

**For discussion
on 4 May 2018**

**Legislative Council Panel on Security
Police's Handling of Cases Involving Mentally Incapacitated Persons**

This paper sets out the Hong Kong Police Force's ("HKPF") procedures and initiatives for handling cases involving mentally incapacitated persons ("MIPs").

Procedures for handling cases involving MIPs

2. When handling cases involving MIPs, police officers are to adhere to the HKPF's internal guidelines, exercise extra care and prudence and take measures to meet their special needs. The HKPF will ensure that frontline officers undergo relevant training and have the required awareness and sensitivity for handling MIPs. The relevant procedures and initiatives are outlined as follows.

Taking of statements

3. Police officers are obliged to adhere to the HKPF's internal guidelines when conducting enquiries and taking statements. When interviewing or taking a statement from anyone suspected or known to be an MIP, irrespective of whether he is suspected to have committed a crime, the presence of at least one appropriate adult ("AA") should be arranged as far as possible. AAs include:

- (i) relatives, guardians or some other persons responsible for his care or custody;
- (ii) those who are experienced in handling persons with special needs (including MIPs), such as social workers (but not including police officers or anyone employed by the HKPF); or

(iii) in case the presence of either of the above cannot be arranged, other responsible adults (such as friends or neighbours of the person involved in the case) who are not police officers or anyone employed by the HKPF.

4. Police officers will perspicuously explain the purpose and procedures of the interview to the AA present and the MIP involved in the case. When the latter has finished giving a statement, police officers will invite the AA who was present during statement-taking to read the statement, sign on it and confirm the accuracy of its contents.

5. In case an officer at the rank of Superintendent of Police or above considers that any delay in interviewing the suspected MIP may pose an immediate risk of harm to persons or serious damage to properties, he may authorise an interview with the MIP in the absence of an AA. However, once the immediate risk above has been averted, any interview in the absence of an AA should be discontinued.

6. To alleviate potential stress and harm on vulnerable witnesses (including victims or witnesses who are mentally incapacitated) during criminal proceedings, the Police will take statements by way of video-recorded interviews and seek assistance from clinical psychologists of the HKPF or the Social Welfare Department (“SWD”) where necessary. Such video recordings may be used as evidence-in-chief in criminal proceedings.

Detention and custody

7. If it is considered necessary to conduct a custody search on an MIP, the Police will, as far as practicable, arrange the presence of an AA. However, if the duty officer of the police station concerned is unable to contact an AA within a reasonable timeframe as required and/or is of the view that a custody search needs to be conducted urgently for such reasons as risk of harm to the MIP or other relevant persons, the custody search may have to be conducted in the absence of an AA.

8. An MIP who is under police detention may need to take medicines. If the MIP or his AA makes a request or if a duty officer considers that the MIP is in need of medical attention due to illness or injury, the duty officer shall send him to the nearest government hospital or clinic and inform the doctor of his medical history, medication or symptoms. As for the handling of detained persons taking medicines, the Police are obliged to only allow them to take medicines approved by a government doctor according to the prescribed dosage and frequency.

Identification parade

9. During an identification parade, a suspect who is mentally incapacitated shall be accompanied by an AA. The officer-in-charge of the identification parade should inform the AA that the Police require his presence to provide support for the suspect and assist with communication, and that when the actual identification is taking place, he may only attend the parade without participation in its process.

Enhancement initiatives implemented since the end of 2016

10. To optimise police services for MIPs and enhance police officers' awareness and professional sensitivity in handling MIPs, the HKPF established the Working Group to Review the Care of Mentally Incapacitated Persons ("WG") in mid-2015. Chaired by an Assistant Commissioner of Police, the WG has reviewed and formulated internal working procedures according to the needs of MIPs. The WG adopted a multi-agency approach in exploring a series of various relevant issues, including overseas experience, expert advice, inter-departmental cooperation, review of existing policies and guidelines as well as training. In the course of the review, the WG cooperated with various stakeholders, such as SWD, social welfare organisations and self-help groups (including parents' groups), adopted advice from medical experts in related fields, and drew reference from relevant experience of overseas law enforcement agencies (LEAs).

11. Subsequently, based on the recommendations of the WG, the HKPF introduced at the end of 2016 a package of initiatives to enhance protection for MIPs, including the *Care Card Scheme*, *Behavioural Indicators Guide* and *Notice to Appropriate Adult*. The Security Bureau and the HKPF provided a paper (LC Paper No. CB(2)225/16-17(01)) in November 2016 to inform the Panel on Welfare Services of the Legislative Council of the improvement initiatives for MIPs as recommended by the WG. A dedicated webpage (www.police.gov.hk/mip) has been launched at the police public page to provide the public with detailed information. The key initiatives are set out below.

Care Card Scheme

12. *Care Card Scheme* is a scheme for voluntary participation by persons with needs (including MIPs). Its concept is to have such persons (or their relatives) write down their medical and communication needs and emergency contacts on Care Cards, from which LEA officers may identify their special needs at the earliest opportunity and expeditiously inform their family members to render assistance in case of emergency. Persons with needs may obtain Care Cards at report rooms of police stations, SWD's medical social service units at various public hospitals, integrated family services centres and relevant social welfare organisations, parents' groups, special schools, sheltered workshops and residential care homes. A sample of the Care Card is at **Annex A**.

Behavioural Indicators Guide

13. To help frontline officers better understand MIPs' behavioural patterns so as to identify those persons and understand their special communication needs, the WG's expert members (including psychiatric consultants and police clinical psychologists) have collated the common behavioural characteristics of persons with psychotic symptoms and the communication skills required, and devised a *Behavioural Indicators Guide* ("the Guide") which helps identifying MIPs for officers' reference.

14. The Guide sets out the common characteristics of MIPs and categorizes the characteristics into three areas, namely, personal circumstances, behavioural indicators and conversational indicators. It also includes a broad range of guidance on effective communication with MIPs. A sample of the Guide is at **Annex B**.

Notice to Appropriate Adults

15. AAs afford an important role in the course of Police investigations involving MIPs, such as providing emotional support for those persons and facilitating communication, helping them to understand their rights and acting as an observer during a police interview. To enable AAs to provide more proper support to MIPs and further provide safeguards to such persons, a *Notice to Appropriate Adults* (“the Notice”) will be given to AAs to ensure that they fully understand the responsibilities of being an AA and better fulfill their role during such investigation procedures as statement-taking and identification parade. A sample of the Notice is at **Annex C**.

Other Enhanced Measures

16. Apart from the initiatives mentioned above, the HKPF have also implemented other enhanced measures as recommended by the WG, the details of which are set out in paragraphs 17-18 below.

Photographing Injured Persons

17. For more proper protection of personal privacy, the consent of an AA shall be obtained for photographing the injuries of an MIP, and photographs of the sensitive body parts of an MIP should only be taken in exceptional circumstances, for example, where the photographing is vital for the purpose of evidence-collection to record the extent and condition of the injury sustained in a serious offence, and no other evidence such as a medical or forensic report can serve the selfsame purpose.

Video Recording of Interviews with Suspects

18. To provide further safeguards for such persons during the investigation process, video recorded interviews shall be conducted in all cases involving suspects with special needs, such as persons who are or suspected to be intellectually disabled.

Training for to police officers

19. The HKPF have delivered comprehensive training to all regular, auxiliary and civilian members of the HKPF for the initiatives mentioned above. 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 various training programmes, the Police College also arranges specific training on how to handle MIPs. Apart from incorporating relevant topics into regular training courses, trainees are also lectured by clinical psychologists of the HKPF in the Advanced Criminal Investigation Course on symptoms of various psychological illnesses (such as schizophrenia, manic-depressive insanity and autism) so as to enhance their knowledge in this area.

20. Besides, in conjunction with SWD, the HKPF provide training for frontline officers on investigation of MIP abuse cases, techniques for conducting video-recorded interviews with such persons and so forth. The Police College has also released a training day package on “Handling Mentally Incapacitated Persons” for enhancing officers’ knowledge on relevant topics and their professionalism in the discharge of duties.

Enhanced Communication with MIPs and Concern Groups

21. The HKPF attach great importance to multi-agency collaboration and promote two-way interactive communication, mutual understanding and respect through engagement with various stakeholders to strive to protect the rights of MIPs and provide them with proper assistance and care. The HKPF promote engagement with various stakeholders through diversified platforms such as thematic sharings with NGOs and

self-help groups of the concerned parents, crime prevention seminars, visits to police stations and participation in Police events. Members of the relevant parents' groups also attend training days of various police districts as volunteers to share with frontline police officers their skills and experience in communicating with MIPs.

22. Besides, the HKPF will exchange views with organisations with concern on MIPs. For example, before publishing the guideline entitled "*Autism: A Guide for Law Enforcement Officers Communicating with Persons with Autism Spectrum Disorders*" in 2016, the Equal Opportunities Commission ("EOC") made reference to views submitted by the HKPF and other law enforcement departments. The views tally with the EOC's final guiding approach, both of which are useful in enhancing frontline officers' protection to people with special needs. The HKPF will continue to adopt the current multi-agency approach to maintain communication with the relevant departments and organisations.

Enhanced Cooperation with SWD

23. SWD launched a two-year "Pilot Scheme on Volunteer AAs for MIPs" ("Pilot Scheme") in February 2017, whereby volunteer AAs will accompany MIPs who do not have the company of their relative, guardian or carer in the course of crime investigation procedure so that such MIPs can be duly protected. SWD will arrange some of its social workers responsible for following up such cases to serve as volunteer AAs. Also, 28 persons experienced in dealing with MIPs have been recruited as volunteer AAs through parents' groups and relevant training have been provided for them.

24. Since the implementation of the Pilot Scheme, most of the cases referred to SWD for volunteer AAs' service involve persons with different degrees of mental disorder. Hence, SWD has invited social workers of the Integrated Community Centres for Mental Wellness of five NGOs to help implementing the Pilot Scheme and serve as volunteer AAs. The HKPF will continue to work closely with SWD and review the progress and effectiveness of the Pilot Scheme as well as enhance the training for volunteer AAs and the arrangement for the Scheme.

Review of effectiveness

25. The HKPF are conducting an internal review of the abovementioned initiatives, which include setting up focus groups formed by frontline police officers from various districts to discuss the implementation of the initiatives and assemble their views. Meanwhile, the HKPF have held meetings with SWD representatives to exchange views on the effectiveness of the relevant initiatives and will meet the related parents' groups in late May to further collect their views, in a bid to strengthen interactions with the community and stakeholders in the course of implementing relevant policy, so as to achieve continued enhancement of police service for the community concerned.

Way Forward

26. The HKPF will continue to implement appropriate initiatives to accommodate MIPs' needs and continue to enhance the training for frontline officers to ensure that officers are able to handle cases involving such persons with empathy, professionalism, understanding and caution. The HKPF will continue to monitor and review from time to time the effectiveness of the abovementioned initiatives. The HKPF will also continue to promote stakeholders' engagement and adopt a multi-agency approach to ensure that police officers adhere to the Police's value of professionalism, fairness and compassion when providing appropriate care to MIPs.

Security Bureau
Hong Kong Police Force
May 2018

Care Card

Scheme

Service Target and Objective

The Care Card Scheme aims at allowing law-enforcement officers to identify mentally incapacitated persons (including persons with intellectual disabilities and autism) as early as possible, and be aware of their medical and communication needs and ways to contact their relatives.

守護咭

計劃

服務對象及目的

「守護咭」計劃旨在使執法人員能及早識別精神上無行為能力的人士，包括智障及自閉症患者，並知悉其醫療和溝通上的需要，以及其親屬的聯絡方法。

請填妥背頁資料，並撕出放在身上。
Please fill in the form at the back, tear it off and carry it along with you.

計劃概念

「守護咭」的概念是讓有需要人士自願填寫其醫療需要、溝通需要、緊急聯絡人以及其聯絡方法，並可隨身攜帶該咭。當有關人士在沒有親友陪同下遇上緊急情況，如迷路、意外受傷、為刑事案件的受害者、或被執法人員調查時，執法人員可透過「守護咭」及早知悉持咭人的醫療及溝通需要，並通知其親友提供協助。

TotalCaring Award
全面關懷大獎 2006/07
香港警察 服務為本 精益求精
The Hong Kong Police. We Serve with Pride and Care.

10 years +
開心與關懷
caringorganisation
Awarded by The Hong Kong Society of Social Services
The Hong Kong Society of Social Services

The Purpose

The Care Card is to let those in need have their medical and communication needs and emergency contacts available. They can carry the card in case of an emergency e.g. getting lost, being injured accidentally or being victimized in a crime. Furthermore, if they are subject to an enquiry by law-enforcement officers, but are not accompanied by any friends or relatives, the law-enforcement officers can become aware of their medical and communication needs, and inform their friends and / or relatives to render assistance.

我的名字是 _____ 男 女
My name is : _____ Male Female

我的緊急聯絡人是 _____
My emergency contact: _____

他/她的電話號碼是 _____
His/her contact no.: _____

我有這些殘疾 _____
My illness/disability: _____

我的藥物及醫療需要 _____
My medication and medical needs are: _____

我的行為特徵和溝通需要 _____
My behavioural characteristics and communication needs are: _____

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Illustrated by Police Painting and Calligraphy Club

守護咭
care card

BEHAVIOURAL INDICATORS GUIDE

A Quick Tool to Identify Mentally Incapacitated Persons

According to the Mental Health Ordinance Cap. 136, a mentally incapacitated person (MIP) refers to a person who is (a) suffering from mental disorder; or (b) being mentally handicapped. Some commonly encountered MIPs include those with autism, schizophrenia, dementia or mild mental retardation. They are a vulnerable group of people who need our care, respect and patience when dealing with them. Below are some of the simple indicators that can help you identify a MIP:

Search for Behavioural Indicators

Personal Circumstances:

- Place of Education (e.g. special school)
- Employment (e.g. sheltered workshop)
- Nature of residence (e.g. hostel for mentally incapacitated person)
- Some intellectually disabled or mentally ill persons may carry
 - ★ Registration cards for persons with disabilities or
 - ★ Medical appointment cards or hospital bracelets
- Medication carried by the person

Behavioural:

- Sign of hallucination and delusion (e.g. superman delusion)
- Socially inappropriate behaviours (e.g. giggling, yelling, being aggressive, inappropriate laughter, odd hand gestures)
- Disorientation (e.g. confused about time, place and person's identity)
- Rapid change of mood (e.g. being angry at one moment and becoming excited at another)
- Poor eye contact (e.g. avoid eye contact or look blank)
- Age-inappropriate behaviour (e.g. appear too childish, over affectionate, withdrawn)
- Poor personal hygiene

Conversational:

- Non-responsive
- Disorganized conversation (e.g. only brief answers, slurring, meaningless content, jumping from topic to topic)
- Incoherent conversation (e.g. provide answer irrelevant to the question asked)
- Repeat the last few words of what someone has just said (parrot talk / echolalia)
- Socially inappropriate tone (e.g. speak in odd tones, make funny sound)

****Please note that each MIP may present with very different characteristics and thus identification is sometimes difficult. You should handle with care if any of the above indicators are observed. In case of any doubt as to whether the subject is a MIP, officers should treat him/her as a MIP and initiate MIP handling procedures, or contact the Regional Child Abuse Investigation Unit (CAIU) for assistance.**

Tips on Effective Communication with a MIP

Things to Consider

- Conduct the interview as soon as possible
- Respect the subject as an adult
- Reduce the stress of the subject
- Allow the subject to finish his sentence or tasks in hand before communication
- Get the subject's attention before talking
- Use concise sentence, one matter per question
- Use simple languages
- Speak slowly
- Use body language, photos or other aids to facilitate communication
- Appropriately use open ended questions
- Clarify their meaning, use their language
- Allow slow or no response towards instructions or questions
- Address their physical needs, e.g. eating or drinking / using the toilet

Things to Avoid

- Treat the subject as a 'child'
- Conduct the interview in an environment with distractions
- Speak in a loud voice
- Use long and complicated questions
- Suggest to the subject what you guess in respect of a particular detail of an incident and press the subject to say "yes" or "no" to your suggestion
- Push for an answer
- Infer a meaning from the subject's response



NOTICE TO 'APPROPRIATE ADULT' FOR PERSON ASSISTING/UNDER POLICE ENQUIRY/IN POLICE CUSTODY WHO IS MENTALLY INCAPACITATED OR AGED UNDER 16

Please read the following information and keep it for reference.

1. **You are present as an appropriate adult to provide support to a person involved in police enquiries who is:**
 - aged under 16; or
 - mentally incapacitated.

2. **As an appropriate adult, if applicable, you should read the 'Notice to Persons in Police Custody or Involved in Police Enquiries' (Pol. 153) to know and understand their rights. You will be asked to countersign to acknowledge the service of a copy of the Notice to the person under police enquiry.**

3. **You will be asked to accompany the person assisting/under police enquiry during these occasions:**
 - police interview, including statement taking;
 - an identification parade;
 - the provision of an intimate body sample for forensic analysis;
 - the body search by police prior to detention in a police detention facility (only if the appropriate adult is of the same gender); and
 - the formal charging by police.

4. **Your role as an appropriate adult is to:**
 - provide emotional support and assistance to the person assisting/under police enquiry. You may inform the police the welfare matters related to the person;
 - help the person understand his / her rights;
 - act as a witness to observe whether any police interview / investigative procedure is being conducted fairly;
 - inform police of his / her medication and medical needs, if any; and
 - facilitate communication between police and the person assisting/under police enquiry, including inform police of his / her communication needs, if any.

5. **During police investigation, you will be asked to sign the written interview record. Before signing the written interview record, you should read the statement and satisfy yourself that the statement accurately records the questions asked and answers given. You are not required to confirm the authenticity of the content of the statement. After the interview, the Police will provide a copy of the statement to the interviewee.**

6. **You should not:**
 - provide answers on behalf of the person assisting/under police enquiry; or
 - interfere with police interview or enquiry other than in the performance of your role as an appropriate adult.

Note:

- Original of this Notice is to be retained by the OC Case as case property.

Formation/Ref. No. : _____ Issuing Officer : _____ Interpreter (if any) : _____ Language / Dialect : _____ Date & Time of Issue : _____ Name of Person Assisting/under Police Enquiry/ in Police Custody : _____ Name of Appropriate Adult : _____ Identification Document No. of Appropriate Adult / Staff No. of Social Worker : _____ Remark (if any) : _____	<p>*I have read / Police has read over to me the above paragraphs and acknowledge receipt of a copy of this Notice at (hours) on (Date).</p> <p style="text-align: center;"> _____ (Appropriate Adult) (Interpreter, if any) (Issuing Officer) </p> <p>* Delete as appropriate</p>
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