Panel on Security of LEGCO

Joint Position Paper of Ziteng and JJJ Association
“Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”

Demand Police Stop Continuing Abuse of Power

In Nov, the U.N. has examined the second report submitted by the HKSAR government regarding the “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”. Although the U.N. has provided many suggestions, there is no change in the situation. Our organizations would like to ask sincerely the members in the panel to follow up the followings:

1. Police Accepting Sex Services

   Police Still Accept Masturbation Service
   Although the police have revised the guideline, police officers are still allowed to accept masturbation service. It is unacceptable for the police to enjoy free sex services. There is a revival of police accepting intercourse service. In Jan 2009, there were already 5 cases of police officers accepting sexual intercourse service including concern officers asking for masturbation service. According to the study in the University of Hong Kong, no country allows police accepting sex service in undercover operations.

   Sexual Molest or Assault of the Arrested Girls
   In 2008, there were 21 cases of sex workers being sexually assaulted by police officers including breasts caressing and vaginas being intruded by fingers. One girl got her breasts being pinched and sexually harassed, and was commented, “You have nice tits” during statement recording. Some police officers ordered the girl to pull up their clothes and took photos. It is outrageous to have such sexual assaults.

   We strongly demand:

   1. The police to revise their guideline and prohibit the police to accept any form of sex services
   2. To apply measure to prevent police officers to commit offences like sexual molest, sexual assault, rape, etc.
   3. The Security Bureau to release the figures in the year 2008 from Jan to Dec, how many police officers applied for accepting masturbation service, how many of them were approved and how many officers had accepted the service. The police should publicize the figures half yearly.

2. Police Abusing their Power

   Sex workers often find police officers abusing power including assault, unreasonable use of handcuff, police forcibly enter her premise and take photos and sexual molest, etc. In 2007 and 2008, there were respectively 885 and 921 sex workers complained about the police abusing their power. Recently, sex workers are the target for the stamp out operations in Yau Ma Tei, Tsui Sha Tsui, Mongkok and Sham Shui Po. Police During the operations, the police bear false evidence, wrongly accuse sex workers to accomplish their mission. During the detention, the rights of sex workers are seriously violated, for example, being beaten up and forced to sign the statement form.

3. Strip Search
Since the new guideline, we have contacted more than 50 of the arrested, among them 60% alleged that they were not told the level of the search. On the same token, some of those arrested because of breach of conditions of stay or managing a vice premise did not need to remove their underwear for search, but some need to remove their underwear or pull them out and check. From these, we know that there is no standard procedure in conducting body search. Nobody has a copy of the Custody Search Form (Pol 1123).
Furthermore, 2 cases involving managing a vice premise, the police had asked the arrested to remove their under pants and handed over to them as evidence with no reason given.

**We demand:**

i. The police to revise again their guideline, clearly inform the victim the reasons why the police are conducting different levels of body search and the reasons are based on what kind of evidence. For example, when a police officer doubt that the detainee will hurt herself, he should provide clear evidence explaining why he think she will hurt herself, to explain why he has such judgment and not just saying, “I hope he/she has no hidden object to harm others or himself/herself” as an ambivalent reason to conduct a body search on the detainee.

ii. Body search approval should be granted by Inspector grade or above.

iii. In order to reduce the opportunity for power abuse, the police should use instrument or technical products to conduct a body search, to replace the primitive method like using human hands and eyes as the media. Machines can make the search more effectively carried out and also respect the privacy and dignity of the detainee. Although the police have claimed that they have already purchased equipment and technical products for the purpose of body search. However, a simple metal detector cannot replace the old way of body search.

iv. There should be video recording device installed inside the room for body search room to avoid multiply body searches.

We are so disappointed with the present revision. The new revision has given the police more power to make fun of the detainee and create more room for power abuse. We demand the police to revise again the guideline and urge the LEGCO members to have the rights and dignity of HK citizen as primary consideration when they enquire the representative of the police and stop the police from abusing the system and their power and threaten the life and security of citizens of HK.

4. **CAPO (Complains Against Police Office) Lack of Independence**

The U.N. has requested the HKSAR to setup an individual branch several times to handle and investigate complains of the police. However, the HK government has refused to carry out their responsibility and refuse to accept the suggestions.

Recently, there are cases after cases of police officers committing serious offences. It reflects that CAPO does not work effectively to monitor the police force and allow the police to continue abusing their power.

From Jan 2007 to 2008, there were 34 cases of complains to the police from sex workers and sex worker concern groups. Not even one case is considered valid. The content of the complaint was often not truly recorded, the complainer was threatened and obstructed during the complaint. There was concerned police officer going to the working location of the complainer, threatening him that he would have a more serious sentence in jail. The system with police investigating police is just a way for the police to ensure that they can continue to abuse their power and no need to bear any consequence. CAPO always protracts cases. For example, Li Yuen-yee incident has happened for...
3 years and still there is no official result published.

Although IPCC (Independent Police Complaints Council) has become a statutory organization, it does not have the authority to investigate and thus still cannot investigate police officers who have violated the regulations and administrative misconduct of the police force. It cannot ensure a fair treatment and proper handling of the complaints of the police.

We hope LEGCO can follow up the followings:

1. We strongly demand the police to revise the guideline in undercover operation and prohibit police officers to accept any form of sex services.
2. To apply measure and prevent police officers from criminal acts like sexual molest, sexual assault, rape, etc.
3. Stop bear false evidence and wrongly accuse sex workers.
4. The Security Bureau should provide the figures of officers applying for accepting masturbation service, how of them are granted and how many have actually accepted the services. The police should publish the figure half yearly.
5. We demand the police to act on the revisions on the body search guideline and avoid police officers to abuse the use of body search procedure and violate the rights and privacy of the one being searched.
6. Setup an independent complain branch to investigate and handle complaints concerning the police officers.
7. We demand LEGCO to follow up the incident of Li Yuen-ye and other police complaint cases.