

立法會
Legislative Council

LC Paper No. CB(2)1298/17-18(06)

Ref : CB2/PL/SE

Panel on Security

**Information note prepared by the Legislative Council Secretariat
for the meeting on 4 May 2018**

Combatting bogus marriage

The subject of combatting bogus marriage has not been discussed by the Panel on Security ("the Panel"). According to the Administration's replies to relevant questions raised by Members at Council meetings, any person who makes use of bogus marriage to obtain the requisite documents for the purpose of entering Hong Kong, or any person who facilitates others to achieve such purpose through arranging bogus marriages for them, shall be guilty of an offence. In the course of contracting bogus marriages, and applying for entries into Hong Kong through such marriages, the persons involved may have committed offences such as conspiracy to defraud, making false representation to officers of the Immigration Department ("ImmD"), making a false oath, giving false declaration and bigamy, etc., and are liable on conviction to imprisonment for up to 14 years.

2. ImmD has set up a special task force since 2006 to step up enforcement actions against persons seeking entry into Hong Kong by means of bogus marriages and intermediaries aiding others to seek entry into Hong Kong through such means. From 2008 to 2015, ImmD investigated into a total of 5 890 suspected cases of bogus marriage. 8 655 persons were arrested as a result, out of which 1 550 persons were successfully convicted. In 2017, 85 persons were convicted of offences relating to bogus marriages and sentenced to imprisonment terms of six to 21 months.

3. According to the Administration, ImmD has been closely monitoring the latest trends and practices in arranging bogus marriages by intermediaries and syndicates and collecting intelligence from various channels, including advertisements with wording such as "quick money" and "cross-boundary matchmaking" in instant messaging and social networking mobile applications, newspapers, web pages, etc. Meanwhile, the Marriage Registries of ImmD has also stepped up checking on suspicious marriage registrations. The relevant

questions raised by Members and the Administration's replies are in **Appendices I to III.**

4. The Panel will discuss the subject of combatting bogus marriage at the meeting on 4 May 2018.

Council Business Division 2
Legislative Council Secretariat
27 April 2018

Press Releases

LCQ19: Combating bogus marriages

Following is a question by the Hon Elizabeth Quat and a written reply by the Secretary for Security, Mr Lai Tung-kwok, in the Legislative Council today (January 20):

Question:

It has been reported that a number of cross-boundary syndicates have made use of social networking web sites to recruit Hong Kong residents to participate in illegal activities relating to bogus marriages with mainlanders. Many Hong Kong residents have participated in such activities to make quick money and recommended their friends to participate so as to earn referral fees. According to some estimations, among the marriages between mainlanders and Hong Kong residents registered in Hong Kong each year, about 25% may be bogus marriages, involving nearly 7 000 Hong Kong residents. In this connection, will the Government inform this Council:

(1) in each of the past 10 years, of the number of bogus marriages uncovered by the authorities, the number of persons suspected of contracting bogus marriages (with a breakdown by gender and age group) and the number of intermediaries involved, the respective numbers of persons prosecuted and convicted, as well as the penalties generally imposed by the Court on those convicted; the top five countries/places where most people who entered Hong Kong through bogus marriages had come from, and the respective numbers of people from such countries/places, with a breakdown by gender and age group;

(2) as there are reports that in the past few years, the percentage of convicted cases of offences relating to bogus marriages in the suspected cases remained low (e.g. less than 10% in 2014), whether the authorities will allocate additional resources to the Immigration Department to step up efforts in combating bogus marriages and related intermediary activities; if they will, of the details; if not, the reasons for that;

(3) whether the authorities will, when handling cross-boundary marriage registrations, step up scrutiny work with a view to identifying any suspicious situation, and strengthen information exchange with mainland authorities and other countries;

(4) as there are comments that the penalties currently imposed by the Court on persons who committed offences relating to bogus marriages are generally far below the maximum penalties for such offences (e.g. offenders making false representation to Immigration Officers are liable to a maximum fine of \$150,000 and imprisonment of 14 years), whether the authorities will enact specific offence provision against acts of bogus marriages and specify a minimum term of imprisonment in such provision, so as to enhance the deterrent effect; and

(5) whether the authorities will step up publicity efforts on social networking web sites and other channels to remind members of the public (in particular young people) not to defy the law and participate in illegal activities relating to bogus marriages for making quick money; if they will, of the details; if not, the

reasons for that?

Reply:

President,

The Government has always been concerned about bogus marriages. The Immigration Department (ImmD) set up a special task force in 2006 to step up enforcement action against persons seeking entry into Hong Kong by means of bogus marriages and intermediaries aiding others to seek entry into Hong Kong through such means. When suspected cases are identified, ImmD will collect evidence through various different channels, conduct thorough investigation on parties to the suspected bogus marriage and relevant intermediaries, and prosecute offenders where there is sufficient evidence.

Our response to the various parts of the Hon Elizabeth Quat's question is as follows -

(1) From 2008 to 2015, ImmD investigated into a total of 5 890 suspected cases of bogus marriage. 8 655 persons were arrested as a result, out of which 1 550 persons were successfully convicted. Relevant statistics breakdown by year is at Annex 1. ImmD does not maintain relevant statistics by year before 2008.

Amongst the 1 550 persons successfully convicted, 886 were male and 664 were female. Apart from a small number of cases where the convicted were sentenced to Community Service Orders of 80 hours or above, the majority of the convicted were sentenced to imprisonment from 4 to 24 months. Separately, a case involving the head of a syndicate was sentenced to imprisonment for 48 months.

ImmD does not maintain statistics breakdown of those investigated or arrested for suspected bogus marriage cases by nationality or age. Amongst the said 1 550 persons successfully convicted, 1 124 were Hong Kong residents and 426 were non-Hong Kong residents.

Persons successfully convicted mentioned above include intermediaries and parties to the bogus marriage. ImmD does not maintain statistics breakdown on the number of intermediaries arrested.

(2) and (3) ImmD will continue to step up enforcement actions against persons seeking entry into Hong Kong by means of bogus marriages with Hong Kong residents. Adopting a multi-prong approach, measures will include stepping up immigration examination on arrivals, combating illegal workers, stepping up operations against intermediaries, stepping up checking of doubtful marriage registration cases, exchanging intelligence and cooperating with Mainland authorities, and preventing cases of bogus marriages for the purpose of seeking to give birth in Hong Kong. Details are at Annex 2. ImmD will monitor effectiveness of the above measures, and suitably deploy manpower to cope with operational needs and review the manpower requirements as necessary.

(4) Those involved in bogus marriage cases may commit the following offences -

Pursuant to section 42(1)(a) of the Immigration Ordinance

(Cap. 115), any person who makes any false representation to immigration officers shall be guilty of an offence and liable on conviction to a maximum fine of \$150,000 and to imprisonment for up to 14 years. Aiders and abettors are liable to the same;

Pursuant to section 34 of the Crimes Ordinance (Cap. 200), any person who knowingly and willfully makes a false oath or makes or signs a false declaration for the purpose of procuring a marriage or a certificate or licence for marriage shall be guilty of an offence liable on conviction to an imprisonment for up to 7 years and to a fine. Aiders and abettors are liable to the same;

Under common law and pursuant to section 159C(6) of the Crimes Ordinance and sections 2(3) and 6 of the Criminal Jurisdiction Ordinance (Cap. 461), a person convicted of the offence of conspiracy to defraud shall be liable to imprisonment for up to 14 years.

As mentioned in Part (1) of this response above, the majority of those convicted in bogus marriage cases were sentenced to imprisonment from 4 to 24 months, with a case involving the head of a syndicate sentenced to imprisonment for 48 months. We believe that the sentences have provided effective deterrence. That said, we will closely monitor the situation and conduct a review when necessary.

(5) ImmD reminds the public (including young people) from time to time on the relevant legal requirements through press conferences, press releases and media interviews. ImmD will continue to educate and disseminate the message to members of the public via various channels on the importance of observing the law and the serious consequences of committing the offences.

Ends/Wednesday, January 20, 2016
Issued at HKT 15:08

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Annex 1

	Number of cases	Number of persons arrested	Number of persons convicted
2008	874	908	259
2009	1 033	728	180
2010	1 283	1 504	185
2011	605	1 242	263
2012	432	1 059	240
2013	515	1 102	188
2014	687	1 096	122
2015	461	1 016	113
Total	5 890	8 655	1 550

Annex 2

(1) To step up immigration examination on arrivals: ImmD will step up immigration examination on arriving passengers at all control points and critically scrutinise doubtful visitors coming to visit their spouses in Hong Kong on the strength of “Tanqin” (visiting relatives) exit endorsements.

(2) To combat illegal workers: since those involved in bogus marriages mainly seek to take up unlawful employment after their entry into Hong Kong, ImmD will pay particular attention to Mainland residents holding “Tanqin” exit endorsements during anti-illegal worker operations.

(3) To step up operations against intermediaries: ImmD has noticed that some Mainland residents have, through the arrangement of intermediaries, obtained travel documents to enter Hong Kong by contracting bogus marriages with Hong Kong residents. These intermediaries may have committed the offence of conspiracy to defraud or aiding and abetting others to make false representation to immigration officers. ImmD will continue to step up investigations into these intermediaries.

(4) To step up checking of doubtful marriage registration cases: Marriage Registries have stepped up checking on suspected cases since mid-July 2011 to further combat bogus marriage cases. Investigation Sub-division of the ImmD has also initiated investigation into any suspected bogus marriage cases. With these measures in place, a number of suspected cases were swiftly detected and successfully prosecuted. ImmD will continue to investigate into suspected bogus marriage cases through the above checking measures.

(5) To exchange intelligence and cooperate with Mainland authorities: ImmD will notify Mainland authorities of information on Mainland residents committing offences related to bogus marriage. This enables Mainland authorities to strictly scrutinise their future applications for exit endorsements. Mainland authorities will also refer cases of suspected bogus marriages to ImmD for follow-up. ImmD will conduct joint enforcement operations with the Mainland authorities when necessary.

(6) To prevent bogus marriage cases for the purpose of seeking to give birth in Hong Kong: ImmD set up a task force in November 2012 to analyse and investigate the delivery booking records obtained from private hospitals so as to combat cases involving Mainland pregnant women obtaining the “Confirmation

Certificate on Delivery Booking” to give birth in Hong Kong through bogus marriages.

Press Releases

LCQ14: Combating bogus marriages

Following is a question by the Hon James To and a written reply by the Acting Secretary for Security, Mr John Lee, in the Legislative Council today (June 7):

Question:

Over the years, some cross-boundary syndicates have been arranging Mainlanders to enter into bogus marriages with Hong Kong residents, so that the Mainlanders concerned may apply for Permits for Proceeding to Hong Kong and Macao (commonly known as One-way Permits (OWPs)) for coming to Hong Kong for settlement. The Immigration Department (ImmD) set up a special task force in 2006 to combat the related crimes. From 2008 to 2015, ImmD investigated into 5 890 suspected cases of bogus marriage and arrested 8 655 persons, 1 550 persons of which were convicted. During the same period, the terms of imprisonment imposed on persons convicted for bogus marriage varied from 4 to 24 months while the head of a syndicate was sentenced to imprisonment for four years. However, such terms of imprisonment were much shorter than the maximum imprisonment term of 14 years as stipulated in the legislation. In this connection, will the Government inform this Council:

(1) of the respective numbers of Hong Kong residents who were prosecuted and convicted for committing bogus marriage-related crimes last year, with a breakdown by their gender and the age group to which they belonged; among the convicted persons, of the number of intermediaries and the penalties generally imposed on them;

(2) given that from 2008 to 2015, the number of persons who were prosecuted and convicted for committing bogus marriage-related crimes accounted for only about one-sixth of the number of persons arrested, whether the authorities have reviewed (i) if such ratio is relatively low (if so, of the reasons for that), (ii) the effectiveness of the work of investigating bogus marriages, and (iii) the difficulties encountered in instituting prosecutions and gathering evidence; if they have reviewed, of the outcome;

(3) in order to further combat bogus marriage-related crimes, whether the authorities will (i) allocate additional resources to ImmD so that its personnel may scrutinise cross-boundary marriage registrations more stringently, and (ii) enhance intelligence exchanges with Mainland authorities and other countries;

(4) whether the authorities have plans to discuss with Mainland authorities on issues relating to the vetting of and approval for OWPs, and propose that ImmD participate in or even take up the full responsibility for the vetting and approval work for OWPs, with a view to curbing bogus marriage-related crimes more effectively;

(5) whether the authorities have studied if the penalties imposed on the aforesaid convicted persons have sufficient deterrent effect; if they have studied and the outcome is in the negative, whether the authorities will lodge appeals against certain

selected cases for the purpose of seeking the promulgation of a sentencing guideline by the Court of Appeal to set out severer sentencing yardstick; and

(6) whether the authorities have reviewed the effectiveness of the existing publicity work on the seriousness of committing bogus marriage-related crimes; apart from the publicity channels such as holding press conferences, issuing press releases and receiving media interviews, whether the authorities will employ other new means (e.g. social networks) to launch publicity work?

Reply:

President,

Our reply to the question raised by Hon James To is as follows:

(1) In 2016, the Immigration Department (ImmD) investigated a total of 507 suspected cases of bogus marriage. Ninety-eight persons were successfully convicted, among which 84 were Hong Kong residents, including 54 males and 30 females. All the 98 convicted persons (including intermediaries) were sentenced to imprisonment ranging from four to 18 months. ImmD does not maintain other breakdown statistics mentioned in the question.

(2), (3), (5) and (6) Any person who makes use of bogus marriage or facilitates other persons to obtain the requisite documents by aiding them in contracting bogus marriages for the purpose of entering Hong Kong shall be guilty of an offence. In the course of contracting bogus marriages, and applying for entry into Hong Kong through such marriages, the persons involved may have committed offences such as bigamy, making a false oath, giving false information, making false representation to ImmD officers and conspiracy to defraud, etc. According to the prevailing legislation of Hong Kong, any person who commits the offence of conspiracy to defraud is liable on conviction to imprisonment for up to 14 years. Furthermore, it is an offence for any person to make false representation to ImmD officers. Such offenders may be prosecuted and, upon conviction, subject to the maximum penalty of a fine of \$150 000 and imprisonment for 14 years. Aiders and abettors are also liable to prosecution. We believe that sentences in the past have provided effective deterrence. If ImmD considers the sentence imposed on individual cases too light to properly reflect the gravity of the offences and provide effective deterrent, it will seek legal advice from the Department of Justice on whether to request for a review of sentence or to apply for leave to appeal.

ImmD's Marriage Registries have stepped up checking on suspicious marriage registrations to further combat bogus marriage. Investigation Sub-division of ImmD has also initiated investigations into suspected bogus marriage cases. In general, the enforcement officers of ImmD will collect evidence through various ways, including carrying out spot checks by home visits, collecting circumstantial evidence and proof, and conducting separate interviews with persons involved, etc, to meet the high standard required of evidence in criminal prosecutions.

In addition, ImmD has maintained close liaison with the Mainland, and provided Mainland enforcement authorities with information of Mainland residents who have committed offences related to bogus marriage. This enables strict scrutiny of their future applications for exit endorsements. Mainland authorities

will also refer cases of suspected bogus marriages to ImmD for follow up. When persons involved in those cases come to Hong Kong in the future, ImmD will thoroughly examine their purposes of visit and may refuse their entry if their purposes of visit are in doubt. For persons who are found to have obtained their residence in Hong Kong by fraudulent means, their Hong Kong identity cards or residence status will be invalidated according to the laws of Hong Kong. They will also be subject to removal to their places of origin.

ImmD reminds from time to time members of the public to stay within the law through press conferences, press releases and media interviews. It will continue to educate and disseminate the message to members of the public via various appropriate channels on the importance of observing the law and the serious consequences of committing the offences.

(4) Permits for Proceeding to Hong Kong and Macao, commonly known as OWPs, are documents issued by relevant authorities in the Mainland. The application, approval and issuance of OWPs fall within the remit of the Mainland authorities. According to Article 22 of the Basic Law and the interpretation by the Standing Committee of the National People's Congress in 1999, Mainland residents who wish to enter Hong Kong for whatever reason must apply to the relevant authorities of their residential districts for approval in accordance with the relevant national laws and administrative regulations, and must hold valid documents issued by the relevant authorities. Accordingly, Mainland residents who wish to settle in Hong Kong for family reunion must apply for OWPs from the exit and entry administration offices of the public security authority at the places of their household registration in the Mainland. ImmD facilitates the processing of OWP applications by the Mainland authorities at case level, including, when necessary, rendering assistance in verifying the supporting documents submitted by the applicants and their claimed relationship with relatives in Hong Kong (e.g. husband and wife). Where a case is found to be suspicious or when factual discrepancies are identified, ImmD will inform the Mainland authorities and request the applicant to provide further documentary proof. ImmD will also assist the Mainland authorities in investigating cases involving OWPs obtained through unlawful means. Taking OWP applications under the category of "reunion with spouses" as an example, in case the husband-and-wife relationship is doubtful, the Mainland authorities will pass the particulars of the applicants and their spouses in Hong Kong to ImmD for verification of the personal particulars of the Hong Kong residents, the certificates of registration of marriage in Hong Kong or other relevant records. ImmD will notify the Mainland authorities of the verification results for their follow-up actions. The Hong Kong Special Administrative Region Government does not consider that there is any need or justification to request the Mainland authorities to consider changing the existing OWP scheme or approval arrangements.

Ends/Wednesday, June 7, 2017
Issued at HKT 14:26

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Press Releases

LCQ6: Enforcement actions against bogus marriages and related offences

Following is a question by Dr Hon Elizabeth Quat and a reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (July 5):

Question:

Recently, it came to my notice that a recruitment advertisement for a job offering handsome remunerations was circulating on the social network but it gave no details about the job nature. I then arranged my staff to get in touch with the recruiter by telephone, and learnt that to earn a wedding cash gift of as high as \$200,000, the employed person only needed to first apply for a certificate of absence of marriage record at a law firm in Hong Kong, and then go to the Mainland to undergo marriage procedure with the Mainlander concerned. The recruiter stressed that the particulars of the employed person would be kept confidential, and that the marriage relationship would be maintained only for a period between six months and one year; such practice would not be regarded as bogus marriage, and was legal and would bear no consequences. Such recruitment advertisement shows that some lawbreakers have employed a new tactic to mislead members of the public into committing crimes relating to bogus marriages. Given that the summer break is drawing near, quite a number of parents are worried that young people will breach the law inadvertently as they want to make quick money. In this connection, will the Government inform this Council:

(1) whether the authorities will adopt new measures to combat crimes relating to bogus marriages, such as collecting evidence by carrying out decoy operations during investigations, increasing the manpower for proactive investigations into suspicious cases, and seeking the imposition of heavier penalties on offenders (in particular the intermediaries and heads of bogus marriage syndicates) by the court;

(2) as the summer break is drawing near, whether the Immigration Department and the Mainland law enforcement agencies will, apart from exchanging intelligence on a regular basis, step up law enforcement actions to combat crimes relating to bogus marriages; and

(3) how the authorities will enhance the publicity targeting young people, reminding them not to commit crimes relating to bogus marriages; of the channels through which those young people who have been misled into committing crimes relating to bogus marriages may seek assistance from the authorities?

Reply:

President,

The Government has always been concerned about bogus marriages. In order to deal with the problem more effectively, the Immigration Department (ImmD) set up a special task force in 2006 to step up enforcement actions against persons seeking entry

into Hong Kong by means of bogus marriages and intermediaries aiding others to seek entry into Hong Kong through such means. ImmD has been closely monitoring the latest trends and practices in arranging bogus marriages by intermediaries and syndicates, including the use of instant messaging software and social networking mobile applications. When suspected cases are identified, ImmD will proactively collect evidence through various channels, conduct thorough investigations into parties to the suspected bogus marriages and relevant intermediaries, and prosecute offenders where there is sufficient evidence.

Any persons who make use of bogus marriage to obtain the requisite documents for the purpose of entering Hong Kong, or any persons who facilitate others to achieve such purpose through arranging bogus marriages for them, shall be guilty of an offence. In the course of contracting bogus marriages, and applying for entries into Hong Kong through such marriages, the persons involved may have committed offences such as conspiracy to defraud, making false representation to ImmD officers, making a false oath, giving false declaration and bigamy, etc., and are liable on conviction to imprisonment for up to 14 years.

My reply to the questions raised by the Dr Hon Elizabeth Quat is as follows:

ImmD will continue to step up enforcement actions against bogus marriages and related offences, including -

To step up immigration examination on arrivals

When conducting immigration examinations on arriving passengers, ImmD will critically scrutinise doubtful visitors coming to visit their spouses in Hong Kong on the strength of "Tanqin" (visiting relatives) exit endorsements and refuse their entries if their purposes of visit are in doubt. In case there is evidence showing that the person concerned commits an offence, such as making false representation to ImmD officers, in-depth investigations will be conducted by enforcement officers of ImmD and prosecution actions will be taken.

To conduct anti-illegal workers operations

Many involved in bogus marriages in the past aimed at seeking illegal employment in Hong Kong. ImmD therefore pays particular attention to Mainland residents holding "Tanqin" exit endorsements during anti-illegal worker operations. In-depth investigations will be mounted against any suspected cases of "Tanqin" exit endorsements obtained as a result of bogus marriages.

To step up operations against intermediaries

Many bogus marriage cases in the past involved intermediaries arranging Mainland residents to contract bogus marriages with Hong Kong residents and then applying for the requisite documents to enter Hong Kong. ImmD has all along been paying attention to and conducts investigations into doubtful intermediaries. It also cooperates with the Mainland authorities by exchanging intelligence with a view to combating intermediaries and bogus marriage syndicates involved in cross-border crimes.

Besides, the special task force of ImmD also keeps track of the trend of bogus marriages and collects intelligence from

various channels, including advertisements with wordings such as "quick money" and "cross-boundary matchmaking" in instant messaging and social networking mobile applications, newspapers, web pages, etc. It will conduct in-depth investigations into suspicious marriage intermediaries.

To step up checking of doubtful marriage registration cases

Apart from the special task force, the Marriage Registries of ImmD are also involved in combating bogus marriages. Marriage Registries have stepped up checking on each of suspicious marriage registration cases to more effectively identify dubious cases of suspected double marriages in the Mainland and Hong Kong. Meanwhile, the Investigation Sub-division of ImmD also initiates investigations into any suspected bogus marriage cases. With these measures in place, a number of suspected cases were swiftly detected and successfully prosecuted.

ImmD will make flexible deployment of manpower in the light of the effectiveness of the above measures and operational needs to continue with its enforcement actions against bogus marriages. It will also review the manpower requirements as necessary. In response to the trend of bogus marriage and the circumstances of individual cases, ImmD will also take appropriate measures to collect intelligence and evidence to further combat the intermediaries and masterminds of bogus marriage syndicates proactively.

From 2008 to 2016, 1 648 persons, including intermediaries and parties to suspected bogus marriages, were successfully prosecuted by ImmD. Apart from a small number of cases where the convicted were sentenced to Community Service Orders of 80 hours or above, the majority of the convicted were sentenced to imprisonment from 4 to 24 months. In one such cases, the head of a syndicate was sentenced to imprisonment for 48 months.

Regarding the sentence, if ImmD considers the sentence imposed on an individual case too light to properly reflect the gravity of the offences and provide effective deterrent, it will seek legal advice from the Department of Justice on whether to request for a review of sentence or to apply for leave to appeal.

ImmD has maintained close liaison with the Mainland authorities to combat crimes related to bogus marriages. In addition, ImmD will notify the Mainland authorities of Mainland residents who are suspected to be involved in bogus marriages. This enables the Mainland authorities to strictly scrutinise their future applications for exit endorsements. The Mainland authorities will also refer cases of suspected bogus marriages to ImmD for follow-up. When persons involved in those cases come to Hong Kong in future, ImmD will thoroughly examine their purposes of visit and refuse the entry of any visitors whose purposes of visit are in doubt. For persons who are found to have obtained their residence in Hong Kong by fraudulent means, their Hong Kong identity cards or residence status will be invalidated according to the laws of Hong Kong. They will also be subject to removal to their places of origin.

To remind members of the public, including young people, of the possible consequences of participating in bogus marriages and the serious implications of committing related offences, ImmD has from time to time announced the information on crackdown of bogus marriage syndicates and successful prosecutions of intermediaries and participants through press conferences, press releases and

media interviews, etc. ImmD will continue to deliver such messages via various innovative channels, such as producing and uploading short videos at ImmD's channel on YouTube, etc. If any members of the public have unfortunately become victims of bogus marriages or intend to provide information on suspicious bogus marriage cases, they may report to ImmD at any time through various channels.

Thank you, President.

Ends/Wednesday, July 5, 2017
Issued at HKT 16:10

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