

February 10, 2020

Anthony Dawson, Chair, New Haven Board of Police Commissioners
Chief Otoniel Reyes, New Haven Police Department
One Union Avenue
New Haven, CT 06519
Re: Conditions in NHPD Holding Cells at One Union Avenue

Dear Mr. Dawson and Chief Reyes:

I am writing to follow up on my emails to Chief Reyes, Assistant Chief Dominguez, and Dawn Lewis regarding the inhumane conditions in NHPD's holding cells in police headquarters at One Union Avenue. I would like to ask again for you to improve these conditions and to schedule a visit of community leaders to the holding area.

You have an opportunity to fix some unnecessarily harmful problems in your lock-up, reduce your risk of litigation, and even become a leader in the state. I hope you will consider it.

Out of view from the public, press, and other city or state agencies, New Haven Police Department operates its own jail—a holding area with approximately 100 beds in more than 50 jail cells in its headquarters at One Union Avenue. The conditions of the holding cells are unnecessarily harmful to people required to spend more than several hours in them. These substandard conditions could be significantly alleviated through some minor changes involving little expense.

In cells meant for a few hours' detention, New Haven Police Department routinely holds people in inhumane conditions for periods as long as 78 hours on weekends and 102 hours on holiday weekends¹, often for minor offenses.

For example, on November 23, 2019, a person stopped for a malfunctioning taillight faced 43 hours in New Haven Police lock-up. Posing no danger to himself or others, he was arrested and jailed for nearly two days due to a failure to appear on a previous charge of not having driver's insurance and registration, even though he had driver's insurance and registration when stopped for the malfunctioning taillight. On Friday, November 22, 2019, another person was a passenger in a car that was stopped for having tinted windows; he was arrested on outstanding warrants. Despite not having access to his prescribed medication for diagnosed anxiety, he was held for more than 60 hours at One Union Avenue in conditions that in some respects were worse than solitary confinement.

These men, both African-American, were held in cold, 6' x 6' cells with metal beds. They were fed bologna sandwiches twice a day—apparently in violation of NHPD's own protocols requiring three meals a day ([General Order 5.03](#), June 24, 2016). They had no access to reading materials. They had no way to tell what time it was, there are no windows, and the lights were not dimmed at night for them to sleep. They were not allowed out of their cells at any time (not even for an hour's exercise or to stretch their legs). They were allowed only one phone call all weekend, which was required to be on speaker phone in front of your officers. Three other people in the holding cells on November 22 were not allowed to make any phone call during their six hour detention.

¹ People arrested after 3 am on Friday mornings are unlikely to be seen by the court for arraignment until Monday morning. On holiday weekends, it could mean an extra 24 hours.

The man who spent 60 hours in One Union Avenue said he felt “like a caged dog” in NHPD’s holding cells. More than even a mattress, he wanted something to read. He did not get either. When he asked to be moved closer to other people, because talking to others was one way to reduce his anxiety, NHPD officers refused.

In certain respects, NHPD’s holding cells are more inhumane than solitary confinement in jails and prisons where incarcerated people are at least permitted reading materials, three meals a day, and an hour out of their cell each day.

As the U.S. Department of Justice Special Litigation Section has noted, “Detaining individuals for extended periods of time raises additional issues regarding conditions of reasonable care and safety, including, but not limited to, providing toiletries, showers, bedding, exercise, visitation, and access to phones....” DOJ has taken action against “secret and indefinite confinement” in police holding cells.

Notably, East Haven Police Department has several protocols that NHPD is lacking, for example: limiting detention to a maximum of 48 hours (503.2,III.B.7); providing blankets (502.5.B.12); allowing phone calls (presumably) before booking is complete and ensuring private phone calls with legal counsel (502.5.I); and explicit provisions for three adequate meals (502.5.O). East Haven also refers to people in its custody as “arrestees” or “arrested persons” whereas NHPD calls them “prisoners.”

The Role of Holding Cells

The purpose of holding cells (referred to variously and with some overlap and imprecision as lock-up, booking, booking cells, detention facilities, custodial detention, investigative holds, pre-judicial detention, pre-arraignment detention, and other names) is to keep people in custody until their information can be processed (or “booked”) for a court appearance. In many jurisdictions, this is also the time when the police determine whether the person will be charged at all and what those charges will be. At the court appearance, a judge will determine whether there was probable cause to arrest the person and whether the person should be released until trial or held in jail.

While in a holding cell, a person is not only innocent of any alleged offense but also awaiting verification of the lawfulness of his or her arrest and often whether he or she will even be charged. A police department’s duty after an arrest is to get the person’s information, ensure he or she will make it to court for arraignment, and protect the person’s safety and well-being. It is “to bring to justice”, not to administer justice on the person or to punish the person.

The longer a person is detained the greater the potential harm to that person’s life:

- Detention of one to six hours can prevent a person from picking up his or her children;
- Detention of one day can make a person miss a scheduled shift and lose his or her job;
- Even if not fired, missing work for three days can affect a person’s ability to make rent and put his or her housing at risk.
- The longer the detention the greater the risk of psychological harm.

For these reasons and many others, jurisdictions are increasingly seeking to minimize pre-trial detention by, for example, “using alternatives to arrest and prosecution for minor offenses, recalibrating the use of bail, and addressing fines and fees that also trap people in jail.”²

The Risks Associated with Police Holding Cells

Police holding cells present different risks of harm and abuse than jails. These include:

² “Reducing the Use of Jails,” Vera Institute of Justice, <https://www.vera.org/ending-mass-incarceration/reducing-the-use-of-jails>

- **Temporariness:** The short time that most people spend in holding cells increases the tendency of system actors and the public to neglect harmful or dangerous conditions in them, which then accumulate.
- **Staffing Orientation:** The relevant training of police officers staffing holding cells is primarily focused on the booking procedure, not how to hold a person in a jail cell for longer periods.
- **Single Agency Control:** Police holding areas have less built-in interaction with other system actors and visitors than jails, so there is less visibility and accountability.
- **Incommunicado Detention:** Contrary to popular belief, most states do not require police to allow “one free call”, or any phone call, after arrest.³ Connecticut allows police to complete the booking process—which can take six hours or more—before providing a phone call. Also, the police are under no obligation to notify anyone that a person is being held, even a person’s lawyer or doctor. Counsel will not learn of a client’s arrest until the person appears in court.⁴ Typically, people detained in holding cells are not entered into a public records system that outsiders can access, with the exception of a paper log book that may be accessed only in person.⁵ While this may reduce exposure to harmful stigma, it increases the risk of someone being held off the books entirely.

These risk factors have compounded and contributed to dramatic cases of abuse around the country and been subject to action by the U.S. Department of Justice.

- *The Guardian* exposed the use of incommunicado detention in Chicago Police Department’s Homan Square holding cells for interrogating thousands of people “without providing access to attorneys and with little way for their loved ones to find them.” Critics called Homan the domestic equivalent of a CIA black site.
- DOJ issued a demand letter concerning the use of secret and indefinite detention in holding cells, typically for 72 hours without charge or the ability to contest the arrest, by two Louisiana police departments, ostensibly to investigate crimes but also to secure confessions.
- DOJ issued a demand letter concerning fire safety, medical care, detainee safety, observation cells, environmental health and safety, and food service in Detroit Police Department holding cells.

These risk factors are why the UN Human Rights Commission requires that people who are arrested be brought “promptly” before a judicial body⁶, and the UN Special Rapporteur on Torture advises that arrested people be quickly transferred out of facilities under the control of their interrogators or investigators.⁷

The greatest risk of detention in police holding cells, however, is the psychological stress and harm it causes to the people who are detained, and the degradation of their human dignity caused by inhumane conditions.

³ A minority of states provide for a right to make a phone call after booking or arraignment (but not arrest), and there is no constitutional right to a phone call after arrest. Nevada is an outlier in requiring that a successfully completed call be allowed “no later than three hours after the arrest.” Nev. Rev. Stat. 171.153. In Rhode Island, it is one hour. California is an outlier in providing that this “telephone call shall not be monitored, eavesdropped upon, or recorded.” Cal. Penal Code 851.5(2).

⁴ This holds true even if the arrest relates to the specific matter of representation. For example, in Connecticut, the attorney for a person on probation or parole will not be notified that his or her client has been arrested for a violation that probation or parole until arraignment.

⁵ Some larger jurisdictions, such as New York City, begin tracking people’s processing progress from the moment they enter centralized booking centers, which defense counsel can access.

⁶ HRC General Comment N°8(16) on Art. 9 ICCPR, §2.

⁷ “Those legally arrested should not be held in facilities under the control of their interrogators or investigators for more than the time required by law to obtain a judicial warrant of pre-trial detention which, in any case, should not exceed a period of 48 hours. They should accordingly be transferred to a pre-trial facility under a different authority at once, after which no further unsupervised contact with the interrogators or investigators should be permitted.” Report by the SRT, UN Doc. E/CN.4/2003/68, §2.

When a city leaders fail to alleviate known harmful conditions, the detained person reasonably feels like the police are seeking to inflict punishment rather than serve as a custodian bringing him or her to justice.

How NHPD Can Reduce Its Risk of Abuse and Liability, as well as Eliminate Inhumane Practices

Because the holding cells are entirely under his control, NHPD Chief Reyes could easily, cheaply, and immediately mitigate the inhumane conditions in his holding cells. These changes would prevent the accumulation of conditions that lead to the kinds of dramatic abuses described above. The changes would therefore also reduce the chance of expensive litigation or investigation by the DOJ.

Most importantly and immediately, the following changes, though providing only a minimum of respect, would reduce the significant harm that NHPD is imposing on New Haven residents subject to extended detention during weekends and holidays.

Specifically, Chief Reyes could designate ten to fifteen cells for people who may be detained for more than six hours provide these people with:

- Rubber jail mattresses to put on the metal beds;
- Sheets, blankets, and pillows;
- One phone call per day rather than one phone call only on the first day of detention;
- A first phone call within an hour of arrest;
- For these phone calls, a modicum of privacy by not requiring they take place on speakerphone in front of police officers;
- Books – a privilege that could be withdrawn for those who abuse it;
- Dimmed lighting during sleeping hours;
- Snacks in the morning and afternoon between the two sandwiches provided at 11 am and 6 pm;
- View of a clock so people can tell what time it is;
- One hour of each day out of the cell;
- Notifying the health care providers of people with mental health needs; and
- Notifying the attorneys of people who are already represented by counsel.

Again, these are minimum changes that could be made easily, cheaply, and immediately.

Finally, it is important that the New Haven community and public officials have oversight of NHPD's holding cells and practices. NHPD should institute a policy requiring that the Police Commission physically inspect conditions annually in the holding cells and talk to people locked up there.

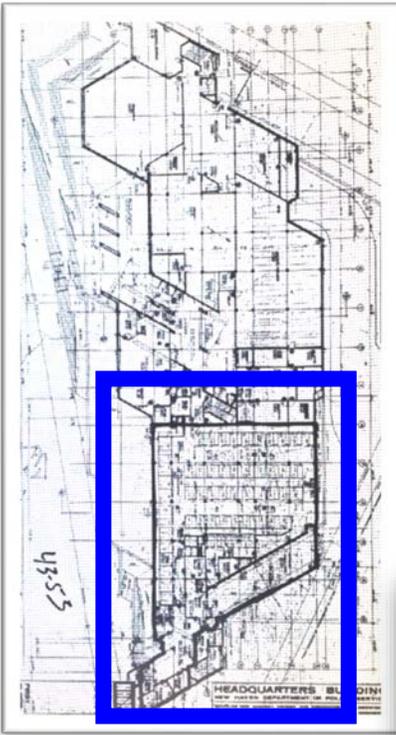
If New Haven were to live up to its values and truly honor the safety and dignity of its residents, it would seek to do much more. Connecticut too has a long way to go to adopt a "care first, jail last" approach and strategy. New Haven could seek to be a state and national leader in creating best practice standards for police detention, custody, and holding cells, including by eliminating them in all but absolute cases of necessity.

Thank you for your consideration of my request to address these issues and a visit to the holding cells by community leaders.

Sincerely,

A handwritten signature in blue ink that reads "Kevin Keenan". The signature is written in a cursive, flowing style.

Kevin Keenan
646-939-2425



ONE UNION AVENUE, NEW HAVEN, CT

NEW HAVEN POLICE DEPARTMENT HEADQUARTERS

DETENTION AREA – 55 CELLS, APPROX. CAPACITY 100 PEOPLE

POLICE CHIEF OTONIEL REYES

