

LCQ1: Scrutinising mechanism of publications by CSD

Following is a question by the Hon Shiu Ka-chun and a reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (July 15):

Question:

Rule 56 of the Prison Rules stipulates that "prisoners may receive such books, periodicals, newspapers or other publications from outside the prison as the Commissioner (of Correctional Services) may determine" (publications). However, a Superintendent of the Correctional Services Department (CSD) may withhold and dispose of a publication without forwarding it to the relevant person on remand or in custody if he has reasonable grounds to believe that such publication falls within the circumstances referred to in subrules (a) to (e) of the rule. I have received quite a number of complaints about the CSD's withholding, without explanation, some publications (including those about the "anti-extradition to China" movement). In this connection, will the Government inform this Council:

- (1) who determines whether or not to withhold individual publications; whether the CSD has maintained a list of publications which are prohibited from being forwarded; if so, of the number of publications on the list and the reasons for their inclusion on the list; how the family members of the persons on remand or in custody may know which publications will not be allowed for forwarding;
- (2) of the justifications for the CSD to point out to the media that certain publications about the "anti-extradition to China" movement are not conducive to the rehabilitation of the persons in custody or pose threats to the security of penal institutions and therefore need to be withheld; and
- (3) whether the CSD will establish a mechanism to handle review applications from persons who are dissatisfied with the CSD's withholding of publications; if not, of the reasons for that?

Reply:

President,

The Correctional Services Department (CSD) is committed to providing a secure, safe, humane, decent and healthy custodial environment for persons in custody (PICs). According to this principle, PICs are currently allowed to receive 6 books, periodicals or other publications (publications) per month through social visits. They may also be allowed to receive devotional books and textbooks on a need basis. However, in view of security considerations and the need to maintain discipline and order in the prisons as well as to

ensure that PICs can rehabilitate in a beneficial environment, a scheme of controls need to be in place to regulate PICs' receipt of publications from outside. Rule 56 of the Prison Rules (Cap. 234A) stipulates relevant controls and the CSD is responsible for handling publications received by PICs according to the law.

My reply to the Member's question is as follows:

(1) and (2) According to Rule 56 of the Prison Rules, PICs may receive such publications from outside the prison as the Commissioner of Correctional Services may determine, but the Superintendent of the institution may withhold and dispose of a publication or any relevant part thereof where he has reasonable grounds to believe that such publication or such part thereof, as the case may be:

(i) contains information on the manufacture of any arms, ammunition, weapon, explosive, harmful or deleterious substance, intoxicating liquor, or any dangerous drugs within the meaning of the Dangerous Drugs Ordinance (Cap.134);

(ii) depicts, describes or encourages violence in the prison, or the escape by any PIC from the prison;

(iii) is of such a nature as to facilitate gambling in the prison, or is otherwise detrimental to the rehabilitation of any of the PICs in the prison;

(iv) is of such a nature as to encourage the commission of any offence enumerated in Rule 61 (i.e. including disobeying any prison rules; committing any assault; having in possession any article that one is not authorised to have; fighting; in any way offending good order and discipline; obstructing an officer of the CSD in the execution of his duty, etc.) or of any criminal offence by any of the PICs in the prison; or

(v) is of such a nature as to pose a threat to any individual's personal safety or to the security, good order and discipline of the prison.

The CSD's rehabilitation work aims to help PICs develop a healthy life pattern with an organised schedule for work and rest, correct their perverted minds and foster a sense of responsibility and good work habits. Where hand-in publications (e.g. those containing behaviours or words that depict or encourage cruelty, abuse, violence, fight, crime, etc.) undermine PICs' achieving the above rehabilitation goals or are detrimental to their rehabilitation, such publications will be prohibited by the CSD according to the law.

In fact, the CSD has set up libraries in various correctional institutions to provide appropriate books for PICs so as to cultivate their interest in reading. At present, the libraries in correctional institutions have a total collection of over 110 000 items of books. Correctional institutions acquire appropriate books for the libraries in accordance with the established procedures on procurement, having regard to factors such as

reading interests and learning needs of PICs. In addition, the CSD borrows books from the Hong Kong Public Libraries to facilitate loans to PICs, and replaces the borrowed books in batches on a regular basis. The CSD also receives books donated by outside organisations or individuals according to the established mechanism.

The CSD has an established mechanism on the specific arrangements for scrutinising the contents of hand-in publications. In every correctional institution, there is a publications adjudication committee which scrutinises publications suspected to have contravened the regulation. The committee is chaired by the head of the institution with members comprising a Chief Officer, staff in the security section, clinical psychologist, etc. The committee will make adjudications on publications suspected to have violated the restrictions under Rule 56 of the Prison Rules. As to whether a book, publication in question or the relevant part(s) thereof should be withheld or disposed of, each case will be considered individually having regard to the uniqueness of the individual institution, security considerations and the need to maintain good order and discipline, as well as whether the contents of the publication is detrimental to the rehabilitation of PICs, rather than considering solely the topics covered by the publication. The CSD does not maintain a so-called "list of publications which are prohibited from being forwarded".

Where a publication is adjudicated by the committee as having violated the restrictions under Rule 56 of the Prison Rules, the management of the institution concerned will inform the PIC of the result and the reason, which will be recorded in the PIC's penal record. The staff of the institution will, at the will of the PIC, return the publication to the visitor or keep it together with the PIC's property on a temporary basis or have it destroyed by the institution.

(3) Should PICs are not satisfied with the committee's adjudication result, they can complain through various channels. Internal channels include complaining to the directorate officers of the CSD Headquarters during their inspections to the institutions or to the Complaints Investigation Unit (CIU) of the CSD. The CIU is appointed by the Commissioner of Correctional Services. Being an investigation unit responsible for handling and investigating complaints, its operation is independent of other sections of the CSD. As for external channels, PICs may write to members of the Legislative Council, The Ombudsman, statutory bodies, other law enforcement agencies, government bureaux, etc. to lodge their complaints. Besides, they can choose to seek assistance from or complain to Justices of the Peace during the latter's surprise inspections to their institutions, and even apply to the court for judicial review. If the relatives and friends of PICs are not satisfied with the way the institutions have handled the hand-in publications, they can lodge their complaints with the institutional management, the CIU and through the aforesaid external channels.

The CSD reviews and enhances the complaint handling mechanism from time to time with a view to increasing the transparency and credibility of the mechanism and achieving the principle of handling complaints in an open, fair

and impartial manner. To further enhance the complaint handling mechanism, the CSD Complaints Appeal Board (CSDCAB) was established in 2016. It operates independently to provide an appeal channel to those who are not satisfied with the investigation outcome. To widen the structure of the CSDCAB and further strengthen the mechanism to scrutinise appeals, the number of members of the CSDCAB has been increased from 18 in April 2018 to 24 at present. Apart from Justices of the Peace, religious persons who are acquainted with correctional operations have also been appointed to the CSDCAB. The independence of CSDCAB ensures that appeal cases are handled fairly.

Thank you, President.