

EXTRACT

立法會

Legislative Council

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(These minutes have been seen by
the Administration and cleared
with the Chairman)

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LegCo Panel on Security

**Minutes of special meeting
held on Friday, 30 June 2000 at 2:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon David CHU Yu-lin
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, JP
Hon CHEUNG Man-kwong
Hon Andrew CHENG Kar-foo
- Members attending** : Hon Cyd HO Sau-lan
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon LEE Kai-ming, SBS, JP
Hon MA Fung-kwok
Hon CHAN Kwok-keung
Dr Hon YEUNG Sum
Hon LAU Chin-shek, JP
Hon Emily LAU Wai-hing, JP
Hon LAW Chi-kwong, JP
- Members absent** : Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Deputy Chairman)
Hon Gary CHENG Kai-nam, JP
Hon Howard YOUNG, JP
Hon LAU Kong-wah

Public Officers : Item I
attending

Mr Raymond WONG
Deputy Secretary for Security 1

Mrs Carrie WILLIS
Principal Assistant Secretary for Security

Mr Thomas CHAN
Assistant Commissioner of Police (Crime) (Acting)
Hong Kong Police Force

Miss Winnie CHIU
Superintendent, Liaison Bureau
Hong Kong Police Force

Item II

Mrs Regina IP
Secretary for Security

Mr Raymond WONG
Deputy Secretary for Security 1

Mr LEE Ming-kwai
Director of Operations
Hong Kong Police Force

Mr LEUNG Chi-bun
Regional Commander, Hong Kong Island
Hong Kong Police Force

Mr Michael FRANCIS
District Commander (Central District)
Hong Kong Police Force

Clerk in : Mrs Sharon TONG
attendance Chief Assistant Secretary (2)1

Staff in : Miss Mary SO
attendance Senior Assistant Secretary (2) 8

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I. Briefing by the Administration on the case of Mr SU Zhi-yi where it was alleged that the relevant Mainland Public Security officials had taken enforcement actions in the territory of Hong Kong

(LC Paper No. CB(2) 2472/99-00(01))

2. At the invitation of the Chairman, Deputy Secretary for Security 1(DS for S1) introduced the Administration's paper entitled "Police cooperation between the HKSAR and the Mainland and the case of SU Zhi-yi". DS for S1 said that following the lodging of a complaint by SU's daughter with the Hong Kong Police on 26 April 2000 claiming that Mainland public security officials had crossed the boundary to exercise jurisdiction in Hong Kong in 1995, the Hong Kong Police had immediately launched an investigation and taken the matter up with the Guangdong Provincial Public Security Bureau (GDPSB). Allegations made by SU's daughter were also referred to the Supreme People's Procuratorate for consideration on 3 May 2000. The Supreme People's Procuratorate subsequently met with SU Zhi-yi's Mainland lawyer to understand the matter. On 17 May 2000, the Beijing Office also referred a legal representation from SU Zhi-yi's Mainland lawyer to the Supreme People's Procuratorate for consideration. DS for S1 further said that the investigation of the Hong Kong Police had not yet been completed and that a formal reply from the GDPSB was awaited. In this connection, the Administration was presently unable to inform Members of the outcome of the investigation.

3. DS for S1 also said that in view of the public concern on the case, the Secretary for Security (S for S) had discussed SU's case with the relevant Mainland authorities during her recent visit to Guangzhou in June and reflected to them the concerns of Hong Kong people. The Director General of GDPSB had reassured S for S that police cooperation between the Mainland and Hong Kong had all along been conducted in accordance with established procedures which had proven to be effective. There was no need for the Mainland public security personnel to cross boundary to exercise jurisdiction in Hong Kong. This was the case in the past, and would continue to be so in the future. The Mainland authorities had reiterated to S for S that they respected the jurisdiction of the HKSAR and that they strictly forbade Mainland law enforcement personnel to come to Hong Kong to undertake any law enforcement actions. The Commissioner of Police (CP) also obtained similar assurances from Mr ZHU Entao, Assistant Minister of the Ministry of Public Security, when they met in Beijing in May this year and the case was raised for discussion. A directive was subsequently issued by the Ministry of Public Security reminding public security personnel at the provincial and municipal levels to strictly observe the established practice on police cooperation between the Mainland and Hong Kong and under no circumstances should they cross the boundary to exercise jurisdiction in Hong Kong.

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4. Assistant Commissioner of Police (ACP) then briefed Members on the existing arrangements on police cooperation between the Mainland and Hong Kong. He said that since 1985 police cooperation between the Mainland and Hong Kong had been based on Interpol practice and through the channel of Interpol. After the reunification, both sides confirmed the continuation of the same mode and channel of cooperation. It should be noted that when cooperation was undertaken, both sides were required to strictly abide by the provisions of the relevant laws and to respect the jurisdiction of the local territory. Specifically, Mainland public security personnel were prohibited from exercising jurisdiction in Hong Kong and vice versa. If one party required the assistance of the other party, the requested party might gather information relevant to the case through various legal means and provide such information to the requesting party, including gathering evidence and interview of witness and suspects who were willing to be interviewed. When the requesting party sought assistance, it must give prior notification to the requested party and explain clearly the nature of the case and the scope of assistance sought. It would then be for the law enforcement officers of the requested party to undertake the investigation work in accordance with the law.

5. ACP further said that under certain circumstances it might be necessary for police officers to visit the territory of the other side to undertake case investigation through the law enforcement agencies of the other side. However, when conducting such cooperation, any law enforcement actions must only be taken by the local law enforcement agencies in accordance with the law. Under no circumstances could police officers take enforcement actions on their own in the territory of another jurisdiction. When these police officers were in the territory of another jurisdiction, they had the same status as any other ordinary visitors. They did not enjoy any police powers or privileges and they could not exercise any power of arrest, detention, search of persons and premises, etc.

6. Mr Albert HO expressed concern about the long time taken to complete the investigation into the case of SU Zhi-yi. He was of the view that the Administration should take up the case with the highest level of the relevant Mainland authorities. He said that according to SU's daughter, some of the six Mainland public security officials who had escorted her from the Mainland to Hong Kong were holding Hong Kong identity card. He asked whether the Police had investigated into this claim.

7. DS for S1 said that the Administration had launched an investigation into the case of SU Zhi-yi and requested the GDPSB to take the matter up immediately after SU's daughter had lodged a complaint with the Hong Kong Police on 26 April 2000. As the claim made by SU's daughter that Mainland public security personnel raided her parents home in Hong Kong to seize documents took place in 1995, longer time was therefore needed to verify the information given by SU's daughter. DS for S1 further reiterated that the case of SU Zhi-yi had been conveyed by S for S and CP to the highest level of the relevant Mainland authorities during their visit to the Mainland in May and June

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2000 respectively. To this end, the Ministry of Public Security had issued a directive reminding public security personnel at the provincial and municipal levels to strictly observe the established practice on police cooperation between the Mainland and Hong Kong and under no circumstances should they cross the boundary to exercise jurisdiction in Hong Kong. As it was claimed by SU's daughter that the Mainland public security personnel who raided her parent home in Hong Kong were from Guangdong, the Administration therefore considered it appropriate to request the GDPSB to follow up on the alleged claim.

8. ACP said that the Hong Kong Police had to date found out the names of some of the six people whom SU's daughter claimed to have escorted her from the Mainland to Hong Kong to raid her parent home. The names of these persons had been referred to the GDPSB for verification of their identities. As the probe was still underway, it was not possible to confirm at this stage whether the complaint lodged by SU's daughter was genuine. ACP further said that when the identities of those people were confirmed and if it was found that someone had breached the law, appropriate prosecution actions would be taken.

9. In response to the Chairman, DS for S1 said that the Administration would report to the Panel the findings of the investigation into the case of SU Zhi-yi. The Chairman said that since SU's daughter claimed that she was issued a Two-way permit for entry to Hong Kong, the investigation should address the issue why a Two-way permit was issued to a person possessing a Hong Kong identity card. DS for S1 responded that the allegation had been referred to GDPSB for clarification.

10. Mr Andrew CHENG said that to his knowledge, the case of SU Zhi-yi was not the only case where Mainland public security personnel had crossed the boundary to exercise jurisdiction in Hong Kong. To ensure effective police cooperation between the Mainland and Hong Kong, it was necessary for both sides to know the extent of the seriousness of the problem. To this end, he was of the view that the Administration should appeal to the public that if they had encountered Mainland public security personnel taking law enforcement actions on them in Hong Kong, they should report to the Hong Kong Police immediately so that appropriate actions could be taken.

11. DS for S1 said that the Administration look a serious view on SU's daughter's claim that Mainland public security officials had crossed the boundary to exercise jurisdiction in Hong Kong in 1995. Following the complaint lodged by SU's daughter on 26 April 2000, the Hong Kong Police had immediately launched an investigation and the GDPSB had been requested to submit a formal reply on the allegation. He further said that both S for S and the Director of Operations, Hong Kong Police had recently told the public on separate occasions that only Hong Kong law enforcement officers had the power to take law enforcement actions in Hong Kong. If the public had any doubts on the identity of law enforcement officers, they should report to the Police immediately, so that

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the Police could carry out timely investigation and follow up as promptly as possible.

12. The Chairman opined that family members of people detained in the Mainland were reluctant to report to the Police that Mainland public security personnel had crossed the boundary to exercise jurisdiction in Hong Kong because they did not believe this would help the matter and might have the possibility of putting the detainees in greater risk. The Chairman enquired what the Administration had done in taking up the case of SU Zhi-yi with the relevant Mainland authorities.

13. DS for S1 responded that following the lodging of a complaint that Mainland public security officials had crossed the boundary to exercise jurisdiction in Hong Kong, the Hong Kong Police would launch an investigation to ascertain the allegation made by the complainant. Assistance from the relevant Mainland authorities would be sought if required to complete the investigation. In the case of the SU Zhi-yi case, the Hong Kong Police had taken up the matter with the GDPSB and had also referred the allegation made by SU's daughter to the Supreme People's Procuratorate for consideration. To his understanding, the Supreme People's Procuratorate had met with SU Zhi-yi's Mainland lawyer on 3 May 2000 to understand the case and the Beijing Office had also conveyed the representation made by SU Zhi-yi's Mainland lawyer to the Supreme People's Procuratorate on 17 May 2000. In reply to the Chairman, DS for S1 said that when the allegation made by SU's daughter was referred to the Supreme People's Procuratorate for consideration, the Hong Kong Police had not yet found out the names of some of the people who were claimed by SU's daughter to have escorted her to Hong Kong to raid her parent home in 1995.

14. Mr Andrew CHENG enquired whether, apart from the case of SU Zhi-yi, the law enforcement departments of Hong Kong had received any allegations or complaints about Mainland public security personnel coming to Hong Kong to investigate crimes without notification in accordance with the established practice. DS for S1 confirmed that the Administration had not received any such complaints prior to the case of SU Zhi-yi.

15. Miss Emily LAU said that given that it was unlawful for Mainland public security personnel to cross the boundary to exercise jurisdiction in Hong Kong, it was of paramount importance that the parties involved in the unlawful act would be duly prosecuted so as to allay the worries of Hong Kong people. In view of the fact that there was no formal arrangement between the Mainland and Hong Kong on mutual legal assistance in criminal matters, Miss LAU enquired whether it was possible for the SAR Government to press charges against Mainland public security officials who had crossed the boundary to exercise jurisdiction in Hong Kong if they were arrested for conducting such illegal act in Hong Kong.

16. DS for S1 responded that the Mainland authorities had assured the Administration that they strictly forbade Mainland public security personnel to

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come to Hong Kong to undertake any enforcement action. If there was enough evidence to suggest that Mainland public security officials had crossed the boundary to exercise jurisdiction in Hong Kong, the Administration would certainly request the relevant Mainland authorities to take up the matter. ACP supplemented that if Mainland public security personnel were to take enforcement actions on their own in the territory of Hong Kong such as making arrest and seizing things from a premise, they might commit an offence of illegal detention and theft respectively.

17. The Chairman enquired whether, under the existing arrangement on police cooperation between the Mainland and Hong Kong, law enforcement officers of one side could enter the territory of the other side to search or spy on a person without giving prior notification to the law enforcement officers of the other side. DS for S1 replied that if law enforcement officers of one side wished to search or spy on a person in the territory of the other side, they had to seek the assistance of the other side. The necessary investigation and assistance would then be conducted by local law enforcement officers in accordance with the provisions of the local laws.

18. In reply to the Chairman's enquiry as to whether there was a written document setting out the police cooperation between the Mainland and Hong Kong, ACP said that the mode of police cooperation undertaken by both sides was based on Interpol practice. Notably, when cooperation was undertaken, both sides were required to strictly abide by the provisions of the relevant laws and to respect the jurisdiction of the local territory. At the request of the Chairman, ACP agreed to provide a copy of the guiding principles of Interpol for Members' reference.

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19. The Chairman enquired whether cooperation similar to that between Hong Kong Police and the Ministry of Public Security had been made between the Administration and other relevant Mainland authorities in combating crimes. DS for S1 replied in the positive. He said that the cooperation between the Independent Commission Against Corruption and the Bureau Against Corruption of the Guangdong Provincial Procuratorate, that between the Hong Kong Customs and Excise Department and the Mainland's General Administration of Customs, and that between the Immigration Department and the Mainland's Bureau of Exit and Entry Administration of the Ministry of Public Security were all undertaken on the basis of the same principles of police cooperation between the Mainland and Hong Kong.

20. Miss Emily LAU enquired when the Administration could brief Members on the outcome of Police's investigation into the complaint lodged by SU's daughter. DS for S1 replied that as investigation by the GDPSB was still underway, the Administration would brief SU's daughter as well as Members upon receiving the results of the investigation from the GDPSB.

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21. The Chairman said that according to a newspaper report, it was mentioned in the ruling of the Zhaoqing court on the SU Zhi-yi case that some of the evidence were gathered in Hong Kong. The Chairman enquired whether the Administration had taken any action to verify whether such reporting was accurate. DS for S1 responded that it was the Government's policy not to intervene in the judicial process of other jurisdictions, including the Mainland. As such, it would not be appropriate for the Administration to make any comments on the rulings of the Mainland courts. He added that the complaint lodged by SU's daughter with the Hong Kong Police was a completely separate matter from the trial of SU Zhi-yi by the Zhaoqing court.

22. Mr CHEUNG Man-kwong enquired whether the Administration would assist SU Zhi-yi to claim back the properties which he was forced to surrender and whether the documents he signed under coercion had legal effect. ACP said that after obtaining all the facts, the Administration would seek advice from the Department of Justice before deciding on the way forward.

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Legislative Council Secretariat

25 September 2000