Immigration Department

Castle Peak Bay Immigration Centre
Operational Manual
(Treatment of Detainees)
Foreword

The treatment of detainees in the Castle Peak Bay Immigration Centre (CIC) is specified in the Immigration (Treatment of Detainees) Order, Cap. 115 sub. leg. E. The CIC Operational Manual (Treatment of Detainees) (hereinafter referred as Manual) provides staff of the CIC with guidance on the proper management of detainees in the CIC with regard to their daily routine and welfare as well as the security of the CIC.

Aside from the related legislation and this Manual, staff of the CIC should always refer to the prevailing orders and instructions as stipulated in the Immigration Service Standing Orders or Immigration Service Temporary Orders, the latest departmental notices / circulars and divisional / sub-divisional / sectional instructions or notices in executing their duties.
1. **Visits by Justices of Peace (JP)**

1.1 The general conditions in relation to the JP visits are provided in rule 16 of the Immigration (Treatment of Detainees) Order (Cap. 115 sub. leg. E).

1.2 The Superintendent must provide facilities to justices of the peace appointed by the Chief Executive for that purpose (the “visiting justices”) to enable them to visit detainees and satisfy themselves that detainees are held in accordance with this Order and any other applicable law.

1.3 For the purposes of paragraph 1.2, visiting justices (VJ) must be permitted to visit detainees at all reasonable times and for reasonable periods.

1.4 An officer must make a record of every such visit in respect of every detainee.

1.5 The Superintendent must keep a book to be known as the “Visiting Justices Report Book” in English and known as “太平紳士探訪紀錄簿” in Chinese.

1.6 VJs must record their visits and their observations and comments in the book kept under paragraph 1.5.

1.7 The Superintendent must as soon as practicable bring to the attention of the Director of Immigration or the Deputy Director of Immigration any adverse observation or comment recorded by VJs in the book kept under paragraph 1.5.
1.8 Subject to the arrangement of the Chief Secretary for Administration’s Office, two VJs shall be invited to, in company if possible, visit the Centre at least once a fortnight and on such other day as they may be required. The VJs would also be invited and provided facilities to:

(i) hear and investigate any complaints which any detainee may desire to make to them;
(ii) visit detainees in separate confinement;
(iii) inspect the diets of the detainees; and
(iv) inspect any of the records of the treatment provided to detainee such as food provision, medical services, visits received, etc.
(v) promote the efficiency of the service in collaboration with the Director and make inquiry into any matter referred to them by the Chief Executive;
(vi) furnish the information required by the Chief Executive from time to time with respect to the offences reported to them;
(vii) attend to all reports received as to the mind or body of any detainee being likely to be injured by discipline or treatment to which he is subjected, and to communicate their opinion to the Chief Executive;
(viii) organize lectures and addresses in the Centre subject to the approval of the Director, provided they do not interfere with the discipline of the Centre; and
(ix) inquire into the state of the Centre and report to the Chief Executive with respect to any repairs or additions which may appear to them to be necessary;

1.9 The names of the VJs shall be furnished by the authorized contact person of the Chief Secretary for Administration’s Office to the Director of Immigration and the Centre shall be opened to them at all reasonable times during their tour of duty.

2. **Comfort, Health and Cleanliness**

2.1 Reasonable arrangements must be made for the comfort of detainees.

2.2 Whenever practicable both a detainee being questioned or making a statement and the officer asking the questions or recording the statement are to be seated.
2.3 Subject to any supervision and other measures that may be necessary to ensure that detainees do not escape or injure themselves, they must be provided with adequate facilities and opportunity to wash, shower, shave, relieve themselves and take a reasonable amount of exercise.

2.4 Exercise

2.4.1 Every detainee shall be provided with not less than one hour of exercise in the open air (playground or exercise yard) daily if the weather permits.

2.4.2 Indoor exercise will be arranged for detainees during rainy or inclement weather.

2.5 Bath

2.5.1 Every detainee shall be allowed to take a bath on reception, unless the Superintendent or Medical Officer otherwise directs.

2.5.2 Detainees will be arranged to take shower soon after the exercise period.

2.6 Cleanliness

2.6.1 Every detainee should keep his cell, room or dormitory, his utensils, books and other articles issued for his use, and his clothing and bedding, clean and neatly arranged.

3. Handling of Requests from Detainees

3.1 Complaints

3.1.1 A detainee may complain to the Superintendent, or any officer authorized by the Superintendent to receive complaints, regarding the treatment received by him or any other detainee in the Centre.

3.1.2 The Superintendent shall, as soon as practicable after a complaint has been made, record and investigate that complaint and advise the detainee who made the complaint of the outcome of his investigation.
3.2 Requests

3.2.1 It is the duty of all staff to deal with requests from detainees. Under normal circumstances, detainees’ requests will be recorded and kept by Welfare Unit for the consideration of senior officers,

3.2.2 All staff shall –

(a) treat the detainees with kindness and humanity;
(b) listen patiently to any detainee who has a complaint to make; and
(c) inform CIO(CIC) when any detainee desires to see him or the Superintendent.

4. Medical Service

4.1 Subject to paragraph 4.2 and 4.3, if a detainee complains of or appears to be suffering from sickness or injury, the detainee must be provided with adequate medical attention at the Centre.

4.2 If the Medical Officer so advises, or the services of a medical officer cannot be procured at the Centre, the detainee must be escorted elsewhere to receive medical attention.

4.3 If the detainee is admitted to a hospital, the detainee must at all times be guarded by an officer until lawfully released on recognizance or otherwise.

4.4 The Medical Officer may on admission and at any time thereafter examine a detainee and after each such examination shall record the state of the health of the detainee and such other particulars as he may deem necessary.

4.5 If any detainee is found to have any infectious or contagious disease or to be infested with vermin, a report shall be made as soon as possible to the Medical Officer under whose direction steps, including the vaccination or inoculation of detainees, shall be taken to treat the condition and to prevent its transmission to other detainees.

4.6 Medical examination

4.6.1 Every detainee shall, as soon as possible after his admission, be separately examined by the Medical Officer, who shall record the state of health of the detainee, and such other particulars as he may deem necessary.
4.6.2 Provided that when a detainee is admitted too late to be examined on the same day he shall be examined as soon as possible on the next day and in any case within 24 hours of admission.

4.6.3 A sick detainee may be allocated to the Sickbay for treatment by the Medical Officer.

4.7 Final interview with Medical Officer

4.7.1 Every detainee shall at as short a time as is practicable before release, or being transferred to another place, be examined by the Medical Officer.

4.7.2 A detainee shall not be transferred to another place unless the Medical Officer certifies that he is fit for transfer.

4.7.3 A detainee due for release who is suffering from an acute or dangerous illness shall, unless he refuses to stay, not be sent out of the Centre until in the opinion of the Medical Officer it is safe to send him out.

4.8 Private medical adviser

4.8.1 Every detainee may for the purposes of his defence receive a visit from a registered medical practitioner selected by him or by his friends or legal adviser, under the same conditions as applied to a visit by his legal adviser.

5. Food and Clothing

5.1 Reasonable arrangements must be made by an officer for the refreshment of a detainee, including the provision of adequate food, without charge to the detainee.

5.2 Without limiting paragraph 5.1, a detainee may be permitted by an officer to obtain other food at the detainee’s own expense subject to the food being inspected by an officer.

5.3 Drinking water must be supplied to a detainee on request.

5.4 Details of all refreshment and food supplied to or received by a detainee must be recorded in the arrest/detention sheet.
5.5 Food Quality and Quantity

5.5.1 Except on the written recommendation of the Medical Officer in the case of a detainee who persistently wastes his food or on medical grounds by direction of the Medical Officer, no detainee will be given less food than is provided in normal Centre diet.

5.5.2 Where the Superintendent is satisfied that circumstances exist that warrant the provision of a diet that differs from the normal diet to a detainee, he may direct that the detainee be given a different diet.

5.5.3 A detainee who considers he should be provided with a diet that differs from the normal diet may appeal to an Assistant Director against a decision of the Superintendent not to provide him with that different diet.

5.5.4 Every detainee may procure for himself, or receive at proper hours, food from outside.

5.5.5 Every detainee who prefers to provide his own food for any meal shall give notice thereof in advance of the time the meal is required; but the Superintendent shall not permit any such detainee to receive any Centre diet for the meal for which he procures or receives food at his own expense.

5.6 Complaint on Foods

5.6.1 Every detainee who has any complaint to make regarding the food furnished to him, or who wishes his food to be weighed or measured in order to ascertain whether he is supplied with the prescribed quantity, should make his complaint immediately when his food is handed to him, and it shall be weighed or measured in his presence and in that of the officer deputed for that purpose.

5.7 Private clothing

5.7.1 Detainees are allowed to wear private clothes during the period of detention. Additional clothing may, on request, be provided to the detainees.

5.7.2 A detainees must be permitted to receive from outside any items of clothing that may be necessary, subject to their inspection by an officer.
6. **Written communication**

6.1 Subject to the approval of, and to such conditions as may be imposed by, the Superintendent in his discretion, a detainee may send and receive letters at all reasonable times.

6.2 **Sending and receiving letters**

6.2.1 Every detainee is allowed to write and send one letter per day not exceeding 4 pages of A-4 paper in length at public expense. They are also allowed to receive any number of letters from their relatives and friends.

6.2.2 The Superintendent may permit a detainee to write and send additional letters at public expense if the detainee has a genuine need.

6.3 **Screening**

6.3.1 **General Mail**

(i) Unless with prior permission, detainees can only receive letters or photos/pictures;

(ii) For receiving larger postal articles (e.g. private clothings sent by relatives), the Superintendent’s prior permission will be needed.

6.3.2 **Special Mail**

Regarding the correspondence directed to a detainee, which requires explanation or assistance (e.g. letters from Legal Aid Department, Court, etc), it will be the duty of the Staff of the Security Unit to deliver the letters to the detainee. Proper records will be made on the Detainee Inward Mail Registers and the Detainee Record.

6.4 **Letter Paper and Envelopes**

6.4.1 Letter paper and envelopes can be obtained from various locations, such as dayrooms, Sickbay, reception office, etc. Staff, who issue the letter paper and envelops, shall put the registered nos. of the recipients in a book for record purpose.

6.4.2 The letter paper and envelopes will be marked with the recipient’s registered number.
6.4.3 Subject to Chief Immigration Officer's approval, detainees may be issued with aerograms.

6.5 General arrangements

6.5.1 Detainees may drop their letters into the letterbox affixed at various locations.

6.5.2 ImmD staff will collect the letters from respective letterboxes every morning.

6.5.3 Except with the intervening public holidays, inward and outward letters will be issued to and mailed out within 24 hours on receipt of the letters in normal working days. All inward letters will be stamped with the date of receipt.

7. Visits

7.1 A detainee shall not receive visitors except with the prior permission of the Superintendent given in his discretion.

(A) Visits by Relatives or Friends

7.2 Visit Hours

Normal visit hours are listed below:

Monday to Sunday (including public holidays)
0900 to 1300 hours and; 1400 to 1700 hours

Visitors must be registered 30 minutes prior to the end of the visiting hours.

7.3 Visit Duration

7.3.1 Detainees can be visited for a duration of 15 minutes on each occasion.

7.4 Visit Arrangements

7.4.1 The metal detector doorway staff will check the visitors’ identities at the Gate Office before allowing them to proceed to visitors’ waiting room.
7.4.2 Visitors shall produce their ID cards/documents to the main gate staff for verification.

7.4.3 Visit room staff will verify the visitors’ information against the visit cards. Visitors who are not on the visitor list provided by or agreeable to the relevant detainee will not be allowed to pay visit.

7.4.4 A person who is not on the visitor list but wishes to visit a detainee will be required to make registration at the Gate Office. The staff of the Gate Office will then report the registration to the officer of the Welfare Unit who will, after confirming with the concerned detainee that he/she is willing to be visited by that person and agrees to put that person on the visitor list, pass such request to CIO(CIC) for approval. The person will then be allowed to pay visit upon the inclusion of his/her name into the visitor list.

7.4.5 Normally a maximum of two visitors will be allowed to visit a detainee. All visitors or requests for visit are handled on a first-come-first served basis. No prior appointment is needed.

7.4.6 Subject to Superintendents approval, additional visits or extension of visits may be allowed.

7.4.7 Proper records shall be made on the visit cards and visit books. Information to be recorded shall include the time and date, the particular of relevant detainee and visitors, the interview room and window used, etc.

7.4.8 Oi/c of Visit Room shall ensure that the talk-phones installed at visit booths are cleaned daily after the visit hours.

(B) **Legal Visits**

7.5 Communication with Legal advisers, etc.

7.5.1 A detainee must be afforded reasonable opportunity to communicate with a legal adviser and to consult with the legal adviser in the presence, but out of the hearing, of an officer unless the communication or consultation would cause unreasonable hindrance or delay to the investigation of the suspected offence or the administration of justice.
7.5.2 For the purpose of preparing his or her defence a detainee detained under the order of a magistrate must be allowed –

(a) a supply of writing material and, despite anything to the contrary in paragraph 6.1, to have letters to the detainee’s legal adviser, relatives and friends posted or delivered with the least possible delay;

(b) to speak by telephone to the detainee’s legal adviser, relatives and friends, unless the communication is reasonably likely to cause hindrance to the investigation of the suspected offence or the administration of justice.

7.6 Visit Hours

7.6.1 Normal visit hours for legal visitors are as follows:

Monday to Sunday (including public holidays)
0900 to 1700 hours (no lunch break).

Legal Visitors must be registered 30 minutes prior to the end of the visiting hours.

7.7 Working Procedures

7.7.1 Visit room staff will verify the identities of the legal visitors (legal adviser plus any accompanying clerk or interpreter) against the list of the legal personnel. Legal visitors should produce document(s) to prove their purpose of visit.

7.7.2 Legal visits will be conducted at the legal visit room.

7.7.3 Legal visits will be conducted within the sight but out of the hearing of the supervising staff.

7.7.4 Oi/c, Visit Room shall ensure proper record be made in the Legal Visit Book after the visit. Information to be recorded shall include the time and date, the particular of relevant detainee and legal visitors, the interview room used, etc.

(C) Other Arrangements

7.8 Immediately after the detention of a detainee, or so soon after the detention as may be practicable, an officer must –
(a) at the request of the detainee, cause a close relative of the detainee, or any other person named by the detainee for that purpose, to be notified of the detainee’s whereabouts; and
(b) if the detainee is a public officer, cause the head of the department in which the detainee holds office to be notified of the detention orally and in writing.

7.9 Relevant arrangements such as the days and time for visits shall be publicly promulgated through notices at the gates of the Centre. Any changes in the arrangements must be so publicly promulgated, and as far as practicable before any changes taking effect.

7.10 All visitors shall go through the metal detector doorway. Lockers will be provided for visitors to store their personal belongings before seeing the detainees.

7.11 A detainee shall not be allowed to receive articles from visitors without the approval from the Superintendent. All approved articles from outside are subject to inspection and pooling, if applicable, before issue to the respective detainee. Details of the hand-in articles would be recorded onto the ‘Hand-in Articles Records’ register.

7.12 An application for visits of detainees by NGOs will be considered on individual merits, including but not necessarily limited to the followings:
- purpose of visit;
- welfare of the detainees; and
- implication to the operation of the Centre.

8. **Provision of books to detainees**

8.1 Subject to the conditions as the Superintendent may determine, every detainee shall be allowed to borrow books for leisure and such other reading materials as are available in the Centre and to exchange them as often as practicable.

9. **Smoking Arrangement**

9.1 The Director of Immigration may set aside in the Centre an area for smoking by detainees.
9.2 Subject to and in accordance with any directions that may be given by the Director of Immigration, a detainee may smoke in an area set aside under paragraph 9.1.

9.3 No detainee shall be allowed to smoke or to have in his possession any tobacco except in accordance with such order as may be given by the Director of Immigration.

9.4 Following the enactment of the Smoking (Public Health) (Amendment) Ordinance 2006 (Cap. 371) on 1 January 2007, exemption is provided to “An area set aside by the Director of Immigration under rule 11A of Schedule 1 to the Immigration (Treatment of Detainees) Order (Cap. 115 sub. leg. E) in a place specified in Schedule 2 to that Order for smoking by persons detained there”.

9.5 The relevant areas in which detainees may smoke are:

(a) smoking booths; or
(b) toilets in dormitories.

10. Temporary retention and supply of papers, etc.

10.1 The Superintendent shall, on the application of any detainee, permit him to have any books, papers or documents in his possession at the time of his arrest, which may not be required to be produced in evidence, and are not reasonably suspected of forming part of any property improperly acquired by him, or are not for some special reason required to be taken from him for the purposes of justice.

10.2 Any such detainee shall have supplied to him, at his own expense, such newspapers, or other means of occupation as are not, in the opinion of the Superintendent, of an objectionable nature.

11. Prohibition of sale

11.1 Every detainee shall not sell or transfer to any other person any article whatsoever allowed to be introduced into the detainee for his own use.

11.2 An officer may seize any articles transferred by one detainee to another. No detainee is allowed to participate in any form of gambling or betting.

12. Religious services

12.1 The religion, if any, of a detainee shall be recorded at the time of his admission and he shall be treated during his detention as being of any
religion so recorded unless the Superintendent is satisfied that the detainee is an adherent of another religion or has ceased to adhere to any religion.

12.2 It shall not be compulsory for any detainee to attend any religious service but he shall be ordinarily entitled to attend religious services of his religion conducted in the Centre.

13. **Accommodation and Bed**

13.1 A detainee shall occupy such accommodation as may be allocated to him by an officer, and no detainee shall occupy any accommodation if directed by an officer not to do so.

13.2 **Certification of Accommodation**

13.2.1 No sleeping accommodation for detainees shall be used unless it is certified by the Superintendent to be of such a size, and to be lighted, ventilated and fitted in such a manner, as is requisite for health, and when such accommodation is locked it shall be furnished with the means of enabling detainees to communicate at any time with an officer of the Centre.

13.2.2 A detainee who has to spend a night or a substantial part of it at the Centre must be provided with a bed and reasonable bedding. Every detainee shall be provided with a separate bed.

13.3 **Women’s accommodation**

13.3.1 Female detainees must ordinarily be kept separate from male detainees.

13.3.2 A female detainee must be guarded by a female officer and, except in an emergency, no male officer may enter a detention room in which a female detainee is detained otherwise than in the company of a female officer.

13.3.3 The whole of the premises allocated to women shall be entirely separate from that allocated to men.

13.3.4 The keys of the premises allocated to women shall be under the control of female officers.
14. **Protection from public view**

14.1 When detainees are being removed to or from the Centre, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult or curiosity.

15. **Duties of officers**

15.1 An officer is, while a detainee is in the officer’s custody, responsible for the safe custody and welfare of the detainee and for discharging any other duties that are imposed on an officer by the Immigration (Treatment of Detainees) Order (Cap. 115 sub. leg. E) in relation to the detainee.

15.2 Despite anything in this rule, an officer may temporarily place a detainee in the custody of a member of the Immigration Service established by section 3 of the Immigration Service Ordinance (Cap. 331) for the purpose of furthering an investigation, in which case that member must, until returning the detainee to the custody of an officer at the Centre, have the responsibilities and duties of an officer in relation to the detainee.

16. **Detainee’s Record**

16.1 A record may be maintained of each detainee and for this purpose an officer may require from a detainee and take upon his admission and from time to time his name, age, height, weight, particular marks, fingerprints, photograph and other measurements and particulars. No photograph or particulars obtained under this paragraph shall be given to any person unless he is officially authorized to receive it.

16.2 There must be kept in respect of each detainee a record to be known as the “arrest/detention sheet”, in which must be recorded –

(a) immediately on the detention of a detainee, the reasons for the detention;
(b) all movements and interviews of, requests made by, and meals, articles and any facilities provided to, the detainee; and
(c) any other matters that are by this Order required to be so recorded.
16.3 In addition to the matters required to be recorded under paragraph 16.2, there may be recorded by an officer on an arrest/detention sheet any other matters that the officer considers desirable.

16.4 An officer is responsible for recording in an arrest/detention sheet all matters required to be so recorded which occur while the detainee is in the officer’s custody.

17. **Search**

17.1 Every detainee may be searched on admission and at such times subsequently as the Superintendent or any officer authorized by him may direct.

17.2 The searching of a detainee shall be conducted with due regard to decency and self-respect, and in as seemly a manner as is consistent with the necessity of discovering any concealed articles.

17.3 No detainee shall be stripped and searched in the sight of another detainee:

17.4 Provided that a child under the apparent age of 10 years may be stripped and searched in the presence of its parent.

17.5 No detainee shall be searched other than by an officer of the same sex.

18. **Possession of articles**

18.1 Any article found in the possession of a detainee may be seized and stored until the release, removal or transfer of the detainee when such article shall be returned to him, unless possession of such article is prohibited, or authority for detention of such article is provided for, under some other Ordinance.

18.2 A detainee must, except for reasons which an officer must cause to be recorded in the arrest/detention sheet, be permitted to retain any head-dress the detainee is by custom or religion required to wear, essential clothing and a hearing-aid.
19. **Safety of detainees in emergency**

19.1 In the event of fire or other emergency at the Centre, the safety of any detainees detained there is paramount and if their safety is threatened, an officer must escort the detainees to the nearest police station or other suitable place.

20. **Violent detainee may be restrained**

20.1 A detainee who is violent may be physically and mechanically restrained.

20.2 Handcuffs may only be used to restrain a detainee when necessary for the detainee’s own safety or the safety of others or to prevent the detainee’s escape.

20.3 Any use of handcuffs must be recorded on the arrest/detention sheet by the officer causing them to be used.

21. **Roll-call**

21.1 A detainee shall muster at such times and places as may be required by an officer or by order of the Superintendent for the purposes of roll-call.

22. **Detainees to remain indoors between 8 p.m. and 7 a.m.**

22.1 A detainee shall return to the accommodation allocated to him by 8 p.m. each night or such later time as the Superintendent may allow and shall not leave the building in which the accommodation is contained before 7 a.m. the following morning or such earlier time as the Superintendent may allow.

23. **Detainees not to enter certain areas**

23.1 A detainee shall not enter any part of the Centre in breach of any order of an officer or any official notice prohibiting entry by the detainee to that part.
24. Confinement of detainees

24.1 A detainee who-

(a) disobeys a lawful order of an officer;
(b) commits any assault;
(c) willfully disfigures or damages any part of the Centre or any property which is not his own;
(d) commits any nuisance; or
(e) contravenes or aids or abets the contravention of any of the rules under the Immigration (Treatment of Detainees) Order (Cap. 115 sub. leg. E),

may, after due inquiry and upon being afforded an opportunity to exculpate himself, be separately confined by order of the Superintendent for a period not exceeding 7 days.

24.2 Where in the opinion of the Superintendent, it is desirable either in the interests of a detainee or in the interests of good order in the Centre that a detainee should be separately confined, he may be so confined by order of the Superintendent:

Provided that he shall not be so confined for more than 7 days without his consent.

25. Notice to detainees

25.1 There must be displayed in a conspicuous position in every room used for the detention of a detainee and in other conspicuous places at the Centre where it can readily be seen by detainees, a notice in the following terms –
"Notice to Persons Detained

1. You may request that your relatives or a friend be informed of your detention.
2. Provided that no unreasonable delay or hindrance is caused to the processes of investigation or the administration of justice you may communicate and consult with a legal adviser.
3. For the purpose of preparing your defence you will, if you have been detained on the order of a magistrate, be allowed –
   (a) a supply of writing material, and to have your letters posted or delivered without delay;
   (b) to make telephone calls, provided no hindrance is caused to the processes of investigation or the administration of justice.
4. You may ask to be released on recognizance.
5. If you feel ill, ask for medical attention.
6. Adequate food and refreshment will be supplied free. You are entitled to receive from outside any items of clothing that may be necessary. However you may, if you request, be permitted at your own expense to have food from outside brought to you subject to inspection.
7. Drinking water will be supplied on request.

被羁留者請注意

1. 你可要求通知你的親屬或一位朋友你已被羈留。
2. 在不會對進行調查或對執法構成不合理延遲或阻礙的前提
   下，你可與一名法律顧問通訊和商議。
3. 你如根據裁判官的命令被羈留，為準備你的辯護，你會 —
   (a) 獲供應書寫用品，而你的書信會在沒有延遲的情況下郵
       寄或送遞；
   (b) 在不會對進行調查或對執法構成阻礙的前提下，獲准打
       電話給他人。
4. 你可要求擔保外出。
5. 你如感到不適，請要求醫療護理。
6. 你會獲得免費供應足夠的食物和茶點。你可接受從外間送來
   的任何所需衣物。但如你提出要求，則可獲准自費得到外間
   送來的食物，但這些食物須經過檢查。
7. 飲用水會應你的要求供應。”