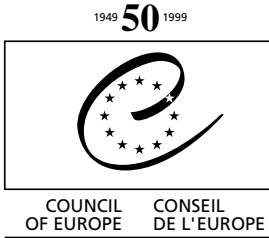




A visit by the CPT - What's it all about?

15 Questions and Answers
for the Police



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Geneva, May 1999

About the Council of Europe

The Council of Europe was created in 1949. This organisation aims at promoting democracy, human rights and the rule of law within the 41 Member States. In 1997, the Human Rights Directorate launched a Programme "Police and Human Rights 1997 – 2000". The aims of the Programme are to raise awareness, define tools and build networks about police and Human Rights in police services in Europe.

About the Association for the Prevention of Torture (APT)

The APT is a non-governmental organisation based in Geneva. Its mandate is to prevent torture and ill-treatment. It seeks among others to promote visiting mechanisms to places of detention. The APT proposed the initial project of the European Convention for the Prevention of Torture and thus, actively monitors the activities of the CPT.

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“Respecting the human being in your custody, a challenge for tomorrow’s police service”

The ideal of the founders of the CPT of zero tolerance towards ill-treatment by organs responsible for the application of the law, is still far from being reached in many countries, where law enforcement officials remain the main human rights violators.

Although respect for individual fundamental rights and police efficiency are not antagonistic, the CPT’s missions sometimes arouse mistrust among the police, when in reality the members of this commission are also there in order to certify that the police carry out their duty with the utmost competence and responsibility.

May this small publication help to introduce the police to the dynamics of this institution.

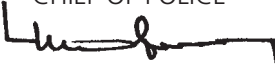
This booklet has been produced within the framework of the Council of Europe Programme entitled “Police and Human Rights 1997 – 2000”. It has been written by the Association for the Prevention of Torture (APT), in collaboration with the Council of Europe and the Geneva police service. The Swiss authorities have agreed to finance its publication.

Our acknowledgements and deepest thanks go to all those who have contributed to this booklet:

- Ms. Lene Wendland, author
- Mr. Christian Charvet, Geneva police Department, illustrator
- Ms. Claudine Haenni, Secretary-General of the APT
- Ms. Anita Hazenberg, Programme Officer for the “Police and Human Rights 1997 – 2000” programme, Council of Europe
- The Swiss Federal Department of Foreign Affairs
- The Swiss Federal Department of Justice and Police
- The Council of State of the Republic and Canton of Geneva

Geneva, May 1999

CHIEF OF POLICE



L. WALPEN

INTRODUCTION

Imagine that you are a police officer on duty one night. Suddenly you are confronted with a group of people, calling themselves the Committee for the Prevention of Torture. They say they want to inspect your police station. What do you do?

Some police officers will know what to do. They may have heard of this Committee. Some may even have been notified in advance by their superiors or by someone from a central ministry. However, it is a fair guess that many will not know what the Committee is about and what is expected of them – as police officers – when faced with a visit.

This booklet aims to remedy that. It is targeted exclusively at police officers. It will explain what happens during a typical visit by this Committee to a police station.

It will also give some background information on the Committee and the standards it has set for the treatment of people held in police custody.



1. What is the Committee for the Prevention of Torture?

The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereafter the CPT) is a body of experts which has been created by an international Convention agreed to by 40 member States of the Council of Europe. Other countries outside the Council of Europe may be invited to sign up to the Convention in the future. (Countries who are currently party to the Convention are listed in Appendix 1.)

The Convention authorises the CPT to visit any of the member States and to enter and examine any place where people are deprived of their liberty by a public authority – including, of course, police stations and other short-term detention facilities run by the police.

The purpose of such visits is to strengthen the protection of detained persons against ill-treatment and torture. The task of the CPT is *not* to condemn or criticise a State or the police, but to help States ensure that the treatment of detained persons does not amount to torture or ill-treatment. In other words, the aim of the work of the CPT is to *prevent* ill-treatment and torture from happening, rather than react to a complaint after prohibited treatment has occurred.

The State has accepted that it will be obliged to *co-operate* fully with the CPT at all stages of a visit. The police as agents of the State are therefore required also to conform to this agreement. In turn, the CPT has to observe full *confidentiality* with regard to what it finds during the course of a visit.

2. What are the guiding principles of the CPT?

In fulfilling its task of helping to prevent ill-treatment and torture, the CPT is guided by the following four principles:

- the prohibition of ill-treatment and torture of persons deprived of their liberty is absolute;
- ill-treatment and torture are repugnant to the principles of civilised conduct, even if used in milder forms;
- ill-treatment and torture are not only harmful to the victim but also degrading for the official who inflicts or authorises them;
- the practice of ill-treatment and torture is ultimately prejudicial to the State in general.

3. Who are the members of the CPT?

The members of the CPT are required to be “persons of high moral character, known for their competence in the field of human rights or having professional experience in the areas covered by (the) Convention”. They are proposed by the member States and appointed by the Council of Europe’s Committee of Ministers. Members of the CPT have different professional backgrounds, although the majority are lawyers and doctors.

4. Why should a police officer cooperate with the CPT?

It is important to keep in mind when dealing with the CPT that each State party to the Convention has authorised it to do a number of things, which in most countries may seem outside normal experience for non-law enforcement personnel. Police officers, however, cannot rely on what to their mind is ‘usual’ practice. In other words, what is explained in this booklet should not be discarded by the reader simply because it ‘does not apply in my country.’ If a police officer works in any of the States parties to the Convention, the Convention provides that s/he must permit the CPT to exercise a set of special rights which it has been granted under that Convention.

5. Does ill-treatment and torture exist in Europe?

Yes, unfortunately it does. In many countries, national courts have condemned police officers for infliction of ill-treatment and torture on detainees. The European Court of Human Rights has confirmed that ill-treatment and torture still occur today in Europe. The CPT has also been led to conclude that in some instances detainees run a great risk of serious ill-treatment and/or torture by the police.

The CPT has heard the following allegations, in certain cases supported by medical evidence.

- suspension by the legs with the head just a few centimeters above the ground,
- the application of electric shocks to various parts of the body (including the penis);
- the placing of a metal bucket on the head and then striking it with blows from wooden sticks;
- blows struck with truncheons or wooden clubs;
- “falaka” (beatings on the soles of the feet).

In most cases, however the CPT is confronted with less severe forms of ill-treatment of detainees, such as the infliction of slaps, punches, kicks or verbal abuse both at the time of arrest and during custody.

6. What are the CPT “Measuring Rods” for police detention?

In the course of its visits and through the recommendations it makes, the CPT has developed a certain number of principles and recommendations. These constitute a concrete set of guidelines aimed at preventing ill-treatment and torture once suspects are in police custody.

It should be noted that not all of these recommendations are directed at the police officers on the ground. Some of these concern policy issues which will be decided at the political and/or administrative level.

A. Procedural Safeguards

The CPT insists in all situations on three fundamental safeguards against ill-treatment, which should be applied from the outset of police custody, that is from the moment at which someone is obliged to be with the police. Those fundamental safeguards are the following:

- the right to inform a close relative or third party of one's arrest;
- access to a doctor;
- access to a lawyer.



For these rights to be fully effective in practice, detained persons should be informed of their rights in a language they can understand.

Among the other safeguards recommended by the CPT are:

- electronic recording of interrogations;
- establishing a code of conduct for interrogations;
- maintaining a single and comprehensive custody record;
- setting up an independent national mechanism for examining complaints of ill-treatment and torture in custody.

B. Material Conditions

Even though police custody is usually of short duration, the CPT considers that the material conditions of detention must satisfy certain basic rules:

- a “reasonable” cell size;
- adequate lighting and ventilation;
- equipment for rest (bed, mattress and blankets);
- possibility to comply with toilet needs when required under decent, clean conditions;
- provision of food, including one full meal every day.

C. Foreign Nationals Detained Under Aliens Legislation

For foreign nationals held at point of entry facilities, be it at airports or other border areas, the CPT recommends that such persons should be provided with the following:

- suitable means for sleeping;
- access to their luggage;
- access to suitably-equipped sanitary and washing facilities;
- exercise in the open air on a daily basis,
- medical care when required.

The CPT recommends that the period of time spent by immigration detainees in police stations should be kept to the absolute minimum.

7. What does the CPT typically do when visiting a police station?

The CPT typically does the following things during a visit to a police station:

- examines the general conditions at the police station and conducts a thorough physical examination of the detention facility itself, including measuring cell size, checking lighting etc;
- observes the attitude of the police officers and other staff toward the people detained at the station;
- examines the records relating to the custody of the persons held at the police station;
- interviews police officers on duty;
- interviews detainees, without witnesses, in order to ascertain how they have been treated in custody, and hears any specific complaints of ill-treatment or torture they may have.



The Convention authorises the CPT to enter every room and office of the police station, including the right to move inside such places without restrictions.

8. Is the police station notified of a CPT visit in advance?

Not necessarily. Approximately three days prior to a periodic visit to a country, the CPT informs the government of the institutions it intends to visit. However, it does not specify the time or day when it plans to visit. Normally the State appoints a person to be *liaison officer* to handle all communication and arrangements between the State and the CPT. This specially appointed *liaison officer* will inform places of detention if they can expect a CPT visit some time in the near future.

It should be made clear, however, that notification will not always take place, and that the notification can be very short.

It is also important to remember that the CPT is not bound by the list of places it has announced to the government it intends to visit. This means that some places of detention may receive a CPT visit without prior notification at all.

9. How does the Police Officer identify members of a CPT delegation?

For security reasons a police officer on duty at a police station obviously has a right, and indeed a duty, to check the identity of anyone gaining access to the station. Members of a CPT delegation will always be carrying two or three kinds of documents identifying them and explaining their task:

- 1) A personal identity document;
- 2) A "To Whom It May Concern" document issued by the Council of Europe, written in the local language, explaining who the members of the delegation are and what their purpose and privileges are;

- 3) Sometimes, members of the delegation will be carrying a document by the competent national authorities, identifying the delegation and explaining their right to full access to all places of detention.

Before every visit to a country, the CPT sends a list of the names of the members of the delegation to the government. Such a list may in some cases have been distributed by the *liaison officer*.

10. How quickly does the Police Officer on duty have to allow the CPT access?

Regardless of whether or not there has been prior notification of the visit or of the names of the delegation members, the identification and security check of the delegation at the door of the police station should not take more than a few minutes. Once security checks have taken place the members of the CPT should be immediately admitted.

11. Can the CPT have access to the detention facility?

After being admitted to the police station the delegation may ask the officer-in-charge a few general questions in order to get a broad picture of the facility. Those questions will normally be about the number of cells, the official capacity, the number of detainees and whether any detainees are being interrogated elsewhere.

Hereafter the delegation usually split up into sub-groups, one or more of which will concentrate on assessing the physical condition of the detention facilities, the other or others will focus on an examination of the custody records and other files.

The group going to the detention facilities will usually ask the officer on duty to be taken there immediately.



12. With whom does the CPT want to speak?

The delegation will ask to be provided with a list of all the detainees presently held at the police station. Out of hearing, and preferably out of sight of the custody officer, members of the delegation may ask some or all of the detainees if they consent to speak to the delegation. Those who give their consent (and are able to do so) will be *interviewed in private* by the delegation about the conditions of detention, their treatment, whether they have been informed of their rights, if they have been allowed access to a lawyer and/or doctor. Names of detainees will not appear in the CPT report. If necessary, one or more of the detainees will be examined by a doctor.

With regard to some specific categories of detainees, the CPT will do the following:

A. Intoxicated Detainees:

If any of the detainees is alleged to be too intoxicated to be interviewed by the committee, the CPT will want to confirm that itself.

B. Detainees Who Are Sleeping:

Although it may often choose not to do so, the committee is entitled to ask for any sleeping detainees to be woken up and asked for consent to be interviewed.

C. Detainees Who Pose a Security Risk:

In case of a detainee who poses a security risk, the CPT delegation will listen to the advice of the police officers as to the necessity for security measures. However, the CPT has the final word on what security measures should be taken for the purposes of an interview. For example, the CPT may not accept the view of the police that a detainee, must wear handcuffs during an interview.

D. Detainees Who Are Being Interrogated:

If any of the detainees are under interrogation during a visit by the CPT, the delegation will usually not interrupt the interrogation. However, if there is a reason to suspect that there is ill-treatment taking place during the interrogation or that the interrogation is being used as an excuse to keep the CPT from speaking to one or more particular detainees, the CPT has the right to interrupt the interrogation in order to interview the detainee.

E. Vulnerable Groups

The CPT will give special attention to members of vulnerable groups like minors or mentally ill detainees.

13. Does the CPT also want to hear the view of Police Officers?

Yes. The CPT is not only concerned with speaking about and with detainees at a police station. They will also want to speak to the police officers on duty in order to record their opinions on conditions of detention at the police station. They will want the police officers' views on the procedures in place, of the physical and working conditions, and whether there is anything which ought to be improved. If considered necessary, the CPT will interview police officers in private. Names of police officers shall not be publicly disclosed without the express consent of the officer concerned.

14. Can the CPT have access to detainees' files?

Yes. Members of the CPT delegation will also talk with the police officers on duty and look through the custody records and other files relating to detention. They will usually ask officers for details of all aspects of the procedures at the station relating to the detention and treatment of detainees.

A. Custody Files:

The delegation will look through the custody files of the detainees in depth.

The CPT may want to supplement the information they find in the custody files with that of the investigation files. Information about whether the detainee has been offered access to a lawyer or been informed of his/her rights will usually be recorded in those files.



B. Medical Files:

The CPT also has a right of access to the medical files of the detainees. If there is a doctor on duty at the time of the CPT visit, he/she will normally be interviewed. The police doctor can discuss in general terms the medical situation at the station and the content of the medical files. However, if this doctor is asked by the CPT to discuss individual cases this will only be done with the medically qualified member of the delegation.

Medical files, selected at random, can also be looked at to get a sense of the general health situation at the police station.

15. What Happens After the Visit?

On the basis of the visit findings, the CPT prepares a report which it sends to the government, together with whatever recommendations it judges will reduce the risk of ill-treatment and torture. These recommendations address the material conditions of detention (size of cells, lighting, etc.), the regime of detention (range of available activities, contacts with the outside community), and the extent of legal

safeguards surrounding detention (access to a lawyer as from the outset of police custody etc.). The report will set out the information gathered by the CPT about the various places visited, and it will point out any specific problems encountered.

After the government receives the CPT report, it is given a period of time in which to respond to the findings and recommendations. The government may want to respond to questions raised in the report and explain what measures have been taken to implement the CPT recommendations.

The reports exchanged between the CPT and the State can be viewed as part of an ongoing confidential dialogue aimed at improving the protection of people in detention against ill-treatment and torture. The general rule is that only the authorities of the state involved are allowed to decide that a CPT report can be made public. Almost all states, however, have permitted publication of the report of the CPT visit to their country.

The CPT urges governments to ensure that persons who are in charge of places of detention visited by the CPT are made aware of the CPT's particular observations on conditions there, once the report has been communicated to the national authorities.

If the CPT comes across a problem which, in the judgment of the Committee, requires urgent action to improve the treatment of persons deprived of their liberty it may bring this issue to the attention of the authorities immediately at the end of the visit. This is only done in exceptional cases.



CONCLUDING REMARKS

The CPT is a mechanism which has been set up to prevent improper treatment of persons deprived of their liberty. It does so not by working against the police, but by co-operating with them. It is important that the CPT should not be viewed by police officers as an adversary, but rather as a body of committed professionals, whose primary goal is to prevent ill-treatment and torture from happening.

However, the CPT on its own can only do so much during their visits, which in the case of most police stations will be few and far between. It is the responsibility of each police officer to ensure humane treatment of all the suspects who are arrested or detained at the police station where he or she is on duty. Ensuring the humane treatment of suspects and detainees is to the advantage of all, including the police officers themselves.

A CPT visit – what's it all about?

All the member states of the Council of Europe have agreed to a Convention which establishes the Committee for the Prevention of Torture (CPT). The work of the CPT has direct implications for the work of the police, especially in relation to the treatment of detainees at police stations. This booklet is targeted exclusively at the police and aims to explain the work and mandate of the CPT insofar as it relates to the police. The main points contained in this booklet are the following:

- The CPT conducts visits to places of detention, including police stations;
- The aim of the work of the CPT is to contribute to the prevention of torture and inhuman or degrading treatment or punishment;
- The State, including the police, is obliged to fully cooperate with the CPT;
- The CPT is obliged to keep any findings from a visit confidential;
- A police station may or may not be notified of a visit by the CPT;
- After identifying themselves, members of a CPT delegation are authorised to be given immediate access to a police station they intend to visit;
- The Convention authorises the CPT to have unlimited access to places of detention and complete freedom of movement within them;
- The CPT has access to all detainees;
- The CPT has access to all files;
- The CPT also wants to hear the views of police officers;
- The CPT produces a report to the government of its findings from a country visit.