

**Summary of Case Report № AJB-1522/2018 of the OPCAT Visit
to custody unit of the 14th District Police Department of the Metropolitan Police
Headquarters of Budapest
(December 6, 2016)**

Upon taking into custody, the police may restrict someone's personal liberty only for the necessary period, not longer than eight hours. If the objective of police custody is not reached, the head of the competent police organ may extend this period, if justified, on one occasion, by four hours. The period of police custody shall be counted from the beginning of the police measure.¹

The custody unit of the 14th District Police Department of the Metropolitan Police Headquarters of Budapest (hereinafter the "Police Department") with a capacity of 10 arrestees, located on the first floor of Building B, consists of three custody rooms, a staff recreational room, a hallway, a cold food storage / finishing kitchen, two lavatories and restrooms. The width of the benches the custody rooms were equipped with would make them rather uncomfortable for a larger man wanting to have a good night's rest; however, the furnishing was suitable for a custody period shorter than 12 hours.² Arrestees are separated by age, gender, smoking habits and cases. If more than ten arrestees are in the building of the Police Department, they stay in the hallways guarded by policemen until they are taken to the custody rooms or elsewhere. Should an expecting woman or a woman with a child be arrested, they are placed not in a custody room but in the hallway of the reception area or in the adjacent room.



Custody room at the Police Department

The number of guards on duty in the custody unit depended on the number of persons taken into custody. There was one guard on duty at the time of the visit who explained that when he had to go to the restroom, the duty officer would send a replacement. He had his meals in the duty room while monitoring the displays. The guard was not armed. He was equipped with a nightstick, handcuffs, and a gas spray.

At the time of the visit, there was only one arrestee (hereinafter the "man") in the custody unit, who stated that he had been informed by the arresting officer about the reason of his arrest on the street while being taken into custody. The policemen also told him that he would be taken before the court within 72 hours.

¹ The ruled of police custody are stipulated in Section 33 of the Police Act

² Clause 42, CPT/Inf (92) 3

Immediately upon arriving at the Police Department, the man had to name the person he wanted to be notified. Although, pursuant to Section 18, Subsection (1) of Act XXXIV of 1994 on the Police (hereinafter the “Police Act”), the person taken into custody should have had the privilege to notify his next of kin, notifying relatives would be the duty officer’s responsibility. The duty officer dialed the number given by the man, then informed him that his family had been notified of the fact of his arrest and on the place where he was being held in custody. When placed in the custody room, the man first had to make a statement regarding any injuries he might have, then he was informed about administrative detention and his right to lodge a complaint. One hour after being placed in the custody room, he was interviewed in an office and briefed on his rights. He had to state whether he wanted a lawyer.

The deprivation of liberty of the man taken into custody, i.e., his detention under Section 97h) of the Police Act, started not at his arrival at the Police Department but in the moment when the police patrol told him that he would be arrested for an administrative offense. Although, in my report № AJB-151/2016, I had already pointed out that the person taken into custody is entitled to notify, without delay, his relative or a third person as of the first moment of his being in custody,³ the arrest report did not contain any reference to having briefed the man on his aforementioned right or having ensured the conditions therefor.

At the time of his reception, the search of the man’s clothing, during which he had to hand over his shoelaces and the string holding his pants, was conducted by persons of the same gender.⁴ He was given a copy of the list of his personal items taken into deposit. The man said that he had been asked if he wanted to eat upon his arrival at the Police Department. He also had to state if he had any special requirements in connection with his health condition, diet, or religious belief. Since he was very distressed in this—unusual to him—situation, he gave a negative answer. He told the visiting delegation that the policemen had listened to all of his questions and given him substantive answers. He had no complaint whatsoever about his arrest, conditions of custody, treatment, or the policemen’s behavior.

Between October 1 and December 6, 2016, arrestees lodged complaints with the Police Department about the conditions of their placement on six occasions. In four cases, they complained about the degrading stripping in the custody room; in the other two cases, they complained about the unjustified arrest and its duration, as well as about the lack of food and something to drink. According to the complaints about stripping, after their arrest, the detainees, one by one, had to take off their clothes, drop their pants, squat on their heels and cough, as a result of which their private parts and anuses would become visible to the person conducting the inspection. They felt aggrieved at this situation they found degrading and humiliating. It is clear that the objective of making the naked complainants squat on their heels was to find objects hidden not in their clothes but on their body, between their legs, in their private parts, or in their anuses; the policemen conducting the inspection acted in excess of their power, they submitted the arrestees to a body search not applicable in the case of persons taken into police custody. Searching not only the clothes of the arrestees but also their uncovered bodies, including their private parts and anuses,⁵ the staff members of the Police Department conducting the inspection applied the much stricter rules of lock-up reception⁶ instead of the rules of taking into custody.⁷ The method of executing a measure with no legal foundation, especially making the complainants squat on their heels with their lower body uncovered, induced shame in the persons concerned,

³ Clauses 23 and 30 of CPT/Inf (2001) 2; Clause 22 of CPT/Inf (2014) 13

⁴ Section 31(7) of Minister of Interior Decree 30/2011. (IX. 22.) BM on the Staff Regulations of the Police (hereinafter the “Staff Regulations”)

⁵ I elaborated on my concerns about inspecting body cavities making the subject squat in my report № AJB-3685/2016

⁶ See Section 18 Subsections (4)-(6) of the Police Act

⁷ See Section 31(7) of the Staff Regulations

resulting in an impropriety related to the prohibition of degrading treatment and the right to personal security.

Pursuant to Articles 10 and 16 of the UN Convention against Torture, each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of all personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. According to the staff members of the Police Department, they had no training sessions whatsoever on the treatment and human rights of detainees, managing conflicts and aggression. They had monthly, four-hour training sessions held by a tactical instructor on the application of means of restraint, securing a location, using collective force, and narcotic drugs.

In my report, I requested the Commander of the Metropolitan Police Headquarters of Budapest to ensure that persons taken into custody by the staff of the Police Departments under his supervision could notify themselves their relatives and that the rules of lock-up reception should not be applied in their cases. I also suggested that the Metropolitan Police Headquarters of Budapest should organize training sessions on the treatment and human rights of detainees, managing conflicts and aggression for the staff of the Police Departments under his supervision.⁸

⁸ The report is registered in my Office under file number AJB-1522/2018