

Legislative Council Panel on Home Affairs

Visit System of the Justices of the Peace

Introduction

At the Subcommittee meeting on Prison (Amendment) Rules 2000, Immigration (Vietnamese Migrants) (Detention Centres) (Amendment) Rules 2000 and Probation of Offenders (Amendment) Rules 2000, the Administration undertook to study the proposal of further enhancing impromptu visits by Justices of the Peace (JPs) to correctional institutions; and to consider the feasibility of allowing more than two JPs to visit an institution at one time. This paper sets out the Administration's response to the proposal.

Objective of the JP visit system

2. The main function of JPs, as set out under section 5 of the Justices of the Peace Ordinance (Cap. 510), is to visit any custodial institution or detained person. The requirements for conducting visits to the different institutions are specified in various pieces of legislation governing the administration of the institutions concerned. The general objective of the JP visit programme is to ensure that the rights of the inmates are safeguarded through a system of unannounced visits and receipt of complaints by visiting JPs. Currently, JP visits are surprise in nature as the date and time of such visits are not made known to the institutions concerned beforehand.

3. For JP visits to correctional institutions under the management of the Correctional Services Department (CSD), the Prisons Ordinance (Cap. 234) and Part III of the Prison Rules provide for the appointment of visiting justices by the Chief Executive and the detailed arrangements for the JP visits, including the frequency of visits, the pairing and notification arrangements, the powers of visiting justices, the inspection and reporting requirements regarding the visits, etc. By virtue of Prison Rule 117, an officer not below the rank of Chief Officer of CSD shall accompany the visiting justices throughout their visits. Operational arrangements for these visits are currently administered by the JP Secretariat of the Administration Wing (JP Secretariat) in accordance with the law.

Additional visits to Correctional Institutions by JPs

4. The Administration Wing of the Chief Secretary for Administration's Office conducted a review of the JP visit system in 1999 and sought the views of JPs on proposals to further improve the system. A number of measures have since then been implemented. These include: enhancing the surprise element of visits to prisons by reiterating to the visiting JPs the requirement to keep the date and time of their visit in confidence and not to give advance notice to the prisons to be visited; allowing the JPs more time to provide comments and feedback after each visit; and requiring institutions to provide regular reports on outstanding complaints made by inmates so that visiting JPs may follow up on such cases when they visit these institutions. Non-official JPs may also visit specified institutions of their own preference on a more regular basis to facilitate their effective monitoring of the management of these institutions.

5. To allow JPs more flexibility in the choice of their visiting partners, the Administration also effected legislative amendments in October 2000 to enable Non-official JPs to exercise their choice of pairing with either an Official JP or another Non-official JP for visits to institutions. Following the major review in 1999, necessary flexibility and effective safeguards are incorporated into the statutory framework of the JP visit system to further enhance the independent monitoring function by visiting JPs whilst maintaining the security standard particularly of the penal institutions.

6. Under the existing framework, therefore, additional JP visits over the minimum prescribed requirement (e.g. once every fortnight to a prison and once a month to a hostel as set out in Prison Rule 222) can be arranged.

7. In line with our policy of ensuring transparency and credibility of the JP visit programme, all JP visits, whether regular or additional, would be made subject to the same statutory standard, including the pairing requirement as set out in Prison Rule 222. The JPs appointed as visiting justices should be given the authority and hence able to exercise the full range of inspection and visiting duties under the Prison Rules. Prior and simple arrangements by the JP Secretariat so as to give effect to the statutory JP visits is therefore necessary.

8. In the event that a request for an additional visit were received at very short notice (e.g. when the JPs were already at the door of a particular institution that they wish to visit), standing administrative arrangements are in place for the JP Secretariat to process the request expeditiously. It will make special arrangements to make the visit a statutory JP visit in an effective manner, and ensure that CSD officer at the prescribed rank will accompany the JPs during visit as required under the Prison Rules.

9. Notwithstanding the above, JPs are advised to conduct their unannounced visits during the daytime when the justices would be able to inspect the full programme of activities carried out by inmates of an institution. Visiting justices who choose to conduct their visits at other times may not be able to inspect the inmates in their normal activities and hence cannot fulfil their full range of inspection duties as required under the legislation.

10. Alternatively, a JP may choose to visit a CSD institution as a person of respectability, given the permission of the Commissioner of Correctional Services under Prison Rule 77(9).

Visits to Correctional Institutions by more than two JPs

11. Prison Rule 222 requires that two JPs shall, in company if possible, visit an institution according to the prescribed frequency. The Rule reflects the policy of providing an independent and objective channel of redress whilst ensuring the effective operation of correctional programmes within the penal institutions under the management of CSD. While we do not see the merit of putting a group of JPs for one visit only, we will consider any special request in the light of the particular circumstances of the case.

Administration Wing
Chief Secretary for Administration's Office
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