

## LCQ15: Police officers giving evidence in court proceeding

Following is a question by Hon Jeremy Tam and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (July 8):

Question:

It has been reported that recently, during the trial of a case of assault on a police officer, a Magistrate stated that the police officer who gave evidence was not an honest and reliable witness, and thus acquitted the defendant of the charge. On the other hand, according to section 31 of the Crimes Ordinance (Cap. 200), any person lawfully sworn as a witness in a judicial proceeding who makes a false statement shall be guilty of perjury. In this connection, will the Government inform this Council:

(1) of the number of police officers in the past five years who were regarded by the courts as not being honest and reliable witnesses, together with the rationale of the courts;

(2) of the number of police officers referred to in (1) who were subject to disciplinary actions upon investigations, and set out one by one the misconduct involved and the disciplinary actions imposed on them;

(3) of the number of police officers who were prosecuted in the past five years for allegedly giving false evidence and, among them, the number of officers convicted and the punishments imposed on them;

(4) of the measures put in place to ensure that police officers collect evidence honestly during criminal investigations and give evidence honestly in court proceedings;

(5) of the number of police officers, who had been regarded by the courts as not being honest and reliable witnesses, giving evidence in the past five years in other cases;

(6) whether it will set up, for the reference of the courts, a database on cases involving police officers being regarded by the courts as not honest and reliable witnesses, and prohibit the police officers concerned from giving evidence in other cases; and

(7) given that during the recent trials of a number of criminal cases in relation to social incidents, the Department of Justice (DoJ) applied to the courts for the issue of anonymity orders in respect of those police officers who gave evidence, whether DoJ will adopt the following practice: in the event that a police officer who gave evidence has been regarded by the court as not being an honest and reliable witness, DoJ will, on account of public

interest, consider applying to the court for revoking the relevant anonymity order?

Reply:

President,

In the case of a criminal trial, the court's refusal to accept the evidence of a prosecution witness could be due to different reasons, for instance, the court is unable to be satisfied beyond reasonable doubt as to the truth or veracity of the witness' evidence. Hence, it does not necessarily follow that the witness is not honest and reliable, nor should the witness be considered as having made a false statement. This point must be clarified to avoid the public being misled.

Having consulted the Judiciary and the Department of Justice, the reply to the various parts of the question is as follows:

(1), (2), (3) and (5) Neither the Government nor the Judiciary keep records of the number of police officers being considered by the courts as not honest and reliable witnesses in the past five years (2015 to 2019). The Police also do not keep record of the number of police officers who have been considered by the courts as not an honest and reliable witness and testify for other cases during the same period.

In the past five years, no police officer has been prosecuted for perjury under section 31 of the Crimes Ordinance (Cap. 200). Over these five years, disciplinary actions were taken against two officers whose credibility of evidence was questioned by the court. The Police Force issued a minor offence report to one of the officers in 2016; whilst the other officer was given a punishment of "Reprimand" in 2019 subsequent to disciplinary proceedings.

(4) Section 10 of the Police Force Ordinance (Cap. 232) stipulates that the Police has a statutory responsibility to prevent and detect crimes and offences. During case investigations, and for the purpose of crime prevention and detection, the Police will request for information related to crime investigation from relevant persons or organisations if necessary. In accordance with relevant legal requirements, if needed, the Police will also apply for a search warrant from the court for entering premises and searching for, taking possession of or detaining relevant articles, such as seizing documents or information as evidence. Same as all other witnesses who testify during court hearings, a police officer shall give sworn evidence which he is satisfied to be true and accurate in court. In accordance with Chapter 45 of the Police General Orders, prosecution witnesses (including police officers) are allowed to refresh their memories of what occurred from records (for example, their own statements, etc.). However, they should not have a pre-trial discussion of the evidence. In particular, police officers should not hold a meeting before the trial to look at each other's notebooks or statements, or to discuss the evidence of the case. Nevertheless, police officers may follow the accepted practices of: (i) pooling their re-

collections of events when making their notebook entries, either at the time of or shortly after those events when facts are fresh in their minds; (ii) at the time of (i), signing each other's notebooks to indicate that these are true and that they agree with the records made; and (iii) later, before giving evidence, refreshing their memories individually from the records made.

In addition, a witness (including a police officer) must not speak to another witness who has not yet given evidence. Any communication or conversation on case-related or evidence-related topic amongst witnesses is strictly prohibited.

A witness wilfully committing perjury in court and a witness being considered by a judge as not giving credible testimonies can be two different situations. There are existing legal and administrative mechanisms to deal with these situations.

In respect of wilful perjury, under section 31 of the Crimes Ordinance (Cap. 200), if any person lawfully sworn as a witness, either generally or in a particular judicial proceeding, wilfully makes a statement in any judicial proceeding which is material in that proceeding and which he knows to be false or does not believe to be true, he shall be guilty of perjury and shall be liable on conviction upon indictment to imprisonment for seven years and to a fine.

If the court considers that there is prima facie evidence suggesting perjury by a witness (including a police officer), the court may refer the case to the Department of Justice for follow-up. The Police will co-operate and handle the matter seriously. Subject to the investigation results, the officer concerned may be liable to criminal responsibility and also subject to disciplinary actions.

If any person considers he or she is being affected by police misconduct and lodges a complaint, the Complaints Against Police Office shall handle it in a fair and impartial manner according to established procedures, and shall then report to the Independent Police Complaints Council (IPCC) and submit an investigation report to the IPCC in accordance with the Independent Police Complaints Council Ordinance (Cap. 604).

(6) and (7) As a matter of general principle, according to the Indictment Rules (Cap. 221C), the description or designation in an indictment of the accused person, or of any other person referred to therein, shall be such as is reasonably sufficient to identify him, without necessarily stating his correct name or his abode, style, degree or occupation. This principle applies to charge sheets used in the Magistrates' Courts and the District Court.

€€€The Statement on the Treatment of Victims and the Witnesses released by the Department of Justice stipulates that victims and witnesses are entitled to have their rights to privacy and confidentiality respected. In this regard, the Department of Justice will take into account the circumstances of

the cases and consider on a case-by-case basis as to whether the names of victims and witnesses should be revealed. No generalisation should be made in this respect.

Article 87 of the Basic Law gives to any accused the right to a fair trial. The Prosecution Code (the Code) issued by the Department of Justice stipulates that one of the guarantees of fairness is the full and timely disclosure to the defence of all relevant or possibly relevant material (or material information – and not confined to admissible evidence) available or known to the prosecution, whether it assists in the proof of the prosecution case or not.

The Government has no plan to set up a database regarding the situation mentioned in Part (6) of the question.

As for prosecution, paragraph 12.3(c) of the Code stipulates that materials to be disclosed by the prosecution include known discreditable conduct of a prosecution witness (including disciplinary records) that may reasonably affect his or her credibility. The Department of Justice will comply with the duty of disclosure to ensure the protection of an accused's right to a fair trial. These information can assist the court in determining the reliability of the testimonies given by the witness.

---

## **Final report on serious incident of Boeing 747-8KZF freighter published**

The Air Accident Investigation Authority (AAIA) today (July 8) published the final report (1/2020) on the investigation into an aircraft serious incident that occurred at Hong Kong International Airport, involving a Boeing 747-8KZF freighter (registration mark JA18KZ) operated by Nippon Cargo Airlines on March 29, 2018.

The serious incident occurred just before touchdown at about 50 feet above ground level at Runway 07L. The No. 3 engine fire warning message appeared on the Engine Indicating and Crew Alerting System. The crew landed the aircraft and vacated Runway 07L to the intersection of Taxiway A8 and Taxiway A. The crew then informed air traffic control of the fire warning. The occurrence was classified as a serious incident according to the criteria of the International Civil Aviation Organization (ICAO).

A spokesman for the AAIA said, "The investigation report was published by the AAIA with the objective of identifying the circumstances and causes of the serious incident with a view to preventing a recurrence."

The investigation was conducted by a team of professional investigators

in strict adherence to international standards established by the ICAO. The investigation identified that the probable cause of the serious incident was leaked fuel from a crack on a fuel manifold on the No. 3 engine having been ignited due to contact with the hot surface of the combustion diffuser nozzle case during landing when the undercowl ventilation flows were low. The crack was not detected in the last two ultrasonic inspections in accordance with Service Bulletin 73-0034. To improve the reliability of the ultrasonic testing inspection, the investigation team has made one safety recommendation to the engine manufacturer to verify that the calibration, the range of echo and the rejection level are able to capture the full range and scope of the inspection task.

Throughout the investigation, all parties concerned were properly consulted on the report. The report is available for download at the AAIA webpage ([www.thb.gov.hk/aaia/eng/investigation\\_reports/index.htm](http://www.thb.gov.hk/aaia/eng/investigation_reports/index.htm)).

---

## **LCQ20: Redevelopment projects implemented by Urban Renewal Authority**

Following is a question by the Hon Shiu Ka-chun and a written reply by the Secretary for Development, Mr Michael Wong, in the Legislative Council today (July 8):

Question:

According to the policy of the Urban Renewal Authority (URA), when the URA holds discussions with the owners of the properties in a redevelopment project regarding the market value of their properties in the acquisition offers made to them, it will take into consideration the valuation reports on the market value of the properties (valuation reports) submitted by professional surveyors who were appointed by the owners on their own (owner-appointed surveyors). On the other hand, in the event that the URA cannot reach an agreement with the property owners on the acquisition of property titles due to such issues as the acquisition prices and vesting of titles, it may, under the Urban Renewal Authority Ordinance (Cap 563), apply to the Government for resumption, under the Lands Resumption Ordinance (Cap 124), by the Government of those property titles which have not been acquired so that those titles will revert to the Government. If such an application has been approved, the Lands Department will offer relevant compensation to the affected persons. If the two parties cannot reach an agreement on the amount of compensation, the affected persons may apply to the Lands Tribunal for determining the amount of compensation to be offered. In this connection, will the Government inform this Council:

(1) whether it knows the following information about the various

redevelopment projects implemented by the URA in the past 10 years: (i) the number of units acquired, (ii) the number of units which involved the submission of valuation reports by owner-appointed surveyors, and (iii) the number of units which involved revision of the acquisition offers by the URA having regard to the valuation reports submitted by owner-appointed surveyors, with a breakdown by whether such properties were (a) residential or (b) non-residential properties in the following table;

Name of project	(a)			(b)		
	(i)	(ii)	(iii)	(i)	(ii)	(iii)

(2) of the following information about the redevelopment projects implemented by the URA in the past 10 years which involved the Government's invoking of Cap 124: (i) the number of units resumed by invoking Cap 124, (ii) the number of units which involved the affected persons applying to the Lands Tribunal for determining the amount of compensation, and (iii) the number of units which involved the determination by the Lands Tribunal that the amount of compensation had to be adjusted, and set out a breakdown by whether such properties were (a) residential or (b) non-residential properties in a table of the same format as the table above; and

(3) whether it knows the criteria adopted by the URA for deciding whether or not to (i) accept the valuation reports submitted by owner-appointed surveyors, and (ii) revise the acquisition offers; whether it will request the URA to review the relevant mechanism to better protect the rights and interests of property owners?

Reply:

President,

Generally speaking, when the Urban Renewal Authority (URA) implements a redevelopment project, it endeavours to acquire the property titles through voluntary negotiation. However, due to title issue, owners' wishes or other reasons, sometimes the URA might not be able to successfully acquire all the property titles in a project. In such cases, pursuant to the Urban Renewal Authority Ordinance (Cap 563), the URA may make an application to the Secretary for Development requesting him to recommend to the Chief Executive in Council the resumption of land pursuant to the Lands Resumption Ordinance (Cap 124). If the application is approved, the Lands Department (LandsD) will resume the land in the entire lot, including the titles which have already been acquired by the URA, in order to extinguish all and any rights and interests in the land concerned. Afterwards, the LandsD will hand over the vacant site to the URA for implementation of redevelopment project at an appropriate juncture.

Based on the information provided by the LandsD and the URA, my reply to

the three-part question is as follows:

(1) and (3) Under the prevailing policy of the URA, the URA will assess the market value of each property in a redevelopment project based on the valuation of two independent valuation firms, whichever is higher, appointed by the URA through tender invitation. If necessary, the factors and sale transactions considered by the surveyors would be provided to the owners. If the owners have other views, they may engage professional surveyors to assess the market values of the property. The owners may also apply to the URA for subsidies to cover the cost of engaging such surveyors, but the amount cannot exceed the prescribed ceiling of the subsidies which would vary depending on the type of property concerned. The surveyors appointed by the URA will carefully analyse the valuation reports and related information submitted by the owner-appointed surveyors. If necessary, the URA and its appointed surveyors will also meet with the owners and their surveyors to exchange views on the valuation of the properties involved. After detailed consideration of different factors such as sale transactions of similar properties in the vicinity and the characteristics of the properties concerned, the surveyors appointed by the URA will make a recommendation to the URA. Upon considering the recommendations from the surveyors, the URA will provide a written reply to the owners on whether their justifications and reasons to adjust the URA's valuation are accepted.

Based on the established mechanism, owners can appoint professional surveyors to acquire professional advice and if necessary, they can also submit justifications on the valuation to the URA and exchange views with the URA. At present, the URA does not have any plan to review the relevant mechanism.

Regarding the redevelopment projects implemented by the URA in the past 10 years, the number of units acquired, the number of units which involved the submission of valuation reports by owner-appointed surveyors and the number of units which involved revision of the acquisition offers by the URA having regard to the valuation reports submitted by owner-appointed surveyors are set out at Annex I.

(2) Generally speaking, after a land resumption application initiated by the URA has been approved, land resumption shall cover the entire lots, including the private titles to the affected land which have been transferred to the URA, in order to extinguish all and any rights and interests in the land concerned which include those illegal occupiers of the common areas of the buildings on that land.

Relevant information on the invocation of the Lands Resumption Ordinance (Cap 124) on the redevelopment projects in Annex I is at Annex II.

---

# Effective Exchange Rate Index

The effective exchange rate index for the Hong Kong dollar on Wednesday, July 8, 2020 is 107.2 (same as yesterday's index).

---

## LCQ9: Creation of time-limited jobs

Following is a question by the Hon Alice Mak and a written reply by the Secretary for the Civil Service, Mr Patrick Nip, in the Legislative Council today (July 8):

Question:

Hong Kong's economy has been dealt double blows by a series of demonstrations and the Coronavirus Disease 2019 epidemic, resulting in the unemployment rate rising continuously in recent months. The seasonally adjusted unemployment rate from February to April this year was 5.2 per cent, and the unemployment rates of individual trades exceeded 10 per cent. In view of the above, the relief measures introduced by the Government in April this year included the creation of around 30 000 time-limited jobs in both the public and private sectors in the coming two years. Such jobs include more than 200 positions for fresh graduates and 3 300 positions to support the city in fighting the epidemic. In this connection, will the Government inform this Council:

(1) of the number of time-limited jobs that have been created so far, with a breakdown by trade, type of position, type of workplace and monthly salary range (each group spanning \$5,000); among such jobs, the number of those created to support the fight against the epidemic;

(2) as there are comments that the around 200 time-limited jobs are just a drop in the bucket for tens of thousands of fresh graduates each year, whether the Government will consider afresh increasing the number of such jobs; if so, of the details; if not, the reasons for that;

(3) whether it has drawn up a timetable for the creation of those jobs which have yet to be created; if so, of the details; if not, the reasons for that; and

(4) of the to-date number of private organizations with which it has discussed the creation of time-limited jobs, with a breakdown by trade, type of position and outcome of discussion?

Reply:



President,

With a view to relieving the worsening unemployment situation due to the epidemic relating to COVID-19, the Government has earmarked \$6 billion under the Anti-epidemic Fund to create around 30 000 time-limited jobs normally not exceeding 12 months in both the public and private sectors in the coming two years. Respective bureaux and departments are actively implementing related preparatory and recruitment work. Regarding the question raised by the Hon Alice Mak, reply to the different parts of the question is as follows –

(1) As at end June, among the 30 000 time-limited jobs using the Anti-epidemic Fund to be created in the coming two years, the planning of around 20 000 time-limited jobs has reached an advanced stage. Among them, around 700 jobs have been filled while the recruitment of around 7 000 jobs has already commenced. These time-limited jobs will cover people of different skill sets and academic qualifications, including fresh graduates, technical and supporting staff and seasoned professionals, etc. At present, there are around 4 000 time-limited jobs related to anti-epidemic work, for example, Contract Doctors, Nurses, Scientific Officers, Medical Laboratory Technologists and Dispensers of the Department of Health, time-limited positions required by the Office of the Government Chief Information Officer to provide technical support related to anti-epidemic work, and cleansing and supporting staff for enhancing the cleansing work in various districts for anti-epidemic purpose, etc.

The remuneration of the afore-mentioned time-limited positions varies depending on the requirements of the positions and the qualifications of appointees. As regards jobs created in the Government, departments will also arrange suitable job locations for employees according to operational needs.

(2) to (4) The types of jobs and related numbers as stated in the paper submitted by the Government to the Finance Committee of the Legislative Council earlier for seeking funding approval were only some of the examples during the preparatory stage of the programme. Bureaux and departments are now conducting in full swing the preparatory and recruitment work for the creation of the time-limited jobs. The number of the various types of time-limited jobs, including positions provided for university degree holders and fresh graduates, will increase progressively with the planning work reaching an advanced stage gradually, so as to achieve the target of creating around 30 000 time-limited jobs in two years' time.

For example, various departments will create around 300 time-limited Executive Service Assistant (ESA) (equivalent to Executive Officer II) positions, to provide various executive support services. These positions are suitable for university degree holders and fresh graduates to apply. To facilitate and expedite the procedures of recruiting ESAs, the Civil Service Bureau is co-ordinating the recruitment exercise for ESAs.

Besides, bureaux and departments concerned are engaging their stakeholders to formulate the plan of job creation in the non-governmental sector. Among others, around 3 000 jobs will be provided under the following three schemes, the recruitment exercises of which have already commenced –

(i) Development Bureau has launched a subsidy scheme for private companies to employ graduates and assistant professionals from the engineering, architecture, surveying, town planning and landscape architecture streams. The scheme is open for application from employers from June 19, 2020;

(ii) Environment Bureau has launched a subsidy scheme for private companies to employ graduates of environment-related disciplines. The scheme is open for application from employers from June 26, 2020; and

(iii) Financial Services and the Treasury Bureau has launched a job creation scheme to subsidise private companies and startups conducting Fintech related business in Hong Kong to employ additional staff. The scheme is open for application from July 2, 2020.