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People Planning in Action**

Degrading Strip Search Procedures by Hong Kong Police Force

**Report to the United Nations Committee Against Torture on the Second Report by
Hong Kong Special Administrative Region under Article 19 of the Convention Against
Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
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Introduction

1. This report provides a specific case of how the Hong Kong Police Force conduct strip-search on protestors. A case summary will be provided to show how severe civil rights infringements have been taken place in police station. This report will also comment on the latest version of body search guidelines which has been revised by the Hong Kong Police Force under great public concern. Recommendations will be given in the last part of this report to provide solution to prevent further degrading strip search from occurring in the future.

Case Summary

2. On Oct 5, 2007, a group of Hong Kong citizens held a peaceful, non-violence protest on Lee Tung Street, Wan Chai. They were demanding for democracy in urban planning and urging the Urban Renewal Authority to halt the demolition works on Lee Tung Street in order to conserve the well-established social network and culture. In the protest, 15 protestors (11 males and 4 females) were arrested by the police. The protestors included students, social workers, teachers and university professors. They had been detained over-night and stripe searched by the police officers although there was no evidence to show that they might escape or possess illegal drugs or weapons. The 15 protestors were only released with a court bail on the next day after 15 hours of detention. Including the protestors at Lee Tung Street, over 70 people have been arrested by the police during different protests since 2006.

- a) 15 protestors were arrested with the charges of “obstruction of public space” and “obstructing police officers in the due execution of their duty”.
- b) The protestors were released with a court bail in the morning of October 6, 2008, after they had been detained for 15 hours.
- c) 5 male and 4 female protestors were strip-searched by the police officers at North Point Police Station. All of their clothing, including underwear was removed during the searches. The other 5 male protestors were searched; and all of their clothing except underwear was removed. 1 male protestor had been strip searched twice during the custody. None illegal article or evidence related to the charges had been found during the searches.
- d) A male protestor was instructed by a male police officer to put aside his genital organ in order to check if anything had been hidden under his genital organ.
- e) A female protestor was instructed by a female police officer to uphold her hips for observation. The protestor asked if she was being suspected carrying illegal drugs but the police office did not reply.
- f) A female protestor saw a male police officer had been walking along the corridor of the

detention room when she was just clothed after strip search. The male police officer was suspected to be present inside the detention area when the strip search was taking place.

3. Obviously, the police had no valid reason to carry out strip searches on the protestors. There was no evidence to indicate the protestors might be carrying weapons or illegal drugs. Furthermore, the protestors were charged with “obstruction of public space” and “obstructing police officers in the due execution of their duty”; both of the charges were not related to violence or illegal drugs. The searches conducted by the police were arbitrary and unusual.

Administration’s responses to issues raised on strip search

4. Arbitrary strip searches conducted by the police have been severely criticized. The security panel of Legislative Council has formed a subcommittee to investigate and review the handling of searches on detainees. A revised set of guidelines relating to police conducting searches has been issued by the government, which took effect on July1, 2008. However, some major problems can still be found in the revised search guidelines.

The Police General Orders 49-04, paragraph 1 & 2 provides that:

PGO 49-04 Searching of Detained Persons

The Commissioner of Police has determined that in order for Police officers to properly discharge their statutory functions and fulfill the Force’s duty of care to persons detained in custody and to ensure the safety of others who may come into contact with them, **a search will be conducted on all persons to be detained in police custody.**

2. A Duty Officer, or an officer authorized by him, will search a detained person prior to his being detained in a Temporary Holding Area (THA) or cell. The Duty Officer will determine the scope of the search on a case-by-case basis, based upon the prevailing circumstances, in order to satisfy himself that a detained person does not have in his possession:

- (a) any weapon or article with which he might do himself or others an injury or any implement with which he might effect an escape; and/or
- (b) evidence which is material to the offence with which he is arrested or charged and any other offences; and/or
- (c) any article with which he could commit a further crime e.g. malicious damage to property or consumption or distribution of dangerous drugs.

The Commissioner stated that searches will be conducted to all people to be detained in police custody. There is no exception even when the police officers can satisfy himself the above three requirements by observation or equipment. Since all detained person will be conducted searches, the guideline only decides the scope of searches. The search is arbitrary and violating the Basic Law Article 28.

5. The Police General Orders 49-04, paragraph 11 provides that:

11. If a detained person is removed from the THA or cell for any reason, he will be searched on his return and prior to being detained in the THA or cell. The search will be for the reason(s) as set out in PGO 49-04(2) (a) to (c) and conducted and recorded as per paras. 4 to 10 above.

This guideline could be abused for unnecessary searches to be conducted on a detainee. Since a detainee is strictly monitored once he/she has entered the Temporary Holding Area (THA) or cell. Strip Searches should not conduct routinely except there is strong suspicion or justification for the searches.

6. The revised guidelines do not provide information on the detailed procedure of searches, e.g. the required acts to be preformed by the detainees. The person being searched lacks of information to know whether he/she is being abused. In the case of Lee Tung Street, two protestors were being abused under this situation (The cases please refer to paragraph 2d & 2e).

7. The record of searches will be erased after two years of the date of issue. On the other hand, the police would not release any information when the case is under investigation. So if the duration of investigation is more than 2 years, complaint concerning searches will be very difficult to be made since the related record would have been erased.

Recommendations

8. The guidelines of searches should ensure that searches are not done as routine checks on all detainees. The searches involving removal of clothing should be recorded in a report with detailed reasons and strong justifications to build up a reasonable doubt that the detainee may carry illegal or dangerous articles.

9. The searches involving removal of clothing should only be done with a written approval of a Senior Inspector instead of a Duty Officer.

10. An independent complaint system should be setup to carry out complaint investigations.
11. Information about searches and its detailed procedures should be available for public scrutiny.
12. An independent mechanism should be setup to monitor searches involving complete removal of clothing. We suggest lawyers, clergies or social workers can be observers upon the detainee's request. The request can be rejected under emergency, however, reasons should be stated
13. The record of searches and related documents should not be erased until 60 days after the case has ended. Police should inform the person before his/ her record is going to be erased.

List of Questions

We recommend the Committee to ask the Government:

14. Is the government willing to setup independent complaint system that has the power to carry out complaint investigation?
15. What are the details of the disciplinary measures, if any, taken against police officers who perform arbitrary or inappropriate strip searches?
16. Why are the Force Procedures Manual and parts of the Police General Order withheld from the public?

Introduction to the People Planning in Action

People Planning in Action (PPA) is concerned with issues relating urban planning in Hong Kong. Its objectives are promoting community-based planning in urban development and democratizing the urban planning process in Hong Kong. The members have been actively participating in urban renewal projects, helping the affected residents to endeavor their rights of living. They demand the living way of residents, community network and cultural heritage should be conserved, respected and protected during the urban renewal process.