



Summary

Sex workers, and women suspected of sex work, have been subjected to a wide range of abuses, including sexual abuse and assault, from the Hong Kong Police. They are an especially vulnerable group due to their transient status, gender and impoverished socioeconomic background. The Police claim their intention is to save women from exploitation and target the organisations behind sex workers. The reality is quite different: police periodically engage in sweeping operations intent on appeasing public moral discontent by arresting large numbers of suspected sex workers. At the heart of the matter lies two key points; the near total, popular and civil, discrimination faced by sex workers and the lack of an independent and effective Police monitoring body.

Zi Teng is a sex workers concern organization which provides supports and services for sex workers in Hong Kong.

1. Introduction

The following document has been prepared for consideration by the UN Committee against Torture by Zi Teng, a sex worker concern group based in Hong Kong.

Zi Teng wishes to firmly condemn all instances of cruel, inhuman and degrading treatment carried out by Hong Kong's Police Force and in particular when such activities have targeted sex workers.

Sex work is not illegal in Hong Kong, but many associated activities are.¹ But, it is almost always excluded from the general body of work. The exception is when Police arrest migrant women suspected of sex work for breaching the conditions of their stay, as work is forbidden. It is this liminal status that sex work occupies that makes sex workers especially vulnerable to abuse.

¹It is legal to conduct sex work alone out of your own flat. However, it is illegal to solicit in a public place for immoral purposes.

There are two bodies that manage complaints against the police in Hong Kong. The Complaints Against Police Office (CAPO) oversees complaints made against the police force and passes on all cases that it investigates to the Independent Police Complaints Commission (IPCC). Unfortunately, the system is inherently flawed. CAPO's impartiality is compromised (it is a Police Department) and the IPCC is an effectively impotent organisation. Both The Human Rights Committee and Hong Kong Legislative Council (LEGCO) members have long called for the creation of an independent statutory body, with full investigative powers and whose findings are legally binding.

Without an impartial and effective regulatory system it is, unfortunately, foolish to believe the police, or any group in a position of power, will regulate themselves.

There is systematic abuse at almost every stage of police processing of sex workers, but very few complaints are actually investigated (*difference between recording and investigating – IPCC can't see recorded*) by CAPO. The discrepancy is due, in a large part, to Mainland women being unsure of their rights and local police's reluctance to explain them. In fact, if a sex worker does complain of a suspected infringement she likely will be told complaining is pointless and, if she continues, may be threatened with an increased sentence.

CAPO only passes on cases that it *investigates* to IPCC. If CAPO only records the case but decides there are no grounds for an investigation, neither IPCC nor any other groups, has the power to see or follow up that case. This can explain why so few, around 3%², of all complaints made to CAPO are actually investigated.

Article 1 and 16 (11)

Cases of cruel, inhuman and degrading treatment

Police operational policy supports undercover officers' sexual abuse of sex workers

From 2006 – 07 Zi Teng recorded 68 complaints of Police sexual abuse towards sex workers.³

The Police Force consistently defends these actions, claiming that this practise is necessary to gain sufficient evidence for a conviction. But, Simon Young's⁴ Memorandum on Undercover Operations clearly shows that, although evidence of this kind would strengthen a case, it is actually unnecessary, as well as being unethical and inconsistent with international standards.

² Legislative Council, Official Record of Proceedings, Wednesday, 28 April 2004 , page 127.

³ 06-07 STATS

⁴ Simon Young is an Assistant Professor of Law at Hong Kong University.

Condoning this practise has led to systematic abuse from ill intentioned officers and seriously undermined the relationship between sex workers and police.

Although internal guidelines permit limited bodily contact only, which translates to masturbation, there have been many cases of undercover police receiving oral and penetrative sex⁵. Afterwards, the police officers concerned have claimed that only masturbation took place and their position is backed up the other arresting officers who help in disposing of any incriminating evidence, such as used condoms.

Case 1.

In October 2005, Li Yuen Yee⁶ was arrested after an argument with an undercover officer who refused to pay the agreed amount after receiving oral sex. The used condom she tried to keep as evidence was taken from her and disposed of. She was criminally charged. She felt she was wronged and committed suicide.⁷

The sincerity of the Police claim that sexual intercourse and oral sex are strictly forbidden has to be questioned because, as yet, no offending officer has faced any legal charges and any internal disciplinary measures have had no apparent effect on deterring further transgressions.

There has been a consistent trend of undercover police officers repeatedly receiving sexual services while undercover. One officer was criticised by a Judge for receiving masturbatory services twelve times before arresting the offending sex worker.

Allowing undercover officers to receive sexual services has created a framework that invites and facilitates abuse from ill intentioned officers. There have been multiple instances of police officers openly (not as part of an undercover operation) exploiting their dominant position, as police officers dealing with sex workers, to extort free sexual services from sex workers. This practise is encouraged by the protection allowing undercover officers to receive sexual services confers upon all policemen. In the unlikely event of a complaint the policeman can claim to have been acting as part of an undercover operation.

Recommendations

⁵ 22 cases from 2006 – 07 STATS

⁶ CAPO K RN 06001600

⁷ In October 2005 Li Yuen Yee was arrested on charges of assault, attempted intimidation and theft. She was assaulted by the police officer prior to her arrest. She recorded her experiences in a diary, which she left for her parents, before committing suicide. Initially the police tried to intimidate her family into silence but they persevered and filed a complaint with CAPO. No findings of the investigation have been made public.

We recommend the police come into line with international policing standards and immediately cease the policy of allowing officers to receive sexual services of any kind.

Recommendations made in Simon Young's Memorandum should be considered, in particular the re-wording of the massage parlour licence, which would help dissipate any perceived need for the receiving of sexual services.

The Police internal code of conduct should be made available for public scrutiny.

Strip searches

The arbitrary strip searching of suspects is common practise in Hong Kong. In 2007, Zi Teng received 95 complaints of suspects being subjected to an unjustified strip search. Often police do not explain to the suspect why such as action is deemed necessary and also fail to keep their own records. Strip searches are often used to humiliate suspects and are a coercive technique used by the Police.

Of the 95 women who complained, 22 women had been strip searched 3 times in 24 hours and 3 women had been strip searched 4 times in 24 hours.

Case 2.

Ms May (CHANGE NAME/CODE), arrested (in October 2004) after masturbating an undercover officer, was forcefully strip searched in her apartment by a female officer with two male officers in attendance.⁸

Case 3.

Ms Lai was arrested for soliciting for immoral purpose. In the police station she was strip searched 4 times within 24 hours.⁹

Recommendations

Zi Teng recommends the Committee urge the Hong Kong Police to reassess their attitude towards strip searches and the surrounding processes;

Permission must be sought before hand from the Superintendent, who should log each occurrence, reason, and justification for that reason.

In the event of a complaint, the Superintendent should take responsibility.

⁸ After Ms May's arrest she discovered that an earlier client was also an undercover policeman. Her requests to call a lawyer were ignored and the two policemen present assaulted her, after which she was taken to the police station for questioning. Her requests for legal representation were still ignored. Only seven hours after her arrest was she able, through Zi Teng, to contact a lawyer. The duty officer refused to record her complaint and warned her to drop the matter.

⁹ In the police station she was subject to both verbal and physical abuse. CAPO but refused to record her complaint, so, with no other option, she dropped her case.

Prior to the strip search taking place the officer should inform the suspect why such an action is being taken and explain the process, the written information should be given to the suspect.

Strip searches must only be carried out by officers of the same sex as the suspect and additionally, no officers of the opposite sex should be present.

Past instances of repeat and prolonged strip searches should be thoroughly investigated and in future require especial permission from a senior officer.

Assault

In 2007, Zi Teng received 15 complaints from sex workers of assault by police.

Li Yuen Yee (Case 1.) was assaulted by a police officer after an argument over underpayment for oral sex.

Ms Lai who was asked to show her identity document. Two policemen suspected that she was a sex worker. They assaulted her and asked her to leave that area.

Recommendations

Zi Teng recommends the Committee urge the Hong Kong Police to stop the unlawful assault against sex workers and all suspect. retrain officers with regard to correct procedure and make an example of any officer that fails in their duties.

Arbitrary Arrest of Mainland Women in Hong Kong and coercion to confess.

The arbitrary arrest of mainland women is rampant in Hong Kong. Many are unsure of their rights or unwilling to stand up for them, due to a range of social and economic pressures, and thereby accept voluntary repatriation. If the case does come to court the chance of a fair trial cannot be assured.

From 2006-07, Zi Teng received 106 counts of arbitrary arrest from Mainland women. After arrest a variety of techniques are used to coerce submission out of suspects, in 2007 Zi Teng received the following complaints:

15 women were physically assault,
384 pressured to sign false confessions,
95 strip searched,
38 prohibited from making any telephone calls,
42 pressured to sign blank documents,
11 unlawfully handcuffed.

Case 4.

In 2006, Siu Man was arrested in Yau Ma Tei during a police crackdown on prostitution. She was told to sign the prepared confession, admitting to her being a sex worker, and when she refused was transferred to the immigration department, who requested she accept voluntary deportation, which she also refused. The immigration department held her for an additional five days, during which she was continually threatened with prosecution and imprisonment should she not confess. After five days, still no charges had been brought against her, but, out of fear of imprisonment, she signed the confession. She has been blacklisted by the Immigration Department and cannot return to Hong Kong.

Initially, Mainland women arrested on suspicion of sex work are pressured into signing a confession and accepting voluntary deportation. If they refuse the police attempt to coerce the suspect; phone calls and access to a lawyer is often prohibited in an attempt to secure an early confession.

If this does not work, escalating threats of increased sentence and abusive behaviour followed by actual abusive behaviour (such as assault and strip searching) are employed. Sex workers are rarely allowed bail and the time served in jail awaiting trial is often long, typically around two months, which encourages a guilty plea.

Cases are often bundled together for efficiency and cases are usually processed in under three minutes. Duty lawyers are often reluctant to fully engage in the defence of clients, often encouraging a guilty plea, and are sometimes completely negligent (SEE CASE X)

Recommendations

Zi Teng recommends the Committee to urge the Hong Kong Government to:

Cease the current practise of arbitrarily arresting Mainland women in areas known for sex work and the subsequent abuses inflicted upon these Mainland women.

Decrease the pre-trial period (which the suspect spends in jail) and try cases on an individual basis.

Remind duty lawyers of their duty to afford all suspects their full effort.

Framing of Suspects

There is a worrying trend of Hong Kong Police framing uncooperative (those that will not accept voluntary deportation or submit a guilty plea) Mainland women suspected of sex work.

In 2007, Zi Teng received 19 complaints of women being framed by police for crimes related to sex work.

The most common methods include the planting of condoms and lubricants on the suspect and coercing guilty pleas and voluntary deportation with threats of extended sentences. A slogan “no matter beauty or ugly, no matter right or wrong, arrest (kill) all of them” and newspaper clippings about police raids against sex workers were found at the Cheung Sha Wan police station. This suggested that the police might have a hidden policy that police officers should work more to arrest sex workers, even without concrete evidence.

Case 5.

In 2004, Ms Fung was then asked to confess to soliciting one of the arresting officers for sexual services (condoms and lubricant had been planted in her bag to back up such an accusation), which she refused.¹⁰

Lai sui ling CAPO K RN 06001600

In 2006, Ms Lai was asked to show her identity document to 3 police officers. A police officer used a handcuff to lock her. She was assaulted by 2 police officers and asked to leave the above area. Ms Lai met the police officers again the other day and she was arrested without any reason. The police rejected her to bail and she was framed and charged with soliciting one of the police officers for immoral purpose. The court has acquitted her.

Recommendations

Zi Teng recommends the Committee to urge the Hong Kong Government to:

Stop the practise of framing suspects.

Fully investigate any complaints of framing and make an example of the offending officers.

Cage Detention

In June 2005, over eighty suspected migrant sex workers were detained in a cramped cage in a police station car park. During their thirteen hour detention the detainees were not allowed to use bathroom facilities. The cage provided no privacy and the suspects were open to prolonged public shaming as members of the public and media stared and took photographs.

Complaints have been made to CAPO but so far no one has taken responsibility for this blatant rights violation.

Recommendations

¹⁰ In 2004, Ms Fung was arrested by three plainclothes policemen as she left a public toilet in Sham Shui Po and was asked to confess to carrying out sex work in Hong Kong, which she refused. Her requests to see a lawyer and make a telephone call were refused. After she refused to sign the second confession, soliciting for an immoral purpose, she was imprisoned for two months awaiting trial, where she twice attempted suicide. She was found guilty and sentenced to one month in prison. She withdrew her complaint to CAPO after being threatened with an extended sentence, should she persist.

Zi Teng recommends the Committee to urge the Hong Kong Government to:

Apologise to the detained suspects and public.

Conduct a full and transparent investigation with the IPCC. The investigation and complaints should not be rejected even the complaints are not filed by the victim herself/himself.

Punish the officer who authorised this action.

Make revised internal guidelines, stating that this kind of detention is totally forbidden, available for public scrutiny.

Articles 2, 12 and 13

Failure to protect against and investigate claims of torture

In the last ten years, twenty sex workers have been murdered. This is due, in part, to the poor relationship between sex workers and the police and the failure of the police in their duty to protect sex workers, as citizens, which exacerbates their already vulnerable situation. In 2008, three sex workers were murdered by the same man. After the second murder the police had information about the appearance of this man but refused to share it with the sex worker community or Zi Teng. If this information reached us, it could have saved the lives of his subsequent victims.

CAPO

Complaints against the police are made to the Complaints Against Police Office (CAPO), which is a police department. The Independent Police Complaints Commission (IPCC) is an independent civilian body that can examine any cases that CAPO investigates.

Although the police have repeatedly stressed the separation of CAPO from other Police Departments, and therefore its impartiality, this is simply false.

CAPO has been known to notify officers if a complaint has been made against them. This practise encourages the already prevalent culture of coercion and intimidation of complainees.

The police are retarded and reluctant in explaining the complaints procedure to suspects. This is especially true when dealing with Mainland Chinese who, because of their background, are especially vulnerable to abuse. Many women are reluctant to complain in the first place due to intimidation.

There are many barriers to making a complaint; coercion, intimidation and harassment are all readily used tactics of the police. Zi Teng has received complaints of officers failing to correctly record the details of the complaint

and even refusing to record it at all. A common tactic is for police officers to tell suspects that if they complain they will have to stay in prison while their complaint is being processed.

Delayed medical attention to ensure incriminating bodily evidence

In November 2007, Ms Lai tried to complain after being assaulted but the officer would not record the condition of her injuries and also refused to arrange medical attention.

Zi Teng has received other complaints of women that have been assaulted or sexually violated and denied immediate attention, sometimes having to wait up to three days before being allowed medical care.

Coercion of victims to drop complaints

Ms Lai received a phone call from CAPO asking if she had any witnesses that could substantiate her claim. Ms Lai replied that the only witnesses she had were the policemen involved and that she was worried they might not testify. Ms Lai was then told that the police could not testify for her and that if she had no other witnesses she would be charged with attempting to frame the police officer concerned. She dropped her case.

Ms Fung, was told that her complaint could not be processed until she had been sentenced and that the investigation into her complaint would take six months, which she would have to spend in jail, in addition to any sentence imposed by the judge. She attempted suicide twice and dropped her case.

Zi Teng has received numerous complaints of CAPO officers coercing sex workers to drop their complaints, saying it was a bad idea, a waste of time or completely useless.

Refusing to record and investigate complaints

CAPO refused to investigate Elaine Lam's complaint¹¹ about officers receiving sexual services, saying that it was a policy matter and therefore could not be handled as a complaint.

A CAPO police officer refused to record Ms Lai's complaint, that she was handcuffed for no reason, saying the actions taken were entirely legal. Only after fifteen minutes of arguing, assisted by a representative of Zi Teng, did the officer record the complaint. The previous time Ms Lai had tried to complain the CAPO officer refused to correctly record the details of her complaint, in particular changing the allegation of assault to inappropriate behaviour. This time Ms Lai brought her own statement to be included in the

¹¹ CAPO HKI RN 06000164

complaint but the officer initially refused to accept it. Only after another ten minutes of arguing was the personal statement accepted into the complaint.

One woman, who was strip searched an unjustifiable four times in twelve hours, attempted to complain to CAPO. The officer refused to record her complaint, stating that conducting strip searches were well within the powers of the police.

In June 2005, over eighty suspected migrant sex workers were detained in a cramped cage in a police station car park. The Police later issued an apology but when Mr Liu, a Hong Kong resident, attempt to make a complaint to CAPO¹² this was rejected because he was not the victim or a member of the victim's family.

This policy, restricting who can complain, is worrying and, especially with regard to transient populations such as migrant sex workers, open to abuse.

Police harassment of victims after a complaint is made

Neighbours informed Ms Lai that police officers connected to her case had come to Yau Ma Tei to look for her, and had told her neighbours that she should drop her complaint and would defiantly loose. This caused significant menace to her, so much so that was afraid to visit her old neighbourhood. Witnesses, afraid of similar harassment, refused to testify.

Ms Liu¹³, who complained of sexual assault, requested CAPO not to call her at home, as she was afraid of her family finding out, and that all communication be made through Zi Teng. During the following weeks CAPO repeatedly called her at home causing her considerable distress. CAPO asked her to bring the clothes she was wearing on the day of the incident into the station, a request that was dropped when a Zi Teng representative accompanied her to the station.

After a sex worker in Tseun Wan (a district of Hong Kong) submitted a complaint police officers harassed her at her work place. This included recording a video of her and her work place. She dropped the complaint.

Lack of transparency in CAPO investigations

The current lack of transparency in CAPO investigations conveys a distinct advantage to the defendants, the police. Verdicts on complaints, in particular those that are recorded but not investigated, often take the form of a single sentence. Victims have no right to know the content of the investigation and in particular no right of reply to any supplementary information that may be provided by the police.

¹² CAPO K RN 05000889

¹³ CAPO K RN 06001120

Cases, such as Li Yuen Yi, are often drawn out over years with no assurance of a conclusion.

What then of the IPCC? The IPCC is a largely toothless organisation with two crucial failings.

Firstly, the IPCC can only examine cases that the CAPO has decided to investigate. If CAPO does not pick the case up, then there is nothing the IPCC can do. In 2004 CAPO only investigated 3% of all complaints made.¹⁴ In the three year period from 2001 – 2003 CAPO did not investigate any complaints made by sex workers.¹⁵

Secondly, rulings made by the IPCC can only be recommended and are not legally binding. If the findings of the IPCC differ to those initially made by CAPO then matter is taken back to the police, and then, as a last option, to the Chief Executive.

For over fifteen years LEGCO members and the Human Right committee of UN have been calling for the creation of an independent statutory body that has full investigative powers whose findings are legally binding.

Recommendations

Zi Teng recommends the Committee to urge the Hong Kong Government to:

Adopt the recommendation from Human Right Committee of UN, Establish independent body to investigate into the complaint filed against police. Scrap CAPO and upgrade IPCC to a statutory body with full investigative powers and legally binding verdicts.

Information and process of the Investigation should disclose to complainants

Article 15

Suspects cannot complain without incriminating themselves

If a suspect makes a complaint CAPO will automatically make the details of the complaint and victim available throughout the Police force and especially to the investigating team. It is impossible for suspects to make a complaint of torture, or cruel and degrading treatment, without incriminating themselves at the same time. Also, spreading information about the complaint encourages intimidation and harassment of the victim by ill intentioned officers.

¹⁴ Legislative Council, Official Record of Proceedings, Wednesday, 28 April 2004 ,

¹⁵ Submission to the Committee on the Elimination of Discrimination Against Women Of United Nation ,Regarding the Second Report on Hong Kong Special Administration Region, The Democratic Party of Hong Kong, August 2006

Recommendations

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Stop harassment the victims

Immediately end the policy of CAPO making complaint details available throughout the police force.

A brief look at Mainland China

Sex work in Mainland China is illegal and considered to be a threat to law and order and to *Jingshen Wenming* (moral culture). Although policing habits vary considerably throughout China, common practise towards sex workers include: arrest, fines, detention, incarceration and even labour re-education. Because their work is illegal, sex workers are forced underground and are subjected to a wide range of abuses. Of the sex workers questioned on client abuse: 29% had been physically assaulted, 51% verbally abused and 5% raped. Critically, sex workers are reluctant to contact the police and this severely exacerbates their vulnerable position in society.¹⁶

Abuse of sex workers is systemic within the police force. This can be explained by the near total discrimination faced by sex workers in China, and not their illegal status. Because of the position sex workers occupy in Chinese society even the police think nothing of transgressing the law in carrying out abuses against them.

As in Hong Kong, Police in Mainland China embark on periodic crackdowns: arbitrary arrest is common as is assault and sometimes, the insides of raided properties are vandalized and furniture is removed. As arrests are rarely made at the time of the crime (while the sex worker is providing sexual services for the client) Police officers are intent on extracting a guilty plea from the suspects. Torture is commonly manifested as physical assault, and verbal abuse is present in nearly every case. Some officers exploit their dominant position to rape suspected sex workers.

Sex workers in China are often exposed to violence brought by clients. Many are assaulted, raped and even trafficked to other cities and provinces. Yet, the Chinese Government fails to provide any support or protection for these women. They also denied the above be happening in China.

¹⁶ In one large Chinese city, only 7% of sex workers questioned said that, when faced with an abusive client, they would call the police.

Recommendation

The Chinese government should perform its obligation to protect its citizens by addressing to the violence face by sex workers.

Newspaper clippings:

Iron Cage Detention



油尖旺掃黃拘骨場之父
鐵籠充囚室 羈押大批雙程妓女

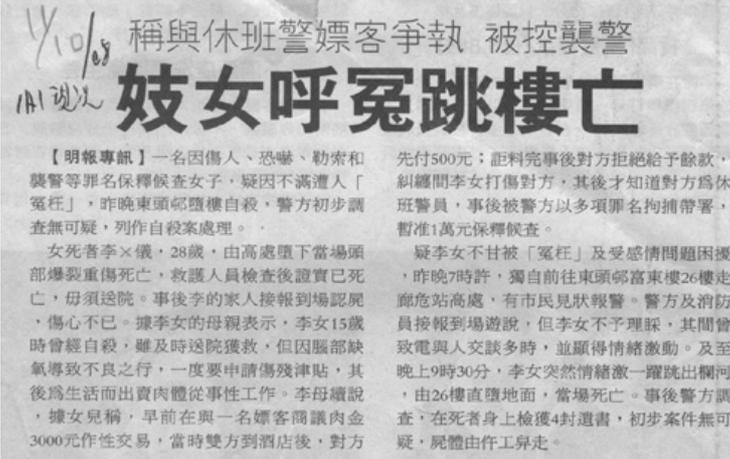
【本報訊】警方昨大舉出動，搜查油尖旺多間桑拿浴室及酒廊，拘捕性病的「骨場之父」，行動中警方有搜獲淫褻及三合會調查料，包括「O記」聯同毒品調查科財寶調查處、商業罪案調查科、四九龍總區重案組、反黑組、機動部隊及入境處等數百名人員，大舉突擊搜查油尖旺多處夜總會、桑拿浴室及酒廊場所，拘捕一百三十多人當中大部份為涉嫌雙程妓女，除走電網及網傳等案外，警方亦對多間桑拿浴室多間桑拿浴室進行搜查。

截斷收入來源
警方消息指出，警方早前從由社區人士、社會和福利及14K收復情報及罪證，並應不少社區團體所成爲社會主要收入來源，於是警方與有關機構聯手進行搜查及「收場」等個案，而此項行動大舉出動，數百名警員，兵分多路同時對多個目標場所進行搜查，其中一條「O記」及毒品調查科財寶調查組人員，搜獲多份淫褻及三合會調查料，包括「O記」聯同毒品調查科財寶調查處、商業罪案調查科、四九龍總區重案組、反黑組、機動部隊及入境處等數百名人員，大舉突擊搜查油尖旺多處夜總會、桑拿浴室及酒廊場所，拘捕一百三十多人當中大部份為涉嫌雙程妓女，除走電網及網傳等案外，警方亦對多間桑拿浴室多間桑拿浴室進行搜查。

鐵籠充囚室
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羈押大批雙程妓女
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Li Yuen Yee Case



稱與休班警嫖客爭執 被控襲警
妓女呼冤跳樓亡

【明報專訊】一名因傷人、恐嚇、勒索和襲警等罪名保釋候查女子，疑因不滿遭人「冤枉」，昨晚東頭邨墮樓自殺，警方初步調查無可疑，列作自殺案處理。

死者李×儀，28歲，由高處墮下當場頭部爆裂重傷死亡，救護人員檢查後證實已死亡，毋須送院。事後李的家人接報到場認屍，傷心不已。據李女的母親表示，李女15歲時曾經自殺，雖及時送院獲救，但因腦部缺氧導致不良之行，一度要申請傷殘津貼，其後爲生活而出賣肉體從事性工作。李母續說，據女兒稱，早前在與一名嫖客商議肉金3000元作性交易，當時雙方到酒店後，對方先付500元；詎料完事後對方拒絕給予餘款，糾纏間李女打傷對方，其後才知道對方爲休班警員，事後被警方以多項罪名拘捕帶署，暫准1萬元保釋候查。

疑李女不甘被「冤枉」及受感情問題困擾，昨晚7時許，獨自前往東頭邨富東樓26樓走廊危站高處，有市民見狀報警。警方及消防員接報到場遊說，但李女不予理睬，其間曾致電與人交談多時，並顯得情緒激動。及至晚上9時30分，李女突然情緒激一躍跳出欄外，由26樓直墮地面，當場死亡。事後警方調查，在死者身上檢獲4封遺書，初步案件無可疑，屍體由吊車吊走。

疑因不甘被「冤枉」及受感情問題困擾而墮樓自殺女子，屍體由帳篷遮掩，等候吊車吊走。