

For Information

Legislative Council Panel on Security

A case involving the handling of children who are required to stay in a police station

Purpose

This paper provides a brief account of the handling of the children of a “Mr Lau” in a police station and sets out the guidelines adopted by the Police for handling young children who are required to stay in police stations.

Background

2. “Mr Lau” was arrested by the Police for assaulting his wife. When he was brought to the police station for investigation, he insisted on bringing along his three children. The Police offered to release him on bail, but he refused. The duty officer of the police station therefore put “Mr Lau”, accompanied by his children, in the temporary cell. They stayed there for about two hours while waiting for his wife from the hospital. His wife later decided not to pursue the case and “Mr Lau” was then released after police enquiry.

3. “Mr Lau” subsequently raised a series of allegations against the arresting officers and the duty officer of the police station concerned. These included an allegation of “unnecessary use of authority” against the duty officer for detaining his three children in the temporary cell.

4. The complaint was fully investigated by Complaints Against Police Office (CAPO). The allegation of unnecessary use of authority was classified as “unsubstantiated”. The finding was subsequently endorsed by Independent Police Complaints Council (IPCC).

5. After being informed of the result of the complaint investigation, “Mr Lau” requested a review of the finding. The review was conducted and no change to the result was recommended. This was endorsed by the IPCC. “Mr Lau” later requested a second review. Again, the second review did not recommend any change to the result. This was also endorsed by the IPCC.

6. In May 2003, Hon Audrey EU wrote to CAPO twice on behalf of “Mr Lau”. She requested CAPO to explain the policy of handling young children who are required to stay in police stations. The replies were duly made by the Police.

7. Hon Audrey EU later brought the case to the attention of the Chairman of Panel on Security. The Administration is requested to provide a brief account of the case and the Police guidelines on handling young children who are required to stay in police stations.

A Brief Account of the Case

8. At 10:25 p.m. on 5 May 2001, “Mr Lau” reported a case of dispute to the Police. When the Police conducted enquiry at his home, his wife complained that she was assaulted by him. “Mrs Lau”, accompanied by her three children, was then escorted to hospital for medical treatment. “Mr Lau” was arrested.

9. On the way to the police station, “Mr Lau” alleged that his wife had physically abused their children previously. Therefore, he requested custody of the children. In order to safeguard the interest of the children before the incident was clarified, his request was acceded to. The Police and “Mr Lau” collected the children at the hospital before returning to the police station.

10. In the police station, the duty officer offered to release “Mr Lau” on police bail. However, he refused claiming that he had not committed any crime. The duty officer therefore detained him in the temporary cell for further investigation. The duty officer decided not to send the three children to

the Children's Home of Social Welfare Department because "Mrs Lau" was on her way from the hospital to the police station. "Mr Lau" insisted on looking after the children himself. The duty officer therefore put him in the temporary cell, accompanied by the children.

11. "Mrs Lau" later arrived at the police station. The medical report showed that she was injured. At 3:27 a.m. on 6 May 2001, she gave a statement to the Police and decided not to pursue the assault case against her husband. After further enquiry, "Mr Lau" was released at around 4:30 a.m.

12. "Mr Lau" and his three children were put into the temporary cell sometime between 2:11 a.m. and 3:08 a.m. on 6 May 2001. They left the temporary cell before 4:15 a.m. In other words, they had stayed there for about two hours. At that time, there were no other detainees in that temporary cell.

13. According to Police General Orders, persons detained in police custody whom cannot be dealt with by a duty officer immediately shall be detained in a temporary holding area (temporary cell). In this case, the duty officer had indeed offered "Mr Lau" police bail but was refused. "Mr Lau" was therefore detained for further investigation. The duty officer had considered sending the children, aged between four to seven, to the Children's Home. However, he decided not to do so because "Mrs Lau" would soon arrive at the police station to assist in the investigation. It would be in the best interest of the children if they could be released to their parents right after the incident was clarified. Moreover, at that time, "Mr Lau" insisted on taking care of the children himself. The duty officer therefore made a reasonable and justifiable decision to allow the children to stay with their father in the temporary cell where there was no other detainee. CAPO considered that the arrangement made by the duty officer was pragmatic and acceptable. The IPCC endorsed such findings.

Handling of young children in police station

14. The Police Force has adequate guidelines for handling young children who are required to stay in a police station. They are as follows –

- Whenever possible, an arresting officer should arrange for the child of a detained person, or a person who is not under arrest but is assisting in police enquiries, to be handed over to a relative or friend of the person concerned.
- If no one accepts responsibility for the child, he is to accompany the parent to the police station.
- If the parent is to be detained in police custody for a considerable period and no relative or friend is forthcoming to accept responsibility for the child, the duty officer is to inform the Social Welfare Department if the child requires care and attention.
- The duty officer should ensure that the detained person is informed of the name of the institution to which the child has been sent.
- A child shall not under any circumstances be left unattended even on the request of a parent.

Hong Kong Police Force

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