CPT/Inf (2007) 46

Response of the Danish 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 Denmark

from 28 January to 4 February 2002

The Danish Government has requested the publication of this response. The report of the CPT on its 2002 visit to Denmark is set out in document CPT/Inf (2002) 18.

Strasbourg, 12 december 2007

Summary of the CPT's recommendations, comments and requests for information

A. POLICE ESTABLISHMENTS

1. Ill-treatment

comments

C.1: The Danish authorities are invited to remind police officers in an appropriate manner, at regular intervals, that no more force than is strictly necessary should be used when effecting an arrest (paragraph 8).

The Ministry of Justice has noted that at its visit in 2002, the Committee (CPT) did not hear any accusations about ill-treatment of persons detained by the police and that the CPT has not otherwise found any evidence of such treatment. Furthermore, the Ministry of Justice has noted that the majority of the persons whom the CPT met indicated that the police had treated them correctly during the term of detention.

According to the general principles governing the police's lawful use of force, including the provisions of Sections 13 and 14 of the Danish Criminal Code regarding acts in self-defence and acts to avert threats of damage to a person or to property, the police's use of force is conditional on whether the situation – based on a concrete evaluation – makes it necessary and justified to use such force. More intrusive means of force must thus be used only where the less intrusive means of force are not sufficient. Besides, use of force must not be disproportionate to the situation, the person involved, and the interest concerned.

It follows from Section 755(4) of the Danish Administration of Justice Act that an arrest shall not be made if considering the nature of the case or the circumstances otherwise deprivation of liberty would be a disproportionate measure. It follows furthermore from Section 758 of Danish Administration of Justice Act that arrest shall be made as leniently as allowed by the circumstances.

The National Commissioner of Police has stated that the basic principles governing use of force are an integral part of law enforcement in Denmark. In connection with the basic training and in conjunction with the current further training, police personnel in very comprehensive programs receive instruction about the importance of these principles for carrying out police work. On this basis it is the opinion of the National Commissioner of Police that there is not a current need in general to remind police officers of these principles.

requests for information

I.1: The number of persons injured in 2002 by dogs used by the police (paragraph 8).

The National Commissioner of Police has reported that in the first three quarters of 2002, there were 85 incidents of persons injured in connection with the police's use of dogs in connection with apprehensions or arrests. In the same period there were additional 19 incidents of persons injured in connection with the police's use of dogs in other situations - a total of 104 incidents. Of these 104 incidents, 57 cases were concerned with superficial bruises or tetanus vaccination.

In connection with the drafting of the final report to the CPT, the Ministry of Justice will revert with a total calculation for 2002 of incidents with persons injured in connection with dogs used by the police for the purpose of enforcing apprehensions or arrests.

2. Conditions of detention

recommendations

R.1:

- **The 2,8 m2 holding rooms of the Horsens Criminal Investigation Police – and any other similar holding facilities in Denmark – to be withdrawn from service (paragraph 10);**
- **steps to be taken to ensure that all detention facilities, including the two larger holding rooms at Horsens, are kept in a satisfactory state of cleanliness and repair (paragraph 10).**

The Ministry of Justice has noted that the police detention rooms and holding rooms visited by the CPT in 2002 were generally found in acceptable condition, including in relation to size, lights, ventilation, cleanliness, etc.

Regarding the 2.8 m2 holding rooms of the Horsens Criminal Investigation Police, the Chief of Police of Horsens has reported that the conditions have been improved already, as the two small holding rooms have been joined to one holding room.

Furthermore, the holding rooms were repaired and painted in the autumn of 2002.

The National Commissioner of Police has explained in more general terms that the holding rooms in the police stations of the country are used for detainees' short-term detention while they wait to be questioned in more detail. Furthermore, the holding rooms are used for short-term detention in connection with police bringing persons before the Enforcement Court, just as witnesses, who according to a court order, have to be fetched by the police, are placed in holding rooms for a short while if they cannot be brought before the court forthwith for the purpose of questioning in court. The holding rooms in the police stations of the country are thus used for short stays only of detained persons.

In addition, it is possible for the police - based on a concrete judgment in each individual case - to use the detention facility as holding rooms, if the detainee makes a request to this effect.

In guidance notes of 1992, the Ministry of Justice has laid down guidelines for i.a. the fitting-up of holding rooms for detainees. The guidelines contain i.a. minimum requirements with regard to the size of holding rooms for detainees and specific requirements of ventilation, intercom and monitoring and smoke detector systems. These guidelines apply to new buildings and to larger reconstruction works on the buildings of the police.

In this connection the National Commissioner of Police has reported that in a smaller part of the police's buildings are holding rooms that do not comply with the minimum requirements of the guidelines with respect to size. In connection with major reconstruction works these holding rooms will be closed down and replaced by new ones that comply with the requirements of the guidelines.

requests for information

I.2: Confirmation that persons detained at Station No. 1 in Copenhagen are guaranteed ready access to toilet facilities (paragraph 11).

The Copenhagen Commissioner of Police has reported that the Copenhagen Police's City Station (formerly Station 1) has 7 detention rooms, 6 holding rooms, and one room for the Enforcement Court. All these rooms are in the "detention hall". Detainees furthermore now have access to one separate toilet and one toilet with bath installed in the detention hall.

Detention rooms and holding rooms are used in the daily alert work for 1 person only in each room. If the station has more detainees they will be transferred to other police stations in Copenhagen.

The Enforcement Court room is used for persons who have been arrested by the police to be brought before the Enforcement Court. The Enforcement Court room is frequently used for more than one person. Furthermore, this room has been used for asylum-seekers who await preliminary case processing or transportation to the airport.

In very special situations where the Copenhagen Police have many detainees it can become necessary to place more than one detainee in each detention/holding room. A situation with wholesale arrests is, however, very rare, but may occur.

It should be noted also that in situations where the police expect to arrest many persons, as for instance at the just ended Danish EU Presidency, the police take into use a special detention concept, which includes i.a. mobile toilet units.

The Copenhagen Commissioner of Police has reported that there are no known situations where the toilet facilities have not been sufficient and it is thus the Commissioner of Police's opinion that naturally there are adequate toilet facilities for detained persons at the station concerned.

3. Safeguards against the ill-treatment of detained persons

recommendations

R. 2: Legal provisions to be adopted to ensure that all persons detained by the police have a formally recognised right to inform a relative or another third party of their choice of their situation, as from the outset of their detention. Any possibility exceptionally to delay the exercise of this right to be clearly circumscribed in law, made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefore, and to require the approval of a senior police officer unconnected with the case at hand or a prosecutor) and strictly limited in time (paragraph 16);

The Ministry of Justice can advise that in pursuance of Section 758 of the Danish Administration of Justice Act – subject to the exceptions stated in the provision – a detainee shall not be subjected to other restrictions of his liberty than those required by the purpose of the detention and considerations of order.

For the purpose of making it clear which procedures should be followed with regard to the rights of the detained person themselves to inform their next of kin or other related persons, etc., about the arrest, the Ministry of Justice has most recently on 20 June 2001 issued a revised Circular Letter to the police and the Prosecution Service about information to next-of-kin, other related persons, or other persons, about an arrest, about the detained person's right to contact an attorney and about the detained person's access to medical assistance.

It appears clearly from the Circular Letter that the detained person shall be informed of the rights that follow from the Circular Letter and that the information shall be given in a language the detained person understands. The National Commissioner of Police has drafted a set of written guidance notes to detained persons, Form P 570, which is available in Danish, English, German, French, Spanish, Turkish and Arabic.

It appears from the Circular Letter that the written guidance notes must always be given to the detainee, unless it is apparent that the detained person does not understand any of the languages in which the guidance notes are available. In that case, guidance on the rights of detained persons should be provided in a different way as soon as practicable - if necessary after an interpreter has been called in.

Furthermore, it appears from the Circular Letter that compliance with the above rules concerning information to the detained person of the rights that follow from the Circular Letter shall be recorded i.a. in a custody report or the custody register, or by entry of a note in the day report.

The Circular Letter provides that without undue delay the police must give a detainee an opportunity to notify his next of kin or other relevant persons, e.g. such as his employer, of the detention.

The detainee may temporarily or totally be denied access to giving the information referred to above, if in the specific circumstances of the case there are grounds to assume that the detainee will interfere with the investigations by alerting or influencing others or causing the removal of traces, objects, etc.

The Circular Letter provides that the police must without undue delay clarify the question of access to give information. If, however, the police deny a detainee access to give information because certain investigative steps have to be taken, the police must try to carry out such investigative steps as soon as possible.

In cases where a detainee is denied access to give information, the information shall, in principle, be given by a police officer, if requested by the detainee. In that case the information has to be given without unnecessary delay.

Information given by a police officer may be omitted if in the specific circumstances of the case there are grounds to assume that information about the detention will in itself interfere with investigations, and if important investigative considerations indicate that it is not advisable.

In that case the investigations have to be planned in such a way that information can be allowed without unnecessary delay. Information given by a police officer – where the detainee requests it – cannot be omitted after the detainee has been taken to court for the statutory preliminary hearing conducted in public.

In pursuance of the Circular Letter, compliance with the rules above has to be recorded, for example by an entry in the custody record or the custody register, etc.
With the revised Circular Letter there are thus very detailed rules in this area. These rules are binding on the police. The Ministry of Justice, therefore, does not find that there is a need to regulate this area by law - or that it is immediately suited to be regulated by law. The Ministry of Justice, however will currently review whether the Circular Letter needs to be adjusted and in such case be re-circulated to the police.

Based on the CPT's recommendations, the Ministry of Justice will consider whether there may be a need to remind the police of the rules of the Circular Letter.

The Ministry of Justice can add that in pursuance of Section 101(2) of the Danish Administration of Justice Act, there is access to complain of the police's handling of matters to the regional public prosecutor concerned. Furthermore, if an arrested person contacts the police management about a disposition made by the police, the question of the lawfulness and the expediency of such a disposition will be considered. If the police's disposition must be deemed to be an expression of harassment or misuse of power, the complaint is considered by the public prosecutor with involvement of the police complaints board in accordance with the rules of Part 93 b of the Administration of Justice Act concerning complaints of police personnel's conduct while in service.

R. 3: Steps to be taken to ensure that the right of detained persons to have access to a lawyer is fully effective as from the very outset of custody (paragraph 18).

It appears from the Circular Letter of 20 June 2001 mentioned above that the police have to give detainees access without undue delay to contact an attorney, who meets the requirements for defending the case, cf. Part 66 of the Danish Administration of Justice Act.

According to the rules of the Circular Letter, the police may temporarily deny the detainee the right to contact a specific attorney, if the case includes circumstances that will make the police oppose to assignment of a specific attorney. The question of whether the detainee should have the right to assistance from the attorney in question will then have to be submitted to the court, cf. Sections 730(3) and 733(2) of the Danish Administration of Justice Act. If so, the detainee has to be given access without undue delay to contacting a different attorney, who meets the requirements for defending the case.

The reference under R. 2 concerning the Ministry of Justice's considerations and the access to complain applies also to this area.

R. 4:

- **Police officers to be firmly reminded that they should not seek to dissuade detained persons from exercising their right of access to a lawyer (paragraph 19);**
- **the requirement that the police inform detained persons of their potential liability as regards costs to extent to the face that the court may decide to limit that liability (paragraph 19).**

It appears from the Circular Letter of 20 June 2001 mentioned above that in connection with guidance to a charged person about his right to consult an attorney, the police must, as previously, inform the detainee that he is obliged to repay the fees of his defence attorney, disbursed from public funds, in case he is found guilty, cf. Section 2(2) of Executive Order No. 467 of 26 September 1978.

Furthermore, it appears expressly from the Circular Letter that the police may not in connection with the guidance seek to influence the detainee's assessment of his own need for legal assistance.

R. 5: Steps to be taken to ensure that the confidentiality of medical data is fully respected in practice in police station (paragraph 21).

The Ministry of Justice can advise that on 27 June 2002, the National Commissioner of Police has revised Announcement II No. 55 on placement of intoxicated persons in a detention cell.

The Announcement contains detailed rules on the police's treatment of intoxicated persons, use of police detention cells, detention, transportation and bringing to a police station of intoxicated persons, the procedure of placing detained persons in detention, including medical assistance to detained persons, and supervision of persons placed in detention and provisions regarding removal from detention, etc.

It appears from the Announcement i.a. that the police shall take care of a person who is unable to take care of himself while under the influence of alcohol or other intoxicating and/or doping substances and who are met under circumstances involving a danger to the person himself of others or public order and safety (intoxicated persons).

In this connection the police must decide whether the intoxicated person shall be detained with a view to being transferred to others, who in a proper manner can take care of the person in question, whether he must be taken to hospital, a reception centre, or the like, or be placed in police detention.

According to Section 12(1) of the Announcement a doctor shall examine the detained person before a final placement in detention. It furthermore appears from Section 14(2) of the Announcement that the medical examination shall clarify whether the detained person is in a condition that speaks against placement in detention and whether the condition of the detained person may require treatment in a hospital, doctor's practice or the like.

It furthermore appears from Section 14(3) of the Announcement that date and hour of the medical examination, the doctor's name and the doctor's written notes about the detained person shall be entered in the detention report. For the purpose of written comments by the doctor, if any, to the police a special form is used as medical report. The report must be kept at the police station for a minimum of two years, cf. Section 22(3) of the Announcement. It should be noted that the medical reports in question are kept for control purposes.

The police's handling of the task involved with persons placed in detention depends on the police having access to any written comments made by the doctor about the detained person, including the doctor's conclusions about whether the person is suited to be placed in detention.

Regarding psychiatric patients, a doctor makes the decision about whether compulsory detention in an institution is required, cf. Section 6(2) of Executive Order No. 849 of 2 December 1998 on deprivation of liberty and other coercive measures in psychiatry.

According to Section 7(1) of the Order, the police make the decision about practical measures in connection with the compulsory detention in hospital and provide the necessary assistance. It furthermore appears from Sections 6 and 7 of Executive Order No. 880 of 1998 concerning the procedure to be followed in connection with compulsory detention in an institution, that the Chief of Police or any person designated by him, signs the necessary documents and ensures in this connection that the requirements of compulsory detention in an institution have been met, including that the proper procedure has been followed and that the medical report contains the information necessary as a basis for the compulsory detention.

Accordingly, in this area as well, it is a precondition for the police's handling of the tasks imposed by law that the police are acquainted with the medical information.

Regarding detainees, it follows from the above-mentioned Circular Letter of 20 June 2001 that a detainee should as far as practicable have access to medical examination without the presence of the police if the detainee so requests, and provided it is judged to be appropriate in terms of security. It is assumed that the doctor inform the police of any medical conditions to which the police pay attention to protect the detainee's health condition while he is in detention, and that this is told to the detainee.

The Ministry can advise in addition that it follows from Section 27 of the Danish Public Administration Act that any person who works in public administration has to observe secrecy when it is necessary to keep information secret in order to safeguard essential regards to public or private interests.

It further appears from Section 32 of the Danish Public Administration Act that any person who works in public administration in any capacity must not in that capacity obtain confidential information which is not of significance to the carrying out of that person’s task.

R. 6: Steps to be taken to ensure that detained persons are systematically informed of their rights and provided with a copy of the leaflet setting them out. Detained persons to be asked to certify with their signature that they have been informed of their rights and, if necessary, the absence of a signature in a given case to be explained (paragraph 23).

For the purpose of keeping the detainee apprised of the rights that follow from the Circular Letter of the Ministry of Justice concerning information to next-of-kin or others about the detention, etc., the National Commissioner of Police, as mentioned earlier, has issued written guidelines, Form P 570, which is available in Danish, English, German, French, Spanish, Turkish and Arabic.

The Circular Letter provides that the guidelines must always be handed out to the detainee. For further information please refer to R. 2.

It appears from the Circular Letter that compliance with the rule that the written guidelines shall always be handed out to the detainee shall be recorded in the custody report or custody register or by a note in the day report.

The National Commissioner of Police has besides stated that it is not found expedient to introduce a rule as proposed by CPT to the effect that by his signature a detainee shall confirm that he has been advised of his rights as a detained person. The National Commissioner of Police has mentioned that the procedure prescribed in the Ministry of Justice's Circular Letter evidences satisfactorily whether guidance has been given or not. The Ministry of Justice concurs in this opinion.

Please besides refer to R. 2 concerning the Ministry of Justice's considerations of the need for impressing compliance with the Circular Letter on the police.

R. 7: Immigration detainees to be guaranteed a right of access to a lawyer as from the very outset of their custody (paragraph 26).

It appears from Section 37(1), 1st sentence of the Danish Aliens Act that an alien deprived of liberty under Section 36 must, if he has not already been released within three full days after the enforcement of deprivation of liberty be brought before a court of justice and the court shall rule on the lawfulness of the deprivation of liberty and its continuance. If the alien is not released within the first three full days, the decision on deprivation of liberty can be appealed to the Ministry for Refugees, Immigrants and Integration Affairs (Ministry of Integration), cf. Section 48, 6th sentence.

Furthermore, it appears from Section 37(2) of the Danish Aliens Act that the court shall assign an attorney to act on behalf of the alien and that the date and hour when deprivation of liberty was enforced and when the alien was brought before the court must be registered in the court records.

The National Commissioner of Police has advised that decisions on deprivation of liberty of an alien in pursuance of Section 36 of the Danish Aliens Act shall be served on and translated to the alien. Service is made by means of the enclosed pre-printed standard form, which is completed by the police.

When the decision on deprivation of liberty is served the alien is advised under which statutory authority the deprivation of liberty can be enforced. The alien is asked at the same time whether he wishes to appeal the decision to the Ministry of Integration, if the decision is not brought before a court of law. Aliens, who are not asylum-seekers, are furthermore asked whether they wish to get in touch with the representation of their country whereas the aliens, who are asylum-seekers, are asked whether they wish to get in touch with the Danish Refugee Council.

The alien is moreover advised that if he has not been released within three times 24 hours he will be brought before a court of law that is to rule on the lawfulness and continuance of the deprivation of liberty, and that in this connection an attorney will be assigned to represent the alien. The alien is, besides, advised of his right to contact family or employer to inform them about the detention. However, the police may refuse to allow the alien to make such contact if it is deemed that the alien may obstruct the investigation of the matter. In such case the police – at the alien's own request – may inform the alien's family or employer of his detention. It appears from Section 37 b (1) of the Danish Aliens Act that an alien, who has been deprived of liberty pursuant to Section 36 of the Danish Aliens Act, is not during his detention subject to other restrictions to his liberty other than required by the purpose of the detention and the maintenance of order and security at the place where the alien is detained.

There is no authority in the Danish Aliens Act to assign an attorney to act on behalf of the alien until the time when the alien is brought before the court, cf. Section 37(2) of the Danish Aliens Act.

However, there is nothing in the legislation on aliens to prevent an alien, who is detained pursuant to Section 36 of the Danish Aliens Act, to retain the assistance of an attorney immediately after his detention has been enforced. It should be noted in this connection that an attorney, who is contacted by the alien himself – subject to the specific decision of the court and the alien's own request to this effect – can be assigned as attorney to act on behalf of the alien when he is brought before the court.

comments

C. 2: Detained persons should have the right in all cases to be examined by a doctor of their own choice; if it were thought that such a contact could obstruct the investigation, the examination could always take place in the presence of a state-appointed doctor (paragraph 20).

The Ministry of Justice has noted that at its visit in 2002, CPT was satisfied that a detainee's access to medical assistance appeared to be guaranteed and that CPT did not hear any complaints about detainees' access to contacting a specific doctor.

It follows from the Circular Letter of 20 June 2001 that it is considered a matter of course that persons who have been detained must receive medical treatment in all cases where there is a need. If a detained person requests medical assistance, the police must give the detainee access to contacting a doctor without undue delay.

Further, a detained person's request to consult a specific doctor has to be granted to the extent that it is practicable considering the time and place. Detained persons may only be denied access to consulting a specific doctor in case the detainee's contact with the doctor in question is assumed to be capable of preventing or interfering with investigations.

Further, a detained person should as far as practicable have access to medical examination without the presence of the police, if the detainee so requests, and provided it is considered to be appropriate in terms of security. It is assumed that the doctor inform the police of any medical conditions to which the police pay attention to protect the detainee's health condition while he is in detention, and that this is told to the detainee.

A detainee's request to consult a doctor, and in case this is denied, and compliance of the rules of the Circular Letter concerning a detainee's access to medical assistance shall be recorded in a custody report, or the like.

The National Commissioner of Police is not aware of any problems in practise concerning the present scheme as regulated in the above-mentioned Circular Letter.
The Ministry of Justice does not find any basis for amending the provisions of the Circular Letter concerning detainees' access to medical assistance, including access to consulting a specific doctor.

It should be noted that it must be deemed to be an even very rare case if the use of a specific doctor must be assumed to interfere with investigations. And it should be added to this that any medical assistance should concern medical and not investigative questions, and that another doctor in this capacity of doctor would not be able to estimate whether obstruction of investigations takes place in certain cases.

C. 3: The Danish authorities are invited to establish a system of regular visits to police establishments by an independent authority (paragraph 25).

The Ministry of Justice can advise that the chief executive management of the police districts is under an obligation to lay down business procedures and work routines to ensure compliance with the provisions of placement in detention. In addition, the public prosecutor supervises placements in detention according to the rules of Part 93c of the Administration of Justice Act concerning prosecution against police personnel and the rules concerning police complaints boards under Part 93d of the Administration of Justice Act.
In addition, the Parliamentary Ombudsman makes an annual inspection of a large number of detention facilities in the various police districts. In the period 1998 to October 2002 alone, the Parliamentary Ombudsman has inspected more than 30 different police localities.

The result of the Parliamentary Ombudsman's inspections appears from reports and follow-up reports drafted on the basis of the observations in the course of the inspections, and the material taken from the inspections.

The Parliamentary Ombudsman evaluates the physical conditions: access roads, reception, visitation area, maintenance condition of the detention cells, toilet conditions, safety in the cells, functionality of the monitoring equipment, guidance, etc.

In the Ministry of Justice's opinion there is thus today a fully satisfactory and independent evaluation of relevant localities of the police.

<u>requests for information</u>

I.3: Information on training provided specifically for police officers required to deal with immigration detainees (paragraph 27).

The National Commissioner of Police has advised that the police's basic training as well as further training contain instruction in activities promoting the police personnel's communicative knowledge and skills, also in relation to immigration detainees.

The content of the subject psychology, which is included as an important subject in the police's basic training, thus comprises communication and citizen contact. The subject psychology also comprises crisis and crisis treatment, with inclusion i.a. of the subject "Police's cooperation partners while resolving tasks with people in crises".

In the police's basic training as well as further training, the subject cultural sociology/foreign cultures is included, the aim of which is to promote police personnel's understanding of and insight in behavioural patterns, attitudes, etc., in persons with a foreign cultural background and thus the impact of the culturally determined behaviour on the interaction between the individual immigration detainee and the police.

The National Commissioner of Police's Office – The Central Police Department – has the central responsibility for the case processing during the pre-asylum stage. This department has a number of police officers that are recruited among other police officers of the police service. The police officers, who upon application are employed with this department, all have several years' experience with other police tasks, and they have all finished the basic police training.

The first two years of employment with the department takes place as part of a human resource development service. This period may be prolonged by another two years.

The first two years of service in the department is split up into two parts. The first year the police officers handle cases concerning asylum-seekers. The second year the police officer works with sending aliens, who do not have a lawful stay in Denmark, out of the country.

In the course of the first two years, the police officer shall go through an in-house training course concerning processing of aliens' cases. The department has developed a 5-stage course, all of which shall have been completed before the first two years have elapsed.

The aim of the training is to give the police officer the necessary knowledge of guidelines and rules forming the basis for solving police tasks. The courses include knowledge of the rules of the Aliens Act, human rights and relevant international conventions.

Treatment of immigrant detainees is a subject, which starts with the 2nd modular course and continues as one of the subject in the rest of the modular courses. The 2nd modular course is usually held after the police officer has been with the department for one month.

Police attorneys, experienced police officers and police leaders from the National Commissioner of Police teach the new staff members.

With a view to supplementing these courses, the police officer will for the last two months of the first year do service in the department working with case processing regarding immigrant detainees. The training includes all case processing regarding immigrant detainees.

The department has furthermore developed a course for police officers, who are to be in charge of sending out aliens who cannot stay legally in Denmark. The course includes first aid as a supplement to the basic training, which is obligatory for all police officers. In addition instruction is given in self-defence and use of force on aircraft.

B. PRISONS

1. Ill-treatment

comments

C. 4: Staff at Sandholm should be reminded that they must always treat immigration detainees in their custody with respect (paragraph 30).

The clientele at Sandholm is a very non-homogeneous group. They come from many different cultures and often they know very little of how authority is administrated in Denmark, and it is not rare that they have a basic mistrust of authorities.

Very often language barriers are substantial and if some inmates have complained that they had been subject to taunting by custodial staff the Prison and Probation Service believes that this must have been a misunderstanding caused by confusion of languages.

The staff at Sandholm explains that the allegation that the staff behave disrespectfully is foreign to them. The staff at Sandholm has experience with treatment of this special group of detainees and are currently focusing its attention on avoiding misunderstandings. Naturally, the staff of the Prison and Probation Service must behave decently towards detainees/inmates, and it will be criticized if as a rare exception this is not the case.

Based on the recommendation of the CPT, the Prison and Probation Service will in future continue to put emphasis on treating inmates in accordance with the objectivity requirement demanded of Danish exercise of authority.

requests for information

I. 4: The outcome of the police investigation into allegations of ill-treatment of a prisoner at Horsens Prison by staff (paragraph 30).

This case concerns an incident where an inmate reported a prison officer for violence when the inmate was suspected of having taken part in an attempt of escape on 18 November 2001. On 8 October 2002, the Chief of Police of Horsens, in pursuance of Section 749(2) of the Danish Administration of Justice Act, advised that the inquiry had been stopped as there were no reasonable grounds to believe that a punishable offence subject to public prosecution had been committed.

The inmate in question was informed of his right to appeal the decision of the Chief of Police, but has not availed himself of this possibility.

On this basis the State Prison has not found that there is any reason to take any further steps in relation to the involved prison officers.

2. Inter-prisoner violence and intimidation

recommendations

R. 8: A decision to classify a prisoner as negatively strong to be reviewed at regular intervals (e.g. every three months) (paragraph 33).

The principles of leniency and proportionality are fundamental principles of the Danish Enforcement of Sentences Act. Based on these principles follows partly an obligation, in case of any measures taken against inmates, to choose the least intrusive measure, partly an obligation for the Prison and Probation Service currently to be alert to whether in certain respects an inmate is subjected to more restrictive measures than necessary.

The principles recur in many of the provisions of the Act, e.g. in pursuance of Section 24 of the Act, there is a general obligation to transfer inmates from a closed to an open prison if the rules for being placed in a closed prison no longer apply, or a transfer to an open prison is not considered inadvisable otherwise.

In Section 89 of the Act these principles are expressed in an obligation regularly to take up for review questions of alleviating an inmate's conditions, whether or not the inmate himself makes such a requests.

About the reason for this provision the following is mentioned in the explanatory notes to the bill introducing the Enforcement of Sentences Act:

”The object of this provision is to ensure that the institution frequently on its own initiative considers the possibility of alleviating the conditions of the inmates. The specific rules to this effect, including when and at which intervals the individual questions shall be reviewed, shall be laid down administratively…It is presumed that the inmate is advised of the institution's consideration of the questions concerned.”

In the delegated legislation issued in accordance with the Enforcement of Sentences Act, rules have been laid down in accordance with the above. These rules impose on the institutions of Prison and Probation Service a duty to take up for review certain questions of alleviation of the inmate's conditions.

The rules are built up so that firstly they contain an obligation for the staff currently to be alert to whether the preconditions for such alleviations must be considered to exist in relation to the individual inmate, and – if this is the case – to take up the question for actual consideration.

Secondly, it is laid down that the institutions shall take up the question of such relaxations for consideration at the occurrence of certain actual events - for instance, the question of transfer from a closed to an open prison shall be considered when an inmate has permission to leave regularly without an escort.

Thirdly, it is laid down that the institutions shall review the question of alleviations at regular intervals, whether or not the inmate requests this, when the inmate has served a certain portion of the term of his sentence. Thus, the institutions shall e.g. consider the question of transfer from a closed to an open prison at intervals of six months, when inmates with fixed-term sentences of less than eight years of imprisonment and eight years or more, respectively, have served one-fourth and one-half of their sentences, respectively.

All these rules of the Act as well as of delegated legislation apply also to inmates classified as negatively strong inmates and who – as a consequence of this – are placed in special units for negatively strong inmates.

To illustrate how the current evaluation takes place, the staff of the State Prison of Horsens, which has a unit for negatively strong inmates, has reported that they evaluate each inmate's case thoroughly every six weeks at a contact person group meeting. This practice applies to the unit for negatively strong inmates as well. One of the questions thus currently evaluated is whether the inmate shall continue to be termed negatively strong. In addition, weekly meetings are held between the head of unit, the daily executive of the unit, and Prison and Probation Service, and at those meetings there is an evaluation of these matters as well.

The rules of the Enforcement of Sentences Act on placement in a prison institution contains a number of provisions aiming at countering problems involving that negatively strong inmates use their position of power in relation to other inmates, and others. For example, the provision of Section 22(3) of the Act provides a possibility of placing a sentenced person in a closed prison, "if it is deemed necessary in order to prevent assaults against co-inmates, staff or others in the institution", and the following provisions of the Act provide possibilities of transferring inmates to another prison institution on the same basis.

The concept ”negatively strong inmates” is defined in the explanatory notes to the bill introducing the Act. The following is specified in the explanatory notes:

”By the expression "strong" inmates is meant in particular the groups of inmates, including "biker” groups known as Rockers and their supporters, who in recent years have created for themselves such a position of power in the prisons that today they constitute a very negative controlling factor in relation to other inmates. Their methods do not in any noticeable way differ from the procedure usually applied by other "strong" inmates, i.e. violence, assault, financial exploitation, etc. However, their methods are much more gross than before, and their control is now directed against all in the institution. Their methods also reach outside the prison because by the assistance of group members outside the prisons they can direct their threats and intimidation towards the other inmates' families and closest relatives. Because of the general knowledge of such groups' methods it is rarely necessary to use violence and threats. Their mere appearance in combination with the other inmates' knowledge of the group relationship is usually enough to create the aimed at fear in co-inmates. At the same time an assault, etc., is not usually carried out by the "negatively strong" inmates themselves, but by "henchmen", which makes is extremely difficult or impossible to prove their part. A contributory factor is also that no one dares say anything out of fear of repercussions.”

It is furthermore mentioned in the explanatory notes to the bill introducing the Act that with the provisions regarding placement and transfer of negatively strong inmates "… a possibility is provided to place in and transfer to a local prison and closed prison with reference to the strong inmate's behaviour in combination with the institution's or co-inmates' knowledge of a possible group association and the fact that there is a risk that assaults will be committed against e.g. other inmates by the group in question."

Finally, it appears from the explanatory notes that with the expressions "violence/assault" is meant not only physical assault or threats of assault, but also e.g. financial exploitation and infringement of other inmates' freedom of action within the legal framework of the prison, including serving in association with other inmates and choosing among the prison's offers of work, school, free time activities, etc. The risk of infringement can also exist if through his power position, the inmate tries to influence the staff to do or omit to do something, including omitting implementing the necessary security and control measures."

When deciding whether an inmate can be termed as "negatively strong" with association to e.g. a Rocker group it is in practice decisive whether there is in reality an association to the Rocker group in question. It is not, on the contrary, decisive whether there is (in addition) a question of a formal membership of the group. In the evaluation, importance is attached to how close a connection the inmate has to the group in question, including whether he frequently meets with members of the groups mentioned, under which circumstances this happens, whether they have a close connection otherwise, etc. The fact that the inmate has been seen a few times with members of the Rocker groups in question cannot in itself justify placement in a closed prison/local prison in order to prevent assaults against co-inmates, and others.

Besides, it depends on an individual and concrete evaluation of the concerned prisoner's circumstances whether he can be characterized as negatively strong. In order to ensure the best possible basis when a decision is made on which penal institution is suited, police districts, local detention facilities, and prisons shall state if the sentenced person or the inmate is presumed to belong to the group of negatively strong, whether this is based on a connection to a Rocker group or the inmate's negatively controlling behaviour during previous prison terms.

If in the course of their prison term inmates state that they no longer believe they belong to group of negatively strong inmates, it depends on a concrete and individual evaluation if the inmate concerned should be transferred to a unit other than the block for negatively strong inmates. The criteria included in this evaluation are the same as those included in the decision of whether a sentenced person shall be placed in the unit for negatively strong inmates For the purpose of the evaluation of whether an inmate should be transferred to another unit, the prison, via the police, co-inmates, the staff of the section and the inmate's behaviour, try to provide a sufficient basis of information enabling them to confirm or disprove the inmate's information that in reality he does not any longer belong to the group of person in the units with strong inmates.

R. 9: Further steps to be taken to remedy the predicament of vulnerable prisoners (paragraph 35).

The Department of Prisons and Probation finds that the Prison and Probation Service has a general responsibility to ensure that any person who is placed to serve a sentence of imprisonment can serve under safe conditions without risk of violence, threats, etc., from other inmates.

In a letter of 4 June 2002 to the CPT, the Department of Prisons and Probation listed part of the initiatives that have been implemented in recent years to repress the problems with violence and threats among inmates in the prisons. In that letter, the Department of Prisons and Probation furthermore referred to a memorandum on strategies against inter-prisoner violence and intimidation of 1 February 2002, and in which the initiatives are explained in more detail. The objective of the Department of Prisons and Probation is to continue the strategy by further increasing the differentiation of inmates.

As mentioned in the letter of 4 June 2002, the Ministry of Justice, the Department of Prisons and Probation, set up a working group in March 2002, which was to consider to which extent changes of the rules of custody in solitary confinement as of 1 July 2000 ought to have a spill-over effect on the rules regarding exclusion from association. The working group made its recommendation in December 2001. In February 2002, the recommendation was submitted for hearing, and the recommendation of the working group as well as the hearing responses await a political decision in the first six months of 2003.

It appears from the recommendation that the working group finds that the most appropriate placing of inmates, who are voluntarily excluded from association, is special units with limited association, which are fitted up with independent workplaces and free time facilities. The working group notes in this connection that the majority of inmates, who are voluntarily excluded from association, are placed in this manner already. The working group points out that it is important that the staff intensively encourages and tries to motivate the inmates to participate in limited association, activities and relevant treatment offers. For further information about the working group's recommendation, reference is made to memorandum on recommendation from working group on solitary confinement/exclusion from association, enclosed with the Department's letter of 4 June 2002.

In its final report, the Department will inform the CPT about the results of the discussions with the Legal Affairs Committee and on a decision on the materialization of the recommendation of the working group.

The State Prison of Vridsløselille has reported that after the visit of the CPT they have extended the access to school training for the group of inmates, who are voluntarily excluded from association, and established structured free time activities as for example backgammon evenings, possibilities of badminton on Saturdays, and barbecue arrangements in the summertime.

Since the spring additional initiatives have been implemented with a view to creating more activities for the inmates in the unit. Thus, the State Prison has worked on offering the inmates of the unit free time activities of various kinds. In addition, over a period of time and approximately every fortnight the prison chaplain has had arrangements in the form similar to study groups for the inmates of the unit, with a variety of subjects. With effect from 2003, the State Prison intends to announce requirements/targets for the individual units according to which they are to consider more closely the possibilities of an extension of the association for the inmates and introduction of additional activities.

requests for information

I. 5: The exact criteria for classifying a prisoner as negatively strong (paragraph 33).

Please refer to R. 8.

3. Solitary confinement of remand prisoners by court order and other restrictions

R. 10: In compliance with Article 776 of the Administration of Justice Act, rules to be adopted and implemented without delay to ensure that prisoners held in isolation have increased staff contact and access to visits, individual work and teaching, and are offered regular and longer conversations with chaplains, doctors, psychologists and other persons (paragraph 38).

On 18 May 2000, the Danish Parliament adopted an amendment of Danish Administration of Justice Act which entered into force on 1 July 2000. In this connection, Section 776 of Danish Administration of Justice Act was amended as a paragraph was added providing that when administrative rules are laid down on treatment of remand prisoners, rules shall be laid down on treatment of remand prisoners, who are held in isolation in accordance with a court order, including rules on increased staff contact, extended access to visits, special access to individual tuition and certain types of work, and offers of regular and longer conversations with chaplains, doctors, psychologists and other persons.

The Ministry of Justice, the Danish Department of Prisons and Probation, then, also with date of entry into force 1 July 2000, adopted and implemented such administrative rules, i.a. through an amendment of the statutory order on custody.

R. 11: The CPT's recommendations concerning the imposition of restrictions to be implemented without further delay, namely;

- **police to be given detailed instructions as regards recourse to prohibitions/restrictions concerning prisoners' correspondence and visits;**
- **that there be an obligation to state the reasons in writing for any such measure;**
- **in the context of each periodic review by a court of the necessity to continue remand in custody, the question of the necessity for the police to continue to impose particular restrictions upon a remand prisoner's visits and letters to be considered as a separate issue (paragraph 39).**

The rules on remand prisoners' access to exchange of letters and visits appear from Section 771 and 772 of the Danish Administration of Justice Act. Furthermore, the Ministry of Justice, the Department of Prisons and Probation, has laid down more specific rules on this subject in Circular No. 220 of 19 December 1980 with subsequent amendments.

It follows from Section 771(1) of the Danish Administration of Justice Act that a remand prisoner is allowed to receive visitors to the extent allowed by the rules governing order and security in the remand prison. The police may, in considering the objective of the detention in custody, oppose visits paid to the remand prisoner or may demand that visits shall be supervised. If the police refuse visits, the remand prisoner shall be notified of this, unless the judge makes a different order for the purpose of the investigation. The remand prisoner may demand that the police's refusal of visits or demands for supervision be brought before the court for a decision. The remand prisoner shall always have the right to unsupervised visits from his defence attorney and the chaplain attached to the prison.

In pursuance of Section 772(1), a remand prisoner has a right to receive and send letters. The police may look through letters before receipt or mailing. The police shall hand over or send the letters as soon as possible, unless the contents could be damaging to the investigation or maintenance of order and security in the remand prison. If a letter is detained, the question of whether the detention should be maintained shall be brought before the court immediately. If the detention of mail is upheld the sender shall be notified immediately unless, for the purpose of the investigation, the judge makes a decision otherwise.

A remand prisoner has the right to unsupervised exchange of correspondence with the Minister of Justice, the Director of the Prisons and Probation Service, the courts of law, the prosecution service, the police, the Parliamentary Ombudsman, the European Human Rights Commission, the President of Committee for Prevention of Torture, the chaplain attached to the prison, his defence attorney, other public authorities, members of Parliament, the special supervisors, cf. Section 771(2) of the Danish Administration of Justice Act and Circular No. 220 of 19 December 1980 with subsequent amendments.

It can be seen that the police's refusal of permitting visits as well as the police's censorship of letters serve the same purpose as the detention, that is to say the restrictions are to prevent mailing of letters or receipt of letters or visits that may damage the investigation or the security/order in the prison, or which can be contributory to new offences.

The considerations underlying the restrictions regarding visits and exchange of letters are thus the same as those underlying the use of detention. If the court thus finds that there are sufficient reasons to uphold the verdict concerning detention – and the court currently review whether this is the case – there will generally also be reasons to uphold the control with regard to letters and visits. In addition to the current review of the purpose of the detention the specific control of letters as well as visits are subject to review by the courts of law.

comments

C. 5: It would be desirable for the Administration of Justice Act to include a maximum limit for the duration of solitary confinement of remand prisoners by court order (paragraph 37).

The changed rules on solitary confinement of remand prisoners have now been in force for approximately two and a half years. The Ministry of Justice has requested the Committee on Criminal Procedural Law to evaluate whether the rules have had the effect aimed at, so that the Committee's response can be available when the rules have been in force for five years. Until the Committee's response is available, the Ministry of Justice once a year receives information from the Director of Public Prosecutions about the development of the number and duration of solitary confinement of remand prisoners. At the present time the Director of Public Prosecutions has made a report on the use of solitary confinement in 2001. Please note in this connection that the report contains i.a. a more detailed description of the - a total of three - cases where a total of eight remand prisoners were in solitary confinement beyond three months. Solitary confinement beyond three months is thus applied to a very limited extent only.

The Ministry of Justice will advise the Committee on Criminal Procedural Law about the CPT's comment that it would be desirable to include a maximum limit for the duration of solitary confinement of remand prisoners, so that the CPT's opinion can be included in the Committee's evaluation of the rules.

4. Conditions of detention

recommendations

R. 12: The existing renovation programme at Vridsløselille to be implemented without delay (paragraph 43).

The Department has reported that unit A1 with special cells and observations cells has been renovated. The reception unit D1 is still in the course of renovation and the work is expected to be finished in the course of 2003.

After the visit of CPT, 13 cells in units C3 and D3 in Vridsløselille State Prison were shut down for a period of time for renovation purposes. All the cells in unit C3 have now been renovated and are fully operational.

13 cells have been closed in unit J since July 2002. The roof has been renewed and afterwards the unit has been renovated. The renovation work included i.a. replacement of waste pipes, installation of cold/hot water, renovation of bathroom, installation of earth plugs for refrigerators in the cells, renovation and replacement of toilets and cell calls with central monitoring display unit for the guards' office, etc. The cells are now operational.

Furthermore, approximately DKK 10 million was spent in 2002 i.a. on replacement of the roofs in the four prisoner-occupied buildings. The roof work on buildings AB was finished in 2002, whereas the remaining part of the project is expected finished in the course of February 2003.

Furthermore, in 2002 DKK 1.3 million was spent to combat mould attacks. The repair works have comprised offices and hall areas in the units, cells in all sections, offices and hall areas in the administration unit, workshop areas, and basement section.

R. 13: Efforts to be made to make the environment at Sandholm more appealing (paragraph 44)

Prior to the CPT's visit, extensive building works had been implemented at Sandholm. Accordingly, at the visit of CPT, the conditions at Sandholm clearly showed that building works were carried out in and around the institution. And the surroundings showed very clear marks of vandalism to furniture and equipment, etc., committed by the prisoners. Renovation work and new building work are still in progress of shower rooms, activity facilities, and the temporary visit facilities. The building works are expected to be finished in the summer 2003.

The Prison and Probation Service expects that conditions at Sandholm will improve in step with the finishing of the building works, just as it is hoped that this will contribute to a reduction of the number of incidents of vandalism.

R. 14: Female prisoners only to be held in cells or dormitories situated within men's accommodation areas on condition that the female prisoners involved agree and are adequately supervised (paragraph 45).

In continuation of the letter of 4 June 2002, mentioned above under R.9, it can be explained in more detail that female prisoners at Sandholm are held separate from male prisoners, however so that exceptions are made for married couples who wish to be together. In building 17, where female prisoners are usually placed, there are also a few husbands of the women in the unit.

If a female prisoner wishes to be held totally isolated from men, this can be granted in principle, as such female prisoners can be placed in the mother/child unit – provided it is not fully occupied – or in building 18 East and West, which holds four cells with room for 16 prisoners.

During periods with a high occupancy rate on account of rebuilding work, it can, however, be impossible to maintain the female prisoners' possibility of being held totally isolated from the male prisoners. However, the staff will continue to focus on and meet such requests from female prisoners, but it should be added, however, that the staff does not offhand recall ever having heard female prisoners express a wish to be held totally isolated from the male prisoners.

R. 15: Steps to be taken to develop adequate programmes of activities for all prisoners, including those on remand (paragraph 48).

In July 2002, the Ministry of Justice, the Department of Prisons and Probation, set up a working group to consider common guidelines for association in the local prisons, including cell association, association in hall areas and floors, work association and association on walks in the exercise yard.

The reason for setting up the working group was i.a. that in connection with his inspection activities the Parliamentary Ombudsman had raised the question of association in the local prisons, and that the CPT has previously pointed out the importance of the opportunity of all inmates, including remand prisoners, to spend a reasonable part of the day outside the cells, occupied with sensible activities of varying nature.

The working group gave its recommendation in November 2000, and as a consequence of the recommendation in July 2002 the Department of Prisons and Probation has changed the rules about inmates' access to association.

With the new rules, if the building situation allows it, the local prisons are under an obligation to establish common rooms, etc., where inmates can share time together, just as possibilities should be established for recreational activities in the hall areas to the extent security and fire considerations do not speak against it. Similarly, to the extent this is possible, taking into account the conditions in the individual institution, the local prison shall plan occupation, classes, and free time offers in association. Thus, to the extent the area reserved for walks in the exercise area allows it and it is not occupied for this purpose, it should be possible to use these areas for ball games, common arrangements with meals, etc.

If considerations of order and security speak against allowing an inmate association in the hall areas, common rooms, etc., the inmate has a right to cell association with another inmate in his own cell. It is naturally a prerequisite that there is another inmate who wishes to have cell association with the inmate in question.

On 6 October 2002, the Ministry of Justice, the Danish Department of Prisons and Probation set down a committee regarding occupation of inmates in the Prison and Probation Service's institutions, including occupation of inmates in local prisons. The committee made its recommendation in October 2002.

In its report the committee recommends that inmates' occupation in local prisons be given a higher priority, and that efforts should be made so that all inmates in local prisons are offered sensible occupation, including through a more optimum/flexible use of the workshop facilities. In this connection it is pointed out that cell work should be limited as much as possible and should under no circumstances extend over a longer period of time for each individual inmate.

It is furthermore recommended that more inmates be offered classes while they are in a local prison and that use of IT be given a higher priority in classes and occupation. Finally, the committee recommends that the local prisons make their best efforts to avail themselves of the possibilities of leave. The committee finds that in particular in towns with many adult schools, it would be relevant to establish (more) actual places in the local prisons with permission for out-of-prison activities.

The final report of the committee has been sent for hearing at all establishments of the Prison and Probation Service with response deadline on 15 January 2003. The plan is then to decide on the specific implementation and prioritising of the recommendations of the committee. In its final report, the Department will inform CPT accordingly.

R. 16: Steps to be taken to ensure that remand prisoners at Horsens have access on a daily basis to outdoor exercise facilities which are large enough to permit them to exert themselves physically (paragraph 50).

The State Prison of Horsens has advised that after the visit of CPT, they have limited the use of the small outdoor exercise facilities for remand prisoners as much as possible, and to widest possible extent let remand prisoners get out on a daily outdoor walk in the larger exercise facility, which is used for inmates as well. Outdoor walks take place in the period from between 08.00 hours and 21.00 hours all days, and an outdoor walk of one hour is possible. Furthermore, optimum use has been obtained of the resources available, as today the large outdoor exercise facility is used so that it is possible for all inmates to play ball games/jogging, etc., for three hours a week during the winter term. During the summer term the large outdoor exercise area is used more often, if it is practically possible.

The State Prison of Horsens is to be closed down in a couple of years and is to be replaced by a newly built state prison. Taking this into account and the prison's changed practice regarding outdoor walks in the exercise area for remand prisoners, there are no building plans to change the existing outdoor exercise areas for remand prisoners.

R. 17: The regime offered at Sandholm to be improved; in particular, full use to be made of the school and the gym, and work, preferably with vocational value, to be provided in sufficient quantity (paragraph 51).

The Prison and Probation Service agrees that occupation of detainees is not possible to the satisfactory extent at the present time. These possibilities will, however, be improved considerably when the renovations are finished in the summer 2003, when the physical framework is in a much better condition.

A rotation scheme has been arranged so that it is possible for all detainees in rotation to the same extent to use the leisure facilities. It is possible for detainees at Sandholm to get out on at least one hour outdoor walk in the exercise area.

R. 18: Immigration detainees in wing 18 East at Sandholm to be offered access to a leisure room (paragraph 51).

Please refer to R. 17.

comments

C. 6: Some complaints were heard at Sandholm that food was served cold and did not take account of the immigration detainees' dietary habits (paragraph 44).

The Prison and Probation Service aims at serving food that respects religious and cultural differences to the greatest possible extent. Different food culture could mean that detainees are not always served food that fully lives up to local traditions. For example, for nutritious and financial reasons dark bread will, as a point of departure, always be served with cold food. There are no religious rules prohibiting dark bread.

Danish tradition prescribes one hot meal a day. Certain other cultures have two hot meals tradition. When hot meals are served they will always been placed in heat-insulated boxes during transportation and will thus be served hot.

Evening meals are cold food. Different cultures have different attitudes to this, and in this area it is not always possible to satisfy inmates' culturally determined wishes.

Detainees can choose to be served vegetarian dishes, just as it is possible to have dishes not containing pork, if required for religious purposes. If for special medical reasons a detainee cannot tolerate an ordinary diet, it is possible at the doctor's request to be served protective diets, which can e.g. prevent allergic reactions.

It should be noted that rules for inmates' diets in Danish prisons and local penal institutions are prepared in close cooperation with the Department of Foods.

C. 6: The CPT trusts that detainees at Sandholm are now guaranteed one hour of outdoor exercise every day (paragraph 51).

Please refer to R. 17.

C. 7: Efforts should be made to offer immigration detainees better telephone access (paragraph 52).

After the CPT's visit, telephone access has been changed. Detainees subject to visit supervision and letter inspection are now placed in a reception unit, which has made it possible to install card telephones in the other units. Detainees subject to visit supervision and letter inspection can now call if and to the extent allowed by the police.

Detainees of other units can buy telephone cards in the shop and they are free to call from a telephone in the common area of the unit. If detainees have not yet bought a telephone card and do not have money to do so, such situations are administrated subject to the general rules on telephoning and letter correspondence.

<u>requests for information</u>

I. 6: Any development concerning the prisoner excluded from association at Vridsløselille referred to in paragraph 47 (paragraph 47).

From 15 February 2002 until 8 November 2002 this prisoner was placed in the special security wing of the State Prison of Nyborg.

During his stay at the unit, this inmate was offered outdoor walks in the exercise area for up to two hours. He had the possibility of making his own food the unit's kitchen between the hours of 19.00 and 21.00. During this period he was allowed to move freely between the cell, kitchen and exercise room together with another inmate.

The inmate had a PC in his cell and was doing a self-tuition program. The inmate is studying to become a datanomist by distance learning. Moreover, he is the editor of the inmates' magazine and has in this connection been allowed association with the common spokesman for approximately four hours a week.

The inmate's stay in the security unit went well. There were no disciplinary problems while he was in the unit. He received regular visits from his adult daughter, wife and child of their marriage. The plan is that when he is released in due course, he is to live with his wife and their child.

Based on the successful stay in the special security wing and considering the inmate's long prison term with exclusion of association, it was decided in October 2002 that the inmate was to be transferred to an ordinary unit with association in the state prison, which took place on 8 November 2002. Until now this has proceeded well.

Provided that the inmate's stay in ordinary association continues to proceed without problems, the Department has indicated to the state prison around the turn of the year the Department is prepared to begin a discussion of implementing a leave term of some length.

I. 7: Further information on progress being made in the implementation of the legal requirement that an individual custody plan be drawn up for each sentenced prisoner (paragraph 49).

With the entry into force of the Enforcement of Sentences Act on 1 July 2001, the Prison and Probation Service is under an obligation to prepare a plan for the serving of sentences, release and the time thereafter for the major part of the clients of the Prison and Probation Service.

A person responsible for action is to be appointed for each single inmate in connection with the implementation of a prison sentence. The point of departure is that the first action plan shall have been prepared as soon as possible and not later than four weeks after placement in a prison. Furthermore, the action plan shall frequently be compared with the circumstances of the inmate while serving his sentence, and attempts shall be made to adapt any changes of these circumstances. Action plans shall be prepared in a special electronic form.

For prisoners serving two years or less an evaluation/follow-up shall be made at least every third month. For prisoners serving more than two years, an evaluation/follow-up shall be made at least every six month. When release is expected in two years or less, an evaluation/follow-up shall be made at least every third month.

The institutions' work with action plans shall currently be improved and quality developed. For this purpose, the Department at the end of 2002 completed an evaluation of the institutions' work regarding action plans. The result of the evaluation indicates that the Department's institutions have not prepared action plans to the extent provided under the Enforcement of Sentences Act, and that part of the action plans that have been prepared were not finished within the stipulated time limits.

The evaluation of the action plan work has, moreover, comprised the quality of the action plan work. Also in this area the work can be improved considerably. The working group in charge of the evaluation of the action plan work indicates in its report a number of factors that may have influenced the work with action plans. Furthermore, the working group has offered a number of proposals for improvements of action plans. The report of the working group was in March 2003 forwarded to all establishments of the Prison and Probation Service with the intention that various initiatives being taken locally in order to improve the action plan work. The plan is that a new evaluation of the action plan work is to be made in autumn 2003, and the working group will evaluate the organization of the action plan work in 2003 as well.

5. Health-care services

recommendations

R. 19: Steps to be taken to ensure that all newly arrived inmates are interviewed and medically examined by a doctor as soon as possible after their admission. Such medical screening can also be carried out by a qualified nurse reporting to a doctor (paragraph 54).

By Statutory Order No. 374 of 17 May 2001 concerning health assistance to inmates of the Prison and Probation Service's institutions, the Ministry of Justice has fixed routines ensuring that all newly arrived inmates get a first contact with the nurse or doctor of the institution, unless it is clearly indicated expressly by these inmates that they do not wish such an interview. In Denmark, it is a statutory principle that all contact with the health care authorities as a point of departure takes place only at the request of the patient. The Statutory Order is made out so that it is ensured that the first contact with the health care staff takes place only if the inmate agrees.

Pursuant to Sections 7 and 8 of the Statutory Order, the institution shall as soon as possible after admission give the inmate general information about the health care arrangement at the institution and orally offer the inmate an interview with the institution's doctor or nurse. However, this does not apply,

1) where the stay must be considered to be of a very short term; or

2) where the inmate has been transferred from another of the Prison and Probation Service's institutions at which the inmate in question has previously been offered an interview with a doctor or nurse. A note shall be made in the inmate's file about whether the inmate wishes an interview with a doctor or nurse. If so, the interview shall be conducted as soon as possible.

Examinations and treatment, if applicable, shall be implemented subject to a concrete evaluation of the requirement of each individual inmate. The Department of Prisons and Probation in consultation with the health care consultants has found that such reception procedure supplemented with the staff's duty without delay to inform the institution's doctor or nurse when an inmate wishes a doctor called, cf. Section 4 of the Statutory Order, provides the best possibility of utilizing the resources to the best advantage.

The Statutory Order No. 374 of 17 May 2001 concerning health assistance to inmates of the Prison and Probation Service's institutions is now being translated into English and the English version will be forwarded to the CPT when it is available.

Particularly in respect of the Sandholm Camp, please refer to R. 21.

R. 20: The confidentiality of medical data to be fully respected in prison establishments (paragraph 55).

The Prison and Probation Service puts great emphasis on ensuring that inmates can safely contact the prison doctor without any risk of confidential health information being disclosed to others. The Prison and Probation Service holds regular meetings with all doctors, psychiatrists, psychologists and dentists affiliated with the establishments of the Prison and Probation Service. At one of those meetings the Prison and Probation Service has informed the attendants of the CPT's visit to Denmark and pointed out the Committee's recommendation on this point.

Prompted by the CPT's visit, the State Prison of Vridsløselille has prepared a set of written guidelines for the disclosure of statements/assessment sheets, etc. from the prison's psychiatrist and psychologist to other members of the prison staff. These guidelines conform to the rules on disclosure of medical data contained in Act no. 482 of 1 July 1998 on the legal rights of patients.

R. 21: The resources and functioning of the health care service at Sandholm to be reviewed without delay, in order to ensure that all inmates are offered the level of care that they are entitled to expect. Measures also to be taken to prevent the spread of transmissible diseases (paragraph 57).

Immediately after the Committee's visit, a thorough investigation into the organisation of the health care service at Sandholm was initiated. The health care consultants of the Prison and Probation Service have had discussions with representatives of the Sandholm healthcare staff to define various solution models. A significant part of these considerations took account of the fact that the clients at Sandholm are in several ways different from the inmates at other establishments of the Department of Prisons and Probation. In the light of this review, the health care services have been expanded with the core elements being a more formalised reception procedure, provision of more information about transmissible diseases, including HIV, Hepatitis B and tuberculosis, as well as introduction of a fixed routine for making appointments with the nurse. In future, all newly arrived asylum-seekers are invited to an interview with the staff nurse. This does not apply, however, to asylum-seekers who have been through the medical reception programme operated by the Danish Red Cross Asylum Division or inmates transferred from another of the Prison and Probation Service's establishments if, in connection with serving time, they have been offered an interview with the doctor or nurse at that establishment. Asylum-seekers from these groups are, however, entitled to an interview with a nurse or doctor at any time, if they so request. In that case such an interview must to take place as soon as possible.

If the staff estimates that an inmate is in acute need of medical attention by a doctor or nurse, the doctor or nurse must be informed without delay, and the inmate must then be checked as soon as possible.

During the arrival health interview, the nurse makes an assessment together with the inmate, of whether there is a need to offer the inmate a medical examination carried out by the doctor. During the interview, the nurse provides

1) general information about transmissible diseases (including Hepatitis B, HIV and tuberculosis), ways of transmission and prevention
2) an offer of medical examination and treatment for any of the diseases referred to in point 1) or other diseases according to the nurse's assessment.

As a supplement to the information given to the inmates at the health interviews, the nurses will gather the inmates in groups to give them broader information about transmissible diseases.

Children are checked by a nurse and health visitor and also referred to the doctor.

To ensure treatment continuity the health care staff will, as far as possible, seek to obtain consent from the inmates to gathering and passing on medical information to the extent it is relevant for their further treatment.

The Prison and Probation Service has allocated resources to the Sandholm Centre that has made it possible to improve the health care services to inmates.

The Prison and Probation Service can report additionally that in April 2002, at the initiative of its in-house safety committee, the Sandholm Centre received a visit from the Medical Officer of Health. After the visit, the Medical Officer of Health prepared a report with recommendations, particularly relating to sanitary conditions.

Acting on the recommendations from the Medical Officer of Health, the Prison and Probation Service has introduced the following improvements of the health and sanitary conditions at Sandholm:

All shower bath and toilet premises in the establishment's old buildings are being fully renovated. This work is expected to be completed by May/June 2003. Instead of putting up wash basins in the rooms, as recommended by the Medical Officer of Health, the renovated shower bath and toilet facilities will include a number of wash basins. This solution was chosen due to the risk of vandalism.

Two service workers have been engaged to take charge of the interior maintenance and cleaning of common facilities, for example. In addition, it has been decided to have the day rooms repainted. The painting work is expected to be completed by May/June 2003.

As recommended by the Medical Officer of Health, centralised dishwashing of the asylum-seekers' cutlery and plates was introduced with immediate effect, carried out in the kitchens of the units. Stainless steel sinks and worktops will also be installed in the day rooms. This work is in progress and expected to be finished by May/June 2003.

In future, padlocks will be given to asylum-seekers to be used for protecting their personal lockers in their rooms.

With respect to the medical conditions referred to in the report from the Medical Officer of Health, the health care staff at Sandholm took note of the recommendations, ensuring tidying up the medicine cabinet and more systematic placement of the drugs in it. In addition, a regular procedure has been introduced for checking the contents of the medicine cabinet and discarding date-expired medicine.

In respect of the prescription of medicine, the nurse has authorisation to hand out certain drugs in specified situations, if it is impossible for the nurse to reach the prison doctor.

In addition, the physical facilities for the health care staff are being improved. An office will be allocated to the nurse and, in addition, the existing room in which the inmates consult the nurse will be extended.

R. 22: The psychological services in all of the establishments visited and the psychiatric services at Sandholm to be reviewed (paragraph 58).

The Prison and Probation Service can confirm that several of the inmates in the establishments for which it is responsible have symptoms of mental illness, and agrees with the CPT that it is necessary to ensure that inmates who are mentally ill can be certain to receive relevant treatment.

It is a generally accepted principle that insane (psychotic) persons should not be detained in a prison but be transferred to a hospital or other appropriate treatment institution as soon as possible. With respect to inmates who suffer from a mental disorder or deviation, without being insane, however, it is the Prison and Probation Service's responsibility to ensure that they have the necessary access to psychiatric or psychological care.

The Prison and Probation Service does not find it appropriate to create a true therapy system for persons with mental illness, because people who are ill should be treated by the general healthcare system, which has a differentiated treatment offering designed to accommodate the individual person's specific need for treatment. For the inmates who may need psychiatric support or care periodically or perhaps throughout their stay, of whom there are quite a few, the Prison and Probation Service needs to have a therapy system that can reasonably accommodate the requirements that can be met without hospital admission. Psychiatric specialists are therefore attached to most prisons as consultants, working on a time basis. A few prisons have full-time psychiatric specialists on their staff. In addition, Herstedvester Institution, with a capacity of 127, is a special care establishment for inmates in need of more intensive psychiatric or psychological treatment or care, who cannot or should not be transferred to the general healthcare system.

With respect to psychological therapy, it should be noted that in Denmark the access to psychological therapy is not free to citizens in society outside the prisons, unless they are in crisis due to certain, specifically defined conditions. Similarly, inmates in other establishments than Herstedvester Institution do not have any direct access to psychological therapy.

The question of whether to appoint staff psychologists at all establishments of the Prison and Probation Service was considered, in principle, by a committee on the health care provision of the Prison and Probation Service some years ago, and a study into the tasks handled by existing staff psychologists was commissioned. It demonstrated that they carried out conventional treatment work, including psychotherapy and activities to reach out to inmates. In addition, they had several other functions that could not be viewed as obvious for clinical psychologists. However, they accepted these in order to function in a meaningful way in the prisons in which they were employed. For example they handled reception interviews, cooperation with the social authorities and registration of drug abusers. The committee considered it beyond doubt that certain inmates needed more intensive support and psychotherapeutic care – also inmates who should not for other reasons be transferred to Anstalten ved Herstedvester. It was the committee's opinion, however, that such psychotherapeutic care could be handled not only by clinical psychologists with an educational background for it but also medical specialists in psychiatry, as courses on the principles of psychotherapy are part of the programme for medical specialisation in psychiatry. The Prison and Probation Service therefore chose essentially to place the treatment of mentally ill inmates in the hands of psychiatric specialists because, unlike psychologists, they are also able to prescribe medicinal therapy, where this may be necessary.

For these reasons the treatment of mental problems continues to be carried out principally by the prisons' external psychiatric specialists in the case of inmates who are not transferred to Anstalten ved Herstedvester or admitted to the psychiatric department of the local hospital. A few prisons, such as the State Prison of Horsens and the State Prison of Vridsløselille, however, are able to offer inmates treatment not only by psychiatric specialists but also psychologists. For resource control reasons the State Prison of Vridsløselille has found it necessary to restrict the hours available to its psychologist, which may result in a certain waiting period. However, the health care staff ensures careful screening when deciding on priorities for consultation.

It is an assumption in the framework budgets allocated to the prisons that the particular establishments are able to pay the expenses required for more intensive treatment of inmates. The Department of Prisons and Probation has also set aside a small allocation from which, subject to application, it can grant funds earmarked for psychological support in special cases. The Department does not currently have the resources to grant other funds to the establishments for appointing staff psychologists.

The CPT has recommended that an assessment of the psychiatric services at Sandholm should be conducted, in the light of the special clients received at this establishment.

The Prison and Probation Service agrees that it is imperative to ensure that the special clients at Sandholm receive the psychiatric support they need, and will now take steps to improve the psychiatric care at this establishment. The final report will include a more detailed description of this measure.

comments

C. 9: The Danish authorities are encouraged to pursue their policy regarding drug abuse, in particular by ensuring that appropriate health care services and life skills rehabilitation for inmates with drug problems are available in all prison establishments (paragraph 59).

1. Policy regarding drug abuse
Over the past period of more than 10 years, the Prison and Probation Service has gradually strengthened its rehabilitation efforts, including a broad range of initiatives, in step with the growing need for rehabilitation among inmates. This approach will be continued and the Prison and Probation Service is planning new projects on an ongoing basis. Several were launched in 2002, and some will be introduced in the course of 2003.

Recognising the changes in the mix of inmates and in society in general, the Prison and Probation Service will continue in the years ahead – in step with the allocation of the necessary funding – to develop improved rehabilitation measures targeted at various groups, including drug abusers in particular.

Thus it is the Prison and Probation Service's assessment that drug abuse is one of the greatest problems in prisons today. Therefore – in addition to the planned tightening of prison safety and control measures – there is a need to strengthen the rehabilitation measures available to drug abusers.

We may report that the number of drug abusers (before imprisonment) is estimated to be about 38 per cent of the total prison population. About half of them may be characterised as drug abusers with quite severe problems. However, far from all of them are motivated, or can be motivated, for rehabilitation.

II. Life Skills rehabilitation for inmates with drug problems
According to the Program of Principles of the Prison and Probation Service, society's general rehabilitation services should be preferred for reasons of principle, wherever this is possible and there is no risk of misuse.

In cases where there is a need to offer inmates rehabilitation, it should therefore be assessed specifically if it is possible to apply the provisions of Section of 78 of the Enforcement of Sentences Act or the rules on placement outside state and local prisons, license and leave. Under Section 78, convicted persons may be permitted to serve a custodial sentence in a non-prison establishment in case they need special treatment or care, provided that it is not inappropriate for vital law enforcement reasons.

In the period from 1996 to 2000 the number of Section 78 placements was about 300 a year. 150 of them were based on drug abuse and mixed substance abuse. The experience gained from using these placements shows that about 75 per cent completed the measure as planned.

For the inmates who need rehabilitation but, for one reason or another, cannot be referred to society's general rehabilitation services, the Prison and Probation Service has a responsibility to offer relevant care during or in conjunction with the time they have to serve.

In the light of this responsibility the following measures have been established in recent years – or are being established – for prison inmates who are drug abusers:

1. Covenant prison units, etc.
In the spring of 1994, a pilot programme was established to set up various types of covenant prison units for drug abusers. Specific covenant prison units were established in the State Prisons of Nyborg and Ringe, in which inmates must undertake to keep clean and take part in the daily activities and rehabilitation measures of the unit. The covenant also provides certain benefits to those who serve their term in the unit, such as greater access to freedom privileges. In addition, the pilot programme included a drug-free unit in the State Prison of Horserød designed for inmates, including ex-drug abusers, who want to be serving in a clean environment. In November 1996, one more dug-free unit was opened in the old local prison of Horsens, and on 1 November 1997 a covenant prison unit in the State Prison of Sdr. Omme.

In March 1996, a project group presented a report on the pilot programme. Its assessment of the units was largely positive, and the units were given permanent status. In addition, a recommendation from a project group concerned with generally stronger efforts to combat drugs included a positive conclusion on its evaluation of the covenant prison units. The project group observed that all units had remained drug-free to a wide extent and provided a meaningful way for inmates to serve their sentences. A study to evaluate the covenant prison units is being prepared.

2. Covenant hostel
In August 1999, the Prison and Probation Service inaugurated the Funen Covenant Hostel. The target group is primarily persons who have served sentences in a covenant prison unit. However, ex-drug abusers who are under the Prison and Probation Service's responsibility may also be admitted to the hostel.

The covenant hostel is a psychosocial development and therapy environment for drug abusers or ex-drug abusers. When moving in, they sign a covenant to stay clear of drugs and crime. The hostel takes initiatives to organise social, cultural, occupational and educational activities for and with residents, and on certain occasions involve the citizens of the local community in activities. The covenant hostel has not yet been subjected to evaluation.

3. Rehabilitation unit at the State Prison of Vridsløselille
On 1 September 1997, the State Prison of Vridsløselille opened a rehabilitation unit as a three-year pilot scheme. In September 1999, the unit, which has 15 places for drug abusers, was given permanent status, and 15 new places were added to the unit.

The rehabilitation measures are handled by the independent institution, Kongens Ø, and planned in close cooperation with the prison staff. Kongens Ø is a rehabilitation centre that has treated drug abusers using the Minnesota model since 1994.

The experience has been even highly positive. First, the unit has succeeded in remaining completely drug-free and, second, a study has shown that 2/3 of the inmates complete their term in the rehabilitation unit as planned. In addition, the relapse rate of those who complete their term is 56%, a low rate for this group, which generally has a high relapse rate. It should be noted, however, that the study is based on a relatively small number of inmates.

A more comprehensive evaluation of the project is currently underway.

4. Rehabilitation unit in the State Prison of Jyderup
As a further step, a semi-open rehabilitation unit with 25 places is currently being planned in the State Prison of Jyderup. This unit is intended to be used primarily as a pre-release facility for inmates from the Kongens Ø unit at the State Prison of Vridsløselille. The unit is expected to be established in the course of 2003.

5. Motivation unit in the Copenhagen Prisons
In December 2000, the Copenhagen Prisons, cooperating with Kongens Ø, launched a pilot scheme with a motivation course for drug abusers in the prison's east wing. The course is aimed to motivate the inmates to commence genuine abuse therapy, either at one of the establishments operated by Kongens Ø or at the Kongens Ø unit in the State Prison of Vridsløselille. The experience gained has been positive, and the scheme is currently being made permanent. A specific evaluation of the unit has not yet been carried out.

6. Motivation unit in the State Prison of Nyborg
On 1 July 2002, a motivation unit with 17 places for drug abusers was opened in the State Prison of Nyborg. The objective for the unit is to support and motivate inmates to accept responsibility for following relevant therapy – either by staying in the prison's own programme units or being transferred to other establishments. On the same date the prison opened a rehabilitation unit with 14 places, offering therapy, from the prison's own operating resources, based on the Minnesota principles in a cooperative relationship with the Vejle County Abuse Centre.

7. Pre-rehabilitation project in the Local Prison of Esbjerg
In March 2002, the local prison in Esbjerg launched a locally embedded pilot project to provide pre-rehabilitation measures to its inmates. The project is based on close collaboration between the Ribe County Abuse Centre, the local prison and the Prison and Probation Service's department in Esbjerg. The therapy programme, spanning eight weeks, is provided by two officers from the Ribe County Abuse Centre. Project funding is provided from a special allocation from the Ministry of Social Affairs.

8. Pilot project for women with drug problems
The Department of Prisons and Probation is currently launching a pilot project aimed at women with drug problems. The project includes

- establishment of a motivation course in the west wing of the Copenhagen Prisons,
- a rehabilitation unit in the State Prison of Horserød. The project is planned in cooperation with the private institution, "Project People".

The Ministry of Social Affairs has pledged co-funding of the project, which will run for three years.

III. Health care services for inmates with drug problems
Substitution therapy
All state and local prisons house inmates who receive methadone or similar medicines either on a maintenance or phasing-out basis. Methadone is dispensed in conformity with the guidelines that apply in society in general – usually in cooperation with authorities outside the Prison and Probation Service. Occasionally, inmates with long-term sentences have methadone prescribed throughout the term served, but in connection with their release their future situation is reviewed with the relevant rehabilitation centre.

The number of prison inmates in long-term methadone therapy increased from 1993 to 2002 from 157 to 347 – corresponding to 10 per cent of the total prison population.

Access to disinfectants
Drug abusers in the prisons have access to disinfectant liquids. The purpose is to give injecting drug addicts, who share needles and syringes, a possibility to cleanse them in order to reduce the risk of transmission of HIV, Hepatitis B and C. The programme should be seen as an alternative to dispensing sterile syringes. Such a programme has not been introduced in Danish prisons.

Offer of Hepatitis testing and vaccination
Inmates with drug problems in the establishments of the Prison and Probation Service are offered Hepatitis B testing and, if relevant, vaccination.
Information material
Information material about HIV and Hepatitis B and C has been prepared in several languages and sent to all establishments for distribution to their inmates.

Study of abuse of controlled substances
As part of the greater effort to fight drug abuse, the Prison and Probation Service has commissioned a large scientific study of the abuse of controlled substances among remand prisoners, sentenced prisoners and clients under supervision.

The object of the survey is to find out the number of the Prison and Probation Service's clientele that before admission/supervision registration abuse alcohol, euphoriant substances and/or illegal medicine, how the abuse has developed, and whether the clients in question are motivated for treatment. Furthermore, it will be clarified through the survey whether there is a connection between the various forms of abuse and various forms of criminality. A report with the results of the survey will be published in the spring of 2003.

7. Other issues

recommendations

R. 23: Steps to be taken to ensure that information leaflets are given to inmates on their arrival in prison (paragraph 61).

It appears from Section 31(1) of Enforcement of Sentences Act that as soon as possible after an inmate has been placed in an institution, the institution shall counsel him on his rights, duties and other matters during the enforcement of the sentence.

The Prison and Probation Service has made general guidance notes about serving prison sentences and general guidance notes for detainees and remand prisoners. In addition, the individual institutions have prepared local guidance material. It appears from the general guidance notes that the rules applying to the prison/local prison can be borrowed by contacting the staff.

The two sets of general guidance notes are printed in Danish and English. In addition, there are guidance notes in Greenlandic and Danish about enforcement of measures of deprivation of liberty in Greenland and printed guidance noted for detainees and remand prisoners.

The two sets of general guidance notes were updated after the entry into force of the Enforcement of Sentences Act and issued to the institutions on 9 July 2001.

The two sets of general guidance notes are in addition to Danish and English available in 17 other languages: Arabic, Estonian, Farsi, Finnish, French, Greenlandic, Italian, Latvian Lithuanian Polish, Russian, Serbian, Spanish, Czechoslovakian, Turkish, German, and Urdu. On 15 February 2002, the updated guidance notes were forwarded to the institution translated into 14 languages. At that time, translations into Farsi, Greenlandic and Urdu were still missing. A ring binder with guidance notes in all 17 languages was issued to the institutions in the middle of April 2002. The guidance notes are copied before they are handed over to readers.

At the issues in February and April 2002 and on several previous occasions, it has been impressed upon the institutions that the relevant guidance notes shall be handed out to all inmates, and that foreign prisoners shall receive the guidance notes in their own language or in a language, which is close to their mother tongue.

The State Prison Vridsløselille states that before the visit of the CPT it was discovered that by a mistake new arrivals received only the prisons local information material. A large number of the updated “Guidance Notes on Serving of Prison Sentences” and “Guidance Notes to Detained Persons and Remand Prisoners” was ordered immediately. Instructions have now been made for the staff to hand out information material to inmates in the reception unit and the prison unit, respectively.

The State Prison Horsens states that in connection with the visit of the CPT, the staff has become aware that it has not been explained satisfactorily to foreign language inmates that written information is available about enforcement of prison sentences. Therefore the State Prison has now first of all made arrangements so that in each unit there is a copy of the guidance notes in all 17 languages and secondly taken initiatives to draw the attention of the staff to this question. The State Prison, furthermore, states that on admission inmates also receive oral information about various rights and duties. Later in the same day inmates receive oral and written information from the staff member who receives the inmate in question. The written information is a fixture in each cell in Danish and English.

R. 24: Immigration detainees to be kept duly informed about their situation and the procedures applied to them (paragraph 62).

All asylum-seekers – including immigration detainees – receive written guidance guidelines (Asylum Guidelines).

In the Asylum Guidelines, asylum-seekers are informed i.a. of the asylum procedure proper, rights and obligations during the processing of the asylum case, the possibilities of being detained - including the access to contact the Danish Refugee Board - and about the consequences if an asylum application is rejected. The guidelines are handed out at the same time when the asylum-seeker watches a video film about the Danish asylum procedure and fills in an asylum application form. The video film gives supplementary information about many of the same matters included in the asylum guidelines. Asylum-seekers, whose application for asylum is processed in manifestly unfounded rapid procedures, do not fill in the asylum application form and do not watch the video film either.

Furthermore, all asylum-seekers receive a separate leaflet about the rules regarding detention of asylum-seekers on account of crimes committed or lack of cooperation during the processing. This leaflet is prepared for the purpose of informing of the rules that it is expected that the asylum-seekers comply with while their asylum case is being processed and about the consequences if these rules are violated. The leaflet has been handed out to asylum-seekers since August 2001.

It appears from the leaflet, among other things, that an asylum-seeker who commits a crime must be expected to be deported from Denmark and to be detained until his asylum case is decided. It also appears that an asylum-seeker, who does not cooperate with the Danish authorities about his asylum case, can be detained, just as an asylum-seeker can be detained after a rejection of his application for asylum, if this is necessary in order to be able to send the person out of the country.

It should be noted that the Asylum Guidelines, the video film and the leaflet on detention are translated to a number of different languages and are to the extent possible handed out/shown in the applicant's own language.

To this comes the information and guidance given by the police when a detention order is served pursuant to Section 36 of the Danish Aliens Act, see above.

The police are responsible for providing the legal basis for the detention, and the Immigration Service is responsible with regard to questions of asylum law, whereas the individual institution is responsible for information about everyday life and rules of the institution. When detainees are received, they are briefly informed of their rights and duties. Furthermore, they receive a leaflet with details of the conditions during the stay, including which authority has made the decision of detention, possibility of communication with embassies, Ombudsman, and attorney. The staff currently focuses on answering questions, but it is, however, the experience of the staff that it is extremely difficult to ensure that detainees understand the information given to them.

According to the staff of the institution it is their experience that it is questions about residence/asylum that cause immigrant detainees to be frustrated.

The above-mentioned leaflet is available in Danish German, English, French, Turkish, Punjabi, Hindi, Urdu, Arabic, Farsi, Serbo-Croatian, Albanian, Russian, Somali, and Mandarin.

R. 25: Further attention to be devoted to the training needs of staff working at Sandholm (paragraph 68).

The Prison and Probation Service is very centred on improving the relationship between staff members and detainees and inmates and as a consequence of this, the Service has, among other things, chosen to include this area as a benchmark in the result contracts of the prisons. The result has been that a number of initiatives are implemented in this area, just as continuous focus on the area is ensured.

Inter-personnel communication capacities and skills are given high priority in connection with recruitment of new staff members and in connection with the basic training and supplementary training.

Besides, such skills are included as an important element at the appointment of managers and management training.

In 2002, a further development was made of the subject conflict resolution containing elements with training in the said skills. In addition problem-based learning is introduced, which i.a. gives the students training in group cooperation.

The Prison and Probation Service's Staff Training Centre offers various courses on communicating, but there is probably still a need for supplementary training within this area, which the Prison and Probation Service will make efforts to meet.

Unit officers go through a three-year basic training course, alternating between practical training and courses of theory. The object of the training is to ensure that unit officers acquire qualifications enabling them under responsibility, independently and in collaboration with others, to carry out work tasks in accordance with the Program of Principles of the Prison and Probation Service.

Conflict resolution is a subject included in the basic course, among other things aiming at giving the prison officers an understanding of the conflicts they will encounter in their work and the typical reasons for the occurrence of conflicts. Furthermore, they learn the different manners in which, by experience, conflicts are handled most expediently.

Psychology is another subject included in the basic course. The plan is that unit officers shall acquire understanding of i.a. psychical reactions of a human being to traumatising events. In connection with this subject, the unit officers obtain knowledge of factors inhibiting and promoting good communication, just as they acquire elementary knowledge of how they support others in processing normal psychological reactions to traumatising events. Furthermore, they must be able to identify signs of any abnormal reactions and evaluate when and how information to this effect shall be passed on to relevant health care personnel.

The basic education course is thus developed with a view to equipping arming unit officers so they are able to tackle the special problems they must expect to encounter in their work with the inmates, including also detained asylum-seekers.

In addition, opportunities exist for both unit officers and the other staff of the Prison and Probation Service to participate in e.g. the supplementary training offered by the Staff Training Centre of the Prison and Probation Service.

The Staff Training Centre has planned various courses with the special aim of improving communicative skills. At these courses the focus is on training conversations with attention drawn on both resources as well as the inmate's problems.

In addition, there have been courses for the prevention of suicide and suicide attempts. The aim of these courses is to prepare the staff to catch danger signals and support suicide threatened inmates. Furthermore, a leaflet has been issued concerning prevention of suicide, suicide attempts, and self-mutilation, which staff in prisons and local prisons have received.

Courses have been held especially for staff working with immigrants, where the objective was to give the participants knowledge of the immigrants' cultural and religious background and give the participants tools to minimise cultural conflicts.

With a view to increasing the recruitment of unit officers with multi-cultural background, the Prison and Probation Service has started a "pre-school project". The purpose of the project is to prepare young people with multi-cultural background to pass the employment test and later the basic education course for unit officers. The first pre-school class finished in 2001 and a new class started in the spring 2002.

In the spring 2002, another action plan was issued about ethnic equality for all establishments. The Prison and Probation Service expects that larger recruitment of employees with ethnic background other than Danish will promote understanding between the different cultures and rectify some of the language problems that may exist between inmates and staffs.

In January 2003 the Prison and Probation Service launched a pilot project about competence development and a period with staff development interviews. Through this project the Prison and Probation Service expects i.a. improvement when it comes to uncovering needs for increased efforts.

Various initiatives have thus already been implemented with a view to improving the training conditions, but the Department will besides, based on the CPT's recommendations, be especially attentive to the need for further training of the staff at Sandholm.

comments

C. 10: Current arrangements for handling and, in particular, registering complaints should be reviewed at Horsens and Vridsløselille Prisons (paragraph 63).

Changes are being made presently in the Prison and Probation Service's file and document handling system ("Client System") ensuring registration of all clients' case progress, including complaint cases, if applicable. This makes recording and registration of cases in the individual institution possible, so that there is always an overview of which pending cases a client has.

If, for example, a client complains of the institution, a complaint case will be registered for the client in question, with a brief summary/description of the case. The case is then registered in the Client System and it is possible to make general data withdrawals, e.g. of how many complaint cases are registered for each client, or how many complaint cases are registered for the individual institutions, etc.

Data withdrawals can be made locally as well as centrally. If a more specified search is requested, the Client System is developed so that subjects as e.g. complaint cases can be subdivided.

In the long term it will be possible to scan a client's document, the complaint as such, so that it is not only the registration, but also the document itself that can be searched for via the Client System.

The changes will be tested in the State Prison Vridsløselille from June 2003, and it is expected that all prisons will have the system implemented during the 2003, and that the system will be implemented in the local prisons in the course of 2004.

C. 11: The Danish authorities are encouraged to take steps to re-introduce the operation of the Internal Inspection (paragraph 64).

The Internal Inspection was established in 1995 and its task was to make inspections with a view to supervising the individual institutions under the Prison and Probation Service and offer guidance.

In connection with the reorganisation of the Department, it was determined that the tasks that had been handled by the then Internal Inspection, were to be handled by the newly established Controller Unit as of 1 November 2000.

These task are included a part of the Controller Unit's overall objectives:

- To develop and implement target and result-oriented management
- To strengthen and develop efficiency, productivity and quality in task solution
- To ensure coherence between professional handling of tasks and financial control

As a lot of new projects were started in the Prison and Probation Service in connection with the reorganisation, the Controller Unit has so far primarily focused on development tasks. As an example can be mentioned the work with development and implementation of target and result-oriented management.

Now – a little more than two years after the reorganisation – there is a need to follow up on several of these projects.

In addition, an inspection was carried out regarding the case processing in a small local prison 2002, and it is planned that in January 2003 a similar inspection shall be carried out in a similar large local prison. The object of the inspections is to find out how case processing is handled in accordance with the new rules of the Enforcement of Sentences Act, which entered into force on 1 July 2001. The inspections are to be used, among other things, to evaluate teaching of staff under the Enforcement of Sentences Act.

Finally, an analysis was started in 2002 of task handling, structure and economy of the Prison and Probation Service in Freedom (units and hostels). The object is to find possibilities of improvements etc., which can be included as part of the coming multiannual agreement. A similar analysis is planned of the local prisons.

C. 12: An important objective in all prisons should be for staff to become more closely acquainted with inmates during day-to-day contacts (paragraph 66).

Please refer to R. 25.

C. 13: In the context of prison officers' training, considerable emphasis should be placed on the acquisition and development of inter-personal communication skills. Further, prison officers' access to ongoing training should be a priority (paragraph 67).

Please refer to R. 25.

requests for information

I. 8: Measures taken to address the problem of absenteeism among custodial staff, in the light of the results of the survey carried out in 2001 by the Prison and Probation Service (paragraph 65).

As the CPT is aware, the Prison and Probation Service carried out a survey in 2001 of staff motivation and satisfaction, the co-called working climate survey.

This survey showed that every third employee felt to be under a mental strain. However, it was monotonous work, lack of personal and professional development and dissatisfaction with the management that more than the psychical working environment furthered a negative atmosphere.

One of the more positive conclusions of the survey was that three out of four employees wished to use their skills better on the job. They were interested in i.a. new and more challenging work areas.

In January 2002, the Department sent a hearing to the establishments about the working climate survey to get a clarification of what had happened locally. All establishments were furthermore asked to send in an actions plan for the continued work by 1 April 2002. The establishments work with the action areas in joint consultation committees, at staff meetings, in the management group, etc.

A follow-up up on the climate survey is included as a result demand in the prisons' contracts for 2002.

Another climate survey will be conducted in 2003.

The Prison and Probation Service has, moreover, taken the following initiatives to improve the working environment and reduce absence due to sickness:

1. Handbook on absence due to sickness
The Department is working on a handbook on absence due to sickness, which contains, among other things, guidelines for how the establishments are to act in relation to employees with a high or frequent rate of absence due to sickness. The idea is that the handbook is to create more focus on absence due to sickness as well as help to achieve an improved effort to reduce the absence, including by way of increased contact and staff care conversations with the employees who are absent due to sickness. The intention is that the Department will follow the establishments' work to reduce absenteeism, and that an annual report on absence due to sickness is to be prepared. The handbook has been sent for hearing at the turn of the year 2002/2003.

2. Management development
In collaboration with "Statens Center for Kompetence and Kvalitetsudvikling" (the state centre for competence and quality development) the Prison and Probation Service has started a multi-year management development program "Management growth" The program comprises 170 managers with Prison and Probation Service and has theme-based courses, e.g. "The Attractive Work Place", manager evaluation in the Department, management of change, work with visions and follow-up on the targets fixed in the result contract.

3. Assaults/violence and threats against staff
All establishments shall report incidents of assaults/violence and threats to the Department. Since 1996, the number of reports about incidences of assaults/violence has been relatively consistent, whereas the number of reported threats has increased significantly.

Most places have trained debriefers with a view to speedy internal emergency relief in case of violent use of force situations.

In August 2002, the Department set up a working group with a view to a special effort to reduce the number of incidents of violence and threats against staff. Members of the working group are representatives of the Department, prisons and local prisons, and the unions concerned. The task of the working group is to further develop and assure the quality of the reports and consider how to limit incidents with violence and threats as much as possible.

4. NMC (Nordic Mentalhygiene Center)
An agreement has been made with NMC about emergency relief for the Prison and Probation Service's staff. NMC works as a free of charge and anonymous relief system for each staff member. The services consist of counselling from the consultants in cases, for example, of stress, burnout, deaths, family problems, etc. The Department has trained network personnel as well among its own staff, who focus on the colleagues' well-being.

The staff of the Prison and Probation Service has used the NMC-scheme to a high degree. If a staff member needs help in addition to the basic service, a decision is made in each specific case on the extent of help to be offered in addition, based on NCM's recommendation.

5.Projects to improve the psychical working environment
A development project at the State Prison of Vridsløselille is being projected under the work title ”Fra fravær til nærvær” (from absence to presence). The intention behind the project is to improve satisfaction at work and thereby reduce absence due to sickness. The financing of the project is obtained primarily from allocation funds from the Working Environment Service.

In addition, the Department has applied to the Working Environment Service for allocation funds to start a project with supervision in the Copenhagen Prisons. If the funds are granted, it is expected that the project will be started in the first quarter of 2003 under the work title "Supervision - vejen frem for KF" (supervision - the way to go for CP).

At the Herstedvester Institution, the Occupational Health Institute is in the process of implementing a multiannual project dealing with burnout, motivation and job satisfaction (the PUMA-project). One element of the project has been a questionnaire survey among all employees.

The Department has previously in collaboration with the consulting firm Discos implemented pilot projects in three workplaces. The framework of the projects was to make absence due to sickness a workplace matter and not only a private matter, just as a focal area of the project was close contact to the absent employee from the management and the colleagues as well. Experience from this project is included in the handbook on absence due to sickness that the Department is in the process of preparing.

6. Working environment and absence due to sickness consultant
On 1 January 2001, the Department engaged a consultant to deal with working environment and absence due to sickness. The consultant is to coordinate the entire effort in the working environment area.

C. PSYCHIATRIC ESTABLISHMENTS

The Danish Ministry of the Interior and Health has noted that the report from the CPT leaves a generally positive impression of psychiatric conditions in Denmark. As an example, the CPT states that the Committee found a relaxed atmosphere and a staff-patient relationship based on trust in visiting the hospitals in its preliminary report. The high standard of material conditions, which includes accommodation being offered in individual rooms for many patients, is also emphasised. In the opinion of the Danish Government it is very positive that initiatives in psychiatry launched in recent years bear fruit and are held in esteem.

The development of offers for the mentally ill has been a high priority issue in Denmark for many years. The Danish Government is determined to pursue this policy. Even if we are satisfied with the great improvements that have taken place in this area, and for good reasons, there continues to be a need for modernising the material conditions, for training more staff and, in particular, for improving the quality of offers.

The Danish government is also determined to continue to work with initiatives that will bring down the use of restraint in psychiatric establishments.

The preliminary report from the CPT has been submitted to the counties visited by the CPT, i.e. the County of South Jutland, the County of Copenhagen and the County of West Zealand for consultation. Besides, the report has been submitted to Danish Regions, the Copenhagen Hospital Corporation, the National Board of Health and the Danish Psychiatric Association for consultation.

The comments returned by the consulted authorities are stated in connection with each individual item and summed up by the Ministry stating its own comments at the end of each item.

Proposal for specific changes

Page 37, note 27: the Danish Ministry of Health is to be replaced by the Danish Ministry of the Interior and Health, and the Order is no. 207 of 12 April 2002.

Page 37, note 29: the order comes under the auspices of the Danish Ministry of Justice.

Page 39, note 32: Order no. 534 of 27 June 2002 is to be added to the note.

Page 52 and other places where the Ministry of the Interior and Health appears. The official translation of the Ministry is the Danish Ministry of the Interior and Health.

Comments on individual items

Paragraph 69 – Conditions for deprivation of liberty
The National Board of Health points out that the wording in item 69 does not adequately represent Article 5 of the Danish Act on Conditions for Deprivation of Liberty and Use of Force in Psychiatry.

The Ministry wishes to state that it appears from Article 5 of the Danish Psychiatric Act that involuntary admission or involuntary retention may take place only where the patient is mentally deranged or is in a condition comparable hereto and it will be irresponsible not to deprive the person concerned of his liberty for the purpose of treatment because

1) the prospect of being cured or a considerable and crucial improvement of the condition would deteriorate significantly, or

2) the person concerned represents an immediate and considerable danger to himself or others.

1. Ill-treatment

recommendations

R. 26: The practice of immobilising patients to be reviewed as a matter of urgency (paragraph 75);

County of South Jutland
By way of introductory comments on the alleged use of immobilisation in the report, the County of South Jutland has tabulated fixations by number of times used at the Haderslev Hospital Psychiatric Department. These tables cover the period from 1 January 2001 to 30 June 2002. Physical restraint took place in 74 instances to 23 patients.

Table 1: Number of fixations by patient from 1 January 2001 to 30 June 2002

No. of fixations	No. of patients
1	11
2	2
4	5
5	2
6	1
9	1
13	1

Table 1 shows that most patients were immobilised only once.

Table 2: Duration of each fixation from 1 January 2001 to 30 June 2002

Days	No. of fixations
< 1 day	49
1-2 days	13
2-3 days	6
3-4 days	2
10-15 days	4

Most fixations lasted as shown in table 2 less than one day. A special group of four patients stand out on account of long periods of immobilisation, from 10 to 15 days. A review of the case records of these four patients established that they all had particularly complicated treatment courses, with patients responding only very slowly to the treatment they had received. The other patients with shorter periods of fixation responded a lot faster to the administered treatment.

Table 3: Fixation indications under the Danish Psychiatric Act from 1 January 2001 to 30 June 2002

Indication	No. of fixations
Danger to patient or others	51
Vandalism	7
Harassment of fellow patients	6
Voluntary fixation	7

It appears from table 3 that the large number of fixations is a result of patients representing a danger to himself and/or others.

The report states a case in which a patient is reported to have been physically restrained for 17 days. The County of South Jutland points out that this must be due to a mistake as no records indicate such a course of event. However, a man (and not a woman as stated in the report) has been physically restrained for 15 days and has furthermore had several short periods of fixation during admission. The person concerned has expressed his dissatisfaction with the intervention, but he did not wish to lodge a complaint with the Patients' Complaints Board. The patient had been advised of his access to lodge a complaint. It is incorrectly stated in the report that the patient had not been offered a patient adviser, in fact he had declined that a patient adviser be appointed to him. Besides, his condition during most of the period of fixation was such that it is likely that he cannot remember having been offered a patient adviser.

The County of South Jutland points out that it fully supports in principle the conclusions of the report of keeping the use of restraint in caring for the mentally ill to a minimum. However, it may sometimes be necessary to restrain a patient physically in the patient's own interest and safety as well as for those of other patients and staff. The need for physical restraint arises most often for safety reasons in respect of the patient himself, other patients or the staff. In using physical restraint the Psychiatric Department of the County of South Jutland is also conscious of the negative impact that physical restraint may have in weakening the staff-patient relationship. Therefore, the staff-patient relationship and the safety and interest of the patient and his surroundings are very carefully balanced in each case.

County of Copenhagen

In commenting on the paragraph on immobilisation by means of an abdominal belt the County has noted that the Committee is concerned about the practice of abdominal belt fixation of psychiatric patients in item 75. Citing a concrete example from the Psychiatric Centre at Glostrup, the Committee met a patient who had been released from fixation that very day following ten days of continuous immobilisation. There is no specific reference to the identity of the patient in the report, but it is assumed to refer to patient who was and still (on 20 November 2002) is placed at the Psychiatric Centre by court order.

The Forensic Psychiatric Centre has in this connection made representations that their patients are immobilised by abdominal belt beyond one day only exceptionally, but in this particular case it was necessary as the patient was a source of danger to himself and others, including staff and other patients.

Returning from his escape, the patient had brought a pistol dummy, which he alternately pointed to his head and used to threaten the staff. He was pacified by the police whose assistance had been requested, and only then was it established that the pistol was a dummy. Following this event he kept bursting into affect, threatened to escape and then return with a genuine pistol. Alternatively, he threatened to commit suicide.

The extended time of his immobilisation by abdominal belt was motivated in his continued bursts of affect and threats. The patient was released from abdominal belt fixation for short intervals as the Centre is generally aware of avoiding long-term immobilisation because of the ensuing risk of causing injury to patients. In this particular case the patient was released during daylight hours, when the unit was sufficiently manned to take precautionary measures.

During the period of applied abdominal belt fixation the Forensic Psychiatric Centre checked the possibility of transferring the patient to the Secure Unit which was considered to be in a better position to protect the patient from causing harm to himself and others.

At the time of applying abdominal belt fixation to the patient his guardian was advised accordingly. Neither the patient nor his guardian has lodged complaints about the abdominal belt fixation with the unit or with the Psychiatric Patients' Complaints Board.

The Psychiatric Committee is aware of its duty to supervise that restraining measures take place in compliance with the rules and in the spirit of the Danish Psychiatric Act. To avoid using unnecessary restraint the local administration carefully monitors all decisions regarding the application of restraint made by the Patients' Complaints Board in the County of Copenhagen and by the courts. In few instances where one of these authorities have found that the restraining measures were applied illegally, the administration took contact to the responsible psychiatric consultant to discuss the matter. All psychiatric centres are subsequently notified of decisions of the Psychiatric Patients' Complaints Board or the courts, complete with grounds.

County of West Zealand

The CPT is concerned about the use of physical immobilisation of psychiatric patients. The CPT makes a special note of having talked to an immobilised patient who told the delegation that he had been restrained almost continuously for four months.

The CPT considers that physical restraints should be used only in the last resort.

The Psychiatric Centre points out that the patient concerned has been admitted to the Secure Unit for almost one year. Prior to this the person concerned has been admitted to the Aalborg Hospital Psychiatric Department for a continuous period of two years and almost continuously for an additional period of three years. The person concerned has made many surprise assaults on both fellow patients and staff, because he is severely mentally deranged and is hallucinating about other people wanting to take his body.

The person in question was labelled dangerous on account of the psychotic state of mind and the dangerousness he showed. During placement in the Secure Unit he has been continuously severely mentally deranged and the most gentle way for the patient has been fixation with a permanent staff member sitting next to him. During periods when he was not strapped down, he has been unable to find rest on account of his psychosis, which has also given him a profound restlessness and agitation, from which he could only disengage when he laid down flat.

The patient is no longer immobilised and is now back in his own individual room.

Generally, physical restraint is only used with patients when all other options have been exhausted. The head doctor is constantly responsible that the patient is not immobilised for a longer period than necessary. The patients are attended by a doctor at least once every day (including weekends).

The Secure Unit receives the ultimately most ill and most dangerous patients who get in when other psychiatric departments have given up on treatments or have been unable to accommodate these patients on account of their dangerousness.

The Copenhagen Hospital Corporation

The CPT is concerned about the frequent recourse to physical immobilisation. Furthermore, the CPT is concerned about the long periods of fixation.

There is no reason to assume that there is much difference in the frequency and periods of physical immobilisation being used in psychiatric establishments in the Copenhagen Hospital Corporation from those applying to the visited establishments. Therefore, we take the CPT's concerns about ill treatment seriously. As the CPT itself recognises it may sometimes be necessary, as a last resort, to restrain a patient physically, but the report raises the question whether this type of restraint is used too frequently and for too long periods. In other words: do we have a Danish treatment regime that reinforces and makes immobilisation by restraint more frequent to such an extent that amounts to ill treatment?

These issues require thorough analysis. Based on the report from the CPT the executive board of the Copenhagen Hospital Corporation has asked the Psychiatric Health Committee of the Copenhagen Hospital Corporation to analyse this issue in more detail and to provide indicators and suggestions as to how far it is possible to reduce the frequency of application and periods of immobilisation by restraint.

The National Board of Health

It should be clearly stated that fixation with straps is a separate measure which is not automatically used with every immobilisation by abdominal belt.

Immobilisation for several weeks is a very long time. From the very few cases of learning of such cases in the National Board of Health they have concerned special patients. Better staffing of a psychiatric department has often been claimed to very likely be able to reduce physical restraint. However, also the departmental culture and the training of staff will be important for the extent of restraint applied.

The Danish Psychiatric Society

This Society generally supports the CPT's recommendation to limit the periods of immobilisation by abdominal belt as far as possible. The Danish Psychiatric Society knows of current awareness of the extent of abdominal belt fixation, and educational initiatives have been taken to minimise the application and extent of abdominal belt fixation.

However, the Society is surprised to note that the CPT has totally uncritically relied on the events described for its evaluation without addressing the possible concrete clinical reasons for the lengthy abdominal belt fixations.

The Danish Ministry of the Interior and Health

It follows from Article 21 of the Danish Psychiatric Act that fixation, as well as other compulsory interventions, must not be extended for a period longer than absolutely necessary. In addition to current re-examination of the justification of the intervention the head doctor is under duty to carry out a mandatory re-examination of the justification of the intervention.

It follows from Article 14 of the Danish Psychiatric Act that immobilisation by physical restraint may be applied only to the extent necessary to prevent a patient from

1) exposing himself or others for immediate risk of bodily harm or health injury,
2) persecuting or in other ways similar to this grossly molests the other patients, or
3) vandalising to a not inconsiderable extent.

After attending to the patient, a doctor may make a decision of physical restraint.

The only instruments allowed to be used for compulsory fixation are belt, hand and foot straps and gloves. Use of hand or foot straps in addition to belt is, however, subject to the head doctor's decision.

The more detailed rules of immobilisation follow from Order no. 534 of 27 June 2002 on involuntary treatment, fixation, records of restraints etc. in psychiatric departments. For instance Article 12 makes it a condition for initiating physical restraint that the doctor based on the patient's current conditions has decided that immobilisation is necessary and that other instruments such as increased supervision has proved insufficient or impossible to carry out due to the patient's condition.

In Order no. 878 of 10 December 1998 on notification and guide to complaints to patients in connection with restraint exercised in psychiatric care Article 6 specifies that when immobilisation is deemed necessary the patient must be informed accordingly.

The notification must include details of the circumstances of the contemplated restraining measure as well as the background for applying such restraint and its purpose. Notification is to take place as soon as possible and before the contemplated restraint is applied. In case of physical restraint notification may however be dispensed with in circumstances of an urgent nature, including in particular when restraint is applied to prevent imminent danger. In such cases the patient must be notified as soon as possible after the restraining intervention was initiated of the grounds for applying restraint and its purpose.

In connection with this notification the patient must be advised of his right to have a patient adviser appointed to him. The appointment is not optional in the sense that it is up to the nurse on duty or others to assess whether the request is more or less well reasoned. When a request is made by the patient, such appointment must take place immediately.

The above recapitulation of the regulatory basis shows that there are detailed rules for the application of physical restraint. The counties visited have commented on specific patient cases, and the Danish Psychiatric Society suggests that there may be concrete clinical reasons for the lengthy abdominal belt fixations.

The Ministry is of the opinion that it is impossible to single out a particular regime element from other possibilities. In the application of restraint as therapeutic method other possibilities have either been tried or exhausted or other alternatives may not exist.

The conditions prevailing at the Secure Unit are unique as it cares for the most dangerous among the mentally ill who cannot be accommodated within other psychiatric departments.

Professionals and politicians agree that the application of restraint, including immobilisation is to be reduced to a minimum. The application of restraining measures is a current focus issue of professional debates and conferences. The Ministry can inform the CPT that Danish Regions will hold a conference with the title: ”Restraint – how much or how little?” which is partly dealing with the questions of involuntary medication and immobilisation. In any event these questions will be included in reform views for the Danish Psychiatric Act in 2005-06.

R. 27: The immobilisation of patients never to take place in sight of other patients (paragraph 76).

County of South Jutland
The Psychiatric Department of the County of South Jutland agrees that fixation by abdominal belt must take place out of sight of passers by. Unfortunately, there has been such an incidence, and this is considered not to be expressive of the attitude of the Psychiatric Department of the County of South Jutland to application of restraint. The general psychiatric department in Haderslev has since the Committee’s visit introduced the practice of putting up a screen in front of the door leading into rooms where there are psychiatric patients wishing that the doors do not be closed, to make sure they are not in sight from the corridor.

The County of West Zealand
The Psychiatric Centre comments that patients that have to be physically restrained are always immobilised out of sight of other patients.

The Copenhagen Hospital Corporation
The Copenhagen Hospital Corporation has ensured by the structure of its buildings that restraint by abdominal belt takes place in specially designed rooms to which other patients have no access.

The National Board of Health
The National Board of Health agrees in avoiding immobilisation of patients in sight of other patients.

Danish Psychiatric Society
As a starting point the Society agrees that a restrained patient should not be in sight of other patients, however we ask that it be noted that there may be specific clinical reasons for giving a restrained patient the possibility of contact with certain other patients. In this connection it should be mentioned that some patients are immobilised at their own request.

The Ministry of the Interior and Health
The CPT’s recommendation that immobilisation of patients never take place in sight of other patients originates from a case at Haderslev. The answer provided by the County of South Jutland sets forth that the practice has now been changed.

Besides, the Ministry wishes to draw the CPT’s attention to the fact that there are rules regarding the supervision of the immobilised patient. Article 14 of Order no. 534 of 27 June 2002 provides that the supervision is to take place in accordance with the patient’s own wishes and with respect of his dignity and self-esteem. The patient is entitled to a certain measure of privacy unless it conflicts with considerations for the patient’s safety.

2. Staff resources

recommendations

R. 28: The staffing levels in the psychiatric units visited to be reviewed. More particularly, as soon as possible:
- **the number of psychiatrists to be increased in the Nykøbing Sjælland forensic psychiatric department, and in the in-patient hospital units at Haderslev;**
- **the vacant psychiatrist post at Glostrup forensic psychiatric department to be filled;**
- **the vacant psychologist post at Nykøbing Sjælland to be filled (paragraph 81).**

The County of South Jutland
It is a well-known phenomenon that it is generally difficult to fill all staffing posts within psychiatry. The Psychiatric Department of the County of South Jutland is aware of the derived negative impact this might have on developments in involuntary treatment. We are continually working to fill all posts in psychiatry in the County of South Jutland and to provide the requisite in-service staff training.

The Copenhagen County
In the same way as in the rest of Denmark there is a shortage of psychiatric specialists in the Copenhagen County. Unfortunately, the post of head psychiatrist at the Forensic Psychiatric Centre remains unfilled despite constantly advertising for applicants. The medical officer obligation to be on duty imposed on the Forensic Psychiatric Centre is fulfilled through external consultants.

The psychiatric centres of the Copenhagen County have been unsuccessful in filling all vacant posts. The Psychiatric and Social Services Department co-operate with the psychiatric centres to increase the recruitment of doctors for these centres.

The County of West Zealand
The CPT is concerned about the low percentage of qualified nurses of the total complement of care staff at Nykøbing Sjælland Psychiatric Hospital.

In response to this the Psychiatric Centre of the County of West Zealand points out that despite a recruitment policy it has not been possible to hire the desired number of nurses. In practice, there have been no applicants for the posts. The Executive Board of the Centre and the Departmental Boards of the General Psychiatric Department and the Forensic Psychiatric Department also deplore the shortage of qualified nurses.

The CPT is concerned about the inadequate number of psychiatrists and as a result the psychotherapeutic care of patients is poorly developed, particularly as the number of psychologists is also insufficient.

The County of West Zealand agrees that the number of psychiatrists is insufficient. The shortage of psychiatrists is, however, not a local problem but a national problem. The problem is most pronounced in the most outlying districts. The Secure Unit is located in such an outlying district.

It should be noted that the Psychiatric Centre has advertised the vacant posts and a recruitment company has been involved. Despite these measures it has not been possible to fill more doctor's posts.

An initiative has been taken to focus on this serious situation relative to the responsible operation of the Secure Unit in the future, at the national level, first through Danish Regions.

The Psychiatric Centre attaches great emphasis to exploiting the resources available in its staff. In this connection attempts are being made to develop the use of other qualified groups of staff.

The Country deplores the difficulty in recruiting health care professionals, also in forensic psychiatry. The Executive Board of the Psychiatric Centre and the Departmental Committee have worked constructively on this problem, yet results have been missing.

Danish Regions
Danish Regions points out that the shortage of psychiatrists in Denmark reduces the possibilities of hiring more people in this staff category, but the counties are organising the offers in a way to utilise medical resources as effectively as possible, for example by letting in other staff groups on the work.

The National Board of Health
In a draft action plan of 31 October 2002 the National Board of Health proposed initiatives to professional development of psychiatric treatment. By way of general comment, the Board states that having a sufficient and qualified staff at its disposal is a prerequisite for recommendations of offers being implemented and goals for quality in services being realised. Training and regular improvement of competencies also represent a key factor.

The Health Service is generally short of professionally trained staff these years.

The psychiatric field is generally low tech in terms of equipment, and the staff and the living conditions constitute the vital and essential resources to ensure diagnostics and a high level of quality care. This involves doctors, psychologists, nurses and other nursing and environmental staff etc.

The shortage of educated and well qualified professional health care staff must thus be considered a substantial barrier to developing and upgrading offers for the mentally ill. In this context it has to be recognised that there are no easy and fast solutions to this. As a further consequence of this situation the psychiatric field has to utilise the existing staff resources as effectively as possible in the long term perspective.

Even as the first psychiatric agreement was concluded for the years 1997 to 1999 there has been considerable awareness about this issue and in connection with the psychiatric agreement from 2000 to 2002 the parties (the government and the local authorities) agreed that a well-educated group of staff is vital for the retention and further improvement of the quality and competencies in the psychiatric and sociopsychiatric fields. It was also agreed to continue the high priority assignment to educational activities, for both doctors and nurses and for the other groups of staff, including psychologists, socio-educational workers, social workers, occupational therapists and physiotherapists, social and health assistants/carers etc.

In this situation recruitment and training of health care professionals and other professional staff for the psychiatric field therefore must continue to be increased by targeted action in accordance with the requests for development and improvement of offers.

Moreover, considerable awareness must be given to retention, regular in-service training and upgrading of qualifications of available psychiatric staff.

The National Board of Health will continue to monitor developments in the number of specialists in the area through the forecast and dimensioning work of the National Council for further training of doctors and to monitor developments in the number of specially trained psychiatric nurses.

At the moment we lack a current, comprehensive view of the development and composition of staff at individual psychiatric departments etc. The National Board of Health is currently engaged in developing adequate staff statistics regarding hospital employees that will make this type of information currently available as a matter of routine.

The Danish Psychiatric Society
The Danish Psychiatric Society unconditionally supports recommendations to fill vacant posts, but the Society finds it difficult to point to concrete ways in which this can be done.

The Ministry of the Interior and Health
As has been stated already the Ministry confirms the general shortage of qualified staff in the Health Service, including in psychiatric health care.

In line with the above considerations of the National Board of Health various initiatives have been taken to counter the shortage of doctors in this field. In the long-term perspective, the first two psychiatric agreements in which approximately DKK120 million has been set aside for staff training have received broad political support. In-service training is part of the elements of a recent psychiatric agreement for the years 2003-06.

Here and now local work is taking place in the counties to review procedures to ensure that the medical resources are used most effectively.

In May 2001 a report was published with the title: ”Report on offers available to children and youth under emotional stress in the educational and social sectors and interaction with offers provided by the health care sector” (Danish version only). The report was prepared in co-operation with the Ministry of Social Affairs, the then Ministry of Health, the Ministry of Education, Danish Regions, Local Government Denmark, the Municipalities of Copenhagen and Frederiksberg, The Copenhagen Hospital Corporation and the National Board of Health.

Based on the recruitment problems in children and youth psychiatric health care the working group was to analyse how improvements for children and youth under emotional stress could be established through using the overall capacity of the health care sector, the social sector and the educational sector in a better way.

The report made recommendations for individual children’s and youth psychiatric departments to consider the expediency in organising work in the department with a view to making the best use of the scarce medical resources.

The Ministry is currently preparing ”The Danish Government’s status report on offers to people who are mentally ill 2001”, which provides a status on the counties’ follow-up on the recommendations of the above report. (7 counties, corresponding to half of all counties in Denmark, have launched initiatives in the organisation of departmental work, and two counties are currently contemplating this).

comments

C. 14: The Danish authorities are invited to review the decision to reduce the staff in charge of the occupational therapy workshops in the Glostrup Psychiatric Department (paragraph 81).

The Copenhagen County
The CPT recommends that initiatives be taken to be able to offer patients at the Psychiatric Centre at Glostrup and the Forensic Psychiatric Centre the possibility to access satisfactory occupational therapy. At the same time the Committee invites (item 81) the authorities to reconsider its decision to reduce the number of staff in the department of occupational therapy in the Psychiatric Centre at Glostrup.

The Psychiatric Committee of the Copenhagen County states that the Forensic Psychiatric Centre will have extended its activity facilities, which will increase the opportunities in the closed facilities of the unit, in March 2003.

The now abandoned industrial therapy unit in the Psychiatric Centre at Glostrup is currently being transferred to be used in a rehabilitation context largely with the same content and aimed at the same target group and will continue to include forensic psychiatric patients.

In terms of treatment, the county’s psychiatric centres are moving away from traditional occupational therapy while aiming to keep the stays of 24-hour patients to a minimum. The county is also trying to make occupational therapy and physiotherapy units part of an active therapeutic function rather than an occupational therapeutic function. This is an acknowledgement of the need for patients to be engaged in meaningful activities.

The Danish Psychiatric Society
The Society stresses the general importance of associating well-reputed occupational units to departments that accommodate long-term hospitalised patients, which particularly refers to forensic psychiatric departments.

The Ministry of the Interior and Health
Article 2 of the Danish Psychiatric Act provides that, in order to prevent the use of restraint as far as possible, the hospital authority (i.e. the county/the Copenhagen Hospital Corporation) is to offer hospital facilities, treatment and care at the level of good psychiatric hospital standard. With regard to structural conditions, number of beds and staff there should be opportunities to stay outdoors as well as occupational, educational and other offers of activities.

3. Living conditions of patients

recommendations

R. 29: A call system to be installed in the rooms of less autonomous patients; in particular, such a system to be introduced in the psychogeriatric units in Glostrup in the course of its impending renovation (paragraph 83)

The Copenhagen County
In the opinion of the Psychiatric Committee of the Copenhagen County there is no need for such a system. Few patients are confined to their beds. The staff is very much aware of these particular patients, who, if needed, are given a bell with which to ring for the staff. Besides, the county finds it desirable to move away from the institutional impression that a traditional call system might leave.

The National Board of Health
The National Board of Health recommends a call system to ensure the safety of patients.

The Ministry of the Interior and Health
The statement of intent that Article 2 of the Danish Psychiatric Act expresses is the responsibility of the counties that run the Health Service to fill. The Ministry agrees with the National Board of Health that it is important to ensure the safety of patients. How this is translated into practice is up to the individual county and will depend on structural conditions, culture etc. The Ministry has no comments on the concrete solution for the Psychiatric Centre at Glostrup.

R. 30: Unless there are medical reasons to the contrary, all involuntary patients to benefit from at least one hour of outdoor exercise every day in satisfactory conditions (i.e. sheltered from inclement weather) (paragraph 84).

The Copenhagen County
The county states that as regards the outdoor exercise facilities at the Forensic Psychiatric Centre, all patients are offered, by general rule, access to the garden accompanied by staff minimum twice a day. This takes place in a large, closed uncovered/unsheltered garden. The Department does not have any covered outdoor exercise facilities, but in connection with a construction project at the Forensic Psychiatric Centre the tender material includes putting up awnings.

For a few patients that advance plans of escape or evasion and newly hospitalised detainees being remanded in custody under the provisions of the Danish Administration of Justice Act and who are accused of a severe crime, any request for general access to the garden accompanied by a member of the staff will be declined subject to specific medical assessment and for a short period of time. The bird-cage like construction mentioned in the report will during this short period of time be the only opportunity for the patient to have access to fresh air. The door to this completely covered garden remains unlocked during daylight hours. It therefore serves as an extended area of the common parts of the department and allows all patients to go out and draw some fresh air as they choose.

The County of West Zealand
The County points out that the patients in the Secure Unit have satisfactory outdoor facilities, whereas the patients at Pilehus 2 have inferior opportunities. The Committee points out that there ought to be satisfactory outdoor facilities, including a sheltered area.

The Psychiatric Centre of the County deplores the inadequate outdoor exercise facilities at Pilehus 2. Expectations are that these conditions will improve as the therapeutic units at the Psychiatric Hospital of Nykøbing Sjælland are restructured in the course of 2003.

Furthermore, a proposal has been prepared for an improvement of the Forensic Psychiatric Unit, including a rough draft being incorporated to improve the room situation.

The Copenhagen Hospital Corporation
The Copenhagen Hospital Corporation points out that in many other places abroad, as an alternative to immobilisation, restraint by chemical intervention is used in connection with placement in a special unit (security unit), for which emergency psychiatric units are more aptly constructed. A deadening antipsychotic depot injection is typically administered to the restrained patient who is then after the drug has taken effect being placed in the special unit. The unit will normally have two or more locked cells provided with a soft mattress on the floor as the only furniture. A small locked yard will generally be available in connection with the cells for the benefit of the patient.

This type of restraining measure has no tradition in Denmark and buildings are therefore not provided with ”security units.”

In connection with the design of closed units the Copenhagen Hospital Corporation has allowed for access to outdoor excise facilities for this category of patients, having ensured access to closed gardens in connection with the units.

A follow-up on this recommendation therefore requires a special analysis and the Copenhagen Hospital Corporation has therefore asked the Psychiatric Health Council, based on the CPT report, to analyse this issue in more detail and propose solutions to the need for one hour of outdoor exercise every day considering the structural conditions.

The Danish Psychiatric Society
The Society supports the recommendation of staffing the psychiatric departments to allow all patients deprived of their liberty to have the benefit of at least one hour of outdoor exercise every day. Presumably, all forensic psychiatric departments in Denmark have fenced gardens where precautionary measures have been arranged while taking local conditions into account. The purpose is to give patients, including detainees remanded in custody and those in danger of escaping, access to outdoor exercise for more than one hour every day. This could be a patient who has exclusive rights to a fenced garden or it could be a small group of patients keeping each other company outdoors.

The Ministry of the Interior and Health
The Ministry agrees to the importance that psychiatric units allow one change of environment every day, including the benefit of outdoor exercise every day as will appear from the explanatory notes to Article 2 of the Danish Psychiatric Act concerning good psychiatric hospital standards. However, it should be noted that considerations of security, in particular, may warrant special precautionary measures in this connection.

comments

C. 15: The CPT has misgivings concerning outdoor exercise arrangements in one forensic unit at Glostrup (paragraph 84).

Please refer to R. 30.

4. Treatment

recommendations

R. 31: Steps to be taken to enable Glostrup Psychiatric Department to offer patients access to suitable occupational therapy workshops (paragraph 88).

Please refer to C. 14.

comments

C. 16: The group and individual psychotherapy available in the various hospitals visited was insufficient (paragraph 85).

Please refer to C. 14.

C. 17: The CPT suggests that national standards be drawn up to govern the practice of shielding (paragraph 86).

The County of West Zealand
In 2003 the Psychiatric Centre of the County of West Zealand is expected to draw up directions in compliance with the resolution made by Danish Regions, see below.

Danish Regions
Danish Regions has prepared a report on shielding involving a joint proposal for all counties to draw up guidelines for the use of shielding. At an inter-county psychiatry meeting this view gained universal acceptance.

The National Board of Health
The Board has noted that the CPT recommends that national standards to govern the practice of shielding be drawn up.

The report states that there are four levels of shielding at Haderslev. In the opinion of the National Board of Health level 4 has nothing to do with shielding as it is described as strapping the patient to a bed and locking of doors. This is so to speak a restraining measure in pursuance of the Danish Psychiatric Act.

Recommendations for shielding could be appropriate. The unit committee is responsible for drawing up instructions for the use of shielding in keeping with the local conditions similar to instructions being available for other elements of treatment and care.

The Danish Psychiatric Society
Shielding is held by the Danish Psychiatric Society to be essentially a part of the care given to psychiatric patients. Shielding at level 4 may include an element of restraint. In that event the rules of the Danish Psychiatric Act will apply. Therefore, the Danish Psychiatric Society does not find it necessary to introduce special regulations of this area.

The Ministry of the Interior and Health
Shielding is a relatively new concept in psychiatric treatment/care that is being used increasingly. However, shielding does not have any unique definition and no directions/guidelines are therefore available regarding this type of treatment/care at the present moment.

As far as the theory goes the patient may need to be shielded (protected) by means of physical or personal shielding or both, as may be necessary.

The physical shielding has the effect that the patient is restricted to a minor part of the unit. The physical shielding could have several levels (larger or smaller areas to which the patient is restricted).

The personal shielding consists in a health professional keeping an eye on/supervising the patient. There may be several levels (you observe/supervise/permanently guard a patient (following his footsteps).

The purpose of shielding is to improve the psychiatric treatment and care and further its continuity. Shielding is arranged according to each individual in a way placing each patient at a shielding level based on a thorough assessment of the patient's disease and needs.

In January 2002 the County of Funen held a conference with the title: "What's hiding behind shielding?" It turned out that each had its own perception of the shielding concept. It was not possible to arrive at a definition in the course of the conference.

A working group under Danish Regions recommends taking the initiative to develop a common policy at county level in which all counties commit themselves to drawing up guidelines for shielding.

The Ministry of the Interior and Health can furthermore state that the Ministry has worked together with Danish Regions to organize a conference on shielding in the summer of 2003.

The Ministry is aware of the need for unique understanding of the shielding concept. It is still too early to say whether it will be necessary to legislate the area or for the Board of Health to draw up a regulation on shielding as a supplement to the initiative taken by Danish Regions. This conference and other initiatives will provide the basis for the assessment of the need for statutory/professional guidelines.

requests for information

I. 9: Developments concerning the consultation process underway in Denmark in respect of shielding (paragraph 86).

Please refer to C. 17.

I. 10: Comments on the subject of locking patients in their rooms during the day at the Nykøbing secure unit and, more particularly, on its therapeutic grounds and legal basis (paragraph 87).

The County of West Zealand
The practice applied at the Secure Unit is legalised by an amendment to the Danish Psychiatric Act adopted in June 2002.

The Danish Psychiatric Society
By way of general comment the Society points out that with regard to the practice of the Secure Unit to lock patients in their rooms, it is well-known from clinical experience that especially schizophrenics can hardly stand too much stimulus, and being locked in a room could therefore be a therapeutic measure that causes the patient's psychotic defined dangerousness to be reduced. The formal basis for this procedure is now an adopted schedule to the Danish Psychiatric Act. Taking the very special clientele being hospitalised at the Secure Unit into account, it is understandable that two or more members of the staff are present whenever the door is opened into the patient's room.

The Ministry of the Interior and Health
The Danish Psychiatric Act was amended in June 2002.

The purpose of the amendment was to introduce authority to lock up patient rooms at the Secure Unit. The Secure Unit is not an ordinary psychiatric unit. The Secure Unit admits the most dangerous cases of mentally ill persons while taking comprehensive precautionary measures.

First of all, authority to lock patient's rooms has been introduced for treatment and security reasons. A decision to this effect is made by a doctor based on a concrete assessment and must be done for the reason of individual need. This could be shielding the patient against too many stimuli in which shielding has a therapeutic aim or where shielding amounts to a restrictive measure to patients with severe psychoses in which these are eager to go to the limit and have no understanding for their own or other people's limits. In these situations patients' rooms are locked out of considerations for the patient himself and for other patients in the unit. Also a patient's room could be locked to the extent this is necessary to prevent vandalism to a not inconsiderable extent.

Furthermore, an authority to lock patients' rooms at night and briefly during daylight hours and similar has been set up. Only by letting patients sleep behind locked doors and by locking doors in connection with holding a daily meeting at noon for about half an hour and a weekly conference in the unit of about one and a half hours is it possible to safeguard fellow patients and the staff sufficiently while allowing for the treatment aspects. The National Board of Health as well as the Medico-Legal Council has recommended that locking in patients in their own room at the Secure Unit is to be continued.

Locking patients' rooms has been practised at the Secure Unit since its establishment in 1918. Locking takes place in consideration of the possibility of obtaining the best obtainable therapeutic result in a responsible way. It is vital that the framework in which therapeutic treatment is administered is never changing and the patients admitted to the Secure Unit need hard and fast rules.

Patients with severe psychoses may try to go to the limits, with no understanding for their own or other people's limits. In order to help these patients understand other people's limits and enter into a social dialogue with the surroundings, it may be necessary to restrict their transgressional behaviour by shielding the patient in his own room behind a locked door. Besides, it could be necessary, for therapeutic reasons to shield the patient in his own room to minimise stimuli. Frequently the most severely ill patients want the patient room to be locked as they feel ill at ease together with others. It is well-known that severely mentally ill patients find it intolerable being too close to other people. Several patients feel more comfortable knowing that the door to their room is locked in periods so they do not have to spend energy controlling their own impulses or acts.

Locking also serves the purpose of maintaining the requisite level of security in the establishment. The need to shield a patient in his own room with a locked door could be reasoned in concrete dangerousness. This dangerousness is connected to very ill patients often not being predictable in their acts. Therefore it may be necessary to shield patients to protect themselves and the other patients as well as the staff. The Secure Unit firmly believes that the previous practice of locking patients in their rooms is a major cause for the achieved therapeutic results achieved over time, and that restraint in pursuance of the Danish Psychiatric Act is applied in local treatment only on a relatively small scale.

5. Safeguards for psychiatric patients

recommendations

R. 32: The decision to transform voluntary stay in hospital into involuntary retention to require an opinion from a second doctor who is independent of the hospital (paragraph 91).

The National Board of Health
The National Board of Health considers that the suggested two-level examination procedure will not obviously improve safeguards in respect of patients as an external doctor will not be as familiar with a patient as the psychiatrists treating him at the unit.

The Danish Psychiatric Society
The issue of involuntary retention of a voluntary patient has been thoroughly dealt with in a "White Paper on the principles of restraint applied in psychiatry" (White Paper no. 1068/86). The Danish Psychiatric Act is based on this White Paper, including the rules for involuntary retention of a voluntary patient admitted to a hospital. The Danish Psychiatric Society finds that the existing regulations on the legal protection of patients' rights are fully satisfactory, and the Society does not recommend a change as suggested by the CPT.

The Ministry of the Interior and Health
The CPT's proposal for a two-level examination procedure when a voluntary patient's stay is transformed into involuntary retention is founded in a wish to place these patients on an equal footing with patients admitted by involuntary placement. Involuntary placement requires two doctors having independently concluded that the conditions have been met.

In the opinion of the Ministry this has to do with two different situations.

According to Article 9 of the Danish Psychiatric Act the head doctor is under duty to examine in case of involuntary placement as the head doctor of the receiving unit will make the final administrative decision whether to receive the patient by way of involuntary placement. The head doctor is not bound by the opinion formed by the doctor admitting the patient or, to a certain extent, that formed by the police.

The head doctor's prior assessment when receiving the patient is no easy task, and for obvious reasons it is not possible to make any great demands regarding the intensity of the examination. The head doctor is to check that the papers are duly completed and that the information stated is sufficient to justify the involuntary placement. The head doctor will normally be confined to basing his decision on the information received from the referring doctor without further testing. A more thorough examination of the patient will normally require observation over a period of time.

In a situation in which a voluntary patient in hospital wishes to be discharged the head doctor solely decides, based on the authority of Article 10 of the Danish Psychiatric Act, whether the conditions for involuntary retention are fulfilled.

As stated by the Danish Psychiatric Society this issue has been dealt with in the White Paper on the principles of restraint applied in psychiatry no. 1068/1986. Its argues that the rule is sensible and reasonable considering that involuntary retention is exercised after observation at a psychiatric unit for a period of time, and the basis for decision and the decision-maker are more qualified than in the case of involuntary placement where a doctor is to decide here and now, without any prior or deeper knowledge of the patient, whether involuntary placement is necessary.

The Ministry does not consider that a two-level examination procedure in this case will increase the legal protection rights of patients, as these are the same procedural guarantees as are being accorded to a person admitted by involuntary placement or involuntary retention, including mandatory appointment of a patient adviser and access to judicial review of the deprivation of liberty. Against this background the Ministry cannot support the CPT's recommendation.

R. 33: Steps to be taken to ensure that all forensic in-patients benefit, without exeption, from the appointment of a representative with the same skills and duties as patient advisers (paragraph 92).

It follows from Section 71 of the Danish Criminal Code that where there is a possibility that the court may order an accused to be placed in an institution or in safe custody, the court may appoint for him a guardian representative ("bistandsværge"), who together with the assigned lawyer is to assist the accused/defendant in the proceedings. According to this provision, the guardian representative should preferably be a member of the immediate family of the accused/defendant.

The legislator has thus found that where a guardian representative is to be appointed in a case that may result in a judgment ordering a defendant to be placed in an institution or in safe custody, the guardian representative shall preferably be a person whom the accused/defendant knows and trusts. In such a situation, the defendant will also have a defence lawyer to safeguard his rights.

In pursuance of Section 71(2) of the Danish Criminal Code, the court shall appoint a guardian representative ("bistandsværge") where it is ordered that the defendant must be placed in an institution or in safe custody, or where the decision gives rise to this possibility. According to this provision, the guardian representative shall stay apprised of the condition of the convicted person, and see to it that the stay and other measures last no longer than necessary. This provision does not mention that the guardian representative preferably shall be a member of the defendant's immediate family.

The guardian representatives shall fulfil the requirements of Statutory Order No. 77 of 5 February 1999 concerning guardian representatives issued by the Ministry of Justice. The Statutory Order contains i.a. a provision to the effect that representatives shall be appointed among applicants who must be considered to be especially suited to carry out the work involved in the appointment, including persons with connection to the health, social and education sector. A similar provision is contained in the Statutory Order No. 207 of 12 April 2002 concerning Patients' Counsellors issued by the Ministry of the Interior and Health. In addition, the Statutory Order concerning Guardian Representatives contains a Part on the tasks and powers of guardian representatives.

It should be noted that if a guardian representative grossly neglects the duties following from the appointment, or otherwise appears to be unsuited for the task, the court can decide that the person in question be disqualified from performing the task as guardian representative, cf. Section 17(6), cf. Section 17(2) of Statutory Order No. 77 of 5 February 1999 concerning Guardian Representatives.

R. 34: A system of review of involuntary placements by an independent body to be introduced (paragraph 95).

The Ministry of the Interior and Health
In the opinion of the Ministry the existing system of complaints meets the needs that the CPT asks for.

It is possible for a patient to have the decision of his involuntary placement reviewed by an independent local psychiatric patients' complaints board. The board consists of a county governor as chairman and two members, one of whom is appointed by the user organisation SIND and the other member is appointed by the Danish Medical Association. The medical expertise on the board is independent of the hospital concerned to which the patient has been admitted by way of involuntary placement. Furthermore, there is a possibility of judicial review of the deprivation of liberty.

In addition to this, every psychiatric unit keeps records of restraints, entering information concerning any kind of applied restraint under the Danish Psychiatric Act. The head doctor of the unit is to report every three months to the appropriate hospital authority (the county / the Copenhagen Hospital Corporation) and to the National Board of Health through the institution of the appropriate medical officer.

The National Board of Health use this information to work out annual statistics of developments in the application of restraint in psychiatry, which is an important element in the professional debate on the application of restraint, including the number of involuntary placements.

R. 35: All patients who are subject to immobilisation to benefit from the appointment of a patient adviser as from the outset of that measure (paragraph 98).

The County of South Jutland
In addition to the comment on item 75 the County points out that all patients who are subject to immobilisation by abdominal belt are offered a patient adviser. The Psychiatric Department of the County of South Jutland supports the appointment of patient advisers to all patients whether they so wish or not. This presupposes changes being made to legislation regarding this area.

The County of West Zealand
The Psychiatric Centre points out that all patients are offered a patient adviser, but that the Danish Psychiatric Act does not currently provide for patient advisers to be appointed to patients if they do not so wish. We consider it inappropriate to force a patient adviser upon a patient.

The National Board of Health
It has been suggested that patient advisers should be offered when patients are subject to immobilisation similar to conditions applying to patients deprived of their liberty and patients who are subject to compulsory treatment.

Under the current regulations immobilised patients are entitled to a patient adviser upon request. As some patients are immobilised for only brief periods, it will sometimes be difficult and may be not really necessary, but there is no doubt that a patient adviser is to be appointed if the patient so requests.

The Danish Psychiatric Society
The Danish Psychiatric Society finds the current regulations for appointment of patient advisers to patients immobilised by abdominal belts satisfactory. In practice every patient immobilised by abdominal belt is to be offered a patient adviser. If this immobilisation by abdominal belt goes on for more than four to six hours, the unit is to decide whether the patient should be subject to involuntary retention. If the patient is not mentally ill (and therefore cannot be subject to involuntary retention) this will in practice lead to discharge of the patient.

The Ministry of the Interior and Health
Appointment of a patient adviser takes place automatically in cases of involuntary placement, retention and compulsory treatment. In case of other restraining measures – physical force, immobilisation and protective fixation – the appointment takes place upon request.

The last point is important for example in case of immobilisation by abdominal belt or application of any other form of force and this did not take place as part of compulsory treatment and where a patient who has not been deprived of his liberty is concerned.

The patient is to be notified when the doctor considers it necessary to strap the patient to a bed.

Notification is to include information of the details of the contemplated restraint, the reason for applying restraint and its purpose. As a starting point, the notification is to be given as soon as possible and before the contemplated restraint is applied.

Notification may be omitted in urgent cases of immobilisation, in particular in cases when restraint is applied to prevent imminent danger. In these cases the patient is to be notified of the reason for applying restraint and its purpose as soon as possible after the compulsory intervention.

In connection with notification the patient is to be guided as to access to the appointment of a patient adviser. The appointment is not optional in the sense that it falls to the nurse on duty or others to consider whether the request is more or less well-reasoned. Where a request is advanced by the patient itself, an appointment is to take place immediately.

The question is to which extent there is a real need for automatic appointment. These are cases where immobilisation by abdominal belt has taken place and where a patient who is not deprived of his liberty is concerned.

The need for a patient adviser may in such cases, in particular, be a wish with the patient to be assisted in complaining of the applied restraint. Therefore, there is no reason for automatic appointment, but only for an appointment when the patient so requests. It is a prior condition that the patient has been informed of his entitlement to having a patient adviser appointed to him as provided by the Danish Psychiatric Act.

R. 36: All patients who are subject to shielding to benefit from the appointment of a patient adviser as from the outset of that measure (paragraph 99).

The National Board of Health
If shielding contains no compulsory elements the National Board of Health does not see any immediate need to offer a patient adviser to the patient.

The Ministry of the Interior and Health
According to existing regulations a patient adviser is appointed to all persons who are subject to involuntary placement, involuntary retention or compulsory treatment. In other case involving the use of physical force, immobilisation or protective fixation a patient adviser is to be appointed if the patient so requests.

In all situations involving a patient adviser restraining measures have been applied. As mentioned above there is not yet a unique definition of the shielding concept, but professionally it is seen as being part of the treatment/care and not a restraining measure. If shielding involves restraint, it will trigger – automatically or upon request – a patient adviser by law. It is not possible to apply restraint other than as authorised by the Danish Psychiatric Act.

If it is considered that a patient should be shielded, for example that he or she be restricted to stay in a particular part of the unit, and this is not a compulsory intervention under the Danish Psychiatric Act, this is possible only if the patient agrees.

In the opinion of the Ministry there is no need to appoint patient advisers to patients in voluntary stay at a psychiatric unit and not subject to restraint. The need for advice and counselling of the voluntary patient in hospital should be satisfied by the nursing staff in the unit and by the social workers associated with the hospital. The patient advisers should have the sole function of supporting the mentally disabled that are subject to restraining measures.

comments

C. 18: The Danish authorities are invited to consider providing appropriate initial and ongoing training to patient advisers (paragraph 90).

The Ministry of the Interior and Health
Funding for information and educational activities for patient advisers was provided in the 1996 Finance and Appropriation Act. The balance has hence been carried forward and these funds are managed by the Ministry of Justice.

Some of these funds go to LPD (the National Association of Patient Advisers and Guardians in Denmark), which has held courses for patient advisers and guardians since 1999 and has published "A handbook for Patient Advisers" and "A Handbook for Guardians" (in Danish). The association also distributes an LPD magazine and provides information through its web site www.lpd-info.dk

C. 19: Steps should be taken to ensure that patients have access to the telephone under conditions that will respect their right to privacy (paragraph 101).

In the opinion of the Ministry of the Interior and Health patients should basically be allowed access to a telephone in settings that will respect the patients' right to privacy. However, there may be therapeutic reasons to restrict such access.

requests for information

I. 11: Comments on the fact that it is not required that the doctors appointed to a local county complaints board and to the national complaints board be qualified psychiatrists (paragraph 93);

The Danish Psychiatric Society
The Society recommends that doctors appointed for the psychiatric patients' complaints boards are psychiatric specialists.

The Ministry of the Interior and Health
The Ministry can state that the intention behind the existing organisation is this: if at all possible the medical representative should be a psychiatric specialist or possess psychiatric insight to contribute the requisite psychiatric specialist knowledge to the patients' complaints board in complaints procedures. This question was carefully considered by the committee preparing the bill in connection with discussions of the patients' complaints board model, see the White Paper on the principles of restraint applied in psychiatry no. 1068/1986. In this White Paper it is pointed out that it would be obvious to appoint a general practitioner as a member of the board if a practising psychiatric specialist could not be found.

In the opinion of the Ministry the patients' complaints board must basically provide the requisite psychiatric information through the statement prepared by the head doctor for consideration of the complaint by the board and through, based on the circumstances, posing clarifying questions to the prescribing doctor that appears before the board. Such an approach will allow summary proceedings. If, exceptionally, a need for further expert information arises, such information must be provided through the board obtaining a supplementary expert declaration, for example from the Medico-Legal Council, which the parties to the case are allowed to comment on before the board makes its decision.

A psychiatrist is also not required to participate in considering complaints in the Patients' Complaints Board of the Health Service. The Board has informed the Ministry that in practice an opinion is always obtained from a psychiatric specialist consultant during the proceedings.

I. 12: Confirmation that, in all cases, there is a possibility of judicial review of an involuntary placement (paragraph 94).

The Ministry of the Interior and Health
Persons who are deprived of the liberty in pursuance of the Danish Psychiatric Act, i.e. involuntary patients who are committed, retained or brought back may complain of being deprived of their liberty to the local psychiatric patients' complaints board as the body of first instance. The board is to bring its decision before a court of law upon request from the patient or the patient adviser.

The Ministry therefore confirms that there is a possibility of judicial review of involuntary placement.

I. 13: The procedure applicable to forensic patients' placement in the Nykøbing secure unit (paragraph 96).

The Ministry of Justice
In very special cases, where less intrusive measures are not sufficient, the Minister of Justice - in pursuance of Section 40(1) of the Psychiatry Act - can decide that a person who is mentally ill and who continuously poses a serious and imminent danger to the life or physical well-being of others shall be placed in the secured unit at the County Hospital in Nykøbing Sjælland.

A request for a decision on placement of a certain individual in the secured unit is usually accompanied by an exhaustive account of the matter, including information on illness, treatment and the degree of danger exhibited by the person in question. If the request is not accompanied by sufficient information, the Ministry of Justice will request additional information.

When the Minister of Justice has received the necessary information, the matter will be submitted to the Medico-Legal Council for an opinion.

The task of the Medico-Legal Council, which is an expert body, is to render medical and pharmaceutical opinions to public authorities in cases concerning individuals' legal status, cf. Act on the Medico-Legal Council. The Council is independent in its work as experts. The Council, which consists of up to 12 physicians, submits opinions on i.a. issues concerning forensic psychiatry. Cases are generally considered by three members of the Council or experts, cf. Section 3(1) of the Rules of Procedure of the Medico-Legal Council.

If the Medico-Legal Council finds that the written documentation submitted to the Council cannot provide a sufficient basis for the Council's evaluation of the matter, the Council will advise the Minister of Justice as to which additional information would be important in this respect.

In this connection, the Council also indicates whether it is deemed most expedient to obtain this information *1)* by forwarding additional written documentation to the Council, based on, for example, a renewed examination, *2)* by the Council discussing with the physician, who made a statement earlier in the case or who otherwise has knowledge of the person or the matter at issue, or *3)* by the Council letting the individual concerned be examined by one or more of the members of the Council or experts, cf. Section 7(1) of the Council's Rules of Procedure.

When the Medico-Legal Council has submitted an opinion, the Minister of Justice immediately makes a decision in the matter. In this connection the Minister of Justice decides whether the rules of Section 40 of the Psychiatry Act have been complied with.

The Minister of Justice's decision shall be reasoned, cf. Section 22 and 24 of the Danish Public Administration Act.

Requests for placement of persons in the secured unit shall be treated as extremely urgent cases, as there is usually a pressing need to be able to transfer the person in question from an ordinary psychiatric ward to the secured unit, for safety reasons and with regard to the person in question as well, so that adequate treatment can be commenced.

The Minister of Justice's decision on placement of persons in the secured unit is subject to obligatory court review. It thus appears from Section 40(2) of the Psychiatry Act that within five weekdays after the decision to place a person in the secured unit, the Minister of Justice shall bring the matter before the court for a review in accordance with the rules of Part 43 of the Danish Administration of Justice Act.

A lawyer is assigned in the proceedings to the person whose placement in the secured unit the case concerns, cf. Section § 470(2).