NPMs in Europe

Combining
complaints handling
and
preventive visiting

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OPCAT in Europe

in the countries of the Council of Europe

- 26 States Parties

- 20 NPMs in existence

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20 European NPMs

New bodies designed as NPMs   2

Existing / adapted bodies   18 in total

    - Ombudsman's Office   14

    - Inspection / monitoring bodies   4

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Ombudsman as NPM

- Ombudsman Plus   - 8

  + specific preventive unit

  + NGOs

  + other institution

- Ombudsman alone   - 6

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Prevention	Complaints
Proactive	Reactive
Focus on system	Focus on individual
Reinforcing system safeguards	Resolving an individual case
Looking forward	Looking back
Co-operative	Adjudicative

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Complaints handling

- obligation to receive all complaints
- handling complaints not about ill-treatment
- investigating cases
- assessing questions of legality

Preventive visiting

- focus on ill-treatment in places of detention
- examining empirically how systems function
- broad scope of observation and assessment

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Prevention via complaints

Adjudication of individual complaints

➢ Identifying <u>patterns</u> of complaints

   ➢ Identifying systemic weaknesses

      ➢ Recommending improvements

         ➢ Following up implementation

            ➢ Prevention of ill-treatment

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Using Complaint Patterns for Prevention of Ill-treatment

Patterns of complaints relating to ill-treatment

- problems of law, policy or practice ?
- pockets of complaints – particular institutions ?
- issues to address through legislative reform ?
- questions to discuss with authorities ?
- matters to focus on in visits ?

➢ Inclusion on visits planning and strategy

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Pros and Cons for NPM

- Ease of communications - preventive and complaints staff are the same
- Cross-fertilisation

- Competing for resources
- Making choices

  which role has priority ?

  to accept a complaint or not ?

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NPM staff perspective

Same staff carrying out both functions

- Question of identity ?
- Competing duties ?
- Conflicts of interest ?

Need to

- Switch between different approaches
- Combine skills necessary for each role

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Detainees' perceptions

- expectations ? mixed messages ?

- understanding of alternating roles ?
  Which role are you in today?

- to complain or not to complain ?
  Whose side are you on?

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Perceptions of custodial staff

- expectations
- understanding of alternating roles
- staff subject to an adverse finding

  and obliged to co-operate with the NPM

Possible effects -

  on staff willingness to engage ?
  on NPM readiness to criticise ?

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The developing NPM

An-going process

Initial concepts and resource constraints

➢ building the NPM role

  ➢ gaining recognition of the NPM role

    ➢ring-fencing NPM resources

Distinguishing the NPM

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Consensus / Conflict

The complaints system
can make a valuable contribution
to the system of prevention,

without necessarily combining roles.

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