

**For discussion
on 19 February 2008**

**Legislative Council Panel on Security
Civil Claims against Law Enforcement Agencies**

PURPOSE

This paper provides information, as requested by Members at the Panel Meeting held on 8 January 2008, on civil claims made against the law enforcement agencies (LEAs).

BACKGROUND

2. Members requested the following information :
 - (a) the number of civil claims relating to allegation of abuse of power made against the LEAs in the past five years, the results of such claims and the compensation amount; and
 - (b) the measures adopted by the Administration to prevent abuse of power by the LEAs.

CIVIL CLAIMS AGAINST LAW ENFORCEMENT AGENCIES

3. Civil claims are made against the LEAs under a variety of circumstances, e.g. departmental officers claiming damages for personal injuries sustained in the course of duty, claims for compensation for damage to vehicles or properties belonging to citizens arising from the execution of duties by the LEAs, external parties aggrieved by the action or inaction of the LEAs or their departmental officers claiming damages, etc. Some of these claims are lodged with the court direct, while others are generally lodged with the LEA concerned. The LEAs handle the claims on the advice of the Department of Justice. Where a civil claim relates to a case for which there are pending court proceedings, the LEA concerned will normally deal with the claim after the completion of the relevant criminal proceedings. If there is evidence that any departmental officer has contravened the law or committed any misconduct, the LEA concerned will pursue prosecution or disciplinary action as appropriate regardless of the outcome of any civil claims arising from the action or inaction of the LEA member concerned.

4. In the past five years from 2003 to 2007, a total of 52 cases of civil claims were made against the LEAs (including Hong Kong Police Force, Fire Services Department, Immigration Department, Correctional Services Department and Customs and Excise Department) with allegations of improper exercise of power by the departments (examples include assault, wrongful arrest, unlawful detention, etc). The **Annex** sets out the number of claims and their results by LEA, and the total compensation amount.

5. The **Annex** has included all relevant civil claims based on the allegations made by the claimants. We should point out that among those cases involving payment of compensation by the LEAs, some of them were settled without court intervention and the settlement was reached by mutual consent. Such settlement should not be taken as admission of the allegation or the related liability by the LEA concerned.

MEASURES TO PREVENT ABUSE OF POWER BY LAW ENFORCEMENT AGENCIES

6. LEA officers must perform their duties and exercise their powers within the authority stipulated in the relevant legislation and departmental instructions. The LEAs attach importance to full compliance of their staff with the relevant statutory provisions and departmental instructions, and have put in place various measures to prevent the improper exercise of powers by their staff. The key measures are highlighted in paragraphs 7 to 11 below.

(a) Formulation of internal guidelines, manuals and codes of practice

7. In addition to the applicable statutory provisions, the LEAs have drawn up internal guidelines, manuals, codes of practice and/or circulars to provide more detailed instructions to their staff on the proper exercise of their powers and proper execution of their duties. These departmental instructions are readily accessible, in hard copy or electronic version, to all relevant officers with delegated authority. They are kept under review and updated by the LEAs as and when necessary to take account of statutory requirements, operational needs and service enhancement.

(b) Training for officers

8. The LEAs provide training to their staff at different ranks for them to familiarize themselves with their duties and responsibilities, as well as the exercise of the relevant powers. The LEAs provide comprehensive

induction training to all new recruits to enable them to fully understand their responsibilities as well as the applicable laws and internal guidelines. The training impresses on the new recruits the importance of full compliance with the law and departmental guidelines in carrying out their duties, and that improper exercise of their power may have disciplinary or legal repercussions. Refresher training and subject-specific training are provided to officers to bring them up to date with the latest changes to the legislative regime and new or revised departmental guidelines. Integrity, professionalism, respect for the rule of law and the rights of citizens are core values upheld by all the LEAs. These values are promoted to LEA officers at all ranks through various channels on an ongoing basis so as to enhance their acceptance and practice.

(c) Effective staff supervision on officers

9. Effective day-to-day staff supervision helps ensure that the LEA officers exercise their powers properly. It is a duty of supervisors at all ranks to monitor and steer the conduct and performance of staff under their charge, to provide timely guidance to them, and to stay alert to signs of malpractice in the workplace so that follow-up actions could be taken in a timely and decisive manner.

(d) Complaint system

10. All LEAs have put in place mechanisms for handling complaints from members of the public against the departments or their staff, including any allegations of improper exercise of power, promptly and impartially. These complaint mechanisms do not just provide avenues for redress for the aggrieved party. They also allow the management of the LEAs to monitor and identify conduct that has led to complaints, and to prevent recurrence of similar behaviour through training and experience-sharing among their staff.

(e) Disciplinary and criminal sanctions

11. An LEA officer who has exercised his powers improperly is subject to disciplinary action, and criminal sanction as well if he is in contravention of any laws. These sanctions have a strong deterrent effect and effectively raise the awareness of LEA officers to fully comply with the law in executing their duties.

**Civil claims made against law enforcement authorities
with allegations of improper exercise of power
(from 2003 to 2007)**

| | Cases discontinued or withdrawn voluntarily by claimant, and cases with no follow-up by claimant | Cases dismissed by the court | Cases settled with compensation paid* | On-going cases |
|----------------------------------|--|------------------------------|---------------------------------------|----------------|
| Hong Kong Police Force | 10 | 8 | 8 | 15 |
| Fire Services Department | 0 | 0 | 0 | 0 |
| Immigration Department | 3 | 2 | 2 | 1 |
| Correctional Services Department | 1 | 0 | 1 | 0 |
| Customs and Excise Department | 0 | 1 | 0 | 0 |

Total compensation amount: \$4,588,000

* Some cases were settled in court, while others were settled out-of-court or without court intervention.