

**RESPONSE OF THE GOVERNMENT OF  
THE NETHERLANDS ANTILLES  
TO THE REPORT OF THE EUROPEAN COMMITTEE  
FOR THE PREVENTION OF TORTURE AND INHUMAN  
OR DEGRADING TREATMENT OR PUNISHMENT (CPT)  
ON ITS VISIT TO THE NETHERLANDS ANTILLES  
FROM 26 TO 30 JUNE 1994**

(transmitted by letter of 11 July 1995)

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\* The Annexes to the response, which are only available in Dutch, can be obtained from the CPT's Secretariat (Council of Europe, F - 67075 Strasbourg Cedex, tel. : 88.41.32.54 ; fax : 88.41.27.72).

## Contents

### I. INTRODUCTION

### II. DETENTION IN POLICE CELLS

#### II.1 General

II.1.1 Pre-trial detention: General

II.1.2 Complaints committee on acts performed by police officers (16-20)

II.1.3 The *Landsrecherche* (21)

II. 1.4 Criminal law and disciplinary sanctions in respect of complaints about police conduct (25)

II.1.5 Recruitment and training of police officers (24)

II.1.6 Other (26)

#### II.2 Police cells

II.2.1 Cells at Barber Police Station (29-30)

II.2.2 Cells at Punda Police Station (34-35)

II.2.3 Criminal Investigation Department cells (36-38)

II.2.4 Cells at Rio Canario Police Station

II.2.5 Other

II.2.5.1 Food (40-42)

II.2.5.2 Information (43-46, 54)

II.2.5.3 Legal counsel (47-51)

II.2.5.4 Medical consultation and treatment (52-53)

II.2.5.5 Interrogations (55-58)

II.2.5.6 Custody records (59-60)

II.2.5.7 Supervision (61)

### III DETENTION IN REMAND CENTRES AND PRISONS

#### III.1 Introduction

III.1.1 The reorganisation of the prisons department (64-66)

III.1.2 Complaints about the execution of sentences and pre-trial

detention in prison: criminal law and disciplinary measures (67-70)

III.2 Material conditions of detention

- III.2.1 Material provision in cells (71-79, 90, 93-96)
- III.2.2 Educational and recreational activities (80-84, 91-92, 97-99)
- III.2.3 Food (85-89, 100)
- III.2.4 Correspondence and visits (104-110)
- III.2.5 Discipline (111-117)
- III.2.6 Solitary confinement (118-119)
- III.2.7 Other
  - III.2.7.1 Medical services
  - III.2.7.2 Treatment of drug addicts (150)
  - III.2.7.3 Female prisoners with child (151-153)

III.3 Complaints and supervision

- III.3.1 Procedures (120-121)
- III.3.2 Supervisory Commission (122-123)

III.4 Prison management and staff skills

- III.4.1 Management and skills (101-103)

IV **DETENTION OF ALIENS UNDER ALIENS LEGISLATION**

- IV.1 The reception of aliens
- IV.2 Problems of admission and deportation

V. **CONCLUSION AND SUMMARY**

- V.1 Information and data requested; observations
- V.2 Measures taken to date
- V.3 Measures to be taken

## 1. Introduction

In accordance with article 43 of the Charter of the Kingdom of the Netherlands, the Kingdom as a whole is responsible for guaranteeing fundamental human rights and freedoms, legal certainty and sound administration. However, the Netherlands Antilles has an autonomous responsibility within this statutory framework for realising the rights and freedoms in question.

On 1 February 1989 the European Convention for the prevention of torture and inhuman or degrading treatment or punishment was declared valid for the Kingdom as a whole, and hence for the Netherlands Antilles. At the same time the importance of a Convention of this kind was acknowledged. Before the signature of the Convention, as at present, the Netherlands Antilles accorded high priority to continued efforts to ensure that fundamental human rights were respected and safeguarded. For this reason, the Government of the Netherlands Antilles regrets that the visit to the islands by the Committee (CPT) between 26 and 30 June 1994 was prompted by reports that the Committee had received in recent years containing accusations of ill-treatment by the judicial authorities of persons who had legally been deprived of their liberty. The Netherlands Antilles are responsible for ensuring that fundamental human rights and freedoms are guaranteed and will continue to make every effort to achieve this end.

The Government of the Netherlands Antilles is pleased to hear that the CPT was satisfied with the reception it was given during its visit and that the Committee was able to note that the Netherlands Antilles Government had already undertaken a number of initiatives. During the visit the delegation was informed of various activities for the purposes of compliance with and implementation of the Convention. It is important to note in this connection that the CPT's recommendations are greatly appreciated, and have been incorporated where possible in various government projects, plans and programmes, some of which are ongoing and some completed.

The present interim report was compiled with the assistance of the Netherlands Antilles Police Force, the Prisons Department, the Public Prosecutions Department, the Bureau of Foreign Relations, the Ministry of Health and the Ministry of Justice.

This report is based on the situation for the period from June 1994 to May 1995 and deals in detail with the recommendations, comments and requests for information made in report CPT(95)3.

The lay-out and chronological order of the interim report reflect as far as possible that of the Committee's report. The typography has been adapted in some places to avoid duplication and in the interests of easy reference. The figures in brackets indicate the corresponding parts of the Committee's report. Measures which have been or are to be taken, in response to the recommendations or otherwise, are shown in bold italics.

Two points should be borne in mind when assessing this report. The first is that the draft Code of Criminal Procedure has now been submitted to the States of the Netherlands Antilles. However, it is in the form of a country ordinance and therefore has to meet unusual procedural requirements before being adopted. It is accordingly difficult to predict when the Code will enter into force. Nevertheless, the changes in the law of criminal procedure which the new Code will entail will be discussed as necessary. The draft Code may be amended while it is before the States. *As soon as the draft has been adopted by the States, a copy will be forwarded to the Committee (14).*

Secondly, account should be taken of the reorganisation of the prison service in the Netherlands Antilles. In the interests of brevity, reference is made to the introduction to chapter III of this report.

## II DETENTION IN POLICE CELLS

### 11.1 General

#### 11.1.1. Pre-trial detention: General (12-14)

Under the provisions of the current Code of Criminal Procedure, suspects arrested by the police in the course of criminal investigations are brought without delay before either the public prosecutor or an assistant public prosecutor. In accordance with article 41 of the Code of Criminal Procedure, the suspect may be held for questioning for no longer than six hours, excluding the period between 22.00 hours and 08.00 hours.

In accordance with article 38 of the Code of Criminal Procedure, the (assistant) public prosecutor before whom the suspect is brought may remand the suspect in police custody. If the order for remand in custody is issued by an assistant public prosecutor, the public prosecutor must issue written notification, within 24 hours, that the order has been received. The order for remand in custody can only be issued for a period of four days. The public prosecutor can extend the order for a maximum of six days.

In turn, the public prosecutor notifies the investigating magistrate as soon as possible that the order for remand in custody has been issued. The investigating magistrate may, in response to an application from the public prosecutor, issue a warrant for the provisional arrest of the suspect. This order is valid for eight days, and can be extended by another eight days in response to an application from the public prosecutor.

In accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms, and European Court case law, suspects are, in practice, brought before the investigating magistrate on the third, or at the latest, fourth day after they have been remanded in police custody.

The draft Code of Criminal Procedure, however, contains entirely different regulations. With regard to questioning, the six hour limit, excluding the period between 22.00 hours and 08.00 hours, will be upheld. In exceptional circumstances the public prosecutor may allow the questioning to continue after 22.00 hours, though only if the suspect agrees. The time is then subtracted from the six hours.

The order for remand in custody is enforceable for a maximum of two days and may be extended once by the public prosecutor for a maximum of six days. However, the suspect must be brought before the investigating magistrate within twenty four hours of the order being extended, so that, should any irregularities have occurred, he can order the immediate release of the suspect.

The requirements to be fulfilled by the locations at which suspects are held in custody should be set down by country ordinance, insofar as they are not contained in the Prisons Ordinance.

The CPT recommended a considerable reduction in the time in which suspects may be held in police cells. Its reason for putting forward this recommendation was its ascertainment of the fact that, under current statutory regulations, suspects may be held in police cells for up to ten days. According to the CPT, prolonged periods of detention in police premises can lead to high-risk situations.

*The fact that by law suspects' remand in police custody may not exceed ten days should, however, be separated from the place at which the order for remand in police custody is to be executed. In other words, if a suspect is remanded in police custody, it does not necessarily follow that he will be held in a police cell. The Government of the Netherlands Antilles acknowledges the risks attached to prolonged detention of suspects in police cells. Efforts are therefore made to keep the time suspects are detained in police cells to a minimum. As a rule, suspects are held there for no longer than three days.*

*Exceptions are only made if the suspect's personal security is at risk, in which case he will be held in a police cell for the maximum period of ten days. Such exceptions will occur less frequently as and when the circumstances in the prisons have improved, and the problem of over-crowding has been resolved.*

11. 1.2. **Complaints committee on acts performed by police officers (16-20)**

In its report, the CPT put forward the view that the existence of the complaints committee on acts performed by police officers, which was instituted in 1994, is largely unknown.

*The establishment of the complaints committee in 1994 was accompanied by a publicity campaign. The names of the committee members and information on its work and the relevant regulations were published in nearly all local newspapers, and on radio and television.*

*In view of the CPT's findings, the Government of the Netherlands Antilles will request the complaints committee to repeat the publicity campaign in the latter half of 1995, or early 1996, and to distribute leaflets containing information on its work.*

In its report, the CPT requested clarification of the discrepancy between the wording of the Government decree (Country Ordinance) establishing the complaints committee as adopted by Parliament and that appearing in the Official Journal.

*As the CPT was informed during its visit, an administrative error was indeed made and a different text than that adopted by Parliament was published in the Official Journal. The error has since been rectified and the correct text has now been published in the Official Journal (see Rectification of 22 June 1994 [annex i]). Article 3 of the correct text reads:*

*"The Complaints Committee shall refrain from expressing its views of the*



*measure that led to the conduct in question"*

II.1.3.        **The *Landsrecherche* (21)**

The CPT wished to receive further information on progress made with the establishment of the *Landsrecherche*.

*The Landsrecherche was established by decree of 11 May 1994, a copy of which is enclosed (annex ii). If all goes according to plan, this department will be operational within a year. To this end, four members of the Netherlands Antilles Police Force will shortly be requested to provide their assistance. It is the intention that staff recruited to the department will be given special training, which will be provided in the Netherlands by experts in the field.*

II. 1.4.        **Criminal law and disciplinary sanctions in respect of complaints about police conduct (25)**

The CPT requested information on the number of complaints about ill-treatment by police officers lodged in 1993 and 1994, the number of criminal law/disciplinary proceedings initiated as a result, and the criminal law/disciplinary sanctions imposed.

*A total of 22 complaints of ill-treatment by the police were lodged in 1993. Three of these complaints led to a sentence of five months' imprisonment. Five were declared unfounded and there was insufficient evidence in 10 cases. Disciplinary sanctions were also imposed in the three cases in which the complaints led to prison sentences.*

*The three remaining cases are still pending.*

*A total of 31 complaints were lodged in 1994, all of which were investigated by the Internal Affairs Branch, and the results of the investigation were passed on to the Public Prosecutions Department. 14 of the complaints were declared*

*unfounded, while there was found to be insufficient evidence in 8 cases. Disciplinary sanctions were imposed in 2 cases. None gave the Public Prosecutions Department grounds to institute prosecution proceedings. Seven cases are still pending.*

The CPT also requested the results of the inquiry into complaints of ill-treatment lodged by persons of Venezuelan origin who were arrested in August 1993.

*The complaints lodged by these persons were investigated by the Public Prosecutions Department. During the court proceedings, it was demonstrated convincingly that force was used against the accused at the time of his arrest. However, the court held such force to have been fully justified, as the accused and his accomplices had used firearms in their confrontation with the police. It was not demonstrated convincingly in the court proceedings, however, that they had been subjected to physical violence after their arrest, during interrogation.*

#### II 1.5. Recruitment and training of police officers (24)

The CPT stressed that attention should be paid to training police officers in interpersonal communication skills. The CPT therefore recommended that weight be attached to aptitude for interpersonal communication when recruiting police officers and that emphasis should be placed on the acquisition and development of the relevant skills during police training.

*A psychological test, background screening and a test of candidates' general level of education now form part of the selection procedure for would-be police officers. Although an attempt is thus made to establish as complete a picture as possible of the candidates, the selection committee will be consulted on methods that might be used to establish whether they have an aptitude for interpersonal communication.*

The CPT also recommends that the *Formashon Polis 2001* programme should be applied not only to new recruits but also to police officers already in service.

*This recommendation would suggest that the Formashon Polis 2001 programme applies to the basic training courses only and is therefore incomplete. However, the programme encompasses training in interpersonal skills in the broadest sense. Discussion and evaluation sessions, at which audio-visual aids are used, are now being held within the framework of the programme. These sessions are designed to be a learning process, during which interpersonal skills are examined and imparted to police officers under the supervision of experts. The phased approach ensures that every officer takes part.*

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

*The instructions on the use of force (annex iii) have recently been updated, and safeguards against the wrongful use of force tightened up. In addition, the public hearing of criminal and disciplinary cases involving the wrongful use of force or ill-treatment has made it quite clear to all members of the police force that such conduct will not be tolerated. Allegations of police violence are given careful consideration, and, in each case, regardless of whether they are found guilty, the officers are reminded of their responsibilities.*

*The Government of the Netherlands Antilles wishes, however, to provide a clearer indication of its attitude to the use of force by police officers and has recently approved a bill amending the Criminal Code. The amendment entails the introduction of a special clause prohibiting the use, by government officials, of torture and inhuman or degrading treatment or punishment. The bill is currently before the Advisory Council, which is the Netherlands Antilles' highest advisory body.*

#### II.1.6. Other (26)

The CPT recommended, in accordance with the wishes of the clinical pathologist, that a protocol be drawn up establishing the way in which her duties relate to those of the Attorney-General.

*The request submitted by the clinical pathologist has been granted. A protocol governing cooperation between the Public Prosecutions Department, the Chiefs of Police, the Prison authorities and the Pathology department of the National Laboratory was signed on 18 April 1995. For the sake of brevity, reference is made to the contents of this protocol which is enclosed as annex iv.*

#### 11.2            Police cells

##### 11.2.1.        Cells at Barber Police Station (29-30)

With regard to the cells at Barber police station, the CPT put forward the following recommendations:

- a.     no more than two persons should be accommodated overnight per cell;
- b.     the ventilation system should be improved;
- c.     anyone spending the night in custody should be provided with a mattress and sheet;
- d.     the cells should be equipped with a call system;
- e.     persons detained for an extended period should be offered outdoor exercise;
- f.     access to natural light in the cells should be improved.

*Points a, c and e will be included in the guidelines on the treatment of detainees and the use of police cells which are to be introduced within 3 months. Within 6 months of the date of this report, instructions will be issued for the improvement of the ventilation system and the installation of a call system.*

***However, the structure of the cell block may give rise to problems in attempting to improve access to natural light.***

II. 2.2. Cells at Punda Police Station (34-35)

The CPT recommended that the sobering-up cells be withdrawn from service, as they are wholly unsuited for detention purposes.

***In accordance with the CPT's recommendations, the Government of the Netherlands Antilles will withdraw the sobering-up cells at Punda police station from service. The relevant details will be included in the guidelines on the treatment of detainees and use of police cells.***

II.2.3. Criminal Investigation Department cells (36-38)

The CPT recommended that the Rio Canario Criminal Investigation Department cells should be used for holding suspects for a few hours only, and that they should be cleaned and the lighting repaired.

***The CPT evidently means that these cells should only be used for the six hours' interrogation. The guidelines on the treatment of detainees and use of police cells will therefore contain provisions to this effect. The same applies to the maintenance of the cells and the lighting.***

11.2.4. Cells at Rio Canario Police Station (39)

The CPT recommended that steps be taken to bring the cells at Rio Canario Police Station into service as soon as possible.

***The cells at Rio Canario police station were withdrawn from service in response to a court decision, which was given on the grounds that the ventilation system was defective. Funds have now been released for the improvement of this***

*system and the preparations are now at the tendering stage. These cells will be brought into service as soon as work on the ventilation system is completed, and a solution is found for the problem of the exercise yard.*

II.2.5. Other

11.2.5.1. Food (40-42)

The CPT recommended that the authorities of the Netherlands Antilles should review existing arrangements to ensure that persons in police custody receive sufficient food and drink.

*The aforementioned guidelines will specify measures to ensure that all persons in police custody are given breakfast with water or tea before 08.00 hours, a hot meal with water between 12.00 hours and 14.00 hours and a cold meal with water or tea at 18.00 hours at the latest.*

II. 2.5.2. Information (43-46, 54)

The CPT recommended that persons detained by the police should have the right to inform, without delay, a close relative or a third party of their detention, through the mediation of the relevant police officer or in some way, and that any exceptions should be clearly circumscribed in law and made subject to appropriate safeguards.

*The guidelines will contain provisions to this effect, albeit that the relative or third party will be notified by the police officer in question. In addition, the guidelines will specify that the permission of the public prosecutor must be obtained if, in the interests of the investigation, notification is to be delayed up to 24 hours. Other cases where exceptions may be made - e.g. if the detainee has no relatives on the Antilles - will be specified in the guidelines and the necessary forms drafted.*

The CPT also recommended that a form be drafted in which detainees are systematically informed of their rights. The form should be drawn up in a number of languages and given to suspects who have been remanded in police custody. The CPT also recommended that the detainee be required to sign a receipt as proof that the form has been issued.

*The new Code of Criminal Procedure provides for such a measure insofar as it specifies that suspects must be informed verbally of their rights and that they must be issued with a form stating their rights. The form must be available in at least four languages - Papiamentu, English, Dutch and Spanish. Suspects are required to sign the form to indicate that they have read it. Any refusal to do so will be recorded in the official report.*

*The draft Code of Criminal Procedure will probably be approved this year. Should this not be the case, the Government will look into the possibility of introducing a measure along these lines in the first three months of 1996.*

#### II. 2.5.3. Legal counsel (47-51)

The CPT recommended that persons detained by the police be entitled to have access to a lawyer (where necessary, an officially assigned lawyer) from the outset of their detention. This right should include the right to consult the lawyer in private, contact him and be visited by him. In addition, the CPT requested the government's comments on the fact that, notwithstanding the provisions of article 50 sexies, it is customary that detainees only consult their lawyer for the first time on arrival at Koraal Specht prison or, in some cases, shortly before the court hearing, especially in cases where a legal aid lawyer has been assigned.

*In accordance with article 50 bis of the present Code of Criminal Procedure, all detainees have the right to assistance from one or more counsel of their choice. In accordance with article 50sexies, counsel has the right of free access to the*

*suspect who has been deprived of his liberty by law, may speak to him in private and engage in confidential correspondence. Under the current regulations, people with insufficient resources are entitled to legal aid counsel. Current procedures for assigning legal aid counsel are too time-consuming and it can indeed take several days before detainees are first able to consult their lawyer.*

*On the introduction of the New Code of Criminal Procedure this problem will be solved and the CPT's recommendation that suspects should have the right to assistance from counsel as soon as possible after they have been apprehended by the police will be complied with. Under the new criminal procedure, suspects must have access to a lawyer before the first interrogation and will be informed of this right by the investigating officer.*

*The investigating officer will be required, in any event, to inform the suspect of his right to consult a lawyer prior to the commencement of the interrogation. Under the new criminal procedure, should the suspect ask to consult a lawyer before being interrogated by the police, the interrogation may only commence if, in the interests of the investigation, postponement would be inadvisable, or if, in all reason, the arrival of the lawyer cannot be awaited. Furthermore, the suspect reserves the right to consult his lawyer privately once the interrogation has been conducted, without prejudice to the exceptional cases referred to in article 50 sexies and the same provisions of the new Code. With a view to ensuring the correct interpretation of the new regulations, the Public Prosecutions Department will draw up guidelines for the police and the legal profession.*

*In addition, under the provisions of the new Code of Criminal Procedure, counsel will be assigned to every suspect remanded in police custody as soon as the relevant order has been issued.*

*However, in the opinion of the Government of the Netherlands Antilles, the presence of counsel during police interrogations presents problems from the*



*point of view of legal proceedings. The arguments in support of this decision are as follows. The Code of Criminal Procedure is based on the assumption that the Public Prosecutions Department is in charge of investigations. The Public Prosecutor is therefore responsible for ensuring proper procedure. It is in the public interest, as represented by the Public Prosecutions Department, not only that criminal offences should be cleared up but also that this should be done in a proper manner. The latter is also in the interests of the rule of law, an interest which should equally be served by the Public Prosecutions Department. Part of its duty in this regard is to ensure that the police conduct interrogations in a proper manner. It should be noted here that the new Code of Criminal Procedure compels the investigating officer to refrain from any action aimed at obtaining from the suspect a statement which could not be said to be given freely. The supervision to be exercised by the Public Prosecutions Department cannot be reconciled with granting counsel exclusive scrutiny over the collecting of evidence. Such a role is difficult to reconcile with counsel's partisan position in proceedings as the suspect's defence lawyer.*

#### **II.2.5.4 Medical consultation and treatment (52-53)**

The CPT recommended that specific legal provisions be adopted on the subject of the right of persons detained by the police to have access to a doctor. Such provisions should stipulate 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), that all medical examinations should be conducted out of the hearing and - unless the doctor concerned requests otherwise - out of the sight of police officers, and that 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.

*First and foremost, all detainees may request medical treatment or be subjected to a medical examination, if deemed necessary by the assistant public*

*prosecutor. The police doctor is, in principle responsible for providing treatment. However, the guidelines on the treatment of detainees and the use of police cells will also stipulate that detainees may receive treatment from a doctor of their choice at their own expense.*

*As a rule, detainees are examined and treated at times other than those reserved for interrogation, and not under the supervision of a police officer. After all, the relationship between doctor and patient is confidential. Exceptions are only made if there is good reason to fear an escape attempt, and if escape is possible from the place where the treatment is to be given. The reasons for such an exception will be given in the guidelines.*

*The confidential nature of the doctor-patient relationship also relates to the statements made by both the doctor and the detainee and/or his lawyer. Written statements will be issued at the discretion of the doctor.*

#### **11. 2.5.5 Interrogations (55-58)**

The following response has been given to the CPT's recommendation that formal guidelines be drawn up on interrogation procedures.

*The guidelines on the treatment of detainees and use of police cells will contain provisions relating to the obligation of the officers responsible for conducting interrogations to identify themselves by means of their official identification papers, the duration of the interrogation and the compulsory breaks to be taken (to be decided) the place where the interrogations are to be conducted, the obligation to offer suspects a seat during interrogations, and the ban on interrogating persons who are evidently intoxicated or under the influence of alcohol or narcotic substances, or who are unconscious. Reference is also made to II.2.5.6.*

*The Government of the Netherlands Antilles will also consider adopting the*

***CPT's recommendation that interrogations should be recorded electronically.***

***With regard to the request for information concerning interrogations that may have been conducted between 22.00 hours and 08.00 hours, we would inform the CPT that this is currently not permitted by law. Under the new Code, as was the case with its predecessor, a suspect may be interrogated by the police for six hours, on the understanding that the period between 22.00 hours and 08.00 hours is not included. Only in exceptional cases may the assistant public prosecutor, with the suspect's consent, decide that an interrogation which has already begun will continue beyond 22.00 hours. The total duration of the interrogation is then deducted from the six hours.***

#### **II.2.5.6 Custody records (59-60)**

***The aforementioned guidelines will provide for the introduction of the custody records referred to in CPT recommendation no. 60, on the understanding that the starting and finishing times of interrogations will also be recorded.***

#### **II.2.5.7 Supervision (61)**

***The public prosecutor or the assistant public prosecutor will be responsible for ensuring compliance with the guidelines. In addition, a public prosecutor will shortly be drafted onto the Prisons Supervisory Commission.***

### III DETENTION IN REMAND CENTRES AND PRISONS

#### III.1. Introduction

##### III. 1.1 Reorganisation of the prison system (64-66)

It is essential that a general assessment be conducted of the developments to which the reorganisation of the prison system, which is currently under way, has given rise. During the CPT's visit to the Antilles, the government informed its members that it endorsed the need for reorganisation.

*Within the framework of the reorganisation, three reports on the prison system were published on the instructions of the Government in 1994. One of these reports, which was drawn up on the instructions of the Minister of Justice, provided an integral view of the problems encountered in the prisons, focus being placed on the standards upheld.*

*The problems identified in these reports provided the basis on which the entire prison system was to be reorganised. To this end, the Government of the Netherlands Antilles adopted the principle that the purpose of detention was to rehabilitate and resocialize prisoners.*

*The Government also adopted the principle that regimes should be adapted to allow for workable day programmes which will respond to the need of individual prisoners. The first step in this direction was the opening of a semi-open unit (Nieuwbouw) in which, in the final stages of their detention, prisoners are given the opportunity to prepare themselves for their return to society. This new unit has also reduced overcrowding in the old prison.*

*Within the next 1 or 2 years, the government also plans to create a separate facility to accommodate habitual offenders and juvenile offenders. At the same time, new norms will be introduced with regard to prisoner/cell space ratios. At*

*the moment, however, no data is available on either capacity or regime. The aforementioned principles will however be adopted in relation to all new prison facilities.*

*Within the framework of the reorganisation, two new classrooms have been added to the existing facilities, so that juvenile offenders can now receive regular instruction. Moreover, greater efforts are being made to cooperate with the Ministry of Education, and specially adapted curricula are now being drawn up.*

*Provision is also being made for other activities. Two new projects have recently been set up, the first relating to market gardening, the second to the construction of cement building blocks.*

*An interim director of the prison department was appointed for two years as of 1 April 1995 to ensure completion of the reorganisation. An interim director rather than a fulltime director was chosen as the reorganisation not only relates to the fulfilment of the material conditions needed to allow for change, but also to the adoption of a different attitude to work, and this will call for changes to the structure of the organisation and its culture. The interim director, who will be unencumbered by personal experience, can also set out the new lines without fearing for his own position. Well before expiry of the interim period, a full-time director will be appointed to supplement the interim director.*

*Maintenance work is now under way on the kitchen and sanitary facilities.*

*As far as Bonaire Prison is concerned, tenders have been invited for the construction of extra facilities for the reception of young offenders and women, a lawyers' office, and a multifunctional facility for educational and therapeutic purposes.*

*The standards to be met by prisons and the relevant implementation guidelines*

*will be contained in the new Country Ordinance on Prisons. The Ordinance will also specify the amended standards to be met by disciplinary procedures and the Supervisory Commission. The relevant bill has now been submitted to Parliament.*

*Finally, the government would draw attention to the fact that specialists in various disciplines have been appointed to supervise the reorganisation, and a structure has been created to this end.*

III.1.2.        **Complaints about the execution of sentences and pre-trial detention in prison: criminal law and disciplinary measures (67-70)**

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 the cells to the disciplinary unit.

*During both training and briefing sessions, prison staff are reminded that except in certain situations, the use of force is unlawful - as laid down in staff instructions. Moreover, all disciplinary measures taken against members of prison staff on the grounds of torture or inhuman or degrading treatment are designed to have a preventive effect.*

In its report, the CPT asked for further information on allegations of the physical ill-treatment of prisoners by prison officers at Point-Blanche Prison.

*The complaints lodged by prisoners about ill-treatment by the prison staff at Point Blanche, St Maarten were extensively investigated by the Public Prosecutor in 1994. A number of prisoners and the prison staff were questioned. Two specific complaints emerged from the investigation, which in turn were investigated.*

*One complaint alleged ill-treatment of a prisoner in Point Blanche by a prison warden. The investigation revealed that the warden used force after the complainant had gestured violently at him at such close quarters that he could not avert the attack by means of the truncheon issued to him in the course of his duties. The guard was therefore compelled to use his hands to avert the violent gesture. A written report of the incident was submitted to the prison authorities immediately afterwards. The warden's conduct did not call for disciplinary measures. He had acted in accordance with article 57 of the staff instructions.*

*The second complaint concerned an incident in which a prisoner was attacked by a fellow prisoner in a police van, because he had tried to alert the police to the latter's attempted escape. In view of the circumstances, force had to be used to restrain the complainant. In this case, too, the action taken was justified by the circumstances.*

*To sum up, none of the cases about which complaints were submitted provided sufficient grounds for disciplinary or criminal law measures.*

*No complaints regarding ill-treatment by prison staff were recorded for 1993.*

*Four complaints were submitted for 1994, all of which have been declared unfounded.*

*With regard to complaints about government reformatory (GOG) staff, no information was available at the time this report was drawn up. A response to this question will be given in the final report.*

### III.2. Material conditions of detention

#### III.2.1. Material provision in cells (71-79, 90, 93-96)

The CPT stated that Departmental Memorandum No. 007/94 does not make specific provision for the supply of mattresses to all prisoners, including those in the punishment cells, and requested that it be amended accordingly.

*A misunderstanding has evidently arisen with regard to the interpretation of the above memorandum. Article 5 thereof stipulates that all prisoners in all units should be issued with a mattress. A form has been devised to monitor implementation of the provisions of this article (see annex iv).*

The CPT emphasised that, contrary to what is indicated in the above Memorandum, the water supply problem did not appear to be confined to the *Nieuw Bouw* section.

*As a result of the discovery of leaks in the water pipes at Koraal Specht prison, the water supply system is now being given a thorough overhaul. While maintenance work is being carried out, measures have been taken to ensure that the prisoners are supplied with sufficient water for bathing and drinking.*

With regard to the problem of overcrowding, see III.1.1.

*The maintenance work currently under way will take some six to nine months to complete. As more staff have been taken on in the stores department, the supply of bedding and personal hygiene products has been more effective and flexible since the CPT delegation's visit.*

### III. 2. 2. Educational and recreational activities (80-84, 91-92, 97-99)

*Every unit now has a carefully thought-out programme of daily activities. See annex v for a description of these programmes.*

*Women prisoners may take the air in the open courtyard of the prison at any time from 07.00 onwards, in addition to taking part in recreational and other*



*activities. They are locked in at 22.45 hours each night.*

*Prisoners serving life sentences may also take part, on a regular basis, in work projects, education, sport and other forms of exercise, and religious services. Three social workers have now been appointed to supervise these prisoners.*

### III. 2.3 Food (85-89,100)

The CPT urged improvement of the quantity and quality of the food issued, in addition to greater variety, and better supervision of its distribution. In addition, prisoners should be provided with cutlery.

*In order to tackle the food problem, a part-time dietician will be appointed within the next six months, prior to which a survey has been carried out of the food issued to the prisoners. The food was found to be sufficient and of adequate quality. On the recommendation of the prison doctor, however, the amount of salt added to the food has been reduced.*

The kitchen facilities are currently undergoing an overhaul. The kitchens are being relocated and new equipment is being installed.

All prisoners will be issued with a plastic spoon.

### III. 2. 4 Correspondence and visits (104-110)

*Every prisoner is entitled to receive visitors for at least 30 minutes each week. Special arrangements may be made for extra visits for prisoners from other countries. Special arrangement are also made for prisoners with businesses of their own or with family problems. Foreign prisoners and those with family problems may receive personal visits on Mondays and Tuesdays. Other prisoners may receive visitors for 30 minutes at least on Tuesdays, Thursdays, Fridays and at the weekends. Prisoners in the Nieuw Bouw receive their visitors*

*in the communal reception areas.*

*The government acknowledges the importance of confidential conversations between prisoners and their counsel and will continue to ensure that prisoners can speak to their counsel in private.*

*Foreign prisoners may be visited by relatives from abroad several times a week. They are also allowed to phone their relatives several times a week, and they are allowed extra correspondence.*

### **III.2.5. Discipline**

*Confinement in punishment cells on bread and water and confinement in irons have been abolished.*

*The existing procedure governing placement in the punishment cell by way of a disciplinary measure is as follows. A prisoner who contravenes the prison rules is questioned by the duty officer before being confined in a punishment cell. A report of the incident must be drawn up by the head of the unit and submitted to the prison governor within 48 hours. The governor then decides, on the basis of the report and a statement by the prisoner, whether the prisoner should be confined in a punishment cell.*

*This procedure will be regulated by the new ordinance on prisons, which will specify that the governor's decision must be communicated in writing and will provide for the possibility of appeal.*

*Maintenance work will also be carried out on the punishment cells and they will be equipped with a table and chair.*

*Preparations are under way to provide, within two months if possible, reading matter for prisoners in the punishment cells.*

*The ventilation system and lighting in the women's unit have now been repaired.*

*With regard to the CPT's request that the prisoner E. Padmore be seen by a psychiatrist, the government would provide the following information. The Public Prosecutor ordered Mr Padmore's immediate release from pre-trial detention shortly after the delegation's visit.*

The CPT delegation requested further information on the allegation that the punishment cell had been used to accommodate a mother and child and on the complaint submitted by the prisoner Rampenburg.

*It is true that in one case a woman prisoner was confined with her child to the punishment cell. She found it difficult to adapt to prison life. After she had been involved in a number of fights, had behaved in an indecent way towards other prisoners, and had threatened to stab another prisoner with a pair of scissors, she was placed in the punishment cell for a limited period with her child. The measure was taken for security reasons, The door of the cell was always left open during the day. The prisoner in question has now adapted and is therefore confined in association with the other prisoners.*

*With regard to the Rampenburg case, see the interlocutory judgement which is enclosed.*

III.2.76. Solitary confinement (118-119)

*Procedures for solitary confinement will be reviewed within three months.*

III. 2.7. Other

III.2.7.1. Medical services

*At present, two doctors are under contract to the prison. The government will consider the appointment of a full-time doctor.*

*A psychiatrist has worked on a part-time basis at the prison for some time now and is available for consultation every day.*

*The government will consider appointing a psychologist.*

*A nursing auxiliary will be appointed in the next six months to assist the nurse. Preparations are currently under way.*

*A rota of prison officers with recognised nursing qualifications is currently in force for the care of the prisoners. Before being put on nursing duty, staff have to obtain a first aid diploma and then spend a period of placement in the hospital, the psychiatric institution and the laboratory. Further training will be included in the training plan.*

*The recommendation that the health care staff should be the administrative responsibility of the ministry of Health will be considered as part of the reorganisation process.*

*As far as maintenance work on the doctor's office and sick bay is concerned, see III. 1.1.*

*A medical records system can be introduced once computerisation measures have been taken.*

*Prisoners are examined by the prison doctor on duty if they arrive during office hours. This is not the case if they arrive at other times. The government will instruct the prison governor to ensure that prisoners who arrive outside office hours are examined by a nurse and that a report is drawn up of the examination.*

*The prison authorities have been instructed to produce a leaflet within six months informing prisoners of the existence and work of the medical service and the various preventive and curative facilities available. This leaflet is to be supplied to all detainees on their arrival at Koraal Specht prison.*

*At present, the medical service regularly provides information to prisoners and prison staff on AIDS and other infectious diseases and screens prisoners who are in regular contact with infected prisoners. This includes conducting AIDS tests. The need for improvements, if any, will be looked into.*

*The prison authorities will be instructed to ensure that prisoners are issued with all medicines prescribed for them.*

### **III. 2.7.2 Treatment of drug addicts (150)**

*The treatment of drug addicts will be studied within the framework of the reorganisation. Any measures will be taken in consultation with the Minister of Health.*

### **III. 2.7.3 Female prisoners with children (151-153)**

*Mothers confined in prison with their children are supervised by the establishment's activities supervisor. Mothers are allowed to care for their children in prison after the neonatal period only after all the interests at stake have been carefully considered. However, such cases are very rare. There is therefore no need to provide permanent facilities such as a creche.*

## **III. 3. Complaints and supervision**

### **III.3.1. The procedure (120-121)**

*The revised Country Ordinance on Prisons provides for a complaints procedure,*

*furnished with legal safeguards, for prisoners. This will make it possible to appeal against decisions taken by the prison authorities. See also III.3.2*

*The CPT's request that its President be added to the list of authorities with whom prisoners may correspond in confidence will be complied with as soon as possible.*

### **III.3.2. Supervisory Commission (122-123)**

*As soon as the Bill amending the Country Ordinance on Prisons has been adopted by the States, a copy will be forwarded to the CPT.*

*The above Bill provides for an adjustment to the Supervisory Commission's duties. Pending its adoption, the Chair of the Commission has added a member of the Public Prosecutions Department (a Public Prosecutor) to the Commission. Plans also exist to add a representative of the business world to the Commission. Complaints are now being submitted to the Commission in anticipation of its new role as a complaints authority. Prisoners lodging complaints are heard by the chair and a member of the Commission. In order to promote access to the Commission, its work has been explained to the inmates of Koraal Specht prison.*

### **III.4. Prison management and staff skills**

#### **III.4.1. Management and skills (101-103)**

*Staff training in communication and social skills will form a significant part of the new training programme, with particular focus on communication between prison officers and prisoners. Reference should be made in this connection to the courses in communication skills, dealing with prisoners and conflict management that are organised by the Instituut pa Formashon de Enfermeria in collaboration with the Prisons Department. Some 40 members of staff are*

*currently attending these courses. The plan is to offer all members of staff an overall training plan as part of the reorganisation.*

*With regard to measures to strengthen management, see III.1.1.*

*The interim director is responsible for tackling the problem of absenteeism.*

## **IV            DETENTION OF ALIENS UNDER ALIENS LEGISLATION**

### **IV. 1            The reception of aliens**

*The Government of the Netherlands Antilles acknowledges that the reception and detention of foreign nationals under aliens legislation is in need of improvement. Consideration will be given to possible ways of resolving this problem. A project group, which was appointed to examine aliens policy, has recently drafted instructions on the implementation of aliens legislation. The problem of the reception of aliens was put before the project group, but an overall package of measures cannot be introduced in the short term. Steps will however be taken to improve the conditions in which persons due for deportation are detained. The measures referred to in II.2.1 should be seen in this context. In addition, the possibility of offering persons detained under aliens legislation a limited programme of recreation will be looked into. An information leaflet will also be supplied shortly to detainees of this kind.*

### **IV.2            Problems of admission and deportation**

*Under article 5 of the Constitution of the Netherlands Antilles, the admission, residence and deportation of aliens should be regulated by statute. The Lieutenant-Governor has the power under aliens legislation to admit or deport aliens. Aliens who apply for admission to the Netherlands Antilles should in theory await a decision on their application in their country of origin. It is possible to appeal against a negative decision. Individuals may apply to the civil courts against a decision by the government to deport them, on the grounds that they might suffer torture on return to their country of origin, Foreign nationals whose residence permit has become invalid for any reason may resort to these legal remedies, and may also remain in the Antilles pending the judgement of the court.*

*In every case, people are deported to the country of their choice. Only aliens*



*whose travel documents are not in order are deported to their country of origin. In such cases, the highest judicial authorities of the country in question are always contacted in advance to determine whether there is any danger of torture or degrading or inhuman treatment or punishment.*

## V. Conclusion and Summary

What follows is a summary of chapters II, III and IV, divided into information, measures taken and future activities.

### V.1 Information and data requested; observations

*1. As soon as the draft Code of Criminal Procedure has been adopted by the States, a copy will be forwarded to the Committee (14).*

*2. The fact that by law remand in police custody may not exceed ten days should be separated from the place where the warrant for remand in police custody is executed. In other words, remand in police custody is not linked to detention in a police cell. The Government of the Netherlands Antilles acknowledges the risks attached to prolonged detention of suspects in police cells, and is therefore endeavouring to restrict such detention as much as possible. However, as a rule suspects are not held in police cells for longer than three days, exceptions being made only if required in the interests of the individual's personal safety, in which case suspects may be held in police cells for no longer than the maximum period of remand in police custody. As and when the detention situation and the problem of overcrowding in prisons are resolved, cases of prolonged detention in police cells will be reduced.*

*3. In 1993 a total of 22 complaints of ill-treatment by the police were lodged. Three of these led to a sentence of five months' imprisonment, and disciplinary measures. Five were declared unfounded. There was insufficient evidence in 10 cases. Three cases have not yet been completed.*

*In 1994 31 complaints were lodged, all of which were investigated by the Internal Affairs Branch, and the results of the investigation were passed on to the Public Prosecutions Department. In 14 cases the complaints were declared unfounded, and in 8 there was found to be insufficient evidence. Disciplinary*

*measures were taken in two cases. None gave the Public Prosecutions Department grounds to institute prosecution proceedings. Seven cases are still pending.*

*4. The Public Prosecutions Department instituted an investigation into the complaints lodged by the suspects of Venezuelan origin who were arrested in August 1993. It was demonstrated convincingly during the court proceedings that force was used against the complainant at the time of his arrest. The court held such force to have been fully justified as the complainant and his accomplices used firearms in their confrontation with the police. It was not demonstrated convincingly in court proceedings that the complainants had been subjected to physical violence after their arrest, during interrogation.*

*5. However, in the opinion of the Government of the Netherlands Antilles, the presence of counsel during police interrogations presents problems from the point of view of legal proceedings. The arguments in support of this decision are as follows. The Code of Criminal Procedure is based on the assumption that the Public Prosecutions Department is in charge of investigations. The Public Prosecutor is therefore responsible for ensuring proper procedure. It is in the public interest, as represented by the Public Prosecutions Department, not only that criminal offences should be cleared up but also that this should be done in a proper manner. The latter is also in the interests of the rule of law, an interest which should equally be served by the Public Prosecutions Department. Part of its duty in this regard is to ensure that the police conduct interrogations in a proper manner. It should be noted here that the new Code of Criminal Procedure compels the investigating officer to refrain from any action aimed at obtaining from the suspect a statement which could not be said to be given freely. The supervision to be exercised by the Public Prosecutions Department cannot be reconciled with granting counsel exclusive scrutiny over the collecting of evidence. Such a role is difficult to reconcile with counsel's partisan position in proceedings as the suspect's defence lawyer.*

*6. With regard to the request for information concerning interrogations that may have been conducted between 22.00 hours and 08.00 hours, we would inform the Committee that this is currently not permitted by law. Under the new Code, as was the case with its predecessor, a suspect may be interrogated by the police for six hours, on the understanding that the period between 22.00 hours and 08.00 hours is not included. Only in exceptional cases may the assistant public prosecutor, with the suspect's consent, decide that an interrogation which has already begun will continue beyond 22.00 hours. The total duration of the interrogation is then deducted from the six hours.*

*7. The complaints lodged by detainees about ill-treatment by the prison staff at Point Blanche, St Maarten, were extensively investigated by the Public Prosecutor in 1994. A number of detainees and prison staff were questioned. Two specific complaints emerged from the investigation, which in turn were investigated.*

*One complaint alleged ill-treatment of a prisoner in Point Blanche by a prison warder. The investigation revealed that the warder used force after the complainant had gestured violently at him at such close quarters that he could not avert the attack by means of the truncheon issued to him in the course of his duties. The guard was therefore compelled to use his hands to avert the violent gesture. A written report of the incident was submitted to the prison authorities immediately afterwards. The warder's conduct did not call for disciplinary measures. He had acted in accordance with article 57 of the staff instructions.*

*The second complaint concerned an incident in which a prisoner was attacked by a fellow prisoner in a police van, because he had tried to alert the police to the latter's attempted escape. In view of the circumstances, force had to be used to restrain the complainant. In this case, too, the action taken was justified by the circumstances.*

*No complaints regarding ill-treatment by prison staff were recorded for 1993.*

*Four complaints were submitted for 1994, all of which have been declared unfounded.*

*8. It is true that in one case a woman prisoner was confined with her child in the punishment cell. She found it difficult to adapt to prison life. After she had been involved in a number of fights, had behaved in an indecent way towards other prisoners, and had threatened to stab another prisoner with a pair of scissors, she was placed in the punishment cell for a limited period with her child. This measure was taken for security reasons. The door of the cell was always left open during the day. The detainee in question has now adapted and is therefore confined in association with the other prisoners.*

*9. Mothers confined in prison with their children are supervised by the establishment's activities supervisor. Mothers are allowed to care for their children in prison after the neonatal period only after all the interests at stake have been carefully considered. However, such cases are very rare. There is therefore no need to provide permanent facilities such as a creche.*

*10. Under article 5 of the Constitution of the Netherlands Antilles, the admission, residence and deportation of aliens should be regulated by statute. The Lieutenant-Governor has the power under aliens legislation to admit or deport aliens. Aliens who apply for admission to the Netherlands Antilles should in theory await a decision on their application in their country of origin. It is possible to appeal against a negative decision. Individuals may apply to the civil courts against a decision by the government to deport them, on the grounds that they might suffer torture on return to their country of origin. In such cases they may stay in the Antilles to await the court ruling. Foreign nationals whose residence permit has become invalid for any reason may resort to these legal remedies, and may also remain in the Antilles pending the judgement of the court.*

*In every case, people are deported to the country of their choice. Only aliens whose travel documents are not in order are deported to their country of origin. In such cases, the highest judicial authorities of the country in question are always contacted in advance to determine whether there is any danger of torture or degrading or inhuman treatment or punishment.*

## **V.2 Measures taken to date**

*1. A psychological test, background screening and a test of candidates' general level of education now form part of the selection procedure for would-be police officers. Ways of testing applicants' communication skills are to be looked into.*

*2. The "Formashon Polis 2001" Project includes training in interpersonal skills in the widest sense of the word. Discussion and evaluation sessions using audio-visual aids are currently being held in this connection. These sessions are designed to be a learning process, during which interpersonal skills are studied and imparted to police officers, under the supervision of experts. The phased approach ensures that every police officer takes part.*

*3. The instructions on the use of force were recently updated, and safeguards against the unlawful use of force have been tightened up. In addition, the public hearing of criminal and disciplinary cases involving ill-treatment or the unlawful use of force has made it clear to all the members of the police force that such behaviour will not be tolerated. Allegations of police violence are given careful consideration, and in each case, regardless of whether they are found guilty, the officers involved are reminded of their responsibility.*

*4. The request submitted by the clinical pathologist has been granted. A protocol governing cooperation between the Public Prosecutions Department, the chiefs of police, the Prisons Department and the Pathology Department of the National Laboratory was signed on 18 April 1995. The text of the protocol is included as annex IV.*

**5. Prison staff training and briefing sessions devote attention to the use of force, lawful or otherwise. The instructions prohibiting the use of force are always stressed on these occasions. All the disciplinary measures taken against members of the Prison Department staff on the grounds of torture or degrading or inhuman treatment or punishment are designed to have a preventive effect.**

**6. Article 5 of the standing orders for the prison states that all prisoners who are detained overnight must have a mattress. A receipt has been designed to ensure compliance with this provision.**

**7. As a result of the discovery of leaks in the water pipes at Koraal Specht prison, the pipes are now being subjected to a thorough overhaul. Steps have been taken to ensure sufficient drinking and bathing water for all prisoners for the duration of this maintenance operation. Since the Committee's visit, bedding and washing things are now provided in a more effective manner. More staff have now been taken on in the stores department to ensure a more satisfactory supply of prisoners' needs.**

**8. Each unit now has a carefully thought-out programme of activities. Women prisoners may take the air in the open courtyard of the prison every day from 07.00 hours onwards, in addition to recreation and other activities. They are locked in at 22.45 hours every day. Prisoners undergoing a life sentence may also take part in work projects, education, sport, recreation and religious services.**

**9. Maintenance work is currently being carried out on the kitchen facilities. The kitchens are being relocated and new equipment is being installed.**

**10. All prisoners are issued with a plastic spoon.**

**11. All prisoners are entitled to a weekly visit of at least 30 minutes. Special arrangements may be made for extra visits for prisoners of foreign origin.**

*Special arrangements are also made for prisoners with businesses of their own or with family problems. Foreign prisoners and those with family problems may receive personal visits on Mondays and Tuesdays. Visiting hours for the other prisoners are at least 30 minutes on Tuesdays, Thursdays, Fridays and at weekends. Visits to prisoners in the Nieuw Bouw take place in communal areas.*

*The government acknowledges the importance of confidential conversations between prisoners and their counsel and will continue to ensure that prisoners may speak to their counsel in private.*

*Foreign prisoners are permitted visits by relatives from abroad several times a week. They are also allowed to telephone their families several times a week, and are allowed additional correspondence.*

*12. Confinement in punishment cells on bread and water and the disciplinary measure of confinement in irons have been abolished.*

*13. The lighting and ventilation in the women's unit have now been repaired.*

*14. For some considerable time a psychiatrist has been attached to the prison on a part-time basis, holding consulting hours and visiting prisoners every day.*

*15. Prisoners are examined by the prison doctor on duty if they arrive during office hours and, if outside office hours, by the nurse on rota duty.*

### **V.3 Activities to be undertaken**

*1. In view of the Committee's observations, the Netherlands Antilles will ask the Complaints Committee to repeat the publicity campaign in 1995-96 and to make leaflets on the Complaints Committee and its work available to the public.*

*2. The Landsrecherche (a department specialising in the investigation of*



*offences committed by public servants) was established by country decree of 11 May 1994. Plans exist to make the Landsrecherche operational within a year of the date of this report. To this end, four members of the Netherlands Antilles Police Force will shortly be approached. A training plan, to be drawn up in the Netherlands with the help of experienced experts, will be presented to the personnel to be recruited.*

*3. Guidelines on the treatment of arrested persons and the use of police cells will be published. The measures will include the following:*

- a. As regards the cells at Barber Police Station, the guidelines will state that no more than two persons may be confined in any one cell; that a mattress and sheet must be provided at night for every detainee and that some hours' exercise in the open air is advisable. Instructions will also be given, within six months of the date of this report, for improvements in the ventilation and the installation of the technical equipment for an intercom system. It should be noted that efforts to admit more natural light to the cell complex will probably encounter technical problems.*
- b. In line with the Committee's recommendation, the Government of the Netherlands Antilles will withdraw the two sobering-up cells at Punda Police Station from service.*
- c. It will be laid down that the police cells at the Criminal Investigation Department will be used solely for the maximum of six hours during which suspects are being interrogated. Measures will be taken to improve the lighting and condition of all police cells.*
- d. Measures will also be taken to ensure that all detainees in police custody receive sandwiches and water or tea in the morning, in any event before 08.00 hours, and in the evening, no later than 18.00 hours, and a hot meal and water between 12.00 and 14.00 hours.*
- e. The guidelines will lay down that persons arrested by the police will be entitled to inform a close relative or third party of their arrest without delay, with the assistance of the arresting officer. They will also stipulate that the Public Prosecutor is entitled, in the interests of the investigation,*

*to delay notification of a close relative or third party for no more than 24 hours. The forms required will be assigned in due course.*

- f. It should be said first and foremost that all detainees may request medical treatment or be subjected to a medical examination, if deemed necessary by the assistant public prosecutor. Medical treatment will be provided as a rule by the police doctor. However, the guidelines will state, in addition, that all detainees may be treated by a doctor of their own choice, at their own expense. Generally speaking, medical examinations and treatment of detainees will take place outside the time allowed for interrogation and not under the supervision of a police officer, given that the doctor-patient relationship is a confidential one. Exceptions to this rule will be made only if there is good reason to fear an escape attempt and if escape would be possible from the place where treatment is to be given. The reasons for such an exception will be given in the guidelines.*
- g. The guidelines will also contain provisions concerning the obligation on officers conducting interrogations to identify themselves by means of their official identification papers, the duration of interrogation and the compulsory breaks to be taken (to be decided), the place where interrogations are to be conducted, the obligation to offer detainees a seat during interrogation and the ban on interrogating persons who are clearly intoxicated, under the influence of alcoholic liquor or narcotic substances, or unconscious. The Government of the Netherlands Antilles will consider the Committee's recommendation that interrogations should be recorded electronically.*
- h. A custody record system, in accordance with the Committee's recommendation no. 60, will be included in the guidelines, on the understanding that the starting and finishing times of interrogations will also be recorded.*
- i. Responsibility for monitoring compliance with the guidelines will be vested in the Public Prosecutor and the assistant public prosecutor.*

**4. The cells at Río Canario police station have been withdrawn from service**

*pursuant to a court judgement, due to a defective ventilation system. Funding for improvements to the ventilation system has now been approved, and the project is currently open for public tender. The cells will be returned to use as soon as the work has been completed and a solution has been found to the problem of a communal open air exercise ground.*

*5. The new Code of Criminal Procedure states that suspects must be issued with a form stating their rights, in addition to being informed verbally of their rights. The form is to be available in at least four languages: Papiamentu, English, Dutch and Spanish. The suspect will have to sign the form to indicate that he has read it. Any refusal to do so will be mentioned in the official report.*

*As stated above, the draft Code of Criminal Procedure will probably be approved later this year. If not, the Government will look into the possibility of introducing a measure along these lines in the first three months of 1996.*

*6. Under article 50bis of the current Code of Criminal Procedure, all detainees are entitled to the assistance of one or more counsel of their choice. Under article 50sexies counsel has the right of free access to a suspect who has been deprived of his liberty by law, may speak to him alone and engage in confidential correspondence. Under the current regulations, people with insufficient resources are entitled to legal aid counsel. At present, the procedure for assigning legal aid counsel takes longer than is desirable. In some cases, detainees have to wait several days before they can speak to the counsel assigned to them. This problem will be eliminated with the introduction of the new Code of Criminal Procedure.*

*7. To solve nutrition problems in the prison, a part-time dietician will be appointed within six months. In anticipation of this appointment, a study of the amount of food provided for detainees was conducted, revealing that the quality and quantity of food supplied per day to prisoners are generally adequate. However, on the advice of the prison doctor, the amount of salt added to the*

*food has been reduced.*

*8. The existing procedure governing placement in a punishment cell by way of a disciplinary measure is as follows. A prisoner who contravenes the prison regulations is questioned by the duty officer before being confined in a punishment cell. A report on the incident must be drawn up by the head of the unit and submitted to the director within 48 hours. The director then decides, on the basis of the report and a statement by the detainee, whether the detainee should be confined in a punishment cell.*

*This procedure will be regulated by the new ordinance on prisons, which will ensure that the governor's decision is communicated in writing, and will provide for the possibility of appeal from the director's decisions.*

*The punishment cells will be covered by the ongoing maintenance operation. They will be equipped with a table and chair. Preparations are under way to provide, within two months if possible, reading material for prisoners in punishment cells.*

*9. Procedures for solitary confinement will be reviewed within three months.*

*10. At present two doctors are under contract to the prison. The government will consider the appointment of a full-time doctor and a psychologist.*

*A nurse will be appointed within six months. Preparations for this are under way.*

*A rota service of prison officers with recognised nursing qualifications is currently in force, for the care of inmates. Before being put on nursing duty, staff have to obtain a first aid diploma and then spend a period on placement in the hospital, the psychiatric institution and the laboratory. Further training will be included in the training plan.*

*The recommendation that health care staff should be the administrative responsibility of the Ministry of Health will be considered as part of the reorganisation process.*

*A medical records system can be introduced once computerisation measures have been taken.*

*The prison authorities have been instructed to produce a leaflet within six months, informing inmates of the existence and work of the medical service and the various preventive and curative facilities available. This leaflet is to be supplied to all detainees on their arrival at Koraal Specht prison.*

*At present the medical service regularly provides information to inmates and prison staff on AIDS and other infectious diseases and screens prisoners who are in regular contact with infected prisoners. This includes conducting AIDS tests. The need for improvements, if any, will be looked into.*

*11. The treatment of drug addicts will be studied within the framework of the reorganisation.*

*12. The revised Country Ordinance on Prisons provides for a complaints procedure, furnished with legal safeguards, for inmates. This will make it possible to appeal against decisions taken by the prison authorities.*

*The Committee's request that the President of the CPT be added to the list of authorities with whom prisoners may correspond in confidence will be complied with as soon as possible.*

*13. As soon as the Bill amending the Country Ordinance on Prisons has been adopted by the States a copy will be forwarded to the Committee.*

*14. This Bill provides for changes to the duties of the Supervisory Commission.*

*Pending these amendments, the Chair of the Commission has added a member of the Public Prosecutions Department (a Public Prosecutor) to the Commission. Plans also exist to add a representative of the business world to the Commission. Complaints are now being submitted to the Commission in anticipation of its new role as a complaints authority. Inmates lodging complaints are now heard by the chair and a member of the Commission. In order to promote access to the Commission, its work has been explained to the inmates of Koraal Specht.*

*15. Staff training in communication and social skills will form a significant part of the new training programme, with particular focus on communication between prison officers and inmates. Reference should be made in this connection to the courses in communication skills, dealing with prisoners and conflict management that are organised by the Instituto pa Formashon de Enfermeria in collaboration with the Prisons Department. Some 40 members of staff are currently attending these courses. The plan is to offer all members of staff an overall training plan as part of the reorganisation.*

*16. An interim director of the Prisons Department was appointed for two years, with effect from 1 April 1995, to supervise the reorganisation. A full-time director will be appointed, well before the two years are at an end, to supplement the interim director.*

*17. The Government of the Netherlands Antilles acknowledges that the reception and detention of foreign nationals under the aliens legislation is in need of improvement. Consideration will be given to possible ways of resolving this problem. However, an overall package of measures cannot be introduced in the short term. Steps will be taken in the near future to improve the conditions in which persons due for deportation are detained. The measures discussed in section II.2.1 should be seen in this context. In addition, the possibility of offering persons detained under aliens legislation a limited programme of recreation will be looked into. An information leaflet will also be supplied shortly*

*to detainees of this kind.*