

# Annual Report 2019

Annual review of the Dutch National Preventive Mechanism

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# 1

## Monitoring

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 United Nations Optional Protocol to the Convention against Torture (OPCAT)<sup>1</sup>, organisations with a supervisory or advisory role in the area of people whose freedom has been restricted in the Netherlands together form the National Preventive Mechanism (NPM). In this annual report for 2019, the NPM reports on the detention conditions and the treatment of detainees or people deprived of their liberty.

According to the annual report, the rights of those deprived of their liberty 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, recommendations have been made in a number of reports to further strengthen human rights at the legislative, policy and practical level.

The following sections contain the main findings of the NPM's monitoring activities in 2019.

### Prison locations

#### *Medical care staff*

During the first six months of 2019, which is part of the NPM, the Health and Youth Care Inspectorate visited all prison locations, immigration detention locations and forensic hospitals. The Inspectorate drew up and published reports of each visit. It additionally published a fact sheet containing its main conclusions.

The most pressing issue highlighted by the discussion partners of the Health and Youth Care Inspectorate was the difficulty of finding and retaining sufficiently qualified staff to provide medical care and treatment in prisons and forensic

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<sup>1</sup> 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.



psychiatric centres. At the same time, there was an increase in the number of vulnerable target individuals. These include detainees with a minor mental impairment or those suffering from psychological disorders or drug addiction. There was also a relatively older target group who suffered from somatic problems and there were more detainees with a combination of psychiatric and somatic problems.

#### *Quality of performance of duties*

In the NPM's annual report for 2017–2018, the Inspectorate of Justice and Security, which is part of the NPM, reported on an investigation into the quality of the performance of duties within the prison system. The investigation found that the majority of prison staff had insufficient time to perform their regular duties within penitentiary institutions properly. A lack of staff and consequently lack of detainee supervision undermines internal safety. Staff also stated to the investigators that they faced more aggression from detainees and that the number of aggression-related incidents had risen.

The issues of inadequate internal safety and the lack of staff do not yet seem to have been resolved in 2019. The Commissions of Oversight, which are part of the NPM, found that conflicts among detainees and the use of violence against staff resulted in placement into solitary confinement and transferral more often. In addition, there was an increase in the number of emergencies recorded. The Commissions also noted that the recruitment of new staff is not an easy task. In addition to experience and vigilance, service-mindedness and understanding are prerequisites for the quality of work in penitentiary institutions. In view of staff ageing, rejuvenation of the workforce is urgently required.

In addition to thematic and incident investigations, the Inspectorate of Justice and Security also conducted nine site visits to penitentiary institutions and detention centres in 2019. The purpose of a site visit includes maintaining contact with the location and obtaining location-specific information directly from the source. The Inspectorate of Justice and Security aims to visit all penitentiary institutions and detention centres every three years.

#### *Incident investigation*

The Inspectorate of Justice and Security, which is part of the NPM, investigated an incident in which a man randomly stabbed a passenger in the Amsterdam metro. The purpose of the investigation was to obtain an insight into how the various bodies involved in this case treated this man and what lessons can be learned. In [its investigation](#), the Inspectorate concluded, among other things, that the organisations concerned failed to get a proper grip on the man and the opportunities for doing so were underused.

Additionally, the Inspectorate concluded that the man had not been properly prepared for his return to society during his detention at Vught Penitentiary Institution. Even though the problems and the associated risks had been identified during his detention, they had been insufficiently taken into consideration when determining the procedure following his detention.

This concerned a civil procedure, even though a parallel criminal procedure was ongoing. The Inspectorate established that it was not clear who was responsible for the perpetrator and that there was limited contact between the parties concerned.



Consequently, a complete picture of the situation was lacking and opportunities to accommodate the perpetrator at an appropriate location were missed.

### *Life sentence prisoners*

Since the introduction of the Life Sentence Advisory Board Decree (*Besluit Adviescollege Levenslanggestraften*) in 2017, a new policy has been implemented providing for a reassessment of every life sentence prisoner 25 years after the start of pretrial detention. During the first 25 years of detention, life sentence prisoners only take part in standard activities, such as sports and possibly work. Life sentence prisoners are not entitled to leave or reintegration activities throughout this period. If a detainee has been in detention for 25 years, the Life Sentence Advisory Board issues advice on whether a life sentence prisoner may work on their potential return to society. By the end of 2019, the Minister of Justice and Security had not granted permission to any life sentence prisoners to work on reintegration.

The Commissions of Oversight monitored this situation in 2019 and handled complaints from detainees. They expect the number of life sentence prisoners to rise in the years ahead. Combined with allocation across more locations, this is expected to increase the workload of penitentiary institutions.

## Terrorist detention units

The Inspectorate of Justice and Security, which is part of the NPM, issued a [positive assessment](#) on the manner in which prison staff perform their duties at the two specialist terrorist detention units (*terroristenafdelingen*)<sup>2</sup>. The terrorist detention units, the Dutch Probation Service and the municipalities were judged to be undertaking sufficient efforts to prepare detainees for a responsible return to society.

The units endeavour to induce detainees to abandon their extremist ideology during their detention period. Whether these efforts ultimately lead to the renunciation of radical ideology, and whether they contribute to a safe return to society, is impossible to say for certain. In order to form an opinion on this topic, long-term research will need to be conducted.

Security measures aimed at preventing the further radicalisation of detainees apply at these terrorist detention units. The detainees are held in groups of no more than five. This enables staff to foster good relations and hence keep a watchful eye on them in the interests of internal and external safety and security. Depending on

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<sup>2</sup> The terrorist detention units are located in the prisons in Vught and in De Schie (Rotterdam). The Vught terrorist detention unit can accommodate 41 people and the De Schie terrorist detention unit can accommodate seven. At the time of the investigation in autumn 2018, 31 detainees were accommodated in Vught and five in De Schie. Suspects and individuals convicted of a terrorist offence, both men and women, can be placed in a terrorist detention unit.



their conduct, detainees are given more or less freedom of movement. The group composition is aimed at preventing mutual influence among detainees. The Inspectorate took a positive view of these measures.

The Inspectorate believes that the legal position of detainees in a terrorist detention unit is safeguarded. Detainees are treated in a respectful manner. Detainees have a day programme, which includes outdoor exercise, work and spiritual care. They are also allowed to receive visitors.

However, the Inspectorate regarded the exchange of information between the terrorist detention units and the Dutch Probation Service on the one hand, and the terrorist detention units and the municipalities on the other as a risk. Furthermore, the Inspectorate noted that the cooperation between the terrorist detention units and the municipalities is currently based on personal contacts rather than on documented agreements. Personal contacts may cease to exist, causing knowledge to be lost. In its report, the Inspectorate made various recommendations to help address these issues.

## Secure care wards

### *Applications for new placements*

The Health and Youth Care Inspectorate, which is part of the NPM, assesses all applications for opening or expanding secure care wards. This concerns placements under the Psychiatric Hospitals (Compulsory Admissions) Act (*Wet bijzondere opnemingen in psychiatrische ziekenhuizen*) in nursing home care, care for the disabled and mental health care. In 2019, the Inspectorate assessed some 170 applications to determine whether conditions were in place to provide proper and secure care to patients. The Inspectorate conducted 32 visits in total to assess whether care providers complied with the requirements.

The Inspectorate pointed out that greater attention should be paid to the field of tension between care and security. People with mental health issues are a good example. The Inspectorate noted that care providers were increasingly thinking in terms of security rather than the client's or patient's perspective. Moreover, greater focus should be placed on citizenship and social inclusion given that not all people suffering from mental health issues are dangerous.

### *Reducing the use of seclusion and isolation*

The Health and Youth Care Inspectorate also assessed the use of seclusion and isolation at mental health institutions, based on an [assessment framework for the reduction of seclusion and isolation](#). The parties in the professional field were informed that this assessment framework will continue to apply until such time as the professional field has created a field standard to replace this assessment framework. Various sector and patient organisations are currently working on developing a field standard.

### *Preparing for new legislation*

The Mandatory Mental Healthcare Act (*Wet verplichte geestelijke gezondheidszorg*) and the Care and Compulsion (Psychogeriatric and Intellectually Disabled Patients) Act (*Wet zorg en dwang*) came into force on 1 January 2020. Both laws are important for improving the legal position of clients/patients who receive mandatory care or involuntary treatment. The underlying principle is to avoid the restriction of



freedom. In light of the NPM, this represents a significant tightening of the Psychiatric Hospitals (Compulsory Admissions) Act. In 2019, the Health and Youth Care Inspectorate undertook preparations to conduct monitoring in this area.

## Secure youth care centres

In the first quarter of 2019, the Health and Youth Care Inspectorate, which is part of the NPM, conducted an exploratory survey on the reduction of freedom-restricting measures for groups accommodated in 14 secure youth care centres. Secure youth care (*Jeugdzorgplus*) is a form of youth care provided to children and young people who are unresponsive to less rigorous forms of assistance. Without treatment, they are a risk to themselves and their environment. The Inspectorate noted that all institutions are working on a living environment geared more towards the development of young people and where fewer freedom-restricting measures are imposed. The institutions themselves are able to influence a number of factors, such as the organisational culture and certain methodologies. Due to limited financial resources, however, they have less influence on factors such as group size.

A fact sheet containing the Inspectorate's findings will be published in 2020. This overview of the current status will lead to a monitoring standard until such time as the professional field has developed field standards.

## Young offenders institutions

The Health and Youth Care Inspectorate, which is part of the NPM, visited all young offenders institutions to conduct a national inspection focusing on three themes: prompt access to care, medication safety and involuntary medical treatment. The [results of the inspection](#) were published in February 2020. The inspection found that detainees in young offenders institutions had quick and easy access to the medical service or general practitioner. In cases where they needed medication, this was issued in a proper and safe manner. The forcible administration of medication only occurred at one institution and proceeded in accordance with the rules. All institutions wanted to avoid placing young people in seclusion as much as possible. However, this was difficult to achieve in practice.

Furthermore, the Justice and Security, Health and Youth Care, Education, and Social Affairs and Employment Inspectorates will review in 2020 whether the concern areas they previously identified at young offenders institutions have been adequately dealt with or resolved. The aspects they will look at include whether the health and safety of workers and detainees is guaranteed. They will also review whether the range of care, treatment and training programmes offered is appropriate for the older and more complex target group of detainees.



## Police custody

### *Police*

The ten Commissions of Oversight for Police Custody monitor accommodation, safety and security, care, treatment and the transportation of detainees under the responsibility of the police. This relates to both cell blocks that provide 24-hour care, including an overnight stay, and locations offering only a day room area. Custody facilities include holding rooms available to local police teams and holding rooms in court buildings, where detainees stay before they appear in court.

On the whole, the police custody facilities provided have been assessed as good. The accommodation is up to standard, just as the practical care in providing for food, outdoor exercise/leisure activities and personal care. The custody officers treat arrestees respectfully.

Good medical care is provided in terms of promptly calling in a doctor and carrying out any instructions issued by the doctor. However, it was found in 2019 that the storage and issue of medication in compliance with the applicable regulations was an area that continued to require attention<sup>3</sup>. The Commissions expect that the desired improvement will be made as soon as the contract for medical care has been awarded to a new party and will continue to monitor this carefully.

A recurring area of concern is the currency of and familiarity with evacuation plans and the conduct and evaluation of evacuation exercises<sup>4</sup>. The new Police Emergency Response Implementing Regulation came into force on 1 July 2019. The Commissions hope that implementation of the regulation will bring about a structural improvement in this area. They will continue to monitor this in 2020.

The Commissions maintain good contact with the police, both at the local and the national level. Locally, findings are promptly reported to senior police custody officers. Issues requiring attention at several locations and in several police units are discussed at the national level by the National Centre for the Commissions of Oversight for Police Custody with the national portfolio holder.

### *Royal Netherlands Marechaussee*

The Detention Areas Supervisory Commission of the Royal Netherlands Marechaussee, which is part of the NPM, monitors all detention areas managed and used by the Royal Netherlands Marechaussee and the care provided by the latter to those have been detained or taken into custody in these facilities. Visits were undertaken to ten locations in 2019, which means that visits will have been conducted to all detention locations within a period of three years<sup>5</sup>.

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<sup>3</sup> In 2019, the Commissions of Oversight requested that attention be paid to this six times. In 2018, they made such a request nine times.

<sup>4</sup> In 2019, the Commissions of Oversight requested attention for this 10 times (as they did in 2018).

<sup>5</sup> The Royal Netherlands Marechaussee uses approximately 55 cells and 90 holding rooms at 35 locations in total. The Royal Netherlands Marechaussee has operations throughout the Kingdom of the Netherlands. It also manages and uses detention areas in the Dutch Caribbean. The Commission's monitoring of these





The Commission's findings were wide-ranging. This is attributable to the Royal Netherlands Marechaussee's wide range of duties at the various locations (general police duties, border police duties, identity fraud, military policing and surveillance and security), the varying condition of the buildings (old or new, large or small barracks) and to the fact the Royal Netherlands Marechaussee not only conducts operations throughout the Kingdom of the Netherlands, but also in mission areas. The findings ranged from technical defects, such as doors that did not open properly or broken furniture, to unclear operating instructions for cameras or uncertainty about who was responsible for the individual detained or held in custody.

Generally speaking, the treatment and care of those held in the detention facilities of the Royal Netherlands Marechaussee were found to be adequate. Moreover, sufficient attention was paid to the safety of both detainees and staff. However, the Commission believes that there is room for improvement. Its key overarching recommendation concerns including an in-house emergency response officer in the deployment schedule at all smaller locations as well. The military training programmes contain many, but not all aspects of the nationally certified company emergency response training programme.

The Commission has generally found that the Royal Netherlands Marechaussee is receptive and extremely willing to implement the recommendations. This was evident from a number of repeated inspections. An aspect requiring attention in 2020 continues to be the signing of covenants with regional mental health care services aimed at fast-tracking assistance to people suffering from mental health issues.

## Forensic care

In the NPM's annual report for 2017-2018, the Justice and Security and the Health and Youth Care Inspectorates, which are part of the NPM, reported on incidents they had investigated at eight clinics. The follow-up monitoring conducted in 2019 found that the forensic psychiatric institutions [de Kijvelanden](#), [de Woenselse Poort](#) and [Fivoor](#)<sup>6</sup> had implemented the improvement plans expeditiously. However, the lack of sufficient, trained and experienced staff was an area that required attention at both de Woenselse Poort and de Kijvelanden. In 2020, the Inspectorate for Justice and Security will conduct a review of the performance of duties in forensic care. Its review will include not only institutions that provide forensic care, but also the organisations they work with.

Furthermore, the Health and Youth Care Inspectorate examined the results of an investigation into an extremely violent incident in the forensic care sector. Based in part on this investigation, the Minister of Justice and Security will establish a forensic care task force. The task force's remit will be to ensure that the forensic care sector implements improvement measures.

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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.

<sup>6</sup> The province of Utrecht's forensic psychiatric unit in Den Dolder.



## Migration

### *Forced repatriation*

In 2019, the Inspectorate of Justice and Security, which is part of the NPM, published the [Annual Review of Repatriation 2018](#). This shows that the accompanied repatriation of foreign nationals proceeded in a safe and humane manner in 2018. However, the parties concerned should ensure that they pay due care and attention to sharing information. If information is shared inadequately, there is a risk that the parties involved in the repatriation process<sup>7</sup> will not be able to make sufficient preparations, which increases the likelihood of errors during repatriation.

The Inspectorate has established that the parties involved in repatriation perform their duties in the proper manner. They observe the rules and tailor programmes to the individuals concerned, if necessary, to ensure that repatriation proceeds smoothly. With regard to transportation to the airport, the information provision to Transport and Support Service staff should be improved. This applies equally to information required by the Royal Netherlands Marechaussee to make proper preparations for repatriation and accompaniment.

The [monitoring of repatriation in 2019](#) confirmed the impression that the accompanied repatriation of foreign nationals proceeds in a safe, careful and humane manner. The exchange of information between the parties involved remains an area for concern, even though it has improved somewhat in recent years.

### *Immigration detention*

Immigration detention prevents non-Dutch nationals who are required to leave the country from evading deportation. The Commission of Oversight that monitors the implementation of immigration detention has noted an improvement in the situation of foreign nationals in detention. In a critical report on the detention centre, the National Ombudsman concluded that activities, work and the opportunity to study were lacking and that isolation on account of misconduct and violence was a frequently used sanction. This report contributed to raising awareness and has led to modest changes within the tight budgetary frameworks for staff. To that extent, efforts promoting humanisation are already under way. In 2020, Amnesty International also published a report expressing criticism of isolation during immigration detention.

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<sup>7</sup> The Repatriation and Departure Service, the Royal Netherlands Marechaussee, the Custodial Institutions Agency, the Transport and Support Service, Aliens Police, the Police's Identification and Human Trafficking department, the Immigration and Naturalisation Service and the Central Agency for the Reception of Asylum Seekers.



# 2

## 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 deprived of their liberty. The 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)<sup>8</sup>. All participants have their own duties, responsibilities and competences in accordance with the law. Some organisations do not take part in the NPM'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)
- The Health and Youth Care Inspectorate
- The Commissions of Oversight for Penitentiary Institutions<sup>9</sup>
- The Commissions of Oversight for Police Custody<sup>10</sup>
- The Detention Areas Supervisory Commission of the Royal Netherlands Marechaussee<sup>11</sup>

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

The organisations work together in areas where their supervisory competences overlap. The NPM organisations carry out 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.

During the NPM consultations in 2019, discussions were held on whether the current composition of the NPM was still fit for purpose. A further investigation into this has not yet been completed.

<sup>8</sup> Parliamentary Papers TK 33826, No. 18

<sup>9</sup> The sounding board group of the Commissions of Oversight for Penitentiary Institutions represents the Commissions of Oversight during NPM meetings.

<sup>10</sup> The National Centre for the Commissions of Oversight for Police Custody represents the Commissions of Oversight during NPM meetings.

<sup>11</sup> The Commission was reinstated at the end of 2017 with three new members. A fourth member joined in early 2019.



## Activities in 2019

Activities relating to the restriction and deprivation of freedom are partly carried out within the context of the participants' NPM duties. Further information on their activities outside of the above themes can be found in the separate annual reports of the various organisations.

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

|  |   |
|--|---|
| Inspectorate of Justice and Security   | <a href="#">Annual Report 2019</a>  |
| Health and Youth Care Inspectorate   | <a href="#">Annual Review 2019</a>  |
| Commissions of Oversight for Penitentiary Institutions                       | <ul style="list-style-type: none"> <li>• Sounding board group annual report</li> <li>• <a href="#">Annual reports of the individual commissions for 2019</a></li> </ul> |
| Commissions of Oversight for Police Custody                                  | <a href="#">Annual reports of the individual commissions and National Centre for 2019</a>   |
| Detention Areas Supervisory Commission of the Royal Netherlands Marechaussee | Annual Report 2019  |

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# Appendix

## NPM consultation participant profile matrix

| Location <sup>12</sup>  | Inspectorate of Justice and Security | Health and Youth Care Inspectorate | Commission of Oversight for Penitentiary Institutions <sup>13</sup> | 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 <sup>14</sup>                    | V   |  |  |
| Police custody <sup>15</sup>  | V                                    | V                                  |   | V  |  |
| Detention areas of the Royal Netherlands Marechaussee               | V                                    | v <sup>14</sup>                    |   |  | v <sup>16</sup>  |
| Military detention areas (Stroe)                                    | V                                    | v <sup>14</sup>                    | V   |  |  |
| Secure mental health care institutions <i>criminal law</i>          | V                                    | V                                  |   |  |  |
| Secure mental health care institutions <i>civil law</i>             |                                      | V                                  |   |  |  |
| Secure youth care institutions (Youth Care Plus) <i>civil law</i>   |                                      | V                                  |   |  |  |
| Police transportation within the Netherlands                        | V                                    | v <sup>14</sup>                    |   | V  |  |
| Transportation within the Netherlands Transport and Support Service | V                                    | v <sup>14</sup>                    | v <sup>17-18</sup>  |  |  |
| Transportation to other countries (by air)                          | V                                    | v <sup>14</sup>                    |   |  |  |
| Secure care retirement homes  |                                      | V                                  |   |  |  |
| Secure disabled care facilities                                     |                                      | V                                  |   |  |  |
| The Hague International Criminal Court <sup>19</sup>                |                                      |                                    |   |  |  |

Note: see the next page for footnotes.



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<sup>12</sup> 'Detention areas'/'centres' are not limited to physical locations/buildings, but include all locations from the time of arrest onwards.

<sup>13</sup> The Commission of Oversight also has a judicial function.

<sup>14</sup> The Health and Youth Care Inspectorate monitors locations where care is provided or withheld.

<sup>15</sup> Includes court police and railway police holding locations and mobile police detention complexes.

<sup>16</sup> 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 Criminal Justice Complex and the waiting rooms in the court section of this complex where the Royal Netherlands Marechaussee acts in the capacity of court police. The Detention Areas Supervisory Commission does not handle complaints. Complaints relating to actions by Royal Dutch Marechaussee employees are handled by the Defence Complaints Commission.

<sup>17</sup> A special Commission of Oversight has also been established for the Transport and Support Service. This Commission carries out monitoring activities and makes recommendations, but does not handle complaints. Complaints are handled by the relevant penitentiary institution's Commission of Oversight.

<sup>18</sup> The Commission of Oversight for the Transport and Support Service does not monitor the Transferium.

<sup>19</sup> The Red Cross is responsible for monitoring the conditions and treatment of those who have been incarcerated.

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