

政府總部  
香港下亞厘畢道



GOVERNMENT SECRETARIAT  
LOWER ALBERT ROAD  
HONG KONG

本函檔號 OUR REF: SBCR 1/2801/07 Pt. 9

來函檔號 YOUR REF:

Tel: 2810 2632  
Fax : 2810 7702

*By Fax*  
(Fax no.: 2509 0775)

23 October 2008

Mr Raymond Lam  
Clerk to Panel on Security  
Legislative Council  
3<sup>rd</sup> Floor, Citibank Tower  
3 Garden Road  
Hong Kong

Dear Mr Lam,

**Panel on Security**  
**Police's Handling of Searches of Detainees**

Thank you for your letter dated 15 October 2008, requesting the Administration to provide information on the Police's handling of searches of detainees. We set out below the Administration's response.

Implementation of the Police's new arrangements for searches of detainees

The Police's new Guidelines on the Searching of Detained Persons that were introduced to the Panel on Security at its meetings on 4 March 2008 and 8 July 2008 took effect from 1 July 2008. The Police organized a series of briefings beforehand to explain to front-line officers the objective of the new Guidelines and to impress on them the need to respect the rights of those detained when conducting searches.

The Police management has been monitoring the operation of the revised procedures closely to ensure their effective implementation. Initial feedback indicates that front-line officers generally appreciate the

promulgation of the revised procedures and have endeavoured to follow the procedures and the principles enshrined in the new Guidelines. Accordingly, searches on detainees are recorded and the reasons for and scope of searches properly documented in the Force's Communal Information System (CIS). Both the searching and witnessing officers have maintained proper records of searches conducted. Statistics on the three levels of searches, i.e. Level I involving "non-removal of clothing", Level II involving "removal of some clothing" and Level III involving "removal of underwear", conducted by Police officers on detainees in July to September 2008 are set out at **Annex A**<sup>Note 1</sup>.

In the three months from July 2008 to September 2008 inclusive, among searches that were conducted on detainees in Police premises, two complaints were made relating to search of detainees involving removal of clothing or removal of underwear, compared to six complaints received over the same period in 2007. All complaints will be thoroughly investigated and the investigation results will be submitted to the Independent Police Complaints Council according to the established requirements. Any misconduct found in the officers concerned will be subject to disciplinary action; and where criminal offence may be involved, prosecution action may be taken. The Police will take account of the experience earned and conduct refresher briefings for front-line Police officers on the revised search procedures and on the need to respect the rights and privacy of persons detained.

### Stage Two Review of Procedures for Searches of Detainees

As we have advised the Security Panel previously, upon the conclusion of the legal proceedings in respect of the Lee Tung Street court case, the Force will conduct a stage two review to ascertain whether additional measures are warranted to further improve the handling of searches of detainees. The Force will take into account the comments and suggestions made by the Subcommittee on Police's Handling of Searches of Detainees as set out in the Subcommittee Report. The issues which the

---


<sup>Note 1</sup> Due to system limitation, the current technical design of the CIS can only provide the number of searches conducted under the three levels (i.e. Level I, Level II and Level III) respectively over a period of time. Any other information on searches could only be retrieved on a case-based approach. As explained to the Panel in our earlier letter of 9 April 2008, as part of their feasibility study on the redevelopment of the CIS, the Police will further explore the feasibility and pursue the necessary upgrading to enhance the functions of the CIS for recording searches conducted on persons detained in police custody, and for retrieving essential information and records on such searches as and when necessary.

Police have already confirmed, vide the Administration's letter to the Subcommittee of 17 July 2008, that they would consider in taking forward their stage two review mentioned above are listed at **Annex B**. Furthermore, at the Subcommittee meeting on the same day, we further undertook to consider a number of comments and suggestions made by Members at the meeting; those issues will also be covered in the stage two review.

Upon the completion of the stage two review, the Police will, as appropriate, further improve and update the search guidelines and other related documents. We will keep Members informed of the outcome of the review.

I should be grateful if you would help bring the above to the attention of Members.

Yours sincerely,

  
( Apollonia Liu )  
for Secretary for Security

c.c. ACP(Support) (Mr Austin Kerrigan)

Fax : 2200 4328

**Number of Persons Arrested, Detained and Searched  
at Police Stations in July to September 2008**

<b>Item</b>	<b>Description</b>	<b>Number of persons / searches</b>
(a)	No. of Persons Arrested	31 027
(b)	No. of Persons Detained	8 086
(c)	No. of custody searches not involving removal of clothing (Level I)	7 856
(d)	No. of custody searches involving removal of some clothing (Level II)	2 513
(e)	No. of custody searches involving removal of underwear (Level III)	1 674

Note 1 : The number of persons detained does not tally with the total number of custody searches conducted as a detained person may be searched more than once during his / her detention depending on the circumstances of each case.

Note 2 : For Level III, officers will not require a detained person to remove all of his / her clothes at the same time, e.g. a person whose clothing above the waist has been removed should be allowed to put the clothing back on before removing clothing below the waist.

## Annex B

### **Suggestions made by the Security Panel Subcommittee on Police's Handling of Searches of Detainees which the Police have undertook to consider for the Stage Two Review of the Police Force as presented to the Subcommittee on 17 July 2008**

- To consider further fine-tuning the procedures, the Guidelines and / or the “Custody Search Form” (Pol. 1123) to –
  - give a clearer indication that searches involving removal of underwear should only be conducted in very restrictive circumstances;
  - include in the revised Police General Orders / Force Procedural Manual references to the relevant provisions of the Basic Law and international conventions regarding the protection of human rights in respect of detainees;
  - better reflect detainees’ rights in voicing objection to the reasons for and / or the scope of the search when being so informed by the Duty Officers;
  - clarify that the detainees are invited, not requested, to sign on Pol. 1123;
  - require the authorizing officer to record on Pol. 1123 more detailed justifications for conducting a search involving removal of underwear;
  - clarify whether searches must be immediately conducted upon arrest;
  - modify the wording of para. 11(b) of the Force Procedural Manual 49-04 to make it non-discriminatory against detainees of a particular gender;
  - include typical search procedures in the guidelines; and
  - define more clearly what “detained in police custody” means.

- To consider providing more information to the public on the procedures in conducting a pre-detention search.
- To consider arranging exchange sessions between the Police officers and the human rights concern groups / Legislative Council members, with a view to enhancing the officers' awareness of human rights concerns.
- To consider allowing the process of the searches to be video-taped if the detainee so requests.
- To consider introducing additional procedures or measures when conducting searches on those classes of detainees who require special care or attention (for example, minors, mentally disabled, transsexuals).
- To consider exploring the use of infra-red equipment in assisting the conduct of pre-detention searches.