

政府總部
香港下亞厘畢道



GOVERNMENT SECRETARIAT
LOWER ALBERT ROAD
HONG KONG

本函編號 OUR REF: SBCR 5/57/581/76 Pt. 4

來函編號 YOUR REF:

Tel: 2810 2632
Fax: 2810 7702

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By Fax (5 pages)
(Fax: 2509 0775)

Mr Raymond Lam
Clerk to Panel on Security
Legislative Council
3/F Citibank Tower
3 Garden Road
Central
Hong Kong

Dear Mr Lam,

Panel on Security

Civil claims against law enforcement agencies

The Panel on Security discussed the captioned subject at its meeting held on 10 April 2008. We set out below the Administration's response to the requests raised by Members during the discussion.

Statistics on civil claims made against individual members of the law enforcement agencies involving allegation of improper use of power

2. According to available records, in the past five years, members of the public lodged a total of 13 civil claims against individual members of law enforcement agencies (LEAs) in relation to allegations of improper use of power. Under the existing practice, civil claims lodged against individual members of LEAs involving allegation of improper use of power in the course of duty are handled by the Department of Justice with instructions from the respective LEAs. These cases have already been included in the Annex to the Administration's Paper (LC Paper No. CB(2)1060/07-08(05)).

Breakdown of cases settled with compensation paid between those settled in court and those settled out-of-court

3. Among the 11 cases settled with compensation paid as shown in the Annex to the Administration's Paper (LC Paper No. CB(2)1060/07-08(05)), nine of them were settled out-of-court, one was settled before any legal proceedings and one was settled in the Small Claims Tribunal.

Summary of the allegations involved in the 11 cases settled with compensation paid in the past five years

4. The requested information in relation to the 11 cases shown in the Annex to the Administration's Paper (LC Paper No. CB(2)1060/07-08(05)) is set out at the Annex. We should point out that the compensation paid in settlement of the case is not necessarily related to the allegations of improper use of power, and that the settlement should not be taken as admission of the allegations or the related liability of the LEAs concerned.

Civil claims involving allegations of improper use of powers that were settled in court with payment of compensation in the past 10 years

5. According to the Administration's records disposal policy, records relating to settlement of claims made against government bureaux/departments are normally destroyed three years after a case was settled. For the 11 cases shown in the Annex to the Administration's Paper referred above (compiled on the basis of records still available), nine of them were settled out-of-court, one was settled before any legal proceedings and one was settled in the Small Claims Tribunal.


Reasons for incorporating a confidentiality clause in each civil claim settled out-of-court with payment of compensation

6. Whether a confidentiality clause would be included in the settlement terms of a particular case is a decision made on a case-by-case basis after taking into consideration all relevant factors, including legal advice from the Department of Justice. As the legal advice obtained by the LEAs on individual litigation cases is subject to legal professional privilege, it would not be appropriate to disclose the detailed consideration underlying the decision in each particular case. The confidentiality

clause is included in the settlement terms only with the agreement of both parties.

Yours sincerely,



 (Apollonia Liu)
for Secretary for Security

Summary of the 11 cases settled with compensation paid
as shown in the Annex to the Administration Paper of February 2008 (LC Paper No. CB(2)1060/07-08(05))

S/N	Brief Description of Incident / Allegations made in the Claim	Results of Claims
Hong Kong Police Force		
1	The Claimant claimed against the Police, alleging assault by the Police.	Out-of-court settlement
2	The Claimant alleged that he was assaulted by three Police officers during a raid on a disco.	Out-of-court settlement
3	The Claimant alleged that he was assaulted by the Police when he was arrested. The Claimant lodged a claim for damages arising from the engagement of legal representative and daily wages forgone.	Damages awarded by the Small Claims Tribunal
4	The Claimant alleged that she was wrongfully arrested by the Police.	Compensation made before any legal proceedings
5	The Claimants alleged that they were wrongfully arrested, detained and assaulted by the Police.	Out-of-court settlement
6	The Claimant alleged that he was wrongfully arrested.	Out-of-court settlement
7	Some members of the public alleged that they were unlawfully detained and assaulted by the Police.	Out-of-court settlement

S/N	Brief Description of Incident / Allegations made in the Claim	Results of Claims
8	The Claimant, arrested by the Police for being an 'overstayer', alleged that she was assaulted by the Police.	Out-of-court Settlement
<u>Immigration Department</u>		
9	The Claimant was detained pending deportation and subsequently put on recognizance. The Claimant then raised for the first time that he was Chinese by descent and should enjoy the right of abode in Hong Kong. After his permanent resident status was established, he claimed for damages on false detention, loss of earnings and aggravated damages.	Out-of-court settlement
10	7 Vietnamese migrants who had applied for voluntary repatriation to Vietnam claimed damages for unlawful detention as they were required to act as defence witnesses and to give evidence in court in a murder case during the period of their detention.	Out-of-court settlement
<u>Correctional Services Department</u>		
11	The subject inmate died in legal custody in Siu Lam Psychiatric Centre.	Out-of-court settlement