

**For discussion  
on 7 February 2014**

**Legislative Council Panel on Security  
Proposal to Write off a Judgment Debt**

**Purpose**

This paper aims to consult Members on a proposal to write off an irrecoverable judgment debt totaling HK\$824,344.47, inclusive of interest, owed to the Government by a former Supplies Supervisor II (SS II) responsible for handling case property of the Hong Kong Police Force (HKPF). The SS II is unable to repay the debt. Subject to Members' views, we will seek the approval of the Finance Committee (FC) to write off the debt as soon as practicable.

**Background**

2. Mr LEUNG (LEUNG), a former SS II, was responsible for handling case property of the HKPF. He was found to have stolen case exhibits and cash. He owed the Government a total of HK\$824,344.47, i.e. the missing money and its interest. Despite having exhausted all possible legal means, the Government failed to recover the money from LEUNG and the debt was confirmed as irrecoverable upon discharge of LEUNG's bankruptcy order.

**Justifications**

*The Debt Case*

3. On 20 February 2003, LEUNG, tasked with handling case exhibits at the Crime New Territories South Region of the HKPF, was found to be absent from duty and his whereabouts were unknown. An exhibit that he was handling, i.e. HK\$1,358,000 in cash, was also missing.

*Criminal Investigations and Further Details*

4. Regional Crime Unit of New Territories South Region took over the case. Upon investigation, it was discovered that some other case exhibits handled by LEUNG, including cash and valuable property, were also missing. Upon checking, it was confirmed that the missing cash and exhibits involved in the case, along with the sum of money found to be stolen by him earlier, were as follows:

- (a) HK\$1,403,250 in cash;
- (b) RMB1,670.70 in cash;
- (c) US\$270 in cash;
- (d) a gold ring and a gold necklace;
- (e) two Octopus cards; and
- (f) three credit cards.

5. On 7 March 2003, LEUNG surrendered to the Police and admitted that he had stolen the above property. Upon investigation, the Police recovered some of the missing property, namely:

- (a) HK\$708,387.60 in cash;
- (b) RMB1,610.00 in cash;
- (c) a gold ring and a gold necklace;
- (d) two Octopus cards; and
- (e) three credit cards.

The Government was required to compensate the owners for failing to recover the missing money, i.e. HK\$ 694,862.40, RMB60.70 and US\$270.

#### *Criminal Proceedings, Judgment and Disciplinary Action*

6. On 9 March 2003, the Police prosecuted LEUNG for six counts of theft upon the Department of Justice (DoJ)'s advice. On 18 July 2003, LEUNG pleaded guilty to all the counts at the District Court and was sentenced to imprisonment for two years and eight months. On 28 November of the same year, LEUNG was punished by dismissal.

#### *Debt Recovery Actions Taken*

7. Since May 2004, DoJ has initiated debt recovery actions against LEUNG, serving on him demand letters on behalf of the HKPF in relation to the amount of compensation made by the Government to the owners arising from the missing money, i.e. HK\$694,862.40, RMB60.70 and US\$270. In view of LEUNG's replies to DoJ in February and April 2005 stating his inability to repay the debt, DoJ applied to the District Court for the issuance of a writ of summons on behalf of the HKPF in December 2006.

8. On 2 February 2007, the District Court, in respect of the claims, ordered LEUNG to pay an amount of HK\$697,024.30 to the Hong Kong SAR Government, in addition to the interest and fixed costs. DoJ issued demand

letters to LEUNG's address on two occasions between October 2007 and April 2008, requesting him to settle the payment. LEUNG did not respond to the demand letters, nor did he settle the judgment debt ordered by the Court.

9. LEUNG subsequently filed a bankruptcy petition in July 2008 and was adjudged bankrupt on 26 August 2008 (HCB 5652/2008). DoJ filed a proof of debt with the Official Receiver against LEUNG's bankruptcy estate. The judgment debt and the interest calculated up to LEUNG's bankruptcy date were HK\$824,344.47 in total (see paragraph 12 below for the breakdown). Upon examination of a report to a proving creditor prepared by LEUNG's receiver in July 2009, DoJ believed that LEUNG was unable to pay the debt and considered that there was a very slim chance of recovering the debt.

10. In August 2012, LEUNG was discharged of the bankruptcy order and his receiver confirmed that LEUNG had no assets available for distribution to his creditors. According to the Bankruptcy Ordinance (Cap. 6), the discharge of a person from a bankruptcy order releases him from all bankruptcy debts. In this connection, LEUNG was released from all bankruptcy debts, including the judgment debt in question, and the Administration cannot take any further action to recover any proved debt after the said discharge.

11. In the light of the debt recovery actions taken and the latest developments, after consulting DoJ, we consider that all possible legal means to recover the debt has been exhausted by the Administration in this case. As it is ascertained that the debt owed by LEUNG to the Government is irrecoverable, consideration has to be given to write off the debt.

12. The total amount of debt proposed to be written off (inclusive of interest) is HK\$824,344.47, broken down as follows:

<b>Item</b>	<b>HK Dollars</b>
Judgment debt	697,024.30
Interest - 1 December 2006 to 2 February 2007	13,402.39
Interest - 3 February 2007 to 26 August 2008 (Bankruptcy date)	113,917.78
Total:	<b>824,344.47</b>

### **Other follow-up actions**

#### *Supervisory Responsibilities*

13. Upon discovery of the incident, the Police conducted a comprehensive internal investigation. Statements had been taken from the officers concerned in a bid to verify whether LEUNG's supervisors had followed the relevant

inspection procedures and fulfilled the supervisory responsibilities. It was found upon investigation that an Executive Officer (EO), the then Property Control Officer (PCO) of Crime New Territories South Region, had allegedly failed to properly supervise LEUNG's daily duties, nor had the EO properly administered the access to valuable properties in the Property Office according to the prescribed procedures, thereby giving chances to LEUNG to steal the property. The Administration immediately took disciplinary actions against the above officer for his alleged misconduct in accordance with the established procedures for civil servants.

### *Preventive and Improvement Measures*

14. The Police have been striving to improve and enhance property control procedures. The management of the New Territories South Region reviewed afresh the property control and monitoring system immediately after the incident, and considered that it would be more appropriate for inspectorate officers, with knowledge and experience in crime investigation and case property handling, to monitor the daily operation of the Property Office. In this connection, since 21 February 2003 (i.e. the day following the incident), the responsibility for regulating the operation of the Property Office was transferred to inspectorate officers across the board. A PCO in the Police is now generally the Commander of Administration and Support Sub-unit (ASSUC) or the Commander of Property Office Sub-unit (POSUC). Both are officers of the inspectorate rank. In stations or formations without an ASSUC, the PCO shall be an inspectorate officer designated by a Superintendent. This improvement measure tightens the supervision of the operation of a Property Office and enforce stricter discipline over the officer. Supervisors are responsible for their subordinates' acts or negligence. Any improper conduct or any dereliction of duty will be seriously dealt with by the Police and a disciplinary investigation will be launched accordingly.

15. Despite the fact that the subject case mainly involves the misconduct of the Property Officer and the negligence of the PCO, the management of the New Territories South Region had, immediately after the incident, conducted a comprehensive review on the supervisory role of all officers (including Superintendents and inspectorate officers) in the light of the property control procedures, with a view to identifying areas for improvement and enhancement. Briefing sessions were also conducted for all the officers concerned at once, reminding them of the proper procedures for handling and administering property.

16. On another front, regular reviews are conducted by the Police on the current procedures and mechanisms to keep the property control mechanism up

to date. Take as an example, the Police comprehensively examined the property control practice in 2012, taking on board good practices of the front-line in property handling procedures, with a view to further enhancing the relevant procedures and augmenting officers' awareness of property security. In addition, an improvement measure was implemented in 2013 to ensure that officers would expedite the handling of case property upon the completion of the investigation, as a way to exercise more stringent control on the timely disposal of property. Furthermore, a stringent internal audit system is in place to require officers to make clear records of property handling, so as to ensure officers' strict compliance with the Police General Orders (PGO) and the Force Procedures Manual (FPM) in the course of property handling, as well as enhancing their accountability.

17. Moreover, the Police have stepped up the monitoring of property handling through the Communal Information System (CIS) and have been continuously improving its functions for the past decade. Through the CIS supervisory and monitoring function, a supervisory officer may now check the withdrawal and receipt of property in the safe and the Property Office under his supervision, as well as the inspection records of the management staff. These practices are to ensure that regular inspections of property are conducted according to the guidelines. To enhance its security, CIS of the next generation will require officers using the new system for return and receipt of property to not only input their personal passwords, but also place their warrant cards on a card reader for verifying their identities.

18. As far as manpower deployment is concerned, the Police have also formulated policies on managed posting arrangements, with a view to ensuring that posts involving property control duties are to be taken up by suitable officers. Formation commanders may make managed posting arrangements for officers having potential conflicts of interest, who are of doubtful integrity or who are in debt, until the problem in question has been resolved. Such a posting arrangement helps to further strengthen the control over staff responsible for property handling.

#### *Administration of Property*

19. As far as the safe keeping of property is concerned, there are stringent guidelines in the PGO and the FPM to regulate the handling and administration of property. Regarding the handling of case property, police officers shall count and record the property on the spot at the time of seizure, make a detailed record of the property in the CIS, and subsequently place the property in the Property Office. Property Officer shall carefully check the property against the particulars of its CIS record before taking over the property. As for the

security of the Property Office, no person except the Property Officer and the PCO are allowed to enter the Office without authorization.

20. A PCO at inspectorate rank conducts weekly random checks and inspections of the property in the Property Office with reference to the CIS record. The officer will check against each and every property received since the last inspection to ensure that none of the property is missing. The PCO will make a record in the CIS of the property inspected in every regular inspection.

21. Unless with the delegated authority of the Assistant Divisional Commander (Administration) (ADVC ADM), only the Officer-in-charge of the Case (OC Case) or the seizing/exhibits officer, or an officer with the OC Case's written authorization, may retrieve a property from the Property Office for further investigations or for presenting to the court as evidence. Reasonable grounds shall be given by the officer during the withdrawal of the property. Such grounds, together with detailed particulars of the property withdrawal officer, shall be entered into the CIS. In addition, the officer concerned shall return the property to the Property Office before off-duty, and ensure that the receiving officer acknowledges the receipt of the property in the CIS. In the event that the property has not been returned within the specified period of time, the Property Officer shall report the case to ADVC ADM for the latter to decide on further actions.

22. Regarding the return of case property, when the OC Case considers that it is no longer necessary to retain the property involved, he/ she may issue an instruction to the PCO through the CIS. Upon receiving the instruction via the CIS, the PCO will contact the owner to collect the property. Two officers shall be present to witness the return of cash and property to the owner, and they shall also record the necessary information in the CIS, including details of the property and particulars of the returning officer, the witnessing officer and the person(s) collecting the property. If the property involved is a sum of cash over HK\$5,000, or if it is an article with a value of over HK\$5,000, one of the witnesses shall be an officer of or above the rank of inspector.

#### *Promotion of Integrity Management*

23. Apart from the formulation of procedures, the integrity of property handling officers is of utmost importance. Over the years, the Police have spared no effort in promoting integrity management and enhancing the good conduct of police officers to prevent similar incidents. A comprehensive integrity management strategy is currently in place within the Force, under which a wide spectrum of different measures are implemented to promote the values of integrity and honesty. Moreover, a set of behavioural guidelines has

been drawn up to establish a code of conduct that police officers should follow while on or off duty.

### **Proposal**

24. For cases not involving fraud or negligence, the Financial Secretary (FS) is empowered under section 38 of the Public Finance Ordinance (Cap. 2) to write off losses of public moneys, stores, etc. without financial limit. For cases involving fraud or negligence, FS may only exercise his power of write-off subject to such conditions, exceptions and limitations FC may specify. If fraud or negligence is involved, FS may exercise his delegated authority to write-off a debt with the current limit of HK\$500,000 in each case, or in respect of any one cause. Since the current case involves fraud by a staff member (see paragraphs 4 to 6 above) and the amount exceeds the financial limit (see paragraph 12 above), we propose to seek approval from FC to write off the irrecoverable debt. Subject to Members' views, we will seek FC's approval for writing off the debt as soon as practicable.

### **Advice sought**

25. We welcome Members' views on the above proposal.

**Security Bureau  
Hong Kong Police Force  
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