

For information
on 13 June 2015

Legislative Council Panel on Welfare Services

Procedures for Handling Cases Involving Persons with Disabilities or Persons with Special Needs

Introduction

This paper provides information on procedures for handling cases involving persons with disabilities or persons with special needs (including mentally incapacitated persons) (“MIPs”) by law enforcement agencies (“LEAs”) and related matters.

2. In handling cases involving persons with disabilities or persons with special needs (including MIPs), LEAs shall adhere to respective internal guidelines, exercising extra caution and taking measures to meet their specific needs. Frontline officers have to be trained for ensuring that they are equipped with the awareness and sensitivity required in dealing with such persons.

3. In response to Members’ particular concern on the procedures for handling cases involving MIPs by the Hong Kong Police Force (“HKPF”) and other LEAs and the provision of related training, we provide relevant information in the ensuing paragraphs.

Hong Kong Police Force

Procedures for handling cases involving MIPs

Taking of statements

4. Police officers shall follow the internal guidelines of the HKPF when conducting enquiries or taking statements. Any person suspected or known to be an MIP, whether alleged to have committed a crime or not, shall be, as far as practicable, interviewed or have a statement taken from him by police officers in the presence of one of the following appropriate adults:

- (i) a relative, guardian or some other person responsible for his care or custody;
- (ii) someone who has experience in dealing with an MIP but who is not a police officer nor anyone employed by the HKPF, such as a social worker; or
- (iii) in case of failure in arranging either of the above, some other responsible adult not being a police officer or anyone employed by the HKPF.

Police officers shall clearly explain the purpose and procedures of the interview to the appropriate adult or any relevant persons present. If an MIP, suspected or known, elects to give a written statement, the appropriate adult shall be invited to read over and sign any statement taken down by police officers in his presence.

5. In case an officer at the rank of Superintendent of Police or above considers that any delay in an interview of a suspected MIP may pose an immediate risk of harm to persons or serious damage to property, he may authorise the interview in the absence of an appropriate adult. The interview shall cease once the immediate risk has been averted.

6. To alleviate potential stress or harm on vulnerable witnesses (including victims and witnesses who are MIPs) during criminal proceedings, police officers may take a statement by way of a video-recorded interview. Such recording may be admitted in criminal proceedings as evidence in chief. The case officer may seek assistance from clinical psychologists of the Social Welfare Department (“SWD”) when conducting video-recorded interviews with, or assessments of, such persons.

Detention and custody

7. A custody search on an MIP, if necessary, shall be conducted in the presence of an appropriate adult as far as practicable. However, a custody search may have to be conducted in the absence of an appropriate adult if the duty officer of the police station concerned is unable to contact an appropriate adult within the reasonable timeframe as required and/or of the view that the search needs to be conducted urgently for such reasons as risk of harm to the detainee or other persons.

8. In any case when a person in police detention so requests or if a duty officer considers that the detainee is in need of medical attention due to sickness or injury, the duty officer shall send the detainee to the nearest government hospital or clinic and inform the medical doctor (“MO”) of his medical history, medication or symptoms. Regarding medication of detainees, the Police permit only their taking of medicines approved by a government MO according to the prescribed dosage and frequency.

Identification parade

9. Prior to an identification parade, a suspect who is an MIP (“MIP suspect”) shall be accompanied by an appropriate adult for providing support. The officer-in-charge of the identification parade shall inform the appropriate adult that his presence is required to provide support for the MIP suspect and assist communication, and that he is permitted to attend the identification process but not participating in it.

Relevant training provided to police officers

10. In addition to inculcating such values as “respect for the rights of members of the public”, “professionalism” and “dedication to quality services” among new recruits and serving officers through training programmes, the Police College also arranges specific training on how to handle MIPs. Such a topic has been incorporated into regular training courses. Separately, trainees are lectured by clinical psychologists of the Police in the Advanced Criminal Investigation Course on symptoms of various psychological illnesses, such as schizophrenia, manic-depressive insanity and autism etc., so as to enhance their knowledge in this area. In conjunction with the SWD, the HKPF provide training for frontline officers on investigation of cases involving child abuse and MIPs, techniques for conducting video-recorded interviews with such persons and so forth. The Police College has also prepared various learning kits for enhancing officers’ knowledge on relevant topics and their professionalism in the discharge of duties.

Handling of homicide case in Mei Lam Estate by HKPF

11. Following the arrest of an intellectually disabled person regarding the homicide case in Mei Lam Estate, a working group has been set up by the HKPF to review the policy on handling and guidelines for investigating cases involving MIPs, explore ways to improve and streamline

investigation work, and examine whether expert assistance should be sought in future investigation of similar cases. Upon completion of the review, related training for police officers will be enhanced. In the course of the review, the Police will continue to listen to the views of concern groups of the social welfare sector and relevant professionals.

Other Law Enforcement Agencies

12. The Immigration Department and the Customs and Excise Department have formulated internal guidelines for handling MIPs, with a view to assisting frontline staff to identify MIPs as well as addressing their needs and safeguarding their rights during such processes as interviews, searches, statement taking and detention. The Correctional Services Department has also put in place their internal guidelines for handling persons with special needs (including MIPs) and the disabled and its officers are required to receive training on handling such persons and the disabled.

Conclusion

13. LEAs will continue to take measures for persons with special needs (including MIPs) and persons with disabilities to meet their needs, and provide related training to frontline officers for ensuring that they are able to deal with matters involving such persons with empathy, professionalism, understanding and caution.

**Security Bureau
Hong Kong Police Force
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