

## 6 | Monitoring and inspecting solitary confinement units

All the aspects of solitary confinement discussed in this Sourcebook – placement, conditions of confinement, regime, contact with the outside world, and the provision of medical care – should be subject to close scrutiny and review by national and international inspecting bodies.

The importance of installing mechanisms for inspection and scrutiny of all prisons and other places of detention is emphasised in international and regional instruments:

There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services (SMR Rule 55; Body of Principles Principle 29(1); EPR Rules 9, 92, 93).

In addition to physically inspecting places of detention, the inspecting body should have full and free access to those held within:

A detained or imprisoned person shall have the right to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment in accordance with paragraph I of the present principle, subject to reasonable conditions to ensure security and good order in such places (UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, Principle 29(2)).

Inspections are particularly important in segregation units, as they are closed units within closed establishments, shut off not only to the outside world, but also to other sections of the prison and to the prison society at large. As the principles cited above make clear, the inspecting body should have unhindered access to both the physical facilities at the unit, and to prisoners held in them. The inspecting body should also have access to relevant documentation, for example records of placement and review hearings, the unit log and records, CCTV footage and so on. Health staff on the visiting team must have full access to the medical registers and records. Inspectors should ensure that segregated prisoners have the opportunity to talk about their treatment privately and confidentially.

Under Article 14 of the Optional Protocol to the UN Convention against Torture (OPCAT), State Parties undertake to grant the Sub-committee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:

1 (a) Unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;

(b) Unrestricted access to all information referring to the treatment of those persons as well as their conditions of detention;

(c) Subject to paragraph 2 below, unrestricted access to all places of detention and their installations and facilities;

(d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Subcommittee on Prevention believes may supply relevant information;

(e) The liberty to choose the places it wants to visit and the persons it wants to interview.

2. Objection to a visit to a particular place of detention may be made only on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit. The existence of a declared state of emergency as such shall not be invoked by a State Party as a reason to object to a visit.

The inspecting body will examine some of the following<sup>86</sup>:

- Was the decision to place the prisoner in segregation taken in accordance with the law?
- What were the reasons for placing the prisoner in the unit, is the prisoner aware of these reasons and was he given an opportunity to appeal against his placement?
- Is the placement decision reviewed on a regular basis?
- Do physical conditions of detention (cells, shower area, exercise yards) comply with the required standards?
- Do prisoners have access to adequate medical care?
- Are medical records being kept in good order in a secure place?
- Do prisoners have access to an appropriate regime?
- Do prisoners have regular access to an outside area?
- Do prisoners have contact with the outside world?

Nationally inspections are usually carried out by a body appointed by the ministry in charge of prisons, and report to it. They may also appoint a local watchdog body to provide regular monitoring of individual prisoners between inspections. These bodies will pay particular attention to segregation units and to the use of force and restraints.

### Case study: Extreme Custody: a report by HM Chief Inspector of Prisons for England & Wales.

In 2006 HMCIP carried out a thematic review of all the segregation units in the High Security Estate (HSE) and of the Close Supervision System (CSC) designed to manage disruptive prisoners. These were the units where prisoners were held in isolation in the most restricted and controlled environments with the most potential for prisoner damage. The thematic review followed previous criticisms of the approach of staff in high security segregation units from coroners and others.

The report charted the progress that had been made – some of it innovative, particularly in integrating mental health approaches with custodial care – but also pointed out the distance still to travel. The inspection exposed a hard core of long stay prisoners in segregation units who had complex needs and who could not be managed safely elsewhere. Though there was some psychiatric and therapeutic support in the units, it was not enough, and many prisoners were deteriorating further in lengthy solitary confinement. HMCIP recommended individual, multidisciplinary and properly resourced care plans to ensure that prisoners' health was supported and that opportunities for mental and social stimulation and time out of cell were provided.

The inspection team examined records and interviewed both prisoners and staff. It made 17 recommendations for improvements in the CSC and 21 in the HSE segregation units, and identified 17 areas of good practice. Only one recommendation was rejected.

This review illustrates the constructive role that an independent inspectorate can have, opening up to scrutiny an otherwise hidden part of a closed prison system where the potential for over-control by staff and of consequent prisoner deterioration is high. Where the prison system is also a mature user of inspection and makes good use of the findings, the process can result in positive outcomes for prisoners.

Prison inspections may also be carried out by regional bodies. In Europe, for example, the Committee for the Prevention of Torture (CPT), whose reports we have referred to throughout the Sourcebook, may visit any place of detention within the jurisdiction of Member States. International bodies charged with inspecting and monitoring places of detention include the International Committee of the Red Cross (ICRC), which is mandated to visit any place of detention in situations of armed conflict, and the UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The Optional Protocol to the UN Conventions Against Torture (OPCAT) establishes both an international body of experts to conduct preventative visits to any place of deprivation of liberty in State parties (see above), and a National Preventative Mechanism, which is an independent body tasked with regular and ongoing preventative visits to any place of deprivation of liberty in that country.

## Notes

- 86 See: Association for the prevention of torture (APT), *Monitoring Places of Detention: A Practical Guide*. Geneva, April 2004; HM Chief Inspectorate of Prisons, *Expectations: criteria for assessing the condition in prisons and the treatment of prisoners* (updated regularly).