

HUMAN RIGHTS ADVISORY

ON THE LACK OF STANDARD POLICE STATIONS & LOCK UP CELLS IN SOME MUNICIPALITIES/CITIES (Uplifting the Welfare and Dignity of PNP Personnel, an Initial Step Toward Human-Rights Based Governance) (CHR A2015-006)

Introduction:

That human rights is primarily a state obligation is undisputed. International human rights instruments bind State Parties in the different covenants and protocols it has voluntarily ratified which clearly outlines legal obligations. Further, this obligation is also constitutionally entrenched affirming that it is the policy of the State to value the dignity of every person and guarantee full respect for human rights.¹ Through state actors, especially law enforcement agencies such as the Philippine National Police (PNP), the state demonstrates its commitment to uphold the rule of law and promote human rights. It is therefore incumbent upon the State to fully capacitate and provide the necessary physical condition as well as environment for its agents and actors to ensure the promotion and the full realization of all human rights and fundamental freedoms for all persons.

The Convention imposes obligations on States Parties and not on individuals. States bear international responsibility for the acts and omissions of their officials and others, including agents, private contractors, and others acting in official capacity or acting on behalf of the State, in conjunction with the State, under its direction or control, or otherwise under color of law. Accordingly, each State Party should prohibit, prevent and redress torture and ill-treatment in all contexts of custody or control, for example, in prisons, hospitals, schools, institutions that engage in the care of children, the aged, the mentally ill or disabled, in military service, and other institutions as well as contexts where the failure of the State to intervene encourages and enhances the danger of privately inflicted harm. The Convention does not, however, limit the international

¹ Sec. 11, Art. II, 1987 Philippine Constitution.

responsibility that States or individuals can incur for perpetrating torture and ill-treatment under international customary law and other treaties.²

The motto of the PNP, “*To serve and protect*” is a firm manifestation of the State’s commitment to uphold the rule of law and to protect the human rights of its citizenry. The PNP *serves the Filipino people and protects their human rights (italics supplied)*. By ensuring that highly competent and professional police officers are committed to implement their mandate to enforce laws which are human rights and gender sensitive, through operations and activities which conform with their Manual of Operations and strictly adhere to the rule of law, the essence of human rights based policing is achieved in its phenomenological sense.

The Commission lauds the PNP in integrating the principle of human rights based policing in its PNP Patrol Roadmap for 2030. It sends a loud message about its commitment to further the state’s ideal in cultivating a culture of human rights. This message is further amplified with the adoption of the PNP Guidebook on Human Rights Based-Policing. According to the Guidebook, “The PNP must promote and protect human rights because this task lies at the very core of maintaining peace and order, ensuring public safety, and upholding the rule of law in the country. It can be said that Human Rights Protection is the First Business of Policing.”³

The context of Philippine Human Rights Based Policing and PNP lock up cells:

In ensuring however that all localities of the entire country are impacted positively by the PNP in its efforts to build law abiding communities with utmost respect for the human rights of each of its constituents, it is necessary that the PNP is adequately equipped, capacitated and visible. A strong police presence is desired in strategic places in order to ensure accessibility to the public who are in need of assistance. Moreover, an ideal ratio of the number of policemen corresponding to the population is also necessary to ensure availability of assistance at all times and in all places within the jurisdiction.

An audit of all police stations visited by the Commission in furthering its jail visitorial mandate⁴ and research⁵ made shows that police stations across the country differ in many respects. And while it is correct to assert that localities have different incomes, population and crime index, among many other factors, the need for uniformity across classes is highly desirable. This will ensure that police officers are adequate in their manpower complement and, that police stations are properly constructed to provide for areas vital for administration, operation, wellness and rest. The latter, is especially helpful in reducing exhaustion and

² Committee Against Torture, General Comment 2, Implementation of Article 2 by States Parties, U.N. Doc. CAT/G/GC/2/CRP.1/Rev.4(2007).

³ PNP Guidebook on Human Rights Based-Policing, 2013 Edition, p. 15.

⁴ Sec. 18, Article XIII of the 1987 Philippine Constitution.

⁵ Jail Supplemental Guide, Torture Prevention Ambassador Project.

stress which may likely contribute to the occurrence of torture or other forms of treatment.⁶ Moreover, aside from the police, we must not neglect the plight of persons deprived of liberty (PDL's) who we assert are humans and are still entitled to their rights despite transgressions of the law. Hence, a police station that properly provides for a lock up cell commensurate to the average number of detainees at a given period including sleeping, allows for the separation/segregation of males and females, ensures the availability of sanitary installations and water for hygiene as well as ventilation and lighting are some basic requirements⁷ to ensure that the system is prepared to handle detainees and shall not result to a gap in law nor to a burden to the police. It also bears stressing that providing facilities for hygiene and sanitation of the detainees shall also reduce risk factors such as spreading of diseases in the local police station community.

Poor prison conditions, lack of sanitation, lack of access to medicine, or a poor diet imposed on prisoners will constitute, in the majority of the cases, CID treatment under the Convention Against Torture.⁸

It is therefore a necessity that the U.N. Minimum Standards for the Treatment of Prisoners as to accommodation including health, cubic content of air, minimum floor space, heating and ventilation⁹, lighting¹⁰, sanitary installations including bathing and showering installations¹¹, personal hygiene¹², bedding and clothing¹³, beds¹⁴, be ensured in detention facilities of all local police stations to the best of the localities' ability.

⁶ Professor Danielle Calermajer, Torture Prevention Ambassador Meeting in Australia, 2014.

⁷ Minimum Standards For The Treatment of Prisoners.

⁸ Monitoring and Investigating Torture, Cruel, Inhuman and Degrading Treatment or Punishment. Amnesty International and SYCREA, p. 13.

⁹ 9. (1) Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

(2) Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the institution.

10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

¹⁰ 11. In all places where prisoners are required to live or work,

(a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;

(b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

¹¹ 12. The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

14. All parts of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

¹² 15. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

16. In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

¹³ 17. (1) Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.

(2) All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.

Recommendation:

Where there is lack of adequate provisions for persons deprived of liberty, ill-treatment may be considered a violation of the person's right to physical integrity due to inhuman or degrading treatment. The role of the local government units (LGU's) in this respect cannot be overemphasized. The maintenance of peace and order in strict adherence to the rule of law is crucial for development and progress to flourish in the localities. Thus, human rights based policing through a visible, active and sufficient presence in the locality shall ultimately redound to the benefit of the municipality/city, the local government and more importantly, the people.

To date, the PNP has a program to construct model PNP stations according to specific standards and classifications of the cities and municipalities.¹⁵ This program shall ensure uniformity in terms of providing the core features of every police station, including the provision for a space for its detention facilities. It shall likewise provide policemen specific areas necessary for its office operations and areas for rest. Among the prerequisites for the construction however, of a model police station, local government units are requested to donate lands and shoulder its corresponding counterpart.¹⁶ These lands, however, must conform to certain requirements. More importantly, it must conform to the area requirements to guarantee that all offices pertaining to Investigation, Women and Children Protection, Administration, among others and *especially the lock up cell for detainees shall be provided for in the construction.*

In view of the foregoing, the Commission encourages all LGU's and the DILG to continue their commitment in ensuring the rule of law and respect for human rights by fast tracking the donation of lots and release of its counterpart for the remaining localities and in the same vein, the Commission acknowledges and recognizes the affirmation of localities which have already contributed to ensuring accessible, strategic and adequate spaces which allow

(3) In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing.

18. If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.

¹⁴ 19. Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

¹⁵ PNP NHQ Bids and Awards Committee Resolution No. 077, a city police office building costs Php 17,587,000.00, a type "A" building costs Php 7,470,000.00, type "B/C" costs Php 4,637,700.00 and COMPACT (Community Police Action) costs Php 1,224,900.00. These buildings shall be constructed based on the PNP standard requirements.

¹⁶ Documentary requirements are also needed such as deed of donation covered by the Local Government or private person as a donor in favor of the PNP with complete technical description for the lot with minimum ideal lot requirements of 1,000 sq mtrs for CPO and CPS, 600 sq mtrs for Type "A" building and 400 sq mtrs for Types "B and C" building and 200 sq mtrs for COMPACT building, Sangguniang Bayan Resolution appropriating the counterpart fund of the municipality for the programming of the fund and recommendation taking into consideration the security, suitability of lot for building construction, convenience to the public as well as accessibility to the electricity, water and communication.

for human rights based policing in the community. The Commission also calls on Congress to allocate adequate funds in this regard.

Further, the Commission also encourages the PNP and the local governments, together with the DILG to periodically revisit the allocations as to space and conditions of detention facilities and for the benefit of the local police, the number of manpower complement, equipment and facilities to ensure that the policemen on the ground are capable of effectively and efficiently promoting the rule of law and human rights *vis a vis* increases in population, crime index, programs, among others. A deepened and enhanced collaboration in efforts to ensure the sustainability of these efforts is likewise proposed.

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