

**Replies to questions raised by Finance Committee Members in examining the
Draft Estimates of Expenditure 2001–02**

**[Bureau Secretary/Controlling Officer : Commissioner, ICAC]
[Session No. : 18]**

| Bureau Serial No. | Question Serial No. | Member | Head | Programme |
|------------------------------|--------------------------------|---------------|-------------|------------------|
| S-ICAC001 | S101 | Emily LAU | 72 | 2 |

Examination of draft Estimates of Expenditure 2001–02
**CONTROLLING OFFICER'S REPLY TO
WRITTEN/SUPPLEMENTARY QUESTION**

Head: 72 – Independent Commission Against Corruption

Subhead (No. & title): –

Programme: 2 – Operations

Controlling Officer: Commissioner, ICAC

Bureau Secretary: Commissioner, ICAC

Question: This is a follow-up question to Bureau Serial No. ICAC010, Question Serial No. 0335. Please give more details about the Mutual Case Assistance Scheme:- when it was put in place; whether there is an agreement or memorandum signed with the Mainland, if so, what is the content; details of the guidelines issued to ICAC officers to remind them about the rights of Hong Kong people invited to be interviewed by Mainland officials and the number of Hong Kong residents who have refused to be interviewed since 1998.

Asked by: Hon. Emily LAU

Reply:

The Mutual Case Assistance Scheme has been put in place since 1988 as a result of an understanding between the ICAC and Guangdong People's Procuratorate to facilitate interview of witnesses in each other's jurisdiction in relation to corruption investigations.

Since 1990, this arrangement for the Mutual Case Assistance Scheme has been set out in the form of an agreed minute. The agreed minute outlines the broad areas of cooperation between the ICAC and the Guangdong People's Procuratorate on investigation, prevention and education, the three pronged attacks on corruption.

On the basis of the agreed minute and in compliance with the Government guidelines, our working procedures are set down as follows:-

- All requests for interview in Hong Kong will be personally approved by a directorate officer. They must contain full justification and must be corruption related.

- When the Mainland authorities made a request to the ICAC, ICAC officers will contact the witness in HK to ascertain if he /she wishes to be interviewed and if so, they will fully brief the witness about his/her rights as a witness. An interview will only be arranged with the witness's consent and such interviews will be made by appointment, at ICAC premises, and in the presence of ICAC officers. The witness will be clearly informed that he/she will be treated as a witness only and that his/her statement will not be used as evidence to incriminate him/her in relation to the case under investigation.
- Before the interview actually takes place, ICAC officers will inform the witness of his/her rights again in front of all the parties concerned.
- A witness, same as any witness in ICAC cases, has the right to have a lawyer present during the interview.
- During the interview, if a witness does not wish to continue or does not wish to answer specific questions, he/she has the full right to discontinue the interview or refuse to give information.

In normal practice, only Putunghua and Cantonese are used in interviewing witnesses. The ICAC has now proposed to the Guangdong People's Procuratorate to tighten up the use of language in all future interviews.

Since 1998, out of 173 requests, 14 Hong Kong residents have declined interviews with Mainland officials.

Signature: _____
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Date: 26 March 2001