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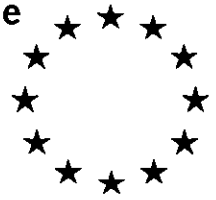

CPT/Inf (96) 14

Responses of the Danish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Denmark from 2 to 8 December 1990

The Danish authorities have requested the publication of these documents. The CPT's report on its visit to Denmark from 2 to 8 December 1990 has already been made public (CPT/Inf (91) 12).

Strasbourg, 21 March 1996

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INTERIM REPORT OF THE DANISH GOVERNMENT IN RESPONSE TO THE REPORT OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT) ON ITS VISIT TO DENMARK

FROM 2 TO 8 DECEMBER 1990

MINISTRY OF JUSTICE
Legal Department
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BSA-0367
No. 19DFK.1990-62-8.
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23 JAN. 1992

President of the European
Committee for the Prevention
of Torture and Inhuman or
Degrading Treatment or Punishment
Council of Europe
B.P. 431 R6
67006 Strasbourg, Cedex
France

The Danish authorities received your letter of 18 July 1991 on 23 July 1991 together with the report from the Committee for the Prevention of Torture concerning its visit to Denmark.

The Danish authorities have studied the very detailed and comprehensive report with great interest and find that the report will contribute to further improving the situation.

Referring to Article 146, we are pleased to enclose herewith an interim report, which comprises the comments of the Danish authorities upon the Committee's recommendations, observations and requests for additional information contained in Appendix 1 to the Committee's report.

The Danish authorities are of course interested in continuing the excellent cooperation with the Committee and are prepared to go further into detail in case any part of the report should give the Committee occasion to wish such discussions.

The Danish authorities will submit a final report within 12 months of receipt of the Committee's report in compliance with the Committee's request. The final report will brief the Committee on the measures expected to be taken after the transmission of the provisional report.

If the Committee should wish so, we shall be ready to help the Committee with a translation of the report.

Hans Engell

Johan Reimann

RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

A. Prisons

1. General

a. Recommendations

R. 1 **the placing of remand prisoners in isolation and the prolongations of such a measure to be resorted to only in exceptional circumstances and strictly limited to the actual requirements of the case, in accordance with the provisions of the Administration of Justice Act (paragraph 29);**

According to the general rules of Danish law as laid down in the Administration of Justice Act, 1984, the court may only order isolation if required for the purpose of the remanding, for instance with a view to preventing the accused person from being able through other prisoners to influence other persons accused in the case or to influence other persons through threats or other similar acts.

On the commencement of the isolation the first time limit must not exceed 2 weeks. Complete isolation must not take place for a consecutive period of more than 8 weeks unless the charge concerns an offence which may under the legislation in force result in a conviction for a term of imprisonment of 6 years or more. In connection with these gross offences there is no express upper limit.

Furthermore, there is a proportionality rule under which isolation must not take place if the purpose can be achieved by means of less restricting measures or if the intervention is disproportionate to the importance of the matter and the legal consequences which can be anticipated if the accused is found guilty. Another factor which should be taken into account is the strain which isolation may involve due to the young age of

the accused or his physical or psychological condition.

In 1990 the share of persons in isolation out of the total number of remand prisoners was on average 13.7 per cent per week. Only 1 out of 7 remand prisoners is thus kept in isolation.

In the same year 21.5 per cent of all remand prisoners were kept in isolation for a short or longer period of time. Only about 1 out of 5 remand prisoners is thus isolated during (part of) the term of imprisonment.

The share of persons kept in isolation in relation to the total number of remand prisoners has fallen significantly in recent years from 44.2 per cent in 1981 (2,544 cases) to 31.6 per cent in 1984 (1,631 cases) and as mentioned 21.5 per cent in 1990 (1,139 cases).

The number of prisoners isolated for a longer period of time is rather low. During the past 5 years an average of 19 persons have been isolated for more than 6 months.

A standing committee (the Criminal Justice Administration Committee) has in its report from April 1991 on solitary confinement in other European countries stated that the Danish rules on the conditions for resorting to isolation must be considered to be among the strictest in Europe.

On this basis the state of law in Denmark as regards solitary confinement must today be said to be in accordance with the recommendations of the Committee for the Prevention of Torture.

R.2 **an effective periodic judicial review of solitary confinement to be ensured and in case of prolongation of this confinement, the reasons for such prolongation to be set out in writing (paragraph 29);**

The decision to resort to isolation of remand prisoners for considerations of the investigation of criminal activities may be taken only by the court and thus not by the police, the prosecution or the prison authorities. The first period of so-

litary confinement must not exceed two weeks. Further prolongation may only take place for a maximum period of 4 weeks at a time. Solitary confinement may only take place for a consecutive period of more than 8 weeks in cases where the charge concerns a crime which may lead to a term of imprisonment of 6 years or more.

Decisions to keep prisoners in solitary confinement are taken by the court by an order which must state the reasons, i.e. the concrete facts must be stated on the basis of which the conditions for resorting to solitary confinement are alleged to be satisfied.

In connection with an appeal to the Danish High Court against decisions concerning solitary confinement for more than 3 months oral procedure may be claimed.

Against this background the conclusion is that the Danish legislation is in accordance with the recommendation of the Committee.

R.3 **a medical doctor to be called without delay when requested by a prisoner held in solitary confinement or a prison officer on the prisoner's behalf, with a view to carrying out a medical examination of the prisoners. The results of this examination, including an account of the prisoner's physical and mental condition as well as, if need be, the foreseeable consequences of prolonged isolation, to be set out in a written statement and to be forwarded to the competent authorities (paragraphs 29 and 112);**

At the proposal of the Health Committee of the Ministry of Justice and after consultation of the doctors in the prison system and the National Board of Health a circular has been issued which covers all institutions within the system and under which the staff shall without delay notify the doctor/prison nurse in all cases where a prisoner wants a doctor to be called.

When the prison doctor examines a remand prisoner kept in

isolation at his own request, at the request of the prison staff or in connection with a routine rotation the doctor will pay attention to both physical and mental diseases or disturbances of the remand prisoner. It is also possible for the doctor to submit a declaration to the prison authorities, or if need be, to the prosecution, counsel for the defence and the court, in which he states whether and to what extent a diagnosed psychopathological symptom can be assumed to have been provoked by or been aggravated by the solitary confinement and how the prognosis of the remand prisoner can be expected to be in the case of continued isolation. However, the Department of Prisons and Probation emphasises that the medical secrecy basically means that this declaration may not without the (isolated) prisoner's consent be forwarded to other non-medical authorities. The doctor is not to state specifically whether a person kept in isolation can "endure" or "not endure" continued isolation as the doctor might thus come into a situation in which he makes legitimate the use of compulsion of the penal system which would be incompatible with medical ethics. The medical reports will, however, be an element of the proportionality balancing which the court will always have to make when considering the question of solitary confinement, cf. paragraph 770 b of the Danish Administration of Justice Act.

R.4 **detailed instructions to be given to the police as regards recourse to prohibitions/restrictions concerning prisoners' correspondence and visits, and an obligation to state reasons in writing for any such measures introduced (paragraph 29);**

It follows from paragraph 770 of the Danish Administration of Justice Act that a remand prisoner shall be subject only to such restrictions as are necessary in order to satisfy the purpose of the remanding or in order to ensure safety and order in the remand prison.

Under paragraph 771 of the Danish Administration of Justice Act a remand prisoner may receive visits to the extent

permitted by considerations of safety and order in the remand prison. With reference to the purpose of remanding the person concerned the police may object to the prisoner receiving any visits or require such visits to be supervised. If the police refuse to let a prisoner receive visits, the remand prisoner must be notified hereof unless otherwise decided by the judge in consideration of the investigation of the case. The remand prisoner may require that the refusal by the police to permit visits or the requirement of supervision shall be brought before the court for its decision. A remand prisoner is always entitled to unsupervised visits from this defence counsel.

According to paragraph 772 of the Danish Administration of Justice Act a remand prisoner has the right to receive and send letters. The police may check letters before they are given to the prisoner or before letters are sent from the prison. The police shall hand over or send letters as quickly as possible unless they contain information which might be detrimental to the investigation or the maintenance of safety and order in the remand prison. If a letter is held back, the question of holding back the letter should be brought before the court for its decision. In this situation judicial review is compulsory. If the decision to hold back a letter is upheld, the sender shall be informed without delay unless otherwise decided by the judge for considerations of the investigation.

A remand prisoner has the right to uncontrolled correspondence with a number of authorities, etc.

If the police decide that other restrictions should be made in the rights of a remand prisoner in order to ensure the purpose of the process of remanding, it follows from paragraph 773 of the Danish Administration of Justice Act that the remand prisoner may request that the question of the continuance of such restrictions should be brought before the court for its decision.

In cases where the court makes a decision the reasons for such decision must also be stated, cf. paragraph 218 of the Danish Administration of Justice Act.

In connection with the rules laid down in the Danish Ad-

ministration of Justice Act the Order on remand prisoners and the circular issued by the Department of Prisons and Probation, no. 220 of 19 December 1980, on the right of remand prisoners to correspondence and to receive visits etc. lay down administrative regulations concerning the treatment of remand prisoners.

In the opinion of the Ministry of Justice the right to judicial review under the rules laid down in the Danish Administration of Justice Act in cases where considerations of the investigation justify restrictions in the rights of remand prisoners and the detailed regulation in the Administration of Justice Act as regards the conditions for such measures and the administrative regulations issued by virtue hereof guarantee remand prisoners a satisfactory legal position.

R.5 **the suggestions of the working party set up by the Ministry of Justice with a view to examining the use made of special security cells, concerning i) the continued surveillance of the prisoner by an appropriately trained prison officer exclusively assigned to the task either from outside the cell or inside, as well as the recording in detail every quarter of an hour of the observations made and ii) the introduction of specific legislation in view of the importance of the matter, to be implemented (paragraph 38);**

The above-mentioned proposals from the working party concerning the use of security cells, i.e. the proposals to have a permanent guard and to use an observation form, have been implemented as per 1 May 1991. As from that date any prisoner who is fixed to his bed shall have a permanent guard, i.e. a prison officer, unit officer or other qualified staff assigned to this task who shall not at the same time have other duties to perform than that of taking care of the prisoner who has been fixed. To the widest possible extent, the institutions shall ensure that the permanent guard is an experienced, permanent member of the staff, preferably with a good knowledge of the

person who has been fixed.

In connection with the most recent amendment to the circular an observation form has been introduced in which a note should be made every time the staff has supervised the prisoner. It is presumed that a note is made at least every 15 minutes.

As regards legislation in this field the working party set up by the Criminal Law Council concerning an act on enforcement of sentences found in its report from June 1989 that the use of security measures, including the placing in security cells, are measures of such a serious nature that regulations on these matters should be incorporated into an act on enforcement of sentences, etc. In accordance with this view, paragraphs 60 and 61 of the bill lay down more detailed rules on these matters and paragraph 107 deals with the possibility of trying decisions to use security cells in court.

R.6 **every newly-arrived prisoner to be properly interviewed and, if necessary, physically examined by a medical doctor as soon as possible after his admission. Save in exceptional circumstances, this interview/examination should be carried out on the day of admission (paragraph 48 and 105);**

As stated in the report, p. 72, par. 22 the Department of Prisons and Probation changed the rules on health examination of prisoners in 1990. The new rules mean that prisoners (except persons serving a term of lenient imprisonment) are offered an interview with a doctor or a registered nurse on his admission, among other things, with a view to checking the state of health of the prisoner, and in this connection to find out whether a proper medical examination is needed. If the prisoner himself wants to be examined by a doctor, this wish must be complied with. These rules apply to both remand prisoners and persons admitted to serve a term of imprisonment.

The Department of Prisons and Probation finds that the present Danish rules are fully adequate, with reference, among

other things, to the generally improved state of health in this country and the easy access to medical assistance for all citizens today.

It should further be mentioned that this reform of medical services away from disease-oriented medical examinations towards more general health-improving measures is in accordance with the general development in Denmark. Against this background it is found fully acceptable, both professionally and in terms of resources, that the introductory interview may also be undertaken by a registered nurse.

The Department of Prisons and Probation is aware of the fact that certain risk groups such as for instance alcohol and drug abusers may have special health problems and that the health staff needs to pay special attention to any health problems of these groups.

The department thus finds it completely without problems to continue the present scheme which has been introduced after discussions in a committee with representatives from both the National Board of Health, the Danish Medical Association, the Council of Danish Nurses and other medical and health experts.

R.7 **the conditions on which Boards of visitors may carry out their inspections to be reviewed, with a view to strengthening the Board's role (paragraph 60);**

The background for the Committee's recommendation seems to be an acknowledgement of the fact (from the Copenhagen Prisons) that the access of the Boards of visitors to the institutions is under the rules now in force subject to certain restrictions laid down by the prison administration. By way of example, it is mentioned that an inspection visit may not take place without prior notification, that inspections shall be carried out by the Board as a whole and that interviews may only take place with prisoners selected by the governor of the prison. Furthermore, the committee states that there seems to be problems with follow-up on cases brought up by the Boards of

visitors (paragraph 59) both on the part of the prison administration and the Department of Prisons and Probation.

These assumptions of the Committee must to some extent be based on a misunderstanding. It is clearly assumed (the "travaux préparatoires" of paragraph 779 of the Administration of Justice Act) that the Boards of visitors may make unnotified visits and this is also the case in actual practice (also in the Copenhagen Prisons). Furthermore, no administrative restrictions can be made as regards which prisoners the Boards can interview and this is also not the case in the Copenhagen Prisons. According to paragraph 30 (2) of the Order on remand prisoners these remand prisoners shall have the right to talk to members of the Boards of visitors when they are present in the institution. Remand prisoners also have the right to uncontrolled correspondence with the Boards of visitors (the Circular on correspondence paragraph 9, (1) 3).

But it is correct that the Danish Administration of Justice Act only gives the members the right to visit institutions **together**. As the Boards are composed of two members only,it is hard to imagine that this requirement should give rise to problems in actual practice.

The Department of Prisons and Probation is not aware of any general problems as regards the follow-up of cases raised by the Boards of visitors.

As stated previously to the Committee the frequency of inspection visits to the prisons and institutions outside Copenhagen varies considerably. The department is willing to call upon the Boards of visitors to make more frequent inspection visits to all prisons at regular intervals. Such an initiative will be taken in the early months of 1992.

R.8 **the possibility of following in establishments for convicted prisoners the example set by the 1980 Instruction from the Ministry of Justice, explaining the main rules governing periods of detention on remand, to be studied (paragraph 97);**

As regards prisoners in local goals and in the Copenhagen Prisons a guide exists on custody in remand prison which is available in 12 languages. The guide gives a description of the most important rules for remand custody. The guide is in the process of being revised with a view to making it easier to read and more detailed.

As regards establishments for convicted persons a collection of the most important rules for serving a sentence of imprisonment has been translated into English (Rules on Custodial Treatment). Furthermore, some prisons have to a varying extent prepared information material in foreign languages. The Department of Prisons and Probation has found that the need for material in foreign languages is biggest for remand prisoners who are coming directly from the "outside", while convicted persons have typically obtained a certain knowledge about the prison system and will have received guidance from the staff and the other prisoners about the rules applying in the prison.

On the basis of the recommendation of the Committee the Department of Prisons and Probation has, however, initiated the preparation of a written guide for convicted persons with the most important rules concerning the serving of a term of imprisonment. This guide will be translated into a number of the most relevant foreign languages.

R.9 **the complaint procedures applicable in establishments for convicted prisoners to be reviewed with a view to supplementing them by an element which is independent of the Department of Prisons and Probation (paragraph 104);**

A working party set up by the Criminal Law Council has at the proposal of the Department of Prisons and Probation, inter alia, proposed that decisions of a far-reaching nature may be brought before a court or an independent complaints board. Paragraph 107 of the Bill prepared by this working party lists 19 types of final administrative decisions which can be tried by

the court or an independent body. The proposal of the working party is presently being considered by the Criminal Law Council and it is not possible to say at this stage when the consideration of the report will be concluded and when a Bill will be put before the Folketing (the Danish Parliament).

R.10 **the possibility of establishments for convicted prisoners being inspected by independent bodies to be studied (paragraph 104);**

The powers of the Boards of visitors are today limited to remand prisons (local gaols and Copenhagen Prisons) where the need is considered to be biggest because the persons remanded in these institutions have a more limited contact with the surrounding world and fewer possibilities for company than in establishments for convicted persons.

The idea of setting up regional Boards of visitors, contact committee or similar bodies to follow the activities of these establishments and thus extend the contact with the surrounding world is not a new one, but an idea which has been considered on several occasions, for instance in connection with the work of various committees (the planning committee, the employment committee).

But in this situation the Department of Prisons and Probation is ready to reconsider the possibility of establishing some form of regional supervision and contact body for the establishments for convicted persons. In 1992, an initiative will be taken for having a discussion of this matter with the relevant authorities.

R.11 **the families of asylum seekers to be allowed as far as possible to remain together, and that even if it is absolutely necessary to separate the families' members for a certain period, contact to be maintained between them (paragraphs 56, 66 and 67);**

Where adult family members are deprived of liberty, the

practice today is to place them together in the Institution at Sandholm under the prison system. In cases where only the husband is deprived of liberty the wife will typically stay in the Red Cross paragraph of the Sandholm Institution. In the event that the prisoner is subjected to restrictions concerning correspondence and visits, the husband is allowed to be with his wife and his children, if any, under the surveillance of the police in a building near the Institution at Sandholm. In case the prisoner is not subjected to any restrictions on correspondence and visits, the wife - and children, if any - is allowed to see the husband in the Institution at Sandholm under the prison system where facilities have been fitted up as a visiting room.
Otherwise, everything possible is done in order to expedite the procedure with the police so that the separation is as short as possible.

The desirability of not separating families must, in the opinion of the Danish authorities be weighed against the inconveniences connected with the deprivation of liberty so that such deprivation is limited to include as few persons as possible. In particular, it is generally considered undesirable to imprison children. Reference is made to the principle of Article 37 c of the U.N. Convention on children's rights.

b. <u>Comments</u>

C.1 **desirability of clarifying the authorised means of recourse to physical force (paragraph 22);**

The rules concerning recourse to physical force against convicted prisoners are laid down in Circular of 15 April 1988 with attached accompanying letter. The Circular stipulates, among other things, the forms of physical force (hand force, truncheon and tear gas) that may be used and the conditions of using the individual means of force. The Circular further contains particular rules regarding the use of truncheons. Only

rubber truncheons of an approved type may be used.

All prison officers etc. undergo a 30-hour self-defence training as part of their basic training. This training is completed by way of an examination which has to be passed in order to obtain permanent employment. The training programme includes among other things instruction of all authorised ways of taking hold of the prisoner and authorised ways of using a truncheon. The training is to a wide extent linked together with training in solution of conflicts, etc. with a view to learning how best to avoid the use of force in the best possible manner.

At the moment, the Department of Prisons and Probation and the Staff Training Centre of the prison system are considering the possibility of carrying through a more systematic in-service training through a follow-up on the training of staff who runs a particular risk of having to use force. A working party is expected to be set up to deal with this issue within very short.

C.2 **importance of limiting the use of means of restraint to situations resulting from clearly defined exceptional circumstances,and of having any recourse to such means placed under the strictest possible medical supervision or custodial surveillance (paragraph 38);**

The Department of Prisons and Probation endorses the Committee's statements concerning the placing of persons in security cells with fixation. The department likewise agrees that every prisoner who is placed in a security cell and fixed to his bed ought to undergo medical supervision within the shortest delay, for the purpose, among other things of established whether the disturbed state of mind that has caused him being placed in a security cell is due to a mental illness. The rules applicable are in compliance with this.

The Department of Prisons and Probation does not find that the placing in a security cell with fixation as such ought

to take place "under the strictest possible medical supervision", as such medical supervision might be understood to mean that the use of force is made legitimate by medical doctors which is incompatible with medical ethics. For the sake of clearness, it must be added that if a person who is fixed to his bed in a security cell wishes to contact a doctor, - or if the staff finds that the convicted prisoner should be examined by a doctor - the doctor should be called immediately, of course.

On the other hand, the Department of Prisons and Probation has chosen to build on the other alternative pointed out by the Committee.

Reference is made to point R.5 in this connection.

C.3 **importance of prisoners having ready access at all times to toilet facilities (paragraphs 41 and 94);**

For a number of years considerable funds have been used for the improvement of toilet and washing facilities in Danish prisons and local goals. Especially as far as the old institutions are concerned, these renovations have been made in recognition of the fact that facilities which were standard facilities at the time at which they were built do not come up to the requirements of today. Thus, it is the view of the Department of Prisons and Probation that today adequate facilities have, in the main, been established in the institutions of the prison system so that all prisoners have ready access to toilet facilities at all times.

Prisoners in open prisons have free access to toilet facilities day and night. For reasons of security, this is not possible in closed prisons where nightly visits to the toilet in the main parts of the closed prisons require a prison officer to be called. The department is of the opinion that the present arrangement functions perfectly and it has been noted that no complaints were made to the Committee for the Prevention of Torture regarding the present arrangement.

In connection with new buildings or whenever there is a possibility making of thorough renovations, it is the policy of the department, however, to establish toilet facilities in connection with each individual cell wherever possible. This has been done in the new local gaol in Helsingør and is expected to be done in connection with the renovation of the south wing of the Western Prison.

C.4 **desirability of extending the new type of regime at Blegdamsvejens Prison to other establishments (paragraph 45);**

In Blegdamsvejens Prison, a new structure has been introduced. This means that the basic staff has increased responsibility and competence to solve the problems of the inmates. In the remaining part of the Copenhagen Prisons a similar structure is expected to be introduced within the next few years.

A similar structure has already been fully introduced in 6 open prisons (i.e. Jyderup, Møgelkær, Kragskovhede, Sdr. Omme, Søbysøgård and Renbæk) and 1 closed prison (Ringe). The so-called AUF-structure has been commenced in the closed prison in Nyborg. The planning work in Vridsløselille (closed prison), Horserød and Nr. Snede (open prisons) has been put in hand and is expected to be completed by 1992. The planning work in Horsens and Herstedvester (closed prisons) is expected to be put in hand in 1992. In Kærshovedgård and Gribskov (establishments for lenient imprisonment) considerations regarding the introduction of an AUF-like structure have been initiated.

Several concrete pilot projects and an overall review of the situation have been initiated in the prison sector with the purpose of introducing similar structures also in the local gaols.

The Department of Prisons and Probation has recently considered it to be one of its main tasks to introduce the new structure in the prison system and, to some degree, also in the local gaols and has invested considerable efforts and sub-

stantial resources in this project.

In the light of this, the department is very satisfied with the Committee for the Prevention of Torture's appreciation of the new structure.

C.5 **desirability of introducing a certain flexibility into the Circular of 15 March 1978 on inmate participation in discussion of questions of organisation on the lines suggested by the Criminal Law Council (paragraph 46);**

In a way, the possibility of holding meetings both with spokesmen and with all inmates, or groups of inmates, already exists within the present administrative rules.

According to the proposal on a code of the enforcement of prison sentences the influence of the inmates shall basically be exerted through elected representatives (spokesmen). Meetings between the administration of the institution and all the inmates, or groups of inmates, may only replace the discussions between the managements and the spokesmen if the inmates do not wish to elect any representatives.

The proposal is being considered by the Committee on Criminal Law Reform at present. At this moment it is not possible to foresee anything about when a bill may be introduced; however an adoption of this provision will mean that the flexible arrangement will be codified.

C.6 **importance of keeping persons placed in custody under paragraph 36 of the Aliens Act in conditions fully reflecting the fact that their detention is not due to a criminal offence (if possible, they should be held elsewhere than in a remand prison) (paragraph 57);**

Aliens held under paragraph 36 of the Aliens Act are as a main rule placed in the Institution at Sandholm if they are asylum seekers while other aliens are placed in a special de-

partment in the Western Prison. As mentioned under point R 17, it is being planned to move this department to a building outside the wings of the Western Prison. This would ensure that these prisoners are held separately from the other inmates and offer improved possibilitiies of differentiating the regime. As far as the placement of asylum seekers is concerned, there has already been an extension of the Sandholm Institution and it may be further considered, if required, to increase the capacity in case the number of places is generally too low.

C.7 **desirability of taking account, as specified in sub-section 36 (2) of the Aliens Act, of the particular situation of persons held under paragraph 36 by ensuring that the provisions on detention conditions in the Administration of Justice Act are applied with the necessary adjustments (paragraphs 57, 66 and 70);**

The Committee has underlined the desirability of taking account of the particular situation of persons detained under paragraph 36 of the Aliens Act, so that paragraphs 770 - 776 and 778 of the Administration of Justice Act as stated in paragraph 36 (2) of the Aliens Act are applied with the necessary relaxations.

In this connection, the Committee has pointed out that restrictions with regard to the possibilities of contacting members of the family - especially in relation to asylum seekers - should be limited as much as possible. At the same time, the Committee has noted the need to prevent an incarcerated person from obstructing the identity investigations carried out by the police.

The National Commissioner of the Danish Police has stated that restrictions on correspondence and visits are applied only in case there are reasonable grounds for fearing that the police identity investigations are obstructed by the procurement of false identity papers and the like.

C.8 **importance of applying the ordinary law concerning the treatment of mentally ill people to such persons held in prisons, and of having the recourse to a measure of solitary confinement of a mentally ill prisoner and to means of restraint placed under the entire and sole responsibility of medical personnel (paragraph 80);**

The Department of Prisons and Probation agrees with the Committee that the ordinary rules for (medical) treatment of mentally ill persons should - so far as possible - also be applicable in the Institution at Herstedvester - it being underlined that compulsory treatment of mentally ill persons can under no circumstances take place in any other prison, nor in the Hospital of the Western Prison. The department is thus in agreement with the Committee that for example the rules on information on the treatment, attempts at obtaining the consent of the (mentally ill) inmate and the time for consideration thereof, if any, etc. should also apply to the Institution at Herstedvester, which, in actual fact, is also the case. The very fact that an inmate is deprived of liberty must however have as a result that a vast number of the provisions of the Act on Coercive Measures in Psychiatry cannot apply to the Institution at Herstedvester. Especially 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. The issue has been debated with the Danish Medical Association and there is agreement that the use of solitary confinement and restraint should take place exclusively on the responsibility of the prison administration, so that the doctors who work in the prison 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 that considerations which will be in evident conflict with medical tasks and medical obligations to be safeguarded.

All prisoners in the Institution at Herstedvester

subjected to the use of force will be supervised by a doctor, during the day by one of the permanent doctors of the establishment, and outside normal working hours by the general practitioner on call in the area, however in such a manner that the nurse on duty will try to contact the consultant over the telephone and perhaps call the consultant in case of special problems. The doctor will then brief the (judicial) director of the institution who will take a stand on the continued use of force. By so doing it is ensured that doctors will not come into any ethical conflict. The doctor may bring the decision of the prison director before the Department of Prisons and Probation. In case the department dismisses the doctor's complaint, the doctor may bring the case before an independent body, the National Health Board, and ultimately his professional body, the Danish Medical Association.

It is the view of the Department of Prisons and Probation that the organisational structure referred to above on the one hand ensures that prison doctors - who are "doctors at risk" - do not come into ethically difficult conflicts and, on the other hand, ensures that medical professional views are given importance according to the nature of the actual case.

c. Requests for information

I.1 **up-to-date statistics on the number of remand prisoners held in solitary confinement, on the type of solitary confinement in each instance and on its length (paragraph 30);**

The following statistics have been enclosed herewith concerning remand prisoners in solitary confinement:

1) A survey of the number of remand prisoners held in solitary confinements per year during the period 1981 - 1990 compared with the total number of remand prisoners, cf. Enclosure A.

2) A survey of the number of solitary confinements served over the period 1983 - 1990 according to the length of the confinements, cf. Enclosure A1.

3) A survey of the number of solitary confinements served in 1990, broken down according to the length of the solitary confinements, cf. Enclosure B.

4) Similar surveys for the January and April quarters 1991, cf.

Enclosures C and D.

The surveys comprise any form of solitary confinement following the decision of the court. It is observed that it is not possible to prepare statistics containing information on the type of solitary confinement (in full or in part), as this information is not recorded in the material that forms the basis of the statistics. In practice, partial solitary confinement following the decision of the court is used only to a very limited extent.

I.2 **the conclusions of the scientific study financed by the Ministry of Justice which was due to begin on 1 May 1991, with a view to evaluating the possible effects of placement in solitary confinement on the mental health of prisoners, and any measures which the Danish authorities intend to take as a result of that study (paragraph 30);**

The Committee will be briefed on the results of the scientific study initiated with regard to the possible deleterious effects on mental health of solitary confinement when they are available. The study was begun recently and is scheduled to comprise a period of 2 years.

The Committee will further be briefed in due course on the initiatives that may be taken on the basis of the results of the study.

I.3 **general statistics for 1990 and the first half of 1991 on the recourse to special security cells and means of restraint in Denmark (paragraph 35);**

The general statistics concerning the use of security cells and means of restraint referred to by the committee have been prepared especially for the use of the working party referred to above concerning the use of security cells. The study relates to a 6-month period during which the working party has thoroughly studied the individual placements in security cells, comprising fixation to the bed. Similar detailed statistics are not available for 1990 and 1991.

For your information, the existing statistics for 1990, the first six months of 1991 and the second and third quarters of 1991 concerning the placement in security cells, etc. have been enclosed, broken down on the various types of institution and the length of the placements, cf. Enclosure E. It is observed that the statistics from the second quarter of 1991 and onwards also contain information on the number of placements in security cells which have been connected with fixation to the bed.

I.4 **the outcome of the examination of the provisions of the Bill on the enforcement of sentences concerning the disciplinary powers of prison governors (paragraph 110);**

The working party's proposals are being considered by the Criminal Law Council. At present it is not possible to say when a Bill will be introduced in the Folketing.

I.5 **the frequency of transfers of prisoners classified as dangerous (paragraph 112);**

Prisoners comprised by the Circular of 2 May 1989 on prison conditions for certain specified prisoners basically ha-

ve to be removed between the institutions concerned at 2 - 6 month intervals. Attention is drawn to the fact that dangerous prisoners are basically treated in accordance with the general regime in closed prisons. Only the few dangerous prisoners who have proved to be in risk of escape in having used weapons, the taking of hostages or similar dangerous methods in connection with the escape from the prisons are subjected to the special regime in the maximum security cells. The Circular has been applied in 4 cases. In approximately two years and nine months, these 4 persons have been transferred 3, 5, 6 and 7 times respectively for reasons of security.

One of the prisoners has been released, two are no longer placed under the said Circular, and the last one has gradually had the regime eased considerably and will probably soon be fully exempted from the special regime.

As far as the reference to paragraph 29 of the report (on prisoners in solitary confinement) is concerned, it is observed that prisoners who are comprised by the Circular of 2 May 1989 have the same access to medical examinations as all other prisoners, including remand prisoners in solitary confinement. Reference is made to this in the comments on paragraph 29. The doctor's declaration, if any, will be submitted to the prison authorities and the Department of Prisons and Probation which - upon consultation with representatives of the closed institutions of the prison system - makes the decision on the continued placement under the special set of rules, including any relaxations of the restrictions.

I.6 **the outcome of the examination of the provisions contained in the Bill on the enforcement of the sentences concerning the transfer of the prisoners classified as dangerous (paragraph 112);**

The working party's proposals are being considered by the Criminal Law Council at the moment. At present it is not possible to say when a Bill will be introduced in the Folke-

ting, if the occasion should arise.

I.7 **any steps envisaged with a view to reducing the length of detention on remand (paragraph 113);**

The provisions on detention on remand are laid down in Part 70 of the Administration of Justice Act. It follows from this that detention on remand can take place solely when there is a specific suspicion that a person has committed an offence of a serious nature as specified in the Administration of Justice Act.

The decision on detention on remand is made by the court through an order. The accused person must in this connection be given access to assistance by a defence counsel and normally also has the right to attend the court meeting in person.

The court lays down a time limit for the length of the detention on remand. Under the provisions of the Administration of Justice Act, this time limit has to be as short as possible, and may not exceed 4 weeks. The time limit may be extended, the maximum period being 4 weeks at a time, however. Also in connection with an extension of the period will the court evaluate whether the special conditions under the Administration of Justice Act are still satisfied, for example whether the regard for the investigation still makes it necessary to deprive the person concerned of liberty or whether a mental examination of the person accused, for example, makes it necessary to commit the person concerned to an institution with a view to this, cf. paragraph 809 of the Administration of Justice Act.

It is the view of the Ministry of Justice that the courts should also in practice try to limit the length of the detention on remand - in so far as this is possible at all - in compliance with the above-mentioned provisions.

2. Copenhagen Prisons

a. Recommendations

R.12 **the idea of the Governor of Copenhagen Prisons according to which specific training courses should be made available for the staff of the Police Headquarters Prison to enable them to deal with emergency situations and provide desperate or emotionally highly disturbed individuals with the necessary help, to be implemented (paragraph 21);**

The prison system has in co-operation with a private consultancy firm initiated an analysis of the reception procedure in the Police Headquarters Prison with a view to reducing the risk of emergency situations. A report of the analysis has been finalized and is to form the basis for the carrying through of specific training courses for the staff to enable them to deal with emergency situations, etc. Further, a seminar has been held and working parties who are to submit proposals for the solution of these problems have been set up.

R.13 **the use of rubber truncheons at the Police Headquarters Prison to be strictly limited to the cases mentioned in the Circular of 15 April 1978 on the use of force on prisoners (paragraph 22);**

The Department of Prisons and Probation agrees that the use of truncheons has to be limited as much as can possibly be done.

According to information from the Copenhagen Prisons, truncheons have been used only on two occasions during 1990 and 1991. One of these cases has been included in the judicial review in progress.

As far as the rules are concerned, reference is made to the notes on the general comments (C.1).

R.14 **the possibility of improving the exercise arrangements for prisoners in solitary confinement at the Western Prison to be studied, with a view to providing them with proper opportunities for open air exercise (paragraph 47);**

The possibility of open air exercise poses a problem to prisoners placed in solitary confinement as the very placing in solitary confinement is illusory if the prisoner can get in contact with other prisoners. Thus this makes it necessary that any stay outside the cell takes place in company with a prison officer and in the so-called star-shaped yards. These star-shaped yards have now been abolished in most institutions. So far, however, it has not been possible to establish individual, big areas for exercises at the Western Prison, one of the reasons being the restricted area available in proportion to the number of prisoners in solitary confinement.

Naturally, the Department of Prisons and Probation will still give its attention of the possibilities of alternative solutions as a supplement to the present traditional arrangement. In this connection, it is observed that in order to improve the opportunities of prisoners in solitary confinement for physical exercise two exercise cells have been established exclusively for this category of prisoners.

R.15 **prison staff at the Western and Police Headquarters Prisons to be given specific courses on interpersonal communication skills and on the identification of persons with suicidal tendencies, and to receive clear instructions on the special precautions to be taken vis-à-vis persons identified as suicide risks and on the precise steps to be followed in the event of a suicide attempt (paragraph 52);**

R.16 **a proper flow of information between the staff of establishments that accommodate persons considered as suicide risks to be ensured (paragraph 52);**

The Department of Prisons and Probation endorses the Committee's comment to the effect that the decisive element of the prevention of suicides among prisoners may well be the establishment of a good and trusting contact between the prisoners and the staff, so that the staff through talks with and observations of a prisoner is in a position to notice whether he is a potential suicide. The training of prison officers also includes a series of subjects - such as psychology and conversation methods - aiming particularly at teaching the students partly to establish a viable and constructive contact with the prisoners, partly to identify certain simple, basic indications that a prisoner has psychological problems. The department is aware that there may be a need to train the staff in identifying persons with threatening suicidal behaviour, including training in taking an attitude to these persons in the manner recommended by the Committee. However, in the opinion of the department, focusing to a too high degree on well-known symptoms of threatening suicidal behaviour during the training might pose a danger because this implies a risk of neglecting other, more vague and unspecified symptoms that could also be a sign of threatening suicidal behaviour, or the risk that sufficient importance is not attached to such behaviour. Finally, it should be pointed out that the introduction of the so-called AUF-structure in the prisons implies, among other things, that the individual prison officer becomes a contact person for a small number of prisoners, and in doing so the staff will get a better possibility of noticing signs of psychological problems in a prisoner.

To conclude, it should be mentioned that the Department of Prisons and Probation has supported an independent medical doctor in carrying through a study of all suicides committed in Danish prisons and local gaols over a 10-year-period, or a total of 61 suicides. The department has requested the Staff Training Centre to make use of the report as an inspiration for the training courses at the basic education level.

R.17 **careful consideration to be given to the suggestion by the Director of Copenhagen Prisons to build outside the Western Prison a new bungalow-type structure of about 900m, providing 40 places for persons detained under the Aliens Act who have to remain in Copenhagen for the purposes of the police investigation (paragraph 54);**

The Department of Prisons and Probation has jointly with the Copenhagen Prisons prepared certain plans for the establishment of a block for aliens who are detained under the Aliens Act. This block, which is to be placed outside the wings of the Western Prison but within the walls will ensure that these prisoners are kept separated from the other prisoners and offer better possibilities of adapting the regime to this particular group of prisoners.

With this plan of a new block in the Western Prison there will be no need at present of additional capacity in the Western Prison for persons who are detained under the Aliens Act. Further, a new arrangement has been established as a result of which the number of asylum seekers in the Copenhagen Prisons has been limited as they are transferred to the Institution at Sandholm at an earlier date than has been the case so far. Thus, there is no immediate need of fitting up a building in the Copenhagen area for this purpose out of regard for the police investigations.

R.18 **prisoners held in the Sandholm Institution to have access to toilets during the night (paragraph 68);**

Prisoners in the prison section of the Sandholm Institution are normally given free access to visit the toilet during the night as the doors of the prisoners' rooms are usually unlocked at night. Furthermore, it may be observed that there are 8 toilets available for the 60 persons who are placed in the Sandholm Institution. It is the view of the department

that the conditions function reasonably.

b. Comments

C.9 **the lighting in the observation cells at the Western Prison might prevent the prisoner from sleeping (paragraph 40);**

The background for the permanent faint light in the observation cells is to prevent the staff that has to supervise the prisoner every hour from waking the prisoner by having to put the light on in the cell.

The Department of Prisons and Probation realises that a too strong lighting in the observation cells may prevent the prisoners from sleeping and that lighting which is on all the time has to be as faint as possible at all. However, the lighting may not be so faint as to prevent the supervising staff from ensuring that everything is in order.

By this request, the night lighting has been further turned down in the observation cell in which a 15 watt light bulb had actually not been installed.

C.10 **importance of the waiting cells at the Police Headquarters Prison being strictly reserved for their purpose, namely a short holding period of a few hours (paragraph 42);**

The Department of Prisons and Probation shares the opinion that the waiting cells in the Police Headquarters Prison should be used only for very short periods. During the autumn an outline has been prepared for a general improvement of the conditions in the Police Headquarters Prison. This draft has made it a precondition that the waiting cells are to be completely abolished and that the procedure in connection with the reception of persons to be imprisoned is to be reorganised so that the need for waiting cells ceases to exist. The improvements, which are a project in the total order of DKK 4 - 5

million, are expected to be finalized during 1992.

C.11 **desirability of either providing the Western Prison with more nursing staff qualified in psychiatric nursing or facilitating the admission of prisoners with psychiatric problems to duly equipped institutions more capable of meeting specific needs (paragraph 49);**

The Department of Prisons and Probation completely endorses the Committee's recommendation that the possibilities of transferring prisoners who are mentally ill to adequate institutions should be improved and the Department of Prisons and Probation has at meetings with the Minister of Health and the Danish Medical Association pointed out the need to establish the required number of hospital beds in psychiatric hospital and institutions so as to be able to receive prisoners from the Western Prison, for example.

The department is aware that the staff at the Western Hospital, including the nursing staff, should receive training to enable them to offer the necessary care and treatment of mentally ill prisoners who, after all, ought to be in the hospital and has therefore held a course in psychiatry for prison nurses. The department, on the other hand, finds it to be in conflict with Danish practice and traditions to make a major extension of Western Hospital so as to be in charge of prolonged care and treatment of mentally ill prisoners - mentally ill persons ought to be transferred to the ordinary psychiatric wards.

C.12 **desirability of supplementing the training of Western Prison staff by language courses, following the example of the Sandholm Institution (paragraph 55);**

A very large part of the staff of the prison system is capable of communicating in one or more principal languages. In

connection with the recruitment of prison officers, etc. weight is attached to their language skills, inter alia, including especially the possibility of employing staff who has a good command of one or more other languages. The basic training of prison officers includes English as an optional subject.

Beyond this, the prison system has not found it possible to implement a more systematical language lessons of the prison staff. The background for this is, among other things, the very high number of different languages involved. However, the prison system is ready to meet relevant wishes from the staff to participate in language courses.

Instead, the Department of Prisons and Probation is considering the possibility of extending the existing interpretation arrangements. Thus, efforts are made to establish an improved interpretation service which implies that the interpreter who was present during the interviewing by the police of an arrested person of foreign nationality should, as far as this is possible, be present in connection with the imprisonment, or if this is not possible, at least explain the meaning and the background of the imprisonment to the person in question.

The Copenhagen Prisons have further prepared a guide on the procedure in connection with imprisonments in a vast number of languages, just as the police have prepared a guide in 16 languages which, among other things, informs the person in question of the background for the deprivation of his liberty and of his rights.

As far as the teaching of Danish for prisoners speaking a foreign language is concerned, lessons in Danish are offered in most closed prisons for the purpose of enabling the prisoners to manage in everyday life during prolonged periods of imprisonment. In the State Prison of Nyborg, lessons in Danish used to be offered. Since there has turned out to be a greater need for English courses here, such courses are now being offered instead, however.

The scope of the language course in the various prisons has been adapted to the number of prisoners speaking a foreign

language.

To a certain extent, English combined with Danish is offered to prisoners of foreign nationality.

C.13 **desirability of making the necessary changes at the Sandholm Institution within the shortest delay so as to permit the reception of children (paragraph 67);**

Prisoners have the possibility of having their children with them during the serving of their sentence until the children have completed their first year. If it is compatible with the welfare of the child, the child may stay beyond this date which, in practice, is allowed only in one prison, generally speaking. There, a special family division has been fitted out where children can be brought up to the age of three years approximately. The Ministry of Justice does not find it appropriate that children may be brought into the Sandholm Institution, one of the reasons being the physical surroundings. A separation, if any, of parents and children should therefore, as mentioned under point R.11, in cases where there are two parents, be anticipated by not depriving both parents as far as possible of their liberty and by trying to ensure that the separation is limited to the widest possible degree by ensuring frequent contacts between the family members. In case it is necessary to expand the prison section for asylum seekers deprived of liberty, the Department of Prisons and Probation will consider the expediency of establishing a special family division.

c. Requests for information

I.8 **the findings of the judicial investigation into the allegations of severe ill-treatment of a young Gambian, and any measures which the Danish authorities intend to take as a result of this (paragraph 19);**

The judicial review that has been initiated has not been completed as yet. The Department of Prisons and Probation will in due course inform the Committee about the outcome of the investigation and any measures that might be taken as a result of this review.

I.9 **the findings of the enquiry concerning the allegations of severe ill-treatment of a Tanzanian national, and any measures which the Danish authorities intend to take as a result of it (paragraph 20);**

The judicial review that has been initiated has not been completed as yet. The Department of Prisons and Probation will in due course inform the Committee about the outcome of the investigation and any measures that might be taken as a result of this review.

I.10 **statistics for 1990 and the first half of 1991 on the recourse to special security cells and means of restraint in the three Copenhagen prisons visited, these statistics to show the reason for the use of means of restraint and the period during which they were applied in each case (paragraph 35);**

A survey of the use of security cells and means of restraint in the four institutions under the Copenhagen Prisons,i.e. the Western Prison, Blegdamsvejens Prison, the Police Headquarters Prison and the Institution at Sandholm for imprisoned asylum seekers, cf. Enclosure F.

I.11 **the results of the pilot projects to provide prisoners at the Western Prison with more sports opportunities and to give them their own cell key, and information on any other programme implemented in this field (paragraph 44);**

The project for sports activities for the prisoners in the Western Prison was commenced on 1 January 1990. The prisoners make frequent use of the facilities offered, i.e. table tennis, badminton, fitness centres, etc. and the Western Prison is extremely aware of the importance of the prisoners being activated during their stay in prison, including especially physical exercise. The other project referred to, giving the prisoners their own cell key consists of a double-key system where the prisoners are given an opportunity of letting themselves out and keeping other prisoners out of their cells. This, of course, is not the case if the staff has locked the cell door (double lock). This project has not been carried into effect as yet, but the Western Prison intends to commence an experimental arangement in a common ward in the eastern wing of the Western Hospital.

I.12 **information on the practical implementation of the training of prison officers in foreign cultures introduced as a result of an inspection carried out at the Western Prison, as well as on the measures taken vith a view to changing the prison regime (paragraph 55);**

The prison system has held three courses of this nature in 1990 for the staff of the Copenhagen Prisons and the Institution at Sandholm. The courses which were arranged in co-operation with and with the participation of the Danish Refugees' Council were about the specific problems connected with refugees, including cross-cultural talks, emergency treatment, religion, etc. In the autumn of 1991, a similar course was held for new staff in the Copenhagen Prisons and the Institution at Sandholm, just as further course activities have been agreed for 1992, including follow-up courses. Further, two courses were held in 1991 about immigrants, and an additional number of courses on this subject are being prepared.

In addition to these educational activities a number of

initiatives have been implemented which jointly could improve the conditions in the Copenhagen Prisons. The project in the Police Headquarters Prison and improved interpreter service, etc. have already been mentioned, cf. point R.12 and C.12. Within short a thorough renovation and modernisation of the Police Headquarters Prison will be commenced, and rebuildings of the rest of the Copenhagen Prisons are under consideration. These measures are to be regarded as a supplement to the ongoing restructuring of the Copenhagen Prisons, which involves a change in the staff structure, among other things.

I.13 **the results of the judicial review initiated in July 1990 after the judgment of 2 April 1990 of the High Court of Copenhagen and on any measures which the Danish authorities intend to take as a result of this investigation (paragraph 55);**

The judicial review after the judgement of the City Court of Copenhagen that has been initiated has not been completed as yet. The Department of Prisons and Probation will in due course inform the committee about the outcome of the investigation and any measures that might be taken as a result of the investigation.

I.14 **developments with regard to the envisaged extension of the medical service of the Institution at Sandholm (paragraph 71);**

The planned extension of the permanent health staff in the Sandholm Institution has been finalized, so that the doctor's working hours have been extended from 3 to 6 hours weekly, and the nurse's working hours from 10 to 15 hours weekly.

3. The Institution at Herstedvester

a. Recommendations

R.19 **with regard to the treatment of patients without their consent, a provision aimed at making the provisions of Chapter 4 of Act No. 331 of 1989 on deprivation of liberty and other coercive measures in psychiatry, applicable to the institution (for-example along the lines of the Section 43 proposed by the Criminal Law Council) to be included in the intended new Act on the enforcement of sentences (paragraph 78);**

R.20 **with regard to the conditions of detention of mentally disturbed prisoners, the extent to which the other Parts of the same Act are to apply to the institution, for example, as regards recourse to physical coercion, the keeping of registers on the use of means of restraint, counselling about treatment, complaint procedures (vis-a-vis the local and national "patientklagenævn"), judicial remedies, etc., to be determined (paragraph 78);**

The Department of Prisons and Probation has noticed that the Committee has stated that at no point in time during its visit to the Institution at Herstedvester did it receive any complaints of "physical ill-treatment or inhuman or degrading treatment", just as the Committee does not itself mention any conditions or situations which might give cause for suspicion thereof.

The Committee further states that treatment, and compulsory treatment, if any, of prisoners who are mentally ill or mentally deviant is such a delicate area that these issues call for special careful guarantees of the rules of laws for the prisoners - an attituted that is endorsed by the department.

As will appear from the recommendation of the Health Committee for example the main task of the Institution at Herstedvester, is to receive convicted prisoners in need of

psychiatric/psychological treatment. In addition to this, the establishment receives prisoners from other institutions under the prison system who show signs of psychiatric disorder for observation and treatment, if needed.

Criminals who are mentally ill are normally not punished in Denmark; they are sentenced to psychiatric treatment and transferred to the ordinary psychiatric treatment system. It is likewise a fundamental philosophy that prisoners who are mentally ill and who are in need of hospitalization are to be committed to a psychiatric ward in the same way as prisoners who develop physical diseases are to be admitted to ordinary hospital wards. Thus it is not the idea, and never has been, that Herstedvester in principle is to house mental patients. Due to its special status as observation ward for the other institutions under the prison system, this institution will, however, occasionally receive prisoners who turn out to be psychotic. If it is a matter of short psychoses, e.g. psychoses caused by narcotics the person in question might with advantage receive final treatment in this institution; however, if it is a matter of protracted mental disorders the person in question should be transferred to the psychiatric treatment system.

It is still the firm belief of the Department of Prisons and Probation that psychotic prisoners should not be housed in the institutions of the prison system but should be treated within the ordinary psychiatric hospital service. Both the Danish Medical Association and the Danish Psychiatric Association agree on this view. Reference is moreover made to the enclosed articles concerning interviews with Peter Kramp, the psychiatric consultant to the prison system, cf. enclosure K.

The Institution at Herstedvester thus is, and should - in the view of the prison system - continue to be a <u>prison</u> in which prisoners who do not suffer from any mental disease but have psychiatric problems in other respects are offered psychiatric/psychological treatment. The department therefore finds it natural that the institution should be headed by a legally qualified person, but of course in such a manner that the senior consultant alone is responsible for the medical treat-

ment, cf. letter of 12 February 1985 from the National Board of Health, referred to in the 2nd clause of paragraph 77 of the Committee's report.

As stated above, the Institution at Herstedvester will receive from other institutions under the prison system prisoners who turn out to be psychotic and who for one reason or other cannot be immediately transferred to an ordinary psychiatric ward. In these situations there may on rare occasions be need for medicamental compulsory drug treatment (8 times in 5 years).

The Health Committee recommended that the issue of compulsory treatment in the Institution at Herstedvester should be regulated in an act on enforcement of sentences. At present no stand has been taken on the issue of implementing future legislation on the enforcement of sentences so the department has decided to set up a working party to consider how and to what extent the rules on compulsory treatment in the Act on the Deprivation of Liberty and other Coercive Measures in Psychiatry may be applied in the Institution at Herstedvester.

The issues has been debated between the Danish Medical Association and the Department of Prisons and Probation and there is agreement that in some situations it may prove necessary - and correct also from an ethical point of view - to initiate compulsory treatment in the Institution at Herstedvester, on condition that the person who is subjected to the compulsory treatment is given guarantees of the rules of law corresponding to the conditions for patients who have been admitted to a psychiatric ward and receive compulsory treatment, that the resources for medical treatment and care are consistent with the general standards of psychiatric hospitals, and finally on condition that the prisoner is transferred to a psychiatric ward as soon as possible for continued treatment.

In principle, the Department of Prisons and Probation can fully endorse the recommendation in the first clause of paragraph 78.

The Committee further recommends (second clause of paragraph 78) that it should be considered whether a series of

other rules from the Act on deprivation of liberty and other coercive measures in psychiatry should be applicable to the Institution at Herstedvester, and in such manner that these rules do not apply only to mentally ill persons but also to prisoners who are not mentally ill but who are mentally deviant in another way.

To this should be added that the rules in the Act on deprivation of liberty and other coercive measures in psychiatry quite predominantly concern mentally ill persons. A large part of the clientel in the Institution at Herstedvester are persons with severe character deviations, marked for example by a tendency to affective reactions, violent behaviour, etc. The majority of the clientel is thus not psychiatric patients in the sense that they would fit in with what is seen in a psychiatric ward. It is the view of the Department of Prisons and Probation that the guarantees of the rules of law and possibilities to complain concerning the use of force otherwise effective within the prison system offer adequate protection for these prisoners against the abuse of power, humiliating treatment, etc. and that there is consequently no need for introducing a set of "parallel" guarantees of the rules of law. Last but not least, it would in the view of the department clearly be in conflict with the Tokyo Declaration if for instance a doctor would have to be present and approve of a severe character deviant who had assaulted another inmate or a member of the staff being fixed to his bed for pure security reasons.

R.21 **steps to be taken to ensure that women prisoners are able to participate in joint activities in circumstances which safeguard their physical and psychological integrity. In this connection, staff to be made aware of the problems with which women may be faced in such an institution and to be trained to deal with them in an appropriate manner, without leaving the prisoners to settle their difficulties on their own (paragraph 82);**

It is correct that women prisoners in the Institution at

Herstedvester form a very small group of about 6 women only out of 130 prisoners. Basically, the women may participate in all joint activities such as work, education, leisure-time activities, etc. and this, of course, should be in such manner as to safeguard their physical and psychological integrity. On two previous occasions, the Department of Prisons and Probation has at the actual request of a prisoner studied whether the women prisoners felt annoyed by the male prisoners and if they wanted a change of procedure in connection with the joint activities. None of the women, apart from the person concerned who was the occasion for the study, wished any changes.

The recommendation of the Committee gives occasion for the department to point out that more than a third of the total staff of the institution are women. Especially as far as the uniformed staff is concerned, 30% are women.

However, the department has at the said request asked the Staff Training Centre to take into consideration when planning their courses that the staff ought to be capable of envisaging the problems that may arise in institutions with a mixed clientel of women and male prisoners.

R.22 **the possibility of enabling both men and women meeting the necessary conditions to enjoy access to the semi-open regime operating within the institution to be studied (paragraph 86);**

It would not be justifiable to place women in the barracks in the Institution at Herstedvester. It would not be possible to safeguard their integrity, one of the reasons being that one of the main ideas with this ward is that it has no staff. So when a woman qualifies for transfer to more open conditions, she will be transferred to an open prison.

b. <u>Comments</u>

c.14 **desirability of studying ways of enabling the prisoners from Greenland to maintain appropriate links with their own society**

(paragraph 90);

The Ministry of Justice agrees with the Committee that it is difficult for prisoners from Greenland to adapt to the conditions in Denmark. The Ministry of Justice has in full agreement with the authorities in Greenland proposed that the transfer of Greenlanders to the Institution at Herstedvester should be terminated when it is financially possible to establish a closed institution in Greenland. This is in accordance with the proposal in a report from 1990 concerning criminal policy issues in Greenland. Until the proposal can be realized, the prison system tries continously to improve the conditions for the Greenland prisoners as much as possible. The Department of Prisons and Probation has decided to increase the appropriation for travels for visits in accordance with the said report so that the Greenland prisoners have more opportunities for visiting their relatives or receiving visits from Greenland just as measures will be taken to increase their possibility for contacting their families over the telephone.

C.15 **possible introduction of a meals system like that operating in Nyborg Prison, with a view to meeting the dietary problems experienced by Greenlanders (paragraphs 88 and 96);**

In connection with the carrying through of the principles of the AUF-report on the future meals system it has been planned that the Institution at Hestedvester, to the widest possible extent, is to introduce an arrangement where the prisoners supply themselves with meals like that operating in Nyborg Prison and a vast number of other prisons. The idea is thus that in future, Greenlanders will be given the opportunity to do their own shopping and prepare their own meals similarly with the way in which it is done by the prisoners in Nyborg. The existing system with the possibility of preparing Greenland meals is to be adapted to the new system. Today, the Greenland prisoners may have Greenland meals twice a week. The intro-

duction of a system where Greenlanders and a substantial part of the other prisoners in the Institution at Herstedvester supply themselves with meals is expected to take place during 1992-1993.

c. **Requests for information**

I.15 **any proposals for amending Act No. 331 of 1989 to be submitted to Parliament for the 1994/95 parliamentary year (in accordance with Section 46 of that Act) (paragraph 79);**

No Bill has been tabled in Parliament so far.

4. **Nyborg Prison**

a. **Recommendations**

R.23 **the means of communication between prisoners and the prison authorities to be improved, either by considering the possibility of reintroducing the system of prisoners' spokesmen or by seeking other arrangements that would suit both prisoners and staff (paragraph 101);**

During the summer of 1990, the prisoners in Nyborg Prison abolished the system of prisoners' spokesmen. This decision was made entirely by the prisoners. Since then there have been no elected spokesmen. During the entire period there has, however, been some communication between the prison administration and the prisoners via the leisure-activities committee.

The management of the prison has on several occasions in various ways tried to motivate prisoners to re-establish the system of prisoners' spokesmen or establish another form of formalized co-operation. It has now been agreed with a number of prisoner representatives to initiate discussions in a small working group consisting of 3 prisoners and 3 representatives of the prison staff regarding the various wishes submitted by

the prisoners. The idea is in this way to have a more thorough discussion of the prisoners' proposals and the possibilities of meeting these proposals before the prisoners' wishes are sent for actual discussion with the prison administration.

The Department of Prisons and Probation agrees with the Committee that it is important to have satisfactory means of communication between the prisoners and the prison administrations and believes that the efforts to find a local solution will be successful.

b. **Comments**

C.16 **the success of the envisaged diversification of prison duties will depend upon adquate human resources being made available (paragraph 95);**

The new AUF-structure has now been carried through in Nyborg Prison. Generally, this structure means that the basis staff (the prison officers) are given much greater responsibility and competence in connection with the solution of the prisoners' problems. The former, traditional hierarchial system is to be replaced by a very flat decision model. This will release staff resources which, among other things, may be used for an upgrading of the work with the treatment of clients and other activities of importance for the prisoners.

The new AUF-structure will also attach importance to the use of staff resources in areas and at point of times where and when the prisoners are present.

In Nyborg Prison - as in other prisons where the AUF structure has been introduced and functions satisfactorily, the necessary staff resources have been made available in order to ensure that the new tasks implied are being fulfilled.

C.17 **importance of an on-going information programme for prisoners concerning AIDS (transmission risks and means of prevention) (paragraph 106);**

The Department of Prisons and Probation quite endorses

the observations of the Committee for the Prevention of Torture on the importance of providing continued information on AIDS. This is the reason why the department has continously submitted written information concerning AIDS and HIV infections to prisoners as well as staff in the institutions of the prison system ever since this problem emerged in Denmark. The information activities take place in close co-operation with the AIDS-Secretariat of the National Health Board. A permanent working group consisting of representatives of the department, the institutions and the staff organizations has been charged with the following up on the information activities.

In addition to the written information, oral information is provided to the prisoners in the individual institutions. These activities are in the charge of a number of key persons who on special courses receive background information on AIDS and the precautions to be taken against AIDS. They learn how to communicate this information and at the same time they receive information material for educational purposes and are instructed in assisting the individual prisoners. Special AIDS campaigns have been organised in many institutions.

The prison system has a special AIDS adviser who functions as a adviser to the prison system in questions relating to HIV/AIDS, and offers special assistance to the Copenhagen Prisons in contacting and assisting the HIV-infected prisoners or prisoners who have contracted AIDS.

C.18 **the example set by remand establishments where the relevant excerpts from the prison rules and other texts have been translated into a considerable number of languages might be followed at Nyborg Prison (paragraph 109);**

Reference is made to the observations under A.8.

Furthermore, it may be added that Nyborg Prison has declared its willingness to have the guide that is given to the prisoners upon reception together with the most important local rules translated into a number of the most relevant foreign

languages.

C.19 **desirability of providing prisoners and prison officers at Nyborg Prison (as well as at other establishments for convicted prisoners where foreign prisoners are kept) with better opportunities for learning Danish and foreign languages respectively (paragraph 109);**

Reference is made to the observations under point C.12.

c. **Requests for information**

None.

B. Police stations

a. Recommendations

R.24 **persons kept under arrest at police stations and in the transit area of the airport to be provided with something appropriate to eat and drink, when the circumstances so require (paragraph 122);**

As regards the physical conditions at the police stations visited by the Committee, these were found to be of an acceptable standard considering that the persons under arrest stay in the cells concerned for a few hours only.

The Ministry of Justice, of course, is in agreement that persons arrested whose stay at the police stations is of such a duration as to create a need in that respect are to be adequately provided with food and/or beverages. The physical surroundings at the police stations concerned , however, are so that no special kitchen facilities have been established with a view to preparing meals for the persons under arrest. In practice, food and beverages for the persons under arrest are

bought externally, if needed. It is the view of the Ministry of Justice that this arrangement functions satisfactorily - also in consideration of the fact that persons under arrest typically stay only for a short while at the police stations concerned.

R.15 **arrested persons to have the right to inform immediately their next of kin or another third party of their arrest (paragraph 126);**

R.26 **any possibilities for the police exceptionally to delay or refuse contact with a third person to be clearly circumscribed and made subject to appropriate safeguards (e.g. such delay or refusal to be recorded in writing together with the reasons therefore and to require the approval of a senior officer or public prosecutor) (paragraph 126);**

The Committee finds that the right to immediately inform a relative or another person of the arrest to be such a fundamental guarantee against improper treatment that this right should be ensured by statutory law.

In this connection, the Ministry of Justice would refer to the rules provided by paragraph 758 of the Administration of Justice Act, from which it appears that the person arrested - with the exemptions referred to - shall not be subjected to other restrictions in his liberty than necessitated by the purpose of the arrest and the regard for security and order. Report 728/1974 on arrest and detention in custody states in respect of this provision as follows:

"It is the view of the Committee that considering the short duration of the arrest, it is not required to lay down statutory rules on the treatment of the arrested person. The Committee realises that the arrested person may need assistance in some respects, for instance in informating a near relative, employer or lawyer, if any, and also in taking care of his personal effects. In the above rule, the draft gives a direction

to the effect that the arrested person may get in contact with the outside world in so far as this is compatible with the purpose of the arrest and the regard for law and order. The more detailed regulation of this could be made by way of instructive regulations. The Committee considers it to be a matter of course that the police inform the person who has the custody of the juvenile, or another third party who is in charge of the actual care of the person concerned, upon the arrest of persons under the age of 18, cf. Circular No. 174 of 4 August 1966, point 50, issued by the Chief Public Prosecutor. Likewise, arrested persons above this age should - if no decisive regards for the further investigation prevent this - have the right, possibly over the telephone, to inform their families and, according to circumstances, employer, lawyer or any other third party. It may sometimes be reasonable to let a police officer give such information."

The Ministry of Justice shares the view expressed by the Committee, and the Ministry thus does not find any need for laying down further provisions in the Administration of Justice Act regarding the arrested person's right to inform his relatives, etc. as this issue must be deemed to be sufficiently regulated under paragraph 758. However, the Ministry of Justice is prepared to consider whether - as has also been considered by the Committee - it might be appropriate to lay down instructive regulations to this effect.

In cases, where the arrested person is brought before the court with a view to being remanded in custody, the court may, if due to the insufficiency of the information available or for any other reason, it does not find itself immediately capable of deciding on the issue of remand in custody, decide that the arrest is to be prolonged for 3 x 24 hours, cf. paragraph 760 of the Administration of Justice Act. In these cases where the arrest is of prolonged duration, it might be left with the court (upon request) to take a stand on the question of the arrested person's access to contact his relatives or another persons during the continued detention in the same manner as if he had been remanded in custody. In con-

nection with a revision of the provisions of the Administration of Justice Act in this area the Ministry of Justice will consider proposing the inclusion of express provisions to this effect.

R.27 **the possibility for an arrested person to have access to a doctor (including one of this own choice) to be expressly provided for in respect of all stages of police custody (paragraph 128);**

For the same reasons as those stated above concerning the information of relatives, etc. the Ministry of Justice does not find any need to include express rules in the Administration of Justice Act regarding the access to medical assistance.

In the opinion of the Ministry of Justice it must be regarded as a matter of course that the arrested person is given medical treatment whenever needed either by taking him to the casualty department of a hospital or by calling for a doctor to the police station, according to what is deemed most appropriate in the specific situation.

There is nothing to prevent the arrested person from choosing a specific medical doctor, and such express wish should, of course, be complied with whenever this is practicable and safe. However, it is the Ministry of Justice's evaluation that the guarantee against torture and bad treatment on the part of the police - which might be implied in the access to medical examination - must be considered to be completely adequate under Danish circumstances, also in case the physical examination cannot in exceptionally cases be carried out by a doctor of the patient's own choice.

Finally, it is observed that Notification II, no. 55, issued by the national Commissioner of the Danish police on the detention in custody of persons under the influence of alcohol lays down express provisions regarding physical examinations by medical doctors of the condition, etc. of persons detained in custody.

R.28 **a code of practice on police interrogations to be drawn up addressing inter alia the following questions: the permissible length of an interview, eating and rest periods between interviews, places in which an interview may take place. The code should also provide that a record be systematically kept of the times during which a person is interviewed, regardless of the length of the interview, and of the persons present during each interview (paragraph 130);**

The Ministry of Justice is of the opinion that the Administration of Justice Act contains quite detailed rules concerning interviews. It thus follows from paragraph 752 of the Administration of Justice Act that interviews may not be prolonged for the mere purpose of obtaining a confession. In connection with interviews of a certain duration the prosecution statement must state the times at which the interview begins and ends. Report 622/1971, page 46, states as follows regarding the investigation in criminal cases: "Stating the time at which the interview begins and ends (including breaks of prolonged duration) in the prosecution statement provides a considerable security against abuse or any accusation of abuse". In practice, the time is normally stated in every interview, as it is not always possible to anticipate the length of the interview at the commencement of the interview, cf. the annotated edition of the Administration of Justice Act, volume III, page 86. Further, the names of all those present at the interview will generally appear from the prosecution statement.

It further follows expressly from the provisions of paragraphs 750-52 of the Administration of Justice Act that the police may make interviews but are not allowed to order any one to make statements, nor may any force be used in order to make any one make statements. Any person is, however, under obligation to state his name, address and date of birth to the police upon request. The most essential contents of the statements are taken down in the prosecution statement, and, to the extent possible, a verbatim record must be made of particularly

important parts spoken by the person making the statement. The person being questioned must be given the opportunity to read the interview. Any corrections or additions on the part of the person interviewed are to be included in the prosecution statement. The person interviewed is informed that he is under no obligation to sign the prosecution statement. Before the police interview an accused person must be expressly informed of the contents of the charge and that he may remain silent. Questions to an accused person may not be asked in a manner as if anything that has been denied, or has not been admitted, is assumed to have been confessed.

In the opinion of the Ministry of Justice, there is no need for laying down further detailed rules on the procedure in connection with police interviews.

It must to a certain extent be left to the police officer who undertakes the interview in the actual situation - and within the framework of the said provisions of the Administration of Justice Act - to deem whether a break in the interview should be made because the person being questioned is tired or hungry etc. In this connection it is pointed out that a defence counsel will often attend the interview and the person being questioned may otherwise refuse to make any further statements at any time.

However, in connection with a revision of the provisions of the Administration of Justice Act, if any, the Ministry of Justice will consider proposing the following wording: "... which are of a certain duration ..." to be deleted in paragraph 752 (4), second clause, of the Administration of Justice Act so that the provision will have the following wording: "The prosecution statement shall state the time at which the interview begins and ends." By so doing, the Committee's wish for such a rule will be complied with and the wording of the provision will be brought in accordance with the general practice followed today, cf. above.

As regards the place of the interview of a person arrested, this will most often be in the premises of the police station or in a local goal; according to circumstances, there

may, how-ever, be occasion to make at least shorter interviews at the scene of the crime or perhaps in another place. It is not the Ministry of Justice's evaluation that there has been any need, in practice, for more detailed regulations as regards the place in which an interview may take place.

To this should be added that very detailed rules on the procedure at interviews might necessarily contain exemption clauses which in special cases would open up the possibility of deviating from the rules laid down. Both the regard for the police and the regard for the accused or the witness may, according to circumstances speak in favour of deviating from too detailed rules. Also a witness or an accused person may have an interest in prolonged interviews in order thereby to get it over. In this connection also the regard for a limitation of the total length of the deprivation of liberty could in special cases speak in favour of prolonged interviews. In the view of the Ministry of Justice, legal technical reasons speak in favour of a system like the present one where the Administration of Justice Act lays down the overall framework for the interview in preference of a system with very detailed rules combined with exemption clauses.

Furthermore, reference is made to Report no. 622/1971 on the investigation in criminal cases, etc., page 10, which states as follows:

"In chapter 68 of the draft, the Committee has listed a number of rules regarding the police interviews which correspond to the provisions which have so far expressly only been applicable to court interrogations but which, in all essentials, have also been complied with in police interviews.

The Committee has considered introducing further provisions to ensure that police interviews take place as provided for in the Act. Certain foreign legal systems thus have rules to the effect that interviews are to be made in the presence of a witness.

The Committee finds that the laying down of too detailed rules for the police investigations involves a risk of bringing development to a deadlock and no real guarantees would be at-

tained by such rules. Altogether, it may be called in question whether an improvement of the guarantees of the rules of law may be expected through the drafting of new rules about the procedure at police interrogations. The guarantee that the police exercise their powers with due regard for citizens' guarantees of the rules of law depends, in the opinion of the Committee to a smaller degree on the formal rules set up for police interrogations and other investigations than on the professional and ethical standards impressed on the police during their education at the police college and practical training, on the tradition for police investigations in Denmark, and on the fact that the investigative work is headed by legally qualified chief officials ".

The Ministry of Justice endorses the Committee's findings.

R.29 **possibility of introducing a system of electronic recording of police interviews, offering all appropriate guarantees, to be explored (paragraph 130);**

In the opinion of the Ministry of Justice an arrangement where interviews of the accused are tape recorded offers both advantages and drawbacks.

Paragraph 751 (3) of the Administration of Justice Act contains a provision to the effect that "phonetic recordings of statements may only take place if the accused is informed of this". The purpose of this provision is thus to protect the accused against tape recordings of interviews without his knowledge.

The purpose of tape recording interviews of the accused and witnesses must be to use the recordings as evidence in court, for example during criminal proceedings against the person in question. So, in some cases, tape recordings of interviews may certainly be disadvantageous for the accused, for example if he makes insecure, hesitating, evasive statements or a slip of the tongue. Further, it may be more difficult for the

accused to deny his former statements if they are tape recorded.

On the other hand, systematic tape recordings of all the interviews may contribute to ensuring that all interviews are carried through in compliance with the rules of the Administration of Justice Act. Both the accused and the police may be interested in having subsequent documentation for what has come to pass during the interview. The police, for example, will be able to clear themselves of an accusation that important passages of the statement have been left out in the interview record or that the statement made by the person being questioned has been distorted. The applicable provisions of the Administration of Justice Act that the person accused has access to read his statement, to have any corrections and additions included and to sign the record also imply a guarantee in that respect, of course.

The Ministry of Justice will consider having the Criminal Justice Administration Committee examine whether it will be appropriate to introduce an arrangement with tape recordings of interviews.

R.30 **steps to be taken to develop a single and comprehensive custody record showing all aspects of each detainee's custody and action taken regarding him (when arrested and reasons for arrest; when told of rights; signs of injury; mental illness, etc.; when next of kind and/or lawyer telephoned and when visited by them; when fed; when interrogated; when charged; when transferred; when released, etc.) (paragraph 132);**

The Ministry of Justice finds it immediately doubtful whether very considerable advantages will be attached to such "custody record". The information that may subsequently turn out to be of relevance will most often appear from the prosecution statement and the recordings made in the local goals such as daily reports and case record notes etc. in which all activities such as visits, leaves, transport, medical

examination, etc. are recorded. Specifically, as regards the handing out of meals, no notes are made as there are regular meal times, however, in such a manner that if a detainee has been away for an interview by the police he will have a meal when he comes back to the local goal. The regard for fixing a proper order of priority of the tasks to be undertaken by the police and the staff at the local goal thus speaks against producing also a routine and separate custody record which would contain an overall account of these circumstances.

However, the Ministry of Justice is prepared to give further consideration to this issue in concert with the Department of Prisons and Probation and the police.

b. **Comments**

- None

c. **Requests for information**

I.16 **up-to-date statistics on the number of complaints of police misbehaviour and the number of cases in which disciplinary and/or criminal proceedings were instituted, with particulars of any penalties imposed (paragraph 116);**

Cases concerning the conduct of the official duties by the police staff occur partly as complaints submitted by the public and partly as reports proper of criminal offences or disciplinary for internal reasons.

In 1990, 331 complaints of the police officers related to their performance of duties were submitted and referred to the Local Councils under Part 93 b of the Administration of Justice Act.

In the Local Councils, 256 cases were concluded in 1990 in the following manner:

Withdrawal before consideration by the Local Councils	39
Dismissed by the Local Councils	66
Submitted to local chief of police	137
Referred to the Public Prosecutor for examination	11
Referred to criminal proceedings	3

It is observed that there is no identity between cases registered and cases decided in 1990 as some of the decisions concern cases from 1989 just like some of the cases from 1990 are still pending at the end of the year.

Further, in 1990 a total of 148 disciplinary cases were brought against police officers for non-criminal related offences. The number of these cases, main classifications and status of the case appear from the attached enclosure G.

Finally, in 1990 charges were brought against police officers in 37 cases - 26 of which related to their performance of duties - for violation of the Danish Criminal Code which automatically implies that disciplinary cases were brought parallel with the criminal proceedings.

The number of these cases, the nature of the charges, and the status of the case appear from enclosure I.

I.17 comments of the Danish authorities on the allegations made concerning the manner in which asylum seekers are questioned by the police (paragraph 117);

In point 17 of the report it is stated that the way in which the police question asylum seekers leaves them with the impression of being unwished.

In this point, reference is made to point 65 of the re-

port, from which it appears that asylum seekers detained in the Sandholm Institution have complained of the way in which the police question the prisoners and the negative and suspicious attitute shown by the police towards the prisoners, which affected the prisoners' possibility of corresponding with and having contact with their families.

The prisoners in this particular institution at the Sandholm Institution are all asylum seekers who are imprisoned because their identity and/or itinerary in Denmark have not been sufficiently documented.

The task of the police in this connection is to establish a number of factual circumstances with a view to establishing the identity and/or itinerary of the asylum seekers in question which first and foremost depends on a thorough questioning of the individual asylum seeker. In this connection it is necessary to ask critical questions to each individual asylum seeker. These critical questions are, as mentioned above, an indispensable part of the police investigations and do not reflect any prejudiced or negative attitude to the individual asylum seeker.

In this connection, it can be mentioned that the National Commissioner of Police has carried through a series of courses for the police staff which in particular concern the issue of cultural clashes in relation to the police work with persons of foreign nationality.

As regards the question regarding restrictions on correspondence and visits, reference is made to the comments on C 7 (points 57, 66 and 70 of the report). It should be observed, however, that the Administration of Justice Act provides rules regarding the procedure in connection with disputes between the police and the prisoner in these questions, including judicial review.

In point 117, it is stated that the reason why the asylum seekers feel badly treated by the police should be a pressure against the police from the public opinion and the lack of resources in the Directorate for Aliens. In the view of the National Commissioner of Police and the Ministry of Justice

there is no basis for these allegations.

Finally, point 117 states that the asylum seekers should have been asked to sign a declaration in connection with their deportation from the country stating that their departure is voluntary .

The National Commissioner of the Danish police has stated that if an asylum seeker withdraws an application for asylum in Denmark, a written declaration is made to that effect. An asylum seeker will not have to sign any declaration to the police in case of compulsory deportation, however.

I.18 **the time as from when a person taken into police custody enjoys a right of access to legal advice (paragraph 127);**

Part 66 of the Administration of Justice Act contains rules concerning the accused and his defence. A copy of paragraphs 729 - 741 has been enclosed herewith, cf. enclosure J.

It follows among other things from paragraph 732 (2) of the Administration of Justice Act that a request for appointment of a public defence counsel may be made by the accused and by the police as well. The Minister of Justice lays down rules concerning guidance of the accused as regards the right to request the appointment of a defence counsel. The prosecution statement must indicate that the accused has received due guidance, and the police will ensure that the matter is brought before the court.

Detailed rules are laid down about the guidance of the accused as regards his right to request the appointment of a public defence counsel in Order No. 467 of 26 September 1978 issued by the Ministry of Justice.

It follows from this order that when the charge concerns an offence which pursuant to law may result in a more severe sentence than fines, the police will guide the accused of his access to request appointment of a public defence counsel. Such guidance may, however, always be omitted when the charge only concerns a violation of the Road Traffic Act.

The guidance must be given at the same time as the accused is informed that he does not have to answer any questions, cf. paragraph 752 (1). The prosecution statement must indicate that the accused has received due guidance, cf. paragraph 732 (2), point 3 of the Administration of Justice Act.

The police take care that the request made by the accused for appointment of a defence counsel is brought before the court.

The request made by the accused for appointment of a defence counsel does by virtue of said order not prevent the interrogation from being commenced or continued without the presence of the defence counsel if the accused is willing to make statements.

The request for appointment of a defence counsel thus does not have any suspensive effect in itself. However, the accused may refuse to make any statements until the appointment has been made, cf. paragraph 752.

If an accused person who is under arrest requests the appointment of a defence counsel and does not wish to make statements without the defence counsel being present, the police may in case they do not find that the interrogation can be postponed call one of the attorneys referred to in paragraph 733 (1) of the Administration of Justice Act who have been taken on by the Ministry of Justice to act as public defence counsel. The attorney who has been called will be in charge of the task of defence counsel until the question of appointment has been decided by the court.

Furthermore, it follows form paragraph 71 of the Danish Constitution (Grundloven) that any person who is arrested shall be brought before a judge within 24 hours of his arrest unless he is released before. The accused person who is brought before the court for such "preliminary examination" must always have access to assistance from a public defence counsel and he shall be given access to talk with his defence counsel prior to the interrogation, cf. paragraph 764 (3) of the Administration of Justice Act.

In Report no. 830/1978, page 17f. it is emphasized with respect to the appointment of a defence counsel in connection with the preliminary examination "that the accused may often be in need of assistance not only during the court meeting but also prior to the meeting. It may be of essential importance also for the defence counsel for the planning of the defence to have talked with the accused prior to the court meeting. The defence counsel should therefore be informed in time for him to have the opportunity to talk with the accused and examine the reports, etc." The very appointment of a defence counsel earlier on during the period of arrest - which might be necessitated in cases which comprise serious crime - may be made by virtue of paragraph 732.

I.19 **the precise content of the right to legal advice: to contact a legal advisor? to be visited by a legal advisor? to consult with him in private? to have him present during interrogations? etc. (paragraph 127);**

As regards the right to contact a defence counsel, etc. reference is made to the reply to point I.18.

As regards the defence counsel's access to talk with the accused, it can be stated that the access, as referred to in the reply to point I.18, for an accused person who is brought before the court for a preliminary examination to the assistance of and consultation with a defence counsel is supplemented by the provisions of the Department of Prisons and Probation's Circular No. 220 of 19 December 1980 on the access for remand prisoners to correspondence and visits, etc. Under paragraph 12 (4) of the said Circular, the remand prisoner always has the right to have visits from his defence counsel, and paragraph 17 (3) lays down that visits by the defence counsel always are in private.

On the other hand, there are no regulations in the Administration of Justice Act or any administrative regulations to the effect that a wish from an accused person - whether the

person in question is under arrest or at large - to contact an attorney-at-law before the police interview is to be complied with. It follows from "Kommenteret Retplejelov" (the annotated edition of the Danish Administration of Justice Act), vol. 4th ed, from 1989, in Note 14 to paragraph 752 that such wish normally has to be respected. The background for not inserting a provision on this issue appears from report 622/1971, page 46, in consequence of which the Committee has doubted the advisability of including such a provision in the Act as well as other provisions regarding who an accused person should be entitled to contact because special considerations may, in exceptional cases, require a deviation from such provisions.

The Committee does not specifically define these exceptional cases but probably thinks of situations where the perpetuation of testimony is imperative for the police before the accused in the interview is given more detailed knowledge of the information available in the matter and consequently the possibility of warning any other offenders in the case or influencing witnesses. It is true that a defence counsel will not be entitled to assist the accused in destroying evidence etc. in this manner but the defence counsel could feel pressed to fail in his duty or allow himself to be taken in as described in the judgment in"Ugeskriftet for Retsvæsen 1983", page 251, about an attorney-at-law who in his capacity as defence counsel for a person arrested received 2 letters from the said person and forwarded them without any police censorship.

The consequence in this exceptional case of an accused wishing to talk in private with a defence counsel before making any statement only results in a short postponement of the interview until the perpetuation of testimony has been completed, but not that the interview is forced through without the accused having discussed the case with his defence counsel.

The right of the defence counsel by virtue of paragraph 745 to be present at the police interview does not imply any right for the accused to consult with his defence counsel on the immediate answering of questions asked. The provision does, however, not prevent a discussion between the accused and the

defence counsel as to whether the accused should use his right under paragraph 752 not to make any statements.

It should be added that pursuant to the rules of the Administration of Justice Act the defence counsel has the right to make himself acquainted with the material provided by the police. If this material may be copied without any inconvenience a copy will be sent to him. The defence counsel must not hand over the material received to the accused or any other person without the consent of the police.

When an interrogation, identification parade or other investigative measures of a similar nature are presumed to be used in evidence during the trial, the police will inform the defence counsel before this is done so as to enable him to be present. If the defence counsel cannot be informed, only investigative measures which cannot be deferred may be carried out, and the defence counsel must without delay be informed of any measures taken.

If the regard for foreign States, the security of the State or the clearing-up of the case or any third party, in exceptional cases makes this necessary, these rules may be deviated from, or the police may order the defence counsel not to pass on any information received from the police.

The defence counsel has the right to be present at the police interviews of the accused and the right to ask further questions. At request, the defence counsel must be informed of the time for these interrogations. If the accused is remanded in custody, and an order on solitary confinement has been made, the accused may not be interrogated without his defence counsel being present unless both the accused and the defence counsel give their consent.

As stated above, the accused may not consult with his defence counsel about the immediate answering of questions asked.

The court settles any dispute regarding the lawfulness of the police investigative measures and the rights of the accused and the defence counsel, including requests from the defence counsel or the accused for additional investigative measures. The decision is made at request by a court order.

The defence counsel is informed about all court meetings and is entitled to be present at these meetings. If it is not possible to inform the defence counsel, only court meetings that cannot be deferred may be held. Regarding court meetings held with a view to obtaining the prior order of the court for the carrying out of measures under parts 69 - 73 and 75b, this rule may, however, be deviated from, if the regard for foreign States, the security of the State or the clearing-up of the matter or any third party, in exceptional cases, makes this necessary. The decision is made by the court at the request of the police. The defence counsel may only pass on information received during the court meeting with the prior consent of the court.

The defence counsel is entitled to submit comments and have these briefly included in the records of the court; it is for the judge, however, to decide at which point of time during the court meeting this can take place.

Finally it may be mentioned that in cases where the police ask for the order of the court for intervention in the secrecy of communication (part 71 of the Administration of Justice Act) an attorney-at-law must be appointed for the person on which such intervention has bearing prior to the decision of the court. This attorney-at-law has the right to be informed of all court meetings regarding the case and to be present at all these meetings and to acquaint himself with the material produced by the police; likewise he must be given the opportunity to make statements.

Reference is further made to the reply to point I.20.

I.20 **the situation of a person in police custody who wants to have legal advice but does not know of a lawyer and/or is not in a position to pay for a lawyer's services (paragraph 127);**

The Administration of Justice Act distinguishes between partly the elected defence counsel, cf. paragraph 730 of the Administration of Justice Act, partly the appointed defence

counsel, cf. paragraph 731 of the Administration of Justice Act.

Any person charged with a crime is entitled to elect a defence counsel to assist him, cf. the fuller particulars of paragraph 730.

Under paragraph 731 of the Administration of Justice Act a public defence counsel will always have to be appointed in a number of cases unless the accused has elected his own defence counsel.

Part 91 of the Administration of Justice Act contains rules about the costs involved in criminal proceedings.

Under paragraph 1012 of the Administration of Justice Act the court will make the decision on damages for costs involved in the judgments or in connection with the order if the case is concluded without any judgment being delivered.

It is stated in paragraph 1007 (2) of the Administration of Justice Act that remuneration for the elected defence counsel does not concern the public authorities; the court may, however, in exceptional cases, when according to the particular circumstances of the case it is deemed reasonable that the accused has elected the person in question to act as defence counsel award a remuneration from the public authorities which may not exceed the amount that would have been awarded an appointed defence counsel.

The question of remuneration of an appointed defence counsel is decided by the court in accordance with the general provisions of part 91 of the Administration of Justice Act.

The main rules are that if the accused is found guilty, he is under obligation to refund the public authorities the necessary costs involved in the hearing of the case, cf. paragraph 1008 (1). If the accused is acquitted, he is not obliged to defray any costs, cf. the fuller particulars of paragraph 1010 (1).

In cases where a public defence counsel is to be appointed for the accused under paragraph 731, the appointment is made irrespective of whether the person himself is capable of paying for the defence counsel's assistance. In the first place

the remuneration is defrayed by the public authorities which are entitled to a refund by the accused at a later date according to the above provisions of Part 91 of the Administration of Justice Act.

A person in the custody of the police who does not know any attorney-at-law himself will have one of the attorneys-at-law taken on by the Ministry of Justice to be appointed as public defence counsel appointed, cf. paragraph 733 of the Administration of Justice Act.

ENCLOSURE A

Isolation confinements per year, in relation to the total number of remands in custody

Year	Remands in custody *	Solitary confinements	Percentage
1981	5757	2544	44.2
1982	5566	2203	39.6
1983	5485	1937	35.3
1984	5164	1631	31.6
1985	4902	1263	25.8
1986	5074	1297	25.6
1987	5512	1328	24.1
1988	5898	1366	23.2
1989	5665	1201	21.1
1990	5296	1139	21.5

*)Including arrests.

Source: Annual Reports from the Department of Prisons and Probation.

Enclosure A1

Number of solitary confinements served, distributed according to length, during the period 1983 - 1990

Year	1-28 days	28-2 m.	2-4 m.	4-6 m.	6 m.<	Total	Average
1983	1528	235	120	34	19	1936	...
1984	1273	189	96	38	25	1621	...
1985	1018	149	79	11	6	1263	...
1986	994	198	75	17	13	1297	...
1987	1008	216	66	20	18	1328	...
1988	1030	214	87	22	13	1366	26.9
1989	839	214	104	28	16	1201	30.8
1990	803	167	101	33	35	1139	35.6

Source: Dept. of Prisons and Probation's Quarterly Reports.

As will be seen, the average length of solitary confinements in 1990 was 35,6 days. Information on the average length of solitary confinements for the years before 1988 are not available, as the reports on isolation up to and including 1987 stated only the length within intervals.

Table: Number of remand prisoners held in isolation in 1990

	Length of time / Anbringelsestid										
	1-7 days	8-14 days	15-21 days	22-29 days	1<2 m.	2<3 m.	3<4 m.	4<5 m.	5<6 m.	>=6 m.*)	Total
Københavns Fængsler	135	186	82	96	98	40	23	10	6	13	689
Roskilde	-	-	1	4	3	1	-	-	-	2	11
Køge	5	8	3	6	7	2	2	7	-	-	40
Helsingør	2	4	3	3	1	3	-	1	-	1	18
Hillerød	3	3	-	1	1	2	2	-	1	3	16
Frederikssund	-	-	2	1	-	3	-	-	1	-	7
Holbæk	-	2	-	2	3	-	-	1	-	3	11
Kalundborg	4	1	1	2	1	1	-	-	-	-	10
Slagelse	3	2	1	-	4	1	1	-	-	4	16
Ringsted	1	3	1	3	2	1	-	1	-	2	14
Næstved	4	-	1	1	4	1	4	-	-	-	15
Vordingborg	1	1	1	-	-	-	-	-	-	-	3
Rønne	5	1	-	-	-	-	-	-	-	-	6
Nykøbing F.	9	11	5	1	6	-	1	-	-	-	33
Nakskov	4	2	-	1	1	1	-	-	-	-	9
Odense	2	4	2	3	-	-	-	-	-	1	12
Assens	-	1	-	-	-	-	1	-	-	1	3
Nyborg	5	1	2	3	-	-	-	-	-	-	11
Svendborg	-	2	-	-	-	-	-	-	-	-	2
Frederikshavn	-	-	-	-	3	1	-	-	-	-	4
Nykøbing M.	7	-	-	-	-	-	-	-	-	-	7
Aalborg	6	7	2	2	8	1	1	2	-	-	29
Viborg	5	6	2	1	2	-	-	-	-	-	16
Randers	3	1	2	1	2	-	-	-	-	-	9
Hobro	3	2	-	-	1	-	-	-	-	-	6
Århus	9	7	11	2	7	-	1	-	-	-	37
Silkeborg	4	5	1	-	1	-	-	-	-	-	11
Horsens	2	2	5	1	1	-	1	-	-	-	12
Ringkøbing	-	1	-	1	1	-	-	-	-	-	3
Herning	-	3	-	1	1	-	-	-	-	-	5
Vejle	2	1	1	3	2	-	1	-	1	2	13
Fredericia	-	-	-	2	-	1	-	-	-	-	3
Kolding	7	2	1	7	1	1	1	1	-	2	23
Esbjerg	2	2	1	4	5	2	-	-	-	-	16
Haderslev	1	-	4	1	1	-	-	-	1	1	9
Sønderborg	2	-	-	1	-	-	-	-	-	-	3
Tønder	4	3	-	-	-	-	-	-	-	-	7
Total	240	274	135	154	167	62	39	23	10	35	1139

Enclosure B

PRINT OF OBSERVATIONS WITH LENGTH OF TIME EXCEEDING 179 DAYS IN 1990.

OBS	Institution	Length of time
1	Copenhagen Prisons	265
2	Copenhagen Prisons	421
3	Holbæk	349
4	Vejle	210
5	Haderslev	225
6	Copenhagen Prisons	180
7	Copenhagen Prisons	185
8	Copenhagen Prisons	268
9	Copenhagen Prisons	275
10	Copenhagen Prisons	397
11	Copenhagen Prisons	419
12	Roskilde	226
13	Helsingør	303
14	Hillerød	366
15	Hillerød	277
16	Holbæk	403
17	Slagelse	422
18	Ringsted	421
19	Odense	279
20	Vejle	269
21	Kolding	269
22	Kolding	278
23	Copenhagen Prisons	187
24	Copenhagen Prisons	287
25	Copenhagen Prisons	287
26	Hillerød	206
27	Slagelse	188
28	Assens	283
29	Copenhagen Prisons	182
30	Copenhagen Prisons	189
31	Roskilde	265
32	Holbæk	219
33	Slagelse	203
34	Slagelse	193
35	Ringsted	180

ENCLOSURE C

Table: Number of remand prisoners held in isolation during the first quarter of 1991

	Length of time / Anbringelsestid										
	1-7 days	8-14 days	15-21 days	22-29 days	1<2 m.	2<3 m.	3<4 m.	4<5 m.	5<6 m.	>=6 m. *)	Total
Københavns Fængsler	38	46	26	32	29	9	4	5	2	2	193
Roskilde	-	1	-	-	1	1	-	-	-	-	3
Køge	1	-	1	-	1	1	1	-	-	-	5
Hillerød	1	-	-	1	1	-	-	-	-	-	3
Frederikssund	-	-	-	-	1	1	-	-	-	-	2
Holbæk	-	-	1	-	3	1	-	-	-	-	5
Kalundborg	2	1	2	-	-	-	-	-	-	-	5
Slagelse	-	-	2	-	-	-	-	-	-	-	2
Ringsted	-	-	-	-	1	-	-	1	-	-	2
Næstved	1	1	-	-	2	1	-	-	-	-	5
Nykøbing F.	2	3	-	-	-	-	-	-	-	-	5
Nakskov	1	-	3	-	3	1	-	-	-	-	8
Odense	-	-	-	1	-	1	-	-	-	-	2
Assens	-	2	-	-	-	-	-	-	-	-	2
Nyborg	-	1	1	-	1	-	-	-	-	-	3
Aalborg	1	6	-	-	-	1	-	-	-	-	8
Viborg	-	-	2	-	-	1	-	-	-	-	3
Randers	-	-	-	-	3	-	1	-	-	-	4
Hobro	-	1	-	1	-	-	-	1	-	-	3
Århus	2	-	-	-	2	2	2	-	-	-	8
Silkeborg	1	-	1	-	-	-	-	-	-	-	2
Horsens	-	-	-	-	-	1	-	-	-	-	1
Herning	1	-	2	-	-	-	-	-	-	-	3
Vejle	-	-	-	2	3	-	-	-	-	-	5
Kolding	4	2	1	-	2	-	1	-	-	-	10
Esbjerg	-	-	-	1	-	-	2	-	-	-	3
Haderslev	-	-	-	1	-	-	1	-	-	-	2
Tønder	1	3	-	-	1	-	-	1	-	-	6
Total	56	67	42	39	54	21	12	8	2	2	303

Note: Length of Time in days 1) 314 and 337

Prepared as at 16 July 1991

For further information, please contact:
Bente Eilgård, tel. 33 11 50 22, ext. 365

Table: Number of remand prisoners held in isolation during the second quarter of 1991

	Length of time / Anbringelsestid										
	1-7 days	8-14 days	15-21 days	22-29 days	1<2 m.	2<3 m.	3<4 m.	4<5 m.	5<6 m.	>=6 m. *)	Total
Københavns Fængsler	44	44	16	31	36	13	6	3	-	2	195
Roskilde	-	-	1	1	1	-	1	-	-	-	4
Køge	6	-	-	1	1	1	-	1	1	-	11
Helsingør	1	1	2	-	2	-	-	1	-	-	7
Hillerød	-	1	1	-	6	1	1	-	1	-	11
Frederikssund	-	-	-	-	1	-	1	-	-	-	2
Holbæk	-	-	-	-	2	-	-	-	-	-	2
Kalundborg	-	-	1	-	-	3	-	-	-	-	4
Slagelse	1	2	1	-	1	3	1	-	-	-	9
Ringsted	1	-	-	1	1	-	-	-	-	1	4
Næstved	1	1	-	-	3	-	-	-	-	-	5
Vordingborg	-	-	-	-	-	-	1	-	-	-	1
Nykøbing F.	1	-	2	-	-	-	-	-	-	1	4
Nakskov	-	4	-	-	-	-	-	-	-	-	4
Odense	-	-	1	1	2	-	-	1	-	-	5
Nyborg	1	-	-	-	1	-	-	-	-	-	2
Frederikshavn	1	-	-	2	-	-	-	-	-	-	3
Nykøbing M.	1	-	-	-	-	-	-	-	-	-	1
Aalborg	1	4	1	1	-	1	2	-	-	-	10
Randers	-	2	1	-	-	-	-	1	-	-	4
Hobro	2	-	2	-	-	-	-	-	-	-	4
Århus	-	1	2	-	2	-	-	-	-	-	5
Silkeborg	-	2	-	-	-	-	-	-	-	-	2
Herning	1	-	-	-	1	-	-	-	-	-	2
Vejle	1	1	-	3	2	-	-	-	-	-	7
Kolding	1	-	-	1	3	-	-	-	-	-	5
Haderslev	1	1	-	-	-	-	-	-	-	-	2
Åbenrå arr.	-	1	1	-	-	-	-	1	-	-	3
Tønder	2	1	3	1	-	1	-	-	-	-	8
Total	67	66	35	43	65	23	13	8	2	4	326

Note: Length of Time in days; 1) 227 and 273 days
2) 346 days
3) 243 days

Prepared as at 7 October 1991

For further information, please contact:
Bente Eilgård, tel. 33 11 50 22 (365)

ENCLOSURE E

Table: Placements in security cells over the period (year-quarter)

Length of Time

	Up to 6 hours	6-12 hours	12-24 hours	1-3 days	3 x 24 hours and more	Total
Herstedvester	26	4	4	1	-	35
Horsens	12	8	2	-	-	22
Nyborg	7	3	3	3	-	16
Ringe	1	-	-	-	-	1
Vridsløselille	7	5	9	2	-	23
Closed, total	53	20	18	6	-	97
Open, total	-	1	-	-	-	1
Copenhagen Prisons	65	25	31	2	1	124
Local gaols	54	26	18	-	-	99
Total	172	72	67	1	1	321

Table: Placements in security cells over the period (year-quarter)

	Length of Time				
	Up to 6 hours	6-12 hours	12-24 hours	1-3 days	Total
Herstedvester	17	7	3	1	28
Horsens	13	2	1	-	16
Nyborg	1	1	1	-	3
Vridsløselille	3	-	1	-	4
Closed, total	34	10	6	1	51
Open, total	1	-	-	-	1
Copenhagen Prisons	30	12	7	-	49
Local Gaols	21	10	6	1	38
Total	86	32	19	2	139

Table: Placements in security cells over the period (year-quarter)

Length of Time

	Up to 6 hours	6-12 hours	12-24 hours	1-3 days	3 x 24 hours and more	Total
Herstedvester	43	11	7	2	-	63
Horsens	25	10	3	-	-	38
Nyborg	8	4	4	3	-	19
Ringe	1	-	-	-	-	1
Vridsløselille	10	5	10	2	-	27
Closed, total	87	30	24	7	-	148
Open, total	-	1	-	-	-	2
Copenhagen Prisons	95	37	38	2	1	173
Local gaols	75	36	24	2	-	137
Total	258	104	86	11	1	460

Ministry of Justice
Department of Prisons and Probation
4th Division

File no. 4th Div 1990-1613-6

Survey of the number of placements in security cells, etc. 1).

Table 1. Placement in security cells during the second quarter of 1991.

	Length of time					
	Up to 6 hours	6-12 hours	12-24 hours	1-3 days	Total	- of which included fixation to the bed
Herstedvester	8	4	2	-	14	14
Horsens	11	2	1	-	14	14
Vridsløselille	2	-	1	-	3	0
Closed, total	21	6	4	-	31	28
Copenhagen Prisons	12	4	2	-	18	3
Local gaols	12	6	2	1	21	7
Total	45	16	8	1	70	38

1) Placements under Circular of 21 September 1976, issued by the Department of Prisons and Probation concerning security precautions.

NB: Only those institutions who have used security cells or similar placements during this quarter have been included in the survey.

Ministry of Justice
Department of Prisons and Probation
4th Division

File no. 4th Div. 1990-1613-6

Survey of the number of placements in security cells, etc. 1).

Table 1. Placement in security cells during the third quarter of 1991.

	Length of time					
	Up to 6 hours	6-12 hours	12-24 hours	1-3 days	Total	- of which included fixation to the bed
Herstedvester	8	2	1	-	11	11
Horsens	2	-	-	-	2	2
Vridsløselille	5	-	3	-	8	2
Closed, total	15	2	4	-	21	15
Copenhagen Prisons	16	2	3	1	22	7
Local gaols	7	3	2	1	13	6
Total	38	7	9	2	56	28

1) Placements under Circular of 21 September 1976, issued by the Department of Prisons and Probation concerning security precautions.

NB: Only those institutions who have used security cells or similar placements during this quarter have been included in the survey.

ENCLOSURE F

MINISTRY OF JUSTICE
Department of Prisons and Probation

27 December 1991
File no. 2nd Div.90-62-8

BK/RA

Note

on

Investigation of the use of security cells in the Copenhagen Prisons during 1990 and the first six months of 1991

The Western Prison and the Police Headquarters Prison are the only institutions under the Copenhagen Prisons to have security cells.

In all, security cells have been used in 173 cases during the period of investigation, i.e.

The Western Prison:	122 cases
The Police Headquarters Prison:	51 cases.

In relation to the quarterly statistics from the Department of Prisons and Probation which are based on the reports from the institutions concerned, the Copenhagen Prisons have informed us that an extraordinary count shows that there are an additional five placements, i.e. four for the October quarter of 1990 and one for the July quarter of 1991 which have not been reported by the Copenhagen Prisons before.

For that reason the Statistical Unit of the Department of Prisons and Probation has made a total revision of the six quarters so as to include the new information. We have enclosed three new tables, i.e.

- 1 table covering the entire period
- 1 table covering the entire period of 1990
- 1 table covering the first 6 months of 1991.

Furthermore, a number of tables showing the use of security cells in the Copenhagen Prisons have been enclosed. The tables are distributed on institutions, grounds, time of stay and time of fixation, if any.

Finally, you will find a "dumplist" of all the records that are included in the material.

Placement in security cells during the period 1 January 1990 - 30 June 1991
..... Institution: The Western Prison.....

OBS	Grounds	Stayed for no. of hours	Fixed for no. of hours	Year-quarter
1	violence	14.00	2.17	9101
2	violence/suicide/ self-inflicted injury	13.83	-	9101
3	suicide/self-inflicted injury	1.83	-	9101
4	suicide/self-inflicted injury	8.67	-	9101
5	violence	6.08	.	9101
6	suicide/self-inflicted injury	6.17	-	9101
7	violence/resistance	2.17	0.92	9101
8	violence/suicide-self-inflicted injury	4.12	-	9101
9	violence/resistance	1.67	-	9101
10	violence	1.33	-	9101
11	volence/resistance	0.83	-	9101
12	resistance	8.58	-	9101
13	suicide/self-inflicted injury	16.08	-	9101
14	violence	3.30	-	9101
15	resistance/suicide/self-inflicted injury	1.42	1.33	9101
16	suicide/self-inflicted injury	7.73	7.67	9101
17	resistance/suicide/self-inflicted injury	3.67	-	9101
18	suicide/self-inflicted injury	10.42	-	9101
19	suicide/self-inflicted injury	1.92	-	9101
20	resistance	17.58	-	9101
21	violence/suicide/resistance	2.42	2.42	9101
22	violence/resistance	11.92	-	9101
23	violence/suicide/self-inflicted injury	4.00	4.00	9101
24	suicide/self-inflicted injury	3.00	3.00	9101
25	suicide/self-inflicted injury	6.53	6.48	9101
26	resistance/suicide/self-inflicted injury	13.33	-	9101
27	suicide/self-inflicted injury	4.25	4.17	9101
28	violence	2.92	-	9102

Placement in security cells during the period 1 January 1990 - 30 June 1991
..... Institution: The Western Prison.....
(continued)

OBS	Grounds	Stayed for no. of hours	Fixed for no. of hours	Year-quarter
29	violence/resistance/ suicide/self-inflicted injury	3.58	-	9102
30	violence/resistance	2.85	-	9102
31	violence/resistance	6.67	-	9102
32	violence/resistance	2.75	2.58	9102
33	violence/resistance	12.33	-	9102
34	violence/resistance	4.75	-	9102
35	violence/resistance/ suicide/self-inflicted injury	8.42	-	9102
36	resistance	6.50	-	9102
37	suicide/self-inflicted injury	15.92	-	9102
38	violence/suicide/self-inflicted injury	1.92	1.75	9102
39	resistance/suicide/self-inflicted injury	1.25	-	9102
40	violence/resistance	0.83	-	9102
41	violence	2.00		
42	suicide/self-inflicted injury	1.17	-	9102
43	suicide/self-inflicted injury	2.00	-	9102
44	violence/resistance	1.50	-	9004
45	violence	22.25	7.92	9004
46	suicide/self-inflicted injury	17.67		9004
47	violence/resistance/suicide/self-inflicted injury	2.17	-	9004
48	violence/suicide/self-inflicted injury	10.83	-	9004
49	violence/resistance	15.42	-	9004
50	suicide/self-inflicted injury	9.08	-	9004
51	suicide/self-inflicted injury	17.00	-	9004
52	violence/resistance	1.00	-	9004
53	violence/resistance	5.42	5.42	9004
54	violence/suicide/self-inflicted injury	1.08	1.08	9004
55	violence/resistance	3.00	-	9004
56	violence/resistance/suicide self-inflicted injury	1.83	-	9004

Placement in security cells during the period 1 January 1990 - 30 June 1991
..... Institution: The Western Prison.....
(continued)

OBS	Grounds	Stayed for no. of hours	Fixed for no. of hours	Year-quarter
57	violence/resistance	14.75	-	9004
58	suicide/self-inflicted injury	2.17	-	9004
59	violence/resistance	18.08	8.00	9004
60	violence/resistance	2.67	2.67	9001
61	violence/resistance/suicide/self-inflicted injury	9.75	5.58	9001
62	violence/resistance/suicide/self-inflicted injury	21.42	-	9001
63	violence/resistance	2.33	-	9001
64	resistance/suicide/self-inflicted injury	2.33	.	9001
65	violence/resistance	1.12	1.08	9001
66	suicide/self-inflicted injury	2.92	2.42	9001
67	suicide/self-inflicted injury	4.75	-	9001
68	resistance/suicide/self-inflicted injury	11.75	-	9001
69	suicide/self-inflicted injury	15.33	14.17	9001
70	suicide/self-inflicted injury	18.50	-	9001
71	violence/resistance	5.85	.	9001
72	resistance	5.92	-	9001
73	suicide/self-inflicted injury	1.83	-	9001
74	suicide/self-inflicted injury	20.83	-	9001
75	violence/resistance	5.67	5.67	9001
76	resistance	1.67	-	9001
77	violence/resistance	12.42	-	9001
78	violence	20.00	-	9001
79	violence/suicide/self-inflicted injury	1.75	-	9001
80	resistance/suicide/self-inflicted injury	2.25	-	9001
81	suicide/self-inflicted injury	4.50	-	9001
82	suicide/self-inflicted injury	19.92	-	9002
83	violence	15.83	-	9002
84	violence/resistance	12.33	-	9002

Placement in security cells during the period 1 January 1990 - 30 June 1991
..... Institution: The Western Prison.....
(continued)

OBS	Grounds	Stayed for no. of hours	Fixed for no. of hours	Year-quarter
85	suicide/self-inflicted injury	0.50	-	9002
86	violence	16.33	-	9002
87	violence/resistance/suicide/self-inflicted injury	4.00	-	9002
88	violence	0.67	-	9002
89	suicide/self-inflicted injury	12.75	-	9002
90	suicide/self-inflicted injury	13.17	-	9002
91	suicide/self-inflicted injury	4.17	-	9002
92	suicide/self-inflicted injury	10.74	-	9002
93	suicide/self-inflicted injury	1.33	-	9002
94	violence	3.25	-	9002
95	suicide/self-inflicted injury	15.58	-	9002
96	suicide/self-inflicted injury	46.67	-	9003
97	resistance/suicide/self-inflicted injury	14.58	-	9003
98	violence/resistance	6.92	2.83	9003
99	violence	12.50	-	9003
100	resistance	2.00	-	9003
101	suicide/self-inflicted injury	83.50	-	9003
102	resistance	4.67	-	9003
103	violence/resistance	8.92	-	9003
104	violence/suicide/self-inflicted injury	6.08	-	9003
105	suicide/self-inflicted injury	11.67	11.58	9003
106	resistance	0.25	-	9003
107	violence/resistance	1.08	-	9003
108	resistance/suicide/self-inflicted injury	5.75	5.67	9003
109	violence/suicide/self-inflicted injury	10.67	-	9003
110	suicide/self-inflicted injury	7.92	0.92	9003
111	resistance/suicide/self-inflicted injury	22.58	-	9003
112	suicide/self-inflicted injury	3.75	-	9003
113	suicide/self-inflicted injury	0.58	0.58	9003

Placement in security cells during the period 1 January 1990 - 30 June 1991
..... Institution: The Western Prison.....
(continued)

OBS	Grounds	Stayed for no. of hours	Fixed for no. of hours	Year-quarter
114	violence/suicide/self-inflicted injury	9.08	-	9003
115	resistance/suicide self-inflicted injury	2.33	-	9003
116	suicide/self-inflicted injury	22.42	-	9003
117	violence/resistance	12.92	-	9003
118	suicide/self-inflicted injury	19.67	-	9003
119	suicide/self-inflicted injury	0.58	-	9003
120	violence/resistance	1.83	-	9003
121	suicide/self-inflicted injury	1.50	1.33	9003
122	violence/resistance	24.33	-	9003

Placement in security cells during the period 1 January 1990 - 30 June 1991
..... Institution: Police Headquarters Prison.....

OBS	Grounds	Stayed for no. of hours	Fixed for no. of hours	Year-quarter
123	suicide/self-inflicted injury	2.92	2.92	9101
124	resistance/suicide/self-inflicted injury	4.17	4.17	9101
125	resistance	2.42	-	9191
126	resistance	1.17	-	9101
127	violence	1.03	-	9102
128	violence/resistance	8.33	8.33	9102
129	resistance/suicide/self-inflicted injury	11.00	11.00	9004
130	violence/resistance	6.50	6.50	9004
131	violence/resistance	3.67	3.67	9004
132	suicide/self-inflicted injury	3.67	3.67	9004
133	violence/resistance	2.83	-	9004
134	violence/suicide/self-inflicted injury	5.50	-	9004
135	violence	11.42	-	9004
136	resistance	4.58	-	9004
137	violence/resistance/suicide/ self-inflicted injury	1.75	1.75	9004
138	violence	0.75	-	9001
139	suicide/self-inflicted injury	1.55	1.50	9001
140	violence/resistance	2.50	-	9001
141	violence/resistance	14.50	-	9001
142	resistance	13.58	-	9001
143	resistance	2.17	-	9001
144	resistance	4.50	-	9001
145	resistance	2.33	-	9001
146	violence/resistance	16.25	0.92	9001
147	violence	3.17	-	9001
148	violence/resistance/suicide/ self-inflicted injury	2.92	2.92	9001
149	suicide/self-inflicted injury	6.00	6.00	9001
150	violence/resistance	7.17	7.17	9002
151	violence/resistance	0.75	0.42	9002
152	violence	14.75	-	9002

Placement in security cells during the period 1 January 1990 - 30 June 1991
..... Institution: Police Headquarters Prison.....
(continued)

OBS	Grounds	Stayed for no. of hours	Fixed for no. of hours	Year-quarter
153	violence/resistance	2.83	2.83	9002
154	violence/resistance/suicide/self-inflicted injury	4.00	4.00	9002
155	suicide/self-inflicted injury	1.67	1.67	9002
156	resistance/suicide/self-inflicted injury	6.42	.	9002
157	violence/resistance	4.50	.	9002
158	violence/resistance/suicide/self-inflicted injury	11.17	11.17	9003
159	violence/resistance	7.75	7.75	9003
160	resistance/suicide/self-inflicted injury	13.67	.	9003
161	violence/resistance	8.67	.	9003
162	suicide/self-inflicted injury	1.17	1.17	9003
163	violence/resistance	8.55	.	9003
164	violence	1.92	.	9003
165	violence/reisstance/suicide/self-inflicted injury	4.08	3.92	9003
166	resistance	4.08	.	9003
167	suicide/self-inflicted injury	8.50	.	9003
168	violence/resistance	10.83	.	9003
169	suicide/self-inflicted injury	1.50	1.50	9003
170	violence/resistance/suicide/self-inflicted injury	4.25	4.25	9003
171	violence/resistance	1.83	1.83	9003
172	resistance	19.92	.	9003
173	violence/resistance	8.25	.	9003

Placement in security cells during the period 1 January 1990 - 30 June 1991, distributed according to time of stay and fixation, if any.

The Western Prison

	Time of Fixation				
		Up to 6 hours	6-12 hours	12-24 hours	Total
Time of stay:					
Up to 6 hours	47	17	-	-	64
6-12 hours	17	3	3	-	23
12-24 hours	28	1	2	1	32
1-3 days	2	-	-	-	2
3 days or more	1	-	-	-	1

Police Headquarters Prison

	Time of Fixation				
		Up to 6 hours	6-12 hours	12-24 hours	Total
Time of stay:					
Up to 6 hours	14	17	-	-	31
6-12 hours	7	-	7	-	14
12-24 hours	5	1	-	-	6
1-3 days	-	-	-	-	-
3 days or more	-	-	-	-	-

Placement in security cells during the period 1 January 1990 - 30 June 1991, distributed according to grounds and time of fixation, if any.

	The Western Prison				Police Headquarters Prison			
		Time of Fixation				Time of fixation		
		Up to 6 hours	6-12 hours	12-24 hours		Up to 6 hours	6-12 hours	12-24 hours
In order to prevent:								
violence	11	1	1	-	7	-	-	-
resistance	8	-	-	-	8	-	-	-
suicide/self-inflicted injury	33	5	3	1	1	6	1	-
violence/resistance	22	7	1	-	8	5	4	-
violence/suicide/ self-inflicted injury	6	4	-	-	-	1	-	-
violence/resistance/suicide/self-inflicted injury	6	1	-	-	-	5	1	-
resistance/suicide/self-inflicted injury	9	3	-	-	2	1	1	

Placement in security cells during the period 1 January 1990 - 30 June 1991, distributed according to grounds and time of stay.

	The Western Prison Time of Stay					Police Headquarters Prison Time of Stay				
	Up to 6 hrs.	6-12 hrs.	12-24 hrs.	1-3 d.	3 d. or more	Up to 6 hrs.	6-12 hrs.	12-24 hrs.	1-3 d.	3 d. or more
In order to prevent:										
violence	6	1	6	-	-	4	1	2	-	-
resistance	5	2	1	-	-	7	-	1	-	-
suicide/self-inflicted injury	18	9	13	1	1	6	2	-	-	-
violence/resistance	18	4	7	1	-	7	8	2	-	-
violence/suicide/ self-inflicted injury	5	4	1	-	-	1	-	-	-	-
violence/resistance/suicide/self-inflicted injury	4	2	1	-	-	5	1	-	-	-
resistance/suicide/self-inflicted injury	8	1	3	-	-	1	2	1	-	-

Enclosure 1

Part 66

The accused and his defence

729. The term "party" shall - where this term is used in this Act in provisions which do not specifically relate to civil cases - also be taken to include the accused person in a criminal case.

730. -(1) Any person who is charged with a crime shall have a right to elect a defence counsel to assist him in accordance with the rules laid down below. If the person concerned is under the age of 18, the guardian shall elect the defence counsel and the guardian shall always be entitled to act on behalf of the minor.

(2) Only attorneys-at-law who have a right of audience before the court concerned or who have been appointed by the Ministry of Justice to act as public defence counsel before the court concerned may be elected to act as defence counsel. However, the court may, if it considers it justified, taking into account the nature of the case and other special circumstances, allow the election of an attorney-at-law from another Nordic country to act as defence counsel. Furthermore, the court may, in exceptional cases, permit that other persons over 18 years old and of good character act as defence counsel.

(3) The court may at any stage of the case by order turn down an elected defence counsel, if the conditions under section 733 (2) for refusing to appoint him are satisfied. In such cases a public defence counsel shall be appointed at request.

(4) Excluded from election are persons who have been summoned to be examined as witnesses or expert witnesses or persons in respect of whom an application has been filed to summon them in such capacity until the court has given its order, or persons whose appearance would under section 60, point 3, disqualify a judge from hearing the case.

731. -(1) If the accused has not himself elected a defence counsel or if the elected counsel fails to appear, a public defence counsel will be appointed -

(a) when the accused is presented in court with a view to a detention order being made against him or an order for a continuation of his arrest,

(b) if witnesses are to be examined prior to the indictment or if an inspection has to be carried out and expert reports obtained for use during the trial, always provided that proceedings will not be stayed after the appearance of the defence counsel if there is any risk that the evidence would thereby be destroyed,

(c) if it is a matter of sequestrating the property of the accused under section 801,

(d) when charges have been brought in cases in which lay judges participate,

(e) when charges have been brought in police cases in which the sanction is deemed to become more severe than a fine or lenient imprisonment

(f) if oral procedure is to take place in court in connection with an appeal against a judgment or a request for resumption of a case or, in exceptional cases, in connection with an appeal against an interlocutory order, cf. section 972 (2),

(g) when a request has been made for a deposition or for an expert opinion under oath for use in connection with criminal proceedings which have already been instituted abroad,

(h) in all cases in which the court directs by virtue of section 29 (2) and (4), point 1, that the questioning of the accused shall take place in camera.

(2) In the case mentioned in paragraph (e) above and in the case mentioned section 925 (3) a public defence counsel will only be appointed at the reques of the accused (or his guardian). The accused shall be given the possibility to make a statement.

732. - (1) In other cases than those mentioned in section 731 a public defence counsel may be appointed - both before and after indictment - if considered appropriate by the court due to the nature of the case, the accused person or other circumstances and if the accused has not himself arranged for the assistance of a defence counsel.

(2) The request for appointment of a public defense counsel may be made both by the accused and by the police. The Minister of Justice shall lay down rules concerning guidance of the accused as regards the right to request the appointment of a public defence counsel. The prosecution statement shall indicate that the accused has received due guidance. The police shall ensure that this matter is brought before the court.

(3) No appeal can be brought before a superior court against decisions to appoint a public defence counsel. Appeal may be brought before a superior court against decisions to refuse the appointment of a public defence counsel.

733. -(1) For the purpose of appointment to act as public defence counsel, the Minister of Justice shall according to agreement take on an appropriate number of the attorneys who have a right of audience before the court concerned or, if

required, other qualified persons. In urgent cases, an attorney-at-law who has not been taken on by the Minister of Justice, but who has a right of audience before the court concerned, may be appointed to act as defence counsel. At the request of the accused an attorney-at-law who has not been taken on by the Minister of Justice may also be appointed to act as defence counsel, if he has a right of audience before the court concerned and is willing to accept appointment.

(2) The court may by order refuse to appoint an attorney-at-law whom the accused wants to act as his defence counsel, if his appointment is not considered appropriate taking into account the proper procedure in the case, including the best interests of the accused, or on proof of a risk that the attorney will prevent or obstruct the clearing up of the case.

734. - (1) No person may be appointed to act as defence counsel, if he has himself been injured by the crime or has such a relationship with the injured party that this would preclude a judge from hearing the case or if he has been summoned as a witness or expert witness in the case or has been acting in it as public prosecutor or as the representative of the injured party or a police officer or as judge or lay judge or has in any other case acted as defence counsel for an accused person whose interest in the case is in conflict with that of the person now accused, or if the appointment would according to section 60, point 3, lead to the judge being disqualified from acting.

(2) Where several persons are accused in the same case the defence may only be assumed by the same person if the interests of the accused persons in the case are not in conflict with each other.

735. - (1) Defence counsel are appointed to serve with the Danish Supreme Court, the Danish High Court, the Danish Maritime and Commercial Court, the City Court of Copenhagen and the courts in Århus, Odense and Aalborg by the President of the court concerned, and by the judge in connection with country courts and city courts. The cases should, so far as possible, be distributed among the appointed defence counsel in rotation; if an accused wants a specific person to be appointed and this person is willing, he should usually be appointed irrespective of the regular rotation in the absence of any legal obstacles.

(2) In cases heard by the Danish High Court as court of first instance the President of the High Court may appoint to act as defence counsel for the accused person the attorney-at-law who was appointed to act as defence counsel for him before the city court although he has not been taken on by the Ministry of Justice to act as defence counsel in High Court, but has the right of audience before the High Court.

(3) In appeal cases the President of the High Court may appoint the attorney-at-law who has acted as defence counsel before the court of first instance to act

as defence counsel, provided that he has the right of audience before the High Court.

736. - (1) The appointment may be withdrawn if this is considered to be in the best interests of the defence and, if this will not delay the case, at the request of the accused, if he has entered into an agreement ensuring his defence without any cost for public authorities.

(2) The appointment may further be withdrawn by order of the court if the conditions under section 733 (2) for refusing to appoint the person concerned become present.

737. - (1) The decisions of the court under section 730 (3), section 733 (2) or section 736 (2) may be appealed against to the Special Supreme Court of Appeal within one week after the decision is given. The appeal shall be heard orally if requested by the appellant or decided by the court. Furthermore, the rules laid down in section 968 (1), section 969 (2), sections 970 to 972 and section 974 shall be correspondingly applicable.

(2) No appeal can be brought against the decision given by the Special Supreme Court of Appeal.

738. - (1) The court may allow several elected defence counsel to act for the same accused person. The court may further, in exceptional cases, appoint several public defence counsel for the accused. The accused also has the right to speak for his own defence.

(2) The public defence counsel appointed to take care of the interests of the accused during the trial shall have the right to appear also during proceedings before a different court. If such proceedings take place outside the jurisdiction within which he lives, a special defence counsel may at his request be appointed to appear before that court. However, in urgent cases the proceedings should not be postponed for this matter.

(3) When the task of the defence counsel has been completed he shall be bound to hand back to the court any transcripts and copies of the documents of the case handed out to him.

739. If an attorney-at-law or any person appointed to act as defence counsel abuses his position to obstruct the investigation of the case or fails to perform any of his duties to promote the case, he will be subject to the penalties laid down in Part 16 of the Danish Criminal Code.

740. Appointment of a public defence counsel does not prejudice the accused person's right to arrange for his own defence; but the defence counsel does not have to obtain the consent of the accused in order to take any steps which he considers necessary or appropriate in the interest of the accused person.

741. - (1) The public defence counsel shall be entitled to remuneration to be paid by the treasury, including compensation for travelling costs duly incurred in connection with the performance of his task. The provisions laid down in section 336 c (2), (3) and (5) shall be correspondingly applicable.

(2) The amount of the remuneration shall be fixed by the court which has appointed the defence counsel. The amount of the remuneration shall be fixed in the judgment or by separate decision.

Enclosure G

In 1990 a total number of 148 disciplinary cases not related to the criminal code were registered against public servants in the police. The break-down of the cases is as follows:

Number	Case concerning	Status of the case
17	Drunken driving	10 cases pending 1 case resulted in no reaction - the person concerned died during the case 1 case resulted in no reaction - the person concerned was dismissed due to infirmity 4 cases resulted in no reaction - the persons concerned were dismissed on application 1 case resulted in compulsory transfer to another post and degradation
20	Other special legislation, including, inter alia, the traffic act, the customs act, tax control act, environmental protection act and the police regulations	2 cases pending 1 case resulted in no reaction - the person concerned died during the case 6 cases resulted in no reaction 4 cases resulted in enjoining 6 cases resulted in reprimands 1 case resulted in dismissal

65	Incorrect performance of duty, including drunkenness, slow/incorrect performance of duties, incorrect behaviour in service	7 cases pending 8 cases resulted in no reaction 1 case resulted in no reactions as the person concerned was dismissed on application 9 cases resulted in enjoining/notice 5 cases resulted in a warning 25 cases resulted in reprimands 10 cases resulted in a disciplinary fine from DAK 500 to DAK 2,000
40	Loss of equipment, including loss weapons, truncheon, portable radio and handcuffs	14 cases resulted in no reaction 24 cases resulted in enjoining/notice 1 case resulted in a reprimand 1 case resulted in a disciplinary fine of DAK 500
6	Circumstances outside duty	1 case resulted in no reaction as the person concerned was dismissed on application 1 case resulted in no reaction 1 case resulted in a warning 1 case resulted in a notice 1 case resulted in a reprimand 1 case resulted in a disciplinary fine of DAK 2,000

Enclosure H

In 1990 charges were brought in 37 cases against public servants in the police for criminal offences. The break-down of the charges is as follows:

Number	Charge	Status of the case
1	s.154 - false accusation,etc.	1* acquitted by the court
4	s.155 - abuse of position/public service	1* pending 3 no charge brought
1	s.157 - gross negligence/ public service	1* acquitted by the court
1	s.158 - perjury	1* lenient imprisonment and fine
2	s.171 - forgery	1* - pending 1* - no charge brought
1	s.215 - failure to comply with custody order	1 lenient imprisonment
4	s.232 - offences against decency	1 - no charge brought 1* - no charge brought as the case was statute-barred (disciplinary case continues) 1 - 30 days' suspended prison 1* 4 months' imprisonment
9	s.244 - violence	4 no charge brought 3* no charge brought 1* acquitted by the court 1 information deemed unfounded upon investigation

1	s.245 - gross violence	1 pending
7	s.276 - theft, etc.	1 pending 1* acquitted by the court 1* acquitted by the court 1* no charge brought 2 no charge brought 1 fine of DAK 200
6	s.279 - fraud, etc.	1* pending 3 acquitted by the court 1 80 hours' Community Service 1* suspended sentence without fixing any punishment

The cases marked * are related to the performance of duty

Enclosure I

In 1990 37 disciplinary cases were registered against public servants in the police who were charged for criminal offences. The break down of the cases is as follows:

Number	Case concerning	Status of the case
37	Criminal offences	6 cases pending 10 cases resulted in no reaction 7 cases resulted in no reaction as the persons concerned were dismissed on application 1 case resulted in no reaction as the person concerned died during the case 1 case resulted in a charge 6 cases resulted in a notice/ enjoining 1 case resulted in a reprimand 1 case resulted in a disciplinary fine of DAK 1,500 1 case resulted in a transfer to another post 3 cases resulted in dismissal

The Danish Medical Association **Enclosure K**

Psychically ill patients do not belong in prison

"More hospital beds need to be established in the forensic psychiatry wards in order to be able to treat psychotic criminals; but the psychiatric hospitals and institutions are under obligation to receive mentally disorder criminals when the prisons refer them to the hospital wards", says Peter Kramp, chief psychiatrist at the Clinic of Forensic Psychiatry, Ministry of Justice.

By Stig Albinus, Public Relations Manager

"Mentally disordered patients do not belong in prisons", says Peter Kramp, chief psychiatrist and head of the Clinic of Forensic Psychiatry, Ministry of Justice and psychiatric adviser to the Department of Prisons and Probation. In this interview with the Journal of the Danish Medical Association (Ugeskriftet), Peter Kramp underlines the professional obligations for the doctors in the psychiatric wards to ensure that psychotic criminals are treated in the psychiatric wards and are not referred to local gaols and prisons.

- *Have any psychotic patients been misplaced in Danish prisons?*
Peter Kramp, "Yes. In principle, no psychotic patients should be placed in prison, but some are. So you may say this. In real life, this can never be completely avoided.

It is appropriate to divide the issue into two parts: Firstly, when psychotic patients are received in the prisons, secondly, when these patients are taken out again and typically transferred to a psychiatric ward. We can establish that an increasing number of psychotic patients are arrested and charged with one criminal offence or other. Our own studies of homicides - compared with Hart Hansen's thesis - show that the number of homicides committed by schizophrenics has increased.

During the period 1946 until about 1971 approximately one homicide per year was committed by a schizophrenic while the number rose to four or five per year during the period 1971 until 1983. These are low figures, but according to the statisticians, the increase is significant. The figures are being brought up to date, and we can conclude that they have remained at the same high level, i.e. four or five homicides committed by schizophrenics per year."

STEEP INCREASE IN CRIME COMMITTED BY PSYCHOTICS

"The same development may be read from other indicators. There has been a tremendous increase in the number of special psychiatric measures, for example. Jens Lund from the Psychiatric Hospital at Arhus has made a study of this. In 1970, there were 14 new sentences for treatment, whereas there were 64 in 1983, and 70% of the convicted persons were psychotic. As regards out-patient treatment, one sentence was given for out-patient treatment in 1970, and in 1983 this figure had gone up to 53. According to the figures from the Western Prison, 269 psychiatric examinations were carried out in 1973, 29 of which were psychotics, i.e. approximately 10%, and in 1985, 683 psychiatric examinations were carried out, 95 of which were psychotics, which is equivalent to about 17%.

At the Clinic of Forensic Psychiatry, Ministry of Justice, we made 72 mental observations for the court in 1976, 8 of which were psychotics, equivalent to 11%. In 1985 we made 114 mental observations, 18 of which were psychotics. So there has been a tremendous increase."

REDUCTION OF THE NUMBER OF HOSPITAL BEDS

- *What, in your opinion, is the reason for this marked increase in crime committed by psychotic patients?*

"I can hardly see any other explanation than the reduction in hospital beds in the hospital psychiatry wards. Many of the patients which we see are severely mental ill with

years of mental diseases and many hospitalizations. Previously, these people were treated during prolonged hospitalizations in psychiatric wards. They were trained in ordinary, daily activities, were in workshops and altogether in an environment which could so to say "hold" their disorders and symptoms. These patients were not discharged until their condition had actually improved and the treatment was progressing steadily.

The short periods of hospitalization nowadays do not at all offer the same possibilities. The need for space in the psychiatric wards means that many severely mentally ill persons are discharged when the most severe symptoms have decreased even though some of them are not at all well enough to manage in society - take an example like the shopping-bag men and women. It is true that you have a number of special offers for outpatients, which is an excellent thing for the group which is fairly well-functioning, but those who are really ill do not even know how to use these facilities. If they get a flat, they are thrown out again because the flat is not maintained, dirt keeps piling up, etc.

A tragic - but typical - case from the clinic was a young schizophrenic man who for several years had supported himself by breaking into child-care institutions where he would eat the banana sandwiches that had been left behind and take the 17 Kroner for the trip in the institution's cash box. Time again he got caught because he overslept himself and did not manage to get out in the morning before the staff arrived. He was taken to a psychiatric ward where they knew him and would not admit him. Finally, he broke into the mayor's office in one of the boroughs in the metropolitan area. This, on the other hand, was too much. He was arrested and taken to the Western Prison where he lay on the floor of his cell, the plank bed pulled down in order to protect himself from the beams. He is not at all dangerous, he is hardly annoying, but he is severely ill. We also see a good deal of crime of violence. There was, for example, a man who suffered from chronical schizophrenia who was walking in the Central Station when he felt attacked by the evil eyes of another person, who was sitting on a bench, after

which he assaulted him."

PSYCHOTIC VIOLENCE

- Why does the psychosis manifest itself in violent behaviour towards other people?

"Firstly, there may be reason to state that schizophrenics as such do not constitute a particularly dangerous group of people. What you can say is that some schizophrenic persons may behave dangerously during certain periods. Whether it comes to that or not depends to a high degree on the treatment, among other things. A schizophrenic person who has been given a satisfactory treatment is definitely less "dangerous" than for example an explosive, emotionally callous psychopathic. However, if not dealt with, schizophrenia may result in the person suffering from this mental disorder committing dangerous acts on account of the symptoms of this disorder. In our study, we have found that delusions, for example, typically in the nature of delusions of persecution, are an essential cause of homicide.

Another cause is the emotional withdrawal - autism - which is one of the most basic symptoms of schizophrenia. In old days, the taking of the life of one's mother was said to be the schizophrenic homicide. In our study, we have also found a relatively large number of mothers being victims, but the characteristic feature is that the victims will be the persons that the schizophrenic person happens to be with. The reason why the number of mothers is so high may be due to the fact that it is the mothers, as it is, who take care of their sick children, also when the children are grown up. Considerable resources - and sometimes also professional skills - are necessary to behave oneself to the basic emotional disturbances which ar so characteristic of schizophrenics so that, on the one hand you manage to keep and develop contact with the schizophrenic person and, on the other, you do not impose on him or her so as to provoke fear, anxiety and maybe violence. The hospital environment has both resources and professional

skill but, of course, you cannot demand this from near relatives, however devoted they are, nor from other persons who try to help a schizophrenic person. And sometimes it will end in disaster. Seen in this perspective, I can understand that some people have to so to speak put a schizophrenic all away; the family simply does not have enough resources to take care of him or her."

THE HOSPITALS TURN AWAY MENTALLY ILL PATIENTS

"So, the first part of the problem is that an increasing number of psychotics, and especially schizophrenics, commit crime and are consequently arrested and placed in local gaols. The other part of the issue is the commitment of these persons to a psychiatric ward. The prison system must really be willing to receive psychotics; however, it should be borne in mind that the local gaols certainly are not treatment institutions. Ordinary local gaols around the country have regular medical supervision once or twice a week and only large local gaols have a nurse attached. Often it is obvious that an arrested person suffers from a mental disease, but sometimes it would be difficult for the staff of the local gaol to evaluate whether a prisoner is mentally ill. However, the very moment a doctor employed in the prison system suspects that a prisoner is mentally ill he ought to remove this person to a hospital for more detailed observation. A prison or a local gaol cannot be observed 24 hours a day as is the case in a psychiatric ward. The system ought to function in such a way that when it has been ascertained that a prisoner is mentally ill, or if there is any suspicion, the person concerned will be transferred to a psychiatric ward. But this is where the problem arises, however. The ward has no vacant hospital beds and not infrequently does one hear remarks such as it is not "unwarrantable" to leave the person concerned in the local gaol where he can get food, shelter and medication. This is at any rate less unwarrantable than throwing him into the street."

- Is this remark well-founded, or is it unfounded?
"I think that it is unfounded. Of course, the prison can offer food and heating, but a prison is a prison, with a staff that has not been trained in observing or taking care of psychotic patients. Basically, remand prisoners are left in their cells 23 hours a day with very restricted community with other persons. They sit in their cells and if one suffers from severe psychosis it is rather evident that being confined to a cell is not the optimal treatment."

- But is it wrong if the hospital ward says that it does not have room for very violent psychotic criminals, is it?

"No, this of course is true, but there are not very many of these criminals. The violent behaviour will very typically be conditioned exactly by the psychosis and, when the psychosis is treated, the disturbance will also disappear. In special situations, for example where it has not been clarified how dangerous a mentally disordered criminal is, the person concerned may be transferred to the Institution at Herstedvester, or - in case his condition is very serious - to "Sikringsanstalten" (a maximum security psychiatric ward). Precisely as regards the violent or "troublesome" persons you sometimes hear people say that the prison system wants to shift the responsibility for the difficult arrested persons, i.e. those with very severe characterdeviant behaviour, to the psychiatry wards. It does happen now and then that a prisoner is committed to hospital from one of the prison system's institutions after which it turns out that the person concerned is not psychotic but for example severely characterdeviant. However, it must be borne in mind that the doctors employed by the prison system are in a very difficult situation where it may be impossible to decide whether a prisoner who shows characterdeviant behaviour is mentally ill or not. If the doctor suspects that the person concerned is mentally ill, this person should be committed to a psychiatric ward for closer observation where he can be observed 24 hours a day, which a prison or local gaol cannot do. This principle is entirely in

compliance with the United Nations Standard Minimum Rules from 1955 on the treatment of prisoners, where it is provided in Article 82 that mentally ill persons must not be remanded in prison.

The same principle follows from Article 100 of the European prison rules which Denmark has adopted and in which it is stated that mentally ill persons are to be committed to a psychiatric ward.

The impression that the prison system transfers characterological deviant prisoners to the psychiatric wards may be due to the fact that the group which is remand prisoners and which is transferred to a psychiatric ward is confused with those who have been received sentence for psychiatric treatment. Among the latter there are some who obviously cause hard problems. They may, for example, be severe characterdeviants who were psychotic at the time when they committed the crime and who have consequently been found to be comprised by section 16 of the Penal Code and sentenced to psychiatric treatment. After this, the psychosis may have decreased, and these persons will then be marked by their severe characterdeviant behaviour. This group of persons may of course cause many difficulties, but we will have to live with this, because this is a consequence of our legislation. It should also be added that the number of these "problem patients" is low, but they may take up disproportionately much room in the public debate."

WITHOUT A HITCH

- *If the hospitals refuse to receive mentally ill criminals this is probably not due to lack of understanding or volition but lack of resources?*

"This is what the majority of psychiatrists and the Danish Psychiatric Association (Dansk Psykiatrisk Selskab) say. The prison system had set up a Health Committee which submitted a bulky report on this subject a year ago, and the sub-committee which dealt with psychiatry held a meeting with the

board of the Association at which there was complete agreement that even if there are some patients who may cause difficulties, mentally ill patients ought to be treated within the psychiatric hospital service also in spite of the fact that they are criminals. Without a hitch.

This basic attitude of course also makes demands on the prison system which must accept that at the moment when a proper psychiatric observation states that a person is not psychotic or that his condition is temporary, this person must go back to prison. There are quite a few instances where an arrested person is psychotic, for example because he has taken a lot of "speed" and after two or three days the psychosis abates. You have to be careful, however, not to confuse this situation with a situation in which a schizophrenic person is admitted to hospital and treated with neuroleptics so that the obvious psychotic symptoms get under control, after which it is declared that the person concerned is no longer psychotic and can be sent back to prison. I do not find that this is the right thing to do; such a patient should still be treated in a psychiatric ward and not be kept in a prison cell."

NEED FOR MORE RESOURCES

- *Psychiatric hospitals and institutions probably need resources to ensure that psychotics do not remain in prison and that they get the proper treatment in psychiatry wards.*

"This is a problem. There is no doubt at all that this requires certain resources. In the prison system we have tried to estimate how many there are of these patients. It is really not an awful lot, that is between 20 and 30 hospital beds on a country-wide basis."

- *Where would these hospital beds have to be placed? Should it be in the ordinary psychiatric wards or in the form of special forensic psychiatry wards?*

"If you had asked me five to ten years ago, I would have said that we should not establish any forensic psychiatry wards

because all studies show that the forensic psychiatric patients do not differ from all other patients, either as regards symptomatology or in any other respect. They suffer from the same disease, have the same symptoms and cause the same difficulties in certain periods, and none in other periods. Therefore, these patients ought to be committed to hospital and in a ward that suits precisely this patient. Today, when the capacity of hospital beds has been reduced so much and where there are so few wards it may be right to gather the forensic psychiatric patients in special wards which of course implies the advantage that the staff is trained in handling the rules applicable to these patients, e.g. the rules on the extent to which the patients may leave the hospital. But the risk involved in special forensic psychiatry wards is that they become ghettos for those who are both "mad and bad."

- *And the therapeutic efforts are not abandoned even if it is a question of forensic psychiatry wards?*

"Not at all. All therapy is the same. All therapeutic modalities used in ordinary psychiatry are also used in forensic psychiatry and those who are not used in ordinary psychiatry would of course not be used in forensic psychiatry either. It is also important that the forensic psychiatry wards are integrated with the rest of the psychiatric hospital service. In England they have so-called Special Hospitals, which is a practically parallel psychiatric system which does not only admit forensic psychiatric patients but also violent and disturbed patients from the ordinary psychiatric system. This is absolutely of no benefit to either of the parties. In Denmark one could imagine that instead of establishing forensic psychiatric wards, a number of special well-staffed wards could be established in which also very sick patients who need to be in a strongly manned hospital ward for a period could be placed. However, I still think that it is completely decisive that such wards - whether they are intended only for forensic psychiatric patients or also for reception of other patients - are placed within the framework of the ordinary psychiatric treatment system.

MEDICAL SUPERVISION OF PSYCHICALLY ILL PRISONERS

It is important that medical doctors promptly supervise prisoners who are placed in security cells and maybe fixed to their bed in order to find out, among other things, whether they suffer from mental illness, says chief psychiatrist Peter Kramp, the Ministry of Justice.

PUBLIC RELATIONS MANAGER STIG ALBINUS

Medical doctors who supervise prisoners in security cells and prisoners who are fixed to their bed do not make the use by the prison system of means of restraint legitimate. The use of means of restraint is the responsibility of the management of the prison, and the medical doctor only has to ensure that the prisoner is not bodily injured, check whether he has been hurt and whether the prisoner is mentally ill, says Peter Kramp.

- *Sometimes, the role played by doctors in connection with their supervision of prisoners placed in security cells is criticised. Some people argue that the doctors that are called make the punitive measures of the prison system towards disturbed prisoners legitimate?*

"This they do not, and they should not do this, either. The problem is that now and then a prisoner behaves in such a manner as to cause interference by the prison system. It may be violent disturbance, threats or self-destructing behaviour. The system has a number of reactions, ranging from solitary confinement to security cells with fixation to the bed. A security cell is a special cell with a special couch with belts as known from psychiatric wards. In some cases, prisoners are fixed to the couch."

THE MEDICAL DOCTOR HAS THREE TASKS

"The rules clearly and precisely state that if this is the case, a doctor has to be called. Untill now, the rules said that a normally medical examination was to be made immediately; not of necessity, however. Now,it is so that a doctor has to be sent for in all circumstances when a prisoner is fixed to the bed in a security cell. The doctor has three tasks: He has to ensure that belts and hand or foot straps, if any, are properly placed so that they will not block the afflux of blood to the extremities or the like. Further, the doctor has to examine whether the prisoner has been injured when he was belted or placed in the security cell. The placing in a security cell is often accompanied by some use of force as the prisoner may have been taken to the security by several persons. This may have inflicted injuries upon the prisoner so the doctor has to check this. Finally, the doctor must check whether the reasons for using the security cell could be mental illness which should imply commitment to a psychiatric ward. These - and only these - are the doctor's tasks.

So it is not for the doctor to make the prisoner being placed in a security cell legitimate, and the doctor must absolutely not make any statements on the propriety of the prisoner being placed in a security cell. The decision to use means of restraint is made alone on the responsibility of the institution. And similarly, it is the responsibility of the prison governor to take him out again."

A GREY ZONE

- *Is it not a grey zone because the doctor has to find out whether the hand straps are too tight, whether the afflux of blood is blocked, etc. and thus indirectly commits himself on the decision whether the prisoner is still fit for fixation?*

"No, I cannot see that. Where there could be a grey zone is in connection with the issue whether the prisoner is mentally ill. As a matter of fact, it is quite seldom that a prisoner is placed in a security cell and fixed to the bed. A survey shows that this has happened 82 times in six months. In

each case, a record is made, stating when it takes place, how and why. In this record, it has to be described whether the placing in a security cell and the fixation are made on grounds of self-destructing behaviour, suicidal ideas, violence towards other persons and/or threats. The said survey shows that self-destructing behaviour or depression figured either alone or together with some of the other causes in 50 out of the 82 cases referred to. It is evident that it may be an affective reaction, a reaction against the deprivation of liberty and not a depression requiring treatment. But doctors are more capable of finding out what is the reason than the prison staff whose education and training are in an entirely different direction. So the grey zone is the borderline between depression requiring treatment and temporary affective reaction.

Thus, it is not for the doctor to say: He is not so ill that he is not strong enough to stand being fixed to his bed. The doctor has to say: He suffers from an affective tension but he is not depressed. Or perhaps: He is ill, I would recommend commitment to a psychiatric ward. Then it is up to the prison management to take an attitude to the doctor's advice."

- What if a prisoner develops acute psychosis, for example in the case of drug abuse?

"Then the prisoner is also mentally ill."

- Does it then make any sense to place the prisoner in a psychiatric ward?

"Maybe. Maybe hospitalization for one or two days, so that the psychosis abates.

DOCTORS FROM THE EMERGENCY SERVICE IN PRISONS

- It appears from the debate that there is a general feeling that it is not all doctors - for instance doctors from the emergency service - who are called in such situations who quite know what has to be done?

"Today, all prisons have employed general practitioners who function as part-time prison doctors. It is a big advantage that it is these doctors who are sent for in connection with the placing of a person in a security cell because they know what it is about and what their task is. So in the daytime these doctors will often be called. In some places, there is also an agreement with centres of general practitioners that you can always call outside of normal working hours and ask if the general practitioner is able to come. However, if this is not possible, the doctors from the emergency service is sent for. But there are doctors from the emergency service who have said that they do not think that it is a medical task to examine prisoners who have been fixed to the bed. However, if we find that in 50 out of 82 cases over a six-month-period an essential reason for the placement in a security cell is self-destructing behaviour, suicide threats or the like, then, to me, it is a clear medical task to be called to examine the prisoner. I am more inclined to say that the situation is that some doctors from the emergency service do not know what it is all about.

- Is it not for ethical reasons, the fear to assist in torture-like conditions, that stop certain doctors from coming?

"You come to see a person that another system has subjected to means of restraint and to examine whether this person has been injured or is sick. This is the doctor's task. The doctor does not have to - and should not - make this legitimate.

We know that doctors from the emergency service may be very busy and that they have to put the visits in order of priority. It must be up to the individual doctor's evaluation to decide his work priority. But I do not think that you should give examination of prisoners placed in a security cell a lower priority because for universally human reasons it is evidently a situation that has to be put an end to as quickly as possible if the person fixed really is ill or injured. And this is what the doctor is to give an opinion on."

THE DANISH MEDICAL ASSOCIATION (LÆGEFORENINGEN)
Editorial

Compulsory treatment of psychically ill persons within the prison system

Compulsory treatment of psychotic persons who are living in the institutions of the prison system involves special problems of medical ethics. No doubt must be allowed to arise as to whether the doctors' compulsory treatment is exclusively taking place on the basis of a medical treatment indication in the best interests of the patient, and such treatment must never be allowed to be confused with the exercise of power by the community and the institutional compulsion which the confinement itself reflects.

This problem has become of increasing importance in recent years when crime committed by psychotic persons has been growing. To illustrate this, one could mention that there has been a significant growth in Denmark in the number of homicides committed by psychotic persons from a level of about one homicide per year during the period 1946 until about 1971 to four or five per year during the period 1971 until 1983. As will appear from the interview with Peter Kramp in this issue of the Journal of the Danish Medical Association (Ugeskriftet) new studies seem to indicate that the number of homicides committed by psychotic persons after 1983 is still at this high level. There has been a similar growth in the number of psychiatric special measures under the penal code, for instance as regards the number of sentences ordering treatment of psychotic persons.

The symptomatology for psychotic criminals is quite the same as for non-criminal psychotic persons and the

therapeutical measures are also identical. Mental patients do not belong in prison, but should be treated in psychiatric wards where the staff has been trained to treat and take care of persons with mental diseases. By way of example, it is not possible to observe mental patients on a 24-hour-basis in prisons and local gaols.

But it will probably not be possible to avoid completely that mental patients are kept within the prison system and treated by doctors within the framework of the prison system. Among insane criminal persons there is a small group of persons who do not satisfy the criteria laid down in the Act on Insane Persons for compulsory commitment to a mental hospital and who do not want to be transferred to a psychiatric hospital ward. Furthermore, for some prisoners the psychosis diagnosis is not made until after long and careful observation and knowledge of the patient during the imprisonment, for instance in connection with mental observation.

In the debate about compulsory treatment of criminal persons the conditions have been criticised in the Institution at Herstedvester, which is an institution under the prison system with the special task of dealing with prisoners with mental problems. For this reason, the Institution at Herstedvester has a special medical staff and the head of the institution used to be a medical doctor. Today, the institution is run by a legally qualified person. The Institution at Herstedvester is the only institution outside the psychiatric hospitals and institutions which has permission for compulsory treatment of persons with mental diseases. After the adoption of the new Act on compulsion in connection with psychiatric treatment this permission is granted on a temporary basis, but it is expected that the permission will become statutory in connection with the coming Act on enforcement of sentences.

Irrespective of whether the legal basis for compulsory treatment will be adopted, it is the view of the Medical Association (Lægeforeningen) that it is still an ethic and criminal policy problem of a fundamental nature that compulsory treatment of mental patients is not strictly limited to

psychiatric wards headed by doctors. The Medical Association therefore finds that prisoners in the Institution at Herstedvester who are diagnosed to be psychotic should be transferred as quickly as possible to psychiatric wards for treatment. In this connection the Medical Association is aware of the fact that the special clientele in Herstedvester may necessitate that the compulsory treatment is initiated prior to the transfer of the psychotic patients to psychiatric hospital wards. But it should be ensured that transfer takes place as soon as possible and that the initial compulsory treatment takes place in the presence of medically qualified staff and subject to guarantees of the rule of law similar to those applying in psychiatric hospital wards.

It is the view of the Medical Association that steps should be taken to remedy the situation today when many psychiatric wards do not have the necessary capacity to receive very disturbed psychotic criminals from the prison system, because this clientele requires many resources in terms of staff. It is necessary to set up in close connection with big psychiatric hospital wards special admission facilities to receive prisoners with an acute psychosis and persons who have received sentence for mental treatment, for instance in the form of new forensic psychiatry wards or hospital beds.

Jens Kr. Gotrik

FOLLOW-UP REPORT OF THE DANISH GOVERNMENT IN RESPONSE TO THE REPORT OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT) ON ITS VISIT TO DENMARK

FROM 2 TO 8 DECEMBER 1990

(transmitted by letter of 22 July 1992)

SUPPLEMENTARY INFORMATION

to the

Report of 23 January 1992

Concerning R.1: Nothing to add.

Concerning R.2: Nothing to add.

Concerning R.3: Nothing to add.

Concerning R.4: Nothing to add.

Concerning R.5:

The working party mentioned, concerned with the use of security cells, expects to give its final recommendations on all uses of security cells in the prisons and remand institutions coming under the Department of Prisons and Probation in the course of autumn 1992. These recommendations will in due course be sent to the Committee for information.

Concerning R.6: Nothing to add.

Concerning R.7:

As stated in the Interim Report, the Department of Prisons and Probation is willing to call upon Boards of visitors to make more frequent inspection visits to all prisons at regular intervals. The Department has discussed this with the prison inspectors and has taken the matter up with the association of county councils.

Concerning R.8:

A working party under the Information Group of the Department of Prisons and Probation has produced a provisional draft of a guide for convicted persons on the most important general rules for serving a prison sentence. The draft contains a section on the particular situation of foreign prisoners.

The present draft will be dealt with by the Information Group of the Department of Prisons and Probation at the end of September this year, following which it is expected that the draft will be circulated among the prison institutions for comment.

When, among other things on the basis of the feedback from the prisons, a decision is taken on the final form of the guide, it will be printed for issue to all prisoners. The guide will be translated into a number of the most relevant foreign languages.

It is thought that it will be possible to complete the work of producing the final version, printing and translating the guide during the course of 1993.

This material will in due course be sent to the Committee for information.

Concerning R.9: Nothing to add.

Concerning R.10:

The question of a supervision and contact body for establishments for convicted persons was discussed at a meeting with the governors of all institutions in spring 1992. Partly as a result of this discussion, the Department has looked more closely into the possibility of setting up a system of regional visiting bodies on an experimental basis. The Department has invited the National Association of Local Authorities to a meeting with a view to discussing this.

It should be added that a permanent system of supervision bodies for establishments for convicted persons, if this is decided upon, would have to be established by law. The Ministry of Justice will request the Criminal Law Council - possibly on the basis of experience with an experimental arrangement - to have the question included in the discussion of the report now available from a working party on a law on the serving of sentences etc.

Concerning R.11: Nothing to add.

Concerning C.1:

In the interim answer it was stated that a working party was expected to be set up to deal with the issue of the further training for staff who run a particular risk of having to use force.

The working party concerned has now been set up.

Concerning C.2: Nothing to add.

Concerning C.3: Nothing to add.

Concerning C.4:

A new structure, known as the AUF structure, has been introduced at Blegdamsvejen Prison and Western Hospital. This means that the core staff have greater responsibility and competence for solving inmate's problems. The planning work for the implementation of structural changes in the east and north wings of Western Prison has been initiated. A similar structure is expected to be introduced in the remaining parts of the Copenhagen prisons over the next few years.

A corresponding structure has already been fully established in 8 open prisons (Jyderup, Møgelkær, Kragskovhede, Sdr. Omme, Søbysøgård, Renbæk, Gribskov and Kærshovedgård) and two closed prisons (Ringe and Nyborg). In Horserød and Nr. Snede (open prisons), planning work has begun and is expected to be completed in the course of 1992. In addition, planning work in Vridsløslille, Horsens and Herstedvester (closed prisons) has also begun and is expected to be completed in 1993. All prisons will then have been restructured.

In the local jails (arreshussektor), the new structure has been introduced in Randers and Nykøbing F. The new establishment in Helsingør will be restructured in line with the AUF principle. The aim is to introduce a similar structure in all local jails.

Concerning C.5: Nothing to add.

Concerning C.6:

The building for persons held under paragraph 36 of the Aliens Act, outside the wings of the Western Prison, is now completed and in service.

Concerning C.7: Nothing to add.

Concerning C.8:

The Danish Medical Association, in cooperation with the Department of Prisons and Probation, has developed a series of courses for doctors who work in, or whose work is connected with, the prison service ("doctors at risk"). The first courses will be given in August and October 1992.

Concerning I.1:

For information, we attach a survey of the number and duration of cases of solitary confinement among remand prisoners in the whole of 1991; cf. Enclosure A.

Concerning I.2:

The scientific investigation mentioned, concerning the possible harmful effects of solitary confinement, was begun in autumn 1991. The data collection phase is planned to cover a period of two years. The research group expects to be able to submit a report on the main findings of the study to the Minister of Justice by late summer 1993. A copy of the report will be sent to the CPT.

Concerning I.3: Nothing to add.

Concerning I.4: Nothing to add.

Concerning I.5:

No inmate is at present held under the Circular of 2 May 1989 on prison conditions for certain specified inmates.

Concerning I.6: Nothing to add.

Concerning I.7: Nothing to add.

Concerning R.12:

As stated in the Interim Report, working parties were set up to propose solutions to the problems at the Police Headquarters Prison. A total of four working parties were set up, to submit proposals concerning respectively: leadership, reception procedure, objectives and information. The working parties have now come up with proposals which will be taken up and discussed in a steering committee meeting in August 1992.

Concerning R.13:

As stated in the answer to point C.1, a working party has been set up to deal with the question of further training for staff who run a particularly high risk of having to use force. The remit of this working party includes among other things the question of the limited use of rubber truncheons.

Concerning R.14: Nothing to add.

Concerning R.15: Nothing to add.

Concerning R.16: Nothing to add.

Concerning R.17:

As stated under point C.6, the block for aliens held under paragraph 36 of the Aliens Act is now completed and in service.

Concerning R.18: Nothing to add.

Concerning C.9: Nothing to add.

Concerning C.10:

The final version of the project for improving conditions in the Police Headquarters Prison had to await the completed reports from the four working parties which had the task of dealing with a whole series of issues concerning this prison.

Since these reports were received in spring 1992, the main concern of the Department in this matter has been the future structure for the accommodation of remand prisoners in Copenhagen. The chief architect of the Ministry of Justice has stated that it will take about one year to complete the work from the date that the main project is commissioned.

Concerning C.11:

As stated in the Interim Report, the Department of Prisons and Probation, in discussions with the Ministry of Health and the Danish Medical Association among others, has pointed out the need to establish the required number of beds in the psychiatric hospital system to be able to admit prisoners from the Western Prison, for example.

It can now be added that the Department of Prisons and Probation has initiated a survey of the country's prisons and remand institutions to determine the number of mentally ill inmates in order to be able to provide a better basis for continued discussions with the counties and hospital administrators among others. In addition, the Department of Prisons and Probation, in cooperation with the Institute for Psychiatric Demography at the Århus Psychiatric Hospital, has planned a major scientific study of the extent of the problem. The findings of these initiatives will be taken into account in the Department's continuing efforts to ensure that mentally ill prisoners are transferred to psychiatric wards.

Concerning C.12:

It can be added that the prison service Training Centre is considering the production of cassettes and cartoon strips with the aim of providing further information for foreign inmates who are illiterate.

In the Nyborg State Prison non-Danish speaking prisoners are offered courses in Danish and/or English. It is the teachers and students who decide together, in the individual case, whether the teaching should be in Danish or English. It is the State Prison's experience that English is chosen in most cases.

In the Copenhagen prisons, the staff, in cooperation with the prisoners, have produced a language textbook together with cassettes to be used to teach the staff common words and phrases frequently used in prison, in four major languages. Staff can borrow this material to take home.

Furthermore, the Copenhagen Prisons have produced a book in eight different languages, intended to help foreign prisoners to learn common words and expressions in Danish.

Concerning C.13: Nothing to add.

Concerning I.8:

With the letter of 13 March 1992, the Department of Prisons and Probation sent the CPT a copy of the report produced by a city court judge concerning the treatment of a Gambian national in Copenhagen Prisons.

Concerning I.9:

With the letter of 13 March 1992, the Department of Prisons and Probation sent the CPT a copy of the report produced by a city court judge concerning the treatment of a Tanzanian national in Copenhagen Prisons.

Concerning I.10: Nothing to add.

Concerning I.11:

In the Interim Report it was stated that the double key system in Western prison, where the prisoners would have the possibility of letting themselves out of the cells and keeping other prisoners out, had not yet been implemented.

It can now be stated that the project has begun.

Concerning I.12: Nothing to add.

Concerning I.13:

The general part of the judicial review has as yet still not been completed.

Concerning I.14: Nothing to add.

Concerning R.19 and R.20:

Steps have now been taken to set up a working party which, taking as a starting point the Act on the Deprivation of Liberty and other Coercive Measures in Psychiatry, will consider how and to what extent the principles of this Act - possibly in an adapted form - should apply to the psychiatric treatment of prisoners in the Herstedvester Institution. If the principles can be applied, the working party is to submit draft administrative rules etc., with a view to the practical implementation of a proposal.

The Department of Prisons and Probation has thus taken steps to ensure that a special working party submits proposals for an interim arrangement pending the resolution of the question of the use of compulsory treatment at the Herstedvester Institution in connection with consideration of a proposed Bill on the serving of sentences, etc.

To ensure that the working party has access to the necessary broad range of expertise, the Danish Medical Association, the Danish Psychiatric Society and the National Health Board have been invited to take part in its work.

For information we attach copies of the letters to these bodies and the draft of the working party's remit (Enclosure B). The CPT will be informed of the final composition of the working party, which depends on the replies of the Danish Medical Association, the Danish Psychiatric Society and the National Health Board.

Concerning R.21: Nothing to add.

Concerning R.22: Nothing to add.

Concerning C.14: Nothing to add.

Concerning C.15: Nothing to add.

Concerning I.15: Nothing to add.

Concerning R.23:

Discussions with the prisoners continue to take place via the Leisure Activities Committee (on which there is one prisoner from each unit) and through a working party consisting of three prisoners and three representatives of the establishment. The working party discusses various wishes of general interest for the prisoners. In addition, the prisoners are encouraged to make application to unit staff as regards wishes/problems connected with the individual units. In this way it is possible to have a more thorough discussion of the prisoners' proposals and the possibilities for meeting them before the prisoners' wishes and proposals are passed on for actual discussion with the prison administration.

The Department of Prisons and Probation has the impression that the local solution works satisfactorily, but agrees with the Nyborg State Prison that the local administration should continue its efforts to persuade the prisoners to adopt the usual prisoners' spokesmen system.

Concerning C.16: Nothing to add.

Concerning C.17:

In June 1992 the Department of Prisons and Probation sent out new rules to all institutions concerning the precautions to be taken against HIV infection as regards prisoners in institutions. A copy of these rules is attached (cf. Enclosure C).

In addition, in spring 1992 information was sent to staff on HIV/AIDS and on how staff can avoid being infected in their work. A copy of this note is attached. Through being well informed about the risk of infection etc., staff will be able to help improve prisoners' knowledge of the subject. Apart from the "key persons" in the Department of Prisons and Probation itself, the individual institutions are able to draw on the services of specialists all over the country who are attached to the individual county authorities and give lectures, lend video films and contribute to the dissemination of knowledge in other ways.

Concerning C.18:

The reader is referred to the comments under point R.8.

Nyborg State Prison has also reported that the prison has acquired some tapes with texts in English, German, French and Spanish, which are lent to foreign prisoners. The tapes describe a number of practical matters connected with everyday life in a prison.

Concerning R.24: Nothing to add.

Concerning R.25 and 26:

The Ministry of Justice abides by what was stated in the Interim Report.

Concerning R.27: Nothing to add.

Concerning R.28:

The Ministry of Justice abides by what was stated in the Interim Report.

Concerning R.29:

The Ministry of Justice abides by what was stated in the Interim Report.

Concerning R.30:

The Ministry of Justice abides by what was stated in the Interim Report.

Concerning I.16:

As stated in the Interim Report with the statistical data for 1990, cases concerning the conduct of official duties by the police occur partly as the result of complaints submitted by the public and partly as the result of reports of actual punishable offences or internal disciplinary matters.

In 1991 there were 304 complaints about the conduct of police on duty which were referred to the Police Complaints Board (lokalnævn) under Part 93 b of the Administration of Justice Act.

The Police Complaints Board decided 267 cases in 1991, in the following manner:

Case withdrawn before consideration	27
Dismissed by the Complaints Board as obviously groundless	38
Referred back to the local Chief of Police for action	177
Referred to the Public Prosecutor for examination	21
Referred to criminal proceedings	3
Legal examination instituted	1

It should be pointed out that there is no identity between cases reported and cases decided in 1991, as some of the decisions concern cases brought in 1990, just as some of the cases brought in 1991 were still pending at the end of that year. In addition, a total of 208 disciplinary cases were brought against police officers in 1991 for offences of a non-criminal nature.

Finally, in 1991 charges were brought against police offices in 28 cases - of which 11 related to the performance of their duties - for violation of the Danish Criminal Code, which automatically means that disciplinary charges were brought in parallel with the criminal proceedings.

Concerning I.17: Nothing to add.

Concerning I.18: Nothing to add.

Concerning I.19: Nothing to add.

Concerning I.20: Nothing to add.

ENCLOSURE A

Number of cases of solitary confinement of remand prisoners completed during 1991

	Duration of solitary confinement										Total
	1-7 days	8-14 days	15-21 days	22-29 days	1<2 mths	2<3 mths	3<4 mths	4<5 mths	5<6 mths	>=6 mths	
Copenhagen Prisons	140	187	87	87	92	35	15	14	5	9	667
Roskilde	1	2	2	2	4	2	1	-	-	1	13
Koge	8	5	2	2	4	4	1	1	1	2	30
Helsingor	2	2	2	-	3	1	-	1	-	-	11
Hillerod	2	3	1	2	8	4	3	-	1	-	24
Frederikssund	1	2	1	-	4	4	1	-	-	-	13
Holbek	1	1	3	1	8	2	-	-	-	2	18
Kalundborg	5	4	3	3	2	4	1	-	-	-	22
Slagelse	1	4	4	1	2	3	1	-	-	-	16
Ringsted	1	-	1	1	2	1	-	1	-	1	8
Nastved	3	2	-	1	6	1	1	-	-	-	14
Vordingborg	2	1	1	-	2	1	1	-	-	1	9
Ronne	4	4	3	1	2	-	-	-	-	-	14
Nykobing F.	5	3	3	1	1	-	-	-	2	2	17
Nakskov	2	4	3	-	3	1	-	-	-	-	13
Odense	2	4	2	3	5	1	-	2	-	-	19
Assens	2	4	-	-	-	-	-	1	-	-	7
Nyborg arr.	1	3	1	-	3	-	-	1	-	-	9
Frederikshavn	1	1	-	2	-	-	-	-	-	-	4
Nykobing M.	1	-	-	-	-	-	-	-	-	-	1
Aalborg	4	12	4	3	1	2	2	-	-	-	28
Vyborg	6	-	4	2	1	1	-	-	-	-	14
Randers	-	4	1	1	6	-	1	1	-	-	14
Hobra	2	1	3	4	2	-	-	1	-	-	13
Arhus	2	3	2	1	4	2	2	1	-	-	17
Silkeborg	1	4	1	-	-	-	-	-	-	-	6
Horsens. arr	2	1	3	3	2	1	1	-	-	-	13

Ringkobing	-	1	-	-	2	1	-	-	-	-	4
Holstebro	-	-	-	-	1	-	-	-	-	-	1
Herning	3	-	2	-	1	-	-	-	-	-	6
Vejle	2	5	-	5	6	-	1	-	-	1	20
Kolding	5	3	2	3	6	1	2	-	1	-	23
Esbjerg	1	1	2	3	2	-	2	-	-	-	11
Haderslev	1	2	-	1	1	-	1	-	-	1	7
Abenra	1	3	2	1	5	-	-	1	-	-	13
Tonder	5	5	3	4	3	1	-	1	-	-	22
TOTAL	220	277	148	138	194	73	37	26	10	20	1143

NUMBER OF CASES OF SOLITARY CONFINEMENT OF REMAND PRISONERS FOR PERIODS GREATER THAN 179 DAYS COMPLETED DURING 1991

	Institution	Duration
1st quarter 1991	Copenhagen prisons	314 days
	Copenhagen prisons	337 days
2nd quarter 1991	Copenhagen prisons	227 days
	Copenhagen prisons	273 days
	Ringsted	346 days
	Nykøbing F.	243 days
3rd quarter 1991	Copenhagen prisons	188 days
	Copenhagen prisons	199 days
	Copenhagen prisons	461 days
	Køge	240 days
	Vordingborg	213 days
4th quarter 1991	Copenhagen prisons	231 days
	Copenhagen prisons	262 days
	Roskilde	246 days
	Køge	213 days
	Holbæk	297 days
	Holbæk	196 days
	Nykøbing F.	246 days
	Vejle	339 days
	Haderslev	191 days

ENCLOSURE B

D R A F T

The Ministry of Justice, Department of Prisons and Probation, has set up a working party concerned with the use of the principles of Act no.331 of 24 May 1989 on the Deprivation of Liberty and other Coercive Measures in Psychiatry in connection with the psychiatric treatment of prisoners in the Herstedvester Institution.

The Herstedvester Institution occasionally admits prisoners who turn out to be psychotic and who for some reason or another cannot be directly transferred to a psychiatric ward.

On paragraph 1 of the commented version of the Act on Coercive Measures in Psychiatry it is stated inter alia that:

> "...as regards prisoners in the Herstedvester Institution, the Ministry of Justice, in an answer to the Law Committee, explained the existing legal situation, in which compulsory treatment of the mentally ill among prisoners in Herstedvester Institution to a limited extent has taken place in accordance with the principles of forced detention under the Act of 1938 and stated that with the Bill (Psychiatry Act) no change of this legal situation was envisaged. The Ministry of Justice added that in view of the fact that the Herstedvester Institution is an establishment coming under the prison service and as such not directly included in the normal field of application of the Bill, there is need for the question of compulsory treatment procedures in the Herstedvester Institution to be considered more closely in the Criminal Law Council's working party concerned with the drafting of a special law on the serving of sentences. The answer is printed as an annex to the Law Committee's opinion (Folketings Tidende [Parliamentary Report] 1988/89, B 1351). Against this background it must be assumed that the compulsory treatment of the mentally ill in Herstedvester Institution can be maintained for the present in accordance with practice up to now, but that the question should find a final solution in connection with a new law on the serving of sentences. Reference is made in this regard to opinion 1181/1989 on a law on the serving of sentences etc., drafted by the working party set up by the Criminal Law Council with the task of producing a draft for a new law on the serving of sentences..."

The Department has found it appropriate to consider how and to what extent the principles of the Psychiatry Act can be used in the Herstedvester Institution, as a provisional arrangement pending a final answer to this question (cf. above).

The working party will take as a starting point the Act on the Deprivation of Liberty and other Coercive Measures in Psychiatry, and will consider how and to what extent the principles of this Act - possibly in an adapted form - should apply to the psychiatric treatment of prisoners in the Herstedvester Institution, and if the principles can be applied, the working party is to submit draft administrative rules etc., with a view to the practical implementation of a proposal.

In its work the working party will take account of the European Prison Rules and the rules of medical ethics for doctors working in prisons, as they are laid down in more general terms inter alia in the "Tokyo Declaration", and so far as Danish conditions are concerned are referred to in the recommendations of the National Health Board. The working party should also take account of the discussions between the Department and the Danish Medical Association and a leader in the Ugeskrift for Læger (medical weekly) no. 47/1991, page 3342.

The working party should also consider the view put forward on the question by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the Danish authorities' answer to this.

The working party must work on the basis that the Department of Prisons and Probation cannot provide any additional resources in connection with the introduction of new provisions.

The working party is made up of:

Assistant Secretary Annette Esdorf, Department of Prisons and Probation, (Chairperson);
Prison Inspector Erik Taylor, Herstedvester Institution;
Managing consultant Heidi Hansen, Herstedvester Institution;
Prison Service Nursing Consultant Annette Lindberg, Copenhagen Prisons;
Prison Service Psychiatric Consultant Peter Kramp;
Danish Medical Association
Danish Psychiatric Society
National Health Board
Ministry of Justice representative Marianne L. Hansen;
Special Consultant Alette Reventlow, Department of Prisons and Probation (Secretary)

Letter sent on 7 July 1992 to the Danish Medical Association, the Danish Psychiatric Society and the National Health Board

MINISTRY OF JUSTICE
DEPARTMENT OF PRISONS AND PROBATION

Act no.331 of 24 May 1989 on the Deprivation of Liberty and other Coercive Measures in Psychiatry has, according to § 1, only psychiatric wards as its direct field of application. As regards compulsory treatment of mental illness among prisoners in the Herstedvester Institution, this has occurred to an extremely limited extent in accordance with the principles of forced restraint under Act no.118 of 13 April 1938 on the hospitalisation of mentally ill persons. This legal situation is that referred to in the commentary on § 1 of the first-named Act, and the considerations that have up to now been associated with the possible retention of this practice are mentioned in the same place.

Against the background inter alia of the Report by the Committee for the Prevention of Torture and the media interest that periodically arises on the question, the Department deems it appropriate that consideration should already be given to how and to what extent the rules of the Psychiatry Act can be applied in the Herstedvester Institution, initially as a provisional arrangement, until the question is finally settled in connection with the discussion of a proposed Act on the serving of sentences, etc.

The Department of Prisons and Probation has therefore decided to set up a working party to discuss the question, its remit and composition being as set out in the attached draft.

In view of the fact that work of this working party will to a very large extent be considering aspects that are not exclusively concerned with the prison service, and it will certainly be desirable for the working party to include representation from the ///Danish Medical Association/Danish Psychiatric Society/National Health Board/// we would like your opinion on the extent to which the ///Danish Medical Association/Danish Psychiatric Society/National Health Board/// is interested in being represented, and if it is, who the representative will be.

Annette Esdorf

ENCLOSURE C

MINISTRY OF JUSTICE
DEPARTMENT OF PRISONS AND PROBATION

We enclose herewith a number of copies of the Department's circular of today's date on guidelines for precautions against HIV infection for the inmates of prison service institutions.

1. The institution is to see that the prisoners have the opportunity to become familiar with information material on AIDS and HIV.

The Department issues the information leaflet "Information om AIDS" translated into English and certain other languages.

2. It is pointed out that there is no medical reason why prisoners in whom the presence of HIV antibodies has been detected should be excluded from work in the kitchens of the institution or any similar work.

The prison doctor is bound to secrecy concerning what he learns or suspects of a prisoner's state of health, in accordance with the general provisions of the law governing medical practice. The doctor can thus not speak unless he considers that he is obliged to do so under the law or is acting in justifiable defence of the general interest or the interest of himself or another. It may for example be because it is necessary to avoid risk to the life or health of other prisoners or staff. In such a case it is incumbent upon the doctor to inform the governor of the institution.

The result of any examination to determine the presence of AIDS antibodies is thus covered by medical secrecy.

If the doctor considers that he should inform the governor of the situation that would otherwise by covered by medical secrecy, this implies that the prisoner should be informed of it.

3. The circular, together with this covering letter will be included in the Department's collection of circulars as soon as possible.

Alette Reventlow

To prison service institutions and prisons.

MINISTRY OF JUSTICE
DEPARTMENT OF PRISONS AND PROBATION

Circular on guidelines for precautions against HIV infection for the inmates of prison service institutions.

(To prison service institutions and prisons).

Following a proposal by the Department's consultant on questions concerning general medicine and hygiene, and after discussion with the National Health Board, the following guidelines for precautions against HIV infection for the inmates of prison service institutions have been drawn up.

I. Information

As regards information for prisoners concerning HIV infection, the Department, in cooperation with the National Health Board has produced the leaflet "Information om AIDS".

The leaflet should be posted on the notice boards in the accommodation blocks and similar places.

Prisoners who because they are in individual cells or for some other reason are prevented from making themselves familiar with the leaflet should have a copy issued to them.

Copies can be obtained from the 4th Office of the Department.

II. Examinations, etc.

1) Prisoners who say they are afraid they might be infected with HIV shall be sent to the prison doctor for examination.

2) The Department's consultant on questions concerning general medicine and hygiene is available if required to give guidance to institutions.

3) In accordance with § 9 of the Medical Code, the prison doctor is obliged to keep silent about what he learns or comes to suspect in course of his duties concerning the secrets belonging to the prisoners' private lives.

III. Accommodation of prisoners in whom AIDS antibodies have been detected

Prisoners in whom AIDS antibodies have been detected will under normal circumstances not present any risk of infection for staff or other prisoners and need not therefore initially be sent to the institution's infirmary or an individual cell.

Transfer to the infirmary or an individual cell may take place however if the prisoner requests it or if his conduct exposes fellow prisoners or others to the risk of infection.

IV. Reporting of examinations

The institution doctor shall make a monthly report to the Department's consultant on questions concerning general medicine and hygiene on all the examinations carried out in order to detect AIDS antibodies.

The report is made on a special form.

V. The Department's circular of 13 December 1985 on guidelines for precautions against HIV infection for the inmates of prison service institutions is hereby revoked.

The present circular takes effect immediately.

Anders Troldborg Alette Reventlow

MINISTRY OF JUSTICE
DEPARTMENT OF PRISONS AND PROBATION

To prison service institutions, departments, staff,
inspectors and AIDS key persons

We enclose herewith a number of copies of an information leaflet for prison service staff on HIV and AIDS. This leaflet, which replaces that of 13 December 1985, has been updated in line with the new knowledge on HIV and AIDS that has been gained since 1985 and there have been some linguistic changes.

The Department is to ensure that the information is made known to staff in an appropriate fashion.

It is also to be seen that a copy is delivered to the institution doctor and any AIDS key persons.

Further copies of the leaflet can be requested by telephone from the 1st Office of the Department (room 258).

Also enclosed in the National Health Board's 1991 leaflet "Værd at vide om HIV og AIDS" ["Worth knowing about HIV and AIDS"].

Erik Bang

MINISTRY OF JUSTICE
DEPARTMENT OF PRISONS AND PROBATION

Information on HIV/AIDS for prison service staff

This information pamphlet has been produced in cooperation with the National Health Board. It tells prison service staff about HIV/AIDS and how to avoid the risk of infection at work.

1. HIV infection and AIDS

AIDS is an abbreviation for Acquired Immunodeficiency Syndrome. Translated into Danish as "erhvervet immundefekt syndrom".

AIDS is the most serious condition that can arise after infection by a virus known as HIV (Human Immunodeficiency Virus). HIV can destroy the body's defences (immunosystem). This means that the infected person can be seriously ill as the result of infections (viral, bacterial, fungal, etc.), which carry no risk for healthy people with an intact immunosystem.

After being infected with HIV, the body produces antibodies against the virus. It usually takes 6-12 weeks from the time of the infection until the presence of antibodies can be detected. The person is then said to be "HIV positive".

About half of the people infected with HIV show symptoms of acute HIV infection with fever after 2-4 weeks. Others show no sign of the primary infection.

After the primary infection there is a phase with no symptoms. In the case of many HIV carriers this symptom-free phase lasts for several years. But sooner or later the majority do start to show symptoms.

The main symptoms are:

- swollen lymph nodes in several parts of the body;
- persistent or recurring fever;
- weight loss of over 10%;
- night sweats or cold shivers;
- sores or coatings in the oral cavity and throat over a long period;
- persistent cough, not like the normal smoker's cough;
- persistent diarrhoea;
- skin eruption

All these symptoms are also seen in the case of many other diseases and need not have anything to do with HIV infection.

AIDS can be diagnosed only where there are certain quite specific combinations of the symptoms.

It is thought at present that the majority of HIV carriers will sooner or later develop AIDS.

2. Methods of infection

The methods of infection for HIV are similar to those for hepatitis B (infectious inflammation of the liver), but HIV is less infectious than the hepatitis B virus.

Infection occurs through:

- the transfer of blood from an infected person directly into the bloodstream of another person;
- through sexual contact, for example via semen, through small tears in the mucus membrane of the colon or vagina;
- from mother to child during pregnancy and birth.

The infection is not transferred through blood or semen coming into contact with intact skin.

Spittle, tears, urine, stools, vomit and secretions from the nose contain no risk of infection unless there is visible blood in them.

No cases have been seen of infection through bites, scratches or the use of mouth to mouth or mouth to nose resuscitation, and the risk of infection in these circumstances is minimal or non-existent.

3. Infectiousness

HIV cannot exist outside the body, and the infection is not spread through objects such as tableware, furniture, toilets or washing machines, or through shaking hands or other everyday contact.

Infection with HIV in the course of work has so far been seen only among health care staff. Neither in Denmark nor in other countries are there any known cases of HIV infection through work outside the health system.

Even though there were some 300,000 recorded cases of AIDS in the world in 1990, and the WHO estimates that 8-10 million people are HIV positive, there are only about 40 known cases in the world of HIV infection being transferred from infected persons to hospital staff.

In virtually all cases it has been a matter of pricks with hypodermic needles, where there has been direct transfer of HIV-infected blood directly into the person's bloodstream. A few have been infected through unusual and prolonged contact with HIV-infected blood on unprotected, non-intact skin or mucous membrane.

No cases have been seen of hospital staff being infected with HIV in connection with the care and treatment of HIV/AIDS patients or handling anything from them.

4. HIV/AIDS in Denmark

The first case of AIDS in Denmark was discovered in 1981. The number of registered AIDS cases as at 30 November 1991 was 906. About 75% of the AIDS sufferers in Denmark are men infected through homosexual contact. It is estimated that about 5,000 people are infected with HIV.

In the mid-80s, HIV spread among the intravenous drug abusers in Copenhagen, where 15-20% of this population is thought to be infected. Since then no significant increase in the number of infected drug abusers has been observed. In recent years there has been an increase in the number of cases of heterosexual infections, very largely through contact with groups where the infection was already widespread. About 20% of the new HIV positive cases detected are women.

5. Precautions to be taken against HIV/AIDS

a. General situation

Information on methods of infection, hygienic conditions and safety measures can be provided by the doctors, nursing staff and special "key persons" in the individual places of work. Further information can by obtained at any time from this group.

It is emphasised once again that HIV is not transmitted by normal everyday contact.

If a client is HIV positive, work can be carried out in the normal way, observing the safety precautions discussed below. The client should therefore initially be placed in an ordinary prison unit, and there is normally no reason why he should not work as a cook or orderly.

b. Safety precautions, etc.

Avoid direct contact with the clients' blood or semen: use gloves if necessary. Avoid pricks from used injection syringes, hypodermic needles and sharp instruments.

If a needle with the syringe is found, touch only the syringe.

If a needle only is found, take it by the plastic sheath.

Immediately place any needles found in a plastic container (safety-box).

Syringes should be placed in a plastic bag, that can be sealed, before being put in the waste bin.

If there is a risk of clothing and skin being soiled by blood or semen, overalls and disposable gloves can be used for searches, examination or the use of force. Any cuts or sores should be covered. When the task is completed the hands should be thoroughly washed.

HIV is not transmitted by coughs or sneezes, for example. There is therefore no need for masks, mouth masks or protective spectacles.

It is recommended that during resuscitation attempts staff use the ventilation masks which are available in all institutions and prisons.

Do not touch clean surfaces or objects with soiled gloves.

c. Precautions in the case of accident

1. Prick with a dirty needle:
   - make it bleed a little if possible;
   - bathe with spirit of iodine 2½-5% or surgical spirit 70%.

2. Splash in the eye or other mucous membrane:
   - rinse with water, either under the tap or for example with a disposable syringe.

3. In the case of both types of accident:
   - see the doctor or nearest casualty department to find out whether any further precautions are necessary.

6. Cleaning

There are no special cleaning requirements for cells etc., even if the client has HIV/AIDS.

In cells, etc., that are soiled with blood or secretions containing visible blood, the procedures are:

1. Cleaning staff should wear overalls and use disposable rubber gloves (latex in preference to PVC). In the case of large spills on the floor, overshoes should be used.

2. Spilt blood, vomit, stools and similar should be cleaned up immediately or as soon as possible, using cellulose sponge soaked in a suitable disinfectant (e.g. Diversol BX 1%, Tref 1% or some other corresponding chlorine compound).

   The disinfectant must not be mixed with other cleansing agents. Used cellulose sponge should be placed in a plastic bag and disposed of. Once it has been used, the sponge should not be dipped in the disinfectant again.

   (Cellulose sponge should be used in preference to cleaning cloths because it has absorbent properties whereas cloths can drip).

3. After disinfection, when all visible soil has been removed, the overshoes should be discarded. If the staff's overalls have been soiled (for example in the case of massive loss of blood) they should be placed in a plastic bag and sent to the laundry with any other soiled clothing. The plastic bag must not be used again.

   Clothing that can stand it should be washed at a minimum of 80°C. Clothing than cannot stand it (e.g. woollens), should be placed in a separate plastic back and washed at the highest possible temperature. Any blood on the gloves should be removed before cleaning.

4. When all visible soil has been removed using disinfectant, the cell should be washed with normal cleansing agents. After this the disposable gloves should be discarded.

5. The hands should be thoroughly washed.

7. Reporting of accidents, etc., at work

Any accident involving risk of infection for staff should be reported immediately to the administration to have it recorded as an occupational accident.

In order to provide the best possible basis for evaluation of the case as possible occupational injury, in the case of all accidents that involve risk of infection for staff, a blood sample should be taken from the employee as soon as possible after the incident. This should be followed up by further examinations to detect antibodies 1½, 3, 6 and 12 months after the accident.

Furthermore, as soon as possible after the accident a blood sample of the client involved should be taken to determine whether he is a carrier.

In connection with accidents that involve a high risk of infection a report should be produced on the conditions resulting from the accident. In the case of an accident in connection with the use of force, such information appears in the use of force report, the report on placing in a security cell or the use of handcuffs.

The information in these reports does not take the place of reporting to the occupational accident administration.

8. Further information

For further information, we recommend the 4 National Health Board pamphlets of 1988 and 1991:

- Concise HIV guidelines for health staff;
- Psychosocial support in connection with HIV infection and AIDS;
- The AIDS disease and guidelines for the prevention of HIV infection;
- Worth knowing about HIV and AIDS.

These four pamphlets contain guidelines relevant to prison service staff.

Reference is also made to AIDS-nyt (AIDS news) published by the National Health Board (obtainable by subscription) and the special issue "Materialer om AIDS".

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
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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

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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

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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