



RECOMMENDATIONS of 15th October 2009 of the Contrôleur général des lieux de privation de liberté concerning the police station in Besançon (Doubs)

Two inspectors from the Contrôleur général visited the police station in Besançon (Doubs) on 27 and 28 January 2009.

Factual observations recorded during the inspection were reported on 20 March 2009 to the Départemental director of public safety of the Doubs *département* (French territorial subdivision). This gave rise to a response dated 6 April 2009.

On 18 May 2009, the full report of the visit was sent to the Ministry of the Interior for comment. Its response was issued on 31 August 2009, along with a detailed memo from the Director General of the National Police.

In the wake of this procedure, and in accordance with law No. 2007-1545 of 30 October 2007, the Contrôleur général des lieux de privation de liberté has decided to make public the following recommendations:

1 - The dilapidated condition of the custody cells and sobering-up cells and the frequency of their use subject detainees to poor material conditions. This also creates working conditions that police station staff should not have to face; they should truly be concerned with the dignity of people held in the custody cells and sobering-up cells.

Action should be taken to improve the conditions of persons placed in police custody, who are unable to maintain their personal hygiene due to lack of a proper hot water supply, shower facilities and provision of toiletries, and because they are dependent on staff members to get to the bathroom or to a location with running water.

It is noted that the installation of a water heater and shower are planned, and that police officers working as jailers receive written instructions to *"make themselves available to provide detainees with access to a source of running water, especially when they wash in the morning or when they are discharged from the jail,"* as was declared by the Director General of the National Police.

2 - The inventory of items confiscated from people placed in custody or held for sobering-up is signed upon arrival by a police officer but not by the person being held. The reasons invoked – that the arrested

person is usually intoxicated or seeking to "avoid making things worse" – are not deemed acceptable because of their overly general character that excludes an individualised case-by-case assessment.

We recommend that, unless it is absolutely impossible (in which case the police officer will then take note of it), people should sign an inventory of items confiscated from them upon their arrival in custody or for sobering up, so that, once released, they will be able to verify the accuracy of what is returned to them.

3 - Conditions for meetings with lawyers and examination by doctors cannot be significantly improved by the simple fact that the building will soon be "refurbished."

Respect for detainees' rights to defence and health necessitates a comprehensive review of the design and layout of the current facility.

4 - Medical examinations are carried out by GPs in the framework of an agreement signed with "SOS-médecins" (an on-call mobile medical service); the different doctors involved do not perform the examinations consistently.

The elements of the medical examination and the professional practices utilised must be made consistent. In particular, training must be implemented for GPs who intervene in the custody cells and sobering-up cells, building on the recommendations of the consensus conference on that subject held on 2 and 3 December 2004.

5 - Financial responsibility for medicine, in the case of people who are unable to pay or who do not have national health coverage, is handled by the operational management service of the Besançon police station on a specific budget line.

It would be useful to apply this solution more broadly, in view of difficulties observed in some places related to the abandonment of financial responsibility for medicine by the courts since the entry into force of the Loi d'orientation relative aux lois de finance (LOLF, Organic Law Governing Finance Acts).

6 - The practice of confiscating a detainee's bra and eyeglasses should be reviewed. A case of attempted suicide of a woman placed in custody in the Paris suburbs in June 2009, using her bra, does not by itself justify the systematic implementation of what constitutes a violation of individuals' dignity.

In order to respect the principle of proportionality, the Director General of the National Police has proposed that *"the decision to confiscate underwear comes under the judgment of the police officer in charge of the procedure, and is automatically required when circumstances give rise to concerns for individuals' security."*

On this basis, it appears necessary to instruct all parties involved to no longer systematically confiscate a detainee's bra and eyeglasses, and that this practice be subject to specific, detailed elements that the police officer in charge of the procedure in question should note in the custody register and the individual's custody file.

7 - At the Besançon police station, as elsewhere, the name given to the prison register ("registre d'écrou") generates confusion, including among officials and those in custody, as it carries the connotation that a person is imprisoned, even if he is only held for sobering up in the framework of a procedure concerning public drunkenness. Additionally, entries in the custody register do not distinguish between different custody arrangements, nor do they indicate the reason for the custody.

Noting that the Director General of the National Police supports changing the name of the prison register and initiating discussions with the Ministry of Justice to change the information recorded in the custody register, we hope to see these measures implemented.

8 - The custody register, which is not always properly maintained, does not permit precise and reliable oversight of how the process is carried out; this oversight is provided for in the CPP.

Maintaining reliable and complete registers is essential for any establishment responsible for ensuring respect for the fundamental rights of those deprived of their liberty.

The Contrôleur général recommends (and has already publicly proposed) studying a dematerialised implementation of this legal obligation, which would additionally permit real-time monitoring of the various phases of police custody and improved working conditions for staff. The Minister of Justice has also expressed interest in this proposal.

This dematerialised implementation should be able to record all possible incidents, including events affecting the custody process currently logged only on the IT daybook, allowing extraction of a list of events, in order to permit centralised monitoring in the long run.

Jean-Marie DELARUE