

The Conditions of Custody: Police Holding Cells

by

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The police station holding cell is seen as a temporary facility and is thus not generally given the attention it deserves as an important part of the custodial chain. As a result, it has become a weak link in the criminal justice process, where deaths in custody and escapes are disproportionately common.

Prisoners are typically held in police stations for very short periods, usually not longer than 48 hours, after which they are sent to be detained in prisons. For a variety of reasons, however, situations in which prisoners are held in holding cells for periods of up to two weeks are not unusual. In addition, sentenced prisoners who are due for release - termed "hard labours", as they are usually required to perform work around the police station - can be held in police cells for a month or longer.

This means that cells intended for short-term holding can actually become the extended residence of some prisoners. Large numbers of people, about whom very little is known by the police, are also accommodated for short periods of time. It is important, then, that these facilities comply with the standards set in both local and international law for the holding of incarcerated people.

As part of a larger study (Dissel and Ngubeni 1999) on the work of the [Independent Complaints Directorate](#) (ICD), the CSVr visited ten police stations in Gauteng during April and May 1999: Krugersdorp, Kliptown, Kathlehong, Edenvale, Carltonville, Brixton, Brixton Murder and Robbery Unit, Springs, Sophiatown, and Protea Glen. The police stations were randomly selected from a list of police stations provided by the Gauteng Department of Public Safety and Security.

Sixteen people were interviewed at these police stations. Five of these people were station commissioners, five were client service centre commanders, three were cell commanders, one was head of the pro-active unit, and one was the commander of the guard unit. The police holding cells were also viewed at each station, and 47 ICD dockets detailing deaths in custody in Gauteng during 1998 were examined.

Cell conditions

In order to bring policing practice in line with international and Constitutional constraints, a *Policy on the Prevention of Torture and Treatment of Person in Custody Document* has been developed by the [South African Police Service](#). This document aims to set out procedural guidelines for stations commissioners and their commanders for the treatment of people in police custody. While the thrust of the document is to prevent the torture of suspects, it does also deal with conditions in custody and treatment of prisoners.

In keeping with international instruments such as the *United Nations Standard Minimum Rules for the Treatment of Prisoners* (1957) which sets out minimum conditions for imprisonment, Paragraph 6(1)(a) of the South African *Prevention of Torture and Treatment of Persons in Custody Document* states that:

- all police cells must have adequate light and ventilation,
- cells should be equipped with reasonable means of rest, such as a chair or bench,
- if a person is kept overnight in custody, a mattress and blankets of reasonable standard shall be provided,
- a person in custody shall be allowed to use toilet facilities and be offered adequate washing facilities,
- open air exercise must be offered daily where possible.

Many of the facilities viewed fell short of these standards in several respects. Many of the police commanders interviewed stated their desire to improve these conditions, but said they were lacking the funding to do so.

All the cells had windows that led to the outside, but, in some cases, the wire mesh securing the window significantly diminished the amount of fresh air and natural light that was allowed into the cells. At one police station, security features kept the window from opening at all - the researchers were advised that fresh air could enter through the door of the cell, but this door was kept closed at night. In another, the windows were double-glazed and unreliable air conditioning units were used for ventilation.

All of the cells viewed were gloomy, but most had an electric light switched on, even in the middle of the day. In several cells, the lights were not working in all.

Some of the cells had built-in concrete bunks to sleep on, although there were fewer than would be required in the communal cells. All inmates were provided with a felt mattress and grey blankets. One interviewee said the blankets were sent to be washed on a fortnightly basis. None of the cells provided any form of chair, or other "means of rest".

Most of the cells had toilet facilities and basins in the cells, as well as in the courtyard. Except at the one station where a cell had been allocated specifically for female prisoners, the toilets were not screened from the main portion of the cell. These facilities were of a standard design, which, we are advised, was fairly new in the cells. One police officer complained that the "new design" was not very efficient and suffered frequent blockages. Other officers complained that more toilets were needed in the larger communal cells.

All the cells were built around a courtyard, and researchers were advised that the cells doors were unlocked so that prisoners could make use of the courtyards for a large portion of the day.

According to investigators from the ICD, the conditions of Gauteng police cells are much better than those in other provinces. However, one senior ICD official said, "Conditions in police cells could be distressing. I don't think that they present a good environment for people to accept that they have been detained. This could be one factor contributing to their suicide."

Suicide watch

Suicide is one of the major causes of deaths in police custody. According to ICD statistics, 29% of people (59) who died in police custody in 1998 died as a result of suicide. This does not include the number of attempted suicides.

Of the 47 ICD dockets on deaths in custody, deaths as a result of the deceased's own action accounted for 16 deaths recorded. Of these, eleven were instances of apparent suicide, and ten of these cases were the result of hanging. All except two of the deceased hanged themselves from the bars of the cell doors or windows of their police cells.

Two people hanged themselves in places other than police cells. One deceased hanged himself in the corridor between the holding cell of the court and the holding cells of the magistrates court cells. The other deceased apparently hanged himself from a "monkey chain" (used to raise injured limbs) in his hospital bed where he was receiving in-patient treatment.

The people who hanged themselves had used various instruments as ligatures, such as a monkey chain (1), shoelaces (1), leather belt (2), torn blanket (1), trousers, and the elastic of track suit pants (2), bandages covering his legs (1), and mutton cloth (1). The instrument used was not recorded in one case.

Four suicides

The circumstances of four of the cases indicated that the deceased was suffering from mental disturbances at the time of their arrests which could have alerted the authorities to potential problems. In two of these cases ("J" and "L"), the deceased had been "acting strangely" when he was taken into custody by the police.

In J's case, the deceased was brought to the police because some people thought he was acting strangely and some people thought he was lost. Although he was brought to the police station earlier in the day, he was only put into a holding cell after he had been interviewed by members of the SAPS Trauma Centre.

He was put into a holding cell at 15h20 and was found hanging at 15h57. He was noted to have a "mentally unstable condition", and that his condition became worse as the day progressed. At one stage he tried to jump out of the window and was hearing noises in his head. The station officers wanted to contact members of his family, but the deceased told

them not to. He had been put into a holding cell "for his own protection."

In L's case, the deceased was brought into the police station by his work colleagues who wanted to have him certified as a mental patient. The police placed him in a cell at 18h00, and when they returned to collect him at 06h30 the following day, they found that he had hanged himself.

In both cases, the deceased had not been arrested for any crime. In the former case, the police had not removed his personal effects, because J had not been arrested. He hanged himself with his belt. In L's case, his details were not recorded in the cell register. In both cases, it seems that not even simple preventative measures had been taken, such as removing articles of clothing which the suspects could use to harm themselves.

In the third case ("K"), the deceased was arrested for drunkenness after assaulting his wife. He had earlier been brought to the police station and held in the charge office to "sober up". He had been released and had returned some hours later. He began to "make a fuss" and he was arrested for drunkenness. He was placed in the "hard labour's cell", where he was to await transfer to another police station. When the officers went to collect him, he was found hanging.

In the last case, that of "H", the deceased had been arrested, and had attempted to escape while being booked into the cells. He had been apprehended and been booked in. He hanged himself with the elastic of tracksuit pants which were in the cell, apparently not his own.

Police response

Respondents were asked how they identified suicidal prisoners and what actions they took to prevent them from committing suicide. The responses indicated that policing policy was unsophisticated and relied on the perceptiveness of individual police officers. One police officer said that it is "difficult to know when a person is at risk - unless he speaks about his intention."

Another officer said that people would often threaten to commit suicide when locked up, but that police could only determine the sincerity of these claims once suicide was actually attempted. He said that if the prisoner is held with others in the same cell, the cell-mates will usually alert the guards, or will try to stop the person.

Ways in which police stations dealt with suicidal people were quite limited. This usually entails putting the person with others in the communal cells, and removing items from them which could be used to injure themselves. Typical items seized included belts and shoe laces, although it was also noted that prisoners may use other items, such as blankets or towels. Four cases of suicide reviewed were accomplished with items such as a torn blanket, trousers and elastic from trousers, and bandages.

One problem noted by a police officer interviewed was that "the period for which a person is detained, and our budget, does not allow us to deal with (suicidal people) in any more extensive way".

The Prevention of Torture Policy provides that a custody register shall be kept at each police station. Any injury suffered by the detainee before, during or after arrest, and the circumstances thereof, should be recorded in the Occurrence Book. Any other medical information such as when a person in custody underwent a medical examination, should also be recorded in the Occurrence Book and cross-referenced to the Custody Register.

However, there seemed to be no procedure for screening detainees or for making an assessment on admittance to ascertain suicide or health risks. Although it was mentioned that "if the cells guards noticed something wrong" they would make an appropriate intervention, there is no indication of what factors they should take notice of. In the ICD dockets screened, there were no warning indications mentioned in the docket, and the investigators apparently did not ask for any.

Security

The high number of escapes from police custody, a national increase from 3 595 in 1996 to 3 818 in 1998 (Oppler, 1999), is a source of some concern. Three factors could contribute towards the incidence of escapes from custody:

- negligence on the part of police members;
- corruption or collusion in escapes; and,
- inadequate or insecure holding facilities.

Most of the cells visited had bars on the cells doors, and mesh or grids on the windows and metal grids over the courtyards. In special security cells, such as in Sophiatown, the security was even tighter. The cells doors were locked with an allen key, and each cell had two outer doors. The security section was further separated by another secure door. Despite this high security, these cells have not been in use since approximately 1995.

Krugersdorp was the only police station visited by researchers that had taken extraordinary security measures. It is part of Project Five Star Initiative aimed at developing a "Police Cells Facilities Improvement Guide" with procedures for replacing locks, and securing the cells and lock up areas.

Local businesses sponsored each cell being fitted with infrared sensors to detect human movement and wires on the roof and over each of the cell windows. When inspecting the cells, the police officers carried a panic button which would set off an alarm when pushed, as well as indicating the location of the police officer on a control board in the cells' offices. If the security was breached elsewhere this would also set off an alarm linked to the control board.

In other police stations, the members complained that it would be possible for any prisoner to escape if they tried hard enough. At every station the researchers were told about prisoners who had either tried, or who had succeeded in escaping. However, it did seem that the problem was diminishing in the areas visited.

The police also complained that when the security had been compromised, for example where a window or lock was broken, it often took a very long time for these to be repaired.

The result was that either prisoners could not be held in particular sections of cells, leading to overcrowding, or they were held in not very secure conditions.

Another important objective of the police is to ensure the safety of the prisoners while they are in custody. A relevant issue here is whether the police are able to respond timeously to a situation where a prisoner is in danger or requires help.

No cells were equipped with alarms with which a prisoner could alert the police. They were reliant on shouting for help. In many stations, the cells were situated at some physical distance to the main part of the police station. Even where the cell guards did have an office adjacent to the actual cells, this was often some distance away from many of the cells, and was often separated by a closed door. In many cases it was likely that the police would only become aware of a problem during one of their routine visits.

Community Visitor System

South Africa has a history of abuse of people held in police custody, so that a system which introduces a watchdog function over the police should be seen as a necessity. Any system which relies solely on the lodging of complaints, such as the ICD, is less likely to pick up the systematic problems at police stations. Since independent visitors operate on a no-forewarning basis, their function is also a preventive one. A community lay visiting system is important for establishing trust between the community and the police.

The institution of community lay visiting schemes was piloted in South Africa 1993 and a policy was drawn up by the Police Board in 1994. This scheme largely followed the English model of appointing independent community visitors.

According to the policy, the purpose of the Community Visitor System is to "enable members of the local community to independently observe, comment and report on the conditions under which people are held in police cells", and on the operation of various laws and regulations governing their welfare and ensuring accordance with fundamental human rights.

It is uncertain to what extent these schemes are still operating nation-wide, but where they were still in existence at the sample police stations where they have been operating primarily through the Community Police Forums.

Three of the police stations visited had no system of community visitors. In another case, the system had been operating, but had recently ceased to function as a result of problems with the person from the CPF serving that function.

In all the other stations, visits varied from twice a month to "infrequently", and usually occurred after hours. One officer said that he would prefer it if they made more visits.

Most of the respondents viewed these schemes in a positive light. At one station where the system had been operating for five years, it was said "our Station Commissioner is very much in favour of these visits. He thinks it is a good control measure that they visit without warning."

At another police station, most of the CPF members are reservists and therefore work with the cells on a regular basis. However, in this instance, there is possibly a confusion of interests between those of safeguarding the public against crime, and protecting the rights of detained individuals.

Despite these reports, none of the ICD officials interviewed were aware of any lay visitor schemes. It was also reported that prior to 1994, police cells used to be visited by members of the International Red Cross and by Magistrates. The respondents said that these visits no longer occurred.

Recommendations

A number of problems became clear through this study, some of which could be redressed if the following recommendations were implemented.

Firstly, the *Prevention of Torture and Treatment of Person in Custody Document* should be implemented. The drafting of this document was an important first step in heightening awareness of the rights of detained persons. It serves as a guide for police officers to use in the implementation of their daily work. Once the Standing Orders are drafted in line with the South African Police Service Act, this should help to ensure implementation of the *Policy*.

Most of the officers interviewed had received no training on the management of people in custody, yet they are required to care for hundreds of detained suspects every month. This requires a certain amount of knowledge and skill, as it should not merely involve a lock-up function, particularly when it comes to dealing with the needs of particular categories of people - such as those who are mentally ill or suicidal.

All police officers dealing with the detention and custody of people should receive training on the identification and management of people at risk. Training should also include searching prisoners for dangerous items, recording injuries, as well as reinforcing measures designed to ensure the security of the police lock-up.

Investigations by the ICD should not only be targeted towards establishing criminal liability, but should also be directed towards establishing how such deaths could be prevented in the future. In cases where recommendations have been made to the police, it is crucial that the ICD follows up to determine whether the recommended action has been taken. The Station Commissioners should also be held accountable for any death that occurs at their police station.

Regular unannounced independent visits to police cells are an important oversight mechanism over the police. It is also an important means of establishing transparency and community faith that the police are not abusing their powers or infringing the human rights of those in their care. These regular visits can serve a preventative function through ensuring that policing policies are adhered to at station level. They can be an important source of information on the ongoing problems at police stations.

References

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