

香港司法機構
司法機構政務處



JUDICIARY ADMINISTRATION
JUDICIARY
HONG KONG

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29 September 2006

Clerk, Public Accounts Committee
Legislative Council
8 Jackson Road
Hong Kong
(Attn.: Ms. Dora Wai)

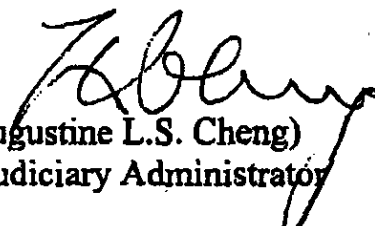
Dear Ms Wai,

**The Director of Audit's Report on
the results of value for money audits (Report No. 46)**

Chapter 1 – Collection of Fines Imposed by Magistrates' Courts

I refer to your letter of 12 June 2006 and enclose a progress report on the implementation of the Audit recommendations in respect of the Judiciary Administration.

Yours sincerely,


(Augustine L.S. Cheng)
for Judiciary Administrator

Encl

c.c. Deputy Director of Public Prosecutions
Commissioner of Police
Deputy Commissioner of Police (Operations)
Commissioner for Transport
Secretary for Financial Services and the Treasury (Attn.: Miss Amy Tse)
Director of Audit

Director of Audit's Report No. 46: Chapter 1
Collection of fines imposed by Magistrates' Courts

Progress Report with Further Information
to the Public Accounts Committee on Implementing
the Audit Recommendations concerning the Judiciary Administration

Background

1. Various kinds of fines are imposed by law and a great majority of fines arise from cases heard in the Magistrates' Courts. Payment of the fines is required to be made at the Accounts Offices of the Magistrates' Courts.
2. The Judiciary Administration operates a computerized Case and Summons Management System (CASEMAN) for managing and processing cases heard in Magistrates' Courts. It records case details, hearing results and fine payments. It is therefore capable of producing data and information in relation to the payment of fines which prosecuting departments/agencies may find useful in discharging their responsibilities in the collection of fines, and the Judiciary Administration would consider providing such relevant information and appropriate assistance to the prosecuting departments/agencies on request. In this regard, the Director of Audit made certain recommendations concerning the Judiciary Administration and the Judiciary Administration has been considering how these recommendations could be taken forward.

Director of Audit's Report No. 46

Imposition and Settlement of Fines: Paragraph 2.6

3. Audit has recommended that the Judiciary Administrator should consider *issuing notices to offenders who are allowed to pay fines within a period* to inform them of the amount and the due date of fines, and the consequences of non-payment.
4. The Judiciary Administration agrees with the Audit recommendation. Since 1 June 2006, payment notices have been issued to offenders who are allowed time to pay fines or to pay fines by instalments.

Imposition and Settlement of Fines: Paragraph 2.16

5. Audit has recommended that the Judiciary Administrator should, in consultation with *the initiating departments, consider ways to make*

better use of the CASEMAN for the provision of information to manage the collection of fines.

6. As the responsibility of collecting outstanding fines rests primarily with respective government prosecuting agencies, the Judiciary Administration will not comment on what better ways may be taken by them to manage the collection of fines. However, the Judiciary Administration operates the CASEMAN for managing and processing cases heard in Magistrates' Courts. The Judiciary Administration is prepared to provide such relevant information to the prosecuting departments/agencies on request.

7. The Judiciary Administration has met with the CASEMAN user departments and agencies, requesting them to propose ways to make better use of the CASEMAN and to set out their requirements.

8. Out of the 31 CASEMAN users, nine have suggested ways to make use of the CASEMAN information. A list of these nine users is attached. In summary, these users have requested the Judiciary Administration to generate regular reports to them on outstanding fines and warrants.

9. The Judiciary Administration has examined the feasibility of making enhancements to the CASEMAN so as to generate the reports requested by the respective departments. The Judiciary Administration has found such enhancements feasible, and the necessary work will take about two months to complete. The Judiciary Administration would start work on enhancing the system in October 2006, with a view to providing the first batch of reports to these CASEMAN user departments by the end of 2006.

Imposition and Settlement of Fines: Paragraph 2.17

10. Audit has recommended that the Judiciary Administrator and the D of J should consider ***ways to enhance performance monitoring and reporting in respect of the collection of fines.***

11. The Judiciary Administration has introduced performance indicators since 1 September 2006 in enhancing performance and monitoring reporting on collection of fines. The target completion times are set on:

- (a) submitting warrants to Magistrates for action within 7 working days upon receipt of the same;

- (b) subsequent forwarding the warrants to the Court Orders Section for execution within 3 working days after signing of the same by the Magistrates;
- (c) requesting further information from initiating prosecuting agencies after unsuccessful execution attempts within 7 working days upon the Magistrates' directions; and
- (d) making further attempts after supply of additional information within 7 working days upon the Magistrates' directions.

Action on Overdue Fines: Paragraph 3.16 (a)

12. Audit has recommended that the Judiciary Administrator should, for offences other than moving offences and parking contraventions, keep under review and, where appropriate, consider ***shortening the 14-day grace period between the due date of fines and the generation of distress warrants and non-payment warrants*** by the CASEMAN.

13. The Judiciary Administration has reviewed the payment patterns of the defaulters of 2003-04, 2004-05 and 2005-06 to assist it in assessing the possible benefit of the proposed shortening of the 14-day period.

14. The findings are:

- (a) Out of 152,734 cases from April 2003 to March 2004, 89% of the cases (i.e. 135,299 cases) were paid on or before the due dates. Out of the remaining 17,435 late payment cases, 66% (i.e. 11,485 cases) were made before the expiry of the 14-day period after the due dates;
- (b) Out of 161,004 cases from April 2004 to March 2005, 88% of the cases (i.e. 141,695 cases) were paid on or before the due dates. Out of the remaining 19,309 late payment cases, 63% (i.e. 12,211 cases) was made before the expiry of the 14-day period after the due dates; and
- (c) Out of 157,351 cases from April 2005 to March 2006, 90% of the cases (i.e. 141,354 cases) were paid on or before the due dates. Out of the remaining 15,997 late payment cases, 77% (i.e. 12,318 cases) was made before the expiry of the 14-day period after the due dates.

15. In the light of the payment patterns of the fines for the period from April 2003 to March 2006, the Judiciary Administration is of the

view that the 14-day grace period between the due dates of fines and the generation of distress warrants and non-payment warrants by the CASEMAN should be maintained since a majority of defendants who did not pay the fines on or before the due had paid up during the 14-day grace period. The Judiciary Administration will, however, keep under review the payment patterns on an annual basis to see if there are grounds for shortening the grace period should there be significant changes to the patterns.

Action on Overdue Fines: Paragraph 3.16 (b)

16. Audit has recommended that the Judiciary Administrator should ***closely monitor the progress of the General Offices in processing distress warrants and non-payment warrants*** (e.g. setting a target on the time allowed for the submission of cases to magistrates for consideration).

17. Without repeating paragraph 11 above, the Judiciary Administration has reviewed the distress warrants processing progress and set a target time for submission of appropriate cases to Magistrates for consideration since 1 September 2006.

Time Lag in Obtaining Information from Prosecuting Departments: Paragraph 4.15

18. Audit has considered that it is reasonable to expect that the prosecuting departments should respond promptly to the General Offices on the additional information requested. But it has also stated that there is a need for the ***General Offices to follow up with the prosecuting departments in case the replies are not received within a reasonable time.***

19. The Judiciary Administration agrees with Audit that the prosecuting departments/agencies should respond promptly to requests, and urge that this point should be made to the prosecuting departments/agencies. As far as the Judiciary Administration is concerned, we will follow up with the prosecuting departments/agencies concerned if replies are not received after two months from the date of the request for additional information.

Execution of Distress Warrants by the Court Orders Section: Paragraph 4.18 (a)

20. Audit has recommended that the Judiciary Administrator should ***estimate the cost of execution*** of distress warrants for assessing the cost-effectiveness of the work of the bailiffs.

21. As indicated in the last reply, the Judiciary Administration has started work in this regard and will provide the estimate in November 2006.

Execution of Distress Warrants by the Court Orders Section: Paragraph 4.18 (b)

22. Audit has recommended that the Judiciary Administrator should consider *setting a target time on the execution of distress warrants by bailiffs*, particularly the target time of the first attempts.

23. The Judiciary Administration has accepted the recommendation. With effect from 1 September, the Judiciary Administration has set a target time of 10 working days for making the first attempt of the execution of distress warrants after receipt of the warrants by the Court Orders Section.

Execution of Distress Warrants by the Court Orders Section: Paragraph 4.18 (c)

24. Audit has recommended that the Judiciary Administrator should where the execution of a distress warrant relating to a company defaulter has been unsuccessful, require the General Offices to: (i) specify clearly in the memorandum to the prosecuting departments that they should *provide the current business address of the company defaulter* within a reasonable time; and (ii) forward the information obtained from the prosecuting departments to the Court Orders Section *for further attempt* of the execution of the distress warrant at the address where the company defaulter is conducting business.

25. In relation to Paragraph 4.18(c)(i) of the Report, the current memorandum to the prosecuting departments has been revised since 1 June 2006 to specify clearly the provision of the current business address of the company defaulter.

26. In relation to Paragraph 4.18(c)(ii) of the Report, the Judiciary Administration agrees to the taking of follow-up action after receipt of further information from the prosecuting departments on further execution attempts but, as a prerequisite, such further attempts have to be made in accordance with the Magistrates' directions, if any.

Execution of Distress Warrants by the Court Orders Section: Paragraph 4.24

27. Audit has recommended that the Judiciary Administrator should *review the existing practice that a bailiff is accompanied by a possession*

guard when attempting the execution of distress warrants relating to offences other than parking contraventions.

28. The Judiciary Administration has reviewed the practice and decided that a bailiff will not be accompanied by a possession guard in normal circumstances when attempting the execution of distress warrants relating to offences other than parking contraventions. The revised practice came into operation on 3 July 2006.

Other Issues Relating to Fines Arising from Moving Offences and Parking Contraventions: Paragraph 6.14

29. Audit has recommended that the Judiciary Administrator should consider ***referring cases of dishonoured cheque payment*** for traffic fines to the Police ***for investigation and prosecution***.

30. The Judiciary Administration maintains that criminal investigations and prosecutions are matters for the Police. That said, the Judiciary Administration will ensure that cases of dishonoured cheques will be referred to the Police in accordance with their criteria. In this regard, the Judiciary Administration will provide the Police with pertinent information on the incidents of dishonoured cheques and the outstanding traffic fines concerned. Such information will be copied to the Transport Department which will inform the Police whether a vehicle licensing/transfer transaction has taken place after the purported payment.

Judiciary Administration

September 2006

CASEMAN User Departments which have requested for provision of information for managing collection of fines

1. Agricultural, Fisheries & Conservation Department
2. Environmental Protection Department
3. Food & Environmental Hygiene Department
4. Hong Kong Police Force
5. Inland Revenue Department
6. Companies Registry
7. Fire Services Department
8. Leisure & Cultural Services Department
9. Planning Department