

**Interim report of the Swedish Government
in response to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Sweden
from 15 to 25 February 1998**

(transmitted by letter of 3 February 1999)



REGERINGSKANSLIET

Introduction

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a visit to Sweden from 15 to 25 February 1998. The CPT has previously visited Sweden in 1991 and 1994. During its latest visit to Sweden the Committee visited the police headquarters in Malmö and Stockholm, the police stations in Davidshall in Malmö, Norrmalm in Solna and Södermalm in Stockholm, the police facilities at Arlanda Airport, the remand prisons in Malmö and Stockholm, Österåker Prison, and the Stockholm Region Detention Centre (Carlslund) in Upplands Väsby.

As requested by the CPT, the Swedish Government is herewith enclosing an interim report containing responses to the Committee's recommendations, comments and requests for information.

A. Police establishments

1. Ill-treatment

9. During its visit to Sweden and during interviews with persons who were detained by the police, the CPT established that none of the interviewees made allegations of physical ill-treatment. However, a few persons claimed that they had been subjected to verbal abuse by police officers.

In order to gain a comprehensive and nation-wide picture of the situation, the CPT has requested information about the number of complaints lodged by persons deprived of their liberty of ill-treatment by the police in 1997 and the first half of 1998 and an account of any disciplinary/criminal sanctions enforced as a result of these complaints.

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At the request of the Swedish Government, the National Police Board has assigned each police authority to produce the information requested by the CPT. This information is presented in appendix 1.

The following should be observed when interpreting the statistics: all complaints which are lodged against the police and individual police officers are, in actual practice dealt with as formal applications in accordance with the rules which apply to such cases; this also concerns complaints which, objectively, appear to be unfounded. It should also be noted that the statistics contain a large number of complaints by persons who feel ill-treated purely on account of having been detained by the police.

10. During its visits to the police authorities, the CPT found that persons deprived of their liberty run relatively little risk of being ill-treated by the police. However the CPT has recommended that senior police officers should regularly inform their subordinates that ill-treatment is not acceptable and will be the subject of sanctions.

The CPT has also recommended that senior police officers inform their subordinates that when effecting an arrest, no more force than is reasonably necessary should be used in order to carry out official duties.

Section 8 of the Police Act (1984:387) establishes the principles of legality, proportionality and needs. They are of fundamental importance to all police activities. Pursuant to this section a police officer, in carrying out his official duties, should observe laws and statutes and should intervene in such a way as is justifiable with regard to the aim of the measures taken and other circumstances; should force be necessary, it should only be used in the form and to the extent required to achieve the desired result. Chapter 5, section 1 of the Police Ordinance (1984:730), which relates to the above regulation, defines the requirements of professional ethics relating to police officers. A police officer should, in his or her work, behave in such a way as inspires confidence and respect; he or she should be polite, considerate and firm and practise self-control, and should avoid any displays of what may be perceived as unfriendliness or pettiness.

Interventions that violate section 8 of the Police Act may involve criminal liability. For example, police officers who are punished for service irregularity or assault have generally been removed from office. Interventions in violation of chapter 5, section 1 of the Police Ordinance may involve disciplinary liability, if the act is not subject to criminal liability.

In addition to clear statutory regulations, the most important way of preventing ill-treatment of persons deprived of their liberty is through educational measures and by influencing attitudes. The reformed basic training of police officers devotes a great deal of time to issues of professional ethics. The Swedish National Police Academy runs a special ethics programme. The ethics programme aims to train special ethics supervisors at police authorities. The ethics supervisors run regular advanced training courses in professional ethics and also provide continuous supervision in such issues. They also participate themselves in regular advanced training at the Swedish National Police Academy.

11. The CPT has emphasised the importance of having a well functioning control mechanism for preventing police officers from subjecting persons deprived of their liberty to ill-treatment and that there, especially as a preventive measure, must be a well functioning disciplinary and legal system.

The police establishment has an efficient system of controls which is adapted to the Swedish authority structure. The regulations in chapter 6 of the Police Ordinance guarantee that every claim that an employee within the police establishment - police officer or civilian - has committed an irregularity in his official duties or committed a crime on or off duty will be submitted to a prosecutor. It is, in other words, not the police establishment but another authority which decides which measures to take in connection with such a reported claim. The report may lead to preliminary investigations and prosecution or, if the act is not criminal, to disciplinary action (cf. also paragraph 29 below).

On 1 July 1987 the National Police Board specially established the Committee for Responsibility of Personnel, which has the task of examining cases related to official responsibility of employees in the police establishment. The Committee views assaults by police officers especially gravely. Such deeds generally lead to dismissal.

2. Conditions of detention

13. The CPT has established that the conditions of detention in the police establishments visited were by and large of a good standard with regard to, inter alia, cleanliness, size, lighting, ventilation and overnight facilities (mattresses, sheets etc.). There were, however, exceptions.

The CPT has recommended that measures be taken to ensure that all persons deprived of their liberty held overnight at Norrmalm District Headquarters in Stockholm and at Malmö District Headquarters have access to a mattress.

The CPT has also recommended that the responsible authorities ensure that conditions of detention in all police establishments comply with the criterion set up by the CPT with regard to, inter alia, cleanliness, size, lighting, ventilation and overnight facilities (mattresses, sheets etc.).

With regard to Davidshall Police Station in Malmö, it was noted that there are cells which measure less than 5.5m². The CPT considers that such small police cells are far from ideal as overnight accommodation for detainees.

The CPT has requested information about the regulations on the conditions of detention which should obtain in police cells.

Stockholm Police Authority has explained that the cells referred to are those that are used for short-term detention of persons who are inebriated or who have disturbed the peace. Inebriated persons - who are the main category (4500 per year) - are taken into custody in accordance with the Act on the Taking into Custody of Inebriated Persons etc. (1976:511). They may not be held for longer than considered necessary for them to be able to take care of themselves - for eight hours at the most. Persons who have been taken into custody temporarily on account of disturbing the peace are to be interrogated by the police as soon as possible and then released, in accordance with section 16 of the Police Act. They may not be held for longer than six hours.

These cells for apprehended persons are not normally equipped with mattresses. However, it is possible to obtain a mattress if necessary. Measures have been initiated to supply these cells with mattresses.

The police in Malmö have stated that there are mattresses in the cells for apprehended persons. During the CPT's visit, one cell without a mattress was found. This was attributed to an oversight by the police staff.

The National Police Board's regulations on the conditions of detention are available in an ordinance (1958:215) containing certain regulations on conditions in prisons and police cells and in FAP 915-1. These are enclosed as appendices 2 and 3.

14. *On its visit in 1991 the CPT criticised the 1.45m² holding cells found at the old 24-hour service department at the Stockholm Police Headquarters. Similar cubicles were found at the Malmö Police Headquarters.*

The CPT has recommended that the cells referred to in Stockholm and Malmö should not be used to hold persons deprived of their liberty. Any facilities of a similar size which may exist elsewhere in Sweden should be withdrawn from service .

The Stockholm Police have explained that the facilities referred to - old holding cubicles with fixtures - still exist. However, they have not been used for several years to hold persons deprived of their liberty. Today they are used as storage rooms for various types of equipment.

The Malmö Police have stated that the authority intends to investigate what can be done to improve conditions with regard to the size of cells in the establishments.

Pursuant to section 9 of the ordinance containing certain regulations on conditions in prisons and police cells (1958:215), exceptions may be made to the regulations in special cases. Chapter 3 of FAP 915-1 contains regulations on such exceptions for so-called waiting cells which may be used upon special permission from the National Police Board. A waiting cell is a waiting room within police establishments, which is available to hold persons who have been apprehended or taken into care for a short time, pending interrogation, transport or other measures. The time a person deprived of his or her liberty may be held is, as a rule, limited to one hour. The time limit is determined from case to case with regard to how the conditions in the cell compare to conditions which generally apply to detention facilities (chapter 3, section 2 FAP 915-1, see appendix 3).

3. Safeguards against the ill-treatment of detained persons

21. *The CPT has recommended that the right to be represented by a lawyer be extended to all categories of persons who are held by the police including those who are questioned as potential witnesses, apprehended or taken into care. This right should apply from the very outset of their custody.*

The regulations on the right to representation by a lawyer, to informing relatives or others about the detainment and informing the detainee of his or her rights are, at present, all being reviewed by the Ministry of Justice. During its visit in February 1998 the CPT explained, inter alia, its views on what categories of persons it considers should be embraced by the suggested safeguards. The views that were presented then and which reappear in the report will be taken into account in the Ministry's review. A memorandum containing suggestions should be ready during the first quarter of 1999.

24. The CPT has recommended that the right of persons deprived of their liberty to have access to a doctor be made the subject of a specific legal provision. The provision should include the right to a doctor of their own choice.

The CPT has noted that, during its visit, it found that the persons deprived of their liberty who have been assessed by the police to be in need of medical attention had also received adequate treatment. However, according to the CPT it was unclear whether detainees were also given access to a doctor in cases where the police did not consider medical treatment to be necessary.

According to sections 4, 17 and 18 of the Act on the Treatment of Detained Persons (1976:371) a person deprived of his or her liberty by the police should be examined by a doctor as soon as possible if he or she is assessed to need medical treatment or asks for a doctor to be consulted. Exceptions may be made only in cases where examination is obviously unnecessary.

According to the Act on the Taking into Custody of Inebriated Persons etc. (1976:511) the detainee should be examined by a doctor as soon as possible if necessary with regard to his or her condition.

If the doctor's visit has been requested by the police authority the fee is to be paid by the authority.

According to the so-called normalisation principle, persons deprived of their liberty in Sweden have the same right to medical care as those who are not deprived of their liberty. Swedish legislation on health- and medical care does not include any general rights for individuals to choose a particular doctor. This also pertains to those detained by the police.

The National Police Board has stated that it should only be necessary to consult a doctor requested by the detainee himself/herself in the case of specialist care. According to the National Police Board, this can be arranged within the framework of the current regulations. In the opinion of the Board, there is, in other cases, hardly need to let the detainee decide whether a doctor should be consulted or which doctor to call.

The Swedish Government shares the National Police Board's opinion in this matter and does not consider it necessary to change or complement the provisions pertaining to the right of persons deprived of their liberty to have access to a doctor in order to fulfil the CPT's recommendation.

Finally, the National Police Board has stated that it has nothing against an arrangement whereby persons deprived of their liberty have the right to consult a doctor at their own expense. The Swedish Government considers that the need for such a provision is limited and therefore does not intend to take any special measures in this regard at present.

26. The CPT noted during its visit that the Minister for Justice has declared herself prepared to ensure that all persons held by the police be informed of their rights as regards notification to a next of kin, access to a lawyer, and access to a doctor including one of his/her own choice. The committee has recommended that a leaflet to inform the detainee of his/her rights be produced and that it be available in an appropriate range of languages.

The recommended leaflet does not exist at present. The National Police Board has said that such a leaflet would serve a certain purpose.

The Swedish Government is considering assigning to the National Police Board the task of producing a leaflet with the said contents.

27. The CPT considers it of utmost importance that investigations concerning alleged crimes committed by the police when on duty be conducted in an independent and impartial manner. The procedures involved must be, and be seen to be, independent and impartial.

The CPT has requested information on how Swedish authorities view the suggestion of establishing an independent agency for the investigation of criminal charges against the police.

The question of how complaints against the police - and other employees in the police services - should be dealt with has been discussed, inter alia, in various official reports (see SOU 1975:20, SOU 1979:71 and Ds Ju 1984:10). The reports have established that there is no evidence that the internal criminal investigations do not hold a good standard and that there is no reason to suspect illegitimate considerations on the part of the investigative staff.

The present system has in essence been considered the most suited to the Swedish authority structure. In short, the system is such that complaints against employees in the police services on or off duty - or for wrongful behaviour when on duty - must always be forwarded to a public prosecutor for further investigation. The investigation work is carried out by special police officers under the leadership of a prosecutor.

In October 1997 the Swedish Government assigned to the Chancellor of Justice the task of reviewing authorities' routines for investigations of deaths in connection with intervention by authorities. The Chancellor of Justice submitted a report to the Government on 25 November 1998. The report contains an evaluation of the police services' internal investigations. The Chancellor of Justice considers that there is no reason to believe that the internal criminal investigations undertaken by the police do not hold a good standard in general. The Chancellor of Justice also refers to a representative of the Prosecutor-General who considers that there is in fact a greater risk that incidents are investigated too extensively in order to eliminate all suspicion of crime.

In his report the Chancellor of Justice finds no reason for changing the principle that investigations against police officers are dealt with within the police services. In the opinion of the Chancellor of Justice this is the optimum system from the point of view of efficiency and the rule of law. However, the Chancellor of Justice does consider there to be room for improvement of the organisation and the procedures for investigation and advocates a model proposed by the former Deputy Prosecutor General, Axel Morath, in April 1997 in the report 'Polis-Åklagare-Internkontroll' [Police-Public Prosecutor-Internal Control].

Among other things, the report suggests that the police services' internal investigations should be regionalised so that each of the seven public prosecution districts has an internal investigation group at the police authority in the city where the office is located. With this model, there would be a larger distance between the police who may be subject to criminal investigation and the persons who undertake the investigations.

To date, the suggested model has been introduced in one public prosecution district and the possibility of setting up the model throughout the country is being considered. In the report the Chancellor of Justice states that an amendment of the Statute should be considered if the deliberations do not lead to an introduction of the model throughout the police services.

The Swedish Government views the current work within the police and prosecution services positively and shares the Chancellor of Justice's view that there is at present no need for an agency which is independent of the police.

29. The CPT has requested information about to what extent the disciplinary system can be considered appropriate in cases where police officers are guilty of ill-treatment. As the CPT understands it a police officer who has not been convicted by a court of law cannot be subject to disciplinary action since the standard of proof is identical in both cases. In this light, the CPT would like to know the Swedish Government's view on lowering the standard of proof in the case of police disciplinary proceedings.

When an act has been investigated in accordance with penal law, disciplinary action may only be initiated or continued if the deed, for a reason other than insufficient evidence, has not been considered to constitute a crime (section 18, subsection 2 of the Act on Public Sector Employment (1994:260). Permitting subsequent disciplinary proceedings in cases in which criminal proceedings were not pursued because the evidence was too weak for a conviction, or in which the defendant has been acquitted in a court of law for the same reason, would involve an administrative retrial of the evaluation of proof conducted by the bodies which protect the interests of justice. However, in cases in which the deed is not considered a crime by a public prosecutor or a court of law, but instead is assessed as misconduct, it is possible to take disciplinary measures.

As regards the standard of proof, a fundamental tenet of the Swedish legal system is that no one may be punished - and not subjected to disciplinary measures - unless he/she can be found to be guilty beyond reasonable doubt.

The described system functions well. As described in paragraph 27 above changes are being introduced to improve the organisation of internal investigations.

In this light the Swedish Government considers that there is no reason to change the standards of proof as they apply to police disciplinary proceedings.

B. Prisons

1. Restrictions

41. The CPT has recommended that in the elaboration of the Decree and the Prosecutor General's Instructions which are to be issued under the Act on the Treatment of Detained Persons (1976:371), due consideration be given to ensuring that the court will, in future, be able to conduct a meaningful review of a prosecutor's decision to impose restrictions in a given case.

From 1 January 1999 a provision that prosecutors are to document the circumstances which lead to a decision to impose restrictions has been included in the Decree on the Treatment of Detained Persons (1976:376). The detained person is to be informed of this to the extent that this is possible without it being detrimental to the investigation (section 19b; SFS 1998:136).

The Prosecutor General has been asked to present more detailed directions on how the documentation and notification to the detainee are to be conducted. There are already formal instructions from the Prosecutor General on the prosecutors' application of restrictions (Circular from the Prosecutor General, RÅC I:120, last issued in June 1994). The point of departure is that the detainee's contact with the outside world is to be limited as little as possible. The circular also contains directions on documentation of decisions to impose restrictions.

The reasons which the prosecutor has to document for the court in the case of certain restrictions largely correspond to those which he or she must cite when motivating a detention because of a risk that the suspect may remove evidence or in some other way obstruct the criminal investigation and in support of general permission for imposing restrictions. In order to clarify and emphasise this obligation to cite the reasons for imposing restrictions a specific provision has been added to chapter 24, section 14, Swedish Code of Judicial Procedure.

The most important issue at this stage of the criminal proceedings is to assess whether or not the person should be deprived of his or her freedom. In principle there is no reason to demand that the prosecutor gives a more detailed account of the reasons for imposing restrictions than of the reasons for detention. In this context it should also be noted that, according to principles of Swedish procedural law, the information submitted to the court of law is also given to the suspect. This is naturally particularly troublesome in the case of detailed information about possible obstruction of the criminal investigation.

The CPT has asked to receive copies of the Decree and the Instructions to be issued under the Act on the Treatment of Detained Persons. The Decree is attached as appendix 4. The Instructions have not yet been translated but will be forwarded to the CPT as soon as this is completed.

42. The CPT has recommended that prisoners be accorded an effective right of appeal against a court's decision to maintain specific restrictions which have been the subject of a review.

From an international perspective Sweden has few persons who are detained in custody. Internal investigations also show that detention times are short in most cases. These are the goals of the Swedish system. One condition for few and short detentions on account of crime is that the rules have been drafted so as to enable a quick and efficient preliminary investigation.

The recent reform regarding restrictions imposed on persons deprived of their liberty aims to give better protection to the rights of the prisoner at the same time as maintaining the conditions for efficient criminal investigations. The new regulations enter into force on 1 January 1999.

The new regulations give the prisoner the right to demand a trial in court of the different kinds of restrictions imposed upon him. The regulations complement the compulsory trial in court of the detention and the requirements of general permission to impose restrictions which already exist today. Appeals can be made against both kinds of decision without a time-limit to a higher court. The prisoner can also demand a review of the detention order at any time. Court detention orders which are based on a risk that the person might, if not detained, remove evidence or obstruct the criminal investigation are necessary in order for the prosecutor to be able to decide to impose specific forms of restriction on the person who is deprived of his or her liberty. For such restrictions to be imposed, the court's permission is, in principle, required.

The prosecutor is obliged to continuously review the restrictions and to allow individual exceptions from these whenever possible. The evaluation upon which the new regulations are based shows that prosecutors fulfil their obligations.

In this light and because the circumstances which call for the imposition of a particular kind of restriction may change quickly, the Swedish Government has not found it necessary to make it possible to appeal against a court's decision to impose specific restrictions. This has been approved by the Council on Legislation which has examined the proposal and by the Parliament. Any potential changes to the regulations should not be made until they have entered into force and the effects have been evaluated.

2. Remand establishments

48. The CPT has recommended that the facilities for outdoor exercise for use by remand prisoners (and especially for those subject to restrictions) in the three establishments visited be rebuilt in order to ensure that all prisoners are offered exercise in areas which are sufficiently large to allow them to exert themselves physically. The recommendation also applies to other remand establishments in Sweden where similar conditions obtain.

Most remand establishments in Sweden are on the top floor of administrative offices. Their location is the largest obstacle to achieving increased possibilities for outdoor exercise for the prisoners. The National Prison and Probation Administration has, however, conducted a review of conditions in Swedish remand establishments which has, inter alia, led to a significant reconstruction of these establishments. The primary aim is to adapt the premises so as to allow the prisoners greater opportunities to spend time with one another. Changes are also being made to provide larger outdoor areas.

At Österåker Prison the National Prison and Probation Administration plans to increase the size of the exercise yard as a consequence of the CPT's criticism. Measures such as repainting are also planned in order to avoid the impression of compactness.

At Malmö Remand Prison the National Prison and Probation Administration plans to increase the size of the exercise yards by removing the walls between a number of smaller exercise yards.

The National Prison and Probation Administration contends that it is not possible to fulfil the CPT's recommendations through reconstruction at Stockholm Remand Prison; all available space is used for exercise yards and it is not possible to move them elsewhere.

At present it is not possible to rebuild the exercise yards so as to completely fulfil the CPT's recommendations. In order to do so the remand establishments on the top floors of administrative offices would have to be moved to other locations. However, efforts are being made, in as far as it is possible, to provide larger outdoor areas. The National Prison and Probation Administration also points out that most remand establishments have well-equipped gymnasiums which are available to prisoners who are subject to restrictions at certain times.

51. The CPT has recommended that serious efforts should continue to be made by prison staff with a view to offering additional activities and appropriate human contact to prisoners held on remand under restrictions.

The CPT has recommended that measures be taken to ensure that - in the short term - the current target of five hours of out-of-cell time per day is offered to the prisoners, in line with the CPT's earlier recommendations on this subject.

The CPT has noted that vast improvements have been achieved at Stockholm Remand Prison with regard to the prisoners' possibilities of participating in joint activities. However, the requirement that the prisoners should spend at least eight hours of out-of-cell time per day has not been fulfilled.

The Swedish Prison and Probation Service has taken substantial measures to improve conditions for the prisoners. Efforts to increase the possibilities of prisoners who are not subject to restrictions of participating in joint activities have continued. On the whole, conditions have also improved for those who are subject to restrictions. Continued efforts to improve conditions for the prisoners remain a priority of the Swedish Prison and Probation Service.

Rebuilding of the remand establishments are estimated to take between three to four years to complete. As mentioned above, the changes are primarily being made in order to improve possibilities for joint activities among the prisoners.

In order to improve conditions in remand establishments the Swedish Government has proposed an amendment to the Act on the Treatment of Detained Persons (1976:371). The amendment is to the effect that remand prisoners should, as a rule, be given the opportunity to spend time together with other prisoners. The amendment, which enters into force on 1 January 1999, will expedite the improvement of conditions in remand establishments. At the same time, the new regulations described above concerning the imposition of restrictions on prisoners will enter into force.

The National Prison and Probation Administration has also initiated discussions with the Prosecutor General about a simplified procedure when prisoners who are subject to restrictions are visited by representatives of authorities and external consultants who have been employed for activities arranged by the remand establishment. The aim of such a change is to increase the prisoners' opportunities for receiving organised visits and engaging in purposeful activities. The National Prison and Probation Administration also considers it possible to increase the 'joint sittings' of prisoners who are subject to restrictions if permission is given by a prosecutor.

43. The CPT has also recalled the importance of prisoners having access to a lavatory at night.

The National Prison and Probation Administration has said that it shares the CPT's view that prisoners should not have to wait to be released from their cells in order to visit the lavatory. Complaints about this were made during the CPT's visit to Österåker Prison. However, such criticism has not been voiced previously, either in the evaluation filled in by prisoners when they leave the prison or through complaints to the National Prison and Probation Administration. Österåker Prison has been notified of the problem and has taken appropriate measures.

44. The CPT has requested a review of the ventilation at Malmö Remand Prison.

The National Prison and Probation Administration has said that the ventilation at Malmö Remand Prison will be remedied in connection with the planned renovation of the prison.

3. Health care services

a) general health care

58. The CPT has noted that there is reason to believe that doctors in the prisons visited may not be devoting sufficient time to patient care and has recommended a review of the doctors' provision of patient care. The CPT has stated that the review should be conducted with regard to the remarks on the keeping of medical records, taking of full medical histories of the prisoners, physical examination by doctors and the doctors' administrative duties.

The National Prison and Probation Administration has informed the authorities concerned of the CPT's remarks and recommendations. At Malmö and Stockholm Remand Prisons a survey is being conducted at present both on the need for and on the procurement of medical services. Through a general and a more specific review of the existing health-care services, the National Prison and Probation Administration will also emphasise how important it is that doctors devote sufficient time to the prisoners' needs and that anamnestic and other findings are systematically documented. If the survey shows that the doctors' administrative tasks are so extensive that they hamper documentation and actual work devoted to the patients this will be remedied.

Under the Health and Medical Service Act, the National Prison and Probation Administration has developed a system to guarantee the quality of health and medical service activities in prisons. The system is currently in process of implementation.

The Swedish Government finds no reason to take further measures in connection with the CPT's recommendations.

59. The CPT has recommended a review of the routines in Swedish prisons as regards medical records and medical screening. The review is to be conducted in the light of the CPT's recommendation that doctors' notes be recorded on a standardised medical record form and that every prisoner should be properly interviewed and examined by a doctor as soon as possible after his or her admission to the prison, and in the case of custody, on the day of admission. The CPT has been told that nursing staff have continued to supply prescription drugs for a considerable time, in the absence of a medical examination.

The Swedish Government has earlier informed the CPT that the Medical Record Act (1985:562) contains provisions on the keeping of medical records, which also apply to the medical and health care in the Swedish Prison and Probation Services. As mentioned above, the National Prison and Probation Administration will conduct both a general and a specific review of the health-care services in order to bring further attention to the importance of documenting anamnestic and other findings systematically. The system for quality control in the medical- and health-care services in the Swedish Prison and Probation Services also includes quality manuals, inter alia, on the keeping of medical records.

The National Prison and Probation Administration is also undertaking a review of the computerised registration systems for information about prisoners. In this context, routines for the keeping of medical records are to be further developed and systematised. The CPT's recommendations will be taken into account in this review.

According to the National Prison and Probation Administration's regulations for remand establishments and institutions, persons who are admitted are to be examined by a doctor as soon as possible. While waiting for a medical examination by a doctor, the prisoners' state of health is to be assessed by a nurse. The quality manual on initial medical examinations which is being prepared within the system for quality control for health and medical care shall fulfil these regulations. According to the manual, the initial medical examination should be conducted as soon as possible after admission.

The medical examination should focus on the problems at issue and the physical examination should be adapted accordingly. In Sweden, health care may, in principle, not be given without the patient's permission. The idea of physically examining all persons who are admitted to a remand prison or an institution for signs of torture or assault is not in line with the Swedish medical profession's view on health and medical care.

The National Prison and Probation Administration has stated that it is concerned about the information concerning the occurrence of treatment for some considerable time without there having been a medical examination. Attention has been drawn to the matter in connection with the preparation of quality manuals for contact with a doctor.

The Swedish Government does not find reason to take further measures with regard to the CPT's recommendation.

60. The CPT has requested further information about Sweden's approach to the CPT's reminder that the work of medical and health-care staff in prisons and institutions should be assessed by a qualified medical authority.

Since 1 January 1997 the health care provided in the Swedish Prison and Probation Services is supervised by the National Board of Health and Welfare in accordance with the Act on Supervision of Health and Medical Care (1996:786). The National Board of Health and Welfare has qualified medical expertise. The overall aim of the supervision is to prevent and eliminate injuries and risks in medical and health care. The supervision entails that the National Board of Health and Welfare checks that health care is provided and carried out in accordance with laws, ordinances, other regulations and good practice. If conditions are clearly unsatisfactory, the National Board of Health and Welfare may, inter alia, order the responsible medical staff to remedy the situation under the penalty of a fine. To date, the National Board of Health and Welfare has conducted approximately 10 inspections of prisons and institutions. In October 1998 the health-care services at Stockholm Remand Prison were inspected. A report from this inspection has not yet been presented.

b. psychiatric care

62. The CPT has recommended a review of the current provision of ambulatory psychiatric care for inmates in Stockholm and Malmö Remand Prisons.

63. The CPT has recommended that efforts be made to offer patients at the psychiatric unit at Österåker Prison more stimulating activities.

It is a priority of the Swedish Prison and Probation Services to ensure that psychologically fragile inmates are given adequate care and treatment.

During 1999 the National Prison and Probation Administration will conduct a comprehensive examination of the psychiatric/psychological needs within the prison and probation services. Within the framework of this examination, the work of the psychiatric unit at Österåker Prison will also be reviewed. A process for procurement of psychiatric medical care has been initiated at Malmö Remand Prison and according to the National Prison and Probation Administration this should mean that the CPT's requirements will have been fulfilled after 1 January 1999.

64. The CPT has requested further information about Sweden's efforts to prevent suicide.

In order to increase knowledge and awareness of depressive symptoms and crisis behaviour among inmates, the National Prison and Probation Administration has produced educational material which is to be used for preventive purposes within the prison and probation services. The material has been prepared, inter alia, by doctors. It is to be used by study groups at the prisons and in the basic training of prison staff. The material contains a manual which can be used as an aid during conversations with inmates and clients at prisons, institutions and in non-custodial treatment.

C. The treatment of foreign nationals under the Aliens Act

1. Torture and other forms of ill-treatment

68. The CPT has emphasised that no more force than is reasonably necessary should be used when enforcing an expulsion order. It is entirely unacceptable for persons who are subject to an expulsion order to be physically assaulted as a form of persuasion to board a means of transport or as punishment for not having done so. Further the CPT has emphasised that to gag a person is a highly dangerous measure.

The Government totally agrees with the CPT on this issue. The CPT has referred to a case involving transport from Sweden of a person subject to an expulsion order. The National Prison and Probation Administration has investigated the incident. The investigation shows that the deportation was, in part, conducted in such a way and using such methods as are contrary to accepted practice in the prison service transport (TPT). However, the incident occurred at the airport in Zürich, Switzerland and the criticised measures were taken by the Swiss police. The Head of the transport service assessed that the Swedish prison officers did not have any real opportunity to direct the methods that were to be used, since they understood that the Swiss police took over responsibility for this part of the transport operation and their actions followed established routine. The National Prison and Probation Administration has contended that the methods used are contrary to the view of how detained persons are to be treated as expressed in Swedish legislation.

69. The CPT has asked for confirmation that the body chains found in the TPT's vehicles have been withdrawn from service.

The National Prison and Probation Administration decided on 11 November 1998 that body chains may no longer be used. The decision is attached as appendix 5.

71. The CPT has requested for information whether the Aliens Appeals Board is to acquire the status of an administrative court, thus opening its decisions to review by a higher court.

The provisions in the Aliens Act (Chapter 2 section 5 b) regulate cases where an alien may submit a so-called new application to the Aliens Appeals Board. It should be added that there is also a possibility for the alien to apply for a new trial (resning) at the Administrative Court of Appeal under Section 37 b of the Administrative Court Procedure Act. The Court may grant a new trial if, on account of any particular conditions, there are exceptional grounds for doing so. It should be further added that a parliamentary commission is looking over legislation pertaining to aliens. The Commission was set up by the Government in early 1997. Among other things, the task of the Commission is to investigate future procedures in matters relating to aliens and citizenship legislation. The Commission will examine whether to allow for representation of both parties in the legal procedure and whether decisions should be taken by courts of law, independent bodies with judicial power or purely administrative authorities. The question of establishing a leave to appeal in the procedure will also be examined as well as the possibility of an accelerated procedure in certain cases. The Commission is to complete its assignment in the beginning of February 1999.

74. The CPT has requested comments on the adequacy of the procedures currently used to gather information about whether persons may be "at risk" if expelled from Swedish territory, and about the countries which are to be regarded as being "safe", and information whether the Swedish authorities carry out any monitoring or follow-up as regards the situation of persons following their expulsion from Sweden.

The Government would like to confirm that information is gathered from the sources mentioned. In addition, information is gathered through the EU working parties, inter alia CIREA. In the Government's view the acquisition of knowledge concerning whether persons may be "at risk" and about countries to be regarded as "safe" offers suitable guarantees. Information is continuously followed up. In general, the Swedish authorities do not monitor the situation of persons following their expulsion from Sweden. If the authorities are given any indication that a person has been subject to any kind of inhuman treatment according to the Aliens Act, the authorities check up on the information.

75. *The CPT has requested information on progress being made as regards the transfer of responsibility for decisions concerning refusal of entry from the police to Immigration Board officials, and precise information about the procedures which will be applied in this area.*

If a person applies for a residence permit after entering Sweden the application should be addressed to the Swedish Immigration Board. Before the 1st of October 1997 applications for residence permits other than asylum were initially a matter for the police. Apart from that difference, there are no immediate plans to transfer the responsibility in these particular cases of refusal of entry orders from the police to the Swedish Immigration Board. However, it should be mentioned that proposals have been presented to the Government in reports from special investigators to the effect that the Board should participate more frequently in border controls. The Government is now taking the matter under consideration. The applicable provision concerning the handling of refusal-of-entry cases is Chapter 4 section 4 of the Aliens Act. Refusal-of-entry cases shall be examined by the Swedish Immigration Board if 1. The alien applies for asylum in Sweden, 2. The alien has a close relative who is applying for asylum in Sweden, 3. the alien may come to be refused entry because of a request by the central aliens authority of another Nordic country when it may be presumed that the alien will otherwise make his way to that country, or 4. the alien, when the question of his refusal of entry is raised, has been staying in Sweden for more than three months after arrival. In other cases, the question of refusal of entry is to be examined by the police. If the police is in doubt as to whether entry should be refused, the matter should be referred to the Swedish Immigration Board. It should be mentioned that the number of cases handled by the police is approximately 4000 each year. A vast majority of these cases concern persons who are to be sent back to Denmark or Germany. The Government is not aware of any cases where the present procedure has caused any problem of the kind the CPT fears.

2. Conditions of detention

80. *The CPT has requested for further information regarding the planned transfer of Stockholm Region Detention Centre to more spacious premises.*

Decisions have recently been taken, implying that the Stockholm Region Detention Centre, probably during 1999, will move to new and more appropriate premises.

82. *The CPT considers that the health care services provided to inmates at the Stockholm Region Detention Centre for foreigners should be developed.*

An alien can be taken into custody if there is uncertainty about his or her identity, if it is necessary to be able to accomplish an investigation concerning the alien's right to stay in the country and also in situations of enforcement. Under the relevant legislation an alien who is taken into custody shall be entitled to the same medical care as is given to an alien who applies for asylum. This includes emergency care, care that cannot be deferred, maternity care, contraceptive guidance, care in connection with abortion and measures in accordance with legislation on communicable diseases (*smittskyddslagstiftning*). For the care given to an alien he or she shall, as in the case with any other person, pay a certain fee. An asylum-seeker receives support in the form of a daily allowance, which is also payable if the alien is taken into custody. An alien who can be assumed to stay in Sweden for at least one year or more has the same right to medical care as a Swedish citizen. Medical screening for asylum seekers is provided to examine the need for emergency care or care that cannot be deferred or measures under legislation on communicable diseases. As soon as possible after arrival in Sweden, an alien who applies for asylum is offered an initial individual contact with the health service, in which the alien's individual status and need of further examination is determined. The medical screening therefore varies depending on his or her personal status and country of origin. If an alien is taken into custody in connection with his/her arrival in Sweden, the above-mentioned initial contact will take place at the detention centre. If, on the other hand, the alien taken into custody has already been in Sweden for some time, medical screening will already have been carried out. In such cases there is no need for general medical screening. As regards inmates' costs for health care, the aim is, according to the allowances system, that the alien should be ensured adequate means.

National Police Board 11 November 1998 PEB-793-4185/98
Personnel Office
Per Nichols

Chief Lawyer Ulf Berg

PRESENTATION OF INFORMATION FOLLOWING REQUEST OF THE COUNCIL OF EUROPE

Below follows a table of the statistical information collected partly from Sweden's police authorities and partly from the Committee for Responsibility of Personnel. The headings at the top of each column show which data, as defined by the Council of Europe, are presented.

January 1997 -- June 1998

Police Authority	Number of complaints	Number of proceedings	Number of disciplinary or criminal sanctions
County of Stockholm	730	12	8
County of Uppsala	56	1	1
County of Södermanland	45		
County of Östergötland	59		
County of Jönköping	33		
County of Kronoberg	25		
County of Kalmar	81	1	1
County of Blekinge	31		
Skåne	630	6	
County of Halland	28		
Västra Götaland	306	1	
Värmland	17		
County of Örebro	34		
County of Västmanland	42		
Dalarna	31	1	1
County of Gävleborg	35	6	
County of Jämtland	35		
County of Västernorrland	34	1	
County of Västerbotten	73	1	1
County of Norrbotten	94		
Visby	11		
SUMMA	2430	30	12

Ordinance containing certain regulations on conditions in prisons and police cells (1958:215)

Issued on: 25 April 1958

Amendments made: up to SFS 1993:1015

Section 1

Conditions in detention rooms in prisons or police cells shall fulfil reasonable sanitary requirements. Decree (1988:42).

Section 2

Detention rooms shall be arranged so that they are shut off from the view of unauthorised persons. They shall have a window which is positioned so as to give the room sufficient light.

The floor area shall be at least 6 square metres, the cubic measurement of the room shall be at least 15 cubic metres and the height of the room at least 2.4 metres.

The room shall be satisfactorily sound-proofed and otherwise arranged in such a way that unauthorised contact between the prisoner and other persons can be prevented in as far as it is possible. Decree (1987:335).

Section 3

Detention rooms shall be provided with appropriate installations for heating, ventilation and lighting and with a suitable signal device for calling the attention of prison guards.

Detention rooms shall be equipped with a chair, table, shelf and bed and with necessary bedding; however, rooms which are used for the custody of inebriated, violent or sick persons should instead have other suitable fittings.

The fittings in detention rooms shall, to the extent that it is possible, be designed and provided with such protective devices that they may not be used by prisoners to cause harm to themselves or to others.

Section 4

Detention rooms are to be provided with a lavatory and wash-basin. There shall also be room and suitable fittings for storage of the prisoner's clothes and other belongings.

Section 5

Detention rooms which are used daily shall be cleaned, aired and be heated to normal room temperature. When not in use rooms shall be kept sufficiently warm in order that they may be used without too much delay.

Detention rooms may not be used for purposes other than those intended.

Section 6

Prisoners are to be provided with items of clothing and toiletries to the extent that it is necessary and found appropriate.

Section 7

Used clothing shall be properly cleaned before it is given to prisoners. If a prisoner has been shown to carry a contagious disease or vermin, the detention room and any clothing used by him/her shall be disinfected.

Section 8

Supervision of prisons and police cells which are situated in such prisons is exercised by the National Prison and Probation Administration, and of other police cells by the National Police Board. Decree (1988:42).

Section 9

The supervisory authority shall provide the more detailed instructions which are necessary for the application of sections 1-7.

If there is special reason to do so, the supervisory authority may grant an exception to the second clause of the first paragraph of section 2, and to the second and third paragraphs of the same section, as well as to sections 3-5. Decree (1967:609).

Section 10

Has been annulled by decree (1970:531).

Section 11

The National Prison and Probation Administration and the National Police Board will in consultation make standard drawings and draw up technical instructions on the construction and fitting of prisons and police cells. Decree (1993:1015).

Section 12

Has been annulled by decree (1970:531).

The National Police Board's regulations on police cells

Valid from 1 March 1987

Based on Section 9 of the ordinance containing certain regulations on conditions in prisons and police cells (1958:215) the National Police Board announces the following regulations.

Chapter 1 Fittings and maintenance

Section 1

The lavatories in the police cell department shall be fitted with containers for toilet-seat covers, holders for paper mugs, soap dispensers for liquid soap, paper towels, ashtrays and waste-paper baskets.

Section 2

When the prisoner leaves the police cell the following shall be checked:

- that no damage has been done;
- that objects such as matches, tools or similar objects, which the prisoner may have taken into the cell without authorisation, have not been hidden in cracks, radiators, vents or other places;
- that screws in skirting boards, signal buttons, floor drains, protective sheeting, etc. are not loose or missing;
- that low-tension installations, lighting installations, windows, doors, locks, heating- and ventilation installations, flooring etc. are in satisfactory condition; and
- that the exercise yard has not been damaged and that unauthorised objects have not been left behind.

Section 3

If damage or weaknesses are found - even if they are slight and do not render the cell uninhabitable - repairs shall be undertaken or replacements made.

Construction damage or damage of installations shall be reported to the regional building-control committee office. Damage and weaknesses found in fittings and equipment shall be remedied through the agency of the police authority.

Section 4

On the basis of inspection records, the police authority shall remedy any weaknesses found immediately (e.g. replacement of equipment). Construction damage which is not acute shall be taken up in connection with annual inspection of state-owned buildings by the building-control committee. Damage of a similar nature in rented premises shall be reported in writing to the National Police Board. Acute damage which may necessitate temporary closure of cells shall - irrespective of who owns the building - be reported to the regional building-control committee office for immediate measures. Damage to fittings is to be remedied through the agency of the police authority.

Chapter 2 Regulations for police cells

Section 1

Cells which are used daily shall be cleaned and, if possible, aired in the morning, at noon and in the evening. The temperature in the cell should not normally fall below 19 degrees centigrade in the day and 17 degrees centigrade at night.

After the prisoner has left the cell, the cell, locker and other fittings shall be cleaned thoroughly before being used again. Bedclothes and blankets are to be aired, beat and brushed or, if necessary, washed before they are used again by a new prisoner. If the prisoner is provided with a bedding, the bed-linen is to be changed once a week or, if necessary, more frequently. Towels are to be changed twice a week.

Prisoners are to be given the opportunity to go to the lavatory at least twice a day and, if possible, to take a bath or shower at least once a week. Paper towels are to be provided for daily washing.

Communal lavatories for the prisoners shall be equipped with paper toilet-seat covers, toilet paper, soap, washing facilities and paper towels.

A disinfectant (such as Desivon or a similar product) shall be available at all times and to be stored in a suitable, locked cupboard.

When cells are not in use they must nevertheless be cleaned at least twice a month, aired at least once a week and kept at a temperature of at least 14 degrees centigrade.

Floor drains in cells which do not flush automatically shall be filled with water at least once a week in order to prevent them from drying up.

The regulations for police cells are to be posted so that they are clearly visible within the police cell department.

Printed, laminated regulations can be ordered from the financial office of the National Police Board.

Chapter 3 Waiting cells and temporary cells

Section 1

A waiting cell is a waiting room within police establishments, which is available to hold persons who have been apprehended or taken into care for a short time, pending interrogation, transport or other measures. Such waiting cells are found in older police headquarters and do not fulfil existing requirements.

Section 2

Upon petition by the police authority, the National Police Board may decide that existing waiting cells can be used notwithstanding the fact that they do not fulfil the requirements in the existing statute. With regard to their technical design, however, the time a person may be held in such a cell must be limited, as a rule to a maximum of one hour. The time-limit is determined from case to case with regard to the extent of the deviation from the existing statute.

Section 3

A temporary cell is a cell which is arranged for a particular occasion (e.g. in premises where parties are held) outside police headquarters.

Section 4

Upon petition by the police authority and with a statement by the chief commissioner of the county police department, the National Police Board can give permission for such a cell to be used for a shorter or longer time.

Chapter 4 Inspection

Section 1

The county administrative board shall inspect police cells at least once every two years. When drawing up inspection reports the form "Inspection record for police cells" is to be used. Copies of the record are to be sent to the police authority, the county administrative board and the National Police Board.

Section 2

The National Police Board is to have received a copy of the record one month after the inspection at the latest. If inspection has not been possible in a particular place, the inspection record, statistical information and the reason why the inspection has not taken place are nevertheless to be sent to the National Police Board.

Section 3

In police districts with a county police commissioner organisation and in Visby police district, inspections are to take place through the agency of the National Police Board.

(Financial Office, Legal Section)

Swedish Code of Statutes

SFS 1998:136

Decree

on Amendment to the Decree on the Treatment of Detained Persons, etc. (1976:376);

issued on 19 March 1998

The Swedish Government prescribes, in the question of the Decree on the Treatment of Detained Persons, etc. (1976:376)¹ that two new sections, 19a and 19b, be inserted to read as follows.

Section 19a

The prosecutor or leader of the investigation shall immediately notify the detained and the authority responsible for the detention establishment of decisions pursuant to section 16 on the Act on the Treatment of Detained Persons, etc. (1976:371).

Section 19b

The prosecutor shall document the circumstances leading to a decision pursuant to section 16 of the Act on the Treatment of Detained Persons, etc. (1976:371) regarding the detained person. The detained person shall be informed of the contents of the documentation to the extent that this is possible without it being detrimental to the criminal investigation.

The Prosecutor-General will provide more detailed instructions on documentation and notification to the detained person in accordance with the first paragraph.

This decree will enter into force on 1 January 1999.

On behalf of the Government

LAILA FREIVALDS

Anders Perklev
Ministry of Justice

¹ The Decree was reprinted in 1990:1022.

Prison and Probation Service
National Prison and Probation Administration

MINUTES
11 November 1998

No. B41

9811-0285

Place: National Prison and Probation Administration, Norrköping

Present: Bertel Österdal, Director-General; Doris Högne, Deputy Director-General; Ulf Jonson, Divisional Manager; Gunilla Blomqvist, Head of Legal Services; Per Colliander, Head of Division, Rapporteur

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) verbally pointed out during its visit to Sweden in February 1998, the existence of body fetters in the form of a chain and was then informed that the use of such chains would not continue to be permitted in Sweden.

In a letter to the chairman of the CPT of 28 April 1998, the Director stated that only hand chains would be permitted in the future. In section 60 of its current report, the CPT requests confirmation that body fetters are no longer permitted.

With reference to article 30 of the "European Prison Rules", which inter alia states that "The use of chains and irons shall be prohibited..." the National Prison and Probation Administration has decided that body fetters may no longer be used.

Deputy Director-General Högne, Divisional Manager Jonson, Staff Law Officer Blomqvist and Head of Division Colliander, Rapporteur participated in the decision, which was taken by Director-General Österdal.

Recording clerk

Birgitta Forsström

Mailing list:

TPT

Regions

Local authorities