

**For discussion
on 4 July 2017**

Legislative Council Panel on Security

Detention and Custodial Management of the Hong Kong Police Force

Purpose

This paper aims to introduce the detention and custodial management policy of the Hong Kong Police Force (“the Police”).

Principles For Custody And Detention

2. To fulfill the duty of care owed to detained persons, the Police, in formulating policies, procedures and guidelines for the custody and detention of detained persons, and in designing and managing relevant facilities, strive to ensure the security of detention facilities and safeguard the safety of detained persons and those who might be in contact with them, while balancing the protection of the privacy and rights of detained persons.

3. A person, upon being arrested by the Police, will be brought as soon as possible to the police station of the district where he was arrested to confirm the legality of his arrest and custody. Subsequently, the arrested person will be handed over to an investigation team for further investigation. Upon completion of the initial investigation, the Police will decide whether it is necessary to remand the arrested person in custody. The Police will, in light of the circumstances of individual cases, consider releasing the arrested person on own-recognizance, on bail or unconditionally.

Custody Search

4. Should the Police decide it is necessary to remand an arrested person in custody, they will, in light of the actual circumstances and based on the principles of justifiability and proportionality, conduct a custody search on the arrested person with a view to guaranteeing the safety of the detained person and those who might be in

contact with him, and ensure that the detained person does not possess any weapon with which he might harm himself or others, any implement with which he might effect an escape, evidence which is material to the offence for which he was arrested, or any article with which he could commit a further crime. The Police will decide on the scope of the custody search to be conducted based on the offence(s) suspected to be committed, criminal record(s), the level of violence exhibited when the offence was committed and upon arrest, the suicidal tendency exhibited, previous record(s) of self-harm (if known), demeanour following arrest and during the processing of the case by the Police, other behavioural characteristics, etc.

5. The Police will explain the reasons of the search to the detained person. If the latter has any concerns or objections regarding the search, he may raise them to police officers who will reconsider the decision.

6. Police officers can only conduct a search involving the removal of underwear with sufficient justification and should not conduct such searches on a routine basis. In conducting such searches, due regard should be given to the privacy and dignity of the detained person. In addition, the search conducted and the scope of the search must be accurately recorded with the justifications for the search set out. Supervisory officers will review custody search records to ensure that officers concerned comply with the search procedures.

Management and Patrolling of Detention Facilities

7. The Police will follow the principle of single-cell occupancy as far as there is sufficient vacancy in the detention facilities in order to reduce the probability of detained persons causing harm to each other. Designated police officers at every detention facility will be responsible for the reception, safety, security and welfare of detained persons. The Duty Officer is required to inspect the detention cell at least once every hour and assign a police officer to check the detained person at no more than every 25-minute interval, and make relevant records. Officers are also required to regularly inspect the detention facility concerned and keep detailed records on notebooks to ensure that its security, safety and hygiene meet the requirements concerned. The Divisional Commander (“DC”) in charge of the detention facility also has to ensure that the supervisory officers will regularly inspect the detention facility and take care of the safety and welfare of detained persons. Moreover, the DC has to check all detention facilities in person and report to his supervisor the checking results, matters to be followed up and schedules of works proposed or in

progress, etc.

8. The Police will put the following detained persons under “Special Watch”: those who have a previous record of serious and violent offences or offences involving firearms or explosives; those who are suspected of, or charged with, serious and violent offences or offences involving firearms or explosives; those who are detained on behalf of other Government Departments or the Independent Commission Against Corruption where there is a specific request that such persons be subject to “Special Watch”; those who have previously escaped from custody or those who are thought to be of high escape risk; and those who have an expressed or known suicidal tendency. For detained persons who must be put under “Special Watch”, the Police will make special arrangements to further ensure their safety and that of others in contact with them. In addition to informing his supervisor that a detained person is put under “Special Watch”, the officer-in-charge has to allocate to the detained person a separate cell from others, and restrain him in a handcuff transport belt when he is being moved. Meanwhile, if the detained person has expressed or known suicidal tendency, he will be under continuous watch by police officers during the entire detention period.

Enhancement of detention facilities and protection of the rights of detained persons

9. Police detention facilities are not intended or designed for prolonged detention, and a person will in general not be detained for over 48 hours. At present, for security reasons, closed-circuit televisions (“CCTV”) are installed in the passage and exits/entrances of the detention cells in all police stations equipped with detention facilities, and monitored by police officers in the report rooms. Furthermore, since the last comprehensive review of detention policy conducted between 2008 and 2012, the following security and safety enhancement measures have been implemented in all detention facilities in police stations:

- Removing as far as possible secure spots in the detention cells that facilitate tying of knots to inflict self-harm, including the adoption of recessed sprinklers and protective shafts for exposed pipes;
- Altering all sharp edges in the detention facilities and all wall edges to smooth rounded ones;
- Using weld screws to make it more difficult for parts to fall off;
- Installing panorama mirrors in the detention cells to ensure that there

will not be any blind spots when the police officers inspect the detention facilities;

- Installing intercom systems to facilitate communication between the detained persons and the officers in charge of the detention facilities;
- Applying non-slippery materials on the floors of the detention cells;
- Procuring fire-resistant and tear-proof blankets; and
- Using meal sets made with special plastic which is not easily breakable.

10. Furthermore, to better protect the privacy and rights of detained persons, the Police have also implemented the following improvement measures for all detention facilities in police stations:

- installing hot water shower facilities;
- installing shower cubicle doors to enhance privacy protection;
- raising the height of toilet walls and installing metal plates in detention cells to enhance privacy protection;
- installing electric fans outside detention cells to improve air ventilation;
- upgrading toilet flush system in detention cells to improve environmental hygiene;
- repainting detention cells;
- installing directional signs and providing religious books in detention cells to cater for the religious needs of detained persons; and
- installing notice boards in the corridors outside detention cells for displaying notices concerning the rights of detained persons.

11. To fulfill the duty of care owed to detained persons, the Police will, in addition to the above measures, review their detention facilities regularly so as to enhance their safety and management arrangements, and better protect the privacy and reasonable rights of detained persons. The relevant measures include the installation of air-conditioners and retrofitting of reinforced fibre glass walls at temporary holding areas and detention cells of suitable police stations³ since 2010. The Police will,

³ In light of the conditions of the existing detention facilities and having regard to the impact on frontline operations, the Police have been enhancing detention facilities in phases. Police stations where relevant improvement measures are completed include the Central Police Station, Tsuen Wan Police Station and Wong Tai Sin Police Station. The newly built Yau Ma Tei Police Station has also adopted such design. The Police have commenced site investigations and layout designs for four other police stations and included five other police stations in the next phase of improvement programme.

where practicable, continue to improve the existing detention facilities in police stations and look into their future designs to further ensure the safety of detained persons.

Follow-up to Recommendations of Coroner's Court

12. In 2015 and 2016, the Coroner's Court made four recommendations to the Police. Having studied the recommendations, the Police have implemented three of them, namely, arranging contractors to regularly inspect the imaging system and video-recording function of CCTV, ensuring the availability of designated screens for continuous display of the passage and exits/entrances of detention cells, and improving the image quality of CCTV for monitoring the passage of detention cells.

13. In addition, the Police have been actively following up the recommendation to increase the number of CCTVs in detention facilities or adjust their angles for monitoring the situation in detention cells. To such end, the Police have made reference to the practice adopted by overseas law enforcement authorities, looked into the implications of the recommendation on detained persons' privacy, sought the views of the Department of Justice (DoJ), and studied the implementation details of the recommendation. The Police are of the view that implementation of the recommendation can help prevent detained persons from harming themselves at an early stage, and provide full footage of the detention for the purpose of handling relevant complaints, disciplinary investigations and coroner inquests. The Police will continue to discuss the implementation details with DoJ and consult the relevant stakeholders when appropriate.

Ongoing Review

14. The Police constantly keep reviewing the custodial and detention management policy and the safety standard of detention facilities. A Custodial Management Committee chaired by the Assistant Commissioner of Police (Support) was established in early June 2017 to conduct a comprehensive review. The Committee is tasked to comprehensively study such relevant areas as the policies and procedures concerned, facilities and environment, information technology support, as well as training and frontline communication.

Conclusion

15. The Police will continue to fulfill the duty of care owed to detained persons in a professional manner, and strive to ensure the safety of detained persons and protect their privacy and rights.

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