

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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20 February 2017

Clerk to the Establishment Committee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn: Ms Connie SZETO)

Dear Ms SZETO,

EC(2016-17)23
Proposed creation of one permanent post of
Chief Superintendent of Police ("CSP")
in the Hong Kong Police Force ("HKPF")
to lead the Cyber Security and Technology Crime Bureau ("CSTCB")

In follow-up with Members' request for supplementary information at the Establishment Subcommittee ("ESC") meeting on 8 February 2017 and Hon Nathan LAW Kwun-chung's letter to the Chairman of ESC dated 9 February 2017, our response is as follows:

(I) Powers and procedures on application for court warrant

According to the Police Force Ordinance (Cap. 232) ("PFO"), the Force's duties are to take lawful measures for preventing and detecting crimes and offences. Under PFO, the Police are conferred with the power of investigation to:

- (a) arrest and detain suspected persons;
- (b) enter and search premises, and seize suspected property;
- (c) stop, detain and search suspected persons; and
- (d) stop, detain and search vessels.

Section 50(7) of PFO provides that, whenever it appears to a magistrate that there is reasonable cause to suspect that there is in any building, vessel or place any newspaper, book or other document, or any other article or chattel which is likely to be of value to the investigation of any offence that has been committed, or that is reasonably suspected to have been committed or to be about to be committed or to be intended to be committed, such magistrate may by warrant directed to any police officer for him by day or by night-

- (a) to enter such building, vessel or place and to search for and take possession of any such newspaper, book or other document or any such other article or chattel; and
- (b) to detain any person who may appear to have such newspaper, book or other document or other article or chattel in his possession or under his control and who, if not so detained, might prejudice the purpose of the search.

Moreover, the Police will, having regard to the case nature, apply for warrants from the court according to relevant applicable legislation, such as section 13 of the Crimes Ordinance (Cap. 200), section 5 of the Prevention of Child Pornography Ordinance (Cap. 579) or section 28 of the Theft Ordinance (Cap. 210), in order to be empowered to search premises and seize documents and information found therein, so as to seize documents or information from any organisation/person to facilitate police investigation.

(II) Obtaining information from Internet service providers (“ISPs”)

In addition to applying for search warrants from the court in accordance with the law, the Police may also seize documents or information under the co-operation mechanism mutually agreed with ISPs.

The numbers of requests made by the Police to ISPs for disclosure of metadata (such as Internet Protocol (“IP”) addresses, users’ information and log records) from 2010 to 2016 are as follows:

Year	No. of requests
2010	3 785
2011	4 103
2012	4 613
2013	4 389
2014	4 000

2015	3 997
2016	4 000

Since the Police request disclosure of metadata from ISPs solely for investigation purpose, only the relevant ISPs have knowledge of such requests. The Police do not maintain statistics on applications for court warrants to obtain metadata from ISPs or refusals to disclose such information. In general, if the Police's requests involve accounts or records that no longer exist, or if registered users or IP addresses are not in Hong Kong, ISPs cannot provide the information concerned.

Given different legislations with different countries/regions, we cannot draw a direct comparison on procedures and requirements of obtaining information from ISPs. Having said that, the Police will, in the light of Hong Kong's actual circumstances, discuss and review the relevant procedures with ISPs from time to time.

(III) Gathering intelligence and collecting evidence

To avoid being exploited by criminals, the Government will not disclose the means by which the Police gather intelligence. Intelligence gathering and evidence collection by the Police must be carried out legally and in compliance with established procedures or rules.

It has been clearly defined under the Interception of Communications and Surveillance Ordinance (Cap. 589) ("ICSO") that law enforcement agencies ("LEAs") are required to obtain authorisation for conducting interception of communications or covert surveillance operations. In all circumstances, LEAs have to act in accordance with ICSO, and panel judges will carefully examine every application to ascertain full compliance with the requirements of ICSO before making a determination. The Commissioner on Interception of Communications and Surveillance will also monitor LEAs' compliance with various requirements under ICSO.

(IV) Ratio of police headcount to population

There is no internationally recognised standards for calculating police manpower. As pointed out in our letter to ESC dated 6 February 2017, it is difficult to draw a direct comparison because the scope of police responsibilities varies with places and police establishment is subject to local circumstances. With diversified functional responsibilities, HKPF have to, apart from maintaining law and order in our society, perform certain duties normally not required to be carried out by police forces elsewhere, such as

patrolling the boundary areas, coastlines and railways; handling explosives; and implementing counter-terrorism initiatives. We have also noticed that regarding the calculation of police manpower, some countries count auxiliary police officers, traffic police officers and boundary patrol officers as regular police force but some do not, and some countries discount the police officers on long leave.

The Police have compared the police establishment among several international cities. In terms of regular police headcount, we consider that our police force is of a moderate scale as compared with other metropolitan cities:

Country/city	No. of regular police officers	No. of regular police officers per 100 000 population
Singapore	13 487	234
Tokyo	43 422	322
London	31 000	356
Hong Kong	29 289	399
New York	34 500	401
Paris	30 000	448
Chicago	13 138	486

The decline in our overall crime rate hinges on the support from the general public and their partnership with the Police. Only by maintaining a police force with sufficient manpower can Hong Kong, a densely populated place, remain one of the safest cities in the world. All along, HKPF have conducted timely assessment on manpower needs in the light of circumstances of the local community.

Technology crimes and cyber security threats are becoming increasingly sophisticated. Shouldering the mission of co-ordinating measures against technology crimes and cyber attacks in Hong Kong, CSTCB, however, is still lacking strong and focussed leadership since its establishment two years ago. The CSP(CSTCB) post carries comprehensive, professional and crucial functions, as the holder has to chart the development of CSTCB and ensure the effectiveness of HKPF in driving the continuous building of capacities in two streams, namely, enhancing cyber security and combating technology crimes. Before submitting to the Legislative Council the proposal to create the permanent CSP post, we have critically examined the possibility of redeploying existing directorate officers in the Police to take up the crucial tasks of the proposed post. Since all

CSP officers are fully committed to duties in their respective subject areas, internal redeployment is operationally infeasible without adversely affecting the discharge of their schedules of duties. CSTCB has a pressing need to create one permanent CSP post to ensure sufficient guidance and management as necessary within the bureau.

(V) Numbers of arrestees in respect of technology crimes

The numbers of technology crime offenders arrested by the Police are tabulated in our letter to ESC dated 6 February 2017:

Year	No. of arrestees
2012	465
2013	679
2014	691
2015	825
2016	907

The Police do not maintain breakdown statistics on arrestees by each nature of technology crime cases.

(VI) Statistics related to section 161 of the Crimes Ordinance (“CO”)

Section 161 of CO, providing for access to computer with criminal or dishonest intent¹, is effective in combating such illegal acts as online fraud, illegal access to computer and using a computer to commit other offences. However, among the technology crime cases detected by the Police in recent years, only around 10% were charged under section 161, with the remaining 90% charged under other legislation.

¹ Section 161(1) of CO reads as follows:

Any person who obtains access to a computer-

(a) with intent to commit an offence;

(b) with a dishonest intent to deceive;

(c) with a view to dishonest gain for himself or another; or

(d) with a dishonest intent to cause loss to another,

whether on the same occasion as he obtains such access or on any future occasion, commits an offence and is liable on conviction upon indictment to imprisonment for 5 years.

The Police have invoked section 161 for taking enforcement actions against cases like online fraud, unauthorised access to computer systems, clandestine photo-taking using smartphones in such non-public places as toilets or changing rooms, online publication of obscene or threatening information, as well as inciting others on the Internet to engage in such illegal activities as hacker groups' threatening to launch cyber attacks against network systems in Hong Kong and inciting others to carry out attacks via hacker websites or software. Perpetrators of these cases may also be charged with other related crimes. Figures on arrestees, prosecutions and convictions made under section 161 in 2014, 2015 and 2016 (up to September) are set out below:

Year	No. of arrestees	No. of prosecutions	No. of convictions
2014	113	86	80
2015	143	103	93
2016 (Jan - Sep)	109	72	60

Note: As the years of arrest, prosecution and conclusion for the respective cases represented by the tabulated figures may be different, figures in the three columns cannot be compared directly.

As explained at the ESC meeting, whether a department decides to or not to maintain certain figures depends on whether these figures are of help and statistical significance to the department. For instance, LEAs or relevant departments maintain various figures useful for investigation or analysis, such as the number of cases and arrestees as well as prosecution and conviction figures in respect of major offences.

The Police have only maintained overall figures of various offences for analysing Hong Kong's general law and order situation and crime trend. In respect of section 161, as with other offences, only overall figures rather than breakdown statistics of the offence under this section are maintained. In view of Members' concern, however, the Police is consulting the Judiciary as to whether the subsection of section 161 under which prosecutions were taken can be recorded in the Integrated Law and Order Statistical System in future in order to maintain relevant statistical breakdown.

(VII) Reporting Distributed Denial of Service (“DDoS”) attacks

According to the Police, many victims of different types of cyber attacks tend to make a report only in case of substantive loss, and this is believed to be the reason for the low report rate. In this connection, the Police will continue to launch targeted promotional and educational initiatives to enhance public awareness of crime prevention and their partnership with the Police in combating cyber crimes.

According to the figures released by the Hong Kong Computer Emergency Response Team, a total of 6 058 security incidents were handled in 2016, representing an increase of 1 130 cases or 23% when compared with 4 928 cases in 2015. Of these cases, 148 were security incidents involving DDoS attacks, an increase of 18 cases over 2015.

(Andrew Tsang)
for Secretary for Security

c.c.
HKPF (CSTCB)