Policing and human rights

Standards for police cells
All persons deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person.
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BACKGROUND

From January 2008, Victoria Police have been required to act and make decisions having regard to the human rights set out in the *Charter of Human Rights and Responsibilities Act 2006* (the Charter).

One of the Office of Police Integrity (OPI)'s functions is to oversee Victoria Police’s compliance with the Charter. OPI's other functions are to:

- ensure that the highest ethical and professional standards are maintained in Victoria Police;
- ensure that police corruption and serious misconduct is detected, investigated and prevented; and to
- educate Victoria Police and the general community about police corruption and serious misconduct.

In 2005, OPI and Ombudsman Victoria conducted a joint investigation into the conditions for people in custody, in response to a number of complaints from people held in police cells or prison. The report of the investigation, *Conditions for persons in custody*, was tabled in the Victorian Parliament in July 2006. The report found conditions for detainees were unsatisfactory in several areas. It made a number of recommendations, including several intended to improve the conditions for people detained in police cells. The majority of recommendations relevant to Victoria Police were accepted. A process for implementing the recommendations commenced shortly after the report was tabled. OPI continues to monitor the implementation of these recommendations and has commenced a series of on-site inspections of police cells.

This toolkit aims to provide a framework for assessing conditions in police cells, having regard to human rights and the issues identified in the 2006 report. It is based on standards set out in the Charter, United Nations instruments and publications, and state legislation and regulations. Studies of police cells and custody conditions in other Australian and international jurisdictions, including Western Australia, Australian Capital Territory, the Netherlands and the United Kingdom, have also been taken into account and adapted to this jurisdiction.

The Standards and Indicators set out in this toolkit are not intended to be prescriptive or exhaustive. The toolkit is designed to assist OPI’s audit process and to be used by custody sergeants and internal auditors within Victoria Police to assess progress in the ongoing improvement of the treatment and care of people in police custody.

Please contact OPI if you have any comments regarding this document. Suggestions to improve the toolkit are welcome.
STANDARDS

Admission and assessment

*On admission, police take steps to ensure the health, safety and welfare of detainees.*

**Indicators**

- Prior to admission into a police cell, every person is assessed in relation to his or her physical, mental and psychological condition.

- Any person in police custody in need of medical attention is examined by a qualified health practitioner. Where urgent medical attention is required, arrangements are made to take the person to an appropriate health care facility, as a matter of urgency.

- Personal information is obtained in a manner that is respectful of a detainee’s privacy and dignity. Information about detainees is not visible to other detainees or visitors.

- A separate medical record is kept for any detainee requiring medical attention.

- Information about the detainee is entered in a register. The register includes information about the person’s identity and the legal authority under which the person is detained, the date and time of his or her admission and the date of release.

- A decision to search a detainee is only made when, taking into account all the circumstances, it is considered necessary for the safety of the person or others, to locate a weapon or item that may be used to effect an escape, or to obtain evidence associated with the offence, or offences, for which the person was arrested.

- Where a decision has been made to conduct a search officers conducting the search have regard to the privacy and dignity of the detainee.

- A record is made of any article or substance taken from a detainee. The record includes information about what police did with the article or substance.

- Property taken from a detainee is stored safely. Property that is in the lawful possession of a detainee and not required for evidentiary purposes is returned to the person on his or her release from police custody in the same condition that it was in when it was taken from the person.

- Each detainee is provided with information, in a format he or she can understand, about the reason for his or her detention and the rights and responsibilities of detainees.
Digital Closed Circuit Television (CCTV) equipment is fitted in the sally port, reception area, each cell and all internal and external communal facilities in the cell complex. Equipment is subject to regular maintenance and checked to ensure it is in good working order with correct positioning.

CCTV footage is securely stored for at least one month. Access to the footage must be authorised by the officer in charge. An access and overwriting register is kept.

Accommodation

The physical conditions of the cells and cell complex provides for the humane and dignified treatment of detainees. Detainees are provided with an adequate standard of accommodation that ensures their safety and welfare, and balances individual rights with the rights of others.

Indicators

- Cell blocks are calm and relaxing. There is capacity to isolate detainees who create a disturbance.

- Duress alarms in cells and communal areas are present and functioning.

- Cells are clean, kept at a comfortable temperature and well ventilated.

- Cells are at least 2.5 metres long, 2.2 metres wide, and 2.8 meters in height.

- Cells have light-shaded wall colours and are appropriately lit. Detainees have access to natural light during the day and access to artificial lighting in the evening. Artificial lights are dimmed or turned off when the detainee wants to sleep.

- CCTV monitoring is compatible with lighting and dimming facilities.

- Detainees are segregated on the basis of gender.

- Children and young people in police custody are segregated from adult detainees.

- Unconvicted detainees are segregated from sentenced offenders.

- There is one person per cell overnight.

- Each detainee has access to a one-piece mattress.
Health and hygiene

*Detainees are held in a clean environment that enables them to comply with the needs of nature in a clean and decent manner, maintain a good appearance compatible with their self respect and provides for their physical and mental health and well being.*

**Indicators**

- Cells are clean, free from hanging points and have a basin with access to drinking water and a toilet in working order.

- Each detainee has clean bedding suitable for the climate.

- As a general rule, detainees are able to wear their own clothing, so long as it is clean and fit for use. Where a detainee’s personal clothing has been removed for evidentiary purposes or because it is damaged or dirty, steps are taken to procure items of suitable personal clothing for the detainee from friends, family members or a local charity. In the interim, detainees are provided with clothing suitable for the climate that is not degrading or humiliating.

- Detainees are able to take daily warm showers in clean conditions that allow for privacy.

- Detainees have access to toilet articles including toilet paper, soap, and oral hygiene equipment.

- Males are able to shave. Females have access to sanitary items.

- Detainees held for more than 24 hours have access, for at least an hour a day, to an outdoor exercise yard that provides shelter from the weather.

Food

*Detainees are provided with quality food that takes into account individual religious or dietary needs, is of good nutritional value, and is well prepared and presented.*

**Indicators**

- Detainees’ food is palatable, of good nutritional value and supplied in sufficient quantities with additional food available on reasonable request.

- Special dietary requirements including religious, cultural or health needs are catered for.

- Detainees are provided with meals and clean eating utensils at regular meal times or as required.
Meals are complemented by drinks (e.g. coffee, tea, milk).

Detainees are provided with drinks between meals at least three times a day (e.g. coffee, tea, milk).

Food preparation and serving areas are clean.

Staff preparing and/or serving food are trained in food handling practices.

Psychological well being

Detainees are treated with dignity and respect. At all times, custodial officers act professionally and with integrity to maintain and uphold the human rights of detainees. The conduct of custodial officers provides a good role model for detainees and encourages detainees to have self-respect and a sense of responsibility.

Indicators

- Each detainee has the opportunity to inform a friend or relative of his or her whereabouts as soon as practicable after being taken into custody.

- Each detainee understands the cell block rules. A copy of the cell block rules in easy-to-read English is securely displayed in reception and in internal communal areas.

- Detainees who do not read or speak English have access to translated information or an interpreter and receive information about the reason for their detention and the cell block rules in a format they understand.

- Each detainee has the opportunity to express his or her religion and adhere to the customs and practices of that religion.

- At night, custodial officers try not to wake detainees who are sleeping and refrain from turning on lights and loudly opening or closing doors.

- Each detainee has reasonable access to a telephone.

- Each detainee has access to his or her lawyer, without restriction to the number or length of visits.

- Detainees have access to a visit from family or friends at least twice a week.

- Clean rooms are available for visitors to meet privately with detainees.
Detainees have access to recreational activities. A range of books and magazines, writing materials, and a tamper-proof television in working order are available for detainees.

Access to recreational activities and regular exercise will increase in proportion to the detainee’s length of stay in custody.

Any restriction on the personal rights or freedom of a detainee is only made after the officer in charge has decided such restriction is necessary for the safety of the individual or others or for the orderly conduct of the cell complex.

Any detainee wishing to make a complaint about his or her treatment in custody is provided with information about how to lodge a complaint.

**Discipline**

*Detainees are not discriminated against and are provided with equal protection under the law.*

**Indicators**

- Any alleged breach of a cell block rule or police gaol regulations is investigated by the officer in charge of the facility.
- A detainee who is alleged to have breached a rule is given the opportunity to be heard in any investigation into the breach.
- Where an investigation establishes that a breach has occurred the person is dealt with in accordance with the law.

**Restraint**

*Detainees are protected from torture and cruel, inhuman or degrading treatment.*

**Indicators**

- A detainee is only subject to restraint if restraint is authorised by the officer in charge and;
  - the person is being moved under escort and the officer in charge believes restraint is necessary to secure the safe transfer of the detainee; or
  - the officer in charge believes on reasonable grounds that:
    - exceptional circumstances exist; and
    - restraint is necessary to prevent an assault or injury to any person or substantial damage to property.
Only restraints authorised for use are applied (currently these are limited to police issue handcuffs or a restraint waist belt).

Where a restraint is applied to a detainee, policies and procedures are complied with including appropriate recording and documentation. A Use of Force form is completed and submitted.

Treatment of detainees with specific needs

*Every person is equal before the law and has legal protection to enjoy his or her human rights without discrimination.*

**Children and young people**

*Particular care is taken to protect the rights of children and young people detained in police custody.*

**Indicators**

- Children and young people are detained in police custody as a last resort and for the shortest possible time.

- Particular effort is made to contact a responsible family member or lawful guardian of the child or young person and facilitate the attendance at the police station of the family member or guardian.

- Particular care is taken to provide for the safety, health and wellbeing of children and young detainees. They are segregated from adult detainees.

- Particular care is taken by custodial officials to act as role models for children and young detainees to encourage them to have self-respect and a sense of responsibility.

**Aboriginal and Torres Strait Islander detainees**

*People of Aboriginal or Torres Strait Islander descent are recognised as having distinct cultural rights. These include the right to maintain their kinship ties and their distinct relationship with the land and waters under traditional laws and customs.*

**Indicators**

- The Victorian Aboriginal Legal Service and local Aboriginal Community Justice Panel are contacted when any person who identifies as being an Aboriginal person or Torres Strait Islander is admitted into police custody.
As soon as possible after the person is admitted into police custody, the officer in charge will facilitate a meeting at the police station between the detainee and a representative of the Victorian Aboriginal Legal Service and/or the local Aboriginal Community Justice Panel.

Particular care is taken to provide for the safety, health and wellbeing of Aboriginal and Torres Strait Islander detainees. Information provided by the detainee’s legal or community representative is taken into account in providing the best possible treatment and care of the detainee and in determining what should happen when the person is released from, or transferred out of police custody.

**Detainees with health needs**

*Detainees with health needs are provided with health services equivalent to those available to the community as a whole.*

**Indicators**

- Custody officers are familiar with procedures for contacting appropriate health care professionals.

- Detainees who become unconscious, require immediate medical attention or are considered at high risk of harming themselves or others are immediately transferred to a prison, secure health facility or other appropriate health care facility.

- Detainees who require less urgent medical attention and who are waiting for a health examination are monitored at least every 15 minutes, or as otherwise prescribed by a health care professional.

- Detainees suffering serious medical or mental health conditions are transferred to an appropriate health care facility.

- Contracted health professionals are familiar with police custodial arrangements.

- Detainees with pre-existing medical conditions have access to their prescribed medication and, where practicable, access to their current treating medical practitioner.

- Detainees requiring medication have access to appropriately prescribed, dispensed and administered medication by a medical practitioner, pharmacist or nurse.

- Detainees undergoing methadone treatment continue to receive methadone administered by an appropriate health care professional.

- Medical advice is obtained for detainees appearing to withdraw from drug or alcohol addiction.
Drug or alcohol addicted or affected persons are monitored in accordance with their physical condition and conscious state. In-cell contact with an intoxicated person or a person withdrawing from drugs or alcohol takes place at least every half hour, until the person responds to verbal prompting and is properly oriented in time and place.

Any person who appears to be mentally ill is monitored continuously until he or she has been examined by a doctor or qualified mental health practitioner.

A register is kept of all in-cell contact, including the time and duration of the contact, the custodial officers involved and the results of observations about the condition of any person who appears to be mentally ill or who is intoxicated.

Any person apprehended by police under the Mental Health Act (Vic) 1986 or assessed as having a mental illness by a registered mental health practitioner is transferred to an appropriate health care facility as a matter of urgency.
Relevant Victoria Police Manual References

VPM 101, 103, 105, 113, 114 & 115.

Endnotes and references

1 Charter of Human Rights and Responsibilities Act (Vic) 2006 s 22(1) and United Nations 1966 International Covenant on Civil and Political Rights Article 10

2 Police Integrity Act 2008 s 8 (Proclamation anticipated early December 2008)


4 United Nations Office on Drugs and Crime 2006 Custodial and Non-custodial Measures-Detention prior to Adjudication – Criminal Justice Assessment Toolkit, Custodial and Non-custodial Measures - Prisons – Criminal Justice Assessment Toolkit

5 See in particular Corrections (Police Gaols) Regulations (Vic) 2005

6 Office of the Inspector of Custodial Services (Western Australia), Code of Inspection Standards (Draft), updated 05/02/2007.

