

EXECUTIVE SUMMARY

The purpose of the 2018 visit to Scotland was to examine the situation in police and prison establishments and to assess the progress made since the CPT's previous visit in 2012. More specifically, the CPT paid particular attention to prisoners in segregation and to issues concerning women prisoners, as well as to overall health care provision. The delegation also examined the treatment of persons in police custody. The co-operation received from the authorities and from the staff at the establishments visited was excellent.

Police

In the course of the visit, the CPT's delegation conducted some 70 interviews with persons who had recently been deprived of their liberty by the police. Overall, the CPT found that police custody facilities were safe environments and most persons interviewed stated that they had been treated correctly. However, nearly one-third of the persons interviewed made allegations of excessive use of force upon apprehension by police officers, notably excessively tight handcuffing and/or of wider abuse partly resulting in injuries. The CPT recommends that a strong reminder be delivered to police officers that ill-treatment of detained persons is illegal, unprofessional, and will be appropriately investigated and sanctioned. The CPT's delegation met a person held in a police custody cell who had been handcuffed throughout his stay in custody, including while being asleep. The CPT considers that a person who is suspected of having ingested or secreted drugs within their body should be examined by radiography and placed under observation in a medical setting, and that prolonged periods of handcuffing when a detained person is calm cannot be justified.

The CPT found that the safeguards against ill-treatment (notably, the right to inform a third person of one's detention, the right to a lawyer and the right to a doctor) generally operated reasonably well. Nevertheless, certain elements could be improved. First, police custody sergeants should systematically inform detained persons that a third person had indeed been notified of their detention. Second, the process of identification and recording of injuries should be strengthened: all injuries should be immediately and properly documented by NHS health-care staff, and custody sergeants should be more proactive following-up on complaints, including a systematic referral to the competent body to initiate an investigation. Third, custody staff must ensure that detained persons are not hindered from directly consulting their lawyers over the telephone. With respect to health care in police custody, the CPT reiterates that all medical examinations should be conducted out of the hearing and, preferably, out of the sight of police staff. Further, Police Scotland and the NHS should take measures to standardise the approach to methadone maintenance and detoxification treatment in police custody.

The CPT found that the current police complaints' system appeared opaque; it raised concerns over the independence of the investigation and prompt accessibility to an independent body, particularly when the complaint is about "assault" or "excessive use of force" by police officers at the point of arrest. The CPT recommends that the system of handling of detainee complaints be strengthened to ensure it reflects certain basic principles: availability, accessibility, confidentiality/safety, effectiveness and traceability.

The material conditions in all police custody facilities visited were generally of a reasonable standard for short stays (i.e. up to 24 hours). However, most facilities also held detained persons for longer stays (i.e. from Friday evening until Monday morning when the courts re-opened), for which they were not properly equipped. Detained persons were not systematically offered the opportunity to shower and there was only limited access (and in some cases no access at all) to natural light in cells, and police stations did not have outdoor exercise yards. Consequently, the police custody facilities visited remained

unsuitable for detention for periods of longer than 24 hours; the authorities should decrease the numbers of persons held over weekends through, *inter alia*, taking measures to ensure the opening of some Saturday courts. It also recommends that any new custody facility should provide for access to sufficient natural light and outdoor exercise.

Prisons

The Scottish Government has clearly embarked on an agenda of reform, especially as concerns women prisoners and young offenders. The female prison estate, in particular, has been the subject of re-conceptualisation and structural reform. Nonetheless, the overall number of prisoners has remained at some 8,000 (147 per 100,000), and the reforms were still at a nascent phase. The CPT's delegation visited Barlinnie, Cornton Vale, Edinburgh, Grampian and Shotts Prisons,

Positively, at the five prison establishments visited, the vast majority of prisoners stated that they were treated correctly by prison officers and the delegation received no allegations of deliberate ill-treatment of prisoners by staff. The CPT noted a few allegations of excessive use of force during control and restraint operations in different prisons (Grampian, Edinburgh and Shotts) and recommends that prison staff be reminded that no more force than is strictly necessary should be used to control prisoners. It also invites the Scottish authorities to consider taking measures to ensure that body-cameras are worn by front-line prison staff and turned on for all control and restraint operations.

Prison establishments for men

The CPT noted the gradual rise of inter-prisoner and inmate-on-staff violence (notably in Edinburgh Prison), which was officially attributed to a combination of the increase in use of Novel Psychoactive Substances (NPS), mental health issues and organised crime. At Grampian Prison, there was also a tangible perception held by staff, as well as by some inmates, of a general lack of safety due to the frequent staff turn-over, staff absences and some new and inexperienced staff. Greater investment in preventing violence is necessary at both prisons. Linked to the gradual rise of this violence is the issue of the large amounts of synthetic drugs flowing into Scottish prisons. The relative ease of access to almost undetectable NPS renders policing drug flow and abuse in the prison estate a complex and challenging task. The CPT urges the authorities to continue to invest in measures designed to identify the drugs flowing into prisons, stem and prevent abuse within the prison and invest further in substance addiction programmes.

The conditions of detention in the prisons visited were, in several cases, adversely impacted by overcrowding. This was particularly notable at Barlinnie Prison, where inmates had less than 3m² each of living space in doubled-up cells of 6m² including the partitioned toilet, and at Grampian Prison, where mattresses were put on the floor under the bunk beds temporarily, resulting in tripling up of double-occupancy cells. Given the intended refurbishment of Barlinnie Prison, the CPT recommends that cells of 8m² hold no more than one prisoner, and cells of 12m² hold no more than two prisoners. It also recommends that Grampian Prison utilise the available space in Cruden Hall, such as designating half of the Hall for non-juvenile inmates. This reorganisation could also take the strain off the staff in Ellon 1 who had to balance the needs of many different categories of prisoner.

Moreover, the very small waiting cubicles (less than 1m²) in Barlinnie Prison's reception area - termed "dog-boxes" by the prisoners - have been consistently criticised by the CPT since 1994. Urgent action must now be taken to develop larger reception waiting areas at Barlinnie Prison.

In three of the five the prisons visited, the regime was restricted primarily due to overcrowding and staff shortages, which resulted in many prisoners being locked-up in their cell for extended periods of the day. The regime was particularly restrictive for remand prisoners, and had deteriorated since the CPT's 2012 visit. The CPT recommends that the number of purposeful activities on offer to remand prisoners be developed and the daily programme for these inmates be improved.

The regime was also extremely restrictive for prisoners in segregation for protection reasons and for those being held on monthly extensions under Rule 95 (11) of the Prison Rules (where a prisoner can be "removed from association" for reasons of maintaining good order and discipline, protecting the interests and safety of other prisoners). The delegation met several inmates who were locked in their cells for 23 to 24 hours per day for several weeks, if not months, at a time. The situation was most severe at Grampian and Edinburgh Prisons where a number of inmates who were on non-offence protection and extended Rule 95(11) segregation were not even offered one hour of outdoor exercise every day. In response to the CPT's request that immediate action be taken, the Scottish authorities announced that a Governor's and Manager's Action Notice would be issued to all senior management teams to remind them of the legal requirement to provide exercise for not less than one hour every day. The CPT trusts that this Action Notice is complied with in practice. Further, the CPT recommends that prisoners placed on non-offence protection for more than a short period are provided with a range of purposeful activities, education and sport and risk-assessed association time and that all segregated prisoners should be offered at least two hours of meaningful human contact every day.

The CPT visited the male Separation and Reintegration Units (SRU), in Edinburgh, Barlinnie, Grampian and Shotts Prisons and found, *inter alia*, that the staff/prisoner relations were positive, that efforts to re-integrate prisoners were being made and noted that these prisoners benefitted from individual assessments. However, the intractable issue remained that many of these prisoners were being segregated for extremely long periods of time - for several months and occasionally, years - either in "carousel" (moved between different prison SRUs) or a "yo-yo" situation (moved between the SRU to the mainstream and then back to the SRU). There lacked a middle ground, in-between the SRU and mainstream environments, for these prisoners who cannot deal with the high-stimulus environment of mainstream prison accommodation. The CPT found that many of these prisoners had become institutionalised into the SRU environment and did what they could to remain in the comparative quiet and ordered atmosphere, despite living in virtual solitary confinement. The result was that every SRU visited by the CPT's delegation was operating at almost full occupancy. Moreover, persons held on extended Rule 95(11) orders who would otherwise have been held in the SRU were being held in their own cells in the main part of the prison (and also faced equally poor regimes).

The CPT considers that the Scottish authorities need to seek alternative solutions to break the cycle and reduce the number of prisoners held in prolonged segregation in the current SRU system. It recommends the development of step-down facilities and invites the authorities to consider investing more in the establishment of small therapeutic units that can provide a robust psycho-social support system for these prisoners to facilitate their reintegration process and provide a feasible alternative to prolonged segregation in SRUs. The regimes in the SRUs should enable all prisoners - no matter what their category - to be offered at least two hours of meaningful human contact each day, including being offered purposeful activities of a varied nature. Individual regime plans tailored specifically for persons held in segregation under Rule 95 should be further developed with a view to assisting them to return to a normal regime.

Prison establishments holding women and female juvenile prisoners

The CPT was encouraged by the progressive policy changes underway, notably the plans for smaller, more individualised, community-facing units for female offenders. Nevertheless, it found that the admissions process could be further developed to take into account the vulnerabilities of women prisoners, including screening for sexual abuse or other forms of gender-based violence inflicted prior to entry to prison and ensuring that such information is reflected in the drawing up of care plans.

The CPT raises serious concerns about the treatment of women prisoners held in segregation at Cornton Vale Prison, both within the SRU and Ross House. The CPT found women who clearly were in need of urgent care and treatment in a psychiatric facility, and should not have been in a prison environment, let alone segregated for extended periods in solitary confinement under Rules 95 and 41 (accommodation in specified conditions for health or welfare reasons). Prison staff were not trained to manage the highly disturbed women: for example, one woman had bitten through the skin and muscle of her arm down to the bone; another woman sat in isolation surrounded by blood and faeces on the wall; and a third woman set fire to her own hair in-cell. At least five women with whom the CPT's delegation spoke had severe mental health issues requiring hospital treatment, care and support. The CPT noted that while male prisoners in a similar situation could be transferred to a high secure psychiatric facility, in Scotland there is still no such possibility for women prisoners (and the possibility of effecting a transfer to Rampton Hospital in England rarely occurred in practice, due to jurisdictional complexities and distance). Also, it was not clear why the women could not be transferred to a Scottish medium secure psychiatric facility.

These severely mentally-ill women required immediate enhanced care and support by mental health staff, with a focus on providing a more therapeutic environment, and ensuring that they have more out of cell time and meaningful human contact. For female prisoners with personality/behavioural disorders who are not eligible for transfer to a psychiatric hospital, a multi-faceted approach should be adopted, involving clinical psychologists in the design of individual programmes, including psycho-social support and treatment. Further, clear protocols and operating procedures among the SPS, NHS, the judiciary, and social services should be developed to ensure that vulnerable women who cannot be treated under the Scottish Mental Health Act are afforded the necessary care in an appropriate environment. The CPT requests to be informed about the treatment of the women held in Cornton Vale's SRU under Rule 41 at the time of its delegation's visit. Overall, the CPT considered that neither the SRU nor Ross House was suitably equipped or staffed to provide proper care for the vulnerable women they held at the time of the visit.

As regards the provision of health care, a number of systemic issues are raised such as the incompatibility of the electronic systems used in the prisons and in the community, difficult access to addiction services' files and the absence of an electronic prescribing system, all leading to possible discontinuity of care when prisoners arrive or leave the prison system. Further, with regard to health-care staffing levels, there is a need to increase the presence of general practitioners in all the prisons visited and, more generally, to strengthen the addictions and mental health nursing teams. Also, the CPT recommends further investment be put into developing an effective and wider anti-drug strategy and a peer-led programme of substance misuse education in each prison to educate prisoners, particularly new arrivals, about the dangers of drug misuse. The CPT also found instances of inter-prisoner bullying for prescribed medication at every prison visited, and recommends that the way in which prescription drugs are distributed and their intake supervised be reviewed.