

## LCQ2: Twelve absconded suspects being detained on Mainland

Following is a question by the Hon Kwong Chun-yu and a 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 in Mainland waters 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) whether it knows if that group of Hong Kong people, prior to choosing their legal representatives from the list of lawyers provided by the Mainland authorities, were aware (i) that their families had engaged Mainland lawyers on their behalf, and (ii) if they had the right to engage those Mainland lawyers not on the official list; whether it will relay to the lawyers engaged the requests of the families concerned that applications be made to the Mainland authorities for the minors and the chronically ill persons among that group of Hong Kong people to be granted release on bail pending trial;

(2) as some press reports alleged that on the day when that group of Hong Kong people left the territory on a speedboat, the Government Flying Service deployed a fixed-wing aircraft to conduct surveillance on that speedboat in the air above Po Toi O, whether the Security Bureau and the Police had learnt of the departure plan of that group of Hong Kong people before the speedboat was intercepted by Mainland coast guard officers; and

(3) whether it has studied if the situation that such group of Hong Kong people are barred from contacting their family members and the Mainland lawyers engaged by their families on their behalf will create a perception among Hong Kong people that the human rights of that group of Hong Kong people are not protected and that the law enforcement and administration of justice on the Mainland is a black box operation and running against the statement made by a State leader that "the more open the law enforcement and administration of justice regime is, the greater the authoritativeness and credibility it carries"; if it has studied and the outcome is in the affirmative, whether it will discuss with the Mainland authorities so as to ensure that the human rights of that group of Hong Kong people are protected and that they have access to fair trial?

Reply:

President,

In handling the current case involving the 12 absconded suspects, who have been subject to criminal compulsory measures in the Mainland for committing the suspected offence of crossing the boundary illegally, the Hong Kong Special Administrative Region (HKSAR) Government follows the three principles as set out below:

- (1) every individual, regardless of the jurisdiction he or she is in, should respect the local laws and take responsibilities, including legal liabilities, for his or her action;
- (2) it is a well-recognised basic legal principle that each jurisdiction shall handle any illegal acts in accordance with its laws; and
- (3) for any assistance request of Hong Kong residents who are suspected of breaching the law and are arrested in places outside Hong Kong, the HKSAR Government will provide them with practical assistance having regard to the actual situation while respecting the local judicial system.

The 12 absconded suspects mentioned in the question were suspected of committing various serious crimes and being involved in seven cases in Hong Kong. Among them, 10 were charged by the Police with serious offences including 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 but were prohibited from leaving Hong Kong. One person was arrested by the Police for suspected commission of the offence of collusion with a foreign country or with external elements to endanger national security under the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, and other criminal offences (including possession of ammunition without licence). The person concerned was subsequently released on police bail on the conditions that he must surrender his travel document, 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 authorities according to their laws.

Under the Reciprocal Notification Mechanism, the Hong Kong Police Force (HKPF) received on August 28 a notification from the Mainland law enforcement authorities regarding the detention of 12 Hong Kong residents on August 23, including 11 males and one female, who were suspected of having committed Mainland immigration offence, i.e. illegal crossing of boundary. Under the aforesaid mechanism, the HKPF received on September 30 further notification from the Mainland law enforcement authorities that Yantian People's Procuratorate in Shenzhen had approved the arrest of two of the suspects for the crime of arranging others to cross the boundary illegally, and the arrest of the remaining 10 suspects for the crime of illegal crossing of boundary. The Mainland public security authorities are currently handling the cases in accordance with their legal system. The HKSAR Government respects and

refrains from interfering in the law enforcement actions of other jurisdictions.

After receiving the requests for assistance from the family members of the absconded suspects, the Immigration Department (ImmD) and the Hong Kong Economic and Trade Office in Guangdong (GDET0) of the Government of the HKSAR have followed up the incidents and provided assistance, including informing the family members of the Mainland's laws and regulations; expediting the issue of the required Certificates of Registered Particulars as proof of their relationship at the request of individual family members, and relaying the written requests of the family members to the Mainland authorities according to their wishes. As at October 19, the family members have made a total of 29 different written requests, including requests for medication, bail request, etc. The ImmD relayed the requests to the Mainland authorities via the GDET0 according to the mechanism. The GDET0 has enquired relevant Mainland authorities of the 12 absconded suspects' health condition and has been given to understand that suitable medical diagnosis would be provided as necessary. The Mainland authorities have stated that the legal rights of the arrested persons will be lawfully protected. The ImmD and GDET0 will continue to liaise with the family members and have already liaised and met with them for a number of times. Apart from understanding the latest position of the case, practical assistance was provided according to the wishes of the family members.

On the issue of lawyers, we have gathered that the 12 absconded suspects have respectively appointed two lawyers. The HKSAR Government has relayed to the Mainland authorities in accordance with the mechanism the requests of some family members for information on the lawyers appointed by the absconded suspects. The Mainland authorities expressed that they would act in accordance with the law. For any fresh request for assistance, the family members of the absconded suspects may further liaise and meet with the ImmD, which will continue to help relay their written requests to the Mainland authorities via the current mechanism.

According to the Government Flying Service Ordinance (Cap. 322), the statutory functions of the Government Flying Service (GFS) include conducting search, fighting fires, supporting law enforcement agencies in carrying out their law enforcement duties, etc. To perform these statutory functions, the GFS operates 24 hours daily and conducts flight missions at any time of the day as normal routine duties. In accordance with the established practice, daily aircraft deployment and navigation details involved in flight missions will not be disclosed so as to prevent the criminals from grasping conducive information and jeopardising the effectiveness of operations.

I must stress the seriousness of jumping bail to abscond. The community should not condone the abscondence of suspects who are pending court trial, seeking to evade legal liabilities and in violation of court orders prohibiting them from leaving Hong Kong. The 12 absconded suspects are wanted persons in Hong Kong, suspected to have committed various serious crimes in Hong Kong. Some of the cases have been scheduled for hearing at the District Court and the defendants were prohibited from leaving Hong Kong as ordered by

the court. They should stay in Hong Kong to face legal liabilities, but they jumped bail and absconded from Hong Kong to escape from the court trial. The 12 absconded suspects boarded the same speedboat to abscond from Hong Kong, and they were arrested by Mainland law enforcement authorities in Mainland waters according to the law for suspected illegal crossing of boundary. The HKPF have reiterated repeatedly that the 12 absconded suspects were arrested by the Mainland law enforcement authorities in accordance with the Mainland law, and the HKPF were not involved in that operation. The Security Bureau does not get involved in the HKPF's operation either.

According to the first principle in handling this case as I mentioned earlier, every individual should take responsibilities, including legal liabilities, for his or her action. There is a suggestion that the HKSAR Government should request the Mainland authorities to return the 12 absconded suspects to Hong Kong immediately without the need to complete the legal proceedings in the Mainland. The HKSAR Government definitely will not do so, as this would encourage more people to abscond by jumping bail and condone the criminals' intentional evasion of legal liabilities. It is entirely improper to let such wrong act of abscondence sustain.

The HKPF have commenced investigation into the crime for organising and planning the abscondence. Four men and five women were apprehended on October 10 for the suspected offence of assisting offenders. The Police believe that these nine arrested persons have offered assistance for the 12 absconded suspects to flee with a view to evading court trial and obstructing the Police in arresting others. The Police are actively conducting full investigation, including pursuing the mastermind behind the plot and financing it, and do not rule out making further arrests.

Different jurisdictions have different legal and judicial systems, including their legal institutions, legal provisions, regulations and procedures. Differences among different systems are common and must be respected. The HKSAR Government will not interfere with, and will respect, the Mainland law enforcement authorities' handling of the case in accordance with the local laws, regulations and judicial systems, in the same way as we expect our legal and judicial systems to be respected.

The HKSAR Government will continue to monitor and follow up the case of these 12 absconded suspects in the Mainland. In line with the principles mentioned above, we will pursue their suspected serious offences committed in Hong Kong in accordance with the law upon their return to Hong Kong after completion of legal proceedings of the 12 absconded suspects in the Mainland.

Thank you President.