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**Report to the authorities
of the Kingdom of the Netherlands
on the visit to the Netherlands Antilles
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
from 26 to 30 June 1994**

The authorities of the Kingdom of the Netherlands have agreed to the publication of the CPT's report on its visit to the Netherlands Antilles, together with the response of the Government of Netherlands Antilles.

Strasbourg, 18 January 1996

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Copy of the letter transmitting the CPT's report

Strasbourg, 5 January 1995

Dear Sirs,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the authorities of the Kingdom of the Netherlands drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to the Netherlands Antilles from 26 to 30 June 1994. The report was adopted by the CPT at its twenty-third meeting, held from 28 November to 2 December 1994.

I would draw your attention in particular to paragraph 5 of the report, in which the CPT requests the authorities of the Kingdom of the Netherlands to provide an interim and a follow-up report on action taken upon its report. The CPT would be most grateful if it were possible, in the event of the reports being forwarded in Dutch, for them to be accompanied by an English or French translation.

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

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

Yours faithfully,

Claude NICOLAY
President of the European Committee for
the prevention of torture and inhuman
or degrading treatment or punishment

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FOREWORD

1. In accordance with Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as "the Convention"), a delegation of the CPT visited the Netherlands Antilles from 26 to 30 June 1994¹.

2. The delegation consisted of the following members of the CPT:

- Mrs Nora STAELS-DOMPAS, Second Vice-President of the CPT (Head of the delegation)
- Mrs Pirkko LAHTI
- Mr Stefan TERLEZKI.

The delegation was assisted by:

- Mr James McMANUS, Senior Lecturer in Law at the University of Dundee, United Kingdom (expert)
- Mr Dominique BERTRAND, Head of the Prison Medicine Division at the University Institute of Forensic Medicine in Geneva, Switzerland (expert)
- Mr Stanley BRAAFHEID (interpreter)
- Mrs Esther HUHNS (interpreter)
- Mrs Wilhelmina VISSER (interpreter).

The delegation was also accompanied by the following members of the CPT's Secretariat:

- Mr Trevor STEVENS, Secretary of the CPT
- Mr Fabrice KELLENS.

¹ When ratifying the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, the Kingdom of the Netherlands accepted it for the Kingdom in Europe (i.e. the Netherlands), the Netherlands Antilles and Aruba.

Under the Statute for the Kingdom of the Netherlands, the latter consists of the Netherlands, the Netherlands Antilles and Aruba. The respective competences of the different countries of the Kingdom and of the Kingdom as a whole in the field of fundamental human rights and freedoms are set out in Article 43 of the Statute. The safeguarding of fundamental human rights and freedoms is a "Kingdom affair" (i.e. an affair which is conducted jointly by the countries of the Kingdom). However, the individual countries are charged with the task of promoting the observance of those rights and freedoms. The Kingdom may only intervene if they fail in this duty.

3. The visit to the Netherlands Antilles appeared to the CPT to be required in the circumstances (cf. Article 7, paragraph 1, of the Convention). It was triggered by reports received in recent years containing allegations of the ill-treatment, on occasion severe, of persons arrested by the law enforcement agencies in this part of the Kingdom of the Netherlands.

4. The facts found during the visit are set out in the following pages of this report. The various recommendations, comments and requests for information formulated by the CPT are summarised in Appendix I.

5. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the authorities of the Kingdom of the Netherlands:

i. to provide within six months an interim report giving details of how it is intended to implement the CPT's recommendations and, as the case may be, providing an account of action already taken (NB: the CPT has indicated the urgency of certain of its recommendations);

ii. to provide within twelve months a follow-up report providing a full account of action taken to implement the CPT's recommendations.

The CPT trusts that it will also be possible for the authorities of the Kingdom of the Netherlands to provide in the above-mentioned interim report, reactions to the comments formulated by the CPT as well as replies to the requests for information made.

FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Introduction

6. The delegation visited the following places of detention on the island of Curaçao:

Police establishments

- Barber Police Station
- Punda Police Station
- Rio Canario Police Station
- Criminal Investigation Department, Rio Canario

Prisons

- Koraal Specht Prison

7. In addition to meetings with the officials in charge of the establishments visited, the delegation held consultations with governmental authorities and persons active in the CPT's fields of interest.

A list of the authorities and persons with whom the delegation had talks is set out in Appendix II to this report.

8. The talks held by the delegation with governmental authorities, both at the beginning and at the end of the visit, took place in a spirit of close co-operation. Very fruitful discussions were held with the Minister for Justice, Mr P. J. Atacho, the Attorney General, Mr R. F. Pietersz, and several senior officials.

The delegation also wishes to underline the assistance provided by the liaison officer, Mrs Louise de Bode-Olton of the Bureau of foreign relations, not only during but also before and after the CPT's visit to the Netherlands Antilles.

9. The delegation received a very satisfactory reception from both management and staff in all the establishments visited, including those which had not been notified in advance. The delegation noted that the staff were aware of the possibility of a visit by the CPT and that some of them had at least a basic knowledge of the Committee's mandate.

10. On 30 June 1994, at the end of its visit to the Netherlands Antilles, the CPT's delegation had a meeting with the competent authorities at the Bureau of foreign relations, chaired by the Minister for Justice. At that meeting, the delegation made clear in particular its deep concern about conditions of detention in Koraal Specht Prison. Subsequently, by letter of 10 August 1994 addressed to the Minister for Justice, the delegation highlighted a number of measures which were urgently required to improve conditions of detention in that establishment.

These issues will be dealt with later in the report. However, the CPT wishes to underline from the outset the constructive spirit in which the authorities of the Netherlands Antilles took note of and subsequently reacted to the observations referred to above. The authorities provided a detailed reply to those observations in letters dated 19 and 20 October 1994. Above all, the Committee has noted with satisfaction Departmental Memorandum No. 007194 of 2 October 1994, which addresses almost all the urgent measures recommended at the end of the delegation's visit and in the letter of 10 August 1994.

11. In conclusion, the CPT welcomes the general spirit of co-operation encountered before, during and after the delegation's visit to the Netherlands Antilles, which was in full accordance with Article 3 of the Convention.

B. Police establishments

1. General remarks

12. Anyone suspected of having committed a criminal offence may be held by the police for questioning for a maximum of six hours² (section 41 of the Code of Criminal Procedure or "CCP").

After that period, if the needs of the inquiry so require, persons may be placed in police custody (*inverzekeringstelling*) for a maximum of four days, on the decision of the deputy public prosecutor (*Hulp officier van justitie*), who must inform the public prosecutor (*Officier van justitie*), in writing, within twenty-four hours (CCP, section 38). On the third day of police custody at the latest, suspects must be brought before the public prosecutor, who may extend police custody for up to six days (CCP, section 39).

Suspects may subsequently be made the subject of a remand order (*bevel tot voorlopige aanhouding*), valid for eight days, issued by an examining judge (*Rechter Commissaris*) (CCP, section 67). The remand order may be extended for a further eight days, at the request of the public prosecutor (CCP, section 67).

Within 26 days, the public prosecutor may apply to the court for an imprisonment order (*bevel tot gevangenhouding*), for a period of eight weeks (CCP, section 104). This latter period may be renewed; however, the public prosecutor strives to bring the case to trial within a maximum of 82 days.

It should be added that in order to comply with Article 5, paragraph 3, of the European Convention on Human Rights, the judicial authorities of the Netherlands Antilles have taken steps to ensure that, in practice, the legality of police custody is reviewed by a judge, on the third, or at the latest the fourth, day of custody.

13. According to the legal provisions described above, it would appear that a person suspected of having committed a criminal offence could be held in police custody for up to 10 days. The information gathered during the visit indicates that criminal suspects would normally not spend more than one or two nights in police premises, but that exceptionally periods of police custody up to the maximum of 10 days could occur.

In this connection, it should be stressed that the period of time during which a person suspected of having committed a criminal offence may remain in police (as distinct from prison) premises is of direct relevance to the issue of the prevention of ill-treatment. Prolonged periods of detention of criminal suspects in police premises can lead to high-risk situations.

The CPT therefore recommends that the period of time during which a person suspected of having committed a criminal offence may be detained in police premises be substantially reduced. Of course, this would not necessarily preclude the police from carrying out further questioning of suspects following their departure from police premises.

² The period between 10 pm and 8 am is not taken into account.

14. The Code of Criminal Procedure currently in force in the Netherlands Antilles dates from the early part of the century (PB 1914, No 21, and PB 1918, No 6, as amended). In 1985, a joint Committee began work on a general revision of the Code, and it appears that the process of adopting a new Code, which according to the local authorities is intended to reflect the rules laid down by the Netherlands courts and relevant international treaties, is still under way.

The CPT would like to receive, in due course, the new Code of Criminal Procedure of the Netherlands Antilles.

15. During the visit, the delegation observed that police stations could accommodate not only persons suspected of having committed criminal offences, but also persons detained under the Aliens legislation. The latter were mainly placed in Barber Police Station, situated to the north of Curaçao.

The conditions of detention in Barber Police Station shall be the subject of comments in paragraphs 29 et seq. of the report. However, the CPT wishes to stress from the outset that the material environment and the regime in a police station will often, if not always, be inappropriate for this type of administrative detention (which, it should be remembered, concerns persons who are not suspected of criminal offences and who may have to be detained for prolonged periods). This certainly proved to be the case at Barber Police Station. It should be added that a prison is, by definition, also an unsuitable place in which to detain persons who are neither suspected nor convicted of criminal offences. If it is deemed necessary to deprive persons of their liberty under Aliens legislation, it is by far preferable to accommodate them in centres specifically designed for that purpose.

In the light of the above, and bearing in mind that large numbers of persons are sometimes detained in the Netherlands Antilles under the Aliens legislation, **the CPT recommends that the authorities of the Netherlands Antilles explore the possibility of creating specific centres for such persons, offering material conditions of detention and a regime appropriate to their legal situation.**

2. Torture and other forms of physical ill-treatment

16. The CPT's delegation heard a certain number of allegations of ill-treatment of persons during their arrest or detention by the police. These involved, inter alia, punches and slaps, truncheon blows and the deprivation of food and water during custody at police stations.

In certain rare cases, the delegation heard allegations of very severe ill-treatment amounting to torture. In particular, the CPT would mention the case of a prisoner arrested in August 1993 after an armed bank robbery, who alleged that he had received electric shocks to the penis on two occasions while in police custody.

17. In the course of the visit, the delegation did not meet any persons bearing marks consistent with their allegations of ill-treatment during police custody. However, due to the time which had elapsed between their arrest and the delegation's visit, any marks which might have been caused by the types of ill-treatment alleged would almost certainly have disappeared.

Nonetheless, the delegation consulted the medical records of certain prisoners in Koraal Specht Prison who claimed to have been ill-treated. Although there were no formal reports of injuries, the prisoners did exhibit on arrival in the establishment medical symptoms and signs which could be considered as consistent with the allegations made to the delegation.

18. In this context, it should also be noted that the "Commission of Inquiry into alleged police misconduct", established under Government decree No. 2 of 9 August 1991, which published its report in August 1992, stated that "... it was clear to the Commission that unjustified police violence did occur."

Moreover, in the course of the CPT delegation's discussions with governmental authorities, several persons acknowledged the existence, in recent years, of certain acts which could be described as ill-treatment, while stressing that these were to be considered as isolated errors rather than examples of systematic misconduct.

19. The delegation was informed of the recent establishment of a "Complaints Committee on acts performed by police officers", under a Government decree of 28 January 1994³.

The CPT notes that, in principle, the composition of this Committee ensures its independence and that it enjoys extensive powers, in particular those of requiring members of law enforcement agencies to appear before it and of taking statements under oath.

The CPT welcomes this initiative. Nevertheless, it was generally acknowledged that the Committee's very existence was, for the time being, largely unknown. **The CPT recommends that the general public be duly informed about the Complaints Committee.**

³ The delegation was also made aware of a similar complaints committee set up under Government decree of 12 November 1985, but which, according to information received, had never become operational.

20. In examining the wording of the Government decree establishing the Complaints Committee, the CPT was struck by a significant difference between the text adopted by the Netherlands Antilles Parliament and that published in the Official Journal (*Publicatie-Blad*). In the latter, supplied to the delegation in English, the first paragraph of Article 3 stipulates that "the Complaints Committee has no authority to institute an investigation ... if the action objected to is the result of the general government policy on the preservation of public order." This provision, which would significantly restrict the Committee's terms of reference, does not appear to be included in the text adopted by Parliament.

The CPT would be grateful if the authorities of the Netherlands Antilles could clarify this matter for the Committee.

21. The delegation was also informed of the forthcoming creation of a department specialising in the investigation of offences committed by civil servants (*Landsrecherche*). This body would inter alia have responsibility for inquiring into complaints against police officers. It would report directly to the Attorney General, thereby ensuring its independence *vis-à-vis* the law enforcement agencies.

The CPT has noted this development with interest **and would like to receive, in due course, further information on this new body.**

22. The existence of independent machinery for examining complaints about the treatment received while in police custody is undoubtedly an essential safeguard against ill-treatment. However, several of the delegation's interlocutors stressed that in a small insular community, it was unwise to rely exclusively on complaints from individuals as a means of combatting ill-treatment by the police. Fear of victimisation as well as the continuing need to interact on a regular basis with the police officers involved, could well discourage the lodging of complaints. Consequently, other types of safeguards against ill-treatment should not be overlooked.

23. Later in this report, the CPT shall recommend that certain formal safeguards against ill-treatment, applicable during the phase of police custody (notification of the fact of detention to a third party, access to a lawyer, access to a doctor), be reinforced. However, it goes without saying that appropriate professional training is an essential element of any strategy for the prevention of ill-treatment. Properly trained law enforcement officers will be able to carry out successfully their duties without having to resort to ill-treatment and to cope with the presence of formal safeguards against ill-treatment.

In this respect, the CPT has noted the decision to establish an ambitious training programme for police officers called *Politieaan 2000*, the objectives of which are to improve officers' ability to intervene as social agents and manage crisis situations. The programme, spread over three years, would have a budget of seven million Netherlands Antilles florins.

The CPT welcomes the high priority given to police officers' professional training. It should be added that during its visit to the police academy, the delegation was impressed by the motivation and commitment of those responsible for training.

24. In this regard, the CPT must stress that particular attention should be paid to training in the art of handling, and more especially of speaking to, arrested and detained persons i.e. in interpersonal communication skills. The possession of such skills will often enable police officers to defuse a situation which might otherwise become violent.

The CPT therefore recommends that an aptitude for interpersonal communication be a major factor in the process of recruiting police officers and that considerable emphasis be placed on the acquisition and development of interpersonal communication skills during police training.

It also recommends that the *Politie* 2000 programme be applied not only to new recruits but also to police officers already in service.

Further, the CPT recommends that senior police officers deliver to their subordinates the clear message that ill-treatment is not acceptable and will be the subject of severe sanctions.

25. Moreover, it goes without saying that public prosecutors must respond swiftly and effectively to complaints of ill-treatment and that, where necessary, the courts must impose appropriate sanctions. An awareness that the courts are ready to impose severe penalties could act as a very powerful deterrent.

In this connection, **the CPT would like to receive the following information from the authorities of the Netherlands Antilles:**

- **the number of complaints of ill-treatment by police officers lodged during 1993 and 1994 and the number of criminal/disciplinary proceedings initiated as a result of those complaints;**
- **an account of criminal/disciplinary sanctions imposed during 1993 and 1994 following complaints of ill-treatment by police officers.**

It would also like to receive the results of the inquiry in progress into complaints of ill-treatment made by persons of Venezuelan origin arrested by the law enforcement agencies in August 1993.

26. Finally, the importance of the role to be played by doctors appointed to carry out forensic tasks should also be emphasised. The findings of such doctors will carry considerable weight in legal proceedings; it is therefore essential that they be provided with appropriate training, facilities and safeguards.

In this connection, the CPT recommends that due consideration be given to the requests made by the clinical pathologist in Curaçao, for a protocol regularising her relationship with the Attorney General, for video recording facilities during autopsies and for expert advice to be available to her in appropriate cases.

3. Conditions of detention in the police establishments visited

a. introduction

27. All police cells should be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (ie. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (eg. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and (if appropriate) blankets.

Persons in police custody should be allowed to comply with the needs of nature when necessary in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods (24 hours or more) should, as far as possible, be offered outdoor exercise every day.

b. situation in the establishments visited

28. As already indicated (cf. paragraph 6), the delegation visited four police establishments. With the exception of Rio Canario Police Station, the conditions of detention found in these establishments left a great deal to be desired.

29. Barber Police Station was built some ten years ago and includes a detention area with ten cells. At the time of the visit, seven persons were in custody, each in his own cell. The cells were all identical in layout, measuring approximately 7 m² and equipped with a concrete platform, an asian toilet and shower (the last two being partially partitioned); however, detained persons were provided with neither mattresses nor blankets. Natural light was very limited, though artificial lighting was adequate. Ventilation was clearly defective and the temperature in the cells at the time of the visit was difficult to bear. Further, no call system had been installed, which was a major shortcoming given the distance separating the cells from the administrative building and the absence of staff permanently on duty in the cell area; however, the delegation was informed that the cells were inspected every hour. The absence of an outdoor exercise area at the police station should also be noted. Finally, it should be stated that the cell area as a whole was relatively clean at the time of the visit.

30. Assuming that the use of the cells was restricted to individual occupation, and provided that ventilation was improved and prisoners required to spend the night in custody were supplied with a mattress and blankets, conditions of detention in these cells could be considered acceptable for accommodating persons for relatively brief periods.

However, the delegation found that persons could be held in these premises for prolonged periods and that occupancy rates were sometimes well above the level of individual occupation. A number of the persons being held at the time of the visit had been in custody in the police station for several days, and certain of them for seventeen days. Moreover, an examination of the custody register showed that in the months preceding the visit, the detention area had often been overcrowded. By way of example, one month before the visit, nearly 70 persons had been held there, nearly all of them accommodated seven or eight to a cell. Having regard, in particular, to the size of the cells, such an occupancy rate is totally unacceptable.

31. All the persons detained in Barber Police Station at the time of the visit were being held under the Aliens legislation and the custody register revealed that the vast majority of those detained fell into this category. Those concerned often spent up to a week, and sometimes several weeks, in the station.

They were not offered any form of distraction (communal area, television, books, etc.) and had no opportunity to take outdoor exercise - as a would-be substitute, they were occasionally allowed to walk in the corridor of the detention area. It should also be noted that certain persons whom the delegation met claimed that they had not been informed of the procedure which applied to them. However, they did appear to have access to a telephone and could receive visits, particularly from lawyers.

32. In the light of the foregoing, **the CPT recommends that the authorities of the Netherlands Antilles take immediate steps to ensure that in Barber Police Station:**

- **a maximum of two persons are accommodated overnight per cell;**
- **ventilation in the detention area is improved;**
- **each person required to spend the night in custody is provided with a clean mattress and (if appropriate) blankets;**
- **the cells are equipped with a call system;**
- **persons detained for an extended period are offered outdoor exercise every day.**

It also invites the authorities to improve access to natural light in the cells.

33. As regards, more particularly, persons detained under the Aliens legislation, **the CPT recommends that:**

- **the possibility of offering such persons a minimum activities programme (access to a communal area, television, reading matter, etc.) be explored;**
- **they be provided with an information booklet explaining the procedure applicable to them and setting out their rights; the booklet should be available in the languages most commonly spoken by those concerned and, if necessary, the services of an interpreter should be made available.**

Naturally, the above is without prejudice to the recommendation of a more general nature contained in paragraph 15 of the report.

34. Punda Police Station was located in very old buildings, in the historic centre of the town of Willemstad. Until March 1993, the police station included eight police custody cells and two sobering-up cells⁴.

The sobering-up cells were located in a wing of the building situated some distance from the administrative area, and could only be reached from the outside. The two cells were satisfactory in size (8 to 10 m²), but were extremely sparsely furnished, with simply a concrete platform and a partially partitioned asian toilet. There was no artificial light or call system; further, the two cells were infested by insects, mainly of the cockroach family, and there were traces of rats and other rodents.

Adjacent sanitary facilities appeared to have been converted into a store room.

35. No detainees were being held in the cells at the time of the delegation's visit. The delegation was informed that they were only used in cases of absolute necessity, to accommodate persons who were manifestly drunk and for a period of six to eight hours. Nonetheless, according to one police officer present, shortly before the delegation's visit some ten persons detained under the Aliens legislation had been held in the cells.

In the CPT's opinion, the two sobering-up cells are, in their current state, not suitable for any form of human detention; further, the lack of appropriate supervision is an additional factor making them unsuitable for inebriates.

The CPT therefore recommends that the authorities of the Netherlands Antilles withdraw the sobering-up cells from service (an indication to that effect was made by the delegation at the end of its visit).

36. The Curaçao Criminal Investigation Department (*Recherche*) was located in a modern building. The "general affairs" section contained four cells, which were very limited in size (approximately 3 m²) and furnished only with a small corner seat. The cells had no access to natural light and in three of them the artificial lighting did not work. Moreover, they were very dirty.

Police officers in this section told the delegation that detainees did not generally remain in these cells for more than six hours, although stays of several days could occur in exceptional circumstances. In this regard, it should be noted that one of the two persons in the cells at the time of the visit was starting his second night in custody, sprawled on the floor with no mattress.

⁴ The eight police custody cells were taken out of service on 15 March 1993, on the instructions of the Minister for Justice. This decision followed a judgment of 9 March 1993 of the Netherlands Antilles Court of First Instance, which described conditions in these cells as unfit and unhygienic and hence prohibited their use.

37. Conditions of detention in the cells of both the drugs and juvenile sections were very similar (apart from the artificial lighting, which worked).

Police officers present told the delegation that the drugs and juvenile sections were closed after 11 pm and that detainees who had to remain in police custody overnight were transferred to the neighbouring general affairs section, which operated the department's round-the-clock service.

38. The CPT recommends that the Rio Canario Criminal Investigation Department cells only be used for temporary holding purposes (i.e. detention for a maximum of a few hours), and this subject to the condition that their state of cleanliness is considerably improved and the artificial lighting is repaired. Having regard in particular to their size, they should not be used to accommodate persons who are required to spend the night in custody⁵.

39. The Rio Canario Police Station included a modern detention area built one and a half years ago, but which had never been used. It comprised 19 police custody cells of a satisfactory size and correctly equipped, and two rooms fitted out for visits. According to the officers present, the cells were not yet in service mainly because of defects in the ventilation system and the lack of an exercise yard.

The CPT recommends that steps be taken to bring the Rio Canario Police Station detention area into service as soon as possible.

40. One issue of a general nature which should be raised is that of the provision of food and drink to persons in police custody. The delegation heard allegations from various sources (including the persons in police custody whom it met) that persons detained received little or nothing to eat or drink during their detention.

The staff responsible informed the delegation that meals for persons in police custody were normally supplied by Koraal Specht Prison. It was also possible for meals to be supplied by an outside caterer, in which case the officer in charge had to make use of a "meal voucher".

41. The CPT wishes to recall in this respect that the act of depriving a person of his liberty brings with it the responsibility for ensuring his physical and psychological well-being until such time as his liberty is restored. Among other things, this means that the person must be fed in an appropriate manner.

The CPT recommends that the authorities of the Netherlands Antilles review existing arrangements in order to ensure that persons in police custody receive sufficient food and drink throughout their detention.

42. Finally, **the CPT recommends that appropriate steps be taken to ensure that conditions of detention in all police establishments in the islands of the Netherlands Antilles meet the criteria set out in paragraph 27.**

⁵ It should be noted in this context that the nearby Rio Canario Police Station has a detention area which is quite suitable for accommodating persons held in custody overnight (cf. paragraph 39).

4. Safeguards against the ill-treatment of detained persons

43. The CPT attaches particular importance to three rights for persons detained by the police:
- the right of those concerned to have the fact of their detention notified to a close relative or third party of their choice,
 - the right of access to a lawyer,
 - the right to a medical examination by a doctor of their choice.

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons in detention, which should apply from the very outset of custody (i.e. from the moment when those concerned are obliged to remain with the police).

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

- a. notification to a relative or a third party

45. The Netherlands Antilles CCP does not provide for the right of a person arrested by the police to inform a relative or a third party of his situation. However, certain police officers whom the delegation met stated that, in practice, they did not prevent such persons from informing a relative, if there was no risk of this prejudicing the investigation.

46. The CPT considers that a detainee's right to inform a relative or a third party of his choice of his situation should be expressly guaranteed from the outset of his detention. The exercise of this right may, of course, be subject to certain exceptions designed to protect the interests of justice; however, any such exceptions should be clearly defined.

The CPT therefore recommends to the authorities of the Netherlands Antilles that:

- **persons detained by the police have the right to inform, without delay, a close relative or a third party of their choice of their detention, either directly or through a police officer;**
- **any possibility exceptionally to delay the exercise of this right be clearly circumscribed in law, made subject to appropriate safeguards (e.g. any delay to be recorded in writing together with the reasons therefor and to require the approval of a court or a public prosecutor) and strictly limited in time.**

b. access to a lawyer

47. In the Netherlands Antilles, the right of access to a lawyer applies from the time a person is placed in police custody (Article 50 sexto). However, there is no right of access during the initial period (six hours) of detention for questioning by the police (cf. paragraph 12).

48. In this connection, the CPT wishes to stress that the period immediately following deprivation of liberty is when the risk of intimidation and ill-treatment is greatest. It therefore considers it essential that detainees should be entitled to have access to a lawyer from the very outset of their detention.

The CPT recommends that persons detained by the police be entitled to have access to a lawyer from the very outset of their detention. This right should include the right to contact the lawyer and to be visited by him (in both cases under conditions guaranteeing the confidentiality of their discussions) and, in principle, the right of the person concerned to have the lawyer present during interrogation.

49. The CPT has also noted that Article 50 sexto (paragraph 2) of the CCP authorises the public prosecutor or the examining judge to prohibit or restrict contacts between a detained person and a lawyer and, in particular, to withhold authorisation for private consultations. Reasons must be given for the decision. Such prohibitions or restrictions may not be applied beyond the time which is necessary and may in no circumstances exceed six days.

50. The CPT has reservations about this provision. It recognises that it may exceptionally be appropriate, for a certain period, to delay (or restrict) a detained person's access to a lawyer of his choice, in order to protect the interests of justice. However, it fails to understand why a measure of this kind should apply to access to any lawyer (and also, therefore, to an officially appointed lawyer).

The CPT recommends that steps be taken to ensure that every person detained by the police has the right to consult in private with a lawyer (where necessary, an officially appointed lawyer), without delay.

51. Finally, according to information gathered by the delegation during its visit, it appears that notwithstanding the above-mentioned Article 50 sexto, it is quite common for persons detained by the police to speak for the first time with a lawyer only after their arrival in Koraal Specht Prison (and on occasion only just before their trial), especially if the lawyer has been officially appointed.

The CPT would welcome the comments of the authorities of the Netherlands Antilles on this subject.

c. access to a doctor

52. Under existing legislation, persons detained by the police in the Netherlands Antilles are not entitled to be seen by a doctor. However, police officers whom the delegation met said that, in practice, they did not hesitate to call in police doctors⁶, if the person concerned so requested or if they considered that the person's state of health justified it.

Regarding a detained person's right to be examined by a doctor of his choice, the officers indicated to the delegation that such examinations were possible, following an examination by the police doctor.

53. **The CPT recommends that specific legal provisions be adopted on the subject of the right of persons detained by the police to have access to a doctor. Those provisions should stipulate in particular that:**

- **detained persons are entitled to be examined, if they so wish, by a doctor of their choice (in addition to any examination carried out by a doctor called by the police);**
- **all medical examinations are to be conducted out of the hearing and - unless the doctor concerned requests otherwise - out of the sight of police officers;**
- **the results of every examination, as well as any relevant statements by the detainee and the doctor's conclusions, are to be recorded in writing by the doctor and made available to the detainee and his lawyer.**

d. information on rights

54. The CPT has already indicated the importance it attaches to persons detained by the police being expressly informed, without delay and in a language they understand, of all their rights, including those referred to in paragraphs 43 to 53 above.

In order to ensure that persons in police custody are duly informed of all their rights, **the CPT recommends that a form setting out those rights be systematically given to persons detained, at the outset of their custody. This form should be available in an appropriate range of languages. Further, the detained person should be asked to sign a statement attesting that he has been informed of his rights (cf. paragraph 60).**

⁶ Namely, the two general practitioners working part-time at Koraal Specht Prison.

e. conduct of interrogations

55. According to the Netherlands Antilles CCP, "inappropriate measures to extort confessions or statements are not authorised ...; ... confessions and statements made following such conduct shall not be admitted by the courts" (section 93). Police officers met by the delegation stated that they had not received any more detailed instructions on the conduct of interrogations.

Although the art of questioning criminal suspects will always be based in large measure on experience, the CPT considers that formal guidelines should exist on a number of specific points. The existence of such guidelines would, inter alia, help to underpin the lessons taught during police training.

56. **The CPT therefore recommends that the Netherlands Antilles authorities draw up a code of practice for interrogations.** The code should deal inter alia with the following: the systematic informing of the detainee of the identity (name and/or number) of those present at the interrogation; the permissible length of an interrogation; rest periods between interrogations and breaks during an interrogation; places in which interrogations may take place; whether the detainee may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol, medicine, or who are in a state of shock. It should also be required that a record be systematically kept of the time at which interrogations start and end, of the persons present during each interrogation and of any request made by the detainee during the interrogation.

The position of specifically vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be the subject of specific safeguards.

57. The CPT considers that the electronic recording of interrogations represents another important safeguard for those in custody, as well as offering advantages for the police. According to information received by the delegation, such a system was not currently used in the Netherlands Antilles.

The CPT invites the authorities of the Netherlands Antilles to consider the possibility of introducing a system for the electronic recording of police interrogations. The system should offer all appropriate safeguards (for example, the consent of the detainee and the use of two tapes, one of which would be sealed in the presence of the detainee and the other used as a working copy).

58. Finally, it has already been indicated that the period between 10 pm and 8 am is not taken into account in calculating the period of six hours during which a suspect may be held for questioning by the police (cf. paragraph 12).

The CPT would like to know whether persons detained may nevertheless be questioned between 10 pm and 8 am.

f. custody records

59. The CPT's delegation noted that certain aspects of detention by the police were recorded in the arrest forms and interview records and others in *ad hoc* registers. The delegation's observations in the establishments visited showed that the quantity and quality of the information in these forms, records and registers varied.

60. In this respect, the CPT considers that the fundamental safeguards of detained persons would be reinforced if a single and comprehensive custody record were to be kept for each person detained, in which would be recorded all aspects of his custody and all the action taken in connection with it: time of and reason(s) for the arrest; when informed of rights; signs of injury, mental disorder etc; contacts with and/or visits from next of kin, lawyer, doctor or consular official; when offered food; when questioned; when brought before the relevant judge, when released, etc. For certain matters (for example, personal effects removed, the fact of being informed of his rights and of invoking or waiving them), the detainee's signature should be obtained and, if necessary, the absence of a signature explained. The detainee's lawyer should have access to such a custody record.

The CPT recommends that the authorities of the Netherlands Antilles consider the possibility of drawing up such an individualised custody record.

g. supervision by the prosecuting/judicial authorities

61. Public prosecutors are responsible for supervising the criminal investigation department of the police in the Netherlands Antilles. In this connection, the CPT considers that regular visits to places of detention by prosecuting or judicial authorities could have a significant effect in terms of preventing ill-treatment.

The CPT would therefore like to know whether on-the-spot supervision of the implementation of custodial measures is undertaken by such authorities.

h. persons detained under the Aliens legislation

62. As already indicated, police stations in the Netherlands Antilles accommodated, among others, persons detained under the Aliens legislation. **The CPT wishes to stress that the recommendations in this section of the report also apply to such persons.**

63. **The CPT would also like to receive information on the formal safeguards and practical arrangements which exist in order to ensure that foreign nationals are not sent to a country where they run a risk of being subjected to torture or inhuman or degrading treatment or punishment.**

C. Prisons

1. General remarks

64. As already indicated (paragraph 6), the CPT's delegation visited Koraal Specht Prison, which is the largest prison in the Netherlands Antilles⁷. It is situated in an isolated location, in the south-east of Curaçao, and has received prisoners since 1960. Initially, the prison had a total capacity of 198, but at the time of the visit was holding nearly 500 inmates.

The establishment accommodated, in separate buildings, nearly 400 men, some 30 women and approximately 80 minors. The prisoners were classified as follows: approximately 220 serving long sentences (eight months or more), some 20 serving short sentences (under eight months) and approximately 250 on remand. The prison population included about 80 foreigners of some 20 different nationalities.

Recent works had been carried out in the prison, leading to the opening of a psychiatric and forensic observation department (FOBA), with about 30 places, and a new building (*Nieuw Bouw*), with about 130 places, designed to accommodate convicted prisoners serving short sentences.

65. The conditions of detention in Koraal Specht Prison will be described in detail later in the report. However, it must be stated at the outset that the establishment displayed a pernicious combination of overcrowding, a regime which offered very few activities and a poor level of cleanliness and hygiene. These three problems were compounded by the generally run-down state of the establishment. **To subject prisoners to such conditions of detention amounts, in the CPT's opinion, to inhuman and degrading treatment.**

This situation led the CPT's delegation to send a letter on 10 August 1994 to the Minister for Justice, setting out a certain number of urgent measures necessary to improve conditions of detention in the establishment (cf. paragraph 10).

66. During the delegation's consultations with the Minister for Justice, the Minister acknowledged that the situation in the prison was far from ideal. He also indicated that one of the first measures taken by his department was the opening of a 96 place semi-open unit for men⁸, designed to combat the high level of overcrowding in the prison and to introduce genuine rehabilitation programmes for prisoners. The delegation was also informed of the creation of several working groups with responsibility for resolving the prison-related problems in the Netherlands Antilles. These measures were accompanied by an audit of Koraal Specht Prison, undertaken at the request of the Netherlands Antilles authorities by a temporarily seconded official of the Netherlands Ministry of Justice. **The CPT would like to receive a copy of this audit.**

⁷ There are also prisons in Bonaire and St Maarten.

⁸ According to information received by the CPT from the Minister for Justice on 19 October 1994, the semi-open unit opened a few days after the delegation's departure.

2. Torture and other forms of physical ill-treatment

67. The CPT's delegation heard no allegations of torture of persons detained in Koraal Specht Prison; nor was any other evidence of such treatment found by the delegation during the visit.

However, it did hear some allegations that prisoners undergoing punishment received blows and insults during the transfer from their cells to the disciplinary unit. **The CPT recommends that the relevant authorities of the Ministry of Justice and the Governor of Koraal Specht Prison deliver the clear message that the ill-treatment of prisoners is unacceptable and will be severely punished.**

68. It should also be added that the general atmosphere observed by the delegation during its visit to Koraal Specht Prison was fairly tense, apparently the consequence of, on the one hand, the poor conditions of detention and, on the other, the failure of the staff to show sufficient motivation and commitment (there was a particularly high level of absenteeism, sometimes bordering 25%) and difficulties at the level of the prison management (cf. paragraph 103).

69. Regarding the other establishments in the Netherlands Antilles, the delegation was informed during its visit that the St Maarten public prosecutor had opened an inquiry into allegations of physical ill-treatment made by prisoners at Pointe-Blanche Prison.

The CPT would like to be informed, in due course, of the results of this inquiry, and to receive details of any criminal or disciplinary proceedings instituted following the inquiry and of any sanctions imposed.

70. More generally, **the CPT would like to receive from the authorities of the Netherlands Antilles, for the years 1993 and 1994:**

- **information on the number of complaints of ill-treatment lodged against prison officers. Similarly, the CPT would like to receive the same information in respect of the staff of the government reformatory (GOG);**
- **an account of any sanctions imposed following complaints of ill-treatment by prison officers or the staff of the GOG.**

3. Conditions of detention in Koraal Specht Prison

71. As indicated above (cf. paragraph 65), conditions of detention in the prison were unacceptable, in terms of both material aspects and available activities. The situation was particularly serious in the remand section, but also left much to be desired in several other parts of the establishment (the new detention unit known as the *Nieuw Bouw*, the sentenced prisoners' section, the former remand section known as *HvB oud* and the minor's section). Detention conditions in the women's section were somewhat better but still far from satisfactory.

a. material conditions of detention, activities and food

i. *material conditions of detention*

72. The remand section comprised 18 single and 3 multi-occupancy cells. The latter measured approximately 22 m² and, when the prison came into service in 1960, had had a capacity of five places. At the time of the visit, however, they were intended to accommodate up to twelve persons. The CPT wishes to stress from the outset that the cells are too small for such an occupancy level.

The cells occupied two floors and all looked out onto an open-air courtyard. At the time of the visit, 60 prisoners were being held in the remand section, 18 in the single cells and 14 in each of the multi-occupancy cells⁹. However, prisoners claimed that a few days earlier the multi-occupancy cells had each accommodated about twenty, or even more, persons; and this was confirmed by staff. Such a situation is clearly totally unacceptable.

The multi-occupancy cells were fitted with 12 beds (i.e. four three-tier beds). At the time of the visit, each bed was equipped with a mattress. However, the prisoners claimed that these mattresses had only been distributed two days earlier, that is on the very day of the delegation's arrival in Curaçao. Apart from the beds, there were no other items of furniture - be it a table, chair or cupboard. At the end of each cell, there was an asian toilet and a shower, partly hidden from view by a low wall and, sometimes, a makeshift curtain. The artificial lighting and natural light in this part of the cell were poor and the ventilation almost non-existent. The side of each cell which looked out onto the courtyard was made up of a large iron grill, which gave the cells the appearance of cages.

The situation in the single cells was somewhat better. Each measured about 8 m² - sufficient for one person - and was equipped with a bed (with a mattress) and a combined asian toilet/shower unit.

The sanitary facilities, walls, beds and everything else, in both the multi-occupancy and single cells, were in general in a very poor state of repair and very dirty. Moreover, the delegation observed that the cells were infested by hosts of cockroaches and similar insects, and the prisoners claimed that at night the cells were invaded by rats¹⁰.

⁹ Two prisoners in each of the multi-occupancy cells were sleeping on the floor.

¹⁰ In several sections of the prison, inmates had taken preventive action by blocking the outlet of the toilet and covering the spaces between the bars overlooking the courtyard with cardboard.

73. The new detention unit, known as the *Nieuw Bouw*, comprised 43 cells, in principle intended for triple occupancy. Unfortunately, their size (approximately 8 m²) made them quite inadequate for such an occupancy level. Originally designed to accommodate prisoners serving short sentences, they also accommodated remand prisoners. The cells occupied two floors and all looked out onto an open-air courtyard.

The cells contained three superposed beds, equipped with mattresses, and a combined asian toilet/shower unit. In general, they were furnished with a small table and two chairs and, occasionally, a small set of shelves. Some of the cells and their furniture were in a very poor state of repair.

At the time of the delegation's visit, certain cells accommodated four prisoners, with the additional occupant sleeping on a mattress on the floor. It would appear that these mattresses had been supplied the day before the visit.

74. The sentenced prisoners' section had a maximum capacity of 146 prisoners¹¹, and at the time of the visit was accommodating 132 prisoners. As in the other sections, the cells occupied two floors and looked out onto a large courtyard. Once again, the multi-occupancy cells were too small for their intended levels of occupancy. Their fittings resembled those described earlier in every respect, as did their poor state of repair.

75. The former remand section, known as *HvB oud*, had a total capacity of 94 places¹² and was accommodating 90 prisoners at the time of the visit. It had been converted into a second section for sentenced prisoners and had the same general layout as the other sections. The fittings and the state of the cells resembled those of the previously described sections.

76. The minors' section was located at one end of the prison, next to the chapel. It had a capacity of 28 places, all of which were occupied at the time of the visit. Its single cells were adequate in size (a little over 8 m²), but were sparsely equipped, with a bed and mattress, and a combined asian toilet/shower unit in a very poor state of repair.

77. The women's section was situated on the very edge of the establishment's security perimeter. It had a total capacity of 50 places¹³ and at the time of the visit accommodated 33 prisoners. Unlike the men's sections, the women's section was not overcrowded and its general state of cleanliness was relatively satisfactory. However, it should be noted that it was situated at ground level and that the cells were grouped around a covered courtyard. As a result, they received little natural light (which penetrated through holes made in the building's roof) and were poorly ventilated.

¹¹ Sixteen single cells, four cells accommodating 7 and eight cells accommodating 12 prisoners, four special cells for those serving life sentences and two solitary confinement cells.

¹² Ten single cells, two accommodating 6 and six accommodating 12 prisoners.

¹³ Seven triple occupancy cells, one cell accommodating 6, two cells accommodating 7 and one cell accommodating 9 prisoners.

78. The delegation observed that it was difficult to maintain even a minimum standard of individual and collective hygiene in the different parts of the prison. There were several reasons for this: the showers and toilets were often in a deplorable state and the water supply was unpredictable; prisoners received very little soap and were not given towels; they often lacked sheets and pillows, which were not supplied by the prison; it was very difficult to wash clothes, because of the poor state of the washbasins located in the middle of the courtyards, and there was no guaranteed supply of water and soap. Finally, only very limited equipment and materials were made available for cleaning cells.

79. The situation was on occasion better in the individual cells, particularly those occupied by long-term prisoners. However, for the great majority of prisoners, the material conditions of detention could justifiably be described as sordid. This observation applies above all to persons held in the remand section and the new detention unit, and in the multi-occupancy cells in the rest of the establishment.

ii. activities

80. The establishment's normal programme - which was the same in all the men's sections - allowed freedom of movement within each section for seven and a half hours each day. Female prisoners enjoyed the same freedom of movement, but throughout the whole of the day (it being understood that it took place entirely in a covered area).

Nevertheless, according to prisoners' allegations and the delegation's own observations, it appeared that prisoners were not always allowed the amount of time outside their cells foreseen in the programme. On occasion, prisoners such as minors and those on remand remained locked in their cells all day, because there were no prison officers on hand to open and lock cells and to supervise prisoners. It appeared that this was particularly likely to occur at weekends and on public holidays, as well as the day after pay-day (see also paragraph 103).

81. Activities programmes in the real sense were very limited. The great majority of prisoners lived in enforced idleness, spending their time outside the cell wandering around the courtyard or watching the television. Most of the yards were equipped with a table-tennis table, but without bats and balls. Material conditions in the courtyard of the remand section were particularly poor.

82. The delegation found evidence in the establishment's employment register for June 1994 of 185 paid jobs. However, the number of posts filled each day varied. Prisoners were offered various forms of employment:

- about thirty men and fifteen women worked outside the prison;
- several workshops were located at the prison site (offering car maintenance, pottery, ironwork, etc.);
- other job opportunities were available inside the prison (maintenance and cleaning, canteen, library, kitchen work, etc.).

83. Outdoor sports areas had been laid out in certain parts of the prison, for example the *Nieuw Bouw* and the sentenced prisoners' section. However, this consisted simply of marking out the boundaries of the pitch in the yard. Other basic equipment, such as balls or nets, was not provided. Moreover, during the three days of the visit, the delegation saw no signs of any sports activities.

However, the prison did have a covered sports hall, comprising a weight training room and a gymnasium, both of which were correctly equipped. The delegation was informed that some sixty prisoners used the sports hall every day. Nevertheless, the staff in charge indicated that access to the sports hall was frequently suspended because of a shortage of supervisory staff and that, in any case, remand prisoners were not allowed to use it.

84. Educational activities appeared to be restricted to minors, four of whom received lessons once a week in the chapel.

iii. food

85. The delegation heard countless complaints about the prison food, relating both to meal-times and to the quality and quantity of food provided.

86. Meals were scheduled three times a day: breakfast at 7.30 am, consisting of a piece of bread with cheese or meat and tea or coffee; lunch at about midday, consisting of rice and a piece of meat, generally chicken, and sometimes vegetables; and "dinner", which was identical to breakfast.

87. From the delegation's on-the-spot observations, it was clear that the meal times were quite inappropriate - prisoners were given nothing to eat or drink between 4 pm, when dinner was served, and 7.30 am. In addition, the food was inadequate in terms of both quantity and quality and there was no variety whatsoever. Attention should also be drawn to the erratic way in which the food was distributed, which the delegation observed in the presence of the Prison Governor. The food was served by prisoners, generally unsupervised by staff, with the apparent result that on occasion certain prisoners received nothing at all to eat.

As already indicated, there also appeared to be difficulties with the establishment's water supply (a problem found elsewhere on the island).

88. The delegation also noted a general absence of plates, cutlery and cups. The prisoners ate their lunch from the container which was intended to keep it hot. The more fortunate among them had a plastic spoon and beaker at their disposal. Other prisoners ate with their fingers and drank from re-used bottles.

89. Finally, a detailed inspection of the kitchen showed that it failed to meet many of the conditions required for the preparation of large numbers of meals - too small a surface area, no ventilation system, unlit and unventilated food stores, two very small cold stores, practically no provision for draining water from the kitchen floor, etc. One of the kitchen assistants informed the delegation that the kitchen had been closed the previous year for three months, by order of a public health inspector.

iv. prisoners serving life sentences

90. Particular attention should be drawn to the situation of prisoners serving life sentences in the Netherlands Antilles. Under section 53 of decree No. 18 of 1958, "prisoners serving life sentences shall be placed in specially designated facilities and shall have no contact with other prisoners".

The sentenced prisoners' section (cf. paragraph 74) contained a special unit for such prisoners. It consisted of four individual cells of a satisfactory size (8 m²), and, in front of the cells, a common exercise area completely surrounded by bars, measuring approximately 30 m². The cells were properly fitted out, with a bed, mattress, cupboard, table, chair and an asian toilet/shower unit; however, as in other parts of the establishment, the state of the sanitary facilities left much to be desired.

91. The cell doors remained open during the day (7 am to 6 pm), but in principle the four prisoners concerned never left the unit, other than to take delivery of their meals or objects ordered from the canteen. On rare occasions, they could leave their unit and watch television in a corner of the courtyard of the sentenced prisoners' section. They were not offered any work or any other form of activity (for example, educational) within the unit. However, following a decision of the prison management, two of them worked in the establishment's kitchen. The remaining two spent their days reading, listening to the radio or playing board games with other inmates of the sentenced prisoners' section, through the bars separating the unit from the rest of the section.

92. To summarise, even though from a material point of view these four prisoners could be considered to have a privileged status within the sentenced prisoners' section, the regime to which they were subject was very restrictive. The lack of physical mobility was particularly striking. Having regard, *inter alia*, to the length and indeterminate nature of their sentences, the conditions of detention of the prisoners in the life-sentences unit, particularly those who did not work, **could be considered to be inhuman**; they involved an appreciable risk of deterioration of the mental state of those prisoners and effects of a psychosomatic nature.

v. *action proposed*

93. In its letter of 10 August 1994 (cf. paragraphs 10 and 65), the CPT delegation set out a certain number of urgent measures which were required. These measures concerned in particular the need to comply with the maximum capacities stipulated for the remand and *Nieuw Bouw* sections, the state of hygiene in the cells and the problem of rat and cockroach infestation, meal times and the quantity of food provided.

The CPT welcomes the measures taken by the authorities of the Netherlands Antilles, as set out in Departmental Memorandum No 007194; as already indicated, these meet the great majority of the points raised in the delegation's letter. However, the CPT wishes to reiterate that all prisoners in the establishment (including those placed in a punishment cell) must be supplied with a mattress at night. The memorandum contains no specific instructions on this point; **the CPT recommends that it be amended accordingly.**

The CPT also wishes to stress that, in contrast to what is indicated in the above Departmental Memorandum, the water supply problem did not appear to be confined to the *Nieuw Bouw* section.

94. Clearly, given the gravity of the situation which the delegation found, the above-mentioned measures can only be considered as short-term palliatives; major improvements (including, possibly, new buildings) will be required to make the situation acceptable. The priority of priorities must be - through one means or another - to reduce significantly the current level of overcrowding in Koraal Specht Prison. If this is not achieved, attempts to improve the conditions of detention of persons imprisoned in Curaçao will inevitably founder.

95. It has already been emphasised in this report, and in the letter of 10 August 1994, that the maximum capacities of the multi-occupancy cells at the time of the visit were unacceptable. For example, multi-occupancy cells measuring in the order of 22-24 m² (such as those seen in the sentenced prisoners', *HvB oud* and remand sections) should not accommodate more than half a dozen prisoners, while cells measuring 8 m² (as in the *Nieuw Bouw* section) should ideally accommodate one prisoner, and at the most, two.

The CPT welcomes the recent entry into force of the 96 place semi-open unit at Koraal Specht (cf. paragraph 66), which should alleviate the situation somewhat. **It recommends that the authorities of the Netherlands Antilles continue to give a very high priority to measures aimed at reducing overcrowding in Koraal Specht Prison, having regard to the remarks made above.**

96. **The CPT also recommends that vigorous steps be taken to improve significantly the overall state of repair of the detention areas (including the sanitary facilities) and to provide every prisoner with appropriate furnishings (table, chair and cupboard). It also recommends that more attention be accorded to the supply of bedding (sheets and pillows) and to personal hygiene products (soap, etc.).**

97. As regards the regime, the CPT welcomes the decision taken by the authorities of the Netherlands Antilles, following the letter of 10 August 1994, to give every prisoner, including those on remand, the opportunity to participate in sports activities at least once a week.

More generally, **the CPT recommends that a thorough examination of ways of improving the activities programmes in Koraal Specht Prison be undertaken without delay, and that fuller programmes be progressively introduced as overcrowding is reduced.**

The objective should be to ensure that all prisoners, including those on remand, are able to spend a reasonable part of the day (eight hours or more) outside their cells, engaged in purposeful activity of a varied nature (work, preferably with a vocational value; education; sport; recreation/association).

98. **The CPT recommends that immediate steps be taken to ensure that:**

- **female prisoners enjoy proper outdoor exercise at least once a day;**
- **all prisoners in the life-sentences unit are offered stimulating activities of a varied nature (work, education and sport) and that they have access for at least one hour every day to a space which allows them to undertake proper physical exercise.**

99. The CPT welcomes the fact that young prisoners aged 16 to 18 are now strictly separated from adult prisoners. It has also taken note of the commitment of the Netherlands Antilles authorities to build a new custody unit for juveniles. **The CPT would like to receive further information on this project (date of entry into service, capacity, detention regime, etc.).**

In this respect, **it wishes to stress that young persons in custody should be provided with a full programme of educational, recreational and other purposeful activities. Physical education should constitute a significant element of that regime. Moreover, the staff assigned to units accommodating juveniles should be carefully selected and, more specifically, be persons capable of guiding and motivating young people.**

100. Finally, with regard to food, the CPT has noted with satisfaction that, following its letter of 10 August 1994, the meal times in Koraal Specht Prison have been modified and that dinner is now served at 5 pm. However, it must reiterate **that the amount of food provided to prisoners should be increased (it is not sufficient to offer them an additional bread roll).**

Further, it recommends that greater attention be paid to the quality and variety of the food, to supervising its distribution and to providing prisoners with utensils, in the light of the remarks made in paragraphs 87-88 of the report.

The CPT also recommends that the prison's kitchen facilities be reviewed, in the light of the comments made in paragraph 89.

b. prison staff

101. The CPT wishes to stress the great importance it attaches to prison staff having the right qualities and suitable training. There can be no better safeguard against ill-treatment than a properly recruited and trained prison officer, who knows how to adopt the appropriate attitude in his relations with prisoners. Advanced professional skills in communication techniques are an essential element in the make-up of such a prison officer. Such skills will often enable officers to defuse situations which could degenerate into violence. More generally, they will help to reduce tensions and improve the quality of life in the establishment concerned, to everyone's benefit.

102. In this context, the CPT has noted with interest the existence of a booklet entitled "*Opleidingsplan voor het personeel van de penitentiare inrichtingen op de Nederlandse Antillen*", a copy of which was given to the delegation during the visit. It provides, in principle, for a four-month period of basic training for prison staff, followed by six months induction training.

Nevertheless, the delegation heard from various official sources - including governmental - that considerable progress still had to be made in the area of staff training. The delegation's own on-site observations only served to confirm this view.

The Netherlands Antilles Minister for Justice informed the delegation that one of the principal objectives of the policy on prisons was to achieve a qualitative improvement in prison staff. **The CPT would like to receive information on projects in this field.**

Further, **the CPT wishes to reiterate the recommendation made in paragraph 24 (second sub-paragraph) of this report, which applies equally to prison staff.**

103. In recent years, the management of Koraal Specht Prison had experienced significant uncertainties, and at the time of the visit the situation had clearly not yet fully stabilised.

The CPT considers that only a formally appointed and full-time governor, possessing the necessary authority, competence and experience and supported by a closely-knit team, would be in a position to instill the right tone and atmosphere into the establishment and be sufficiently motivated to develop policies and plans for the future. In the absence of real management, the establishment will tend to drift. Such an environment is a propitious one for the growth of undesirable practices.

The CPT recommends that the Netherlands Antilles authorities provide the prison with a management team possessing the above-mentioned qualities.

One of that team's first priorities should be to take effective steps to combat staff absenteeism (cf. paragraph 80).

c. contact with the outside world

104. It is very important for prisoners to be able to maintain good contact with the outside world. Above all, they must be given the opportunity to safeguard their relations with their family and friends, and especially with their spouse or partner and children. The continuation of such relations can be of critical importance for all concerned, particularly in the context of prisoners' social rehabilitation. The guiding principle should be to promote contact with the outside world; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature or considerations linked to available resources. This is in line with a number of recommendations in the 1987 European Prison Rules, particularly rule 43, sub-paragraph 1 and rule 65, point c.

105. The Koraal Specht Prison regulations (sections 14-20) allow remand prisoners to receive **visits** from their families and friends once a week, subject to the prior approval of the examining judge or public prosecutor, and sentenced prisoners once a fortnight.

The regulations provide for visits to last for either three or two hours, depending on whether they take place in the morning or the afternoon. In practice, however, these rules do not appear to be applied. The delegation was informed that, following proceedings initiated by a group of prisoners in 1991 before the Curaçao urgent applications judge, all prisoners had been granted the right to a weekly visit of up to thirty minutes.

The CPT would like to receive detailed information from the authorities of the Netherlands Antilles on the precise arrangements for visits at Koraal Specht Prison.

106. Visits took place in six individual visiting rooms fitted with a separation screen and a speaking grill. The rooms were rather small and the speaking grills did not appear to permit normal conversation. Rather than attempting to rectify these specific defects, **the CPT invites the authorities of the Netherlands Antilles to undertake a complete review of the visiting facilities, with a view to establishing more open arrangements for ordinary visits.** The individual visiting rooms currently used in Koraal Specht Prison do not promote the maintenance of good relations between prisoners and their families and friends.

Visiting rooms such as those currently in use could, of course, remain in service for certain categories of prisoner (eg. remand prisoners, at the request of the examining judge; prisoners who are strongly suspected of planning to escape or of being involved in trafficking inside the establishment).

107. Renovation work was under way in the six individual visiting rooms, involving in particular the installation of a listening system for surveillance staff. In this respect, **the CPT wishes to stress the need to preserve the confidentiality of consultations between prisoners and their lawyers.**

108. The prison's regulations make no provision for the use of **telephones** by prisoners. In practice, however, it appears that prisoners who are resident in the island can make calls once a week and foreign nationals once a month. Calls are apparently limited to about ten minutes and are monitored by staff.

109. Finally, under sections 11-13 of the regulations, every prisoner can send and receive **correspondence**; the number of outgoing letters is limited to two per week for island residents and to three per week for foreign nationals. Prisoners' correspondence is subject to censorship - by the prison governor, in the case of sentenced prisoners, and the judicial authorities, in the case of remand prisoners.

110. **The CPT wishes to stress the need for a certain flexibility when applying the rules on visits, telephone contacts and correspondence to prisoners whose families live very far from the establishment, thus making regular visits very difficult if not impossible.** For example, such prisoners could be authorised to combine several visit entitlements into one longer session, be given more opportunities to have telephone contacts with their families and not be subject to restrictions on the number of letters they can send.

d. discipline

111. The rules governing disciplinary matters in the prison are contained in a number of documents¹⁴.

These regulations still provide for certain archaic disciplinary sanctions which could certainly be described as unacceptable, in particular:

- placement in a punishment cell for up to four weeks, with normal meals or only bread and water on alternate days;
- placement in irons for a period of eight consecutive days or on alternate days for fifteen days.

Moreover, an examination of the prison's disciplinary register revealed that placements in the punishment cell, with only bread and water on alternate days, was still current practice.

The CPT recommends that the authorities of the Netherlands Antilles take immediate steps to prohibit the placement of prisoners in punishment cells on a bread and water regime, as well as the use of irons.

112. As regards the procedure, it is stipulated that prisoners must be heard before any disciplinary sanction is imposed (section 23, PB 1930, No. 73). However, discussions with prisoners and staff revealed that a prisoner could be placed in a punishment cell for several days before being brought before a member of the prison management. Further, entries in the disciplinary register suggested that in a small number of cases, prisoners had spent time in such a cell and then been released without even seeing a member of the management.

¹⁴ In particular, the order on the principles governing prison affairs (PB 1930, No. 73, sections 22-23), the government decree on prison administration (PB 1958, No. 18) and the Koraal Specht Prison internal regulations of 4 June 1965.

The CPT recommends that steps be taken to ensure that the Prison Governor is immediately informed of any placement of a prisoner in a punishment cell and that a decision on the case is taken within 24 hours. That decision should be communicated to the prisoner in writing.

The CPT also recommends that the disciplinary procedure guarantee the right of prisoners to appeal to a higher authority against any sanction imposed.

113. The material conditions observed in the men's disciplinary unit left a great deal to be desired. The unit comprised five ground floor cells; five additional cells were under construction on the first floor. Each cell was of a satisfactory size (about 11 m²) and fitted with a concrete platform with a mattress, an asian toilet and a shower. However, the latter facilities were in a very poor state of repair. Moreover, the cells had no direct access to natural light and the artificial lighting was poor. The four openings over the toilet and the six above the solid door of each cell - which remained shut throughout the day despite the existence of a second door made of steel bars - did not provide adequate ventilation. Further, the cells did not have a call system and there were no members of staff permanently present in the disciplinary unit. Finally, the cells were all very dirty, and one of them was even partly covered with excrement.

The CPT recommends that significant improvements be made to the material conditions (general state of repair and cleanliness, lighting, ventilation and call system) in the prison's punishment cells, having regard to the above comments.

Moreover, it would be desirable for the improvements to include the installation of a table and chair in each cell, if necessary fixed to the floor.

114. Placement in a punishment cell was normally accompanied by other restrictions, concerning reading matter, visits, correspondence, etc. In this context, **the CPT recommends that all prisoners in punishment cells have access to reading matter.**

Several prisoners also alleged that during their stay in the punishment cells they did not receive the medicines which had been prescribed to them. During the visit to the unit, one asthmatic prisoner alleged that he had not been able to keep with him his Ventolin aerosol. This matter was raised with the member of staff on duty, and the aerosol was subsequently made available. **The CPT recommends that steps be taken to ensure that such situations do not recur.**

115. It also became apparent that prisoners in the disciplinary unit did not benefit from genuine outdoor exercise. When they left their cells, it was to wander about in the narrow corridor of the disciplinary unit, without going out into the open.

This issue was raised by the CPT's delegation, particularly in its letter of 10 August 1994, and the CPT welcomes the decision of the Netherlands Antilles authorities' to allow prisoners in the disciplinary unit at least one hour of outdoor exercise a day.

116. Finally, the delegation met one extremely disturbed and violent prisoner in the men's disciplinary unit. After a short interruption, the prisoner was starting to serve another fourteen days sanction in a punishment cell. According to information gathered by the delegation on the spot, this prisoner had frequently displayed such paroxysmal disturbances in the past and had already been treated in the psychiatric and forensic observation department (FOBA).

The delegation's medical expert considered that this prisoner should not be in the disciplinary unit and that he required urgent treatment. At the end of the visit, the delegation requested that the prisoner be seen by the psychiatrist attached to the prison without undue delay.

The CPT would like to receive further information on the measures adopted following this request.

117. The women's section also contained a punishment cell, which was unoccupied at the time of the visit. The delegation found that the lighting and ventilation of the cell were insufficient. **The CPT recommends that steps be taken to remedy these shortcomings.**

Finally, women prisoners alleged that the punishment cell had on occasion been used to accommodate a mother and child. **The CPT would welcome the comments of the Netherlands Antilles authorities on this subject.**

e. solitary confinement

118. Apart from formal disciplinary procedures, other mechanisms often provide for prisoners to be involuntarily segregated from fellow inmates for reasons connected with discipline and/or security (for example, in the interests of good order in the establishment). Such mechanisms appeared to exist in the Netherlands Antilles (cf. section 78, PB 1958, No. 18).

The application of such measures should be accompanied by effective safeguards. Prisoners should be informed of the reasons for the measures taken (it being understood that the reasons given might not include details which security requirements reasonably justify withholding from the prisoner), be given the opportunity to present their views on the matter to the deciding authority, and be entitled to contest the decision before an appropriate authority. In addition, placements of prisoners in solitary confinement for a prolonged period should be fully reviewed at regular intervals (at least every three months), where appropriate on the basis of a medico-social opinion.

Finally, whenever a prisoner placed in solitary confinement (for whatever cause: disciplinary reasons, the danger he presents, disruptive behaviour, in the interests of a criminal investigation or at the prisoner's own request) asks for a doctor - or a prison officer asks for one on his behalf - the doctor should be called without delay with a view to carrying out a medical examination of the prisoner. The results of the medical examination, including an account of the prisoner's physical and mental condition as well as, if need be, the foreseeable consequences of continued isolation, should be set out in a written statement to be forwarded to the competent authorities.

The CPT recommends that the authorities of the Netherlands Antilles take steps to ensure that the relevant regulations and practice are consistent with the points made in this paragraph.

119. In this connection, the CPT's delegation met an inmate in the sentenced prisoners' section who claimed that, at the time of the visit, he had been in solitary confinement for almost a year. He also alleged that he spent most of his time in the cell set aside for solitary confinement, with no other activities besides reading and watching television.

The CPT would welcome the comments of the Netherlands Antilles authorities on this subject.

f. complaints and inspection procedures

120. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate authority.

The CPT attaches particular importance to regular visits to all prison establishments by an independent body (for example, a visiting committee or a judge with responsibility for carrying out inspections) with authority to receive - and, if necessary, take action on - prisoners' complaints and to visit the premises.

121. The CPT has noted that the Koraal Specht Prison regulations give all prisoners the right to submit complaints to the Governor (section 46). In addition, under section 11 of the regulations, prisoners may communicate by confidential letter with a certain number of authorities - the Governor of Curaçao, the Minister for Justice, the Attorney General, the Court of Justice, the Supervisory Commission, the examining judge and the public prosecutor.

However, many prisoners alleged that such complaints generally received no reply. These allegations were given greater credibility by the discovery, in the offices of the prison management, of a box of unopened letters sent by prisoners to the former Prison Governor over a period of more than a year.

The CPT recommends that the authorities of the Netherlands Antilles review the application of the complaints procedures, with a view to ensuring that they are operating effectively. It also invites the authorities of the Netherlands Antilles to add the President of the CPT to the list of authorities with whom prisoners can communicate by confidential letter.

122. A Supervisory Commission has existed in the establishment since 1960. Its tasks are to report on the situation in the prison, advise the Minister for Justice on this subject and deal with any complaints lodged by prisoners. The Commission meets once a month and a member of the Commission, who changes each month, visits the establishment on a regular basis. However, in its present form, the Commission appears to have a limited effectiveness. In fact, the Commission's Chairman informed the delegation that new legislation was being drawn up to strengthen its powers.

The CPT would like to receive, in due course, a copy of the new legislation.

123. The CPT considers that the effectiveness of such a body will depend on the way in which it organises its activities in the establishment, on the provision of appropriate training for its members and, perhaps above all, on its ability to make itself seen as a quite separate body from the prison staff and administration.

To be effective, such a body or certain of its members should undertake regular prison visits. During these visits, the members must be "visible" to both the prison authorities and staff and to the prisoners themselves. More specifically, members must not restrict their contacts to individuals who have expressly requested to meet them; on the contrary, they should take the initiative by visiting the prison's detention areas and entering into contact with inmates.

Naturally, particular attention should be given to how the members of such a body are appointed. In order to ensure that they are impartial - and are seen to be impartial - it is extremely desirable that an authority other than the prison administration should be responsible for their appointment. Moreover, as far as possible, their composition should reflect the different components of the local community.

It is essential that, should the need arise, such a body is authorised to have direct contact with governmental and/or parliamentary authorities. In certain situations, to fulfil its functions effectively, it must be able to address itself to someone other than just the head of the establishment concerned.

In addition, it would be very desirable for the body to produce and publish an annual report on its activities, in order to achieve greater transparency and to stimulate public debate on the prison service. It goes without saying that its findings in certain areas could remain confidential.

The CPT recommends that the authorities of the Netherlands Antilles review the operation of the existing Supervisory Commission, in the light of the above remarks.

4. Medical services

a. introduction

124. The general organisation of medical services in the Netherlands Antilles prison service is governed by sections 29 to 36 of Government decree No 6 of 12 February 1958 (PB 1958, No 18) and sections 27 to 30 of Government decree No 7 of the same date (PB 1958, No 19).

The general principle is that care is provided by Government doctors, with prisoners also having the option of requesting a doctor of their choice, at their own expense (section 29, decree No 6).

b. medical care in general

125. In Koraal Specht Prison, the medical staff comprised two general practitioners, who between them held daily surgeries in the prison lasting three hours each (i.e. a total of fifteen hours per week), a dental surgeon, who held two 3-4 hour surgeries in the prison per month, a psychiatrist, who was available for consultations on an occasional basis, and a physiotherapist, who held two 3-4 hour surgeries per week.

Koraal Specht Prison also had a psychiatric and forensic observation centre (FOBA), based on the Netherlands model. The centre had its own staff and facilities (see paragraphs 142 et seq.).

126. The time spent by general practitioners in Koraal Specht Prison is insufficient. An establishment with a population of nearly 500 remand and sentenced prisoners should have the equivalent of at least one full-time general practitioner.

It is not surprising therefore that the delegation was deluged with prisoners' complaints about the difficulties of securing medical treatment. Waiting times of several days, or even several weeks, were not unusual. The delegation was informed that a certain number of prisoners had lodged an official complaint against the Netherlands Antilles Government on this subject. Prisoners who needed urgent medical treatment could no doubt be rapidly transferred to the nearest emergency unit. However, for non-urgent cases, such a poorly staffed medical service must inevitably mean a low standard of care.

Similarly, it is clearly not enough for a dentist to attend for a few hours a month. The lack of a psychologist and the inadequate amount of out-patient psychiatric care available should also be noted.

127. **The CPT recommends that, pending a more substantial strengthening of the prison's medical service, the Netherlands Antilles authorities take immediate steps to ensure:**

- **an increase in the presence of general practitioners to the equivalent of at least one full-time doctor;**
- **the regular presence of a dentist and psychiatrist, thereby permitting a significant increase in the amount of time available for dental and psychiatric care.**

Consideration should also be given to employing a psychologist in the establishment (see also paragraph 150).

128. The medical team was also assisted by a qualified nurse and three prison officers with nursing training, all employed full-time. The nurse and the nursing assistants worked in the prison every weekday, from 8 am to 3 or 5 pm.

The number of posts for qualified nurses in Koraal Specht Prison is quite inadequate. One particular consequence is that tasks which should be solely the responsibility of the qualified nurse are in practice delegated to nursing assistants.

129. **The CPT recommends a significant increase in the number of qualified nurses in Koraal Specht Prison. It also wishes to add that when nurses are assisted by nursing assistants recruited from the prison staff, the necessary experience must be passed on by the qualified staff and regularly updated.**

130. When the health-care staff were not on duty in the prison, both a general practitioner and the qualified nurse could be contacted in emergencies.

In this context, the CPT recommends that someone qualified to provide first aid, preferably with a recognised nursing qualification, should always be present in the prison, including at night and weekends.

131. A prison medical service should not confine its attention to the treatment of sick prisoners. It should also be given responsibility for social and preventive medicine.

For example, the medical service should monitor - where appropriate, in conjunction with other authorities - matters relating to food (quantity, quality, preparation and distribution of meals) and hygiene (state of cleanliness of clothes and bedding, access to running water, sanitary facilities) as well as heating, lighting and ventilation conditions in the cells. Work and outdoor exercise arrangements should also come within its purview.

Insalubrious conditions, overcrowding, prolonged isolation and inactivity may call for medical action on behalf of individuals or more general medical action vis-à-vis the responsible authorities.

132. It has to be stated that the Koraal Specht medical team was not in a position to fulfil its responsibilities in this regard. The amount of time which the general practitioners spent in the prison - fifteen hours per week for approximately 500 prisoners - made it almost impossible to organise a proper preventive service. This is one further reason for strengthening the medical service, as proposed in paragraphs 127 and 129.

133. Finally, the CPT wishes to stress that the health care staff of any prison is potentially a staff "at risk". Their duty to care for patients (sick prisoners) can often come into conflict with prison management and security considerations. This situation can pose ethical dilemmas and difficult choices, hence the considerable importance which the CPT attaches to the independence of health care staff in prisons. In this connection, it was pointed out to the delegation that one of the two general practitioners attached to the prison was effectively paid by the Ministry of Health while the other was paid directly by the Ministry of Justice. In order to safeguard their independence, it could be considered desirable for all the health care staff - medical and nursing - of the establishment's medical service to be attached, for administrative purposes, to the Ministry of Health.

The CPT would welcome the Netherlands Antilles authorities' comments on this subject.

c. medical facilities and records

134. The prison medical service was equipped with a consulting room (for nursing care, the doctors' surgeries and dental treatment) and a waiting room for prisoners. The latter was fairly dirty. Moreover, improvements were needed in the service's facilities and equipment, for example separate, properly equipped rooms for the medical, dental and nursing staff to see patients.

135. The infirmary, which was located next to the consulting room but had no direct communication to it apart from a hatch, consisted of a large six-bedded dormitory, which also contained a shower, washbasin and toilet. There was no bedside table, cupboard or call system. Nor, apart from one hour of daily exercise, did patients have any form of diversion, such as reading material or television. It should also be noted that the dormitory was dirty, despite the presence of three patients and even though it was cleaned once a day by a prisoner.

Finally, an infirmary with a capacity of six beds is too small for a prison population of nearly 500.

The CPT recommends that improvements be made to the material conditions and the standard of equipment and hygiene in the Koraal Specht Prison medical service and infirmary, in the light of the above remarks.

136. The delegation's medical expert also visited a small medical office in the women's section (see paragraph 77). This was suitably laid out and equipped, having regard to the number of women prisoners in the unit.

137. The delegation was surprised to discover a juvenile prisoner, apparently in good health, in the infirmary. His presence was explained by the shortage of places in the prison's minors' section (see paragraph 76).

The CPT wishes to stress that the admission of prisoners to the infirmary must be solely the responsibility of medical staff and be based only on medical grounds.

138. The delegation's medical expert observed that the notes in the prisoners' medical records contained little detail. He also noted that two of the patients in the infirmary - one of whom had recently received surgical treatment in hospital - had no medical records.

139. The CPT wishes to stress that a medical record, containing diagnostic and treatment information, together with a careful note of progress and any specialist examinations carried out, should be drawn up for each patient. Where a prisoner is transferred, the record should be drawn to the attention of any subsequent doctor concerned.

The CPT recommends that the Netherlands Antilles authorities take steps to ensure that the above remarks are taken into account when medical records are drawn up.

d. medical examination on admission

140. Section 321 (paragraph 3) of Government decree No 6 stipulates that all prisoners should receive a medical examination as soon as possible after their admission.

According to one of the general practitioners of the prison medical service, the majority (80 to 85%) of newly arrived prisoners are seen by a doctor within a week of their admission. However, an examination by the delegation's medical expert of the medical records of the 29 prisoners who had arrived in the prison between the 13 and 26 June 1994 showed that only five (about 17%) had been examined since their admission.

Moreover, it appeared from the notes in the medical records that the initial medical examinations carried out were not very thorough.

141. The CPT considers that all newly admitted prisoners - sentenced or on remand - should be seen without delay by a member of the prison health care service and, if necessary, given a medical examination. The medical screening on admission could be undertaken either by a doctor or by a qualified nurse reporting to a doctor.

It goes without saying that the initial interview and any examinations should be carried out in conditions which respect prisoners' right to privacy and offer appropriate safeguards regarding confidentiality. It would also be desirable for a note or booklet to be distributed to all newly admitted prisoners informing them of the existence and operation of the health care service, and drawing attention to various preventive and health promotion measures.

The CPT recommends that the Netherlands Antilles authorities take the necessary steps to ensure that practice in this area is consistent with the points made above.

e. the psychiatric and forensic observation centre (FOBA)

142. The FOBA specialises in monitoring and assisting male prisoners showing signs of mental illness or serious behavioural disorders. It has operated since 1990 and can accommodate about twenty prisoners (there were 17 at the time of the visit).

143. The centre had two distinct sections, one each for observation and for treatment, situated on either side of a small exercise area used exclusively by the patients.

The observation section comprised a properly equipped day room, with tables, chairs and a television, and five individual cells, one reserved for solitary confinement. The cells were satisfactory in size (approximately 9 m²) and fitted out with a bed and mattress, a table-bench with two chairs and an asian toilet. There was adequate natural light and artificial lighting. There was no call system ; however, the cells looked out, through barred doors set in a metal grill, onto a corridor where a warder was present during the day and occupied an adjacent office at night.

The treatment section comprised a large day room (for prisoners' meals, television and video and other leisure activities), eighteen individual cells similar to those in the observation section and a workshop (offering manual activities organised and supervised every weekday by a member of the surveillance staff). The workshop could be used to observe patients and assess their capacity to integrate into a group.

Overall, material conditions in the FOBA were satisfactory.

144. Most of the persons admitted to the FOBA's observation section were sent by the Dr Capriles Psychiatric Clinic for a 6-10 day period of observation. However, certain so-called "dangerous" prisoners could remain there for up to a month, or even longer. At the end of the observation period, those concerned were sent back to the Clinic, transferred to the FOBA's treatment section for a maximum of four weeks or transferred to one of the prison's normal detention units.

145. The staff of the FOBA comprised a psychiatrist, who worked twenty hours a week in the centre (the remainder of his time being spent in the Dr Capriles Clinic), a psychologist, who also worked twenty hours per week, two part-time social workers (one of whom also worked in the prison and the other in the clinic) and 26 specially trained surveillance staff, with five always on duty at any one time.

The surveillance staff had all asked to work in the centre. They were assigned there after completing their basic training and gaining experience in the prison's normal units. All had trained for a year as a nursing assistant in the Dr Capriles Clinic or the St Elisabeth Hospital - or had undertaken a theoretical and practical course - and had then been sent for three months to the Amsterdam FOBA (see CPT/Inf (93) 15, paragraphs 125 to 128).

146. The FOBA provided differentiated activity programmes, drawn up each week by a multi-disciplinary team. The psychiatrist, psychologist, social workers and surveillance staff prepared individualised treatment plans which the surveillance staff then implemented. An up-to-date observation record was maintained for each patient, comprising in particular a weekly psychiatric assessment sheet.

147. In short, it can be said that, as an observation and crisis intervention unit operating within the parameters of a prison environment, the FOBA provided an acceptable standard of care.

f. issues relating to communicable diseases

148. Prisoners were systematically offered, on a voluntary basis, an HIV test and a chest x-ray on arrival in the establishment. However, prisoners were not supplied with any brochures or leaflets relating to HIV infection, AIDS and other communicable diseases. Nor did prison staff receive any information on these conditions.

149. The CPT considers that prison health care services should provide regular information to prisoners and prison staff on communicable diseases (in particular, hepatitis, AIDS, tuberculosis and skin diseases). Where appropriate, medical screening of persons with whom a particular prisoner has regular contact (fellow prisoners, prison staff, frequent visitors) should be carried out.

With particular regard to AIDS, appropriate counselling should be provided before and -if necessary - after HIV testing. Prison staff should receive careful training about the preventive measures to be taken and the attitude to adopt towards those who are HIV-positive, and be given appropriate instructions on non-discrimination and confidentiality.

The CPT recommends that the Netherlands Antilles authorities take the appropriate steps, in the light of the above points.

g. drug addiction

150. According to estimates supplied by the medical service, drug addicts represented 30 to 35% of the total prison population. The medical team themselves acknowledged that there were no specific treatment programmes for addicts in prison.

The CPT recommends that the Netherlands Antilles authorities draw up a specific treatment programme for drug addicts detained in Koraal Specht Prison (see also paragraph 127).

h. female prisoners with children

151. The delegation was informed that in 1993 three women had been admitted to Koraal Specht Prison with a young child. Children could remain with their mothers until the age of one year. In such cases, a specially furnished cell was provided for the mother and child but there were no other special facilities for new-born children such as a crèche.

152. Female prisoners who were pregnant were monitored by the prison medical service and received regular hospital and other outside check-ups. Deliveries always took place in a hospital outside the prison. A qualified nurse travelled to the prison to provide prenatal and neonatal care, and it was also possible to arrange appointments with an outside paediatrician.

153. The CPT considers that if mothers and children are together in prison, they must be offered conditions which guarantee them the equivalent of a crèche as well as support from specialist staff in the fields of neo-natal and infant care. In addition, long-term arrangements, relating particularly to the transfer of the child to the outside community and its separation from its mother, should be decided on each individual case, having regard to the child's best interests.

The CPT recommends that the Netherlands Antilles authorities take the appropriate steps, in the light of the above remarks.

D. Recapitulation

1. Police establishments

154. The CPT's delegation heard a certain number of allegations of ill-treatment of persons during their arrest or detention by the police. These involved, inter alia, punches and slaps, truncheon blows and the deprivation of food and water during custody at police stations. In certain rare cases, the delegation heard allegations of very severe ill-treatment amounting to torture.

In the course of the visit, the delegation did not meet any persons bearing marks consistent with their allegations of ill-treatment during police custody. However, due to the time which had elapsed between their arrest and the delegation's visit, any marks which might have been caused by the types of ill-treatment alleged would almost certainly have disappeared. The delegation consulted the medical records of certain prisoners in Koraal Specht Prison who claimed to have been ill-treated; although there were no formal reports of injuries, the prisoners did exhibit on arrival in the establishment medical symptoms and signs which could be considered as consistent with the allegations made to the delegation.

155. In the course of the CPT delegation's discussions with governmental authorities, several persons acknowledged the existence, in recent years, of certain acts by police officers which could be described as ill-treatment, while stressing that these were to be considered as isolated errors rather than examples of systematic misconduct. It should also be noted that a Commission of Inquiry into alleged police misconduct, established by the Government of the Netherlands Antilles, which published its report in August 1992, stated that "... it was clear to the Commission that unjustified police violence did occur."

156. The delegation was informed by the authorities of the Netherlands Antilles of the recent establishment of a "Complaints Committee on acts performed by police officers." The CPT has recommended that the general public be duly informed about the Complaints Committee. The delegation was also informed of the forthcoming creation of a department specialising in the investigation of offences committed by civil servants, and in particular by police officers, which would report directly to the Attorney General. The CPT has expressed its wish to receive, in due course, further information on this new body.

157. The CPT has stressed the importance of appropriate professional training being given to police officers; this is an essential element of any strategy for the prevention of ill-treatment. In this respect, the CPT has welcomed the decision to establish an ambitious training programme for police officers, called "Politieman 2000". The CPT has recommended that this programme be applied not only to new recruits but also to police officers already in service. Further, it has recommended that an aptitude for interpersonal communication be a major factor in the process of recruiting police officers and that considerable emphasis be placed on the acquisition and development of interpersonal communication skills during police training.

The CPT has also recommended that senior police officers deliver to their subordinates the clear message that ill-treatment is not acceptable and will be the subject of severe sanctions.

158. The CPT has also underlined that public prosecutors must respond swiftly and effectively to complaints of ill-treatment and that, where necessary, the courts must impose appropriate sanctions.

The importance of the role to be played by doctors appointed to carry out forensic tasks should also be emphasised, bearing in mind that the findings of such doctors will carry considerable weight in legal proceedings. In this connection, the CPT has recommended that due consideration be given to certain requests made by the clinical pathologist in Curaçao.

159. Various recommendations have been made with a view to strengthening formal safeguards against the ill-treatment of persons detained by the police (for example, that such persons be granted the right to inform, without delay, a close relative or a third party of their choice of their detention; that they be granted the right to be examined by a doctor of their choice; that a code of practice for interrogations be drawn up).

As regards, more particularly, the right of detained persons to have access to a lawyer, at present this right applies only from the time a person is placed in police custody. In this connection, it should be stressed that the period immediately following deprivation of liberty is when the risk of intimidation and ill-treatment is greatest. Consequently, the CPT has recommended that the right of access to a lawyer - where necessary, an officially appointed lawyer - be guaranteed from the very outset of detention, (i.e. also during the initial period of detention for questioning).

160. The period of time during which a person suspected of having committed a criminal offence may remain in police (as distinct from prison) premises is of direct relevance to the issue of the prevention of ill-treatment. Prolonged periods of detention of criminal suspects in police premises can lead to high-risk situations. In this connection, the CPT was concerned to learn that a person may exceptionally be detained in police premises for up to 10 days; it has recommended that this period be substantially reduced. This would not necessarily preclude the police from carrying out further questioning of suspects following their departure from police premises.

161. With the exception of Rio Canario Police Station, the conditions of detention found in the police establishments visited left a great deal to be desired. Those prevailing in the two sobering-up cells at Punda Police Station were such that the CPT has recommended that they be withdrawn from service.

A number of recommendations have been made with a view to improving conditions of detention at Barber Police Station (cell occupancy rate; ventilation; bedding; outdoor exercise; activities/information offered to persons held under the Aliens legislation, etc.).

As regards the cells of the Criminal Investigation Department at Rio Canario, the CPT has recommended that, in view of their limited size, they be used only for temporary holding purposes (i.e. a few hours), and this subject to certain improvements being made. Persons required to remain in detention overnight should be accommodated elsewhere, for instance at the near by Rio Canario Police Station (which has an appropriate cell area).

162. Further, in view of allegations received from various sources that persons in police custody received little or nothing to eat or drink during their detention, the CPT has recommended that existing arrangements be reviewed in order to ensure that such persons receive sufficient food and drink throughout their time in police custody.

163. Finally, bearing in mind that large numbers of persons are sometimes detained in the Netherlands Antilles under the Aliens legislation, and for prolonged periods of time, the CPT has recommended that the possibility be explored of creating specific centres for such persons, offering material conditions of detention and a regime appropriate to their legal situation.

2. Prisons

164. The CPT's delegation heard no allegations of torture of persons detained in Koraal Specht Prison. However, it did hear some allegations that prisoners undergoing punishment received blows and insults during the transfer from their cells to the disciplinary unit. In this connection, the CPT has recommended that the relevant authorities of the Ministry of Justice and the Governor of Koraal Specht Prison deliver the clear message that the ill-treatment of prisoners is unacceptable and will be severely punished.

Further, the CPT has requested to be informed of the results of the inquiry opened in St Maarten into allegations of physical ill-treatment made by prisoners at Pointe-Blanche Prison.

165. Koraal Specht Prison displayed a pernicious combination of overcrowding, a regime which offered very few activities and a poor level of cleanliness and hygiene. These three problems were compounded by the generally run-down state of the establishment. To subject prisoners to such conditions of detention amounts, in the CPT's opinion, to inhuman and degrading treatment.

166. This situation led the CPT's delegation to express to the authorities, in the course of a meeting at the end of the visit, its deep concern about conditions of detention in Koraal Specht Prison, and to address a letter to the Minister for Justice setting out a certain number of urgent measures which were required. These measures concerned in particular the need to comply with the maximum capacities stipulated for the remand and Nieuw Bouw sections, the state of hygiene in the cells and the problem of rat and cockroach infestation, meal times and the quantity of food provided. The CPT has noted with satisfaction the response of the authorities, which addresses almost all of the urgent measures recommended. However, the CPT has reiterated that all prisoners in the establishment (including those placed in a punishment cell) must be supplied with a mattress at night.

167. The above-mentioned measures can only be short-term palliatives; major improvements (including, possibly, new buildings) will be required to render the situation acceptable. The priority of priorities must be - through one means or another - to reduce significantly the current level of overcrowding in Koraal Specht Prison. If this is not achieved, attempts to improve the conditions of detention of persons imprisoned in Curaçao will inevitably founder.

In this connection, the CPT has welcomed the recent entry into force of the 96 place semi-open unit at Koraal Specht. It has recommended that steps aimed at reducing overcrowding in the establishment continue to be given a very high priority. The CPT has also recommended that vigorous measures be taken to improve significantly the overall state of repair of the detention areas and to provide every prisoner with appropriate furnishings, as well as bedding and personal hygiene products.

168. As regards the regime, the CPT has recommended that a thorough examination of ways of improving the programmes of activities in the establishment be undertaken without delay, and that fuller programmes be progressively introduced as overcrowding is reduced. The CPT has also made specific recommendations concerning the regimes for prisoners sentenced to life imprisonment and for minors.

169. The CPT has also recommended that greater attention be paid to the quality and variety of the food, to supervising its distribution and to providing prisoners with utensils. Further, it has indicated that the prison's kitchen facilities should be reviewed.

170. In addition to the above-mentioned recommendations, the CPT has made a number of recommendations, comments and requests for information regarding prison staff, contact with the outside world, discipline, solitary confinement and complaints and inspection procedures. In this respect, the CPT wishes to highlight two issues, namely the management of the establishment and discipline.

The management of Koraal Specht Prison had, in recent years, experienced significant uncertainties, and at the time of the visit the situation had clearly not yet fully stabilised. Only a formally appointed and full-time Governor, possessing the necessary authority, competence and experience and supported by a closely-knit team, would be in a position to instill the right tone and atmosphere into the establishment and be sufficiently motivated to develop policies and plans for the future. The CPT has recommended that the prison be provided with such a management team, and that one of the team's first priorities be to take effective steps to combat staff absenteeism.

As regards discipline, the CPT has recommended that immediate steps be taken to prohibit two archaic disciplinary sanctions (i.e. the placement of prisoners in punishment cells on bread and water, as well as the use of irons), the first of which was still current practice at the time of the visit. Furthermore, the CPT has recommended that the disciplinary procedure offer certain additional safeguards and that significant improvements be made to the material conditions in the punishment cells at Koraal Specht.

171. The medical service at Koraal Specht Prison was seriously understaffed at the time of the visit, which inevitably had significant consequences as regards the standard of care provided. Moreover, the limited amount of time which general practitioners spent in the prison, and the very inadequate number of qualified nursing staff, had the additional consequence that the health care team was not in a position to fulfil its responsibilities as regards social and preventive medicine service.

The CPT has recommended that immediate steps be taken to ensure an increase in the presence of general practitioners to the equivalent of at least one full-time doctor, as well as the regular presence of a dentist and psychiatrist. Further, consideration should be given to employing a psychologist in the establishment. The CPT has also recommended a significant increase in the number of qualified nurses at the prison.

172. The material conditions and the standard of equipment and hygiene in the prison's medical service, as well as the manner in which medical records were drawn up, were further sources of concern for the CPT. It has recommended that improvements be made in these areas. Recommendations have also been made in respect of communicable diseases, drug addiction and female prisoners with children.

173. Finally, it should be noted that the situation observed at the FOBA offered a striking contrast to that of the medical service at Koraal Specht Prison. This psychiatric observation and crisis intervention unit, operating within the parameters of a prison environment, provided an acceptable standard of care.

APPENDIX I

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

A. Police establishments

1. General remarks

recommendations

- the period of time during which a person suspected of having committed a criminal offence may be detained in police premises to be substantially reduced (paragraph 13);
- the possibility to be explored of creating specific centres for persons detained under the Aliens legislation, offering material conditions of detention and a regime appropriate to their legal situation (paragraph 15).

requests for information

- copy of the new Code of Criminal Procedure of the Netherlands Antilles (paragraph 14).

2. Torture and other forms of physical ill-treatment

recommendations

- the general public to be informed about the recently established Complaints Committee on acts performed by police officers (paragraph 19);
- an aptitude for interpersonal communication to be a major factor in the process of recruiting police officers and considerable emphasis to be placed on the acquisition and development of interpersonal communication skills during police training (paragraph 24);
- the *Politie* 2000 programme to be applied not only to new recruits but also to police officers already in service (paragraph 24);
- senior police officers to deliver to their subordinates the clear message that ill-treatment is not acceptable and will be the subject of severe sanctions (paragraph 24);
- due consideration to be given to the requests made by the clinical pathologist in Curaçao, for a protocol regularising her relationship with the Attorney General, for video recording facilities during autopsies and for expert advice to be available to her in appropriate cases (paragraph 26);

requests for information

- as regards the Government decree establishing the Complaints Committee, clarification concerning the difference between the text adopted by the Netherlands Antilles Parliament and that published in the Official Journal (*Publicatie-Blad*) (paragraph 20);
- further information on the new department specialising in the investigation of offences committed by civil servants, including police officers (paragraph 21);
- the number of complaints of ill-treatment by police officers lodged during 1993 and 1994 and the number of criminal/disciplinary proceedings initiated as a result of those complaints (paragraph 25);
- an account of criminal/disciplinary sanctions imposed during 1993 and 1994 following complaints of ill-treatment by police officers (paragraph 25);
- the results of the inquiry in progress into complaints of ill-treatment made by persons of Venezuelan origin arrested by the law enforcement agencies in August 1993 (paragraph 25).

3. Conditions of detention in the police establishments visited

recommendations

- the authorities of the Netherlands Antilles to take immediate steps to ensure that in Barber Police Station:
 - . a maximum of two persons are accommodated overnight per cell;
 - . ventilation in the detention area is improved;
 - . each person required to spend the night in custody is provided with a clean mattress and (if appropriate) blankets;
 - . the cells are equipped with a call system;
 - . persons detained for an extended period are offered outdoor exercise every day (paragraph 32);
- the possibility to be explored of offering persons detained at Barber Police Station under the Aliens legislation a minimum activities programme (access to a communal area, television, reading matter, etc.) (paragraph 33);

- persons detained at Barber Police Station under the Aliens legislation to be provided with an information booklet explaining the procedure applicable to them and setting out their rights. This booklet to be available in the languages most commonly spoken by those concerned and, if necessary, the services of an interpreter to be made available (paragraph 33);
- the sobering-up cells in Punda Police Station to be withdrawn from service (paragraph 35);
- the Rio Canario Criminal Investigation Department cells to be used only for temporary holding purposes (i.e. detention for a maximum of a few hours), and this subject to the condition that their state of cleanliness is considerably improved and the artificial lighting is repaired. Having regard in particular to their size, they should not be used to accommodate persons who are required to spend the night in custody (paragraph 38);
- steps to be taken to bring the detention area at the Rio Canario Police Station into service as soon as possible (paragraph 39);
- the existing arrangements regarding the provision of food and drink to persons in police custody to be reviewed (paragraph 41);
- appropriate steps to be taken to ensure that conditions of detention in all police establishments in the islands of the Netherlands Antilles meet the criteria set out in paragraph 27 (paragraph 42).

comments

- the authorities of the Netherlands Antilles are invited to improve access to natural light in the cells in Barber Police Station (paragraph 32).

4. Safeguards against the ill-treatment of detained persons

recommendations

- persons detained by the police to have the right to inform, without delay, a close relative or a third party of their choice of their detention, either directly or through a police officer (paragraphe 46);
- any possibility exceptionally to delay the exercise of the right to inform a close relative or third party to be clearly circumscribed in law, made subject to appropriate safeguards (e.g. any delay to be recorded in writing together with the reasons therefor and to require the approval of a court or a public prosecutor) and strictly limited in time (paragraph 46);

- persons detained by the police to be entitled to have access to a lawyer from the very outset of their detention. This right to include the right to contact the lawyer and to be visited by him (in both cases under conditions guaranteeing the confidentiality of their discussions) and, in principle, the right of the person concerned to have the lawyer present during interrogation (paragraph 48);
- steps to be taken to ensure that every person detained by the police has the right to consult in private with a lawyer (where necessary, an officially appointed lawyer), without delay (paragraph 50);
- specific legal provisions to be adopted on the subject of the right of persons detained by the police to have access to a doctor. These provisions to stipulate in particular that:
 - . detained persons are entitled to be examined, if they so wish, by a doctor of their choice (in addition to any examination carried out by a doctor called by the police);
 - . all medical examinations are to be conducted out of the hearing and - unless the doctor concerned requests otherwise - out of the sight of police officers;
 - . the results of every examination, as well as any relevant statements by the detainee and the doctor's conclusions, are to be recorded in writing by the doctor and made available to the detainee and his lawyer (paragraph 53);
- a form setting out their rights to be systematically given to persons detained at the outset of their custody. This form should be available in an appropriate range of languages. Further, detained persons should be asked to sign a statement attesting that they have been informed of their rights (paragraph 54);
- a code of practice for interrogations to be drawn up (paragraph 56);
- the possibility of drawing up an individualised custody record to be considered (paragraph 60).

comments

- the authorities of the Netherlands Antilles are invited to consider the possibility of introducing a system for the electronic recording of police interrogations. The system should offer all appropriate safeguards (for example, the consent of the detainee and the use of two tapes, one of which would be sealed in the presence of the detainee and the other used as a working copy) (paragraph 57);
- the recommendations made concerning safeguards against the ill-treatment of detained persons also apply to persons detained under the Aliens legislation (paragraph 62).

requests for information

- the comments of the authorities of the Netherlands Antilles on the information received, according to which it was apparently quite common for persons detained by the police to speak for the first time with a lawyer only after their arrival in Koraal Specht Prison (and on occasion only just before their trial), especially if the lawyer had been officially appointed (paragraph 51);
- whether persons detained may be questioned between 10 pm and 8 am (paragraph 58);
- whether on-the-spot supervision of the implementation of custodial measures is undertaken by prosecuting/judicial authorities (paragraph 61);
- information on the formal safeguards and practical arrangements which exist in order to ensure that foreign nationals are not sent to a country where they run a risk of being subjected to torture or inhuman or degrading treatment or punishment (paragraph 63).

B. Prisons

1. General remarks

requests for information

- copy of the audit of Koraal Specht Prison undertaken at the request of the Netherlands Antilles authorities (paragraph 66).

2. Torture and other forms of physical ill-treatment

recommendations

- the relevant authorities of the Ministry of Justice and the Governor of Koraal Specht Prison to deliver the clear message that the ill-treatment of prisoners is unacceptable and will be severely punished (paragraph 67);

requests for information

- the results of the inquiry opened by the St Maarten public prosecutor into allegations of physical ill-treatment made by prisoners at Pointe-Blanche Prison, as well as details of any criminal or disciplinary proceedings instituted following the inquiry and of any sanctions imposed (paragraph 69);
- information on the number of complaints of ill-treatment lodged against prison officers and the staff of the government reformatory (GOG) in 1993 and 1994, and an account of any sanctions imposed following complaints of ill-treatment (paragraph 70).

3. Conditions of detention in Koraal Specht Prison

recommendations

- Departmental Memorandum No 007194 to be amended to include instructions specifying that all prisoners in the establishment (including those placed in a punishment cell) are to be supplied with a mattress at night (paragraph 93);
- the authorities of the Netherlands Antilles to continue to give a very high priority to measures aimed at reducing overcrowding in Koraal Specht Prison (paragraph 95);
- vigorous steps to be taken to improve significantly the overall state of repair of the detention areas (including the sanitary facilities) and to provide every prisoner with appropriate furnishings (table, chair and cupboard). More attention to be accorded to the supply of bedding (sheets and pillows) and to personal hygiene products (soap, etc.) (paragraph 96);
- a thorough examination of ways of improving the activities programmes in Koraal Specht Prison to be undertaken without delay, and fuller programmes to be progressively introduced as overcrowding is reduced; the objective should be to ensure that all prisoners, including those on remand, are able to spend a reasonable part of the day (eight hours or more) outside their cells, engaged in purposeful activity of a varied nature (work, preferably with a vocational value; education; sport; recreation/association) (paragraph 97);
- immediate steps to be taken to ensure that:
 - . female prisoners enjoy proper outdoor exercise at least once a day;
 - . all prisoners in the life-sentences unit are offered stimulating activities of a varied nature (work, education and sport) and have access for at least one hour every day to a space which allows them to undertake proper physical exercise (paragraph 98);
- greater attention to be paid to the quality and variety of the food, to supervising its distribution and to providing prisoners with utensils (paragraph 100);
- the prison's kitchen facilities to be reviewed (paragraph 100);
- an attitude for interpersonal communication to be a major factor in the process of recruiting prison officers and considerable emphasis to be placed on the acquisition and development of interpersonal communication skills during the training of prison officers (paragraphe 102);

- the prison to be provided with a formally appointed and full-time governor, possessing the necessary authority, competence and experience and supported by a closely-knit team (paragraph 103);
- immediate steps to be taken to prohibit the placement of prisoners in punishment cells on a bread and water regime, as well as the use of irons (paragraph 111);
- steps to be taken to ensure that the Prison Governor is immediately informed of any placement of a prisoner in a punishment cell and that a decision on the case is taken within 24 hours. That decision should be communicated to the prisoner in writing (paragraph 112);
- the disciplinary procedure to guarantee the right of prisoners to appeal to a higher authority against any sanction imposed (paragraph 112);
- significant improvements to be made to the material conditions (general state of repair and cleanliness, lighting, ventilation and call system) in the prison's punishment cells (paragraph 113);
- all prisoners in punishment cells to have access to reading matter (paragraph 114);
- steps to be taken to ensure that prisoners placed in a punishment cell receive the medicines prescribed to them (paragraph 114);
- steps to be taken to improve the lighting and ventilation of the punishment cell in the women's section (paragraph 117);
- steps to be taken to ensure that the regulations and practice concerning solitary confinement are consistent with the points made in paragraph 118 (paragraph 118);
- the application of complaints procedures for prisoners to be reviewed, with a view to ensuring that they are operating effectively (paragraph 121);
- the operation of the existing Supervisory Commission to be reviewed, in the light of the remarks made in paragraph 123 (paragraph 123).

comments

- in contrast to what is indicated in the Departmental Memorandum No 007194, the water supply problem at Koraal Specht Prison did not appear to be confined to the *Nieuw Bouw* section (paragraph 93);
- young persons in custody should be provided with a full programme of educational, recreational and other purposeful activities. Physical education should constitute a significant element of that regime. Moreover, the staff assigned to units accommodating juveniles should be carefully selected and, more specifically, be persons capable of guiding and motivating young people (paragraph 99);
- the amount of food provided to prisoners should be increased (paragraph 100);

- one of the first priorities of the management team of Koraal Specht Prison should be to take effective steps to combat staff absenteeism (paragraph 103);
- the authorities of the Netherlands Antilles are invited to undertake a complete review of the visiting facilities at Koraal Specht prison, with a view to establishing more open arrangements for ordinary visits (paragraph 106);
- the need to preserve the confidentiality of consultations between prisoners and their lawyers (paragraph 107);
- the need for a certain flexibility when applying the rules on visits, telephone contacts and correspondence to prisoners whose families live very far from the establishment, thus making regular visits very difficult if not impossible (paragraph 110);
- it would be desirable for improvements to the punishment cells to include the installation of a table and chair in each cell, if necessary fixed to the floor (paragraph 113);
- the authorities of the Netherlands Antilles are invited to add the President of the CPT to the list of authorities with whom prisoners can communicate by confidential letter (paragraph 121).

requests for information

- further information on the project to build a new custody unit for juveniles (date of entry into service, capacity, detention regime, etc.) (paragraph 99);
- information on projects aimed at achieving a qualitative improvement in prison staff (paragraph 102);
- the precise arrangements for visits at Koraal Specht prison (paragraph 105);
- further information on the measures adopted following a request made by the delegation that a prisoner be seen by the psychiatrist attached to the prison without undue delay (paragraph 116);
- comments on allegations made by women prisoners that the punishment cell in the women's section had on occasion been used to accommodate a mother and child (paragraph 117);
- comments of the authorities of the Netherlands Antilles on the allegation made by a prisoner that he had been held in solitary confinement for almost a year and that he was offered very few activities (paragraph 119);
- copy of the new legislation being drawn up concerning the Supervisory Commission (paragraph 122).

4. Medical Services

recommendations

- pending a more substantial strengthening of the medical service at Koraal Specht Prison, immediate steps to be taken to ensure:
 - an increase in the presence of general practitioners to the equivalent of at least one full-time doctor;
 - the regular presence of a dentist and psychiatrist, thereby permitting a significant increase in the amount of time available for dental and psychiatric care (paragraph 127);
- the number of qualified nurses in Koraal Specht Prison to be increased significantly (paragraph 129);
- someone qualified to provide first aid, preferably with a recognised nursing qualification, to always be present in the prison, including at night and weekends (paragraph 130);
- improvements to be made to the material conditions and the standard of equipment and hygiene in the Koraal Specht Prison medical service and infirmary (paragraph 135);
- the remarks in paragraph 139 to be taken into account when medical records are drawn up (paragraph 139);
- steps to be taken to ensure that practice as regards medical screening on admission is consistent with the points made in paragraph 141 (paragraph 141);
- appropriate steps to be taken, in the light of the points made in paragraph 149 concerning communicable diseases (paragraph 149);
- a specific treatment programme to be drawn up for drug addicts detained in Koraal Specht Prison (paragraph 150);
- appropriate steps to be taken, in the light of the remarks made in paragraph 153 concerning female prisoners with children (paragraph 153).

comments

- consideration should be given to employing a psychologist in the Koraal Specht Prison (paragraph 127);
- when nurses are assisted by nursing assistants recruited from the prison staff, the necessary experience must be passed on by the qualified staff and regularly updated (paragraph 129);
- the admission of prisoners to the infirmary to be solely the responsibility of medical staff and to be based only on medical grounds (paragraph 137).

requests for information

- the comments of the authorities of the Netherlands Antilles on the question of attaching all the health-care staff at Koraal Specht Prison to the Ministry of Health (paragraph 133).

APPENDIX II

**LIST OF THE GOVERNMENTAL AUTHORITIES AND
PERSONS WITH WHICH THE CPT'S DELEGATION
HELD CONSULTATIONS**

A. Governmental authorities

Mr. P.J. Atacho	-	Minister for Justice
Mr. R.F. Pietersz	-	Attorney General
Mr. D.A. Piar	-	Chief Public Prosecutor
Mr. F.W. Stuger	-	President of the Prison Supervisory Commission
Mr. F. Fortin	-	Prison Governor
Mr. S.D. Kwidama MBA	-	Project Officer, Department of Justice
Mr. E. Wilsoe	-	Head of Police Authority, Curaçao Island
Mr. G. Mingeli	-	Police Commissioner
Ms L. de Bode-Olton	-	Bureau of Foreign Relations Liaison officer to the CPT

B. Persons active in the CPT's fields of interest

Mr. G.J.J.M. Essinck	-	Lawyer, Member of the Commission of enquiry into alleged police misconduct
Pr. C. Streefkerk O.P.	-	Member of the Commission of enquiry into alleged police misconduct
Mr. Peterson	-	Lawyer
Ms. Barker	-	Lawyer