

Annual Report 2017/2018

Annual review of the Dutch National Preventive Mechanism

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1

Monitoring issues

No one should be treated in a degrading or humiliating manner. This aim also applies in the Netherlands to those detained, cared for or treated under non-consensual conditions, or whose freedom has been restricted by the government in any other way. Under the UN's Optional Protocol to the Convention against Torture (OPCAT)¹, a number of different organisations in the Netherlands together form the so-called National Preventive Mechanism (NPM). This 2017-2018 annual report features the NPM assessment of detention conditions and the treatment of detainees or people whose freedom has been restricted.

According to the annual report, the rights of those whose freedom has been restricted in the Netherlands are respected. Based on the outcomes of these monitoring efforts, the NPM concludes that people whose freedom has been restricted are cared for in an adequate and conscientious manner. However, a number of reports and recommendations do call for the further strengthening of human rights at legislative, policy and practical level. The five main themes in 2017 and 2018 are outlined below.

Forensic care

In 2017 and in the first few months of 2018, incidents occurred at a number of forensic care institutions. The Inspectorate of Justice and Security as well as the Health and Youth Care Inspectorate, which are part of the NPM, are investigating incidents in eight hospitals².

From [a detailed analysis of these investigations](#) it is clear that changes are required for a number of commonly recurring themes. These themes are safety, staffing, management, communication and risk assessment. As staff in the hospitals work very hard, often in difficult circumstances, it is crucial that the institutions and the

¹ According to Article 3 of the OPCAT, member states are obliged to 'set up, designate or maintain [...] one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment'. These bodies, responsible for conducting site visits within the member state, are referred to as the NPM.

² Forensisch psychiatrisch centrum De Rooyse Wissel, Forensisch psychiatrische afdeling Roosenburg, Forensisch psychiatrische kliniek De Woenselse Poort, Forensisch psychiatrisch centrum de Kijvelanden, Forensisch psychiatrisch centrum de Oostvaarderskliniek, Forensisch psychiatrisch centrum dr. S van Mesdag, Forensisch psychiatrisch centrum de Pompestichting and Forensisch psychiatrisch centrum van der Hoeven.



people who work in them are equipped in the best possible way to carry out their work effectively and safely. The Inspectorate has advised the Minister of the situation and recommended that suitable measures should be taken. As part of the NPM, the Inspectorate of Justice and Security has launched an investigation into decision-making around the granting of freedoms to patients. It started with the Forensic Psychiatric Centres, while the Penitentiary Psychiatric Centres will follow later this year.

An important policy change in Forensic Care is the entry into force on 1 January 2019 of the Forensic Care Act (*Wet forensische zorg*). This Act provides the framework for the new forensic care system. Its main objectives are the right patient in the right place, the creation of sufficient forensic care capacity, high-quality care based on the principle of public safety, and a strong link between forensic and curative care. The law covers all types of forensic care: outpatient and inpatient, support and treatment.

Monitoring the use of force

Forensic care

The Health and Youth Care Inspectorate, which is part of the NPM, conducted an investigation in 2017 into [admission to Forensic Psychiatric Centres of patients covered by the Psychiatric Hospitals \(Compulsory Admission\) Act \(*Wet Bijzondere Opnemingen in Psychiatrische Ziekenhuizen, Wet bopz*\)](#). According to this investigation, these patients were cared for effectively and with a high degree of professionalism in Forensic Psychiatric Centres.

Mental health care, nursing home care and care for the disabled

The Health and Youth Care Inspectorate, which is part of the NPM, also monitors clients/patients in mental health care, nursing home care and care for the disabled where force is applied. It is important that force is avoided wherever possible and that an effective prevention policy is in place. This aim can be achieved through person-specific care, good and properly trained carers, and a focus on quality. The Inspectorate has assessed these aspects for a large number of care providers, working on the principle that good, person-specific care reduces the need for restraint and force.

Within disability care and nursing home care, the Health and Youth Care Inspectorate assessed some thirty involuntary treatments at the client level under the Psychiatric Hospitals (Compulsory Admission) Act in 2017 and 2018. Care providers received a report and were sometimes required to take measures in order to improve the situation. The individual institutional reports can be found on [the Health and Youth Care Inspectorate website](#).

An aggregated report on the investigation [Use of force and separation practice in mental health care \(2015–2016\)](#) was published in 2018. The Health and Youth Care Inspectorate concludes that the results of the investigation present a mixed picture



on the implementation of the Psychiatric Hospitals (Compulsory Admission) Act and on the reduction of separation. Decision-making around involuntary treatment as well as the prevention, implementation and documentation of separations must improve in particular. This fact especially applies to addiction care institutions. Care providers must endeavour to ensure that they comply with the applicable standards and monitor their own compliance with these standards in the interests of patient safety. The Health and Youth Care Inspectorate has undertaken follow-up visits. In the case of two institutions, a separation room could not be used on the Inspectorate's instructions until the necessary improvements had been made.

Quality of performance of tasks by prisons

The Inspectorate of Justice and Security, which is part of the NPM, has conducted an investigation into [the quality of the performance of tasks by prisons](#). In the majority of the six penal institutions investigated in 2017, this quality was found to be inadequate. These prisons have greater or lesser problems in terms of internal safety, communication with prisoners and the availability of properly trained staff. Since these problems may also occur in the other 18 penal institutions, the Inspectorate of Justice and Security wants the Custodial Institutions Agency to screen these institutions for the risks in terms of staff, safety and communication with prisoners.

According to the Inspectorate of Justice and Security, the majority of prison staff do not have enough time to tackle the regular tasks that arise within institutions effectively. Staff do not have enough time for contact with prisoners. As a result, they are no longer always able to recognise signs of a potential escalation or other unsafe situations at an early stage. Lack of staff and consequently inadequate supervision of prisoners undermines internal safety. In addition, staff encounter more aggression from prisoners and there has been an increase in the number of aggression-related incidents (2015: 5, 2017: 18). The penal institutions also lack the modern technology required to prevent contraband goods from being brought in or to detect them.

In recent years, penal institutions have held more and more prisoners with psychiatric and behavioural problems. These individuals are more aggressive, will not listen to reason and have more psychiatric problems. As a result, staff feel unsafe. Under a new policy, prisoners have recently been allowed to move around the institution more independently. If this policy is to work effectively, adequate staffing and good technology are essential. It is also important that staff know the target group well, including the level of freedom that is appropriate to each prisoner. These fundamental requirements have not yet been met.

In the short term, the problems identified pose risks for the safety of staff and prisoners. In the long term, the Inspectorate anticipates risks around the effectiveness and enforcement of prison sentences as well as their consequences for the reduction of recidivism, among other things.

The Inspectorate of Justice and Security makes six recommendations in its report, ranging from the screening of all penal institutions to investment in education and training. Both the Custodial Institutions Agency and a number of the establishments



visited have meanwhile launched initiatives to tackle the risks identified. The Inspectorate applauds these developments and hopes that this trend will continue. It will monitor compliance with the recommendations through scheduled and unannounced inspection visits.

One relevant development within the prison system is the establishment on 1 June 2017 of the Life Sentence Advisory Board (Adviescollege Levenslanggestraften). The Advisory Board assesses whether prisoners who have been given a life sentence can begin activities with a view to their potential release back into society after 25 years of imprisonment. This recommendation was communicated to the Minister for Legal Protection by the Advisory Board. The Minister decides whether or not prisoners should be permitted to embark on these rehabilitation activities, including leave, once they have served 25 years of their sentence.

Detention of young people in young offenders institutions

The Inspectorate of Justice and Security as well as the Health and Youth Care Inspectorate are part of the NPM. Inspections carried out in spring 2018, interim monitoring and the previous cycle of screenings of young offenders institutions led the Inspectorates to identify [persistent bottlenecks and difficulties with regard to the issues of staffing and the changing target group](#)³. The quantitative and qualitative staff resources have come under pressure. In addition, the youths who are detained at the young offenders institutions on average are older upon entry, and suffer more serious and long-term existing problems. The issues identified will also be taken into account when establishing risk-based monitoring at the young offenders institutions.

Terrorist wings

Medical care

The Health and Youth Care Inspectorate, which is part of the NPM, has investigated [whether good care is provided on the terrorist wings of the Vught and Rotterdam prisons](#). It concludes that the care provided on the terrorist wing is adequate. Subject to specific security regulations, the care provided to prisoners on the terrorist wing is no different to the care received by prisoners on any other wing. For example, there is prompt access to expert care. Although consultations are often held on the wing itself for security reasons, this situation does not cause a delay in the provision of care. The division of responsibility, consultation structure and method of information exchange have been defined, while medication safety has been guaranteed. Psychologists play a more active role in the provision of care than in other wings, even where there is no mental health disorder in the strict sense of the word.

³ In this context, the Inspectorates collaborated with the Education Inspectorate as well as the Social Affairs and Employment Inspectorate.



The Health and Youth Care Inspectorate also concludes that management and staff on both wings invest in the achievement of a humane, person-specific approach and treatment of prisoners within the regime of the terrorist wing. By using their skills and setting a good example, staff endeavour to engage with prisoners with a view to preparing them for their return to society.

The Health and Youth Care Inspectorate has made a number of recommendations for improvements at both prisons: inclusion of a confidential doctor in the 'hunger strikers' protocol, implementation of the guidelines on 'suicidal behaviour in prisons', greater focus on requesting information prior to arrival, clarification of the request note and provision of a room with glass walls for medical consultations. However, the care provided on the terrorist wing is still deemed to be adequate.

Quality of the performance of tasks

In 2016, the then Ministry of Security and Justice said that it would investigate the possibility of offering different levels of security within the regime of the terrorist wing. A higher degree of customisation has been possible since the third quarter of 2018. As a result, once a prisoner has been placed on the terrorist wing, the Custodial Institutions Agency will assess whether the prisoner on this wing should be allowed to participate in joint activities and/or work. The Inspectorate of Justice and Security will assess the quality of the performance of tasks on the terrorist wings, specifically prison facilities and rehabilitation.

Areas for improvement of police custody

Police

The Commissions of Oversight for Police Custody are part of the NPM and have monitored the care of those being held in police custody. Generally speaking, the Commissions are positive about what they found during their many visits. The accommodation is adequate, as is generally the care and treatment of detainees. In the Commissions' opinion, there are three overarching areas where improvements are required: safety/emergency response, medical care and record-keeping.

Safety and emergency response are cause for concern in all units. For example, evacuation exercises are not always carried out as frequently as they should be and the process around these exercises is not always properly guaranteed. In detention complexes where 24-hour police custody is provided by full-time custody staff, this problem is far less common than in police stations which have only a handful of cells in which detainees are detained for no more than a few hours. Roles and responsibilities are less well defined in the latter case. It is clear, however, that the police are making improvements with this regard through active unit-wide emergency response coordination.

Another area of concern is medical care for detainees. While the engagement and provision of care by doctors are adequate, the storage and administration of medicines requires attention. These processes do not always comply with the



relevant regulations. The Commissions believe that there is room for improvement in seven units.

The final area of concern in the field of police custody is record-keeping. For example, the log in which all contacts with the detainee and any points of note are recorded is not always complete. The Commissions see room for improvement in five units with this regard.

Royal Netherlands Marechaussee

The Detention Areas Supervisory Commission of the Royal Netherlands Marechaussee, which is part of the NPM, monitors the care of detainees in detention facilities managed and used by the Royal Netherlands Marechaussee. This Commission was relaunched at the end of 2017 with three new members. In 2018, the Commission visited nine of the 30 locations in the Netherlands⁴.

Generally speaking, the treatment and care of those held in the detention facilities of the Royal Netherlands Marechaussee are adequate. Sufficient attention is also paid to the safety of both detainees and staff. However, the Commission still sees room for improvement.

The requirements for camera use within the inspected locations are interpreted in different ways, for example. In addition, the Commission recommends that the record-keeping system should be modified so information on suspects' drug use and risk of suicide or aggressive behaviour is always recorded in detail. The Commission also believes that the Royal Netherlands Marechaussee should sign up to the covenant between the police and the mental health care sector, so people with mental health care issues are not detained or are detained for as short a time as possible.

⁴ The Royal Netherlands Marechaussee has operations throughout the Kingdom of the Netherlands. Detention facilities which are used and managed by the Royal Netherlands Marechaussee can also be found in the Caribbean Netherlands. The Commission's monitoring of these facilities does not form part of the activities in the context of the NPM, because the NPM was only established for the European part of the Kingdom.



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About the National Preventive Mechanism

The Dutch NPM is made up of all organisations with a supervisory or advisory role in the area of people whose freedom has been restricted. NPM participants jointly hold all authorisations required of NPMs under the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)⁵. All participants have their own tasks, responsibilities and authorisations in accordance with the law. Some organisations do not take part in the National Preventive Mechanism's periodic consultations.

The following organisations take part in the NPM consultations:

- The Inspectorate of Justice and Security (which also serves as coordinator of the NPM network)⁶
- Health and Youth Care Inspectorate⁷
- Commissions of Oversight for Penitentiary Institutions⁸
- Commissions of Oversight for Police Custody⁹
- Detention Areas Supervisory Commission of the Royal Netherlands Marechaussee

The overview in Appendix I describes the authorisations of the various individual organisations.

The organisations collaborate in areas where supervisory authorities overlap. The NPM organisations conduct their monitoring activities on the basis of existing assessment frameworks. The principles on the prevention of torture or other cruel, inhuman or degrading treatment or punishment are a standard component of these assessment frameworks.

⁵ Parliamentary Papers TK 33826, No 18.

⁶ In 2018, the Inspectorate of Security and Justice changed its name to the Inspectorate of Justice and Security.

⁷ On 1 October 2017, the Inspectorate of Health Care and the Inspectorate of Youth Care merged to form the Health and Youth Care Inspectorate.

⁸ The sounding board group of the Commissions of Oversight for Penitentiary Institutions represents the Commissions of Oversight during NPM meetings.

⁹ The National Centre for the Commissions of Oversight for Police Custody represents the Commissions of Oversight during NPM meetings.



Activities in 2017 and 2018

Activities in relation to the restriction of freedom and detention are partly carried out within the context of the participants' NPM duties. See the organisations' individual annual reports for further information on their activities outside of the aforementioned key themes.

Tabel a. *Activities in relation to restrictions on freedom of movement and detention*

Inspectorate of Justice and Security	<ul style="list-style-type: none"> • Annual report for 2017 • Annual report for 2018
Health and Youth Care Inspectorate	<ul style="list-style-type: none"> • Annual review of 2017 • Annual review of 2018
Commissions of Oversight for Penitentiary Institutions	<ul style="list-style-type: none"> • Sounding board group annual reports • Annual reports by individual commissions for 2017 • Annual reports by individual commissions for 2018
Commissions of Oversight for Police Custody	<ul style="list-style-type: none"> • Annual Report by National Centre for 2017 • Annual reports by individual commissions for 2017 • Annual Report by National Centre for 2018 • Annual reports by individual commissions for 2018
Detention Areas Supervisory Commission of the Royal Netherlands Marechaussee	2018 Annual Report ¹⁰

¹⁰ As a result of the Commission's limited staffing levels in 2017, the activities were recorded in the 2018 Annual Report.



Appendix

NPM consultation participant profile matrix

Location ¹¹	Inspectorate of Justice and Security	Health and Youth Care Inspectorate	Commission of Oversight for Penitentiary ¹²	Commission of Oversight for Police Custody	Detention Areas Supervisory Commission of the Royal Netherlands Marechaussee
Prison system	V	V	V		
Young offenders institutions	V	V	V		
Forensic care institutions <i>criminal law</i>	V	V	V		
Forensic care institutions <i>civil law</i>		V	V		
Detention centres for foreign nationals	V	V	V		
Aftercare institutions for former detainees	V	v ¹³	V		
Police custody ¹⁴	V	V		V	
Detention areas of the Royal Netherlands Marechaussee	V	v ¹³			v ¹⁵
Military detention areas (Stroe)	V	v ¹³	V		
Closed mental health care institutions <i>criminal law</i>	V	V			
Closed mental health care institutions <i>civil law</i>		V			
Closed youth care institutions (Youth Care Plus) <i>civil law</i>		V			
Police transportation within the Netherlands	V	v ¹³		V	
Transportation within the Netherlands Transportation and Support Service	V	v ¹³	v ¹⁶⁻¹⁷		
Transportation to other countries (by air)	V	v ¹³			
Closed care retirement homes		V			
Closed disabled care facilities		V			
The Hague International Criminal Court ¹⁸					

Note: see the next page for footnotes.



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- ¹¹ 'Detention areas'/'detention centres' are not limited to physical locations/buildings but includes all locations from the time of arrest onwards.
- ¹² The Commission of Oversight also has a judicial function.
- ¹³ The Health and Youth Care Inspectorate monitors locations where care is provided or withheld.
- ¹⁴ Includes Judicial Police and Railway Police holding locations and mobile police detention complexes.
- ¹⁵ The Detention Areas Supervisory Commission of the Royal Netherlands Marechaussee monitors all detention areas managed and used by the Royal Netherlands Marechaussee. In accordance with new working agreements from October 2018, this Commission monitors cells leased by the Royal Netherlands Marechaussee at the Schiphol Detention Centre and the waiting rooms of the court section of this complex where the Royal Netherlands Marechaussee has the capacity of judicial police. The Detention Areas Supervisory Commission does not deal with complaints. Complaints relating to actions by Royal Dutch Marechaussee employees are dealt with by the Defence Complaints Commission.
- ¹⁶ A special Commission of Oversight has also been established for the Transportation and Support Service. This commission conducts monitoring activities and makes recommendations but does not handle complaints. Complaints are handled by the relevant penal institution's Commission of Oversight.
- ¹⁷ The Commission of Oversight for the Transportation and Support Service does not monitor the Transferium.
- ¹⁸ The Red Cross is responsible for monitoring the conditions and treatment of those who have been incarcerated.

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