

**A note for the 19th Bills Committee meeting on
Dangerous Drugs, ICAC and Police Force (Amendment) Bill 1999
to be held on 12 June 2000**

**Administration's Reponse on the Estimated Number of
Samples to be Taken Each Year**

Purpose

This paper sets out the Administration's response to Members' questions regarding the estimated number of samples to be taken each year after the enactment of the Bill.

Background

2. At the Bills Committee meeting on 8 June 2000, Members discussed the proposed sections 59D and 59E of the Police Force Ordinance. Members requested the Administration to provide estimates on the number of samples that would be taken each year from those suspected of involving in serious arrestable offence under section 59A and 59C, and from those convicted of serious arrestable offence under section 59E.

Number of persons arrested for "serious arrestable offence"

3. As Members were informed by our earlier paper entitled *Assessment on the scope of "serious arrestable offence"*, the annual average number of people arrested by the Police for "serious arrestable offence " for the past three year (i.e. 1997 to 1999) is about 29,400. Members will be aware that the taking of samples requires the fulfillment of all of the following conditions –

- (a) the authorisation by an officer of the rank of Superintendent or above;
- (b) the authorising officer has reasonable grounds for suspecting the

involvement of the person concerned in a "serious arrestable offence";

- (c) the authorising officer has reasonable grounds for believing that the sample will tend to confirm or disprove the involvement of the person concerned; and
- (d) where the sample is an intimate sample, the consent of the person concerned and the approval by a magistrate.

Given the above statutory requirements provided under the Bill, the number of cases which is eligible for sample taking will certainly be less than the figure of 29,400.

Number of persons convicted of "serious arrestable offence"

4. The annual average number of persons convicted of "serious arrestable offence" for the 3-year period from 1996 to 1998 is about 19,800. Theoretically, all these 19,800 cases are eligible for buccal swab taking under the proposed section 59E of the Police Force Ordinance. However, as we have explained to Members, statistical figures showed that a portion of the offenders was likely to re-offend in the future. For example, the total number of persons arrested from 1994 to 1999 of sexual and violent crimes was about 32,400 of which only 10,550 (about 33%) were new offenders. In the light of the plausible recidivism, the number of samples to be taken is likely to drop over time gradually after the implementation of the legislative proposals.

Estimated number of samples to be taken each year

5. While the above paragraphs give the maximum number of cases for which samples may be taken under sections 59A, 59C and 59E of the Police Force Ordinance, we would like to make it very clear that we do not expect that buccal swab will actually be taken from each and every person caught under the proposed sections in the foreseeable future.

6. In the first phase of implementation of the legislative amendments, the Police will target at taking samples for offences of a more serious nature having regard to the degree of mischief likely to be caused to the victims and their families, and the possible concern of the

community. Examples of such offences include rape, murder, serious assault, arson, kidnapping, and indecent assault. Past statistics also show that certain serious offences are more likely to be committed by repeated offenders. This will be taken into account. Focus will also be on the serious offences for which the use of DNA information for investigation purposes would be most effective. Rules setting out the types of offences which should be accorded higher priority in sample taking will be included in the internal administration guidelines to be developed by the law enforcement agencies. Together with the resources constraint, we expect that the total number of samples that will be taken each year under sections 59A, 59C and 59E ranges approximately from 4,000 to 5,000.

Advice Sought

7. Members are invited to note the content of the paper.

Security Bureau
9 June 2000