

LCQ22: Retention period of movement records

Following is a question by the Hon Cheung Kwok-kwan and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (October 31):

Question:

In August this year, a Hong Kong resident, who was serving a life sentence handed down by a local court in the Philippines many years ago for alleged drug possession, requested through his family members the Immigration Department (ImmD) to provide his immigration records 18 years ago as evidence for the purpose of lodging an appeal to the Supreme Court of the Philippines. However, ImmD was unable to provide the relevant information because the immigration records of Hong Kong people would be retained for 10 years only and would all be destroyed thereafter. In this connection, will the Government inform this Council:

(1) of (i) the time when ImmD started implementing the arrangement of retaining immigration records for 10 years and (ii) the reasons for implementing the arrangement;

(2) whether ImmD has assessed if there will be practical difficulties for extending the retention period for immigration records; if ImmD has assessed, of the outcome;

(3) whether it knows other jurisdictions' retention periods in general for the immigration records of their nationals and visitors; and

(4) whether ImmD will draw experience from this incident and review the relevant retention period; if so, when the review will be conducted; if not, of the reasons for that?

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Reply:

President,

My consolidated reply to Hon Cheung Kwok-kwan's question is as follows:

According to the records management policy of the HKSAR Government, to ensure systematic planning of records disposal after records have been kept for an appropriate period of time, bureaux/departments are required to develop retention and disposal schedules for their programme records and to specify the retention period and disposal arrangements of records, taking into account the administrative, operational, fiscal and legal requirements as well as the archival value of records. The retention period of records should meet the purposes they are created and comply with relevant legal or

statutory requirements. In addition, if the records contain personal data, bureaux/departments should consider the retention period of the personal data in accordance with the requirements as stipulated in Section 26 and Data Protection Principle 2 of the Personal Data (Privacy) Ordinance, i.e. personal data should not be kept longer than necessary to fulfil the purpose for which it is used.

Movement records are a kind of programme records of the Immigration Department (ImmD). In drawing up retention and disposal schedules for various kinds of programme records (including movement records), ImmD will take into account all of the above factors and submit the draft retention and disposal schedules to the Government Records Service (GRS) for approval pursuant to the requirements under the records management policy with a view to ensuring creation and collection of adequate but not excessive records and striking a balance between proper maintenance of records and retention of records of archival value. The retention period of movement records is 10 years, thus the time-expired records will be destroyed as required after obtaining the prior agreement of the GRS.

ImmD will regularly review the retention and disposal requirements for movement records in accordance with the guidelines of the GRS and the actual operational needs to ensure proper records management. In consideration of the purpose and practical need to keep the travellers' movement records, as well as the above-mentioned principles, ImmD in general maintains the current retention period for the said records. Should situation warrant, for example under special circumstances involving the case of Hong Kong residents being arrested or detained outside Hong Kong where the need to keep an individual's movement records for longer period arise, ImmD will handle the matter on a case-by-case basis.

ImmD does not have information on the general retention period of the movement records of nationals and visitors of other jurisdictions.