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24 May 2006

Clerk, Public Accounts Committee  
Legislative Council  
8 Jackson Road  
Hong Kong

(Attn.: Ms. Dora Wai)

Dear Ms Wai,

**The Director of Audit's Report on the  
Results of Value for Money Audits (Report No. 46)**

**Chapter 1 – Collection of Fines Imposed by Magistrates' Courts**

I refer to your letter of 17 May 2006 and provide the additional information requested by the Public Accounts Committee in the following paragraphs.

**(a) The Audit Recommendation in Paragraph 3.16(a)**

2. At paragraph 3.16(a) of the captioned Report, Audit has recommended that the Judiciary Administration should, for offences other than moving offences and parking contraventions, keep under review and, where appropriate, consider shortening the 14-day grace period between the due date of fines and the generation of distress warrants and non-payment warrants by the CASEMAN (emphasis added).

3. The Judiciary Administration has just started the review. In conducting the review, we are going to make reference to the payment patterns of the fines in question. During the past week or so, we have so far

been able to produce some initial data on the payment patterns of fines in respect of offences other than moving and parking contraventions for the period from 1 April 2005 to 31 March 2006. The preliminary findings are as follows:

- (a) Of a total of 157,351 such cases for the period from April 2005 to March 2006, 141,354 cases (i.e. 90%) were paid on or before the due date of payment. In other words, 15,997 cases (i.e. 10%) were not paid on or before the due date;
- (b) Of the 15,997 cases which were not paid on or before the due date, 12,318 cases (77%) were paid on or before the 14<sup>th</sup> day after the due date; and
- (c) Of the remaining 3,679 cases with outstanding payment, 1402 cases (i.e. a further 9% of the 15,997 cases at (b) above) were paid on or before the 23<sup>rd</sup> day after the due date, (i.e. the average lead time between the due date of the fine and the date when a warrant was issued as indicated at paragraph 3.6 of the Audit Report).

The payment pattern is set out at the Annex.

4. The Judiciary Administration intends to collect similar data on the payment patterns of the fines in question for two more periods covering (i) 1 April 2004 to 31 March 2005; and (ii) 1 April 2003 to 31 March 2004, and other relevant date, if appropriate, to facilitate a more comprehensive review in this regard. We intend to complete the review within three months.

**(b) Paragraph 3.12 – Payment regarding Defaulter B2 involved in parking contravention cases**

5. As these parking contravention cases were civil in nature, applications for execution of distress warrants were made to the Magistrates' Courts by the Department of Justice on behalf of the Police. The bailiffs made three attempts at two different addresses to execute the five distress warrants on Defaulter B2 between September 2004 and January 2005. In all three attempts, the doors of the two premises were locked. The attempts were regarded as unsuccessful. The court directed on 13 January 2005 to stay the execution

6. The fixed penalty and court cost payable by Defaulter B2 are still outstanding, according to the information in CASEMAN as at 23 May 2006.

7. On the time lag in receiving information from prosecuting departments, we note that Audit has stated in paragraph 4.15 of the captioned Report that "Audit considers that it is reasonable to expect that the prosecuting departments should respond promptly to the general offices on the additional information requested." We agree with this view.

8. It is however noted that Audit has also stated that "There is a need for the general offices to follow up with the prosecuting departments in case (emphasis added) the replies are not received within a reasonable time." The Judiciary Administration will consult the major prosecuting departments with a view to devising practicable measures to enable that prompt responses will be provided to the general offices. We aim to complete this within three months.

**(c) Paragraph 4.18 – Cost of execution of distress warrants and setting of target time**

9. The Judiciary Administration aims to complete an estimate of the cost of execution of distress warrants, as recommended in paragraph 4.18 (a), within six months.

10. The Judiciary Administration will consider setting a target time on execution of distress warrants by the bailiffs, particularly the target time of the first attempt, as recommended in paragraph 4.18 (b), within three months.

11. The Judiciary Administration has implemented the recommendations in paragraph 4.18 (c) regarding the refinement of wording used in the memorandum issued to the prosecuting departments.

**(d) Success rate of execution attempts of distress warrants relating to parking contraventions**

12. The circumstances under which the execution of a distress warrant relating to parking contraventions is considered unsuccessful are mainly those noted by the Director of Audit in paragraph 4.5 of his Report, viz

- (a) the door of the premises is locked and nobody responds to the bailiff's calls;

- (b) the bailiff is satisfied that no such defaulter is trading or residing at the premises;
- (c) the bailiff is satisfied that no goods and chattels belonging to the defaulter are available for seizure; and
- (d) the bailiff finds that the goods and chattels are of insufficient value to cover the cost of seizure.

13. If the first attempt is unsuccessful, the applicant, in this case the Police, would be informed of the execution result. A second or further attempt would be made upon receiving further request and/or information from the Police.

14. The 6,735 execution attempts involved 4,751 cases.

15. The reasons for the unsuccessful execution attempts of distress warrant relating to parking contraventions are mainly those noted by the Director of Audit in paragraph 4.5 of his Report, and are repeated at paragraph 12(a) to (d) above.

**(e) Paragraph 6.11 – Case 5 in Appendix D**  
**Paragraph 6.16 – Dishonoured cheques**

16. According to the information contained in CASEMAN, Case 5 made two payments on 12 May 2005 and 1 December 2005 respectively. All the outstanding fines concerned have been settled.

17. The Judiciary Administration has not referred cases of dishonoured cheque payment for traffic fines to the Police for investigation and prosecution. However, it should be noted that the General Office of the Magistrates' Courts concerned has been keeping the Police informed of cases involving dishonoured cheque payment for traffic fines.

**(f) Proposed outsourcing the execution of distress warrants relating to parking contraventions**

18. In executing distress warrants relating to parking contraventions, the bailiffs can seize the defaulters' vehicles if the applicant (i.e. the Police) will provide :

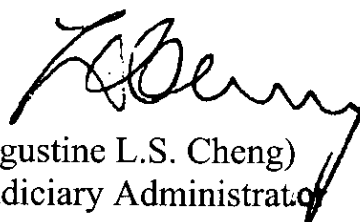
- (a) proof from the vehicles registration records of the Transport Department that the vehicles are properties of the defaulters;
- (b) information on the location of the defaulters' vehicles; and
- (c) the necessary resources to carry out a seizure.

19. The bailiffs can effectively carry out a seizure if the above means and resources are provided. The Judiciary Administration would not therefore consider outsourcing this function.

**(g) Other Matters**

20. At paragraph 2.6 of the captioned Report, Audit has recommended that the Judiciary Administration should consider issuing notices to offenders who are allowed to pay fines within a period to inform them of the amount and the due date of fines, and the consequences of non-payment. The Judiciary Administration now plans to implement this recommendation on 1 June 2006.

Yours sincerely,

  
(Augustine L.S. Cheng)  
for Judiciary Administrator

Encl

c.c. Deputy Director of Public Prosecutions  
Commissioner of Police  
Deputy Commissioner of Police (Operations)  
Commissioner for Transport  
Secretary for Financial Services and the Treasury (Attn.: Miss Amy Tse)  
Director of Audit

**Payment position on fines relating  
to offences other than moving offences and parking contraventions  
for the period from 1.4.2005 to 31.3.2006  
(Audit recommendation 3.16(a))**

	Cases	Percentage of cases settled over cases due %	Percentage of cases settled over cases not paid on or before due date %	Accumulative Percentage %
No. of cases due	157,351			
No. of cases paid on or before due date	141,354	90		
No. of cases not paid on or before due date	15,997	10		
No. of cases paid on the 1st day after due date	3,450	2.2	21.6	21.6
2nd day after due date	1,677	1.1	10.5	32.1
3rd day after due date	1,349	0.9	8.4	40.5
4th day after due date	977	0.6	6.1	46.6
5th day after due date	850	0.5	5.3	51.9
6th day after due date	838	0.5	5.2	57.1
7th day after due date	788	0.5	4.9	62
8th day after due date	523	0.3	3.3	65.3
9th day after due date	371	0.2	2.3	67.6
10th day after due date	331	0.2	2.1	69.7
11th day after due date	315	0.2	2	71.7
12th day after due date	262	0.2	1.6	73.3
13th day after due date	265	0.2	1.7	75
14th day after due date	322	0.2	2	77
No. of cases paid during the grace period	12,318	7.8	77	
15th day after due date	187	0.1	1.2	78.2
16th day after due date	180	0.1	1.2	79.4
17th day after due date	166	0.1	1	80.5
18th day after due date	149	0.1	1	81.5
19th day after due date	171	0.1	1.1	82.5
20th day after due date	191	0.1	1.2	83.7
21st day after due date	177	0.1	1.1	84.8
22nd day after due date	96	0.1	0.6	85.4
23rd day after due date	85	0.1	0.5	86
No. of cases paid from 15th to 23rd day	1,402	0.9	9	
No. of cases paid from 1st to 23rd day	13,720	8.7	86	