

**Statement of the Hong Kong Bar Association (HKBA)
on Criticisms of Factual Findings of Judicial Officers**

The HKBA notes remarks which have been made criticizing a magistrate for making findings of fact casting doubt on the credibility of police officers who had given evidence in a criminal trial. Similar criticisms have been levelled at magistrates or judges who have found police officers' evidence believable.

Under our criminal justice system, judges and magistrates (in the lower courts) and juries (in the High Court) hear evidence against an accused to decide whether an accused is guilty of the offences that he or she is alleged to have committed.

This process involves fact-finding. The judge or magistrate (or jury as the case may be) will routinely decide whether a witness is credible, having regard to a host of factors including the inherent probability of the evidence; whether the testimony of the witness is consistent with, or is contradicted by, other evidence, as well as the manner and demeanour of the witness when in the witness box.

Such fact-finding process sometimes results in a finding that a witness is lying. The process applies to all witnesses, civilian and police alike.

In the lower courts, judges and magistrates have a duty to give reasons why any witness is to be believed or disbelieved. This duty to give reasons enables an appeal or review court to decide whether the findings had a solid basis.

We call on the public to respect judicial decision-making and take care not to interfere in the Judiciary's exercise of independent judicial power guaranteed under the Basic Law.

HONG KONG BAR ASSOCIATION

Dated: 21 August 2020