

政府總部
香港下亞厘畢道



GOVERNMENT SECRETARIAT
LOWER ALBERT ROAD
HONG KONG

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By Fax (3 pages)
(Fax: 2509 0775)

18 February 2008

Mrs Sharon Tong
Clerk to Panel on Security
Legislative Council
3/F Citibank Tower
3 Garden Road
Central
Hong Kong

Dear Mrs Tong,

Panel on Security
Searching of detainees by the Police

Thank you for your letter dated 21 December 2007, informing the Administration of the issues that the LegCo Panel on Security (the Panel) requested the Police to cover in their two-stage review of the existing practices regarding the searching of detainees.

As we advised Members of the Panel earlier, notwithstanding the hearing of the Lee Tung Street court case scheduled for July 2008, the Police have undertaken to review in the first instance to see what immediate measures they can introduce to improve on their existing practices regarding the searching of detainees without jeopardizing the court proceedings. Upon the conclusion of all proceedings in respect of the afore-mentioned court case, the Police will consider further whether additional measures are warranted.

In the course of the above two-stage review, the Police will consider how best to address the duty of care to a person to be detained and their responsibility to protect the dignity of the person to be searched. The Department of Justice will advise on any legal issues arising during the

review, particularly as regards the need to strike a balance between effective law enforcement and the protection of individual's rights and dignity. The Force will also take into account the views and suggestions put forward by Members on various occasions regarding the searching of detainees by the Police, including those set out in your recent letter.

The Police will report on the outcome of the first stage of the review at the Panel meeting to be held on 4 March 2008. We wish to take this opportunity to offer some preliminary observations on the matter.

- (a) Members' request that the Police's review should cover the criteria for conducting "strip search" of detainees

The Police or their guidelines do not have such terminology as "strip search" nor do the Force provide procedures for officers to conduct "strip search". The scope of a search of a detainee is a matter of professional judgement of the responsible officer who authorizes it, and it depends on the need and prevailing circumstances at the time when the search is conducted, having regard to the Police's duty of care towards the detainee and others.

- (b) Members' request for information on the number of cases of, and the reasons for, conducting "strip search" of detainees involving the removal of clothing worn next to the skin in 2006 and in the past three years

We have explained in LC Paper No. CB(2)451/07-08(03) the practical difficulty for the Police to retrieve the requested information from their computerised Communal Information System (CIS) or individual police officers' notebooks. During the visit by some LegCo Members to the Waterfront Police Station on 11 December 2007, the Police also illustrated with the demonstration of the operation of the CIS the practical problems to retrieve records on searches from the CIS. As undertaken in LC Paper No. CB(2)451/07-08(03), the Police are looking into the feasibility of refining the technical capability and functions of the CIS to facilitate the provision of statistics of this nature in future. We will explain at the Panel meeting on 4 March 2008.

- (c) Alleged cases of abuse of power mentioned by the deputations at the Panel meeting on 4 December 2007

The Police have taken note of the cases mentioned by the deputations

and are prepared to look into them in detail. As pointed out at the Panel meeting on 4 December 2007, the Police would appreciate more specific information, including identifying particulars and details of the incidents in question, from the involved parties before the Force could conduct proper investigation into the cases. We appeal again to any individuals aggrieved by any Police action to lodge complaints with the Complaints Against Police Office (CAPO), in case they have not done so, and provide detailed information to facilitate the Police's investigation. If a complainant is not satisfied with the result of CAPO's investigation, he may request a review of the investigation result.

Please help bring the above to the attention of Members. We look forward to explaining the outcome of the Police review and the measures to improve on the Police's existing practices regarding the searching of detainees at the Panel meeting on 4 March 2008.

Yours sincerely,



(Ms CHANG King-yiu)
for Secretary for Security