

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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22 September 2017

Clerk to Panel on Security  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong  
(Attn: Mr Raymond Lam)

Dear Mr Lam,

**Panel on Security**  
**Joint Letter from Dr Hon Fernando CHEUNG and Hon SHIU Ka-chun**

Thank you for your letter of 19 June 2017 requesting a response to the issues raised in a joint letter dated 13 June 2017 from Dr Hon Fernando CHEUNG and Hon SHIU Ka-chun to the Chairman of the Panel on Security. In consultation with the Correctional Services Department (CSD), the Administration Wing and the Office of The Ombudsman, I am authorised to reply as follows.

The joint letter by Hon CHEUNG and Hon SHIU referred to media reports on alleged assaults of persons in custody in correctional institutions. This is a very serious allegation. Although the allegations did not come with detailed information, given the criminal nature of the alleged issues, the CSD has taken the initiative to refer the relevant media reports to the Police for follow-up. Nonetheless, for the investigation to be effective, the persons concerned have to provide as soon as possible more specific information, such as the time and locations of the alleged incidents, the persons in custody and staff members involved and detailed accounts of the incidents. We earnestly urge the persons concerned to contact the Police as soon as possible to provide more specific information in order to ascertain the truth. Otherwise, it would be unfair to both the complainants and CSD staff. Whenever the Police

establishes sufficient basis to launch an investigation, the CSD will fully cooperate.

As a matter of fact, the CSD has in place a number of channels for persons in custody or discharged prisoners to lodge complaints or express discontent. Internal channels include institutional management, visiting directorate officers from the CSD Headquarters, or the Complaints Investigation Unit (CIU) of the CSD. Externally, persons in custody may complain to visiting Justices of the Peace (JPs), The Ombudsman, Legislative Councillors, etc. Cases of suspected unlawful act may also be referred to other law enforcement agencies for investigation.

The CSD reviews and fine-tunes its complaint handling mechanism from time to time to enhance its transparency and credibility, with a view to abiding by the principles of openness, fairness and justice. To further improve the departmental complaint handling mechanism, the CSD established the Correctional Services Department Complaints Appeal Board (CSDCAB) in 2016 as a channel for complainants dissatisfied with the outcome of CIU's investigation to appeal. At present, all ten non-official members of the CSDCAB are Non-official JPs.

On internal management, the CSD adopts a zero-tolerance approach to staff misconduct. As a disciplined force, the CSD maintains a stringent discipline standard. Conduct of individual staff members is subject to monitoring by supervisors at multiple levels. Should any staff member be found to have committed a disciplinary offence, the CSD will take disciplinary action. Should there be any cases of suspected unlawful act, the CSD will refer them to other law enforcement agencies for follow-up. Besides, over 6 000 closed-circuit television (CCTV) cameras have now been installed in various correctional institutions. The CSD is expanding the coverage of the CCTV systems in its institutions by phases, with a view to ensuring that any unlawful act or misconduct, whether committed by persons in custody or staff members, would be subject to monitoring.

### **Visits to institutions and handling of complaints by JPs**

Regular JP visits to custodial institutions are conducted in accordance with provisions under the Prison Rules (Cap. 234A) to ensure that the rights of persons in custody are protected. All JP visits are unannounced, i.e. JPs can visit at all reasonable times during their tour of duty<sup>1</sup> and the institutions

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<sup>1</sup> JPs visit custodial institutions under the CSD in accordance with legal requirements, generally on a fortnightly or monthly basis.

concerned will not be notified in advance of the exact date and time of the visit. JPs may request to pay additional visits to the institutions concerned outside their tour of duty to follow up on or look into specific complaints.

Prior to their visits to correctional institutions, JPs will receive relevant guidelines and a list of points to note, including the following key points:

- JPs may choose to talk to any person in custody individually and request private meetings with such persons out of hearing of CSD staff under safe conditions.
- JPs should pay particular attention to those persons in custody who are hospitalised, under punishment or in separate confinement.
- JPs may examine the record of any person in custody as well as other official documents held by the institution.

In addition, the JP Secretariat will provide the JPs with reports on outstanding complaint lodged by persons in custody of the institutions concerned so that the JPs may follow up on these complaints or other issues during their visits.

During JP visits, CSD staff will present the visiting JPs with the general information of the institution and shall report to them any request for meeting with them by persons in custody. The JPs may also ask CSD staff for other information of the institution, such as the number of persons in custody in the institution, whether any person in custody has been temporarily transferred to other institutions on the day of visit, etc.

One of the important functions of JP visits to institutions is to ensure that complaints lodged by persons in custody are handled in a fair and transparent manner. Upon receipt of complaints, the visiting JPs may either initiate investigative actions by making personal inquiries into the complaints (such as seeking background information from staff of the institutions and examining relevant records and documents) made by persons in custody in the institutions or refer the cases to the institutions concerned, the management of the CSD, the CIU of the CSD, the Office of The Ombudsman or the Police for their follow-up actions, having regard to the nature and seriousness of the complaints. Upon receipt of the referrals, the parties concerned will carry out investigation into the complaints. On completion of the investigation, the result will be reported to the JPs. If a person in custody complains to the JPs that he or she has sustained bodily harm or psychological trauma as a result of disciplinary punishment or treatment received, the JPs should request the Head

of Institution to arrange medical examination for the person in custody and take appropriate follow-up action.

JPs are at liberty to conduct any further investigation personally or re-visit the institution in question as necessary. The Government also encourages JPs to discuss with the management and staff members of the institution, and to inspect the complaint registers as appropriate to satisfy themselves that the management has handled the previous complaints properly.

The JP visit system serves as an effective channel in addition to other established mechanisms for handling complaints. Apart from ensuring that complaints lodged by persons in custody are handled in a fair and transparent manner, the JP visit system also provides a platform for JPs to make comments and suggestions with a view to improving the management of facilities and services provided by the institutions.

Moreover, the JP Secretariat publishes an Annual Report on JP Visits every year. The report gives an account of the institutions visited by JPs in the past year, the complaints handled by JPs, the suggestions and comments they made to the institutions, as well as the follow-up actions taken by the CSD and other departments concerned in response to the complaints, suggestions and comments. In consultation with the CSD, the JP Secretariat is beefing up guidelines for conducting visits with greater details, with a view to facilitating JPs to exercise their functions more effectively.

### **Handling of Written Complaints from Persons in Custody by the Office of The Ombudsman**

The Office of The Ombudsman is responsible for handling complaints from the public (including persons in custody) who have sustained injustice due to alleged maladministration of government departments (including the CSD) or public organisations.

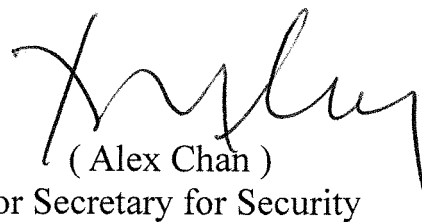
Persons in custody may lodge complaints to the Office of The Ombudsman by writing letters or filling in the Office of The Ombudsman's complaint forms, which are available at CSD institutions, and send by mail via the institutions.

Similar to the handling of complaints by the general public, upon receipt of complaints by persons in custody, the Office of The Ombudsman will first examine whether the matters of complaint fall within the statutory purview of The Ombudsman and whether there is a prima facie case to warrant investigation. Cases "screened in" will go to the investigation teams of the

Office of The Ombudsman for “inquiry”. If in-depth investigation is considered necessary, the investigation teams will undertake “full investigation”.

During the “inquiry” or “full investigation”, the Office of The Ombudsman will request the CSD to respond to the allegations made by the complainants. If necessary, staff of the Office of The Ombudsman will request the CSD to provide relevant video footages, or even conduct site inspections and meet with the complainants. The Office of The Ombudsman may also obtain evidence through other channels in addition to the CSD/institutions. Upon the completion of “inquiry”/“full investigation”, the Office of The Ombudsman will inform the complainants of the result. It will also suggest the CSD to take remedial actions or improvement measures if necessary.

Yours sincerely,



( Alex Chan )  
for Secretary for Security

c.c.

Commissioner of Correctional Services (Attn: Mr WONG Kwok-hing)