

**Report on a visit to
Antrim PSNI Station**

On Monday 23 March 2009



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

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BACKGROUND

1. The Northern Ireland Human Rights Commission (the Commission) is a statutory body created by the Northern Ireland Act 1998.¹ It has a range of functions including reviewing the adequacy and effectiveness of Northern Ireland law and practice relating to the protection of human rights and advising on legislative and other measures which ought to be taken to protect human rights. Through the Justice and Security Act 2007, the Commission also has the power to enter a specified place of detention in Northern Ireland, in respect of an investigation.² In all of its work, the Commission bases its positions on the full range of internationally accepted human rights standards, including the European Convention on Human Rights (ECHR), other treaty obligations in the Council of Europe and United Nations systems, and the non-binding 'soft law' standards developed by the human rights bodies.
2. A range of bodies have grave concerns about the provisions regarding the permissible length of pre-charge detention in cases falling under the terrorism legislation and insist that a criminal suspect should not spend prolonged periods in state custody without charge. These include the Joint Committee on Human Rights,³ the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,⁴ the Council of Europe Committee on Legal Affairs and Human Rights⁵ and the International Commission of Jurists.⁶

¹ Section 69(2) of the Northern Ireland Act 1998.

² Section 16 of the Justice and Security Act 2007.

³ House of Lords, House of Commons Joint Committee on Human Rights (2008) *Monitoring the Government's Response to Human Rights Judgments: Annual Report 2008*, Twenty-first Report of Session 2007-08, HL 173/HC 1078, TSO, London.

⁴ Committee for the Prevention of Torture (2008) *Report to the United Kingdom Government on the Visit to the United Kingdom Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 6 December 2007*. Available: <http://www.cpt.coe.int/documents/gbr/2008-27-inf-eng.pdf>.

⁵ Committee on Legal Affairs and Human Rights (2008) *Report on Proposed 42-day pre-charge detention in the United Kingdom*. Available: <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc08/EDOC11725.htm>

⁶ International Commission of Jurists (2009) *Assessing Damage, Urging Action: Report of the Eminent Jurists Panel on Terrorism, Counter-Terrorism and Human Rights*, ICJ, Geneva. Available: <http://ejp.icj.org/IMG/EJP-Report.pdf>.

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3. Detention for unreasonably long periods runs counter to the requirements of Article 5 of the ECHR⁷ and can be ineffective and counter-productive. The Commission is on record as opposing lengthy pre-charge detention and has publicly stated that, at 28 days, the UK's existing pre-charge detention period is considerably longer than in countries that have also suffered terrorist attacks, such as the USA and Spain.⁸ The Committee for the Prevention of Torture has also criticised the practice of 28-day pre-charge detention and recently stated:

...the CPT has issued several reports on this matter focused on the safeguards in place and the conditions of detention in the police stations where persons held under the TACT 2000 are held.⁹

4. Antrim Police Station has been designated by the Secretary of State for Northern Ireland as a place of detention for the purposes of the *Terrorism Act 2000*. In Northern Ireland, the Independent Commissioner for Detained Terrorist Suspects, in his report of 17 January 2006, has found that the Serious Crime Suite facilities available at Antrim Police Station have not been designed for protracted periods of detention.¹⁰ The

⁷ Of particular relevance is Article 5(1) and (4), ECHR: 1. Everyone has the right to liberty and security of person. 4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

⁸ See: NIHRC press release, 'Counter-Terrorism Bill is debated in Parliament', 1 April 2008. Available: http://www.nihrc.org/index.php?page=press_news_details&category_id=2&press_id=336&Itemid=65. See also: NIHRC response to the Terrorism Bill, April 1999, 5.12, which states: "In Northern Ireland, Lord Lloyd's objections to bringing the maximum initial period of detention permitted under the PTA (48 hours) into line with that permitted under the ordinary criminal law (36 hours) are not apposite. The police in Northern Ireland *can* transfer detainees to high security facilities very quickly and the necessary reception and identification procedures need take no longer than in the case of other people arrested for serious crimes. We do, however, agree with Lord Lloyd (and therefore not with the White Paper) that the overall maximum period of detention should be *four* days. We remain unconvinced by the Government's reasons set out in paras 8.23 and 8.24 of the White Paper for having a longer maximum period. In *Brogan and others v UK* (1989) 11 *EHRR* 117, the European Court of Human Rights decided that four days and eleven hours was too long a period of detention without judicial authorisation. This Commission firmly believes that four days should be the maximum permitted of detention in all cases".

⁹ Email correspondence received from a senior official of the CPT, 1 June 2009. See the reports on visits to Albania in July 2005, paras 10-24 of Country Visit CPT/Inf (2006) 26; November 2005, paras 27-39 of Country Visit CPT/Inf (2006) 28; and December 2007, paras 5-13 of Country Visit CPT/Inf (2008) 27. Available: <http://www.cpt.coe.int/en/states/alb.htm>. The CPT carried out a visit to the UK and Northern Ireland in October 2008. As yet no report is available.

¹⁰ *Concluding Report (January to September 2005) Submitted to the Secretary of State for Northern Ireland, 17 January 2006*, p 25. Available: [http://www.nio.gov.uk/independent_commissioner_for_detained_terrorist_suspects_concluding_report_\(January-September_2005\).pdf](http://www.nio.gov.uk/independent_commissioner_for_detained_terrorist_suspects_concluding_report_(January-September_2005).pdf).

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Commission acknowledges that the Serious Crime Suite underwent a period of refurbishment in recent years, but understands that this work related to electronic improvements to the interview rooms and in-cell safety improvements such as the installation of 'life signs' monitors. The Commission understands that no changes took place in respect of the structure of the cells or to the exercise facility.¹¹

5. The Commission carried out a visit to Antrim Police Station in June 2007 in the context of an immigration investigation. It was concerned that an unaccompanied minor had been detained at the station for eight days. During the course of that visit, the Commission was advised that although the facilities were to be refurbished, should prolonged detention return to Northern Ireland, the cells would not be appropriate for holding detainees for lengthy periods of time.

In addition to its continued opposition to lengthy pre-charge detention, the Commission considered the holding conditions on 23 March 2009 of the detainees suspected of involvement in the killings of Sappers Mark Quinsey and Patrick Azimkar and Constable Stephen Carroll. The Commission has not examined any evidence in relation to the arrest of the suspects and does not question the legality of their detention. The Commission has instead focused on conditions of detention and considered those conditions in light of legally binding human rights instruments, in particular, Article 3¹² and Article 8¹³ of the ECHR.

The Commission also examined conditions in the context of other internationally accepted human rights standards, including the UK Government's treaty obligations and the non-binding 'soft law' standards developed by the human rights bodies, which include the United Nations' Standards Minimum Rules for the Treatment of Prisoners. While these standards are not legally binding, they are accepted as providing guidelines for international and domestic law as regards persons held in forms of custody. The UN guidelines provide a

¹¹ See: images of the interior of Antrim Custody Suite, including the cells and exercise area. Available: <http://www.icva.org.uk/site/events/conf05/ACCToner%5B1%5D.ppt>.

¹² Article 3, ECHR: No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

¹³ Article 8, ECHR: 1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

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comprehensive set of principles and provisions aimed at good practice in the treatment of prisoners. The UN asserts that these guidelines apply "from the moment of the apprehension of a person, definitely including the period before that person is charged".¹⁴ The European Committee for the Prevention of Torture (CPT) also inspects conditions of detention in police custody cells but it applies rules based on short stay detention rather than rules intended to assess lengthy pre charge detention. However, it should be noted that the CPT also uses the UN Rules to guide its inspections during country visits.¹⁵

6. In line with the legal framework¹⁶ concerning the arrest and custody of children in Northern Ireland, the Code of Practice for the Detention, Treatment and Questioning of Persons under section 41 and Schedule 8 of the Terrorism Act 2000, a juvenile is "any person under the age of 17".¹⁷ International human rights standards, however, define any person below the age of 18 years as a child¹⁸ and special protections therefore apply. During its visit therefore, the Commission also considered the holding conditions of the 17-year-old at Antrim Police Station, in the context of the UN Convention on the Rights of the Child, the UN General Assembly Comment Number 10 on 'Children's Rights in Juvenile Justice', the UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the UN Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the UN Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the UN Guidelines for Action on Children in the Criminal Justice System.

¹⁴ Email correspondence received from a senior official of the UN Working Group on Arbitrary Detention, April 2009, following a meeting with staff.

¹⁵ Confirmed in email correspondence with a senior official from the CPT, 1 June 2009.

¹⁶ Although Article 18 of the PACE (Amendment) (Northern Ireland) Order 2007 amends the PACE (NI) Order 1989 to include 17-year-olds in the definition of 'arrested juvenile'. This provision has not, however, yet commenced although it is understood that the Government's intention is to do so before the end of 2009.

¹⁷ Available: http://www.nio.gov.uk/draft_code_of_practice_for_the_detention_and_questioning_of_persons_under_section_41_and_schedule_8_of_the_terrorism_act_2000.pdf.

¹⁸ See: Article 1 of the UN Convention on the Rights of the Child and other international instruments recognising that persons under the age of 18 are children and deserving of special protection (for example, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, General Assembly resolution A/RES/54/263, 25 May 2000; the European Convention on the Exercise of Children's Rights Strasbourg, 25 January 1996. The recommended position of the UN Committee on the Rights of the Child is that protection for juveniles within the justice system be universally applicable to all under 18 years.

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7. At the time of the visit, on 23 March 2009, nine of the eleven people arrested on suspicion of involvement in the killings were in detention at Antrim Police Station. The majority of the suspects had been in custody since 14 March and two, including the 17-year-old, had been detained since 10 March.
8. In this context, but separately, the Commission received a telephone call at 9.43am on 23 March 2009 from a family member who stated that her son-in-law had been refusing food for eight days and had been taken to hospital on the previous Saturday due to concerns about his health. She reported that an independent medical officer had advised that her son-in-law should be sent to hospital as a consequence of medical concerns relating to pain and dehydration. The hospital treated the detained person that day and he was later returned to the police station. At approximately 4:30pm on 23 March 2009, the Commission was informed by the same family member that the detained person had been released from custody.
9. Given the concerns outlined above, the Commission sought by telephone, at approximately 3.00pm, the permission of the Chief Constable of the PSNI to attend Antrim Police Station for the purposes of inspecting the conditions under which the detainees were being held. The Chief Constable was in a meeting at that time, but at 4:30pm he had a telephone conversation with the Chief Commissioner. The Chief Constable granted the permission sought and made arrangements for an Assistant Chief Constable (ACC) to speak with the Chief Commissioner to discuss the practicalities of the visit.
10. At approximately 5.00pm, the Chief Commissioner spoke with the ACC who confirmed that the Commission would be permitted access to the detention cells but may have to seek consent to have access to the detainees and to their custody records. The ACC also advised that his Inspector at Antrim Police Station would telephone the Chief Commissioner to confirm the timing of the visit.
11. Immediately after that telephone conversation with the ACC, the Chief Commissioner telephoned the solicitor of one of the detainees on the issue of consent. The solicitor confirmed that there was no difficulty with this. The Chief Commissioner was advised that the police could ask detainees directly whether, in each case, he or she consented to speak with the Commission and whether the Commission could inspect his or her custody record.

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12. At approximately 5:15pm, the Chief Commissioner spoke with the Inspector from Antrim Police Station who confirmed the visit for 6.00pm. The Chief Commissioner and two members of staff with experience in this area of work left the office immediately and travelled to Antrim, arriving at the Police Station at approximately 6:15pm. The visit lasted until approximately 10:15pm.

13. The Commission would like to thank the Chief Constable for his permission and for the courtesy and respect shown by his staff to the Chief Commissioner and staff during the visit. As she had undertaken to do so the previous evening, the Chief Commissioner telephoned the Chief Constable the next morning as agreed, at approximately 9:30am.

THE VISIT

14. The Chief Commissioner and two members of staff inspected a number of areas in both floors of the custody suite. The Chief Commissioner, together with one member of staff, met with each of the nine detainees, with their consent. Meanwhile, the other member of staff was given access to custody records, consent having been first obtained by officers from the individual detainee. Custody records are important documents containing all events relating to the detained person's time in custody. Five of the detainees were interviewed in-cell and the remaining four were interviewed in the interview rooms of the custody suite. During the visit, several of the detainees' solicitors were also in the building and were present when the Commission spoke to the detainees in the interview rooms. A number of solicitors also took the opportunity to speak with the Commission.
15. The station is staffed jointly by police officers and civilian detention officers. The ratio at the time of the visit was 1:1, staff to detainee. All detainees commented on their satisfaction with the custody staff and stated that they had no complaints in this regard. The Commission observed the professional manner in which staff conducted themselves and witnessed the good practice in operation in this regard.
16. The ground floor of the custody suite has 10 cells (normally used for persons held under the Police and Criminal Evidence Northern Ireland Order) and which was holding 4 of the detainees. The first floor suite also has 10 cells (normally used for serious crimes) and was holding five detainees. The layout of each floor is the same. There were no other detainees in the custody suite.
17. All relevant areas of each floor were inspected including:
 - Processing area
 - Interview rooms
 - Consultation rooms
 - Cells
 - Toilet and shower rooms
 - Medical room
 - Video monitoring suite
 - Exercise area
 - Court room (video link)

INTERNATIONAL AND DOMESTIC LAW

European Convention on Human Rights

18. Article 3 of the ECHR provides that “No one shall be subjected to torture or to inhuman or degrading treatment or punishment”. This is the extent of the Article; there are no qualifications or exceptions, and no restrictions to the rights guaranteed. The prohibition is absolute and no derogation is permissible under Article 15, even in time of war or public emergency.
19. The absolute nature of Article 3 is well illustrated by *Chahal v United Kingdom*¹⁹. The UK wished to deport Mr Chahal, a Sikh separatist, to India, arguing that he had been involved in terrorist activities and posed a risk to the national security of the UK. The Court emphasised the absolute nature of the prohibition in Article 3 in the following terms:

Article 3 enshrines one of the most fundamental values of democratic society. The Court is well aware of the immense difficulties faced by States in modern times in protecting their communities from terrorist violence. However, even in these circumstances, the Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the victim's conduct.
20. Conditions of detention are frequent sources of complaints to the European Court of Human Rights and the Court has emphasised that persons in custody are in a vulnerable position, and that the authorities are under a duty to protect their physical well-being.²⁰
21. For treatment to fall within the prohibition of Article 3, it must “attain a minimum level of severity”.²¹ This test will apply whatever the category of conduct in issue. The effect of the threshold is that even activity which is undesirable will not fall within the scope of Article 3 unless it causes sufficiently serious suffering or humiliation to the victim. In addition, the Court requires the treatment to go beyond what one would unavoidably expect in detention. In *Poltoratskiy v Ukraine*,²² the Court said:

¹⁹ (1997) 23 EHRR 413.

²⁰ *Barabanshchikov v Russia* [2009] ECHR 24 para 40.

²¹ *Ireland v United Kingdom* (1979-1980) 2 EHRR 25.

²² [2003] ECHR 216 and see: *Slavcho Kostov v Bulgaria* [2008] ECHR 1531 for similar comment.

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In accordance with Article 3 of the Convention the State must ensure that a person is detained under conditions which are compatible with respect for his human dignity, that the manner and method of the executive of the measure do not subject him to distress or hardship exceeding the unavoidable level of suffering inherent in detention, and that, given the practical demands of imprisonment, his health and well-being are adequately secured.²³

22. A number of cases have questioned the practice of using solitary confinement. Complete sensory isolation coupled with social isolation destroys the personality and constitutes a form of inhuman treatment and cannot be justified by the requirements of security or any other reason.²⁴ However, the prohibition of social contact with other prisoners for security reasons does not, of itself, reach the threshold for constituting inhuman treatment or punishment, though consideration will need to be given to the duration of such social isolation.
23. In *Il v Bulgaria*,²⁵ the Court categorised as inhuman and degrading treatment the detention of an individual for three months in a very small cell without any natural light or satisfactory ventilation, coupled with poor sanitary facilities and no provision for spending time out of his cell.
24. While the Court has, in the main, considered conditions of detention in light of Article 3, it is clear from *Raninen v Finland*,²⁶ a case relating to unnecessary handcuffing for two hours in the context of an unlawful detention, that treatment which does not attain a level of severity such as to bring it within the scope of Article 3 may give rise to a violation of Article 8²⁷ which protects the right to private and family life. One can consider anything relating to personal health, philosophical, religious or moral beliefs, family and emotional life, friendships and, subject to reservations, professional and material life as part of private life²⁸.

²³ Above, para 132.

²⁴ *Ócalan v Turkey* (2005) 41 EHRR 985.

²⁵ [2005] ECHR 378.

²⁶ (1997) 26 EHRR 563 para 63.

²⁷ Article 8, ECHR: 1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

²⁸ Cohen-Jonathan G (1993) 'Respect for private and family life' in Macdonald, Matscher and Petzold (eds), *The European System for the Protection of Human Rights*, Martinus Nijhoff, Dordrecht.

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25. Article 8 is a qualified right. This means that an interference with the right can be justified in certain circumstances. Where the interference is justified, there will be no breach of Article 8. The circumstances where an interference with the right can be justified are set out in the second part of the article (Article 8 (2)). In deciding whether action is necessary in a democratic society, the state's margin of appreciation arises.

International standards

26. The Standard Minimum Rules for the Treatment of Prisoners²⁹ (the Rules) make it clear that its provisions cover the general management of institutions and are applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to 'security measures'.
27. Part E of the Rules makes it clear that persons arrested or detained without charge shall be accorded the same protection as that accorded under Part I and Part II, section C. The UN Standard Minimum Rules for the Administration of Juvenile Justice state, at 27.1:

The Standard Minimum Rules for the Treatment of Prisoners and related recommendations shall be applicable as far as relevant to the treatment of juvenile offenders in institutions, including those in detention pending adjudication.
28. Additional safeguards are included in various United Nations resolutions, (including those in relation to children – The Code of Conduct for Law Enforcement Officials, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Declaration of Tokyo (1975) (in relation to detainees resisting food).
29. The standards relevant to this report relate to accommodation, exercise and contact with the outside world, and will be considered in detail in the conclusions and recommendations section of this report.

²⁹ The Standard Minimum Rules for the Treatment of Prisoners were adopted by the first UN Congress on the Prevention of Crime and Treatment of Offenders which was held in Geneva in 1955. The Rules were approved by the UN Economic and Social Council in 1957. In 1977, paragraph 95 was added to the Rules making most of the Rules applicable to persons arrested or detained without charge.

OBSERVATIONS ON CONDITIONS OF DETENTION

This section provides an overview of conditions as they were observed by, or reported to, the Commission during the course of the visit. Where a detainee made a particular complaint that will be identified.

30. Cells

- a) Each cell is bare with the exception of:
 - A two-inch thick, plastic-coated mattress on a raised concrete area which serves both as a bench and a bed
 - A small, plastic pillow
 - A metal, fixed toilet
 - A built-in, metal, hand-free sensor water dispenser
 - A paper, disposable sheet, and
 - Brown, woollen anti-ligature blanket(s).
- b) All detainees complained that the beds were unsuitable, being a concrete slab with a thin mattress. Some had, upon request, been given an additional two-inch thick mattress and/or extra blankets to create extra padding. Given the lack of association, some prisoners were not aware that additional bedding could be provided.
- c) Cells would ordinarily accommodate people for no more than a day or two.
- d) The cells are lit by a large, fluorescent strip light which has a dimming function.
- e) There is no window, although each cell contained glass bricks.
- f) Cells are heated and ventilated via external controls which cannot be regulated within Antrim Station.
- g) Cells are monitored by a built in CCTV camera which operates continuously.
- h) Cells are fitted with a call button.

31. Lighting

- a) The visit was conducted after 6.00pm, by which time no natural light could be observed in the cell or elsewhere in the custody suite. As a result of its design, the designated exercise area allows only minimum daylight. A number of

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detainees stated that they were unable to distinguish between daytime and nighttime except when they were in the designated exercise area.

- b) In cell, detainees can request that the light is dimmed or completely extinguished at night; however, several detainees complained that the lights were turned on routinely at night during checks which disturbed their sleep.
- c) One detainee complained that when the cell lights are out the infrared from the camera lights up the cell and causes uncomfortable static energy.
- d) One detainee complained that he was experiencing dizziness in the cell and thought that it might be due to the artificial lighting and that he was reading a lot.

32. Heating

- a) The Commission noted during its visit that the temperature in the building differs greatly between upstairs and downstairs with some areas including consultation, interview rooms and cells being extremely warm, while other areas were quite cold. Officers confirmed that the whole of the station is heated and ventilated via external controls in Belfast which cannot be regulated in Antrim Police Station.

33. Food

- a) All food is eaten in cell.
- b) All detainees stated that the condition of the food was poor overall, but edible.
- c) Water or juice was provided with meals.
- d) No external food is allowed.

34. Exercise

- a) Detainees are permitted solitary access to the designated exercise area on request providing no one else is waiting to use the area.
- b) The designated exercise area, which is on the first floor of the building, is approximately twice the size of a cell. It is an empty, enclosed concrete windowless space similar in design to the cells with a caged ceiling. The ceiling is

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covered by a raised roof which leaves little room for daylight.

- c) The designated exercise area is audio and video monitored.
- d) There are no smoking facilities for detainees.

35. Safety

- a) Cells are designed with smooth surfaces, built in sanitary facilities and anti-ligature bedding to prevent detainees from self-harming.
- b) Toiletries are provided to, and then removed from, detainees.
- c) Shoes are kept outside of cells.
- d) Cells are under CCTV surveillance.
- e) Each cell has a call button.
- f) Cells are physically checked at least hourly by staff throughout the night, or more often if there is a threat to the detainee, for example, from self-harming.
- g) During checks, a member of staff switches on the light and looks through the cell hatch.
- h) One detainee had self-harmed by choking since arrival and had been examined, monitored by, and received treatment from the Medical Officer.

36. Hygiene

- a) Detainees are permitted to wear their own clothes.
- b) Families have been permitted to send in clothes.
- c) All detainees are permitted access to a shower daily.
- d) The shower room is basic, one on each floor and built to minimise opportunity for self-harm.
- e) Toilets are in-cell.
- f) Cells have a hand sensor water dispenser, but no soap.

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- g) Toiletries are provided by staff including disposable razors and toothbrushes.
- h) When the Commission inspected one shower room, there was a disposable razor in the room and an officer was asked to have it removed because of the danger posed.
- i) The female detainee could be brought to an alternative toilet if requested. When the Commission raised this with the female detainee, she replied that she was not aware of this and had not asked.

37. Privacy

- a) No strip searches were conducted and the Commission was advised by an officer that if a strip search was required, the doctor would undertake it.
- b) Detainees are under continuous visual surveillance while in cell, in interview, and in the exercise unit.
- c) Cameras in cells are blacked out in the toilet area for privacy.
- d) An officer stands outside the bathroom during showers.
- e) An officer may observe a detainee shaving.
- f) Interview rooms are subject to audio and video recording.

38. Health

- a) A medical room is on site and the station operates a rota system with local or retired general practitioners.
- b) No detainee had any complaint about the health services.
- c) Those detainees already on medication on arrival continue to receive their medication which is dispensed by the doctor.
- d) Several detainees are smokers and, because there is no access to an on-site facility where smoking could be permitted, some detainees are using nicotine gum supplied on request, or offered, by the officers. Other forms of nicotine replacement aids, such as inhalators, have been offered.

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- e) One detainee advised the Commission that he had been refusing food since the afternoon of Saturday 21 March (approx 52hrs).

39. Association

All detainees are held without association with anyone other than their legal representatives, investigators and PSNI station staff.

CONCLUSIONS AND RECOMMENDATIONS

Compliance with the European Convention on Human Rights

40. The observation of the Commission is that the conditions of detention that it found on 23 March 2009 at Antrim Police Station, in respect of each of the nine detainees, do not amount to inhuman or degrading treatment. However, this observation is that of the Commission only, based on its investigation that night and only on that information available to it at that time. It is, of course, for any court to determine whether, in each case, the facts, viewed in light of the circumstances as a whole, would breach Article 3 of the ECHR. It should be noted, however, that the UN Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment state:

...the term 'cruel, inhuman or degrading treatment or punishment' should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently ... of his awareness of place and the passing of time.³⁰

41. The observation of the Commission is that the conditions of detention that it found on 23 March 2009 at Antrim Police Station, in respect of each of the nine suspects, could engage Article 8 of the ECHR if the detention continued under the same circumstances.

Compliance with international standards

42. The Commission would like to commend staff at Antrim custody suite for their conduct and professionalism which was not only observed during the visit, but also communicated by detainees to the Commission. The Commission would like to reiterate that the purpose of the visit to Antrim was not to investigate staff but to inspect the conditions of detention and, with this in mind, the Commission agrees with the Independent Commissioner for Detained Terrorist Suspects, who stated, in January 2006, that the Serious Crime Suite at Antrim has not been designed for protracted periods of detention. The Commission observes that the conditions of detention that it found on 23 March 2009, in respect of each of the nine

³⁰ Available: <http://www2.ohchr.org/english/law/bodyprinciples.htm>.

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detainees, do not comply with the UN Standard Minimum Rules for the Treatment of Prisoners and/or international standards for the protection of children in the following respects.

43. Accommodation

The in-cell beds at Antrim Police Station are unsuitable for use during lengthy periods of detention particularly those with medical problems.

The Commission noted variations in temperature throughout the facility and confirmed with custody officers that temperature cannot be regulated locally and that any requests on ventilation matters are directed by the Antrim Police Station to the PSNI headquarters in Belfast.

In accordance with Rule 10 of the UN Standard Minimum Rules for the Treatment of Prisoners, the Commission recommends that:

All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

44. Daylight

Detainees advised that they are unable to tell whether it is day or night. The Commission observed glass bricks in one wall of each cell and it is not clear whether natural light is reflected through these bricks. Even if it does, given the size of the glass bricks and their construction, only the barest natural light could reflect through. The Home Office Guidance on Safer Detention and Handling of Persons in Police Custody provides that "All cells should have both natural and artificial light; detainees must be able to see natural light to tell whether it is day or night",³¹ and Her Majesty's Inspectorate of Constabulary for Scotland has stated that being held in custody for a number of days in a cell with no natural light could cause some disorientation³².

³¹ Association of Chief Police Officers and Home Office (2006) *Guidance on Safer Detention and Handling of Persons in Police Custody*, National Centre for Policing Excellence, Bedfordshire. Available: http://police.homeoffice.gov.uk/publications/operational-policing/Safer_Detention_and_Handlin1.pdf?view=Binary

³² Her Majesty's Inspectorate of Constabulary for Scotland (2008) *Thematic Inspection Custody Facilities*, HMICS, Edinburgh, Annex A: General Findings and Comments on Good Practice in the Design of Police Custody Facilities, para 55. Available: <http://www.scotland.gov.uk/Publications/2008/03/28152100/3>.

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In accordance with Rule 11 of the UN Standard Minimum Rules for the Treatment of Prisoners, the Commission recommends that:

The windows should be large enough to enable the prisoners to read or work by natural light, and shall be constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation.

45. Exercise

The Commission observed that detainees do not have at least one-hour's exercise each day or any time spent in the open air and no special provision was made for the exercise of the juvenile.

In accordance with Rule 21 of the UN Standard Minimum Rules for the Treatment of Prisoners, the Commission recommends that:

(1) Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

(2) Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end installations and equipment should be provided.

In accordance with Rule 47 of the UN Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the Commission recommends, that:

Every juvenile should have the right to a suitable amount of time for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities. Every juvenile should have additional time for daily leisure activities, part of which should be devoted, if the juvenile so wishes, to arts and crafts skill development. The detention facility should ensure that each juvenile is physically able to participate in the available programmes of physical education. Remedial physical education and therapy should be offered, under medical supervision, to juveniles needing it.

46. **Communication with family**

The detainees had no direct contact with their families, except in four cases – three detainees advised that after ten days they had had one 10-minute conversation on the telephone with their wives, and one detainee had access to either his mother or father in their capacity as 'appropriate adult'.

The Commission is unclear as to whether contact was offered and refused in other cases, but it observed a lack of consistency in terms of entitlement or access to contact; for example, it appeared that the 17-year-old juvenile has had no contact with any member of his family during his detention, and one detainee, who is a single parent, had had no contact with his child.

In accordance with Rule 37 of the Havana Rules, the Commission recommends that:

Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.

In accordance with Rule 92 of the Havana Rules, the Commission recommends that:

An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.

In accordance with Rules 60 and 61 of the Havana Rules, the Commission recommends, that:

Every juvenile should have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and the defence counsel.

Every juvenile should have the right to communicate in writing or by telephone at least twice a week with the person of his or her choice, unless legally restricted, and should be assisted as necessary in order effectively

to enjoy this right. Every juvenile should have the right to receive correspondence.

47. Stimuli

In addition to emphasising the need for compliance with the international minimum standards, the Commission further recommends that:

Detainees should be provided with appropriate stimuli throughout their detention with special attention given to the needs of juveniles³³ and vulnerable adults.

³³ This recommendation would be in line with the UN General Assembly, General Comment No 10: Freedom of Expression, Article 19 Covenant on Civil and Political Rights, 29 June 1983.