



Immigration Department

Ma Tau Kok Detention Centre Operational Manual (Treatment of Detained Persons)

Foreword

The treatment of detainees in the Ma Tau Kok Detention Centre (“the MTKDC”) is specified in the Immigration Service (Treatment of Detained Persons) Order, Cap. 331 sub. leg. C (“the Service Order”). The MTKDC Operational Manual (“the Manual”) provides staff of the MTKDC with guidance on the proper management of detainees in the MTKDC with regard to their daily routine and welfare as well as the security of the MTKDC.

Aside from the related legislation and this Manual, staff of the MTKDC 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.

I. Appointment and duties of Guarding Officers

- (1) The Director of Immigration may appoint members of the Immigration Service (“the Service”) to be Guarding Officers for the purposes of the Service Order.
- (2) A Guarding Officer shall, while a detainee is in his custody, be responsible for the safe custody and welfare of the detainee and for discharging such other duties as are imposed on him by the Service Order in relation to the detainee.
- (3) Notwithstanding anything in Part II or in this Part, the Guarding Officer may temporarily place a detainee in the custody of another member of the Service for the purpose of furthering an investigation, in which case that other member of the Service shall, until he returns the detainee to the custody of the Guarding Officer at the Detention Centre, have the responsibilities and duties of a Guarding Officer referred to in paragraph (2) in relation to the detainee.

II. Detainee to be taken to MTKDC

A member of the Service of the rank of Chief Immigration Officer or above who detains or authorises the detention of a detainee shall cause the detainee to be taken to the MTKDC and placed in the custody of the Guarding Officer.

III. Visits by Justices of Peace

- (1) The Service shall provide facilities to Justices of the Peace appointed by the Chief Executive for that purpose (in this Part referred to as visiting justices) to enable them to visit detainees and satisfy themselves that detainees are held in accordance with the Service Order and any other law.
- (2) For the purposes of paragraph (1) visiting justices shall be permitted to visit detainees at all reasonable time and for reasonable periods.

- (3) A record of such a visit shall be made in the arrest/detention sheet of every detainee.
- (4) There shall be kept at the offices of the Service 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, in which visiting Justices shall record their visits and their observations and comments.
- (5) Any adverse observation or comment recorded in the Visiting Justices Report Book shall as soon as practicable be brought to the attention of the Director or Deputy Director.

IV. Notification to relatives, etc.

Immediately after the detention of a detainee, or so soon thereafter as may be practicable, the member of the Service who authorised the detention shall—

- (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 his whereabouts; and
- (b) if the detainee is a public officer, cause the head of the department in which he holds office to be notified of the detention orally and in writing.

V. Comfort of detainees

- (1) Reasonable arrangements shall be made for the comfort of detainees.
- (2) Whenever practicable both a detainee being questioned or making a statement and the member of the Service asking the questions or recording the statement shall be seated.
- (3) A detainee shall be permitted to receive from outside such items of clothing as may be necessary, subject to their inspection by a member of the Service.

- (4) A detainee who has to spend a night or a substantial part hereof at an office of the Service shall be provided with a bed and reasonable bedding.

VI. Toilet facilities and exercise

Subject to such supervision and other measures as may be necessary to ensure that a detainee does not escape or injure himself, a detainee shall be provided with adequate facilities and opportunity to wash, shower, shave, relieve himself and take a reasonable amount of exercise.

VII. Complaints by detainees

Every complaint made by a detainee about the conditions under which he is detained or the conduct of any member of the Service shall, if not made in writing, be reduced to writing by the member of the Service to whom it is made, and as soon as possible brought to the attention of a member of the Service not below the rank of Assistant Principal Immigration Officer and recorded in the detainee's arrest/detention sheet.

VIII. Sickness or injury

- (1) Subject to paragraphs (2) and (3), if a detainee complains of or appears to be suffering from sickness or injury, he shall be provided with adequate medical attention at an office of the Service.
- (2) Where a medical practitioner so advises, or the services of a medical practitioner cannot be procured at an office of the Service, the detainee shall be escorted elsewhere to receive medical attention.
- (3) If the detainee is admitted to a hospital, he shall at all time be guarded by a member of the Service unless he is lawfully released on bail or otherwise.

IX. Food and drink

- (1) Reasonable arrangements shall be made by the Guarding Officer for the refreshment of a detainee, including the provision of adequate food, without charge to the detainee.
- (2) Without prejudice to paragraph (1) a detainee may be permitted by the Guarding Officer to obtain other food at his own expense subject to such food being inspected by the Guarding Officer.
- (3) Drinking water shall be supplied to a detainee on request.
- (4) Details of all refreshment and food supplied to or received by a detainee shall be recorded in the arrest/detention sheet.
- (5) Every detainee who has any complaint to make regarding the food furnished to him should make his complaint immediately when his food is handed to him. The Guarding Officer shall follow up with the meal provider as soon as possible.

X. Communication with legal advisers, etc.

- (1) A detainee shall be afforded reasonable opportunity to communicate with a legal adviser and to consult with him in the presence, but out of the hearing, of a member of the Service unless such communication or consultation would cause unreasonable hindrance or delay to the investigation of the suspected offence or the administration of justice.
- (2) For the purpose of preparing his defence a detainee detained pursuant to the order of a magistrate shall be allowed—
 - (a) a supply of writing material and to have letters to his legal adviser, relatives and friends posted or delivered with the least possible delay; and
 - (b) to speak on the telephone to his legal adviser, relatives and friends, unless such communication is reasonably likely to cause hindrance to the investigation of the suspected offence or the administration of justice.

(3) Visits by legal advisers

- (a) The identities of the legal visitors (legal adviser plus any accompanying clerk or interpreter) shall be verified against the list of the legal personnel. Legal visitors should produce document(s) to prove their purpose of visit;
- (b) Legal visits will be conducted at a visit room;
- (c) Legal visits will be conducted within the sight but out of the hearing of the member of the Service; and
- (d) Proper records shall be made in the “Legal Visit Register” and the detainee’s arrest/detention sheet after the visit. Information to be recorded shall include the time and date, the particular of relevant detainee and legal visitors.

XI. Visits by friends or relatives

Any visits other than visits by Justices of Peace and legal advisers shall only be arranged under prior appointment.

- (a) All visitors shall produce their Hong Kong identity cards/travel documents to the member of the Service for verification;
- (b) All visitors shall go through the security check;
- (c) All visits will be conducted at the visit room; and
- (d) Proper records shall be made on the register and in the detainee’s arrest/detention sheet. Information to be recorded shall include the time and date, the particular of relevant detainees and visitors.

XII. Written communication

Provided that no unreasonable delay or hindrance is caused to the

processes of investigation or the administration of justice, a detainee may request to have letters posted or delivered at all reasonable time and be allowed to receive any number of letters from their relatives and friends.

XIII. Provision of reading materials to detainees

Every detainees shall be allowed to borrow reading materials provided by the Guarding Officer, e.g. newspaper and magazines for leisure.

XIV. Female detainees

- (1) Female detainees shall ordinarily be kept separate from male detainees.
- (2) A female detainee shall be guarded by a female member of the Service and, except in an emergency, no male member of the Service shall enter a detention room in which a female detainee is detained otherwise than in the company of a female member of the Service.
- (3) The whole of the premises allocated to women shall be entirely separate from that allocated to men.
- (4) The keys of the premises allocated to women shall be under the control of female officers.

XV. Individual detention record to be kept

- (1) There shall be kept in respect of each detainee a record to be known as the arrest/detention sheet, in which shall 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) such other matters as are by Service Order required to be so recorded.
- (2) In addition to the matters required to be recorded under paragraph (1), there may be recorded by the Guarding Officer upon an arrest/detention sheet such other matters as he considers desirable.
- (3) Except where in the Service Order it is otherwise provided, the Guarding Officer shall be responsible for recording in an arrest/detention sheet all matters required to be so recorded which occur while the detainee is in his custody.

XVI. Search of detainee

- (1) Upon the detention of a detainee, he shall, before being placed in any detention room, be searched thoroughly.
- (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.
- (3) No detainee shall be searched other than by a member of the Service of the same sex.
- (4) A detainee removed from his detention room shall be searched before being returned to that, or being placed in another, detention room.

XVII. Articles found in detainee's possession

- (1) Any article found in the detainee's possession which may be used by the detainee to injure himself or to escape from custody shall be taken from him and placed in the custody of a member of the Service, who shall make an inventory thereof and provide the detainee with a copy:

Provided that if the detainee so requests, he may be permitted by a member of the Service to have the article in his possession or to use it for such period and subject to such conditions as the Guarding Officer deems fit.

- (2) Subject to paragraph (1), a detainee shall, except for reasons which the Guarding Officer shall cause to be recorded in the arrest/detention sheet, be permitted to retain any head-dress he is by custom or religion required to wear, essential clothing and a hearing-aid.

XVIII. Use of handcuffs

- (1) Handcuffs shall only be used to restrain a detainee when necessary for his own safety or the safety of others or to prevent his escape.
- (2) Any use of handcuffs shall be recorded on the arrest/detention sheet by the member of the Service causing them to be used.

XIX. Safety of detainees in emergency

In the event of fire or other emergency at an office of the Service, the safety of any detainees detained thereat shall be paramount and if their safety is threatened, the Guarding Officer or members of the Service shall escort the detainees to the nearest police station or other suitable place.

XX. Protection from public view

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

XXI. Notice to detainees

There shall be displayed in a conspicuous position in every room used for the detention of a detainee and in other conspicuous places at the offices of the Service where it can readily be seen by detainees, a notice with the terms in Annex A.

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 bail.
5. If you feel ill (e.g. if you have any of the symptoms listed below), please inform the duty officers and ask for medical attention:
 - (a) high fever;
 - (b) dry cough;
 - (c) shortness of breath/chest pain;
 - (d) breathing difficulties;
 - (e) diarrhea/abdominal pain
6. Adequate food and refreshment will be supplied free. You are not entitled to receive from outside anything except the basic necessities of clothing. However you may, if you request, be permitted at your own expense to have food from outside to be brought to you subject to inspection.
7. Drinking water will be supplied on request.
8. Clean clothing will be supplied for changing upon request.
9. If you find that you are not treated fairly or you have any complaint or question regarding your treatment and live-in arrangement at detention centre, please raise it on the spot with the officer-in-charge. You may also raise it with the Justices of the Peace during their visit to Ma Tau Kok Detention Centre.

被羈留者請注意

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遞送；
 - (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. 你可要求保釋外出。
5. 你如感到不適（例如有下列任何症狀），請通知值日主任，要求醫療護理：
 - (a) 發高燒；
 - (b) 乾咳；
 - (c) 氣促／胸口疼痛；
 - (d) 呼吸困難；
 - (e) 腹瀉／腹痛。
6. 你會獲得免費供應足夠的食物和茶點。除屬基本需要的衣物之外，你不得接受從外間送來的任何其他東西，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。
8. 清潔的替換衣物會應你的要求供應。
9. 你如認為受到不公平對待，或對在羈留期間的待遇及留宿安排有任何投訴或疑問，請當場向主管人員提出。你亦可在遇到太平紳士巡視本羈留中心的時候，向他們提出。