

(Translation)

LC Paper No. FC143/16-17(02)

香港特別行政區政府
保安局



The Government of the
Hong Kong Special Administrative Region
Security Bureau

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本函檔號 Our Ref.: SBCR 1/1805/13

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18 May 2017

Clerk to the Finance Subcommittee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn: Ms Anita SIT)

Dear Ms SIT,

FCR(2017-18)3
Proposed creation of one permanent post of
Chief Superintendent of Police
in the Hong Kong Police Force
to lead the Cyber Security and Technology Crime Bureau

I refer to Hon CHU Hoi-dick's letter of 11 May 2017 to the Chairman of the Finance Committee and Secretary for Security, requesting information from the Government. Our reply is as follows:

(I) Numbers of cases and arrestees for the major types of crime in the past 5 years

In 2016, the overall crime rate in Hong Kong was 60 646 cases. We provided a breakdown of major crimes in the year in Paper No. ESC77/16-17(02). In response to a Member's request, we provide at **Annex A** the numbers of cases and arrestees for the major types of crime in the past five years.

(II) Police establishment

In order for Hong Kong, a densely populated place, to remain one of the safest cities in the world, there is a cogent need to maintain a police force with sufficient manpower. We provided vide Paper No. ESC77/16-17(02) the establishment details of each of HKPF's crime investigation bureaux. The Crime Wing comprises seven formations (namely the Headquarters Group, the Commercial Crime Bureau, the Criminal Intelligence Bureau, the Narcotics Bureau, the Organized Crime and Triad Bureau, the Support Group and the Technical Services Division) which deal with specific areas of crime and support frontline crime units. In response to a Member's request, we set out at **Annex B** the establishment details (as at 1 May 2017) of each formation under the Crime Wing in the past 5 years.

(III) Covert operations, gathering of intelligence and regulatory system

Under Article 30 of the Basic Law, the freedom and privacy of communication of Hong Kong residents shall be protected by law. No department or individual may, on any grounds, infringe upon the freedom and privacy of communication of residents except that the relevant authorities may inspect communication in accordance with legal procedures to meet the needs of public security or of investigation into criminal offences.

The Interception of Communications and Surveillance Ordinance (Cap. 589) ("ICSO"), enacted in August 2006 and amended in June last year, provides for a stringent statutory regime to regulate the interception of communications and covert surveillance by law enforcement agencies ("LEAs"). It aims to strike a balance between the prevention and detection of serious crimes and the protection of public security on the one hand and the safeguarding of the privacy and other rights of individuals on the other, which is in line with Article 30 of the Basic Law. Under ICSO, all applications for authorisation must meet the stringent criteria as prescribed by ICSO, i.e. the operation must be for the purpose of "preventing or detecting serious crimes or protecting public security" and must meet the "proportionality" and "necessity" tests. An authorising authority shall not issue an authorisation or allow the continuation of an authorisation unless it is satisfied that these conditions are met. ICSO has been in smooth operation since its inception over 10 years ago and the Commissioner on Interception of Communications and Surveillance ("the Commissioner") is generally satisfied with the performance of LEAs.

As to whether individual social media and instant messaging applications fall within the scope of regulation under ICSO, the Government gave clear explanation during the Legislative Council's scrutiny in 2015 and 2016 of the Interception of Communications and Surveillance (Amendment) Bill 2015. Under ICSO, if a communication is transmitted by a telecommunications system, and a LEA intercepts the communication in the course of its transmission, then the interception will be regarded as an "intercepting act". However, ICSO only applies to public officers of designated LEAs. Other persons who commit acts of interception of communications may contravene Section 24 (wilful interception of messages by a telecommunications officer) or Section 27 (damaging telecommunications installation with intent) of the Telecommunications Ordinance (Cap. 106). If the acts concerned involve the collection of personal data, they are regulated by the Personal Data (Privacy) Ordinance (Cap. 486). Any person believing that his or her computer has been hacked or under surveillance by hackers should report the matter to the Police for investigation. Having always been acting in accordance with the law, the Police will investigate the case impartially regardless of the background or political orientation of the person making the report.

LEAs must keep abreast of the ever-changing technology to discern the trend of cyber crimes and relevant technological development. To prevent and combat crimes effectively, LEAs will gather intelligence through various channels, having regard to the case nature. To avoid being exploited by criminals, the Government will not disclose the means by which the Police gather intelligence.

We have stressed for times that intelligence gathering and evidence collection by the Police must be carried out legally and in compliance with established procedures or rules. If an operation constitutes an interception of communications or covert surveillance as defined by ICSO, such an operation, irrespective of the technology adopted by LEAs in gathering intelligence, must be authorised by a panel judge or a designated authorising officer. Each stage of the operation is subject to the stringent control under ICSO. The Commissioner also monitors the compliance with various requirements under ICSO by LEAs concerned.

As stated in Paper No. ESC77/16-17(02), any police officer exercising the statutory enforcement power is bound by the existing legislation and monitoring regime, which include, apart from the aforesaid regime to regulate the conduct of interception of communications and covert surveillance, all criminal laws, Criminal Procedure Ordinance (Cap. 221), Police (Discipline) Regulations (Cap. 232A), Prevention of Bribery Ordinance (Cap. 201), Personal Data (Privacy) Ordinance, Hong Kong Bill

of Rights Ordinance (Cap. 383), anti-discrimination laws, the common law offence of misconduct in public office, etc. Besides, the conduct of police officers is regulated by a two-tier police complaints system.

(IV) Police's powers to search for and take possession of objects

Section 50(6) of the Police Force Ordinance (Cap. 232) states that: "Where any person is apprehended by a police officer it shall be lawful for such officer to search for and take possession of any newspaper, book or other document or any portion or extract therefrom and any other article or chattel which may be found on his person or in or about the place at which he has been apprehended and which the said officer may reasonably suspect to be of value (whether by itself or together with anything else) to the investigation of any offence that the person has committed or is reasonably suspected of having committed: Provided that nothing in this subsection shall be construed in diminution of the powers of search conferred by any particular warrant."

The court is now handling a judicial review case which is related to Police's exercise of the powers conferred by the above provision. The Police's seizure of communications devices from apprehended persons as mentioned in the incoming letter concerns the Police's powers to search for and take possession of objects conferred by related legal provisions and the power to handle personal information. These are related to the above-mentioned judicial review case. As the legal proceedings of the case are still underway, the Police will not provide further information at this stage.

(M H CHIU)
for Secretary for Security

c.c.
HKPF (CSTCB)

**Numbers of cases and arrestees for the major types of crime
in the past five years**

Types of Crime	2012		2013		2014		2015		2016	
	No. of Cases	No. of Arrestees	No. of Cases	No. of Arrestees	No. of Cases	No. of Arrestees	No. of Cases	No. of Arrestees	No. of Cases	No. of Arrestees
Homicide	27	66	62	55	27	32	22	28	28	39
Different Robberies	616	416	500	302	309	208	223	172	260	198
Burglary	4 212	537	3 570	452	2 700	405	2 574	412	2 428	456
Wounding and Serious Assault	6 818	5 317	6 163	4 887	5 629	4 148	5 360	4 046	5 024	3 754
Serious Drug Offenses	2 141	2 911	2 269	2 968	1 855	2 422	1 891	2 537	1 712	2 510
Criminal Intimidation	2 230	1 260	1 958	1 143	1 862	999	1 736	973	1 734	932
Blackmail	293	214	733	200	885	261	1 366	198	994	156
Arson	433	113	439	140	394	111	339	114	358	126
Rape	121	107	105	106	56	62	70	70	71	65
Indecent Assault	1 495	1 023	1 463	959	1 115	798	1 068	782	1 019	757
Theft	33 664	13 185	31 598	12 213	28 596	11 616	27 512	11 749	25 628	11 630
Deception	6 923	1 841	7 518	1 902	8 861	1 878	9 353	1 875	7 260	1 808
Criminal Damage	7 318	1 990	6 409	1 884	5 875	1 821	5 920	1 893	5 272	1 829
Triad-related Crimes	2 340	3 322	2 035	2 844	1 643	2 268	1 812	2 861	1 872	2 614
Domestic Violence Crimes	2 002	1 830	1 870	1 710	1 669	1 465	1 464	1 285	1 509	1 339
Child Abuse	1 298	1 013	1 136	918	931	739	898	752	870	702
Elderly Abuse	405	336	388	305	341	286	363	309	372	311

Establishment of the Crime Wing

Formations	As at 1 May 2017			As at 31 March 2016			As at 31 March 2015			As at 31 March 2014			As at 31 March 2013		
	DSE	CE	TE	DSE	CE	TE	DSE	CE	TE	DSE	CE	TE	DSE	CE	TE
Headquarters Group	29	57	86	29	57	86	29	57	86	27	56	83	40	55	95
Support Group	313	124	437	313	124	437	313	124	437	313	127	440	300	125	425
Commercial Crime Bureau	272	37	309	272	37	309	272	37	309	371	44	415	371	44	415
Cyber Security and Technology Crime Bureau	226	12	238	226	12	238	170	10	180	-	-	-	-	-	-
Criminal Intelligence Bureau	619	41	660	619	41	660	619	41	660	617	41	658	617	41	658
Narcotics Bureau	368	35	403	368	35	403	368	35	403	360	35	395	354	35	389
Organized Crime and Triad Bureau	109	24	133	109	24	133	109	24	133	109	25	134	109	25	134
Technical Services Division	117	17	134	117	17	134	117	17	134	117	17	134	116	17	133

*DSE – Disciplined Services Establishment; CE – Civilian Establishment; TE – Total Establishment