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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Fourth periodic reports of States parties due in 2002

Addendum

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND* **

[6 November 2003]

* The information submitted by the United Kingdom in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in HRI/CORE/1/Add.5/Rev.2 and HRI/CORE/Add.62/Rev.1.

The initial report submitted by the Government of the United Kingdom is contained in document CAT/C/9/Add.6 and 10; for its consideration by the Committee, see documents CAT/C/SR.91, 92, 132, 133 and 133/Add.2 and the *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 44* (A/47/44), paras. 93-125, and *Forty-eighth Session, Supplement No. 44* (A/48/44), paras. 261-283.

For the second periodic report, see CAT/C/25/Add.6; for its consideration, see CAT/C/SR.234 and 235 and *Official Records of the General Assembly, Fifty-first Session, Supplement No. 44* (A/51/44), paras. 58-65.

The third periodic report of the United Kingdom is contained in document CAT/C/44/Add.1; for its consideration by the Committee, see documents CAT/C/SR.354, 355 and 360 and the *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 44* (A/54/44), paras. 72-77.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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Part 1

METROPOLITAN TERRITORY

SECTION I

General information

1. This is the fourth report by the United Kingdom under article 19 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The United Kingdom's previous reports under the Convention were submitted in March 1991, February 1995, and April 1998, and officials from the United Kingdom Government were examined on those reports by the United Nations Committee against Torture in November 1991, November 1995 and November 1998 respectively.

2. The United Kingdom is a unitary State and comprises England and Wales, Scotland and Northern Ireland (but not the Crown Dependencies: i.e. the Isle of Man and the Channel Islands). References in this report to "Great Britain" mean England, Wales and Scotland taken together. England and Wales, Scotland and Northern Ireland have separate legal systems, but similar principles apply throughout the United Kingdom.

3. Since May 1997, the Government has introduced substantial devolution of powers to Northern Ireland, Scotland and Wales, as part of its wider programme of constitutional reform. The people of Scotland and Wales now have their own democratically elected legislatures - the Scottish Parliament and the National Assembly for Wales - but maintain the close links that have existed for centuries within the United Kingdom. They have a greater say in their day-to-day affairs, and more open, accessible and accountable government. In exercising their powers, the devolved legislatures and administrations are required by law to comply with the rights in the European Convention on Human Rights. The Westminster Parliament continues to legislate on matters which affect the whole of the United Kingdom - such as foreign affairs, defence and macroeconomic policy - responsibility for which has not been transferred to the devolved administrations.

4. On 14 October 2002 the Secretary of State for Northern Ireland suspended the Northern Ireland Assembly. In the absence of devolution, the Government also made the difficult decision to postpone the elections to the Northern Ireland Assembly in spring 2003 because it believed that the devolved institutions could not function in the absence of sufficient trust and confidence between the political parties. For that trust and confidence to be restored there needs to be clarity about an end to paramilitary activity and also about the stability of the institutions.

5. The Government is working to achieve the trust between different parts of the community necessary for the institutions there to function, so that fresh elections can be held and devolution can resume in Northern Ireland. It is hoped that this will happen in the autumn.

6. This report has been compiled with the full cooperation of the devolved administrations. The fourth periodic reports of the Crown Dependencies of the United Kingdom (Guernsey, Jersey and the Isle of Man) are being submitted as Part 2 of this report. The third periodic report of the Overseas Territories has been submitted separately.

7. The United Kingdom already recognizes the competence of the Committee, under article 21 of the Convention, to receive communications from other States parties alleging breaches of obligations accepted under this Convention. The Government is reviewing its position regarding the right of individual communication conferred by article 22 of this Convention, as part of a wider review of its position on various international human rights instruments. It expects to announce the outcomes of its comprehensive review in the autumn of 2003.

8. On 26 June 2003, the United Kingdom signed the Optional Protocol to the Convention against Torture - one of the first countries in the world to do so. The Government believes the new instrument to be the best means available to establish an effective international mechanism to combat torture. It hopes to be able to ratify the Optional Protocol by the end of 2003. Once the United Kingdom has ratified the OPCAT, the Government will begin a lobbying campaign urging other countries to sign, ratify and implement both the Convention and the Optional Protocol.

9. Under section 134 of the Criminal Justice Act 1988, torture is already an offence in the United Kingdom. The Human Rights Act 1998, which came into force on 2 October 2000, gives further effect in United Kingdom law to the substantive rights and freedoms contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms. These include article 3 of the Convention, which provides that no one shall be subjected to torture or inhuman or degrading treatment or punishment. The Human Rights Act places a statutory obligation upon all public authorities to act compatibly with the Convention rights and strengthens a victim's or potential victim's ability to rely upon the Convention rights in any proceedings.

10. The United Kingdom is also party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which entered into force in the United Kingdom on 1 February 1989. Since the last report delegations from the Committee established under the Convention have made four visits to the United Kingdom: to Northern Ireland in 1999 (the Committee's report and the United Kingdom's response were published on 3 May 2001); to England and Wales in February 2001 (the Committee's report and the United Kingdom's response were published on 18 April 2002); an ad hoc visit to the United Kingdom in February 2002, to examine the treatment of persons detained under the Anti-terrorism, Crime and Security Act (ATCS) 2001 (the Committee's report and the United Kingdom's response were published on 12 February 2003); and to England, Scotland and the Isle of Man in May 2003.

Role of non-governmental organizations

11. The Government recognizes that non-governmental organizations with a close interest in this field have a significant part to play in developing ways of preventing torture and other forms of ill-treatment. Contacts with non-governmental organizations are fostered in all areas of

relevant government policies, and a special Ministerial Forum has been established to help foster a constructive dialogue. In preparing this report the Government sought the views of the Forum on the United Kingdom's compliance with this Convention. It took the views expressed fully into account and made a number of changes in direct consequence of them.

Publication and distribution of the report

12. Copies of this report have been made available to the United Kingdom Parliament, and have been placed in the legal deposit libraries in the United Kingdom. The report will be sent free of charge to all interested non-governmental organizations and to all human rights contact points in the principal public authorities. It will be advertised on the Human Rights Unit web site (www.humanrights.gov.uk), and free copies will be available from the Department of Constitutional Affairs Human Rights Unit, Selborne House, 54-60 Victoria Street, London SW1E 6QW (tel. 020 7210 8891). The authorities in the Crown Dependencies will be encouraged to take similar appropriate action.

SECTION II

United Kingdom response to the observations of the Committee following the last oral examination

13. The Government has given careful consideration to the observations and recommendations made by the Committee following the last oral hearing. The Committee noted one factor impeding the application of the provisions of the Convention. It listed eight further causes for concern, and made six related recommendations. The Government's response is set out below:

(a) Factors and difficulties impeding the application of the provisions of the Convention

14. With regard to the Committee's opinion that the continuing state of emergency in Northern Ireland was a factor impeding the application of the provisions of the Convention, it is the view of Her Majesty's Government that the security situation still warrants the continued existence of emergency provisions. The provisions are a measured and proportionate response in line with international obligations. The United Kingdom has never used the security situation to attempt to step outside its international obligations.

15. A high level of terrorist activity by paramilitary groups in Northern Ireland has long been a source of local instability. The Northern Ireland (Emergency Provisions) Act 1973 (the EPA) provided special provisions for Ministers, the police, the armed forces and the courts to tackle the problems of terrorism in Northern Ireland. As a safeguard against abuse, this Act had to be renewed, and therefore debated in Parliament, every year, and was limited in time. In addition, an Independent Reviewer was appointed to report on the use and effectiveness of the Act's provisions.

16. As terrorist activity in Northern Ireland continued, similar Emergency Provisions Acts were enacted from time to time to replace those which lapsed. These amended the original Act to take account of the specific circumstances under which it was operating.

17. The Terrorism Act 2000, which provides permanent anti-terrorist legislation for the United Kingdom, repealed the EPA. Many of the provisions of the EPA are included in Part VII of the Terrorism Act, but only those believed to be temporarily necessary to meet the requirements of the security situation in Northern Ireland. Part VII is not identical to the EPA - its provisions have been reviewed in light of the United Kingdom Government's human rights commitments and the requirements of the current security situation. Certain provisions have been amended and certain others allowed to lapse entirely. Notably, on 26 February 2001, the United Kingdom withdrew its derogation under article 5 of the European Convention on Human Rights, which related to the affairs of Northern Ireland. It took similar action with regard to its derogation under the United Nations International Covenant on Civil and Political Rights. The Home Secretary has made a statement under section 19 (1) (a) of the Human Rights Act that he believed the Terrorism Act to be compatible with the European Convention on Human Rights.

18. Part VII of the Terrorism Act is limited in time to five years and has to be renewed in Parliament every year. The process of debate and renewal allows the Government to review and, where possible, lapse provisions every year in line with the requirements of the security situation. In addition, the Government has appointed an Independent Reviewer of the Terrorism Act who advises on the necessity and effectiveness of the powers in the Act, including Part VII.

19. The Government is committed to the ultimate removal of these temporary provisions when the security situation allows. This commitment is written into the Belfast Agreement, the centrepiece of the Northern Ireland peace process, which governs the Government's policy in Northern Ireland. (This Agreement was made with multi-party and cross-community support, and was supported by a majority in referenda in both Northern Ireland and the Republic of Ireland.)

20. At present these temporary powers are still required to ensure the effective policing of the terrorist threat. They are kept under constant review, both by Lord Carlile, the Independent Reviewer of the Terrorism Act, and the Government.

(b) Subjects of concern

21. Subject (a): The number of deaths in police custody and the apparent failure of the State party to provide an effective investigative mechanism to deal with allegations of police and prison authorities abuse as required by article 12 of the Convention, and to report publicly in a timely manner. (This subject is dealt with at paragraphs 115-126 and 204-215 of this report.)

22. Subject (b): The use of prisons to house refugee claimants. (This subject is dealt with at paragraph 196 of this report.)

23. Subject (c): The retention of detention centres in Northern Ireland, particularly Castlereagh Detention Centre. (This subject is dealt with at paragraphs 29 (i) and 203 of this report.)

24. Subject (d): The rules of evidence in Northern Ireland that admit confessions of suspected terrorists upon a lower test than in ordinary cases and in any event permits the admission of derivative evidence even if the confession is excluded. (This subject is dealt with at paragraph 280 of this report.)

25. Subject (e): Sections 134 (4) and (5) (b) (iii) of the Criminal Justice Act 1988 appear to be in direct conflict with article 2 of the Convention. (This subject is dealt with at paragraphs 30 and 37-42 of this report.)

26. Subject (f): Sections 1 and 14 of the State Immunity Act 1978 seem to be in direct conflict with the obligations undertaken by the State party pursuant to articles 4, 5, 6, and 7 of the Convention. (This subject is dealt with at paragraphs 29 (ii), 64-66, and Appendix 1 of this report.)

27. Subject (g): The continued use of plastic baton rounds as a means of riot control. (This subject is dealt with at paragraphs 31 and 130-137 of this report.)

28. Subject (h): The dramatic increase in the number of inmates held in prisons in England and Wales over the last three years. (This subject is dealt with at paragraphs 149-154 of this report.)

(c) Recommendations and subjects of concern

29. The following steps have been taken in the light of the Committee's recommendations:

(i) Recommendation (a) (relating to Subject of Concern (c))

All detention centres in Northern Ireland have been closed (see paragraph 203 of this report).

(ii) Recommendation (b) (relating to Subject of Concern (f))

Regarding the Committee's concerns that Sections 1 and 14 of the State Immunity Act were in conflict with articles 4, 5, 6 and 7 of the Convention, the Committee will no doubt be aware of the House of Lords decision in the Pinochet case, in which it was found that the immunities of a former Head of State did not extend to criminal proceedings concerning torture (see paragraphs 26, 64-66, and Appendix 1 to this report).

(iii) Recommendation (c) (relating to Subject of Concern (e))

30. In February 1998 the Home Office carried out a review of legislation on offences against the person. Contrary to the findings of the Committee, the review concluded that Sections 134 (4) and (5) (b) (iii) of the Criminal Justice Act 1988 do not conflict with article 2 of the Convention. Consequently the Government has no plans to reform these sections (see paragraphs 37 to 42 of this report).

(iv) Recommendation (d) (relating to Subject of Concern (g))

31. In April 2001 the Secretary of State for Northern Ireland introduced stringent new requirements for the use of baton rounds, and in recent years there has been a notable decrease in their use. Nevertheless, the Chief Constable of the Northern Ireland Police Service continues to

be of the opinion that the use of plastic baton rounds must be made available as a means of controlling potentially life-threatening public-order incidents (see paragraphs 130 to 137 of this report).

(v) Recommendation (e)

32. On 4 November 2001 the Royal Ulster Constabulary was reconstituted as the Police Service of Northern Ireland (PSNI). A strategy for training of police officers in the fundamental principles of human rights and the practical implications for policing is now in operation (paras. 71 to 80).

(vi) Recommendation (f)

33. On 2 March 2000, the Home Secretary announced that he had discharged Senator Pinochet from extradition proceedings on the grounds that he was unfit to stand trial. Subsequently, Senator Pinochet was allowed to leave the United Kingdom (see paragraphs 64 to 66 of this report).

34. Further details of these measures and other legislative and administrative developments are set out in detail in the following sections of the report. In this, as in previous reports, the Government has sought to provide information as fully as possible: but the inclusion of particular points does not necessarily imply that the United Kingdom considers them to fall within the scope of particular articles of the Convention.

SECTION III

Information relating to articles 2-16 of the Convention

Introduction

35. This part of the report provides information on developments since the United Kingdom's third periodic report of April 1998, and the oral examination on that report in November 1998. It also provides additional information requested by the Committee during that examination, and sets out the steps the United Kingdom has taken in the light of the Committee's observations.

Article 2 (Measures to prevent torture) and 4 (Offences of torture)

Protection against torture

36. Previous reports have summarized the various provisions of United Kingdom law, which hold conduct constituting torture to be a serious criminal offence. As mentioned in paragraph 3 above, the Human Rights Act 1998, which came into force on 2 October 2000, gives further effect in the United Kingdom to the European Convention on Human Rights, including article 3, which prohibits torture and inhuman or degrading treatment or punishment. Under the Human Rights Act it is unlawful for any public authority to act in a way incompatible with the Convention rights, if it does, the Act provides a new cause of legal action and remedy. Therefore there is now further protection in United Kingdom law against any act of torture.

37. Following discussion on the United Kingdom's third report, the Committee recommended that sections 134 (4) and 5 (b) (iii) of the Criminal Justice Act 1988 needed to be reformed to bring them into line with article 2 of the Convention.

38. In the United Kingdom's third report (para. 15), Her Majesty's Government indicated plans to issue a consultation paper on a review of legislation on offences against the person, including the offence of torture as set out in the Criminal Justice Act 1988. In February 1998 the Home Office launched a consultation exercise reviewing legislation on offences against the person. As a result of further consideration following the review it is the Government's view that sections 134 (4) and 5 (b) (iii) of the Criminal Justice Act 1988 do not conflict with article 2 of the Convention, for the reasons given in paragraphs 39-42 below. Consequently the Government has no plans to reform these sections.

39. It is an offence under the Criminal Justice Act if a public official or person acting in an official capacity "intentionally inflicts severe pain or suffering on another in the performance or purported performance of his official duties". Sections 134 (4) and 5 (b) (iii) of the Act allow the defence that the pain was inflicted with "lawful authority, justification or excuse." But this defence needs to be considered in the light of:

- The definition of torture;
- The Convention defence of pain arising from, inherent in, or incidental to, lawful sanction (art. 1); and
- The Human Rights Act 1998.

40. Definition of Torture. The Criminal Justice Act 1988 has a broader definition of torture than the Convention - it includes all severe pain or suffering inflicted in the performance of duties. Without any defence, this law could criminalize:

- Mental anguish caused by imprisonment;
- Any serious injury inflicted by a police officer in the prevention of a crime, even when the offender was injuring another person or attacking the police officer;
- The arrest of a suspect; and so on.

41. Lawful sanction. There is some overlap between the defence of lawful authority, justification or excuse in the 1988 Act and the exception in article 1 of the Convention, which concerns lawful sanction. Although the defence in the 1988 Act goes wider than the exception in article 1, this is because of the broader definition of torture in the 1988 Act (as explained above). Furthermore, the 1988 Act defence only applies where the public official etc., is acting lawfully. There is nothing in the current case law which authorizes, far less requires, the use of this defence in circumstances that would amount to torture within the terms of the Convention.

42. Human Rights Act. In any event, in the light of the Human Rights Act 1998, the courts are required to interpret the defence so far as possible in a way that is compatible with article 3 of the ECHR (prohibition on torture). There are no foreseeable circumstances in which a defence under the 1988 Act could be available inconsistently with the Convention.

Torture equipment

43. Her Majesty's Government remains committed to preventing British companies from manufacturing, selling or procuring equipment designed primarily for torture or other cruel, inhuman or degrading treatment or punishment.

Article 3 (Return of individuals to States where they might face torture)

Extradition procedures

44. Paragraphs 10-14 of the second report outlined the legal and procedural safeguards which would prevent extradition of an individual to another State when there were substantial grounds for believing that he or she might face torture. Where a person's extradition has been requested for an offence carrying the death penalty in the requesting State, the Government's policy is to make extradition conditional upon receipt of an assurance that the death penalty will not be imposed or, if it is, that it will not be carried out. The Human Rights Act 1998, which came into force on 2 October 2000, allows cases citing ECHR case law to be brought in domestic courts. This reinforces the position on extradition to a country where there are substantial grounds for believing that the person might face torture.

Asylum procedures

45. The United Kingdom continues to assess asylum applications against the criteria set out in the 1951 United Nations Convention Relating to the Status of Refugees. The number of asylum applications rose from 32,500 in 1997 to 71,025 in 2001 and 84,130 in 2002. In 2001, 9 per cent of asylum-seekers were recognized as refugees and granted asylum; 17 per cent were not recognized as refugees but were granted exceptional leave to remain (ELR); and 74 per cent were refused both asylum and ELR. In 2002, 10 per cent of asylum-seekers were recognized as refugees; 24 per cent were not recognized as refugees but granted ELR and 66 per cent were refused both asylum and ELR.

46. As stated in paragraphs 21 and 22 of the third report, in asylum cases involving allegations of torture, asylum caseworkers are guided by the definition of torture set out in article 1 of the Convention against Torture. When the available evidence establishes a reasonable likelihood that the applicant has been tortured in the country of nationality (whether or not for a reason set out in the 1951 Convention on Refugees) caseworkers have clear instructions that cases should be very carefully considered and subjected to a fast-track appeals procedure only if the past torture is not relevant to the current claim. When allegations of torture have been made, but the evidence is refuted, the reasons for this should be explained in the letter of refusal sent to the applicant.

47. Credibility remains an important factor in assessing whether an individual qualifies for asylum, as does the likelihood of future persecution. Officials are instructed to give due weight to reports prepared by the Medical Foundation for the Care of Victims of Torture - a registered charity which provides medical treatment, counselling and other forms of assistance to the survivors of torture and organized violence. However, medical reports form only part of the evidence. If an asylum caseworker has concerns about any aspect of a medical report prepared by the Medical Foundation, he or she should discuss those concerns with the Foundation before reaching a final decision on the asylum claim. The letter of refusal sent to the applicant should also explain how the medical report has been considered and why it is not thought to be persuasive.

48. From 1 September 1997, under the Dublin Convention, in certain cases, an individual may be removed to a safe third country without substantive consideration of the merits of the asylum claim. The Convention provided a mechanism for determining which member State should be responsible for deciding an asylum application. However, the Convention did not work as well as had been hoped when it was agreed in 1990. The replacement Dublin II Regulation entered into force on 1 September 2003. Dublin II provides the agreed framework to determine which member State is responsible for the consideration of asylum claims made in the European Union where applicants have travelled between states.

49. In April 2001, the then Dublin Convention, its proposed successor Dublin II and the Eurodac Regulation were effectively extended to Norway and Iceland by means of a so-called "parallel" Agreement between those two countries and the European Community. The objectives of the Dublin mechanisms are the avoidance of the successive transfer of applicants between States without any single State taking responsibility to determine the claim ("refugees in orbit") and the prevention of multiple, parallel or successive claims in different States and related secondary movements ("asylum shopping").

50. The removal of asylum applicants under the Dublin mechanism is covered by Section 11 of the Immigration and Asylum Act 1999 as set out in Section 80 of the Nationality, Immigration and Asylum Act 2002. Under Section 11, nothing shall prevent the removal of an applicant provided that the Secretary of State certifies that certain requirements are met - namely, that the applicant is not a national of the receiving State, and that the receiving State has accepted that it is responsible for considering the asylum claim.

51. Section 12 of the Immigration and Asylum Act 1999 as amended by paragraph 11 of the Nationality, Immigration and Asylum Act 2002 (consequential and incidental provisions) Order 2003 applies to asylum-seekers transferred to safe third countries in other circumstances. In this case the requirements are that the applicant is not a national of the receiving country, the applicant's life and liberty would not be threatened in that country for any of the grounds set out in the 1951 Convention on Refugees, and the government of that country would not send the applicant to another country otherwise than in accordance with the 1951 Convention on Refugees.

52. The Human Rights Act 1998, which came into force on 2 October 2000, places public authorities under a legal duty to act compatibly with rights set forth in the Act, which refers directly to the European Convention on Human Rights (see also paragraphs 36 and 42 above).

53. The Nationality, Immigration and Asylum Act 2002 is designed to improve the asylum system in the United Kingdom. It aims to create a clear and fast asylum system from the initial decision through to appeal, the integration of genuine refugees, and the removal of those whose asylum claims fail and who have no other basis of stay in the United Kingdom. The Government has introduced smart cards for asylum-seekers (Application Registration Cards), to guarantee identification and tackle fraud. The existing support system is being improved and will eventually be phased out and replaced by accommodation centres. The Government is improving consultation with local authorities and developing coordination with voluntary organizations on dispersal.

54. From 1 April 2003, the 2002 Act also introduced a more efficient appeals system, with streamlined rights of appeal - appeal from a lower to a higher court being limited to a point of law - and increased adjudicator capacity. When an appellant has exhausted all rights of appeal and they have no other basis to stay in this country, they are expected to leave the United Kingdom. A person who wishes to re-apply on any grounds may do so, and the application will be considered. However, if the person has had the opportunity to appeal and has, in the Secretary of State's opinion, claimed again only to delay removal, the Secretary of State may prevent a second round of appeals by issuing a certificate (under section 96). Appellants are not permitted to go through the appeals process twice unless they make a claim that is genuinely new and that they could not reasonably have been expected to have made earlier.

55. Appeals on asylum and/or human rights grounds are suspensive - that is, the appellant cannot be removed while the appeal is pending - except in two types of case:

(i) Sections 11 and 12 of the 1999 Act (see paragraphs 48 and 49 above) prevent an asylum-seeker from appealing against removal to a safe third country. However, applicants in this position may also make claims on human rights grounds. Under section 93 of the 2002 Act, such a claim will not prevent removal if the Secretary of State certifies that it is clearly unfounded;

(ii) On 7 November 2002, a further category of non-suspensive appeal was introduced. Section 115 (or, from 1 April 2003, section 94) enables the Secretary of State to certify certain types of case as "clearly unfounded" with the result that an appeal on asylum or human rights grounds can be exercised only after removal. The grounds for certification are that the asylum or human rights claim is without substance and accordingly bound to fail. Though any asylum/human rights claim can potentially be certified as clearly unfounded, most cases come from the list of designated countries. A country is designated for such purposes if the Secretary of State is satisfied that, in general, there is no serious risk of persecution in part or all of the country. There are 24 designated countries: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia, Albania, Bulgaria, Jamaica, Macedonia, Moldova, Romania, Serbia and Montenegro, Bangladesh, Bolivia, Brazil, Ecuador, South Africa, Sri Lanka and Ukraine. A country can be added to the list only following debates in both Houses of Parliament.

56. The number of asylum applications awaiting an initial decision was significantly reduced from 125,100 at the end of 1999 to 41,300 at the end of December 2002. This reflected levels of initial decisions and withdrawals that were higher than levels of applications. Of the 41,300 outstanding cases, nearly half (18,800 cases) were work in progress i.e. the application had been received within the previous six months.

Anti-terrorism procedures

57. In response to the events of September 11th 2001, the Anti-Terrorism, Crime and Security (ATCS) Act 2001 was passed to deal with the problem of suspected international terrorists who could not be returned to their home countries because of an international agreement, for example the ECHR, which prohibits removal of a person who would face torture, or because of practical difficulties - for example a war, or a state of serious instability, in their home country.

58. The powers of the ATCS Act provide that anyone subject to immigration control whom the Home Secretary has certified as being a suspected terrorist and a threat to national security, and whom he has decided should be removed from the United Kingdom, could be detained pending removal, even where removal is not possible in the foreseeable future. The use of these powers has been accompanied by derogations from the European Convention on Human Rights and the United Nations ICCPR reflecting the emergency facing the United Kingdom. Both the detentions and the derogation are reviewed regularly. These powers are designed to be used only in the immigration context, and anyone detained under them can leave the United Kingdom at any time. There is a full right of appeal against the certification and against the decision to deport. These powers have so far been used in a limited way. Fifteen people have been detained under the Act. All 15 are currently appealing their certificates. Ten appeals have been heard to date and the determinations for these are expected at the end of September 2003. The hearings for the remainder of the appeals will start in November 2003. Some of the detainees have also appealed against the United Kingdom's derogation from article 5 of the ECHR. The Court of Appeal unanimously upheld the United Kingdom's decision to derogate in October 2002. Leave to appeal to the House of Lords has been granted; at the time of writing no date has been set for the hearing.

59. Funding for representation before the Immigration Appellate Authorities has been available since January 2000 through the Legal Services Commission (LSC). Funding for representation before the Special Immigration Appeals Commission (SIAC) was made available under the 2002 Act.

Article 5 (Jurisdiction)

60. As indicated in the third report, the United Kingdom ratified Protocols I and II to the Geneva Convention on 28 January 1998. The International Criminal Court (ICC) Act 2001 makes minor amendments to the Geneva Conventions Act 1957. These ensure that the provisions for consent to prosecutions for grave breaches of the Geneva Conventions under the 1957 Act are consistent with those for the prosecutions under the ICC Act. In the case of such offences, proceedings will not begin without the consent of the Attorney-General or, in Scotland, the Lord Advocate.

61. The United Kingdom Government's consistent position has been that the United Nations Convention against Torture has no bearing on the issue of civil jurisdiction in relation to acts committed abroad but only relates to criminal jurisdiction. Consistent with this position, the United Kingdom gave effect to the relevant provisions of the Convention by enacting sections 134 and 135 of the Criminal Justice Act 1988 which makes torture a crime punishable in the United Kingdom.

Article 6 (Detention of individuals suspected of torture)

62. Procedures for the detention of individuals alleged to have committed torture remain as set out in paragraphs 40-46 of the initial report. The Police and Criminal Evidence Act (PACE) Codes B-E referred to were updated in 1995, but contain identical provisions on these procedures. A revised version of Code A (on the exercise by police officers of statutory powers of stop and search) came into effect on 1 March 1999. A revised PACE Act Code A was laid before Parliament in November 2002 (see Appendix 2 to this report). The Order to bring this revised Code into force was approved following debate in both Houses in December 2002. The revised Code is clearer and simpler for officers and the public to understand. It reflects the work done in response to the Stephen Lawrence Inquiry Report, and includes important new provisions for searches and ethnic monitoring.

63. In Scotland procedures for detention are contained in Sections 14 and 15 of the Criminal Procedure (Scotland) Act 1995.

Article 7 (Prosecution of individuals suspected of torture and not extradited)

64. The Committee recommended the case of Senator Pinochet should be referred to the Office of the Public Prosecutor, with a view to examining the feasibility of initiating criminal proceedings against him in England, in the event that a decision was made not to extradite him.

65. Having decided, in November 1999, not to order Senator Pinochet's extradition to Spain, the Home Secretary referred the case to the Director of Public Prosecutions for consideration of a domestic prosecution in accordance with article 7 of the Convention. Papers were supplied in advance to the Solicitor General and the Director of Public Prosecutions for that purpose.

66. On 2 March 2000, the Solicitor General explained to the House of Commons why the Crown Prosecution Service (CPS) could not prosecute Senator Pinochet: firstly, the material in possession of the CPS would not be admissible in English courts, because the evidence was submitted in a form which did not satisfy the law of evidence used in the legal system of the United Kingdom; secondly, a police investigation would be necessary to gather admissible evidence; and finally, whatever the state of the evidence, no court in England and Wales would be likely to allow Senator Pinochet to be tried by reason of his health. The Solicitor General agreed with these reasons. Subsequently, Senator Pinochet was allowed to leave the United Kingdom (see Appendix 1 to this report).

Article 8 (Extraditable offences)

67. Since the third report, the only extradition request received by the United Kingdom for an individual suspected of torture was the request for the extradition of Senator Pinochet. In a landmark ruling, the House of Lords established that torture was an international crime over which the parties to the United Nations Convention against Torture had universal jurisdiction, and that a former Head of State did not have immunity for such crimes. On 2 March 2000, the Home Secretary announced that he had discharged Senator Pinochet from extradition proceedings on the grounds that he was unfit to stand trial and that no significant improvement in his condition could be expected (see Appendix 1 to this report).

Article 9 (Mutual legal assistance)

68. As described in previous reports, the United Kingdom gives full legal assistance under the Criminal Justice (International Co-operation) Act 1990 to foreign courts or prosecuting authorities. The United Kingdom Central Authority for mutual legal assistance has not, to its knowledge, received any requests for assistance from overseas authorities in connection with offences involving torture.

Article 10 (Education and training of police, military, doctors and other personnel to prevent torture and other forms of ill-treatment)

69. Previous reports have outlined the general principles which underlie all training programmes for law enforcement personnel and medical personnel - respect for the individual, humanity, the need to act within the law and to uphold the law at all times. Recent developments are set out below.

Police officers

Great Britain

70. Training for police officers in Great Britain continues to address the various statutory and common law provisions governing the rights of the individual, including restrictions on the use of force and firearms in the exercise of police duties, and the humane treatment of detainees. Specific training in investigative interviewing, based on ethical principles and emphasizing the rights of the individual, continues to be given to all police officers in England and Wales, including supervisors. In addition, all police forces in England and Wales have delivered training to their officers on the provisions of the Human Rights Act 1998.

Northern Ireland

71. The Police (Northern Ireland) Act 2000, Part VI, lays down special arrangements for recruitment to police officer and civilian staff posts. These recognize the importance of a more balanced service and include the Patten Commission's recommendation for selection of 50 per cent Catholic and 50 per cent non-Catholic candidates from a pool of qualified applicants.

72. On 12 September 2001, the Chief Constable announced that 35 per cent of applicants for the first recruitment campaign to the new PSNI were from the Catholic community. In a second campaign, launched in October 2001, over 4,500 applications were received, with 38.6 per cent from the Catholic community - the highest proportion in any such recruitment exercise. Since then the proportion of applications from Catholics has stayed about the same - at 36 per cent. Her Majesty's Government remains confident that 50:50 recruitment is working.

73. The percentage of Catholic representation among the regular officers of the PSNI has increased from 8.23 per cent in September 2001 to 12.99 per cent in August 2003.

74. The 50:50 recruitment arrangements are temporary. Under the law, the provisions are due to expire on the third anniversary of their commencement date (30 March 2004), unless the Secretary of State decides to renew them. In deciding whether the provisions should be renewed, the Secretary of State is required by statute to have regard to progress made towards securing that membership of the police and police support staff is representative of the Northern Ireland community. Before making such a decision, the Secretary of State will review progress in consultation with the Policing Board and other key consultees. A consultation exercise on the effectiveness of the provisions will commence in autumn 2003.

75. Recommendation 1 of the Patten Report was for a comprehensive training, education and development strategy. The Police (Northern Ireland) Act 2000 requires the Board, as part of the policing process, to assess the training and education needs of the police service, including its support staff. In addition, the Board has a statutory responsibility to monitor the performance of the police in carrying out the training and education strategy. Recommendation 4 of the Patten Report - that all police officers and police civilians should be trained in the fundamental principles and standards of human rights and their practical implications for policing - was also accepted.

76. All recruits to the PSNI are now required to undertake training leading to the Certificate in Police Studies which is accredited by the University of Ulster. The course is made up of five modules, which include "Police and Community Relationships" and "Human Rights and Diversity".

77. There was wide consultation on the content of this training. A consultation evening was held at the University of Ulster and contributions in writing were invited from around 50 bodies. These included Northern Ireland political parties, churches, the Northern Ireland Human Rights Commission, the Equality Commission of Northern Ireland, commercial bodies such as the Confederation of British Industry, the Law Society, the Northern Ireland Council for Ethnic Minorities, and other groups representing minorities.

78. All officers have been trained on the implications of the Human Rights Act 1998. The views of the Northern Ireland Human Rights Commission were sought on the training material and representatives attended two training sessions as observers. In November 2002, the Commission published an evaluation of human rights training for student police officers. It contained recommendations for improvement, but was generally positive. The PSNI has now formed a committee to take forward the report's recommendations.

79. The police service is guided in its work by a statutory code of ethics, which lays down standards of conduct and practice for police officers, as well as making them aware of rights set out in the Human Rights Act. All officers and police support staff undertake the "Course for All", which is based on the code.

80. The Policing Board published the Code of Ethics for PSNI in February 2003 (see Appendix 3 to this report). Since March 2003 it has been incorporated into police discipline regulations. The Code draws widely on international human rights documents, including the United Nations Code of Conduct for Law Enforcement Officials. It can be obtained at the Policing Board's web site at www.nipolicingboard.org.uk.

Prison officers

England and Wales

81. Training for prison officers in the United Kingdom remains substantially as set out in paragraph 39 of the third report. The principles of respect for human dignity and recognition of the rights of individuals underpin the prison officer initial training course in England and Wales. The course also includes a half-day mandatory session on inclusiveness and diversity, which addresses issues of unacceptable treatment and respect for the individual. Furthermore, senior managers in the service have training courses specific to their role, including appropriate treatment of prisoners. For example, a course on "Adjudication" covers what constitutes a legitimate punishment and how prisoners should be treated during punishment. And a "Command of Serious Incidents" course covers the proper treatment of prisoners at the conclusion of an incident, including the prevention of retaliation against them. In 2000, Senior Management Teams in prisons and headquarters staff in the Prison Service and the Home Office received half-day training sessions on the implications of the Human Rights Act 1998, with follow-up sessions in 2001.

82. Control and restraint techniques used by the three United Kingdom Prison Services are designed to meet the principle of minimum necessary force and to enable staff to restrain a violent or refractory prisoner with minimal risk of injury to all involved. All prison officers involved in the control of prisoners in the United Kingdom are required to have attended a basic training course to be instructed on the correct procedures for restraint. In England and Wales, standards such as the Prison Service Order on the training of prison dogs and their use by officers are also currently being reviewed and developed. Training is in place to ensure that dogs and their handlers use the minimum force necessary to apprehend escapees and prevent violence.

Scotland

83. In Scotland, all prison staff undertake human rights awareness training. This has been developed by the Scottish Prison Service College and delivered by trained officers. It aims to give staff an understanding of the underlying principles of human rights, the practical relevance of those principles to the treatment of prisoners, and the place of human rights within the Scottish legal system. The training is undertaken by existing prison staff and new recruits to the Scottish Prison Service.

Northern Ireland

84. In Northern Ireland induction training is designed to equip prison officers with a range of control and interpersonal skills to help them perform their duties and meet their responsibilities to prisoners. Staff also receive training on equality, human rights and equal opportunities. This is supplemented by literature that sets out the responsibility of staff in relation to conduct and discipline, e.g. The Prisons and Young Offenders Centre Rules (Northern Ireland) 1995, The Principles of Conduct, and The Code of Conduct and Discipline (see Appendices 4, 5 and 6 to this report).

Prison medical staff

England and Wales

85. A working group on prison doctors has considered issues such as the recruitment and retention of doctors, their training and qualifications, and their continuing professional development and revalidation. In December 2001, their report made a specific recommendation on the difficult ethical issues that doctors working within prisons may face. To support this and to provide prison doctors with practical guidance "Good Medical Practice for Doctors Providing Primary Care Services in Prisons" was published in January 2003 (see Appendix 7 to this report). This develops existing good practice guidance for doctors and general practitioners by providing additional text relevant to the prison environment.

86. The report also made recommendations on training and continuing professional development. These included the replacement of the Diploma in Prison Medicine with a refresher course for doctors who have already completed the diploma; and the development of prison specific modules (possibly including medical ethics and the protection of prisoners' human rights) that could be offered widely across the service.

87. To address future needs, training providers have been invited to tender for delivery of a training needs analysis (TNA) for prison doctors. This will identify: particular skills needed by doctors providing primary care in prisons; skills they may not have an opportunity to practice (for example in treating children); and skills in which they are more practised than doctors in the wider community (for instance in dealing with drug misuse). The TNA will inform Continuous Professional Development (CPD) planning for doctors working in prisons.

88. Clinical appraisal (mirroring that introduced in the National Health Service (NHS)) is used to identify training needs for individual doctors, including those new to the Prison Service.

89. This programme of work is one of a series of 14 that the Prison Health Directorate is taking forward to help to ensure that prisoners receive health treatment similar to that received by the general population under the NHS. The Prison Health Directorate is a joint Prison Service/Department of Health body set up after the 1999 report by the Joint Prison Service and NHS Executive Working Group - *The Future Organisation of Prison Health Care*, which included a substantial programme of change (see Appendix 8 to this report). It provides the direction to ensure that the treatment of prisoners is ethical and humane. It is supported by Regional Teams.

90. The objectives of the Prison Health Directorate include a commitment to develop, support and implement a strategy of Clinical Governance - a model that aims to assure the quality of all health care delivered in prisons. Clinical Governance is the responsibility of all health-care staff. A Prison Service Order will be issued early in 2003 to formalize much of the work already under way, help maintain progress, and set a minimum standard for all prisons. It will require a baseline assessment, a Clinical Governance lead officer (a doctor or a nurse), and annual reporting.

Scotland

91. Medical services for the Scottish Prison Service are provided under a contract that includes a requirement for induction training and continuing professional development for all doctors. The content is agreed between the Scottish Prison Service and the contractor. It includes relevant ethical and moral issues, and these are also included in the education and training strategy for practitioner nurses.

Northern Ireland

92. In Northern Ireland, all Prison Service Medical Officers appointed since January 1996 have received induction training, including ethical training, provided through the Prison Service in England and Wales. Health-care staff are encouraged to pursue relevant diplomas and degrees at the University of Ulster, initiated by the Northern Ireland Prison Service (NIPS) and the Royal College of Nursing. Courses include consideration of ethical and moral issues relating to human rights, and race and ethnicity within the field of forensic health care.

Immigration staff

93. National training for new entrants to the Immigration Service focuses on interviewing skills underpinning issues relating to asylum, suicide awareness, equality and diversity, and safe and professional working practices.

Medical and health care in immigration service custody

94. Medical and health care in removal centres are governed by the Detention Centre Rules, which came into force on 2 April 2001 (see Appendix 9 to this report).

95. Medical practitioners in removal centres must, as a minimum, be vocationally trained as general practitioners and be fully registered persons within the meaning of the Medical Act 1983. The contracts for the management of removal centres require that medical practitioners shall have sufficient competence to exercise their responsibilities under the Detention Centre Rules and shall refer for special advice where necessary. The Rules provide that members of the health-care team shall observe all applicable professional guidelines relating to medical confidentiality. There are specific provisions on the reporting of special illnesses and conditions, including any case where there are concerns that the detainees may have been the victim of torture, but these are designed to work in the best interests of the detained person and would not infringe the normal conditions of confidentiality.

96. Although the level of health care in removal centres equates to the level of NHS care in the community, there may be circumstances where a detainee would prefer to be seen by a medical practitioner other than the one at the removal centre. The Rules entitle the detainee to request attendance by an external medical practitioner where the detainee will pay expenses and there are reasonable grounds for the request.

Article 11 (Monitoring of procedures to prevent torture or other forms of ill-treatment)

Police services

97. The use of police powers and procedures continues to be monitored by various means. Paragraphs 64-72 of the initial report, paragraphs 33 to 40 of the second report, and paragraphs 45 to 69 of the third report describe the existing framework of legal and other safeguards which govern the use of police powers in the United Kingdom. All police services are also subject to regular inspection by Her Majesty's Inspectorate of Constabulary (HMIC), which has a statutory duty under the Police Act 1996 to report to the Home Secretary on the efficiency and effectiveness of the 43 police forces in England and Wales. In Scotland, a separate HMIC, reporting to the Scottish Ministers, carries out a similar function under the Police (Scotland) Act 1967.

Audio- and video-recording of interviews

England and Wales

98. In its conclusions following the second report, the Committee recommended that audio-recording should be extended to all police interviews. At police stations in England and Wales, audio tape recordings are now made of all interviews with people suspected of indictable offences. Under the Terrorism Act 2000, in accordance with a United Kingdom-wide code of practice, the audio-recording of interviews of those detained in a police station under the Act was made mandatory. A limited number of forces make videotape recordings of interviews in serious and complex cases. A smaller number of forces also make use of video-recording of interviews on a wider range of offences, although this is not currently widespread practice. Ministers agreed to an evaluation of video-recording to assess its benefits to the criminal justice process in comparison to audio-recording. In May 2002, under the Criminal Justice and Police Act 2001, a pilot study commenced in five police areas to enable evaluation of the benefits of the video-recording of police interviews with suspects. Any future roll-out to other police areas in England and Wales will be subject to the findings of the evaluation report.

Scotland

99. In Scotland, all interviews conducted by Criminal Investigation Department officers are audio-recorded as a matter of routine, and police forces are working towards the audio-recording of all interviews. Individual police forces may introduce video-recording of interviews if they have the resources to do so, and video cameras are increasingly being installed in custody suites and at charge bars.

Northern Ireland

100. In Northern Ireland, the Terrorism Act 2000, which came into effect on 19 February 2001, makes provision for police interviews with terrorist suspects to be both audio-recorded and video-recorded with sound. The audio-recording and video-recording-with-sound of interviews with terrorist suspects are governed by separate Codes of Practice. These Codes replace a previous Code of Practice governing audio-recording made under the Emergency Provisions Act 1998 and a Code of Practice governing silent video-recording which had been mandatory since 10 March 1998. In accordance with a Code of Practice elsewhere in the United Kingdom the Terrorism Act 2000 also makes provision for the video-recording of terrorist interviews. The Code of Practice governing video recording with sound of police interviews with terrorist suspects is Northern Ireland specific (see Appendix 10 to this report).

Access to legal advice

101. In all parts of the United Kingdom, anyone subject to questioning by the police or attending the police station voluntarily has the right to consult a legal adviser and, as a general rule, to have a legal adviser present during interview. These rights are set out in the Code of Practice for the detention, treatment and questioning of persons by police officers (Code C) issued under the PACE Act 1984 in England and Wales, in parallel Codes in Northern Ireland, and under the Criminal Procedure (Scotland) Act 1995. Under exceptional circumstances access to legal advice may be delayed, but powers to do this are only available under strict criteria.

England and Wales

102. In England and Wales, the PACE Act Code C provides that when a person is brought to a police station under arrest, or is arrested at the police station having attended there voluntarily, the custody officer must tell him that he has the right to speak to a solicitor and that he is entitled to independent legal advice free of charge. A suspect must be notified at the commencement or recommencement of any audio-recorded interview of his right to legal advice. Should he choose not to exercise this right, the interviewing officer should ask the reasons for refusal. These exchanges must form part of the audio-recording of the interview.

103. Under Annex B to the PACE Act Code C, in specified circumstances access to legal advice may be delayed if a person is being detained in connection with a serious arrestable offence (such as murder, manslaughter or rape) but has not yet been charged. The circumstances are where an officer of the rank of superintendent or above has reasonable grounds for believing that such contact might:

- Lead to interference with or harm to evidence;
- Lead to interference with or physical injury to other people;
- Alert others suspected of having committed such an offence but not yet under arrest, or hinder the recovery of property.

104. Access may be delayed only while these conditions exist and in no case for longer than 36 hours from the time of that person's arrival at the police station.

105. The Terrorism Act 2000 also allows for access to a solicitor to be delayed for up to 48 hours from the time of detention in defined circumstances that apply throughout the United Kingdom. However, the power to delay access is used very rarely: the Government is not aware that it has been used at all in any part of the United Kingdom in recent years.

Scotland

106. In Scotland, access to solicitors for detained persons is now provided for under section 15 of the Criminal Procedure (Scotland) Act 1995 (as mentioned in paragraph 58 of the third report). Persons detained under section 14 of the 1995 Act, and taken to a police station or other premises or place, are entitled to have details of their detention sent to a solicitor and to one other person without delay. Those detained by the police will be told of this right immediately on arrival at the police station or other premises. Where they are arrested on any criminal charge, section 17 of the 1995 Act entitles them to have a solicitor notified that professional assistance is needed. The solicitor must be informed where they are being detained, whether they are to be freed and, if not, the court to which they are to be taken and when they are due to appear there. The accused and solicitor are entitled to have a private interview before any judicial examination or appearance in court. Under the Terrorism Act 2000, where a person has been permitted to consult a solicitor, the solicitor is allowed to be present during any interview carried out in connection with the terrorist investigation.

107. In Scotland a suspect has no right to have a solicitor present during police questioning. However a suspect is entitled to decline any questions in the absence of his solicitor and no adverse inference can be drawn from such a silence.

Northern Ireland

108. In Northern Ireland, under the Terrorism Act 2000 (section 99, Northern Ireland Specific Code of Practice) - effective from 19 February 2001 - terrorist suspects have the right to have a solicitor present during police interviews. The Chief Constable of the Royal Ulster Constabulary (now the Police Service of Northern Ireland - PSNI) introduced this measure administratively in September 2000 - ahead of the Code of Practice.

Right to silence

England, Wales and Northern Ireland

109. In response to the judgement of the European Court of Human Rights in *John Murray v. United Kingdom*,[1] the Government introduced provisions prohibiting the drawing of inferences from silence where no prior access to legal advice has been granted. These were contained in the Youth Justice and Criminal Evidence Act 1999, and replicated for Northern Ireland at article 36 of the Criminal Evidence (Northern Ireland) Order 1999. Commencement of the provisions in England and Wales and in Northern Ireland will follow necessary revision of the PACE Codes. However, in both jurisdictions administrative arrangements have been in place for some time to ensure compliance with the judgement.

Scotland

110. In Scotland, regardless of whether a legal adviser is present, no inferences can be drawn as to the credibility of the suspect's evidence on any matter about which he declined to say anything while being interviewed, cautioned, or charged by the police.

111. A programme of research was undertaken to monitor the effects of the right to silence provisions in the 1994 legislation. The full report of the research was published in 2000. It pointed to a significant reduction in the extent to which suspects rely on their right to silence during police questioning.

Measures to prevent ethnic discrimination

112. During the second oral hearing, the Committee expressed concern about allegations of ethnic discrimination by the criminal justice agencies. All criminal justice agencies in England and Wales, including the police, are bound by section 95 of the Criminal Justice Act 1991. This requires the Secretary of State to publish annually information he considers expedient to enable those engaged in the administration of criminal justice to avoid discriminating against any persons on the ground of race, sex, or any other improper ground.

113. Ethnic monitoring of police use of "stop and search" powers was among a number of core performance indicators introduced in April 1993. From 1 April 1999 all police forces in England and Wales were asked to provide information on notifiable arrests by ethnic appearance, gender, age and offence group. Two police forces have not been able to meet this request, largely due to the limitations of existing police IT systems. These forces are being actively encouraged to put such mechanisms in place as soon as practicable.

114. On 30 September 1998, the Crime and Disorder Act 1998 introduced new racially aggravated offences covering assault/wounding, criminal damage and harassment. The Stephen Lawrence Inquiry made a number of recommendations to improve the reporting and recording of racist incidents and crimes. In May 2000, the Home Office issued a Code of Practice on reporting and recording racist incidents specifically in response to Recommendation 15 of the Inquiry's report (see Appendix 11 to this report). This Code of Practice is currently being evaluated by the Home Office Research Development and Statistics Directorate. In September 2000, the Association of Chief Police Officers (ACPO) issued a guide to identifying and combating hate crime (*Breaking the Power of Fear and Hate*) (see Appendix 12 to this report). This Guide will be reviewed by ACPO later this year. Both of these documents set out the minimum information to be collected on racist incidents and crimes. From 1 April 2000, new statistical returns were introduced as the first stage in the national collection of this data. The ATCS Act amended the provisions of the Crime and Disorder Act 1998 to widen the definition to "racially aggravated or religiously motivated" crimes. National statistics on "religiously motivated" attacks are collected centrally only by the CPS, but the Home Office will be looking to encourage all forces to record instances of religiously motivated incidents. ACPO, working with the Government, have developed guidance for police forces on dealing with so-called "hate" crimes (including racially and religiously motivated crimes). This guidance "Identifying and Combating Hate Crime" was last updated in April 2002. The method

of monitoring ethnicity was changed from 1 April 2002 to include self-classification based on the 2001 United Kingdom Census classification. This was in line with a recommendation from the Stephen Lawrence Inquiry.

Deaths in police custody

115. Figures for deaths and suicides in police custody in the United Kingdom since 1997 are set out in the tables below.

England and Wales

Year	Total number of deaths	Deaths by suicide
1997-1998	71	8
1998-1999	67	7
1999-2000	70	7
2000-2001*	52	3
2001-2002**	70	0

* 8 inquest verdicts awaited.
** 54 inquest verdicts awaited.

(Recently, inquest juries in England and Wales have tended not to return verdicts of suicide. In 2001/2002, one verdict was that person had killed himself, one that the person took his own life, and one that the person killed himself while the balance of his mind was disturbed.)

Scotland

Year	Total number of deaths	Deaths by suicide
1997-1998	10	0
1998-1999	7	0
1999-2000	6	0
2000-2001	4	1
2001-2002	4	1
2002-2003	8	0

Northern Ireland

Year	Total number of deaths	Deaths by suicide
1997-1998	1	0
1998-1999	0	0
1999-2000	0	0
2000-2001	0	0
2001-2002	3	1
2002-2003 (to March 2003)	0	0

Ethnic origin

116. Since 1 April 1996, the police have recorded the ethnic origin of those who die in police custody. Statistics from each force, including the circumstances of the death, the cause of death, the ethnic origin of the deceased, and the inquest verdict, are published annually. Figures from 1999 are set out in the table below.

Year	Total	White	Black	Asian	Other
1999-2000	70	61	3	3	3
2000-2001	53	42	7	4	0
2001-2002	70	64	2	3	1

117. Between 1 April 1996 and 31 March 2002 in England and Wales, 55 (14 per cent) of those who died in police custody were Black, Asian or from other ethnic minority groups. Black and Asian people constitute approximately 5 per cent of the population of England and Wales. However, they form 11 per cent of those arrested. Deaths of people from ethnic minorities have occurred in a wide range of circumstances, and no obvious common factor appears to link them. The number of Black and Asian people who died was higher than might have been expected from their numbers in the general population. This was partly due to their over representation in arrests. However, the numbers are too small to draw any definite conclusions.

Research into deaths in police custody

118. Since 1998 the Police Complaints Authority (PCA) has run three conferences and issued three influential reports on preventing deaths in care and custody. It has an active research programme working to reduce the risks of death in custody.

119. The Home Office Police Research Group, which is independent of the police, has made a study into the causes of death in police custody. Its report, published in July 1998 (see Appendix 13 to this report), found:

- There were on average 3 (3.2) deaths per 100,000 arrests, and many were not obviously preventable;
- The police have to deal with people who have a higher than normal risk of sudden death (8 out of 10 of those who died had taken drugs or alcohol); and
- More than 90 per cent of deaths were related to the actions of detainees or to their medical condition.

120. The main causes of death were:

- Deliberate self-harm (for example, suicide by hanging) 34 per cent;
- Medical condition (for example, heart attack) 29 per cent; and
- Substance abuse (for example, alcohol poisoning) 25 per cent.

121. Deaths associated with officers' actions were very rare (16 in 11.8 million arrests) and in most cases other factors were also involved (e.g. the detainee's physical or medical condition and actions).

122. The main recommendations were:

- More frequent health and behavioural checks, especially at the start of custody, and in cases of apparent drunkenness, or where suicide is threatened, or where detainees have medication on them (guidance on dealing with medical or psychiatric conditions of detainees was issued in January 1999);

- More training for police in the use of restraint;

- Better communication between police and medical personnel;

- Improved maintenance of official records.

123. The report also raises these issues for future consideration:

- Medical training and development of guidance to help custody staff decide when to request medical aid;

- Viability of detoxification centres; and

- Effectiveness of CCTV and cell design.

124. In response to the report, police forces across England and Wales have taken a range of actions to reduce the number of deaths in police custody. These include safer custody facilities, improved training, CCTV monitoring and an emphasis on better care, assessment and monitoring of detainees.

Crown Prosecution Service

125. Concerns about the handling of cases against police officers arising from a number of deaths in police custody, led in 1998 to an independent inquiry into the investigative processes of the CPS and the quality of its decision-making in death-in-custody cases in England and Wales. The inquiry was led by a senior judge - His Honour Gerald Butler QC. The inquiry looked specifically at the handling of three cases arising from the deaths of Shiji Lapite, Richard O'Brien, and Graham Treadaway. The report, "Inquiry into CPS decision-making in relation to deaths in custody and related matters", published in 1999 (see Appendix 14 to this report), was critical of the systems used to arrive at a decision, and of confusion about the identification of the decision maker. It recommended that the advice of counsel should be sought more often than it had been in the past. It concluded that there was no dishonest or deceitful conduct, or unfair bias, in the way the CPS had handled the cases, but that the judicial review proceedings had been dealt with in an "unsatisfactory manner". The inquiry made six recommendations into the approach taken by the CPS, all of which were accepted by the CPS and have been implemented.

Coroner system

126. In March 2001 the Home Office announced a fundamental review of the coroner system in England, Wales and Northern Ireland to be chaired by Mr. Tom Luce, former Head of Social Care Policy at the Department of Health. The review reported to the Home Secretary on 4 June 2003, and its report was published as a command paper (CM 5831) (see Appendix 15 to this report). A second, linked report, entitled Death Certification and the Investigation of Deaths by Coroners, was published on 14 July (CM 5854) (see Appendix 16 to this report). Ministers are considering both reports and will decide on changes to the coronial and death certification systems in light of these and further work, which should be completed in autumn 2003.

Review of use of sprays and restraints by the police

127. Given the nature of the police role it may be inevitable that, as noted in the third report, some concerns are expressed about the use of restraint procedures by the police. ACPO oversees the production and ongoing review of guidance on self-defence and restraint. Human rights principles have been integrated into the current edition of the Association's *Manual of Guidance on Personal Safety*. In addition, this document provides advice on a wide range of relevant topics including issues critical to detainees' health such as the management of prisoners exhibiting signs of "excited delirium" and the avoidance of "positional asphyxia" among persons subject to restraint. The manual promotes defensive techniques designed to minimize injury and discomfort to their subject while also providing sufficient protection to officers and members of the public. The manual provides operational guidance for police officers and is not therefore publicly available at present.

128. NGOs and others had also expressed concerns about the use of CS spray by police officers. Following the inquest into the 1997 death in police custody of Ibrahima Sey, the health effects of CS spray were thoroughly researched to a level similar to that which would be required for a pharmaceutical drug. This established that CS spray presents no significant risk to human health. In September 1998, the Department of Health referred CS spray to the independent expert committees on Toxicity, Mutagenicity and Carcinogenicity - a move welcomed by Home Office Ministers. In September 1999, the Committees published their reports, which concluded that "the available data did not, in general, raise concerns regarding the health effects of CS spray itself" (see Appendix 17 to this report). ACPO have given very careful consideration to how CS spray should be used, and the aftercare of people who are sprayed within it, and have issued detailed guidelines to all police forces in England and Wales.

Regulation of the private security industry

129. In the third report, it was said that the Government intended to introduce statutory regulation of the private security industry in England and Wales, to ensure that suitable individuals work within the industry. Following widespread consultation, the Government introduced the Private Security Industry Act 2001. Implementation of the Act will be phased in from 2003. It will be a criminal offence to work in designated sectors of the private security industry without a licence from the newly created independent body, the Security Industry Authority. Licence applications will be judged on the basis of the applicant's criminal record

(if any) and on compliance with such quality standards as will be prescribed. The Act applies to England and Wales only. Scotland is currently considering whether to introduce its own regulatory regime.

Use of baton rounds in Northern Ireland

Police service

130. The PSNI needs to have equipment available to assist in responding to potentially life-threatening public order situations. Lethal weapons such as blast bombs are consistently used against the police in riot situations in Northern Ireland. The Patten Report recognized that the police could not be left with no alternative to live rounds in such situations.

131. Strict published guidelines exist to govern the police use of baton rounds. Each officer using a baton round is accompanied by another who is responsible for keeping a record of the circumstances in which any rounds are fired. The Police Ombudsman receives a report from the Chief Constable on every incident when police use baton rounds, and she carries out an investigation (the Policing Board also receives a report).

132. The current baton round, the LA21A1 was introduced in June 2001. An internal review of the use of the L21A1 baton round after one year in operation concluded that it was safer than its predecessor. A second year review is currently under way. The conclusion of the Independent Advisory Medical Panel was also published. It should be noted that no baton round has been fired in Northern Ireland since September 2002.

133. However, the Government is fully committed to finding an effective and acceptable alternative to baton rounds in line with the Patten Report recommendations.

134. To that end, a multi-agency Steering Group, led by the Northern Ireland Office, which includes members of the police, ACPO, the Police Scientific Development Branch, the Home Office, and the Ministry of Defence, is conducting a substantial research programme. The programme is unprecedented in its approach and in its scope, considering technical, medical, human rights and acceptability issues. It has contacted a wide range of interested parties in Northern Ireland, Great Britain and overseas. Three reports have now been published, the latest issued in December 2002 (see Appendix 18 to this report). All are available on the NIO web site at www.nio.gov.uk.

135. On 9 April 2003 the NIO Minister of State, Jane Kennedy issued a statement that: "On the basis that an acceptable and effective and less lethal alternative is available, the baton round would no longer be used after the end of 2003. In the event that that has not been achieved, the Government would report on the progress of the fourth phase of the research programme and review the options for less lethal alternatives consulting widely with a range of interested parties including the Chief Constable and the Policing Board."

136. On 18 July 2003, following discussion with the Northern Ireland Policing Board and ACPO, the PSNI placed an order for six new vehicle-mounted water cannons. The first

two water cannons were delivered in September 2003 and the remainder are due by the spring of 2004. The deployment of water cannons is dependent on the outcome of the final evaluation of the water cannons by the Independent Advisory Medical Panel. Water cannons are not a replacement for the baton round. However, their deployment will give the police an option that, in some circumstances, could delay the need to use baton rounds, or remove it altogether.

The Army

137. The Army is accountable through its chain of command and under the law. The PSNI will investigate any cases where army use of baton rounds gives rise to concern. In December 2002, the Independent Assessor of Military Complaints Procedures published a review of military use of baton rounds in Northern Ireland in 2001 and 2002. The Independent Assessor is a statutory post, established under the Terrorism Act 2000, and the Emergency Powers Acts before that, to provide an additional safeguard.

Prison services

138. As noted in previous reports, regimes in the three Prison Services - England and Wales, Scotland, and Northern Ireland - are kept under scrutiny through a variety of means. These include scrutiny by Parliament, detailed external audit by the Chief Inspector of Prisons and regular visits by the local community watchdog body, the Board of Visitors (or in Scotland, Prison Visiting Committee). Prison rules continue to provide a statutory framework for procedures and safeguards for prisoners. The Prisons and Probation Ombudsman (formerly the Prisons Ombudsman) provides an independent point of complaint for prisoners in England and Wales who have failed to obtain satisfaction from the internal complaints system, and for individuals who wish to complain about the National Probation Service. The Scottish Prisons Complaints Commissioner has a similar independent role in respect of complaints by prisoners in Scotland.

Visits by Her Majesty's Chief Inspector of Prisons

Norwich

139. Her Majesty's Chief Inspector of Prisons carried out an inspection at Norwich in September 2002 and published her report on 7 January (see Appendix 19 to this report). The report identified some areas where the prison was functioning well, such as the resettlement and young adult wings, but was critical in some areas such as general cleanliness and provision of educational facilities.

140. Norwich is a multi-functional prison which has been operating close to its capacity due to the rise in the prison population. This has increased the pressure on the prison and has affected its performance, particularly in the adult part of the prison, which has experienced the most throughput of prisoners. The inspection took place at a time where population pressures and staff shortages combined to lower standards. However, relationships between staff and prisoners have previously been seen as strengths at Norwich, and overall this remains the case. This view is supported by the independent Board of Visitors.

141. The prison aims to provide as much work and education facilities as possible but there are reasons why this is not possible for all prisoners. There is insufficient space in which to operate and the sheer throughput of discharges and receptions in a local prison also militates against this. Despite these pressures 784 prisoners have obtained qualifications or accredited courses at Norwich during the past 12 months including 358 prisoners who have achieved basic skills qualifications in literacy and numeracy and 103 prisoners who have completed based offending behaviour programmes.

142. A comprehensive Prison Service audit at the prison during November demonstrated much improved compliance in standards of safety and anti-bullying, drug strategy and suicide and self-harm prevention. There has also been an improvement in the use of activity places and this remains a key priority for management. The prison has finalized an action plan, based on the Chief Inspector's recommendations, which will be closely monitored by the Governor and Area Manager as well as by Prison Service Headquarters.

Holloway

143. Her Majesty's Chief Inspector of Prisons carried out a visit at Holloway from 8-12 July 2002 followed by a short updating visit in January 2003, and published her report on 18 February 2003 (see Appendix 20 to this report). The report identified problems with provisions for girls under 18, lack of shower facilities, and general standards of cleanliness.

144. At present Holloway holds between 12 and 20 girls aged 15 to 17 at any one time, all of whom have been placed there by the courts within the prison's catchment area - the majority being unsentenced. Unless girls are pregnant, unfit to travel, undergoing detoxification, on the Mother and Baby Unit, or mentally ill, all sentenced girls are transferred out to more suitable accommodation within three days of reception.

145. Girls are removed from Holloway as soon as is practicable. However, those who are undergoing detoxification, mentally ill, or in need of Mother and Baby Unit facilities have to remain, as Holloway can provide better medical treatment than any alternative.

146. At the time of the HMCIP inspection acute staff shortages affected the establishment's ability to provide access to showers without a detrimental effect on the security and safety of the establishment.

147. The situation is now better than at the time of inspection. With a full complement of staff Holloway would aim to offer all women access to showers daily. This is already now the case for the Mother and Baby Unit. Pregnant women currently have access to showers four times per week. But immediate access for all prisoners to daily showers at Holloway simply cannot be delivered in the current circumstances. There are insufficient staff, insufficient facilities, and a serious risk of disorder, given that showers clearly provide one of the most obvious opportunities for assaults and bullying and are the area where prisoners feel most vulnerable. The same difficulties apply to many other establishments.

148. An Action Plan has been drawn up between the Operational Manager and the Governor to take forward the recommendations in the report.

Prison population

149. The prison population in England and Wales at the end of June 2003 was 73,657. This is an increase of 1,025 prisoners from 72,632 at the end of May. The average daily prison population in England and Wales in October 2002 was 71,435, compared with 63,788 in 1998.

150. Scotland has seen a proportionately smaller increase, from 6,059 in 1998 to 6,665 in August 2002. The prison population in Northern Ireland decreased from 1,533 prisoners in April 1998 to 1,001 prisoners in April 2002. (Since July 1998, 443 prisoners have been released on licence under the Northern Ireland Sentences Act 1998, giving effect to the "Prisoners" section of the Good Friday Agreement.) However, since April 2002 there has been a steady increase in the prison population. In January 2003 there were 1,108 prisoners in Northern Ireland.

England and Wales

151. Despite current pressures on prison accommodation, the Government remains committed to providing decent conditions for prisoners. To this end, the capacity of the prison estate in England and Wales has been increased substantially in recent years. Twenty one new prisons were opened between 1990 and 2000, and two more - providing a further 1,400 places - were opened in 2001.

152. The percentage of prisoners held in overcrowded conditions in 2001-2002 was 18.5 per cent. From April 2002-November 2002 the figure was 23.2 per cent. These figures are for all overcrowding: i.e. doubling (two prisoners held in cells designed for one) and other overcrowding (three prisoners held in cells designed for two). In 2001-2002 the figure for doubling was 17 per cent; for April-November 2002 it was 19.9 per cent. Since March 1994 there has been no occasion when three prisoners have been held in a cell designed for one. This has been achieved at the same time as an unprecedented rise in the prison population. Over the same period, refurbishment and modernization of existing establishments have also improved conditions for prisoners by providing upgraded facilities. With very few exceptions, all prisoners now have access to sanitation 24 hours a day.

153. When the prison estate is at full capacity, prisoners are held in police cells under a formal arrangement known as Operation Safeguard. No prisoners were held in police cells under this arrangement between 1995 and July 2002. Police cells were last used to hold prisoners under Operation Safeguard between 12 July and 19 December 2002. No prisoners have been held in police cells under this arrangement since then.

154. Prisoners are also held, briefly, but routinely in police custody under the "lock-out" system. This is a short, temporary stay (i.e. overnight) when a prisoner under escort cannot be located at the appropriate prison.

Scotland

155. In Scotland with the opening of HMP Kilmarnock in 1999 and the population remaining stable, overcrowding was not significant in national terms until 2001 when the prison population began to increase. It is currently around 7 per cent over available capacity. Latest available figures show that 79 per cent of prisoner places have access to night sanitation (Source: Scottish Prison Service Annual Report 2002-2003) (see Appendix 21 to this report). A review of the prison estate, with the principal aims of providing 100 per cent access to 24 hours sanitation and ensuring that there is sufficient suitable accommodation to meet projected future needs, was completed in 2002. Decisions arising from that review, including the construction of two new prisons, were announced in September 2002 and are now being implemented.

Northern Ireland

156. In Northern Ireland, the prison estate is small - consisting of two prisons and one Young Offenders' Centre. Following a decrease in the prison population, Belfast prison was closed in March 1996, and prisoners were transferred to other prisons. The Maze prison was closed as an operational establishment in September 2000 following the release of prisoners under the Good Friday Agreement. Part of the prison continues to be retained as emergency accommodation. A major refurbishment programme is being carried out at the Young Offenders' Centre (see paragraph 300 to this report) and at Magilligan prison.

Overcrowding

157. Prison overcrowding is a serious problem that the Government is tackling by providing additional prison capacity and reform to the Criminal Justice System. As part of a long-term strategy being developed to manage prison population pressures, the Government has announced that £60 million will be made available to provide 740 prison places by March 2004. Plans for two new prisons at Ashford in Middlesex and Peterborough have also been approved.

158. Also, as part of a review of correctional services, the Government is looking at what measures can be taken in the short term to reduce numbers in prison, including developing a communications strategy to ensure that messages to sentencers are consistent.

159. The Home Detention Curfew scheme is an important factor in managing the prison population. It enables prisoners to be released from prison early with some restrictions on their liberty, and facilitates a smoother and more effective integration back into the community. In view of the success of the scheme the Government has increased the maximum curfew period to 135 days.

Deaths in prisons

England and Wales

160. The following table shows the number of deaths in prisons in England and Wales since the third report in 1998.

Calendar year	Average daily population	Self-inflicted deaths	Deaths by natural/other causes	Total	Number of self-inflicted deaths per 100,000
1998	65 300	83	55	138	127
1999	64 800	91	58	149	140
2000	64 600	81	63	144	125
2001	66 312	73	68	141	110
2002	70 900	94	72	166	133
2003[a]	73 300[b]	65	59	124	89[c]

[a] Up to 11 September 2003.

[b] Average daily population not available for 2003; figure provided is actual prison population on 12 September 2003.

[c] Clearly it is not meaningful to compare the proportion of deaths in 2003 with the previous end of year rates.

161. The Prison Service takes any death in custody very seriously and is committed to reducing the number of deaths. It is determined to learn the lessons of every death in custody. As can be seen, a sizeable proportion of deaths were self-inflicted. Prisons hold a large number of people most at risk of self-harm and suicidal behaviour (because of the connections between self-harm and drug and alcohol abuse, family background and relationship problems, social disadvantage or isolation, previous sexual or physical abuse, and mental health problems).

162. The majority of other deaths were from natural causes. There have been no deaths as a result of the use of restraints (including body belts) since 1995. Between 1 January 1998 and 10 September 2003, 7 of the 375 individuals who died of natural or other causes were initially reported to have died as a result of homicide. At inquest a verdict of "homicide" was recorded for four of these deaths. The murder of Zahid Mubarek, a young offender from an ethnic minority, by his racist cellmate, prompted a wide-ranging investigation into the death and into racism in the Prison Service. As a result of this murder, the Prison Service developed a national cell sharing risk assessment procedure that enables early identification of racist, homophobic or violent prisoners, and establishes a record of decisions relating to management and review of risk. It has been in place since July 2002.

Scotland

163. The following table shows the number of deaths in Scottish prisons since the third report in 1998.

Year	Average daily population	Self-inflicted deaths	Other deaths	Total	Number of self-inflicted deaths per 10,000
1997-1998	6 059	13	6	19	21.4
1998-1999	6 029	14	7	21	23.2
1999-2000	5 974	17*	9	26	28.5
2000-2001	5 883	11	5	16	18.7
2001-2002	6 185	11~	7	18	17.8
2002-2003	6 475	8+	8	16	12.4

* Includes one apparent suicide; ~ includes three apparent suicides; + includes six apparent suicides. Fatal Accident Inquiries are still to be held/concluded into all these deaths.

164. A steady and significant increase in the rate of suicide amongst the general population in Scotland over the past 30 years has been reflected in the increasing suicide rate in Scottish prisons. Particularly significant has been the increasing risk in the male 15-34 age group, which is also the group most represented in prison. Over the same period the female suicide rate in the general population has dropped, although there has been a slight increase in the 15-34 age group.

Northern Ireland

165. The following table shows the number of deaths in prisons in Northern Ireland since 1998.

Year	Average daily population	Self-inflicted deaths	Other deaths	Total	Number of self-inflicted deaths per 10,000
1998-1999	1 402	1	1	2	7.13
1999-2000	1 179	5	1	6	42.4
2000-2001	1 010	2	1	3	19.8
2001-2002	900	0	0	0	0.00
2002-2003 (to Jan. 2003)	1 015	2	0	2	19.7
Jan. 2003-date	1 131	1	0	1	

Clearly it is not meaningful to compare the proportion of deaths in 2003 with the previous end of year rates.

Suicide prevention strategy

England and Wales

166. The Suicide Awareness Strategy, outlined in paragraphs 82-84 of the second report and 90 of the third report, was reviewed in 2000. The review recommended a three-year safer custody strategy to develop policies and practices to reduce prisoner suicide and manage

self-harm in prisons (see Appendix 22 to this report), and this was launched in spring 2001. The current strategy is holistic in approach, preventative, risk-based, and strongly dependent on other approaches. Within prisons it relies on a supportive culture based on good staff/prisoner relationships and constructive regimes; and beyond prisons on the cooperation of other agencies. Over the next few months the outcome of the safer custody strategy will be reviewed, taking into account evaluations of pilot projects and emerging research findings. The next steps and approaches will be determined in consultation with partner agencies and organizations. It is likely that future approaches will concentrate more on better care for people rather than on processes.

167. Projects are under way to improve pre-reception, reception and induction arrangements, to improve exchange of information with other agencies, and to develop safer prison design, including "safer cells". New evidence-based health-care reception screening arrangements are being implemented and include measures to improve identification of vulnerable prisoners. Thirty full-time suicide prevention coordinators (SPCs) have been appointed in high-risk establishments, and a further 102, mostly part-time, SPCs are now operating across the estate. Staff are increasingly supported in their work by mental health in-reach teams. Samaritans are working with the Prison Service to select prisoner peer supporters ("Listeners"), who are trained to listen to all prisoners who need somebody to talk to, and are often available 24 hours a day, 7 days a week. A programme of physical improvements at six pilot sites: Feltham, Leeds, Wandsworth, Winchester, Eastwood Park and Birmingham, funded by an investment of over £21 million, is 75 per cent complete. The money is being spent on improvements to detoxification centres, reception and induction areas, the installation of First Night Centres and the creation of crisis suites and gated cells that enable staff to watch at-risk prisoners closely.

168. Each Prison Service establishment has a Suicide Awareness Team that meets regularly to consider any suicide or attempted suicide, and to explore appropriate preventative measures. The groups are multidisciplinary including health-care professionals, psychologists, chaplains, probation and education staff, representatives of voluntary organizations (such as the Samaritans), and officers from the Establishment.

Scotland

169. The Scottish Prison Service is committed to reducing suicide in prison and to improving care for those at risk. Its suicide risk management strategy, introduced in 1992 and revised in 1998, accepts the need to change the culture and environment in prison to make it desirable and safe to seek help in times of crisis. The strategy involves multidisciplinary teamworking, care planning and case conferencing, identification of risk, and the delivery of care-focused support and intervention. All staff working in prisons are trained in the working of the strategy and in recognizing the risk indicators. They receive annual refresher training.

170. In July 2000, the Scottish Prison Service commissioned the University of Stirling Anxiety and Stress Centre to carry out a review of all aspects of the suicide risk management strategy "ACT to Care". Its report was published by the Scottish Prison Service in February 2003 and, together with a formal audit of the suicide risk management strategy, it embodies a comprehensive review of policy and processes. SPS is now revising its strategy, taking into account the findings of the research and its own experiences in operating the strategy, and aims to conclude the revision by April 2004.

171. On 2 December 2002, the Scottish Executive launched "Choose Life" - its National Strategy and Action Plan to Prevent Suicide in Scotland (see Appendix 23 to this report). The strategy aims to reduce the suicide rate in Scotland by 20 per cent by 2013. It coordinates and focuses action by national and local agencies, local community based initiatives, voluntary organizations and self-help groups. It is supported by a national implementation support team and a three-year funding commitment. It identifies the following priority groups: children, young people (in particular young men), people involved in substance abuse, and people in prison. It is separate from the Scottish Prison Service strategy, though their arms are aligned.

Northern Ireland

172. A review of NIPS policy and procedures for dealing with prisoners at risk has recently been completed and was adopted by the Prison Management Board in April 2003. This takes a holistic approach to providing the necessary support and care to prevent the individual harming himself or herself. It includes an initial assessment on reception to prison, Samaritan services, listener schemes, an anti-bullying policy and improved structures, systems and procedures. This policy is due to be implemented by December 2003.

Education

173. The Offenders' Learning and Skills Unit (OLSU), based in the Department for Education and Skills, advises the Prison Service on learning and skills for prisoners. From April 2004 the Unit will also have responsibility for policy and funding of learning and skills for offenders under supervision in the community.

174. Funding for education and training in prisons is ring-fenced. It will rise from £97 million in 2003-2004 to £137 million in 2005-2006. These funds will help deliver a tailored, coherent programme of learning for prisoners from arrival in prison through to resettlement in the community on release, with a particular focus on provision for 18-21-year-olds.

175. The Unit's vision is that offenders, according to need, should have access to education and training both in prisons and in the community. That education and training should enable them to gain the skills and qualifications they need to hold down a job and have a positive role in society. The content and quality of learning programmes in prisons, and the qualifications to which these lead, should be the same as comparable provision in the community.

176. The Unit's approach to achieving this vision is based on:

- Securing and allocating resources to support a larger volume of learning and skills in prisons;

- Ensuring that education and training contracts in prisons are of the best possible specification;

- Expanding OLSU's role to encompass learning and skills for those on probation;

- Increasing and developing opportunities for offenders to learn - and gain qualifications in - marketable basic and work-related skills, and increasing participation in other learning opportunities;

- Building capacity so that infrastructures are in place to support significant improvements in learning and skills for offenders; and

- Working with organizations within and outside Government and strengthening partnerships with them to take forward the agenda for change and improvement.

177. Prisons are included in the national Skills for Life Strategy. In 2002-2003 prisoners achieved over 41,000 qualifications in literacy and numeracy at all levels, making a significant contribution to the number of adults nationally who improved their basic skills. A range of other learning opportunities, including distance learning, is also available to prisoners. In 2002-2003, 560 prisoners registered with the Open University on undergraduate courses.

178. The Government is investing an additional £14.5 million a year from April 2003 in the Prison Service "Custody to Work" initiative to increase the number of prisoners getting jobs, education or training places after release. Eighteen to 20-year-olds are already benefiting from additional money invested in the programmes funded from previous spending reviews, for example on drug treatment and offending behaviour programmes.

Use of unfurnished accommodation

179. Paragraph 92 of the third report referred to the use of unfurnished accommodation in the care of those at risk of self-harm. Instructions were issued in April 2000 which abolished the use of such accommodation or any other arrangements that deprive prisoners of normal amenities such as clothing, furniture or bedding. The instructions suggested alternative measures to accommodate prisoners at risk. The use of special accommodation may be authorized exceptionally for a prisoner who is identified as being at risk of suicide/self-harm, and who is also violent and a danger to others. This is a last resort, and only for the period that the prisoner is violent and considered dangerous. These instructions were consolidated in Prison Service Order 2700 (Suicide and self-harm prevention) with effect from 1 January 2003, and will be reviewed again as part of a continuing safer custody programme (see Appendix 24 to this report).

Bullying

England and Wales

180. The Government recognizes that bullying takes place in many prisons and that work is needed to ensure that prison is a safe place in which people can concentrate on building their futures. The Prison Service's national anti-bullying strategy has been shown to be effective when applied rigorously at establishments. Every establishment is required to have a local strategy to address the issues of bullying and victimization, as it is their duty to ensure the safety and care of prisoners. There is special emphasis on vulnerable groups, such as young prisoners in young offenders prisons. Each prison is expected to take into account the type of prisoners in their care and adopt an anti-bullying strategy.

181. Establishments continue to implement measures to deal with the perpetrators of antisocial behaviour and also recognize the need for victims to be protected and supported. The principal aims of the newly developed Prison Service Violence Reduction Unit are to develop a violence reduction strategy and to review the existing anti-bullying strategy. This includes the development of key performance indicators and key performance targets on assaults. The Prison Service has launched a national risk assessment form for cell sharing to help reduce the risk of prisoner-on-prisoner assaults. The Prison Service is also exploring strategies and methods used elsewhere that have been effective in reducing bullying.

Scotland

182. In 2000 the Scottish Prison Service introduced a new strategy to combat bullying by prisoners of fellow inmates. It requires both staff and prisoners to be made aware of the issues surrounding bullying and how these can be addressed, and includes training for staff to identify and control bullying.

Northern Ireland

183. In Northern Ireland, prisons have adopted anti-bullying strategies involving removal of bullies to where there is increased staff supervision, and encouraging them to confront their antisocial behaviour before they are returned to their normal location. Professional staff (e. g. psychologists) discuss the issue in one-to-one sessions. This may result in prisoners being encouraged to attend specific programmes to deal with their behaviour, e. g. enhanced thinking skills. If the prisoners do not wish to change their antisocial behaviour, their association with other prisoners may need to be restricted. Risk assessments are conducted on bullies to ensure safe reintegration into the mainstream population. Risk assessments are also conducted on the victims of bullying to provide support and safe accommodation.

Monitoring the use of restraints

184. As stated in the third report, there are concerns about the use of body belts by the Prison Service in England and Wales. Body belts may be used as an exceptional measure when all other reasonable means of restraint have failed. They may only be used with the authority of the Governor in charge and the medical officer, provided that there are no clinical reasons not to do so. Their use must be in accordance with the relevant provisions of the prison rules and of the United Nations Standard Minimum Rules for the Treatment of Prisoners. Prisoners will not normally be held longer than 24 hours in a body belt. If the prisoner's behaviour means a further period of restraint is considered necessary, this must be expressly authorized by the Board of Visitors to the prison. The use of body belts is monitored at Prison Service Headquarters. In 2002, 40 prisoners (38 male and 2 female) were placed in body belts. In 2001, 54 male prisoners (and no female prisoners) were placed in body belts on 57 occasions. In 2000, male prisoners were placed in body belts on 47 occasions and two female prisoners were similarly restrained.

Review of contracting out/privatization of prisons and escort services

England and Wales

185. The policy of private sector involvement in prison management has been under review since 1998. In February 2002 the Prison Service commissioned the Carter Report, which considered the contribution of the private sector in achieving the objectives of the Prison Service under the Private Finance Initiative (see Appendix 25 to this report). Its recommendations envisage a continuing role for private sector management.

186. No prison is wholly privatized. Management of nine prisons is contracted out to private sector companies with a further two due to open on 2004-2005. This will account for some 10 per cent of the total prison population. Each privately run prison is headed by a director who is an employee of the contractor and approved by the Home Secretary. All members of staff working with prisoners in privately run establishments and on escort contracts have to be certificated by the Secretary of State as prisoner custody officers. They are subject to the same standard of vetting as prison officers and must complete an initial training course of about eight weeks' duration. A prisoner custody officers' certificate may be suspended by the controller/escort monitor and revoked by the Secretary of State if he or she is no longer considered a fit and proper person to carry out custodial duties.

187. Private sector contracts are subject to a framework of safeguards, controls and accountabilities. Contracts require compliance with all relevant legislation including Prison Rules and Young Offender Institution Rules. Like public-sector prisons, each privately managed prison has a Board of Visitors and every prisoner has access to the Prisons Ombudsman. The contractor is subject to scrutiny by Parliament and its Select Committees. At each private sector prison the Prison Service is represented by the Controller who, supported by a Deputy Controller, is on site daily to monitor contract compliance and to carry out those functions reserved to State servants (adjudicating disciplinary charges, investigating allegations against members of staff and authorizing control and restraint).

188. Escorts of prisoners to and from courts and between prisons have been contracted out to private companies. The Criminal Justice Act 1991, as amended by the Criminal Justice and Public Order Act 1994, requires that all escort contracts are monitored by the Prison Service. This is to protect prisoners and ensure that standards of care are maintained, as well as to monitor value for money and contract compliance. The escort monitor will investigate allegations by prisoners about any action by a contractor or member of their staff. In addition, volunteer members of the public (lay observers) are appointed under the terms of the Act to inspect and report on the conditions under which prisoners are transported and held. A panel of lay observers monitors each escort area and reports annually to the Secretary of State. A survey on the care of prisoners under transport and at court was undertaken at the end of 1999. It showed that, overall, prisoners felt the escort contractors were delivering services well.

Scotland

189. It was announced in January 2002 that the escorting of prisoners from police cells and prisons to court in Scotland is to be contracted out following a review of current escort practices conducted by the police, the Scottish Court Service and the Scottish Prison Service. Subject to

the Prisoner Escorts Project Team successfully concluding negotiations with the preferred bidder, it is anticipated that the service provider will take on escort duties in a phased process during 2003-2004.

190. A legal power for court proceedings to be conducted by way of a closed circuit television link between prisons and courts has been created under section 80 of the Criminal Justice (Scotland) Act 2003, which came into force in June 2003. A pilot live television link between HM Prison Barlinnie and Glasgow Sheriff Court, where the daily volume of prisoners in transit for full committal proceedings is the greatest in Scotland, has begun operating for committal hearings and for interviews between prisoners and legal advisers.

Northern Ireland

191. In Northern Ireland, the Prisoner Escort Group is an integral part of the Prison Service, providing both an escorting service and a reserve of staff for handling emergencies. There are no immediate plans for contracting out this part of the business. In a video link project, 17 Magistrates' Courts have now been linked to three prison establishments for the purposes of conducting pre-trial hearings. In addition video links have been provided at NIPS Headquarters and to a number of criminal justice agencies with plans to add others to the net.

Immigration services

Review of use of detention

192. The decision on whether or not someone should be detained is made by an Immigration Officer under powers contained in the Immigration Act 1971. Individuals may be detained pending enquiries as to identity or the basis of claim; to prevent absconding; or to effect removal.

193. A review of detention is carried out at 28 days, when responsibility for both detention and casework passes to a central unit within the Immigration and Nationality Department (IND). The detainee is notified on a monthly basis of the reasons for detention. After two months, detention reviews are carried out by increasingly senior members within the Immigration Service. After 12 months detention is reviewed at Director level.

Recording of interviews and access to legal advice

194. Under the PACE Act, all interviews with suspected immigration offenders conducted under caution at police stations must be tape-recorded unless the custody officer authorizes otherwise because the equipment has failed, or because there is no suitable interview room, or because no offence has been committed. In these cases, interviews must be recorded in writing. Interviews conducted in prisons, immigration detention centres and enforcement offices are recorded on forms unless tape-recording facilities exist. In places of residence and employment interviews may be recorded in official notebooks. Where interviews are not tape-recorded (see above) the offender is offered the opportunity, at the end of the interview, to have their answers read back, and they are invited to sign the record to agree that it is fair and accurate. Under the PACE Act, suspected immigration offenders have a right to legal representation, whether interviewed at an enforcement office, police station or place of detention.

195. Asylum interviews are not conducted under caution and are not tape-recorded. However, a verbatim record is kept of the interview and a copy provided to the interviewee. In certain circumstances prior to the interview, asylum-seekers are asked to complete a "Statement of Evidence" form setting out the basis of their claim. These forms must be returned to IND within a specified time. The Government's 1998 White Paper, *Firmer, Faster and Fairer - a modern approach to immigration and asylum*, explains that, because the asylum interview is essentially a fact-finding exercise to enable applicants to say why they fear persecution in their own country, legal representation is not necessary (see Appendix 26 to this report). The Government neither encourages nor discourages the presence of a legal adviser at the asylum interview, but (under paragraph 84 of the Immigration and Asylum Act 1999) no person may provide immigration advice or services unless qualified to do so.

Places of detention

196. In January 2002 the Government met its commitment to remove detainees from the 500 remand spaces in local prisons. This was made possible by the opening of three new removal centres at Dungavel, Harmondsworth and Yarl's Wood in late 2001. The current detention estate comprises nine removal centres (eight in England and one in Scotland). Due to the events at Yarl's Wood in early 2002, which led to its closure, the Prison Service agreed to accept up to 90 detainees in local prisons to ease the burden in Immigration Removal Centres (IRCs). Current estimates are that up to 300 detainees are held in local prisons in England and Wales. These are people held after the expiry of their prison sentence, in most cases because the nature of their offences are too serious for the Immigration Service to accept them in IRC's, or because of security and control reasons. There are 15 places for immigration detainees at Maghaberry prison in Northern Ireland. Some immigration detainees are housed there because the numbers are too few to warrant a removal centre there. However, such individuals are given the choice of moving to a removal centre in Great Britain. Details relating to immigration detention can be obtained from the IND web site: www.ind.homeoffice.gov.uk.

Detention under mental health powers

197. Arrangements for monitoring the Mental Health Act 1983 in England and Wales, and comparable provisions in Scotland and Northern Ireland, were set out in paragraphs 83-95, 103, and 137-139 of the initial report, paragraph 70 of the second report, and paragraph 109 of the third report. The current Code of Practice provided under the Act (see Appendix 27 to this report) provides guidance to registered medical practitioners, nurses, hospital staff and others in the field, on how to proceed when carrying out duties under the Act. In 1997, the Government consulted a wide range of organizations for views on how this guidance might be improved, and a revised Code was published in March 1999.

198. The Government has invited consultation on a new Mental Health Bill published in June 2002, which it intends to introduce to Parliament as soon as possible. The Bill envisages that all decisions on compulsory treatment of mentally disordered persons would be made in the context of a care plan endorsed by an independent judicial order, by the court, or by a tribunal.

199. In Scotland after extensive consultation the Scottish Parliament passed the Mental Health (Care and Treatment (Scotland)) Act 2003 which is likely to be implemented with appropriate supporting guidance by 2005.

Review of emergency provisions legislation

200. The United Kingdom's third report referred to an independent review of counter-terrorist legislation in 1996, conducted by Lord Lloyd of Berwick, which made a number of recommendations for the future of the existing counter-terrorist legislation. A consultation paper setting out the Government's proposals was published in 1998 (see Appendix 28 to this report).

201. On completion of the consultation process, the Terrorism Act received Royal Assent in July 2000. This Act contains permanent United Kingdom-wide counter-terrorism powers and procedures to replace the temporary Prevention of Terrorism Act and the Northern Ireland (Emergency Provisions) Act. The Terrorism Act contains a new definition of terrorism replacing the previous distinction between Irish and international terrorism. A key feature of the Act is that it introduces judicial extensions of the detention of terrorist suspects. This replaces the previous system of Ministerial extensions and has enabled the United Kingdom's derogations from the ECHR and ICCPR, entered after the *Brogan* judgment[2], to be withdrawn.

202. The Government remains committed to ensuring that the security forces in Northern Ireland have available the powers they need to counter the terrorist threat. The Terrorism Act therefore contains a temporary part for Northern Ireland. The Northern Ireland part of the Act is time-limited to five years and requires annual renewal; and each provision can be switched off by Order at any time. Setting these temporary powers within a United Kingdom wide framework of permanent counter-terrorism measures underlines the Government's commitment to repealing the Northern Ireland-specific powers as soon as it is safe to do so.

Holding centres

203. Following examination on the third report, the Committee said that it wished to see the three holding centres closed. The Report of the Independent Commission on Policing for Northern Ireland ("The Patten Report") also called for this. The recommendation has been accepted. The Castlereagh Holding Centre closed on 31 December 1999, Strand Road on 1 October 2000, and Gough Barracks on 30 September 2001. Terrorist suspects are now detained with PACE detainees in the new dual custody suite at Antrim Police Station. This reflects recommendation 62 of the Patten Report.

Article 12 (Investigation of acts of torture or other forms of ill-treatment)

Investigation of deaths in police custody

England and Wales

204. All deaths in police custody are a matter of serious concern to the Government, particularly if there are allegations of maltreatment or failure of duty by police officers. All deaths in police custody are referred to the PCA and are subject to a public inquest (or, in Scotland, a Fatal Accident Inquiry) to see what lessons can be learned. If an allegation is made against a police officer there is an internal investigation supervised by the PCA. All inquests are subject to section 8 (3) (b) of the Coroners Act 1988, which requires that a Coroner shall hold the inquest before a jury "where the death occurred while the deceased was in police custody, or resulted from an injury caused by a police officer in the purported execution of his duty".

205. In England and Wales, every death in police custody must be reported to the Coroner immediately by telephone, and to the Home Office within 48 hours. Police forces are also expected to notify the PCA immediately by telephone. The PCA examines all deaths in police custody, even if no formal complaint has been made. If a complaint is made, then the PCA has the power to approve the investigating officer and direct the course of the inquiry. Once the PCA is satisfied that there has been a full and proper investigation, a report is submitted to the CPS to determine whether or not any officer should face criminal charges. The PCA and the chief officer must also decide whether or not to bring internal disciplinary charges. The PCA has the right to require this action to be taken. Whether internal disciplinary charges or criminal charges are initiated, or not, the circumstances of a death will be aired publicly, either at trial or at an inquest.

206. In April 1999, the Home Office issued guidance advising chief officers to make arrangements for the pre-inquest disclosure of documentary evidence to interested parties when there has been a death in custody. This was in response to a recommendation from the Stephen Lawrence Inquiry that there should be advance disclosure of evidence and documents as of right to parties who have leave from a coroner to appear at an inquest. The application and effectiveness of that guidance has been reviewed. It was found to be working well, and slightly amended guidance was issued in June 2002.

207. During 2000/01, in England and Wales, the PCA supervised 52 investigations into deaths in police care or custody, compared with 70 in 1999/2000. The PCA also carried out 38 investigations into road traffic incidents classified as deaths in care or custody, and began 9 investigations into police use of firearms involving death or injury.

Scotland

208. Scotland's eight chief constables are responsible for reporting all deaths in police custody to the Procurator Fiscal, and also to the Scottish Executive. Her Majesty's Chief Inspector of Constabulary is also required to include details in his annual report.

209. The Procurator Fiscal will carry out an independent investigation into the circumstances of any death in custody. On conclusion of the investigation, an inquiry under the provisions of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 is held to look into the circumstances surrounding the death. The Sheriff will determine the cause of death and record whether or not there was anything that could have been done to prevent the death.

210. In Scotland, the definition of deaths in custody is not limited to deaths in formal custody following arrest; it includes the deaths of those being taken to police stations to be detained, and those of arrested persons taken to hospital for treatment before detention. When such deaths occur, the procedures adopted by the police are scrutinized publicly to ensure that lessons are learned and that the police remain accountable. In 2002, eight such deaths were reported in Scotland.

211. In 2000, a Group with members drawn from the Scottish Executive, the Crown Office and Procurator Fiscal Service, the Association of Chief Police Officers in Scotland (ACPOS), and HMIC discussed roles and responsibilities in dealing with such deaths. As a result, it is

envisaged that HMIC will be notified of Sheriff judgements from the Fatal Accident Inquiry, and that HMIC will refer the outcomes from these inquiries into the force inspection programme. This will include issues identified by the Sheriff which affect the levels of service provided by the force concerned. Where appropriate, HMIC will also notify progress to Ministers and the public through the recognized reporting procedures.

Northern Ireland

212. All deaths in police custody in Northern Ireland are investigated by the independent civilian office of the Police Ombudsman for Northern Ireland. Under an agreed protocol with the Chief Constable of the PSNI any death in police custody is automatically referred to the Police Ombudsman who will then carry out a thorough investigation into the incident.

213. The Ombudsman's formal investigation will include securing the various scenes, liaising with the family, identifying witnesses and obtaining statements, securing any forensic evidence, identifying all police officers who came into contact with the deceased and taking witness statements where relevant, liaison with the State Pathologist, contact with the Coroner and the completion of a report to the Coroner.

214. The Police Ombudsman will also consider whether any police officers may have committed criminal or police misconduct offences. If the Police Ombudsman believes that a criminal offence may have been committed by a police officer a report, together with recommendations, is made to the independent office of the Director of Public Prosecutions. If the Police Ombudsman recommends any disciplinary proceedings against a police officer a report is made to the Chief Constable.

215. Whatever the outcome of an investigation into a death in police custody the Police Ombudsman provides a report to the Secretary of State for Northern Ireland, the Northern Ireland Policing Board (which holds the Chief Constable to account for policing functions in Northern Ireland), and the Chief Constable of the PSNI.

Investigations into deaths in prison

England and Wales

216. In England and Wales, all deaths in prison custody are the subject of an internal investigation conducted by a Senior Investigating Officer (SIO) - a senior Governor from another prison specially trained for the task who acts on behalf of senior Prison Service managers. The current investigation format, which was introduced in April 1998, is far more detailed and wide-ranging in examining the causes of a death than previously. The SIO has the power to make criticisms and, where appropriate, recommend disciplinary action against staff. Recommendations arising from the SIO's report are implemented by senior managers. Since 1 April 1999, it has also been Prison Service policy to disclose, before the Coroner's inquest, copies of the investigation reports to the families of those prisoners who die in custody. The Prison Service Safer Custody Programme includes a project taking a fresh look at strengthening investigation procedures, involving an independent element and better learning and dissemination of lessons arising from particular cases.

217. Any death in custody is also the subject of a police investigation to establish what has happened and to ensure that no criminal activity has taken place. All deaths in custody are also reported to a coroner. The Coroner, who is an independent judicial authority, will hold an inquest before a jury to establish the facts of the case. The Coroner's Inquest has been held to be an independent investigation under domestic and European law.

Scotland

218. In Scotland, the Procurator Fiscal carries out an independent investigation into the circumstances of any death in prison. On conclusion of the Procurator Fiscal's investigation, an inquiry under the provisions of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 is held to look into the circumstances surrounding the death. The Sheriff determines the cause of death and records whether or not there was anything that could have been done to prevent it. Any death that appears to have been self-inflicted is investigated by two members of the Prison Service's National Suicide Risk Management Group.

Northern Ireland

219. In June and July 2003 an independent review group presented to the Home Secretary its reports on a fundamental review of the coroner services and death certification in England and Wales and Northern Ireland.

220. A protocol has been agreed between the NIPS, the PSNI and the Director of Public Prosecutions for Northern Ireland on the investigation and prosecution of crimes committed in prisons. Under the Protocol all deaths in custody are immediately reported to the police who carry out an independent investigation and report their findings to the DPP or the Coroner as appropriate.

Article 13 (Availability of complaints procedures for those suffering torture or other forms of ill-treatment)

Police discipline and complaints

221. The United Nations Special Rapporteur on the Independence of Judges and Lawyers has made two reports about complaints. The Government has responded separately to each.

England and Wales

222. Anyone can make a complaint if they consider that they have been dealt with improperly by the police. Complaints and discipline procedures laid down under Part IV of the Police Act 1996 ensure that police officers are fully answerable for their actions. Under the terms of the Act, chief officers of police are responsible for determining whether a complaint should be recorded.

223. The police discipline procedures are laid down in the Police Act 1996 (which replaces those under Part IX of the PACE Act), and are set out in the Police (Conduct) Regulations 1999 and the Police (Conduct) (Senior Officers) Regulations 1999 (see Appendices 29 and 30 to this report). A force may accelerate discipline procedures if the offence is of a serious nature.

224. Annual figures on complaints against the police in England and Wales are set out below.

	1997-1998	1998-1999	1999-2000	2000-2001
Cases*	22 057	20 338	20 973	18 911
% change on previous year	-2	-8	+3	-10
% substantiated	2	2	2	3
% unsubstantiated	25	27	24	29
% withdrawn	38	36	38	12
% informally resolved	34	35	36	34

*Each complaint "case" may contain a number of complaints.

225. The PCA supervises investigation of the most serious complaints against the police, including those involving death, serious injury or serious arrestable offences. It also reviews the report of every complaint investigation and may recommend or direct that officers face disciplinary proceedings if none have already been taken. Where the alleged conduct would constitute a criminal offence, the CPS determines whether criminal charges should be brought.

226. Police misconduct regulations issued on 1 April 1999 under the Police Act 1996 mean that:

- Disciplinary hearings now operate the civil standard of proof ("balance of probabilities" rather than the criminal standard of "beyond reasonable doubt");

- There is a fast track procedure to deal with officers against whom there is overwhelming evidence of serious criminal misconduct;

- There are greater powers for proceedings in the absence of accused officers who report sick when facing disciplinary action; and

- There is a means for dealing with unsatisfactory performance by police officers, with the possibility of removing officers when their efficiency cannot be brought up to standard.

227. The chief officer may suspend a member of his force where a complaint indicates a disciplinary offence, whether or not the matter has been investigated. An officer under suspension is unable to retire from the force without the leave of the chief constable.

Scotland

228. In Scotland complaints against the police are investigated either by the Area Procurator Fiscal, or by the police, depending on whether the conduct complained of amounts to a criminal offence. Only non-criminal misconduct complaints are investigated by the police. In 2002 the Lord Advocate gave the police revised guidance on how complaints against them were to be investigated.

229. The Area Procurator Fiscal investigates all complaints in which the complainant alleges that a crime may have been committed by a police officer or officers in the course of their duty. Such investigations are entirely independent of the police, and the Area Procurator Fiscal must be seen to provide a completely impartial and thorough system of investigation.

230. The Area Procurator Fiscal will also investigate complaints alleging criminal conduct by special constables and by civilian support staff in the course of their employment.

231. Although complaints against the police are usually first reported to the police, they can be reported directly to the Area Procurator Fiscal. All allegations of criminal conduct are investigated, whether or not they arise from a complaint by a member of the public.

232. During 2001-2002 there were 1,198 complaints of criminal conduct against police officers in Scotland. As a result 27 police officers were prosecuted.

233. In non-criminal cases, the Deputy Chief Constable of the force decides whether a misconduct hearing or a warning from a senior officer is appropriate. The police authorities and HM Inspectorate of Constabulary provide independent oversight of the system. Under section 40 of the Police (Scotland) Act 1967, police authorities and Inspectors of Constabulary are required to oversee the manner in which a chief constable deals with complaints made against constables by members of the public. HMIC will review the handling of a non-criminal complaint if asked to do so by a dissatisfied complainer.

234. Schedule 1 to the Police (Conduct) (Scotland) Regulations 1996 details behaviour that constitutes misconduct. Scotland's eight forces have power to impose sanctions against officers found guilty of misconduct. Under the 1996 Regulations, misconduct hearings may be delegated to superintendents. A thematic report by HMIC entitled *A Fair Cop?* (ISBN 07480 93478) suggested that it would be good practice for only trained senior officers to chair these hearings (see Appendix 31 to this report). HMIC continue to monitor these procedures during inspections.

235. Outcomes of disciplinary hearings from April 1999 to March 2002 are set out in the table below.

	1999-2000	2000-2001	2001-2002	2002-2003
Allegation withdrawn at hearing	2	0	0	0
No finding of guilt or misconduct proved	6	1	3	2
Dismissed	0	0	1	5
Required to resign	11	3	3	8
Reduced in rank	1	0	5	3
Reduced in pay	11	7	9	8
Fines	24	34	10	23
Reprimanded	18	13	13	14
Cautioned	5	3	1	1
Total	78	61*	45	64

Developments in police complaints systems

England and Wales

236. The Police Reform Act 2002 became law on 24 July 2002. It contains provisions for a new complaints system for England and Wales. The main objectives of the new complaints system are:

- Increased public confidence and trust;
- Increased accessibility, openness and independence;
- Quicker resolution of complaints;
- Improved communication; and
- Improved use of information.

237. The Government has established a new independent body to replace the PCA, known as the Independent Police Complaints Commission (IPCC). Complainants can appeal to the IPCC if, for example, the police refuse to record a complaint, if they are unhappy with the way the complaints process has been used or if they are dissatisfied with the information the police provide to them after an investigation. It is intended that all serious misconduct cases that fall into specified categories (such as those relating to deaths in custody, a serious injury in custody, serious corruption, etc.) will be referred to the IPCC, whether or not they arise from a complaint. The IPCC can then decide whether to supervise an investigation by a police force or to undertake its own investigation, independent of the police. The IPCC has the power to present or observe disciplinary cases to ensure that evidence to a disciplinary hearing is presented fully and robustly. The IPCC can submit cases to the CPS who decide whether criminal proceedings should be brought.

Scotland

238. In Scotland the Crown Office and Procurator Fiscal Service carried out an internal review of how it investigated complaints of criminal conduct by police officers. This review reported in 2000 making a series of recommendations. As a result the Lord Advocate issued guidelines to the police and fresh internal guidance to Area Procurators Fiscal.

239. In 1999 HMIC carried out a thematic inspection of the handling of complaints by the police in Scotland. Its report, *A Fair Cop?*, was published on 6 April 2000 (see Appendix 31 to this report). The report's main conclusion was that the overwhelming majority of complaints were investigated with thoroughness, impartiality and integrity. However, it made several criticisms of the way the system was operated by different forces, particularly on recording and response to complaints. HMIC made 18 recommendations to improve the current system.

240. Although *A Fair Cop?* had already provided a large amount of data on many aspects of the police complaints system in Scotland, further evidence and discussion was needed on the introduction of greater independence into the supervision and investigation of complaints. Consequently, a consultation exercise was launched to:

- Address the recommendations in *A Fair Cop?*;
- Identify the extent of independent involvement required;
- Consider the features of an effective complaints system including speed, simplicity, and cost effectiveness.

241. On 5 July 2001 a consultation paper was circulated to around 315 organizations (private, statutory and voluntary) and individuals (including members of the Scottish Parliament) (see Appendix 32 to this report). It outlined the key issues, provided information on the current legislative framework, and posed a number of specific questions. The paper was also made available on the Internet.

242. Respondents were asked for their views on:

- The adequacy of the current definition of a complaint in the Police Conduct Regulations;
- Whether there should be a single system for all police staff or separate arrangements for Special Constables and civilian staff;
- The need for national guidance on record keeping and public accessibility procedures;
- Whether quality of service should be subject to formal investigation;
- The type of body best suited to deal with police complaints, e.g. an independent police complaints body or Ombudsman.

243. Thirty-three responses were received.

244. Scottish Ministers are currently considering the outcome of the consultation exercise. Whatever the outcome, the introduction of any new independent element into the supervision and investigation of complaints will require primary legislation.

Northern Ireland

245. In Northern Ireland, the Police Complaints System has gone through radical reforms since the third report was published. These aim to ensure the new complaints system is fair, easily understood, widely accessible and transparent; and to instil police and public confidence in the system.

246. Responsibility for handling police complaints in Northern Ireland passed to the Police Ombudsman on 6 November 2000. The Ombudsman has been given full control of the

complaints system. She is completely independent and can investigate any complaint where it is alleged that the conduct of a police officer did not meet the standard set out in the Code of Ethics. The Secretary of State, the Northern Ireland Policing Board, and the Chief Constable can refer other matters, which are not the subject of the complaint, to the Ombudsman for investigation. Under certain circumstances the Ombudsman has powers to initiate investigations at her own discretion. The Chief Constable must refer any matter to the Ombudsman where it appears that the conduct of a police officer may have resulted in the death of some other person.

247. If the Ombudsman determines that a criminal offence may have been committed by a police officer, she will send a report to the Director of Public Prosecutions (Northern Ireland) with recommendations. If the Ombudsman or the Director of Public Prosecutions decides that an officer has not committed a criminal offence, the Ombudsman may nevertheless recommend disciplinary charges. If the Chief Constable is unwilling to bring such charges, the Ombudsman may direct him to do so. The matter will be heard by an independent tribunal.

248. Figures on police complaints from 6 November 2000 are set out below.

Dates	No. of complaints
6 November 2000-1 March 2001	1 531
1 April 2001-31 March 2002	3 598
1 April 2002-31 March 2003	3 193

249. The Police Ombudsman has also acquired powers under the Police (NI) 2003 Act to investigate current practices and policies of the police.

Prison discipline and complaints

England and Wales

250. The Request and Complaints system, introduced in its current form in 1990, was reviewed in 1999-2000 (see Appendix 33 to this report). The review found much to commend in the way existing procedures worked, but it also identified a number of weaknesses. New procedures, designed to overcome defects in the current system, were piloted in selected establishments in 2000-2001. Following assessment of the pilots, the new procedures were implemented throughout the Prison Service in April 2002.

251. The new procedures set out clear criteria for the conduct of investigations, the production of reports, and disclosure of reports. They also set out guidance on the treatment of prisoners involved in investigations and of their families. The new system is supported by a central unit that holds and monitors information on all formal investigations commissioned across the Prison Service. This information includes the source, location and type of investigation, its causes, and its outcome, enabling the service to monitor trends and identify areas of concern.

252. The Prisons and Probation Ombudsman (formerly the Prisons Ombudsman) is appointed by and reports to the Home Secretary. He provides an independent point of complaint for prisoners who have failed to obtain satisfaction from the internal complaints system, and for individuals who wish to complain about the National Probation Service.

253. From September 2001, the Ombudsman's role was extended to cover the new National Probation Service. His remit, as far as the Prison Service is concerned, remains unaltered. He continues to investigate any complaints made against the Prison Service by prisoners, provided they have exhausted the internal Prison Service complaints procedures.

254. In 2002-2003 the Ombudsman completed 1,462 investigations, an increase of 34 per cent on the previous year and the highest number in the office's history. Of the complaints investigated, 34 per cent were upheld either wholly or in part or resolved locally. Recommendations were made in 208 cases. One recommendation was rejected.

255. The following table provides figures and analysis to March 2003:

Prisoner Complaints: Analysis of Complaints Received, Outcome and Recommendations		
	1/4/2001-31/3/2002	1/4/2002-31/3/2003
Complaints received	2 728	3 132
Complaints deemed eligible	1 194	1 317
Investigations completed	1 107	1 462
Upheld/partially upheld	226	233
Local resolution	157	250
Positive outcome	383	483
Recommendations to DG	324	208
Recommendations to Home Secretary	0	1
Recommendations rejected	7	1

256. The Human Rights Act came into force on 2 October 2000. It gives further effect to the protections of the European Convention on Human Rights (ECHR) in United Kingdom law. As cases citing ECHR principles can now be brought in domestic courts, this provides prisoners who allege they have been subjected to torture or inhuman or degrading treatment with another method of making complaints to an impartial body.

Scotland

257. Arrangements for complaints against prison officers and disciplinary proceedings in Scotland were set out in paragraphs 97-101 of the initial report.

258. Independently of the Scottish Prison Service, the Procurator Fiscal investigates allegations that a prison officer has committed a crime. As part of the investigation, the Procurator Fiscal will see in private the prisoner making the complaint.

259. In 1998 the internal system for dealing with prisoners' complaints was revised. Complaints forms are available throughout establishments and training is given to staff in how to investigate and respond to complaints. In the 12 months to June 2003 the Scottish Prison Service received 6,672 complaints, covering all aspects of prison life.

260. Most complaints are resolved within establishments but prisoners who are unhappy with how a complaint has been dealt with have a right of confidential access to the Scottish Prisons Complaints Commissioner - who is independent of the Scottish Prison Service. The Commissioner has the right of unfettered access to prisons, prisoners, files, records, and other sources of evidence. Many of the complainants will be interviewed personally by the Commissioner. He is able to resolve complaints at local level but where he remains concerned he can make a formal recommendation to the Chief Executive of the Scottish Prison Service.

261. The following table provides figures on numbers of complaints received and recommendations made by the Complaints Commissioner in the last 4 calendar years:

Period	Complaints received	Recommendations made
1999	433	6
2000	287	4
2001	419	7
2002	534	14

Northern Ireland

262. In June 2001, the NIPS introduced revised arrangements for dealing with prisoners' complaints, requests and grievances. These included instructions for prompt and rigorous investigation. At the same time a booklet was published to prisoners and staff giving details of the new procedures (see Appendix 34 to this report). A new system to collate information on prisoners' complaints is being introduced in each prison establishment.

Access to legal advice

England and Wales

263. As stated in the third report, in all parts of the United Kingdom, the rules governing prisoners' contacts with their legal advisers are set out in prison rules and other internal instructions to Governors. The rules governing legal privilege apply both to convicted prisoners and prisoners on remand and are designed to safeguard their rights when contacting their legal representatives. All visits by legal advisers take place in the sight, but out of hearing, of a prison officer.

264. The Access to Justice Act 1999 brought in significant changes to the old Legal Aid Scheme. The Legal Aid Board was replaced by the Legal Services Commission (LSC), which administers the provision of publicly funded legal services. The LSC has issued new guidance on funding which is intended to make sure that cases which serve the public interest (especially those against public bodies) and those which serve the interests of justice, are funded, and frivolous actions are not. In addition, only legal firms with a contract with the LSC are able to undertake publicly funded work. The contracted firms are audited to ensure that they provide a quality service and can provide the level of professional skills and knowledge required.

265. The implications of the Act have been explained in the updated Prison Service Order 2605, issued on 5 June 2001, which also explains the role of the Legal Services Officer (a mandatory post in prisons), who is responsible for ensuring that all prisoners are given access to legal advice and the facilities to pursue legal actions (this includes actions against the Prison Service or police).

266. In February 2001, in response to several judicial review applications, the Prison Service introduced an instruction that allowed the provision of a laptop computer to certain prisoners engaged in legal work. Prisoners have to demonstrate to the Governor that lack of access to a computer would risk prejudice to their legal proceedings. To satisfy IT security concerns, only computers owned by the Prison Service are issued.

267. Some organizations outside the Government have expressed concerns about the conditions in which legal visits take place in Special Secure Units in England and Wales. At present, closed visits (in booths) are still a necessary security measure as they are the only means of ensuring that unauthorized items are not passed from visitors to prisoners. In accordance with the 1997 court hearing in the case of *Ó Dhuibhir*[3] the policy of closed visits is kept under review. The review considers the level of risk posed by exceptional risk prisoners and whether other security improvements have reduced the need for closed visits.

268. Open visits in Special Secure Units may be granted in exceptional circumstances. Since the third report, a remand prisoner has been granted open legal visits while at court. He was also granted an open visit with his wife and young son as they live abroad and are unable to visit regularly. Each request is considered on its own merits.

Scotland

269. In Scotland, the rules governing visits by legal advisers are similar to those in England and Wales. There are no Special Secure Units in Scotland.

Northern Ireland

270. Legal/professional visits in Northern Ireland Prisons normally take place between Mondays and Saturdays (Saturday is a half-day). Appointments can be made by telephone, e-mail, fax or in person. Additionally, NIPS has videoconferencing facilities for use in legal/professional consultations. NIPS is connected to 17 courts and to a number of legal practices that have their own videoconferencing equipment for legal/professional consultations. The system is fully computerized. Other facilities offered by NIPS include television and video equipment, playback equipment and fax and telephone equipment.

Military discipline and complaints in Northern Ireland

271. The Independent Assessor of Military Complaints Procedures keeps under review procedures for the investigation of complaints about the Army and investigates any representations made to him about these procedures. The Assessor reports to the Secretary of State annually. During 2000 there were 19 formal non-criminal complaints made against the

Army, of which three were substantiated. During 2001, 20 formal non-criminal complaints were made, none of which were substantiated. In 2002, 25 formal non-criminal complaints were made, none of which were substantiated. No criminal complaints were made.

Immigration service discipline and complaints

272. The formal complaint procedures are set out in paragraphs 125-127 of the third report. Complaints of mistreatment, e.g. withholding food, are dealt with under these procedures, but allegations of physical violence are referred to the police to consider whether to undertake a criminal investigation. Detainees in immigration detention centres may in addition complain to the local visiting committee.

273. Information on how to make a formal complaint is available in leaflets and on posters, and is also contained on the IND web site. Members of the independent Complaints Audit Committee monitor the complaint investigation process, and meet senior IND managers quarterly to discuss any concerns and raise quality of service issues. Complaints of maladministration may additionally be made via a Member of Parliament to the Parliamentary Commissioner for Administration (the Ombudsman).

274. The Human Rights Act 1998 provides an avenue to pursue complaints through the courts. Under the Act it is unlawful for any public authority to act in a way incompatible with the Convention rights; if it does, the Act provides a new cause of legal action and remedy.

275. The table below updates the figures to 2002.

	Complaints cases (misconduct or inefficiency)	Allegations substantiated
1997	397	119
1998	369	115
1999	335	125
2000	273	121
2001	348	118
2002	272	138

A complaint case may include one or more allegations.

Article 14 (Compensation for and rehabilitation of victims of torture)

276. Arrangements for compensating victims of crime were set out in paragraphs 107-118 of the initial report and 122-125 of the second report. New statutory arrangements, under the Criminal Injuries Compensation Scheme, were introduced in Great Britain on 1 April 1996. The main difference between the new and old arrangements is the basis for assessing levels of compensation. This changed from assessment on the basis of common law damages to a tariff-based system under which compensation is assessed on a scale of payments for injuries of comparable severity.

277. Paragraph 119 of the initial report, paragraph 126 of the second report and paragraph 129 of the third report described the help available to victims of crime through Victim Support, a voluntary organization operating in England and Wales, and comparable schemes in Scotland and Northern Ireland. The Government continues to provide substantial levels of funding for these organizations, contributing over £28 million to Victim Support, £2.8 million to Victim Support Scotland (in 2002-2003), and £1. 4 million in 2001/02 to Victim Support Northern Ireland (with £1.5 million allocated for 2002-2003). The Government also contributes to the work of other organizations in this field, such as the United Nations Voluntary Fund for Victims of Torture.

Article 15 (Admissibility of confession evidence)

England and Wales

278. As explained in paragraphs 121-123 of the initial report, under both statutory and common law, a confession that may have been obtained by oppression is inadmissible in the United Kingdom as evidence against the person who made that confession. When considering the admissibility of a confession the court must have in mind the provisions of sections 76 and 78 of the Police & Criminal Evidence Act 1984. Under section 76, the court must exclude a confession if it was or may have been obtained by oppression or in consequence of anything said or done which was likely to render a confession unreliable. Under section 78, the court may exclude a confession if, having regard to all the circumstances, its admission as evidence would have an unfair effect on the proceedings. Human Rights legislation (ECHR article 3 as incorporated through the Human Rights Act 1998) also provides that the court may exclude a confession if it was obtained in violation of convention rights.

Scotland

279. Although the PACE Act 1984 does not extend to Scotland, the same principle, that evidence of a confession obtained by oppression is inadmissible, also applies in Scotland.

Northern Ireland

280. Section 76 of the Terrorism Act provided for the admissibility of confession evidence in scheduled offences going before a Diplock court in Northern Ireland. The first annual report by Lord Carlile, the Independent Reviewer of the Terrorism Act, suggested that consideration be given to the need for section 76 to continue to exist. Following a consultation exercise, Ministers were satisfied that practice had developed to the point similar to the PACE standard for confession evidence and, in July 2002, section 76 was repealed. The United Kingdom is not satisfied that section 76 was of itself a breach of the Convention. Nor does the United Kingdom accept that a provision in Northern Ireland different from the rest of the United Kingdom is an inherent breach of the Convention. Within the United Kingdom, different bodies of law apply in England and Wales, Scotland, and Northern Ireland.

Article 16 (Other acts of cruel, inhuman or degrading treatment or punishment not amounting to torture)

Corporal punishment in schools

England and Wales

281. Since September 1999, section 131 of the School Standards and Framework Act 1998 has outlawed corporal punishment for all pupils in maintained and independent schools, and for children receiving nursery education. A member of staff at a maintained or independent school or at a nursery education institution can no longer rely, in any type of criminal proceedings (e.g. a prosecution for assault), on the common law defence of "reasonable chastisement" to justify the use of corporal punishment.

Scotland

282. Under section 16 of the Standards in Schools etc., Act 2000, corporal (physical) punishment is now unlawful in all State schools and independent schools, and may result in criminal charges of assault if used. The Scottish Executive has no plans to reintroduce corporal punishment.

Northern Ireland

283. Corporal punishment of pupils in grant-aided schools became unlawful on 15 August 1987 under the Education (Corporal Punishment) (Northern Ireland) Order 1987. Since 1 April 2003 corporal punishment has been unlawful in all schools as a result of article 36 of the Education and Libraries (Northern Ireland) Order 2003.

Corporal punishment in the home

Great Britain

284. The Government's policy is to balance the freedom of parents to bring up their children as they think best, with its own duty to protect children from abuse, including physical harm. In September 1997, the European Court of Human Rights heard the application of *Child A v. United Kingdom*. The child complained that injuries he sustained from his stepfather, who beat him with a stick, were in breach of article 3 of the European Convention on Human Rights. The stepfather had been acquitted of assault occasioning actual bodily harm, relying on the defence of "reasonable chastisement". The Court ruled that United Kingdom law, on the particular facts of this case, had failed to protect Child A from "inhuman or degrading treatment or punishment", in contravention of article 3.

285. The coming into force of the Human Rights Act 1998 (on 2 October 2000) ensured that the case of *A v. United Kingdom* (including the factors from the ECHR judgement) is taken into consideration by domestic courts dealing with cases that involve the defence of reasonable chastisement. Further changes in United Kingdom law are not considered appropriate. The Government will keep the use of the defence of "reasonable chastisement" under review.

286. In *Protecting Children, Supporting Parents* - a consultation document published by the Department of Health on the physical punishment of children - the Government invited comment on proposals to modernize the law relating to the physical punishment of children (see Appendix 35 to this report). Over 700 responses to the consultation were received; the vast majority of which were from individuals. The Government's response to the consultation "Protecting Children, Supporting Parents" was published in November 2001. The Government's view was that it would be unacceptable to outlaw all physical punishment of a child by a parent, and that the majority of parents would not support such a measure.

Northern Ireland

287. Following a wide-ranging public consultation process, officials are considering more than 1,000 responses to the consultation document "Physical Punishment in the Home - Thinking about the Issues - Looking at the Evidence". An analysis of the responses will be published in due course.

Care and protection of children

288. The legislative framework established for the care and protection of children, and other measures to prevent abuse, were set out in paragraphs 133-139 of the second report. The Government continues to work to prevent abuse through a variety of programmes and projects. Particular emphasis is placed upon the training of doctors, nurses, social workers, and other health professionals likely to come into contact with children in child protection, and the recognition and handling of child abuse.

289. In October 1992, following its examination of the United Kingdom under the Convention on the Rights of the Child, the United Nations Committee on the Rights of the Child expressed concerns about the treatment of young offenders in the United Kingdom. And in 2002 the Family Division of the High Court decided that the policy guidance issued by the Secretary of State for the Home Department was wrong insofar as it stated that the Children Act 1989 did not apply to persons under 18 years in prison establishments. In the light of the Committee's concerns and the court judgement, the Prison Service continues to work with the Youth Justice Board (YJB) and the Department of Health to develop a strategic overview for the juvenile estate, Area Child Protection Committees (ACPCs), and other relevant youth justice agencies.

England and Wales

290. The YJB was established under the Crime and Disorder Act 1998 and has the responsibility for managing the youth justice system in England and Wales, with the primary aim of preventing offending behaviour. The preliminary report on the operation of the new Youth Justice System was published by the YJB in November 2001. It reports on an innovative approach to youth justice that is tackling offending behaviour on several fronts. Since April 2000 new intervention programmes have been developed across England and Wales, new sentencing options have been rolled out, and new cooperative working relationships have been developed, particularly demonstrated in information sharing between Youth Offending Teams and courts.

291. The YJB's 2001-2002 Review outlined a number of key initiatives in reducing crime by young people:

- Targeted prevention work with youngsters most at risk in high-crime housing estates. This helped cut crime, improve school attendance and raised the quality of life in those communities;

- Police Final Warnings to youngsters and their families nipped crime in the bud and stopped many youngsters drifting into further crime;

- Systematic risk assessment enables the Youth Offending Teams to tackle the critical factors that cause youngsters to offend. This also helps to reduce the risk of future offending;

- Short Parenting Programmes - often linked to Parenting Orders - can cut offending by half amongst youngsters entrenched in offending;

- Bail supervision and support schemes that ensure that youngsters attend court and reduce delays can reduce reoffending on bail. These schemes will be more effective with the increased availability of tagging;

- Education, employment and training projects can reduce reoffending significantly even among those who have serious offending careers and considerable drug habits;

- The time from arrest to sentence in the Youth Justice System has been cut from 142 days to 65 days for persistent offenders;

- Use of community orders by the courts has resulted in lower reoffending than initially expected by the Home Office. These orders have cut predicted reconviction rates by 14.6 per cent in 2000 against a 5 per cent target reduction by 2004.

292. These figures do not take into account the potential impact of the new Intensive Surveillance and Supervision Programme (ISSP) introduced by the YJB in 2001-2002. This programme has been used by the courts for nearly 1,500 young people as an alternative to custody. It will be available for 3,500 youngsters by the end of 2003, at any one time.

293. In relation to secure accommodation, the Board has established a discrete secure estate for juveniles. This estate is made up of Young Offender Institutions (YOIs), Local Authority Secure Units (LASUs), and Secure Training Centres (STCs). The Board took over responsibility for commissioning and purchasing secure places in April 2000 and has set up contracts with the Prison Service, local authorities and private providers to purchase secure services. The contracts specify standards of provision and allow services to be monitored.

294. A four-year strategy was issued in March 2001 outlining the YJB's plan for reconfiguring the juvenile secure estate to facilitate the delivery of the Detention and Training Order (DTO). The DTO was introduced to replace detention in a Young Offenders Institution and the Secure Training Order, the last of which was issued in March 2000. The DTO is made

up of two halves: the first half of the sentence is carried out in custody, the second served in the community. The focus in custody is on providing education and training and addressing offending behaviour. Contact with the home community is strongly encouraged through regular involvement of family members/carers and a youth-offending team worker who oversees the young person through the length of the sentence.

295. To encourage links to be maintained with the home community, the YJB has an objective to place 90 per cent of young people held in detention within 50 miles of home by 2003. The reconfiguration of the juvenile secure estate will greatly assist this by achieving a more even geographical spread of places. The three main priorities of the four-year plan are:

- The provision of more appropriate accommodation for young women outside the Prison Service so that none are placed with adult offenders;

- More appropriate provision outside the Prison Service for vulnerable 15- and 16-year-old youngsters, especially those with challenging behaviour; and

- Better matching of places to geographical demand in order to reduce distance from families and young offending teams.

296. The independent sector is expanding to enable a reduction in usage of Prison Service places and to accommodate young people, particularly young women and vulnerable 15- and 16-year-old boys, in establishments that can better meet their diverse needs. The YJB has a programme over the next four years to provide 400 secure places for juveniles in the independent sector under the Private Finance Initiative. These places will be provided in newly built STCs in the geographical areas of greatest need. The development programme is under way, with the first project - an 80-bed STC in Milton Keynes - due to become operational at the end of 2003/early 2004.

297. Three privately operated STCs are operational. Their regimes are based on a childcare approach. They focus on education and training, and addressing offending behaviour. The service contracts are based on standards set by Government and contained in the Children's Homes regulations (which adhere to the principles of the Children Act 1989), and are monitored closely.

Northern Ireland

298. In Northern Ireland, the youth justice system deals with 10-16-year-olds. In recent years a greater emphasis has been placed on diverting young people from crime and reducing the need to place them in custody. Inter-agency schemes and partnerships have been developed to maintain and support young people in the community. Custody is now only used for the most serious and persistent young offenders and limitations have been placed on the use of custodial remands.

299. Custodial arrangements have also been reformed with the introduction of determinate sentences ranging from six months to two years - half of which is served under supervision in the community. As a consequence, the numbers in custody have declined to the extent that the population of around 30 can now be located within a single juvenile justice centre.

300. In November 2000 the Government announced plans to establish a state-of-the-art secure facility at Rathgael within which education and offending programmes can be delivered more effectively and family contact maintained and strengthened. Phase 1 of this project - the refurbishment of the existing juvenile justice centre - will be completed by the end of September 2003. The centre at Lisnevin will close shortly after that. Phase 2 of the project - the building of a new state-of-the-art centre - will be completed within three years.

301. Legislation arising from the Review of the Criminal Justice System in Northern Ireland will continue the process of reform by bringing 17-year-olds within the scope of the youth justice system, by placing younger children who require custody in social services accommodation rather than in a juvenile justice centre, and by providing for additional community-based sentencing options for courts.

Notes

[1] *John Murray v United Kingdom* (1996) 22 EHRR 29.

[2] *Brogan and Others v. United Kingdom* (1989) 11 EHRR 117.

[3] R v. SSHD ex parte O'Dhuibhir (1997).

Glossary

ACPCs	Area Child Protection Committees
ACPO	Association of Chief Police Officers
ACPOS	Association of Chief Police Officers in Scotland
ATCS	Anti Terrorism, Crime and Security Act
CPD	Continuous Professional Development
CPS	Crown Prosecution Service
DTO	Detention and Training Order
HMIC	Her Majesty's Inspectorate of Constabulary
ICC	International Criminal Court
IND	Immigration and Nationality Department
IPCC	Independent Police Complaints Commission
ISSP	Intensive Surveillance and Supervision Programme
LASUs	Local Authority Secure Units
LSC	Legal Services Commission
NHS	National Health Service
NIPS	Northern Ireland Prison Service
PACE	Police and Criminal Evidence Act
PCA	Police Complaints Authority
PSNI	Police Service of Northern Ireland
SIAC	Special Immigration Appeals Commission
SIO	Senior Investigating Officer
STCs	Secure Training Centres
TNA	Training Needs Analysis
YJB	Youth Justice Board

Appendices to the fourth report to the United Nations on the Convention against Torture*

1. House of Lords Decision (Pinochet Case)

   www.publications.parliament.uk/pa/ld199899/ldjudgmt/jd990324/pino1.htm

2. PACE codes

   www.icva.org.uk/site/downloads/PACE_A.pdf

3. Police Service of Northern Ireland - Code of Ethics

   www.psni.police.uk/nipbcodeofethics.pdf

4. Prisons and Young Offenders Centre Rules (Northern Ireland) 1995

   www.niprisonservice.gov.uk/pdfs/PubUploads/NI_Prison_Rules.pdf

5. NI Prison Service Principles of Conduct

   www.niprisonservice.gov.uk/pdfs/pubuploads/prin_conduct.pdf

6. NI Prison Service Code of Conduct and Discipline

   (no Internet link - code currently under review)

7. Good Medical Practice for Doctors Providing Primary Care Services in Prisons

   www.doh.gov.uk/prisonhealth/publications/pricarejan03.pdf

8. The Future Organisation of Prison Health Care

   www.doh.gov.uk/pub/docs/doh/prison.pdf

9. Detention Centre Rules 2001

   www.hmso.gov.uk/si/si2001/20010238.htm

10. Rules of practice for video recording with sound (Northern Ireland)

    www.nio.gov.uk/pdf/tso.pdf

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* To be consulted at the Secretariat of the United Nations.

11. Code of Practice on reporting and recording racist incidents in response to Recommendation 15 of the Stephen Lawrence Inquiry Report

    www.homeoffice.gov.uk/docs/coderi.html

12. A guide to identifying and combating hate crime (Breaking the Power of Fear and Hate)

    www.acpo.police.uk/policies/race_hate_crime_manual.doc

13. Home Office Police Research Group - Death in Police Custody (summary) - July 1998

    www.homeoffice.gov.uk/rds/prgpdfs/prg26bf.pdf (summary enclosed)

    www.homeoffice.gov.uk/rds/prgpdfs/fprs26.pdf (full report)

14. Inquiry into Crown Prosecution Service decision-making in relation to deaths in custody and related matters

    www.archive.official-documents.co.uk/document/cps/custody/custody.htm

15. Death Certification and Investigation in England, Wales and Northern Ireland - The Report of a Fundamental Review 2003 (CM 5831)

    www.official-documents.co.uk/document/cm58/5831/5831.pdf

16. Death Certification and the Investigation of Deaths by Coroners (The Shipman Inquiry Third Report)

    www.the-shipman-inquiry.org.uk/thirdreport.asp

17. CS SPRAY - Committees on Toxicity, Mutagenicity and Carcinogenicity Statement of CS Spray

    www.doh.gov.uk/pub/docs/doh/csgas.pdf

18. Reports on Use of Public Order Equipment (Northern Ireland)

    www.nio.gov.uk/pdf/phase1report.pdf; www.nio.gov.uk/pdf/phase2rep.pdf;

    www.nio.gov.uk/pdf/p3rep1202.pdf

19. HMCIP report Norwich

    www.homeoffice.gov.uk/docs/norwich_unann.pdf

20. HMCIP report Holloway - July 2002 visit

    www.homeoffice.gov.uk/docs/holloway_full.pdf

21. Scottish Prison Service Annual Report 2001-2

www.sps.gov.uk/keydocs/2001-2002/default.asp

22. Internal Review of HM Prisons Suicide Awareness Strategy (2000) (Prevention of Suicide and Self-Harm in the Prison Service)

www.hmprisons.gov.uk/filestore/321_408.pdf

23. Choose Life - A National Strategy and Action Plan to Prevent Suicide in Scotland

www.scotland.gov.uk/library5/health/clss.pdf

24. PS 2700 Suicide and Self-Harm Prevention

www.hmprisons.gov.uk/filestore/786_983.pdf

25. Review of PFI and Market Testing in the Prison Service (Carter Report)

(e-copy unavailable. Hard copy available via Human Rights Division, Department of Constitutional Affairs)

26. Firmer, Faster and Fairer - A Modern Approach to Immigration and Asylum - A Government White Paper (1998)

www.archive.official-documents.co.uk/document/cm40/4018/4018.htm

27. Code of practice under the Mental Health Act 1983

www.doh.gov.uk/pub/docs/doh/mhcop.pdf

28. Legislation against Terrorism - A consultation paper

www.archive.official-documents.co.uk/document/cm41/4178/4178.htm

29. Police (Conduct) Regulations 1999

www.hmso.gov.uk/si/si1999/19990730.htm

30. Police (Conduct) (Senior Officers) Regulations 1999

www.legislation.hmso.gov.uk/si/si1999/19990731.htm

31. A Fair Cop - A thematic report by the Scottish Inspectorate of Constabulary

www.scotland.gov.uk/hmic/docs/afcp-00.asp

32. Complaints against the Police in Scotland - A Consultation Paper

www.scotland.gov.uk/consultations/justice/caps-00.asp

33. HM Prison Service Review of Prisoners' Complaints Procedures

(e-copy unavailable. Hard copy available via Human Rights Division, Department of Constitutional Affairs)

34. Northern Ireland Prison Service - Prisoners' Complaints, Requests and Grievance Procedures

www.niprisonservice.gov.uk/pdfs/PubUploads/Complaints%20Booklet.pdf

35. Protecting Children, Supporting Parents

www.doh.gov.uk/pub/docs/doh/childpro.pdf

Part 2

UNITED KINGDOM CROWN DEPENDENCIES

I. GENERAL INFORMATION

1. This is a compilation of reports by the Governments of the United Kingdom Crown Dependencies (Guernsey, Jersey and the Isle of Man). It forms the third report for the United Kingdom Crown Dependencies pursuant to article 19 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The initial report under the Convention was submitted as part of the United Kingdom's second periodic report (CAT/C/25/Add.6) and the second periodic report was submitted as part of the United Kingdom's third periodic report (CAT/C/44/Add.1).

2. The Crown Dependencies of the Bailiwicks of Jersey and Guernsey (the Channel Islands) and the Isle of Man are not part of the United Kingdom. They are internally self-governing dependencies of the British Crown, which is ultimately responsible for their good government in the event of a severe breakdown in law and order. Her Majesty's Government in the United Kingdom carries on the islands' international relations with their consent and is responsible to the Crown for their defence.

Guernsey

3. The position detailed in the Bailiwick of Guernsey's initial report on the implementation of the Convention remains unchanged.

4. The Bailiwick of Guernsey's authorities continue at all times to seek to ensure that the requirements of the Convention are scrupulously observed.

5. The States of Guernsey, States of Alderney and Chief Pleas of Sark have enacted the Human Rights (Bailiwick of Guernsey) Law, 2000. This legislation is very similar to the United Kingdom's Human Rights Act. Article 3 of Schedule 1 provides that no one shall be subjected to torture or inhuman or degrading treatment or punishment and will further strengthen the remedies open to individuals who consider that their rights in this respect have been violated.

Jersey

6. The States of Jersey Government continues at all times to seek to ensure that the requirements of the Convention are fully observed. Accordingly, the information provided in this report is supplementary to that provided in the previous report.

7. The Human Rights (Jersey) Law, 2000 received Royal Assent on 17 May 2000. As a result, articles 2 to 12 inclusive and 14, 16, 17 and 18 of the European Convention on Human Rights (ECHR), articles 1, 2 and 3 of the First Protocol thereto, and articles 1 and 2 of the Sixth Protocol thereto will be incorporated into the domestic law of the Island once the Law comes into effect. Article 3 of the Convention provides that no one shall be subjected to torture

or inhuman or degrading treatment or punishment. It will further strengthen the remedies open to individuals who consider that their rights in this respect have been violated. It is anticipated that the Law will come into force some time in 2004.

Isle of Man

8. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its 1997 visit to the United Kingdom and the Isle of Man on 13 January 2000. The extract of the report relating to the Isle of Man (Part II, paras. 94-170) is at Annex A. The response of the United Kingdom Government to the report was published on 11 May 2000. The part of the response relating to the Isle of Man (Part II, paras. 94-149) is at Annex B.

9. Since the second periodic report, the Human Rights Act 2001 (an Act of Tynwald) has been passed. That Act gives further effect in Isle of Man law to the substantive rights and freedoms contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms. This includes article 3 of the Convention, which provides that no one shall be subjected to torture or inhuman or degrading treatment or punishment, and will further strengthen the remedies open to individuals who consider that their rights in this respect have been violated. A copy of the Human Rights Act 2001 (an Act of Tynwald) is at Annex C.

10. The Police Powers and Procedures Act 1998 (of Tynwald), which came into force in January 1999, contains provisions which provide safeguards for the proper treatment of persons in police custody, for the review of detention (ultimately by the judiciary), and the questioning and treatment of suspects. Under that Act, there are Codes of Practice with which the police are required to comply. The Act and Codes of Practice are at Annex D.

II. INFORMATION RELATING TO THE ARTICLES IN PART I OF THE CONVENTION

11. This part of the report provides information on developments since the Crown Dependencies' second periodic reports submitted in April 1998.

Articles 2 and 4

Guernsey

12. Over the past few years all States' departments and the Guernsey police have conducted an audit of their policies and procedures to establish whether they comply with the ECHR. Current procedures for the treatment of persons under arrest have been found compliant with the Convention. There have been no prosecutions in the courts of the Bailiwick of Guernsey for offences of torture.

Jersey

13. In preparation for the coming into force of the Human Rights (Jersey) Law 2000 (see paragraph 7 above), all relevant departments, including the States of Jersey Police, have

completed or are in the process of completing a review and audit of all internal policies, practices and procedures to ensure that they are compliant with the ECHR. This includes all policies relating to the treatment, care and detention of prisoners and detainees, which have been reviewed and confirmed compliant. The prison and young offenders' institution rules have also been updated to ensure that they are compliant. These are currently with the Law Draftsman and are expected to come into force during 2003.

Isle of Man

14. The initial report summarized the various provisions that held conduct constituting torture to be a serious criminal offence. Those provisions remain unchanged. There have been no applications made for a prosecution under section 134 of the Criminal Justice Act 1988 (of Parliament), as extended to the Isle of Man, in respect of offences committed in the Isle of Man.

15. As noted in paragraph 9 above, the Isle of Man Government has passed legislation to give further effect in domestic law to the European Convention on Human Rights. The Human Rights Act 2001 is based on the United Kingdom Human Rights Act 1998. It requires legislation to be read and given effect, as far as possible, in a way which is compatible with Convention rights including, under article 3 of the Convention, the prohibition of torture or other forms of inhuman or degrading treatment. Also, other than in limited circumstances, public authorities will be required to act in a way that is compatible with the Convention rights. On finding that a public authority has acted unlawfully, a court or tribunal will be able to provide any remedy available to it which it considers just and appropriate.

Article 3

Guernsey

16. The drafting of the extension order for the Immigration and Asylum Act 1999 has been completed. The order is likely to come into force on 11 December 2003. The authorities in the Bailiwick have not received any applications for extradition since the last report.

17. There is currently no formal system for appeals against decisions made by immigration officers. Following a review by a former senior member of the United Kingdom's immigration service, it is likely that an appeals system will be in place some time in 2004.

Jersey

18. Extradition arrangements for Jersey are currently governed by the Extradition Act 1989 of the United Kingdom which has direct application in Jersey, and the Extradition (Torture) Order 1997, as amended. It is intended to replace this legislation with a new Extradition (Jersey) Law, to be debated by the States early in 2004. This Law would take into account the Island's obligations under international treaties and conventions, including safeguards to ensure an individual's human rights are not breached, and provide appropriate rights of appeal.

Isle of Man

19. The extradition laws of the United Kingdom which extend to the Isle of Man remain in place as do the legal and procedural safeguards which prevent extradition of an individual to another State where there are substantial grounds for believing that he or she might face torture. The Human Rights Act 2001 (of Tynwald) provides further protection under Isle of Man law in this respect. There have been two applications for extradition from the Isle of Man since the last report.

20. Asylum applications are handled by the United Kingdom authorities in accordance with United Kingdom law.

Article 5

Guernsey

21. Torture was made an offence by section 11 of the Administration of Justice (Bailiwick of Guernsey) Law, 1996. Prosecutions can take place regardless of the nationality of the victim. Cases involving torture can be tried in Guernsey regardless of whether the conduct takes place in the Bailiwick or elsewhere.

22. The Geneva Conventions Act, 1957 and the Geneva Conventions (Amendment) Act, 1995 have both been extended by Order in Council to the Bailiwick.

Jersey

23. The second report referred to enactment of the Torture (Jersey) Law 1990, which enabled ratification of the Convention on behalf of Jersey. The position under article 1 of that law remains unchanged: cases involving torture can be tried in the Bailiwick whether the offence is alleged to have taken place in the Bailiwick or elsewhere, irrespective of the nationality of the offender.

24. The Geneva Conventions (Amendment) Act 1995 (of Parliament) has been extended to Jersey by the Geneva Conventions Act (Jersey) Order 1999 to enable effect to be given in Jersey to Protocols 1 and 2 to the Geneva Conventions. The new legislation extends the offences under the 1957 Act to cover the victims of international armed conflicts protected under Protocol 1.

Isle of Man

25. As described in the initial report, under section 134 of the Criminal Justice Act 1988 (of Parliament) the criminal offence of torture is committed whether the conduct takes place in the Isle of Man or elsewhere, and irrespective of the nationality of the victim. There has been no change to these provisions. Acts of torture are also "grave breaches" of the Geneva Conventions, and the Geneva Conventions Act 1957 (of Parliament), which extends as part of the law of the Isle of Man, provides that such breaches are offences under Isle of Man law. The

Geneva Conventions (Amendment) Act 1995 (of Parliament) has been extended to the Isle of Man by the Geneva Conventions Act (Isle of Man) Order 1999 to enable effect to be given in the Isle of Man to Protocols 1 and 2 to the Geneva Conventions. The new legislation extends the offences under the 1957 Act to cover the victims of international armed conflicts protected under Protocol 1. Copies of the 1995 Act and the 1999 Order are at Annex E.

Articles 6 and 7

Guernsey

26. The States of Guernsey have passed a draft law entitled the Police Powers and Criminal Evidence Law 2003. It is based largely upon the Police and Criminal Evidence Act 1984 in force in England and Wales. The Guernsey Law should be in force by the end of 2003. Under the terms of the Law a number of codes have been drafted, again based on those in force in England concerning treatment of suspects whilst in the custody of the police and Customs.

Jersey

27. The Police Procedures and Criminal Evidence (Jersey) Law 2003 received Royal Assent on 17 December 2002. Part 7 of that Law, which has not yet been brought into force, will require Codes of Practice to be brought into effect in connection with, amongst other matters, the detention, treatment, questioning and identification of persons by police officers.

Isle of Man

28. The procedures for the detention of individuals alleged to have committed torture remain as previously reported except that formal Codes of Practice have been introduced under the Police Powers and Procedures Act 1998 (an Act of Tynwald). These Codes deal with the detention, treatment and questioning of persons by police officers, amongst other things. The Codes of Practice are based on the Codes made in the United Kingdom under the Police and Criminal Evidence Act 1984 (an Act of Parliament).

Article 8

Guernsey

29. The relevant parts of the forthcoming United Kingdom Extradition Act will be extended to the Bailiwick. In due course it is intended that the States will enact an extradition law for the Bailiwick.

Jersey

30. As indicated previously (at paragraph 18), it is intended to introduce a new Extradition (Jersey) Law, to be debated by the States early in 2004. This Law would define an extraditable crime in terms that include conduct constituting an act of torture.

Isle of Man

31. The initial report explained that torture is an extraditable offence under United Kingdom legislation that has effect in the Isle of Man. To date, the Isle of Man has not received any requests for extradition of a person in connection with any offence of torture.

Article 9

Guernsey

32. No requests have ever been received by the Bailiwick's authorities from other jurisdictions in connection with investigations into allegations of torture.

33. Since the last report the United Kingdom has ratified on the Bailiwick's behalf the following conventions:

- 1959 Council of Europe Convention on mutual assistance in criminal matters;
- 1988 United Nations Convention against the illicit traffic of narcotic drugs and psychotropic substances;
- 1990 Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds of crime.

Jersey

34. The Criminal Justice (International Co-Operation) (Jersey) Law, 2001 received Royal Assent on 18 July 2001 and came into force on 6 November 2001. Statutory powers exist under this legislation to give legal assistance to foreign courts or prosecuting authorities. Her Majesty's Attorney-General for Jersey, who carries responsibility under this legislation for mutual legal assistance, has not received any requests for assistance from overseas authorities in connection with offences involving torture since the Law came into force. It is understood that no such requests were received prior to the Law coming into force.

Isle of Man

35. As described in the initial report, the Isle of Man gives full legal assistance under Criminal Justice legislation to foreign courts or prosecuting authorities. The Central Authority in the Isle of Man for Mutual Legal Assistance, the Attorney-General, has not, to his knowledge, received any requests from overseas authorities in connection with offences involving torture.

Article 10

Guernsey

36. The training of the Bailiwick's law enforcement officers is carried out locally and in the United Kingdom. Training includes instruction on the subject of human rights, and officers

receive comprehensive training on how to treat prisoners whilst they are in custody. The standing orders of the force on the treatment of persons in custody are based upon the codes of the Police and Criminal Evidence Act, 1984. The standing orders will be replaced by statutory codes when the Police and Criminal Evidence Law comes into force later this year.

Jersey

37. The States of Jersey Police have published a comprehensive training handbook on human rights for law enforcement officers and support staff. This includes information on the prohibition of torture, recommendations on compliance with United Kingdom Codes of Practice made under the Police and Criminal Evidence Act 1984, and advice on preventing unlawful interrogation techniques. Officers are kept up to date on training developments in the United Kingdom and continue to review existing policies with regard to human rights.

Isle of Man

38. The initial report outlined the general principles - respect for the individual, humanity, and the need to act within, and uphold, the law at all times - under which the Isle of Man Constabulary and the Isle of Man Prison Service operate. Members of the Constabulary and the Prison Service receive training on the provisions of the Human Rights Act 2001 (an Act of Tynwald) and are also kept up to date on developments in training in the United Kingdom.

Article 11

Guernsey

39. As noted earlier (at paragraph 26), the Police Powers and Criminal Evidence Law 2003 based upon the Police and Criminal Evidence Act 1984 should be in force by the end of 2003. Interviews at places of detention will continue to be audio recorded. Developments in video recording will be closely monitored and consideration given to its introduction.

40. On 15 July 2002 the Terrorism and Crime (Bailiwick of Guernsey) Law 2003 came into force. The Law is based upon the Terrorism Act 2000 and the Anti Terrorism, Crime and Security Act 2001. The Law contains comprehensive safeguards to ensure that persons detained under its provisions are well treated. There have been no arrests for terrorist offences or the financing of terrorism since the last report.

41. In 2002 a non-statutory legal aid scheme was introduced with lawyers being generously paid out of public funds for their services. There is a rota to ensure that one lawyer is always available to attend upon and advise persons detained in custody. A Legal Aid law has been approved by the States of Guernsey and the legislation will come into force in early 2004.

Jersey

42. The following provisions of the Police Procedures and Criminal Evidence (Jersey) Law 2003 came into force on 18 March 2003:

(a) Part 1 (Interpretation);

(b) Part 8 (Documentary Evidence in Criminal Proceedings);

(c) Part 9 (Evidence in Criminal Proceedings - General);

(d) Article 112 (1), to the extent that it relates to paragraph 1 of Schedule 5;

(e) Article 114;

(f) Schedule 4; and

(g) Paragraph 1 of Schedule 5.

43. Many of the provisions replicate provisions in the Police and Criminal Evidence Act of the United Kingdom of 1984.

44. The States of Jersey Police continue to work within published Codes of Practice in respect of the treatment, custody and care of persons detained in police custody. Any breach of these codes by the police would be viewed and treated by the island's judiciary in the same manner as breaches would be treated by the courts in England and Wales.

45. The States of Jersey Police rigorously enforce policy which seeks to ensure that persons who are detained in police custody and who are known or believed to have a tendency towards self-harm are kept under constant supervision. Whenever such persons are remanded to the States of Jersey Prison, written notification of the threat is provided to the Prison Authorities at the time of detention, enabling the Prison Authorities to put in place measures that safeguard the health and welfare of the detained person.

46. Since the second report, the Terrorism (Jersey) Law came into force on 1 September 2003. This was substantially modelled on the Terrorism Act 2000, of the United Kingdom, as amended.

47. There have been no deaths in police custody since the previous report and none in prison custody. All measures outlined in the previous report regarding suicide prevention by the prison authorities continue.

Isle of Man

48. As mentioned in paragraph 28 above, the powers of the police in the Isle of Man in the investigation of crime, and the safeguards for the suspect, are contained in the Police Powers and Procedures Act 1998 (an Act of Tynwald), and in the Codes made under that Act which cover stop and search, search of premises and seizure of property, and the detention, treatment, questioning, and identification of suspects. The tape recording of interviews at police stations with persons who are suspected of offences is required by the Code of Practice on Tape Recordings. The Code requires the tape recordings of interviews with a suspect at a police station to be carried out under strictly controlled conditions to ensure the integrity of the tape. There are presently no facilities to enable the video recording of interviews although the procedures that take place in the custody room are recorded on video tape.

49. The Codes of Practice have replaced the Judges Rules referred to in paragraph 30 of the initial report.

50. The Code of Practice for the detention, treatment and questioning of persons by police officers (Code C) issued under the Police Powers and Procedures Act 1998 (of Tynwald) gives all individuals subject to questioning by the police, or attending at a police station in a voluntary capacity the right to consult with a legal adviser and, as a general rule, to have a legal adviser present during interview. The Code provides that when a person is brought to a police station under arrest, or is arrested at the police station having attended there voluntarily, the custody officer must tell him that he has the right to speak to a legal adviser and is entitled to independent legal advice from a duty advocate. A suspect must be notified at the commencement or recommencement of any interview of his right to legal advice. Should he choose not to exercise this right, the interviewing officer should ask the reasons for refusal and those exchanges must form part of the audio recording of the interview.

51. Access to legal advice may be delayed if a person is being detained, but not yet charged, in connection with a serious arrestable offence (such as murder, manslaughter or rape), under specified circumstances. These arise where a senior officer has reasonable grounds for believing that any such contact might interfere with evidence or alert other suspects who are not under arrest, or hinder the recovery of property. Access may only be delayed while the conditions exist and in no case for longer than 36 hours from the time of that person's arrival at the police station.

52. Since the Police Powers and Procedures Act 1998 (an Act of Tynwald) came into force, a 24 hour duty advocate rota for the provision of legal advice to persons detained by the Isle of Man Constabulary has been in operation. The rota is manned by advocates from the Isle of Man Law Society and is funded by the Isle of Man Government under the legal aid provisions.

53. Reference was made in paragraphs 141 to 146 of the Response of the United Kingdom Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to the opening of a new police station in Port Erin. That police station, which serves as the Southern Divisional Police Headquarters, was opened in August 2000. The police station has four cells, all of which have been built to the specifications of the United Kingdom Home Office. Purpose built interview rooms and police surgeon facilities have also been incorporated into the building. Port Erin police station and the Headquarters of the Isle of Man Constabulary in Douglas are now the only police stations in the Isle of Man where detained persons are held for periods of longer than six hours.

54. There have been no deaths in police custody.

55. There have been no suicides in the Isle of Man Prison since the submission of the second periodic report.

56. A new segregation unit at the Isle of Man Prison was brought into operation in October 1998.

57. Recommendations regarding the Isle of Man Prison made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to the Isle of Man in 1997, and by Dr. Foot during the Committee of Inquiry into the two prison suicides previously reported (see Appendix 1 to the second periodic report), have been actively progressed. Most importantly, health services are now provided to the prison by a local General Practice under a contractual service level agreement to specified health-care standards. Detainees thus have access to health service provision, including psychiatric services and drug treatment services, to a standard equal to that available to the general public.

58. The new arrangement for the provisions of health services to detainees satisfies the requirements of the majority of the recommendations made by the CPT and Dr. Foot. The remaining recommendations will be incorporated into the facilities and routines to be adopted when the new prison is available.

59. The Isle of Man Government is actively pursing its plans to construct a new prison. Following a period of very detailed and extensive investigation and research, the Department of Home Affairs is to seek the re-zoning of its chosen site to enable the land to be developed by the construction of a prison. Detailed planning permission for the construction of the prison on that site will be sought following approval for the re-zoning.

60. Reference was made in paragraph 7 of the second periodic report to the establishment of a Board of Visitors for the Isle of Man Prison. The Custody Rules 2001 were approved at the October 2001 sitting of Tynwald, and these Rules have allowed the Department of Home Affairs to establish the Board, which has taken over from the Visiting Committee. A copy of the Custody Rules 2001 is at Annex H.

61. Prisoners are detained in hospital under the Mental Health Act 1998 in exactly the same way as members of the general public, but the Minister for Home Affairs also signs a transfer direction under sections 53 and 54 of the 1998 Act.

62. The 1999 edition of the Code of Practice - Mental Health Act 1983, supplemented by the Mental Health Code of Practice (Approval) Statutory Instrument 2000, is currently used in the Isle of Man. Its aim is to provide guidance to registered medical practitioners, hospital managers, nurses, approved social workers and others involved in the field how to proceed when carrying out duties under the Mental Health Act 1998. Work is in progress to edit the Code to make it even more appropriate to the needs of the Island.

63. The Isle of Man has also produced a staff guidance manual that identifies local policies, procedures and guidance as recommended by the Code. This provides more detailed and local guidance to ensure that all legal requirements of the Act are complied with.

Articles 12 and 13

Guernsey

64. Current statistics relating to suicides of persons in custody, complaints against police offices, prison officers and mental health staff and details of extraditions and deportations are provided below.

	2001	2002	1/1 to 31/8/2003
Police			
Suicides in custody	0	0	0
Complaints against police:			
Substantiated	1	10	4
Partially substantiated	0	2	0
Unsubstantiated	7	22	6
Informally resolved	5	2	3
Withdrawn	0	10	0
Prison			
Suicides in custody	0	0	0
Staff disciplinary hearings	2	0	0
Complaints against staff	1	3	2
Prison occupancy			
Maximum	78	78	78
Highest	85	90	90
Lowest	58	59	66
Average	68	75	77
Customs			
Suicides in custody	0	0	0
Extraditions	0	0	0
Deportations (all to Portugal)	2	0	2
Mental Health Hospital			
Suicides of persons detained	0	0	0
Complaints against staff	0	0	0

All the statistics above relate to Guernsey. For Alderney and Sark the relevant figure in each case is "0".

Jersey

65. The Police (Complaints and Discipline) (Jersey) Law, 1999 came into force on 1 January 2001 and established the Jersey Police Complaints Authority. This conferred upon that Authority powers relating to disciplinary charges against members of the States of Jersey Police Force, Port Control Officers and members of the honorary police. The power to supervise and scrutinize complaints against the police ensures that the police are and remain accountable for their actions or omissions, particularly incidents where death or injury is suffered by a member of the public.

Statistical summary of public complaints against Jersey police

	1998	1999	2000	2001	2002	2003 to 8/9/2003
No. of deaths in police custody	0	0	0	0	0	0
Total No. of complaint cases registered against police	68 (*113*)	48 (*76*)	52 (*90*)	33 (*85*)	34 (*92*)	32 (*75*)
No. of complaint cases supervised by the PCA	-	-	-	13 (*55*)	16 (*43*)	20 (*58*)
No. of complaints substantiated	10	5	3	0	1	0
No. of complaints unsubstantiated	31	35	25	16	12	3
No. of complaints withdrawn	16	19	10	27	30	2
No. of complaints deemed incapable of investigation	9	4	21	17	6	13
No. of complaints deemed vexatious	0	0	0	3	5	2
No. of complaints still under investigation	0	0	0	0	0	40
No. of complaints informally resolved	47	13	9	22	38	15

Notes:

(i) The figures shown in italics represent the total number of complaints requiring investigation.

(ii) Complaints are deemed "incapable of investigation" due to the lack of cooperation on behalf of the complainant.

(iii) Complaints shown as "still under investigation" for the year 2003, take into account issues of sub judice or awaiting consideration/decision of Her Majesty's Attorney-General.

Isle of Man

66. As indicated in paragraph 31 of the initial report, the Isle of Man has an independent Commissioner to supervise the investigation of complaints against the police. The procedure for dealing with complaints against the police is set out in the Isle of Man Police (Discipline) (Senior Officers) Regulations 1980, the Police Act 1993 (an Act of Tynwald), the Police (Complaints) Regulations 1994, the Isle of Man Police (Discipline) Regulations 1995, and the Isle of Man Police (Discipline) (amendment) Regulations 1998. Copies of the Act and Regulations are at Annex F.

67. Details of complaints against the police since the Isle of Man's second periodic report and their current status, as at 1 September 2001, are as follows:

Number of complaints

	1998-1999 (1/1/1998 to 31/3/1999)	1999-2000 (1/4/1999 to 31/3/2000)	2000-2001 (1/4/2000 to 31/3/2001)	2001-2002 (1/4/2001 to 31/3/2002)	2002-2003 (1/4/2002 to 31/3/2003)
Formal complaints	14	15	15[1]	26	18
Informal complaints	2	14	14	16	11
Overall total	16	29	29[2]	42	29

[1] Sixteen actual (includes two complaints made by one complainant regarding the same set of circumstances).

[2] Thirty actual (includes two complaints made by one complainant regarding the same set of circumstances).

Current status of complaints (as at 1/10/2003)

	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003
Substantiated	5	2	5	1	3
Part substantiated/ part unsubstantiated				3	
Not substantiated	8	9	4	18	1
Informally resolved	2	14	18[1]	16	10
Withdrawn	1	4	2	3	4
Dispensation from continuance			1		
Ongoing				1	11

[1] Includes four formal complaints informally resolved with the consent of the complainant.

68. The provisions for the handling of complaints against prison officers was referred to at paragraph 35 of the initial report. One complaint against a prison officer has been received since the second periodic report. The complaint was investigated by the police and is currently before the court.

Article 14

Guernsey

69. The States of Guernsey have approved the drafting of the legislation that will introduce a criminal injuries compensation scheme. The legislation will come into force during the course of 2004. The Bailiwick has a government-funded victim support group which provides counselling, etc., for the victims of crime.

Jersey

70. The position remains as set out in paragraph 210 of the second United Kingdom report.

Isle of Man

71. The position remains as set out in paragraphs 250 to 252 of the second United Kingdom report.

Article 15

Guernsey

72. The position remains as set out in paragraph 173 of the second United Kingdom report. Judges rules will shortly be replaced by legislation based on sections 76 and 78 of the Police and Criminal Evidence Act.

Jersey

73. The position remains as set out in paragraph 211 of the second United Kingdom report.

Isle of Man

74. Paragraph 253 of the second United Kingdom report was incomplete in that it did not refer to the statutory position. Section 11 of the Criminal Justice Act 1991 (an Act of Tynwald), deals specifically with confessions which may have been obtained by oppression and prevents the court from allowing such confessions to be given in evidence. "Oppression" is defined as including torture, inhuman or degrading treatment. A copy of the Criminal Justice Act 1991 is at Annex G. The Codes of Practice made under the Police Powers and Procedures Act 1998 (an Act of Tynwald) regulate the treatment and questioning of persons by police officers and deal with the tape recording of interviews.

Article 16

Guernsey

75. The position remains as set out in paragraph 174 to 175 of the second United Kingdom report. It is hoped that legislation to abolish corporal punishment will be introduced shortly.

Jersey

76. The position remains as set out in paragraph 212 to 214 of the second United Kingdom report, and paragraph 154 of the third United Kingdom report.

Isle of Man

77. The Criminal Justice Act 2001 (an Act of Tynwald) repealed the remaining powers of the Isle of Man courts to order corporal punishment in cases of violence. There has been no case where a sentence of corporal punishment has been carried out in the past 25 years.

78. The policy of the Department of Education, enforced by an administrative directive of that Department, is that corporal punishment should not be administered in the island's schools, and this policy also applies in the island's private schools. The Education Act 2001 will statutorily prohibit corporal punishment in the island's schools once its provisions are brought into force. Consultation on the supporting Regulations necessary for the Act to come into force has taken place and drafting of these Regulations is under way.

79. The legislative framework used for care and protection of children on the Isle of Man is set out in the Children and Young Persons Acts 1966-1990. The law relating to children and young persons has recently been revised with the introduction of the Children and Young Persons Act 2001. Certain provisions of this Act came into operation with effect from 1 January 2002 and the remaining provisions from 1 February 2003.

80. The island has a long-standing Child Protection Committee which is a multi-agency committee comprising senior officers from Government Departments/Agencies involved in the delivery of childcare services. The Committee has recently produced revised Child Protection Procedures that have been agreed by all relevant Departments/Agencies. These procedures follow best practice in the United Kingdom.

81. Close working relationships have been established between the Police and Social Services to investigate or deal with child protection matters with support from the Departments of Education, Home Affairs and Health.

82. Social workers, health visitors, police, teachers, and various health-care professionals are trained to recognise child abuse and to take action to protect the child.

83. The Department's Health and Social Services Divisions have put in place various schemes designed to improve parenting skills and reduce the risk of children being abused. Such schemes include multi-disciplinary teams for first-parenting health visiting, working in areas of deprivation, day-care and family centres.

84. When children at risk have been identified, appropriate services are put in place to try to alleviate the assessed needs of the child and family. Family aides are available to help parents cope with childcare, budgeting, and household tasks.

85. Where abuse has been discovered and where the child continues to be at risk within the family, steps are taken to protect the child. The needs of the child at all times are paramount, both in legislation and in practice. Protection may involve removing the child from the parents and placing him or her with another member of the family or perhaps a foster carer.

86. Young people are only placed in residential care if they cannot be accommodated under fostering arrangements. All children placed in care are subject to a detailed assessment of their needs, and care plans are developed to identify how those needs can best be met within a clear time frame, and by whom. Reviews take place at least once every six months - but more frequently if necessary. Whenever possible the child is involved in such reviews.

87. There are three residential units for young people on the island, each providing five places for those with emotional and behavioural problems. In addition, there are a number of single occupancy units that provide intensive care and rehabilitation for very difficult young people. Intensive care for difficult young people is also provided at a residential complex consisting of three houses that can accommodate up to six residents, but usually houses only four.

88. Social services always try to rehabilitate children back to their families wherever possible. When this cannot be achieved, a plan is devised for placement, including adoption, independence or long-term fostering. A "leaving care" scheme is available to help young people to move into independent living.

89. Social services have been seeking to provide a secure care unit for young people with emotional and behavioural problems who are at severe risk to themselves and others and who have been persistent absconders, and also for those who have committed very serious offences. The unit has now been completed and is in operation. Access is controlled by legislation and is gained generally through the courts.

90. To summarize, whenever possible the Department aims to put into place measures that seek to help parents cope with their children and to protect them. However when children are identified as being at risk, the Department seeks to protect the child, which may include removing the child from the family. Such children and young people will be placed whenever possible in a family environment, either with another member of the family or a foster parent. Where the behaviour of the young person is difficult or they have emotional problems, they may be placed in a residential unit. At all times, the Department seeks to rehabilitate the child or young person back within the family, provided this can be achieved with safety. If not, plans are made for permanent placements. All cases of children in care are regularly reviewed and the child is generally part of that process.

Appendix A

LIST OF DOCUMENTS SUBMITTED TO THE COMMITTEE BY THE ISLE OF MAN GOVERNMENT*

Annex

A Extracts relating to the Isle of Man from the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its 1997 visit to the United Kingdom and the Isle of Man

B Extracts relating to the Isle of Man from the Response of the United Kingdom Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its 1997 visit to the United Kingdom and the Isle of Man

C The Human Rights Act 2001 (an Act of Tynwald)

D The Police Powers and Procedures Act 1998 and the Codes of Practice

E The Geneva Conventions (Amendment) Act 1995 (of Parliament) and the Geneva Conventions Act (Isle of Man) Order 1999

F The Isle of Man Police (Discipline) (Senior Officers) Regulations 1980, the Police Act 1993 (an Act of Tynwald), the Police (Complaints) Regulations 1994, the Isle of Man Police (Discipline) Regulations 1995 and the Isle of Man Police (Discipline) (Amendment) Regulations 1998

G The Criminal Justice Act 1991

H The Custody Rules 2001

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* These documents can be consulted at the Secretariat of the United Nations.

Part 3

UNITED KINGDOM OVERSEAS TERRITORIES*

I. INTRODUCTION

1. This part of the present report contains, in its several annexes, the United Kingdom's fourth periodic report in respect of its Overseas Territories under article 19 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These reports are set out below as follows:

A. Anguilla

B. Bermuda

C. British Virgin Islands

D. Cayman Islands

E. Falklands Islands

F. Gibraltar

G. Montserrat

H. Pitcairn

I. St. Helena

J. Turks and Caicos Islands

II. GENERAL

2. There are a few general matters that were discussed in the third report or in the Committee's oral examination of that report on which it may be helpful to update the account then given to the Committee.

(a) Partnership between the United Kingdom and Overseas Territories

The new relationship between the United Kingdom and its Overseas Territories, whose establishment was forecast in the third report, has now been fully launched. This is described in more detail in the White Paper entitled "Partnership for Progress and Prosperity - Britain and the Overseas Territories" which was published in March 1999 and a copy of which is being transmitted to the Committee's Secretariat together with the present report. As predicted, both

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* This part of the report was submitted on 3 April 2003.

the Foreign and Commonwealth Office and the Department for International Development - the two Ministries of the United Kingdom Government principally concerned - have set up separate Departments, each supervised by a specially designated Minister, which are charged with responsibility for the affairs of the Overseas Territories. The structured dialogue between the Overseas Territories Governments and the United Kingdom Government, whose inception was also predicted in the third report, is now fully functioning. There have been several, successful meetings of the annual Overseas Territories Consultative Council in which the participants are the United Kingdom Ministers responsible for the affairs of the Overseas Territories and the Chief Ministers or other representatives of the Governments of the Territories. There have also been a number of meetings of the Conference of Attorneys-General of the Overseas Territories, usually under the chairmanship of the Attorney-General of England.

(b) Constitutional protection for human rights

The Committee will be aware that the Constitutions of several of the Overseas Territories have for many years contained provisions guaranteeing the fundamental rights and freedoms of the individual. These provisions, though they are tailored in some respects to the particular circumstances of the Territories concerned, are broadly derived from the European Convention on Human Rights and the International Covenant on Civil and Political Rights and are enforceable in the courts, which have full powers to provide effective remedies for any breach or threatened breach. Each such set of provisions of course includes a specific prohibition - and the relevant provision may not be derogated from even in time of emergency - of torture or cruel, inhuman or degrading treatment or punishment. At one of the meetings of the Conference of Attorneys-General of the Overseas Territories referred to above, it was decided to commission a study of the possible need to update and strengthen the existing fundamental rights provisions (i.e. in those Territories whose Constitutions already contain them) and also of how best to further the process of incorporating such provisions into the Constitutions of those Territories that do not yet have them. This study was recently completed and its report has now been circulated to all the Overseas Territories for detailed consideration.

(c) Citizenship

The third report noted that the United Kingdom Government was looking actively and sympathetically at the possibility of conferring full British citizenship on the inhabitants of the Overseas Territories. This would bring with it the right of abode in the United Kingdom and freedom of movement and residence in the European Union and the European Economic Area. The Committee will wish to know that the legislation for this purpose has now been enacted, as The British Overseas Territories Act 2002, and the relevant provisions were bought into force, as soon as the necessary administrative arrangements had been put in place, on 21 May 2002.

(d) Capital punishment and corporal punishment

It can now be reported that both capital punishment and judicial corporal punishment have been abolished in all the Overseas Territories.

3. Finally, the United Kingdom Government is pleased to be able once more to confirm that there have to date been no cases in any of the Overseas Territories in which anybody has been charged with the offence of torture or any equivalent offence or with inflicting other cruel,

inhuman or degrading treatment or punishment. Nor has any Overseas Territory been requested by any other country to extradite a person to face such a charge. Nor has any Overseas Territory expelled any person or returned him to any other country in circumstances where there was any reason to think that he might then have been exposed to torture or any such treatment.

A. Anguilla

4. For the most part, the situation in Anguilla with respect to the observance of the Convention remains as described in the third report. The Government of Anguilla continues to be alert to the requirements of the Convention - which are reinforced by corresponding provisions in the Constitution of Anguilla: see paragraph 2 (b) above in the Introduction to this Part of the present report - and to seek to ensure that they are fully respected. There are, however, three particular matters, which should be mentioned.

5. First, the Committee will recollect that the third report (paragraphs 170 and 171 of CAT/C/44/Add.1) drew attention to a Mental Health Bill which was, at the time of that report, being considered by the Anguilla House of Assembly. Among other things, this Bill, when enacted, would provide enhanced protection from ill-treatment for mental health patients. It must now be reported that the Bill subsequently encountered criticism for what was seen as its failure adequately to treat a number of mental health issues in a way appropriate to a modern environment. As a result, it was withdrawn from the House of Assembly and a new Bill was commissioned. This is still being prepared but it is expected that it will be ready for submission to the House of Assembly in the near future.

6. Second, as it was in fact possible to mention to the Committee at the oral examination of the third report, the Bill to abolish judicial corporal punishment that was referred to in paragraph 174 of the third report was in due course passed by the House of Assembly and was enacted on 29 October 1998 as the Abolition of Corporal Punishment Ordinance 1998.

7. Third, the existing prison regulations (the Prison Regulations 1996) have recently been amended by the introduction of a new "Code of Discipline for Prison Officers" which, inter alia, makes it a disciplinary offence for a prison officer to use obscene, insulting or offensive language to a prisoner or deliberately to act in a manner calculated to provoke a prisoner or, in dealing with a prisoner, to use force unnecessarily or, where force is necessary, to use undue force.

B. Bermuda

8. Save as indicated below, the position with respect to the observance of the Convention in Bermuda remains substantially as described in the previous reports, as amplified during the examination of those reports by the Committee. However, the Committee's attention is drawn to the following developments that have taken place during the period covered by the present report.

9. In connection with article 10 of the Convention, and with reference to paragraphs 288-291 of the second report (the initial report in respect of Bermuda) (CAT/C/25/Add.6), the Bermuda Government is now making arrangements to publicize in the Official Gazette the various disciplinary codes that are referred to in those paragraphs. These

are the codes that govern the conduct of police officers, prison officers and the staff of medical and other institutions for the treatment of persons with mental illness. The purpose of these arrangements is to help increase the awareness of members of the public of the provisions that are in force for the protection of their rights in this area.

10. In connection with article 13 of the Convention, and with particular reference to paragraph 177 (b) of the third report (CAT/C/44/Add.1), the Bermuda Legislature has now enacted the Police Complaints Authority Act 1998. This establishes an independent Police Complaints Authority consisting of a legally qualified Chairman and five other members appointed by the Governor after consultation with the Minister responsible for police matters. The Authority is charged with the responsibility (and is furnished with the necessary powers) for investigating, or directing and supervising the investigation of, complaints alleging misconduct, neglect of duty or negligent performance of duty by any police officer. Where such an investigation has been undertaken, the Authority is required to determine whether any act, omission, decision, recommendation or conduct which was the subject of the investigation, was contrary to law, unreasonable, unjustified, unfair or undesirable. It may then make such recommendations as it thinks fit, including a recommendation that disciplinary or criminal proceedings be instituted against a police officer. If it is not satisfied that adequate and appropriate action has been taken, within a reasonable time, in response to its recommendations, the Authority may then send a copy of its opinion and recommendations to the Minister responsible for police affairs and to the Governor and, where it considers it appropriate, may transmit a report on the matter to the Minister who must, as soon as practicable, lay it before both Houses of the Legislature. In addition, the Authority is required each year to furnish to the Minister and the Governor a report on the exercise of its functions under the Act, and the Minister must lay a copy of that report before both Houses of the Legislature as soon as is practicable after receiving it.

11. More generally in relation to measures for safeguarding the rights of persons accused of criminal offences or undergoing investigation in connection with possible criminal proceedings (see paragraph 177 (a) of the third report), it can now be reported that the necessary legislation to authorize and regulate the taping of interviews with suspects was enacted in October 2001. The audio-taping of interviews with suspects in connection with commercial crime has already begun, and arrangements are being made for the audio-taping of interviews with all other suspects.

12. In the same context, but in relation specifically to legal aid for persons facing possible criminal charges (see paragraph 177 (c) of the third report), concrete proposals have now been formulated, and are currently being examined by the Ministries concerned, to amend the existing legislation so as, among other things, to authorize the provision of legal aid upon arrest and even before charges are preferred.

13. In connection with article 16 of the Convention, it can now be reported that all forms of judicial corporal punishment (and also capital punishment) were formally abolished in Bermuda in 1999.

C. British Virgin Islands

14. The situation in the British Virgin Islands as regards the implementation of the Convention has not changed significantly since the submission of the third periodic report and its consideration by the Committee. However, there are a number of particular developments that have taken place since the Committee's examination of the third report to which attention should now be drawn.

15. The British Virgin Islands is one of the few Overseas Territories whose Constitutions do not yet contain a Chapter of Fundamental Rights and Freedoms substantially corresponding to the European Convention on Human Rights and the International Covenant on Civil and Political Rights (and therefore including a provision expressly prohibiting torture and other forms of cruel, inhuman or degrading treatment or punishment). However, the question of incorporating such a chapter into a revised Constitution is now under active consideration in the light, inter alia, of the study referred to in paragraph 2 (b) above (in the Introduction to this Part of the present report). In the meantime, the Government of the British Virgin Islands is confident that the ordinary laws of the territory and the administrative policies and practices pursued by its authorities do in fact ensure that the requirements of the Convention are strictly satisfied. The relevant laws of course include the Criminal Justice Bill 1988 (Torture) (Overseas Territories) Order 1988, which was made expressly to give effect to the Convention, in the initial report under the Convention in respect of the British Virgin Islands (CAT/C/9/Add.10, p. 46).

16. In November 1999 the Executive Council of the territory established a Human Rights Reporting Coordinating Committee (HRRCC) with the following formal terms of reference:

> "1. To study the various United Nations Conventions ("the Conventions") listed in the Appendix attached herewith [these of course include the Convention against Torture] to determine the obligations of the British Virgin Islands in respect of each Convention.
>
> 2. To liaise with government departments (and where necessary, statutory boards) and non-governmental organizations in the Territory to determine the level of compliance with the requirements of the Conventions and the observance of the British Virgin Islands generally of its obligations under such Conventions, including any legislative measure in place in that regard.
>
> 3. To monitor the implementation of the Conventions and advise the Government (through the Governor) of any shortcomings that may be associated therewith and make suggestions for remedying such shortcomings to ensure full compliance with the Conventions.
>
> 4. To prepare periodically (or at such times as the Governor may request) reports on the Committee's execution of these Terms of Reference and to make such recommendations therein as the Committee considers necessary to facilitate the performance of its duties and compliance with the requirements of the Conventions.

5. To prepare the reports required under each Convention for submission (through the Governor) to the Foreign and Commonwealth Office and to circulate them for public information and, where necessary or if requested, to participate (whether through individual members or collectively) in any deliberations pertaining to such reports.

6. To perform the terms outlined in paragraphs 1 to 5 above in respect of any other United Nations Convention (not listed in the Appendix) which the Committee considers to be akin to human rights.

7. In the performance of its duties under these Terms of Reference, the Committee may:

(a) Request written information on any matter from any government or non-government institution or request the attendance of persons before it to answer questions on such matters as the Committee may determine;

(b) Co-opt any public officer or any person for any specific purpose in respect of which the Committee considers such officer or other person to be qualified to render assistance; and

(c) Establish such subcommittees as the Committee may determine for purposes of performing specific assignments on behalf of the Committee."

17. Since its establishment, the HRRCC has indeed been active in its task of monitoring compliance with the various human rights treaties which apply to the British Virgin Islands, including the Convention, and bringing to the attention of the competent authorities any possible shortcomings in such compliance or any other respects in which laws, policies or practices might be improved. It can be reported that the HRRCC has, to date, found no instance in which there has been an apparent breach of the Convention against Torture. However, while officers of the Royal Virgin Islands Police Force (in particular, those of the rank of Sergeant and above) receive training in human rights issues - and all police and prison officers are of course bound by the provisions of the police regulations and the prison rules which prohibit the use of unnecessary force or violent or threatening conduct, etc., towards prisoners and others - the HRRCC has noted that there is currently no provision of written guidelines or other written material for the guidance of medical personnel in relation to torture or other human rights abuses. The HRRCC has also noted that there are a number of law enforcement agencies in the British Virgin Islands other than the police - specifically, the Immigration Department, the Customs Department and the Conservation and Fisheries Department - which are authorized to exercise police powers but are not formally trained in human rights matters or, generally, in how to deal with persons whom they arrest. To help remedy this deficiency, the Attorney-General's Department held a workshop on this topic, in April 2000, for officials of these Departments and others. More generally, the British Virgin Islands Government is currently considering how best to take forward the provision of appropriate training for public officials in human rights matters (including the detection and prevention of torture, etc.) in the light of the HRRCC's observations.

18. It can now be reported that the new prison rules, whose intended preparation was referred to in paragraph 181 of the third report (CAT/C/44/Add.1, p. 53) were in fact made in 1999 and were bought into force that year.

19. Paragraph 182 of the third report (ibid.) described the position, as at the date of that report, with respect to corporal punishment. It can now be reported that judicial corporal punishment was formally and definitively abolished in the British Virgin Islands by the Corporal Punishment (Abolition) Act 2000.

20. Paragraph 183 of the third report (ibid.) referred to a study which had been instituted to examine the possible introduction of a Legal Aid Scheme. This has resulted in the conclusion of a Memorandum of Understanding between the Government of the British Virgin Islands and the local Bar Association which provides for the establishment of a limited scheme under which legal advice, assistance and representation can be made available to persons of limited financial means. This limited scheme covers some criminal matters, domestic violence matters, affiliation matters, matrimonial matters, juvenile matters and other matters, which in the opinion of the Board administering the Scheme, exceptionally merit the provision of legal aid. It is envisaged that this limited scheme will, in due course, be replaced by a scheme for the comprehensive provision of legal aid.

D. Cayman Islands

21. There have been no significant changes in the position with respect to the observance of the Convention in the Cayman Islands since the submission of the third report and its consideration by the Committee. The Government of the Cayman Islands remains vigilant at all times to ensure that no acts or practices amounting to torture or other cruel, inhuman or degrading treatment or punishment are permitted and that all the other obligations flowing from the Convention are fully respected. It is confident that the Convention is faithfully implemented both in law and in practice.

22. However, there are a few developments since the third report which should be drawn to the Committee's attention.

23. The Cayman Islands remains, to date, one of the few Overseas Territories whose Constitution does not include a Chapter of Fundamental Rights and Freedoms substantially reflecting the European Convention on Human Rights and the International Covenant on Civil and Political Rights. However, in the light of the report of the study which is referred to in paragraph 2 (b) above (in the Introduction to this Part of the present report), the possibility of incorporating such a chapter into the Constitution is now being actively considered. If the eventual decision is in favour of such incorporation, it can confidently be expected that the chapter will include a provision (reflecting, for example, article 3 of the European Convention and article 7 of the Covenant) prohibiting all forms of torture or inhuman or degrading treatment or punishment and that it will expressly provide effective remedies for any person claiming to be a victim of such acts. In the meantime, as stated above, the Government of the Cayman Islands is confident that the same result is in fact ensured by the operation of the ordinary law of the territory and the policies and practices of the competent authorities. The law of the territory includes, of course, the Criminal Justice Act 1988 (Torture) (Overseas Territories) Order 1988, which was made expressly to give effect to the Convention; see paragraph 15 of the initial report in respect of the Cayman Islands (CAT/C/9/Add.10, p. 39).

24. Paragraph 190 of the third report, dealing with article 11 of the Convention, mentioned a review of prison operations and the prison rules that had been carried out for the Government of the Cayman Islands by Judge Sir Stephen Tumim, the former Chief Inspector of Prisons for England and Wales. It detailed a number of his recommended reforms, which had already been implemented. It can now be reported that a further comprehensive review of the prison system and detention centres in the Cayman Islands was carried out in March 2001 by Sir David Ramsbottom, Judge Tumim's successor as Chief Inspector of Prisons for England and Wales. His final report was presented to the Cayman Islands Government in November 2001 and was recently approved by the Executive Council. It is hoped that an account of it, and perhaps of the Cayman Islands Government's initial response to it, can be made available to the Committee during the examination of the present report.

25. The revision of the prison rules to which paragraph 130 of the third report also referred has, regrettably, been further delayed, partly as a result of a riot which broke out in the prison in 1999 and the rebuilding and restructuring of the prison, partly as a result of competing demands on the legislative draftsmen and partly because of the desirability of ensuring that the new rules take account of improvements that are currently being considered or introduced in other Overseas Territories. But it is the intention of the Cayman Islands Government that this revision of the prison rules, to make them fully consistent with the relevant human rights instruments and legislation, should be completed by the end of 2002.

26. In relation to article 16 of the Convention, and as was in fact mentioned to the Committee during the examination of the third report (as a development that had taken place since the submission of that report), the last vestige of provision for judicial corporal punishment - as described in paragraph 192 of the third report - was removed from the statute book of the Cayman Islands when the Prisons (Amendment) Law 1998 was passed by the Legislative Assembly in September 1998.

E. Falkland Islands

27. The position with respect to the implementation of the Convention in the Falkland Islands remains, for the most part, as previously reported to the Committee in the third and earlier reports. The Falkland Islands Government is confident that its laws and practices remain fully in conformity with the Convention.

28. However, there are two or three areas where there have been some developments since the submission of the third report which will be of interest to the Committee. These are described below.

29. The first such development affects the procedures for dealing with complaints against police officers and, more generally, disciplinary proceedings against police officers. In this field, the Police Ordinance 2000 has now replaced the provisions of the Police Ordinance 1967, which were considered outdated and in some respects incompatible with the present Constitution of the Falkland Islands. So far as concerns complaints about the conduct of police officers, the new Ordinance provides for such complaints to be made to the Chief Police Officer in the first instance, unless they are complaints about the conduct of an officer of a rank above Inspector in which case they are to be made direct to the Governor. The Governor is empowered to

determine whether a complaint has been properly investigated. In discharging that function, he may consult the Police Committee. This is a newly created body which consists of the Governor as Chairman, two members who are nominated by the Legislative Councillors from among their own number, two members who are elected by the Justices of the Peace from among their own number, and the Chief Executive and the Attorney-General as ex officio members. The Ordinance also introduces a Code of Conduct for police officers. In relation to police discipline, the Ordinance contains new and detailed provisions regulating disciplinary proceedings against police officers. In general, the provisions of the Ordinance are largely modelled on the relevant provisions of the Police (Conduct) Regulations 1999 of the United Kingdom.

30. The second development concerns legal aid. As from 1 July 2000, various changes have been made to the Legal Aid Scheme, which the Falkland Islands Government operates on a non-statutory basis. The Scheme enables legal aid and advice to be provided to "eligible persons" for "relevant proceedings". "Eligibility" is determined by a means test which takes into account both income and capital. Among the changes made is the introduction of a sliding scale of contributions to be made by those on higher incomes. "Relevant proceedings" were previously defined so as to include all criminal proceedings except proceedings in respect of road traffic offences and proceedings instituted by the person seeking assistance. This has now been changed so that only the following criminal proceedings are "relevant proceedings":

(a) Where the accused is being remanded in custody, whether for trial or pending sentence;

(b) Where the accused has been convicted of an offence and the court has indicated that it is considering imposing a custodial sentence;

(c) Committal proceedings, i.e. where the accused may be committed to the Supreme Court for trial;

(d) Criminal proceedings in the Supreme Court;

(e) Where the court indicates that it considers that the accused should be legally represented;

(f) Any other case where the Senior Magistrate (who is now responsible for administering the Scheme) considers that the interests of justice require the grant of legal aid.

31. The third matter to be reported concerns corporal punishment. While judicial corporal punishment has long been abolished in the Falkland Islands, the Committee will remember that, during the consideration of the third report, it was explained that the question of corporal punishment in schools (which was still lawful in the Falkland Islands, though only in the case of boys over the age of 11 years and only if their parents consented) was currently being examined. The matter has since been considered, more than once, by the Board of Education which, having noted that corporal punishment does not in fact appear to have been practised in Falkland Islands' schools for the past several years, recently recommended that it should now be expressly forbidden by law. This recommendation was accepted by the Falkland Islands Government and the necessary legislation (the Education (Amendment) Ordinance 2002) has now been enacted.

F. Gibraltar

32. The situation with respect to the observance of the Convention in Gibraltar has remained unchanged since the Committee's consideration of the third report. The legislation and the administrative measures which together ensure the observance of the Convention, and which have been drawn to the Committee's attention in (or during the examination of) previous reports under the Convention, remain in force and are vigilantly administered by the Gibraltar authorities with a view to achieving the full application of all their relevant provisions and requirements.

33. Against this background, the Gibraltar Government can confidently assure the Committee that no incidents of torture or other cruel, inhuman or degrading treatment or punishment have taken place in Gibraltar during the period now being reported on (or at any other time since the Convention came into force), that no person has during that period been extradited or deported from Gibraltar where this would carry a risk of his being exposed to torture or other such treatment or punishment in another country, that Gibraltar has (and would, if necessary, operate) the powers and machinery required by the Convention to deal with cases of alleged torture, etc., occurring in other countries, and, generally, that the other necessary safeguards against abusive or oppressive treatment whose importance, in terms of the Convention, the Committee has from time to time drawn to the attention of States parties continue to operate in Gibraltar and are conscientiously enforced by the authorities there. The Government of Gibraltar remains committed to the maintenance and diligent application of all these measures and arrangements.

G. Montserrat

34. The third report under the Convention, and the information supplied to the Committee during the consideration of that report, explained the devastating effect on the life of the population of Montserrat, and on its economy and institutions, that had been caused by the successive eruptions of the Souffiere volcano in the years from 1995 onwards. These effects were still continuing when the third report was under consideration, and it must unfortunately be reported that they are still being suffered today and are expected to have a continuing impact for many years to come. Moreover, expert scientific opinion is that the volcano will remain active for several more years.

35. The economic and demographic consequences of the disaster were briefly described in the third report, or during its examination by the Committee, and that account remains largely applicable for the purposes of the present report. It is still the case that the previously more developed and densely populated two thirds of the island is uninhabitable - this includes the capital, Plymouth, which has been destroyed - and that more than half of Montserrat's population has been forced to move either to other Caribbean islands or to countries outside the region such as the United States of America, Canada and the United Kingdom. The economy, and in particular the business sector and the vitally important tourist industry, has been, and remains, gravely handicapped and damaged. And the consequences of the previously reported destruction of both private and public buildings, including the police headquarters and the prison, continue to be felt.

36. Despite all this, the Government of Montserrat has remained committed to the objective of ensuring that the requirements of the Convention are as scrupulously observed as the circumstances permit and that any obstacles to the achievement of the highest degree of compliance with those requirements are overcome as soon as practicable. It believes that this objective has, to date, been successfully attained. The third report drew attention to the particular problem, created by the destruction of the prison, of inadequate or unsatisfactory accommodation for prisoners. The measures that had by then been taken, or were then in contemplation, to alleviate this problem were described to the Committee when the third report was under examination. It can now be reported that the projected new Remand Centre has indeed been built. It was opened in August 1999. It can house up to 16 inmates and has one cell designated for female prisoners. As well as offering facilities that greatly improve on those available in the previous converted premises, this development largely removes the concerns that were formerly felt about overcrowding and the inability to ensure proper segregation. However, the new Remand Centre still cannot house longer-term prisoners, and these continue, for the time being, to have to be transferred to serve their sentences elsewhere in the region. There are therefore currently two Montserratian prisoners serving their sentences in the British Virgin Islands and eight in the Turks and Caicos Islands, where they are supervised by three Montserratian prison officers. The Montserrat Government accepts that this is not a satisfactory arrangement and there are plans for the eventual construction of a permanent prison on Montserrat so that all prisoners can serve their sentences on the island.

37. There are two further developments that may be thought relevant in this context. First, new prison rules were introduced in January 2000 and were later supplemented by amending Rules which came into force in January 2001. These Rules regulate the administration and supervision of prisons, the treatment, welfare, discipline and protection of prisoners, and the duties and conduct of prison officers. They mirror corresponding new legislation on this topic in other Overseas Territories and should help to ensure - as is the intention - that both the letter and the spirit of the Convention are fully respected in relation to prisoners. The second development is that the construction of a new police headquarters is now well under way and should be completed by September 2002.

38. It can also be reported that preparations are now being made for a review of the existing Constitution of Montserrat and that, while the outcome of this review cannot be prejudged, one of the changes being considered is the establishment of the office of Ombudsman or Complaints Commissioner. It is envisaged that the functions of such an office would include the investigation and determination of complaints of inhuman treatment or abuse of powers committed by police officers or other public officials.

H. Pitcairn

39. The position with respect to the observance of the Convention in Pitcairn remains essentially as described in the previous reports. At the most recent count (in October 2001), the population of Pitcairn consisted of 48 persons, of whom 27 were males and 21 females. These included the teacher, the nurse and the pastor, who are recruited from outside the island and are employed there on a temporary basis, and their respective families.

40. Though there have been no developments directly relevant to the Convention in the period covered by the present report, the Committee will wish to note that a series of interconnected Ordinances were enacted in 1999 to update and improve the machinery for the administration of justice in the territory and for related purposes. These included the Judicature (Courts) Ordinance 1999, the Justice Ordinance 1999, the Judicature (Appeals in Criminal Cases) Ordinance 1999, the Prisons Ordinance 1999 and the Commissions of Inquiry Ordinance 1999. At the same time, the United Kingdom Government made a number of related Orders in Council to facilitate the functioning of Pitcairn's courts and also to establish a Court of Appeal for the territory and to regulate appeals from that Court to the Judicial Committee of the Privy Council. On the administrative side, improved arrangements were introduced for the provision of legal advice to the Governor and subordinate authorities and for the appointment of an independent Public Prosecutor, who (like the Governor, who is the United Kingdom High Commissioner to New Zealand) is based in New Zealand.

41. Despite the small and close knit population of Pitcairn and the simplicity of its way of life and of the administrative arrangements under which it is governed, the authorities of the territory remain alert to the need to ensure that the provisions of the Convention are conscientiously respected at all times.

I. St. Helena

42. Save as mentioned below, the situation with respect to the observance of the Convention in St. Helena and its Dependencies (Ascension Island and Tristan da Cunha) remains as described in previous reports. In the period to which the present report relates, there have been no incidents or complaints of torture or other cruel, inhuman or degrading treatment or punishment, nor have there been any requests for the extradition of any person to face a charge of torture, nor has anybody been extradited or removed to a country where there was a risk of his being subjected to torture or ill-treatment. (In this last connection, see paragraph 45 below.) However, the following matters, of relevance or potential relevance to the Convention, are drawn to the Committee's attention.

43. St. Helena is one of the few Overseas Territories whose Constitutions do not yet contain provisions guaranteeing and protecting fundamental rights and freedoms. These provisions as found in the Constitutions of the other Overseas Territories substantially correspond to the relevant provisions of the European Convention on Human Rights and the International Covenant on Civil and Political Rights and invariably include an express prohibition of torture or other cruel, inhuman or degrading treatment or punishment. As explained in paragraph 2 (b) above (in the Introduction to this Part of the present report), the study that is there referred to and that was commissioned by a recent session of the Conference of Attorneys-General of the Overseas Territories addressed, among other matters, the question of how best to further the process of incorporating fundamental human rights provisions into the Constitutions of the Overseas Territories that at present do not have them, including St. Helena. The report of this study, so far as it relates to St. Helena, is currently under active consideration there. While the outcome of that consideration cannot be prejudged, it can safely be assumed that, if the Constitution of St. Helena is indeed revised in due course to include fundamental rights

provisions of the kind found in the Constitutions of other Overseas Territories, an express prohibition of torture, etc., together with adequate machinery to secure the effectiveness of that prohibition, will feature among those provisions. In the meantime, it may be noted that, although the Human Rights Act 1998 of the United Kingdom does not extend of its own force to the Overseas Territories, including St. Helena, the Supreme Court of St. Helena has recently held that that Act does have a certain application in St. Helena by virtue of the territory's English Law Application Ordinance. (Broadly speaking, this Ordinance, within certain limits and subject to certain exceptions and qualification, which are not relevant for present purposes, incorporates English law as for the time being in force into the law of St. Helena.) It may therefore be concluded that St. Helena law already does, in this indirect way, include the express prohibition of torture, etc., which is contained in article 3 of the European Convention on Human Rights and thus is incorporated into English law by the 1998 Act. Moreover, the Criminal Justice Act 1988 (Torture) (Overseas Territories) Order 1988, which was made expressly to give effect to the Convention against Torture, extends to St Helena: see paragraph 8 of the initial report in respect of St. Helena (CAT/C/9/Add.10, p. 25).

44. In the context of non refoulement (article 3 of the Convention), the Committee's attention is drawn to the case of Mr. Alain Hakizmana, a refugee from Burundi who stowed away in Cape Town on the vessel (the RMS St. Helena) that regularly plies between Cape Town and St. Helena and who arrived in St. Helena on 11 March 2000. In view of his fears about his treatment if returned to Burundi and in the light of his expressed preference for joining other members of the Burundian community in the United Kingdom rather than staying in St. Helena (where he would have been the sole member of that community), special arrangements were made with the United Kingdom Government for him to be allowed into the United Kingdom on an exceptional basis. He left St. Helena on 12 May 2000.

45. In relation to the treatment of prisoners, it can now be reported that, following an inspection of St. Helena's prison by the former Chief Inspector of Prisons for England and Wales and in accordance with one of his recommendations - all of his recommendations were in fact accepted by the St. Helena Government - new prison regulations have been adopted (the Gaol Rules 1999). These replace the former panel of visitors by a standing Visiting Committee, appointed by the Governor. This Committee is required to "satisfy itself as to the state of gaols and the treatment of prisoners" and in particular to:

> "(a) Hear any complaint or request that a prisoner wishes to make to it or any member;
>
> (b) Arrange for the food of the prisoners to be inspected by a member of the Committee at frequent intervals;
>
> (c) Inquire into any report made to it that a prisoner's health, mental or physical, is likely to be injuriously affected by any condition of his imprisonment;
>
> (d) Inquire into and report upon any matter into which the Governor may ask it to inquire;

(e) Direct the attention of the Superintendent to any matter which it considers calls for his attention, and report to the Governor on any matter which it considers expedient to report upon;

(f) Inform the Governor immediately of any abuse that comes to its knowledge."

In addition, the Rules provide that the Committee "shall, in a case of abuse or neglect by a prison officer of his functions involving any prisoner, immediately report the matter to the Superintendent who shall have power to suspend him until such time as an inquiry into the matter has been completed". The Rules require the Committee to "make an annual report to the Governor at the end of each year concerning the state of gaols and their administration, and including any recommendations it considers appropriate".

J. Turks and Caicos Islands

46. The position with respect to the observance of the Convention in the Turks and Caicos Islands remains as described in previous reports and there are no new developments to report since the Committee's examination of the third report. The law of the Turks and Caicos Islands continues fully to reflect the requirements of the Convention, both as regards the express prohibition of torture and other forms of cruel, inhuman or degrading treatment or punishment and as regards the jurisdictional obligations arising under the Convention in respect of cases of alleged torture, etc., occurring outside the territory. The law of the territory together with the administrative practices and policies of the Government of the territory also continue fully to respect the other requirements of the Convention and the views and concerns that have from time to time been expressed by the Committee in relation thereto. It is the firm intention of the Government of the Turks and Caicos Islands that there should be no falling off from this position.

47. It can specifically be reported that, during the period covered by the present report, there have been no cases in the Turks and Caicos Islands in which persons have been charged with inflicting torture or other cruel, inhuman or degrading treatment or punishment and no cases in which it has been sought to extradite a person from the Turks and Caicos Islands to face such charges in another country. Nor has there been any case in which a person has been extradited or deported or otherwise removed from the Turks and Caicos Islands in circumstances where this carried a risk of his being exposed to such treatment.

48. As previously reported, judicial corporal punishment has been abolished in the Turks and Caicos Islands.
