association pour la prévention de la torture
asociación para la prevención de la tortura
association for the prevention of torture

2017 Symposium on Procedural Safeguards *in the first hours of police custody*

Outcome Report

Contents

With the generous support of the Canton of Geneva

REPUBLIQUE ET CANTON DE GENEVE
POST TENEBRAS LUX

Acknowledgements

This text was prepared by the Association for the Prevention of Torture (APT) based on consultation with the following experts present at an event in Geneva in May 2017.

The APT would like to acknowledge the role of Matthew Sands, Legal Advisor, who drafted this report. The APT also wishes to commend the contributions and support of other APT staff involved in the project, before and after the Symposium, especially Catherine Felder, Guillemette Moulin, Sylvia Dias, Barbara Bernath, Anne Lardy, and Jean Baptiste Niyizurugero.

- Ms Hanitriniaina BELALAHY, Judge, Director of Human Rights & International Relations, Ministry of Justice, Madagascar
- Mr Tai Soon Edmund BON, ASEAN Intergovernmental Commission of Human Rights (AICHR) Representative, Ministry of Foreign Affairs, Malaysia
- Mr Enrique FONT, Professor of Criminology, Universidad Nacional de Rosario and former SPT member, Argentina
- Mr Francis GIMARA, President, Uganda Law Society, Uganda
- Mr Michael KELLETT, Senior Police investigator (retired) & Vice-President of the Association for the Prevention of Torture, UK
- Mr Sanjeewa LIYANAGE, International Program Director, International Bridges for Justice (IBJ), Switzerland
- Ms Robyn-Elizabeth MANI, Second Secretary, Permanent Mission of the Republic of Fiji to Geneva, Fiji
- Mr Nils MELZER, UN Special Rapporteur against Torture
- Ms Libby MCVEIGH, Legal and Policy Director, Fair Trials International (FTI), UK
- Mr Victor Chagunyuka MHANGO, Executive Director, Centre for Human Rights Education, Advice and Assistance (CHREAA), Malawi
- Ms Zsofia MOLDOVA, Project Coordinator, Hungarian Helsinki Committee, Hungary
- Judge Antonio Maria PATINO ZORZ, Justice Tribunal, Brazil
- Mr Christopher PRYDE, Director of Public Prosecutions, Fiji
- Ms Ilvija PUCE, Member of the European Committee for the Prevention of Torture (CPT), Latvia
- Mr Emanuel QUEIROZ RANGEL, Lawyer and Criminal Defense Coordinator, National Association of Public Defenders, Brazil
- Ms Mandimbin'ny Aina Mbolanoro RANDRIAMBELO, Director of Training and Research, National Police/Ministry of public security, Madagascar
- Mr Jean-Pierre RESTELLINI, Consultant/medical doctor, Geneva Centre for the Democratic Control of Armed Forces – European Council, former member of the CPT, France/Switzerland
- Mr Luis Geraldo SANTANA LANFREDI, Judge - Legal Expert Associate, Organization of American States, Brazil

The Symposium was held under the Chatham House Rule, under which participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.

No statement contained in this report may be attributed to any participants, either jointly or individually. Any quotes directly attributed were made outside of the Symposium.

1. Introduction

In May 2017, the APT organized an expert meeting to consider the use of procedural safeguards against torture and other forms of ill-treatment in the first hours of police custody. The agenda of this meeting is available in **Annex I**.

Specifically, experts ("the experts") at the Symposium were invited to examine safeguards that apply in the first hours of police custody and to explore what elements were essential to effectively preventing the risk of abuse. Experts were also invited to consider common challenges and offer solutions, and to propose practical ways forward for actors to better implement safeguards that reduce the risk of abuse for persons in police custody.

> ***"Our goal is ambitious: To identify procedural guarantees that best protect persons in the first hours of police custody and deconstruct their effective application, so that practical, novel, and cost-effective solutions can be shared between countries and partners"***
> ***– Mark Thomson, APT Secretary General***

This event came a year after former UN Special Rapporteur on torture, Mr Juan E. Méndez, made recommendations to the international community to develop a set of universal standards for non-coercive interviewing and attendant procedural safeguards during police custody (A/71/298).

The Symposium brought together experts from around the world, from countries at various stages of UNCAT implementation and with varied experiences and diverse challenges in the implementation of safeguards. The advice and views heard during the Symposium contribute a rich narrative to the current discussions around these issues, and should inspire other countries to consider how to better implement safeguards as effective means of preventing torture and other forms of ill-treatment.

The Symposium event was held under Chatham House Rules and this report broadly follows the arguments presented at the meeting. All the quotes in this document were made by experts during the Symposium. Those directly attributed were made outside of the Symposium.

2. Executive Summary

Research commissioned by the APT shows that the practical implementation of key safeguards against torture is the most effective way to prevent torture.[1] UN bodies have since called on experts to engage in further analysis of such safeguards and to offer advice to States that are aiming to implement procedural safeguards in the first hours of detention. The APT Symposium event was intended to respond to this call.

States traditionally experience a number of challenges in the implementation of safeguards. For instance, practices that protect the rights of criminal suspects are regularly derided as being 'too soft' by political leaders and in the press. The experts agreed that in the absence of a political will to ensure the practical implementation of safeguards, legislative reforms and other efforts to prevent torture and other ill-treatment will likely fail to change institutional culture, combat abusive behaviour, and reduce the risk of torture and other ill-treatment. In the absence of proper implementation and accountability, police officers will be reminded that they remain unaccountable and abusive behaviour will continue.

During the Symposium, the experts considered several safeguards: prompt access to a lawyer; access to an independent medical examination; notification of and communication with relatives or a third party; judicial oversight; supervision of custody; and information of rights. In considering specific needs, key measures required for effective implementation, and potential reforms, the experts recommend that States target particular risks, with a particular view to challenges and opportunities that are unique to each national context.

Existing models for police practices and procedures in the jurisdictions under discussions were designed to serve a variety of valid purposes, including to guarantee the right to a fair trial and to enable the effective administration of justice. In order to more effectively prevent torture and other ill-treatment, however, some existing practices around key safeguards must be reviewed and reformed to more effectively address risks, challenges, and existing gaps in implementation.

The experts further recommend that some common assumptions about the implementation of safeguards should also be reconsidered.

It is hoped the discussions and this report will assist States in the effective implementation of safeguards in the first hours of police custody, with a view to reducing the incidence and risk of torture and other ill-treatment.

[1] Carver, R., and Handley, L., *Does Torture Prevention Work?* (Liverpool University Press, 2016).

3. Context

a. Increased global focus on the relevance of safeguards in the prevention of torture

The symposium on procedural safeguards in the first hours of police custody was held at a time of growing international interest in and analysis of the role that safeguards play in the prevention of torture.

In 2012, the APT commissioned an independent academic global research study to address the question: does torture prevention work? The research analysed over 60 preventive measures in 16 countries over a thirty-year period, between 1985 and 2014. The results of the research, which were published in July 2016, pointed to a significant conclusion: detention safeguards, when applied in practice, have the highest torture prevention impact.

> ***"Our results show that, of all the preventive measures tested, procedural protections in the early period of detention, including interrogation, have the greatest impact."***
> ***~ Carver & Handley, Does Torture Prevention Work? (2016)***

In March 2016, the UN Human Rights Council adopted Resolution 31/31, on 'safeguards to prevent torture during police custody and pre-trial detention'.[2] The resolution recalls that all States have an obligation to keep their interrogation rules, instructions, methods, and practices, as well as arrangements for the custody and treatment of persons under any form of arrest, detention, or imprisonment, under systematic review, with a view to preventing torture. The resolution additionally urges all States to adopt and fully implement key legal and procedural safeguards against torture.

Also in 2016, the former UN Special Rapporteur on torture (SRT), Juan E. Méndez, dedicated his last thematic report to the UN General Assembly to a call for the development of a set of universal standards for the implementation of procedural safeguards during police custody, including during interviews by law enforcement, which the mandate regards as essential for the prevention of torture and other ill-treatment.[3] Such a set of guidelines would limit the capacity of investigating authorities to coerce persons during interviews, and assist law enforcement officials in the implementation of key procedural safeguards in the first hours of custody, thereby significantly reducing the risk of torture. Because of the surge in international interest surrounding this proposal, the implementation of key safeguards in police custody, including, specifically, during interviewing, will be the subject of close attention and a number of initiatives by key players in the torture prevention field for some years to come.

[2] UN Human Rights Council Resolution 31/31 on safeguards to prevent torture during police custody and pre-trial detention, A/HRC/RES/31/31, 21 April 2016.

[3] Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/71/298, 5 August 2016.

The work of the UN Human Rights Council and the Special Rapporteur on Torture, as well as the conclusions of the APT commissioned independent research, *Does Torture Prevention Work?*,[4] demonstrate the need to analyse the implementation of key safeguards in national contexts, and to elaborate upon the practical measures that must be undertaken to guarantee their effective application as a means of significantly reducing the risks of torture in police custody.

b. Specific challenges

Symposium experts ("the experts") heard that international and national actors often presume that the introduction of legislation and regulations governing the implementation of safeguards will automatically modify the behaviour of police, prosecutors, judges, and other actors tasked with the administration of justice. Experience has proven, however, that more is required for behaviour to change. For instance, sociological studies on police in the United States reveal that changes in institutional culture must accompany changes in law and regulations, in order for real improvements in behaviour to be observed.

The experts gave examples from national practice in which access to a lawyer was well established in law, but poorly implemented in practice. Examples included access to a lawyer being given on a discretionary basis; for short periods of just five minutes; and only in the presence of a police officer.

Training was suggested as one way in which institutional culture can be developed in a positive direction. Equally, the political context can be understood to legitimise, tacitly consent to, or even encourage abuses against the dignity of persons in custody, or the denial of fundamental safeguards.

Experts agreed that in particularly security unstable socio-political environments, political and public demands create an elevated risk of torture. Threats of terrorism, inter-community violence, high levels of organized crime, and situations of armed conflict naturally lead to heightened pressure on police to "restore order" at any cost. In such situations, safeguards are more difficult to guarantee in practice.

> ***"If you change procedures and practices, it does not automatically change the culture of police. But if you enforce the practice, then slowly the culture changes as well. We must change the mind-set of police that believe that torture and ill-treatment is the way to treat a suspect."***
> ***– Michael Kellett, APT Vice-President***

Several experts expressed their frustration over such prevailing attitudes and the tone of rhetoric frequently heard in their countries, which tend to support detainee[5] abuse: in such cases, it is said that abiding by human rights principles is regularly dismissed as amounting to being 'soft on crime,' civil society is derided when it calls for accountability, and judges and prosecutors ignore the

[4] Carver, R., and Handley, L., *Does Torture Prevention Work?* (Liverpool University Press, 2016).

[5] In this report, the term "detainee" is used to refer to suspects held in police custody (i.e. persons who have not yet been charged). The term "detention" is used to denote detention in police custody, rather than in pre-trial detention facilities or prisons.

demands of detainees complaining of police ill-treatment. Regrettably, the combination of public and media opinion that is less than critical about the mistreatment of detainees and the failure to guarantee the effective implementation of safeguards, combined with an unwillingness by political leaders to commit to a zero-tolerance policy for police abuses, has led to a situation where abuses are tolerated, rather than being investigated and condemned.

One expert analysed the complex nature of the duties that law enforcement must undertake in the proper discharge of their duties: police are tasked with enforcing the law, but also with protecting the individual suspect or accused person; they must arrest a person and question him or her about criminal behaviour, but also ensure their welfare. All the experts agreed that this is a difficult task but that nevertheless, there is no actual contradiction with the ultimate aim of treating all persons with dignity.

4. Prompt access to a lawyer

Almost all States offer access to a lawyer as part of trial preparation, but such access does not always extend to the first hours of detention, nor does it regularly include access during moments of highest risk, including during questioning.

The experts considered that 'legal aid' schemes are almost universally underfunded, leading to far too few lawyers who are tasked or otherwise able to take on publicly funded criminal defence. In some countries, there are only a handful of legal aid lawyers for populations of hundreds of millions of people. This leaves many of the poorest and most vulnerable detainees without even basic legal assistance. Developing countries also have high levels of illiteracy and poverty, making legal aid even more urgent as a means to help detainees navigate the legal system without disadvantage. In cases where public defence is underfunded, many lawyers prefer either to be employed elsewhere, or to send junior lawyers to accompany clients during first interviews at the police station.

In countries with relatively few legal aid lawyers, their role is typically reserved for the most serious offences, or for civil cases where there is some hope of remuneration (and perhaps less stigma). The experts heard that with so few resources, where a person is represented, it is common for the legal aid lawyer to meet the client for the first time at trial, long after the end of the period carrying the highest risks of torture and other ill-treatment. The result is that many of the poorest detainees do not see a lawyer in police custody at all.

The experts recognised that many of the tasks that a lawyer must perform when meeting a client for the first time in police custody, can be performed by a paralegal.[6] Several experts gave examples of how paralegals are already being employed in these roles, including in police stations and in courts, or where States have plans to introduce paralegals in the performance of some of these tasks. Some countries, including **Malawi** and **Uganda**, have introduced the use of paralegals in police stations and in court. In such cases, paralegals can, for instance, empower suspects to challenge their detention and seek bail on their own. Civil society has also responded by offering training to enable more lawyers to represent criminal defendants. The experts agreed that such projects should be encouraged and supported where possible.

Chile is often cited as a good practice example which has undergone largescale flagship justice reforms. A public defence service is mandated in law, but in practice, gaps remain. Lawyers are not always given the access that the law requires, and some prefer not to look too closely at instances of ill-treatment in detention. In other cases, police do not leave the room when lawyers interview their clients. In other, more egregious breaches of care, lawyers have asked their clients not to raise incidences of abuse, as a result of bargains made with the prosecution and/or to keep the case against their clients more straightforward.

[6] A paralegal is defined by the American Bar Association as "a person, qualified by education, training or work experience [to] perform specifically delegated substantive legal work for which a lawyer is responsible." In other words, a paralegal is trained in subsidiary legal matters but not fully qualified as a lawyer.

Access to a lawyer in police custody - essential elements for torture prevention:

- *Immediately (upon arrest) inform suspect of right to be assisted by lawyer of own choice; and of right to legal aid*
- *Prompt access (i.e. without delay), which must include presence during questioning*
- *In-person visits in adequate conditions that fully respect confidentiality (i.e. not within hearing of officers)*
- *Access to free legal aid, i.e. assistance of lawyer possessing adequate competency, who are appointed by independent/professional bodies*
- *Access to information and case files*

The role of defence lawyers is often misunderstood by clients and their families, who view it as part of the prosecution system. But when the relevant authorities and lawyers work with the detainees and their families and keeps them well-informed, their role is better understood. Experts also considered that in some countries, trust is achieved between the lawyer and the client only when the lawyer contacts family members, or reports to the family. For lawyers in such countries, it is essential to have family members witnessing their work.

Experts noted that there are wide differences in the ways in which a lawyer may work in an interrogation setting. Some lawyers are denied access completely, while others may speak, take notes, and ask questions. The experts proposed that a good practice standard is found in EU Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings, which promotes a meaningful protective role for a lawyer from the first hour of detention.

The role of lawyers is also commonly misunderstood by police. Police tend to believe that a lawyer will advise the detainee to remain silent, but the experts advised that this is generally untrue, as lawyers regularly encourage their clients to give information where it would help their defence. The experts agreed that access to the casefile is essential and greatly improves the relationships between police, lawyers, and detainees, and leads to greater cooperation that tends to benefit the investigation.

Experts also noted that there are significant time savings where statements are taken in the presence of lawyers, as they will be much more likely to be accepted as evidence in court. Police are less likely to be called into court as witnesses, and judges are less likely to exclude the evidence.

> ***"In the UK, rules were introduced to make it almost impossible to carry out a police interview without a lawyer - the interview will not be accepted as evidence in court. So, when you are the police, you want the lawyer to come. It's much more likely the suspect will talk to the police and you can move forward with your investigation."***

Experts agreed that in countries with prompt access to a lawyer, suspects in police custody are generally more at ease during the interviewing process, and police behaviour is on the whole more professional. Overall, any administrative disadvantages are easily outweighed by the benefits.

While the experts appreciated that providing legal aid and ensuring the presence of lawyers at police stations would incur some significant cost in the short term, all accepted that it would lead to financial savings over the long term. A reduction in resources previously dedicated to investigating complaints against the police was given as one clear example of long-term financial savings. Fewer allegations and investigations of police abuse also reduce the need to remove police officers from their posts or cases for the duration of investigations, leading to significant time savings for operational police staff.

What is the sanction if the police refuse a detainee access to a lawyer? Various international tribunals have considered that being refused access to a lawyer prejudices the rights of the suspect and will justify the case being discontinued or a conviction being overturned.

The experts also recognised that sometimes, the behaviour of lawyers is unprofessional and unethical. Some lawyers ignore clients' allegations of police abuse so as to avoid additional work, or because they are paid too little. Certainly, the lack of transparency in the appointment of a lawyer is unacceptable, and lawyers' associations should be wary of any case in which the police choose a lawyer for a detainee. In some countries, the lawyers used in publicly funded criminal defence are certified and listed by the national association of lawyers, which is itself an independent body. The experts agreed that this model should be promoted as a good practice.

Several of the experts expressed concern that a lawyer might not have capacity to prevent torture or ill-treatment. The training of a lawyer makes them able to address legal procedure and arguments, but they are often not properly equipped to protect the detainees from abuse. The experts considered whether lawyers generally understand that protecting detainees from abuse, including by adequately responding to allegations of mistreatment, is a key part of their role and their duties to their clients. Lawyers should be trained and enabled to take any or all necessary measures to respond to allegations of abuse.

For lawyers to act as an effective safeguard in the first hours of detention, States must invest in legal services and legal aid. Without adequate defence and protection in the first hours of custody, police abuse will go unchecked and many more innocent people will be convicted.

In response to fears of a hostile stigma attached to lawyers who represent persons accused of crime, States must also encourage a more compassionate public opinion, and create safe and supportive spaces for lawyers to work in, as part of more holistic reforms targeting the rule of law and the administration of justice. Criminal defence lawyers should be recognised as champions of human rights and public messages must support this.

Key discussion points:

1. **States must invest in legal aid. The most vulnerable and marginalised are at the greatest risk of police ill-treatment and abuse in the first hours of detention. While the cost of legal aid may be significant, the potential cost-savings and positive impact on the administration of justice are considerable.**

2. **Some of the tasks performed by a lawyer upon meeting a client may be performed by a paralegal. Experts considered that access to paralegals can be an effective safeguard against police mistreatment and torture.**
3. **Key elements of the right to access to lawyers (i.e. prompt access, including during interviews; confidentiality; etc.), must be fulfilled in order to ensure that the right is meaningfully implemented.**
4. **While the principal role of a lawyer is to perform legal services (i.e. represent and assist the interest of clients), lawyers have a key role to play in preventing and seeking remedies for police torture and ill-treatment. This is part and parcel of a lawyers' obligation to represent the interest of their clients, which include being free from abuse, and is inextricably tied to their fundamental role in upholding the rule of law and securing the effective and fair administration of justice.**
5. **Guaranteeing access to a lawyer reduces the risks of unfair trials and miscarriages of justice, which are wasteful and damaging for the criminal justice system as a whole.**
6. **Other stakeholders, such as police officers, judges, and the public, should be sensitized to the role of lawyers, and the need to ensure that they are able to carry out their tasks in a safe and supportive environment.**

5. Independent medical examination

International standards mandate that adequate medical care and treatment should be provided throughout the period of detention.[7] Furthermore, a detainee's right to request and undergo an independent medical examination (by a doctor of his or her choice) during police custody is considered one of the fundamental safeguards by the European Committee for the Prevention of Torture.[8] When realised, this safeguard provides a way to report, record, and end abuse.

Access to a doctor upon request by a detainee is a legal obligation in many jurisdictions. Equally, in many jurisdictions the police themselves are attentive to the physical and mental appearance of detainees, and call for a doctor to attend to the detainee if necessary.

In many States, however, there are significant gaps in implementation. The experts heard examples of doctors signing examination reports without even seeing the detainee, performing only very cursory examinations, and giving the examination record to the police whilst withholding information from the detained person and his or her lawyer. In other examples, experts recognised that police officers who call in doctors to examine detainees often remain present during the examination, significantly undermining the doctor's ability to act impartially.

The principal issue raised by the experts concerned the independence of doctors, which, regrettably, is not easy to achieve in practice. For practical reasons, police doctors are often retained by detention facilities, for the purposes of offering treatment and therapeutic care to persons who are in custody (i.e. to look after the health of detainees, rather than for signs of torture and other abuse). Such doctors, for instance, do not ask the detainee to undress, and do not necessarily ask about conditions or treatment by the police. As such, this practice can undermine their functional independence and hamper their ability to effectively document abuses and refer complaints. In cases of alleged torture or other ill-treatment, where a forensic examination is required, the experts considered that it is particularly important to ensure that doctors are independent and not affiliated with the detaining authorities.

Independent medical examination - essential elements for torture prevention:

- *Provision of medical examination, without delay, upon request*
- *Independence of medical personnel*
- *Full confidentiality of examinations and records*
- *Competency of personnel and quality of service*
- *Forensic analysis of physical and mental injuries – use of/compliance with Istanbul Protocol in conducting forensic medical examinations into allegations of torture and other ill-treatment*
- *Examination report given to detainee, not passed to detaining authority*

[7] See, for instance, UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly of the United Nations, resolution 43/173 of 9 December 1988, Principles 24-26. Nelson Mandela Rules (United Nations Standard Minimum Rules for the Treatment of Prisoners), Rules 24-35 (Health-care services), adopted by the General Assembly of the United Nations, resolution 70/175 of 17 December 2015.

[8] CPT standards, CPT/Inf/E (2002) 1 - Rev. 2011.

- *Proper procedures/mechanisms in place for requesting medical examination*
- *Consideration given to making examinations compulsory in contexts of widespread abuse*

In considering the question of who should pay for a medical examination, the experts compared legal aid provisions with those available for medical services. In almost all cases, detainees are required to pay for all independent medical services, unless these involve lifesaving treatment.

Common methods of physical abuse and particularly some forms of torture, such as whipping of the feet or electrocution are intended to leave no physical marks. The experts heard that in some cases, evidence of torture has been missed even by experienced medical practitioners. Specialised training in documenting injuries of torture and ill-treatment therefore needs to be given to ensure that more abuses are recorded.

The role undertaken for therapeutic care is very different than that undertaken for a forensic examination and documentation of injuries pursuant to allegations of torture or other ill-treatment. The innovation of the Istanbul Protocol on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has the potential to increase the efficacy of forensic medical examinations.[9] However, the protocol remains relatively poorly understood and is often not adequately used by health-care professionals or judicial authorities.

The experts considered whether medical examinations in police custody should be made compulsory. The experts agreed that in some cases where torture and mistreatment by police is endemic, the introduction of compulsory medical examinations has proven to be an effective preventive measure.

Experts also noted that detainees undergoing an examination in custody may not be forthcoming (i.e. for fear of reprisals), which could compromise the outcome of the medical examination. In such cases, measures should be taken to guarantee the confidentiality and impartiality of medical examinations in police custody.

The experts also noted that the opportunity to have doctors attached to police facilities was well beyond the resources of a number of States, which may struggle with basic needs, such as providing adequate nutrition to detainees. Ensuring a medical examination by a qualified physician for every detainee would therefore be very difficult to achieve in practice.

Where resources permit a medical examination, but the right to an examination is refused, a presumption should arise that the police are attempting to obscure evidence of abuse. Certainly, when requested by a detainee, a medical examination should be undertaken promptly.

Key discussion points

1. **The introduction of obligatory medical examinations as soon as possible after arrest (and regularly thereafter), may in some cases constitute the most effective way to implement this safeguard in practice. In countries with widespread and systematic patterns police**

[9] Available at: http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf.

abuse, a systematic practice of examining all detainees is likely to be an effective safeguard. This practice could take the form of a dedicated service limited to some geographic areas or periods of significant allegations.

2. **It is important to keep in mind that in many cases, detainees in police custody may be wary of giving honest accounts of police treatment while still in police custody, for fear of reprisals. A doctor thus may be able to assess the general health of a detainee, but not to adequately investigate and document torture and ill-treatment. This reflects the key significance of ensuring that doctors are able to undertake fully impartial and confidential medical examinations at the time of arrest/upon request, without any interference by the authorities.**
3. **There should be facilities to conduct independent examinations in police custody facilities. Doctors must be trained in medico-legal techniques, and reminded of their duty to report and investigate in cases of abuse.**
4. **While a lack of resources in many jurisdictions makes the implementation of this safeguard more difficult (i.e. due to a lack of qualified medical personnel), there are many steps that States can take to improve the impartiality of service providers and the independence and confidentiality of medical examinations, in a resource-efficient way.**

6. Communication with family or third party

Each person in police custody must be given the opportunity to notify a relative, friend, or a third party (and, if relevant, consular authorities or an embassy) of his or her arrest, without delay. The right to notify and, in some cases, access a family member or another person of the individual's choice significantly reduces the isolation of the person in custody.[10] Beyond the immediate psychological benefit this can confer on a detainee, it also enables the family to contact a lawyer and take other measures to ensure the well-being of the detainee and monitor his or her treatment in custody.

The experts agreed that contact with a member of the family can serve to effectively safeguard a person against torture and ill-treatment. And, where relatives have access to a detainee, they can act as witness to the treatment and refer complaints of abuse. However, unlike some other safeguards, this safeguard is likely to be much less effective without active police cooperation. Family members are also likely to be relatively uninformed about the rights of a detained person, and might not have the confidence to challenge the police if they are not granted access to a detained person, or have suspicions about his or her treatment.

> ***"Police stations often suffer from a number of practical problems: suspects don't know the number of their close family, and their phone is confiscated on detention; families don't know where the person is being held; and sometimes, police stations don't even have the budget to make phone calls to mobile numbers."***

Access to the family is perhaps the most commonly implemented safeguard and is more likely to be one that is guaranteed in law. The experts gave examples of countries where this safeguard is well implemented in practice. In one case, police officers use the detainee's own mobile phone to contact the family, which avoids the problem that many detainees do not know their relatives' telephone numbers. In such cases, detainees can also have proof that the call has been made, which helps to reassure them. In cases where contact cannot be made by phone, the experts heard that police officers may be sent to notify relatives in person.

Communication with family or other third party - essential elements for torture prevention:

- *Notification must be prompt, i.e. within one or two hours of arrest, at most*
- *Authority must specify detainee's location and provide instructions for access*
- *Direct communication between the family/third person and the detained person should be facilitated*

[10] Guidelines on the Conditions of Arrest, Police Custody and Pre-trial detention (Luanda Guidelines) adopted by the African Commission on Human and Peoples' Rights (ACHPR) in May 2014, Part 1. Arrest, 4 (f): "the right to contact and access a family member or another person of their choice, and if relevant consular authorities or embassy."

While prompt access to the family is typically required by law, the actual time within which a person's family must be notified of his or her detention can vary significantly from jurisdiction to jurisdiction. In Hungary, for instance, the law requires a person's family be notified within 24 hours of arrest, though the practice is usually to notify the family sooner.

The experts considered examples from various countries where telephone calls to relatives are made soon after a person is detained. In some countries with limited resources, notification of the situation of arrest also serves to alert the family of the need to bring food and/or warm clothes, and to contact a lawyer on behalf of the detained person.

The experts also considered the reality that limited resources may place further obstacles on police administrations. For instance, some stations do not have the resources to call mobile numbers, but rather only land lines.

The experts considered the EU Directive that requires that the family is notified, and additionally that the detainee is given the right to communicate directly with his or her relative. The Directive is relatively new, having direct legal effect from only 2015, and has obliged several EU States to improve their implementation of basic safeguards.

Finally, the experts noted that in some cases, relatives may live at a significant distance from the police custody. Even where families live remotely or in another country, the experts agreed that authorities must do their due diligence in terms of ensuring that notification is done properly.

Key discussion points:

1. **Notification of, and facilitating contact with, relatives or other third parties of the detainee's choice is simple and cheap. It serves as a critical safeguard around the world, and in many countries it is well respected.**
2. **Effective liaising with a detainee's family serves to build confidence in the justice system, and can be a gateway to the access of other essential safeguards and services, such as access to a lawyer, food, healthcare, and the possibility of making complaints.**
3. **As a safeguard, communication with family or other third person is more reliant on a cooperative police service than other safeguards. The safeguard is generally rendered ineffective in the absence of police cooperation, as the relatives often lack the confidence and skills to challenge authorities, or may otherwise remain unaware of the fact of arrest or the physical places of detention.**
4. **Whenever possible, detainees should be given the right to communicate directly with relatives or other third parties, and to direct access to the detainee should be granted.**

7. Judicial oversight

Being brought promptly before a judge or other judicial officer after arrest is a basic right protected in international human rights law.[11] The purposes of such initial appearances before a judicial officer, which are sometimes called custody hearings, are twofold: to ensure the legality of the arrest and lawfulness of detention (i.e., that there are legal grounds for a person to be detained, and that there are grounds for keeping that person in detention during proceedings); and to ensure that the human rights of the detainee have been observed,[12] including by inquiring into treatment by police officers, and hear complaints.

This protective measure reflects the importance of removing a detainee from the control of the detaining authority at an early opportunity, as an important way to help reduce the risk of torture and other ill-treatment. As a safeguard against police abuse, judicial oversight is ineffective in jurisdictions without judicial independence. The experts heard of cases where judges who report and/or act upon cases of torture in countries without independent judiciaries risk their careers.

Judicial oversight - essential elements for torture prevention:

- *Judicial independence*
- *To be brought before a judge in person, at the earliest opportunity (i.e. no more than 48 hours, ideally)*
- *Provide opportunity to detainee to speak, and make specific inquiries into legality of arrest, lawfulness of continued detention, treatment of detainee, and police procedures*
- *Confirm that rights have been explained and provided*
- *Confirm that safeguards have been followed*
- *Critically examine custody record*
- *Order investigation and forensic medical examination in line with Istanbul Protocol of reason to believe torture/other ill-treatment has been committed (proprio motu)*
- *Power to refer suspicions or allegations to competent authority for investigation*
- *Exclude any evidence where the State is unable to prove beyond reasonable doubt is not obtained free from torture or other ill-treatment*

There are significant benefits to ensuring that the detainee is physically present during a custody hearing. The judge can better assess the condition of the detainee, and understand any circumstances that might make him or her more vulnerable in detention. The judge can and should

[11] Article 9(3) of the International Covenant on Civil and Political Rights. The wording of the provision in art.9(3) permits a person to be brought before a person authorised by law to exercise judicial power. Expert analysis has indicated that only a person independent of the executive or detaining authority may hold such a role. For further discussion on this issue, see N.Rodley and M.Pollard, The Treatment of Prisoners under International Law (Oxford: University Press, 2009), p457.

[12] During an initial appearance, the judicial officer should verify that the defendant has been advised as to the basis for the arrest and the accusations against him or her, advises of and given his her or rights, and, received access to (or appointment of) counsel.

pose questions to the detainee, including to ask how the arrest was carried out (i.e. whether it was done lawfully), and to ascertain whether (and why) force may have been used. Experts heard that the introduction of custody hearings in **Brazil**, beginning as a pilot project in the year 2015, and subsequently expanded to every state in the country, led to some positive results.

The experts noted that as an institution, the judiciary can be more resistant to innovation and to change than other State organs. Judges are experienced practitioners, but often have little patience for explanations provided by suspects, which they may have heard before. There is a risk that such judges do not believe the claims of detainees who have been subjected to physical or psychological abuses in police custody.

Experts also heard examples illustrating some of the routine challenges faced by judges in court. Judges see all kinds of detainees – who, for instance, may suffer from psychosocial disabilities, or be physically violent and verbally abusive. Giving each detainee the same degree of consideration is a difficult challenge for judges, who are typically extremely busy and must reach decisions on multiple issues in a hearing within just a few minutes, before moving on to the next case. Experts heard that in some countries judges hear over 150 cases a day, and agreed that there is a risk in reality that the practical implementation of safeguards might therefore be inadequate.

The experts also understood that judges sometimes have a poor understanding of the role they should fulfil during initial hearings. Some States prepare a code of conduct for judges to follow. Such codes should include a section on how to address allegations of ill-treatment, and should be reviewed if judges continue to routinely dismiss legitimate concerns of police ill-treatment. Some of the experts explained that in some States civil society has helped facilitate judicial training with mock custody hearings and judicial round table events to discuss and learn more about the hearing process.

If judicial oversight is effective, it can help ensure that the basic safeguards and rights of a detainee are satisfied (and provide remedies for any violations). Prior to asking questions, the judge needs to ensure that the detainee can communicate freely without any threat or intimidation. The judge should ask whether a detainee's rights have been explained to them, whether they need an interpreter, if they have been granted access to and/or provided a lawyer, if they have been given access to a doctor/medical examination and to their relatives or other third parties, and whether they have been subjected to mistreatment. The judge should have access to a custody record to show that the minimum requirements have been complied with and that the detainee is being presented before the court in a timely fashion.

In some countries, experts indicated that custody records were not examined or required by the judiciary. A key role of judges must be to ensure that all information is recorded clearly, and to question any gaps or issues revealed by the record. Judges should ask a series of questions to ensure the proper safeguards have been implemented and that the rights of detainees have been respected, whatever crime they are accused of committing. The experts agreed that judges should ask open questions, with the priority being to listen to the detainee's account without prejudice.

What if the replies from the detainee indicate that his or her rights have not been respected? The experts considered that it is important to report any irregularities and, if appropriate, to impose a sanction – otherwise, there is a risk that the police will assume that a failure to respect rights and to enforce safeguards is acceptable, and that they will not be held accountable for their behaviour.

The judge should consider a range of options, such as release of the detainee, sanction of the officers, an order for costs against the police department for bringing a deficient case, or a referral for criminal investigation to an independent authority to investigate the actions of the police, among others. The latter evidently relies on a system of referral to an independent investigative authority, which must be separate from the one that allegedly committed the original abuse.

Whenever there are any reasons/grounds to believe that torture or other ill-treatment may have occurred, the judge should order an investigation and forensic examination in line with the Istanbul Protocol *proprio motu* (i.e. even in the absence of complaint or request by the detainee). Furthermore, it is well-established in international law that any evidence obtained under torture, ill-treatment, or coercion must be excluded from judicial proceedings of *any* kind, and that the burden of proof to demonstrate that these methods have not been used should rest with the State.

When judges suspect that a detainee has been subjected to mistreatment they should, on their own initiative, take appropriate protective measures to guarantee his or her safety and mental and physical integrity (such measures could include, for instance, ordering the immediate end of custody or the granting of provisional freedom). Furthermore, in cases where a particular safeguard is found to be lacking (for instance when notification of the right to a lawyer is not mentioned in the detention record), the judge must take adequate remedial measures aimed at redressing the violation, for instance by sanctioning those responsible and/or providing compensation to the victim.

The experts considered a good practice examples from one jurisdiction that sought to sensitise judges to the realities of detention by inviting them to spend 3 hours in police cells and then in prison. The programme recognised that it was essential for judges to become familiar with and experience the detention regimes imposed upon detainees, in order to better understand the experiences of, and testimony provided by, detainees.

Key discussion points:

- **Judges need specialised training to integrate a human rights-based approach into their procedure.**
- **Judges rarely visit places of detention. Visits to prisons and police holding cells must be encouraged and even a required component of judicial service.**
- **Experts considered the value of introducing hearings dedicated exclusively to the treatment of the detainee in the first hours of detention. This could be encouraged in jurisdictions where police abuse is common, and be aimed at guaranteeing the provision of procedural safeguards and to detecting and sanctioning abuse.**
- **Ensuring the detainee is brought physically before a judge, has an opportunity to make a statement, and is asked relevant questions designed to ensure that his or her rights have been respected and that safeguards have been implemented.**

- **Ensuring that the judge is able to report, complain of, and sanction improper police behaviour.**

8. Direct supervision of custody

Custody may be supervised directly using audio or video equipment such as CCTV, but the experts also examined alternative models of supervision, such as more effective managerial supervision. In countries without the resources to install audio-visual equipment to record interviews, more robust supervision by officers charged with detainee welfare may also work to reduce ill-treatment and torture.

The experts considered that the **audio-visual** recording of interrogations serves multiple purposes. It serves to demonstrate integrity in the way that statements are obtained. Many statements are excluded because there are doubts over whether they were given voluntarily. The exclusion of such evidence creates a huge cost to the administration of justice, which the use of recordings can reduce.

Experts heard examples from States that have recently introduced audio-visual recordings of interrogation. Although the cost of the equipment itself was not prohibitive, States should be prepared for some additional costs, such as renovation of interview rooms, and equipment and staff to transcribe recordings.

> ***"We need to avoid over-reliance on any one safeguard. Recordings are positive – we can all agree with that. But it is not a panacea, because technology must be perfect, and we know it is not. Even where a recording is available, courts should still ask how the detainee was treated."***

To ensure absolute integrity, the experts recommended that three copies of recordings should be made – one master copy to be held by police, one to accompany the file to be sent to court, and one to be given to the detainee or their legal representative.

Experts heard examples from **Fiji**, which has recently piloted a project to introduce video recorded evidence. In some jurisdictions, interviews must also be transcribed, which has some advantages over an audio recording, but slows down proceedings due to the time it takes to transcribe interviews.

Experts considered that costs were quickly recovered, however, as previously police would be called to court to testify that the statement or confession had been collected lawfully, in the absence of any coercion. This led to police spending a lot of time spent in court. By contrast, today, police are rarely called to give such evidence, so there have been real savings in terms of time. The validity of police interviews never requires police being called, as in case of doubt the court simply listens to the recording.

Experts agreed that the initial investment in audio-visual recordings is well worth it, as the ultimate benefit is that a proper record of what went on at the interview.

Experts heard that in the **UK**, the legislative reforms introducing the audio-visual recording of police interviews had a transformative effect on the police, making the police service much more professional. One of the associated reforms was to introduce custody officers, who were tasked with

ensuring the welfare of persons in police custody. This is an independent police role with particular powers and duties under law.

> ***"Access by an investigator to the detainee can only be made through the custody officer. No matter how senior the investigator is, he or she cannot access the detainee without the consent of the custody officer. And all access to the detainee must be documented."***

The custody officer is responsible for the decision of initial detention and maintains all details of the custody on the record. Equally, any instance when the detainee is removed from the cell for an interview must be documented; when the detainee is returned to the cell, the officer must testify and sign that the detainee was treated in accordance with the relevant code of police practice.

Supervision of custody as a safeguard against torture:

- *Audio-visual recording of interrogations*
- *Video recording of detention facilities, including cells*
- *Custody officers tasked with ensuring detainee welfare*
- *Comprehensive detention register and custody record*

The experts were concerned by examples from States that illustrated that video recording of detention facilities simply displaced abuse into areas not covered by cameras, and that a more comprehensive system of overlapping supervision would better avoid the risk that police simply abuse detainees out of sight of cameras.

It is not necessary to have top-of-the-line technical equipment in order to ensure that the supervision of custody be effective. Likewise, the most protective measures (i.e. audio-visual recordings) do not have to be introduced at once for improvements to be made. In the UK, it took many years to introduce video-recording of interrogations. First, word-by-word note-taking was introduced and had some positive results in police practice; then audio recording was used, again, with some improvement; finally, video recording was introduced. This example illustrates that it is not necessary to go from nothing to high-tech video recording. Each of the practices has benefits.

Key discussion points:

1. **Audio-visual recording of interrogation complements other safeguards, and can be used to verify their adequate implementation. However, it cannot be used as a replacement for the effective implementation of other safeguards, such as right to a lawyer during interviews. Once audio-visual recording equipment is introduced, it is important to take note of the risk that abuses might be "displaced" to areas not covered by cameras, and to address this risk.**
2. **The initial cost of video recording interrogations is quickly recovered.**
3. **Legislative and regulatory reforms necessary to implement systematic recording can have transformative effect on police behaviour and culture.**

4. **Video recording of interrogation may be perceived as a cost-intensive luxury for many countries. But where video-recording is not currently possible, interim steps, such as word-by-word note taking and audio recording, also have benefits. Furthermore, small countries have shown that even video recording is possible with relatively few resources.**

The experts agreed that **custody records** could act as an effective safeguard and a form of accountability. The CPT asks States to maintain a single comprehensive custody record for every detainee, documenting all steps and encounters in the arrest and custody process (inclusive of specific times, names, orders, etc.). The consequence is that detainee records may be quite large by the end of a period of detention.

> ***"One of the reasons that records are effective is that their use fosters a mind-set for documentation, and signals that there is an expectation of accountability."***

Detainees and their lawyers should have access to their record and receive a copy when they leave detention.

Ironically, the use of electronic custody records had sometimes made them more difficult to check. With paper records, it is very easy to determine if there had been handwritten corrections or modifications to the record. Proper safeguards should be in place for electronic records to ensure that there is no possibility of tampering with the record (for instance by requiring the system to automatically log each change to the record by an identified user). Where electronic records are held on large centrally maintained databases and may be difficult to access, monitors with a right to access the record may require the assistance of police staff to access and explain the system. As a result, gaps or edits to digital records may not be easily discoverable or uncovered.

The experts heard the positive example of **Paraguay**, which recently introduced bound detention registers to be used widely across its territory.

Key discussion points:

1. **When custody records are properly maintained and used to record every step of the arrest and custody (and accompanying details), other procedures and safeguards are generally strengthened as a result. The practice of keeping detailed records also instils discipline into detention officials, and signals that they are accountable for the well-being of the detainee in their custody.**
2. **Judges and prosecutors should insist on an effective record of detention, which can help ascertain whether other safeguards have been complied with.**
3. **It is a good practice for a copy of the record to be given to the detainee on their transfer or release.**

9. Information on rights

The provision of information on rights and on how to access these is logically critical to the effective implementation and operation of all other safeguards. At a basic level, all detainees must be informed of their rights and of the reasons justifying their detention by police promptly upon arrest, in a manner that they can understand.[13] Such information provides the detainee with greater capacity to access safeguards, to challenge his or her detention before a court, and to bring complaints.

In the **EU**, the relevant Directive (2012/13/EU) provides that all detainees shall be given a 'letter of rights' on detention, which they are entitled to keep.[14] The annex to the Directive provides an 'Indicative Model Letter of Rights' to assist national authorities in drawing up a letter of rights for use in their own jurisdiction. The Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention (the Luanda Guidelines) of the African Commission on Human and Peoples' Rights (2014) also encourages States to use a letter of rights.

The experts noted, however, that a letter is not always appropriate if detainees are illiterate or may lack the ability to comprehend the information as habitually presented, in places where various national languages are used, or in cases where detainees do not speak the national language(s). In considering how to effectively notify a detainee of his or her rights, States and institutions should consider the benefits of using simple words and phrases that people will easily understand. Any communication must be made in the language of the detainee, and experts noted that in some countries there are many dialects that must be accommodated.

The experts considered that asking detainees to explain the rights that have been communicated to them is a good practice, as a way to verify that the rights have been understood.

The experts noted that the first hours of detention are inherently stressful situations, and the detainee will not likely appreciate (all or some) rights that have been communicated. It is thus important that information on rights is repeated and provided multiple times. Where possible, the notification of rights should be separated from the process of accusation or charge. The notification of rights should also be repeated. Both police and judicial actors should make sure that a detainee has been made aware of, and understood, his or her rights.

Experts considered that information on safeguards and rights in detention can be communicated widely using print media, as well as other methods. Examples given included a youth project in which juveniles acted out scenarios explaining how safeguards applied in each detention context.

What if the police fail to inform a detainee of his or her rights? The notification of one's rights is fundamental to the exercise of these rights. It is therefore a fundamental breach of obligations to fail

[13] See Body of Principles, *supra*, Principle 10. Luanda Guidelines Part 1 Arrest, Article 5. CPT/Inf(2002)15, para 44.

[14] EU Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings.

to notify a detainee of his or her rights in detention. A breach of human rights implies that a remedy is justified. But does it warrant the case being dismissed? Does it require that the police officer be sanctioned? Experts considered that the law on this remains unclear, and alternative conclusions may be equally valid.

Key discussion points:

1. **A clear and straightforward process for the notification of rights is essential. Alternative models were considered by experts, including a letter of rights, oral communication by the detaining authorities and judges, the distribution of leaflets, and the use of posters.**
2. **Care should be taken of detainees who may be illiterate, speak another language, or with disabilities, to ensure that rights are understood.**
3. **Wider community initiatives to teach the use of safeguards and rights in detention more generally should also be encouraged.**

10. Conclusions and recommendations

The experts' contributions and the ensuing discussions proved valuable on multiple levels. Firstly, the participants unambiguously reaffirmed the key importance of implementing procedural safeguards as a way to reduce the risk and incidence of torture and other ill-treatment, at the time when the threat is most acute. Secondly, the in-depth discussion of good practices, and practical challenges and opportunities for the effective implementation of each of the six safeguards outlined above, added significant value to our understanding of the context-specific realities and needs that impact their practical implementation on the ground, and which must be considered and addressed in specific projects and situations going forward.

To ensure that particular safeguards are effective in the reducing the risks and incidence of torture and other ill-treatment, it is important to rely on targeted, nuanced, and creative approaches to implementation, which account for contextual factors and challenges. The experts stressed that in every jurisdiction, it is important to "dig deep" in order to grasp the challenges and opportunities that will affect meaningful changes. Certainly, there is no "on-size-fits-all" solution to guaranteeing the effective implementation of safeguards.

At the same time, some general recommendations can be offered, some of which reflect the critical need to find innovative and cost-effective solutions for effectively implementing safeguards in practice in challenging contexts around the world. For instance:

- in some cases the use of paralegals to fill gaps in access to lawyers in the first hours of detention can be an effective way to meaningfully implement the safeguard;
- with regards to the provision of medical examinations at the beginning of custody, it is possible to learn from models that have been successfully implemented to provide compulsory and fully independent and confidential medical examinations at the time of arrest, without interference by the custodial authorities, for instance via the introduction of compulsory schemes or the establishment of independent forensic units;
- with regards to keeping detention records, the provision of training and regular review to ensure that custody registers are properly kept, can be pursued – whether for digital or paper records;
- long-term cost savings and improved administrative efficiency can be promoted to justify the introduction of audio-visual recordings of police interviews;
- improving the provision of information on rights and the notification of families or other third parties can be achieved in creative and cost-effective ways, with distribution of telephones to police custody centres, and information on rights being provided via loudspeakers playing tapes in police custody centres, public service announcements, or by means of a letter of rights.

This report documents the rich discussion that took place during the Symposium, and highlights some key points of our discussion. The APT is energized by these exchanges and their conclusions, and enthusiastic to continue its work on these topics, including by means of projects in specific jurisdictions, which will facilitate the implementation of safeguards during the first hours of police

custody, and seek to achieve measurable results in terms of reducing the risk and incidence of torture and other ill-treatment in practice.

The APT is grateful for the generous support of the Geneva Canton, and to the participating experts for devoting their time to a discussion on procedural safeguards against torture and other ill-treatment that apply in the first hours of police custody.

Back page

The first hours of police custody represent the greatest risk of abuse for a person in detention. The latest empirical research has proven that detention safeguards, when applied in practice are the most effective way to prevent torture.

Safeguards against torture and other forms of ill-treatment in police custody include:

- Prompt access to a lawyer
- Access to family or a third person
- Information on rights
- Independent medical examination
- Judicial oversight and control of detention
- Effective supervision of custody

In May 2017, the APT organized an expert meeting to examine the safeguards that can apply in the first hours of police custody, and explore what elements were essential to prevent police abuse. Experts also considered common challenges and offered solutions, and proposed practical ways forward for actors to better implement safeguards that reduce the risk of abuse for persons in police custody.

With the generous support of the Canton of Geneva

REPUBLIQUE
ET CANTON
DE GENEVE

POST TENEBRAS LUX

ANNEX I

AGENDA: Symposium on Procedural Safeguards in the first hours of police detention

Wednesday, 10 May 2017

Objectives:

- Recognise the preventive value of particular safeguards in police detention
- Learn from the challenges and successes of expert participants
- Identify ways to proceed in the implementation of particular safeguards

Time	Session
8:30 – 9:00	Registration and welcome coffee
9:00 – 9:45	**Introductory session** • Opening remarks *Mike Kellett, former senior police officer and APT Vice-President* • Objectives and methodology *Matthew Sands, APT* "Tour de table" of participants
9:45 – 11:00	**Session 1 – Setting the scene** • Steps to torture prevention *- Introductory remarks by Nils Melzer, UN Special Rapporteur on torture; Enrique Font, former SPT member; and Ilvija Pūce, CPT member* • What works? Research-based review of safeguards *- Matthew Sands, APT*

	Moderated discussion: all participants (~1h.) Moderator: *Barbara Bernath, APT*
11:00 – 11:30	Coffee break
11:30 – 12:45	**Session 2 – Prompt access to a lawyer** Experts are invited to present their national experiences and identify necessary conditions for operation of good practices. *- Introductory remarks by Emmanuel Queiroz Rangel, Brazilian Public Defender; Edmund Bon, ASEAN Intergovernmental Commission on Human Rights (AICHR); and Christopher Pryde, Fiji Director of Public Prosecutions* *Questions to consider:* • What logistical challenges exist to ensure prompt access to lawyers? • How to engage legal professionals? • What elements are needed to make legal representation an effective safeguard against torture? Moderated discussion: all participants (~ 1h.) Moderator: *Sylvia Dias, APT*
12:45 – 14:00	Sandwich lunch at APT and group photo
14:00 – 15:45	**Session 3 – Access to a doctor and family** Experts are invited to present their national experiences and identify necessary conditions for operation of good practices. *- Introductory remarks by Jean-Pierre Restellini, medical doctor and lawyer; Mandimbin'ny Aina Mbolanoro RANDRIAMBELO, Madagascar Police; and Zsofia Moldova, Hungarian Helsinki Committee* *Questions to consider:* • Is police notification to family sufficient, or is actual communication and access to family required to safeguard against abuse? • How to engage the services of healthcare professionals?

	• What level of medical inquiry is required on detention? Moderated Discussion: all participants (~1h.) Moderator: *Anne Lardy, APT*
15:45 – 16:15	Coffee break
16:15 – 17:45	**Session 4 – Judicial oversight** Experts are invited to present their national experiences and identify necessary conditions for operation of good practices. *- Introductory remarks by Antonio Maria Patino Zorz, Judge (Brazil); Sanjeewa Liyanage, IBJ; and Luis Gerald Lanfredi, OAS Legal Expert* *Questions to consider:* • What role do judicial officers have to prevent ill-treatment in the first hours of detention? • To what extent are judges prepared to challenge police methods? • What national rules & regulations are needed to make judicial hearings an effective safeguard? Moderated discussion: all participants (~1h.) Moderator: *Jean-Baptiste Niyizurugero, APT*
17:45 – 18:00	Wrap up and close of meeting – *Matt Sands, APT*
18:15	Aperitif with President of the APT, members of the UN Committee against Torture, diplomats from countries represented, Geneva government and APT staff, at the Jean-Jacques Gautier Centre

Thursday, 11 May 2017

Objectives:

- Share best practices in the operation of further safeguards
- Consider ways to guarantee access to important safeguards
- Strengthen cooperation between experts and consider further strategies for safeguard development

Time	Session
9:00 – 9:15	Welcome coffee
9:15 – 10:45	**Session 5 – Supervision of custody** Experts are invited to present their national experiences and identify necessary conditions for operation of good practices. *- Introductory remarks by Christopher Pryde, Fiji Director of Public Prosecutions, and Mike Kellett, former UK police officer;* *Questions to consider:* • What are the real-world cost implications of audio or video recording? • What rules apply to prohibit particular practices during interrogation? • Are legislative reforms needed to accompany the introduction of such safeguards? • How is detention effectively supervised; Are roles of personnel working in custody and investigation distinct? Moderated discussion: all participants Moderator: *Matt Sands, APT*
10:45 – 11:15	Coffee break
11:15 – 12:45	**Session 6 – Other safeguards against torture and ill-treatment** Experts are invited to present their national experiences of alternative safeguards and explore the necessary conditions for operation of good practices.

	- Introductory remarks by Francis Gimara, Uganda Law Society; and Hanitriniaina Belalahy, Madagascar Ministry of Justice *Additional safeguards applied in the first hours of detention could include:* • Right to challenge detention (habeas corpus) • Due process guarantees • Custody records • Time limits for police custody Moderated discussion: all participants Moderator: *Anne Lardy, APT*
12:45 – 14:15	Lunch at local restaurant
14:15 – 15:30	**Session 7 – Making safeguards effective in practice** Experts are invited to explore ways in which safeguards are known about and used in practice: • Knowledge; to what extent are safeguards known • Access; what obstacles prevent their use • Practical; is the safeguard easy to understand and operate • Effective; does it have buy-in from police, and does it work *- Introductory remarks by Libby McVeigh, FTI; and Victor Mhango, CHREAA* Moderated discussion: all participants Moderator: *Shazeera Ahmed Zawawi, APT*
15:30 – 16:00	**Session 8 – Feedback** Each expert is invited to raise the most prominent issues discussed during the Symposium: ✓ one of the problems that remain unaddressed; and ✓ one of the implications for their work. Moderated discussion: all participants Moderator: *Barbara Bernath, APT*

16:00 – 16:15	Wrap up and closing of the Symposium – *Matthew Sands and Mark Thomson, APT*

With the generous support of the Canton of Geneva