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**Response of the Swedish Government  
to the report of the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)  
on its visit to Sweden**

**from 27 January to 5 February 2003**

The Swedish Government has requested the publication of the CPT's report on the visit to Sweden from 27 January to 5 February 2003 (see CPT/Inf (2004) 32) and of its response. The response of the Swedish Government is set out in this document.

Strasbourg, 18 November 2004



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**Comments by the Swedish Government to observations by the CPT  
following its visit to Sweden on 27 January to 5 February 2003**

**Ministry of Justice, Division for Crime Policy**

*Prisons and remand prisons*

A strongly increasing prison population have placed the issue of expanding the capacity of the prison system in focus during recent time. In the Government's comments on the Committees' preliminary observations, the Committee was informed that the Prison and Probation Administration has anticipated that the increase will continue and that further measures have to be taken to obtain new premises. During this fall prison population have continued to increase. The lack of capacity have led to a situation where the ambitions of offering each sentenced person a place in a prison matching his individual needs has met great difficulties.

As already mentioned in the comments on the preliminary observations the Swedish Government has provided the Prison and Probation Organisation with considerable financial means for increasing their capacity. Efforts are continuously being made by the Prison and Probation Organisation to solve the current situation and improvements on the capacity will hopefully be seen in a close future.

The Government has furthermore, in May 2003, commissioned the Prison and Probation Administration to present an expansion plan with the forthcoming needs taken in account. The plan shall be reported back to the Government before 1 October 2004.

The Swedish Government has also allocated 100 million Swedish crowns during a period of three years (2002 – 2004), for a special focus on drug abuse preventing issues, directed to the clients within the criminal system. The objective of the Swedish Government's focus on this issue is to identify drug abusers within the entire criminal system, to investigate their needs and offer them proper treatment and the possibility of a drug-free imprisonment. The drug abusers complex of problems and needs shall be taken into consideration in the decision on which prison to place the prisoner in. Drug treatment programs shall be developed, evaluated and accredited. Furthermore, prisoners who have never been exposed to drugs shall be able to serve a drug-free sentence in selected prisons.

Regarding the Committee's request for information, the Government would like to refer to the statement on the Committee's report submitted by the Prison and Probation Administration on October 21, 2003 (Ju/2003/981/KRIM).

## **Ministry of Justice, Division for Police Issues including Public Order and Safety**

### *General*

The final report of the CPT, adopted on 4 July 2003, develops the issues raised in the preliminary observations. In relation to matters concerning the Police, it is the impression of the Swedish Government that the CPT has not fully taken into account the comments and explanations provided on 30 May 2003. This reply to the CPT's final report must therefore refer to a large extent to previously provided information.

### *Ill treatment*

The CPT recommends in its final report:

- that police officers be reminded regularly and in an appropriate manner that ill treatment of detained persons is not acceptable and will be severely sanctioned,
- that the Swedish authorities seek to integrate human rights concepts into operational professional training for high-risk policing situations such as the arrest and questioning of suspects.

The Swedish Government has in its comments and explanations to the CPT's preliminary observations provided the following information:

“In addition to clear statutory regulations, it is of utmost importance to prevent ill-treatment of persons deprived of their liberty through educational measures and by influencing attitudes. The basic training of police officers devotes a great deal of time to the issue of professional ethics and two specific study books have been prepared (copies handed over to the CPT during the visit). In line with the special ethics programme, the police services have appointed and trained special ethics supervisors. This, in conjunction with the continuing discussion within the police force on developments of the legislation and jurisprudence as well as authoritative interpretations of Ombudsmen and the Chancellor of Justice, ensures that there is a high level of awareness among police officers on how to treat persons deprived of their liberty.

Furthermore, the Government last year adopted an Action Plan for Human Rights. It is to be implemented by the public service and covers civil, political, economic, social, and cultural rights. It forms part of the reporting requirements for the police services decided in December 2002 and an evaluation of the measures taken can be carried out in the beginning of 2004.

In this connection it is also important to observe the efforts that are made with a view to increasing the multitude within the police services. A multicultural society requires a police force that reflects this”.

Consequently, the Swedish Government is of the view that it has and is taking action with a view to maintaining and developing a high standard of professional ethics and human rights concepts within the police services. The Swedish Government agrees with the CPT that prevention of ill treatment and integration of human rights concepts into day-to-day policing must be an ongoing activity with a view to maintaining a high standard in the field and to ensure sustainability.

### *Complaints procedures*

The CPT concludes that the basic precepts for conducting investigations into possible ill treatment, i.e. independence, effectiveness, promptness and expeditiousness, had not been observed in a number of preliminary investigations examined during its visit. Furthermore, the CPT recommends that:

- the Swedish authorities urgently reconsider the need for the investigation of complaints against the police to be entrusted to an agency, which is demonstrably independent of the police;
- as long as the current system is in place, that measures be adopted to ensure that public prosecutors effectively discharge their duty to supervise the investigation of preliminary investigations involving complaints against police officers; those measures should include:
- providing public prosecutors with clear guidance as to the manner in which they are expected to supervise preliminary investigations involving complaints against the police and ensuring that the work of public prosecutors supervising complaints against the police is subject to managerial oversight and support;
- specifying that, in every case where it comes to a prosecutor's attention that a complainant may have sustained injuries while in the hands of the police, the prosecutor must order immediately a forensic medical examination; such an approach should be followed whether or not the complainant bears visible external injuries;
- the introduction of strict time limits within which public prosecutors must determine whether complaints against the police which are transmitted to them are to be the subject of a preliminary investigation.

Finally, the CPT recommends that measures be taken to ensure that disciplinary action can be taken against police officers implicated in complaints of ill treatment/assault even if a public prosecutor considers that there is insufficient evidence that the officers concerned have committed a crime.

As regards the basic precepts for investigations into possible ill treatment, the Swedish Government fully subscribes to what the CPT has outlined. They are indeed prerequisites for a high standard of the investigations concerned as well as for a high level of confidence and credibility for the police. On the basis of these outlined precepts and on an examination of a few cases, out of which the two cases described in the report seem to have occurred during the events in connection with the EU summit in Gothenburg 16-17 June 2001, the CPT draws the conclusion that the basic precepts had not been observed in a number of preliminary investigations.

Under the Constitution, the Government itself cannot interfere in an individual case handled by the competent authorities in accordance with the procedures and substantial rules laid down in legislation. But, in relation to the basic precepts outlined by the CPT, the Swedish Government wishes to recall that units for internal investigations are to a large extent independent from other activities within the police services. Furthermore, a complaint is always submitted to a public prosecutor, i.e. an authority independent from the police services. In practice, internal investigations are often carried out by units and prosecutors in counties other than the county where the alleged ill treatment or offence might have taken place. The National Police Board has also issued a Regulation on immediate measures to secure evidence. There is, however, always room for improvements as regards the effectiveness and expeditiousness; two issues included in the considerations of the Committee referred to below.

The CPT has concluded that an agency that is demonstrably independent from the police should be set up to investigate complaints against the police. The Swedish Government has previously explained the organisation and basic functioning of the system. Without repeating all the information provided, the following can be recalled.

“There are currently eight units for investigations of complaints against the police. By and large the organisation corresponds to the organisation of the public prosecution districts. It is worth observing that according to this model the units are to a large extent independent from other activities within the police services. It also means that a complaint is always submitted to a public prosecutor, i.e. an authority independent from the police services.

Furthermore, in December 2000 a Committee with parliamentary representation was set up in order to look into the supervision and democratic control of the police and prosecution services. The Committee has delivered its report on 13 May 2003. The Committee has considered if there are reasons to establish an independent body to supervise the criminal investigative activities by the police and prosecution services. Within the mandate, the Committee has also considered if the regulations, organisation and day-to-day routines for the handling of complaints against police officers and prosecutors meet the requirements for such investigations. In connection with these considerations, the Committee has looked into various models with a more or less independent agency carrying out the investigations, among them models used in neighbouring countries.

Considerations have also been made with a view to improving and adjusting the current system through inter alia legal changes and improved procedures, including increased transparency. Looking into both the advantages and drawbacks of the different models, the Committee has concluded that it prefers reforms within the current system. One of the reasons for the conclusion is that even within a model with an independent agency, the investigations must be carried out by a police officer and the prosecution carried out by a prosecutor. Strengthening the current system can therefore fulfil the important purpose, namely a high level of confidence for the investigations of complaints against the police”.

In addition, the final report of the CPT requires some further information to be provided. First, it should be mentioned in relation to the recommendations of CPT that the report includes inter alia proposals on:

- special prosecutors should be assigned for investigations against the police;
- special internal investigation units within the police should not be located at the same premises as the “normal” police;
- the transparency for general public should be strengthened through the appointment of two members of each regional police board to monitor the internal investigations (in counties where internal investigation units exist);
- a procedure whereby particular expeditiousness is required for criminal investigations against the police;
- a procedure whereby a criminal investigation concerning a police officer shall be finalised as soon possible and that a decision on prosecution or not shall be taken not later than six weeks after the servicing of suspicion;



- a special organisation for preparedness for prosecutors assigned to investigate complaints against the police should be set up;
- the Government is invited to give an assignment to the National Police Board and the Office of the Prosecutor-General with a view, on the one hand, to ensure that police officers in charge and other staff on-call duty are trained in taking the necessary first hand measures, and, on the other hand, to regularly collect, report, and inform about investigations against the police.

The report of the Committee has now been the object of a broad consultation procedure. Some critical comments and observations have been submitted. It will now be for the Government to carefully consider how to proceed on the basis of the report and the comments and observations made on it. It is clear that the setting up of an independent agency is not the only feasible solution in order to live up to high standards in investigating complaints against the police.

The final recommendation made by the CPT under this heading recommends that measures be taken to ensure that disciplinary action can be taken against police officers implicated in complaints of ill treatment/assault even if a public prosecutor considers that there is insufficient evidence that the officers concerned have committed a crime.

The Swedish Government believes that it should not be possible to administratively re-examine a ruling by a court of law after acquittal or where a prosecutor finds that justification for prosecution is lacking, whether it concerns a prosecution of police officers or anyone else. The Swedish Government would find it contrary to the rule of law if an administrative procedure could re-examine a ruling by a court. It must, however, be underlined that in cases where an action taken by a police officer is not considered a crime by a public prosecutor or by a court of law, but instead is considered as misconduct or an irregularity, it is possible to take disciplinary measures.

### *Conditions of detention*

As regards conditions of detention, the Swedish Government wishes to refer to its comments and observations of 30 May 2003.

“The standards within police establishments as regards size, equipment etc. of cells have undergone significant improvements in recent years. The design of cells and the standards of their equipment forms part of the daily work of the technical service of the police. Several improvements have for instance been made to avoid that detained persons hurt themselves or even try to commit suicide. The National Police Board has issued a Regulation on the standard and equipment of cells (FAP 915-1). The most recent version of the Regulation was decided on 18 May 2001 and is enclosed as additional information to the interim report of 3 February 1999 with the Regulation then in force attached.

In its preliminary observations submitted on 14 March 2003, the CPT noted that waiting cells at Västberga Police Station, which measured 1 m<sup>2</sup> or less, are unsuitable for detention purposes for any length of time. The CPT also noted that it would appear that not all persons detained on police premises overnight had been provided with mattresses and blankets.

As regards the waiting cells at Västberga Police Station, they are only used when no other alternative exists. They are only used for a very short period of time and are never locked. The waiting cells are for instance used when a detained person is waiting to provide a urine sample for checking if the person has consumed drugs (consumption of drugs is a criminal offence in Sweden).

As regards the provision of mattresses and blankets for persons detained overnight, the above FAP 915-1 includes the provision that a mattress and other bed equipment should be provided. It is only when a person who is inebriated is detained that equipment other than a mattress does not have to be provided. Experience on safeguarding the safety and the recovery of detained inebriated persons shows that such an exception is necessary. The regulation is consequently clear on this point. A mattress must always be provided, and in cases of overnight detention for reasons other than inebriation, other bed equipment, including blankets must be provided.”

Consequently, the police is continuously improving detention facilities. Currently, new police quarters are under construction in several counties and further improvements can therefore be expected in the near future.

### **Ministry of Justice, Division for Prosecution Issues**

#### A.4. Safeguards against ill treatment of detained persons

##### *Notification of custody and access to a lawyer*

In addition to what the Government has expressed in its reply to CPT’s preliminary observations, it wishes to inform the CPT that, as you are aware of, today the issues of notification of custody and access to a lawyer are regulated through legislation. The current legislation is now being evaluated in accordance with our procedure for passing new legislation. It is therefore not possible for the Government to issue instructions to the police in line with the Committee’s recommendations.

The Swedish Commission with the task of developing the judicial system has now presented a proposition for new legislation aiming to completely fulfil the CPT recommendations on the right to inform a relative or any other third party when a person is deprived of his or her liberty. The Government has in accordance with the procedure described in the Government’s comments to the CPT’s preliminary observations sent the proposals to the authorities and the organisations concerned for their opinion.

##### *Information on rights*

The CPT has asked for a copy of the instructions to the National Police Board and the Office of the Prosecutor-General to produce a form setting out the rights of detained persons. The instructions, which are enclosed, form part of the Government’s budgets/plan of action 2004 for the National Police Board (enclosure no 1, please refer to page 17) and for the Office of the Prosecutor General (enclosure no 2, please refer to page 6).

### B.3. Restrictions

In addition to what the Government has stated in its comments to the CPT's preliminary observations the Government would like to add that the Prosecutor General has supervision over the offices of the public Prosecutor and shall work for legality, consistency and uniformity within the application of the law. The Office of the Public Prosecutor in Gothenburg has been notified of the observations from the CPT and has declared that it shall inform all their prosecutors of the observations and furthermore accentuate the importance of the relevant regulations.

#### **Ministry of Justice, National Prison and Probation Administration**

The National Prison and Probation Administration has collected information and views from the Prison and Probation Authorities of Göteborg Centrum, Jönköping, Stockholm Kronoberg and Umeå.

#### *Short summary of the CPT criticism*

During its stay in Sweden from 27 January – 5 February 2003 the CPT visited remand prisons in Göteborg, Umeå and the Västberga Section of the Stockholm Remand Prison, henceforth referred to as Västberga, and Tidaholm Prison.

The CPT states that the material conditions of detained persons were generally of a good standard. However, criticism is directed at conditions at Västberga with regard to access to natural light and ventilation in the cells.

The CPT criticises conditions with regard to outdoor exercise for prisoners subject to restrictions at the remand prisons of Göteborg and Umeå, and for all remand prisoners at Västberga. The exercise areas are too small. The Committee has once again directed criticism with regard to out-of-cell time for prisoners subject to restrictions. The CPT states that prisoners without restrictions at the Umeå Remand Prison and approximately one-third of those at the Göteborg Remand Prison had the opportunity to spend up to six hours of out-of-cell time per day. Prisoners with restrictions at the Göteborg and Umeå Remand Prisons enjoyed less than two hours per day out-of-cell time and at Västberga, all the prisoners remained in their cells up to 23 hours per day. Criticism has also been directed at the limited number of opportunities for prisoners to take part in meaningful activities.

The CPT has no criticism of the way in which normally placed inmates of Tidaholm Prison are treated nor of the standard of accommodation, etc. On the other hand, criticism is directed at the treatment of prisoners placed elsewhere in the prison because they are particularly demanding in some respect. This criticism refers inter alia to prisoners who, for disciplinary reasons, are moved from another prison to Tidaholm Prison shortly before release and are not involved in any organised activities or work, and to prison staff in the High-Security Unit (SÄK) and PI Unit who monitor inmates from guard rooms, only entering inmates' living quarters to a very limited extent. The CPT also criticises the fact that inmates segregated from other prisoners have to wait for two to three weeks before transfer to a more suitable location when it has been decided that segregation should terminate.

The CPT considered that dental health care at the Tidaholm Prison should be reinforced, as should nursing staff resources. In view of the high prevalence of mental disorders among inmates and particularly those held separately, the Committee considered that psychiatric/ psychologist resources at the Göteborg Remand Prison and Tidaholm Prison should be significantly augmented. The CPT was able to note that medical screening of newly admitted inmates at the remand prisons and the prison visited was broadly in line with the Committee's position on this matter. However, the Committee considered that the Umeå Remand Prison should ensure that inmates admitted at the weekend are able to meet medical and health care staff.

*The views of the National Prison and Probation Administration*

## 2. Ill-treatment

The CPT recommends that strategies be drawn up for preventing inter-prisoner violence against the background of the regular occurrence of fights particularly between prisoners in Unit C at Tidaholm Prison which accommodates disruptive inmates.

The Administration has produced a handbook for the staff of the Prison and Probation Service to assist them in their work of organising measures to improve security. Part of this work entails creating the conditions that, as far as possible, prevent accidents and incidents from occurring. The issue of how to deal with violence and threats of violence between staff and inmates and between inmates themselves is central in this work. The Swedish Prison and Probation Service has been authorised to keep an automatic security register to deal with personal data where necessary to maintain security and prevent crime during the period in which a correctional measure is being undertaken. In addition a network including staff working with security issues has been built up in the Swedish Prison and Probation Service, for the exchange of information etc.

## 4. Conditions for persons deprived of their liberty

### *a) Material conditions*

*The CPT recommends that plans to improve access to natural light and ventilation in cells at Västberga be implemented at the earliest opportunity. Measures should be taken to ensure that detention at Västberga does not exceed a few days.*

Västberga has 20 places, not 15 as stated by the CPT. Cells there have a filtered light inlet for daylight. The unit is situated at ground level, adjacent to the street where the general public move freely. Windows are therefore frosted to stop people from looking in and to prevent a remand prisoner subject to restrictions from communicating with anyone outside. Another type of privacy protection will be tested. Ventilation in cells has been improved. Västberga is a temporary solution owing to lack of accommodation at remand prisons. The aim is to minimise the length of stay for those detained at Västberga. As soon as there is room, detained persons are moved to the Kronoberg Remand Prison.

*Continued efforts should be made to maintain all parts of Tidaholm Prison in a good state of repair.*

There is a continuous upkeep and refurbishment plan for Tidaholm Prison, which at present has not been possible to fully implement because of the establishment being used at its maximum capacity.

*The CPT wishes to be kept informed of the measures taken to rectify the situation in which three cells in the Göteborg Remand Prison are decorated in black.*

These cells have now been redecorated in a light colour.

*The CPT recommends that more intense efforts are made to offer appropriate outdoor exercise to remand prisoners subject to restrictions. More particularly, steps should be taken to make better use of the larger exercise areas at the Göteborg and Umeå Remand Prisons. Remand prisoners held at Västberga should also be guaranteed at least one hour of outdoor exercise every day.*

For prisoners subject to restrictions, the outside exercise yard was renovated at the Göteborg Remand Prison over the period 1998-2001, in the light of criticism previously voiced by the Committee. These exercise yards were extended from 12 square metres to 25 square metres. It is not possible to further extend these exercise yards. It would result in the number of exercise pens being reduced and prisoners subject to restriction being unable to have at least one hour's outdoor exercise per day. The CPT proposes that the large exercise yard used only for prisoners without restrictions should be used by prisoners subject to restrictions. If the yard were used by prisoners subject to restrictions, only one, or in some cases, a few prisoners would be able to use the yard at any one time. This would mean that only a limited group of prisoners would be able to exercise outside at all.

It is very seldom that prisoners subject to restrictions at the Umeå Remand Prison can be offered outdoor exercise in the large exercise area. To enable prisoners subject to restrictions to use the large exercise area more often, further staff resources would be required which are currently not available.

Prisoners at Västberga are offered one hour's outside exercise per day. The CPT's information appears to be based on a misunderstanding.

#### *b) Other conditions*

##### *1. Remand prisons*

*Once again, the CPT recommends that activities for remand prisoners continue to be developed. Of particular importance is that vigorous action be taken to ensure that existing targets – two hours a day – for out-of-cell activities for prisoners subject to restrictions – are achieved. The CPT was of the opinion that this target had not been met for remand prisoners at the Göteborg and Umeå Remand Prisons nor at Västberga. The CPT wishes to receive further information on the development of activities for prisoners at Västberga.*

The remand system was considerably developed over the period 1996-1999. The number of activities at remand prisons increased and new were added, while rebuilding and other reforms enabled the gradual expansion of communal activities. The pace of these reforms has now slowed. The main reasons for this stagnation have been reduced financial resources, remand prisons operating at full capacity and the fact that premises at several remand prisons have not yet been rebuilt to provide more facilities appropriate for communal activities. The Remand Prison in Göteborg has been rebuilt to allow greater opportunities for communal activities among prisoners who are not subject to restrictions. The percentage of prisoners subject to restrictions at the Remand Prison in Göteborg is remarkably large, however. In view of the above, therefore, there are at present limited opportunities for increasing communal activities among remand prisoners subject to restrictions.

Prisoners subject to restrictions at the Umeå Remand Prison are able to stay outside their cells two hours or more every day.

Prisoners at Västberga will be offered activities such as associations, table tennis and video films, starting in November 2003.

## *2. Tidaholm Prison*

*More of the inmates at Unit C should be involved in organised activities particularly work.*

The Committee stated that Unit C contains a large number of disruptive inmates who cannot be offered recreational activities to any large extent by the prison because of the lack of activity rooms. The Committee had noted that efforts had been made to divide Unit C into smaller sections to enhance control. It is planned to divide the 31 places in Unit C and set up 15 drug-free "motivation" places for drug-dependent inmates.

*Vocational training for all inmates should be further developed.*

The National Prison and Probation Administration fully agrees and is striving to ensure that more inmates are offered such training.

*The CPT wishes to know whether the converted M Unit will be of the same standard as that of Unit R02.*

When the Committee visited the prison, a newly established unit containing 14 places was being temporarily used as a remand prison. This unit, named R03 is now included in the accommodation of the prison and contains inmates who have requested placement in single rooms under Section 18 of the Act on Correctional Treatment in Institutions (1974:203). The regime of the unit is largely similar to that applying to R02.

*The CPT requires further information on the reorganisation of the SÄK Unit, the intended approach vis-à-vis the inmates of this unit and plans for professional training of the staff. The relation between staff and inmates in the PI Unit should also be looked into.*

When the Committee visited the prison, specially placed inmates were accommodated in the Highest Security Risk (SÄK) Unit. The Committee stated that interaction between inmates and staff was reduced to the strict minimum and that this did not encourage active security and a good internal atmosphere in the unit. In the adjacent isolation (PI) Unit interaction between inmates and staff was also very limited.

Since March 2003, the so-called security unit has changed orientation and contains particularly demanding inmates (SKI), who, through daily talks with staff, are to be influenced to change their behaviour for the better and thus be eligible for transfer to a more favourable location, with greater social contact with other inmates. Before this unit was opened, all staff had to undergo a two-week training period, aimed at a concerted approach vis-à-vis demanding inmates. A large part of this training was devoted to learning to understand the underlying reasons for the destructive and acting-out behaviour of certain inmates. The training also included knowledge about mental illness.

With regard to the isolation unit, a dialogue has been held with the staff on the importance of frequent talks with inmates, to encourage them to behave better and in this way break down the isolation to which they are subjected by their placement in this unit. The Prison and Probation Authority is also looking into staffing of the unit.

### *3. Impact of restrictive regimes on the mental health of prisoners*

*The CPT recommends that more is done to mitigate the deleterious effects of isolation. Inmates unfit for continued segregation should be transferred to another suitable location without delay.*

With regard to the isolation unit at Tidaholm, a dialogue has been held with the staff on the importance of frequent conversations with inmates, to encourage them to behave better and in this way break down the isolation to which they are subjected by their placement in this unit. With regard to the transfer of segregated inmates to more open conditions at prisons elsewhere without delay, a review is currently underway of the organisation of the body responsible for allocating placements.

### 5. Health care

*The CPT recommends that steps are taken to reinforce dental care services at Tidaholm Prison.*

The prison has received small additional resources for dental services.

*The CPT recommends that resources for nursing staff be increased at Tidaholm Prison.*

The Prison and Probation Authority considers that the three nursing posts existing at the prison do not need to be increased at present.

*The CPT recommends that the Göteborg Remand Prison and Tidaholm Prison strengthen their psychiatric/psychological care resources in the light of the high prevalence of mental disorders, especially among remand prisoners and inmates held in prolonged isolation.*

With regard to Göteborg Remand Prison, there are three doctors, a specialist in general medicine working 40 hours/month and two other doctors, psychiatrists, together working 40 hours/month. The Prison and Probation Authority considers that access to psychiatric competence is acceptable. With regard to access to a psychologist, half a day/week, this will be reviewed for the coming year.

Tidaholm Prison's psychiatrist and psychologist have increased their working hours somewhat. The need for their services is, however, considered to be greater than can be offered by the present psychiatrist and psychologist. The Prison and Probation Authority has been assigned the task of investigating whether there is a need for setting up a psychiatric unit at the Prison.

*The CPT would like to receive information on action taken as regards the provision of psychiatric care in Swedish prisons, in the light of the review undertaken on the needs for psychiatric and psychological services within the Prison and Probation Service.*

The review, undertaken as a project within the Swedish Prison and Probation Service on the implementation of the proposals of the Committee on Psychiatric Responsibility (PAP), preliminarily shows the following: The claim that the number of newly admitted inmates with psychiatric symptoms is steadily increasing is not substantiated. However, there is evidence that the number of drug abusers has increased markedly in recent years, currently accounting for two-thirds of all inmates. More than half of all violent criminals on long sentences have personality disorders. The incidence of direct mental illnesses involving different types of psychoses is, however, extremely limited. These have usually already been diagnosed at the forensic psychiatric examination preceding a court decision on sanctions when mental illness is suspected. Those whose conditions come to light at remand prisons and prisons are generally quickly transferred to care at mental hospitals outside the Swedish Prison and Probation Service.

*The CPT would like to receive information on the proposal for the transfer of responsibility for the care of mentally ill persons having committed a criminal offence, to be transferred to the Swedish Prison and Probation Service.*

The proposed amendments to the law are not aimed at transferring responsibility for the care of the mentally ill to the Swedish Prison and Probation Service, but rather to increase the degree to which persons with mental disorders are legally liable. On the contrary, it is considered that medico-psychiatric care and treatment will be more accessible for the remand prisoners and sentenced persons needing it, through, inter alia, greater cooperation between the Swedish Prison and Probation Service and psychiatric care in hospitals. The National Prison and Probation Administration has appointed a project group (PAP), which is working on preparations for this reform.

*The CPT would like to receive comments on the issue of where mentally ill prisoners should be kept and how the transfer to psychiatric clinics is undertaken.*

The National Prison and Probation Administration agrees that the transfer of seriously mentally ill prisoners to psychiatric units should be a matter of the highest priority. In the opinion of the National Prison and Probation Administration, principals for health care services, particularly in West Götaland, have made considerable improvements in the handling of mentally ill patients from the Prison and Probation Service. In this region, an ambitious development cooperation project is being undertaken between the Swedish Prison and Probation Service and forensic psychiatric care.



The Administration agrees with the opinion of the CPT that mentally ill remand prisoners and inmates of prisons should be cared for in hospital facilities with staff trained in forensic psychiatry. The problem is that the number of hospital beds has been drastically reduced and there is reason to fear that resources for in-patient care have become far too limited.

*The CPT recommends that arrangements be made at the Umeå Remand Prison for remand prisoners admitted during a weekend to be seen by health care staff without undue delay.*

The Prison and Probation Authority considers that medical check-ups for newly admitted remand prisoners function satisfactorily, partly through prison nurses being able, when requested to do so, to come to the prison for such check-ups, and partly through access to the services of the general health and medical care system when necessary.

## 6. Other issues

### *a) Questions pertaining to discipline and segregation*

*The CPT wishes to receive information on whether an inmate suspected of a disciplinary offence is entitled to be represented by a lawyer.*

Chapter 1, Article 9 of the Instrument of Government states that "Courts of law, administrative authorities and others performing tasks within the public administration shall have regard in their work to the equality of all persons before the law and shall observe objectivity and impartiality".

The Administrative Court Procedure Act contains a so-called official or investigatory principle which means an obligation to ensure that a case is as well investigated as its nature requires. This means that the authority's investigatory responsibility also applies to circumstances that may support an individual's opinion in a case.

According to the National Prison and Probation Administration's general advice on delayed conditional release (KVVFS 2000:15), the following emerges: it is the authority that both leads the investigation and makes the decision. Inmates do not normally have a representative to plead their case. The authority must therefore exercise the utmost care and impartiality in all that concerns the processing of the case. Circumstances in favour of the inmate shall, if known, be carefully reported and the authority must also actively ensure that the case in general is presented as objectively as possible.

With regard to disciplinary offences, questioning of an inmate is undertaken by the staff of the unit at which the offence was committed. The institutional inspector prepares the case and the head of the authority decides on its outcome.

The inmate is not entitled to public counsel, paid for by the state, in cases of this type.

Decisions on delayed conditional release by the local Prison and Probation Authority can be examined by the National Prison and Probation Administration at the request of the inmate. An appeal against the Administration's decision may be subsequently lodged with a public administrative court.

A postponement of conditional release may be considered if an inmate has infringed upon the rules applying to the enforcement of conditional release, by, for example, escaping, refusing to work, refusing to submit urine tests, using alcohol. In the case of crimes committed by an inmate, these will not be subject to delayed conditional release, but are reported to the police for possible legal proceedings. In this process, an inmate has the same rights to the appointment of a public counsel as all other criminal suspects.

*The CPT would like to receive comments on the situation in which inmates who are kept segregated and placed at the PI Unit of the Tidaholm Prison are often kept segregated there until they are moved to another prison instead of being moved to a normal unit at Tidaholm.*

An inmate is often placed in the prison isolation unit because he has threatened another inmate or has been threatened himself. In the light of this, the prison often considers it impossible, for security reasons, to let the inmate return to a normal unit at the prison. This is why the inmate is transferred to another prison, to avoid being placed in isolation.

*The CPT would like to receive information on the transfer of inmates between prisons for reasons of good order and discipline.*

The CPT delegation had heard the claim that it was not unusual for staff at Tidaholm Prison to threaten inmates with transfer to more remote establishments, as a form of persuasion to adjust their behaviour. With regard to this claim, the Authority has stated that removal of inmates between closed prisons takes place exclusively for reasons of security or treatment. Such security reasons may be that the inmate has escaped or attempted to escape, used violence or the threat of violence against the staff or another inmate, or that one or several inmates are exercising inappropriate influence over a group of other prisoners.

*The CPT requests the supply of information in respect of 2000-2002 concerning the number of prisoner transfers for reasons of good order and discipline.*

National data on the number of transfers of inmates between prisons and the grounds for these transfers are not collected by the National Prison and Probation Administration.

#### *b) Contact with the outside world*

*The CPT urges prisons to make it easier for inmates of foreign origin to use the telephone to keep in touch with their close families.*

A telephone system (INTIK) – with a number of security functions – is available to inmates of prisons. This telephone system is available for use by all inmates at certain times during their free time. This also applies to Tidaholm Prison, which means that prisoners of foreign origin have the same opportunities to ring as the other inmates.

*c) Drug-related issues*

*The CPT recommends that the Prison and Probation Authority increase the number of places in the drug-free unit at Tidaholm Prison and if possible, that these places be kept separate from other units.*

Since the CPT's visit to the Prison, the drug-free treatment and motivation unit has been completely separated from the rest of the prison. There are plans to increase the numbers of drug-free places by 15.

The decision on this matter was taken by Director-General Lena Häll Eriksson. Taking part in the process was Deputy Director-General Doris Högne, Head of Division Ulf Jonson and Chief Legal Officer, Eva Cedergren, who has prepared this response.

### **Ministry of Health and Social Affairs**

Please note that some of the Ministry's comments have been integrated with those of the National Board of Institutional Care.

*Comments concerning items 94 and 165 (Recommendations Safeguards s. 61)*

Before compulsory mental care can be provided the need shall be verified by two in relation to each other independent physicians. A senior consultant in a mental care unit makes a decision concerning admission. The care is limited in time. If the care must go on for more than 4 weeks a trial before a court of law is needed. If continued care is allowed it can be provided for at longest four months counted from the day that decision of admission has been taken. For further extension of time a new trial must be carried out. The patient is entitled to appeal the decisions made concerning compulsory mental care before a court. The court's decision can also be appealed before a higher court. The demands concerning competence and the right to appeal decisions made, shall guarantee justice for the patients.

*Comments concerning items 96, 101, 102, 165 (Request for further information under the heading Safeguards on p. 62)*

The county councils shall, according to law, form a patient board. The aim is to give patients, relatives and personnel an independent authority to direct issues of complaints and problems concerning contacts with the health care services. The patient board is also responsible for recruiting and appointing supportive persons for patients undergoing compulsory mental care.

The patient has the right to services by a supportive person in personal matters as long as the patient is receiving compulsory care, and if the patient and the supportive person agree, for four more weeks. In the bill (1990/91:58) the minister of social affairs, made clear that volunteers, with interest for and knowledge about these issues, should constitute the basis for recruitment. Education might be needed in some cases. It can be mentioned that the patient boards have developed co-operation with patient organisations in order to find interested and suitable supportive persons.

The national board of health and welfare is responsible for supervision, and development in fields such as knowledge and competence in order to make sure that health care is provided in agreement with terms decided by the government and the parliament.

If a patient thinks that a member of staff in the public or private health care system should be disciplined, by admonition or warning, for neglect of professional duties, a complaint can be addressed to the Medical Responsibility Board (HSAN). On demand of the National Board of Health and Welfare, HSAN also can, among other things, make restrictions concerning the right to practise.

### **National Board of Health and Welfare**

The Board is not the responsible authority for providing the services under review.  
These comments are therefore presented only from the standpoint of the  
Board's supervisory function.

#### *General comments*

The report contains many interesting observations. Obviously, it is important that individuals who have been taken into custody and are receiving care within the penal system or in accordance with laws on compulsory psychiatric treatment have access to reliable care of good quality.

Unfortunately, some of the Committee's proposals would be difficult to implement, especially since the availability of general physicians and psychiatrists within the national health-care system is generally limited. Since many of the penal system's clients have various kinds of psychic problems, the availability of psychiatrists, psychologists and psychotherapists is especially crucial.

The National Board of Health and Welfare wishes to emphasise the need to be acutely aware that many of those imprisoned or committed to psychiatric care suffer from psychological problems. This is a factor that must be taken into consideration when restrictions are imposed on such individuals. If the restrictions relate to contact with other people, they should be devised so that the affected individuals are not totally deprived of human contact for too long a period.

The National Board of Health and Welfare feels that it is also important to avoid long processing times when individuals in custody are transferred to hospital-like facilities due to poor psychic health. The same applies to situations of acute physical illness. The Board feels that drug-free wards have an important function, and that an increase in such facilities would be very useful from the standpoint of drug rehabilitation and substance abuse prevention.

### *Göteborg city jail*

According to the Committee's report, it sometimes happens that police decide whether or not a physician is called in. There are probably cases for which there are obvious medical reasons to call in a physician, and that is a decision that even police can make. In doubtful cases, it may be appropriate for a nurse to make an initial medical assessment.

When the National Board of Health and Welfare inspected the Göteborg city jail in June 2002, it emerged that the jail has an agreement with a private company to provide medical care to prisoners. According to the agreement, which runs from 1 January 2001 to 31 December 2003, the private company undertakes to "provide medical care for all jail prisoners, including somatic and psychiatric care. Contracted services include diagnosis, treatment, providing written certification, and maintaining journals. In addition, medical advice shall be provided to the jail's nurses and other personnel."

The agreement also specifies that a physician will make the rounds of the jail every weekday morning. Telephone counselling is to be provided at all other times, including weekends and holidays. The contracted medical care is provided year round by certified physicians on the jail premises. In the event of a physician's absence due to illness or any other reason, a suitable replacement shall be provided. Consideration shall be given to demands for continuity and high quality.

During the same jail inspection, it was also discovered that health-care personnel are available from 7:00-21:00 weekdays, and from 8:00-19:00 on weekends and holidays. As noted above, a physician is present in the jail every weekday from 8:30-13:00. At other times, a physician is available for telephone consultation.

At times when health-care personnel are not on duty, the jail's custodial personnel also monitor the health status of prisoners. At such times, a jail physician is available to custodial personnel for telephone consultation. In addition, the mobile emergency medical service of Göteborg may be called upon.

The National Board of Health and Welfare found that there is good accessibility to jail physicians.

In the event that accessibility to physicians is not unrestricted, it is the province of the Swedish parliament to adopt suitable legislation.

### *Tidaholm Prison*

In the opinion of the Committee, access to dental care at Tidaholm Prison was inadequate. According to information gathered during the inspection conducted by the National Board of Health and Welfare in November 2002, there was a dentist on duty 32 hours per month.

It is up to the Prison and Probation Administration to evaluate and provide for any additional needs for dental services that may be required. One profession that may have been neglected in this context is that of dental hygienists, who are also qualified to provide certain types of dental care.

Prior to its inspection of Tidaholm Prison, the National Board of Health and Welfare submitted a questionnaire to the prisoners' representative council. During the inspection visit, four representatives of the council discussed those questions with the Board, along with additional matters relating to the prison's health-care services that were regarded by the prisoners as important. The strongest requests presented were for increased availability and shorter waiting periods, especially for physical therapy and psychology.

It is correct that it can be difficult for a patient to receive in-patient psychiatric care and that, at times, it would have been desirable to provide longer care periods than had been possible. This applies to all patients, not only those in the penal system.

#### *Göteborg forensic psychiatric evaluation unit*

It appears that the Committee did not find anything to remark upon in connection with its visit to the forensic psychiatric evaluation unit in Göteborg, other than that the activities available to patients were too few. This does not fall within the scope of the Board's supervisory responsibilities.

#### *Sahlgrenska University Hospital*

The question of replacing hospital beds at Sahlgrenska University Hospital (SU) with "regular" beds is largely a matter of comfort. Which type of bed/sleeping place is appropriate for a patient should be decided individually, on the basis of patient security.

In connection with its inspections of facilities for compulsory psychiatric care and in other supervisory capacities, the National Board of Health and Welfare has also found cause to stress the importance of providing patients with the opportunity to go outdoors every day.

The Committee expresses its opinion that efforts must be made to provide patients with some form of structured daily activity. Here it may be noted that the Swedish Health Care Act applies. The Act prescribes that patients shall, as far as is possible, decide on their own care and on which activities they participate in. When the National Board of Health and Welfare has conducted inspections and interviewed patients about such matters as their daily activities, it has emerged that there is great variation in the extent to which offered activities are utilised.

It may be noted that occasions on which patients have been physically restrained for more than four hours or been segregated for more than eight hours must be reported to the National Board of Health and Welfare. The Board sometimes finds grounds to point out deficiencies on the basis of such reports, but it very seldom finds grounds for serious criticism.

It is correct that Sahlgrenska University Hospital's psychiatric clinic, like other such clinics, has experienced difficulty in recruiting nurses and specialist physicians, in particular. As far as the National Board of Health and Welfare is aware, great efforts are continually being made to recruit such personnel.

The sought-after information on what possibilities exist for nurses to receive special training in psychiatry can presumably be obtained from the relevant institutions of higher learning. It may be noted that Sahlgrenska University Hospital's psychiatric clinic participates in the hospital's training programme for recently graduated nurses, and hopes that the programme may interest one or more nurses in the psychiatric field.

The Committee feels that the "two-doctor evaluation" for compulsory psychiatric care should not be made by two doctors from the same hospital. Previously, certification for care and psychiatric committal evaluations could not be conducted by two doctors from the same hospital. But that restriction was removed when the Compulsory Psychiatric Care Act was enacted. Given the current shortage of physicians, it would be unrealistic to reinstate the previous restriction. If it were, not even at psychiatric clinics in hospitals where somatic care is also provided would a somatic physician be able to make an evaluation for committal certification.

The Committee states that the appointment of support persons appears to be the exception at SU. The National Board of Health and Welfare has received no indication that patients are not offered access to a support person. But many patients do not want a support person— yet someone else "intruding into one's life". Support persons are appointed by patient review boards, which are responsible for ensuring that those individuals receive proper training

#### *Regional forensic psychiatric unit and general psychiatric clinic in Umeå*

The question of hospital beds is not one of patient security. But replacing them with regular beds may conflict with requirements for an ergonomically sound work environment for personnel. The Labour Inspectorate has pointed out that, from the standpoint of ergonomics for personnel, "regular" beds are inferior.

#### *Other points*

101. Patient review boards. The duties of these bodies are specified in § 2 of the Patient Review Board Act (1998:1656), as follows.

"The boards shall, on the basis of viewpoints and complaints, support and assist individual patients, and contribute to the development of health-care quality by

1. helping patients to obtain the information they need in order to pursue their own interests within the health-care system
2. encouraging contacts between patients and health-care personnel
3. helping patients to contact appropriate government authorities
4. reporting observations and deviations that patients regard as important to care-providers and care facilities."

Thus, patient review boards have no decision-making authority on matters relating to patient complaints.

Regarding the tasks and powers of the patient review board, however, it should be kept in mind that it is the board which appoints support persons for patients (see § 30, paragraph 3, of the Compulsory Psychiatric Care Act [1991:1128] and § 26, paragraph 3, of the Forensic Psychiatric Care Act [1991:1129].)

With regard to cases in which a patient has filed a complaint about care received, it may be added that it is the Health Care Review Board ("HSAN") which considers questions of disciplinary action against health-care personnel, in accordance with the Health Care Professional Activities Act (1998:531).

102. Supervision. The recommended type of government authority already exists — the National Board of Health and Welfare. The Board exercises continual supervision of psychiatric care by reviewing submitted reports and by taking various initiatives. Nation-wide thematic reviews were conducted in 1994 and 2001, with a special emphasis on patients' legal rights. It may be noted that the Göteborg Regional Supervisory Unit of the National Board of Health and Welfare is this year reviewing adult psychiatric services by means of visits to all clinics within its area, including interviews with patients and user representatives.

Patients may also file complaints with HSAN in order to determine whether disciplinary action shall be taken against a member of the health-care staff.

According to Chapter 6, § 1, of the Health Care Professional Activities Act, the health-care system and its personnel are under the supervision of the National Board of Health and Welfare. The Board's authority to exercise supervision is stipulated in Chapter 6, §§ 6-11, of the Health Care Professional Activities Act, as follows:

§ 9. Anyone who conducts activities subject to supervision in accordance with this chapter and any member of a health-care staff are required upon request of the National Board of Health and Welfare to submit documents, test results and other materials relating to such activities, and to submit any other information concerning such activities which may be necessary for the Board to exercise its supervision.

The National Board of Health and Welfare may order anyone who conducts such activities or any health-care staff-member to submit the requested materials. The order may specify the penalty that applies in the event of failure to comply.

§ 10. The National Board of Health and Welfare or any party appointed by the Board is entitled to inspect activities that are subject to supervision in accordance with this chapter and the Health Care Professional Activities Act. The party that conducts the inspection has the right of access to the premises or other work areas that are used in connection with the activities, but not to living quarters. The party that conducts the inspection is entitled to seize documents, test results and other materials relating to such activities. The party whose activities or occupational performance is being inspected is required to provide whatever assistance may be necessary to conduct the inspection.

§11. In connection with the type of inspection referred to in § 10, the party conducting the inspection is entitled to receive from police authorities whatever assistance may be required to complete the inspection.



During National Board of Health and Welfare inspections of facilities within the national health-care system, patients receiving compulsory care are often given the opportunity to speak with an official of the Board in private. This opportunity is not provided in jails and prisons, and it would hardly be feasible to any great extent. To conduct such inspections on a more regular basis, as the CPT recommends, would be desirable; but it would require greater resources than are available at present.

119. It is the view of the National Board of Health and Welfare that the duty to report segregation in connection with care provided in accordance with the Care of Young Persons Act and the Care of Substance Abusers Act should be the same as with care provided in accordance with the Compulsory Psychiatric Care Act and the Forensic Psychiatric Care Act.

129. The CTP is doubtful about the duty of physicians to report observed cases of substance abuse to social authorities (in accordance with § 6 of the Care of Substance Abusers Act). The government proposal for the Care of Substance Abusers Act stressed the importance of the National Board of Health and Welfare being made aware of patients with patterns of substance abuse that cause serious health problems. The national health-care system has no means by which to "force" care upon such patients. It is the view of the National Board of Health and Welfare that any damage which may be caused to the patient-physician relationship is of secondary importance compared with the opportunity to break a life-threatening pattern of substance abuse.

## **National Board of Institutional Care**

### Special Approved Homes

As an introduction, it can be mentioned that the National Board of Institutional Care's Legal Advice and Guidelines 2002:1 (LVU) and 2003:1 (LSU) contain clarifications and give directions to the personnel regarding the interpretation of existing legislation. In the guidelines (LVU), it is, among other things, stated that care at National Board of Institutional Care institutions shall be guided by ethical considerations, and carried out on the basis of a humanitarian outlook on people. The National Board of Institutional Care's file with Legal Advice and Guidelines is available for inspection in all departments, and all personnel shall be informed of their existence. Over and above the guidelines mentioned, there are also local instructions as to how the residents shall be treated and what applies in different situations, for example, in the case of segregation.

### *Recommendations from CPT*

*CPT recommends that the personnel shall be reminded as to when and how necessary physical force may be used. Furthermore, CPT recommends that a clear written policy regarding control of residents shall be worked out, and that training in appropriate techniques should be available for all personnel (Sections 108, 109).*

In order that care at the special approved homes can be carried out, there are legal instructions on the use of certain measures of enforcement against residents, so-called special powers. In the National Board of Institutional Care's Legal Advice and Guidelines it is stated that special powers shall be used with discrimination and restrictively. The basis is that actual measures involving force should not be used other than in clearly exceptional situations, and then only as a means of protection. The guidelines state, among other things, that personnel may prevent a resident from deviating but not with any more force than is necessary and defensible.

On account of CPT's recommendations, the legal staff at the National Board of Institutional Care's head office have compiled a memorandum giving reminders as to which situations and to what extent physical force may be used. In the memorandum it is pointed out that physical force may only be used to prevent a resident from deviating and in order to maintain order at the home, through putting a resident in segregation or getting him or her to calm down. In the memorandum, it is also pointed out that the means personnel may use are limited to holding on to the resident, and that physical force may not be used after the resident has calmed down. The memorandum has been distributed to all institution heads.

Also, it can be mentioned that the National Board of Institutional Care has, some years ago, carried out instruction training as to how to counter threat and violence. At the Eknäs approved home, these courses have been held at least twice a year for the personnel since then. So far, some 500 people have been trained in confrontation and handling of threatening situations, such as argumentation techniques and countering in general and, where this it is unavoidable, appropriate and safe physical techniques. The National Board of Institutional Care now plans to offer the institutions instructor training shortly. The trained instructors will then give training in turn to the personnel in the various institutions.

Segregation may only occur in specially stipulated situations. Thus, the resident may be kept in segregation if this is particularly called for on account of him or her behaving violently or being so influenced by intoxicants that he or she cannot be kept in order. The resident shall remain under continual observation and must not be kept in segregation longer than is unavoidably necessary, and never longer than 24 hours at a time.

*CPT recommends that various circumstances connected with a decision on segregation shall be noted in a central register (Section 119).*

A centrally located register is already available within the National Board of Institutional Care, and contains the information that CPT requests. When a resident is put in segregation, the institution's head thus makes a decision which is registered in KIA (the National Board of Institutional Care's system for Client and Institution Administration), which is a central register to which the head office also has access.

*Concerning the recommendation that the personnel should be reminded that residents, in connection with being put into segregation, shall be kept under continual observation (Section 119), it can be mentioned that the memorandum (see above) distributed to all institution heads contains the rules for segregation which are to be found in the National Board of Institutional Care's Advice and Guidelines, and in addition, a reminder that continual observation means that personnel shall look at the resident at least once every fifteen minutes.*

*As regards that which follows concerning the CPT's recommendation that all residents in the special approved homes shall undergo medical examination on arrival at the institution (Section 122), the National Board of Institutional Care agrees that it should be a priority objective for all special approved homes, that examination is carried out at an early stage. The question will be taken up in the Authority's activity plan for 2004.*

*CPT then points out that the resident's health and medical casebooks should be available at the institution (Section 123).*

The understanding of the National Board of Institutional Care is that the health and medical casebooks are kept in a special document system at the institution. The routines at Bärby approved home have, in this respect, now been changed in accordance with CPT's recommendations. In addition, work is ongoing to produce a general data system for health and care medical casebooks.

*Concerning CPT's recommendations for a brochure for new residents (Section 127), it can be mentioned that the National Board of Institutional Care recently produced an information folder for those who carry out closed institutional youth care. The brochure includes what rules apply at the home, and what rights the residents have regarding appeals and complaints. Work with a similar information folder for other residents has begun.*

#### *Comments from CPT*

*CPT proposes that the National Board of Institutional Care shall take steps regarding the exercise yards that are at the reception department at Bärby approved home. The exercise yards are, in CPT's opinion, too small to satisfy the requirements of the residents for exercise (Section 115).*

In this context, the National Board of Institutional Care would like to point out that the exercise yards referred to are not intended to be used for sporting activities, as other areas are available for this. At the same time, the objectives in this reception unit are that the residents shall, as soon as possible, be given the opportunity of being in more open conditions outside the department, together with personnel. In addition, the residents shall, as a step in the transition process, be moved to a more open department as soon as possible.

*As regards CPT's opinion that the personnel should be reminded that segregation should not be used as a disciplinary sanction and that threat of segregation must not be a means of handling difficult residents, (Section 120), it can be mentioned that the information in this respect is given in the National Board of Institutional Care's Legal Advice and Guidelines 2002:1 and 2003:1. It is made clear here that the purpose of segregation shall be to maintain order in the department and that use of this measure shall clearly consider the encroachment and the risks of damage that the measure can involve. It is pointed out that segregation must only be used when it is "specially required", which means that a number of lesser intervention measures shall always be considered to start off with. It is pointed out that segregation is a means of force, which shall be used very restrictively, and that segregation may, under no circumstances, be used as any form of sanction or punishment. An updated edition of the guidelines, against the background of legislation in the area having been revised, was sent to institution heads in the summer of 2003.*

A series of training input, for example, regarding special powers, is also carried out with some regularity. In this training it is pointed out especially that these powers must not be used as disciplinary measures or constitute withdrawal of privileges.

On account of CPT's statements concerning the *procedure for the handling of complaints (Section 125)* the legal staff at the head office of the National Board of Institutional Care have also compiled a memorandum with the rules that apply, both with appeals (in accordance with LVU, LSU and LVM respectively) and as regards the handling of different types of complaint. The memorandum has been distributed to all institutional heads. These questions are also considered in the National Board of Institutional Care's Legal Advice and Guidelines 2002:1 and 2003:1.

#### *Information requested*

*CPT requests information as to whether there are guidelines for routines on segregation regarding LSU residents, and for those who make the decision on segregation, (Sections 118, 119).*

According to the work and delegation regulations of the National Board of Institutional Care regarding LSU, it is the institution head that decides on segregation. In the National Board of Institutional Care's Advice and Guidelines, LSU, it is stated that the rules and routines in other respects confirming segregation shall correspond to those that apply for other residents.

*Information concerning whether the resident is informed about such things as the grounds for a segregation decision are also requested by CPT (Section 119).*

Routines are as follows. When a resident is put into segregation (applies both to LVU and LSU residents), the institution head shall make a formal decision, which is registered in KIA (see above). The decision shall be given to the resident in writing. The decision shall give the reasons for the segregation. On the decision there is also an appeal reference, i.e., information as to how the resident shall proceed if he or she wishes to appeal against the decision. The personnel shall help the resident if he or she wishes to appeal against the decision. (As from 1 July 2003, on account of the Riksdag's resolution on changing LVU, all segregation decisions may be appealed against.)

#### Homes for Abusers

##### *Recommendations from CPT*

*CPT has views on the design of reception rooms at the LVM home Rebecka, which are, according to the Committee, far too spartan, among other things. CPT recommends that measures shall be taken to improve conditions when Rebecka moves to new premises later on (Section 133).*

In connection with the planning work that is to be carried out before the LVM moves to new premises, CPT's views shall be taken into account to the greatest possible extent.

*CPT recommends that various circumstances concerning a decision on segregation shall be noted in a central register (Section 134).*

The KIA register also includes the LVM homes (compare Section 119).

*Comments from CPT*

*CPT has views on doctors' duty to report, in accordance with Section 6 LVM, (Section 129).*

The National Board of Institutional Care has established only that application of the law is at present being reviewed by the governmental LVM enquiry, which is to give proposals concerning changes they have found necessary, by 1 December 2003 at the latest.

On account of CPT's statements concerning *handling of complaints and information to new residents (Section 139)*, the legal staff at the headquarters of the National Board of Institutional Care has, as previously mentioned, compiled a memorandum with the rules which apply concerning appeals and handling of complaints. The memorandum has been distributed to all institution heads. As regards information to new residents, it can be mentioned that the National Board of Institutional Care started work on a brochure concerning such things as what rules apply at the home and what rights the resident has concerning appeals and complaints. In addition, it can also be mentioned that all decisions which are appealed against contain an appeal reference, and are communicated to the resident (also compare Sections 119, 125 and 127).

*Information requested*

*CPT requests information concerning substitution treatment and detoxification (Section 137).*

The National Board of Institutional Care, which has established that LVM is an enforcement law and which hardly applies with functioning substitution treatment, otherwise refrains from commenting concerning the existing regulations.

As regards the difficulties commented upon by the CPT concerning *access to psychiatric care resources (Section 138)*, the basis is, of course, that residents shall receive the necessary health care and medical treatment. Against this background, there is at present ongoing work on a broad front with the purpose of improving co-operation between different authorities.

*Finally, as regards the question of an independent authority for supervision of National Board of Institutional Care institutions (Sections 126, 140)*, it can be mentioned that questions concerning supervision of government activities have been considered in various contexts recently (compare the resolutions of the Riksdag in May 2003, 2002/03:SoU13). The information is that the Government is at present considering how proposals for supervision shall be treated in the future.

The Riksdag has announced (with reference to 2002/03:SoU13) that the Government should investigate how supervision of the National Board of Institutional Care can be made organisationally and financially independent of the National Board of Institutional Care. This question is being prepared at present within the Swedish Government Office.

The duty to report, in accordance with Section 6, second paragraph of the (1988:870) Care of Alcoholics, Drug Abusers and Abusers of Volatile Solvents Act (LVM) is not unconditional. The duty to report only comes into force after it has been established that the patient cannot be given the necessary care through the attention of an individual doctor or through health care or medical care generally, and that the patient can be considered to be in need of immediately being taken into care or being given care in accordance with LVM. Sections 1 and 2 (1998:531) of the Health and Medical Care Act, state that doctors shall give patients expert and careful health care and medical care, and individually adapted information concerning the health of the patient and the methods for investigation, care and treatment that are available. The duty to report thus comes into force when health care and medical care cannot be given in voluntary form, and the doctor has made the assessment that, as a result of abuse, the individual either is putting his or her physical or psychiatric health in serious danger, or runs an obvious risk of destroying his or her life, or can be considered to be in danger of severely injuring himself or herself, or another person close to him or her.

### **Parliamentary Ombudsman**

In its report, the Council of Europe's Committee for the Prevention of Torture has among other things recommended Sweden to reconsider the need for the establishment of a specific agency for the investigation of criminal charges against the police. I subscribe to this view and would, with reference to my newly given opinion on the report of the inter-parliamentary 'Committee on the Supervision of Police and Prosecutors' named *Förstärkt granskning av polis och åklagare*<sup>1</sup>, particularly underline the importance of re-examining this issue.

The report [of the CPT] furthermore raises the issue of the establishment of an independent inspection/supervisory function at the LVM homes and the special homes for young persons.

The supervision of the LVM homes and the special homes for young persons is carried out by the National Board for Institutional Care in its capacity as the responsible authority for those homes. The Parliamentary Auditors have raised the issue of an independent supervision of the said institutions in its report: *Med tvång och god vilja – vad gör Statens institutionsstyrelse?*<sup>2</sup>. The governmental 'Committee on inspection/supervision'<sup>3</sup> is currently examining questions regarding state inspection/supervision with an overall perspective. I believe that one should await the Committee's results before taking a final stance regarding the need for a change with regard to the supervision of the LVM-homes and homes for special homes for young persons.

As regards compulsory psychiatric care, the conditions are different since the National Board of Health and Welfare, who is responsible for the supervision of health care, is not the responsible authority for the care. It lies within the Board's mandate as supervisor to carry out inspections of hospitals. There is room for different views as to what extent the supervision of the National Board of Health and Welfare fulfils the need for inspections such as those requested in the report of the CPT. If a change is considered necessary, such change could be arranged within the current mandate of the National Board of Health and Welfare.

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<sup>1</sup> "Enhanced examination of the police and prosecutors", SOU 2003:41.

<sup>2</sup> "By force and good will – what does the National Board for Institutional Care do?", 2002/03:1, p. 141.

<sup>3</sup> *Tillsynsutredningen 2000:6.*

## **National Board of Forensic Medicine**

*Health-care services, 86.*

The National Board of Forensic Medicine will make efforts to ensure that patients admitted for forensic psychiatric assessment have access to an appropriate range of activities during their stay.

### **Office of the Prosecutor-General and the Regional Public Prosecution Authority**

**Please see enclosures from**

*Office of the Prosecutor General (enclosure no 3)*

*Swedish National Economic Crimes Bureau (enclosure no 4)*

*Regional Public Prosecution Office of:*

*-Linköping(enclosure no 5)*

*-Gothenburg(enclosure no 6)*

*-Malmö (enclosure no 7)*

*-Västerås (enclosure no 8)*

*-Stockholm (enclosure no 9)*

*-Umeå (enclosure no 10)*