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The Parliamentary Ombudsman Norway

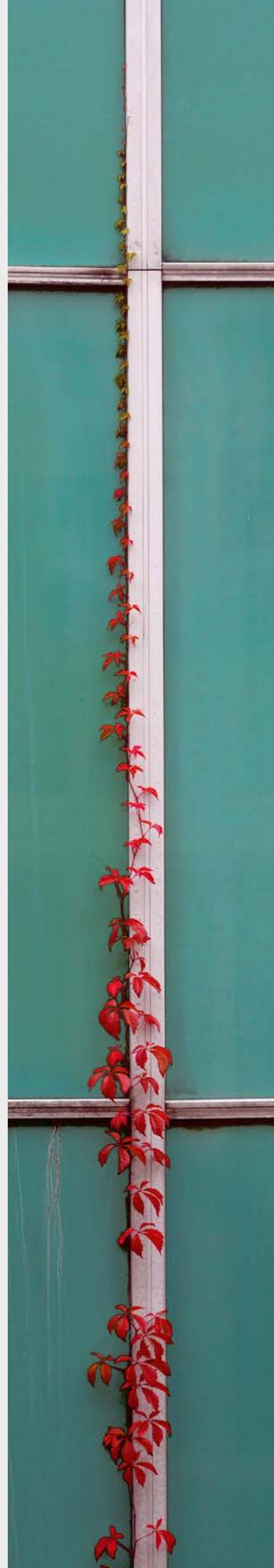
**National Preventive Mechanism against
Torture and Ill-Treatment**

VISIT REPORT

- Summary and Recommendations

**Tønsberg police
custody facility**

14 and 20 October 2014



The National Preventive Mechanism's visit to Tønsberg police station 14 and 20 October 2014

The Parliamentary Ombudsman's preventive role

After Norway's ratification to the Optional Protocol to the Convention against Torture (OPCAT) in the summer of 2013, the Parliamentary Ombudsman was given a mandate to prevent torture and other cruel, inhuman or degrading treatment or punishment.¹ To fulfil this mandate, a special unit called the National Preventive Mechanism (NPM) was established in the Parliamentary Ombudsman's office.

Representatives of the NPM make regular visits to locations where people are deprived of their liberty, such as prisons, police custody facilities, psychiatric institutions and child welfare institutions. The visits may be announced or unannounced.

On the basis of these visits, recommendations are issued with the aim of preventing torture and other cruel, inhuman or degrading treatment or punishment.

The Parliamentary Ombudsman, through the NPM, is authorized to enter all places of detention and to engage in private conversations with those who have been deprived of their liberty. The NPM also has access to all essential information relating to detention conditions. Through independent observation and dialogue conducted during its visits, the NPM seeks to uncover risk factors that could open the way for abuses to occur. Conversations with persons deprived of their liberty are given special priority.

The National Preventive Mechanism also conducts extensive dialogue with national authorities, civil society groups and international human rights bodies.

Summary of the report

The Parliamentary Ombudsman's National Preventive Mechanism (the NPM) visited Tønsberg police station on 14 and 20 October 2014. The station contains the primary police custody facility for Vestfold Police District, and has a total of 13 ordinary cells. Vestfold Police District was alerted to the first visit four weeks in advance, and was asked to submit information. Because few detainees were present during the visit on 14 October, a second visit was carried out on 20 October, this time without prior notice.

Both visits were well facilitated by the police administration and other staff. The overall impression is that the custody facility is solidly run. The leaders appear to play an active role in custody operations and in protecting the rights of persons in detention. The announced visit began with a meeting with the police administration, followed by a site inspection and review of documents. The NPM's focus during the visits was conversing privately with those held in custody. NPM representatives also held meetings with a physician at Tønsberg's intermunicipal accident and emergency care centre (*legevakt*) and with the head the local emergency child welfare service (*barnevernvakt*). The visits concluded with a meeting at which the police administration was informed of findings and preliminary recommendations.

¹ The Parliamentary Ombudsman Act § 3a.

During the visit the NPM examined with extra care the police's handling of serious incidents and use of force. A detainee who was in custody at Tønsberg police station at the time of the visit on 20 October took his own life the next night in a cell at Ringerike prison, where he had been transferred that afternoon. The NPM has no detailed knowledge of the circumstances surrounding the suicide, but the episode raises questions about information flow and cooperation between the police and the Correctional Services in this case.

Certain deficiencies were noted in the recordkeeping of supervisory control and observation measures in the custody facility. There are indications that strip searches are performed regularly.

Because the police custody facility is unsuitable for lengthy detentions, the NPM also examined efforts by the police to ensure transfer to prison within two days. The police appear to have sound procedures for clarifying the division of responsibilities on this issue early in the custody process. However, figures from 2014 show that some detainees had remained quite long in police custody – more than three days in 11 cases, and more than four days in four cases. This is worrying. The challenge is that high occupancy in the prisons makes transfer difficult. Close cooperation between the police and the emergency child welfare service may be highlighted as a positive example of measures that have kept minors out of police custody. As for measures designed to ease the time spent in custody, certain points of improvement were demonstrated.

During the visit, NPM representatives looked into the matter of detainee access to health services. A brief inspection of the accident and emergency care centre in Tønsberg was conducted, and an emergency physician was interviewed. The police have a low threshold for taking detained persons to the emergency centre for treatment, which is very positive. However, information was obtained which raised concerns about the centre's handling of its confidentiality duties, its forensic role and the use of interpreters.

The NPM also undertook an inspection of the custody facility, including the garage that served as a yard. Among the concerns stressed was a lack of direct daylight and clocks in all cells, and poor artificial lighting in several of the cells. In some cells there is little colour contrast between the walls and the floor, a factor that could weaken a detainee's orientation ability. In private conversations with the NPM, some of those in detention described claustrophobic feelings and anxiety that they specifically tied to the physical conditions. The facility's lack of a suitable place where detainees can get fresh air exacerbates matters.

One of the cells was furnished to accommodate the needs of detainees considered especially vulnerable, such as minors and those who have been in detention for more than two days. This cell's standard was markedly higher, and should be held up as an example of a more humanely designed custody cell.

On the basis of findings made during its visits, the NPM issues the following recommendations:

- The police, along with Correctional Services, should review the procedures for information sharing and other types of cooperation when transferring vulnerable (including potentially suicidal) detainees to prison, to ensure that they are cared for in a safe manner.
- The police should ensure that the considerations weighed in determining the type and frequency of supervision are always logged in the custody records.

- The local custody instruction guide should be changed to stipulate that handcuffs are to be used only after a specific, individual assessment. Any use of coercive measures or force on detainees should be entered into the custody records.
- Full removal of clothing on admission to custody should occur only after an individual risk assessment. In cases where full removal of clothing is deemed necessary after an individual assessment, the procedure should normally be carried out in a way that avoids complete nudity.
- The police, in cooperation with Correctional Services, should further strengthen efforts to comply with the two-day deadline for transfer to prison.
- The police should consult with the emergency child welfare service on establishing a routine for informing the service of any apprehension or transport into custody of minors.
- The police should strengthen efforts to mitigate the adverse effects of isolation, in particular by considering the possibility of visits from outside for detainees who have been in custody beyond two days.
- The police should consider expanding the local custody instruction guide to include additional procedures and responsibilities to relieve the harshness of stays in custody.
- The police should ensure that detainees are able to speak directly with health personnel at the local accident and emergency care centre, and that a telephone conversation can be conducted without police or custody officers hearing what is said.
- The police should not be able to hear conversations in the patient room at the local accident and emergency care centre. Nor should the police be able to look into the patient room, unless requested by health personnel in special situations.
- Physicians at the local accident and emergency care centre and other health personnel should inform detainees when forensic work is being performed that is not covered by confidentiality rules.
- Foreign detainees transported to the accident and emergency care centre should be offered interpretation services.
- The accident and emergency care centre should have a camera available so that injuries to detainees can be documented by the physician in the patient journal.
- A defibrillator should be obtained and placed in an easily accessible place in the custody facility. Custody officers and others working in the facility should be given regular training in defibrillator use.
- The police should ensure that informational materials pertaining to detainee rights after apprehension and transport into custody are updated to clarify that notification or attempted notification of defence counsel is always carried out without undue delay, regardless of time of day.
- The police should ensure that all persons detained are offered both written and verbal information on their rights while in custody, in a language they understand.
- The police should establish a procedure asking all detainees to sign an affirmation that they have been informed of their rights in a language they understand.
- The police should ensure that the custody records note which steps have been completed for each detainee, in particular the notification of relatives and defence counsel, the arrangement of contact with a physician, and the successful communication of the detainee's rights and the reasons for his or her deprivation of liberty.

- The police are advised to consider upgrading several custody cells to give them a more humane design. As an immediate practical matter, the police should ensure that the wall colour in each cell contrasts with the floor so that detainees can orient themselves more easily.
- A good lighting-control system for all cells should be put in place, including an option for subdued lighting; all cells should also have clocks installed.
- Detainees should be assured of adequate access to the open air. At a minimum, persons detained should be able to breathe fresh air and see daylight on a daily basis, and be given a genuine opportunity for movement and the feeling of being outdoors.



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