

(Translation)



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保安局

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The Government of the
Hong Kong Special Administrative Region
Security Bureau

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10 October 2017

Miss Betty MA
Clerk to Panel on Security
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Miss MA,

Panel on Security
List of outstanding items for discussion

As set out in the list of outstanding items for discussion of the Panel on Security, the Government was invited to provide papers to explain its views on some of the issues. The relevant information is provided below:

Prosecutions initiated under section 161 of the Crimes Ordinance (Cap. 200) against “access to computer with criminal or dishonest intent”

In our papers referenced EC(2016-17)23, ESC61/16-17(01), ESC77/16-17(02) and FC143/16-17(01) submitted to the Establishment Subcommittee and the Finance Committee of the Legislative Council (“LegCo”) between January and May this year, we explained again the Government’s stance on enforcement matters relating to “access to computer with criminal or dishonest intent” under section 161 of the Crimes Ordinance (Cap. 200). The relevant papers are at **Annexes 1 to 4**

for reference. We are of the view that the said provision is highly effective in combating such illegal acts as online fraud, illegal computer intrusion and using a computer to commit other offences. Among the technology crime cases detected by the Police in recent years, those involving charges made under section 161 only accounted for about 10%, while the remaining 90% involved charges made under other legislations. The Police have invoked section 161 for taking enforcement actions against cases like online fraud, illegal intrusion into computer systems, clandestine photo-taking using smartphones in such non-public places as toilets or changing rooms, online publication of obscene or threatening information, as well as inciting others on the Internet to engage in illegal acts, such as hacker groups' threatening to carry out cyber attacks against network systems in Hong Kong and inciting others to carry out such attacks via hacker websites or software. Perpetrators of these cases may also be charged with other related crimes. Figures on arrests, prosecutions and convictions made under section 161 in the past three years are set out below:

Year	No. of arrestees	No. of prosecutions	No. of convictions
2014	113	86	80
2015	143	103	93
2016	143	93	77

Note: As the years of arrests, prosecutions and conclusions for the respective cases represented by the above figures may be different, the three sets of figures cannot be compared directly.

The Government notes that LegCo Members have different views on prevailing laws pertinent to combating cyber crimes. As the Chairman of the Law Reform Commission ("LRC"), the Secretary for Justice earlier informed LegCo of LRC's plan to review laws in relation to cyber crimes. As understood, LRC has started the relevant preparatory work. The Government will keep in view this development.

Enactment of legislation to prohibit insult to public officers

Public officers enforcing the laws have always been performing their duties in a professional and impartial manner in accordance with the law to serve the community with dedication. They should be respected rather than insulted verbally or by any acts. However, in recent years, there were frequent occurrences of incidents where public officers undertaking law enforcement duties were arbitrarily insulted or provoked by members of the public, who even had scuffles with the former in some cases. This has greatly heightened the work-related stress of public officers and the difficulties in performing their duties, dampening their morale and passion for serving the public.

There has been discussion in the community on the issue of whether it is necessary to legislate for the "offence of insulting public officers enforcing the laws". As pointed out in our reply to the oral question by Dr Hon Elizabeth Quat in March 2017 (See **Annex 5**), in making legislation, the Government has to prudently consider in a wholistic approach all opinions, including those for and against it, whether the expected goals and effects can be achieved through legislation, whether the offence has a clearly defined scope of regulation, the elements involved, whether there are acceptable grounds of defence, the appropriate penalties, etc. At this stage, the Government has no plan to legislate against the act of insulting public officers enforcing the laws. We remain open on whether to legislate, and will explore its feasibility and continue to listen to the views of all parties. We are also gathering from other jurisdictions information on relevant regulations, precedents, the effectiveness of enforcement and the problems encountered for study. Should the Government have any legislative proposals, we will consult the relevant panel(s) of LegCo.

Mechanism for handling complaints against police officers and the role of the Independent Police Complaints Council ("IPCC")

The Independent Police Complaints Council Ordinance (Cap. 604) ("IPCC Ordinance") came into effect in 2009, providing a statutory basis for a two-tier police complaints system. The IPCC Ordinance clearly sets out the role, functions and powers of IPCC in the police complaints

handling system, as well as the obligations of the Police to comply with the requirements made by IPCC under the IPCC Ordinance. As the first tier of the system, the Complaints Against Police Office (“CAPO”) of the Police is responsible for receiving and investigating complaints lodged by members of the public against police officers. Its operation is independent from other Police formations to ensure fairness and impartiality. The second tier of the system is the statutory IPCC which observes, monitors and reviews CAPO’s handling and investigation of complaints.

Under the IPCC Ordinance, CAPO is obliged to submit a detailed investigation report on each “reportable complaint”¹ to IPCC for examination. If any doubt arises in relation to any aspect of CAPO’s investigation or findings during the review of an investigation report and the relevant materials, IPCC may ask CAPO for clarification or further information. If IPCC is not satisfied with the result of a CAPO investigation, it may request CAPO to reinvestigate the complaint. Only when IPCC completely agrees that the complaint has been properly handled will it endorse the investigation result. Besides, IPCC may also make suggestions and recommendations to the Commissioner of Police and the Chief Executive.

The existing two-tier police complaints system is a fair, impartial and effective arrangement which ensures that public complaints against members of the police force are handled fairly and effectively. We are of the view that review on the police complaints system and the role of IPCC is unnecessary at this stage.

As for Members’ proposal to install video cameras inside police vehicles, we understand their concern was about some arrestees’ claim of being treated unreasonably by police officers inside police vehicles, and that the proposed installation of video cameras inside police vehicles is to better protect the interests of arrestees and police officers.

¹ “Reportable complaints” refer to complaints lodged by members of the public against the conduct of police officers while on duty or police officers who identify themselves as such while off duty. The complaints should be made in good faith by (or on behalf of) a person directly affected by police misconduct and are not frivolous or vexatious. Complaints other than “reportable complaints” are generally classified as “notifiable complaints”, some examples are: complaints against the conduct of off-duty police officers who did not identify themselves as such, anonymous complaints, or complaints lodged by persons who are not directly affected by the alleged misconduct.

We have to point out that police vehicles do not only carry police officers and arrestees but also other people such as witnesses and victims. With regard to the proposal to install video cameras inside police vehicles, we have to assess the relevant legitimate purposes, necessity and the need to protect privacy. On account of security considerations, the Hong Kong Police Force has installed closed circuit television (“CCTV”) surveillance systems at different areas in police stations, such as the report room, entrances/exits of the police station and the access to the detention room to capture the activities inside the police station and its surrounding areas. As pointed out in our reply to a Member’s oral question in July 2014 (see **Annex 6**), the Police have no plan to install CCTVs inside the compartments of police vehicles.

Should an arrestee claim to have been assaulted by police officer(s) during the process after his/her arrest (including that inside a police vehicle), the case can be handled under the existing mechanism. The arrestee may lodge a complaint to the duty officer after being brought to a police station. Upon receipt of the complaint, the duty officer is required to handle the case in accordance with procedures, including recording the facts of the case, video recording the part(s) of the body being assaulted with the complainant’s agreement, providing suitable treatment, etc. and refer the case to CAPO for follow up.

Yours sincerely,

(Andrew TSANG)
for Secretary for Security

For discussion
on 4 January 2017

EC(2016-17)23

ITEM FOR ESTABLISHMENT SUBCOMMITTEE OF FINANCE COMMITTEE

HEAD 122 – HONG KONG POLICE FORCE Subhead 000 Operational expenses

Members are invited to recommend to Finance Committee the creation of the following permanent post in the Hong Kong Police Force with effect from the date of approval by the Finance Committee –

1 Chief Superintendent of Police
(PPS 55) (\$139,950 - \$153,250)

PROBLEM

The Commissioner of Police needs dedicated staffing support at the directorate level to lead the Cyber Security and Technology Crime Bureau (CSTCB), which has been upgraded from the former Technology Crime Division (TCD) since January 2015 to strengthen the Hong Kong Police Force (HKPF)'s capability in preventing and combating technology crimes and handling cyber security incidents.

PROPOSAL

2. We propose to create a permanent post of Chief Superintendent of Police (CSP) (PPS 55 or D1 equivalent) in the Crime Wing of the HKPF to head CSTCB, with effect from the date of approval by the Finance Committee, to command CSTCB's operation and development, to oversee the formulation and execution of long-term objectives and strategies in tackling the growing challenges in cyber security, as well as to coordinate the Government's responses to technology crimes and cyber attacks.

/JUSTIFICATIONS

JUSTIFICATION**Upgrading of TCD to CSTCB**

3. With information technology becoming an indispensable part of our lives, the world is exposed to much higher risks of cyber security threats. Today, Hong Kong has one of the highest concentrations of Wi-Fi hotspots in the world, and 97% of households are able to access broadband services. With a high mobile phone penetration rate of 227.8%, which is expected to grow even further, individuals, corporations and critical infrastructures are all prone to technology crimes and cyber security threats.

4. The TCD of the Commercial Crime Bureau (CCB) used to be responsible for preventing, detecting and tackling technology crimes, as well as responding to cyber security incidents. To strengthen the HKPF's capability in combating technology crimes and handling cyber security incidents, the Chief Executive announced in his Policy Agenda 2014 the upgrading of the HKPF's TCD to form a CSTCB. Following the establishment of CSTCB in January 2015, tremendous efforts have been made to enhance and expand the HKPF's capability in the following areas –

- (a) detecting syndicated and highly sophisticated technology crimes and conducting proactive intelligence-led investigation;
- (b) providing assistance to critical infrastructures in conducting timely cyber threat audits and analyses to prevent and detect cyber attacks against them;
- (c) enhancing incident response capability to major cyber security incidents or massive cyber attacks;
- (d) strengthening thematic researches on cyber crime trend and mode of operation, vulnerabilities of computer systems and development of malware;
- (e) strengthening partnership with local stakeholders and overseas law enforcement agencies (LEAs) in information exchange and sharing of best practices to counter prevalent technology crimes and cyber threats; and
- (f) developing new training programmes on cyber security and technology crimes.

Growing Challenges

5. The annual number of local reports of technology crimes has increased significantly by 24 times from 272 cases in 2002 to 6 862 in 2015. In 2016 (as at September), the number of cases has already hit 4 537. Over the past six years, the respective annual financial losses have also increased by 30 times from \$60 million in 2010 to \$1.8 billion in 2015. In 2016 (as at September), the loss is around \$1.87 billion.

6. In the past year in particular, there were a number of high-profile cyber attacks targeting financial institutions and critical infrastructures. With over one million daily global web attacks in 2015, cyber security and technology crime have become major challenges faced by LEAs around the world. For example, the hacking of the SWIFT financial platform in April 2016 has caused a loss of US\$81 million to the Bangladesh Central Bank. Other banks in Vietnam, Philippines, Ecuador and Hong Kong have also been under similar attacks. In December 2015, cyber criminals struck the power grid of Ukraine resulting in a blackout affecting a quarter of a million people. The industry control systems installed by power plants of other regions, including those in Hong Kong, could be the next target.

7. The Symantec 2016 Internet Security Threat Report indicated that Hong Kong had climbed from the 8th to 7th place in the regional threat ranking for Asia Pacific. According to Kaspersky's Security Bulletin 2015, 34.2% of user computers were subject to at least one web attack during the year and more than 750 000 computers worldwide were compromised by ransomware in 2015. The Threat Report of NexuSGuard also reported that the number of Distributed Denial of Service attacks increased by 43% to more than 34 000 attacks in the Asia-Pacific Region in the first half of 2016, and the largest increase was observed in Hong Kong registering a 57% rise in attacks. In addition to these threats, cyber security experts also predicted that malware attack against mobile phones and Internet-of-Things such as webcams, smart TVs, etc. would witness an upsurge and create a huge concern on cyber security. Locally, the Hong Kong Computer Emergency Response Team¹ (HKCERT) received 5 146 cyber security incident reports in the first ten months of 2016 representing more than 500% increase since 2010. Among those reports, the cases of ransomware record a significant increase, which are fivefold the total reports of the same nature in 2015. Thus, there is a pressing need to strengthen the HKPF's capability in combating technology crimes and handling cyber security incidents.

/Need

¹ Managed by the Hong Kong Productivity Council, the HKCERT Coordination Centre is the centre for coordination of computer security incident response for local enterprises and Internet Users. Its missions are to facilitate information disseminating, provide advices on preventive measures against security threats and promote information security awareness.

Need for a permanent CSP post as the commander of CSTCB

8. CSTCB has been tasked with the mission to cope with the above-mentioned challenges as posed by the increasingly sophisticated technology crimes and cyber security threats. However, unlike all other bureaux of the HKPF involved in the investigation of crimes under the Crime Wing, including the CCB, Narcotics Bureau (NB), Criminal Intelligence Bureau, and Organized Crime and Triad Bureau (OCTB), which are all headed by a CSP, CSTCB (with 226 disciplinary posts) is currently headed only by a Senior Superintendent of Police (SSP). Having regard to the number of disciplinary posts of other Crime Bureaux headed by CSPs (as at April 2016, 368 for NB, 272 for CCB, 109 for OCTB), the comparable size and multiple-layer rank hierarchy of CSTCB, its wide range of duties as well as increasing quantum and complexity of work, a commander at CSP level will be of paramount importance in steering the Bureau, ensuring sufficient guidance and overseeing the management of the Bureau, especially in the areas set out in paragraphs 9 to 14 below.

Charting CSTCB's Long-term Development to Fulfil its Mission

9. Dedicated attention and strategic planning to tackle the fast growing technology crime trend is a key operational priority of the HKPF. To take forward such a mission, CSTCB requires high-level steer at the directorate level to devise effective strategies to tackle the challenges referred to in paragraphs 5 to 7 above and ensure their smooth implementation. The strong leadership of a directorate officer with extensive knowledge, exposure and vision in crime prevention and control would be especially vital having regard to the transnational nature and wide variety of crimes committed through the Internet (e.g. online shopping fraud, email scam, deception, money laundering, blackmail associated with naked chat, child pornography, etc.). Otherwise, it would be difficult for CSTCB to formulate strategies and steer management issues such as capacity building, establishment of partnership with local critical infrastructures, cooperation with local and overseas LEAs and service providers, and allocation and deployment of resources.

Coordinating Responses to Technology Crimes and Cyber Attacks

10. The role and function of CSP CSTCB to co-ordinate matters in relation to cyber security and technology crimes will be essential in view of the increasingly sophisticated technology crimes and cyber attacks as well as the increasing size of the population of Internet users in Hong Kong. Hong Kong has to be well-prepared for any real and imminent threat of cyber attacks against its critical infrastructures; and any under-preparedness in terms of timing and scope

/will

will expose Hong Kong to a vulnerable position. To prepare for and in the event of a major cyber attack against local critical infrastructure or technology crimes involving extensive cross-jurisdiction elements that take place in Hong Kong, CSP CSTCB has a critical role to play in assisting the HKPF in making high-level and time-sensitive decisions. Apart from engaging other police formations with dedicated functions during major cyber attacks against critical infrastructures in Hong Kong and stipulating the objectives, policies and long-term strategies for policing technology crimes, CSP CSTCB will be responsible for coordinating joint operations with local and overseas LEAs, government departments, and other stakeholders for exchanging intelligence and preserving digital evidence that could assist investigation.

11. Without the CSP CSTCB, there is no appropriate officer within the HKPF having the authority, experience and global perspective to lead local and international efforts for providing immediate response to a major attack and handling its aftermath properly. Any further delay in creating the CSP post will seriously impede the HKPF's as well as Hong Kong's response to cyber attacks, making Hong Kong extremely vulnerable to cyber criminals to launch cyber attack against or through Hong Kong's information technology infrastructures.

Strategic Planning, Monitoring and Execution of New Initiatives

12. In view of the importance of cyber security, the Hong Kong Monetary Authority (HKMA) has recently launched for the banking system a Cybersecurity Fortification Initiative (CFI), which serves to raise the resilience of the banking system to a level commensurate with Hong Kong's position as the leading international financial centre in Asia. On the policing side, CSTCB has recently launched two new initiatives, namely, the Cyber Range and the Cyber-attack Intelligence Sharing Platform, to address the dynamic cyber threat landscape and the evolution of new and complex cyber attack techniques. The Cyber Range is a facility which can mimic the Internet environment in an enclosed network, allowing the simulation of cyber attacks and technology crime scenes for research and training purposes. The Cyber-attack Intelligence Sharing Platform is a multi-purpose platform which collects and analyses information on cyber attacks from cyber security organisations for dissemination to various local and overseas stakeholders. It will work in collaboration with the Cyber Intelligence Sharing Platform developed by the HKMA as part of the CFI to facilitate the sharing of intelligence on cyber attacks. CSTCB is also preparing a large-scale Cyber Security Drill to strengthen the overall capabilities of local critical infrastructures in responding to cyber security incidents, enhance the existing communications with overseas counterparts as well as intensify the existing protection of the cyber environment of Hong Kong. On top of the above, CSTCB is organising the Cyber

Security Professionals Awards to bring together cyber security experience and good practices of various prominent sectors in Hong Kong to jointly promote cyber security awareness and tackle emerging cyber threats. All the above new initiatives involve significant resources and require strategic planning, monitoring and execution. It is necessary to have in place an officer at directorate level to lead and oversee these initiatives, as well as to implement, review, improve and sustain their development in an effective and efficient manner.

Maintaining Close Liaison with Local and Overseas Stakeholders

13. Globally, cyber security and technology crimes are fast evolving and transcend traditional jurisdictional boundaries. As such, it is one of CSTCB's core businesses to establish close liaison with local and overseas LEAs for combating cross-border technology crimes and exchanging experience. Whilst a SSP is expected to conduct cross-boundary tactical operations against technology crimes, it is necessary to resort to the steer from a directorate officer at CSP rank to negotiate and undertake collaboration with various stakeholders at senior level. This is especially the case when the interdiction of technology crime involves implementation of strategic changes, e.g. rationalisation of banking security system, behavioural change of online users, recommendation of redesigning the computer systems of critical infrastructures, etc. There is therefore a genuine need for a directorate officer to act as the HKPF's representative in high-level working groups, conferences and visits to establish collaboration networks with commanding officers of cyber security and technology crime units worldwide. In terms of capability, experience and exposure, CSP CSTCB is of a rank commensurate with the importance of this mission, and will play a crucial role in taking charge of the engagement with overseas organisations, such as the INTERPOL and the G7 High Tech Crime Sub-group.

14. In general, the rank of officers leading overseas cyber crime units, for example, the National Cyber Crime Unit of the National Crime Agency in the United Kingdom; the High Tech Crime Operations of the Australian Federal Police and the Cybercrime Command within the Criminal Investigation Department of the Singapore Police Force, is higher or equivalent to the rank of CSP of the HKPF.

Current Unsatisfactory Situation

15. As mentioned in paragraph 8 above, the other bureaux involved in the investigation of crimes under the Crime Wing are headed by a CSP. CSTCB requires strong and focussed leadership to perform fully and effectively as a separate bureau, especially in view of the magnitude, complexity and sensitivity of

/CSTCB's

CSTCB's work as described above. Without a dedicated CSP, CSTCB, since its inception, has to report to other CSPs within the Crime Wing for high-level steer. Since those CSPs are already fully engaged in their respective aspect of policing duties, it is practically impossible for them to offer full-time, continuous and prolonged supervision for CSTCB without adversely affecting the operational efficiencies of their bureaux. This situation is clearly unsustainable. If left unchecked, this would hamper the management of the Crime Wing, in particular the roles and responsibilities of CSPs within the Crime Wing, and the effective supervision on the development of CSTCB.

16. CSTCB has a pressing need for strong and focussed leadership to perform fully and effectively as a separate bureau. The CSP will need to chart the development of the bureau, and ensure the effectiveness of the HKPF in driving the continuous building of capacities in the two distinct and highly professional streams, i.e. cyber security and technology crime. The job description of the proposed CSP CSTCB post is at Enclosure 1. The organisational chart of the HKPF after the proposed creation of the subject CSP post is at Enclosure 2.

Encl. 1

Encl. 2

Non-directorate Support

17. With the establishment of the new CSTCB, TCD has been hived off with the permanent redeployment of 106 posts² to CSTCB. An additional 74 non-directorate posts³ have been created by January 2015. Upon the establishment of CSTCB, two divisions, namely, the Cyber Security Division and Technology Crime Division, were created. The former division is to enhance cyber threat response and capability of conducting intelligence-led investigation, to strengthen research on cyber crime trend and collaborate with local stakeholders and overseas LEAs. The latter division is to enhance the capability of the HKPF in investigating large-scale cyber attacks and cases involving advanced technology.

18. In 2015-16, CSTCB was reinforced with additional manpower of 58 non-directorate posts to enhance the HKPF's capabilities to mitigate cyber security risks and investigate technology crime cases. In July 2015, the Intelligence and Support Division was set up in CSTCB for collecting, processing, analysing and evaluating intelligence and activities relating to technology crime and cyber

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² The 106 posts include 98 posts from the TCD, and four civilian posts and four disciplinary posts from CCB.

³ Comprising 71 disciplined officers ranked from Police Constable to SSP and three civilian staff.

security incidents. Moreover, a new Cyber Watch Analysis Support Team was established in the Cyber Security Division. Manpower is also enhanced to beef up the function in response to cyber security incidents and to handle technology crime.

Encl. 3

19. As at 1 November 2016, CSTCB has an establishment of 238 (including 226 disciplinary posts), which are all non-directorate posts. The organisational chart of CSTCB is at Enclosure 3. Having regard to the number of disciplinary posts of other Crime Bureaux headed by CSPs as mentioned in paragraph 8 above, the comparable size and multiple-layer rank hierarchy of CSTCB, its wide range of duties as well as increasing quantum and complexity of work, we consider that a commander at CSP level is essential for ensuring sufficient guidance and management within CSTCB.

ALTERNATIVES CONSIDERED

Encl. 4

20. We have critically examined the possibility of redeployment of existing directorate officers in the HKPF to take up the work of the proposed post. At present, there are 46 CSP posts established under the five departments of the HKPF, i.e. Operations, Crime and Security, Personnel and Training, Management Services, and Finance, Administration and Planning. The duties and existing work priorities of the 46 CSP posts in the HKPF are at Enclosure 4. Since all CSP officers are fully committed to duties in their respective subject areas, internal redeployment is operationally infeasible without adversely affecting the discharge of their schedules of duties.

FINANCIAL IMPLICATIONS

21. The proposed creation of the CSP post will bring about an additional notional annual salary cost at mid-point of \$1,732,800. The additional full annual average staff cost of the proposal, including salaries and staff on-cost, is \$2,634,000.

22. There is sufficient provision in the 2016-17 Estimates to meet the cost of the proposed creation of the CSP post. We will also reflect the resources requirements in the Estimates of subsequent years.

PUBLIC CONSULTATION

23. During the last term of the Legislative Council (LegCo), this staffing proposal was discussed by the Panel on Security on 3 June 2014 and this Subcommittee on 11 March and 29 April 2015. The Government re-submitted the proposal to this Sub-committee in June 2016 but discussion could not commence

/before

Encl. 5

before the expiry of the last LegCo term. We consulted the Panel on Security again on the proposal on 6 December 2016. The Panel Members generally agreed to the submission of the proposal to this Subcommittee. The information sought by Members at the Panel meeting is set out in Enclosure 5.

ESTABLISHMENT CHANGES

24. The establishment changes in the HKPF since April 2014 are as follows –

Establishment (Note)	Number of Posts			
	As at 1 December 2016	As at 1 April 2016	As at 1 April 2015	As at 1 April 2014
A*	72 [#]	72 [#]	72	72
B	3 212	3 198	3 138	3 065
C	30 639	30 453	30 096	30 051
Total	33 923	33 723	33 306	33 188

Note:

- A - ranks in the directorate pay scale or equivalent
- B - non-directorate ranks, the maximum pay point of which is above MPS point 33 or equivalent
- C - non-directorate ranks, the maximum pay point of which is at or below MPS point 33 or equivalent
- * - excluding supernumerary posts created under delegated authority
- # - as at 1 December 2016, there was no unfilled directorate post in the HKPF

CIVIL SERVICE BUREAU COMMENTS

25. The Civil Service Bureau supports the proposed creation of a permanent CSP post for CSTCB. The grading and ranking of the proposed post are considered appropriate having regard to the level and scope of the responsibilities required.

ADVICE OF THE STANDING COMMITTEE ON DISCIPLINED SERVICES SALARIES AND CONDITIONS OF SERVICE

26. The Standing Committee on Disciplined Services Salaries and Conditions of Service has advised that the grading proposed for the permanent directorate post is appropriate.

**Job Description
Chief Superintendent of Police,
Cyber Security and Technology Crime Bureau
Hong Kong Police Force**

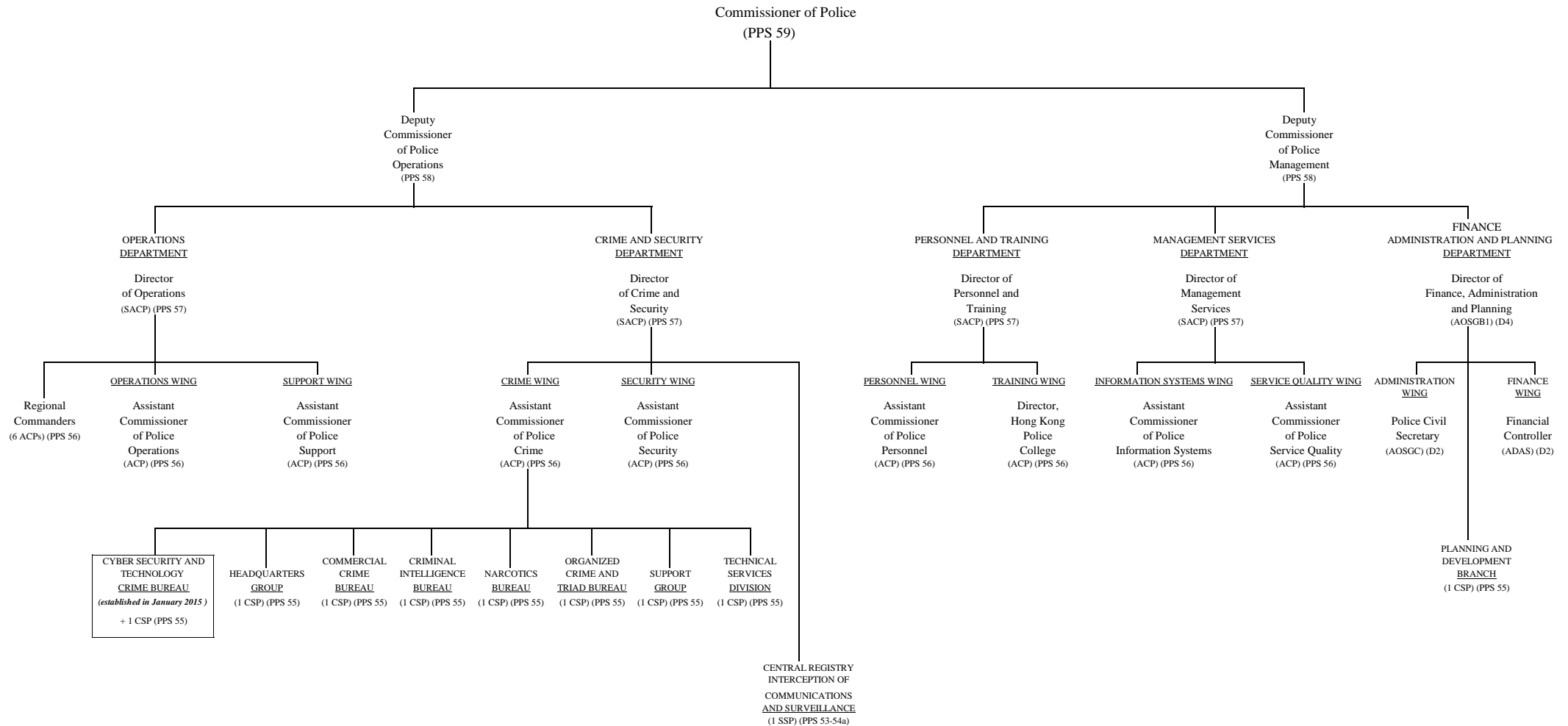
Rank : Chief Superintendent of Police (PPS 55)

Responsible to : Assistant Commissioner of Police, Crime Wing

Main duties and responsibilities –

- (i) To command the operation and development of the Hong Kong Police Force (HKPF)'s cyber security and technology crimes capabilities.
- (ii) To ensure a high standard of duty performance and discipline from personnel under his command.
- (iii) To devise strategies in line with the Force's Strategic Directions and Commissioner of Police's Operational Priorities to ensure effective deployment of resources to meet policing requirements for combating technology crimes and cyber security incidents.
- (iv) To represent the HKPF in the effective collaboration and co-ordination among various local and international stakeholders in addressing cyber security and technology crimes issues.
- (v) To ensure officers are effectively and efficiently trained in order to tackle cyber security and technology crimes related investigations.
- (vi) To monitor and tackle cyber security and technology crimes developments both within and outside Hong Kong which may have an impact on policing priorities and activities.
- (vii) To engage other police formations with dedicated functions during major cyber attack incidents against critical infrastructure in Hong Kong.
- (viii) To exercise personnel management and disciplinary functions as delegated by Police Headquarters.
- (ix) To review objectives, policies and implementation plan with other stakeholders for aligning responses in addressing the risks of cyber threat to the computer systems of critical infrastructures in Hong Kong.

Organisation Chart of Hong Kong Police Force

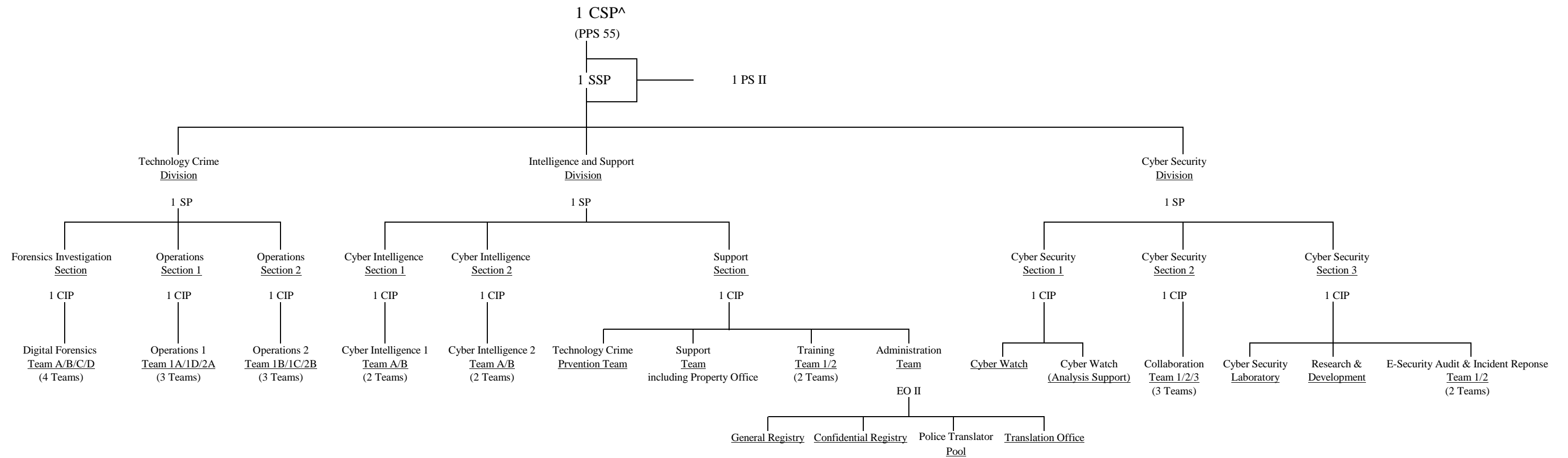


Legend

- ACP - Assistant Commissioner of Police
- ADAS - Assistant Director of Accounting Services
- AOSGB1 - Administrative Officer Staff Grade B1
- AOSGC - Administrative Officer Staff Grade C
- CSP - Chief Superintendent of Police
- PPS - Police Pay Scale
- SACP - Senior Assistant Commissioner of Police
- SSP - Senior Superintendent of Police

- One CSP post proposed to be created as CSP Cyber Security and Technology Crime Bureau

Organisation Chart of the Cyber Security and Technology Crime Bureau, Hong Kong Police Force



^ Proposed creation of one Chief Superintendent of Police post.

**Existing Duties and Work Priorities of
Chief Superintendent of Police Posts in Hong Kong Police Force**

At present, there are 72 permanent directorate posts of which 46 are Chief Superintendent of Police (CSP) posts established under the five departments of Hong Kong Police Force (HKPF), viz. Operations, Crime and Security, Personnel and Training, Management Services, and Finance, Administration and Planning. For day-to-day policing, the HKPF is organised into six Police Regions, viz. Hong Kong Island, Kowloon East, Kowloon West, New Territories North, New Territories South and Marine Regions under the charter of the Operations Department. The distribution and the major responsibilities of the CSP posts are as follows –

(A) Operations Department

(i) *Regional Headquarters (6 CSPs)*

Six CSP posts, one for each Regional Headquarters, are established as Deputy Regional Commanders to assist the Regional Commanders (RCs) at Assistant Commissioner of Police (ACP) rank in overseeing all operational, administrative and financial matters within the Region, giving policy directions and command in the Region in the absence of the RC.

(ii) *District Headquarters (19 CSPs)*

19 CSP posts, one for each of the 19 major Police Districts, viz. Central, Eastern, Wan Chai, Western, Kwun Tong, Sau Mau Ping, Tseung Kwan O, Wong Tai Sin, Kowloon City, Mong Kok, Sham Shui Po, Yau Tsim, Border, Tai Po, Tuen Mun, Yuen Long, Kwai Tsing, Sha Tin and Tsuen Wan Police Districts, under the command of the respective RCs are established as District Commanders. Each District Commander, commanding between 350 to 700 staff, is responsible for the effective enforcement of law and order and the prevention and detection of crimes in his District.

(iii) *Support Wing (3 CSPs)*

Three CSP posts are established in Support Wing under the command of ACP Support, with each responsible for the

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unique schedule of duties of the three branches of the Support Wing, viz. Support Branch, Traffic Branch Headquarters and Police Public Relations Branch. The Support Branch is responsible for the efficient administration of operational support, formulating and reviewing Force-wide operational policies, procedures and strategies, and the management of the Hong Kong Auxiliary Police Force. The Traffic Branch Headquarters is responsible for strategic planning, formulating and coordinating all traffic enforcement matters and traffic-related initiatives/programmes. The Police Public Relations Branch acts as a bridge between the HKPF and the public by engaging proactively and building long-term constructive relations with the media, the stakeholders and opinion leaders of the community, thereby enhancing the reputation of the HKPF, maintaining public confidence in the Force and leveraging public support for policing activities.

(iv) *Operations Wing (1 CSP)*

One CSP post is established in the Operations Wing under the command of ACP Operations, responsible for the administration and strategic development of the Police Tactical Unit and the Special Duties Unit including the management and provision of adequate and effective training to ensure the best possible readiness for any threats to public order and internal security, emergencies, anti-crime and counter-terrorism operations.

(B) Crime and Security Department

(i) *Crime Wing (7 CSPs)*

Seven CSP posts, one for each of the seven formations of Crime Wing, viz. 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, are established under the command of ACP Crime. Each formation deals with specific areas of crime and supports frontline crime units.

/(ii)

(ii) *Security Wing (1 CSP)*

One CSP post is established in the Security Wing to assist ACP Security in handling a range of security-related matters including VIP Protection, counter-terrorism, security co-ordination, internal security and immediate response to any matters or incidents of security interest in accordance with the Government Intelligence Requirements.

(C) Personnel and Training Department

(i) *Personnel Wing (3 CSPs)*

Three CSP posts, one for each of the three branches of Personnel Wing, viz. Conditions of Service and Discipline Branch, Human Resources Branch and Personnel Services and Staff Relations Branch, are established under the command of ACP Personnel and are responsible for a wide range of human resource management functions relating to recruitment, promotion, manpower and succession planning, career development, posting, performance management, discipline, conditions of service, staff relations and welfare matters involving over 28 000 disciplined staff.

(ii) *Training Wing (2 CSPs)*

Two CSP posts are established in the Training Wing to underpin the Director of the Hong Kong Police College in providing formal structured training aimed at vocational, professional and executive development geared to the needs of officers at different stages of their career. They include basic training for recruits, firearms and tactics training for serving officers, local and mainland as well as overseas training programmes in police leadership and management, professional courses on application of information technology in policing, training on criminal investigation and intelligence management, police driving and traffic training, knowledge management, quality assurance and academic accreditation of police training courses.

/(D)

(D) Management Services Department

Service Quality Wing (3 CSPs)

Three CSP posts are established in Service Quality (SQ) Wing under the command of ACP SQ, each is responsible for the unique schedule of duties of the three branches of the SQ Wing, viz. the Performance Review Branch, the Research and Inspections Branch and the Complaints and Internal Investigations Branch. The Performance Review Branch is responsible for promoting improvements in value-for-money practices and enhancing awareness and pursuance of issues related to service quality. The Research and Inspections Branch is responsible for developing inspection guidelines, and conducting due diligence inspections on frontline Districts and Policy Wing formations, as well as ad hoc thematic inspections or special audits on specific issues of Force-wide concern. The Complaints and Internal Investigation Branch includes the Complaints Against Police Office and the Internal Investigations Office, and is responsible for investigating complaints against police officers and serious disciplinary matters as well as promoting the Integrated Integrity Management Framework to reinforce the Police Force's values of integrity and honesty.

(E) Finance, Administration and Planning Department

The Planning and Development Branch (1 CSP)

One CSP post is established in the Planning and Development Branch of the Finance, Administration and Planning Department. The post is responsible for initiating strategic planning and development of police facilities and capital works projects in support of the Department's Strategic Action Plan and Commissioner's Operational Priorities, formulating policy on matters relating to the department's properties to meet new policing requirements and operational needs.

Enclosure 5 to EC(2016-17)23

**Information Sought by Members at the Meeting of the
Legislative Council Panel on Security on 6 December 2016**

Technology Crime Trend

In recent years, technology crime cases received by the Police involve different types of offences, such as those related to online games, online business frauds and unauthorised access to computer systems. Relevant figures in the past five years are at Table 1.

Table 1: Technology crime figures from 2012 to September 2016

Case nature	2012	2013	2014	2015	2016 (As at 30 Sept)
Online game-related	380	425	426	416	304
Online business fraud	1 105	1 449	2 375	1 911	1 217
Unauthorised access to computers	1 042	1 986	1 477	1 223	847
Other Nature	488	1 273	2 500	3 312	2 169
(i) <i>Miscellaneous Fraud</i>	225	435	1 436	1 733	1 133
(ii) <i>Child Pornography</i>	28	41	38	53	27
(iii) <i>Distributed Denial of Service Attacks</i>	25	3	29	35	4
(iv) <i>E-banking</i>	5	40	17	3	2
(v) <i>Naked Chat</i>	<i>Not available</i>	<i>Not available</i>	638	1 098	588
(vi) <i>Other Blackmail</i>	66	509	46	71	93
(vii) <i>Criminal Intimidation</i>	23	61	81	87	60
(viii) <i>Sexual Exploitation</i>	42	92	79	96	114
(ix) <i>Miscellaneous</i>	74	92	136	136	148*
Total	3 015	5 133	6 778	6 862	4 537
Loss (in million \$)	340.4	916.9	1,200.7	1,828.9	1,865.2

* As an example of the case types under 'miscellaneous', further breakdown of the 148 cases in 2016 is set out as follows –

Online gambling-related	37	Aiding, abetting, suborning, etc. others to commit criminal act	9	Tampering computer	4
Access for data without hacking activities	22	Forged document	8	Miscellaneous theft	3
Identity theft	19	Data leakage from mobile phone/ social media account	6	Bomb hoax	2
Publishing indecent and obscene article	18	Theft of customers' credit point by cashier	5	Claiming to be member of triad society	1
Phishing URL	10	Bogus/ unauthorized website or social media account	4	Total	148

/Qualification

Qualification requirements for the Cyber Security and Technology Crime Bureau (CSTCB)'s officers and its proposed Chief Superintendent of Police (CSP)

2. Given the transnational nature of technology crime and types of offences (such as online shopping frauds, email scams, deception, money laundering, naked chats and publication of child pornography), CSTCB should be headed by a CSP conversant with policing work, so that he can co-ordinate various tasks and set out the direction of development with an enforcement-led approach. To maintain Hong Kong's overall cyber security and combat technology crimes, the above arrangement will put the Force in a better position to set objectives, devise policies and formulate long-term strategies.

3. The head of CSTCB must possess solid and extensive operational and management skills. He is not required to be an information technology specialist, as he will be supported by officers with relevant computer/information technology qualifications. In fact, the Police have been recruiting officers with relevant computer/information technology qualifications to join CSTCB. At present, 98% of the officers at CSTCB have such qualifications; some of them even possess relevant Doctorate or Master Degrees, while the rest of the officers have received internal professional training and possess relevant experience. Some officers have professional qualifications from SANS Institute which is an internationally renowned provider of cyber security training. The professional capabilities of the Police in cyber security and combating technology crimes have also been recognized internationally. Some Police officers were certified trainers of the INTERPOL and have assisted in professional training in cyber security and technology crimes for law enforcement agencies (LEAs) in Singapore, Fiji, Australia, the Republic of Korea and Thailand. These officers will be able to provide relevant training to other officers in CSTCB. As for new recruits, they need to have an interest in technology, be creative and possess good acumen in crime investigation.

4. Besides, in collaboration with the Police College, CSTCB organises regular internal professional training programmes which cover topics like technology crime investigation skills and computer forensic examination. Such programmes are offered to maintain CSTCB officers' professional capability in investigation, intelligence gathering and analysis, computer forensic examination and training. Overseas visits are conducted from time to time for officers' participation in training on technology crime investigation skills, digital forensic examination, etc. Apart from gaining international experience, officers may share their experience and insights with other experts of LEAs in order to acquire the most advanced knowledge.

/Arrests,

Arrests, Prosecutions and Convictions in respect of ‘Access to Computer with Criminal or Dishonest Intent’ under Section 161 of the Crimes Ordinance (Cap. 200)

5. Section 161^{Note} of the Crimes Ordinance (Cap. 200) targets access to computer with criminal or dishonest intent and is effective in combatting illegal acts such as online frauds, illegal access to computers and the use of computers to commit other offences. Over the years, among technology crime cases detected by the Police, only around 10% were charged under section 161; the remaining 90% were charged with other offences.

6. The Police have invoked section 161 for handling cases such as online frauds, illegal access to a computer system, clandestine photo-taking using smart phones in non-public places such as toilets or changing-rooms, online publication of obscene or threatening information, as well as inciting others on the Internet to engage in illegal activities such as hacker groups threatening to launch cyber attacks on the network systems of Hong Kong and inciting others to carrying out the attacks by using hackers’ websites or software. Perpetrators of such cases may also be charged with other related crimes at the same time. Figures of arrests, prosecutions and convictions under section 161 in 2014, 2015 and 2016 (up to June) are set out below.

Table 2: Figures of arrests, prosecutions and convictions under section 161 in 2014, 2015 and 2016

Year	Number of arrests	Number of prosecutions	Number of convictions
2014	113	86	80
2015	143	103	93
2016 (Jan – Jun)	69	57	48

Note: the year of arrest, prosecution and conclusion of the same case may be different.

/7.

Note Section 161(1) of the Crimes Ordinance reads as follows –

Any person who obtains access to a computer –

- (a) with intent to commit an offence;*
- (b) with a dishonest intent to deceive;*
- (c) with a view to dishonest gain for himself or another; or*
- (d) with a dishonest intent to cause loss to another,*

whether on the same occasion as he obtains such access or on any future occasion, commits an offence and is liable on conviction upon indictment to imprisonment for 5 years.

7. The above figures are the overall arrest, prosecution and conviction figures of the offences under section 161. In order to analyse Hong Kong's overall law and order situation and crime trend, and to understand the profile of our criminal justice system, LEAs and the Judiciary maintain various crime-related statistics, such as the numbers of cases and arrestees, as well as the figures of prosecutions, convictions, penalties imposed, etc. in respect of different offences.

8. The figures recorded are the overall figures of various *offences*, not separate figures for the offences under the respective *subsections*. For example, there are two subsections under the offence of 'burglary' (Section 11 of the Theft Ordinance). LEAs only maintain an overall figure of such an offence, without a breakdown of the respective figures for subsections (a) and (b). As in the case of 'burglary', LEAs and the Judiciary only maintain the overall figures concerning section 161, but not the breakdown of the respective figures for the four subsections under it.

9. We consider that the law in place is effective in guarding against the rising and serious threats to cyber security and there is no plan for legislative amendments at this stage. Enhancing cyber security as well as combating technology crimes is and will continue to be a Police's priority. The Police shall continue to discharge their enforcement duties in a fair, just and impartial manner in accordance with the law.

10. We understand that the Secretary for Justice, in his capacity as the Chairman of the Law Reform Commission (LRC), earlier informed the Legislative Council of the LRC's plan to review the relevant laws in relation to cyber crime. The Government will keep in view this development.

Cyber Patrol

11. The Police currently adopt a three-tier intelligence framework, including intelligence units at the levels of the headquarters, regions and police districts, for gathering intelligence. The Internet is open to all and hence users are faced with criminal threats as they would in the physical world. Similar to conducting patrol on the streets for prevention of crime, it is necessary for the Police to spot and take action against possible criminal activities in the virtual world of the Internet. Hence, for the purpose of crime prevention and detection, various departments in the Police conduct 'cyber patrol', meaning to search for relevant information via public platforms on the Internet on a need basis. The Police will, according to their operational priorities, conduct specific and

/professional

professional search via such platforms for possible crime-related information (e.g. fraudulent bank websites, illegal football betting activities, dissemination of child pornography, trafficking of dangerous drugs and Internet criminal intimidation etc.). Information gathered on patrol will enable the Police to allocate resources more aptly and analyse the prevailing crime trend, in a bid to combat various types of crimes such as illegal gambling, publishing of child pornography, drug trafficking and other organised crimes.

12. The level of involvement of CSTCB in any investigation would depend on the complexity of the technology crime involved in the case. Officers at CSTCB usually lead the investigation of crimes involving high-end and more complex technologies. For crimes with a low degree of technological element, CSTCB mainly assists the investigation teams in gathering technological evidence or providing advice on technology-related matters. In any event, the Police's information search via public platforms on the Internet is only one of the many means of research for the combat of crimes. The purpose of Police's cyber patrol is to watch out for criminal activities or criminal intelligence regardless of their backgrounds or orientations. The Police do not maintain the statistics of cyber patrols.

(Translation)

LC Paper No. ESC61/16-17(01)

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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20 February 2017

Clerk to the Establishment Committee
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")**

In follow-up with Members' request for supplementary information at the Establishment Subcommittee ("ESC") meeting on 8 February 2017 and Hon Nathan LAW Kwun-chung's letter to the Chairman of ESC dated 9 February 2017, our response is as follows:

(I) Powers and procedures on application for court warrant

According to the Police Force Ordinance (Cap. 232) ("PFO"), the Force's duties are to take lawful measures for preventing and detecting crimes and offences. Under PFO, the Police are conferred with the power of investigation to:

- (a) arrest and detain suspected persons;
- (b) enter and search premises, and seize suspected property;
- (c) stop, detain and search suspected persons; and
- (d) stop, detain and search vessels.

Section 50(7) of PFO provides that, whenever it appears to a magistrate that there is reasonable cause to suspect that there is in any building, vessel or place any newspaper, book or other document, or any other article or chattel which is likely to be of value to the investigation of any offence that has been committed, or that is reasonably suspected to have been committed or to be about to be committed or to be intended to be committed, such magistrate may by warrant directed to any police officer for him by day or by night-

- (a) to enter such building, vessel or place and to search for and take possession of any such newspaper, book or other document or any such other article or chattel; and
- (b) to detain any person who may appear to have such newspaper, book or other document or other article or chattel in his possession or under his control and who, if not so detained, might prejudice the purpose of the search.

Moreover, the Police will, having regard to the case nature, apply for warrants from the court according to relevant applicable legislation, such as section 13 of the Crimes Ordinance (Cap. 200), section 5 of the Prevention of Child Pornography Ordinance (Cap. 579) or section 28 of the Theft Ordinance (Cap. 210), in order to be empowered to search premises and seize documents and information found therein, so as to seize documents or information from any organisation/person to facilitate police investigation.

(II) Obtaining information from Internet service providers (“ISPs”)

In addition to applying for search warrants from the court in accordance with the law, the Police may also seize documents or information under the co-operation mechanism mutually agreed with ISPs.

The numbers of requests made by the Police to ISPs for disclosure of metadata (such as Internet Protocol (“IP”) addresses, users’ information and log records) from 2010 to 2016 are as follows:

Year	No. of requests
2010	3 785
2011	4 103
2012	4 613
2013	4 389
2014	4 000

2015	3 997
2016	4 000

Since the Police request disclosure of metadata from ISPs solely for investigation purpose, only the relevant ISPs have knowledge of such requests. The Police do not maintain statistics on applications for court warrants to obtain metadata from ISPs or refusals to disclose such information. In general, if the Police's requests involve accounts or records that no longer exist, or if registered users or IP addresses are not in Hong Kong, ISPs cannot provide the information concerned.

Given different legislations with different countries/regions, we cannot draw a direct comparison on procedures and requirements of obtaining information from ISPs. Having said that, the Police will, in the light of Hong Kong's actual circumstances, discuss and review the relevant procedures with ISPs from time to time.

(III) Gathering intelligence and collecting evidence

To avoid being exploited by criminals, the Government will not disclose the means by which the Police gather intelligence. Intelligence gathering and evidence collection by the Police must be carried out legally and in compliance with established procedures or rules.

It has been clearly defined under the Interception of Communications and Surveillance Ordinance (Cap. 589) ("ICSO") that law enforcement agencies ("LEAs") are required to obtain authorisation for conducting interception of communications or covert surveillance operations. In all circumstances, LEAs have to act in accordance with ICSO, and panel judges will carefully examine every application to ascertain full compliance with the requirements of ICSO before making a determination. The Commissioner on Interception of Communications and Surveillance will also monitor LEAs' compliance with various requirements under ICSO.

(IV) Ratio of police headcount to population

There is no internationally recognised standards for calculating police manpower. As pointed out in our letter to ESC dated 6 February 2017, it is difficult to draw a direct comparison because the scope of police responsibilities varies with places and police establishment is subject to local circumstances. With diversified functional responsibilities, HKPF have to, apart from maintaining law and order in our society, perform certain duties normally not required to be carried out by police forces elsewhere, such as

patrolling the boundary areas, coastlines and railways; handling explosives; and implementing counter-terrorism initiatives. We have also noticed that regarding the calculation of police manpower, some countries count auxiliary police officers, traffic police officers and boundary patrol officers as regular police force but some do not, and some countries discount the police officers on long leave.

The Police have compared the police establishment among several international cities. In terms of regular police headcount, we consider that our police force is of a moderate scale as compared with other metropolitan cities:

Country/city	No. of regular police officers	No. of regular police officers per 100 000 population
Singapore	13 487	234
Tokyo	43 422	322
London	31 000	356
Hong Kong	29 289	399
New York	34 500	401
Paris	30 000	448
Chicago	13 138	486

The decline in our overall crime rate hinges on the support from the general public and their partnership with the Police. Only by maintaining a police force with sufficient manpower can Hong Kong, a densely populated place, remain one of the safest cities in the world. All along, HKPF have conducted timely assessment on manpower needs in the light of circumstances of the local community.

Technology crimes and cyber security threats are becoming increasingly sophisticated. Shouldering the mission of co-ordinating measures against technology crimes and cyber attacks in Hong Kong, CSTCB, however, is still lacking strong and focussed leadership since its establishment two years ago. The CSP(CSTCB) post carries comprehensive, professional and crucial functions, as the holder has to chart the development of CSTCB and ensure the effectiveness of HKPF in driving the continuous building of capacities in two streams, namely, enhancing cyber security and combating technology crimes. Before submitting to the Legislative Council the proposal to create the permanent CSP post, we have critically examined the possibility of redeploying existing directorate officers in the Police to take up the crucial tasks of the proposed post. Since all

CSP officers are fully committed to duties in their respective subject areas, internal redeployment is operationally infeasible without adversely affecting the discharge of their schedules of duties. CSTCB has a pressing need to create one permanent CSP post to ensure sufficient guidance and management as necessary within the bureau.

(V) Numbers of arrestees in respect of technology crimes

The numbers of technology crime offenders arrested by the Police are tabulated in our letter to ESC dated 6 February 2017:

Year	No. of arrestees
2012	465
2013	679
2014	691
2015	825
2016	907

The Police do not maintain breakdown statistics on arrestees by each nature of technology crime cases.

(VI) Statistics related to section 161 of the Crimes Ordinance (“CO”)

Section 161 of CO, providing for access to computer with criminal or dishonest intent¹, is effective in combating such illegal acts as online fraud, illegal access to computer and using a computer to commit other offences. However, among the technology crime cases detected by the Police in recent years, only around 10% were charged under section 161, with the remaining 90% charged under other legislation.

¹ Section 161(1) of CO reads as follows:

Any person who obtains access to a computer-

(a) with intent to commit an offence;

(b) with a dishonest intent to deceive;

(c) with a view to dishonest gain for himself or another; or

(d) with a dishonest intent to cause loss to another,

whether on the same occasion as he obtains such access or on any future occasion, commits an offence and is liable on conviction upon indictment to imprisonment for 5 years.

The Police have invoked section 161 for taking enforcement actions against cases like online fraud, unauthorised access to computer systems, clandestine photo-taking using smartphones in such non-public places as toilets or changing rooms, online publication of obscene or threatening information, as well as inciting others on the Internet to engage in such illegal activities as hacker groups' threatening to launch cyber attacks against network systems in Hong Kong and inciting others to carry out attacks via hacker websites or software. Perpetrators of these cases may also be charged with other related crimes. Figures on arrestees, prosecutions and convictions made under section 161 in 2014, 2015 and 2016 (up to September) are set out below:

Year	No. of arrestees	No. of prosecutions	No. of convictions
2014	113	86	80
2015	143	103	93
2016 (Jan - Sep)	109	72	60

Note: As the years of arrest, prosecution and conclusion for the respective cases represented by the tabulated figures may be different, figures in the three columns cannot be compared directly.

As explained at the ESC meeting, whether a department decides to or not to maintain certain figures depends on whether these figures are of help and statistical significance to the department. For instance, LEAs or relevant departments maintain various figures useful for investigation or analysis, such as the number of cases and arrestees as well as prosecution and conviction figures in respect of major offences.

The Police have only maintained overall figures of various offences for analysing Hong Kong's general law and order situation and crime trend. In respect of section 161, as with other offences, only overall figures rather than breakdown statistics of the offence under this section are maintained. In view of Members' concern, however, the Police is consulting the Judiciary as to whether the subsection of section 161 under which prosecutions were taken can be recorded in the Integrated Law and Order Statistical System in future in order to maintain relevant statistical breakdown.

(VII) Reporting Distributed Denial of Service (“DDoS”) attacks

According to the Police, many victims of different types of cyber attacks tend to make a report only in case of substantive loss, and this is believed to be the reason for the low report rate. In this connection, the Police will continue to launch targeted promotional and educational initiatives to enhance public awareness of crime prevention and their partnership with the Police in combating cyber crimes.

According to the figures released by the Hong Kong Computer Emergency Response Team, a total of 6 058 security incidents were handled in 2016, representing an increase of 1 130 cases or 23% when compared with 4 928 cases in 2015. Of these cases, 148 were security incidents involving DDoS attacks, an increase of 18 cases over 2015.

(Andrew Tsang)
for Secretary for Security

c.c.
HKPF (CSTCB)

(Translation)

LC Paper No. ESC77/16-17(02)

香港特別行政區政府
保安局



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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)

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

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

(Translation)

香港特別行政區政府
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LC Paper No. FC143/16-17(01)

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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 Table 1 (Technology crime figures) and Table 2 (Figures of arrests, prosecutions and convictions made under section 161 of the Crimes Ordinance (Cap. 200)) in Enclosure 5 to the paper referenced EC(2016-17)23. In response to the Members' request, I provide at **Annex A** and **Annex B** the updated figures.

(M H CHIU)
for Secretary for Security

C.C.
HKPF (CSTCB)

Annex A

Technology crime figures from 2012 to 1st quarter of 2017

Case nature	2012	2013	2014	2015	2016	2016 (January to March)	2017 (January to March)
Online game-related	380	425	426	416	363	105	89
Online business fraud	1 105	1 449	2 375	1 911	1 602	419	565
Unauthorised access to computers	1 042	1 986	1 477	1 223	1 107	243	180
Other Nature	488	1 273	2 500	3 312	2 867	567	519
(i) <i>Miscellaneous Fraud</i>	225	435	1 436	1 733	1 563	244	289
(ii) <i>Child Pornography</i>	28	41	38	53	43	7	1
(iii) <i>Distributed Denial of Service Attacks</i>	25	3	29	35	6	2	5
(iv) <i>E-banking</i>	5	40	17	3	2	0	0
(v) <i>Naked Chat</i>	<i>Not available</i>	<i>Not available</i>	638	1 098	697	201	109
(vi) <i>Other Blackmail</i>	66	509	46	71	120	27	21
(vii) <i>Criminal Intimidation</i>	23	61	81	87	74	17	13
(viii) <i>Sexual Exploitation</i>	42	92	79	96	167	29	43
(ix) <i>Miscellaneous</i>	74	92	136	136	195*	40	38
Total	3 015	5 133	6 778	6 862	5 939	1 334	1 353
Loss (in million \$)	340.4	916.9	1,200.7	1,828.9	2,300.8	454.4	201.3

* As an example of the case types under 'miscellaneous', further breakdown of the 195 cases in 2016 is set out as follows –

Online gambling-related	43	Aiding, abetting, suborning, etc. others to commit criminal act	10	Tampering computer	5
Access for data without hacking activities	32	Forged document	14	Miscellaneous theft	3
Identity theft	32	Data leakage from mobile phone/ social media account	7	Bomb hoax	2
Publishing indecent and obscene article	22	Theft of customers' credit point by cashier	5	Claiming to be member of triad society	1
Phishing URL	14	Bogus/ unauthorized website or social media account	4	Release of false information	1
				Total	195

Annex B

Figures of arrests, prosecutions and convictions made under section 161 of the Crimes Ordinance (Cap. 200) in 2014, 2015 and 2016

Year	Number of arrestees	Number of prosecutions	Number of convictions
2014	113	86	80
2015	143	103	93
2016	143	93	77

Note: the years of arrests, prosecutions and conclusions of the cases represented by the above figures may be different; hence the three sets of figures cannot be compared directly.

Enacting legislation to prohibit acts of insulting public officers on duty

5. **DR ELIZABETH QUAT** (in Cantonese): *President, last month, in response to the question on enacting legislation to prohibit acts of insulting police officers on duty, the Commissioner of Police indicated that he welcomed another piece of legislation to protect police officers in the enforcement of the law. In addition, quite a number of members of the public have pointed out that in recent years, incidents of protesters and offending drivers insulting and provoking police officers with abusive language have occurred from time to time. In this connection, will the Government inform this Council:*

- (1) *of the legal provisions that the authorities may invoke currently to institute prosecutions against persons who have insulted police officers on duty; the respective numbers of prosecutions and convictions as well as the penalties imposed on the convicted persons in the past three years; whether the convicted persons include protesters who participated in the occupation movement in 2014 or the riot in Mong Kok in February last year;*

- (2) *whether it has studied overseas legislation on the offence of insulting public officers and the enforcement of such legislation in recent years; if so, of the details, and whether the study outcome will be made public, so as to enhance public understanding of the relevant issues and form the basis for the discussions on the enactment of such legislation in the future; and*
- (3) *given that the Public Health and Municipal Services Ordinance and the Births and Deaths Registration Ordinance contain provisions prohibiting any person from using abusive language to the relevant public officers, whether the authorities will make reference to those provisions and enact dedicated legislation to prohibit acts of insulting police officers and other public officers; if not, how the authorities prevent such acts from becoming increasingly rampant?*

SECRETARY FOR SECURITY (in Cantonese): President, with regard to Dr Elizabeth QUAT's question, after consulting the Civil Service Bureau, I provide below a consolidated reply:

Hong Kong is a society under the rule of law. The law stipulates what behaviours are beyond social norms, and those who break the law should be brought to justice. To embody the rule of law, it requires not only comprehensive statutory provisions and effective law enforcement, but also people's awareness and observance of the law. Public officers, including disciplined services and non-disciplined services officers, perform their duties to safeguard the overall interest of the Hong Kong community and citizens' legitimate rights. They are absolutely not seeking personal gains or making life difficult for the general public with intent.

All along, public officers enforcing the laws have been performing their duties in a professional and impartial manner in accordance with the law to serve the community with dedication. They should be respected and not be insulted verbally or by any acts. However, in recent years, there were frequent occurrences of incidents where public officers undertaking law enforcement duties were arbitrarily insulted or provoked by members of the public, who even had scuffles with the former in some cases. This has greatly increased the work stress of public officers and the difficulties in performing their duties, dampening their morale and passion for serving the public. Such circumstances are certainly not conducive to the benefit of Hong Kong.

Currently, when a person resists, obstructs or assaults a public officer undertaking law enforcement duties, the responsible authorities may, in light of the actual circumstances, invoke relevant ordinances to initiate prosecution. For instance, section 23 of the Summary Offences Ordinance (Cap. 228) stipulates that any person who resists or obstructs a public officer or other person lawfully engaged, authorized or employed in the performance of any public duty shall be liable to a fine of \$1,000 and imprisonment for six months. From 2014 to September 2016, a total of 189 persons were convicted for committing the above offences. Section 17B of the Public Order Ordinance (Cap. 245) stipulates that any person who in any public place behaves in a noisy or disorderly manner, or uses any writing containing threatening, abusive or insulting words, with intent to provoke a breach of the peace, or whereby a breach of the peace is likely to be caused, shall be guilty of an offence and liable on conviction to imprisonment for 12 months.

With regard to the protection for police officers in the execution of their duties, according to section 36(b) of the Offences against the Person Ordinance ("OAPO") (Cap. 212), any person who assaults, resists, or wilfully obstructs any police officer in the due execution of his duty or any person acting in aid of such officer shall be liable to imprisonment for two years on conviction of the offence after being tried either summarily or upon indictment. Section 39 of OAPO stipulates that any person who commits an assault occasioning actual bodily harm shall be liable to imprisonment for three years after conviction upon being tried on indictment. Section 40 of OAPO also stipulates that any person who is convicted of a common assault shall be liable to imprisonment of one year. In addition, section 63 of the Police Force Ordinance (Cap. 232) states that any person who assaults or resists any police officer acting in the execution of his duty or aids or incites any person so to assault or resist, or refuses to assist any such officer in the execution of his duty when called upon to do so, or who, by the giving of false information with intent to defeat or delay the ends of justice, wilfully misleads or attempts to mislead such officer, shall be liable on summary conviction to a fine of \$5,000 and to imprisonment for six months.

As for other disciplined services, including the Immigration Department, the Customs and Excise Department, and the Fire Services Department, there are statutory provisions stipulating that any person who assaults, resists, or obstructs any officer in the due execution of his duty shall be guilty of an offence and liable to punishment ranging from a fine of \$2,000 to imprisonment for six months.

While there are existing legislation (including the Mass Transit Railway By-laws (Cap. 556B), Hospital Authority Bylaws (Cap. 113A), Road Traffic (Public Service Vehicles) Regulations (Cap. 374D), Airport Authority Bylaw (Cap. 483A) and Public Health and Municipal Services Ordinance (Cap. 132)) forbidding any person to curse others, or to use obscene, offensive, revolting or annoying languages, or to cause obstruction or unpleasantness to others in specified places, such as railway premises, hospitals, public vehicles, airport, parks, sports venues and bathing beaches, the coverage of the legislation prohibiting acts of insulting public officers undertaking law enforcement duties, which is of concern to members, is not comprehensive.

Recently, the issue of whether it is necessary to legislate for the "offence of insulting public officers enforcing the laws" has aroused heated discussion again in society. I notice that public views on this issue are divergent and even polarized. Opinions in support of the enactment of legislation mostly consider that the community is restless, conflicts are mounting and public officers enforcing the laws are facing increasingly heavy pressure. Therefore, the Government should legislate to protect public officers enforcing the laws from being arbitrarily insulted. Opposing views hold that the enactment of such legislation will cause further social division and even restrict the public's freedom of speech and expression, thus creating more unnecessary rows and conflicts.

For the Government to undertake any legislative work, it has to prudently consider in a holistic approach all opinions, including those for and against it, whether the expected goals and effects can be achieved through legislation, whether the offence has a clearly defined scope of regulation, the elements involved, whether there are acceptable grounds of defence, and the appropriate penalties.

At this stage, although the Government has no plan to legislate against the act of insulting public officers enforcing the laws, we remain open on whether to legislate, and will explore its feasibility, and continue to listen to the views of all parties. We will also gather from other jurisdictions information on relevant regulations, precedents, the effectiveness of enforcement and the problems encountered for study. Should the Government have any legislative proposals, we will consult the relevant panel(s) of the Legislative Council.

President, I reiterate that due respect should be given to public officers enforcing the laws, as they have always been serving the public in an impartial manner. In all circumstances, arbitrary acts of insulting others are improper and

unacceptable in a civilized society. We hope that everybody will appreciate and respect public officers enforcing the laws, be self-disciplined and abide by the law, and be cooperative and supportive to their work.

DR ELIZABETH QUAT (in Cantonese): *President, as stated in the Secretary's reply, some people opine that to legislate for the "offence of insulting public officers enforcing the laws" will cause further social division and create more conflicts. However, the so-called conflicts are created by people who always provoke the Police with intent to damage law and order and disrupt peace in Hong Kong society. Hence, legislate or not, these people will continue to create conflicts. Thus, the claim that the enactment of legislation will deepen the clashes between the Police and the public or create more conflicts is actually inverting the cause and effect as well as confusing right and wrong. On the contrary, only through the enactment of legislation can we remind these people not to think that insulting and provoking police officers is a matter of course or having no consequences.*

I would like to ask if the Secretary agrees that police officers in Hong Kong should enforce the law without being interfered and execute their duties with dignity in order to uphold social order. As the Secretary has just said, given that the coverage of the existing laws of Hong Kong is not comprehensive, will the Secretary make reference to the laws of other places, such as Macao, France, Singapore, New South Wales and Taiwan, so as to expeditiously legislate for the offence of insulting public officers enforcing the laws?

SECRETARY FOR SECURITY (in Cantonese): I thank Dr QUAT for the supplementary question. Apart from police officers, all public officers in the execution of their duties are actually serving members of the public, they should therefore be respected. Such respect should not only be shown to police officers, but also to all public officers executing their duties. I believe we should all adopt such an attitude.

As I have mentioned in the main reply, we will study overseas experiences and Dr QUAT has cited Macao as an example. It is true that Macao had legislated for the offence of insulting other people, and in addition to Macao, other common law jurisdictions had also enacted similar legislation. We have started to collect information, and apart from examining how the legal provisions

should be drafted, we will also find out if there are cases indicating the judgment of the local courts, that is, as stated in the main reply, how the offence of insult should be defined, the scope of regulation, as well as the provisions for defence. In this connection, we must collect information, and then embark on the study and examination of the matter.

MRS REGINA IP (in Cantonese): *President, I thank the Secretary for briefing us on the local laws which provide for the circumstances under which prosecution can be instituted against a person who resists or obstructs a law enforcement officer enforcing the law, or against a person who uses offensive languages or behaves in a noisy or disorderly manner in specified places.*

Nonetheless, I would like to ask the Secretary: Is there any legislation in this world that convicts a person who merely insults a public officer without being actually involved in any disorderly act or obstructing public officers undertaking law enforcement duties? Is there such a piece of legislation? If so, is there any successful prosecution? If similar legislation is enacted in Hong Kong, providing that a person will be convicted purely for his words, what will be the consequence if the prosecution is unsuccessful?

SECRETARY FOR SECURITY (in Cantonese): I thank Mrs Regina IP for her supplementary question. As I have pointed out in the main reply and in my response to Dr Elizabeth QUAT's supplementary question, using Macao's offence of insult as an example, the offence can be divided into two parts. The first part is concerned with a person insulting another person, and the other part is concerned with a person insulting a public officer in the execution of his/her duty. Both acts are illegal, but the penalty is heavier for the latter.

Furthermore, I have also looked into Singapore's Protection from Harassment Act. This Act is also divided into two parts: The first part is concerned with the penalties for insulting public officers enforcing the law, which nonetheless also contains the so-called exceptions setting out the circumstances under which the act is not unlawful. The second part is concerned with instituting civil actions against a person insulting a non-public officer in accordance with the local law.

After the study, we found that many jurisdictions in the world do have different provisions and interpretations in respect of the issue which is of concern to Mrs Regina IP. Just as I have said, apart from the law itself, we must also take into consideration the local situation, the applicability of the legislation and the possible consequences before a comprehensive assessment can be made.

PRESIDENT (in Cantonese): Mrs Regina IP, has your supplementary question not been answered?

MRS REGINA IP (in Cantonese): *President, the Secretary has not answered my question about cases of successful prosecution.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): Sorry, can you repeat the question as I did not hear very clearly just now.

MRS REGINA IP (in Cantonese): *The Secretary has briefed us on some overseas legislation, but is there any case of successful prosecution so far? What were the penalties?*

SECRETARY FOR SECURITY (in Cantonese): As I am aware, there were successful prosecutions in Macao.

MR WONG KWOK-KIN (in Cantonese): *President, subsequent to the incident in 2013 in connection with the use of foul language by LAM Wai-sze, a female teacher, I requested the Government at a Panel meeting to legislate for the "offence of insulting police officers". But unfortunately, many years have passed since 2013 and no action has been taken by the Government. Our rationale at that time was as follows: police officers, being law enforcement officers, were responsible for maintaining law and order in the community and protecting the safety of members of the public, yet, if they were, as in the*

"Incident of LAM Wai-sze", being insulted for an extended period of time in public places, people would query how police officers could safeguard the safety of the public if they could not even uphold their own dignity. Secretary, this is our rationale. Yet, why has the Government failed to make an inch of progress since 2013? As the Secretary has just highlighted in the main reply, some people hold that the enactment of legislation will cause further social division and restrict the public's freedom of speech and expression. Such arguments do not stand to reason at all. Will there be no social division if insulting police officer is not an offence? The freedom of speech and expression ...

PRESIDENT (in Cantonese): Mr WONG Kwok-kin, what is your supplementary question?

MR WONG KWOK-KIN (in Cantonese): ... *President, I will raise my supplementary question right away. Is "greeting" someone's mother with profanity an expression of freedom of speech? Therefore, when will the Government eventually concede to embark on a public review of the "offence of insulting police officers" or the "offence of insulting public officers enforcing the law"? Will the Government also inform us of the relevant timetable and the action to be taken?*

SECRETARY FOR SECURITY (in Cantonese): Mr WONG, subsequent to the incident which you have just mentioned, the Police have issued guidelines relating to problems that frontline officers may encounter and have stepped up the relevant training. Mr WONG just now also mentioned the opposition views quoted by me in the main reply concerning the enactment of legislation for the "offence of insulting public officers enforcing the laws", and what I mean is that there are both positive and negative views. I hope Mr WONG will also notice that, as I have reiterated time and again in my main reply, public officers enforcing the law should be respected as they are serving the public. If they have difficulties in enforcing the law, the community as a whole will suffer in certain respect.

As Justice Patrick CHAN has said in the case of *HKSAR v CHOW Nok Hang*—I mentioned this case because Mr WONG just now touched on the freedom of speech and expression, so I would like to share with Members the

remarks made by Justice CHAN—While the Court should interpret the freedom of speech and expression in a broad sense, such freedom is not an absolute power and the Court must take into consideration public security as well as people's rights and freedom as well. Therefore, despite the fact that a person using insulting languages enjoys the freedom of speech and expression, such freedom is not unrestrained and the relevant behaviour must comply with the lawfulness and proportionality tests. This is why there are both positive and negative views on the issue. We nonetheless do have a very clear stance, and that is, all public officers enforcing the law should be respected by the community so as to enable them to smoothly discharge their duties.

MR LAM CHEUK-TING (in Cantonese): *President, the Democratic Party opposes all uncivilized behaviour of insulting other people, but it also disagrees with the proposal to legislate for the "offence of insulting public officers enforcing the laws". President, I once worked as a law enforcement officer and had been insulted, but I do not think those people could insult me as they had only insulted themselves. I would like to ask the Secretary if he is worried about the coverage of the offence of insulting public officers being too wide. The reason is, be they civil servants, District Councillors, Members of the Legislative Council or even the Chief Executive, they are public officers, so will any member of the public be arrested for insulting LEUNG Chun-ying in the street in the future? In case the offence of insulting public officers is created, is it necessary to create a corresponding offence of insulting members of the public? Will this deepen social conflict?*

SECRETARY FOR SECURITY (in Cantonese): Mr LAM, first of all, just as I have said in the main reply, one of the areas that we must look into is the coverage of the relevant legislation for it may be very wide or it can be pretty narrow. Given that the coverage of the legislation varies with different jurisdictions in the world, we must, among other things, study and look into this area.

Nowadays, all public officers are obliged to serve the public. If members of the public are not satisfied with their services, attitude or behavior, sufficient channels have been provided for them to lodge complaints. Once the complaint is substantiated, the Government may take internal disciplinary action against the offending public officer in accordance with the relevant civil service code. And

yet, the issue under discussion is not the creation of a corresponding offence or whether the absence of a corresponding offence will create more conflicts. Notwithstanding that, I wish to add that the provision of clear rules would be helpful to everyone in the community because I learnt from previous court judgments that the majority of cases of scuffles began with verbal conflicts. Therefore, in terms of speech and expression, if both parties are aware of the scope of acceptance, the subsequent conflicts can be avoided.

PRESIDENT (in Cantonese): Mr LAM, has your supplementary question not been answered?

MR LAM CHEUK-TING (in Cantonese): *The Secretary has not answered if he will consider legislating for a corresponding offence of insulting members of the public.*

SECRETARY FOR SECURITY (in Cantonese): When we consider this matter, just as I said, we will listen to both positive and negative views. Therefore, in the course of our consideration, all related aspects will certainly be taken into account.

PRESIDENT (in Cantonese): Last oral question.

Use of Force by Police Officers While Discharging Duties

6. **MR KENNETH LEUNG** (in Cantonese): *Deputy President, in 2012-2013, the Independent Police Complaints Council (IPCC) endorsed the results of investigations into 2 489 complaint cases handled by the Complaints Against Police Office. Those cases involved 4 884 allegations against police officers and 323 of them were allegations of assault. In this connection, will the Government inform this Council:*

- (1) *whether the police have provided training to front-line police officers to ensure that they will not use force abusively in discharging duties in order to avoid being complained; if they have, of the details; and the objective and independent monitoring measures and procedures that the authorities have put in place to prevent police officers from using force inappropriately in the process of law enforcement and handling arrestees;*
- (2) *in each of the past five years, of the respective numbers of police officers who were prosecuted in criminal proceedings and became the subjects of investigations in disciplinary hearings for alleged assaults or inappropriate use of force in discharging duties, as well as the respective numbers of police officers who were sanctioned in the form of warning, caution or admonition for such acts; and*
- (3) *whether the police have installed closed circuit televisions (CCTVs) in rooms in police stations for handling arrestees as well as in the compartments of police cars at present, so as to enhance the protection of the interests of arrestees and police officers; if they have, of the distribution and locations of such CCTVs and the criteria for using them; if not, whether they will consider such installations; if they will not consider, of the reasons for that?*

SECRETARY FOR SECURITY (in Cantonese): Deputy President, under the statutory two-tier police complaint system, the Complaints Against Police Office (CAPO) under the Hong Kong Police Force (HKPF) is specifically responsible for the handling and investigation of public complaints against police officers. To ensure that complaints are handled in a fair and impartial manner, the CAPO is independent of other police units in its operation. Upon completion of investigations, the CAPO shall submit its investigation reports on reportable complaints to the statutory IPCC for examination and review, ensuring that public complaints against police officers are handled fairly and impartially.

(THE PRESIDENT resumed the Chair)

According to the CAPO, among the complaints involving assault by police officers in the past five years, over 80% were endorsed by the IPCC as "not pursuable" or "withdrawn", while the remaining 20% were mostly classified as "no fault", "false" or "unsubstantiated" upon thorough investigation. In the past five years, no complaint cases involving assault were found to be "substantiated".

Upon analysis of the statistical data, the CAPO pointed out that a substantial number of complainants alleging that they had been assaulted by police officers were themselves involved in some criminal cases while lodging such complaints to the police. The complainants or their legal representatives generally used the substance of their complaints as defence in the criminal trial. Once the criminal cases were closed, the complainants would often take the initiative to withdraw their complaints or refuse to contact or respond to the CAPO. As a result, a considerable number of complaints involving assault were eventually classified as "not pursuable" or "withdrawn" every year.

The Administration's reply to the question raised by Mr Kenneth LEUNG is as follows:

(1) and (2)

Police officers maintain self-discipline and exercise a high degree of restraint in their discharge of duties. The police have put in place

very clear guidelines and training to instruct their officers not to use force unless it is necessary and there are no other alternatives to accomplish their lawful duties ...

(Mr LEUNG Kwok-hung stood up)

MR LEUNG KWOK-HUNG (in Cantonese): *Point of order.*

PRESIDENT (in Cantonese): Secretary, please hold on.

MR LEUNG KWOK-HUNG (in Cantonese): *Point of order. President, I ask you to invoke Rule 17(2) of the Rules of Procedure to do a headcount.*

PRESIDENT (in Cantonese): I hope Members will respect public officers or Members who are speaking.

MR LEUNG KWOK-HUNG (in Cantonese): *President, it is precisely out of my respect for him that I hope more Members will be here to listen to his reply.*

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Secretary for Security, please continue.

SECRETARY FOR SECURITY (in Cantonese): ... unless it is necessary and there are no other alternatives to accomplish their lawful duties. In addition, the level of force to be used should be minimal and reasonably required under such circumstances.

As mentioned above, no complaints involving allegations of assault were classified as "substantiated" in the past five years. A vast majority of complaints involving assault were classified as "no fault", "false" or "unsubstantiated" upon thorough investigation. During the same period, a total of five allegations involving assault were endorsed and classified as "not fully substantiated" by the IPCC, that is, there was some reliable evidence to support the complainants' allegation but such evidence was insufficient to fully substantiate the complaint. Upon examination, the police considered that those five cases were stand-alone incidents involving individual officers' integrity, and were unrelated to police's procedures and guidelines. To follow up, the police took disciplinary actions against the seven officers involved, including advice, warnings and disciplinary proceedings.

In the past five years, two other police officers were prosecuted for suspected assault during their discharge of duties. Both were acquitted after trial.

The police always attach importance to the prevention of complaints, with the overall objective of enhancing the quality of their public services. By means of various forms of training, the police have endeavoured to enhance the professional sensitivity, communication skills and awareness of complaint prevention of officers at all levels, reinforcing the value system of the HKPF and ensuring a clear understanding among officers of all ranks of their respective professional responsibilities. Apart from monitoring the trends of complaints, implementing the prevention of complaints and reducing complaints through improved work procedures, the CAPO and front-line commanders regularly examine relevant trends of complaints for the purpose of taking prompt measures to address the issues and improve their services.

On another front, the police attach great importance to the personality and integrity of law-enforcement officers. In addition to complaint prevention, the police have continued to adopt a four-pronged strategy, namely education and integrity culture building, governance and control, enforcement and deterrent, and rehabilitation and support, ensuring that all members of the police maintain a high level of integrity and demonstrate a high degree of professionalism in their discharge of duties.

- (3) On account of security considerations, the HKPF has installed CCTV surveillance systems at different areas in a police station, such as the report room, exits/entrances of the police station and the access to the detention rooms, for capturing the activities inside a police station and its surrounding areas.

The police respect the privacy and rights of arrestees and detainees. For the sake of privacy, the police do not and have no plan to install CCTVs in other places of a police station where arrestees are handled, including custody search area and detention rooms, or in the compartments of police cars.

MR KENNETH LEUNG (in Cantonese): *President, the complaint system mentioned by the Secretary earlier in his main reply is only a post-incident procedure of apportioning responsibility. In fact, the authorities may adopt certain immediate measures to prevent police officers from applying force abusively. As far as I know, the police in the United Kingdom have installed cameras in the compartments of police cars to record possible accidents or assaults on police officers, and this may also effectively prevent power abuse by police officers. According to the Secretary's main reply, CCTV surveillance systems have been installed in certain facilities used for handling arrestees in police stations, such as the access to the detention rooms. Since the police are now trying out the use of body worn video cameras by officers on duty, will the Secretary tell me why the authorities consider it necessary to respect privacy in the compartments of police cars and decided that CCTVs cannot be installed in the compartments?*

SECRETARY FOR SECURITY (in Cantonese): The police always carry out duty in a professional manner. Moreover, it is necessary for the police to take reasonable measures where practical circumstances permit to prevent the premature disclosure of the identity of arrestees, which may prejudice their interest in future trials. To protect the privacy of detainees, we have no plans to do so for the time being. As Mr LEUNG said earlier, CCTVs are indeed installed in some of the police cars, yet the CCTVs are not designed for recording the situation inside the compartment but circumstances outside the compartment, which are mainly matters relating to road safety. If any arrestee claims to have been assaulted by police officers in the course after his or her arrest and wants to lodge a complaint, the case can be processed under the existing mechanism. For under the existing mechanism, an arrestee has to be brought before the duty officer upon his arrival at the police station by the officer making the arrest. If the arrestee claims that he has been assaulted, he has the opportunity to make an immediate complaint. According to the mechanism, upon the receipt of the complaint, the duty officer is required to handle the case according to a series of prescribed procedures, including recording the facts of the case, and if the complainant agrees, the parts of his body being assaulted will be pictured and recorded and appropriate treatment will be administered. If the arrestee needed to be taken to the hospital for injury assessment, medical officers are required to fill out a form to describe his state after examining his condition. Therefore, regarding the existing mechanism, adequate safeguards have been put in place to protect the complainants.

MR LEUNG KWOK-HUNG (in Cantonese): *President, I am surprised that the Secretary is not only good at giving away Q & A, he is also good at answering questions. Mr Kenneth LEUNG asked him why CCTVs are not installed in police cars, yet he explained how the public could make a complaint in the absence of CCTVs. The point is simple. If I make a complaint of assault by a police officer, it will be useless, for no one has seen how it happened and it cannot be confirmed when the injury was inflicted. The police officer may even say that I beat him and he was just fighting back, and there is no way to verify whether ...*

PRESIDENT (in Cantonese): Mr LEUNG, please state your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *Therefore, the question asked by Mr Kenneth LEUNG is straightforward, that is, we need a mirror to reveal all. As you said earlier, a video camera for installation on vehicles is now quite popular, perhaps the President has also installed one on his car, which is used for recording the circumstances at the back or outside the car. However, we are not referring to this kind of devices. We are talking about recording the circumstances inside the car to check what the police officers or the suspects have done. Why can this not be done?*

PRESIDENT (in Cantonese): Mr LEUNG, please state your supplementary question. What is your supplementary question?

MR LEUNG KWOK-HUNG (in Cantonese): *He has not answered it, so I asked it once again. He mentioned the duty officer, but why is the duty officer involved?*

PRESIDENT (in Cantonese): Please state your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *I ask him to answer this again. I have already put forth my supplementary question. How will it affect the police if CCTVs are installed inside police cars and the video recording is used as evidence? How will it affect the protection of suspects? Since the Secretary has not provided me the questions and answers, I have to ask this question. Had the Secretary provided me with the questions and answers, I might not have asked the question in this manner.*

PRESIDENT (in Cantonese): Mr LEUNG, you have already asked your supplementary question, so please be seated.

SECRETARY FOR SECURITY (in Cantonese): President, as I said in my reply to Mr LEUNG's supplementary question earlier, the police have no plans to install CCTV systems in police cars for the time being, for the installation of CCTV systems will involve certain complicated and sensitive issues, such as privacy, and the police have to handle it cautiously. We consider that the existing system is adequate in addressing the issue. Certainly, regarding the views expressed by the two Members today, I believe the Commissioner of Police has also heard that.

MR LEUNG KWOK-HUNG (in Cantonese): *President, he has not answered my question. I asked him ... listen to me, I remember I asked him how the police and suspects would be affected if CCTVs were installed. He has not answered it. How can he give such an answer? He has mentioned neither the adverse impact on the police, nor the adverse impact on the suspects.*

PRESIDENT (in Cantonese): Mr LEUNG, the Secretary has already answered that.

MR LEUNG KWOK-HUNG (in Cantonese): *The situation is worse than what I faced in jail.*

PRESIDENT (in Cantonese): If you are not satisfied with the answer, you may follow up the issue through other channels.

MR LEUNG KWOK-HUNG (in Cantonese): *You are really "Great".*

PRESIDENT (in Cantonese): Please be seated.

MR WONG KWOK-KIN (in Cantonese): *President, if mutual trust is lacking, the installation of CCTVs, irrespective of the locations, will not have significant effect. I do not believe that CCTVs can be installed in toilets. What if the persons are beaten in the toilets? After all, it is a matter of mutual trust ...*

PRESIDENT (in Cantonese): Mr WONG, please state your supplementary question.

MR WONG KWOK-KIN (in Cantonese): *Yes, President, I am coming to my question. In fact, being assaulted is a subjective perception, and it is a matter of personal feeling. Last Sunday, Mr LEUNG Kwok-hung was complained for hitting an old woman in the Victoria Park ...*

PRESIDENT (in Cantonese): Mr WONG, please state your supplementary question.

MR WONG KWOK-KIN (in Cantonese): *Complaints about assault by police officers have been here for a long time. Yet after the reunification, the number has decreased considerably. When I reviewed the information, I noted that the number of cases found to be "substantiated" is limited. However, in the aftermath of certain storming and protest actions, it is true that more people have complained about having been assaulted by police officers. Therefore, may I ask the Secretary, after the storming of the Legislative Council Complex, whether the few persons complaining in front of the media for having been assaulted have lodged official complaints to the police or the IPCC? Have the police or the IPCC commenced investigations into these cases?*

SECRETARY FOR SECURITY (in Cantonese): Regarding the incident mentioned by Mr WONG just now, I do not have the information about the complaint. However, if the complainant lodges a complaint, the police will definitely follow the established procedures in a fair and impartial manner and the case will be investigated by the CAPO. After the investigation, the report will be submitted to the IPCC for examination as required by law.

MR WONG TING-KWONG (in Cantonese): *After the 1 July march this year, the so-called "Occupy Central rehearsal" was launched, causing serious obstruction to traffic in Central and inconvenience to public going to work and affecting emergency services. The police eventually cleared the scene. In the course, certain people said that the police had applied excessive force, yet I do not think so according to what I saw, where a protester was carried away by nearly three to four police officers. The police obviously applied restraint and only minimum force in clearing the scene. As for the protesters who wanted to*

stay at the scene, they certainly considered the police wrong to remove them from the scene by force and they thus said the police had applied excessive force.

However, the general public knows clearly that the police were only maintaining order and enforcing the law strictly, and there was no power abuse ...

PRESIDENT (in Cantonese): Please state your supplementary question.

MR WONG TING-KWONG (in Cantonese): ... *President, so my supplementary question is: May I know the number of complaint cases involving assaults by police officers which eventually proved that the practice of the police officer is only regular law-enforcement action, that the complaint is false or that there is no fault on the part of the police officer?*

SECRETARY FOR SECURITY (in Cantonese): I would like to thank Mr WONG Ting-kwong for his question. I will provide some figures for Mr WONG's reference here. Take the year 2013 as an example. There were 315 complaints about police officers assaulting other people, which accounted for 6.8% of the total number of complaints. After investigation, 17 cases were eventually found to be "false", 14 cases were found to have "no fault", 106 cases were "withdrawn" and 158 cases were "not pursuable". These are figures for the year 2013.

If the President allows, I will provide the figures of another year as an example. In 2012, there were 328 complaint cases, which was more or less the same of the 315 cases in 2012. Among them, 20 cases were "unsubstantiated", 17 cases were "false", 12 cases involved "no fault", 125 cases were "withdrawn" and 153 cases were "not pursuable".

As I said in the main reply earlier, a majority of the cases fall under the category of "withdrawn" and "not pursuable". In the past five years, it was proved that ... no case was found to be "substantiated".

MR ALBERT CHAN (in Cantonese): *President, as I watched the Secretary talking to himself, I felt pity and sorry for him. President, in the past, when certain police officers were accused of involvement in irregular or illegal practices, such as setting up certain people by placing illegal items on them or assault, and so on, video recordings were used in many complaint cases as successful proof of evidence. A number of years ago, in a case in Tai Wo Hau Estate, the police officer set up a person inside the lift by placing illegal items on the person, and his action was confirmed in the video recording. Eventually, the police officer in question was punished according to law. This is a fact cast in iron, an example.*

However, in many assault cases, since no video recording is available, police officers always say that the offenders have resisted arrest or have violent conduct. This is my personal experience. On 1 July 2011, I was assaulted by police officers in the public. Fortunately, the Oriental Daily News had taken a picture, and it served as evidence. The picture was later submitted as evidence to the Court and the Judge ordered that an investigation be carried out, yet by now, the result of the investigation is not yet available ...

PRESIDENT (in Cantonese): Please state your supplementary question.

MR ALBERT CHAN (in Cantonese): *My supplementary question is about the situation that more often than not, it is like a chicken talking to a duck, and that justice will never be done when police officers are responsible for investigating police officers. Will the Secretary examine and consider the request made by numerous people over the years of making the CAPO independent of the HKPF? An investigation can prove to be fair only when it is really independent. Otherwise, incidents like the raping of a young girl in a police station by a police officer and purloining the entrusted will continue to take place ...*

PRESIDENT (in Cantonese): Mr CHAN, you have already put forth your supplementary question, please be seated.

SECRETARY FOR SECURITY (in Cantonese): President, we certainly will not comment on individual case here. According to my understanding, the thrust of Mr CHAN's supplementary question is that the investigation work of the CAPO should not continue to be done by police officers but should be undertaken by an independent organization or a group of independent persons who are not members of the HKPF. In fact, for an extremely long period in the past, the issue had been discussed not only in the Legislative Council but also in society, particularly during the establishment of the IPCC as a statutory organization.

We have explained the justifications repeatedly. At present, the investigation unit under the CAPO is independent of other units in the HKPF. Police officers understand the practices adopted by police officers, and police officers responsible for the investigations into these cases possess the professional knowledge and skills required, which will make the investigation work more effective and efficient. The important point is that the investigation reports must be submitted to the IPCC. The IPCC is an independent organization. Apart from its committee members, a secretariat has been set up and independent officers will examine the reports.

Therefore, I think the most important point is that the investigation results must be submitted to the IPCC for examination and determination of whether or not the reports should be recognized. According to the existing law, if the IPCC considers that a report is problematic, it may return the case to the CAPO and request it to investigate the case afresh or provide additional information to the satisfaction of the IPCC. I believe the system has struck a balance among various aspects.

MR ALBERT CHAN (in Cantonese): *President, for police officers to investigate police officers, how can it be ensured that there will not be collusion, instances of calling a stag a horse ...*

PRESIDENT (in Cantonese): Mr CHAN, as you must be aware, debate is not allowed during Question Time. This Council has spent 23 minutes on this question. Oral questions end here.