattress was a means of persuading them to agree to that step.

It should be added that information gathered during the visit indicated that other prisoners had been held in recent times in unfurnished accommodation for many days, in some cases without a mattress. One such case, observed by Dr Foot on 30 October 1996, is mentioned in her report.

136. The appropriate manner in which to manage a prisoner assessed as being suicidal will vary according to the particular circumstances of each case. However, there is today a widespread consensus that unfurnished accommodation should only be used exceptionally. It is hard to imagine a measure less likely to have a positive effect on a suicidal person's state of mind than to place him on his own in a barren environment. Such a measure could only be justified in an emergency situation and should last for as short a time as possible.

To deprive a suicidal person placed in a strip cell of a mattress can only exacerbate the deleterious effects of the measure. The argument that this is necessary to prevent suicide is totally unconvincing. There are mattresses with technical characteristics such that a ligature cannot be made from them. Even if a mattress of this type is not available - nor a room deprived of all means (bars, handles, etc.) capable of being exploited by a prisoner for the purpose of hanging himself - to deprive a suicidal person of a mattress for days is indefensible from a clinical standpoint; under such circumstances, alternative measures (e.g. a special observation scheme) should be introduced at the earliest opportunity.

137. The denial of a mattress to a prisoner placed in a strip cell after having been assessed as suicidal but who is subsequently cleared for return to normal location is no less objectionable. There are good grounds for wishing such a prisoner to decide for himself to return to normal location rather than having to return him forcibly. The application of a restricted regime may well be a useful tool when managing such a situation. However, the enjoyment of something so basic as the proper means to sleep should never be one of the bargaining chips. Similarly, the legitimacy of continuing to hold under strip conditions (even with a mattress) a prisoner who has been cleared for return to normal location is highly questionable.

138. The CPT also wishes to stress that the placement of a suicidal person in an unfurnished cell should be decided by a doctor or be brought immediately to the attention of a doctor for his approval. Further, for so long as the person concerned is kept in the unfurnished cell as a clinical intervention, the management of his situation must be the exclusive responsibility of a doctor, and health care staff should follow closely the evolution of the prisoner's condition.

139. **The CPT recommends that the Manx authorities immediately review the use being made of unfurnished cells in the Isle of Man Prison, having regard to the remarks in paragraphs 135 to 138.**

140. More generally, **the CPT recommends that the Isle of Man authorities develop a fully-fledged and multifaceted suicide prevention policy.**

One crucial aspect of such a policy - proper medical screening on arrival - has already been mentioned (cf. paragraphs 132 and 133). However, it should be stressed that suicide prevention is a subject which concerns all prison staff, not just members of the health care service. Each member of staff, whatever his or her particular job, should be on the look out for (which implies being trained in recognising) indications of suicidal risk. Further, as the previously-mentioned Committee of Inquiry indicated in its report, steps should be taken to ensure a proper flow of information within the establishment about persons who have been identified as at risk. The United Kingdom possesses a wealth of experience and documentation on this subject which the Isle of Man authorities could no doubt exploit and adapt to local circumstances.

The CPT would add that perhaps the central plank of a suicide prevention policy vis-à-vis prisoners in the Isle of Man must be to address as rapidly as possible the problems of overcrowding, lack of integral sanitation and inadequate regimes.

e. other issues

- the juvenile unit

141. The delegation was informed that there had been 34 admissions to the juvenile unit on the ground floor of D Wing since May 1994 (a number of those admissions concerning the same person). The longest stay to date had been a 16 year old, held in the unit for four months. In the great majority of cases, the period of detention, whether on remand or sentenced, was only a matter of weeks.

No juveniles were being held in the unit at the time of the visit. However, one or more juveniles had been held throughout the preceding month of August 1997 and during the first part of September 1997.

The detention of a 12 year old girl in the unit for a short period in June 1997 had given rise to a considerable amount of adverse publicity.

142. As already indicated (cf. paragraph 115), material conditions of detention in D Wing were far removed from those prevailing in the Victorian-era A and B Wings. Cells in the juvenile unit were of a good standard, and the unit also possessed a bright and well-equipped day room. It should also be noted that the entrance to the unit was quite separate from the main prison gate.

143. No juveniles being held, the delegation was not able directly to observe daily life in the unit. However, the detailed instructions concerning the operation of the unit suggested that a special effort was made to provide appropriate care, protection and guidance. As regards more specifically out-of-cell time, according to the timetable it would be in excess of 10 hours a day, 7 days a week.

144. Four prison officers had been given particular responsibility for juveniles, three of the officers having received special training for that task. Unfortunately, all three of those officers were on leave at the time of the delegation's visit. **The CPT would like to receive details of the special training provided to the officers concerned.**

Further, **the CPT would like to receive a full account of arrangements made for the education of juveniles held in the unit.**

145. It is a fact of life that on occasion juveniles will have to be deprived of their liberty. The CPT has no evidence to suggest that the Manx authorities are making excessive use of their powers in this area. Nevertheless, to place within a prison 10 to 16 year-olds who have to be deprived of their liberty is clearly undesirable; it is far preferable for such persons to be held in detention centres specifically designed for juveniles or secure local authority accommodation.

The CPT recognises the practical difficulties faced by the Isle of Man authorities in tackling this problem. From the standpoint of making the most effective use of limited resources, the existing arrangements make a lot of sense. Nevertheless, the Committee was pleased to learn that the possibility of finding an alternative solution outside the prison estate was under consideration; **it would like to be kept informed of developments in this area**.

146. For as long as juveniles continue to be held at the Isle of Man Prison, **the CPT recommends that particular attention be paid to their education (including physical education) whilst accommodated in the establishment.**

Further, care must be taken to ensure that there is a watertight separation between juveniles and other prisoners in the establishment.

- contact with the outside world

147. It is very important for prisoners to be able to maintain good contact with the outside world. Above all, they must be given the opportunity to safeguard their relations with their family and friends, and especially with their spouse or partner and their children. The continuation of such relations can be of critical importance for all concerned, particularly in the context of prisoners' social rehabilitation. The guiding principle should be to promote contact with the outside world; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature or considerations linked to available resources.

148. The delegation was informed that, by law, convicted prisoners were entitled to a 30 minute visit per month (every two weeks for those under 21). In practice, convicted prisoners were allowed a 45 minute visit every two weeks.

The CPT invites the Isle of Man authorities to strive to increase the number of visits for convicted prisoners; they should preferably be allowed to receive a visit every week. Further, the formal visiting entitlement for convicted prisoners should be revised at an appropriate moment; one 30 minute visit per month is not sufficient to enable a prisoner to safeguard his relations with his family.

Remand prisoners were entitled to a 15 minute visit every day. In practice they could choose to accumulate visiting time, thereby enabling longer (albeit fewer) visits.

149. The establishment's visiting area had been the subject of much criticism in previous reports, and it certainly was a very modest facility. That said, visits took place under relatively relaxed and open conditions, with prisoners and their visitors seated together at a table.

In exceptional cases, visits took place under closed conditions. The facility used for this purpose calls for no comment from the CPT. **However, the CPT trusts that, in the light of the remarks and recommendation made in paragraph 107, no prisoner will ever be handcuffed when he receives a visitor.**

150. Prisoners could send and receive correspondence and it was intended to introduce payphones for inmates. The latter development had apparently been pending for some time, and certain prisoners expressed doubts as to whether it would ever materialise. The Prison Governor informed the delegation that the payphones should be installed within two to three months. **The CPT would like to receive further information on this subject.**

The Committee would also like to receive information on the possibilities for convicted prisoners at the Isle of Man Prison to be accorded home leave.

- complaints, disciplinary and inspection procedures

151. An effective complaints procedure is an important safeguard against ill-treatment and, more generally, will facilitate the proper running of a prison.

Prisoners in the Isle of Man Prison could lodge formal complaints with the Prison Governor and the Board of Visitors, and if dissatisfied with the outcome could submit a written petition to the Minister for Home Affairs and, subsequently, to their local MHK. Further, the delegation observed that inmates in the establishment had few inhibitions about expressing their views openly.

However, the CPT notes that to date the Isle of Man has retained the disciplinary offence of making a false and malicious allegation against a prison officer. The Committee is concerned that the existence of this offence could under certain circumstances deter prisoners who have a genuine grievance from lodging a complaint; **it would like to receive the comments of the Isle of Man authorities on this subject.**

Further, the CPT recommends that a procedure be devised in order to enable prisoners to enter into contact with the Prison Governor and the Board of Visitors in a confidential manner.

152. It is in the interests of both prisoners and prison staff that clear disciplinary procedures be both formally established and applied in practice. Disciplinary procedures should provide prisoners with a right to be heard on the subject of offences it is alleged they have committed, and to appeal to a higher authority against any sanctions imposed.

Further, if other procedures exist - alongside the procedure for dealing with disciplinary offences - under which a prisoner may be involuntarily separated from other inmates for discipline-related / security reasons, these procedures should also be accompanied by effective safeguards.

153. The Isle of Man Prison Rules contain detailed provisions on the question of offences against discipline, the power to impose sanctions being exercised by the Prison Governor and, in the most serious cases, the Board of Visitors. The Rules stipulate inter alia that a prisoner shall be given a full opportunity of hearing what is alleged against him and of presenting his own case.

The CPT would like to receive information on the possibilities for prisoners to appeal against sanctions imposed by the Prison Governor or the Board of Visitors.

Further, the Committee would like to be informed whether at least in certain cases (in particular, when the disciplinary charges are such that they could result in the most severe sanctions being imposed), the prisoner concerned is entitled to legal assistance in the context of the disciplinary proceedings, including during the hearing.

154. It should be added that corporal punishment still featured among the range of sanctions set out in the Prison Rules. The delegation was satisfied that the relevant provisions were today of purely historical interest. However, **the CPT trusts that they will be formally abrogated on the occasion of the next revision of the Prison Rules.**

Further the CPT has reservations as regards the potential length of the disciplinary sanction of cellular confinement; the Board of Visitors is empowered to impose that sanction "for a period not exceeding 56 days". **The Committee recommends that the maximum possible period of cellular confinement as a punishment be substantially reduced.**

155. Reference must also be made in this context to Rule 45 of the Prison Rules, which makes provision for the "removal from association" of a prisoner. This measure may be taken in the interests of the prisoner, and certain inmates to whom Rule 45 had been applied for this purpose were located in a section of A Wing (cf. paragraph 114).

A prisoner may also be removed from association "where it appears desirable for the maintenance of good order and discipline". Rule 45 had been applied for this purpose to the three prisoners referred to in paragraph 105.

It should be stressed that recourse to Rule 45 is not - or at least, should not be - of a punitive nature. The sanctions for offences against discipline are set out exhaustively in a quite separate section of the Prison Rules.

156. The material conditions in the cells accommodating the three prisoners being held in C Wing under Rule 45 were perfectly acceptable. The regime being applied to them was not. Two aspects of that regime - inadequate outdoor exercise and the practice of handcuffing the prisoners when outside their cells - have already been dealt with (cf. paragraphs 106 and 107). However, the concerns of the CPT go beyond those two points.

The CPT fully recognises that in exceptional cases, the implementation of a regime under which prisoners are segregated from others for prolonged periods may be justified for reasons of good order and security.[36] However, great care must be taken to counter the negative effects of such a situation. All forms of isolation without appropriate mental and physical stimulation are likely to have damaging effects, resulting in changes to social and mental faculties. The information gathered by the delegation strongly suggests that the prisoners referred to above were not being provided with that stimulation.

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[36] However, the application of such a measure as a punishment would not be acceptable; cf. also paragraph 154 (second sub-paragraph).

The CPT recommends that steps be taken to ensure that prisoners removed from association for a prolonged period under Rule 45 are provided with purposeful activities and guaranteed appropriate human contact.

157. The measure of removal from association under Rule 45 should also be accompanied by effective safeguards.

Rule 45 stipulates that a prisoner cannot be removed from association for more than 24 hours without the authority of the Board of Visitors or the Home Affairs Board, and that such authority can only be given for up to one month (though it can subsequently be renewed from month to month).

This is certainly an important safeguard. However, the CPT considers that prisoners removed from association under Rule 45 should also:

- be informed in writing of the reasons for the measure (on the understanding that the information given may omit particulars which security requirements reasonably justify withholding);

- be offered an opportunity to express their point of view to the competent authority before any final decision is taken on the measure or its renewal;

- have a right of appeal against the measure or its renewal.

The CPT would like to be informed of whether such safeguards exist.

158. Finally, several references have already been made to the Board of Visitors, which has a variety of functions and powers under the Prison Rules.

The information gathered by the delegation showed that the Board was a very active and outspoken participant in the life of the Isle of Man Prison. The Board is a very important safeguard for prisoners, and was clearly held in esteem by staff and inmates alike.

C. Isle of Man Constabulary

a. ill-treatment

159. The CPT's delegation heard no allegations - and received no other evidence - of torture or other forms of ill-treatment having been inflicted by police officers on persons held in police establishments in the Isle of Man.

However, isolated allegations were heard of excessive use of force at the time of arrest, and the CPT notes that certain persons have lodged complaints in recent years about the manner in which they were arrested.

160. The information gathered by the CPT's delegation suggests that persons detained by the police in the Isle of Man run little risk of being ill-treated. More generally, the delegation was impressed by the professionalism of the police officers whom it met. Nevertheless, having regard to the isolated allegations and complaints referred to in paragraph 159, **the CPT recommends that police officers be reminded that no more force than is reasonably necessary should be used when effecting an arrest.**

b. safeguards against ill-treatment

161. The CPT attaches particular importance to three rights for persons deprived of their liberty by the police:

- the right of those concerned to inform a close relative or another third party of their choice of their situation,

- the right of access to a lawyer,

- the right of access to a doctor.

These three rights are fundamental safeguards against the ill-treatment of persons deprived of their liberty, which should apply from the very outset of custody (that is, from the moment when those concerned are obliged to remain with the police).

Furthermore, persons taken into police custody should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above.

162. At the time of the delegation's visit, the Isle of Man did not have legislation equivalent to the United Kingdom Police and Criminal Evidence Act 1984 (which, as pointed out in the CPT's report on its first visit to the United Kingdom in 1990, provides an impressive level of legal protection against the ill-treatment of detainees - cf. CPT/Inf (91) 15, paragraph 216). However, the voluntarily-introduced "Force Policy on the Detention, Treatment and Questioning of Persons by Police Officers" sets out procedures which follow closely those of that Act and its related Codes of Practice.

The delegation was satisfied that as a result of the above-mentioned Force Policy, combined with the "Judges Rules" concerning the questioning of persons in police custody (which have applied to the Isle of Man since 10 August 1978), the rights referred to in paragraph 161 were de facto guaranteed in the Isle of Man. Further, those rights were clearly set out in the "Notice to Detained Persons" and "Notice of Entitlements" given to persons in police custody.

163. Draft legislation - the Police Powers and Procedure Bill 1997 - based on the Police and Criminal Evidence Act 1984 was expected to be enacted during 1998. **The CPT would like to receive further information on this question.**

In this connection, reference should be made to possible restrictions on the right of access to a lawyer, a matter which has been raised with the United Kingdom authorities in relation to the Police and Criminal Evidence Act. The CPT recognises that in order to protect the interests of justice, it may be necessary in certain exceptional circumstances to delay the exercise of the right of access to a particular lawyer chosen by the detainee. However, this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to another independent lawyer who can be trusted not to jeopardise the legitimate interests of the police investigation should be arranged. In view of the importance of this question, **the Committee recommends that the right of a person detained by the police in the Isle of Man to have access to another advocate when access to a specific advocate is delayed, be the subject of a legally binding provision.**

164. The existence of effective mechanisms to tackle police misconduct is another important safeguard against ill-treatment of persons deprived of their liberty. In those cases where evidence of wrongdoing emerges, the imposition of appropriate disciplinary and/or criminal penalties can have a powerful dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment.

The police complaints and disciplinary procedures in the Isle of Man are modelled on those applied within the United Kingdom, with adaptations to take account of local circumstances. It is particularly noteworthy that, in the Isle of Man, the functions of the Police Complaints Authority are performed by a Police Complaints Commissioner, the present incumbent being His Honour H.W. Callow, Retired Deemster (Senior Judge). Unlike in the United Kingdom, the delegation found no evidence of a lack of public confidence in the existing procedures.

Nevertheless, the CPT considers that it would be highly desirable for the adjudicating authority at police disciplinary hearings to include at least one suitably-qualified person who is independent of the police force (at present, disciplinary hearings are conducted by the Chief Constable). Further, consideration might usefully be given to the possibility of applying the civil rather than the criminal standard of proof in police disciplinary proceedings. **The CPT would like to receive the comments of the Isle of Man authorities on these matters.**

c. conditions of detention

165. The main police detention facility is located at the Police Headquarters in Douglas. Castletown, Peel and Ramsey Police Stations are also equipped with cells. However, the delegation was informed that it was highly unusual for detained persons to stay for more than a few hours in those stations; anyone who had to be kept in custody for a longer period would be transferred to the Police Headquarters.

166. Conditions of detention in the 10-cell custody suite at the Police Headquarters were of a high standard.

The cells were clean, in a good state of repair and of an adequate size for the number of persons they were designed to accommodate (7 to 8 m² for the single cells, 10 m² for the double cells). Further, they had access to natural light, had good artificial lighting and ventilation, and were suitably equipped (sleeping platform with mattress, sheets and blankets; semi-partitioned toilet facility; call bell). The custody suite also possessed adequate washing facilities (including shower units) and detained persons were provided with three meals a day.

However, the custody suite's sobering-up cell was not equipped with a mattress at the time of the visit, and the delegation's discussions with staff suggested that persons placed in that cell would not be provided with a mattress. **The CPT considers that persons placed in a sobering-up cell should be provided with a mattress (which could be equipped with a washable cover).**

The CPT also wishes to underline that persons held in police custody for an extended period (24 hours or more) should, as far as possible, be offered outdoor exercise every day.

167. Conditions of detention in the two cells at Ramsey Police Station were also quite reasonable. The cells were somewhat smaller that at the Police Headquarters (5.5 to 6.5 m²), but this drawback was offset to some extent by high ceilings. The cells were clean, had good access to natural light and good artificial lighting and ventilation, and were each equipped with a bench, mattress and blankets, a toilet facility and a call bell. The cells were more than adequate for stays of a few hours, and consultation of the custody register confirmed that detained persons were not held in them for longer periods.

168. The two cells at Peel Police Station offered distinctly less satisfactory conditions of detention. The cells were small (4.6 m²) and, unlike those at Ramsey Police Station, did not benefit from high ceilings. Further, access to natural light was limited and ventilation mediocre. Each of the cells was equipped with a bed and mattress; however, there was no in-cell toilet facility and only one of the cells had a call bell (which was out of order).

These cells were adequate for stays of a few hours, **but they would be scarcely suitable for use as overnight accommodation.**

169. The two cells at Castletown Police Station were of an acceptable size (approximately 6 m²) and were each equipped with a bench, mattress and toilet. Nevertheless, the conditions of detention left much to be desired. The cells had very poor access to natural light and no artificial lighting. More generally, the cells were in a poor state of repair and had a dungeon-like feel.

Consultation of the station's custody records showed that persons were only detained in the cells for short periods of time. Despite this, **the CPT recommends that the cells at Castletown Police Station be equipped with artificial lighting. Further, the Committee considers that the station's cells should under no circumstances be used as overnight accommodation.**

170. Finally, the CPT has noted that according to the Instruction on overspill cell accommodation, in the event of the Police Headquarters custody suite becoming fully occupied, "out of town" police stations should be utilised in the sequence Peel, Ramsey, Castletown. In the light of the remarks made in paragraphs 168 and 169, **the CPT would suggest that the cellular accommodation at Ramsey Police Station be the first to be used in the event of an overspill situation arising.**

APPENDIX I

SUMMARY OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION: UNITED KINGDOM

A. Legal remedies for police misconduct

recommendations

- steps to be taken to implement the Home Affairs Select Committee recommendations to which reference is made in paragraph 54 (paragraph 54);

- the role of the "chief officer" within the existing complaints and disciplinary system to be reviewed (paragraph 55);

- the Crown Prosecution Service to be required to give detailed reasons in cases where it is decided that no criminal proceedings should be brought against police officers (paragraph 57);

- an independent review to be carried out of all cases during the past two years in which there have been successful claims for civil damages / out-of-court settlements for sums in excess of £10,000 on grounds including assault by police officers. The review to seek to identify cases where, having regard to the nature and gravity of the allegations against the police officers concerned, the question of criminal and/or disciplinary proceedings against those officers ought to be reconsidered. More generally, the review body to be requested to propose measures designed to ensure that, in future, all such cases lead to an independent (re-)examination of whether criminal and/or disciplinary proceedings should be brought against police officers (paragraph 58).

comments

- the creation of a fully-fledged independent agency to investigate complaints against the police would be a most welcome development. Such a body should certainly, like the Police Complaints Authority, have the power to direct that disciplinary proceedings be instigated against police officers. Further, in the interests of bolstering public confidence, it might also be thought appropriate that such a body be invested with the power to remit a case directly to the Crown Prosecution Service for consideration of whether or not criminal proceedings should be brought (paragraph 55);

- it would be preferable if the independent element were to preponderate on adjudication panels at police disciplinary hearings (paragraph 56).

requests for information

- the comments of the United Kingdom authorities on the adequacy of the current formulation of the "evidential test" set out in the Code for Crown Prosecutors (paragraph 57).

B. Other police-related issues arising out of the visit

recommendations

- the right of a detainee to have access to another lawyer when access to a specific solicitor is delayed to be the subject of a legally-binding provision (paragraph 61);

- the Metropolitan Police Medical Examination Form to be revised in order to guarantee that Forensic Medical Examiners record:

  . (i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment),

  . (ii) an account of objective medical findings based on a thorough examination, and

  . (iii) the doctor's conclusions in the light of (i) and (ii)
  (paragraph 62).

comments

- anyone held in custody for an extended period (24 hours or more) should, as far as possible, be offered outdoor exercise every day (paragraph 59).

requests for information

- whether closed-circuit television monitoring of custody areas is to be extended nationwide (paragraph 60);

- the comments of the United Kingdom authorities on the issue of the presence in custody suites of police officers involved in the investigation of offences (paragraph 63);

- copies of all current guidance issued to police officers on the use of restraint techniques, together with details of the methods used to train police officers in the application of that guidance and of the regularity of such training (paragraph 66);

- details of any specific measures which have been taken by the United Kingdom authorities in the light of the verdict of the inquest jury in the case of the late Mr Ibrahima Sey (paragraph 66).

C. Prison overcrowding

recommendations

- the United Kingdom authorities to redouble their efforts to develop and implement a multifaceted strategy designed to bring about a permanent end to overcrowding (paragraph 77).

D. HMP The Weare - the prison ship

recommendations

- the United Kingdom authorities to seek to develop opportunities for purposeful work (preferably with vocational value) for prisoners at HMP The Weare (paragraph 87);

- steps to be taken to ensure that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the prison's premises, including at night and weekends (paragraph 90).

comments

- the United Kingdom authorities are invited to explore whether it would be possible to provide the cells with access to fresh air (paragraph 84);

- the two exercise areas for prisoners left something to be desired (paragraph 86);

- if the establishment's inmate population has now reached its capacity of 400, a more frequent attendance by a general practitioner and reinforcement of the nursing staff should be considered; more frequent attendance by a dentist should also be foreseen (paragraph 90);

- the United Kingdom authorities are invited to consider ways of facilitating visits to prisoners at HMP The Weare (paragraph 93).

requests for information

- whether difficulties regarding the regularity of kit changes and arrangements for prisoners' pay have now been resolved (paragraph 82);

- the comments of the United Kingdom authorities on the nature of the information provided to prisoners prior to their transfer to HMP The Weare (paragraph 83);

- up-to-date information on out-of-cell time offered to inmates (paragraph 85);

- an account of the different forms of organised activities (education, work, sport) currently offered to prisoners at the establishment, including information on the number of prisoners involved and the amount of time which they spend on those activities (paragraph 87);

- details of the progress which has been made in developing the prison's library (paragraph 87);

- further information on the provision of pre-release courses for inmates (paragraph 88);

- information on home leave possibilities for prisoners at HMP The Weare (paragraph 93);

- whether thought has been given to moving the vessel to a more central location (paragraph 93).

APPENDIX II

SUMMARY OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION: ISLE OF MAN

A. Isle of Man Prison

recommendations

- the Isle of Man authorities to agree, as a matter of urgency, on a prison redevelopment strategy capable of meeting the policy objectives referred to in paragraph 101, and to vigorously pursue the implementation of that strategy (paragraph 102);

- immediate steps to be taken to ensure that all prisoners placed in the segregation unit at the Isle of Man Prison are offered at least one hour of outdoor exercise every day (paragraph 106);

- the practice of handcuffing prisoners placed in the segregation unit whilst outside their cells to be the subject of an urgent review, in the light of remarks made in paragraph 107 (paragraph 107);

- the necessary steps to be taken to ensure that:

  . the standard-sized cells in A and B Wings do not accommodate more than two prisoners;

  . cells A12 and B7 do not accommodate more than three prisoners;

  . the A Wing dormitory does not accommodate more than six prisoners;

  . the cells in C and D Wings accommodate only one prisoner
  (paragraph 124);

- prison officers to receive clear instructions to the effect that when a prisoner held in a cell without integral sanitation requests to be released from his cell during the day for the purpose of using a toilet facility, that request is to be granted without delay (paragraph 125);

- the recesses to be kept in a proper state of repair and hygiene (paragraph 125);

- the Isle of Man authorities to strive to enhance the activities offered to prisoners, having regard to the remarks in paragraphs 121 and 122. In particular, steps to be taken to improve the regimes offered to young offenders and Rule 45 (Own Protection) prisoners. Further, the reintroduction of outdoor sports activities for all prisoners, both male and female, to be seen as a priority; in this connection, the Isle of Man authorities to explore the possibility of bringing back into service the former A and B Wing exercise yard (paragraph 126);

- someone qualified to provide first aid, preferably with a recognised nursing qualification, always to be present in the prison, including at night and weekends (paragraph 131);

- the Manx authorities immediately to review the use being made of unfurnished cells in the Isle of Man Prison, having regard to the remarks in paragraphs 135 to 138 (paragraph 139);

- a fully-fledged and multifaceted suicide prevention policy to be developed (paragraph 140);

- particular attention to be paid to the education (including physical education) of juveniles accommodated in the establishment. Further, care to be taken to ensure that there is a watertight separation between juveniles and other prisoners in the establishment (paragraph 146);

- a procedure to be devised in order to enable prisoners to enter into contact with the Prison Governor and the Board of Visitors in a confidential manner (paragraph 151);

- the maximum possible period of cellular confinement as a punishment to be substantially reduced (paragraph 154);

- steps to be taken to ensure that prisoners removed from association for a prolonged period under Rule 45 are provided with purposeful activities and guaranteed appropriate human contact (paragraph 156).

comments

- the CPT trusts that the new segregation/reception unit will be brought into service in the near future (paragraph 103);

- the remarks made in paragraph 115 to be borne in mind in the context of the prison redevelopment when arrangements are made for in-cell sanitary facilities (paragraph 125);

- the CPT endorses Dr V. Foot's recommendations designed to place the visiting general practitioner's relations with the prison on a firmer footing, to provide a properly resourced mental health team for the prison and to enhance interaction between the prison and Ballamona Hospital. The Committee also supports Dr Foot's recommendation that steps be taken to ensure that, other than in an emergency, the prison's hospital officers be deployed exclusively to health-care duties (paragraph 131);

- the Isle of Man authorities are invited to review the conditions under which medical consultations with female prisoners take place at the prison (paragraph 131);

- the CPT endorses Dr Foot's recommendation that all new receptions be assessed by health care staff on the day of arrival and that such assessments be properly recorded to include a formal assessment of suicide risk (paragraph 133);

- the Isle of Man authorities are invited to strive to increase the number of visits for convicted prisoners; they should preferably be allowed to receive a visit every week. Further, the formal visiting entitlement for convicted prisoners should be revised at an appropriate moment (paragraph 148);

- the CPT trusts that, in the light of the remarks and recommendation made in paragraph 107, no prisoner will ever be handcuffed when he receives a visitor (paragraph 149);

- the CPT trusts that the provision of the Prison Rules concerning corporal punishment will be formally abrogated on the occasion of the next revision of those Rules (paragraph 154).

requests for information

- details of the measures taken to implement the recommendations made in Dr Foot's report and the other recommendations of a medical nature made by the Committee of Inquiry into deaths of two prisoners in the establishment (paragraph 128);

- the comments of the Isle of Man authorities concerning the apparent difficulties in ensuring prompt access to a dentist for prisoners, and on whether they consider the current and envisaged support for the prison from the Island's general hospital infrastructure to be sufficient (paragraph 131);

- details of the special training provided to prison officers with particular responsibility for juveniles (paragraph 144);

- a full account of arrangements made for the education of juveniles held in the juvenile unit (paragraph 144);

- information on developments as regards the provision of alternative accommodation for juveniles deprived of their liberty (paragraph 145);

- further information on the installation of payphones for inmates (paragraph 150);

- information on the possibilities for convicted prisoners at the Isle of Man Prison to be accorded home leave (paragraph 150);

- the comments of the Isle of Man authorities on the retention of the disciplinary offence of making a false and malicious allegation against a prison officer (paragraph 151);

- information on the possibilities for prisoners to appeal against sanctions imposed by the Prison Governor or the Board of Visitors (paragraph 153);

- whether at least in certain cases (in particular, when the disciplinary charges are such that they could result in the most severe sanctions being imposed), the prisoner concerned is entitled to legal assistance in the context of the disciplinary proceedings, including during the hearing (paragraph 153);

- whether prisoners removed from association under Rule 45 are:

  . informed in writing of the reasons for the measure (on the understanding that the information given may omit particulars which security requirements reasonably justify withholding);

  . offered an opportunity to express their point of view to the competent authority before any final decision is taken on the measure or its renewal;

  . accorded a right of appeal against the measure or its renewal
  (paragraph 157).

C. Isle of Man Constabulary

recommendations

- police officers to be reminded that no more force than is reasonably necessary should be used when effecting an arrest (paragraph 160);

- the right of a person detained by the police in the Isle of Man to have access to another advocate when access to a specific advocate is delayed to be the subject of a legally binding provision (paragraph 163);

- the cells at Castletown Police Station to be equipped with artificial lighting (paragraph 169).

comments

- persons placed in a sobering-up cell should be provided with a mattress (which could be equipped with a washable cover) (paragraph 166);

- persons held in police custody for an extended period (24 hours or more) should, as far as possible, be offered outdoor exercise every day (paragraph 166);

- the cells at Peel Police Station would be scarcely suitable for use as overnight accommodation (paragraph 168);

- the cells at Castletown Police Station should under no circumstances be used as overnight accommodation (paragraph 169);

- in the event of an overspill situation arising, the cellular accommodation at Ramsey Police Station should be the first to be used (paragraph 170).

requests for information

- further information on the legislative progress of the Police Powers and Procedure Bill 1997 (paragraph 163);

- the comments of the Isle of Man authorities on the possibility of including at least one suitably-qualified independent person on the adjudicating authority at police disciplinary hearings and of applying the civil rather than the criminal standard of proof in police disciplinary proceedings (paragraph 164).