

(Translation)

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GOVERNMENT SECRETARIAT
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10 March 2011

By Fax (2 pages)
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Mr Raymond Lam
Clerk to Panel on Security
Legislative Council Secretariat
3/F, Citibank Tower
3 Garden Road
Central

Dear Mr Lam,

**Legislative Council Panel on Security
Police's Handling of Public Meetings and Public Processions,
and Prosecution of Assault on Police Officers**

We set out below our response to some Members' requests for further information at the meeting held on 11 November 2010.

Prosecution of assault on police officers and consultation with the Department of Justice (DoJ)

The Police have consulted DoJ in relation to prosecution of cases involving assault on police officers. Based on DoJ's advice, the Police issued internal guidelines on two provisions, i.e. section 63 of the Police Force Ordinance (Cap. 232) and section 36(b) of the Offences against the Person Ordinance (Cap. 212) in August 2010. The guidelines require police officers to give prudent and full consideration to the conduct and apparent purpose of the relevant person when committing the offence, whether weapon was used, the degree of potential harm that might be

caused to the police officer, the harm caused to the police officer, other consequences that could have flowed from the relevant conduct and previous criminal records of the relevant person, etc., before recommending prosecution under any of the provisions. The above guidelines also require all frontline officers to seek legal advice from DoJ beforehand if they recommend proceeding with a charge pursuant to section 36(b) of the Offences against the Person Ordinance (Cap. 212).

Involvement in other offences of persons charged with assault on police officers

The number of persons prosecuted under section 63 of the Police Force Ordinance (Cap. 232) in 2008, 2009 and 2010 (from January to September) is 160, 131 and 121 respectively.

On the other hand, the number of persons prosecuted under section 36 of the Offences against the Person Ordinance (Cap. 212) in 2008, 2009 and 2010 (from January to September) is 288, 246 and 150 respectively. The three sub-sections under section 36 are: section 36(a) "assaults any person with intent to commit an arrestable offence"; section 36(b) "assaults, resists, or wilfully obstructs any police officer in the due execution of his duty or any person acting in aid of such officer"; and section 36(c) "assaults any person with intent to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence". The Police do not maintain a breakdown of prosecution figures under each of the sub-sections. Neither do they maintain statistics of the involvement in other offences of persons charged with assault on police officers on each case.

Yours sincerely,

(Mrs Millie Ng)
for Secretary for Security

c.c.

CP

(Attn: Mr Peter Hunt)

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