

香港特別行政區政府
保安局



The Government of the
Hong Kong Special Administrative Region
Security Bureau

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21 January 2016

Miss Betty Ma
Secretary General
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Miss Ma,

Your letter dated 7 January 2016 is received. I am authorised to reply as follows.

2. The HKSAR Government attaches great importance to the cases of missing persons and fully understands the concerns of the community. With regard to the above-mentioned missing person cases, the Police have already commenced investigation in an attempt to understand the circumstances, background and the course of the event of the missing persons. The Police are also proactively gathering evidence and looking for clues from various sources, including closed-circuit television footage etc. Currently, the relevant cases have been consolidated and are being handled by the Regional Missing Person Unit of Hong Kong Island of the Police, with the support of the Regional Crime Unit of Hong Kong Island. During the course of investigation, the Police have been maintaining contact with the families of the missing persons. The Police have also informed the families of the investigation progress and answered their queries. Meanwhile, the Police have set up a 24-hour hotline to facilitate provision of information related to the cases by members of the public.

3. During the course of investigation, the Police have been seeking assistance from relevant Mainland police co-operation units. In the evening of 18 January, the Police received a reply letter concerning one of the missing persons, Lee Po, from the Interpol Guangdong Liaison Office of the Guangdong Provincial Public Security Department, stating that "having understood that Lee Po is in the Mainland". Also enclosed in the reply is a letter from him addressing to the relevant government department of the HKSAR Government. The content of this letter is similar to the one which the media reported that he has written to his wife on 17 January. The Police have contacted Mrs Lee, who confirmed that it was Lee Po's handwriting in the letter. The Police have already written to the Interpol Guangdong Liaison Office of the Guangdong Provincial Public Security Department on 18 January, requesting to meet with Lee Po and further understand the situation of the incident.

4. Since Hong Kong's return to China, the HKSAR Government has all along been dealing with matters relating to the HKSAR strictly in accordance with the principle of "one country, two systems" and the Basic Law. Under Hong Kong laws, law enforcement officers of jurisdictions other than Hong Kong do not have the authority to enforce laws in Hong Kong. Law enforcement officers of any other jurisdiction cannot take law enforcement actions if they are in Hong Kong. If law enforcement officers of non-Hong Kong jurisdictions take law enforcement actions in Hong Kong, this will contravene Hong Kong laws.

5. The freedom of speech, of the press and publication, and of the person, etc. of Hong Kong residents are guaranteed by the Basic Law. The Basic Law and the Bill of Rights also safeguard the freedom and safety of the person. Except properly permitted under our laws, we shall not tolerate any unauthorised criminal investigation or unlawful arrest. For any suspected case of infringement, we will conduct full and thorough investigation. The HKSAR Government will continue to safeguard the rights and freedoms of Hong Kong residents in accordance with law.

6. The implementation of the reciprocal notification mechanism of the HKSAR Government and the Ministry of Public Security and the assistance rendered by the HKSAR Government to Hong Kong residents detained in the Mainland have been discussed by the Panel on Security of the Legislative Council in a number of occasions, of which the most recent one was on 7 June 2005 (Legislative Council file reference: CB(2)1784/04-05(01)). The relevant information is now attached at Annex for reference.

Yours sincerely,

(Andrew Tsang)

for Secretary for Security

c.c.:

Hong Kong Police Force

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**Implementation of the Reciprocal Notification Mechanism of the
HKSAR Government and the Ministry of Public Security
and Assistance to Hong Kong Residents detained in the Mainland**

Reciprocal Notification Mechanism (RNM)

The HKSAR Government is very concerned about the legal rights of Hong Kong residents who are detained and sentenced in the Mainland. Since 1 January 2001, the Mainland and the HKSAR Government have put in place a RNM for cases involving unnatural deaths and imposition of criminal compulsory measures on residents from the other side, so that notification could be made as soon as practicable. Under the existing notification mechanism, the Notification Unit in the Mainland (i.e. the Ministry of Public Security) should notify the Hong Kong Notification Unit (i.e. the Hong Kong Police) of the imposition of criminal compulsory measures on Hong Kong residents by the public security authorities, the Mainland customs authorities, People's Procuratorates and the Ministry of State Security.

2. Upon receipt of notification from the Mainland authorities, the HKSAR Government will inform the family members of the persons concerned as soon as possible so that the latter can consider whether to engage a lawyer or to seek other assistance through the HKSAR Government. The Mainland public security authorities and other relevant authorities have been offering active assistance and cooperation, and the RNM has been operating smoothly. Since the operation of the mechanism in 2001 to the end of December 2015, over 12 000 notifications involving more than 9 400 Hong Kong residents were made by the Mainland authorities to the HKSAR side. Cases relating to the imposition of compulsory measures are mostly related to fraud, smuggling and dangerous drugs offences, and the offences were mainly committed in Guangdong. The notification mechanism is an administrative arrangement implemented on the basis of mutual respect for the relevant laws of both jurisdictions under which notification will be made as soon as practicable.

Policing Co-operation Mechanism between Hong Kong and the Mainland

3. The police authorities of Hong Kong and the Mainland will liaise on individual cases under this mechanism of policing cooperation. If one party requires the assistance of the other party, the requested party may gather information relevant to the case through various legal means and provide such information to the requesting party. When the requesting party seeks assistance, it must give prior notification to the requested party and explain clearly the nature of the case and the scope of the assistance sought. It will then be for the law enforcement officers of the requested party to undertake the investigation work in accordance with the law. When conducting such cooperation, any law enforcement actions must only be taken by the local law enforcement agencies in accordance with the law. Under no circumstances can police officers take enforcement actions in the territory of another jurisdiction.

Assistance to Hong Kong Residents Unit of the Immigration Department

4. Upon receiving requests for assistance from Hong Kong residents in the Mainland and their case information, the Offices of the HKSAR Government in the Mainland as well as the Assistance to Hong Kong Residents Unit of the Immigration Department (the Unit) will provide appropriate assistance, having regard to the nature and circumstances of the cases and the requests of the assistance seekers. In general, on cases of persons detained in the Mainland, officers of the Immigration Divisions of the Offices of the HKSAR Government in the Mainland or the Unit will explain to the assistance seekers the relevant Mainland legislation and criminal proceedings. Depending on the volition of the assistance seekers, officers will provide the contact information of Mainland lawyers' associations for their consideration.