

A Study of the Human Rights Situation in Police Lock-Up Cells in the National Capital Region



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A Joint Project of:
The Commission on Human Rights
and the **National Capital Region Police Office**

with the support of:
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COMMISSION ON HUMAN RIGHTS
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MESSAGE

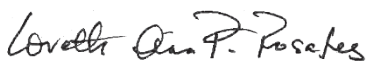
It is commonly believed that detention refers to the deprivation of liberty arising from a conviction by a court. In reality, however, detention begins way before that. Arrested persons are initially brought to police lock-up cells before they get transferred to the regular jails. It is in lock-up cells where crucial stages of criminal prosecution take place. It is there where human rights are often most vulnerable.

By looking at the situation from this perspective, I fully appreciate the significance of this study piloted by the Commission on Human Rights (CHR) and the Philippine National Police-National Capital Region Office (PNP-NCRPO). Now, we are able to obtain for the first time a direct account of the conditions that prevail in police lock-up cells that enable us to develop policies geared towards the protection and promotion of human rights. Indeed, the seeds of the *La Breza* Declaration that we planted almost three years ago with our strategic partners are beginning to bear fruit.

I laud the Legal and Investigation Office for their invaluable efforts throughout this project, especially in the initiation and conceptualization thereof. I commend the Assistance and Visitorial Office for their worthy contributions in data-gathering. I also give my sincere gratitude to the PNP-NCRPO for opening their doors and providing assistance to this important research.

Finally, I thank the Spanish Agency for International Development Cooperation (AECID) for their support to this project.

Thank you very much.


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MESSAGE

Human rights is founded on the inherent dignity and worth of every human person, hence, must be respected at all times. Everyone has to bear in mind that even if a person has violated a law and comes into contact with law enforcers such person cannot be stripped of his or her right to dignity. Neither does a person shed off this right when placed in a police lock-up cell. Under the circumstance, the rule of law comes into play to guard the observance of due process from the initial stage of deprivation of liberty, ensure respect for the dignity and humanity in the handling and treatment of such persons, and give due regard to vulnerability.

The August 27, 2014 Conference on Human Rights and the Rule of law in the Notional Capitol Region took cognizance of the realities on the ground - the issues on human rights vis-a-vis law enforcement as culled from the CHR and NCRPO records, as well as media reports. Thus, the implementation of the Project Study on Police Lock-Up Cells in the NCR, which is Component I of the four (4) major undertakings agreed upon by the CHR and the NCRPO geared towards policy development for the protection of human rights, including immediate steps to be undertaken.

Coupled with its commitment under the La Breza Declaration, the NCRPO welcomes the assessment report on the Human Rights Situation in Police Lock-up Cells in the National Capital Region. Let this first of a kind joint study on police lock-up cells by a National Human Rights Institution and a Police Office pave the necessary reforms in the Philippine National Police, particularly at the police station and precinct levels throughout the country where persons arrested for violation of the law are generally brought for booking, custodial investigation and temporary detention as the circumstances warrant. This calls, however, for the full cooperation and support of all duty-holders in terms of capacity and resources, as well as full compliance with human rights standards pursuant to the Philippines' obligations under relevant Human Rights Treaties.

Finally, I commend all the women and men behind this project study on police lock up cells in the NCR.



CARMELO ESPINA VALMORIA
Police Director/Regional Director

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PART I

CONTEXT SETTING

Dignity Inherent in Humanity

The right to dignity is fundamental to humanity.¹ Human rights instruments and institutions are in place setting the necessary mechanisms and standards for State authorities to observe in recognition of the obligation to respect, protect and fulfil the rights of everyone within its jurisdiction. It is therefore necessary that human rights shall be regarded as absolute, subject only to certain reasonable limitations set by law.

Human rights and the rule of law go hand in hand to ensure the protection of every inhabitant within the State's jurisdiction from the excesses in the exercise of the vested powers by the authorities which would result to the violations of the right to dignity and fundamental freedoms. This mantle of protection extends even to those who violate the law and are apprehended, placed in custody and subjected to investigation by the authorities; and if warranted, charged before the appropriate fora.

The Commission on Human Rights

The Commission on Human Rights (CHR) is an independent national institution created pursuant to the 1987 Constitution of the Philippines. It is vested with the core mandates to ensure the protection and promotion of the human rights of every inhabitant in the country, as well as Filipinos residing abroad.² It was organized and made operational on 5 May 1987 in accordance with Executive Order No. 163 issued by then President Corazon C. Aquino.

One of the CHR's mandates is to exercise visitorial power over jails and detention facilities.³ Through the years, this visitorial power focused mainly on the inspection of the physical condition of regular jails and rehabilitation facilities under the Bureau of Jail Management and Penology (BJMP), as well as the seven (7) national correctional institutions, and the conditions of PDL confined in these places of detention. Lock-up cells at the level of police stations have not been covered, except on a case-to-case basis upon complaints received by the CHR.

It is noteworthy however that it is in these lock-up cells where persons arrested without warrant are generally brought for temporary detention. These persons deprived of liberty (PDL) are held therein until appropriate charges are filed in court and the corresponding commitment order for their confinement in a regular facility is issued by the Judge. They are, thus, more vulnerable than those arrested by virtue of a judicial warrant.

¹1987 Constitution of the Philippines, Article II, *Section 12* provides that (T)he State recognizes the sanctity of family life xxx. It shall equally protect the life of the mother and the life of the unborn from conception. Likewise, *Art. 3(1)* of P.D. 603, otherwise known as The Child and Youth Welfare Code, provides that (E)very child is endowed with the dignity and worth of a human being from the moment of conception, xxx and has, therefore, the right to be born well.

²*Id.*, Article III, Sections 17 & 18.

³*Id.*, Article III, Section 18.

With the enactment of Republic Act No. 9745⁴ and Republic Act No. 10353,⁵ all institutions in the country maintaining jails and detention facilities are mandated to submit an inventory on places of detention to the CHR. Most of these institutions comply, but no assessment has yet been done to determine the level of compliance with international human rights standards.

This is also true with the PNP, except for Regions VIII and Autonomous Region for Muslim Mindanao (ARMM) which have no inventory report on lock-up cells for the period December 2014 and January 2015. PNP-Region V submitted its report to PNP-Human Rights Affairs Office (PNP-HRAO), Camp Crame, for the period December 2014 and January 2015 only in February 2015. PNP Regions IV-A, VII, VIII and ARMM have no report for February 2015.⁶ For its part, the National Capital Region Police Office (NCRPO) submitted an updated inventory which served as the basis for data-gathering in this study.

The Philippine National Police

The Constitution provides that the State shall establish and maintain one police force, which shall be national in scope and civilian in character, to be administered and controlled by a national police commission.⁷ Republic Act No. 6975⁸ paved the establishment of the Philippine National Police under a reorganized Department of the Interior and Local Government.

Republic Act No. 8551,⁹ which was enacted in 1998, provides that:

“it is the policy of the State to establish a highly efficient and competent police force xxx; the PNP shall be a community and service oriented agency responsible for the maintenance of peace and order and public safety; and shall be organized to ensure accountability and uprightness in police exercise of discretion as well as to achieve efficiency and effectiveness of its members and units in the performance of their functions.

Thereafter, RA No. 9708¹⁰ extended for five (5) years the reglementary period for complying with the minimum educational qualification for appointment to the PNP and adjusting the promotion system xxx.

The PNP has the authority to enforce laws, maintain peace and order, prevent and investigate crimes, arrest and detain offenders and bring them to justice in accordance with due

⁴ Anti-Torture Act of 2009.

⁵ Anti-Enforced or Involuntary Disappearance Act of 2012.

⁶ Source: PNP-HRAO (SPO3 Magno and PO3 Arcella).

⁷ 1987 Constitution of the Philippines, Article XVI, Section 6.

⁸ The Department of the Interior and Local Government Act of 1990.

⁹ The Philippine National Police Reform and Reorganization Act of 1998.

¹⁰ An Act Extending for Five (5) Years the Reglementary Period for Complying with the Minimum Educational Qualification for Appointment to the Philippine National Police (PNP) and Adjusting the Promotion System Thereof, Amending for the Purpose Pertinent Provisions of Republic Act No. 6975 and Republic Act No. 8551 and for Other Purposes.

process, including the enforcement of laws and regulations on firearms and explosives control, and supervise and control the training and operations of security agencies.

Consistent with its mandates, all members of the PNP shall serve with utmost responsibility, integrity, morality, loyalty and efficiency with due respect to human rights and dignity as hallmarks of a democratic society.¹¹ They cite respect for human rights as a high standard that must be maintained during the performance of police duties.¹² The PNP Core Values further seek to instill in all PNP personnel a Godly (*Makadiyos*) and humane (*Makatao*) thoughts and behaviour in both their official and private life.

Lastly, all members of the PNP are required to embrace the highest principles embodied in the Universal Declaration of Human Rights, acknowledging that respect for human rights applies to everyone including the members of the police service regardless of education, religion, political belief, gender and other status.¹³

The La Breza Declaration and the CHR-NCRPO Partnership and Cooperation

On the occasion of the National Human Rights Consciousness Week in 2012, the CHR and representatives of the state security sector held a dialogue at the La Breza Hotel in Quezon City to deliberate on each other's roles and responsibilities in the protection and promotion of human rights. The discussion identified specific areas of concern, among which were the need to "clarify the mandates, roles and functions of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) in the areas of internal security operations and law enforcement," and to "institute a system of sharing of information concerning reports of violations coming from different sources [...]." The commitments were embodied in what is now known as the *La Breza Declaration* which has since constituted as the backbone of the CHR's efforts towards Security Sector Reform.

The Declaration strengthened the partnership and cooperation between the CHR and the NCRPO and provided the thrust for joint undertakings. In August 2014, in light of the incidents during the rallies held by different sectors in relation to the State of the Nation Address of the President, the CHR spearheaded the Dialogue with stakeholders on the Right to Freedom of Assembly participated by police officials from the NCRPO and the five police districts comprising it. On August 27, 2014, a Conference on Human Rights and the Rule of Law (Conference) was held at the NCRPO Conference Room, Camp Bagong Diwa, Taguig City, taking into account the prevailing human rights complaints received by the CHR.

The Conference on Human Rights and the Rule of Law

During the Conference, the NCRPO presented the following data to demonstrate its commitment towards human rights protection and promotion, including efforts towards a human rights based enforcement of the rule of law.

¹¹ PNP Ethical Doctrine Manual, Chapter 1, Section 2, DHRDD 1995 Edition

¹² PNP Code of Professional Conduct and Ethical Standards, Chapter 111, paragraph 2.9.

¹³ Letter of Instructions 55/07 LOI PAMANA

The PNP Human Rights Development Program covers four (4) tracts:

- (1) Institutional Policy Development on Human Rights, which includes periodic review of Police Operational Procedures (POP); Formulation of Guidebook on Rights-Based Policing, and Production of a Compendium of HR Standards and Instruments;
- (2) Capacity Building, which includes the establishment of Human Rights Desks in all police stations, inclusion of human rights-related subject in specialized courses; development of police trainers and “champions” in Human Rights advocacy and continuing education; and production and distribution of IEC materials on human rights;
- (3) Prevention and Control of Human Rights Violations (HRV), which cover random and surprise inspection of lock-up cells/temporary detention facilities; speedy resolution of administrative cases filed against PNP personnel; and closer coordination with CHR, AFP and other agencies on monitoring of cases of violation of human rights.
- (4) Multi-Sectoral Cooperation, which covers the conduct of consultative meetings and dialogues with Barangays’ Human Rights Desks and other agencies, participation of PNP in human rights-related international and local activities; and close coordination with other Criminal Justice System (CJS) for the speedy resolution of cases of human rights violations, and immediate issuance of Commitment Order.

The table below provides a summary of the NCRPO efforts towards the achievement of its human rights development program covering the period of January to July 2014:

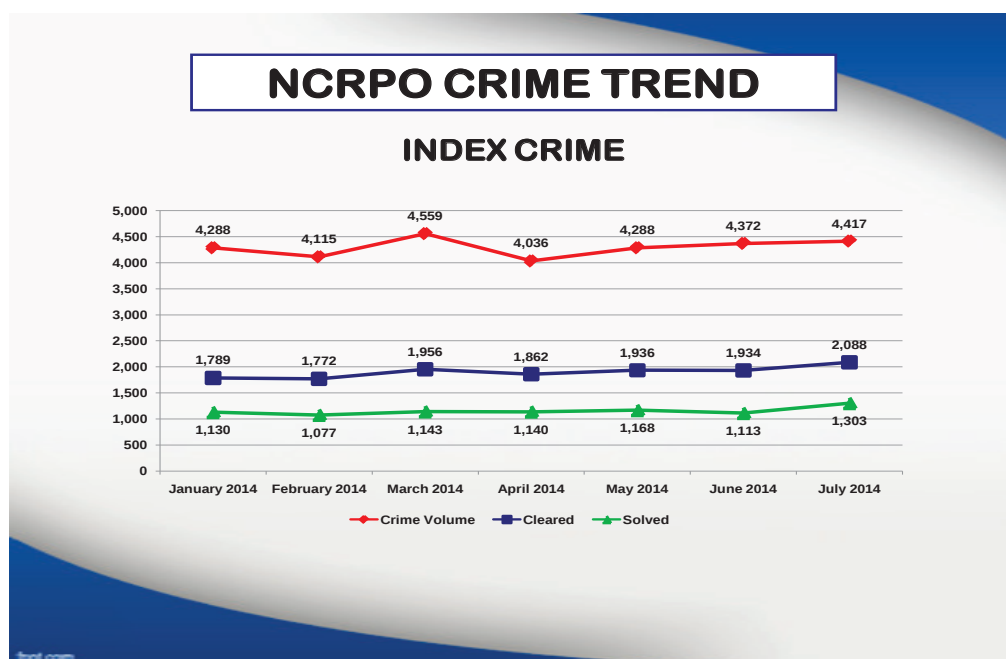
HUMAN RIGHTS PROGRAMS/ACTIVITIES

FROM JAN - JUL 2014

RECAPITULATION

Human Rights Programs/Activities	NCRPO Police Districts					RHRAO
	SPD	NPD	MPD	QCPD	EPD	
I. Capability Building on Human Rights (No. of PICE/ Lectures/ Seminars/HR Forums)	34	34	8	94	3	3
II. Prevention and Control of Human Rights Violation (No. of Lock-up Cell Inspection)	51	19	27	120	15	38
III. Prevention and Control of Human Rights Violation (No. of Medical Check-up)	20	9	16	89	11	0
IV. Multi-Sectoral Cooperation on Human Rights (No. of Spiritual Counseling)	39	70	14	135	8	0
TOTAL	144	132	65	438	37	41

The NCRPO also presented the crime trend in the National Capital Region (NCR) for the period of January to July 2014, for the purpose of discussing its relation to the human rights situation in the region.



On illegal drugs cases alone, there were about 3,063¹⁴ arrested persons during the period of January to July 2014 or seventeen (17) persons arrested per day. This excludes “hulidap” cases that are, of course, not put on official records. At this rate, it becomes common for police stations in the NCR to sometimes be packed with detainees. And it is on these occasions where issues on conditions and handling of detainees arise.

On the other hand, the CHR presented data on the common human rights violations on the basis of complaints and information received by the office and as culled from media reports. These include (1) torture and ill-treatment; (2) child abuse; (3) violence against women and children; (4) grave abuse of authority; (5) robbery; (6) grave misconduct; (7) physical injuries; (8) unlawful arrest; (9) arbitrary detention; (10) planting of evidence; (11) illegal demolition; and (12) “hulidap” or extortion cases where members of the PNP are often implicated.

As regards lock-up cells, the CHR shared the following issues per initial observations: (1) congestion; (2) lack of or poor ventilation; (3) lack of or no beds and/or beddings; (4) poorly maintained toilet facilities; (5) lack of medicine supplies for minor illnesses or wounds; (6) commingling of minors with adult detainees; (7) unavailable or outdated registers of detainees; (8) “overstaying” detainees; (9) illegal detention;¹⁵ and (10) torture.

¹⁴Source: PNP NCRPO during the *Conference on Human Rights and the Rule of Law*, August 27, 2014

¹⁵There were instances where arrested persons are detained even when there is no penalty of imprisonment for the act committed.

The conference sealed the consensus to undertake four (4) major commitments, namely:

- (1) Undertake policy development pertaining to lock-up cells under the auspices of the PNP-National Capital Region, using as basis the findings/assessment of both the PNP-NCRPO and the CHR on the situation of the one hundred forty-two (142) lock-up cells in the thirty-eight (38) police stations in the five (5) Police Districts in the NCR;
- (2) Undertake policy development in relation to Freedom of Assembly and the Right of the People to Petition Government for Redress of Grievances, articulating on the basic human rights principles on this right vis-a-vis State responsibilities and accountability;
- (3) Undertake the development/review and updating of the human rights/humanitarian law training course for the uniformed and non-uniformed officers and personnel in the 38 police stations, including those assigned in the Office of the Regional Director, NCRPO, and the Office of the Directors of the five (5) police districts. Thereafter, to cause the regular implementation thereof; and
- (4) Undertake policy development to strengthen the protection and promotion of the rights of women and children, taking into consideration the CHR's role as Gender Ombud.¹⁶

Because of the vulnerability of persons arrested without warrant, the CHR and NCRPO prioritized the conduct of a study on police lock-up cells in the NCR and the human rights conditions of PDL held therein.

¹⁶Republic Act No. 9710, otherwise known as the Magna Carta of Women.

PART II

THE PROJECT

A Study of the Human Rights Situation in Police Lock-Up Cells in the National Capital Region

The Project Study was conceptualized in light of the constitutional mandate of the Commission on Human Rights (CHR) to protect and promote the human rights of everyone in the country, which include monitoring government's compliance with international human rights treaty obligations and exercising visitorial power over jails, prisons or detention facilities.¹⁷ It is also anchored on the duty of police officers, for the purpose of this study, refers to arresting officers and the jailers assigned in police stations and lock-up cells across the National Capital Region (NCR), to enforce the law and processes relevant to the arrest, investigation and prosecution of criminal offenders.

The research consisted of onsite visits, inspections, data gathering, interviews and documentation. It commenced on the last week of October 2014 and lasted until the first week of February 2015. The gathered data were then evaluated vis-a-vis applicable human rights standards where several issues and good practices were identified in the process. A final assessment was done in March 2015.

The objectives of the Study are as follows:

A. General objectives

1. To obtain a validated report based on the study of the human rights condition in police lock-up cells in the thirty-eight (38) police stations in the NCR;
2. To undertake policy development and implementation at the CHR and NCRPO level to ensure respect for human rights and the rule of law;
3. To undertake programme measures on the basis of the result of the study towards strengthening protection, promotion and monitoring mechanisms, as well as the PNP-NCR institutional and individual law enforcer's capacity development on human rights norms and standards and the rule of law; and
4. To recommend appropriate measures to address the thematic concerns as validated in the study to ensure full compliance with international human rights standards, the Constitution and the rule of law.

B. Specific objectives

1. To identify prevailing human rights and enforcement issues in relation to the maintenance and handling of lock-up cells;

¹⁷ 1987 Constitution, Article XIII, Section 18.

2. To identify prevailing human rights and enforcement issues in relation to the handling of PDL;
3. To determine the bases of the deprivation of liberty of the detainees in police lock-up cells;
4. To determine whether NCR Police Stations comply with human rights standards in the maintenance and operation of lock-up cells and in the handling and treatment of PDL; and
5. To identify specific standards and good practices being observed by NCR Police Stations in relation to lock-up cells and the treatment of PDL.

Process and Tools of Data Gathering

1. The study involved visits and investigative monitoring of one hundred forty two (142) lock-up cells in the thirty-eight (38) Police Stations in the five (5) Police Districts in the NCR. The research also included random interviews, documentation and evaluation.
2. Technical Working Groups (TWG) composed of members from the CHR and the NCRPO were created to compose the Research Team who conducted the research activities.
3. For the interviews, two forms were used:

(a) PNP Monitoring and Interview Form

The Monitoring and Interview Form is divided into two parts: the first part focused on the issues and concerns on facilities; while the second part is focused on issues and concerns on whether or not the Standard Minimum Rules for the Treatment of Prisoners are complied. Observations were documented using this form.

(b) CHR Form on Issues and Concerns of Persons Deprived of Liberty

The Issues and Concerns of Persons Deprived of Liberty Form was used in documenting complaints of PDL together with their concerns and issues from the time they were arrested, brought to the police station's lock-up cells, conditions inside the temporary detention facility and how they are being treated or handled by PNP police officers/jailers/personnel.

4. After all data have been gathered and documented, a two-day pre-writeshop was conducted followed by a three-day writeshop for the finalization of the draft assessment report. The final assessment report contained the factual data, the observations and recommendations for the consideration of the Commission *En Banc* and the Office of the Philippine National Police Director (thru the Office of the Regional Director, National Capital Region Police Office).

Limitations

5. Random interviews were only conducted on the PDL and PNP Police Officers and Personnel.
6. The data gathered are limited only to the extent that PDL were able to share with the research team. This is because the PDL were not in an environment suitable for speaking and opening up about their condition. There were occasion when the jailers refused to leave despite request from the CHR officer so that the PDL can speak freely.¹⁸
7. The study covered only the prevailing conditions in lock-up cells in the National Capital Region for the period October 2014 to February 2015.
8. There is no regular fund to cover the cost of the project necessitating the support from the Spanish Agency for International Development Cooperation [Agencia Espanola de Cooperacion Internacional del Desarrollo (AECID)].

The Philippine Criminal Procedure in relation to Warrantless Arrests

As a rule, an arrest must be done on the strength of a warrant issued by a court. Nevertheless, the law on Criminal Procedure provides exceptional instances when there can be an arrest even without a judicial warrant. Section 5 of Rule 113, Rules of Court, provides:

“Arrest without warrant; when lawful. --“A peace officer or a private person may, without warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 6 of Rule 112. (5a)

¹⁸ For instance, at Anonas QCP-Police Station the PDL were not allowed to answer questions, as it was the “Mayor” or the “Bastonero” who spoke in their behalf. The Jailer called the “Mayor” to answer the questions of the CHR Team.

It is from the moment of arrest of a person, particularly in warrantless arrests, that human rights become vulnerable. This vulnerability intensifies when the arrested person is placed in lock-up cells as it is where the crucial stages of criminal investigation take place.

Law enforcers must therefore observe human rights standards in the handling and treatment of PDL, particularly from the time of arrest until they are placed under temporary custody in lock-up cells. The maintenance of detention facilities such as police lock-up cells must likewise meet the required standards set forth in international instruments and domestic laws.

International and Domestic Human Rights Standards

The international human rights instruments adopted by the United Nations (UN) set forth standards for States to observe in the performance of their sovereign powers. The standards serve as minimum guideposts, as well as a measure against the actions of authorities in relation to its legal and moral obligations to respect, protect and fulfil rights of everyone, including PDL.

Thus, the study referred to the following: (1) Universal Declaration of Human Rights (UDHR);¹⁹ (2) International Covenant on Civil and Political Rights (ICCPR); (3) International Covenant on Economic, Social and Cultural Rights (ICESCR); (4) Convention on the Rights of the Child (CRC); (5) Standard Minimum Rules for the Treatment of Prisoners (SMRTP);²⁰ (6) the Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Principles);²¹ and the (7) Convention Against Torture (CAT).

In evaluating the vulnerability of women, children and persons with disability in detention, the following instruments were also referred to: (1) United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules for Women); (2) Geneva Declaration of the Rights of the Child; (3) UN Rules for the Protection of Juveniles Deprived of Liberty; and the (4) UN Convention on the Rights of Persons with Disabilities (CRPD).

Finally, the 1987 Philippine Constitution and relevant domestic legislations, such as Republic Act 9745 (Juvenile Justice and Welfare Act), Republic Act 7438 (Certain Rights of Persons Arrested, Detained and Under Custodial Investigation), the Revised Penal Code, as well as rules and regulations were also used as reference in the evaluation of human issues in police lock-up cells.

¹⁹Promulgated on December 10, 1948.

²⁰Approved by the Economic and Social Council on 31 July 1957 (resolution 663 C I (XXIV)).

²¹Adopted by General Assembly resolution 43/173 of 9 December 1988.

DATA PRESENTATION

LOCK-UP CELL	MPD		QCPD		NPD		SPD		EPD	
	CDCS ²²		DAID; CIDU/WARRANT		DSOU; DAID		DSHG; DSOU			
HQ	RECORD	VALIDATED	RECORD	VALIDATED	RECORD	VALIDATED	RECORD	VALIDATED ²³	RECORD	VALIDATED
Male LUC	4	4	2	2	2	2	2	1	1	-
Female LUC	1	1	2	2	1	1	1	1	1	-
CICL LUC	1	0	0	0	0	0	0	0	0	-
Total	6	5	4	4	3	3	3	2	2	-
Police Station	11 PS	11 PS	12 PS	12 PS	5 PS & 5 SUB-PS ²⁴	5 PS ²⁵	7 PS ²⁶	7 PS ²⁷	4 PS	4 PS
Male LUC	13	14 ²⁸	12	16	16	13	20	9	7	8
Female LUC	11	10 ²⁹	12	14 ³⁰	10	7	8	7	4	3
CICL LUC	3	0	4	2	2	4 ³¹	1	1 ³²	1	0
Total	27	24	28	32	28	24	29	17	12	11
SUMMARY										
Male LUC	17	18	14	18	18	15	22	10	8	8
Female LUC	12	11	14	16	11	8	9	8	5	3
CICL LUC	4	0	4	2	2	4	1	1	1	0
Total	33	29	32	36	31	27	32	19	14	11
GRAND TOTAL										
Male LUC	79	69								
Female LUC	51	46								
CICL LUC	12	7								

I. Comparative Table on Police Lock-up Cells Inventory in NCR based on NCRPO Records and CHR Validation

²²Custodial and Detention Center Section.

²³DSOU LUCs appear abandoned; nobody was around at time of CHR visit.

²⁴Caloocan City PS-1 includes SIDMD, WSS, INTEL Branch, SAID, STEU.

²⁵SAID, SIDMD, STEU, INTEL, WSS are all in Caloocan City Police Station 1.

²⁶Pasay City Police Station includes SIDMB, SAID-SOTG, TMRU, 11 PCPs with LUCs for male.

²⁷SIDMB, SOU/SAID, TMRU in Pasay City.

²⁸One LUC located outside.

²⁹At time of visit, a minor (17y/o) is held together with adults in the female LUC, MPD-Ermita Police Station.

³⁰QCPD-Cubao PS7 LUC for females located outside PS (Araneta Center).

³¹Two LUCs for minors inside NPD-Navotas PS-3, but under the supervision of CSWDO. 7 male CICL and 2 female CICL [one of whom is a special child]. No detainee in NPD-Valenzuela City PS LUCs for male children, but a PNP personnel is detained in the LUC for female children.

³²Taguig City PS has LUC for boys with 8 detained therein at the time of CHR visit. A female minor is temporarily held at LUC for adult females.

As indicated in the Data Presentation, there were one hundred twenty-two (122) police lock-up cells in the NCR validated by the CHR Teams in the process of this study.

The study also covered twelve (12) Police Community Precincts (PCP) on a random basis, since these are under the immediate supervision of police station in the city or municipality level and that persons arrested by PCP police have to be brought to the police station for booking, investigation, and filing of appropriate charges, if warranted. The maintenance and operation of PCP is also assessed from time to time by the PNP in light of the peace and order situation on the ground.

II. Validated Issues

Below are the common issues that were validated across the five (5) Police Districts in the National Capital Region.

1. Records

Issues revolved around incomplete, outdated or total absence of PDL registers.

2. Facilities and Accommodation

Congestion was the primary concern of PDL. Other issues were: (1) dilapidated lock-up cells; (2) poor ventilation; (3) absence of natural light; (4) lack of beddings or mattresses; (5) poorly maintained or absence of toilet facilities, including bathrooms; and (6) want for separate lock-up cells for children and LGBT.³³

3. Basic Necessities

Regarding basic necessities, scarcity of food and water constituted the PDL's primary concern. Most police stations do not have institutional fund to cover detainees' meals. Water supply is usually insufficient and some police stations do not even have potable water. The absence of toiletries and clothing/detainees' uniform were also raised.

4. Health

The following issues, in relation to the right to health, were raised in some police stations: lack of medicines and first-aid kits; absence of pre-natal service for pregnant detainees; lack of medical officers assigned in the police stations; dearth of supply for personal hygiene; non-referral to hospital or institutions of sick PDL requiring special care; and absence of engagement with social worker or psychologist.

³³ The Makati Police Station in particular raised their concern before the CHR Team on where to detain LGBT deprived of liberty.

5. *Treatment and Handling*

PDL are not personally given written rules on lock-up cells. They do not have concrete complaints mechanism. There were issues on the use of physical force in handling detainees such that torture and ill-treatment were reported. The use of instruments of restraint was also raised.

6. *Information and Communication*

Detainees are usually unable to communicate with their families or friends. Some of them were also not informed of the nature of the charges against them, including the status thereof.

7. *Rights of Persons Arrested, Detained and under Custodial Investigation*

Both the detainees and police complained about the delay in the issuance or implementation of commitment orders from the courts. Some police stations do not have medical examination conducted immediately after arrest, before and after custodial investigations and prior to the detainees' release or turn-over to proper agency. Some detainees were not assisted by counsel during custodial investigation and some were detained beyond the allowable period.

8. *Vulnerability*

Most lock-up cells do not have female jailers. There were also children under detention, while one detention facility was under the supervision of social worker albeit located inside the police station. Sometimes, no officer was on duty at the Women and Children's Desk at night.

9. *Other Issues*

There were also issues on the absence of inventory for the PDL's personal property; that personal property are sometimes not returned upon release or upon request by the family members. Some police officers do not undergo training in the handling of detainees. Lastly, some stations do not have vehicles available to transport detainees.

DISCUSSION AND ANALYSIS OF VALIDATED DATA

I. Right to Humane Treatment

Article 5 of the UDHR states that “(N)o one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment. On the other hand, Article 10 of the International Covenant on Civil and Political Rights (ICCPR) is explicit on the right of PDL and declares that “(A)ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person,” while the Principles ensures protection measures by providing that “(A)ll persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.”³⁴

Furthermore, the Rules³⁵ set out what are generally accepted standards in the treatment of PDL and the management of institutions. While in the domestic sphere, the 1987 Philippine Constitution has directly translated the above standards as a fundamental State policy and principles when it expressly provided that “(T)he State values the dignity of every human person and guarantees full respect for human rights.”³⁶

These measures serve as guideposts for state authorities, including the law enforcement sector, to strictly observe in the performance of their mandated powers and functions. They must be applied impartially with no discrimination or distinction on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.³⁷

A. Basic Necessities

1. Food

Every person deprived of liberty, whether convicted prisoners or detention prisoners, shall be provided with, at the usual hours, food of nutritional value adequate for health and strength, of wholesome quality, well-prepared and served. ³⁸

Food is a basic entitlement of every one including those in temporary detention. Based on research, however, most detainees in police lock-up cells depend on their relatives and visitors for their meals.³⁹ Due to limited budget, most police lock-up cells are not able to provide meals for detainees.

³⁴Principle 1, Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment

³⁵Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977

³⁶Article II, Section 11, 1987 Philippine Constitution

³⁷Art. 2(1), ICCPR; Art. 2, UDHR; Rule 6(1) United Nations Standard Minimum Rules for the Treatment of Prisoners (UNSMRTP); and Principle 5, Body of Principles

³⁸Standard No. 20, Standard Minimum Rules

³⁹SPD–DSHG, Taguig, Muntinlupa and Pateros Police Stations. NPD DSOU, DAID, PS 1 – 4; All MPD police lock-up cells.

Nevertheless, police officers or jailers occasionally provide food for the detainees,⁴⁰ while some local government units allocate meal subsistence to detainees to a certain extent.⁴¹ In one lock-up cell, recognized leader-detainees generate a common fund coming from the detainees' relatives and visitors so that those who have no relatives are provided with food.⁴² Some female detainees are allowed to cook their own food inside the lock-up cell.⁴³

2. Water and Personal Hygiene

Since water is an essential need of human beings, it must be available to every PDL whenever he or she needs it.⁴⁴

Just like in the case of food, most police stations are not able to provide potable water to their detainees.⁴⁵ Detainees with no relatives or visitors drink water from the faucet in toilets. An exception is SPD-DSHQ which provides hot and cold mineral water in a dispenser readily accessible to detainees.

As regards water for general use, only few police lock-up cells do not have continuous supply of water.⁴⁶

Moreover, personal hygiene items such as toiletries are essential to maintain personal cleanliness and proper hygiene compatible with a detainee's self-respect.⁴⁷ Thus, appropriate facilities and basic hygiene needs should be provided to detainees⁴⁸ if they could not provide for themselves.



Unfortunately, most police stations do not provide toiletries⁴⁹ to detainees due to budget constraints. It is usually the relatives and visitors of detainees who bring toiletries to detainees.⁵⁰

⁴⁰ QCPD Anonas PS 9; NPD Caloocan City PS Extension

⁴¹ EPD-Mandaluyong PS 3. LGU of Mandaluyong provides 40 sets of meal a day. LGU of Parañaque provides food allowance [for the first fifty (50) detainees]; and also LGU Las Piñas (thru the Office of the Mayor) provides food to PDL who have no visitors.

⁴² SPD-Muntinlupa City Police Station.

⁴³ MPD HQ (female lock-up cell).

⁴⁴ Standard No. 20, Standard Minimum Rules.

⁴⁵ QCPD-La Loma PS 1, Novaliches PS 4, Fairview PS 5, Eastwood PS 12, DAID/SOTG, Warrant/CIDU. MPD-Hq, Sta. Cruz PS 3, Sampaloc PS 4, Ermita PS 5, Jose Abad Santos PS 7, Sta. Mesa PS 8, Malate PS 9, and Binondo PS 11. SPD-Muntinlupa and Pateros Police Stations, and Pasay City PS. EPD-Mandaluyong PS 3, San Juan PS 4, Marikina PS 5 and Markina PCP 1.

⁴⁶ Taguig SPD-PS – Water supply is available only to adult PDL and not to CICLS; Pasay SIDMB – no water supply during Sundays; Pasay PCP 7 – no water supply for ten (10) months already at the time and date of visit; and Muntinlupa NPD-PS, Caloocan City PCP 3, MPD PS 3

⁴⁷ Rule 16, Standard Minimum Rules.

⁴⁸ Rule 15, Standard Minimum Rules.

3. Clothing and Beddings

The right to clothing is a basic right of every person including persons in detention. If a PDL has no detention clothes, he must be allowed to wear civilian clothes.

As observed, PDL generally wear civilian clothes. But there is no provision for clothing.⁵¹ While detainees are provided with t-shirts during inquest or hearings, they have to return it after⁵² or upon a PDL's release or transfer to another detention facility. The detainee t-shirt is apparently shared with other detainees and is not allotted to a particular PDL.

The Standards also require that every PDL be provided with a separate bed and separate and sufficient bedding which must be clean when issued, kept in good order and changed often enough to ensure its cleanliness.⁵³

Sleeping paraphernalia are not provided to detainees because of budgetary limitations.⁵⁴ Most PDL in lock-up cells sleep on the floor while other detainees use improvised mats using "karton" while some use hammocks or "duyan."

But it was noted that Las Pinas City Police Station provided a double-deck bed at the female lock-up cell. In QCPD-Eastwood PS, detainees are allowed to bring their own mattress; while pillows are provided to some PDL in NPD-PS DSOU.



Photo above shows a detainee at the SPD-Pasay City Police Station sleeping in a "karton" -- an improvised mat; and a hammock.



Photo taken at SPD-Las Pinas PS female dorm which shows that female detainees are provided with one double-deck bed.

⁴⁹ All police lock-up cells within MPD, QCPD, EPD, SPD.

⁵⁰ NPD PS 1, WSS, DAID, Caloocan City PS Extension, PS 2, 3 and Caloocan City PCP 3.

⁵¹ NPS DSOU, PS 1 and its extension, DAID, PS 2-4, and PCP 3; all EPD police stations.

⁵² All QCPD police lock-up cells; SPD DSHQ, Taguig, Pasay SOU/SAID, and Muntinlupa Police Stations.

⁵³ Standard No. 19, Standard Minimum Rules.

⁵⁴ All police districts -- QCPD, MPD, NPD, SPD, EPD, with exceptions of 3 police stations as indicated above.

B. Facility and Accommodation



1. Congestion, Ventilation, Light, Sanitary Installations and Building Structure

As a rule, all accommodations provided for the use of PDL, particularly sleeping accommodation, shall meet all requirements of health with due regard to climatic conditions, cubic content of air, minimum floor space, lighting, heating and ventilation.⁵⁵

Left photo taken at SPD-Pasay City SOU/SAID. This shows the actual congestion at the lock-up cells.



Congestion is the prevailing condition in lock-up cells. This is obviously dangerous to health and life since it breeds diseases, breaks down discipline and cause tensions between PDL. Almost all lock-up cells visited were overcrowded – some were filthy, had foul odor, not well ventilated and have no light.

Left photo taken at SPD-Las Piñas PS which shows an overcrowded male dorm.

⁵⁵Standard No. 10, Standard Minimum Rules.

Among the congested lock-up cells⁵⁶ whose ideal and actual capacity were identified at the time of the CHR visit and data gathering are as follows:

District	Police Station	Ideal Capacity	Actual Population ⁵⁷	Rate of Congestion ⁵⁸
Manila	PS 7 – Jose Abad Santos (male)	10	36	260%
Quezon City	PS 7 – Cubao (male)	10	30	200%
Quezon City	PS 9 – Anonas (male)	10	24	140%
Southern	Taguig City Police Station (male)	20	45	125%
Eastern	Pasig City (male)	20	39	95%
Southern	Las Pinas (male)	20	39	95%
Quezon City	CIDU/Warrant (male)	15	29	93%
Southern	Taguig City (CICL)	8	13	62%
Quezon City	PS 3 – Talipapa (male)	20	31	55%
Quezon City	DAID/SOTG (male)	15	22	47%
Eastern	Marikina – PCP 1	3	5	25%

Police officers cited several factors that cause congestion such as: (1) slow or delayed issuance of commitment orders;⁵⁹ (2) slow disposition of cases or protracted trials;⁶⁰ (3) small lock-up cells;⁶¹ (4) inability to post bail by the detainees, often due to excessive amount; (5) scheduled transfer of detainees;⁶² and (6) lack of funds to transport arrested persons whose warrants of arrest were issued by courts outside the National Capital Region. Another cited cause is when there is a sudden influx of arrested suspects, such as those apprehended in buy-bust operations and checkpoints⁶³ where several persons are arrested at a single time.

As a “remedy”, the PDL put up and sleep in makeshift “duyan” or hammocks, such as the detainees in MPD-Malate PS9.

As regards the issue on poor ventilation and lighting, the Rules provide that:

“The windows shall be large enough to enable PDL to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation.”⁶⁴

Artificial light shall be provided sufficient for the PDL to read or work without injury to eyesight.⁶⁵”

⁵⁶ Also, the following lock-up cells are congested: MPD HQ, PS 1 (male), PS 2, 3, 4, 7, 9 and 10; NPD WSS and PS 2 (male); QCPD PS 7, 9, PCP 1, QCPD DAID/SOTG and Warrant/CIDU (both male);

⁵⁷ Data on actual capacity provided by the police officer/jailer during the inspection/interview by the CHR teams.

⁵⁸ Formula: $[(\text{Ideal capacity} - \text{actual capacity}) / \text{ideal capacity} \times 100\%]$

⁵⁹ MPD PS 1; NPD PS 2 - Malabon; Caloocan PCP 3; EPD Marikina PCP 1; QCPD PS 3, 12 and DAID/SOTG; SPD Pasay SOU/DAID, and Taguig City Police Station - One male detainee has been detained for more than 2 years at the time of visit without Commitment Order despite several requests by the jailers before the competent judicial authority.

⁶⁰ DSOU NPD-PS.

⁶¹ SAID/SOTG, QCPD-PS.

⁶² Project 4, QCPD-PS 8.

⁶³ Jose Abad Santos MPD-PS 7. There were seventeen (17) PDL detained allegedly driving without license.

⁶⁴ Standard No. 11(a), Standard Minimum Rules.

Upon inspection, it was revealed that some police lock-up cells do not have proper ventilation or windows.⁶⁶ If there were, they were too small⁶⁷ for the entry of natural light and fresh air. Lock-up cells in two (2) MPD police stations are in a suffocating condition being located in the basement.⁶⁸ There are lock-up cells with no light⁶⁹ -- whether natural⁷⁰ or artificial light.⁷¹

Ideally, sanitary installations shall be adequate to enable every PDL to comply with the needs of nature when necessary and in a clean and decent manner.⁷² Adequate bathing and shower installations shall be provided so that every PDL may be able to take a bath or shower, as frequently as necessary for general hygiene.⁷³ All parts of an institution regularly used by PDL shall be properly maintained and kept clean at all times.⁷⁴

However, the study reveals that sanitary installations in several NCR police lock-up cells are below the minimum standard. Either they do not exist or are poorly maintained. For example, some PS lock-up cells do not have toilets or are otherwise in poor condition.⁷⁵

In MPD-Malate PS-9, a hole directly connected to the sewage serves as the detainees' toilet; while in MPD-Sta. Mesa PS-8 and EPD-Marikina PS the toilets are clogged. In SPD-Taguig PS, minors share the toilet facility with female adults. Male and female detainees have a common toilet in EPD-San Juan PS-4.

Almost all toilets have no sink, or in-cell lavatories. Some toilet bowls overflow and some are clogged⁷⁶ that secrete an odious stench. The research further reveals that toilets and bathrooms do not afford privacy since it merely covers half of the person's body revealing the detainee's torso when taking a bath or complying with the needs of nature. In most lock-up cells, female detainees have to sit down or put a curtain in order for them not to be exposed while taking a bath. According to jailers, these toilets and bathrooms are specifically designed in order to avoid torture or ill-treatment among the detainees inside the toilet.

⁶⁵Standard No. 11(b), Standard Minimum Rules.

⁶⁶QCPD-Talipapa PS 3; Anonas PS 9; DAID; MPD-Raxabago PS 1 (Female LUC), Sampaloc PS 4 (Female LUC), Sta. Ana PS 6; Jose Abad Santos PS 7, Binondo PS 11. MPD-Sta. Cruz PS 3 and Sta. Mesa PS 8 are located at the basement.

⁶⁷QCPD-PS 1, 2, 8, 12; SPD-Taguig PS; MPD-PS 1 and 4 (male).

⁶⁸MPD PS 3 and 8.

⁶⁹QCPD-Batasan PS 6; Galas PS 11 (lock-up cell for female); MPD-Sampaloc PS 4; SPD-Taguig PS, Paranaque PS, Makati PS, Pasay City PS-SIDMB, Muntinlupa PS; NPD-Caloocan City PS PCP-3 (Male lock-up cell).

⁷⁰QCPD-Novaliches PS 4, Galas PS 11 (male adult and CICL lock-up cells), and Eastwood PS-12 (female); EPD-Mandaluyong PS 3, San Juan PS 4, Marikina PS, Marikina PCP 1.

⁷¹QCPD-Project 4 PS 8 (female lock-up cell), Anonas PS 9.

⁷²Standard No. 12, Standard Minimum Rules.

⁷³Standard No. 13, Standard Minimum Rules.

⁷⁴Standard No. 14, Standard Minimum Rules.

⁷⁵QCPD-Cubao PS 7; MPD-Sta. Cruz PS 3, Sta. Ana PS 6, Sta. Mesa PS 8, Malate PS 9; NPD-DSOU, WSS, DAID, Caloocan PCP 3. SPD-Taguig PS, Pasay City PS-SIDMB and Muntinlupa PS. EPD-San Juan PS 4, Marikina PS.

⁷⁶SPD-Muntinlupa PS (female); MPD PS 8 (female); EPD Marikina Police Station.



Left photo taken at SPD-Pasay SOU/SAID. This shows the below minimum standard toilet.

The study noted as exception to the issue on no toilet or poor toilet facilities the following police lock-up cells: SPD-Pateros PS, QCPD-Eastwood PS and NPD-Valenzuela City PS.



Picture taken at SPD-Pateros PS female dorm showing that, unlike other sanitary installations, detainees can stand while taking a bath inside the comfort room which is more than 5feet high.

Many police stations are located in old and decrepit buildings, like NPD-Malabon PS-2 and QCPD-Anonas PS-9.⁷⁷ This condition is shared by other stations such as the QCPD-La Loma PS-1; Novaliches PS-4, and DAID/SOTG; MPD-Moriones PS-2, Sta. Cruz PS-3 (the wooden cell that resembles a pig sty), Sampaloc PS-4 (the lock-up cell for women is wet due to water seeping from the walls and ceiling); SPD-DSHG, Muntinlupa City PS; EPD-Mandaluyong PS-3 and San Juan PS-4 (the ceiling at the female lock-up cell is also leaking). One police station, Pasay City PS-TMRU (PCP-8), is even in danger of being demolished as it is located near a creek.



Photo taken at MPD–Sta. Cruz Police Station

It was observed that, generally, lock-up cells were constructed with little consideration as to the health of the detainees, especially those who are of old-age, with illnesses, pregnant, and with disability. When asked about the physical conditions of police stations, some police officers answered that renovation of buildings where police stations are located comes along with issues on ownership of the land and/or building. Usually renovation falls under the administrative care of local government units.⁷⁸

The study noted that QCPD-Eastwood PS-12, SPD-Pateros PS and NPD-Valenzuela PS are exceptions to the issues on dilapidated/damaged or poor condition of police station buildings and/or lock-up cells. These three police stations, as well as its lock-up cells, are in good condition and meet the required standard appropriate to the humanity and dignity of PDL in temporary custody therein.

⁷⁷There can be no renovation of the Anonas PS considering that the NAWASA water pipes installation is located underneath the police station building. Its ceiling reportedly has been leaking since 2013.

⁷⁸Novaliches QCPD-PS.



QCPD–Eastwood PS-12. All rooms are airconditioned, except the receiving area. Lock-up cells are not congested; have sanitary installation high enough to afford privacy to detainees.

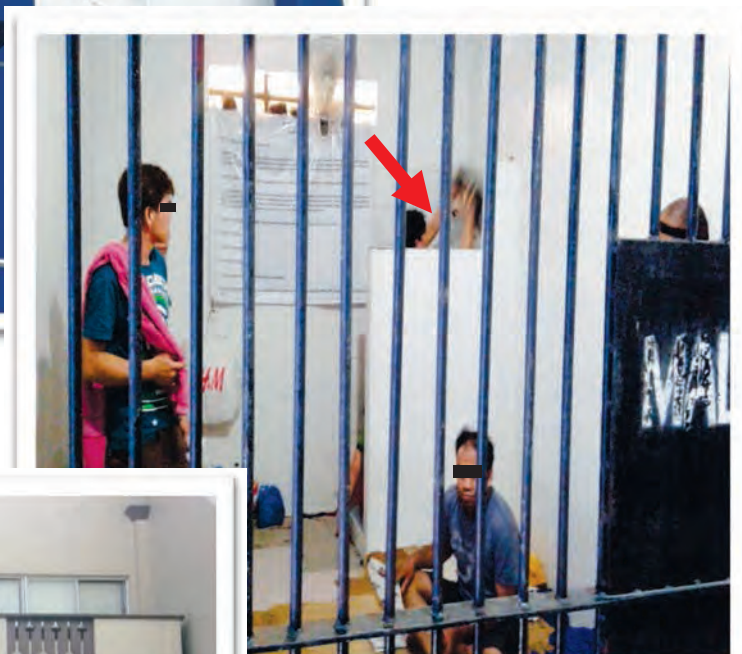


Photo at left taken at Valenzuela City PS

2. Separation of Categories

Persons in detention shall be subject to treatment appropriate to their unconvicted status⁷⁹ and they should be presumed innocent and shall be treated as such until proven guilty.⁸⁰

Men and women shall, so far as possible, be detained in separate institutions or in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate.⁸¹ Untried PDL shall be kept separate from convicted PDL⁸² and young PDL shall be kept separate from adults⁸³ and shall in principle be detained in separate institutions.⁸⁴



Unfortunately, the study noted that there are police lock-up cells that hold children in conflict with the law (CICL) together with adults.⁸⁵ This is discussed in detail in Part III [Addressing Vulnerability (B. Children)].

On the other hand, adult female detainees generally have separate lock-up cells. But it was noted that the privacy rights of female detainees are compromised where only iron or steel barriers are used to segregate them from male detainees as shown in the photo at left.⁸⁶

Moreover, arrested persons with intellectual disabilities (PWD) are detained with sane detainees.⁸⁷ This goes against the rule that persons who are found to be insane shall not be

detained in prisons and arrangements shall be made to remove and transfer them to mental institutions as soon as possible⁸⁸ where they shall be observed and treated⁸⁹ or if this is not

⁷⁹ Principle 8, Body of Principles.

⁸⁰ Standard No. 84(2), Standard Minimum Rules; Principle 36, Body of Principles.

⁸¹ Standard No. 8(a), Standard Minimum Rules.

⁸² Standard No. 8(b) and 85(1), Standard Minimum Rules.

⁸³ Rule 8(d), Standard Minimum Rules.

⁸⁴ Rule 85(2), Standard Minimum Rules.

⁸⁵ In particular, Pasay City Police Station– SOU/SAID holds one male CICL together with male adult detainees; and Taguig City Police Station has, at the time of CHR visit, a female CICL in detention together with adult female detainees. MPD-Ermita PS 5 has a 17-year old CICL charged for robbery detained together with female adult detainees; and in MPD-Sta. Ana PS 6 a male minor detained together with female adult detainees.

⁸⁶ SPD-Pasay SOU/SAID.

⁸⁷ Muntinlupa City SPD-PS.

⁸⁸ Standard No. 82(1), Standard Minimum Rules.

⁸⁹ Standard No. 82(2), Standard Minimum Rules.

possible, the said person with disability shall be placed under the special supervision of a medical officer⁹⁰ who shall provide the psychiatric treatment.

Detention authorities must conform with the strict requirement of separation of categories, in keeping with the right to dignity and privacy and vulnerability of PDL. A way to address this issue is to construct lock-up cells for each category, compliant with the required standards and taking into consideration the PDL's dignity and privacy. For the purpose, government has to allocate the budgetary requirements.

C. Records

1. Register

The Principles mandate that there shall be a record⁹¹ or a bound registration book with numbered pages⁹² in which the information concerning the identity, the reason for the arrest, the day and time of the arrest and release, and the status of the detainee's case are entered. Such records shall be communicated to the detained person, or his counsel, if any, in the form prescribed by law.⁹³ In relation to this, the CHR has issued a Resolution,⁹⁴ together with the prescribed form, instructing authorities concerned to submit monthly inventory of all detention facilities and registry of detainees in accordance with the Anti-Torture Act⁹⁵ and the Anti-Enforced Disappearance Act.

Despite this, there are still police stations in the NCR that do not have readily available register⁹⁶ or do not have complete or updated registry of detainees⁹⁷ such that names of some detainees are not found in the list.⁹⁸ Some police stations record only the identity of the PDL and nature of charges against them. Some do not have separate blotters for CICL such as the SPD-DSHQ.

Failure to have a systematic documentation of information makes persons arrested or under police investigation and temporary detention vulnerable to human rights violations. Without a complete record, the transfer of custody of a detainee from one detention facility to another can be effected without trace of accountability to authorities having custody of PDL. Hence, it should be emphasized that the accurate registry of detainees is a very important

⁹⁰Standard No. 82(3), Standard Minimum Rules.

⁹¹Principle 12, Body of Principles.

⁹²Standard No. 7, Standard Minimum Rules.

⁹³Principle 12(2), Body of Principles.

⁹⁴CHR (IV) Resolution No. A2012-091.

⁹⁵Section 7, R.A. NO. 9745.

⁹⁶QCPD-DAIID/SOTG, MPD-Raxabago PS 1, Ermita PS 5, Malate PS 9. NPD-DSOU, DAID; SPD-DSHG (No separate blotter for CICL), Pasay City PS SOU/SAID; SPD-Pasay City PS-TMRU PCP 7 does not keep records of blotters. EPD-Mandaluyong City PS 3, San Juan City PS 4(jailer has no copy of case folder, it is with the investigator for security reason so that case will not be compromised; no individual case folders)

⁹⁷QCPD- Talipapa PS 3, Fairview PS 5, Batasan PS 6, Eastwood PS 12; MPD-Hq, Moriones PS 2, Sta. Cruz PS 3, Sta. Ana PS 6 (list of detainees incomplete), Sta. Mesa PS 8, Binondo PS 11. NPD-Caloocan City PS North Ext., Malabon City PS 2. SPD-Taguig City PS, San Juan PS 4 (no individual case folder).

⁹⁸MPD-Sta. Ana PS 6.

safeguard where issues on accountability of custody arise, especially in cases of arbitrary detention, torture, ill-treatment, or enforced disappearance.

D. Treatment and Handling of Detainees

1. Torture, ill-treatment and use of force

Freedom from torture and other cruel inhuman and degrading treatment or punishment, and the right of detained persons to make complaint as to treatment must be respected at all times by Police Officers.⁹⁹ This standard is very important in order to ensure, among others, that authorities shall at all times observe humane treatment and proper handling of PDL.



However, in the course of the study, there were complaints about incidents of torture and ill-treatment. Torture allegedly takes place after medical examination was conducted on the arrested persons but before they are brought to the Police Station, and also while at police station.¹⁰⁰ Some claimed they were punched, beaten, slapped, kicked, shouted and cursed. A female PDL alleged that she was made to undress and/or slapped by authorities.¹⁰¹ In particular, a CICL complained that he was hurt, punched and electrocuted by arresting officers at the Police Community Precinct;¹⁰² and three (3) female PDL claimed that they were slapped by four arresting officers whom they identified.¹⁰³

Incidents of torture and/or ill-treatment were also noted in SPD-Pasay City PS committed by a *Barangay Kagawad* and *Barangay Tanod* at the time of arrest. PDL were hit with a cup or a gun and water

poured in their nose while their hands were tied at their back;¹⁰⁴ two (2) PDL claimed of physical torture – hit with a gun at the back of their heads, kicked, beaten by police Alabang/Sucab Toll Gate and that police use force in handling them.¹⁰⁵

⁹⁹ Principles 6 and 33, Body of Principles

¹⁰⁰ MPD-Ermata Police Station 5.

¹⁰¹ QCPD-Project 4 PS 8

¹⁰² SPD-Taguig City PS.

¹⁰³ EPD-Marikina PCP 1 which covers for barangays.

¹⁰⁴ SPD-Pasay City Police Station-SIDMB.

¹⁰⁵ SPD-Muntinlupa PS.

Similar incidents were also noted at the Manila Police District. A PDL was seen being beaten with a wooden plank by a police/jailer for allegedly being “makulit” (naughty/hardheaded).¹⁰⁶ A female detainee was also allegedly tortured at the MPD-Tayuman Police Community Precinct committed by a police officer of MPD-Jose Abad Santos PS-7. The said detainee needs post-natal care as she just gave birth about a month ago and, according to her co-detainees, was bleeding the day before the CHR visit.¹⁰⁷

At the Quezon City Police District, a PDL who requested anonymity, raised the issue of torture in La Loma PS-1; and another raised the issue of use of force by police authorities in handling PDL in Batasan PS-6.

On the other hand, in EPD-Marikina PS, a PDL claimed that he was punched at the head, back and chest by the arresting officers; the CHR Team noticed that there were scars in his body. Another PDL claimed that he was made to lay down and then kicked by the police officers.



Photo of a female detainee at Marikina PCP 1 who has contusions on the front left thigh. She also has bruises on the left shoulder.

In Northern Police District, the CHR Team noticed a detainee in the Caloocan City PS North Extension Office (Barugo) with burns on top of his hand, and cuts and burns on his head. He said that these were due to the paraffin test he had. He further claimed that a CHR Investigator already talked to him and that he was examined by a doctor from the Forensic Center.

In Navotas PS-3, a PDL claimed he was tortured by an arresting officer, but verification of the medical certification issued by an emergency lying-in clinic shows that there was no physical sign of torture. Another PDL facing charges for violation of the Anti-Violence Against Women and Children Act (R.A. No. 9262) has signs of physical injuries, but claimed that he sustained the same

¹⁰⁶Sampaloc PS 4.

¹⁰⁷The female detainee was hit with a thick columnar book by a police officer.

in a brawl with his wife. According to the jailer, the PDL was already transferred to the Bureau of Jail Management and Penology (BJMP).

In an alleged “*hulidap*” case, police officers allegedly demanded Php1 million for the release of a common-law couple who were also physically hurt -- the male partner was hit/punched with a firearm at the back of the neck, and the female PDL claimed that she was made to undress by the arresting officers at the police station; the female PDL said she is willing to execute an affidavit to this effect upon their transfer to the BJMP.¹⁰⁸ Cases of this nature do not usually find their way in police reports. Even the CHR receives only anonymous complaints or reports of this nature. Though some are unsubstantiated, these are serious matters that should be timely and judiciously addressed as this situation makes *hulidap* victims vulnerable to human rights violations in the hands of erring law enforcers.

The authorities cannot invoke ignorance of the law pertaining to the proper handling and treatment of persons arrested, detained or under investigation which they are presumed to know. In this vein, it is incumbent upon the institutions concerned – the Philippine National Police and the Commission on Human Rights, in particular, to provide men and women in the police sector the necessary continuing capacity-building, such as training and orientation of police officers and personnel along human rights norms and standard, including relevant new domestic legislation.

It is true that the CHR human rights training and education program has been in place for more than two decades now, and that the NCRPO also has a laudable human rights programme for the police sector in the NCR which is in full implementation.¹⁰⁹ But if we are to base on the human rights situation in police lock-up cells as borne by the study, it appears that authorities still lag in the actual practice and compliance with human rights standards, as well as faithful observance of the rule of law. Paradigm shift towards human rights based policing, particularly sensitivity to the humanity and dignity of PDL in temporary custody of police stations, has not yet been fully realized. Hence, the need to further strengthen existing education and capacity building programs on human rights and the rule of law which should consider a comprehensive review as to substance and methodology in the implementation.

2. Discipline and Punishment

Discipline and punishment is a way of maintaining order in detention facilities. But the manner by which it is carried out and/or by whom has to be within the parameters of the law and human rights standards. It seems, however, that the acceptability to some extent, depends on the hierarchical structure of Police Stations. Hence, some police stations appear vigilant in observing proper measures while others observe it sometimes, and the rest do not altogether. It is more appalling when authorities leave the imposition of discipline and punishment to detainees themselves. This practice runs counter to Principle 30 of the Body of Principles and Standard Minimum Rules on the Treatment of Prisoners.

¹⁰⁸ QCPD-Project 4 PS.

¹⁰⁹ NCRPO Human Rights Training Program was discussed during the August 27, 2014 Conference on Human Rights and the Rule of Law.

a. Persons authorized to implement discipline and impose punishment

Police lock-up cells are designed as temporary detention facilities; hence, detainees are to stay there temporarily. However, this momentary transit at times lasts longer than what the law permits. Some detainees are detained over a period of months to years.¹¹⁰ This creates a situation where certain detainees have acquired so-called responsibilities that are not accorded them under the law, yet, tolerated by authorities; and this can lead to the evolvement of systematic and organized group of detainees within a lock-up cell, albeit small, to adopt and implement its own practice of discipline and punishment.

It was observed that in certain police stations gangs exist, such as the Commando gang whose rules for the detainees is posted on the wall; and the *Sputnik* gang whose organizational structure, the names and positions of the officers (who are all detainees therein) are also posted on the lock-up cell wall.¹¹¹

Detainees choose from among themselves a **“Mayor,”** **“Bastonero”** or **“Trustee”** (MBT).¹¹² The MBT oversees the lock-up cells as well as



¹¹⁰ A PDL in SPD-Taguig PS is detained for more than 2 years despite request from the RTC B69 to issue a commitment order for the transfer of the detainee to the BJMP detention facility. At the same station, a PDL is detained since 2012 after his arrest without warrant, but no information has been filed yet.

¹¹¹ Sputnik gang at SPD-Paranaque PS; Commando gang at SPD-Muntinlupa PS.

¹¹² Anonas QCPD-PS; Paranaque SPD-PS; Muntinlupa SPD-PS; Malabon NPD-PS; Navotas NPD-PS

implement disciplinary measures. The existence of such practice is acknowledged and appears to be tolerated by some police authorities. The practice of having MBTs may help in the maintenance of peace and order, but familiarity with the MBT may be used to advance personal gains, and detainees who will not join the group may suffer discrimination especially in terms of punishment.

Authorities should not forget that such practice transgresses the rules and standards that no prisoner shall be employed in the service of the institution in any disciplinary capacity;¹¹³ and the conduct constituting a disciplinary offence, the types and duration of punishment may be inflicted, and the authority competent to impose such punishment shall always be determined by law or by regulation of the competent authorities.¹¹⁴ Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.¹¹⁵

The study noted, however, that in EPD-Mandaluyong PS, one of the three (3) lock-up cells for adult male detainees is an *isolation* cell where a detainee is confined at the time of the CHR visit. In Makati PS there is a very small room with the label '*isolation room*' above the door, although there was no occupant/detainee at the time of the visit; according to a police officer the said room is no longer being used.



Photo of isolation room taken at the Makati City Police Station

The Rules further provide that reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.¹¹⁶ Again, the study noted that in QCPD-La Loma PS-1 reduction of diet was imposed on a detainee by the detainees themselves through their leader.

¹¹³Rule 28, par. 1, Standard Minimum Rules.

¹¹⁴Standard Minimum Rules. Discipline and Punishment, RULE 29.

¹¹⁵*Ibid.*, Rule 31.

¹¹⁶*Ibid.*, Rule 32.

b. Written regulations and complaint mechanism

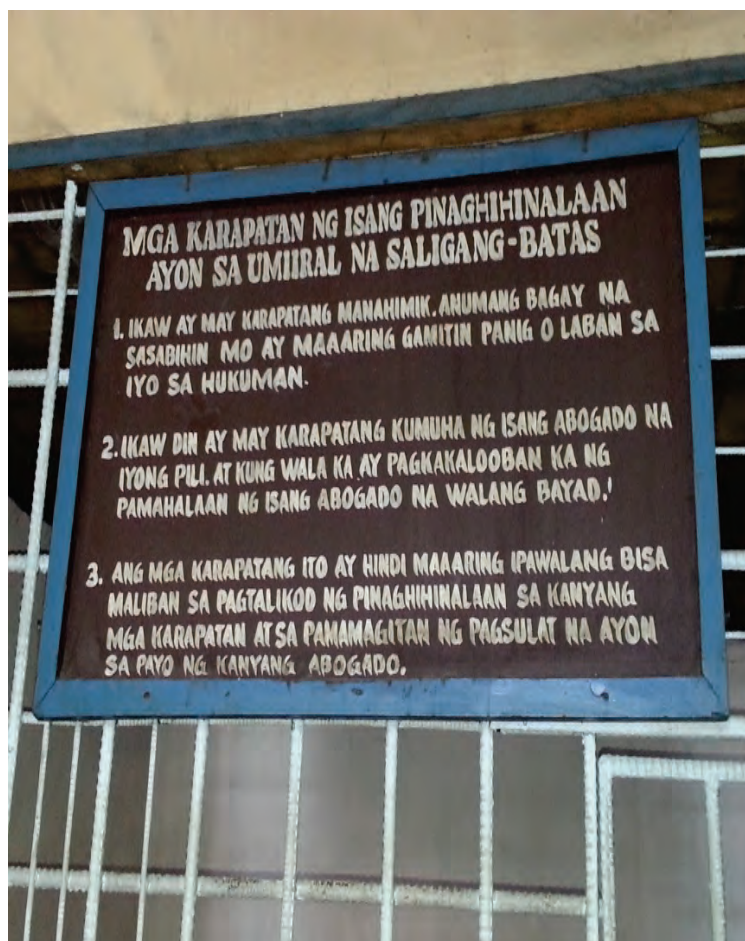
The Rules provide that every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution.¹¹⁷

In order to inquire into the availability of information and complaints mechanisms in police stations and lock up cells, the research tool poses queries on whether or not PDL are provided with written rules on lock up cells and on whether or not a complaint mechanism is in place. General observation is that many police stations do not provide written rules to detainees.

In some lock-up cells, a concise text of the *Miranda* warning is posted on the wall, as shown in the photo on the right. The rules and regulations pertaining to treatment and discipline of detainees are written mostly on papers in generic terms with no provision on penalty in case of violation.

It is also not sure if the rules and regulations have been explained to and understood by the detainees. What was elicited was that detainees voluntarily impose the rules upon themselves thru their recognized leader or the “Mayor” who imposes the punishment on detainees found to have violated PS lock-up cells’ rules. *Pumping* (a modified version of squat thrusts) is the most common form of punishment that is handed down by the “Mayor” and carried-out by the “Bastonero.” It is a form of physical exercise.¹¹⁸

Although detainees usually would complain to the Jailers, they do not know how their complaints were handled or what actions have been taken as these are left unanswered by the authorities concerned.¹¹⁹



¹¹⁷ Rule 35 (1), Standard Minimum Rules.

¹¹⁸ Per Interview with the leader (“mayor”) of PDL in SPD-Las Piñas City Police Station Lock-up Cell

¹¹⁹ MPD-Jose Abad Santos Police Station.

The study noted that the following police stations, at the time of CHR visit, have not provided written rules to detainees in lock-cells: In **QCPD**, of the fourteen (14) stations and one (1) community precinct visited, nine (9) stations have not complied with the written rules: Masambong PS-2, Novaliches PS-4, Fairview-5, Batasan PS-6, Project 4 PS-8, Galas PS-11, Eastwood PS-12, CIDU and DAID-SOTG, while La Loma PS and Old Balara PCP 1 have no validated data.

In **MPD**, of the twelve (12) stations and two (2) community precincts visited, eleven (11) have not complied: MPD HQ, Raxabago PS-1, Moriones PS-2, Sta. Cruz PS-3, Sampaloc PS-4, Sta. Ana PS-6, Jose Abad Santos PS-7, Sta. Mesa PS-8, Malate PS-9, Pandacan PS-10, Binondo PS-11; while Ermita PS-5, Blumentritt and Tayuman PCPs have no validated data.

In **NPD**, of the twelve (12) stations and one (1) community precinct visited, eight (8) have not complied: Caloocan City PS (which also include SAID, SIDMD, STEU, INTELLIGENCE & WSS); DAID, Caloocan PS North Extension Office, Valenzuela City PS, Navotas PS, Malabon City PS, and Caloocan City Sub-Station 3 (now PCP-3); while DSOU¹²⁰ the rules are written on the walls.

In **SPD**, of the ten (10) stations and six (6) community precincts visited, two (2) are compliant (Las Pinas PS, and SPD-DSHG & DSOU in Fort Bonifacio); one with rules posted on the wall (Muntinlupa PS); two (2) are not compliant (Taguig City PS and Pateros PS); and the other twelve (12) have no validated data.

Lastly, in **EPD**, two (2) of the four police stations have not complied with the rules: San Juan PS and Mandaluyong PS.

3. Instruments of Restraint

Instruments of restraint, such as handcuffs, chains and strait-jackets shall never be applied as a punishment.¹²¹ But in NPD-Caloocan City PS North Extension Office-PCP 6, it was observed that a detainee was handcuffed to the cell bar, which is in clear violation of the Rule 33 of the Rules.

4. Availability of Female Jailers

Most police lock-up cells within the NCR have no female jail officers despite the fact that there are female detainees. (See *discussion on Addressing Vulnerability: Women detainees*.)

E. Medical Examination

1. Conduct of Medical Examination Upon Admission to the Place of Detention, and Prior to Transfer or Release

The Body of Principles,¹²² the Standard Minimum Rules,¹²³ the Anti-Torture Act, the Anti-Enforced Disappearance Act, and the PNP Rules of Procedures require the conduct of medical

¹²⁰ DSOU & DAID are both in NPD HQ, hence, counted as one (1) in the data above.

¹²¹ Rule 33, Standard Minimum Rules.

¹²² Principle 24 – “A proper medical examination *shall be offered* to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, xxx”

examination *after admission* to the place of detention, and *prior to transfer or release* of detainees. Likewise, PDL have the right to request or petition a judicial or other authority for a second medical examination or opinion.¹²⁴

During the CHR team visits, however, detainees alleged that while medical examinations may have been practiced upon arrest, the same is no longer conducted prior to the release of PDL.¹²⁵ In some police lock-up cells, conduct of medical examination before the release of a detainee is on a case-to-case basis, i.e. upon request,¹²⁶ when there is a court order,¹²⁷ or when required by the BJMP.¹²⁸ But in all instances, relatives of the detainees are made to sign before the release of PDL.¹²⁹

2. Medical Examination Immediately after Arrest and Before and After Custodial Investigation

The conduct of medical examination *immediately after arrest, as well as before and after custodial investigation*, is important in ensuring the proper treatment of PDL where physical and mental integrity of persons arrested, *especially those arrested without warrant*, are properly evaluated.

In the same vein, the Anti-Torture Act¹³⁰ provides that *before and after* interrogation, every person arrested, detained or under custodial investigation shall have the right to be informed of his/her right to demand physical examination by an independent and competent doctor of his/her own choice.¹³¹ This mandatory requirement is precisely to prevent the use of torture and other forms of ill-treatment to exact information, among others. But these procedures seem optional in some police lock-up cells.

For example, in five police stations the issue of absence of a medical examination *immediately after the arrest* was raised by some detainees.¹³² In particular, six detainees in the NPD and two from EPD who identified themselves, freely aired this issue to the CHR team¹³³ that they were not subjected to medical examination immediately after they were arrested; while another detainee¹³⁴ complained of torture after he was medically examined and before he was brought to the police station. Very alarming are the claims of detainees that though they were brought to a medical officer, the latter did not even bother to examine them.¹³⁵ Likewise, in some

¹²³Rule 24 – “The medical officer shall see and *examine* every prisoner as soon as possible *after his admission and thereafter* as necessary, xxx”

¹²⁴Principle 25, Body of Principles.

¹²⁵SPD–DSHG, Muntinlupa PS and Pateros PS; MPD – Pandacan PS; NPD – DSOU and Caloocan City PS, North Ext. Office, Barugo; EPD – Mandaluyong PS 3; and QCPD – La Loma PS 1, Masambong PS 2, Novaliches PS 4, Fairview PS 5, Batasan PS 6, Cubao PS 7, Araneta PCP 1, Project 4 PS 8, Anonas PS 9, Galas PS 11 and DAID/SOTG.

¹²⁶QCPD-Anonas PS 9

¹²⁷QCPD-Galas PS 11

¹²⁸MPD-Pandacan PS 10

¹²⁹QCPD–La Loma PS 1

¹³⁰Section 12, RA 9745

¹³¹Please see also RA 9745, IRR, Section 19.

¹³²NPD–Caloocan City PS, North Ext. Office, Barugo; MPD-Ermita PS 5; QCPD Masambong PS 2; EPD–Marikina PS.

¹³³Six (6) detainees in NPD–Caloocan City PS, North Ext. Office, Barugo; and two (2) from EPD–Marikina PS

¹³⁴MPD-Ermita PS 5.

¹³⁵EPD-Marikina PS and Marikina PCP 1.

police lock-up cells, detainees mentioned that they were medically examined prior to, but not after the interrogation or investigation.¹³⁶

Whether the non-observance of the rule on medical examination is intentional or not, this makes detainees vulnerable to violations in the hands of police officers. Worse, it would be difficult to trace accountability for the violations.

The lack of compliance with the requirements on medical examinations, including the right to be informed of such right, fails to fulfil the provisions under the Anti-Torture Law that primarily prevents the commissions of torture during custodial investigation. Likewise, a breach of the requirements under the law is the practice of conducting a pro-forma medical examination where a detainee is presented before a medical officer for medical examination, but the latter did not actually conduct medical examination at all.¹³⁷ As a result of this practice, detainees do not receive any medical treatment.

F. Medical Services

1. Absence of Medical Officers and Referral to Government Hospitals

The Rules require that in every institution, there shall be available services of at least one qualified medical officer who should have some knowledge of psychiatry.¹³⁸

The research revealed that there are no medical officers permanently assigned in police stations across all the NCR police districts.

In QCPD¹³⁹ and MPD,¹⁴⁰ there is **no available medical officer** to attend to the medical needs of the detainees. The same situation in Southern,¹⁴¹ Northern,¹⁴² and Eastern¹⁴³ Police Districts. Nevertheless, some lock-up cells¹⁴⁴ have medical officers who are on-call.

It was noted that, a local government unit conducts medical mission in lock-up cells.¹⁴⁵ Also, a police officer in another PS who is a registered nurse regularly monitors the blood

¹³⁶SPD-DSHG, Taguig PS, and Muntinlupa PS; QCPD-Fairview PS 5, Batasan PS 6, Cubao PS 7 and Araneta PCP 1

¹³⁷EPD-Marikina PCP 1.

¹³⁸Rule 22(1), UN Standard Minimum Rules for the Treatment of Prisoners.

¹³⁹QCPD La Loma PS 1, Masambong PS 2, Novaliches PS 4, Fairview PS 5, Batasan PS 6, Project 4 PS 8, Anonas PS 9, Kamuning PS 10, and Galas PS 11.

¹⁴⁰MPD-Headquarters, Raxabago PS 1, Moriones PS 2, Sampaloc PS 4, Ermita PS 5, Sta. Ana PS 6, Jose Abad Santos PS 7, Sta. Mesa PS 8, Malate PS 9, Pandacan PS 10 and Binondo PS 11.

¹⁴¹SPD-Taguig PS, Paranaque PS, Makati City PS, Pasay City PS – SIDMB, Pasay City – SOU/SAID, and Pateros PS.

¹⁴²NPD-DSOU, Caloocan City PS 1 and DAID, Caloocan City PS – Barugo, Malabon PS 2, Navotas PS 3, Valenzuela PS 4, and Caloocan City PCP 3 (former Sub-Station 3).

¹⁴³EPD-Mandaluyong PS 3, San Juan PS 4, Marikina PS and Marikina PCP1.

¹⁴⁴QCPD-Eastwood PS 12, DAID/SOTG, and Warrant/CIDU.

¹⁴⁵NPD-Caloocan City PS 1.

pressures of the detainees thereat.¹⁴⁶ Some jailers or police officers request the services of city health officer¹⁴⁷

When emergency cases arise, sick detainees or those requiring specialist's help are referred to the medical officer of the district¹⁴⁸ or to government hospitals.¹⁴⁹

In SPD-Taguig PS, detainees with chronic illness are sometimes referred to a clinic in Taguig. A detainee requiring special medical attention was not transferred to special institution or hospital.¹⁵⁰ Likewise, a PDL with mental disability was detained together with other detainees.¹⁵¹ These run counter to the UN Standard Minimum Rules for the Treatment of Prisoners which provides that sick prisoners who require specialist treatment shall be transferred to specialized institutions xxx.¹⁵²

Apparently, police stations in the NCR do not have medical officers assigned on a regular basis, hence, are very much reliant on government hospitals, clinics and health centers in cases of medical emergencies and in instances when PDL are in need of medical attention.

1. First Aid Treatment and Medication for Injuries and Common Illnesses

A related query on the presence of medical officers is whether there are available first aid kits and medicines for injuries and common illnesses.

The study shows that all police lock-up cells in Quezon City Police District have first aid kits and/or medicines for injuries and common illness. However, there are police stations which do not have these basic necessities: two police stations in NPD,¹⁵³ two in EPD,¹⁵⁴ 9 in MPD¹⁵⁵, and 4 in SPD.¹⁵⁶

While it is true that some police stations do not have basic first aid kits and/or medicines for common illness, compounded by non-availability of medical officers, it was noted that there is a referral system or arrangements with government hospitals, health centers or clinics for the provision of the necessary medical attention to detainees.

¹⁴⁶ NPD-Navotas PS 3.

¹⁴⁷ NPD-Caloocan City PS – Barugo.

¹⁴⁸ QCPD PS 4, PS 5, Anonas PS 9, Kamuning PS 10, Galas PS 11.

¹⁴⁹ Ospital ng Sampaloc for MPD - Sampaloc PS detainees, Ospital ng Maynila for MPD – Headquarters and Ermita PS 5 detainees and J. Reyes Medical Center for MPD - Sta. Cruz PS 3 detainees; Pasay General Hospital for Pasay City PS – SOU/SAID detainees; Tondo General Hospital or Jose Reyes Memorial Medical Center for NPD – Malabon PS 2 detainees and Jala Hospital for NPD – Caloocan City PCP 3; QCPD La Loma PS 1, Masambong PS 2, Labor Hospital for QCPD Project 4 PS 8; San Juan Medical Center for EPD – San Juan PS 4 detainees.

¹⁵⁰ EPD-Mandaluyong PS 3 and San Juan PS 4; SPD – Taguig City PS and Muntinlupa PS; and QCPD – Batasan PS 6

¹⁵¹ SPD-Muntinlupa PS.

¹⁵² Rule 22(2), Standard Minimum Rules.

¹⁵³ NPD-DSOU and Caloocan City PS, North Extension Office, Barugo.

¹⁵⁴ EPD-Mandaluyong PS 3 and San Juan PS 4.

¹⁵⁵ MPD-Headquarters, Raxabago PS 1, Moriones PS 2, Sampaloc PS 4, Ermita PS 5, Sta. Ana PS 6, Jose Abad Santos PS 7, Malate PS 9 and Binondo PS 11.

¹⁵⁶ SPD-Taguig PS, Paranaque PS, Muntinlupa PS and Pateros PS.

2. Pre-Natal Service

The Rules require that in women's institution, there shall be special accommodation for all necessary pre-natal and post-natal care and treatment.¹⁵⁷

Although pregnant and lactating detainees were rarely documented during the CHR visits, it was noted that generally police stations have no provision for pre-natal services to pregnant PDL, as well as post-natal services.¹⁵⁸ It was also observed that in some lock-up cells, pregnant detainees are not given the needed medical attention,¹⁵⁹ thus, the CHR team advised the Station Commander to refer the pregnant detainees for pre-natal or medical check-up.¹⁶⁰

3. Engagement with Social Worker and Psychologist

The Rules require that at every institution, there shall be available services of at least one qualified medical officer who should have knowledge of psychiatry. The medical services should be organized in close relationship with the general health administration of the community or nation, which shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.¹⁶¹

Thus, engagement with social worker and/or psychologist is an important aspect in the lives of the detainees. In the sense that detainees may experience mental or emotional stress that may not be perceptible at all because mental soundness assessment is beyond the expertise of police officers to determine. The unpredictability of human behaviour conservatively becomes a concern especially with those who are not visited by families or friends.

In QCPD-Anonas PS, the use inside detention facility of belts and other objects that may be used in committing suicide is prohibited. In another case in MPD-HQ, PDL with intellectual disability, who was previously confined at NCMH for more than a month, was not referred to a psychologist to evaluate his condition.

Unfortunately, in some lock-up cells, jailers or police officers do not have engagement with social worker/psychologist.¹⁶²

¹⁵⁷Rule23(1), UN SMRTP

¹⁵⁸SPD-Taguig City PS and Muntinlupa PS; QCPD – DAID/SOTG; NPD – Caloocan City PS 1 and Caloocan City DAID; EPD-Mandaluyong PS 3, San Juan PS 4 and Marikina City PCP 1

¹⁵⁹NPD-Caloocan City DAID

¹⁶⁰NPD-Caloocan City PS 1

¹⁶¹Rule 22(1), Standard Minimum Rules

¹⁶²SPD – DSHG, Taguig City PS, Muntinlupa PS and Pateros PS; QCPD – La Loma PS 1, Masambong PS 2, Novaliches PS 4, Fairview PS 5, Project 4 PS 8, and Eastwood PS 12; and EPD – Marikina PS

G. Other Issues

1. Religion

Freedom of religion is a fundamental right. Faith plays a central role in humans and is at the core of one's existence. Generally, PDL are allowed to practice their religion. Leaders/members of their faith are allowed to visit and conduct religious practices outside the lock-up cells within the police station premises. But in SPD-Paranaque City PS, a Muslim detainee complained of not being allowed to exercise his freedom of religion. Hence, authorities concerned should immediately address this complaint.

2. Personal Property

Personal property of arrested persons must be inventoried and kept in a safe place until its return to the PDL when they are released or transferred. Some Police Stations would rather surrender personal property to family members than keep them. However, there are instances where personal items are no longer returned, such as that of four detainees at the EPD-Marikina PS who complained that their personal belongings (mobile phones and money) were confiscated by the Police Officers. The detainees positively identified the two police officers.

3. Contact with Outside World

Principle 19 provides that a detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity **to communicate with the outside world**, subject to reasonable conditions and restrictions as specified by law or lawful regulations;¹⁶³ as well as visits and correspondence with reputable friends at regular intervals.¹⁶⁴

But based on the information gathered there are instances when families of PDL are not informed of their arrest or detention,¹⁶⁵ including their physical and health condition. Likewise, they are not informed of the serious illness or death in the family, which situation does not conform to the Standard Minimum Rules.¹⁶⁶

It was observed, however, that some police stations, such as Las Piñas, allow PDL to watch television, particularly newscast, inside their lock-up cells. At QCPD-Anonas, PDL have to climb up to a



¹⁶³ Body of Principles for the Protection of All Persons Under any Form of Detention or Imprisonment.

¹⁶⁴ Rule 37, Standard Minimum Rules.

¹⁶⁵ MPD-Jose Abad Santos Police Station

¹⁶⁶ Rule 44(2), Standard Minimum Rules.

higher portion of their cell just to get a good view of the TV news/show. A PDL was allowed to bring in a small TV set with player so that they could watch TV show and movies at their pleasure.

II. Rights of Person, Arrested, Detained and under Custodial Investigation; Rights of the Accused

The right of persons under any form of detention or imprisonment to be treated in a humane manner and with respect for their inherent dignity are guaranteed under international human rights instruments, such as, the Universal Declaration of Human Rights,¹⁶⁷ the International Covenant on Civil and Political Rights¹⁶⁸ and the Body of Principles for the Protection of All Persons under Any Form of Imprisonment.¹⁶⁹ Thus, the authorities who arrest a person, keep him/her under detention or investigate the case shall exercise only the powers granted to them under the law and the exercise of such powers shall be subject to recourse to a judicial or other authority.¹⁷⁰

In Philippine jurisdiction, this right is guaranteed by the fundamental law, specifically the Bill of Rights which generally safeguards the right of person in the country, including that of PDL, against the abuses or arbitrariness of authorities in light of the inherent powers of the State.¹⁷¹ Republic Act No. 7438 ensures protection of certain rights to persons arrested, detained or under custodial investigation by echoing in particular the Bill of Rights provision on the Miranda warning, ensuring accountability and prescribing the corresponding penalties in case of violation.

A. Right to Silence and Counsel

Any person arrested, detained or under custodial investigation shall at all times be assisted by counsel; shall be informed from the time of his/her arrest of the right to remain silent and to have competent and independent counsel preferably of his/her choice; that anything he/she says may be used against him/her in any proceedings;¹⁷² the reason for his/her arrest or charges against him.¹⁷³ The arresting officer has the obligation to immediately convey and explain, and if necessary, interpret this right to the person arrested in a language known to and understood by him/her.¹⁷⁴ This is commonly known as the Miranda Warning, which has two aspects: (1) the right to remain silent and to counsel; and (2) the right to be informed of such right. If the person arrested and under custodial investigation cannot afford the services of counsel, the investigating officer shall provide him/her with an assisting counsel.¹⁷⁵

Custodial investigation is a crucial stage in criminal prosecution as it is where an investigation ceases to be a general inquiry into an unsolved crime and begins to focus on a

¹⁶⁷Article 3, UDHR

¹⁶⁸Article 9, ICCPR.

¹⁶⁹Principle 1.

¹⁷⁰Principle 9, Body of Principles

¹⁷¹1987 Philippine Constitution, Article III.

¹⁷²Ibid.; R.A. 7834, Section 2 (a); UDHR, Article 11 (1); ICCPR, Article 9.

¹⁷³Principles 10, Body of Principles; Bill of Rights, Phil. Constitution; R.A. 7438; Rule 113, Rules of Court.

¹⁷⁴Principles 13 and 14, Body of Principles; RA 7438, Section 2(a).

¹⁷⁵RA 7438, Section 2(b).

particular suspect.¹⁷⁶ Thus, the constitutional guarantee on the right to independent and competent counsel becomes indispensable to person under investigation for a criminal offense.¹⁷⁷

But this constitutional right, which is also guaranteed under international human rights instruments,¹⁷⁸ does not end in the custodial investigation stage. It is still available at all stages of the criminal investigation proceedings -- to prosecution and trial before the competent court until the last available legal remedies or the case is finally disposed, as the case may be. At the trial, if the accused cannot afford the services of an independent and competent counsel of his/her choice, it is incumbent upon the judge to appoint a counsel for said accused without cost. The Rules on Criminal Procedures also protects such right,¹⁷⁹ while the Public Attorneys' Office provides free legal aid services to indigent or underprivileged clients.

In the course of the research and data gathering in police lock-up cells, a number of detainees alleged that they were not assisted by a lawyer during in-custody interrogations in QCPD-La Loma PS-1, Masambong PS-2, Talipapa PS-3, Novaliches PS-4, Project 4 PS-8, Galas PS-11, Eastwood PS-12, and DAID/SOTG. Also in MPD-Moriones PS-2; NPD-Malabon PS-2; SPD-Taguig City PS; and EPD-Marikina City PS and Marikina City PCP-1.

There were detainees who complained that they were not informed and do not know of the grounds for their arrest and detention. Some, though informed of the cause for their arrest and detention, claimed that they are not regularly informed or updated of the status of their cases, such as in QCPD-La Loma PS-1, Masambong PS-2, Talipapa PS-3, Fairview PS-5, Eastwood PS-12 and DAID; MPD-Moriones PS-2; NPD-Malabon PS-2; SPD-DSHG, Taguig City PS, and Pasay City PS SOU/SAID.

B. Right to Communicate

Principle 29(2) of the Body of Principles provides that: *"a detained or imprisoned person shall have the right to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment subject to reasonable conditions to ensure security and good order in such places."*

Moreover, the Standard Minimum Rules states that: *"prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits."*¹⁸⁰

This right is also guaranteed under R.A. No. 7438 which provides that: (A)ny person arrested or detained or under custodial investigation shall be allowed visits by or conferences with

¹⁷⁶Custodial investigation is "any questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. It is only after the investigation ceases to be a general inquiry into an unsolved crime and begins to focus on a particular suspect, the suspect is taken into custody, and the police carries out a process of interrogations that lends itself to eliciting incriminating statements that the rule begins to operate." *People v. Cristobal*, G.R. No. 159450, March 30, 2011, citing *Escobedo v. Illinois*, 378 U.S. 473 (1964).

¹⁷⁷CONST., Article III, Section 12 (1).

¹⁷⁸Article 14, ICCPR; Principles 17 and 18(1) and (2), Body of Principles.

¹⁷⁹Rule 115, Section 1 (c) vis-à-vis Rule 116, Sections 6 and 7.

¹⁸⁰Standard 37, Standard Minimum Rules.

*any member of his/her immediate family, or any medical doctor or priest or religious minister chosen by him/her or by any member of his/her immediate family or by his/her counsel, or by national non-governmental organization accredited by the Commission on Human Rights, or by any international non-governmental organization duly accredited by the Office of the President.*¹⁸¹

Interviews between the detained or imprisoned person and his/her legal counsel may be within sight, but not within hearing, of a law enforcement officer.¹⁸²

Arrest and detention shall not prevent a person from communicating with the outside world, particularly with his family and counsel¹⁸³ and the CHR. Visits should be allowed albeit regulated. In case the person arrested is a minor or a foreigner, the notification of his arrest or detention should be addressed to his parents or guardian and with the consular post or diplomatic mission, as the case may be.¹⁸⁴ The right to communicate shall continue throughout the period of detention and upon each transfer of detention place.¹⁸⁵ While matters of security, public order or the exceptional needs of investigation delay the right of a PDL to communicate, such delay must only be for a matter of days.¹⁸⁶

Apparently, the right to be visited has two components: **(1)** right to communicate freely and in full confidentiality; and **(2)** right to communicate with family and friends.

1. Right to communicate freely and in full confidentiality

The first component refers to communication with *“qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment.”*¹⁸⁷ Representatives from the CHR, for example, through the institution’s mandate on visitorial power, are authorized persons to visit detention facilities. Detainees, under the principle, have the right to communicate with these persons freely and in full confidentiality.

This right simply means that a detainee must speak his/her thoughts without fear, reluctance and undue influence or pressure. But CHR experience, however, tells of police/jailers presence even when requested to leave or give some space for a while.¹⁸⁸ There is no room in the police stations to accommodate the interview, thus, interview and legal counselling were instead conducted in open and full view of other detainees and police officers/personnel, within hearing distance and/or where the demeanour of the detainees during the interviews can be observed.¹⁸⁹ These scenarios obviously violate both international and domestic standards.

¹⁸¹RA 7438, Section 2(f).

¹⁸²Principle 18, paragraph 4.

¹⁸³Principles 15 and 19, Body of Principles.

¹⁸⁴Principles 15, 16 (2) and (3) and 19, Body of Principles. In case of refugees, notification must be addressed to any competent international organization.

¹⁸⁵Principle 16 (1), Body of Principles.

¹⁸⁶Principle 15 vis-à-vis Principles 16 (4) and 18 (3), Body of Principles. Relate with RA 7438, 9745 and 10353.

¹⁸⁷Principle 29 (1), Body of Principles.

¹⁸⁸SPD-Pasay City PS, SAID-SOU.

¹⁸⁹Anonas QCPD-PS, Galas QCPD-PS.

2. *Right to communicate with family and friends*

The **second component** requires not only that there is opportunity given to communicate with family and friends but that there must be an effective communication. An opportunity is not enough because the very purpose of this right is to let the detainees' family and friends know their circumstances and needs so that the necessary assistance can be extended to them.

The research reveals that this right to communication is observed by NCR Police Stations, except in ten (10) PS where detainees reported not having the opportunity to communicate with their families, namely: QCPD-La Loma PS-1; Masambong PS-2; Talipapa PS-3; Novaliches PS-4; Anonas PS-9; Galas PS-11; Warrant/CIDU; MPD-Jose Abad Santos PS-7; SPD-Muntinlupa City PS; and EPD-Mandaluyong City PS-3.

Aside from denial of opportunity to communicate, a number of detainees were not visited by their families/relatives because either the latter were not informed of the inmate's arrest and detention, or that they have no money, or are all residing too far from the place of detention.¹⁹⁰ In some cases, according to some detainees, their family/relatives simply stopped visiting them.

Police Stations should coordinate with their counterparts in the area where the detainees' family reside to relay the necessary communication about the arrest and place of detention of the PDL concerned. They can also document the reasons why communication (correspondence or visits) failed.

C. Access to Information and Records

It is also essential that the details of the arrest and detention, such as the time thereof, the identity of the law enforcers involved therein and the place of custody, must be recorded.¹⁹¹ These information as contained in the police records shall be made available to and accessible by the detained person or his counsel.¹⁹² This right also includes access to information as to the duration of interrogation and intervals between interrogations, the identity of the authorities who conducted such interrogations, as well as other persons present.¹⁹³

D. Right to Speedy Trial

A person detained on a criminal charge is entitled to trial within a reasonable time or to release pending trial.¹⁹⁴

¹⁹⁰PDL in the lock-up cells of Manila Police District, PS-7; Quezon City Police District: PS-1, PS-2, PS-3, PS-4, PS-9, PS-11, QCPD-Warrant; Eastern Police District: PS-3; and Southern Police District: Muntinlupa City Police Station are not visited by their families and relatives.

¹⁹¹Principle 12. Body of Principles.

¹⁹²Principle 12 (2), Body of Principles.

¹⁹³Principle 23 (1), (2), Body of Principles.

¹⁹⁴Principle 38, Body of Principles.

Under the 1987 Constitution, an accused shall enjoy the right to a speedy, impartial, and public trial.¹⁹⁵ Republic Act No. 8493 or the Speedy Trial Act of 1998 provides statutory support to this right.¹⁹⁶ Moreover, [a]ll persons, except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is strong shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of *habeas corpus* is suspended. Excessive bail shall not be required.¹⁹⁷

The research revealed that due to the delay in the issuance of commitment orders from the courts, detainees in lock-up cells are not immediately transferred to regular jails administered by the Bureau of Jail Management and Penology (BJMP). This predicament is shared in common by majority of the police districts as detainees interviewed in the following police stations all had the same lament.¹⁹⁸ In one instance, a detainee spent almost two (2) years in a lock-up cell and was not turned over to a BJMP facility notwithstanding a request from the court.¹⁹⁹

E. Right to Educational, Cultural and Informational Materials

The Body of Principles provides that “[a] detained person or imprisoned person shall have the right to obtain within the limits of available resources, if from public sources, reasonable quantities of educational, cultural and informational material, subject to reasonable conditions to ensure security and good order in the place of detention or imprisonment.”²⁰⁰

As mentioned earlier, it was observed that some police stations allow their detainees to watch television newscast. While this is so, no other means of informational or educational materials were seen available to or accessible by detainees in police lock-up cells. Under the situation, the right to self-development apparently ceases once a person is placed in a temporary lock-up cell, which should not be the case. Even one who is convicted and serving sentence in accordance with law pursuant to the judgment of a competent court is entitled to such right, though limited, as this is in line with the objectives of rehabilitating convicts under the criminal justice system.

¹⁹⁵ CONST., Article III, Section 14 (2). The Rules of Criminal Procedure has similar provision under Rule 115, Section 1 (h).

¹⁹⁶ Republic Act No. 8493, or *An Act To Ensure A Speedy Trial Of All Criminal Cases Before The Sandiganbayan, Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, And Municipal Circuit Trial Court, Appropriating Funds Therefor, And For Other Purposes*.

¹⁹⁷ CONST., Article III, Section 13 vis-à-vis Republic Act No. 10389 or the Recognizance Act of 2012.

¹⁹⁸ Marikina PCP 1; QCPD – PS-3; QCPD – PS12 (Eastwood); QCPD-DAID; NPD-DSOU; Malabon PS2; Caloocan PCP-3 (former Sub-Station 3); Taguig City PS; Pasay City PS-SOU/SAID and MPD-PS1 Raxabago.

¹⁹⁹ SPD-Taguig City PS.

²⁰⁰ Principle 28, Body of Principles.

F. Right to Challenge Lawfulness of Detention and Access to Free Legal Assistance

*A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful.*²⁰¹

The study received information that certain persons arrested without warrant is detained beyond the reglementary period in police lock-up cells. Some lasted for days, months and even years.²⁰²

Some detainees also claimed that they were not represented by a counsel during custodial investigation or inquest proceedings. In SPD, for example, a detainee claimed that he was detained with no information filed yet against him since his arrest in 2012. If the allegation of the detainee is to be believed, it is either that he was not given a counsel or that the one given to him failed to provide the necessary legal services.

G. Right to be brought promptly before judicial authorities

It is the right of every person arrested, especially those apprehended without a warrant, to be brought to judicial authorities within the prescribed time as required in relevant domestic laws and international standards.²⁰³ In fact, authorities can be held accountable for failure to do so and be meted the corresponding criminal²⁰⁴ and administrative sanctions.

In two (2) cases, PDL claimed that they were not delivered to the proper judicial authorities within the prescribed period.²⁰⁵ According to the police officers and detainees interviewed, the underlying reasons are delay in the resolution of cases at the prosecutor's level and delay in the court's issuance of a commitment or release order.

Two contrasting practices are worth citing at this juncture. In QCPD, particularly at the Talipapa PS, the concerned police officer will only release a detainee if the inquest prosecutor's Resolution for RFFI (resolved for further investigation) is signed by the chief inquest prosecutor. QCPD requires that the recommendation, with release order, of the inquest prosecutor must first be approved by the chief inquest prosecutor before the detainee can be released.

²⁰¹ Principle 32, Body of Principles.

²⁰² SPD-Taguig City Police Station – one detainee has been in said temporary facility for more than 2 years without commitment despite requests made by the jailers with the judicial authority.

²⁰³ Principle 32 (1) "A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful. (2) The proceedings referred to in paragraph 1 of the present principle shall be simple and expeditious and at no cost for detained persons without adequate means. The detaining authority shall produce without unreasonable delay the detained person before the reviewing authority."

²⁰⁴ Article 125 - Delay in the delivery of detained persons to the proper judicial authorities.

²⁰⁵ 1 inmate in QCPD-Police Station 4 was detained beyond 36 hours without being charged (case is for violation of RA 9165); 1 inmate in SPD-District Support Headquarters Group detained beyond 36 hours without being charged (also involving violation of RA 9165).

At the MPD on the other hand, the practice is that detainees are immediately released without waiting for the approval of the chief inquest prosecutor.

Apparently, there is inconsistency in procedure and practice at the police station level which must be addressed by appropriate authorities. If the MPD's practice is procedurally feasible, this has to be adopted by all other police stations if only to acknowledge detainees' rights. Moreover, the practice contributes to the decongestion of overcrowded lock up cells.

H. Right to Medical Examination

The Body of Principles accord persons under any form of detention or imprisonment the right to proper medical examination promptly after admission to the place of detention or imprisonment. It adds that thereafter, treatment shall be provided whenever necessary and such treatment shall be provided free of charge.²⁰⁶ A detained or imprisoned person or his counsel shall, subject only to reasonable conditions to ensure security and good order in the place of detention or imprisonment, have the right to request or petition a judicial or other authority for a second medical examination or opinion.²⁰⁷

The provision of medical care is also included in the Standard Minimum Rules for the Treatment of Prisoners which is divided into two parts. Part I in particular provides for the availability of at least one qualified medical officer with some knowledge of psychiatry at every institution.²⁰⁸ It also provides for the transfer of sick prisoners requiring special treatment to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.²⁰⁹

The Standard Minimum Rules also tasks the medical officer to examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.²¹⁰

Other provisions include the reporting of the medical officer regarding the physical and mental health of prisoners and those who will be injuriously affected by continued imprisonment or by any condition of imprisonment.²¹¹

²⁰⁶ Principle 24, Body of Principles.

²⁰⁷ Principle 25, *id.*

²⁰⁸ Standard No. 22 (1), Standard Minimum Rules.

²⁰⁹ Standard No. 22 (2), Standard Minimum Rules.

²¹⁰ Standard No. 24, Standard Minimum Rules.

²¹¹ Standard No. 25, Standard Minimum Rules.

a. Relevant Domestic Laws

Domestic legislations mirror the right to medical examination for persons arrested, detained or under custodial investigation. The Anti-Torture Act, specifically Section 12 thereof provides:

Before and after interrogation, every person arrested, detained or under custodial investigation shall have the right to be informed of his/her right to demand physical examination by an independent and competent doctor of his/her own choice. If such person cannot afford the services of his/her own doctor, he/she shall be provided by the State with a competent and independent doctor to conduct physical examination.

The same section states that it is the duty of the State to provide the victim with psychological evaluation if available under the circumstances. In cases where the person arrested is a female, the law requires that she must be attended to preferably by a female doctor. Furthermore, the law provides that any person arrested, detained or under custodial investigation, including his/her immediate family, shall have the right to immediate access to proper and adequate medical treatment.

The Anti-Torture Act also emphasizes the duty to keep and maintain medical records. It requires that the physical examination and/or psychological evaluation of the victim shall be contained in a medical report which shall be attached to the custodial investigation report.

Nonetheless, this right can be waived. The Anti-Torture Act states that any person who does not wish to avail of the rights “may knowingly and voluntarily waive such right in writing, executed in the presence and assistance of his/her counsel.”²¹²

On the other hand, the Anti-Enforced Disappearance Act²¹³ provides that there must be an official up-to-date register of all persons detained or confined which shall include: (a) Records of physical, mental and psychological condition of the detained or confined person before and after the deprivation of liberty and the name and address of the physician who examined him or her physically, mentally and medically; and (b) A summary of the physical, mental and medical findings of the detained or confined person after each interrogation.

The study was able to document instances of non-compliance on the right to medical examination. In the research tool used, questions were asked regarding the availability of first aid kits and medicines in police stations, the availability of medical officers, on whether or not medical examinations were conducted immediately after the arrest, and whether or not medical examinations were conducted immediately prior to release or transfer to the BJMP. The inquiry included the availability of and/or engagement with social workers or psychologists.

²¹²R.A. No. 9745, Section 12.

²¹³Republic Act. No. 10353.

III. Addressing Vulnerabilities

Core to the Body of Principles is the declaration that it is applicable to all persons within the territory of any given State, without distinction of any kind, such as race, colour, sex, language, religion or religious belief, political or other opinion, national ethnic or social origin, property, birth or other status. It then declares that measures applied under the law and designed solely to protect the rights and special status of women, especially pregnant women and nursing mothers, children and juveniles, aged, sick or handicapped persons shall not be deemed to be discriminatory.²¹⁴ This is in recognition of the vulnerability of certain groups and persons, who in addition to being held in detention or imprisonment, are also subject to different forms of discrimination. Due to their vulnerability, standards were passed and agreed upon in the international level; standards which this study and research used as framework in the assessment of the conditions of NCRPO lock up cells and person detained therein specifically giving special attention to: women, children, elderly, persons with disability, and likewise persons with diverse sexual orientation and gender identity.

A. Women

Women detainees belong to one of the vulnerable groups that have specific needs and requirements. Under the Standard Minimum Rules, several provisions are in place to protect women prisoners and women in detention. There is the requirement for the separation of categories -- that *"men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate."*²¹⁵ Other standards include the provision of pre and post natal care and treatment in institutions,²¹⁶ the requirement that arrangements be made whenever practicable for children to be born in a hospital outside the institution, that in cases where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons.²¹⁷

The Standards also provide that in institutions for both men and women, the part set aside for women shall be under the authority of a responsible woman officer. No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer. It also required that women prisoners shall be attended and supervised only by women officers.²¹⁸ This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.

²¹⁴ Principle 5, Body of Principles

²¹⁵ Standard No. 8 (a), Standard Minimum Rules

²¹⁶ Standard No. 23

²¹⁷ Standard 23

²¹⁸ Standard 53.

In addition to the Standards, the Bangkok Rules provide for the following: **(a)** the process in admitting women and children in detention considering their vulnerability; **(b)** the keeping of registers which shall include children left behind; **(c)** the allocation to prisons near to women's homes; **(d)** provision for women's specific hygiene; **(e)** health care needs including comprehensive screening to determine health care needs; **(f)** provisions on safety and security including during searches and the imposition of discipline and punishment; **(g)** contact to the outside world especially to her children; **(h)** institutional personnel training; and **(i)** provisions for juvenile prisoners.

1. Data and analysis on women

To cover the situation of women under detention in police lock up cells, the research tool posed the following queries: the availability of pre-natal services and whether or not female PDL are attended to by female police or jailer. Interviews with female PDL were likewise conducted to gather insights on their conditions under detention and the issues that they face, including torture and ill-treatment.²¹⁹

1.a Absence of Pre-natal Services

While the Standards unequivocally require the provision of pre and post natal services, the data showed that there is generally no provision for pre-natal care and services in the different Police Stations in NCR. A run down of all the police districts in the NCR revealed that the practice of most police stations with respect to pre and post natal services is the same with the manner it addresses the need for medical services --- the cases are referred to the nearest clinic or government hospital. This falls short with what the Standards and the Bangkok Rules require.

Thus, in the few instances wherein the research team was able to chance upon a pregnant detainee, there have been complaints as well on the lack of pre-natal services and access to medical attention.²²⁰ In NPD, particularly at Caloocan PS, a pregnant female detainee complained on the absence of pre-natal services. Having heard this, the CHR team brought the plight of the pregnant detainee to the CCPS Chief so that pre-natal check-ups may be conducted. In DAID, there is also another pregnant detainee, likewise complaining on the absence of pre-natal services.

Absence of pre and post natal services is likewise observed in QCPD-DAID, in the EPD-Mandaluyong PS and San Juan PS, as well as in SPD-Taguig City PS, and Muntinlupa City PS.

As to the other requirements of the Standards like encouraging births in hospitals instead of the institutions and on the provision of a nursery with qualified staff, the CHR team was unable to gather data on the same. As with other instances requiring medical attention, it can be presumed that the process of referral to government clinics and hospitals remains to be the practice.

²¹⁹ Three female detainees complained that they have been ill-treated by their arresting officers in Marikina PCP 1.

²²⁰ Marikina PCP 1, woman detainee complained of lack of medical attention

1.b Female PDL not attended to by Female police/jailer in some stations

The Standards provide that women prisoners should be attended to and supervised by female officers. However, during the conduct of the research, it was found that in the Northern Police District, 6 out of 13 police stations lack female police officers/jailers to attend to female PDL. The six stations are as follows: Caloocan PS, DAID-Caloocan City PS North Ext., Caloocan City PCP-3, Malabon PS, Navotas PS. In Quezon City Police District, Masambong PS lacks female police officers/jailers to attend to female PDL.

In the Manila Police District, 6 out of 12 police stations visited lack female police officers/jailers to attend to female PDL, these are: MPD HQ, Moriones PS, Sampaloc PS, Jose Abad Santos PS, Sta. Mesa PS, Malate PS. In the Southern Police District, Taguig PS lacks female police officers/jailers to attend to female PDL. It was also shared that this is particularly a problem when a female detainee is brought to the station and there is no female jailer present to frisk her.

With these, it can be said that compliance with the Standards on the presence of female officers/jailers to handle female detainees is not fully complied with by police stations in NCR. Almost half of the police stations visited in the Northern Police District and in the Manila Police District lack the required female officers.

In sum, the services as currently being offered and available through the different police stations in NCR are insufficient. Compliance with the other requirements, as well as the Standard Minimum Rules and of the Bangkok Rules is not evident.

B. Children

Per inventory of the Philippine National Police submitted by the NCRPO, there are twelve (12) police lock-up cells for minors or children in conflict with the law (CICL) in the National Capital Region (NCR). On the other hand, the CHR validated data show the existence of seven (7) lock-up cells for minors in certain police stations and a total of twenty-six (26) children deprived of liberty in the five (5) Police Districts in NCR.

In Quezon City Police District (QCPD), Talipapa Police Station and Galas Police Station have one (1) lock-up cell each for minors, but there were no detainees at the time of CHR visit.

At the Northern Police District (NPD), the Navotas Police Station has two (2) lock-up cells for minors [one (1) for males; and one (1) for females].

At the time of the CHR visit, there were seven (7) male minors and two (2) female minors in detention. One of the 2 female child-detainees is a “special” child who sleeps in the cell with adult female detainees at night and stays at the Office for Senior Citizens Affairs (OSCA) during

the day. Based on the information from the CSWDO,²²¹ coordination has already been made for the transfer of the female minors to Elsie Gatches Village.

On the other hand, the Valenzuela Police Station has two (2) lock-up cells for minors [one (1) for males; and one (1) for females], but there were no detainees at the time of CHR visit.

In Southern Police District (SPD), the Taguig City Police Station has one (1) lock-up cell for minors where thirteen (13) male minors were detained at the time of the CHR visit on November 26, 2014. A female minor is detained together with adults in the lock-up cell for adult-females. They share a common toilet with female adult detainees. A CICL claimed that he was hurt, punched and electrocuted by the arresting officer.



On the other hand, the Pasay City Police Station has no lock-up cell for minors, but there is a minor detained together with adults at the lock-up cell for male adult-detainees at SOU/SAID. He is not identified as a minor in the register/record of detainees.

It was also noted that the Police Stations in the Eastern Police District (EPD) have no lock-up cell for minors.

Finally, in the Manila Police District (MPD), although there are no lock-up cell for minors, it was found out that a minor is detained together with adults at the female lock-up cell in Sta. Ana Police Station. The said minor is not booked in the Women and Children's Desk (WCD) blotter. The WCD Officer would not have known this had it not been for the CHR visit. Another minor was also held at the Ermita PS lock-up cell for adults.

²²¹As of December 2, 2014.

1. Basic needs of children in detention

As earlier mentioned, the budgetary allocation for Police Stations in the five (5) police districts does not include food allowance for PDL in police lock-up cells.²²² Generally, detainees, including minors, have to rely on their families and friends for their food and other basic needs.

On the other hand, at Caloocan City NPD-PS, North Extension Office, Barugo, it is the police officers/personnel who defray for the food of detainees as they include the detainees in their personal expenses for meals. This is a humanitarian act that may be considered good practice and is commendable to some extent. But to burden the station's employees of somebody else's duty is an injustice inasmuch that it is a tolerance of neglect. The State acting through its government should take care of the welfare of its citizens especially those who cannot provide for themselves.

Detainees, especially minors, are not yet convicts. They should be treated in accordance with their unconvicted status.²²³ Precisely, detainees are kept separate from imprisoned persons. If the State can provide for convicted prisoners in the National Penitentiaries and BJMP, all the more that it should provide for those in temporary detention facilities.

2. Analysis of the data on lock-up cells in relation to children in detention

The maintenance and operation of the seven (7) lock-up cells for juvenile persons or children in conflict with the law (CICL) inside police stations and lock-up cells for adult detainees, including three which are allegedly under the direct supervision of the City Social Worker Development Officer (CSWDO), is not appropriate environment to serve the best interest and development of children.²²⁴

The situation of children in detention in the NCR police lock-up cells shows that they are treated no differently from adult detainees. As mentioned earlier, some of them are detained together with adults,²²⁵ which is



²²² One of the exception is the Paranaque Police Station which receives allocation for food allowance from the City Government for the first fifty (50) detainees only.

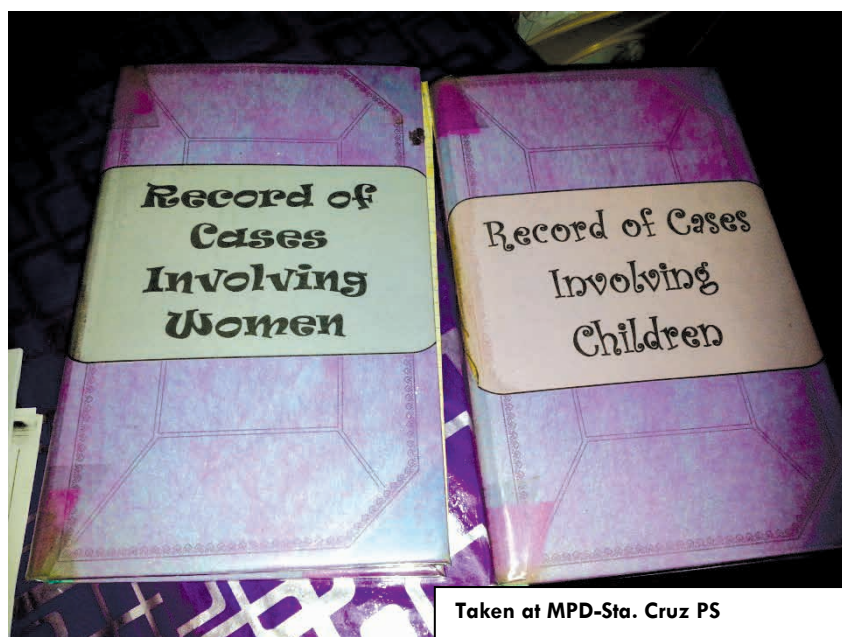
²²³ Principle 8, Body of Principles.

²²⁴ Geneva Declaration of the Rights of the Child of 20 November 1959; Principles 2 & 8; Convention of the Rights of the Child (CRC) Article 3, Article 23.2, 23.3; Article 31.1, 37.c, Article 40; Universal Declaration of Human Rights (UDHR) Article 1, Article 11, Article 22, Article 23; Articles 22, 24; International Covenant on Civil and Political Rights (ICCPR) Articles 2, 9, 10 & 13; R.A. 9344, Section 2(b).

²²⁵ MPD-Ermita Police Station; MPD-Sta. Police Station; NPD-Navotas Police Station; SPD-Taguig City Police Station; SPD-Pasay City Police Station (SOU, SAID).

contrary to existing human rights standards that children in detention shall be separated or segregated from convicted juveniles and adult detainees.²²⁶ Regardless of their status as detainees, delinquent, or waif, paramount consideration shall be given to delinquent children who must be reclaimed,²²⁷ and in all circumstances, be among the first to receive protection and relief;²²⁸ and treated with humanity and respect for their dignity as human beings.²²⁹ Backward children or those with disability, in particular, a special child, should not be held in a police lock-up cell²³⁰ but in appropriate facilities and services that meet the requirements of his or her condition and human dignity.²³¹ Children deprived of liberty shall not be tortured and maltreated,²³² yet, the study elicited a complaint from a CICL that he was hurt, punched and electrocuted by the arresting officers.²³³

As to maintenance of records or registry on CICL, this is generally observed by police stations consistent with the Standard and Body of Principles that separate records for children arrested and detained must be maintained and treated in confidentiality, which shall contain, among others, information as to the identity of the juvenile person, the fact and reason for commitment, authority, day and time of admission, transfer and release.²³⁴



But it is alarming to note that in one police station which has no lock-up cell for minors, the Women and Children's Desk Officer (WCDO) is not aware of the detention of a minor in the lock-up cell for adult female PDL; said minor is not recorded in the WCD police blotter.²³⁵ She only came to know of this fact when CHR team brought the matter to her attention.

²²⁶ Rules on the Protection of Juveniles Deprived of Liberty II.17; CRC, Article 37(c); ICCPR, Article 10.2(b) & 10.3; and R.A. No. 9344.

²²⁷ Geneva Declaration of 26 September 1924.

²²⁸ Declaration of the Rights of the Child of 1959, Principle 8.

²²⁹ Convention on the Rights of the Child, Article 37(c); UDHR, Article 1; ICCPR, Articles 2 & 10.1; R.A. 9344, Section 2(d) & 5(d).

²³⁰ NPD-Navotas Police Station.

²³¹ Rules on the Protection of Juveniles Deprived of Liberty, IV.D.31, 33, & IV.H; Child Rights Convention, Article 3, Article 23.2 & 23.3, and Article 37(c); Declaration of the Rights of the Child of 1924; Declaration of the Rights of the Child of 1959.

²³² UDHR, Article 5; ICCPR, Article 7; CRC, Article 37.(a) & (c); R.A. 9745 and RA 9344, Section 5(a).

²³³ SPD-Taguig City Police Station.

²³⁴ Rules on the Protection of Juveniles Deprived of Liberty, IV.A & B.

²³⁵ NPD-Navotas Police Station; MPD-Sta. Ana Police Station.

The issue of accessibility and fulfilment of basic rights such as food and water, aggravated by the kind of environment minors are in, i.e. sub-standard state of detention facilities.

3. Human Rights Officers; Women and Children's Desk

The Human Rights Desk and Women and Children's Desk (WCD) in all Police Stations were established precisely to ensure protection of the human rights of all PDL under all circumstances, from the time of arrest to the temporary detention at the police lock-up cells, and in their handling and treatment; so that minors are afforded special protection measures in view of their vulnerability.

Apparently, there is lack of personnel in the Police Stations WCD. Not all police officers and even WCD officer have undergone the necessary training on human rights and the handling and treatment of children in conflict with the law.

C. Persons with Disability

Under the Standard Minimum Rules, arrested persons with intellectual disability shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible²³⁶ where they shall be observed and treated²³⁷ or if this is not possible, the said person with disability (PWD) shall be placed under the special supervision of a medical officer²³⁸ who shall provide the PWD's psychiatric treatment.

Persons with disabilities (PWDs) include those who have long-term physical, mental, intellectual or sensory impairments which in interacting with various barriers may hinder their full and effective participation in society on an equal basis with others.²³⁹

International human rights instruments and domestic laws provide for the promotion and protection, and ensure full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.²⁴⁰

However, research reveals that PWD-detainees are held together with fully-abled detainees,²⁴¹ or not receiving appropriate handling.²⁴² At the MPD-HQ, PDL with intellectual disability, who was previously confined at NCMH for more than a month (1-1/2,) was not referred to a psychologist to evaluate his condition.

Furthermore, architectural designs of the lock-up cells, especially the comfort rooms are not compliant with the required structural designs as embodied in Batas Pambansa Blg. 344. Toilet and bath are too small and there are no hand grills that can be gripped by persons with

²³⁶Standard No. 82 (1), Standard Minimum Rules.

²³⁷Standard No. 82(2), Standard Minimum Rules.

²³⁸Standard No. 82(3), Standard Minimum Rules.

²³⁹United Nations Convention on the Rights of Persons with Disability, Art. 1, par. 2.

²⁴⁰*Ibid.*, Article 1, par. 2.

²⁴¹Muntinlupa City SPD-PS.

²⁴²MPD HQ.

disability, specifically those using wheelchair. These are forms of discrimination on the basis of disability.

The Philippines as a State Party to the UN Convention on the Rights of Persons with Disabilities (UNCRPD) undertakes to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability.²⁴³

It is therefore advisable for all detention authorities to exhaust all possible remedies in order to alleviate the well-being of all PDL under their custody, *i.e.* appropriate psychological evaluation for persons with intellectual disability and their transfer to special institutions, budget allocation for the expansion or construction of separate lock-up cells for each category taking into consideration their privacy and dignity under the existing domestic and international human rights instruments.

IV. District Comparisons²⁴⁴

1. Compliance with Basic Necessities

Validated Issues	MPD	NPD	SPD	EPD	QCPD	Overall Compliance (NCRPO)
Food	0%	14%	25% ²⁴⁵	25% ²⁴⁶	0%	13%
Supply of Water	92%	100%	62%	100%	100%	91%
Potable Water	33%	100%	75%	25%	62%	59%
Provision for clothing or detainees' shirt ²⁴⁷	0%	0%	25%	50%	15%	18%
Provision for toiletries	0%	29%	50%	25%	31%	27%

The data above demonstrates that most of the detainees' basic necessities have not been complied with. The PNP alone cannot be faulted as they do not have the necessary budget allocation from the government to cover the expenses. Nevertheless, efforts have been exerted by some police officers to fulfil their obligation as agents of the State to provide these basic necessities, especially on the issue of food.

²⁴³UNCRPD, Article 4.

²⁴⁴Does not include PCPs.

²⁴⁵SPD-Paranaque LGU provides food for the first 50 detainees; Las Pinas LGU (Office of the Mayor) provides food for PDL with no visitors.

²⁴⁶Mandaluyong LGU provides 40 sets of meal per day.

²⁴⁷No fixed for every detainee – sharing system. The t-shirt has to be returned after such detainee is presented during inquest/court proceedings.

2. Compliance with Fundamental Rights

Validated Issues	MPD	NPD	SPD	EPD	QCPD	Overall Compliance (NCRPO)
Observance of Due Process	100%	86%	75%	100%	92%	91%
Assistance of counsel during custodial investigation	92%	100%	86%	50%	38%	73%
Free exercise of religion	No data available	No data available	86%	100%	No data available	Incomplete data
PDL are informed of the status of their case	92%	86%	62%	100%	54%	79%
Families/relatives are informed of PDL's arrest/detention	92%	100%	86%	75%	46%	80%
Detainees are released & charged before the Prosecutor's Office within 12, 18 or 36 hours	No data available	No data available	86%	100%	92%	Incomplete data
Transfer of minors to DSWD after 5p.m.	83%	No data available	No data available	No data available	No data available	Incomplete data

3. Right to Communicate Freely

Among the five (5) police districts, the NPD ranks first in ensuring that the right of PDL to communicate freely is guaranteed and observed. On the other hand, the MPD, EPD and the SPD has one (1) case each²⁴⁸ involving failure to fulfil this right. The QCPD has seven (7) police stations²⁴⁹ which did not facilitate this right to some of the PDL in lock-up cells.

4. Written Rules/Lawful Regulations on Lock-Up Cell

As earlier discussed, the following police stations, at the time of CHR visit, have not provided written rules to detainees in lock-cells: In **QCPD**, of the fourteen (14) stations and one (1) community precinct visited, nine (9) stations have not complied with the written rules: Masambong PS-2, Novaliches PS-4, Fairview PS-5, Batasan PS-6, Project 4 PS-8, Galas PS-11,

²⁴⁸MPD-Jose Abad Santos PS-7 reported a case wherein the family of the inmate was not informed of the arrest and detention; EPD-Mandaluyong PS 3 reported case where the inmate's family was not informed of the inmate's arrest and detention; Muntinlupa City Police Station (SPD) has a case wherein the family of the inmate was not informed of the inmate's arrest and detention.

²⁴⁹La Loma PS 1, Masambong PS, Talipapa PS 3, Novaliches PS 4, Anonas PS 9, Galas PS 11, and QCPD-Warrant failed to inform the PDL's family/relatives about the arrest and detention.

Eastwood PS-12, CIDU and DAID-SOTG, while La Loma PS and Old Balara PCP-1 have no validated data.

In **MPD**, of the twelve (12) stations and two (2) community precincts visited, eleven (11) have not complied: MPD HQ, Raxabago PS-1, Moriones PS-2, Sta. Cruz PS-3, Sampaloc PS-4, Sta. Ana PS-6, Jose Abad Santos PS-7, Sta. Mesa PS-8, Malate PS-9, Pandacan PS-10, Binondo PS-11; while Ermita PS-5, Blumentritt and Tayuman PCs have no validated data.

In **NPD**, of the twelve (12) stations and one (1) community precinct visited, eight (8) have not complied: Caloocan City PS (which also include SAID, SIDMD, STEU, INTELLIGENCE & WSS); DAID, Caloocan PS North Extension Office, Valenzuela City PS, Navotas PS, Malabon City PS, and Caloocan City Sub-Station 3 (now PCP 3); while DSOU²⁵⁰ the rules are written on the walls.

In **SPD**, of the ten (10) stations and six (6) community precincts visited, two (2) are compliant (Las Pinas PS, and SPD-DSHG & DSOU in Fort Bonifacio); one with rules posted on the wall (Muntinlupa PS); two (2) are not compliant (Taguig City PS and Pateros PS); and the other twelve (12) have no validated data.

Lastly, in **EPD**, two (2) of the four police stations have not complied with the rules: San Juan PS and Mandaluyong PS.

5. Right to Challenge Lawfulness of Detention

Many PDL²⁵¹ revealed to the CHR team that they were not assisted or represented by a counsel during the custodial investigation and inquest proceedings.

In MPD, an inmate of Moriones PS 2 reported to the CHR team that he was not assisted by counsel during the custodial investigation but was informed of his constitutional rights.

In NPD, a PDL in Malabon Police Station 2 alleged that they were not properly informed of the nature of their cases. Moreover, it was not clear if the PDL were represented by a counsel during the custodial investigation and inquest proceedings.

6. Right to be brought promptly before proper judicial authorities

The research shows that almost all the police stations promptly bring detainees to courts. During the interviews, the CHR lawyers found out that the police officers who are in-charge of lock-up cells have sufficient knowledge and understanding on the rules of criminal procedure on warrantless arrests in relation to Article 125 of the Revised Penal Code.²⁵²

Out of the total police stations and police community precincts visited by the CHR teams, there were only two (2) instances, one in QCPD²⁵³ and another in SPD,²⁵⁴ where the cases were

²⁵⁰ DSOU & DAID are both in NPD HQ, hence, counted as one (1) in the data above.

²⁵¹ PDL in QCPD PS 1-La Loma; PS 2-Masambong; PS 3-Talipapa; PS 4-Novaliches; PS 11-Galas; Eastwood PS 12; and QCPD-DAID; Also PDL in EPD-Marikina PS and Marikina PCP-1; and several PDL in Taguig City PS.

²⁵² Article 125, Revised Penal Code. - Delay in the delivery of detained persons to the proper judicial authorities.

²⁵³ QCPD-Novaliches Police Station 4.

²⁵⁴ SPD-District Support Headquarters Group.

not filed within the prescribed period. In both cases which involved violations of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002, the two (2) PDL were detained beyond thirty-six (36) hours without being charged before the Prosecutor's Office.

There were no such cases reported in MPD, NPD and EPD.

7. Health and Medical Services

Validated Issues	MPD	NPD	SPD	EPD	QCPD	Overall Compliance (NCRPO)
Medical Examination (immediately after arrest)	No data available	86%	62%	75%	69%	Incomplete Data
Medical Examination prior to transfer or release	91%	71%	62%	75%	23%	64%
Medical Officer is stationed in the police station	8%	0%	38%	25%	23%	19%
Referral to Government Hospitals and Clinics	50%	57%	75%	50%	77%	62%
Provision for First Aid Kit/ Treatment	25%	71%	50%	50%	No data available	Incomplete Data
Pre-Natal Service*	No data available	71%	75%	50%	92%	Incomplete Data
Engagement with Social Worker/ Psychologist	No data available	No data available	50%	75%	54%	Incomplete Data

**not sufficient data available: most stations did not have pregnant PDL at the time of visit*

Apparently, police stations across all the NCRPO districts do not conduct medical examinations immediately after arrests. There is a seeming laxity on this score which is detrimental to arrested persons and breeds issues on torture and ill-treatment.

There are usually no physicians assigned in police stations to conduct the required medical examinations. As a remedy, the examination, including medical emergencies, are referred to government hospitals and clinics.

8. Accommodation (Facility and Resources)

Validated Issues	MPD	NPD	SPD	EPD	QCPD	Overall Compliance (NCRPO)
At par physical condition of lock-up Cells	75%	86%	75%	50%	69%	71%
Proper congestion management	33%	71%	62%	50%	62%	56%
Installation of Ventilation or Window	33%	29%	25%	25%	15%	25%
Natural light	92%	100%	25%	25%	54%	59%
Provisions for beddings/mattresses	0%	14%	25%	0%	0%	8%
Installation of Bathroom	70%	43%	100%	50%	92%	71%
Proper Bathroom & toilet facilities	64%	57%	62%	50%	92%	65%
Separation of lock-up cells per category (male, female & minor, PWD)	No data available	No data available	86%	No data available	No data available	Incomplete Data
Availability of vehicle for transport of PDL	No data available	No data available	75%	100%	69%	Incomplete Data
Register is readily available	58%	43%	86%	50%	92%	66%
Jailer's record is complete & updated	58%	No data available	75%	50%	46%	Incomplete Data
Women & Child desk has duty officer	83%	100%	100%	100%	No data available	Incomplete Data
Female PDL are attended by female police/jailer	50%	29%	75%	No data available	92%	Incomplete Data

9. Discipline and Punishment

Validated Issues	MPD	NPD	SPD	EPD	QCPD	Overall Compliance (NCRPO)
No Torture	75%	100%	62%	100%	85%	84%
No Ill-treatment & other use of force	92%	71%	86%	75%	85%	82%
Written rules on lock-up cells are provided personally	33% (incomplete data)	0%	62% (incomplete data)	50%	38%	Incomplete Data
Complaint mechanism is in place	42% (incomplete data)	43% (incomplete data)	75% (incomplete data)	50% (incomplete data)	46% (incomplete data)	Incomplete Data
No imposition of punishment for discipline	No data available	71%	75%	100%	69%	Incomplete Data

10. Other Issues

Validated Issues	MPD	NPD	SPD	EPD	QCPD	Overall Compliance
Immediate issuance of commitment order	92%	71%	75%	100%	77%	83%
Personal property is inventoried and returned	92%	57%	86%	50%	85%	74%
Police officers have proper training on handling of detainees	No data available	57%	62%	75%	92%	Incomplete Data

V. Good Practices

It is worth mentioning good practices being observed by police stations, local government units, and even the private sector, in relation to the rights of PDL:

1. MPD

- a. In the absence of medical officers, PNP police stations have standing arrangements with government hospitals near the area to accommodate and extend services to detainees in need of medical treatment; on-call medical officers.

2. NPD

- a. In the absence of medical officers, PNP police stations have standing arrangements with government hospitals near the area to accommodate and extend services to detainees in need of medical treatment; on-call medical officers.

3. SPD

- a. At Paranaque Police Station, a monitoring board (white board) is maintained to keep detainees and police officers informed of the schedule of hearings, as well as the status of cases.
- b. The Local Government Unit of Paranaque provides meal subsistence for the first 50 detainees.
- c. In the absence of medical officers, PNP police stations have standing arrangements with government hospitals near the area to accommodate and extend services to detainees in need of medical treatment; on-call medical officers
- d. Muntinlupa LGU shoulders the administrative and operation expenses of Muntinlupa Police Station, including office rental.
- e. Taguig Police Station maintains systematic/organized filing system.

4. EPD

- a. In the absence of medical officers, PNP police stations have standing arrangements with government hospitals near the area to accommodate and extend services to detainees in need of medical treatment; on-call medical officers

5. QCPD

- a. In the absence of medical officers, PNP police stations have standing arrangements with government hospitals near the area to accommodate and extend services to detainees in need of medical treatment; on-call medical officers.
- b. QCPD CIDU/Warrant maintains systematic/organized filing system.

6. Private Sector

- a. The (business) community of *Eastwood City* donated the parcel of land where the QCPD PS-12 building is located; the construction of the building was shouldered by the PNP.
- b. *Araneta Center* accommodated the construction of Police Station's 7 lock-up cell in the vacant portion of its building for female detainees.

PART III

CONCLUSIONS AND RECOMMENDATIONS

I. Conclusions

The study discloses what has become of the lock-up cells – converted to *semi-permanent detention facilities*. Reasons are copious but negligence, of both the PNP personnel and the government to faithfully comply with even the minimum human rights standards and consistently implement laws, is the defining cause of such unearned “upgrade.”²⁵⁵ And the danger lies when the consequence of “neglect” is intentionally sought.

The study attests to the fact that PDL in police lock-up cells suffer, in varying degrees and effects, deprivation and neglect with respect to their fundamental human rights. Most often, these violations are unheard of as detainees are silenced into voicing their concerns due to among, others, fear of reprisal. This truth thus makes this study limited only to the extent that the detainees were able to courageously share with the Research Team chronicling various violations, such as torture, ill-treatment, and inhumane treatment.

This only shows that despite the human rights standards and policies in place, as well as institutional efforts to inculcate human rights and the rule of law, law enforcers are still susceptible to commit violations.

Thus, this Study hopes to bring appropriate changes towards the improvement of the conditions and handling of detainees in lock-up cells, not only in the NCR but extending to all parts of the country.

II. Recommendations

The following recommendations are suggested to help in crafting a policy development to better promote and protect the human rights of persons accused, arrested, detained and under custodial investigation.

1. Education.

With the Constitution and all the statutes currently in place, what we have now in the Philippines is a greatly evolved and broadened *Miranda* right with more stringent standards for compliance.²⁵⁶ Nevertheless, as the Supreme Court observed in one case, in the face of the police officer’s neglect either by “ignorance or indifference,” the *Miranda* rights, as it were, “had

²⁵⁵ *e.g.* at Taguig SPD-PS, a detainee is detained for more than 2 years despite request from the RTC B69 to issues a commitment order for the transfer of the detainee to the BJMP detention facility; Six (6) detainees were found at Caloocan City NPD-PS North Ext. Office, Barugo held without being charged –not even recorded in the blotter and informed of the reason of their detention.

²⁵⁶ *People v. Mojello*, G.R. No. 145566, March 9, 2004.

become insufficient and needs to be updated in the light of new legal developments.”²⁵⁷ Apparently, this pronouncement by the Court still finds relevance now given the findings gathered during the research on lock-up cells.

It is therefore recommended that the subject on the rights of the accused as embodied under the Constitution and allied laws be incorporated to occupy a permanent chapter in all human rights trainings for law enforcers.

2. Coordination.

In fairness to the law enforcers, some of the detention issues that surfaced during the research are not entirely attributable to them. For instance, they cannot be faulted for the protracted issuance of commitment orders because these directives do not emanate from them but the courts.

Hence, getting other government bodies’ active involvement throughout the entire process of criminal prosecution and trial is vital in ensuring that the human rights of PDL are preserved. In the example given above, imparting the results of the research and recommending durable solutions to the Supreme Court can very well address the problem of delayed issuance of commitment orders or even trials.

It may be helpful to coordinate as well with the Public Attorneys’ Office (PAO), the Integrated Bar of the Philippines (IBP), and lawyer organizations to breathe life into the Constitutional right to counsel.

3. Support of the Local Government Units

LGUs must take a more active role in supporting police stations. Operational costs may be augmented by the enactment of ordinances giving police stations a monthly stipend. In constructing police stations or PCPs, they must consider separate lock-up cells for LGBTs.

4. Strengthening active participation of appropriate Government Agencies.

a. DSWD

There should be no lock-up cells for CICL within the premises of police stations, hence DSWD to provide or construct centers for CICLs.

b. PNP

- b.1 The Philippine National Police must come up with specific policy on Police Lock-up Cells or incorporate it on its Police Operation Manual. It should make the most out of its membership in the Peace and Order Council so that the issue on

²⁵⁷ *People v. Mahinay*, G.R. No. 122485, February 1, 1999. See also, “The Current State of the Law on Custodial Investigation,” a dissertation by Atty. Oscar G. Raro, IBP Journal Volume 37, No. 3 and 4 (2012).

protracted issuance of commitment orders may be immediately referred to the Executive Judge who also sits in the same Council.

- b.2 The PNP can also draft a policy on the conduct of search operations akin to BJMP's greyhound operations for the protection of detainees and their personal belongings.
- b.3 Establish preventive measures for the protection of PDL, including the immediate relieve of jailers/custodians who maltreated detainees (subject to disciplinary proceedings);
- b.4 Maintain a separate and accurate register on detainee information; and update and improve the record of detainees' status and their cases in court. This may help their families locate them once they are transferred from one lock-up cell to another. Include computerization of detainees' records;
- b.5 Comply with the initial medical screening requirement to assess the health risks and needs of every detainee to prevent or reduce transmission of infectious diseases and other serious illness and to keep a complete and accurate medical record;
- b.6 To strictly observe provision of counsel to the detainee pursuant to R.A. 7438;
- b.7 Establish health care services and facilities to serve the health concerns of detainees. Lock-up cells must store enough medicines within the facility. Medical check-up of detainees should be done on a regular basis;
- b.8 Establish policy on engagement with social worker, psychologists or psychiatrists;
- b.9 Repair or build new facilities. Architectural designs must allow adaptability to current and projected trends in lock-up cell population. Lock-up cells must be flexible to alteration, division and/or external additions so they can serve the actual needs of detainees and avoid overcrowding. The additional facilities must also ensure that detainees are separated according to sex and age. Cell windows must meet the standards for access to natural light and fresh air while achieving the required security level. Showers and sanitary installations must be clean and private enough to ensure dignity and self-respect of the detainees;
- b.10 Comply with the reportorial requirement under Republic Act No. 9745, and come up with a policy on the reporting of torture and ill-treatment within the lock-up cells;
- b.11 Provide sufficient information on the status of detainees' cases and possible access to legal remedies;
- b.12 Increase recruits of female jail officers or hire Non-uniformed Personnel (NUP) health professionals;
- b.13 Consider establishing separate lock-up cells and logbook/registry for LGBTs;

b.14 Intensify capacity building of police officers at the police station level, including jailers, on human rights based approached to prison management;

b.15 Strengthen HRAO desks in all police stations; and

b.16 Reactivate the human rights program for detainees.

c. DOJ (PAO)

c.1 Provide detainees sufficient information on legal remedies and free legal representation available to him/her; and

c.2 To establish rotational assignments of PAO lawyers in every police station to provide free legal assistance to detainees and arrested persons.

d. DOH

d.1 Intensify participation or commitment in rendering medical services to PDL.

e. Law Schools

e.1 Provide paralegal services to PDL through legal aid clinics as part of law students' internship program.

f. CHR

f.1 Draft a monitoring tool specifically for PNP lock-up cells; and

f.2 Establish a paralegal program.

g. Congress

g.1 Appropriate sufficient resources to the PNP lock-up cells in order that they may be compliant to the UN Standard Minimum Rules on the Treatment of Prisoners subject to regular monitoring mechanism;

g.2 Allocate regular budget for the daily meal subsistence of detainees and other basic needs of detainees, taking into account the inflation in the prices of commodities and the consumer price index;

g.3 Create more courts to speed up the disposition of cases;

- g.4 Provide alternatives to imprisonment, especially for light offenses, e.g. community service (under *restorative justice*); and

h. Judiciary (Supreme Court)

- h.1 Court should adopt strict measures to avoid judicial process delay, especially when an accused is incarcerated;
- h.2 Appoint sufficient judges to speed up disposition of cases;
- h.3 Intensify Justice on Wheels Program of the Supreme Court;
- h.4 Issue administrative circular or to ensure the immediate issuance of Commitment Orders once the Information is filed in court; and
- h.5 Identify petty crimes that can be subjected to summary procedure, where decision is final and immediately executory. This may help in easing congestion of lock-up cells and deliver fair justice on petty crimes.

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MGA KARAPATAN NG ISANG PINAGHIHINALAAN AYON SA UMIIRAL NA SALIGANG-BATAS

1. IKAW AY MAY KARAPATAN MANAHIMIK. ANUMANG BAGAY NA SASABININ MO AY MAAARING GAMITIN PANIG O LABAN SA IYO SA HUKUMAN.

2. IKAW DIN AY MAY KARAPATAN KUMUHA NG ISANG ABOGADO NA IYONG PILI. AT KUNG WALA KA AY PAGKAKALOOBAN KA NG PAMAHALAAN NG ISANG ABOGADO NA WALANG BAYAD.

3. ANG MGA KARAPATAN ITO AY HINDI MAAARING IPAWALANG DISA MALIBAN SA PAGTALIKOD NG PINAGHIHINALAAN SA KANYANG MGA KARAPATAN ATSA PAMAMAGITAN NG PAGSULAT NA AYON SA PRYO NG KANYANG ABOGADO.



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