LETTERS FROM THE PRESIDENT OF THE CPT, DATED 17 SEPTEMBER 1993 AND 23 SEPTEMBER 1994, TO THE DANISH AUTHORITIES

COMITE EUROPEEN POUR LA PREVENTION DE LA TORTURE
ET DES PEINES OU TRAITEMENTS INHUMAINS OU DEGRADANTS

Le Président

Strasbourg, 17 September 1993

Dear Mr Rentzmann,

1. I have the honour to refer to your letters of 23 January and 3 July 1992 and of 22 July 1992 transmitting respectively the interim and follow-up reports requested in paragraph 146 of the report drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to Denmark in December 1990.

2. By way of introduction, the CPT wishes to express its appreciation of the replies and detailed information provided in the interim and follow-up reports as well as of the further information periodically transmitted on various specific points. The Committee would also like to reiterate its satisfaction at the decision taken in September 1991 by the Danish authorities to publish the CPT report. The Danish Government was the first State to publish such a report.

3. The information contained in the interim and follow-up reports clearly shows that the questions raised by the CPT after its visit to Denmark have received the full attention of the Danish authorities. The CPT welcomes, in particular, the numerous measures concerning prison establishments that have been taken (for example, the extension of prison regimes of the type seen at Blegdamsvejen Prison; the measures taken with regard to the surveillance of persons placed in security cells; and the improvement of the medical services at the Sandholm Institution). On the other hand, when it comes to the fundamental guarantees for persons held in police custody, solutions still need to be found in respect of several points raised by the CPT.

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Mr William RENTZMANN
Deputy Director-General
Department of Prisons & Probation
Justitsministeriet
Klareboderne 1
1115 COPENHAGEN K
Denmark

Adresse postale :
CONSEIL DE L'EUROPE
67075 Strasbourg Cedex
FRANCE

Téléphone : 88 41 20 00

Télex : EUR 870 943 F

Télécopie : 88 41 27 72

Prisons

Replies to paragraphs 21 and 22 of the CPT report (R.12, R.13, C.1, I.8 and I.9 of the interim and follow-up reports): specific training of the Police Headquarters Prison staff; recourse to physical force

4. The CPT has noted the work done in 1992 in the area of specific training for Police Headquarters Prison staff to enable them to deal with emergency situations. The CPT also welcomes measures to train Copenhagen prison staff in respect of recourse to physical force. The Committee was particularly interested to learn that the prison administration and Staff Training Centre have plans to concentrate on more systematic in-house training of staff and that a working party had been set-up for that purpose.

5. On this subject, the CPT wishes to mention the comment made in paragraph 22 of its report, suggesting that the question of the authorised means of use of physical force should be clarified. The importance of this question was highlighted in the findings of the independent enquiry carried out by Copenhagen City Court Judge Jens Andersen into the cases of a Gambian and a Tanzanian, a copy of which was transmitted by the Danish authorities by letter of 13 March 1992. In the view of the judge heading the enquiry, instructions on practical recourse to force should be made clearer and more precise.

In this respect, the CPT noted that a working party was set up in February 1992 to prepare a report on a set of standards and practices ("kutymer") regarding recourse to force. The CPT can only applaud such measures and would like to be informed of the follow-up to this work.

Replies to paragraphs 29, 30 and 112 of the CPT report (R.1 to R.4, I.1, I.2 and I.5 of the interim and follow-up reports): solitary confinement of prisoners

6. Although the statistical information provided shows a downward trend in the number of placements in solitary confinement in recent years it indicates that the average length of solitary confinement has increased.

It should be stressed that all forms of solitary confinement without appropriate mental and physical stimulation are likely in the long term to have damaging effects, resulting in deterioration of mental faculties and social abilities. This problem has also been emphasised by the Danish Psychiatric Association which, in a statement dated 12 December 1989, pointed out the seriously harmful effects of solitary confinement. The Committee noted with interest that the scientific study conducted on the subject is due to be completed with a report ready for submission by late summer 1993 to the Ministry of Justice (cf. request for information in paragraph 30 of the CPT report, I.2 of the interim and follow-up reports).

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For its part, the Committee considers that to counteract the harmful effects of solitary confinement - which in any case should be as short as possible - measures should be taken to provide prisoners kept in solitary confinement for prolonged periods with purposeful activities and appropriate human contact. The Committee would be grateful to hear the Danish authorities' comments on this subject.

7. The CPT has noted that a circular dated 13 January 1992 from the prison administration instructs staff that a doctor or the nursing staff is to be informed without delay when a prisoner so requests. Further, the Committee considers that the reply concerning the results of a medical examination of prisoners in solitary confinement meets the objectives of its recommendation.

Reply to paragraph 35 of the CPT Report (I.3 of the interim and follow-up reports): recourse to security cells/means of restraint

8. The Committee has examined the statistics provided on recourse to security cells and means of restraint. On the latter point, it has noted that in the Western Prison, Copenhagen, and Police Headquarters Prison, during the period 1 January 1990 to 30 June 1991, a fairly large number of people were submitted to physical restraint for lengthy periods, sometimes exceeding 12 hours. The CPT wishes to stress, in this respect, that instruments of physical restraint must be removed at the earliest possible opportunity and should never be applied or their application prolonged as a punishment.

Reply to paragraph 47 of the CPT report (R.14 of the interim and follow-up reports): improvement of the exercise arrangements for prisoners in solitary confinement

9. The CPT has noted that in most prison establishments, exercise areas for prisoners in solitary confinement of the type seen at the Western Prison have been abolished but that the problem still has to be solved at the latter establishment. It must reiterate that it is important for prisoners in solitary confinement at the Western Prison to benefit from proper, daily, open-air exercise.

Replies to paragraphs 48 and 105 of the CPT Report (R.6 of the interim and follow-up reports): medical examination of a prisoner on admission

10. The CPT has noted from the reply that when a prisoner asks on arrival to be examined by a doctor, this request must be complied with, and that all newly-arrived prisoners are offered an interview with a doctor or qualified nurse.

The Committee accepts that the medical screening on arrival can be carried out by a fully qualified nurse rather than a doctor. However, it considers that a prisoner must actually be seen by a member of the health care service and not just "offered" the possibility of an interview (cf. paragraph 33 of the 3rd general report on the CPT's activities). ./.

Reply to paragraph 49 of the CPT report (C.11 of the interim and follow-up reports as well as the report on measures taken by the Ministry of Justice following the independent enquiry carried out by Copenhagen City Court Judge Jens Andersen, forwarded by letter of 16 July 1993): care of prisoners with psychiatric problems

11. The CPT has taken note of the Danish authorities' efforts to allow mentally ill prisoners to be transferred to specialised hospital units.

Reply to paragraph 52 of the CPT report (R.15 and R. 16 of the interim and follow-up reports): suicide prevention at the Western and Police Headquarters Prisons

12. The CPT welcomes the measures taken in the field of suicide prevention. Nevertheless, it wishes to reiterate its recommendation on the need to ensure a proper flow of information between the staff of the establishments in charge of persons with suicidal tendencies.

Reply to paragraph 54 of the CPT report (R.17 and C.6 of the interim and follow-up reports): asylum seekers

13. The CPT learned with satisfaction that the building for aliens held under Section 36 of the Aliens Act is now completed and has been in use since 1992. The CPT also noted from the above-mentioned letter of 16 July 1993 that measures had been taken designed to enable asylum-seekers to be transferred more quickly to the Sandholm Institution, that the latter's capacity had been doubled and that a reception unit annexed to the institution was opened.

Reply to paragraph 60 of the CPT report (R.7 of the interim and follow-up reports): review of the conditions under which Boards of Visitors may carry out their inspections with a view to strengthening the Boards' role

14. The CPT has noted the clarifications in the interim report on the powers of the Boards of Visitors. It considers that it would be preferable for the Boards' right to pay visits without prior notice to be further specified, for example by express incorporation of that right in section 779 of the Administration of Justice Act. The Boards' work might also be facilitated if individual members could pay visits to remand establishments.

On this score, the CPT has noted the decision by the Department of Prisons and Probation to invite the boards to pay more frequent visits to prisons at reasonable intervals ("... med rimelige mellemrum").

Pending legislative reform, it would be appropriate to spell out the points referred to above via directives or instructions.

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Replies to paragraph 78 and 80 of the CPT report (R.19, R.20 and C.8 of the interim and follow-up reports): application of the provisions of Act N° 331 on deprivation of liberty and other coercive measures in psychiatry to those detained at the Herstedvester Institution; placement in solitary confinement of a mentally ill prisoner and recourse to means of restraint to be under the entire and sole responsibility of medical personnel

15. The Committee has noted that the Danish authorities accept the recommendation on the subject of treatment of persons detained at the Herstedvester Institution without their consent. More generally, the Committee has noted with interest that a working party has been set up to consider to what extent the principles of Act no. 331 should apply within the Institution. The CPT would like to be kept informed of progress in this area.

16. In paragraph 80 of its report, the CPT stressed that the placement in solitary confinement of a mentally ill prisoner and the recourse to means of restraint can be considered as acceptable only if the treatment of such a prisoner is under the entire and sole responsibility of medical personnel.

It was stated in the reply that "as far as the use of solitary confinement and restraint is concerned, it is the view of the Department of Prisons and Probation that the Committee's comments on this matter will involve serious ethical problems for the doctors working in this establishment (i.e. Herstedvester). The issue has been debated with the Danish Medical Association and there is an agreement that the use of solitary confinement and restraint should take place exclusively on the responsibility of the prison administration, so that the doctors do not risk being in conflict with the Tokyo Declaration. The use of force under a penal system will often be based upon considerations of safety and order, that is to say considerations which will be in evident conflict with medical tasks and medical obligations to be safeguarded".

It seems to the CPT that the difficulty lies in the fact that the Herstedvester Institution - although it has never been and is still not designed to take mentally ill prisoners - occasionally receives prisoners who turn out to be psychotic and who cannot be transferred immediately to a psychiatric hospital.

Although the approach set out in the interim report is valid for most prisoners at the Herstedvester Institution, the CPT is nevertheless still of the opinion that recourse to solitary confinement and/or means of restraint vis-à-vis a person identified as mentally ill, but not yet transferred to an ordinary psychiatric hospital service, should be under the entire and sole responsibility of medical personnel.

Reply to paragraph 104 of the CPT report (R.9 and R.10 of the interim and follow-up reports): review of the complaint procedures applicable in establishments for convicted prisoners with a view to supplementing them by an element which is independent of the Department of Prisons and Probation; study of the possibility of these establishments being inspected by independent bodies

17. The Committee has noted with interest the steps taken in 1992 to implement both recommendations made in the CPT report.

It hopes that these issues will continue to receive the full attention of the authorities, given their importance in the context of safeguards for prisoners. The CPT would like to be kept informed of further developments. ./.

Replies to paragraphs 110 and 112 of the CPT report (I.4, I.5 and I.6 of the interim and follow-up reports): the outcome of the examination of the provisions of the Bill on the enforcement of sentences concerning the disciplinary powers of prison governors; the outcome of the examination of the provisions of the same Bill concerning the transfer of prisoners classified as dangerous

18. Various questions linked to the Bill on the enforcement of sentences are still being examined. The Committee would like to be informed in due course of any developments.

Police stations

Reply to paragraph 117 of the CPT report (I.17 of the interim and follow-up reports): comments on the allegations made concerning the manner in which asylum seekers are questioned by the police

19. The question of the behaviour of the police in the presence of foreign detainees led to critical remarks in the independent enquiry carried out by Copenhagen City Court Judge Jens Andersen. The Committee has taken note of the improvements that followed this enquiry (cf. the report by the Ministry of Justice on measures taken after the independent enquiry, transmitted by letter from Mr Rentzmann of 16 July 1993). The CPT has noted that the written instructions (A-Info III N° 13 of 26 November 1981) from the Chief of Police are being revised. It would appreciate being sent a copy of the new instructions.

Replies to paragraphs 126 and 128 of the CPT report (R.25, R.26 and R.27 of the interim and follow-up reports): right of arrested persons to inform immediately a relative or a third party of their arrest; right of arrested persons to have access to a doctor (including one of their own choice)

20. The information supplied shows that in Denmark, the right to inform one's next of kin, or another third party of one's choice, of one's arrest is not explicitly guaranteed. The CPT must stress once more that the right for persons in police custody to be able immediately to inform their next of kin, or a third party of their choice, of their arrest is a fundamental guarantee against ill-treatment and should therefore be provided for expressly. It cannot simply be assumed that the right exists as "a matter of course".

Section 758 of the Administration of Justice Act provides that: "...Under anholdelsen er han iøvrigt ikke undergivet andre indskrænkninger i sin frihed, end anholdelsens øjemed og ordenshensyn nødvendiggør." ("During an arrest, a person's liberty shall not be restricted in any way other than that required by the aim of the arrest and considerations of order."). The CPT has noted that the Danish authorities are reluctant to contemplate any amendment to this provision, but that regulations clearly establishing the existence of the right to inform one's next of kin or another third party of one's choice of one's arrest might be envisaged. This approach would be a satisfactory response to the Committee's recommendation, provided that it is a binding regulation. The regulations should also clearly circumscribe any possibilities for the police exceptionally to delay the exercise of that right and provide appropriate safeguards (for example, recording the delay in writing together with the reasons for the delay and requiring the approval of a senior officer or public prosecutor). ./.

21. Access to a doctor (including one of the detainee's choice) is another right which should be explicitly safeguarded. Of course, this too could be done through a regulation rather than an amendment to the Administration of Justice Act.

Reply to paragraph 127 of the CPT report (I.18, I.19 and I.20) of the interim and follow-up reports): right of arrested persons to access to a lawyer

22. The CPT is grateful for the clarification provided. It has noted that the right of access to a lawyer becomes operative as from the moment when an arrested person is questioned for the first time by the police. There are no provisions in the Administration of Justice Act or any regulations guaranteeing a right of access to a lawyer prior to questioning; although, according to the "Kommenteret Retsplejelov" of 1989, a request by an arrested person to consult a lawyer before questioning "normally has to be respected".

The CPT wishes to stress that the period immediately following a person's deprivation of liberty is the one during which the risk of intimidation and ill-treatment is at its greatest. The Committee therefore considers that the right for a person in custody to have access to a lawyer from the very outset of his custody - and not only from when he is (formally) interviewed by the police - is of the utmost importance.

23. The CPT recognises that in order to protect the interests of justice, it may be necessary in certain circumstances to delay the right of access to a lawyer chosen by the detainee. However, 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 light of the above, it recommends that the Danish authorities establish the right for persons in police custody to have access to a lawyer from the very outset of their custody.

Replies to paragraphs 130 and 132 of the CPT report (R.28, R.29 and R.30 of the interim and follow-up reports): code of practice on police interrogations; electronic recording of police interviews; single and comprehensive custody record

24. The CPT recognises the importance of the provisions on interrogations in the Administration of Justice Act and does not seek the amendment of that law. However, it does feel that it would also be very useful for police officers to be given clear instructions covering all aspects of the conduct of interrogations, taking into account the general legal imperatives. The CPT wishes to stress that the points contained in its recommendation are only examples of the aspects to be dealt with in a code of practice for conducting interrogations (see paragraph 39 of the 2nd annual report of activities of the CPT). Such a code would be of considerable educational value. This measure could easily be implemented by means of instructions or directives.

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25. The Committee has noted that the Ministry of Justice is considering the possibility of introducing a system of electronic recording of police interviews and a single and comprehensive custody record for each detainee. It would like to be kept informed of any developments.

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26. To conclude, the CPT is most grateful for the attention paid to its report and is certain that the ongoing dialogue between the Danish authorities and the Committee shall continue to prove fruitful.

Yours sincerely,

Claude NICOLAY

cc. Permanent Representative of Denmark to the Council of Europe

COMITE EUROPEEN POUR LA PREVENTION DE LA TORTURE
ET DES PEINES OU TRAITEMENTS INHUMAINS OU DEGRADANTS

Le Président

Strasbourg, 23 September 1994

Dear Mr Rentzmann,

In a letter of 17 September 1993, the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) made a number of remarks on the interim and follow-up reports forwarded by the Danish authorities in reply to the report drawn up by the CPT after its visit to Denmark in 1990.

The Committee would be grateful if the Danish authorities could respond to the different issues raised in that letter and, more particularly, to those concerning fundamental guarantees for persons in police custody.

Further, the CPT's attention has been drawn to a form of physical restraint which, at least until recently, has apparently been employed on certain occasions by the Danish police, namely the so-called "leg lock". The Committee would like to be informed of the current position, in law and in practice, as regards the possible resort to this means of restraint.

Yours sincerely,

Claude NICOLAY

Mr William RENTZMANN
Deputy Director-General
Department of Prisons & Probation
Justitsministeriet
Klareboderne 1
1115 COPENHAGEN K
Denmark

Adresse postale :	Téléphone :	Télex :	Télécopie :
CONSEIL DE L'EUROPE 67075 Strasbourg Cedex FRANCE	88 41 20 00	EUR 870 943 F	88 41 27 72

SUPPLEMENTARY INFORMATION PROVIDED BY THE DANISH AUTHORITIES IN RESPONSE TO THE LETTERS OF THE PRESIDENT OF THE CPT

(transmitted by letter of 6 February 1995)

ATH-0401

J.no. Pol.kt. 94-965-0217
J.no. DFK 1990-62-8 (f)

Copenhagen, 30 January 1995

Supplementary information concerning letter of 17 September 1993 and letter of 23 September 1994 from the CPT.

PRISONS

Re points 4-5 in the Committee's letter of 17 September 1993. "Paragraphs 21 and 22 of the CPT report (R.12, R.13, C.1, I.8 and I.9 of the interim and follow-up reports): Specific training of the Police Headquarters Prison Staff; recourse to physical force".

The reception unit of the Copenhagen Police Headquarters Prison was closed in the summer of 1993. The reception function has been transferred to Copenhagen Prisons, the Western Prison, where a new reception unit has been opened. Attention was paid to the views expressed by the CPT in its report when the unit was being organised.

In January 1994 a working group on training uniformed personnel in recourse to legal means of restraint and security submitted a recommendation concerning conflict prevention and solving conflicts. A copy of this recommendation, regrettably only available in Danish, is enclosed.

The recommendation contains, inter alia, an account of current standards and practices concerning the practical implementation of conflict prevention and solution.

The recommendation assesses the appropriateness of the various practices and on this basis some proposals are made with regard to adjustments and alterations.

Under current regulations, today the individual member of staff can himself decide when to carry a truncheon. Therefore the working group proposes a change in the regulations so that truncheons can only be handed out when and if there is a specifically justified situation involving risk, where the utilisation of the truncheon is considered necessary as an instrument of restraint, including a means of self-defence. It is recommended in the proposal that truncheons normally should be stored in a depot and only handed out on the decision of the senior duty officer.

The recommendation states the qualifications that may be required of the good conflict resolver (concerning knowledge, skills and attitudes). In addition, there is an assessment of whether current recruitment procedures, basic and further training are sufficient to ensure that the staff actually possess these qualifications.

The working group finds that there is a need to improve both the theoretical and the practical basic training in conflict prevention and solution, including practical skills in using gentle and peaceful means.

The working group proposes, inter alia, that the objectives of the training in the use of means of restraint and force be further specified and that more teaching hours be provided.

Finally it is proposed that a refresher training course in self-defence be integrated into the compulsory training courses.

The recommendation has been sent to the institutions and organisations of the Prison and Probation Service for their comments and the Department of Prisons and Probation is in the process of examining the replies. A decision concerning the implementation of the proposals in the recommendation is expected within a short time. The CPT will be kept informed.

Re points 6-7 in the Committee's letter of 17 September 1993. "Paragraphs 29, 30 and 112 of the CPT report (R.1 to R.4, I.1, I.2 and I.5 of the interim and follow-up reports): Solitary confinement of prisoners".

The findings contained in the research project initiated by the Minister of Justice in 1990 at the request of the Criminal Justice Review Committee concerning any possible harmful effects of being remanded in custody in solitary confinement were published in May 1994 in a report entitled, "Remand in custody and mental health".

A copy of the report, regrettably only available in Danish, is enclosed.

As can be seen in the report, on the basis of the study it is concluded that remand in custody in solitary confinement versus non-solitary confinement involves the risk of harmful effects on mental health.

The study also shows that the state of mental health of prisoners who are not detained in solitary confinement improves during their period of remand in custody, and that while the state of health of prisoners in solitary confinement remains unchanged during their period of solitary confinement, the degree of strain is reduced when the prisoner is transferred to non-solitary confinement.

The study also shows that there is a greater probability that those in solitary confinement develop mental problems and are transferred to prison hospitals for mental reasons than those who are not placed in solitary confinement.

However, no influence resulting from the duration of solitary confinement on the mental health of those who were examined has been proved.

Finally, the study concludes that the harmful effects of solitary confinement are not in general such as to result in abnormalities in the cognitive functions, e.g. concentration and memory.

The report has been sent to the Criminal Justice Review Committee so that it can be included in the committee's assessments of current rules concerning solitary confinement.

In addition the results of a follow-up study of a certain number of those examined with a view to illustrating possible long-term effects of solitary confinement are expected to be published in a supplementary report this year.

Activities for prisoners remanded in custody in solitary confinement

The Ministry of Justice is in full agreement with the remarks of the CPT to the effect that persons in solitary confinement should be provided access to purposeful activities and appropriate human contact in order to counteract the isolation in which the person in question is placed.

The prisoners in solitary confinement in Copenhagen Prisons, just like the other prisoners in the institution, may have contact with the different groups of personnel in the prison on an equal footing with the other prisoners.

Prisoners in solitary confinement are in daily contact with the uniformed personnel in their section. It might be noted here that when appointments are being made in the institutions of the Prisons and Probation Service, great care is taken to select people who have expressed the ability and wish for contact with other people. During their training, the personnel of the prisons receive instruction in psychology; part of the reason for this is to help them to achieve skills in making contact with prisoners.

The social workers in the prison prioritise conversations with the prisoners in solitary confinement as they are aware of the strains involved in solitary confinement.

The prisoners have access to unsupervised conversation with the chaplains attached to the prison, either in their cells or in the chaplain's office. In addition, prisoners may participate in church services with a view to receiving Holy Communion or to private prayers.

Just like the other prisoners in the institution, prisoners in solitary confinement have the possibility of being attended by the health personnel of the institution in question, who attend the prisoner at the request of other groups of personnel or of the prisoner himself or herself. It should be noted that Copenhagen Prisons enjoy the services of both psychiatric and somatic doctors with a view to ensuring the best possible health care.

Finally, the supervisory authority has contact with the prisoners in solitary confinement whenever there are questions of a juridical nature.

As far as meaningful activities for these prisoners is concerned, as soon as possible after his/her arrival, the prisoner is offered work which can be done in the cell.

Where there are both possibility and resources, the prison schools offer teaching to prisoners in solitary confinement. The courses vary considerably depending on the needs and wishes of these prisoners. A head teacher at the prison, either on his/her own initiative or upon the request of the prisoner or personnel, counsels the prisoner. In addition, the school librarian, who belongs to the school section, can visit the prisoner once a week. Finally, the school offers certain leisure activities to prisoners in solitary confinement.

During the day prisoners can exercise in the exercise room; during the evening they have the possibility of playing table tennis or badminton with members of staff. The prison also has a number of computer games which prisoners may borrow. Twice a week, prisoners in solitary confinement have the opportunity to shop when staff of the prison shop deliver goods to the prisoner.

Re point 8 in the Committee's letter of 17 September 1993. "Paragraph 35 of the CPT report (I.3 of the interim and follow-up reports): Recourse to security cells/means of restraint.

In November 1992, a working group under the Department of Prisons and Probation submitted a recommendation concerning the future use of security cells in prisons and local goals. A copy of the recommendation is appended. A copy of this recommendation, regrettably available in Danish only, is enclosed.

The rules concerning security cells etc. were changed with effect from 1 July 1994, in accordance with the recommendation of the working group. The Circular and accompanying letter of 27 May 1994 concerning the new rules are enclosed. As noted in the latter, it has simultaneously been decided to replace a number of security cells by observation cells.

Reference is made to **chapter 6.3.3.** of the recommendation and section 19 of the Circular with regard to the question of the length of time for which security cells/means of restraint are used. In accordance with these provisions, a security cell/means of restraint may not be employed for longer than absolutely necessary.

For the information of the CPT, a survey of the number and duration of placements in a security cell in 1993 and a list

of the corresponding figures between 1988 and 1992 are appended.

Also appended are surveys of the use of security cells/means of restraint between 1990 and 1993 in Copenhagen Prisons. From these surveys a fall in the number of placements in security cells where means of restraint were used and the duration of these placements in this period can be observed.

Attention is drawn to the fact that Copenhagen Prisons are the reception institution for the local gaols on Zealand and sometimes from the open prisons in the case of placement in security cells. In addition to this, in the period under discussion Copenhagen Prisons have, for example, admitted persons from the Herstedvester Institution and the Institution for detained asylum-seekers at Sandholm. It should be noted in this connection that quite often the persons involved are in a state of mental stress: they may, for instance, be aliens who are about to be expelled/returned from Denmark. Because the persons are in a situation of stress, they could harm themselves in order to avoid being expelled and commit such self-destruction that physical restraint may be necessary.

As regards the length of time persons are kept in security cells with the use of means of restraint, the enclosed surveys from the third quarter of 1991 to the fourth quarter of 1993 show that the great majority of placements were within the range of 0-6 hours, and that very few persons were submitted to physical restraint for longer periods. The report shows that some of those restrained were mentally ill persons who were transferred, voluntarily or forcibly, to psychiatric hospitals when released from restraint.

Means of restraint are only employed for the length of time absolutely necessary, and the instruments are removed as soon as possible, sometimes with the risk that renewed restraint becomes necessary. Thus in these situations two periods in a security cell may be registered instead of one.

Re point 9 in the Committee's letter of 17 September 1993. "Paragraph 47 of the CPT report (R.14 of the interim and follow-up reports): Improvement of the exercise arrangements for prisoners in solitary confinement".

The Department of Prisons and Probation is aware of the need for improved outdoor exercise facilities for prisoners in solitary confinement at the Western Prison. Because of the limited space available in relation to the number of prisoners in solitary confinement i.a., it is, however, still not possible to organise individual, more extensive outdoor exercise facilities for prisoners in solitary confinement at the Western Prison.

Re point 10 in the Committee's letter of 17 September 1993. "Paragraphs 48 and 105 of the CPT Report (R.6 of the interim and follow-up reports): Medical examination of a prisoner on admission".

Apart from cases where there are grounds for compulsory treatment of a psychotic patient, under Danish law all contact between a patient and the health care service is on a voluntary basis. In accordance with the general principle that prisoners should be treated according to the same norms and principles as the rest of the community to the greatest possible extent, it has been found natural to organise health care in the institutions of the Prison and Probation Service as described in the interim report.

Re point 13 of the Committee's letter of 17 September 1993. "Paragraph 54 of the CPT Report (R.17 and C.6 of the interim and follow-up reports): asylum-seekers".

In January 1994 the Institution for detained asylum-seekers at Sandholm was enlarged by 60 places and in addition, in the Spring of 1994 a newly-constructed, 30-place reception unit was opened bringing total capacity up to 150 places. Newly

arrived asylum-seekers who are to be detained, are placed in the Sandholm Institution. In this connection it should be noted that the venue for dealing with cases of detention of asylum-seekers has been changed. The cases are no longer taken to Copenhagen City Court, but to the Court of Hillerød which is closer to the Sandholm Institution.

In the course of 1994 there has been a substantial number of escapes from the Sandholm Institution. On several occasions, the same asylum-seeker has escaped several times. The escapes are by persons whose applications for asylum are to be dealt with under what is called the manifestly unfounded procedure, as well as persons who are waiting to be sent out of the country after their applications have been rejected.

Because of the large number of escapes, a scheme has been introduced under which asylum-seekers who belong to the above-mentioned categories, may be placed in local gaols if they have attempted on one or several occasions to escape from the Sandholm Institution.

Re point 14 in the Committee's letter of 17 September 1993. "Paragraph 60 of the CPT Report (R.7 of the interim and follow-up reports): Review of the conditions under which the Board of Visitors may carry out their inspections with a view to strengthening the Board's role".

As announced in the reply of the Danish authorities to the CPT, following talks with the Association of County Councils in Denmark, the Ministry of Justice urged Copenhagen City Council and the County Councils to regularly inspect local gaols in accordance with Section 779 of the Administration of Justice Act, and to report back to the Minister of Justice if need should arise. A copy of this communication is appended for the information of the CPT.

As this did not have the desired effect, a mere 14 of the 38 local gaols in Denmark having been visited in 1993, the

Ministry of Justice once more took the question up with the the Association of County Councils. The Ministry has proposed a repetition of the request for regular inspection. In this connection it should be further specified to the County Councils that visits can be made without prior notice and that there is access to unsupervised correspondence with those who are remanded in custody. On the other hand the provision in section 779 of the Administration of Justice Act would prevent the abolition of the requirement that the "Board of Visitors as such" shall pay such an unannounced visit. At no point has it come to the notice of the Ministry of Justice that there are practical problems involved in meeting this requirement. The Association of County Councils in Denmark has agreed the Ministry's proposal.

However, at the end of July 1994 a Parliamentary Committee submitted a White Paper concerning the Ombudsman Act. One of the proposals of this Committee was the abolition of Section 779 of the Administration of Justice Act as a consequence of a proposed extension of the inspection by the Parliamentary Ombudsman of the institutions under the Prisons and Probation Service. Reference is made to what is written below concerning point 17 in the Committee's letter of 17 September 1993.

For this reason the Ministry of Justice has postponed the question of requesting the County Councils to pay regular visits of inspection until a decision has been made with regard to the adoption of the Parliamentary Committee's recommendation. The CPT will be kept informed.

Re points 15 and 16 of the Committee's letter of 17 September 1993. "Paragraphs 78 and 80 of the CPT report (R.19, R.20, and C.8 of the interim and follow-up reports): Application of the provisions of Act N 331 on deprivation of liberty and other coercive measures in psychiatry to those detained at the Herstedvester Institution; placement in solitary confinement of a mentally ill prisoner and recourse to means

of restraint to be under the entire and sole responsibility of medical personnel".

The working party set up to consider the application of the principles of the Psychiatry Act at the Herstedvester Institution submitted its recommendation to the Department of Prisons and Probation on 30 December 1993. Please find enclosed a copy of the recommendation. Regrettably, the recommendation exists solely in Danish.

The working party has recommended that the principles of the aforesaid Act N 331 of 24 May 1989 on deprivation of liberty and other forcible means in psychiatry should be applied as a provisional arrangement pending final resolution of the question in connection with the Bill on the enforcement of sentences etc. being drafted by the Criminal Law Committee.

Considering what provisions of the Psychiatry Act should be applied at the Herstedvester Institution in connection with compulsory treatment, the working party has taken for its point of departure Executive Order no 605 of the Ministry of Justice of 23 August 1990 on persons admitted to a psychiatric ward pursuant to a ruling in criminal proceedings and the guidelines laid down in a note of the same date on the executive order. The reason being that this executive order concerns a group of persons, who in line with those detained at the Herstedvester Institution, are deprived of their liberty under a court order. Consequently, the same considerations apply to a wide extent.

The working party has, in particular, considered whether important prison-related considerations make it necessary to depart from the rules of the executive order concerned. In this connection the working party has considered the relationship between the provisions of the Prison and Probation Service on physical restraint and those of the Psychiatric Act on the same, and whether it should be possible to concurrently apply the two codes. It is the opinion of the working party that this will prove

problematic due to the uncertainty which might arise with regard to powers and responsibilities. Considering that the two codes are based, by and large, on the same consideration i.e. with a view to preventing persons detained from harming themselves and others, the working party has found it unproblematic to establish an arrangement under which detained persons who are mentally ill and subject to compulsory treatment may not simultaneously be made subject to physical restraint under the Prison and Probation Service provisions governing this matter. This will ensure unambiguous placing of responsibility including that for record keeping etc. Similarly, it will clarify which of the two different complaint and report procedures is to be applied. It is a general provision of the Psychiatric Act that the least interfering means is to be applied. If other and less interfering measures than physical restraint are sufficient to put an end to a violent situation, such measures are to be applied under the Psychiatric Act. In situations where a person detained is to be treated under the principles of the Psychiatric Act according to the recommendation, the responsibility for placement in e.g. a security cell and for the application of means of restraint in other respects with regard to a psychotic person rests with the medical personnel.

In the extremely rare cases where coercive measures in treatment are applied to those detained at the Herstedvester Institution, this is done in accordance with the recommendation of the working party. One point only i.e. the appointment of patient counsellors is subject to the decision of the supreme administrative authority of the county on which of the patient counsellors of the supreme administrative authority of the county may, if necessary, be used by the Prison and Probation Service.

Apart from the above-mentioned extremely rare cases it remains the opinion of the Prison and Probation Service that any use of force should take place exclusively on the responsibility of the prison administration, so that the

doctors working at the institution do not risk being in conflict with the Tokyo Declaration etc.

Re point 17 of the Committee's letter of 17 September 1993. "Paragraph 104 of the CPT report (R.9, R.10 of the interim and follow-up reports): Review of the complaint procedures applicable in establishments for convicted prisoners with a view to supplementing them by an element which is independent of the Department of Prisons and Probation; study of the possibility of these establishments being inspected by independent bodies".

The question of whether to set up an independent supervisory body with a view to inspecting establishments of convicted prisoners has been discussed with the National Association of Local Authorities in Denmark whose opinion was, however, that it is no task for the municipalities to inspect central government institutions. The question was subsequently submitted to the Association of County Councils in Denmark, which referred to the institution of the Danish Ombudsman as a more appropriate supervisory authority. By letter of 15 October 1993 the Ministry of Justice subsequently requested a parliamentary committee considering amendments to the Ombudsman Act to consider the proposal submitted by the Association of County Councils in Denmark to increase the Ombudsman's inspection activity with regard to the Prison and Probation Service establishments with a view to ensuring systematic inspection of all establishments. Submitting its report at the end of July 1994, the parliamentary committee proposed i.a. that the Ombudsman's powers be increased in the said area. As a consequence of the implementation of the proposal to increase the Ombudsman's inspection activity with regard to the Prison and Probation Service establishments, the parliamentary committee proposed that Section 779 of the Administration of Justice Act be repealed cf. the above concerning point 14 of the Committee's letter of 17 September 1993.

For your information please find enclosed a summary in English of the report submitted by the committee as well as excerpts of the report concerning the inspection activity of the Ombudsman with regard to Prison and Probation Service establishments.

As mentioned in the interim reply, a working party set up by the Criminal Law Council submitted Report no 1181/89 concerning a Bill on the enforcement of sentences. Section 107 of the working party's draft Bill lists 19 types of administrative decisions. Under the proposal these decisions are to be subject to requests that they be brought before the courts or other independent bodies for review. The working party's proposal remains under consideration in the Criminal Law Council. The Ministry of Justice has promised to seek considerations expedited. The CPT will be kept informed of further developments.

Apart from the points which the CPT has commented on in its letter of 17 September 1993, the Department of Prisons and Probation wishes to provide the following information: Re "Paragraphs 88-90 of the Report": Greenlanders at the Herstedvester Institution.

After consultation with the Greenland Home Rule Authority in the beginning of 1994, the Danish Government decided to set up a Greenlandic legal system commission. The commission is to scrutinise and reassess the entire Greenlandic legal system and is i.a. to examine and assess the current system concerning the Prison and Probation Service in Greenland including as well the Service for non-custodial treatment of offenders as correctional facilities. In addition to this the commission is to consider and set out how special prison institutions may be established in Greenland with a view to terminating the present arrangement under which Greenlanders serve a prison sentence at the Herstedvester Institution. The commission which has embarked on this task is expected to finalise its considerations in the course of three to four

years.

Re "Paragraphs 97 and 109 of the CPT report (R.8 and C.18 of the interim and follow-up reports).

Instructions have been drawn up for convicted persons and persons remanded in custody respectively. The instructions have been translated into 13 different languages: English, German, French, Spanish, Finnish, Greenlandic, Serbo-Croat, Russian, Turkish, Urdu, Farsi, Italian and Arabic. For your information please find enclosed a copy of the two instructions in the English translation.

Re "Paragraphs 99-101 of the CPT report (R.23 of the interim and follow-up reports): Relations between the prisoners and authorities of Nyborg Prison".

It should be mentioned that at the Nyborg State Prison the system of prisoners' spokesmen has been reestablished.

Re "Paragraphs 111 and 112 of the CPT report (I.5 of the interim and follow-up reports): Transfer of prisoners classified as dangerous".

The situation remains unchanged: no prisoners are placed under the circular of 2 May 1989 on the conditions which apply to certain specific inmates serving a prison sentence.

POLICE STATIONS

Re point 19 of the Committee's letter of 17 September 1993. "Paragraph 117 of the CPT report (I.17 of the interim and follow-up reports): Comments on the allegations made concerning the manner in which asylum seekers are questioned by the police".

The Committee has requested to be provided with a copy of the new edition of Code of Practice, A III no 13 (rightly no 15) issued by the Commissioner of the Copenhagen Police. Please find enclosed a copy of Code of Practice A III no 15 of 1 April 1992.

It should be mentioned that the Code of Practice of 1 April 1992 is currently being revised with a view to incorporating a number of alterations of an i.a. administrative nature which have been introduced since the issue of the most recent edition of the Code.

Re points 20-21 of the Committee's letter of 17 September 1993. "Paragraphs 126 and 128 of the CPT report (R.25, R.26 and R.27 of the interim and follow-up reports): Right of arrested persons to inform immediately a relative or a third party of their arrest; right of arrested persons to have access to a doctor (including one of their own choice)".

As mentioned in the interim reply of 23 January 1992 to the CPT, the Danish authorities are fully aware that there may be a need for arrested persons to inform a relative or a third party of their arrest.

It will be recalled that under Section 758 of the Administration of Justice Act an arrested person may contact the outside world in as far as this is reconcilable with the aim of the arrest and considerations of order.

Furthermore, the interim reply to the CPT indicated that the Danish authorities were prepared to consider whether it is expedient, in addition to this, to draw up instructive directions on access to informing relatives. In continuation of this, attention should be drawn to the fact that the Ministry of Justice has taken the initiative, in co-operation with the chief executive of the police and the police organisations etc. to draw up a departmental circular for the police in which the guidelines governing the right of arrested persons to inform a relative are emphasised and further regulated.

The Ministry of Justice will, naturally, inform the CPT of the content of the circular once it has been drawn up.

The interim reply to the CPT indicated, furthermore, that the Danish authorities consider it a matter of course that arrested persons should have access to a doctor in all cases where the need arises, and a wish for a particular doctor will naturally be met to the extent this is feasible and safe.

The Ministry of Justice is, however, prepared to incorporate more detailed regulations concerning arrested persons' access to a doctor of their own choice in the above-mentioned forthcoming circular.

Re points 22 and 23 of the Committee's letter of 17 September 1993. "Paragraph 127 of the CPT report (I.18, I.19 and I.20 of the interim and follow-up reports): Right of arrested persons to access to a lawyer".

In its letter of 17 September 1993 the CPT recommends the establishment of the right of arrested persons to access to a lawyer immediately following the arrest.

The Danish authorities are aware that in certain cases there may be a need for arrested persons to have access to a lawyer

immediately following the arrest.

The Ministry of Justice will, therefore, seek to incorporate regulations on access to contacting a lawyer immediately following the arrest in the above-mentioned circular issued by the Ministry of Justice.

Re points 24 and 25 of the Committee's letter of 17 September 1993. "Paragraphs 130 and 132 of the CPT report (R.28, R.29 and R.30 of the interim and follow-up reports): Code of practice on police interrogations; electronic recording of police interviews; single and comprehensive custody record".

Code of practice for conducting interrogations.

In its interim reply to the CPT, referring in particular to Report no 622/1971 on investigations into criminal cases, the Ministry of Justice indicated that it was considered inexpedient to introduce detailed regulations on practice for conducting interrogations. The report points out i.a. the risk of prescribing too detailed regulations for police investigation i.e. developments may freeze, and such detailed regulations provide no real guarantee. Thus, in its report it is stated that, in the opinion of the Committee, safeguarding the fact that police exercise their powers with reasonable regard for citizens' rights under the rule of law will rest to a lesser extent on statutory rules than on the professional and ethical standards inculcated in officers during basic training at the Police School and Staff College and during in-service training as well as on the traditions of investigative practices in this country, and on the fact that responsibility for investigations will rest with superiors who are all graduates in law.

Furthermore, in this connection the Ministry of Justice drew attention to the fact that very detailed regulations on practice for conducting interrogations require the incorporation of a number of exemptions as not only police-

related consideration but, what is quite as important, also consideration for the suspect or the witness may, depending on the circumstances, advocate the departure from too detailed regulations.

Having reconsidered the matter, the Ministry of Justice, for reasons mentioned in the interim reply, remains of the opinion that it will prove inexpedient to implement a more detailed regulation of practice on police interrogations.

Electronic recording of police interviews.

As mentioned in the interim reply to the CPT of 23 January 1992, present regulations constitute no obstacle to electronic recording of police interviews if it is considered expedient in the specific case. Under Section 751(3) of the Administration of Justice Act, however, for such a recording of statements to take place it is a condition that the person interviewed has been informed of it.

Moreover, the interim reply indicated that the Ministry of Justice was aware that there may be certain benefits related to such a system. The Ministry of Justice, however, simultaneously drew attention to the fact that such a system gives rise to some practical, resource as well as fundamental problems.

In continuation of this the Ministry of Justice wishes to provide the information that the question of whether it is expedient to introduce systematic recording of police interviews has lately been the subject of rekindled debate in Denmark. However, the Ministry of Justice is not currently contemplating any introduction of systematic electronic recording or other forms of recording of police interviews.

Custody records.

In the interim reply to the CPT of 23 January 1992 the Ministry of Justice stated, moreover, that consideration for

reasonable prioritising of the tasks of police and local prison staff argues against any routine keeping of separate custody records. In this connection the Ministry of Justice attached special importance to the fact that the information which subsequently might prove relevant to produce most often appears from other records.

In co-operation with the Department of Prisons and Probation and the Association of Chief Constables the Ministry of Justice has further deliberated this matter. Against this background the Ministry of Justice remains convinced by the reasons mentioned in the interim report that it will prove inexpedient to introduce actual custody records.

The Ministry of Justice wishes, however, to provide the information that certain new initiatives have been taken in this area. After the new AUF structure, cf. the Danish authorities' reply to the Committee's report, paragraph 45 (C.4.) has been implemented in all prisons, structural changes are being implemented under the same principles in local prisons, adjusted, however, to the special conditions related to the fact that the clientele are, to a great extent, remanded in custody.

Structural changes in the local prisons imply i.a. that a file is kept for every single person detained, into which the local prison staff and the probation officers are obliged to enter any information which is of importance i.a. to probation-related attention to a case. The AUF structure is expected to have been implemented in all local prisons in the course of a few years.

Furthermore, it should be mentioned that the general computer strategy of the Department of Prisons and Probation includes an information system comprising all prisons and local prisons. The system implies i.a. the establishment of a client file, into which is entered all information of relevance concerning those detained at the institutions. Such a file will contain a great amount of information concerning

individual persons detained e.g. permissions to receive visitors, visits by lawyers, appearances before the court, appearances before a doctor and others. It should be mentioned, however, that this is a relatively long-term project.

Re CPT letter of 23 September concerning the "leg-lock" restraint.

As the CPT will probably recall, at the end of June 1994 Amnesty International published a report on the Danish Police. In the report Amnesty i.a. expressed concerns about the application by Danish police of a specific type of "leg-lock restraint".

In this connection the Ministry of Justice can communicate that on 29 June 1994, following discussions with senior police management and a number of police associations, the Danish Minister for Justice decided to suspend until further notice the use of the type of "leg-lock restraint" which was subject to criticism in Amnesty International's report. Enclosed please find a copy in the Danish language as well as in an unauthorised English translation of the Ministry of Justice Circular of 29 June 1994 concerning the use of the "leg-lock".

In this context it should be noted observed that several types of the "leg-lock" restraint are known in international police practices. The type, which on extraordinary situations, has been used in Denmark, and which is criticised by Amnesty International, implies that one of the detainee's legs is flexed across the other, whereupon one foot is wedged under the handcuffs. This type of leg-lock is illustrated in picture A, enclosed with the aforesaid Circular of 29 June 1994.

As appears from the Circular that the Danish Ministry of Justice decided on that occasion to request the Danish

Medico-Legal Council, which is an independent body of medical experts, to undertake an assessment of the medical risks etc. which might be associated with the use of this type of "leg-lock" restraint.

For information of the CPT enclosed please also find the Medico-Legal Council's opinion of 30 November 1994 as well in Danish as in an unauthorised English translation. For your information also, enclosed please find a copy of the Ministry of Justice letter of 2 December 1994 to the National Commissioner of Police by which the application of the "fixated leg-lock" restraint is finally discontinued.

As will also appear from the abovementioned Circular, a comprehensive medial review is being undertaken, against infomation gathered i.a. from abroad by the National Commissioner's Office, of the total range of self-defence holds and techniques used by police with a view to identifying potential risks associated with such use.

The CPT will be informed of the findings of that review.

ATH-0408

TRANSLATION

Ministry of Justice
Police Division
Slotsholmsgade

Ref. no. 1994-965-131
1216 Copenhagen K, 29 June 1994

Circular to the police
concerning the use of
the "leg-lock restraint".

Within recent days the use of different types of "leg-lock" restraint by police on persons who resist arrest has been subject to considerable public debate. From different quarters it has been claimed that especially the application of a "fixated leg-lock" restraint might under unfortunate circumstances cause the death of the prisoner.

Several types of the "fixated leg-lock" restraint are known in international policing practices. The type which in extraordinary situations has been applied in Denmark implies that one of the detainee's legs is flexed across the other whereupon on foot is wedged under the handcuffs, as shown in the attached photo A.

Medical authorities have now advanced the argument that the application of this type of "fixated leg-lock" restraint, as well as the types known in other countries, might under certain circumstances be associated with serious risks to the detainee.

Therefore, upon consultations with the Director of Public Prosecutions, the National Commissioner of Police, the Commissioner of the Copenhagen Police as well as a number of police associations, the Minister for Justice has decided to suspend the use of the "fixated leg-lock" restraint until further notice.

Simultaneously, the Ministry of Justice has decided to request the Medico-Legal Council to provide an assessment of the risks which might be associated with the application of the "fixated leg-lock" restraint. In this connection the Ministry of Justice has requested the National Commissioner' Office to, following the procurement of information from i.a. other countries, to implement a review and assessment by medical experts of other self-defence holds and techniques used by the police with a view to identifying the risks connected with their application.

The abovementioned suspension does not apply to the application of the so-called "manual leg-lock" restraint illustrated in the attached photo series B, photo 1 to 3. This type of leg-lock restraint may thus still be used when it will be necessary to pacify the prisoner, including during the process of handcuffing him. Thus it is presumed, as heretofore, that the application of this type of leg-lock restraint will not be extended beyond what is strictly required and will therefore be terminated as soon as the prisoner desists from further resisting the arrest.

The Ministry of Justice is aware of the fact that the suspension of the use of the "fixated leg-lock" restraint may, in certain instances hamper officers' effecting an arrest. With regard to such situations, during the abovementioned discussions attention was drawn to the fact that the police may instead apply the method of tying the prisoner's ankles together, typically by applying the special disposable handcuffs made of plastic.

(signed) Erling Olsen

(signed) Lars Bay Larsen

TRANSLATION

The Medico-Legal Council
Blegdamsvej 6
2200 Copenhagen Ø
Tel.: 35 37 33 22
Fax: 35 37 50 21

EC/ag
+ encl.

ref. no. E 8013
br. nr

Ministry of Justice, ref. no. 1994-965-0131.

Subject: Inquiry concerning the "leg-lock" restraint.

By letter of 15 June 1994 the Ministry of Justice requested a medical expert opinion concerning the medical risks etc. which might be associated with the use of the type of leg-lock which on extraordinary occasions has occurred in this country.

With its letter the Ministry of Justice enclosed a number of articles from medical journals dealing with two circumstances in connection with the restraint of persons: 1) the risk of injury to the peripheral nerves at the wrist 2) respiratory difficulties associated with the use of the "leg-lock" restraint.

Re nerve lesions after handcuffing:

Compression of wrist region may produce neurologic effects, which are generally characterised by sensory dysfunction or

tactual discomfort. However, though on rare occasions, a neurological affect may also occur which leads to paresis of the hand and fingers. In by far the most cases neural changes will resolve of themselves and thus do not require any treatment. Other things being equal, the risk of nerve injury is proportional to the duration of handcuff application. The enclosed papers on handcuff neuropathy support the above findings. Methodologically, however, the papers do not meet the highest scientific standards, and thus cannot be accepted as conclusive scientific evidence.

Re respiratory difficulties associated with the use of the "leg-lock" restraint:

By the leg-lock restraint is understood that one of the detainee's legs is flexed across the other, which is maximally bent backwards at the knee, whereupon the former leg is wedged under the handcuffs applied behind the back of the subject, having been placed in a prone position. The enclosed papers refer to a somewhat different type of leg-lock ("hog-tying") whereby the arms and legs are tied behind the subject's back while the subject is in a prone position. The 1988 paper, which is an experimental study, does not meet the strict scientific requirements, and the other articles are casuistic, i.e. reports of case histories which differ severally as to external circumstances. Also, the subjects were not closely monitored during the specific period of time. Moreover, the cases are characterised by the fact that the ensuing autopsies did not establish any certain cause of death.

Thus, in conclusion the Medico Legal-Council wishes to state the opinion that, on rare occasions, it is probable that the application of handcuffs may induce slight injuries to the peripheral nerves at the wrist and that the risk may undoubtedly be reduced the shorter the duration of the handcuffing.

As regards the respiratory difficulties associated with the use of the leg-lock restraint, as described above, subject to the above-mentioned reservations as to the literature enclosed, which, incidentally, contains the only reports on the subject which it has been able to find, the Medico-Legal Council finds itself under the obligation to state that as long as it has not been established that the leg-lock restraint is without danger to the persons on whom the method will usually be applied (agitated, violent persons), the method cannot be considered as being without medical risk. Medical opinion would include the advice that, in the event that the method is used, close monitoring of the detainee's pulse and respiration be undertaken, and that the subject should not be left alone. This applies to any type of the leg-lock restraint at which the subject is placed in a prone position.

Professors A. Dirksen, J. Viby Mogensen, O.B. Paulson, and J. Simonsen as well as Medical Superintendents H. Oxhøj and O. Thage participated in reviewing this matter.

Copenhagen, 30 November 1994

(signed) Jørn Simonsen

(signed) Eva Carpentier

TRANSLATION

The National Commissioner of Police
Polititorvet 14
DK 1588 Copenhagen V

It will be recalled that by circular of 29 June 1994 the Ministry of Justice informed the Police Service that, following discussions with the Director of Public Prosecutions, the National Commissioner, the Copenhagen Commissioner, and a number of police associations, it had been decided to suspend until further notice the use of the "leg-lock" restraint.

On that occasion the Ministry of Justice also communicated that it had been decided to request the Medico-Legal Council to undertake an assessment of the risks which may be associated with the use of the "leg-lock" restraint.

On 30 November 1994 the Medico-Legal Council submitted an opinion on the matter. The Ministry of Justice encloses a copy of the opinion, requesting that it be comprised in the overall medical review and assessment of other police self defence holds and techniques which was announced in the aforesaid Ministry of Justice circular of 29 June 1994, and in connection with which the National Commissioner's Office, as will be recalled, is engaged in collecting the requisite material from abroad.

In this context it must be noted that the Medico-Legal Council's opinion of 30 November 1994 provides the Ministry of Justice with no grounds for discontinuing the suspension of the use of the "leg-lock" restraint.

Furthermore, the Ministry of Justice wishes to call attention to the fact that in its opinion (page 2, bottom) the Medico-Legal Council advises that at the application of "any type of

leg-lock restraint at which the subject is placed in a prone position", "close monitoring of pulse and respiration of the restrained person be undertaken, and that the subject should not be left alone."

On this point the Ministry of Justice has interpreted the Medico-Legal Council's opinion as underscoring the need for police, when applying e.g. the "manual leg-lock restraint" described in the above-mentioned circular of 29 June 1994, to pay special attention to the restrained person's condition and respiration etc. While still taking it for granted, besides, that the application of the "manual leg-lock" restraint as well as of other forcible means used by the police is not extended beyond what is strictly required, the Ministry of Justice requests the National Commissioner to take steps towards communicating the above to police districts, including the contents of the opinions of the Medico-Legal Council.

(signed) Bjørn Westh

(signed) Lars Bay Larsen