

LCQ18: Suspected illegal crossing of boundary of Mainland of 12 absconded suspects

Following is a question by the Hon James To and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (October 21):

Question:

On August 23 this year, 12 Hong Kong people boarded a speedboat at the Po Toi O Pier in Sai Kung to leave the territory, who were subsequently intercepted by Mainland coast guard officers. They are currently detained at the detention centre of the Yantian Branch of the Shenzhen Public Security Bureau for the alleged offence of crossing the boundary illegally. In this connection, will the Government inform this Council:

(1) as the Government indicated on September 26 that, according to the records on August 23 of (i) the Marine Department's Vessel Traffic Services System and (ii) the Marine Police's Digital Radar Security System, the speedboat boarded by the aforesaid people departed from the Po Toi O Pier at around 7.00am on that day, left Hong Kong waters and entered Mainland waters at around 7.30am, and it was last detected by the Marine Police's system at around 8.00am to be at 10.9 nautical mile outside the boundary of Hong Kong waters moving in the southeast direction, and as the Mainland authorities stated that a speedboat suspected of crossing the boundary illegally had been intercepted at around 9.00am on that day, of the following information in respect of the time period from 7.00am to 9.15am on August 23:

(a) the coordinates of the locations at sea of that speedboat recorded respectively by the two systems at every five minutes (set out in the table below), together with a navigational chart with grid lines to show the navigation route of the speedboat,

7.00am to 9.15am on August 23, 2020	Recorded coordinates of locations of the speedboat	
	(i)	(ii)
7.00am		
7.05am		
.....		
9.15am		

(b) the respective time at which the two systems last detected the location of the speedboat and, in respect of the speedboat at such junctures, its coordinates, speed and distance from the boundary of Hong Kong waters

respectively as detected by the two systems,
(c) the shortest distance between the Po Toi O Pier and the boundary of Hong Kong waters,
(d) whether the coordinates of 21°54'00''N, 114°53'00''E is located on the high seas, and
(e) whether, during such time period, the vessels of the Marine Department and the Marine Police had patrolled near the waters concerned and detected the speedboat;

(2) as it is learnt that on the morning of August 23, the Government Flying Service (GFS) deployed aircraft(s) to execute an operation in the air above the waters concerned, of the starting time and ending time of that operation, the number and type(s) of aircraft(s) involved, whether any police officer boarded the aircraft(s) at that time, and whether the information obtained by the GFS from the operation on that day has been passed to the Hong Kong Police;

(3) whether it knows (i) the number and types of lawyers on the list of lawyers provided by the Mainland authorities to the 12 Hong Kong people, (ii) the names of the Mainland authorities which provided the list, (iii) the date on which the list was provided to such people, (iv) when such people completed the procedure of each choosing two lawyers, and (v) whether the families of such people have been informed of the relevant lawyers' names and contact methods; if the families have not been provided with such information, how the Government will assist the families in obtaining such information;

(4) whether it knows (i) if such people were informed that their families had, during their detention, engaged Mainland lawyers for them and attempted to make appointments for meeting them, and (ii) how the minors among such people had engaged Mainland lawyers according to Mainland laws, and how their basic rights will be protected by the Government and the Mainland authorities;

(5) as it is learnt that some families sent letters, through the Assistance to Hong Kong Residents Unit of the Immigration Department, to the Mainland authorities requesting them to notify the arrestees that their families had engaged Mainland lawyers on their behalf, whether it knows if the Mainland authorities gave such notification; if they did, of the date on which such notification was given, and whether the Mainland authorities have replied to the letters sent by those families; if they have replied, of the date of their reply; if not, the reasons for that; and

(6) whether it knows the number of Hong Kong people serving sentences on the Mainland who applied, in the past three years, for medical parole and return to Hong Kong; the number of those whose applications were approved and the number of minors among them?

Reply:

President,

The Government of the Hong Kong Special Administrative Region (HKSAR) has adopted the following principles when handling the case involving the 12 absconded suspects who were subjected to criminal compulsory measures for suspected illegal crossing of boundary of the Mainland:

- (1) Every individual, regardless of the jurisdiction he or she is in, should respect the local laws and be responsible for his or her action, including legal liabilities;
- (2) It is a well-recognised fundamental legal principle that each jurisdiction shall handle any illegal act in accordance with its laws; and
- (3) For any Hong Kong resident who is arrested outside Hong Kong for being suspected of breaching the law and who asks for assistance, the HKSAR Government will provide legally feasible assistance to him or her having regard to the actual situation and under the principle of respecting the local judicial system.

The 12 absconded suspects mentioned in the question are all wanted persons of Hong Kong suspected of having committed a number of serious crimes in Hong Kong. Instead of facing their legal liabilities in Hong Kong, they have chosen to flee Hong Kong by using the same speedboat to evade legal liabilities.

These 12 absconded suspects were suspected of being involved in seven serious cases in Hong Kong. Among them, 10 were charged by the Police with serious offences including suspected making or possession of explosive, arson, conspiracy to wound, riot, assault on police officer, possession of offensive weapons and possession of instrument fit for unlawful purpose. They were released on court bail pending trial and not allowed to leave Hong Kong. One person was arrested by the Police for suspected violation of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region in relation to collusion with a foreign country or with external elements to endanger national security, as well as other criminal offences including possession of ammunition without licence. The person concerned was released on Police bail subsequently, but he was required to surrender his travel documents, not leave Hong Kong and report to the Police. The other person is wanted by the Police for suspected making or possession of explosive. The 12 absconded suspects left Hong Kong through illegal means and were arrested in Mainland waters by the Mainland law enforcement agencies according to their laws for suspected illegal crossing of border (boundary).

Under the Reciprocal Notification Mechanism, the Hong Kong Police Force (HKPF) received on August 28 a notification from the Mainland law enforcement agencies regarding the detention of 12 Hong Kong residents (11 males and one female) by the Mainland law enforcement authority who were suspected of illegal entry into the Mainland (illegal crossing of border (boundary)). On September 30, the HKPF via the above mechanism received further notification from the Mainland law enforcement agencies that Yantian People's

Procuratorate in Shenzhen approved the arrest of two of the suspects for the crime of organising others to cross the boundary illegally, and the arrest of another 10 suspects for the crime of illegal crossing of boundary.

The 12 absconded suspects were arrested by the Mainland law enforcement agencies according to their laws for having breached the laws of the Mainland. The HKSAR Government will not interfere with the law enforcement actions of other jurisdictions. No one is above the law; everyone has to be responsible for his/her unlawful acts. After the offences committed by these 12 absconded suspects on the Mainland are dealt with in accordance with the law on the Mainland, the HKSAR Government will ask for their return to Hong Kong where their suspected offences committed in Hong Kong are to be dealt with.

Having consulted the relevant departments, my reply to the various parts of the question is as follows:

(1) As stated in the press release issued by the Government on September 26, based on the relevant information, the speedboat concerned carrying the aforementioned 12 Hong Kong absconded suspects departed from Po Toi O at about 7am on August 23 (the Po Toi O Pier is about 12 nautical miles off the southeastern side of the boundary of Hong Kong waters) and entered Mainland waters through the southeastern side of the boundary of Hong Kong waters at around 7.30am on the same day. The speedboat in question later went beyond the effective detection range of the Marine Department's Vessel Traffic Service (VTS) system and the Marine Police's Digital Radar Security System. The speedboat was last detected by the Marine Police's Digital Radar Security System at around 8am on the same day when it was about 10.9 nautical miles outside the boundary of Hong Kong waters and was steering towards southeast direction.

The announcement issued by the Guangdong Coast Guard on August 26 stated that at around 9am on August 23, a speedboat suspected of crossing the boundary illegally was intercepted in marine waters under its jurisdiction (21°54'00''N, 114°53'00''E). The said location was approximately 26 nautical miles off the southeastern side of the boundary of Hong Kong waters.

The Marine Department's VTS system provides marine traffic information and traffic organisation services to large ocean-going and river trade vessels visiting Hong Kong. The objectives of the VTS system are to enhance navigational safety in the waters of Hong Kong, enhance port operation efficiency and prevent marine incidents. Records of the VTS system generally will not be released to the public. Records of the Police's patrol activities and records of the Marine Police's Digital Radar Security System involve details of operational deployment and will not be disclosed.

(2) According to the Government Flying Service Ordinance (Cap 322), the statutory functions of the Government Flying Service (GFS) include conducting search, fighting fires, and supporting law enforcement agencies in carrying out their law enforcement duties. To perform these statutory functions, the GFS operates 24 hours daily and it is their normal routine duty to conduct

flight missions at any time of the day. In accordance with the established practice, aircraft deployment and navigation details involved in flight missions will not be disclosed to prevent criminals from obtaining information useful to them, thereby affecting the effectiveness of the department's operations.

(3) to (5) The Assistance to Hong Kong Residents Unit of the Immigration Department (ImmD) and the Hong Kong Economic and Trade Office in Guangdong (GDET0) have been receiving assistance requests from the absconded suspects' families since August 28, and have been following up the case. The assistance provided by the ImmD and GDET0 included explaining the relevant Mainland laws and regulations to the families of the absconded suspects, and introducing the families to the free legal consultation services provided by a Hong Kong organisation commissioned by the GDET0. Besides, the ImmD has assisted the families in relaying various written requests to the Mainland authorities through the GDET0 according to their wishes. These include requests for medication and information, family letters as well as application forms for bail requests.

In respect of the appointment of legal representatives, according to our understanding, each of the 12 absconded suspects have respectively appointed two legal representatives. If the families of the absconded suspects have any new request for assistance, they may continue to contact and meet with the ImmD, which will also continue to assist the families in relaying their written requests to the Mainland authorities according to the mechanism. Upon receiving replies from the Mainland authorities, the ImmD and GDET0 will assist in relaying the information to the absconded suspects' families in accordance with the mechanism.

(6) In regard to applications for medical parole and other matters made by Hong Kong people serving sentences on the Mainland as mentioned in the question, they do not fall within the jurisdiction of the HKSAR. We do not have such information.