**25 July 2016**

 **Society for Community Organization**

**Meeting with Members of Independent Police Complaints Council (IPCC)**

**to discuss the detention conditions at police stations**

**Press release**

**Introduction**

An investigation was conducted into the conditions of the police detention facilities in Hong Kong between March and June 2015. The investigation was triggered by large amount of complaints received by Society for the Community Organization (SoCO) from persons held in police custody. All complainants had undergone in-depth interviews concerning current conditions at the police detention facilities.

There are 67 police report rooms all over Hong Kong.[[1]](#footnote-1) Of these 33 have designated cell facilities.[[2]](#footnote-2) In 2014, 33,679 people were arrested by uniformed police.[[3]](#footnote-3)

**1. Did the detention upgrade programme benefit detainees?**

A Detention Facility Upgrade programme took place between January 2010 and December 2011. Renovations were focused on improving the following areas: privacy of detained persons; physical features of detention cells; personal hygiene of detained persons; and health and welfare of detained persons. A total of 16 improvement measures were promised to be implemented by the Hong Kong government, and included: provision of mattresses integrated with pillow, installation of hot water shower and privacy door[[4]](#footnote-4);

However, despite the upgrade, it seems there has been no change in the conditions faced by detainees since SoCO released a survey in 2009.

**2. Current conditions at the police cells**

SoCO’s 2015 project focuses on the current conditions of the police detention facilities after the 2010-2011 upgrade programme. The results from our research shows that there are no improvements since 2009.

Unsuitable Physical Conditions

Detained persons were generally required to sleep on the concrete bench. No pillows or mattresses were provided, only one blanket per person and more blankets if requested. This has led to body pain when sleeping and blankets have been reported to be dirty. Every complainant informed us that blankets provided were not enough to keep them warm (during winter period) or provide comfortable sleep.

Detainees reported of unhygienic conditions and that the cells were dirty and smelly.

There was no drinking water available inside the cell and detained persons were forced to ask police officers for water every time they felt thirsty. Some complained that it took over an hour to receive water, and then only a single small cup was brought. Some police officers would pretend not to hear or just reply: ‘I can’t hear you!’ Many detainees, even though they were thirsty, did not ask for water at all due to the police attitudes.

Difficulties to Maintain Personal Hygiene

The majority reported that they were not allowed to brush their teeth or shower during the entire time in police station (some for as long as 6 days). All complainants were not allowed to have shower and received responses from police officers such as: ‘This is not your home!’ or ‘You are a criminal.’ One detained woman shares:

As there is no washbasin in the cells, detainees were not able to wash their hands after using the toilet and would also have to eat without the chance to wash their hands. Detainees reported that they were not provided with enough of toilet paper.

Medical attention

It is worth noting, that 7 out of 13 detainees requested medical attention because of the police beating. One 73 years old detainee was beaten during arrest, punched in the stomach and suffered a heart attack as a result.

Amongst the complainants systematic refusal of requests to see a doctor is observed.

Out of all complainants, 13 requested to see a doctor and only 2 were allowed.

Another 68-year-old detained woman asked for her prescribed medicine as she is suffering from hyper-tension, but was denied. When she was finally taken to the hospital the next day, her blood pressure was 198/115. She recalls: ‘I was in shock at the whole experience. I was admitted to hospital in order to contain lower blood pressure due to being denied of my medicine.’

Right to Information

Many were not informed of their rights upon being arrested. A few who were given notice to persons in custody, either could not understand what was written on it due to the language barrier or were given the notice after the police interrogation. Almost all foreign complainants were forced to sign documents in a language they didn’t understand and detriment themselves in the future court proceedings. One detainee recalls:

‘During arrest police officers lied to me. Made me sign documents, but did not explain to me. And now I know about the right to make a phone call. But they didn’t let me call my family or friends.’

**3. Lack of transparency**

Visit to police cells denied

A request to visit police station detention facilities, following renovations, was sent to the Hong Kong Police Force on 27 March 2015. The request has been denied due to operational reasons and protection of privacy of detainees. A request to review decision was submitted to the Commissioner of Police on 23 April 2015, but was unsuccessful and the visit was denied.

Inadequate information supplied by the police

On 9 April 2015, Hong Kong Police Force proposed that instead written replies to any enquires relating to the detention facilities will be provided to SoCO. Accordingly, on 28 April 2015, SoCO wrote to the Commissioner of Police with 27 enquiries relating to specific procedure in relation to vulnerable detained persons inside police cells, physical conditions of the police cells, and access to medical care.

With great disappointment, SoCO did not receive a satisfactory reply to any of the enquiries. Only a brief **4-sentence summary of current Hong Kong laws and procedures** was received on 16 June 2015. SoCO complained to the Commissioner of Police of the lack of a response.

A letter was then received on 10th September 2015, where **19 out of 27 questions remain unanswered**. The lack of transparency is disappointing.

An example of the questions, that the police has not answered are:

*“Please indicate what measures have been put in place to ensure that detainees have access to washing basin facilities and drinking water inside the cells.”*

*“In 2014-2015, how many detained persons requested medical treatment? How many of them received medical treatment?”*

*“Please clarify whether request for medical treatment is recorded by police officers.”*

The conclusion would be that either the Police Force does not record this type of information, which highlights a lack of monitoring of custody cells, or the police may have withheld the information, pointing to a lack of transparency of information for the public.

**4. Are HK police cells adequately regulated and monitored?**

**Laws in HK**

In Hong Kong the main documents that regulate the conditions in police station cells areThe Force Procedures Manual (FPM) and the Police General Orders (PGO). These concern mostly the duties of the custody officers, such as the duty to provide medical treatment[[5]](#footnote-5), and the duty to ensure the welfare of each prisoner, so that he is given reasonable opportunity to wash, eat and relieve himself[[6]](#footnote-6). It is important to note, that unlike PGO, FPM are not available to the general public.

 **Stricter Laws and Precise Guidelines**

UK guidelines[[7]](#footnote-7) contain much more detailed protection of police detainee rights. This includes:

### A. Maintain personal hygiene

Access to replacement clothing[[8]](#footnote-8), shower facilities[[9]](#footnote-9) and hand-washes[[10]](#footnote-10).

B. Physical conditions

**Temperature**: There are precise guidelines regarding the internal temperature to be maintained 5 degree celcius below external temperature[[11]](#footnote-11), and cells must be adequately heated, cleaned and ventilated[[12]](#footnote-12).

**Bedding:** Blankets, mattresses, pillow and other bedding shall be of reasonable standard and in a clean and sanitary condition[[13]](#footnote-13)

**Day light:** All cells must have natural daylight[[14]](#footnote-14)

C. Health

**Clinical attention:** Even it if the detainee does not make any request for clinical attention the custody officer must make sure a detainee receives appropriate clinical attention as soon as reasonable practicable[[15]](#footnote-15).

**Drinking water:** Hand wash units can be fitted with a drinking water supply[[16]](#footnote-16)

D. Information about rights

In general rights of detainees can be protected when they know themselves what their rights are. Notices of entitlements, including visits, reasonable standards of physical comfort, adequate food and drink, access to toilet and washing facilities, clothing, medical attention and exercise where practicable should be available in translated versions[[17]](#footnote-17).

**5. Monitoring of Police Detention Facilities**

In Hong Kong the Justices of Peace, which do have access to prisons and detention centres, do not have any investigative powers when it comes to police stations[[18]](#footnote-18). Nor does the Ombudsman have authority to investigate the police[[19]](#footnote-19).

In addition Hong Kong is not party to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Being a party enables an international body[[20]](#footnote-20) to conduct visits, provide advice and recommendations. It also offers training and technical assistance to governments. Lastly it also requires the government to scrutinize all places of detention.

Thus in UK, which is a party to the OPCAT, there’s a National Preventive Mechanism (NPM) which is made up of 20 statutory bodies that independently monitor places of detention. The visits are also preventive in nature is the visits are systematic and ongoing.

Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Inspectorate of Prisons (HMIP) have established a programme of inspections of custody conditions in all police forces, at an average of 12 inspections per year. [[21]](#footnote-21) Each year will be a mix of announced and unannounced inspections – with individual reports for each inspection and periodic thematic reports (those covering a particular subject or theme across more than one force) on emerging trends or findings of particular importance. The inspections look not only at the implementation of statutory requirements, but also at the conditions of detention and the treatment of detainees.[[22]](#footnote-22)

In UK the Independent Custody Visiting Association (ICVA) is composed of unpaid members of the public who are appointed as lay visitors to police stations in their communities.[[23]](#footnote-23)

**6. Summary of recommendations**

* Review the condition of all cell complexes
* Upgrade cells where necessary. Make reports for all improvement measures available to general public.
* Establish an independent monitoring body to increase accountability of the Police. The monitoring body should have access to all parts of the police stations including cells, detention rooms, charging areas, washing facilities, kitchens and medical rooms. Also they should have access to detainees and be able to interview them.
* Delegate the power of independent monitoring of police station cells to the Independent Police Complaints Council, the Ombudsman and Justices of Peace.
* Sign the OPCAT, a treaty that is based on preventing torture through the monitoring and transparency of places of detention.
* All police officers dealing with the detention and custody of people should receive regular training on their role as protectors of human rights. NGOs should be allowed to actively participate in such training sessions.
* Provide regular statistics on police cell conditions.
* Ensure availability of doctors or nurses on call at each police station.
* Provide legal representation in police stations.
* Install CCTV surveillance systems that record everything taking place in the reception area, cells, corridors and other locations, in all police stations.

**7. Cases**

**1. Sunny and Angel**

Sunny, who was working with the Employees Retraining Board and Angel, who is a native English teacher and currently taking a degree in psychology, were having a family dinner in December 2013 in Hung Hom Ferry Pier. They later chatted with 3 people, who they later found out were police officers from Scotland and also a CID officer from Hong Kong, who was off duty. At some point one of the Scottish officers lost his phone and they put the blame on Sunny and Angel. Police arrived but found no phone on their persons or in their belongings. In fact the Scottish officer soon found his phone, and found that he had just misplaced it. However, the police said that they suspected Angel for having taken it, and they said they wanted to bring her to the police station. Sunny, knowing that she didn’t speak Cantonese, said that he wanted to come along.

When they arrived at Hung Hom Police Station they were locked up in police cells and searched. They were not informed whehter they were under arrest and no explanation was given about what was going on.

Sunny asked to call a lawyer, as he had a lawyer’s number on his mobile, which had been removed from him. However, the police said he was not allowed to call any lawyer, nor his family. Angel was not allowed to call her mother either, although it was in the middle of the night.

When Sunny wanted to use the washroom, he was taken to some other cells, where three officers were standing just next to him. He expressed concern about his privacy, and that he felt it difficult to relieve himself in front of 3 officers, but they said that they had to stand there. Thus he didn’t use the toilet until they later, after searching him, let him use it out of sight. Angel, hearing about the toilet without walls or doors, didn’t use the toilet, although she wanted to.

When they asked for water or food, they were denied it. Angel, who sometimes suffer from panic attacks when locked in small rooms, needed water to calm herself down, but it was denied. She was unable to tell the officers that she suffers from panic attacks, as the officers didn’t speak English well, nor did they ever offer her an interpreter who could do English/ Cantonese translation or Hindi/Cantonese translation.

Sunny offered to pay for the food himself, but they were denied it. They just looked on the police officers ordering their own food and eating it.

As it was December it was cold, but they were not offered any jackets, blankets or mattresses. They just slept on the floor.

Sunny and Angel plan to complain to the Complaints Against Police Office and also explore legal redress.

**2. Case A**

**A** is a refugee in Hong Kong, trying to escape mistreatment in his own country. When **A** was arrested last year, he was faced with cruelty again - this time in Hong Kong.

**A** spent 4 days at the police station and was subjected to the police brutality and abuse. He has been pushed, verbally attacked, intimidated and severely beaten by police officers during the arrest, interrogations and at the police station. **A** had attained visible injuries such as broken leg, twisted thumbs, bruises and now permanent scar on his forehead. During 4 days at the police station, **A** was not given any medical attention or simple medications. Despite asking to see a doctor numerous times, **A** was not taken to the hospital, but instead was told not to tell anyone about what happened. It was not until he was transferred to Correctional Centre, he was first arranged to go to the hospital, where he spent 3 days recovering from the cruelty he has received at the police station.

From **A**’s recounts of his time at the police station, terrible conditions of such facilities are also evident. During 4 days, **A** was not provided with any of the items (which HK Government insists are given to all arrested persons who are detained in police stations), such as clean towel, liquid soap, shaving kit, face mask, box tissue. **A** was not even provided with enough toilet paper when he needed to use the toilet. He was not able to brush his teeth or have shower during the entire time. When he asked police officer why was he not allowed to have shower, he received reply: “This is not your home!”

To sleep, **A** was not given matrass or pillow, but only a dirty blanket, which he had to use to sleep on a concrete slab. It was not enough to keep him warm or provide a comfortable sleep. The cell was described by A as dirty, with no natural light, windows, fan or any fresh air.

**A** is a Muslim. The food provided at the police station did not satisfy his religious dietary requirements. Furthermore, when he asked for Koran, his request was refused. There was no access to drinking water inside the cell and every time A was thirsty, he had to ask a police officer for some water, which took a very long time to receive and only small amounts of water were provided.

In search for fairness, **A** made complaints to the Ombudsman and CAPO. It has been almost a year since the frightening experience **A** had received at the police station, and it seems that justice is far from being served. Ombudsman had replied to **A** that it is outside of their powers to pursue such claims. CAPO had encouraged **A** to pursue his claim after he is discharged from prison, which in his case could take another year.

**3. 阿花(化名)個案簡介**

**阿花為香港居民，年約五十多歲，阿花多年來情緒一直不穩，被醫生診斷患有狂燥抑鬱症，需定期接受精神科治療。2015年9月21日晚上11時，阿花因涉嫌在公物上寫字，被旺角警署人員當場拘捕並帶返警署。**

**阿花在警署內共被拘留長達30多個小時。阿花被拘捕後，警方並未有向她錄取口供，警方於2015年9月22日上午聯繫社署社工及志願機構社工，查詢阿花是否合適獨自錄取口供，直至9月22日晚上近11時(即拘留近23小時後)，始以視像及筆錄方式向阿花錄取口供，最後於9月23日凌晨時份保釋候查，並需於10月22日再次返回警署報到。**

**在旺角警署拘留期間，阿花遇到以下問題：**

1. **不獲適時安排如廁: 如常人一般，阿花每3至4小時 需要如廁，在被拘留的30多小時期間，阿花共需如廁近5至6次。由於首間拘留室缺乏廁所，阿花需通知警員出外如廁；然而，當值警員只安排阿花如廁2至3次，其餘數次均不得要領。值日警員對阿花的要求置之不理，或者著令她等等；奈何人有三急，阿花只好在拘留室地上蹲下小便合共4次，尿液亦從拘留室流到拘留室鐵欄外的走廊。阿花表示小便期間走男警和女警出入，由於沒有遮擋，她只好趁沒有人看到時才急急小解。當然，如廁後亦沒有清水洗手。**
2. **有限度飲水: 阿花憶述被拘留近2日期間，前後只獲准飲用3次清水，當值警員只准她早上及中午喝水，晚上不准喝水。**
3. **沒有梳洗物品: 阿花被拘留期間不獲供應牙刷、牙膏清潔牙齒，亦沒有毛巾梳洗。**
4. **被鋪不衛生: 阿花在拘留室睡覺時不獲發枕頭，提供的被鋪均附有痰印，要求更換不果，直至翌日才有人更換。**
5. **拘留室悶熱翳焗: 拘留室內空氣不流通、氣溫高且非常焗促，沒有風扇或開啟的窗戶，拘留室外的走廊雖有安裝風扇，但亦不能吹入拘留室內。**
6. **有廁所的拘留室卻無水沖廁: 阿花被拘留一晚後，曾被轉至有裝設廁所的拘留室，然而，如廁後並不能沖水(據了解是壞了，只能由外面的人沖水)，拘留室亦沒有洗手設施。**
7. **警員態度惡劣: 阿花表示在拘留期間，曾有警員多番向她粗言穢語斥罵；在警方完方錄取口供後，阿花被再次安排在拘留室等候，等後長達一個多小時，期間不准如廁，最後才准保釋。阿花懷疑整個拘留及錄取口供程序有人固意拖延進度。**
1. Hong Kong, Police Force, *Police Review: Annual Review 2014* <http://www.police.gov.hk/info/review/2014/tc/index.html> at 14 August 2015. [↑](#footnote-ref-1)
2. Hong Kong Police Force, Letter from Commissioner of Police to SoCO, ‘Capacity in police cells’ from 19th of November 2009. [↑](#footnote-ref-2)
3. Hong Kong Police Force, above n10. [↑](#footnote-ref-3)
4. Government Secretariat, Letter to the Legislative Council, ‘Conditions of Detention Facilities at Police Stations’ from 23 June 2010. [↑](#footnote-ref-4)
5. FPM 49-01, para. 9 (g) [↑](#footnote-ref-5)
6. FPM 49-01, para 11 [↑](#footnote-ref-6)
7. *The Code of practice for the detention, treatment and questioning of persons by police officers (Code C) under the Police and Criminal Evidence Act 1984 (PACE)* (PACE Code C), which came into force on 1 February 2008 in UK, serves as a useful reference. Other useful references are the *“Police Buildings Design Guide – Custody – Policy Document”* (PD) published in July 2009 by the Home Office and the *“Guidance on the safer detention & handling of persons in police custody”* (PCG) published 2006. [↑](#footnote-ref-7)
8. PCG section 6.6.3 [↑](#footnote-ref-8)
9. PD1.04.04.02 [↑](#footnote-ref-9)
10. PD1.04.04.01 [↑](#footnote-ref-10)
11. PD3.02.05 [↑](#footnote-ref-11)
12. PACE Code C Section 8.2 [↑](#footnote-ref-12)
13. PACE Code C Section 8.3 [↑](#footnote-ref-13)
14. PD1.04.04.01 [↑](#footnote-ref-14)
15. PACE Code C Section 9.5 [↑](#footnote-ref-15)
16. PD1.04.04.01 [↑](#footnote-ref-16)
17. PACE Code C, Section 3, Notes for guidance 3A-3B [↑](#footnote-ref-17)
18. The only exceptions are: The only people that JP’s can visit at a police station are

1) A Vietnamese refugee or;

2) A person detained under the Independent Commission Against Corruption (Treatment of Detained Persons) Order. [↑](#footnote-ref-18)
19. According to the Ombudsman Ordinance (Chap 397, Schedule 1, Part II and Section 7 (1)) the Ombudsman cannot investigate the Police or the Secretariat of the Independent Police Complaints Council, unless it relates to exercise of its administrative functions in relation to the **Code on Access to Information** published by the Government. [↑](#footnote-ref-19)
20. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture [↑](#footnote-ref-20)
21. Ibid. [↑](#footnote-ref-21)
22. Ibid. [↑](#footnote-ref-22)
23. SoCO, above n 7. [↑](#footnote-ref-23)