

For Information

**LEGISLATIVE COUNCIL
PANEL ON SECURITY**

**Refusal of Some Immigration Detainees to Collect Meals
at the Castle Peak Bay Immigration Centre**

Purpose

This paper aims to provide information on the recent incident at the Castle Peak Bay Immigration Centre (CIC) at the end of May 2008 where some immigration detainees refused to collect meals.

Detainees at the Castle Peak Bay Immigration Centre

2. As at the end of May 2008, there are some 390 detainees in the CIC who have been temporarily detained for different purposes under the laws of Hong Kong, e.g. for enquiry into their unlawful stay status, consideration of or pending the issue of a Removal or Deportation Order against them, or pending their removal by way of execution of a Removal or Deportation Order.

The Incident and the Request of the Detainees

3. On 28 May 2008, 18 detainees at CIC started to refuse to collect meals in protest of their detention. On 30 May, more detainees joined in and a total of 145 detainees refused to collect their dinner. The situation improved gradually from 31 May onwards. The number of detainees refusing to collect meals dropped to 34 on 3 June, and to only two on 6 June. All the detainees resumed to collect meals on 8 June. The detainees on protest were interviewed and all of them requested their release on recognizance.

Majority detained for three months or less

4. Among the 390 detainees at the CIC as at end of May 2008, over three-fourths (82%) had been detained for three months or less. 12% had been detained for over three months to six months; and 6% had been detained for over six months. Of the detainees who had been detained for over six months at CIC, 58% were having adverse criminal records associated with crimes of serious or violent nature, or abscondance records; 16% were undocumented or having false identities; 13% were re-offenders; and 13% were returned deportees.

5. Of the 390 detainees, 43% or 168 detainees¹ have lodged refugee claims with the United Nations High Commissioner for Refugees (“UNHCR”) Hong Kong Sub-Office and/or torture claims with the Immigration Department.

Refugee/torture Claims Not Leading to Detention

6. The fact that a person is a refugee, asylum seeker or torture claimant will not lead to that person’s prosecution or detention in Hong Kong. However, a person who is found to be in violation of our laws may however be liable to such enforcement actions. For example, persons who have entered Hong Kong illegally or breached their conditions of stay may be so liable under our law.

7. In the case of a person under detention in accordance with our laws who is also a refugee, asylum seeker or torture claimant, the Director of Immigration may on a case-by-case basis exercise his discretion to grant the person release on recognizance provided the circumstances of their individual cases so warrant. As at end of May 2008, the vast majority (around 96%) of the refugee and torture claimants are on recognizance.

¹ These 168 detainees represent less than 5% of the outstanding asylum seekers and/or torture claimants in Hong Kong. The numbers of new torture claims received are 186, 514 and 1 583 in 2005, 2006 and 2007 respectively. The number has increased by more than eight folds over the past two years from 15 new claims a month in 2005 to about 200 a month in 2008.

The Administration's Response and Measures Taken

8. Since the outbreak of the incident, the health of all detainees involved in the incident was closely monitored. Over the course of the incident, a total of four detainees were admitted to the sick bay of CIC for observation. Their health condition was satisfactory. All of them resumed eating and were subsequently discharged.

9. Since the outbreak of the incident, officers of the Immigration Department (ImmD) and the Correctional Services Department (CSD) had been providing counselling to the detainees involved and explained to them the relevant procedures relating to granting of recognizance. The circumstances of each case are different and thus consideration for granting release on recognizance in each case will be made on its individual merits. Recognizance requests are reviewed as and when necessary. Every renewed recognizance request will be considered afresh taking into account all relevant factors and the latest development. The detainees are kept informed of the case progress.

10. In considering whether to grant recognizance in lieu of detention, the ImmD will take into account the following:

- (a) whether the person concerned constitutes a security risk to the community;
- (b) whether there is any risk of the person absconding and re-offending; and
- (c) whether removal is not going to be possible within a reasonable time.

11. For those detainees whose removal cannot be effected within a reasonable time, they may be released on recognizance. However, some of them may not be able to fulfil the above-mentioned relevant circumstances for release on recognizance.

12. For those detainees who failed to produce any proof of identity, they are regularly persuaded and counselled to disclose their genuine identities or secure any document to establish their identities. Having verified their identities, release on recognizance or removal will be considered as

appropriate.

13. ImmD and CSD will continue to maintain close liaison with each other on the response and request from the detainees. Follow-up interviews and counselling services will be provided to the detainees as and when necessary.

Security Bureau
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