

**Proposal on the Provision of Legal Aid to Hong Kong Residents  
Detained outside Hong Kong**

The Immigration Department (ImmD) has published a leaflet entitled “Guide to Assistance Services to Hong Kong Residents in the Mainland” setting out the assistance available to Hong Kong residents in distress in the Mainland and other relevant information. To enhance public’s understanding of the criminal procedures in the Mainland, the Security Bureau and the Beijing Office (BJO) have respectively published two booklets entitled “Criminal Procedure Law in the Mainland” and “Criminal Law and Application of Regulations in the Mainland Relating to Detention and Arrest”. Such information can help Hong Kong people to understand the relevant law and regulations in the Mainland to protect their own rights. The aforesaid leaflet and booklets are obtainable from ImmD or BJO and available on the relevant departments’ websites.

It is noted that pursuant to Article 34 of the Criminal Procedure Law of the People’s Republic of China, if a case is to be brought before the court and the defendant involved has not engaged anyone to be his defender due to financial difficulties or other reasons, the People’s Court may designate a lawyer who provides legal aid services to defend his case. If the defendant is blind, deaf or mute, or if he is a minor, and has not engaged anyone to be his defender, the People’s Court should designate a lawyer who provides legal aid services to defend his case. If the defendant may be sentenced to death penalty and yet he has not engaged anyone to be his defender, the People’s Court should designate a lawyer who provides legal aid services to defend his case.

As for consular protection and services outside Chinese territory, ImmD has published a leaflet entitled “Guide to Consular Protection and Services Outside Chinese Territory” to provide relevant information. The leaflet is obtainable from ImmD and available on the relevant department’s website.

Regarding the proposal to provide cross-boundary legal aid to Hong Kong residents detained outside Hong Kong for legal representation in courts, Members may be aware that Hong Kong's legal aid service is an integral part of Hong Kong's legal system. Its purpose is to ensure that no one with reasonable grounds for taking legal action in Hong Kong is prevented from doing so because of a lack of means. Therefore, in accordance with the Legal Aid Ordinance and the Legal Aid in Criminal Cases Rules, the scope of legal aid is confined to legal proceedings taking place in the courts of Hong Kong. At present, the HKSAR Government has no intention to change the existing policy. Furthermore, as the legal system of Hong Kong is different from that of the Mainland, and that the law enforcement agencies and judiciary of the two places have no affiliation to each other, there will be practical difficulties in areas like assessment and monitoring, if cross-boundary legal aid for legal representation in courts is to be provided. Providing cross-boundary legal aid and advice to Hong Kong residents detained outside Hong Kong will also give rise to additional financial burden.

Security Bureau  
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