



CATALAN  
AUTHORITY FOR  
THE PREVENTION  
OF TORTURE  
ANNUAL REPORT  
2011

SÍNDIC

EL DEFENSOR  
DE LES  
PERSONES



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Síndic de Greuges de Catalunya

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# 2011 ANNUAL REPORT

<b>I. INTRODUCTION</b> .....	5
<b>II. THE CATALAN OMBUDSMAN AS CATALAN AUTHORITY FOR PREVENTION OF TORTURE</b> .....	9
<b>2.1. ADVISORS COUNCIL</b> .....	13
a. Duties of the Council .....	13
b. b. Communication to Parliament: proposals and replacements of new members .....	13
c. Council Meetings .....	14
d. Disciplinary/punishment procedural guarantees .....	14
e. Legal aid for the detainee .....	17
<b>2.2. TASK FORCE</b> .....	18
<b>2.3. VISIT SYSTEM</b> .....	18
<b>2.4. WORK METHODS</b> .....	19
<b>2.5. TRAINING ACTIVITIES</b> .....	20
<b>III. DEPRIVATION OF LIBERTY AND SCOPE OF THE SITES TO BE VISITED</b> .....	23
<b>IV. VISITS MADE</b> .....	29
<b>4.1. STATISTICAL ANALYSIS</b> .....	33
<b>4.2. BY TYPES OF CENTER</b> .....	35
a. Penitentiary centers .....	35
b. Hospitalization units .....	42
c. Educational juvenile justice centers .....	45
d. Protection centers .....	46
e. Residential centers .....	48
f. Police stations .....	49
g. Interviews with persons deprived of liberty .....	60
<b>V. CONCLUSIONS</b> .....	61
<b>VI. RECOMMENDATIONS</b> .....	65



## I. INTRODUCTION





## 1. Introduction

The Convention against Torture and other Cruel, Inhuman or Degrading Punishment or Treatment was adopted by the General Assembly of the United Nations on December 10, 1984. It came into force on June 26, 1987, and became the only legally binding instrument at the worldwide level exclusively meant to eradicate torture.

Years later, the General Assembly of the United Nations adopted, through Resolution 57/199 of December 18, 2002, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which brought an innovative outlook to the fight against torture, working from the realm of prevention.

This new perspective taken up in the Protocol is based on the concept that the more open and transparent detention facilities are, the fewer the abuses committed. The experience of organizations such as the European Committee for the Prevention of Torture (CPT) or the International Committee of the Red Cross (ICRC), have shown that regular visits to detention facilities can be very effective in preventing torture and significantly improve detention conditions.

Thus, the preventive approach of the Protocol is based, first, on regular supervision visits to places where persons deprived of liberty are housed. The visits are made by groups of experts in charge of inspecting facilities and treatment given to detainees. Second, the Protocol aims to establish with the signatory State a mechanism to promote true collaboration to prevent torture without necessarily having to publicly condemn the State for any violations found to have been committed.

The Protocol establishes a dual prevention system articulated through an international mechanism, the work of which is supplemented by that of a national mechanism or mechanisms. Both types of mechanisms make regular visits to detention facilities, to supervise their status, make recommendations and work constructively with state authorities to help them improve the situation of persons deprived of liberty.

The international mechanism is the Subcommittee for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the national prevention mechanism consists of the appointment by the

State of national organizations that also have the power to visit detention facilities.

According to Article 17 of the Protocol, there can be one or more national prevention mechanisms. Furthermore, it expressly recognizes that the mechanisms established by decentralized organizations in composite states can be designated as national prevention mechanisms. The competent authorities shall decide at their discretion whether to create a new body or if, to the contrary, the duties determined by the Protocol for the national preventive mechanisms are assigned to an already existing body or organization.

In keeping with this Article 17, with the competencies Catalonia holds in torture prevention, and considering the competencies and duties that the Statute of Autonomy assigns to the Síndic de Greuges (hereafter Catalan Ombudsman) in that office-holder's role of protecting and defending the rights of people, the Catalan Ombudsman Act (Law 24/2009), of December 23, in its first article, assigns to this institution the condition of Catalan Authority for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

That same law stipulates in Article 69.1 that the Catalan Ombudsman will act as Catalan Authority for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment anywhere that persons deprived of liberty are found, whether they be centers or facilities in Catalonia, or means of transport traveling through Catalan territory, if these facilities and places depend on the administrations, bodies, companies and persons referred to in Article 78.1 of the Statute.

In order for the Catalan Ombudsman to carry out his duties as Catalan Authority for the Prevention of Torture in the facilities that, though located in Catalonia, are property of Spain, and to coordinate activities with the relevant authority on the state level, the Parliament of Catalonia has urged the Generalitat (Autonomous Government of Catalonia) to take the necessary steps to promote formalization of a collaboration agreement with the Spanish government as soon as possible.

Along these lines, no collaboration agreement between the Defensor del Pueblo (hereafter Spanish Ombudsman), who is the National Authority for the Prevention of Torture in Spanish territory, with the Catalan Authority has yet been formalized. Although the Spanish Ombudsman has challenged the Catalan

Ombudsman Act in Spain's Constitutional Court as regards the existence of a Catalan Authority for Prevention of Torture, the Catalan Authority wishes to establish cooperative relations with the Spanish Ombudsman and any other future mechanisms that may be created around Spain.

On another note, as the United Nations Optional Protocol establishes creation of a sub-committee for prevention which, according to Article 11, must cooperate with the relevant mechanisms of the United Nations in torture prevention in general, and given that Article 75 of the Catalan Ombudsman Act stipulates that the Catalan Ombudsman collaborates with the Sub-committee established in Article 2 of the Optional Protocol, especially within the framework set out by Article 20.f of the Protocol,

the Parliament of Catalonia has also urged the Autonomous Government of Catalonia to develop the Catalan Ombudsman Act (Law 24/2009) of December 23, and reach an agreement with the Spanish Government for it to officially notify the Sub-committee that the Catalan Ombudsman is acting as the Catalan Authority for Prevention of Torture.

At the time this report was written, these matters had yet to be resolved.

Pursuant to Article 74 of the Catalan Ombudsman Act, this is the second monographic report presented on the actions performed as Catalan Authority for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in the year 2011.

## **II. THE CATALAN OMBUDSMAN AS CATALAN AUTHORITY FOR PREVENTION OF TORTURE**



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<b>2.1. ADVISORS COUNCIL</b> .....	<b>13</b>
a. Duties of the Council .....	13
b. Communication to Parliament: proposals and new members.....	13
c. Council meetings .....	14
d. Disciplinary/punishment procedural guarantees .....	14
e. Legal aid for the detainee .....	17
<b>2.2. TASK FORCE</b> .....	<b>18</b>
<b>2.3. VISIT SYSTEM.</b> .....	<b>18</b>
<b>2.4. WORK METHODS.</b> .....	<b>19</b>
<b>2.5. TRAINING ACTIVITIES</b> .....	<b>20</b>



## 2.1. Advisors Council

Article 77 of the Catalan Ombudsman Act calls for creation of the Catalan Ombudsman's Advisors Council for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Its role is to assist and advise the Ombudsman in the performance of the duties assigned to him as the Catalan Authority for the Prevention of Torture (CAPT).

### a. Duties of the Council

The Regulations of the Catalan Authority for the Prevention of Torture specify in greater detail the duties of the Advisors Council. Thus, its Article 6 states that it shall have the following competencies:

- "Propose to the Catalan Ombudsman actions included in the conduct of preventive visits to specific sites in which persons deprived of liberty are kept.
- Be informed of the visits made by the Task Force. The Advisors Council can request additional information on these visits.
- Be informed, before the Ombudsman presents it to Parliament, of the contents of the annual report to be able to make observations.
- Nominate two of its members to form part of the Catalan Ombudsman's Task Force for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
- Make and maintain a list of experts in the various realms that may be required by the Task Force, to accompany and advise it regarding any facility visit.
- Provide the Catalan Ombudsman and Task Force with any advice they request.
- Carry out the actions assigned to it by the Catalan Ombudsman".

### b. Communication to Parliament: proposals and replacements of new members

Article 77.3 of the Catalan Ombudsman Act states that, "members of the Advisors Council are chosen by Parliament and appointed by the president of Parliament for a term coinciding with that of the Ombudsman or Ombudswoman. The selection is made in keeping with the procedure outlined in the Regulations of the Parliament of Catalonia, from among the candidacies presented once the official announcement has been published in the *Official Journal of the Parliament of Catalonia*."

Pursuant to these terms, on July 28, 2010, Parliament appointed the council members. In this first session, it named Lúdia Condal and Pedro Yúfera, proposed by the bar associations; Mariona Creus and Miquel Vilardell, proposed by professional associations of health care providers; Sabina Puig, Olga Casado, Eva Labarta and Joan Merelo, proposed by NGO's for the defense of human rights; Santiago Redondo and Victòria Camps, proposed by university centers devoted to research on human rights, and José Maria Mean and Jaume Saura, as professionals in the field of torture prevention and in work with persons deprived of freedom.

Over the course of the past year, two members named by Parliament have withdrawn from the posts they were appointed to, which has led to them being substituted by new council members. Thus, Lúdia Condal Invernón, proposed by the bar associations, has been replaced by Antoni Molas Casa, as the new president of the Council of Catalan Bar Associations; and Mariona Creus i Virgili, proposed by professional health care associations has been substituted by Montserrat Teixidor i Freixi, Dean of the Council of Catalan Nurse Associations.

Pursuant to the established election process, the Parliament of Catalonia must appoint these two new members.

Changes have also been made regarding alternates for council members who represent professional associations when they are unable to attend the Advisors Council meetings. Namely, the Advisors Council and Task Force have adopted the criterion of a fixed alternate -a single person- for any such substitution. This criterion has been submitted for consultation to the Catalan Parliament Ombudsman's Committee, which has expressed its agreement.

Furthermore, pursuant to the established procedure, Parliament has been informed of the names of the alternates who will attend meetings of the Advisors Council when one of the professional association representatives can not attend. In the case of Miguel Vilardell i Tarrés, plans are to delegate attendance duties to Màrius Morlans i Molina, chairman of the Ethics Committee of the Barcelona Physicians' Association. For Pedro Yúfera Sales, attendance duties will be delegated to Jordi de la Tienda, member of the Governing Board of the Barcelona Bar Association.

Last, for Montserrat Teixidor i Freixa, it has been decided to name Carme Puig i Vilalta as alternate.

### c. Council Meetings

The Regulations of the Catalan Authority for the Prevention of Torture and other Cruel, Inhuman or Degrading Punishment or Treatment, in the section relative to the Advisors Council, calls for this body to meet regularly.

Thus, it has met a total of four times in 2011, once per quarter. The meetings have always been chaired by the Ombudsman. In addition to being attended by members of the Task Force, the two Deputy Ombudsmen have also been present at some meetings.

At the first meeting, (14-03-2011) the draft protocols for visits to Correctional Facilities, police stations and mental health centers were presented and subjected to the consideration of all members.

A paper was also presented on the scope of detention facilities to be visited by the Catalan Authority for the Prevention of Torture, which will be presented in the future.

At the second meeting (09-06-2011), amendments were made to the draft protocol for police stations. The amendments referred to the following terms:

-“Right to an attorney at any time throughout the entire liberty deprivation period”

Must be replaced by:

- "Right of the detainee to the services of an attorney from the time at which the detention takes place and throughout the entire liberty deprivation period”.

Modification of the second paragraph, section 6:

- “Time transpiring from the detention to the notification”

Must be replaced by:

-“Time transpiring from the detention until the respective bar association is notified, in order for a legal aid attorney to be designated, or if necessary, to inform the attorney chosen by the detainee”.

At this meeting, it was concluded that “the two amendments reflect the need to accredit compliance with articles 570.4 and 767 of the Criminal Judgment Act (hereafter LECrim), which requires immediate notification of the detention to the relevant bar association, in order for a record to be established, and ultimately guarantee, the sooner the better, that the person deprived of liberty has access to the services of an attorney”.

It was also stated that “there is a tendency to confuse the services of an attorney for a detainee with the necessary presence of an attorney at the time of their declaration in a police station, and it has been detected, in practice, that notification of detentions is made when it is time for the detainee to make a statement”.

As can be concluded from Consultation 2/2003 of the Spanish Attorney General’s Office, it is the detention of a citizen, and not the procedure of taking a statement from them, that activates the constitutional necessity to receive the services of an attorney in a police station.

These observations have been ratified by the conclusions of the working committee on attorney services for detainees, and its adaptation to legal and jurisprudential realities, organized by the Barcelona Bar Association (hereafter ICAB) on June 11, 2010.

Last, the modifications in the paper presented on the detention facilities to be visited by the CAPT were discussed at that June 9 meeting.

The study on the disciplinary/punishment procedural guarantees in the penitentiary realm was presented at the penultimate meeting (October 5, 2011). The meeting also analyzed the OPCAT & OMBUDSMAN Seminar, organized by the International Ombudsman Institute and the Polish Ombudsman.

At each of the meetings, the Advisors Council has been informed of the visits made by the Task Force. The Council has asked for additional information on these visits.

This annual report was discussed and approved at the last meeting (December 9, 2011).

### d. Disciplinary/punishment procedural guarantees

Pursuant to the proposal accepted at the March 14 Advisors Council meeting, it was agreed to study the matter of disciplinary procedural guarantees in penitentiary centers, with regard to facilitating inmates’ right to defend themselves when accused of offenses based on video recordings.

One situation that the Task Force had noticed in its visits to penitentiary centers was that inmates, when in disciplinary proceedings, do not have access to these recordings. The Advisors Council and the Task Force expressed



their concern about this situation. It was agreed to conduct a study to recommend certain changes to the competent authorities.

This section reflects the legal analysis and relevant conclusions on this matter. The proposals drawn from the study are included in the final section of this annual report, on recommendations.

### Regulatory framework

The penitentiary legislation regulates a special legal relationship, between a certain type of individuals -persons sentenced to deprivation of liberty and those with preventive sentences- and penitentiary institutions, which must ensure both compliance with the restriction of liberty individually imposed by a criminal sentence against an individual, as well as the protection of all other fundamental rights the individual is still entitled to. In fact, the Administration of the Penitentiary Center will directly supervise the inmate's daily living conditions. To exercise this control, the Administration has disciplinary powers that are administrative in nature and revocable by process of law.

The disciplinary proceedings of Penitentiary Regulations (Title X, Chapter III) are subject to the general principles taken up in Article 44 of the Penitentiary Act and Law 30/1992, on the Legal Code for Public Administrations and Common Administrative Procedure (Title IX, applicable according to the terms of Article 232.1 of the Penitentiary Regulations).

Further, Ruling 17/1981, of June 8, of the Constitutional Court, extended procedural guarantees of Article 24 of the Spanish Constitution to all administrative punishment procedures.

Nonetheless, defense by an attorney is not preceptive in administrative proceedings, although the case law is not undisputed, especially in cases of vulnerable individuals. Therefore, individuals involved in administrative proceedings are not entitled to free legal aid (except in certain cases). Nevertheless, any inmate can request consultation with the penitentiary legal advice services.

### Justification of the proposal

In penitentiary punishment proceedings, videographic evidence is viewed in the administrative channel quite frequently, and

almost immediately after the incident that has initiated the proceedings, usually with the exclusive intervention of the penitentiary center administration, who will also oversee the proceedings, and who will ultimately dispense any punishment if deemed necessary.

In the administrative stage, inmates are informed of the investigation and the list of charges against them. They are able to make allegations and present evidence on their own or through an attorney. But, as has been stated, the involvement of an attorney is not preceptive. In reality, the effective supervision of guarantees -the universal possibility to defend oneself under the principles of audi alteram partem, the right to a hearing and public disclosure- does not come into effect until the judicial channel.

After an initial viewing of the videographic evidence, the finalization of the proceedings in the administrative channel is subject to the pace of bureaucratic efficiency. Here it should be added that this initial viewing can determine the adoption of cautionary measures and make for an immediate worsening of prisoners' living conditions.

To base disciplinary decisions, either administrative or judicial, on law, and evaluate any documentary evidence, such evidence must necessarily be genuine. Specifically, videographic evidence can be altered by cuts, distortions or subjective diachronies.

There already exists case law in this regard: "when evidence for the prosecution is obtained by technical means, for example videographic recordings, case law doctrine has required certain requisites for it to be considered valid and to ensure the judicial monitoring of this evidence, to prevent any possibility of intentional or accidental adulteration" (STS 19/05/99).

Furthermore, judiciary bodies have been reaffirming that this availability for the defense of inmates has been required by the Constitutional Court (TC). The TC granted judicial protection to an inmate disciplined on the grounds of videographic evidence. He had been denied the chance to view the footage by court order, on the grounds that there was no reason to doubt the veracity of the prison officer's testimony (STC 185/07, of September 10). Therefore, the binding jurisprudential criterion is that the inmate is entitled to

access, for their defense -criminal or administrative- to the videographic evidence, if any exists, especially if it is evidence for the prosecution.

The requisites for videographic footage to be considered authentic are:

- a) Court supervision of the constitutional legitimacy of the footage being filmed.
- b) Communication and contribution to the process; the sooner the contribution takes place, the more guarantees will exist in favor of its authenticity and to the detriment of possible adulteration (STS 17/7/1998).
- c) Contribution through complete, original media of whatever has been filmed.
- d) That the footage be available to the defense at all times, as, if it deems it appropriate, it may request an expert analysis to determine if there has been any adulteration.

Taking as an example the cautionary measures required to validate a judicial act as genuine, it bears mentioning that for videographic recordings of trials and/or testimony by any defendant, the court clerk will always act as the impartial figure who will certify the authenticity of the recordings.

This impartiality is particularly vulnerable when the judicial relationship is one of special subjection in which it is necessary for the impartiality to be significantly guaranteed due to the vulnerability that certain fundamental rights are exposed to in light of institutional control over the evidence. Other judiciary relationships between institutions and groups made vulnerable by their diminished autonomy (minors, persons with disabilities, psychiatric inmates) require the special supervision of the Attorney General's Office, who is notified of any action that could make for a limitation or risk to fundamental rights. Within the penitentiary realm, the inspection duties of judges are worth noting.

The disciplinary proceedings are initiated without respecting the equality of arms principle with regard to the control over evidence. The control is exercised by the administration of the penitentiary center which is also the enforcement authority, and has a number of predetermined priorities, such as thorough respect for the principle of security. What occurs in a closed center will be difficult to determine without objective evidence. Inmates deprived of liberty do not have enough autonomy to designate the presence of an attorney -either of their own choice or court-appointed- from the beginning.

In civil affairs, notarial certification or judiciary authority grants authenticity to videographic matrices, and individuals in liberty may ask to be present from the beginning at the first viewing of footage, either personally or through their legal representatives. It should be underscored that any limitation to the rights of an inmate not stipulated in the conviction will comprise a violation of Article 25 of the Spanish Constitution.

It bears mentioning that there is a direct relationship between constitutional principles and Title IX of Law 26/1992, of November 26, on the Legal Code for Public Administrations and Common Administrative Procedure.

The Constitutional Court, since its Ruling 18/1981, has repeatedly stated that the procedural guarantees set forth in Article 24.2 of the Constitution are applicable, not only in criminal action, but also in disciplinary administrative proceedings, "it having been shown before this Court that, being disciplinary measures imposed on penitentiary inmates, these guarantees are to be applied with special stringency, as it is considered that the disciplinary measure constitutes the severe restriction of the inmate's already-restricted liberty inherent to a penitentiary sentence (Rulings of the Constitutional Court 97/1995, 195/1995 and 39/1997).

Therefore, it is necessary for the administration of penitentiary centers to collaborate with defense attorneys, facilitating their exercise of defense duties, especially regarding disciplinary measures. Another significant factor is that punishable deeds committed inside a penitentiary may be criminal offences, which is why ascertaining the authenticity of the document in the presence of an attorney is all the more important to determine the validity of the videographic evidence in the context of the overall criminal action.

Last, the Legal Advice Service (SOJ) is a free, individualized public service subsidized by the Catalan Ministry of Justice, through the Secretariat for Justice Administration Relations. This service is rendered by the 14 bar associations of Catalonia with internal staff and practicing attorneys from the ranks of those registered in the bar association where the service is provided.

The agreement with the Barcelona Bar Association that now regulates the Penitentiary Inmate Legal Advice Service (SOJP) was signed

on February 24, 2009 and establishes, in its third clause, that the service will be made up of the following:

a) *Advice on the content of penitentiary regulations, classification of enforcement regimes, disciplinary procedure, work in penitentiary centers, leaves, etc.*

Therefore, it appears that through this legal advice service -or, in its place, legal aid service for detainees- it would be relatively simple to arrange the presence of an attorney during the first viewings of any video that could be used as evidence in a penitentiary disciplinary process.

### e. Legal aid for the detainee

Article 17.3 of the Spanish Constitution puts forth a number of guarantees for detainees, among them the right to be informed in an immediate, comprehensible manner of their rights and reasons for detention, their right to refuse to testify and their right to an attorney.

The Barcelona Bar Association (ICAB) has informed the Advisors Council of the problems surrounding effective compliance with the requisite of immediate communication of the detention to the respective bar association. Specifically, it has informed the Council of the violation of Article 520.4 of the LECrim.

It has also informed the Council that “there is a tendency to confuse the services of an attorney for a detainee with the necessary presence of an attorney at the time of their declaration in a police station, and it has been detected, in practice, that notification of detentions is made when it is time for the detainee to make a statement”.

For that reason, in 2008 the Legal Aid Commission of the Barcelona Bar Association published and disseminated a code of criteria for attorney’s services to detainees, which reproduces the jurisprudential criterion and that of the Spanish Attorney General’s Office with regard to the material content of the detainee’s right to the services of an attorney.

On another note, and with the same purpose, on June 11, 2010, the Barcelona Bar Association organized a working panel, participated in by members of the judiciary and the Attorney General of the Provincial Courts, to reach a consensus on the criteria that will be followed in

the exercise of the detainee’s right to an attorney, established in Article 17.3 of the CE and developed in article 520 and concordant articles of the LECrim, following the jurisprudential doctrine in this area.

The summarized conclusions of this working panel were:

*One.* The Bar Association must be notified immediately of the detention of any citizen. Such immediate notification guarantees that from the time the detention is made effective, the professional is designated, or the designated attorney is notified.

*Two.* Notification of the detention must consist of, at least, informing the bar association of the identity of the person, the site of the detention and the offense they are suspected of committing.

*Three.* The information to be provided to the detainee, immediately and comprehensibly, will be on the offenses they are alleged to have committed, the reasons leading to the deprivation of their liberty, their rights, and especially the content of Article 520.2 of the Criminal Judgment Act.

*Four.* Effectiveness of the defense is made up of appropriate technical advice provided to the detainee, and therefore, is not limited to the bar member’s strict compliance with the terms of Article 520.6 of the LECrim.

*Five.* Bar associations must promote training for professionals in the interpretation of legal precepts relative to the material content of attorney services for detainees in accordance with the interpretation of case law.

*Six.* It was agreed to promote the distribution of these conclusions to the Provincial Security Board, law enforcement agencies and all other involved institutions.

It goes with saying that, both the code of criteria and the mentioned conclusions have been conveyed to all members of the Advisors Council and Task Force, for them to be aware of them. Specifically, in matters concerning the Task Force, detainee attorney services will be a focal point of attention during the visits they make. Thus, in the section on recent visits, the irregularities observed in the practical application of the rights and guarantees derived from the content of Article 17.3 of the CE will be discussed.

## 2.2. Task Force

Article 76 of the Catalan Ombudsman Act calls for creation of a Task Force devoted to making regular visits to places where persons deprived of liberty are found. This is in compliance with the mandate contained in the Optional Protocol.

Article 6 of the CAPT Regulations states that the Task Force shall have the following competencies:

- “To arrange, define and plan the visits to be made.
- To regularly visit the places where persons deprived of freedom are held and confidentially meet with them.
- To write a report following each visit that includes proposals and recommendations addressed to the competent authorities.
- To meet with the penitentiary officials responsible for the detention sites to inform them of what has been found in the course of their visits.
- To conduct follow-up of the recommendations made, and contact the competent authorities to ensure their compliance with the possible measures to be adopted.
- To write the annual report to be presented to Parliament.
- To write thematic reports on things observed in their visits and disseminate them.
- To design action handbooks and protocols.
- To consult the Advisors Council on anything considered necessary to exercise their duties.
- To inform the Advisors Council on the visits it makes.
- To select the experts and interpreters that could accompany them, if necessary, on the visits, bearing in mind criteria of professionalism, objectivity and independence, as well as any possible incompatibilities”.

The Advisors Council met on September 30, 2010 and selected Eva Labarta and Jose María Mean to join the Task Force. The Catalan Ombudsman also appointed Ignasi Garcia and Mar Torrecillas to form part of the Task Force themselves or through delegates. The Parliament of Catalonia ratified the appointments pursuant to established procedure.

This year, the Task Force has begun visiting places where persons deprived of liberty are found. Most visits have been led by the Ombudsman, or Deputy Ombudsman or Ombudswoman to whom he has delegated the task.

In order to take on new responsibilities in the Administration, Ignasi Garcia Clavel resigned from the Catalan Ombudsman’s Office at the end

of 2011. Therefore, he no longer forms part of the Task Force. The Catalan Ombudsman will soon appoint a substitute for Mr Garcia.

## 2.3. Visit System

The visits to detention centers and sites have been conducted in accordance with certain action protocols based on international criteria, written by the Catalan Ombudsman and the Task Force, with guidance from the Advisors Council.

These protocols are a reference framework in which to conduct the visits, as they specify the main items to be analyzed in accordance with the type of site to be inspected. Therefore, they do not bias the visits, as they are not questionnaires, nor checklists by which to examine every aspect of a detention center, which are numerous. Rather, they are merely elements that can be relevant from a prevention standpoint.

The Task Force has regularly written up, with the guidance of the Advisors Council, a tentative work program, including the detention centers and sites that could be visited, as well as the objectives of each visit. Efforts have been made to ensure that the types of detention centers and sites visited are wide-ranging and cover the entire Catalan geography. Nonetheless, in this first year most visits have taken place within Barcelona Province.

Access has been granted to all facilities and services desired to be visited. Access by the Task Force has never been limited or hindered at any time, even for security reasons. Access has also been granted to all of the desired information.

The visits have always been made without prior notification and during the day. All members of the Task Force have been present on the visits. On occasion, when the Catalan Ombudsman has been unable to attend the visit, he has delegated the responsibility to a Deputy Ombudsman or Ombudswoman for the Rights of Children and Adolescents.

When visiting a minors’ or juvenile justice center, the Task Force has requested the accompaniment of the Deputy Ombudswoman for the Rights of Children and Adolescents, as a professional with expertise in this area.

Visits were not always conducted the same way. In some cases, the visits began with an initial conversation between the Task Force and the officer in charge. In others, this conversation took

place at the end of the visit. The Task Force has been provided with the documents and information it requested on all of its visits.

The selection of persons with whom the Task Force has held interviews has usually been done at random based on lists it was provided with. At some centers, interviews have taken place with people proposed by the center staff members themselves.

No pre-established scripts or questionnaires were used for the interviews. The interviews were conducted by pairs of interviewers, respecting the gender distribution variable at all times.

## 2.4. Work methods

Certain action protocols have been drawn up and approved to serve as guides on the visits carried out by the CAPT Task Force.

These are protocols of maximums, as they include an exhaustive list of all the items that can be inspected at detention centers, and that are relevant to prevent possible abusive, inhuman or degrading treatment.

The protocols are only used internally, and under no circumstances condition any visit carried out. It must be noted that the protocol is an internal work resource for Task Force members, and as such, has not been distributed externally. Nonetheless, it has been shown to all experts in the field who have expressed an interest in its content.

First, drafts of the Protocols were presented to the Advisors Council, in order for its members to make any necessary modifications. As indicated previously, the Barcelona Bar association made amendments to one of the protocol sections on police stations, which were duly added.

Up to the present, three amendments have been added: one for police stations, one for penitentiary centers and another for mental health facilities. The items to be inspected, taken up in these protocols, are extendable to the rest of centers to be visited. More or less emphasis is placed on given items depending on the characteristics of the center, and the purpose of the visit. Experts in their fields are also called on for advising in this area.

A list, by no means exhaustive, of some of the points these protocols are based on, and within them, the applicable quantitative and qualitative variables, are listed below.

### Penitentiary centers:

- General information on the center (general condition of the facilities, maximum capacity of the center, actual occupation, overcrowded wards).
- Living conditions (condition of the cells, square meters, lighting ventilation, heating and cooling, condition of furnishings).
- Admission into the center (hygiene measures taken, average time taken, suicide prevention protocols, interpreters, etc.).
- External relations (condition of visiting areas, condition of rooms provided, information provided, etc.).
- Information, complaints and resources (information given to inmates, languages published, channel of complaints to center director).
- Hygiene and diet (types of diets, composition of hygienic kits, frequency of bed linen change, food inside cells, etc.).
- Health care (physicians and other health care providers, weekend on-call services, health care quarantine facilities, Nursing Department, Psychiatric Department, etc.).
- Interior security (security cameras, recording system, informative signposting, identification of prison officers, pat-downs, etc.).
- Coercive devices (types, places kept, cases of application, recording on inmate's record, maximum time of application, physician's supervision, communication to Prison Supervision Court, etc.).
- Disciplinary system (isolation cell punishment, presence of an attorney, right of the inmate to view video footage, etc.).
- Confinement living conditions (facilities, specific training, department protocol, officers posted, etc.).
- Staffing (number, presence of female staff members, professional-to-inmate ratio, accessibility of director, etc.).

### Police stations:

- Facilities (condition of cells, capacity and size, ventilation and lighting, heating and cooling, running water, showers).
- Protection measures (clothing and bed, personal hygiene, diet).
- Admission of detainees (action protocol, detainee placement criterion, procedures for difficult detainees, translation and interpreting service).
- Surveillance (installation of cameras, placement and range, informative signposting, operation and control, custody system, direct surveillance, confinement and movement restriction measures).
- Custody of detainees (action protocol, custody of substance-dependent or mentally ill detainees, suicide risk prevention protocol, detainee area).

- Detainee rights (right to services of an attorney, to be examined by a physician of their own choice, notify a family member or person of their detention).
- System for detainees held incommunicado (action protocol).
- Complaints procedure (detainees, family members or friends, most frequent complaints).

#### *Mental health facilities:*

- Units or services (acute, sub-acute or dual pathology)
- Staffing (number of persons, distribution, training, internal training plan).
- Beds (free, occupied, waiting list).
- Legal regime over hospitalized patients (disabilities, voluntary/involuntary admission, admission by criminal court order).
- Facilities (types of rooms, material conditions, equipment, clothing).
- Services (food, psychological, social and psychiatric care).
- Regime and activities (contacts with family, exterior environment, telephone communication, distribution of money, recreation activities).
- Time administration (mandatory time in room, daily allotment of free time, time in open-air spaces, freedom to access rooms).
- Patients (pathology, distribution by categories, average time of stay, relations among patients, suicide risk).
- Restraint measures (mechanical restraint, isolation, chemical restraint).
- Electroconvulsive therapy (cases of application, frequency, use per patient, limitations, contradictions, prior supervision by clinical committee).
- Internal operation regulations (internal regulations, admission protocols, linguistic availability, emergency and evacuation plan).
- Security measures (cameras, types of security personnel, action protocol in case of patient escape, bars, open-air area control).
- Patient's rights and obligations (known to users, family members, evaluation of the charter of rights and obligations).
- Complaint procedure (users, family members, complaints against health care providers, complaint reception and evaluation system).
- Inspection services (number of inspections made, grounds, last visit received).
- Jurisdictional control (internments).

## 2.5. Training activities

This year, efforts have been made to work further in a new topic, to wit, the use of restraint devices on elderly persons. In this realm there are

different fundamental rights that can be affected from a legal standpoint, such as the right to freedom, personal dignity, self-determination, physical integrity and remaining free from inhuman or degrading treatment.

According to recent studies, Spain is the country that most widely uses restraint mechanisms for elderly persons and Alzheimer's patients in the western world.

In this context, a rational use of these restraints is important, especially in elderly care homes, as an abuse of these devices, or use without medical prescription and proper supervision, can imply mistreatment of the individual.

To this end, a member of the Task Force attended the 2nd International Conference on the Restraint Devices on Elderly Dependent Persons, held in Pamplona on March 17-18, 2011, and the Conference on the Use of Restraint Device in Elderly Care Homes, held by the Canary Island Ombudsman in Santa Cruz de Tenerife, on November 30, 2011.

These discussions were hosted on the use of restraint devices from a legal, human rights and medical-scientific standpoint. The Catalan Authority for Torture Prevention wishes to underscore that this is a widespread practice, and that 39% of residents are subjected to some form of restraint. For this reason, during the visits made, restraints are one of the main items to be examined.

Also significant in this regard was the running on September 13-14 of the OPCAT & OMBUDSMAN Seminar in Warsaw, organized by the International Ombudsman Institute (IOI-Europe) and the Polish Ombudsman. Several leading international experts were on hand: Zbigniew Lasocik, of the Sub-committee for the Prevention of Torture (SPT); Mauro Palma, of the European Committee for the Prevention of Torture and Barbara Bernath, of the Association for the Prevention of Torture, who took part in each of the round table discussions held at the seminar. Additionally, other Ombudsmen presented their experiences as national torture prevention mechanisms, or read papers on the roles of their offices in torture prevention.

The seminar discussed the roles of Ombudsmen as national torture prevention mechanisms (term, structure, classes); the methods and protocols to conduct visits (preparation, the visit itself, the role of experts and sites subject to

visits), as well as the follow-up of these visits (cooperation with the Sub-committee for Prevention of Torture, recommendations).

Special focus was devoted to the CAPT Advisors Council, as no other institution working as a

national torture prevention mechanism had created such a body. It was also made clear that many states have yet to ratify the Optional Protocol to the Convention against Torture or launch the mechanism.





### **III. DEPRIVATION OF LIBERTY AND SCOPE OF THE SITES TO BE VISITED**



### 3. Deprivation of liberty and scope of the sites to be visited

At one of its meetings, the Advisors Council discussed the scope of the sites that the CAPT was to visit, with regards to the extent at which it should enter facilities, such as care homes, social-health care centers or minors' centers. Although deprivation of liberty is clear in cases of police custody, pre-trial detention, convicted criminals, etc., it is more relative in the aforementioned types of facilities.

To clarify the matter, a query was made to the United Nations Sub-committee in Geneva, and contacts established with the Council of Europe and the Committee for the Prevention of Torture in Strasbourg, which provided examples of other democracies where analysis had also been carried out on the centers subject to visits, such as elderly care homes.

On a second front, some members of the Advisors Council and the Task Force met later to study the topic. As a result of this joint effort and the exchange of information with international experts in this field, a report was written on the degree to which the Ombudsman, as CAPT, has competencies to enter social-health care centers, elderly care homes or minors' centers.

#### Regulatory framework

Article 4 of the Protocol defines what is understood as a person deprived of liberty and a detention center, in the following terms:

“ 1. Every Member State must allow visits, pursuant to this Protocol, of the mechanisms listed in Articles 2 and 3, to any detention site under its jurisdiction and control housing or suspected of housing anyone being deprived of liberty, either by order, at the instigation or with the express or tacit consent of a public authority.

2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment of a person in a public or private custodial setting which that person is not permitted to leave at will, by order of any judicial, administrative or other authority.”

In light of this article, it can be concluded that the Protocol does not offer a list of detention sites, but rather offers a broad definition, based on two concepts: the active or passive participation of a public authority, and the existence of not so

much a deprivation of liberty “against the individual's will”, as the impossibility of the individual to freely leave the facility where they are kept.

From the international practice that has begun to be generated based on this article, and also from similar instruments such as the European Convention for Torture Prevention (1987), it can be interpreted that the freedom to leave a certain center has to do with the material, not legal, capacity of the individual, which must also be associated with their greater or lesser degree of vulnerability.

The broad definition of Article 4 of the Protocol allows the maximum possible protection coverage for persons deprived of liberty because it does not establish an exhaustive list of detention sites but rather refers to any site of detention.

That Catalan Ombudsman Act stipulates in Article 69.1 that “the Catalan Ombudsman will act as CAPT anywhere that persons deprived of liberty are found, whether they be centers or facilities in Catalonia, or means of transport traveling through Catalan territory, if these facilities and places depend on the administrations, bodies, companies and persons referred to in Article 78.1 of the Statute”.

As in the foregoing case, the Law does not include an exhaustive list of sites to be visited, or a definition of what is understood as deprivation of liberty. As the Catalan Ombudsman's mandate in this area is based on the terms of the Protocol, it must be understood that its scope of application also extends to that of the Authority. Therefore, by Law, deprivation of liberty is equivalent to the impossibility of freely leaving a center or facility that depends on the public administration.

In application of the foregoing rules, Article 3 of the Catalan Authority for Prevention of Torture Regulations states that “the Catalan Ombudsman will act as CAPT anywhere that persons deprived of liberty are found, such as:

- Penitentiary centers
- Juvenile justice and minor protection centers
- Police stations
- Holding centers for foreigners
- Mental health, geriatric and social-health care centers
- Transports to move persons deprived of liberty

- Military bases
- Facilities of border law enforcement agencies and transit areas at borders, ports and international airports.
- Any other, in accordance with the definition of deprivation of liberty found in Article 4 of the OPCAT."

In accordance with the aforementioned legal framework, the report written examines whether the minor protection, social-health care and geriatric centers fit the idea of deprivation of liberty of the Protocol and the Catalan Ombudsman Act.

#### *Geriatric care homes and social-health care centers*

As regards *geriatric care homes* and *social-health care centers*, the report states that they are not synonymous concepts or facilities. Geriatric centers take in persons over 65 (no one below this age can be admitted) for them to receive the basic care necessary for daily life. These care homes can not provide medical care, except for oral administration of medication prescribed by a doctor; medication the elder would take if they were at home. Nursing care can not be given, nor can intramuscular or intravenous drugs be administered.

*Social-health care centers* care for persons of any age with chronic diseases that generate disability or dependence, or persons suffering a worsening of their underlying disease and who require a prolonged period of convalescence in which they do not have family support. The criteria are for chronic disease with disability or dependence. Medical and nursing care are provided. The length of stay can not exceed six months. One alternative are the day centers, which have the same purpose, but where family members take care of the patient once the working day is over.

The people who have been admitted to these centers/homes fall into the following categories:

- Elders with decision-making capacity and autonomy or dependence for daily life activities.
- Elders with cognitive deterioration (dementia) which, depending on its stage of evolution, may suffer a de facto or natural decision-making disability.
- Persons of any age with mental disability.
- Persons of any age declared legally incompetent.

Having listed the various profiles, it is concluded that the mentioned center can be the object of a CAPT visit, as there are people residing there who are materially unable to leave them, and their admission has taken place according to the decision of a public authority. This would not apply to day centers, though it would, at least partially, to social-health care centers and geriatric care homes.

The Task Force has worked with the Deputy Catalan Ombudswoman for the Rights of Children and Adolescents to develop a definition of minor care centers. For this area, the report takes up the following:

#### *Protection of children at high social risk in Catalonia*

On July 3, Law 13/2010, on the rights and opportunities of children and adolescents (LDOIA) came into force, reforming the child and adolescent protection system. The Law is to configure a decentralized protection system, based on the distinction between situations of vulnerability and those of risk.

A risk situation is understood as one in which the development and well-being of a child or adolescent are limited or endangered by any personal, social or family circumstance, whenever the effective protection of the child or adolescent does not require their separation from the family unit. (Art. 102 LDOIA). It remains outside the CAPT mandate.

Vulnerability, on the other hand, is the situation of a child or adolescent who lacks the basic elements for the comprehensive development of their personality, as long as the effective protection of the child does require their separation from the family unit (Art. 105 LDOIA).

The administration of the Autonomous Government of Catalonia has protection competencies over vulnerable children and adolescents through the department that has been assigned this competency, the Directorate General for Child and Adolescent Services (DGCAS). Article 120 of the law stipulates the type of measures that can be taken in cases of vulnerability:

- a) Simple family care by a person or family that could temporarily replace the child or adolescent's natural family unit.
- b) Permanent family care
- c) Family care in an educational activity cohabitation center
- d) Care in a public or subsidized private center

- e) Pre-adoptive care
- f) Transition measures into adult life and personal autonomy
- g) Any other type of recommendable care, educational or therapeutic measure, in accordance with the circumstances suffered by the child or adolescent.

Theoretically, only the vulnerability situations that involve admission into a center (letters D and possibly, G in the foregoing section) would be eligible for inspection by the Authority. In this regard, the LDOIA does not offer any direct changes on the measure for minor care in a facility. Therefore the previous regulations are still in force, such as the Regulations for the protection of children and adoption (Decree 2/1997, of January 7).

Presently, the following institutional protection measures exist:

- *Juvenile justice center.* No reference is made to it in this ruling due to its being a closed (penitentiary) system. Therefore, there can be no doubt that it is within the Authority's mandate.
- *Shelters (S).* These are residential centers for the immediate and temporary care of children and adolescents from 0 to 18 years of age, who must be separated from their family unit while their situation is diagnosed and the necessary measure is decided. The objective is to complete diagnoses and provide immediate care in emergency situations, as well as proposing care measures for the minors, who stay in the centers only a brief period.
- *Educational Activity Residential Centers (EARCs).* These are shelter services for children and adolescents (0-18) in substitution of the child's natural family, that last for the time that the social difficulties persist, and at most, until the child reaches adult age.
- *Intensive Educational Activity Residential Centers (EARCIs).* A specific type of Educational Activity Residential Centers, these intensive educational activity facilities can be used for young people ages 12-18 who have behavioral or adaptation problems in an EARC, or their foster family, and who require more confinement.
- Article 133 of the LDOIA regulates the characteristics of the EARCI and includes a specific mention of the confinement practices, which include (with restrictions), uses of special rooms, physical confinement and isolation

measures for the youth, administration of psychopharmaceuticals, etc.

- *Public or subsidized places in CSSAI (Catalan Social Services and Assistance Institute) centers for children and adolescents with disabilities.* This is a shelter service for the care of children and adolescents (0-18) with severe disabilities in situations of vulnerability and under the guardianship of the DGCAS, substituting the child's natural family, for the time in which the social difficulties persist. Mention must also be made of the beds subsidized by the DGCAS in private therapeutic centers, with inspection and authorization of the Catalan Ministry of Health (such as Font Fregona or Mas Pons), for minors with psychiatric disorders and/or substance addiction problems.
- *Initial care centers.* Closed centers that serve the needs of foreign minors who arrive in Catalonia without any family members of reference.

### Conclusions

*One.* It can be concluded that the aforementioned geriatric and social-health care centers can be the object of a CAPT visit, as there are people residing there who are materially unable to leave them, and their admission has been made by decision of a public authority. This would not apply to day centers, though it would, at least partially, to social-health care centers and geriatric care homes.

Although no reference whatsoever could be made to deprivation of liberty in the legal sense of the term, there does exist a material impossibility or difficulty to leave the center facilities in the latter three categories. This, added to the vulnerability of these persons, qualifies them according to the first Protocol requisite. When it comes to the active or passive intervention of a public authority, there are legally incompetent persons in these facilities whose admission is decided by a guardian designated by a judge. They need not be all or a majority of the persons admitted to these centers. Their mere presence is sufficient to justify visiting the center as such. Naturally, the Catalan Authority for the Prevention of Torture should prioritize the geriatric and social-health care facilities where it is known that there are a higher number of persons who have not autonomously decided their own admission into them.

*Two.* The CSSAI centers, therapeutic centers with beds subsidized by the DGCAS, initial care centers for foreign minors and high-occupancy EARCI will also be eligible for visits from the CAPT. Shelters can also be visited, although the

temporary nature of minors' stays there does not make them high priorities.

In most cases, admission into a residential center is based on a referral by the Administration itself, or a court order. Only rarely are minors admitted to such centers at the request of their parents or guardians.

As for deprivation of liberty, the EARCs are open centers, where the only limitations to access and exit them by the minors living there are marked by their own educational and protection needs, in keeping with general operating rules. As stated, children and minor adolescents reside

there, and the facilities are offered as an alternative to the family. The EARCs share these characteristics, but some of them deal with minors whose behavioral conditions lead the facilities to emphasize discipline and control, even featuring isolation cells, aside from other above-mentioned confinement measures. Without a doubt, the rest of the centers described, to wit, the residential centers of the CSSAI, regardless of whether they are publicly or privately owned, the therapeutic centers with beds subsidized by the DGCAS, and the initial care centers for unaccompanied foreign minors, meet the requisite of not allowing the minors to freely exit them.

## IV. VISITS MADE





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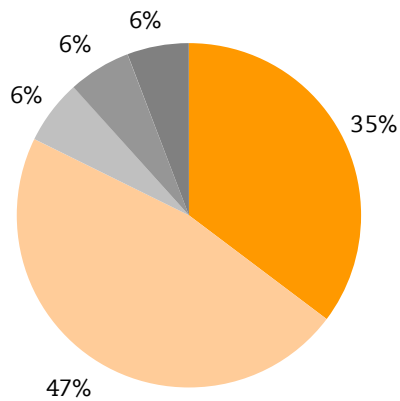
<b>4.1. STATISTICAL ANALYSIS</b> .....	<b>33</b>
<b>4.2. BY TYPES OF CENTER</b> .....	<b>35</b>
a. Penitentiary centers .....	35
b. Hospitalization centers .....	42
c. Educational juvenile justice centers .....	45
d. Protection centers .....	46
e. Residential centers .....	48
f. Police stations .....	49
g. Interviews with persons deprived of liberty .....	60



### 4.1. Statistical analysis

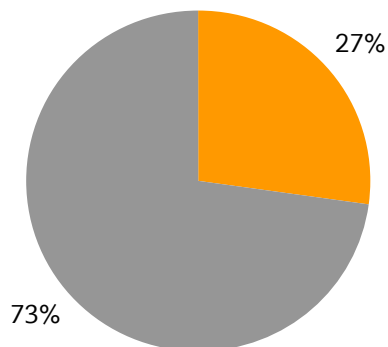
#### Visits made by center type

■	Penitentiary centers	6	35,29%
■	Police stations	8	47,06%
■	Juvenile justice centers	1	5,88%
■	Minor protection centers	1	5,88%
■	Centers for persons with disabilities	1	5,88%
<b>Total</b>		<b>17</b>	<b>100,00%</b>



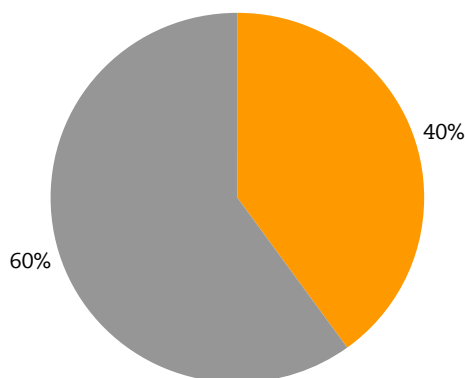
#### Proportion of penitentiary centers visited vs. those not visited

■	Penitentiary centers visited	6	27%
■	Penitentiary centers not visited	16	73%
<b>Total</b>		<b>22</b>	<b>100,00%</b>



### Proportion of inmate population in the centers visited vs. those not visited

■	Inmate population in visited centers	4.233	40%
■	Inmate population in centers not visited	6.368	60%
	<b>Total</b>	<b>10.601</b>	<b>100,00%</b>



It has been deemed appropriate for the purposes of this report to indicate the proportion of the inmate population corresponding to visited centers to show that, although the proportion of visited centers is 27% of the total, the inmate population housed in these centers is 40% of Catalonia's total inmate population. It is also worth noting that the total center population does not coincide with the total population interviewed. In the explanations on each visit made to the various facilities, the number of interviews conducted is given.

The statistics show that over its first year of operations, the Catalan Mechanism for the Prevention of Torture visited a diverse array of centers (five different types), but with a higher concentration in police stations and penitentiary centers.

## 4.2. By types of center

### a. Penitentiary centers

#### Women's penitentiary center (Centro Penitenciario de Mujeres) (January 12, 2011)

Center	Centro Penitenciario de Mujeres (CP Mujeres)
Date	January 12, 2011
Names of persons making the visit	Rafael Ribó, Judith Macaya, José María Mean, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
Municipality	Barcelona
Inmate population	341
Inmates interviewed during visit	3
Areas visited	Mothers' unit, pre-trial unit, infirmary, multi-use unit, Special Department

The CP Mujeres is a center that was opened in 1981, especially for women. Much of the facility is based on an open plan, used for men and women serving open-system liberty deprivation sentences.

The center has standard-system, special department and disciplinary wards, as well as a mothers' unit, pre-trial unit, multi-use unit and infirmary. There are other services such as dining halls, a kitchen, sport and leisure facilities, productive workshops, laundry, café and a store.

The center is chiefly designed to house pre-trial inmates, but there are also some serving prison sentences.

It is a center with a clear shortage of space, which explains why its space is given over to an intensive multi-use format. Despite the lack of space, the center has few co-existence problems, because it offers an employment program for the inmates that lasts seven hours a day, with half an hour in the exercise yard in the morning, and another half hour in the afternoon.

#### Mothers' unit

- This ward houses only those pre-trial or sentenced inmates who have children under three years old.
- Though located inside the penitentiary center, this ward is separated from the rest of facilities and services.

- It is more fitting to refer to rooms than cells on this ward, because as opposed to the rest of the center, the rooms (a total of 12) are not locked at night.

- The rooms are of a size sufficient to be occupied by a mother and her children. In cases of higher occupancy, center management takes the age of the newborns into consideration when distributing the family units.

- This ward also has the other services necessary for daily life: showers, kitchen and a multi-use room, all of which are in good condition.

- On the upper floor of the mothers' unit there is a space equipped as a nursery school, with playthings and children's activity resources.

- Center management keeps this ward below its maximum capacity, estimated at 22 inmates, as in such a case the situation would become unmanageable.

#### Pre-trial unit

- The main problem observed is the number of inmates who must share a cell, which in some cases may number eight.

- The cells are small, with bunk beds, a wardrobe for each inmate, and a shared desk and chair.

- The cells are equipped with an internal toilet, isolated from the rest of the cell by a small door. Sinks and showers are external.

- Ventilation of the cells can be considered sufficient, as they all have a window that can be opened. But the small size of the cells, and lack of air conditioning can cause living conditions to be less than optimal in the summer.

- For this reason, the inmates spend much of their days outside the cell, occupied with training and occupational activities.

- Inmates themselves are responsible for the cleanliness of these cells, and they must be kept permanently clean.

- There is natural and artificial lighting.

#### Infirmary and multi-use unit

- These cells are used to house inmates with special characteristics, especially from a medical standpoint.

- They have four beds, and while the initial impression of overcrowding is not comparable to that of the pre-trial unit, due to the small size of the cells, no more than two inmates should be housed in each one.

- The ideal situation would be to house one inmate per cell, although it must be considered that there are cases in which it is advisable and recommendable for the cells to be occupied by more than one inmate.

### Special department

- The Special department is on the lower-ground floor. It was vacant at the time of the visit.

- The impression of non-usage pervaded the entire visit due to the presence of strong odors, possibly due to the lack of ventilation. Some of the mattresses also appeared to be in disuse.

- There are four cells on this ward, one of which is out of commission, meant for temporary isolation of the inmates. If an inmate has mental health problems, or a suicidal background, they can be isolated in a specific cell in the Infirmary Department, which is used for this purpose.

- The isolation cell does not meet the minimum inhabitability conditions, as compared with the rest of the standard-system cells. Therefore, it must be used in a strictly temporary manner and with the appropriate guarantees.

- As for mechanical restraints used as a protection measure, the Director informed us that the only case in which they have been used was for an inmate with psychiatric problems and to keep her from injuring herself. She stated that there is a clear tendency to use more pharmacological resources when it is necessary to subdue an inmate.

- There are also punishment cells in the basement. In light of the general lack of space, especially in the Admissions Department, the Task Force was informed that on occasion inmates coming from the airport, admitted to the center on suspicion of transporting substances inside their bodies, are kept here. This explains why these cells feature more than one bed. Nonetheless, it is not considered recommendable to house these women in the Special Department while waiting for them to expel the substance from their bodies on grounds of the lack of space in the Admissions Department.

- Coercive devices are kept locked in a room of the Special Department, and according to the information provided, are not used.

### Centro Penitenciario De Jóvenes (Youth Penitentiary Center) (February 15, 2011)

<b>Center</b>	Centro Penitenciario Jóvenes
<b>Date</b>	February 15, 2011
<b>Names of persons making the visit</b>	Rafael Ribó, Judith Macaya, José María Mena, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
<b>Municipality</b>	La Roca del Vallès
<b>Inmate population</b>	362
<b>Inmates interviewed during visit</b>	1
<b>Areas visited</b>	Special department, workshops, daily life area, visiting area and Admissions Department.

The penitentiary administration now has a new penitentiary center for the inmate population of youths from 18 to 21 years of age. It is an improvement over the infrastructure that had been in operation since 1983, the Centro Penitenciario de Jóvenes de Barcelona, known as “La Trinidad”.

The center, located in a natural setting called Quatre Camins, in the la Roca del Vallès municipality, nearly triples the built space of the old “La Trinidad” jail.

With capacity for 450 persons, it is made up of four low-security areas, with 46 double cells each. One admissions facility, with 10 cells; one closed-system and disciplinary facility, with 20 and 4 cells, respectively; one infirmary facility (organic diseases), with 10 rooms; one mental health care facility, with 10 rooms; one specialized care department (DAE) with 15 beds.

### Minimum-security facility

- The center has four areas where inmates carry out their daily life activities. Each one is identified with a number and a color.

- The interior of the facility has services, such as a lounge, exercise yard and dining room.

- The cells have good ventilation, natural and artificial lighting, two beds, furniture for inmates to keep personal belongings and two chairs. The

cells are also equipped with their own bathrooms, with toilets, sinks and showers. The bathroom is separated from the rest of the cell by a curtain. The overall impression is of hygiene and cleanliness.

- There is not a specific room for pat-downs, specifically for strip searches. Rather, they are done in the cell where the inmate resides.

### *Admissions Department*

- The cells have capacity to house up to two inmates. This department is also used to house inmates who qualify for Article 75 of the Penitentiary Regulations, on a short-term basis. Inmates qualifying on a long-term basis are housed in the Infirmary Department.
- The center's internal regulations are posted behind the doors. The Task Force was provided with the brochure that inmates are given upon admission. The Task Force was informed that it has been published in other languages, but that at that time the only available copies were in Catalan.
- The average stay in this department for newly admitted inmates is one day.
- There is no specific interpreting service, although there is a cultural mediator. If the mediator is not present, they resort to another inmate to help.

### *Visiting areas*

- There is a facility devoted exclusively to visits. Each of its three floors is devoted to a single type of communication.
- The condition of the facilities is satisfactory, as it is a recently-constructed building.
- The rooms devoted to family and intimate communication are well-furnished.
- The family rooms are equipped with bathrooms, and so they end up being used for intimate visits.
- There is an oral recording system that has never been used.

### *Special department*

- The Task Force requested the Department roll sheet to verify the number of inmates and the security level they were living under. It was quickly furnished.

- The Task Force also requested, and received, a copy of the department's basic regulations.

- The Department has two cells to temporarily isolate inmates. In the one most commonly used, there is a camera that records footage. The cell has the following characteristics: a bed bolted down in the middle, an open space where there is a sink, a shower and a toilet. The presence of a shower in this cell was surprising, as supposedly, immobilized inmates should spend only minimal time in this space.

- The Task Force was informed that the only coercive equipment used were hand and foot restraints, visible at the time of the visit.

- It was also stated that the time spent by an inmate in temporary isolation is the indispensable minimum. The Prison Supervision Court is not notified of the measure immediately, but rather the next day, thus undermining judiciary control of it. The duty inspector is notified immediately, however.

- Inmates are immediately given a medical exam. In the case of a night-time incident, they call the emergency telephone number and a doctor is on the premises in half an hour, according to center management. Obviously, in case of an emergency, this is too long to keep the situation from worsening.

- There is another cell for temporary isolation. The impression caused on entry was completely unsatisfactory, as the security camera was covered with a cloth. The explanation given to the Task Force was that this cell was not being used for its originally-intended purpose (temporary isolation or confinement cell, like the other). Apparently, the Department had faced space shortages, and this cell had been used for inmates serving sentences. In such case, it was not deemed to meet the appropriate, dignified conditions that any cell should, even those of a closed department.

- The average staffing in the department consists of one unit chief, two officers and an officer in the control booth.

- In the event an inmate has to be subdued, there are safety protocols encoded differently depending on the type of incident. Apparently, there is a special intervention team.

- Rubber truncheons have never been used for immobilization, and it was stated that they solve most problems through dialogue.

- There is no separation of spaces by cells designed to house first-degree classified inmates (Article 93 PR, and Article 94 PR, or Article 10 of the General Penitentiary Organic Law (LOGP). There are no specific cells set aside to serve the disciplinary measure of in-cell isolation, as the inmate serves out the measure in their cell.
- Nothing out of the ordinary was viewed in the Special Closed System Department cells. From the space, hygiene and livability standpoints, the assessment is satisfactory.
- There is a surveillance camera in the inmates' exercise yard. There is also a small bathroom, with a sink and a toilet. As it is aluminum, it is much more difficult to keep clean. At the time of the visit, it appeared unkempt. There is no space to take shelter in case of rain.
- There are a total of 30 surveillance cameras in the Department. The Task Force was informed that the footage is kept for a total of six months.

#### *Infirmary Department*

- The center has an infirmary department with seven double and three individual rooms. It is equipped to care for inmates with organic illnesses of short or medium duration, and basic emergencies. There is a mental health unit, too, also with seven double and three individual rooms for treatment and follow-up of mental pathologies and problems.
- It is supported by the Hospital of Terrassa Ward to hospitalize any inmates who require it. In the mental health realm, the care is supplemented with that of the Penitentiary Psychiatric Hospital Unit of Catalonia, located in the Brians 1 Penitentiary Center.
- On the day of the visit, there were no organic disease patients, only four mental patients.
- The medical staff is made up of four doctors equivalent to general practitioners outside the center, and two psychiatrists, who see patients two hours per day, two days per week. On weekends and at night, they are covered with two on-call doctors who can be located. On the weekend, the on-call doctor must guarantee a minimum presence of three hours at the center.
- The Admissions and Disciplinary Areas are visited by doctors daily, to monitor the health condition of new arrivals, and assess the condition

of inmates being disciplined, to indicate the suitability/unsuitability of the disciplinary measure.

- The Task Force was informed that there are no specific action protocols, except in case of possible pandemics. In such cases, they can be drawn up following exterior standards, and adapting them if necessary to the internal penitentiary center environment.

- In the event of infectious/contagious diseases, the patient is properly isolated to prevent contagion.

#### *Other*

- There is a complete video surveillance system around the entire center. Center management acknowledges that there are points out of the view of the surveillance cameras. Center management has requested that cameras be installed in the immobilization cell of the Psychiatric Department.

#### *Brians 1 Penitentiary Center, Men (June 7, 2011)*

<b>Center</b>	Brians 1 Penitentiary Center
<b>Date</b>	June 7, 2011
<b>Names of persons making the visit</b>	Jordi Sànchez, José María Mena, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
<b>Municipality</b>	Sant Esteve Sesrovires
<b>Inmate population</b>	1,514
<b>Inmates interviewed during visit</b>	3
<b>Areas visited</b>	Special Department and infirmary

The Brians 1 Penitentiary Center is located in the Sant Esteve de Sesrovires municipality. Modular and multi-use in design, its population numbers approximately 1,500 male and female inmates.

The center has minimum-security residential modules, in addition to others for specific services and profiles: the Special Department and infirmary. There is also a Women's Department at the center.

#### *Special Department*

- It is located on the south-east side of the center, reached from the module distribution corridor. It has two separate wings (to the right and left, accessed



from a central lobby), each of which is two stories high, with eight cells each, all of them equipped with security bars.

- The Department has three exercise yards, a clinic, a visiting room, a multi-use room, a store, a laundry, a room for trusties, a pat-down room and a room (formerly the dining hall) also used by the trusties as a gymnasium.
- The Department's capacity is 32 inmates, and there are inmates classified by Articles 93 and 94 of the Penitentiary Regulations (F-1 or F-2), second-degree treatment inmates serving in-cell isolation disciplinary measures, temporary isolation within the Center and inmates under the regime outlined in Article 75 of the Penitentiary Regulations.
- The Task Force was accompanied by the Unit Chief on their visit to the Department. As opposed to the Service Chief, the Unit Chief was identifiable by his number. It must be noted that, although he agreed to show us all of the spaces of the Department and answer the questions asked of him, his attitude was one of suspicion and distrust toward the Task Force's presence.
- A cell for confinement by mechanical immobilization was visited (the sort of restraint used when it is necessary to immobilize an inmate with severe behavioral alteration, with danger of self-injury or aggression towards others). This cell presented the features to be expected in such a cell: a bed in the middle of the cell, a toilet, security bars, button and a window that can be only opened or closed by the prison officers assigned to the unit. The most notable feature is that the cell has a surveillance camera.
- The unit chief was asked about the system used for storage of the footage. The Task Force was surprised to learn that she was unaware of it, and referred us to the center director. The Task Force expressed how surprising it found the fact that a unit chief did not have this information.
- The cell next to it, devoted to temporary isolations, was also inspected. The cell has the same characteristics as the isolation cell, but the Task Force was informed that it is only used for isolation. The only difference is that it does not feature a surveillance camera. The unit chief claimed not to know why this was so.
- On the same wing, several cells were inspected where inmates conduct their daily activities within the Special Department system, as per Articles 93 and 94. There is no distinction when it comes to

inmate distribution.

- The cells do not have any special torture prevention features. The Task Force was informed that there was no difference between Article 93 and 94 inmates in terms of objects allowed. The only differences apply when leaving the cells for the exercise yard (they are not mixed, and of the 93 group, only two go out).
- There are no cameras in the Department halls. There are cameras, however, in the exercise yard. Contrary to what was found in other departments, there is no toilet in the exercise yard, only a shower.
- The cell used to house detainees suspected of carrying narcotics in their bodies was also visited. The Task Force was informed that the surveillance is performed by video camera, as staffing was insufficient to do it in person. Nonetheless, in the interview held with the inmates, the Task Force was told that there is also a prison officer present (behind a window) who keeps up constant surveillance.
- The Task Force was shown the room where pat-downs are carried out. It is a small room where strip searches are also performed. When asked about the number of officers present during a pat-down or search, the Task Force was informed that there were two or three, depending on the case. Nevertheless, the inmates interviewed stated that up to six officers have been present in some pat-downs or searches.
- With regard to strip searches, pursuant to the terms of Circular 1/2008, on pat-downs and searches and the appropriate control measures, the inmate must be given a gown to wear during the search, thus avoiding nudity longer than strictly necessary. Along these lines, the Task Force was shown the gowns used for this purpose. Nonetheless, the inmates interviewed stated that they had never been provided with any gowns.
- The Task Force was informed that the number of working prison officers had dropped significantly. The opinion expressed was that this did not affect treatment, though it was relevant to security. Overall: three officers, plus the unit chief on the morning shift, and another for the afternoon shift. On weekends there are two prison officers, plus the unit chief.
- The Task Force was shown the room used to store the equipment used when the security protocol is activated at the center. Although they

are not for exclusive individual use, they are adapted (by sizes) to the various prison officers designated to provide this service if necessary. There is no identification of any kind on this equipment.

- During the visit, the Task Force was informed that an inmate was being taken to the Special Department for temporary isolation. The service chief and unit chief were asked to allow some members of the Task Force to be on hand to observe how the intervention was conducted. Although there was no opposition to the request, a few minutes later the Task Force was informed that it had been decided to take the inmate to the Infirmary Department, because he had attempted to injure himself, and therefore a clear risk of injury was present. In light of this development, which seemed suspicious to all Task Force members, a request was made to visit the infirmary and the inmate in question.

- On its way to the infirmary, the Task Force was then surprised to be informed by the service chief that the inmate would not be there in isolation, as it had finally been decided to change him to a different facility. The director was informed of this incident, as there was every indication that it was not desired for the Task Force members to witness the actions of the prison officers at that time, or conduct a possible interview with the inmate.

- Mention must also be made of a window on the verge of breaking, observed on the way to the infirmary. This was deemed hazardous, for the staff members working there as well as the inmates themselves. The director was also informed of this.

### *Infirmary Department*

- There are two wings, one for psychiatric and the other for organic disease patients.

- With maximum capacity for 26 people, each of the wings has an exercise yard and a multi-use room. Each conducts their own, separate daily activities.

- There are individual and group cells (up to four). The cell specifically used for temporary isolation, where inmates are housed according to medical criteria, was inspected. The dirtiness and lack of ventilation in the cell were readily noticeable. Center management was unable to explain this situation.

### *Brians 1 Penitentiary Center, Women (November 23, 2011)*

<b>Center</b>	Brians 1 Penitentiary Center (Women)
<b>Date</b>	November 23, 2011
<b>Names of persons making the visit</b>	Ignasi Garcia, Mar Torrecillas, José María Mena and Eva Labarta
<b>Municipality</b>	Barcelona
<b>Inmate population</b>	329
<b>Inmates interviewed during visit</b>	2
<b>Areas visited</b>	Special Department, exercise yard and one of the day rooms

The Women's Department at Brians 1 is not separated from the rest of the center facilities. In architectural terms, it occupies one of the residential facilities of CP Brains 1, the former men's MR-5.

This residential module is Women's I. The profiles of the women housed in this module include such traits as those serving long sentences, under disciplinary measures, having behavioral involution, etc. There are two other modules for certain profiles, such as the Special Department and the Infirmary.

On another note, in light of the impossibility of housing all female inmates, following the opening of Women's I, another prefabricated facility was opened, known as Women's II, for inmates with a more open profile: those up for probation, 100.2 RP, 82 proposed for open system, etc.

The existence of two residential modules hinders appropriate interior distribution and classification. Its occupancy level is at approximately 330 women.

### *Special Department*

- The first thing that caught the attention of the Task Force is the location of this department: on the top floor of Women's I. Therefore, there are serious implications in having to move women who have to be separated from the rest, possibly subdued, and unhappy with a possible regression of their degrees, up three stories.

- According to the lists, at the time of our visit there were 14 women in the Department, either for disciplinary reasons or because they had been returned to first degree. The Task Force was informed that the majority of inmates were from other centers, and had been relocated to Brians I for regression of their degrees.

- The Task Force was provided with an informative sheet, that is also given to inmates, on internal operating rules and the characteristics of this system. This sheet is posted outside the doors of the cells.
- A new development at the Department was the presence of an inmate serving under a status established in Article 100.2 of the Penitentiary Regulations. This means that, while she was serving under first treatment degree, she was also allowed to leave to conduct certain activities under a standard system, such as attending classes.
- The pat-down room is not equipped with a surveillance camera. It has natural light and is large enough to pat-down an inmate in the presence of more than one prison officer. The gowns that must be given to the inmates are hung on the wall.
- The cell where temporary isolation is carried out has a surveillance camera. There is a bed bolted to the floor, and it also has a toilet. The Task Force was shown the fabric straps used to immobilize inmates by their limbs. These are the only coercive devices used.
- The footage is kept for six months. Cameras record day and night.
- Women serve disciplinary or first degree measures alone. Nevertheless, at the time of the visit, there were two inmates living together for medical reasons. One had epilepsy and had to be accompanied by another person. As they had left for activities with an instructor, the opportunity was taken to inspect the cell where these two inmates reside. The cell has natural and artificial light, two chairs and a table cantilevered to the wall which serves as a desk and dining table, sink and toilet (isolated between two walls, though without a door).
- Last, the exercise yard and one of the day rooms were visited, where nothing extraordinary came to the Task Force's attention.

**Centro Penitenciario de Hombres de Barcelona (Men's Penitentiary Center of Barcelona) (December 15, 2011)**

<b>Center</b>	Centro Penitenciario de Hombres de Barcelona
<b>Date</b>	December 15, 2011
<b>Names of persons making the visit</b>	Rafael Ribó, Judith Macaya, José María Mena, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
<b>Municipality</b>	Barcelona
<b>Inmate population</b>	1,782
<b>Inmates interviewed during visit</b>	2
<b>Areas visited</b>	Sixth gallery, third gallery and Psychiatry Department

The Centro Penitenciario de Hombres de Barcelona, popularly known as the “Modelo” jail or “La Modelo” is located in the city of Barcelona, and was opened in 1904.

It is one of the most overcrowded jails in the Catalan penitentiary system. It is now occupied by some 1,800 inmates. Every attempt is made not to exceed this limit, as it is considered that to do so would put the center in a dangerous situation, for inmates as well as the professionals working there.

The center has six galleries. The inmates are distributed according to their behavior and prior crime record. It is the only center with cells that can accommodate, in certain cases, up to six inmates.

The first, fifth and sixth galleries are the only ones with central heating. The rest do not have heating, as it seems that the facility is not prepared to provide it.

**Sixth gallery**

The inmates classified as first degree of treatment and those serving disciplinary measures are housed here.

The gallery has three parts: cells for disciplined inmates or temporary isolation, inmates under Article 93 PR (ground floor) and Article 94 (first and second floors).

A cell used to house inmates under the Article 93 PR system was inspected. It had a bed, a desk and a plastic chair. It also had a sink and a toilet, as well as a built-in shelf. There was natural and artificial light, and ventilation through a window.

The three cells used for temporary isolation and immobilization were also inspected. Contrary to other penitentiary centers visited, the beds in each of the cells had the hand and foot restraints built into them for use if necessary. They are the only cells in the entire gallery that have a surveillance camera (up to two). The footage recorded is kept for six months. It is kept under lock and key in the director's office.

The pat-down room is larger than a cell. There is no furniture of any kind inside. There are only a few gowns hanging on the wall, pursuant to the pat-down regulations.

The cleanliness of the cells and the gallery in general can be considered satisfactory.

### Third gallery

It is one of the most overcrowded galleries, with a ground floor and two more stories, and three or four inmates per cell.

Its overall state of wear and deterioration is significant. The furnishings are also old and insufficient to meet the needs of the inmates living there: a table, two chairs, sink and toilet. There is hardly any space for the inmates to leave their personal belongings. Lacking this, they use boxes, bags and hanging lines.

The cells have ventilation and natural and artificial light. As it is an old facility, the cell opening and closing mechanisms are manual.

### Psychiatry Department

The Department is distributed over two floors. The first floor houses acute patients, and the second, the rest. The difference between the two floors is notable from a hygienic condition and overall facility condition standpoint.

On the first floor, due to the type of inmates accommodated there, it is more difficult to maintain the cell and common areas clean. Thus, at the time of the visit, the Task Force observed a lack of ventilation made evident by a strong odor, and a dirty floor.

There are no windows, and the rooms, which have no doors, house up to four patients. As opposed to the rest of the center, in this gallery there are no bunk beds, but rather beds. The condition of the furniture is old, and the Department only consists of a dining room,

patient rooms and common restroom and shower area.

The Department also has an exercise yard where inmates can go outdoors.

The second floor has the same characteristics as the first, but the overall cleaning and maintenance conditions are visibly better.

## b. Hospitalization units

### Unidad de Hospitalización Psiquiátrica Penitenciaria de Catalunya (Psychiatric Hospitalization Penitentiary Unit of Catalonia (November 23, 2011))

<b>Center</b>	Psychiatric Hospitalization Penitentiary Unit of Catalonia (UHPP-C)
<b>Date</b>	November 23, 2011
<b>Names of persons making the visit</b>	José María Mena, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
<b>Municipality</b>	Sant Esteve Sesrovires
<b>Population served</b>	62
<b>Inmates interviewed during visit</b>	0
<b>Areas visited</b>	Acute unit, confinement room

The UHPP-C is a hospital for the diagnosis, evaluation and treatment of mental pathologies detected in penitentiary centers of Catalonia, which require hospitalization or the support of any of the specific programs conducted in the unit. The admissions criteria are clinical. It is not a unit conceived for serving precautionary measures.

The staff is multi-disciplinary: from office personnel to attorneys, physicians, counselors, psychologists and civil servant officers. The civil servant officers (1 unit chief and 3 officers) who work there are selected and specifically trained to interact with the patients. The training is given at the Specialized Judicial Studies and Training Center of the Catalan Ministry of Justice.

The UHPP-C is directed, on a medical level, by the Catholic church-sponsored institution of the Brothers of Saint John of God. Therefore, all staff working there belong to the order.

As regards its structure:

- Emergency department (24 hours/365 days)
- Acute unit (10 beds)
- Sub-acute unit (17 beds + 1 confinement)
- Medium and long-duration units (22 beds + 1 confinement)
- Transition-to-community unit (14 beds + 1 confinement)

The Task Force was informed that the UHPP-C is too small for the number of pathologies that exist in penitentiary centers.

The characteristics of the unit are generally comparable to those of a civil hospital, with the exceptions of the staff belonging to the penitentiary officers corps and the patients being inmates.

**Acute unit**

- Objectives: crisis containment, diagnostic evaluation, initiation of treatments and psychopathological stabilization.
- The average stay is 21 days.
- There were 58 patients present on the day of the visit, nine of which were court-ordered admissions. The maximum capacity is 62 patients.
- The acute unit was visited because 95% of the inmates hospitalized in the UHPP-C do so through this unit.
- In the unit, and throughout the center, there are men and women sharing common activities and spaces of the hospital. The rooms are not mixed-gender, however.
- The rooms are individual in this unit. When a patient is inside, the bathroom door and window are always kept locked.
- Patients can only wear pajamas on this unit. There are no street clothes, or personal belongings. The only object they are allowed to have is a purchasing card.
- The room equipped to accommodate out-of-control patients was visited. The room was equipped with infrared cameras that record day and night, allowing medical supervision.
- The restraint devices necessary for immobilization, always justified from a strictly medical standpoint,

were shown. The immobilizations are always effected with the patient face-up, and restraint mechanisms are built into the bed for urgent intervention.

- The overall evaluation of the site was very positive.

**Pabellón Hospitalario de Terrassa (Terrassa Hospital Block) (May 3, 2011)**

<b>Center</b>	Pabellón Hospitalario Penitenciario de Terrassa
<b>Date</b>	May 3, 2011
<b>Names of persons making the visit</b>	Rafael Ribó, Judith Macaya, José María Mean, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
<b>Municipality</b>	Terrassa
<b>Population served</b>	33
<b>Inmates interviewed during visit</b>	1
<b>Areas visited</b>	Admissions area, supervision area, pat-down room, waiting rooms, hospitalization area

Social-health care in the penitentiary realm is based on the legal framework governing the public health care system, and is meant to offer care equal to that of all other citizens. Furthermore, the penitentiary system is connected with the public health care network so that, when necessary, any inmate can be referred to a reference hospital.

The penitentiary system offers specialized care services at the internment centers themselves, but when the patient requires more specialized care, or if their condition requires, they are sent to a hospital, in accordance with the public network.

In Barcelona province, the reference hospital for penitentiary centers is the Terrassa Penitentiary Hospital Block, with a total of approximately 33 beds. Inmates requiring specialized care, or prolonged hospital stays, are transferred to this hospital block.

In architectural terms, the Terrassa Hospital Block is separated from the rest of the hospital. They are only connected by a tunnel, which is how inmates requiring hospital tests access the hospital, and how medical staff travel back and forth between the buildings.

### Admissions area

- There are surveillance cameras throughout the block, especially in corridors, but not in the rooms. Cameras record footage for up to 48 hours. After this period, the footage is destroyed.
- The penitentiary security staff is made up of 50 officers, divided into four duty shifts in the morning and four in the afternoon.
- An inspection was conducted of the area through which patients are admitted. There are three entry channels for a patient coming from a penitentiary center: accompanied by law enforcement, through an ambulance with the opportune security measures taken, or on their own (independently, unaccompanied by law enforcement).

Once the patient is admitted, they go into something of a search room, identified under the name detention cubicle, where they are given pajamas if they are to be hospitalized and their personal belongings are collected. It should be noted that there are no surveillance cameras in this room, just an informative panel indicating the objects authorized or forbidden for people to bring in.

Next, depending on the grounds for hospitalization, the patient goes into the hospitalization area, or waits in one of the waiting areas. The Task Force observed a space problem, as there are only two rooms that operate as waiting rooms, with the risk entailed in mixing youth, adults, men and women.

The Task Force was informed that every effort is made not to mix them, but in some cases it is impossible, considering that there are only two rooms, and three types of inmates who may be admitted. Furthermore, there is an additional problem: what to do if any sort of incident occurs in the room. The Task Force was informed that they have one serious incident approximately every three months. In these cases, the protocol followed involves isolating the patient in a room with the application of the necessary coercive measures. Nonetheless, there is no specific room to apply this isolation. Rather, it is performed in one or another room depending on the circumstances at the time.

In the event that coercive measures must be applied, first the Hospital Block Coordinator's criteria is applied, and then medical criteria is observed. The Task Force was informed that incidents involving medical staff are rare.

An effort is made to clear the facility of all inmates there for a medical visit by 2 pm. If they have to stay longer, they are given a sandwich for lunch, and an

afternoon snack (cookies and juice or coffee). It must be mentioned that in the first room, where admissions are carried out, there were informative posters with special information for diabetics.

Last, surveillance cameras were observed inside the two waiting rooms.

The medical director stated that there was no difference between the care given inmates and that given the rest of citizens.

### Hospitalization area

- The Task Force was first shown an area with eight rooms for cases of inmates entering the hospital with infectious diseases, for whom isolation measures are indicated. In fact, some of the rooms are already prepared to accommodate this type of inmate. If necessary, some of the rooms of this area can also be used for isolation.

- The coercive devices are distributed between the command center and the officer's headquarters, and are the same as those used in a penitentiary center.

- Zone A of the Block was inspected. There is a room used as a smokers' lounge in this area. The Task Force found it surprising that one of the rooms (room 3) had been outfitted as the officers' headquarters, with the consequent loss of two beds. At the time of the visit, the room was empty, and an officer manned a table in the corridor for access control duty.

- As for the rest of the rooms, if it were not for the presence of prison officers, they would have been like those of any hospital, except that the windows can not be opened. On the other hand, the rooms, furniture, open doors, services offered, gowns distributed, etc. are fully suited to the type of facility that it is.

- In zone B, the Task Force inspected room 23, for the observation and surveillance of inmates suspected of carrying drugs inside their body cavities or elsewhere. Inmates placed in this room are isolated.

In the event that two inmates suspected of concealing drugs this way were admitted, another room would be prepared, and the bathroom sealed off to prevent the inmate from flushing the substance.

Life in this room follows a disciplined schedule: no communication with family members, closed system the entire day, window with no curtain,

permanent observation by prison officers, isolation with no maximum limit, etc., until the inmate is discharged by the medical staff.

**c. Educational juvenile justice centers**

**Centro Educativo L'alzina (L'alzina Education Center) (18/05/2011)**

<b>Center</b>	Centro Educativo l'Alzina
<b>Date</b>	May 18, 2011
<b>Names of persons making the visit</b>	Rafael Ribó, Judith Macaya, José María Mean, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
<b>Municipality</b>	Palau-Solità i Plegamans
<b>Population</b>	60
<b>Juveniles interviewed during visit</b>	4
<b>Areas visited</b>	Area where isolation measures are applied, confinement area, pat-down/search area, communal area, library, dining hall, lounge, semi-open department

L'Alzina is a closed-system center, except for one open module, where inmates are under a day release system.

The center accommodates minors and young offenders of serious crimes, conflictive inmates and those with longer sentences.

Approximately 70% of the young offenders are foreigners, mainly from South America and Maghreb.

The center has capacity for 60 persons, though at the time of the visit the inmate population numbered 70.

From the outside, the center's architecture appears completely rigid, with a retaining wall that surrounds the entire perimeter. It is located in the Palau-Solità natural setting. The inner distribution is designed around modules set in a natural area.

All inmates are male, with an average age of 18 years, 6 months. There can be youths up to 21 years of age. The center has had two groups since last year: one intensive group or department, accommodating youth who have committed an offense and are being punished, pursuant to the center regulations. The other, basic group is made up of the rest of the center units, where the inmates conduct normal daily life activities. The center has a private security service working inside with a total of 29 guards.

The center's educational staff is made up of a number of professionals who carry out educational intervention tasks. It is worth noting that the three members of the administration staff are former educators with an average of 20 years' experience in this field.

**Facilities**

- The visit began in the unit where inmates are isolated or separated for disciplinary reasons from the rest of the group (the Anoaia Group). There are three rooms for this purpose. The first two have the same characteristics. a bed in the middle of the room where immobilization is carried out, tiled walls and windows with safety glass. Restraint is not performed in the third, therefore the bed is not bolted in the middle of the room. This room is used to house young people under the suicide risk protocol, who become or indicate signs of becoming aggressive. Even so, it was surprising to see that this room has a table with edges on which the young people could injure themselves easily.

The general condition of the facilities was deemed unsatisfactory. Although the Task Force was informed that the rooms are equipped with heating and air conditioning, ventilation was mostly blocked because the grille had been painted over. There was a strong odor at the time of the visit because they were not sufficiently ventilated. Specifically, the odor in the third room was very unpleasant, as center management acknowledged they were experiencing a plumbing problem.

- The rooms are equipped with surveillance cameras. The problem is that the cameras are on, but the footage is not being recorded. The feed can be viewed in another room, which also stores the coercive devices that can be applied if necessary: helmets; handcuffs and therapeutic restraint devices.

- Temporary isolation, and the application of such measures, is applied by members of the center security team, following prior authorization of the director. The center director must be present during application of these measures. If they are not on the site, the duty coordinator must be present. The Task Force was informed that in such cases, use of these measures is communicated immediately to the judge, the prosecutor's office and the physician, and the events leading up their use are described.

The Task Force was informed that these measures are only used when strictly necessary. When pressed to explain further, center management stated that in some cases young people may be immobilized for up to 20 minutes.

- The three confinement rooms have been conceived to subdue and isolate young people in cases of severe alterations of order, that present a clear danger to persons or the facilities. The Task Force was informed that the use of the rooms for this purpose is minimal, as they are used more for interned young people who are suspected of carrying drugs in their body.
- A member of the security staff and the director or coordinator are always present during pat-downs and searches of inmates. Strip searches are not recorded.
- The unit housing young people who have had a regressed in their treatment program was also visited. The duration of stays in this unit is one month.
- The rooms are very small and are designed to house two inmates in a bunk bed. There is hardly any furniture, just a small night stand or chest of drawers on which to place a television. Apparently, this furniture has suffered the wear and tear of the years and no new replacements have been provided.
- Young people's clothing and personal belongings are kept in boxes. The room also has a concrete table and a plastic chair. They are not allowed to put curtains on the window for security reasons. On the outside, there are shutters which are apparently closed at night. The rooms do not have toilets or showers inside. These facilities are located in the corridor.
- The rooms have an alarm mechanism that is activated by passing a hand over the top. This technology is not in keeping with the generally old, worn appearance of the site. The unit also has a carpentry workshop, a multi-use room and a training room.
- Last, the Task Force visited the communal area, where the youth conduct daily life activities. The rooms are the same as those previously described, although it was observed that the youth are allowed to have more personal belongings. The library (with very few books), lounge and dining hall were deemed satisfactory.

#### Security guards

- Security guards were observed throughout the site over the course of the visit. Heavily built and with a somewhat menacing attitude, they wear uniforms but no visible personal identification number.

- The handcuffs, which they may use to initially subdue an inmate, are part of their standard uniform. They can cause injury if not used correctly.
- The security guards are selected by the center director himself. There is insistence on the guard-inmate relationships being minimal, as the first authority are the educators.
- Security guards are not allowed to enter the normal communal facilities. On the other hand, they can enter the disciplinary unit, where they subdue inmates, perform pat-downs and immobilizations, with the unit director or coordinator present at all times.

#### d. Protection centers

##### Centro Residencial de Educación Intensiva Els Castanyers (Els Castanyers Intensive Educational Residential Center) (June 30, 2011)

Center	Centro residencial de educación intensiva Los Castanyers
Date	June 30, 2011
Names of persons making the visit	Maria Jesús Larios, Montse Cusó, José María Mean, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
Municipality	Palau-Solità i Plegamans
Population	42
Youths interviewed during visit	2
Areas visited	Confinement area, rooms and communal areas

The Els Castanyers facility is located in Palau-Solità i Plegamans and is managed by the Directorate General for Child and Adolescent Services (DGCAS). It is an intensive educational activity center. It accommodates (male) young people 12-18 years of age who, for a variety of circumstances, require direct and intensive educational activity for a limited time. The center has capacity for 42 persons, and is always full, although at the time of the visit there were fewer young people (some on leave, summer camp, etc.).

The center accommodates young people with behavioral and adaptation problems in an EARC or foster family, who require more confinement. There are also young people with substance abuse problems or other backgrounds indicating that they would have difficulty in other types of facilities. Last, though it is not a specialized center, it also houses youths with severe mental disorders. It is a residual (specific-purpose) center, which means that there can be no referral of the young people admitted.



These youths are administered psychological and psychiatric care outside the center. The role of the center as regards the medication prescribed to the youth, is simply to administer it. Nonetheless, if the young person does not want to take it, they do not force them, and try to redirect the situation using the intervention and mediation of the center professionals, such as the two psychologists who work there. Center management does not advocate chemical restraint measures and acknowledges that in some cases, the youth are heavily medicated.

The professional staff working there is very wide-ranging and the center has its own educational, sport and recreational resources. They have an agreement with the Catalan Ministry of Education, by which they have four teachers responsible for teaching mandatory secondary education (ESO). The youth are officially registered at the town's secondary school.

Center management prioritizes the young people's participation at important decision-making times. An attempt is made to be aware of the youth's desires and needs. This is done through meetings where teachers, psychologists an educator and member of the management staff all work with the youth. The goals set are renewed every four months. The average stay at the center lasts a couple of years, and there are more requests for admission than capacity.

In case of emergency (flare-up or seizure of the youth), the two psychologists attempt to bring the situation under control. If necessary, a security guard is called to immobilize the youth and move them to one of the confinement rooms. In all other cases, emergency services are called.

Admissions into the ACU (Adolescent Crisis Unit) are pre-scheduled. There are more young people who enter the center from this unit than those who directly enter the center itself.

Young people are distributed on age-based criteria. This way, all young people in a single group are at the same level. There are four groups:

- i. Pre-adolescents: 9 places (12-14 years)
- ii. Young adolescents: 11 places (14-16 years)
- iii. Late adolescents: 14 places (16-18 years)
- iv. Casa d'en Pere (Pere's House): boys ages 15-18 with more advanced processes, where personal autonomy is developed

#### Facilities

- The inspection visit was begun in the two individual confinement rooms. They are used for disciplinary measures or temporary isolation.

In the room, there is only a bed bolted to the floor. The mattresses, on the director's orders, were outside. If necessary, they use the security guard's handcuffs, as the center has no other coercive devices.

The room was found to be well-ventilated, with natural light from a window, no bad odors, and overall very clean. Once outside, the director showed the Task Force the registry book used for these rooms. This registry contains such information as the time of entry and exit, date, time at which the educator worked with the youth, objects taken from them and incidents.

In any event, it was observed that the time spent there is short, although in some cases it states that they have spent the night.

#### Late adolescents group

- Members of this group are accommodated in individual rooms. There is only one double room, used for admissions.
- This unit has a lounge, rooms, restrooms and the educators' room.
- The Task Force was shown several rooms. They stand out for their luminosity and ventilation. They also have furniture for the young person to keep their personal belongings (closet, table, chair, shelves and nightstand). The rooms were clean. The youths are responsible for tidiness and cleanliness.

As they are not allowed to stay in the rooms of fellow inmates, and to prevent incidents, the doors do not feature an exterior handle. That way, only the youth can open it from the inside. They are kept closed during the day.

- Communal spaces are also very spacious, comfortable, well-ventilated and lit. Bathrooms are communal, and their perfect condition and degree of cleanliness was obvious.

#### Pre and early adolescents

- The facilities are the same (rooms, communal areas, educators' room) and each unit is distinguished by color. In the young adolescents' there are three double rooms, and in the pre-adolescents, there is a large game room and a multi-use room that stand out for their size and luminosity.

## e. Residential centers

### Mont Martí residential center (October 11, 2011)

Center	Centro residencial Mont Martí
Date	October 11, 2011
Names of persons making the visit	Rafael Ribó, Maria Jesús Larios, Judith Macaya, José María Mena, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
Municipality	Puig-Reig
Population	60
Residents interviewed during visit	0
Areas visited	Confinement area, rooms and communal areas

The Mont Martí Residential Center is in Puig-Reig, in Berguedà County.

Among the specialties it offers, there are units for children and adults with mental disabilities. This unit is for indefinite accommodation (many residents go from minors to adults by legal age over their stay) and has capacity for 60 persons. The unit is divided into communal sub-units, with their own rooms and recreation room. Under this system, adults are separated from children and adolescents, and patients with behavior disorders from those who do not have them.

Of the 60 places, 55 are permanent and 5 for family breaks. 60% of the places are arranged and organized with the ICASS, 6-7 come from the DGCAS and the rest are private.

#### Child and adult mental disability unit

- At the entrance to the unit, there is a confinement, or time-out room. With some 20 m<sup>2</sup> of floor space, it has white padded walls. The room was dirty, with stains on the floor and walls. There was no video surveillance system. The Task Force was told that the average time of stay in the room was 10 minutes, and that they try to avoid using it.

#### Unit 5

- Unit 5 is for children with mental disabilities, severe psychiatric or behavior disorders (the most difficult cases). With 12 beds, the minors residing there are ages 10-14.
- The unit has a recreation room, which at the time of the visit was occupied by professionals and the minors. The room has access to an outdoor area where the minors can go, accompanied by an educator.

- The rooms have two beds, and a shared bathroom between every two rooms. The rooms are very spare; the only furniture is the minor's bed. The closets, built into the wall, are locked. They have natural lighting, are well-ventilated and clean. The windows, with bars and safety glass, are kept closed while the minor is in the room. Otherwise, they could injure themselves with the edges of the windows or bars.

- There are no locks on the bedroom doors. They are always opened with keys. Any needs that arise are detected on the rounds made during the night shift.

- The tiled bathroom features a sink, a toilet with a safety partition, and a shower consisting merely of a showerhead affixed to the ceiling.

- The Task Force asked to visit the confinement or temporary isolation room. Abdominal restraints are applied on the bed bolted to the floor. It has natural light and ventilation. Its general condition could be considered satisfactory for this type of room. One of the sheet rock walls was damaged, apparently because one of the young people struck it. It also has built-in closets, locked with keys, and is decorated with several photographs belonging to one of the young people. There have been cases of minors spending the night in the room. If the minor has any needs to be met, they can verbally notify someone by shouting, or speak to the educator on their usual rounds.

- The Task Force asked about the coercive measures used, such as those applied to a recently-immobilized youth. The Task Force was surprised to be informed that the abdominal belt used was in the laundry. The Task Force was shown another yet to be used, a detail emphasized to them. They were also shown wrist restraints, which were very worn.

- The Task Force asked to see the wrist restraint system used. Center staff said they tried to avoid restraining minors' hands behind their backs, but it was understood that this has been done on occasion. In most cases, it is done with the minor laying on the bed, with a restrained hand to each side.

- The educators are the staff members qualified to apply coercive measures. The Juvenile Affairs Prosecutor's Office is also informed, twice a year. The registry book detailing the coercive methods used is not sent to the Office. It is used for internal purposes only. In any event, it is available for the ex-officio inspections that may be conducted by the Prosecutor, the Department of Social Welfare and Family Affairs or any other body.

- Aside from physical, there are also pharmacological restraint techniques. The psychiatrist who comes to the unit on Mondays (3-4 hours) supervises the programs and medication prescribed to patients.

**Unit 4**

- This unit accommodates minors and adolescents from six (minimum) to 18 years of age. The typical patient is a boy or girl with mental impairment, though not mental disorders, or with a mild mental disorder. The children were not present at the time of the visit. As opposed to the others, this unit does not have an immobilization room.

**Unit 1**

- This unit accommodates adults with severe psychiatric or behavior disorders.
- The Task Force visited the lounge. At the time of the visit the youth were eating, accompanied by the educators. The Task Force noticed the possibly sedated state of one young man, who was laying on a sofa, unable to stand.
- The immobilization and temporary isolation rooms are the same as those of Unit 5, but for adults. At first glance, there is no difference. The Task Force also noticed that there was nothing hanging on the walls, which appeared to have been damaged more than once, because one of the patients has a disorder that causes him to eat any type of object.
- The bed in the room was made, but under the bedspread an abraded immobilization belt was found at the ready.

**Others:**

- There is a general practitioner on staff in the center until 4 pm. Another covers the afternoon shift. The physicians are not physically present on the weekends, though they can be located through the on-call system. They are doctors who reside in the county.
- The unit does not have any doctor specialized in child psychiatry. The psychiatrist who visits the center on Mondays just happens to be head of child psychiatry at the central psychiatry department.
- There is a markedly multidisciplinary work method, and family involvement in decision-making is expected.
- The Task Force was informed that fast-track measures can be applied in case of incident. Once

an educator struck one of the youths, and was dismissed immediately.

- The educator ratio is 12 in mornings and afternoons, and four at night.
- In some cases, the unit also evaluates its admissions because there are many users with behavior disorders.

**f. Police stations**

**Mossos d’Esquadra (Autonomous Catalan Law Enforcement Agency) Facilities**

**Les Corts District Police Station (March 1, 2011)**

<b>Police station</b>	ABP-Les Corts
<b>Date</b>	March 1, 2011
<b>Names of persons making the visit</b>	Rafael Ribó, Judith Macaya, José María Mean, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
<b>Municipality</b>	Barcelona
<b>Detainees interviewed during visit</b>	1
<b>Areas visited</b>	Detainee custody area, pat-down area, holding cell area, infirmary

Les Corts is the central police station for the city of Barcelona. As of 2005, it has been holding detainees from all police stations. Even other law enforcement agencies, such as the Spanish National Police, bring detainees to this facility. Organically, they report to the ABP Barcelona, located in Plaza España.

Following the incidents of March 31, 2007 at this police station (a video recorded with a hidden camera showing an aggression suffered by a detainee), the Catalan Ministry of the Interior ordered the installation of video surveillance cameras inside all police stations to provide citizens and agents with guarantees.

The effort began in Les Corts and continued with the rest of police stations until July 2009, with completion of a total of 2,000 more surveillance cameras, placed in cells, pat-down rooms and custody areas.

**Detainee custody area**

The custody area is in the building’s basement. The visit was begun by following the same circuit a car with a detainee would.

The existence of cameras and video recording equipment is advertised on a sign at the entrance to the custody area. Further, cameras and video surveillance equipment are installed in such a way that they are visible at all times. The Task Force was informed that there are 100 cameras installed throughout the facility.

Once the detainee transport vehicle arrives, it goes to the access area, which is separated from the rest of the parking garage by a barrier. The process begins as of this stage. There is a written action protocol for these cases and the Task Force requested a copy.

All agents deposit their weapon in a gun cabinet before entering the custody area. Once inside the custody and detention facilities, the booking, fingerprinting, photographing, etc. area does not present anything especially relevant according to the Task Force's criteria.

As stipulated by law, the video feed and recording systems of the pat-down room and all other facilities are automatically activated by motion sensors, regardless of the personal decision of the agents in charge of viewing the feed. The automatic recording only allows immediate viewing, after which time the footage is stored for 30 days, unless it is used in any proceedings. As described later in this document, the person responsible for keeping the footage is the person who can view the images from each facility.

The person is informed of the video recording system in the pat-down room. The system also allows audio recording, activated with a button. The detainee is also informed of this. This pat-down room, of some five or six square meters, is where the detainee is patted down, though it must be noted that previously they have been subjected to a superficial pat-down on the street at the time of their detention. The hand-held metal detector is also extensively used.

Strip searches are only rarely conducted. Should they be necessary, the footage is completely private, and only the video recording and storage officers have access. In most cases, a superficial pat-down is conducted, by parts of the body. The Task Force was informed that the pat-down is always performed in the presence of a duty officer, who supervises it and ensures it is done correctly.

Two posters (Catalan-English and Catalan-Rumanian) in the room listing several words that could be useful for the detainee and that facilitate the pat-down for the officer also caught the Task Force's attention.

The restraint devices were also present in the pat-down room. Helmets, wrist and foot restraint straps and shields. In cases of detainees admitted in highly altered, agitated states (mainly under the effects of drugs), in which the pat-down is practically impossible, they are placed directly in a cell and immobilized until they calm down.

Detainees are admitted one at a time. If there are more than one, the others have to wait their turn in the car. Last, the Task Force was informed that there is extra clothing in case it is needed.

This area has an infirmary, a novelty in police stations. Here immediate care can be given to a detainee, as emergency services will be required if they suffer any severe injuries. The physician on duty works Monday to Friday, in 12-hour shifts. Weekend shifts last eight hours. The Task Force asked if it was possible for a detainee to be examined by an external physician of their choice. The police station staff was surprised by the question, and although they said it could be contemplated in extreme cases, it is not an option they take into account.

The cell area (35 total) was inspected, which had an occupancy level of 28% at the time of the visit. The Task Force was shown a facility with four cells, initially conceived for minors, but that in practice are used for what they determine to be special cases. Specifically, these are detainees whose characteristics make it advisable to separate from the others. The general condition of the facilities was deemed unsatisfactory: poor ventilation, bad odors, less light than usual, and one of the cell toilets backed up.

Of the 35 cells, two are used to house detainees suspected of transporting drugs inside their bodies. There is also a cell with capacity to house a significant number of detainees. It is mainly used on days when there are incidents, when a large number of persons are concentrated in Barcelona for demonstrations, sporting events, etc.

In general, up to three detainees can be housed per cell, but there is nothing to keep them from accommodating four. The Task Force was informed that the capacity depends on the number of mattresses they can place in the cell (theoretically, two on the floor and two on the reinforced concrete bench where detainees sit or lay). Up to three persons per cell were observed at the time of the visit.

The structure of all of the cells is the same. They are painted gray, feature a concrete structure on which to sit or lay, an external shower and sink, and have

a floor toilet separated by a concrete structure that protects the detainee’s privacy from officers or others outside the cell, but not from the rest of detainees who may be present in the same cell. Therefore, bad odors are added to the already-poor ventilation in the detention area.

The Task Force was surprised to find linens stacked on top of each other in a room, without any protection from dust or bad odors. The Task Force was informed that they are washed on a weekly basis, except in some cases, in which they are thrown out automatically. Although they are washed weekly, being reused by more than one detainee does not seem hygienic. The same is true for mattresses: they were all haphazardly stacked in a room.

On the other wing of the police station, there are more cells and an area where food is served: sandwiches, muffins or beverages from vending machines.

The Task Force also visited the rooms in which attorneys can meet with detainees. There are no recording systems in these rooms. Therefore, once the door is closed there is no way to observe what occurs inside. There are three visiting rooms, with glass in the middle and a closed-door system. There is no recording system in these rooms either. The location of these facilities in the detention area is to ensure that the detainee never has to leave the custody and detention area.

Family members and friends are allowed to visit. There are two hours in the morning, and two in the afternoon, for visits, following the authorization and verification of the examining magistrate.

The staff on duty during a shift is made up of a sergeant, corporal and eight mossos.

The Task Force was invited to watch some video footage from the station that showed the protocol applied in incidents of resistance and violent behavior by a detainee:

*First video:* a detainee who tries to injure himself by banging his body against the cell wall until he finally stops.

*Second video:* agitated detainee who had already struck himself inside the police vehicle. He is immediately taken to the cell, where his hands and feet are restrained in the presence of an officer, who watches and supervises how the officers subdue him. Finally, he is made to wear a helmet to prevent self-injury. According to the protocol, he can not remain in this situation for over 30 minutes. It is understood that if the detainee remains in this

state longer than 30 minutes, he would have to be moved, probably taken to a hospital.

*Third video:* A detainee who attempts to hit himself against the iron door. He had tried it previously. He was taken away for medical care, and once back in the cell he tried again.

*Fourth video:* live feed of a pat-down being performed at the Sants Police Station at that time, without the officers knowing they are being watched.

**Santa Coloma de Gramenet District Police Station (October 25, 2011)**

<b>Police station</b>	ABP de Santa Coloma de Gramenet
<b>Date</b>	October 25, 2011
<b>Names of persons making the visit</b>	Rafael Ribó, Judith Macaya, José María Mena, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
<b>Municipality</b>	Santa Coloma de Gramenet
<b>Detainees interviewed during the visit</b>	0
<b>Areas visited</b>	Detainee custody area, pat-down room, holding-cell area and police vans

This police station reports to the Northern Metropolitan Police District, with its headquarters in Granollers. The police station is in a place that is difficult for citizens to access. For this reason, it uses a patrol planning service.

*Detainee custody area*

- The custody area is in the building’s basement. The visit was begun by following the same circuit that cars carrying detainees use.
- There is an officer who supervises the detainee entry process.
- The existence of cameras and video recording equipment is advertised on a sign at the entrance to the cell area. The gun cabinet is also outside this area.
- No detainees were present at the time of the visit.
- The entry to the booking, finger-printing, photographing, etc. area does not present anything especially relevant according to the Task Force’s criteria.
- The pat-down room has an easily-identifiable video feed and recording system. If considered

necessary, audio is also recorded, with the detainee being previously notified. The pat-downs are performed by two agents under the supervision of a shift supervisor.

- The linens provided to the detainees are stacked in one of the rooms, without any sort of protection. They are used by more than one detainee and removed from circulation at the station officer's discretion. The mattresses are also stacked atop each other.
- The detainees are separated as follows: two cells used to accommodate women and minors, and another for adult males. The characteristics of these cells are the same as those found in any Mossos d'Esquadra police station: gray paint, concrete structure to sit or lay down, artificial lighting and a lack of natural ventilation. As opposed to the adult cells, they are smaller and the bathroom facility is outside the cell.
- The adult area is housed in another wing of the police station. There are five cells total, and they have a bathroom, separated by a wall. In two of the cells, the bathroom is positioned in such a way that, despite the wall, it is visible to anyone. When asked about this, station staff claimed not to know the rationale behind this design, which did not appear to especially concern them.
- The odor was extremely unpleasant, and dirt was visible on the day of the visit. This was brought to their attention, and they alleged that on that day, the cleaning had not been done yet. Apparently, this is done depending on the workload, and if there is anyone to do the cleaning (usually as of 5 pm).
- The only restraint device they had was a helmet.
- The food provided to detainees, as usual, comes from a vending machine in the police station.

### Horta Guinardó District Police Station (February 28, 2011)

<b>Police station</b>	ABP Horta-Guinardó
<b>Date</b>	February 28, 2011
<b>Names of persons making the visit</b>	Rafael Ribó, Judith Macaya, José María Mena, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
<b>Municipality</b>	Barcelona
<b>Detainees interviewed during visit</b>	0
<b>Areas visited</b>	Detainee custody area, pat-down area, holding cell area

The ABP Horta-Guinardó forms part of the Barcelona Metropolitan Police District.

The police station is housed in a three-story building. At the time of the visit, the third floor was vacant, pending the Computer Services unit's relocation there.

#### Detainee custody area

- As with most police stations, the detainee custody area is also in the basement. Nevertheless, the detainee custody area is unusable because the purpose of the Horta-Guinardó police station is public safety and reception of complaints (it holds fifth place in complaints filed).
- If there is a detainee, the judge is notified and they are taken to Les Corts police station, where all detainees are grouped. It should be mentioned that from the time a person is detained until they are taken to Les Corts, all incidents that have occurred are documented and posted in order for a written record to exist. Once in Les Corts, a statement is taken and the detainee is transported, that same day if possible, to court premises.
- Of the 18 cells designed to house male inmates, one has the toilet facing in the opposite direction from the rest, and therefore, despite the existence of a partition, it does not ensure or protect the privacy of the detainee. The Task Force was informed that the cells have only been used once, on a weekend.

#### Detainee transport

- A novel feature of this police station is that it is the site of the administrative offices for detainee transport. This explains the numerous police vans always parked outside. Nonetheless, not all detainee transports depend on this police station. For example, prisoner transport is conducted from the Sabadell ABP.

- The Task Force was informed of the current problems with detainee transport: the van makes only one trip with detainees to court premises each day. Apparently, judges will only see them in the morning, as of 9 am. Therefore, outside this schedule, detainees who have not gone to court have to spend the night in the police station, and wait until the next day.
- The Task Force was also told that the current organization of the Mossos d'Esquadra would allow them to present detainees on the same day or the following day, except when justified by the investigation.
- The Task Force asked for the chance to inspect one of the vans used for this purpose, but none were free at the time of the visit. From the information provided, there are apparently two types of transport vans (with capacity for five people): newer models, in which the detainees sit as if they were in a passenger car, and even have seatbelts; and the older models, in which the detainees sit facing each other on either side of the cargo area, and do not wear seatbelts because there are none.

The Task Force was able to visit a detainee transport car: the maximum number of persons who can be transported in a car are two. They are handcuffed and wear seatbelts. The back seat is separated from the front seat of the car with a plastic window for security reasons. They have hard plastic seats. There are no interior recording systems. When transporting minors, they are always taken in an unmarked car to the minors detention facility in the new City of Justice.

**Minors' and Adults' Detention Area of the City Of Justice of Barcelona and l'Hospitalet de Llobregat (April 5, 2011)**

<b>Police station</b>	Minors' and adults' detention area of the City of Justice
<b>Date</b>	April 5, 2011
<b>Names of persons making the visit</b>	Rafael Ribó, Judith Macaya, Maria Jesús Larios, José María Mena, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
<b>Municipality</b>	Barcelona - L'Hospitalet de Llobregat
<b>Detainees interviewed during visit</b>	0
<b>Areas visited</b>	Minor detainee custody area, adult detainee custody area, pat-down room, holding-cell area and police vans

*Minor detainee detention area*

- The minors' detention area of the City of Justice of Barcelona and L'Hospitalet de Llobregat is located in the basement of Building F.
- The custody area accommodates reform minors, generally children (under 12) and adolescents (from 12 to 18) detained for allegedly committing an offence, or interned in a juvenile justice center who have to appear for judicial acts for any given reason; and also protection minors, generally children and adolescents who have been victims of abuse, adolescents under the custody of the Administration and those who have run away from protection centers, as well as unaccompanied foreign minors.
- Due to the lack of an alternative space that would prevent the entrance of protection minors, this space is used, and although it should only be used for identification and to complete police and judicial procedures, in some cases, minors may spend up to 10 hours there. In some cases, the time even exceeds 24 hours. Therefore, the minor is forced to spend the night in a room or cell with the same characteristics as those used for the custody of reform minors.
- Therefore, reform and protection minors share the same facilities, in rooms that are connected, separated by a corridor. Although they are never mixed under any circumstances, as there is no physical barrier and only a short distance between the two areas, several situations can arise in which the protection minor care conditions are compromised. Therefore, it is impossible to guarantee that there is no contact, not even visual, between the reform and protection minors, for example, in the event that one of the protection minor rooms is used to house reform minors in the specific case of a lack of space, conflicts among them, minors admitted under the effects of a substance, in an agitated state, etc.
- Attempts have been made to outfit the protection minor rooms with leisure elements, such as two game tables and a television. In every other regard, the rooms have the same security characteristics, from a structural standpoint, as any holding cell: a sturdy metal door and a built-in bench, where a mattress can be placed. It should be noted that the cells where minors and youth are kept are identified as reform or protection rooms.
- Each of the two spaces has a restroom with a toilet and sink, and another area with a shower. The Children and Adolescent Affairs Department of the Catalan Ombudsman has suggested the installation of a toilet in the corridor of the holding rooms, because there is only a bathroom with a sink and a

shower. The Department of Justice has responded that it will seek a quote for the installation of a toilet, depending on budgetary availability. The holding rooms (2) are in the reform minor area, next to the pat-down room. The protocol used to immobilize reform minors is the same as that used for adults. As for the video footage storage system, the hard drive itself deletes it after 30 days have passed. It bears mentioning that all rooms, including the pat-down room, have video surveillance cameras.

- As for the staffing in this area, custody is performed by uniformed Mossos d'Esquadra. Educators from the Directorate General for Child and Adolescent Services also work with them. According to the available information, two educators are assigned to the unit from Monday to Friday, one per shift. There are fewer educators on the weekend. It is therefore inferred that there is only one, so it can be concluded that this staffing deployment is insufficient to serve and accompany the minors staying there.
- The following situation exists regarding meals served to minors: there is an area with a vending machine that dispenses solid foods (sandwiches and muffins) and liquid beverages, and the custody agents have a card that allows the minors to select and be served these products.

#### Adult custody area

- The detainee custody area in the City of Justice is the final stop in a person's detention process. Thus, all detainees go through Les Corts, and if it is at capacity, Sants or Ciutat Vella police stations, in a few specific scenarios. From there they are transported to the detainee custody area in the City of Justice.
- The transport of a detainee is considered final at this point. At the time of the visit there were 89 men and women in custody, although nearly 100 pass through the facility on a daily basis.
- The overall evaluation of the facilities can be considered satisfactory if compared with other visited detention areas. There is no natural light because they are in the basement of the building. Nevertheless, ventilation and lighting conditions are satisfactory. For the first time, the odor emanating from such a space was not unpleasant.
- A noteworthy feature of this facility is that detainees go directly from the area to the necessary court premises, without having to cross through the area where the rest of the population is accommodated. The detainees or prisoners go to

court accompanied by police officers from distribution areas on one side of the corridor.

#### Transport vans

- Some of the vans used to transport prisoners and detainees were also inspected on the day of the visit. As trials usually begin as of 10 a.m., and there is only one police transport service per day, at the time of the visit there were a significant number of parked vans because entries usually occur between 8:30 and 11 am.
- None of these vehicles are parked overnight in the parking garage of the building where the detainee facility is located, and where the vans enter. Following the transport of the detainee or prisoner, once placed in judicial provision, they are returned to the center, in the case of inmates, or are released.
- There are two van models: old vans, without seatbelts, and new ones, with seatbelts. Therefore, the differences between the two models are found in the cage and the distribution of the seats where the detainees are transported.
- In the older models, the seats in the cage are arranged facing each other without seatbelts, with the risk this could entail from a safety standpoint. Furthermore, these seats are hard plastic benches and not ergonomic in the least. Outside the cage, there is a seat for the passenger officer to watch everything that happens inside. The Task Force was informed that the cage is not sound-proofed, and therefore, from the outside and with the door closed, everything said is heard.
- Some of these shortcomings have been corrected in the new models. The seats in the passenger area have the same distribution as a passenger car, with: front (2) and back (3) seats. They are also equipped with seatbelts and, in structural terms, they are made of a different type of hard plastic and are ergonomic.
- Detainees are transported with their hands cuffed behind their backs. This condition is stipulated by the service orders. Nonetheless, duty officers may agree not to handcuff the detainee behind their back (e.g. in the case of elderly or ill detainees) or handcuff them with their arms in front. In fact, at the time of the visit, a detainee transport car arrived carrying a young man wearing handcuffs with his arms in front.
- The Task Force was informed that the service order also prohibits officers from riding in the



cage of a van, or in the back seat of a police car, with them. Among the car models, there is a new one with a barrier that isolates the detainee from the rest of the vehicle occupants, in this case, police agents. This model is used for specific cases because the space used for this purpose is quite small, thus guaranteeing that the detainee can not pass their hands to the front or cause any other incident.

- Police transport cars are also used in the cases of pregnant women or children and adolescents.

**GUÀRDIA URBANA DE BARCELONA (BARCELONA MUNICIPAL POLICE DEPARTMENT)**

**Ciutat Vella Precinct (April 14, 2011)**

<b>Police station</b>	Ciutat Vella Precinct Guàrdia Urbana de Barcelona
<b>Date</b>	April 14, 2011
<b>Names of persons making the visit</b>	Rafael Ribó, Judith Macaya, José María Mena, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
<b>Municipality</b>	Barcelona
<b>Detainees interviewed during visit</b>	0
<b>Areas visited</b>	Detainee custody area, pat-down room, holding-cell area and police vans

Although public safety is the competency of the Catalan Autonomous Police-Mossos d’Esquadra, the Guàrdia Urbana de Barcelona, as the city’s local police force, collaborates in public safety tasks to provide responses to citizens’ demands. The types of interventions they perform have to do with crime prevention and repression, and administrative interventions in public safety.

**Detainee custody area**

- The custody area is in the building’s basement. It can be accessed in two ways, from the parking garage or from inside the police station itself. The characteristics of the detainee determine where they enter. For example, the Task Force was informed that that day a young woman had been arrested, and she entered through the main access inside the police station.
- The custody area is small, with two cells and a restroom. There is no specific pat-down or identification room, nor is it equipped with any office where a private interview can be conducted

with the detainee. In fact, during the visit a detainee entered the area and the Task Force observed irregularities in the custody process right away.

First, the action protocol does not stipulate that the detainee be assisted by an attorney from the initial moments of their detention. Rather, it is understood that this assistance will be given once the detainee is transported to Les Corts. Thus, while the detainee is having their rights read to them, they are informed of this right in particular, and are asked whether they want a court-appointed attorney or if they have their own private counsel. Then, they are told that the attorney will assist them at another police facility when they are to make their statement.

The way the detainee’s rights are read to them was also surprising. The officer, although polite at all times, reads the rights out loud, and no one asks to ensure that the detainee has understood them. Furthermore, no one certifies that the rights have been read, or any other communication made by the police.

Along with the right to notify of their detention and the right to be assisted by an attorney, another of the basic rights of a detainee during their stay in a police facility is the right to be examined by a doctor. If it is an emergency, or the person is very agitated, they call 061. In the rest of cases, the detainee is given a summary medical exam in the Perecoamps medical center.

- The area features two cells, and at the time of the visit, one was occupied by a young woman. The Task Force was informed that the detainees’ stays in these cells are short; only while the first procedures are completed. The information provided seems contradictory because, on one hand, the Task Force was told that from time to time, a detainee has had to spend the night there.
- The cell is not equipped with a surveillance camera inside. There is no natural light, and the door is not made of bars. Rather, it is built of thick metal, with a small sight hole, like those at penitentiary centers. It has a built-in bench, on which a mattress can not be placed because the station has no mattresses. No hygiene kit is provided during the stay.
- As for the rest of the elements, it is painted white, and the odor was satisfactory at the time of the visit. As for meals, the custody area does not have a food or beverage vending machine. When asked what type of food or beverages detainees were provided with, the Task Force was told that there are none, insisting on the fact that the detainees’ stays are short and there is no need for them.

- As for the rest of the facilities, as indicated, there is no specific room to perform pat-downs privately. In fact, at the time of the visit, the three Task Force members were asked to leave the area in order to pat-down a detainee. Nevertheless, a member of the Task Force stayed in the area until the pat-down was completed, and deemed it satisfactory. The Task Force member did note that the handcuffs worn by the detainee were on too tight, and had bruised the detainee's wrists.

- Therefore, pat-downs are performed in a common area for access to the custody area, the same space where detainees have just been read their rights. The Task Force was told that there is only one video surveillance camera in this common area. Nonetheless, judging by the characteristics of the area, there are blind fields or spots where officer and detainee could interact out of the camera's view. On another note, the Task Force saw no sign at the entrance to the interior area advertising the existence of video surveillance systems.

- The restraint devices shown consisted of two helmets (in disuse). The Task Force was informed that they had ordered something like an immobilizing mattress.

- If a family member wanted to see a detainee, there are no conditions that would allow it. Therefore it is understood that it is not possible. In the event that the detainee is transported to Les Corts police station, the family visits would be authorized there.

- If a detainee needs language assistance, the police station can call on an interpreter, who also handle the formal complaint.

#### *Detainee transport*

- Detainee transport is carried out in a police car at all times. The car is equipped with a protective barrier between the areas for officers and detainees.

- The seats where the detainees sit are made of plastic, and have capacity for two persons. When asked if the detainees ride alone in the back seat, the station staff responded that, while not usual, there would be nothing to impede an officer from riding next to the detainee.

- The only van parked in the parking garage was inspected. The Task Force was told that the van is not commonly used, but that on that day it had been.

- The Task Force was informed that everything was recorded from the doorway to the booking area or

cells. The cameras, which are six or seven years old, are activated by motion sensors. Therefore, they record any movement, but not audio. Once recorded, they are deleted after 30 days, although if the maximum storage capacity is reached they can be deleted beforehand. If any incident arises during the detainee custody process, the footage is saved in case any trial proceedings ensue, or it is required by any other body. The officer responsible for detainee custody is also in charge of keeping the footage, so only he/she can view it and is unable to manipulate it. The system is configured in such a way that, once footage is recorded, it cannot be modified.

#### *SANT ANDREU PRECINCT (September 06, 2011)*

The police station operates like a complaint reception office. Reports are written, and only minimal inquiry procedures are performed because the detainees are taken to the Les Corts police station.

No one stays overnight in the cells. The time spent there by detainees is the minimum necessary in these cases.

They are awaiting relocation to the new police station. They now occupy a building of the former Pegaso automotive plant.

#### *Detainee custody area*

- Detainees enter through the parking garage, filmed with a surveillance camera. Once inside, the detainee is taken to the custody area.

- The custody area is a prefabricated space, and is not identified as such. It is visually isolated from the rest of the corridor, though not sound-proofed.

- The facility has two distinct areas. A general area, with a chair and a table. Here the detained citizen's rights are read to them. As with other Guàrdia Urbana de Barcelona police stations, the action protocol does not stipulate that the detainee be assisted by an attorney from the initial moments of their detention, because it is understood that this assistance will be given once the detainee is transported to Les Corts. As for the right to be examined by a doctor, the Task Force was told that an ambulance is called for cases in which it is deemed necessary.

- The (second) pat-down of the detainee is performed in this room. Therefore, the facility does not have a specific room in which to perform pat-downs. Though an effort is made to cause

minimal trouble to the person patted-down, it may be necessary to do a full body search. In this case, the procedure is to use the room where the cells are located, as long as there is no detainee there. This proves that the facility does not meet the essential criteria to perform the procedures that are involved in the custody of detainees.

The Task Force was informed that there are always two agents of the same gender present at pat-downs. The pat-down is performed by the same agents from the precinct who made the detention. If the detainee is a woman, and there are no female officers on the site, plans are to summon a female officer from the police station.

- The room where the cells are housed is very small, and does not feature optimal health conditions. It has artificial lighting and no ventilation. The feeling of dirtiness is present, and is worsened when the two cells are viewed, because the walls are painted, but also have bloodstains. A dead cockroach was also found, leading the Task Force to think that no cleaning had been done that day.

The Task Force was told that the facility had a cockroach problem, and although the pest control service had fumigated, they were still present. The cells are not prepared for anyone to stay in them, as they do not meet the minimum inhabitability conditions. There is no surveillance camera. The bench is concrete, and it is not possible to place a mattress on it. No hygiene kit is provided for the stay. No food or drink is distributed, and there is not sufficient space to guarantee separation between men and women. The room where the cells are housed also has a restroom, with a toilet and shower, although they are not very clean.

The only positive find was the linens that could be provided if necessary, which are sealed and protected in plastic bags.

- The Task Force was told that minors are never admitted to these cells. In the event a minor is detained, they are made to wait in a waiting room and the Prosecutor's Office is notified. The Prosecutor's Office instructs them to return the minor to their parents and continue with the proceedings.

- The only restraint device on hand if necessary is a helmet.

- Transfers to the Regional Examining and Detainee Custody Unit of the Mossos d'Esquadra are performed with police vehicles, once the initial procedures are complete.

- The entry/exit record of detainees and police reports were checked. According to the record book, it is apparent that the time the detainee remains in the cell is from two to three hours, although the Task Force had initially been informed that it was one hour.

### Centralized Operating Support Unit Headquarters (COSU) (November 15, 2011)

The Centralized Operating Support Unit Headquarters is the new headquarters that the Barcelona Municipal Police Department has opened for this agency's specialized units. It is a single centralized headquarters for several units, which until now had been housed in separate areas of the Zona Franca facility.

The following units of the Guàrdia Urbana work in the headquarters, which is located in the Zona Franca of Barcelona:

Traffic Division: Day Support Unit (DSU) and Traffic Accident Unit (TAU).

Public Safety Division: Police Administrative and Support Unit (PASU), Centralized Night Unit (GNU).

The building has a detainee custody area with eight detention cells. It is in the basement of the Traffic Accident Unit, which is in charge of intervening in, investigating and writing up reports of the accidents occurring in the city. Furthermore, it is the examining unit for all the reports filed by the Guàrdia Urbana for traffic safety violations.

### Detainee custody area

- The visit was begun at the point where detainees enter the police facility: the inner parking garage. If the pat-down area is available, the detainee enters the custody area accompanied by the officers who have brought them to the site.

- The entrance into the cell area is duly identified with a sign informing as to the presence of video surveillance. There is the necessary preventive gun cabinet at the point of access to the custody area.

There were no detainees present at the time of the visit, although two of the agents responsible for detainee custody were on hand.

- There are two clearly differentiated areas in the custody facility. The first is for all the procedures involving direct contact with the detainee (pat-

downs, identification, dactyloscopy, etc.), and is located next to the cell area. There are four very small, practically identical offices for these procedures.

- All of the offices feature signs advertising the video and audio recording, although the detainees are previously notified as well.

Footage is shot on an ongoing basis, and is kept for a total of 30 days. After this time, it is eliminated. The unit chief is responsible for footage custody.

- The pat-down office is small, especially considering that the pat-down is usually done by the officers who have detained the person, although a ranking officer is also on hand to witness the procedure. The Task Force was informed that very few full body searches were performed.

- In this first area, there is a cell for minors, separated from the rest of adult cells. In fact, it can be described as a room of some 2m<sup>2</sup>, without bars. The main difference in comparison to the rest of the facilities visited is that the “cell” is closed with an iron door with a built-in window that allows visual contact with the interior. The cell has a plaster bench. And one of the walls allows direct viewing of the interior of the cell without the detainee being able to see out.

- The adult custody area is separated by an iron door. The overall feeling at the time of the visit was one of cleanliness, without any bad odors. There is artificial lighting and a cooling and heating system.

- The condition of the cells is satisfactory. There are no architectural differences from one cell to another. One is larger than the rest. Another, where women are usually accommodated, is not visible from the others.

- They all have a surveillance camera. The restrooms are outside the cell in a separate room. They have a sink and two toilets, one of which is for use by the jail officers.

- They do not have mattresses, only disposable blankets, which are recycled. They were shown to the Task Force, and were found to be wrapped in plastic.

- The cells do not have an alarm mechanism. If necessary, the detainees have to shout to be attended. The Task Force was informed that with the door closed they can still be heard, though

this is hard to believe. The Task Force was informed that the facility has ordered a system that would allow officers to be informed in case of emergency.

- There are no vending machines in the custody area (it is upstairs). This notwithstanding, the Task Force was told that the detainees are given a stipend.

- The average detainee’s stay is a few hours. The Task Force checked the registry book, finding an average of three to four hours. The transfer of detainees to the courthouse is done by standard procedure.

- If any severe incident arises (self-injury, altered admission), there is a protection helmet. An officer is always present inside the cell while the detainee is wearing it. To keep the detainee from removing it, they are handcuffed, in front or in back, as necessary.

#### *Police Administrative and Support Unit (PASU)*

The role of this unit is to support the rest of the Guàrdia Urbana units, especially territorial ones, mainly in monitoring public areas and the maintenance of public order, whenever reinforcements are required, due to the specialization of the service or the degree of conflictiveness.

The Task Force was informed that the PASU transfers and delivers detainees to the Mossos d’Esquadra. The Task Force asked to see the police vans used by these units, but was informed that they are not on site, although it had previously been informed that the vans were in the Zona Franca facility.

#### **LOCAL POLICE FACILITIES**

##### **Santa Coloma de Gramenet Local Police Station (October 25, 2011)**

<b>Police station</b>	Santa Coloma de Gramenet Local Police Station
<b>Date</b>	October 25, 2011
<b>Names of persons making the visit</b>	Rafael Ribó, Judith Macaya, José María Mena, Eva Labarta, Ignasi Garcia and Mar Torrecillas.
<b>Municipality</b>	Santa Coloma de Gramenet
<b>Detainees interviewed during visit</b>	0
<b>Areas visited</b>	Detainee custody area, pat-down room, holding-cell area and police vans

### Detainee custody area

- The detainee custody area is very small. In fact, there is only one 30 m<sup>2</sup> cell to which detainees are admitted. It is painted white, with a built-in bench, artificial light and no ventilation. The general condition of the cell was acceptable. There is also a restroom in a connected room.
- The Task Force was informed that the door to the custody area was kept open for the heating to reach the cell in winter time.
- The area was not duly identified with the right sign; there are no cameras or gun cabinet. It is on the same floor as the rest of the local police facilities. The detainee enters from the parking garage, the only site with video surveillance.
- The station also lacks a near or immediately connected room where a detainee can be patted down and in which to conduct the initial police procedures. If there is more than one detainee, first one is patted down while the other waits outside with the officers responsible for the detention.
- The availability of only one cell does not allow the strict separation by genders, or minors and adults. Minors are never put in the cell. They remain in the Citizen Services Offices room.
- Given the characteristics of the room, it is impossible to conduct proper video surveillance of the detainees.
- The Task Force was told that a detainee would remain the minimum time possible, with an average of 30 minutes, and a maximum of one hour. Nonetheless, when the registry book was checked, it was found that the stays were approximately four to five hours on average.
- There are no blankets to be distributed to inmates. Nor is it equipped to distribute food or drink, or hygienic materials.
- The only restraint devices available are the helmets and agents' handcuffs. If the detainee is admitted agitated or altered, they are immediately transferred to the Mossos d'Esquadra station or to Torribera.
- One of the team members was informed that detainees were also taken to the Esperit Sant Hospital, in order to have the necessary medical exam. This is because the Mossos d'Esquadra ask for the medical report when the detainee is delivered to them. Even so, later the Task Force was told that detainees are not seen by a doctor in all cases.

- The detainee custody process is interrupted and violated from the time at which the detainee's rights are read. The Task Force was informed that when a person is detained, the bar association is informed, and the attorney goes to the Mossos d'Esquadra police station as soon as the detainee has been transferred there.

- They have written protocols with the Mossos d'Esquadra, but no internal guidelines on how to carry out detentions or detainee transfers.

### Detainee transfers

- The Task Force was shown a police vehicle similar to those used to carry out detainee transfers. The main difference is that the ones for detainees have a barrier inside. The transfer is made with the detainee in the back of the vehicle, and the detainee is always handcuffed, with their seatbelt on.

- Women and minors are transferred with the same vehicles. If necessary, support is requested from other units (e.g. vans to transfer more than one person at a time).

## g. Interviews with persons deprived of liberty

In the process of visiting detention centers and facilities, the Task Force interviewed several persons deprived of liberty.

Given the confidential nature of the conversations held, it has been deemed best to only reprint some of the most relevant complaints, and those that are of interest for the prevention activities of the Catalan Authority for Prevention of Torture.

- Use of gloves by officers of the Special Department.
- Good food, but that is cold by the time it reaches certain departments or units.
- Presence of six to seven officers during a strip search.
- Constant observation by an officer of inmates for whom they are waiting to evacuate an illegal substance.
- Regular pat-downs in cells of special departments.
- Inappropriate treatment of young people by security guards, especially on the night shift.
- Cold, distant treatment of detainees by police officers.
- Unsatisfactory treatment of inmates by some prison officers, depending on the shifts, and manifested in an arrogant, inconsiderate attitude.

It bears mentioning that the conversations have been conducted in private, never on a group basis. No type of questionnaire was used. The interviews were always open. The reasons for the visit, why that person had been chosen and the confidential nature of the conversation were explained.

The persons interviewed were selected by the Task Force's criteria. The interviews were conducted in offices provided for this purpose, behind closed doors in all cases.

## V. CONCLUSIONS





## 5. Conclusions

### a. Penitentiary centers

1. The video surveillance devices in prisons are insufficient, and do not cover all interaction areas to prevent possible administrative and criminal violations, and guarantee the right to life, the physical integrity and safety of persons deprived of liberty and all the professionals working there.

2. Persons deprived of liberty, in the framework of disciplinary proceedings, do not have the right to access recordings related with the alleged offenses they are being disciplined for, or with any possible severe criminal or administrative violations.

3. There is a disparity in the video recording practices with regard to footage storage and a lack of standard regulations on this matter.

4. The current prison officer identification system is insufficient. The use of a removable adhesive strip does not guarantee that the person deprived of liberty can identify the officer at all times.

5. Oftentimes the notification of the Prison Supervision Court on the adoption of a temporary coercive isolation measure stipulated in Article 72 of the Penitentiary Regulations is not done on the same day, but the next, when the measure has already been finalized.

### b. Hospitalization units

6. At the Terrassa Penitentiary Hospital Block, two beds have been lost because one of the rooms has been converted into a headquarters for the prison officers working there.

7. The lack of waiting rooms in the Terrassa Penitentiary Hospital Block does not allow proper separation between men, women and young people while they wait to be seen by a doctor.

### c. Educational juvenile justice centers

8. In these types of centers it is not deemed suitable to employ private security personnel who participate in the disciplined schedule of the young people interned there, perform temporary isolations and apply coercive devices. Without prejudice to these measures being applied in the presence of the center director or on-duty coordinator, the young people perceive the

security guard figure as a menacing element in their reinsertion and reeducation process.

9. The surveillance cameras record, but the footage is not kept, which makes it impossible to investigate any complaints that may be filed for alleged irregularities or disproportionate interventions, or to prevent self-injuries.

### d. Minor protection centers

10. There is an insufficient number of intensive educational activity centers. The existing offer does not allow appropriate classification and distribution of resident children and youth, so that different profiles are mixed (for example, long and short stays) and distortions are generated.

11. There are also insufficient residential resources to serve children and youth with mental health problems.

### e. Mental disability residential care centers

12. The schedule of medical care by the psychiatrist in the mental disability unit for children and adults is considered insufficient. Several hours a day, one day per week could be considered satisfactory to perform a follow-up of prescribed medication but not to thoroughly tend to the patients.

13. In a unit that treats children with mental disabilities, the Task Force believes there should be a child psychiatrist.

### f. Police stations

14. The detainee custody areas of the Guàrdia Urbana de Barcelona, Ciutat Vella and Sant Andreu Precincts do not have satisfactory spaces or the resources necessary to accommodate detainees with all the guarantees and safeguarding of their rights. The same is true for the Santa Coloma de Gramenet Local Police facilities.

15. In the detainee custody process, the Guàrdia Urbana and Local Police act as judiciary police officers without having the necessary conditions to do so. In any event, their role should be that of assistance to the judiciary police, except for cases in which they have competencies to intervene in and investigate traffic safety crimes.

16. In the Guàrdia Urbana and Local Police facilities, the detainee's due custody process is continuous from the moment in which the bar

association is not immediately notified of the detention, following the reading of the detainee's rights as per Article 520 of the LECrim. It is paradoxical that the detainee is informed of their right to the services of an attorney, but is also told that this right will be made effective when they are transferred to the Mossos d'Esquadra police station. The same thing occurs with other rights taken up in Article 520, such as the right to notify a family member of one's detention.

17. When reading their rights, the police officers do not ensure that the detainee is aware of the violation or violations that they are suspected of committing, and the content of their rights pursuant to Article 520 of the LECrim.

18. The duration of the detention in Guàrdia Urbana and Local Police facilities extends beyond a time that could be considered the minimum necessary to complete the initial detention procedures.

19. There are Mossos d'Esquadra Police Stations, such as the ABP Santa Coloma de Gramenet, or that of Horta-Guinardò, where there are cells outfitted with toilets inside, without the toilet being sufficiently protected from the view of other detainees or police officers.

20. The ABP Les Corts, as it is the central detainee custody station, is showing clear signs of wear,

attributable to the number of detainees who pass through it on a daily basis. Furthermore, the custody and detention area of this police station has the problems inherent to a facility located in the basement of a building, without a proper ventilation and heating/cooling system, for detainees or the staff working there.

21. The police stations' current food and drink dispensing system is acceptable for cases in which the detainee only has to spend a few hours there. It is insufficient, however, for cases in which the detainee has to spend the night, or more hours than are considered the essential minimum.

22. The blanket and mattress cleaning system in the Mossos d'Esquadra police stations is considered unhygienic.

23. The notification of the bar association regarding the detention of any citizen is not done immediately.

#### **g. Minors' detention area of the City of Justice of Barcelona and L'Hospitalet de Llobregat**

24. Reform and protection minors continue to share the same police facilities, in rooms that are connected, separated by a corridor.

## VI. RECOMMENDATIONS



## 6. Recommendations

### a. For penitentiary centers

1. More cameras and recording systems must be installed in all penitentiary centers and hospital blocks, except in such areas as restrooms, medical offices, individual cells, visiting areas and rooms for private interviews with attorneys or other professionals. This especially applies to the cells meant for temporary isolation and immobilization, as well as the rooms or offices where pat-downs that can involve strip searches are performed.

2. An attorney -of the inmate's choice, appointed by the Penitentiary Legal Advice Service or court-appointed for inmate defense- must be present from the first viewing of any video that could be used as evidence in penitentiary disciplinary proceedings.

3. Any footage that could be used as evidence in a penitentiary disciplinary proceeding must be deposited until the first time it is viewed in the relevant police court.

4. The installation of cameras and video surveillance devices in penitentiary centers must be regulated by a legal provision such as a law or decree, to protect individual rights and guarantee safety and integrity of all persons; those deprived of liberty as well as professionals.

5. The professional identification number of supervising prison officers must be affixed to all components making up their uniform, or an identity card designed and implemented such as those worn by treatment professionals and the management staff that hangs around the neck on a lanyard.

6. The time spent by an inmate in temporary isolation must be reduced as much as can be allowed by the specific situation, and the prison supervision judge must be notified as soon as the adoption of such a measure is decided on.

### b. For hospitalization units

7. The room in the Terrassa Penitentiary Hospital Block currently being used as an office by the prison officers must be recovered for use as a hospital room.

8. Another waiting room must be arranged at the Terrassa Penitentiary Hospital Block to allow, to the degree possible, separation of men, women and young people.

### c. For educational juvenile justice centers

9. An agency of officers with specific training in juvenile justice and the criminal liability of minors must be formed, and given the responsibility of guaranteeing security and achieving well-ordered communal living conditions in the centers.

10. Surveillance cameras or systems that allow the footage to be viewed later or made available to the competent authorities requesting them, with the necessary exceptions, must be installed.

### d. For minor protection centers

11. More intensive educational activity centers, and therapeutic centers for children and young people with mental problems must be created.

12. The profiles of the entering children and young people the centers must be adapted to the most appropriate center depending on their characteristics and needs.

### e. For mental disability residential care centers

13. The schedule for psychiatric medical care must be extended in the child and adult mental disability care unit.

14. The unit must be assigned a child psychiatrist who can sufficiently cover the needs of all admitted children.

**f. For police stations**

15. It is necessary to directly transfer and present persons detained by the Guàrdia Urbana de Barcelona and local police forces to the Les Corts ABP of the Mossos d'Esquadra, except for those detained for traffic violations.

16. The toilets in the Mossos d'Esquadra police stations are not sufficiently protected from the view of others, because they are not sited in the correct place. They can not be used or occupied by detainees.

17. Cleanliness and hygiene conditions must be guaranteed in all police stations, especially those with daily ongoing traffic of detainees.

18. A system must be implemented to distribute some type of hot meal to detainees when they have to spend the night in the police station.

19. The blankets distributed to detainees must be single-use only, and must be wrapped in plastic bags that protect them from dust and bad

odors. Sufficient cleaning of mattresses must also be ensured, and these must be stored in an appropriate place.

20. There must be an accreditation of fulfillment of Articles 520.4 and 767 of the LECrim, which stipulate immediate notification of the Bar Association of a detention, to thus guarantee an attorney's services to the detainee from the first phases of their detention, and throughout the time in which their deprivation of liberty lasts.

21. Video surveillance devices must be installed in detainee transport vehicles.

**g. For the minors' detention area of the City of Justice of Barcelona and L'Hospitalet de Llobregat**

The time which protection minors stay in the detention area of the City of Justice must be the minimum required; only enough to complete the identification and formalization of the necessary police and judicial activities. Likewise, it will be necessary to ensure their total separation from reform minor.



**SÍNDIC**

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