

香港特別行政區政府
保安局



The Government of the
Hong Kong Special Administrative Region
Security Bureau

香港添馬添美道 2 號

2 Tim Mei Avenue, Tamar, Hong Kong

本函檔號 Our Ref.: SBCR 1/1805/13

來函檔號 Your Ref.:

電話號碼 TEL. NO.: 2810 2632

傳真號碼 FAX. NO.: 2877 0636

香港中區立法會道 1 號
立法會綜合大樓
人事編制小組委員會秘書
(經辦人：司徒少華女士)

司徒女士：

EC(2016-17)23
建議在香港警務處開設 1 個總警司常額職位
以領導網絡安全及科技罪案調查科

就朱凱迪委員 2017 年 2 月 21 日致人事編制小組委員會主席及保安局局長的信件，我們現覆如下：

(一) 警察權力

任何警務人員在行使法例賦予的執法權力時，均受現行法例和監察制度約束，這包括所有的刑事法例、《刑事訴訟程序條例》(第 221 章)、《警察(紀律)規例》(第 232A 章)、《防止賄賂條例》(第 201 章)、《個人資料(私隱)條例》(第 486 章)、《香港人權法案條例》(第 383 章)、反歧視法例以及普通法公職人員行為失當罪等。法律面前，人人平等。任何警務人員違反香港特區法律，均需負上刑責。

此外，警務人員的行為亦受兩層投訴警察制度架構所監管。所有投訴警察的個案，不論來源，均交由警務處投訴警察課處理及調查。根據《獨立監察警方處理投訴委員會條例》(《監警會條例》)(第 604 章)第 11 條，如警務處接獲的投訴關乎某警隊成員在當值或執行職務或其意是執行職務時的行為(無論他

是否有表露他本人屬警隊成員），而有關投訴亦符合《監警會條例》下須匯報投訴的其他條件，包括投訴由受到該警方行為直接影響的投訴人作出，不論相關指控是否涉及刑事成分，該投訴必須歸類為須匯報投訴，由投訴警察課負責調查，並根據《監警會條例》的法定要求，呈交調查報告予獨立監察警方處理投訴委員會審核。

至於情報蒐集或搜證方面，警方必須依法並按照既定的程序或規則行事，其進行的秘密行動亦受《截取通訊及監察條例》（第 589 章）規管。《截取通訊及監察條例》已清楚界定執法機關須獲授權才可進行的截取通訊或秘密監察行動。無論執法機關獲取情報的技術為何，若有關行動可構成《截取通訊及監察條例》所定義的截取通訊或秘密監察行動，有關行動必須取得小組法官或指定授權人員的授權，行動的每個階段均受條例嚴格監控，而截取通訊及監察事務專員亦會監督有關執法機關遵守條例下各項規定的情況。《條例》自 2006 年 8 月生效以來，一直運作暢順，有效地支援執法機關的運作，而專員亦大致滿意執法機關的表現。

香港是一個法治社會，有完善的司法和法律制度，我們不覺得有信件提及所謂「法律真空」的情況。

（二）《刑事罪行條例》第 161 條

《刑事罪行條例》（第 200 章）第 161 條「有犯罪或不誠實意圖而取用電腦」對打擊網上詐騙、非法入侵電腦及使用電腦干犯其他罪行等違法行為，至為有效。我們理解，律政司司長作為法律改革委員會（「法改會」）主席，去年曾向立法會表示，法改會正計劃檢討與網上罪行相關的法例。政府會留意這方面的發展。

（三）警隊人手及資源安排

2016 年香港的整體罪案數字為 60 646 宗，較 2015 年減少 5 793 宗，下跌 8.7%。部分主要罪案的分類數字，載列於附件一。

為使香港這個人口稠密的地方繼續成為世界上最安全的城市之一，香港有切實需要維持一支人手充足的警隊。警方會因

應社會情況，適時評估人手的需要。警務處各罪案調查科人員編制詳情（截至 2017 年 2 月 1 日），載列於附件二。

科技罪案不斷變化，警方會不時審視人手安排，並會在有需要時考慮增加資源。網絡安全及科技罪案調查科的編制現時共有 238 個職位，在 2017-18 年度並無新增職位。

為防止及偵查罪案的目的，警務處各部門均會按實際需要添置不同配備，由於該等配備資料涉及行動細節，披露有關詳情可能會讓罪犯得悉警隊的行動策略，從而可能削弱執法能力，令不法分子伺機逃避法律制裁，損害公眾利益，故此我們不會公開有關資料。

保安局局長

（曾裕彤



代行)

2017 年 3 月 31 日

副本送

警務處（網絡安全及科技罪案調查科）

2016 年部分主要罪案的分類數字

罪案類型	宗數
兇殺案	28
各類劫案	260
爆竊案	2 428
傷人及嚴重毆打案	5 024
嚴重毒品罪行	1 712
刑事恐嚇	1 734
勒索	994
縱火	358
強姦	71
非禮	1 019
盜竊案	25 628
詐騙案	7 260
刑事毀壞	5 272
三合會相關罪案	1 872
家庭暴力刑事案件	1 509
虐兒	870
虐老	372

警務處各罪案調查科的人員編制

(截至 2017 年 2 月 1 日)

	紀律部隊 人員編制	文職編制	編制總數
商業罪案調查科	272	37	309
毒品調查科	368	35	403
有組織罪案及 三合會調查科	109	24	133
網絡安全及 科技罪案調查科	226	12	238

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31 March 2017

Clerk to the Establishment Subcommittee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn: Ms Connie SZETO)

Dear Ms SZETO,

EC(2016-17)23
Proposed creation of one permanent post of
Chief Superintendent of Police ("CSP")
in the Hong Kong Police Force ("HKPF")
to lead the Cyber Security and Technology Crime Bureau ("CSTCB")

With reference to Hon CHU Hoi-dick's letter to the Chairman of the Establishment Subcommittee and the Secretary for Security dated 21 February 2017, our reply is as follows:

(I) Police Power

Any police officer exercising the statutory enforcement power is bound by the existing legislation and monitoring regime, which include all criminal laws, Criminal Procedure Ordinance (Cap 221), Police (Discipline) Regulations (Cap 232A), Prevention of Bribery Ordinance (Cap 201), Personal Data (Privacy) Ordinance (Cap 486), Hong Kong Bill of Rights Ordinance (Cap 383), anti-discrimination laws, the common law offence of misconduct in public office, etc. Every individual is equal before the law. Any police officer breaching the laws of the Hong Kong Special Administrative Region shall be criminally liable.

Besides, the conduct of police officers is regulated by a two-tier police complaints system. Regardless of their origin, all complaints against the Police are referred to the Complaints Against Police Office ("CAPO") of HKPF for handling and investigation. According to section 11 of the

Independent Police Complaints Council Ordinance (“IPCCO”) (Cap 604), a complaint received by HKPF must be categorised as a reportable complaint if the complaint relates to the conduct of a member of the police force while on duty or in the execution or purported execution of his duties, whether or not he identified himself as such a member, and, at the same time, meets other conditions that make it a reportable complaint under IPCCO in that, for instance, it is made by a complainant directly affected by the police conduct, irrespective of whether the allegation involves any criminal elements. Such a complaint shall be investigated by CAPO with the investigation report submitted to IPCC for examination in accordance with the statutory requirements under IPCCO.

As for intelligence and evidence gathering, the Police must act in accordance with the law and the established procedures and regulations. Their covert operations are also regulated by the Interception of Communications and Surveillance Ordinance (“ICSO”) (Cap 589). ICSO has clearly defined the interception of communications or covert surveillance operations that would require the obtaining of authorisation before they are conducted by law enforcement agencies (“LEAs”). Irrespective of the technology adopted by LEAs in gathering intelligence, if an operation constitutes an interception of communications or covert surveillance operation as defined by ICSO, such an operation must be authorised by a panel judge or a designated authorising officer. Every stage of the operation is subject to stringent control under ICSO. The Commissioner on Interception of Communications and Surveillance also monitors the compliance with various requirements under ICSO by LEAs concerned. ICSO has been operating smoothly since it came into effect in August 2006. It has effectively supported the operation of LEAs, and the Commissioner is generally satisfied with the performance of LEAs.

Hong Kong upholds the rule of law and has well-established judicial and legal systems. We do not find any so-called “legal vacuum” as mentioned in the letter.

(II) Section 161 of the Crimes Ordinance (“CO”)

Section 161 of CO (Cap 200) which targets against access to computer with criminal or dishonest intent is effective in combating such illegal acts as online fraud, illegal access to computer and using a computer to commit other offences. We understand that the Secretary for Justice, in his capacity as the Chairman of the Law Reform Commission (“LRC”), informed the Legislative Council last year of the LRC’s plan to review the relevant laws in relation to cyber crime. The Government will keep in view the relevant development.

(III) Deployment of Police Manpower and Resources

In 2016, the overall crime rate in Hong Kong was 60 646 cases, a decrease of 5 793 cases or 8.7% when compared with 2015. A breakdown of some of the major crimes is at **Annex A**.

In order to maintain Hong Kong, a densely populated city, as one of the safest cities in the world, there is a cogent need to maintain a police force with sufficient manpower. The Police will timely assess the manpower needs in light of social conditions. Establishment details for HKPF's crime investigation bureaux (as at 1 February 2017) are at **Annex B**.

In face of evolving technology crimes, the Police will examine its manpower arrangements from time to time, and consider deploying additional resources when necessary. The current establishment of CSTCB comprises a total of 238 posts with no new posts to be created in 2017-18.

For the sake of crime prevention and detection, individual departments of HKPF will acquire different equipment based on actual needs. As such information concerns operational details, disclosure of such information may reveal to criminals the Police's operational strategies. This may then undermine the Police's law enforcement capabilities and allow the criminals to elude justice, thus jeopardising public interests. We, therefore, will not disclose such information.

(Andrew Tsang)
for Secretary for Security

c.c.
HKPF (CSTCB)

Annex A**A Breakdown of some Major Crimes in 2016**

Types of Crime	No. of Cases
Homicide	28
Different Robberies	260
Burglary	2 428
Wounding and Serious Assault	5 024
Serious Drug Offenses	1 712
Criminal Intimidation	1 734
Blackmail	994
Arson	358
Rape	71
Indecent Assault	1 019
Thefts	25 628
Deception	7 260
Criminal Damage	5 272
Triad-related Crimes	1 872
Domestic Violence Crimes	1 509
Child Abuse	870
Elderly Abuse	372

Annex B

Establishment in each crime investigation bureau of HKPF

(As at 1 February 2017)

	Disciplined Services Establishment	Civilian Establishment	Total Establishment
Commercial Crime Bureau	272	37	309
Narcotics Bureau	368	35	403
Organized Crime and Triad Bureau	109	24	133
Cyber Security and Technology Crime Bureau	226	12	238