

Information Paper on
24 October 2000

**Panel on Security
of the Legislative Council**

**Agenda Item IV - Establishment of a Reciprocal Notification
Mechanism between the Mainland Public Security Authorities
and the Hong Kong Police**

Introduction

This paper informs Members of the detailed arrangements on the establishment of a reciprocal notification mechanism between the Mainland Public Security Authorities and the Hong Kong Police Force in respect of residents of the other side who have been detained/arrested, or died of unnatural deaths.

Background

2. In view of public concern about Hong Kong residents detained in the Mainland, and after consultations with the Security Panel, we made a proposal to the Mainland authorities in 1999 on the setting up of a notification mechanism. Detailed discussions between the two sides followed and consensus was reached after full and earnest talks. On 13 October 2000, Mrs Regina Ip, Security for Security and Mr. Liao Xiaocun, Director of the Office of Hong Kong, Macao and Taiwan Affairs of the Ministry of Public Security, signed the “Arrangements on the Establishment of a Reciprocal Notification Mechanism between the

Mainland Public Security Authorities and the Hong Kong Police” at Beijing. The agreed arrangements will take effect from 1 January 2001.

The Reciprocal Notification Mechanism

3. The reciprocal notification mechanism is established in accordance with the principle of ‘one country, two systems’ and on the basis of mutual respect, mutual support and non-intervention with each other’s law enforcement activities. The mechanism is an administrative arrangement to be implemented on the basis of mutual respect for the relevant laws of both parties. Since it is only an administrative arrangement, it will under no circumstances affect the legal rights enjoyed by the person to whom criminal compulsory measure has been applied or prosecution instituted.

4. According to the agreed arrangements, the Mainland authorities and the HKSARG will notify each other on the criminal prosecution of, or the imposition of criminal compulsory measures against suspected offenders, as well as the unnatural deaths of residents of the other party.

Notification Channels

5. The Liaison Officer of the Ministry of Public Security (hereafter referred to as “the Mainland Notification Unit”) shall be responsible for making notifications to the Liaison Bureau of the Hong Kong Police

Force, while the latter (hereafter referred to as “the Hong Kong Notification Unit”) shall be responsible for making notifications to the Mainland Notification Unit. For cases involving the Mainland customs authorities, notifications shall be made to the Hong Kong Notification Unit direct by the Anti-Smuggling Criminal Investigation Bureau of the General Administration of Customs as assigned by the Ministry of Public Security.

Arrangements Concerning Mainland Side’s Notifications to Hong Kong

Scope of notification

6. Matters which the Mainland Notification Unit should notify the Hong Kong Police include the imposition of criminal compulsory measures on Hong Kong residents by the public security authorities (including customs authorities in respect of investigations into smuggling activities), and unnatural deaths of Hong Kong residents in the Mainland. According to the criminal laws in the Mainland, “compulsory measures” include summons for questioning, putting on bail, residence under surveillance, detention and arrest.

Contents of Notification

7. Under the arrangements, a notification made by the Mainland Notification Unit to the Hong Kong Notification Unit should include

personal particulars of the detainee, information on the date of detention; suspected offence; the type of compulsory measure taken; the place where the compulsory measure is taken, the enforcement agency; the officer-in-charge of the case and the name, address and telephone number of the detainee's family members.

8. A notification in respect of unnatural death should include personal particulars of the deceased, information on the time and place of death; cause of death and the name, address and telephone number of family members of the deceased.

Arrangements Concerning HKSAR's Notifications to the Mainland

Scope of notification

9. Matters which the Hong Kong Notification Unit should notify the public security authorities in the Mainland include criminal prosecutions instituted by the Hong Kong Police Force, Customs and Excise Department and Immigration Department against Mainland residents and unnatural deaths of Mainland residents in Hong Kong.

Contents of notification

10. Under the arrangements, a notification made by the Hong Kong Notification Unit to the Mainland Notification Unit concerning criminal prosecution and appearance in court of Mainland residents should include personal particulars of the detainee, information on the

date of detention; suspected offence; place of detention; the detention department/unit; and the court case number. The agreed notification arrangements have been carefully formulated in order to comply with the Personal Data (Privacy) Ordinance. The above mentioned information will only be provided to the Mainland Notification Unit after they have been made public in open court proceedings. Additional information including details on the person's travel document and the name and address of family members of the Mainland resident under prosecution will not be disclosed to the Mainland authorities without the written consent of the person concerned.

11. A notification in respect of unnatural death of Mainland residents in Hong Kong should include the same information as listed in paragraph 8 above in respect notifications of unnatural deaths of Hong Kong residents made by the Mainland side.

Other Related Arrangements

12. The two sides agreed that if there is any case or item which has not been notified under the arrangements, or if there is any doubt, either party shall be free to make enquiry. Notifications and enquiries should be made and replied to as soon as practicable. The arrangements may be reviewed regularly through discussion and agreement by both parties.

Progress on Individual Cases

13. As at the end of August, the number of outstanding cases of requests for assistance is 85, which involves 88 Hong Kong residents. Of these, 48 persons are under detention/ trial/ bail in the Mainland while the remaining 40 are serving prison sentence. These cases are mainly related to fraud, corruption and smuggling offences. Summary statistics are shown at Annex.

14. We attach great importance to every request for assistance from Hong Kong residents detained in the Mainland or from their family members. We will expeditiously refer any requests or appeal from family members of the detained Hong Kong residents to the relevant Mainland authorities; closely monitor the development of each and every case and take further follow-up actions as and when necessary. Between 1 July 1997 and the end of August 2000, a total of 80 Hong Kong residents had been released and returned to Hong Kong. Ten Hong Kong residents were released in the three month period from June to August 2000.

15. With the establishment of the notification mechanism, we will be able to promptly inform the family members concerned of the situation of the detainees in the Mainland. With the help of the Beijing Office, we will continue to render every possible assistance to individual cases.

Security Bureau

19 October 2000

Hong Kong Residents Detained in the Mainland
(Situation as at 31.8.2000)

	No. of cases	No. of persons
Before Reunification		
Total brought to attention of the Administration	Not maintained	Not maintained
Total brought forward upon Reunification	9	10
After Reunification		
New cases brought to attention of the Administration	160	167
Released / returned to Hong Kong	70	73
Cases not further pursued on request of subject/family members	8	9
Outstanding	82	85
Overall		
Carry forward from before Reunification + New cases received after Reunification	169	177
Released / returned to Hong Kong between 1.7.97 & 31.8.00	76#	80*
Cases not further pursued on request of subject/family members	8	9
Outstanding cases as at 31.8.00:-		
(i) Under detention / trial / bail	48	48
(ii) Serving prison sentence	37	40

Note : # including 6 cases brought forward from before reunification
 * including 7 persons brought forward from before reunification