

**立法會**  
**Legislative Council**

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**Panel on Security**

**Information note prepared by the Legislative Council Secretariat  
for the special meeting on 26 January 2016**

**Notification mechanism between the Mainland authorities and the Hong  
Kong Special Administrative Region Government and assistance to  
Hong Kong residents detained in the Mainland**

According to the Administration, since 1 January 2001, the Hong Kong Special Administrative Region ("HKSAR") has, by way of an administrative arrangement and on the basis of mutual respect for the relevant laws of both sides, put in place a reciprocal notification mechanism with the Mainland in respect of 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. In addition, the Hong Kong Police have been maintaining a police co-operation mechanism with relevant Mainland counterparts. Under the mechanism, if one party requires the assistance of the other party to conduct investigation, the requested party may gather information relevant to the case through legal means and provide such information to the requesting party. When conducting such co-operation, any law enforcement actions must only be taken by the local law enforcement agencies in accordance with the law.

2. Members have raised questions relating to the notification mechanism between the Mainland authorities and HKSAR and assistance to Hong Kong residents detained in the Mainland at the Council meetings of 29 June 2005, 22 February 2006, 20 December 2006, 14 July 2010, 26 February 2014 and 20 January 2016. The questions raised by Members and the Administration's replies are in **Appendices I to VI** respectively.

3. The Administration will brief the Panel on Security on the notification mechanism between the Mainland authorities and HKSAR Government and assistance to Hong Kong residents detained in the Mainland at the special meeting on 26 January 2016.

## Press Release

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LCQ14: Cooperation or notification mechanisms  
between HKSAR Government and Mainland authorities

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Following is a question by the Hon Ma Lik and a written reply by the Secretary for Constitutional Affairs, Mr Stephen Lam, in the Legislative Council today (June 29):

Question:

Will the Government inform this Council of the standing mechanisms for cooperation or notification between the Government of the HKSAR and the Mainland authorities at present and, for each of these mechanisms, the purposes and date of its establishment, its updated membership list, the number of meetings held in the past two years and the matters discussed?

Reply:

Madam President,

The main standing mechanisms for cooperation or notification currently established between the Government of the HKSAR (HKSARG) and the Mainland authorities in accordance with the relevant provisions under the Basic Law and the "One Country, Two Systems" principle are set out in the Annex with the requisite details.


The list is not exhaustive as many different types of working groups, technical groups and working level contacts have been established under these mechanisms.

Apart from the standing mechanisms for cooperation or notification, HKSARG policy bureaux and departments have, in accordance with operational considerations, established various other types of cooperation and communication channels with relevant Mainland authorities for working level contacts and exchanges.

Ends/Wednesday, June 29, 2005  
Issued at HKT 16:01

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Appendix II**Press Releases**

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LCQ2: Practicable assistance rendered to Hong Kong residents in need

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Following is a question by the Hon Yeung Sum and a written reply by the Secretary for Security, Mr Ambrose S K Lee, in the Legislative Council today (February 22):

Question:

More than nine months have elapsed since a veteran journalist was subject to residence under surveillance in the Mainland last year, and the timing of concluding the court trial is not yet known. Hence the date of his return to Hong Kong is still doubtful. In this connection, will the Government inform this Council whether it knows:

(a) the latest position of the above case, including the charge, the trial proceedings and availability of assistance of local lawyers to this person; and

(b) the health condition of this person?

Reply:

Madam President,

(a) In order to protect individual privacy, the HKSAR Government will not disclose details of the case.

The HKSAR Government is very concerned about the case. We are in close contact with the family concerned and have conveyed to the Central Government their requests and appeals.

We will continue to keep in touch with the family concerned to render practicable assistance. We will also liaise with Mainland authorities and keep the family concerned posted of the latest progress of the case.

(b) In order to protect individual privacy, the HKSAR Government will not disclose details of the case.

Ends/Wednesday, February 22, 2006  
Issued at HKT 14:41

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Appendix III**Press Releases**

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LCQ12: Notification Mechanism  
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Following is a question by the Hon Bernard Chan and a written reply by the Secretary for Security, Mr Ambrose S K Lee, in the Legislative Council today (December 20):

Question:

Under the notification mechanism set up by the law enforcement authorities of the Mainland and Hong Kong, the Immigration Department would pass to the relevant mainland authorities information about mainland visitors convicted of criminal offences in Hong Kong, so that the latter could closely scrutinise the future applications made by these persons for exit endorsement for Hong Kong. In this connection, will the Government inform this Council of:

(a) the number of such cases passed under the notification mechanism to the relevant mainland authorities last year; and

(b) the number of visitors from the Mainland with previous convictions in Hong Kong who were convicted again, broken down by the type of offences, each year since the introduction of the Individual Visit Scheme in July 2003?

Reply:

Madam President,

(a) The Immigration Department regularly provides the exit and entry department of the Mainland public security authorities with the particulars of those persons who were convicted of criminal offences in Hong Kong, in order to enable these authorities to step up scrutiny of these persons' subsequent applications to visit Hong Kong. In 2005, the particulars of 14,917 persons were provided to the Mainland authorities under the notification mechanism.

(b) The number of Mainland visitors with previous convictions in Hong Kong in or after 1990, who were convicted again within the period of July 2003 to 2005, whether they had left Hong Kong between the convictions, broken down by the types of offence of their last conviction, is as follows.

Type of offence of last conviction	2003 (since July)	2004	2005
Theft	43	78	50
Giving false information to, or misleading, immigration officer	0	19	37
Serious immigration offences	24	39	24
Breach of conditions of stay	9	18	18

Other offences	14	40	29
Total	90	194	158

Ends/Wednesday, December 20, 2006  
Issued at HKT 15:00

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Appendix IV**Press Releases**

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LCQ12: Reciprocal notification mechanism  
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Following is a written reply by the Secretary for Security, Mr Ambrose S K Lee, to a question by Hon Albert Ho Chun-yan in the Legislative Council today (July 14):

Question:

Under the reciprocal notification mechanism implemented since January 2001, the mainland public security authorities will notify the Hong Kong Police of the unnatural deaths of Hong Kong residents on the Mainland, as well as the imposition of criminal compulsory measures on Hong Kong residents by the mainland authorities. Similarly, the Hong Kong Police will notify the mainland authorities of the criminal prosecutions instituted by the Hong Kong Police Force, Customs and Excise Department and Immigration Department against mainland residents, as well as the unnatural deaths of mainland residents in Hong Kong. In this connection, will the Government inform this Council:

(a) of the respective numbers of notifications made by the enforcement agencies of both sides in each of the past five years; the number of mainland and Hong Kong residents involved; among them, the respective numbers of those on whom criminal compulsory measures were imposed and those who died an unnatural death, as well as the criminal charges involved;

(b) whether the Hong Kong Police, upon receipt of notifications from the mainland authorities, takes the initiative to assist the Hong Kong people in distress and their families; if so, of the form of assistance and the details; and

(c) whether it has conducted reviews regularly to ensure that the Government renders the support needed by the Hong Kong people in distress and their families through the reciprocal notification mechanism; if so, of the details?

Reply:

President,

Our response to Hon Albert Ho Chun-yan's question is as follows:

(a) The statistics of the reciprocal notification mechanism in the past five years and from January to May of 2010 are at Annex.

(b) The notification mechanism aims to facilitate the prompt notification to family members of the subject involved. Hence, the Hong Kong Police will immediately seek to contact the family members of the subject after receiving notification from the mainland authorities. The family members, if they wish, may seek assistance from the Assistance to Hong Kong Residents Unit of the Immigration Department or the offices of the Government of the Hong Kong Special Administrative Region (HKSAR) in the Mainland which will endeavor to provide assistance as far as practicable. Based on past experience, the assistance to be provided include relaying to the relevant mainland authorities the specific requests of the family members, e.g. paying visit to subject, and

providing information on the hiring of mainland lawyers.

(c) In general, the notification mechanism has been operating smoothly since its implementation in 2001, achieving the objective of prompt notification to family members. Based on the experience in handling cases, the Government of HKSAR and the mainland authorities exchange views from time to time to further optimise the operation of the mechanism. For instance, the scope of the notification has been extended since June 2003 from cases of Public Security Ministry and the Customs to cover also cases of the Supreme People's Procuratorate and Ministry of State Security.

Ends/Wednesday, July 14, 2010  
Issued at HKT 15:28

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Annex of LCQ 12

Statistics on Notification

The yearly figures regarding the law enforcing agencies of both HKSAR and Mainland reciprocally notify each other on unnatural deaths and cases (Note 1) of criminal prosecution/compulsory measures are set out below:

Notifications from Hong Kong to Mainland

Year	Number of Notifications	
	Unnatural Deaths	Criminal Prosecution ( <i>number of persons involved</i> )
2005	2	3,355 (3,514)
2006	2	2,302 (2,464)
2007	5	1,422 (1,500)
2008	5	1,402 (1,425)
2009	9	1,366 (1,435)
2010 (January-May)	4	407 (421)



Notifications from Mainland to Hong Kong

Year	Number of Notifications	
	Unnatural Deaths	Criminal compulsory measures (Note 2) ( <i>number of persons involved</i> )
2005	45	801 (571)
2006	35	762 (524)
2007	19	723 (481)
2008	27	755 (529)
2009	25	725 (515)
2010 (January-May)	6	276 (210)

Note 1: The offences relating to cases mainly include theft, deception, smuggling and dangerous drugs etc.

Note 2: Criminal compulsory measures include summons for questioning, putting on bail, residence under surveillance, detention and arrest. A new notification will be made for any change of criminal compulsory measure towards the same person.

Appendix V**Press Releases**

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LCQ4: Mainland visitors convicted of criminal offences in Hong Kong

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Following is a written reply by the Secretary for Security, Mr Lai Tung-kwok, to a question by the Hon Chan Kin-por in the Legislative Council today (February 26):

Question:

Information from the Hong Kong Police Force reveals that in 2012, 1 341 mainland visitors were arrested for having allegedly committed offences in Hong Kong, representing an increase of 11.2% from 2011. According to the reciprocal notification mechanism between the Mainland and Hong Kong, Hong Kong Police regularly forward to the mainland public security authorities for them to follow up the particulars of those mainland visitors who have been subject to criminal prosecutions or imposed criminal compulsory measures for having allegedly committed offences in Hong Kong, and such persons will not be issued travel documents to come to Hong Kong within two to five years (period of non-issuance of permits). In this connection, will the Government inform this Council:

- (1) of the specific operation of the aforesaid notification mechanism;
- (2) of the number of mainland visitors reported to the mainland public security authorities by the authorities in each of the past ten years, together with a breakdown by the type of offence allegedly committed by such visitors and the period of non-issuance of permits;
- (3) whether it knows the criteria adopted by the mainland authorities for deciding whether mainlanders whose period of non-issuance of permits has expired will be issued travel documents to come to Hong Kong; among those who were re-issued travel documents to come to Hong Kong in the past three years, whether any of them has committed offence(s) again in Hong Kong; if so, of the detailed figures; and
- (4) whether it conducted, in the past three years, any detailed study on mainland visitors committing crimes in Hong Kong, and whether it will review in collaboration with the mainland authorities the operation of the existing notification mechanism (including conducting studies on the extension of the period of non-issuance of permits or not issuing travel documents to such persons for coming to Hong Kong forever, etc.); if it will, of the details; if not, the reasons for that?

Reply:

President,

According to the statistics of the Hong Kong Police Force, from 2011 to 2013, the number of Mainland visitors arrested by the Police for having committed criminal offences in Hong Kong were 1 207, 1 341 and 1 342 respectively. Over the same period, the number of Mainland visitors visiting Hong Kong were 27.88 million, 34.66 million and 40.47 million respectively. The

number of visitors committing criminal offences out of every 100 000 Mainland visitor arrivals was 4.3 in 2011, down to 3.9 in 2012 and 3.3 in 2013, lower than that of other visitors or all visitors (Note).

The reply to the four parts of the question is as follows:

(1) Under the established notification mechanism between the Hong Kong Special Administrative Region (HKSAR) Government and the Mainland authorities, the Immigration Department (ImmD) regularly passes information on Mainland residents who have committed criminal offence with conviction in Hong Kong to the Bureau of Exit and Entry Administration of the Ministry of Public Security of the Mainland, to enable the relevant authorities to strengthen assessment of their future applications for entry to Hong Kong. The offences involved include illegal employment, breach of conditions of stay, possession or use of forged documents, submission of false statements, engaging in prostitution or other criminal offences punishable by at least two years' imprisonment. Generally, the Mainland authorities will not issue exit endorsements and travel documents to such persons for a period of two to five years, depending on the circumstances, to prevent them from revisiting Hong Kong for illegal activities.

(2) Under the notification mechanism, the number of Mainland residents who have committed criminal offence with conviction in Hong Kong as reported to the Bureau of Exit and Entry Administration of the Ministry of Public Security of the Mainland by the ImmD are tabulated as follows:

Year	Number of Mainland residents
2006	10 959
2007	7 318
2008	6 681
2009	6 109
2010	5 060
2011	4 072
2012	3 324
2013	3 497

The ImmD does not maintain statistics on the types of offence committed and the period of non-issuance of permits.

(3) Pursuant to Article 22 of the Basic Law, for entry into the HKSAR, people from other parts of China must apply for approval. The provisions of this Article, in accordance with the Interpretation by the Standing Committee of the National People's Congress in 1999, mean that Mainland residents who wish to enter Hong Kong for whatever reason, must apply to the relevant authorities of their residential districts for approval in accordance with the relevant national laws and administrative regulations, and must hold valid documents issued by the relevant authorities. The Mainland authorities handle matters relating to the application, approval and issue of Exit Entry Permits and relevant exit endorsements in accordance with the laws, policies and administrative regulations of the Mainland.

The number of Mainland visitors arrested by the Police with previous convictions in Hong Kong in or after 2005, who were arrested by the Police and convicted again within the period of 2011 to 2013, whether they had left Hong Kong between the convictions, broken down by the types of offence of their last conviction, is as follows:

Type of offence of last conviction	2011	2012	2013
Theft	55	52	37
Serious immigration offences	7	5	4
Breach of conditions of stay	0	0	1
Other offences	61	50	37
Total	123	107	79

(4) The HKSAR Government will exchange views with the Mainland authorities from time to time over the notification mechanism, and will review the mechanism at appropriate times and maintain liaison with the Mainland authorities to ensure its effectiveness.

Note: The number of visitors who committed criminal offences out of every 100 000 arrivals for other visitors were 9.6 in 2011, 9.5 in 2012 and 10.6 in 2013 while that for all visitors were 6.1 in 2011, 5.5 in 2012 and 5.2 in 2013.

Ends/Wednesday, February 26, 2014  
Issued at HKT 18:19

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Appendix VI**Press Releases**

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LCQ5: Handling of cases of Hong Kong people reported missing  
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Following is a question by the Hon Emily Lau and a reply by the Secretary for Security, Mr Lai Tung-kwok, in the Legislative Council today (January 20):

Question:

It has been reported that five Hong Kong people who are shareholders or employees of the Causeway Bay Books went missing one after another during the period from mid-October last year to the thirtieth of last month. The first person, the subsequent three and the last one were last seen in Thailand, the Mainland and Hong Kong respectively before they went missing. Moreover, it has been reported that the wife of Mr Lee Bo, the last missing person, received two calls from Mr Lee to assure her of his safety and the displayed caller number was a Shenzhen phone number. Subsequently, an associate of the bookstore also received a handwritten fax purportedly issued by Mr Lee, saying that "I have returned to the Mainland using my own way to work with the authorities concerned in an investigation". On the sixth of this month, the editorial of the Global Times, a state-run newspaper of the Mainland, stated that "powerful agencies across the world generally have their own ways to circumvent the law and make a person under investigation to work with them, so that they can proceed with their work without crossing the bottom line of the system". The string of incidents of people reported missing have aroused grave concern among people from various sectors of society. In this connection, will the Executive Authorities inform this Council:

(1) of the actions (to be set out in detail) taken by the authorities since the first reported missing incident happened three-odd months ago to locate the whereabouts of those five missing persons and ensure their personal safety;

(2) given that the mainland public security authorities and the Hong Kong Police (HKP) have established a reciprocal notification mechanism regarding the detainment, arrest or unnatural deaths of their residents in the territory of the other party, whether HKP have taken action under that mechanism in respect of the aforesaid missing cases; if HKP have, of the details, and whether, apart from the information announced by the public security authorities and official media on the mainland, HKP have received any other information on the five missing persons as notified by the mainland public security authorities; if HKP have received such information, of the details; and

(3) whether they have verified if the five missing persons were taken to the Mainland by a powerful agency using means circumventing the law to make these persons work with it in an investigation, as mentioned by the aforesaid editorial of the Global Times; if they have verified and the result is in the affirmative, whether they have assessed if the action taken by the agency has contravened the principle of "one country, two systems" and Article 28 of the Basic Law, which stipulates that "[n]o Hong Kong resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment. Arbitrary or unlawful ... deprivation or restriction of the freedom of the

person shall be prohibited"?

Reply:

Acting President,

My reply to the Hon Emily Lau's question is as follows:

(1) The HKSAR Government attaches great importance to the cases of missing persons associated with a bookstore in Causeway Bay and fully understands the concerns of the community.

Amongst the five persons who are suspected to be missing, four are Hong Kong residents. The Police have received reports at different times that these four persons are missing. The family of one of the missing persons has also sought assistance from the Immigration Department, and the Immigration Department has already provided practicable assistance according to the wishes of his family. As regards the other missing person, he is not a Hong Kong resident and not a holder of a Hong Kong Identity Card. The Police have also not received any report that this person is missing.

With regard to the above-mentioned missing person cases, the Police have already commenced proactive and comprehensive 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. The Police's investigation also covers the locations where the missing persons might have been to according to the informants. 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 four missing persons who are Hong Kong residents. The Police have also informed the families of the investigation progress and answered their queries. At the same time, the Police have set up a 24-hour hotline 6764 4385 to facilitate provision of information related to the cases by members of the public. I would like to appeal to anyone who has any information which might assist the Police in following up the cases to contact the Police as soon as possible.

During the course of investigation, the Police have been seeking assistance from relevant Mainland police co-operation units. In the evening of January 18, 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 January 17. 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 January 18, requesting to meet with Lee Po and further understand the situation of the incident.

The HKSAR Government is concerned about the rights and personal safety of Hong Kong residents in or outside of Hong

Kong. The Police will continue to spare no effort in the investigation. However, the Police could not disclose all the case details so as not to affect the investigation.

(2) Since January 1, 2001, the HKSAR Government has, by way of an administrative arrangement and on the basis of mutual respect for the relevant laws of both sides, put in place a reciprocal notification mechanism with the Mainland in respect of 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. 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. In this respect, the Mainland public security authorities and other relevant authorities have been offering assistance and co-operation, and the reciprocal notification mechanism has also been serving its purpose. 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.

In addition, the Hong Kong Police have been maintaining a police co-operation mechanism with relevant Mainland counterparts. Under the mechanism, if one party requires the assistance of the other party to conduct investigation, the requested party may gather information relevant to the case through legal means and provide such information to the requesting party. When the requesting party makes request for 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 for the investigation. 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 co-operation, 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 of either side take enforcement actions in the territory of the other jurisdiction.

Under the above mechanisms, the two sides could communicate with regard to various cases or matters, and both sides have received assistance from the other side as well as useful information. In the past, a number of cases have registered progress or have even been solved through these mechanisms.

As I mentioned earlier, in respect of the missing person cases, the Hong Kong Police have received a reply from the Interpol Guangdong Liaison Office of the Guangdong Provincial Public Security Department. The Police will continue to follow up the cases with the Mainland authorities and request for information on other relevant missing persons.

(3) 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.

The Basic Law only authorises Hong Kong law enforcement agencies to enforce laws. Law enforcement agencies outside of Hong Kong, including law enforcement agencies of the Mainland and overseas, do not have the authority to enforce laws 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 and is unacceptable. Except properly permitted under the laws, we shall not tolerate any unauthorised law enforcement action by anyone or any organisation. For any suspected case of infringement, we will conduct full and thorough investigation.

I will not comment on reports or comments by individual media, irrespective of whether they are local or non-local media. Since the Police's investigation of the cases is still ongoing, in the absence of a full grasp of the facts, it is not appropriate for me to make any speculation.

Article 28 of the Basic Law states that the freedom of the person of Hong Kong residents shall be inviolable. No Hong Kong resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment. Arbitrary or unlawful search of the body of any resident or deprivation or restriction of the freedom of the person shall be prohibited. The HKSAR Government will, as always, continue to resolutely safeguard the rights and freedoms of Hong Kong residents in accordance with law.

Thank you, acting President.

Ends/Wednesday, January 20, 2016  
Issued at HKT 16:39

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