



# GUIDANCE TO AN ARRESTED PERSON ON ARREST AND DETENTION

**You have been arrested. This document contains useful information to help you understand the legal authority for your arrest and detention.**

## **ARREST**

It is lawful for any police officer to arrest any person who he reasonably believes will be charged with, or whom he reasonably suspects of being guilty of any offence for which the sentence is fixed by law, or for which a person may (on a first conviction for that offence) be sentenced to imprisonment, or any offence if it appears to the police officer that service of a summons is impracticable, or any person whom he reasonably suspects of being liable to deportation from Hong Kong. (Section 50, Police Force Ordinance, Cap. 232)

2. Police officers will only make arrests in accordance with the law which are necessary for the purpose of the maintenance of law and order. Arrests may be made lawfully by a police officer with or without a warrant issued by the court.

3. If you are arrested by a police officer, you will be informed that you are under arrest and the reasons for your arrest.

4. Following arrest, you will be brought before the Duty Officer of the police station covering the area in which you were arrested for inquiry. The Duty Officer will examine the reasons for your arrest and shall be satisfied that your arrest is lawful. If the Duty Officer is not satisfied that you should be further detained, you will be released forthwith.

## **DETENTION**

5. The relevant law governing police detention following arrest is set out in sections 51 and 52 of the Police Force Ordinance, Cap. 232.

6. You will be kept in custody whilst the case against you is being investigated. If the investigation into your case cannot be completed immediately, you may be released unconditionally or on bail to appear at a specified police station at the date/time stated in the recognizance. You will not be kept in custody longer than necessary for such investigation. If after the investigation there is sufficient evidence against you, you will be charged and either be released on bail to appear before a Magistrate or detained and brought before a Magistrate as soon as practicable.

7. Where a warrant for your arrest and detention under any law relating to deportation is applied for while inquiries are being conducted, you may be detained for a period not ordinarily exceeding 72 hours after your arrest.

8. The general principle on detention is that you will be released on bail by entering into a recognizance with or without sureties for a reasonable sum, or on cash bail for a specified amount, as soon as possible following your arrest unless the offence is of a serious nature or it is reasonably considered that you should be detained pending your appearance before a Magistrate. Any such detention must be justified on reasonable grounds having regard to the circumstances of your case. In this regard, you will normally be released on bail except:

- (a) where the offence is of a serious nature;
- (b) where you have been arrested on a warrant which does not allow bail;
- (c) where you may abscond or where you may repeat the offence;
- (d) where you may interfere with witnesses, impede the investigation or attempt to obstruct the course of justice;
- (e) where you should be detained in your own interests to protect you from acts committed by yourself or others; or
- (f) where you cannot produce a reasonable amount of bail money in circumstances where entering into recognizance with or without sureties is not appropriate.