

立法會
Legislative Council

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LegCo Panel on Security

**Minutes of special meeting
held on Friday, 24 May 2002 at 1:00 pm
in the Chamber of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
Hon LAU Kong-wah (Deputy Chairman)
Hon Albert HO Chun-yan
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHEUNG Man-kwong
Hon WONG Yung-kan
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon IP Kwok-him, JP

Members attending : Hon Fred LI Wah-ming, JP
Hon SIN Chung-kai
Hon YEUNG Yiu-chung, BBS
Hon Abraham SHEK Lai-him, JP

Members absent : Dr Hon LUI Ming-wah, JP
Hon Andrew WONG Wang-fat, JP
Hon Howard YOUNG, JP
Hon Audrey EU Yuet-mee, SC, JP

Public Officers attending : Hong Kong Police Force
Mr TSANG Yam-pui
Commissioner of Police

Mr FUNG Siu-yuen
Director of Management Services

Independent Commission Against Corruption

Mr Alan N LAI
Commissioner, Independent Commission Against Corruption

Mr Tony M W KWOK
Head of Operations

Clerk in attendance : Mr Raymond LAM
Senior Assistant Secretary (2)5

Staff in attendance : Mr Jimmy MA, JP
Legal Adviser

Ms Dora WAI
Senior Assistant Secretary (2)4

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- I. Issues arising from the public statements issued by the Police and the Independent Commission Against Corruption (ICAC) over the recent arrest of three Police officers by the ICAC**
(LC Paper Nos. CB(2) 2021/01-02(01) - (04) and CB(2) 2049/01-02(01) - (03))

The Chairman drew Members' attention that in the discussion of the subject, reference to any case pending in a court of law should be avoided.

2. At the invitation of the Chairman, Commissioner of Police (CP) and Commissioner, Independent Commission Against Corruption (C/ICAC) briefed members on the respective papers provided by the Police and the ICAC.

(Post-meeting note : The speaking notes of CP and C/ICAC were circulated to members vide LC Paper No. CB(2) 2070/01-02 on 27 May 2002.)

3. Mr Albert HO said that any corruption of Police officers was subject to the

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monitoring and investigation by the ICAC. Given this sensitive relationship, any open dispute or row between the Police and the ICAC would be of wide public concern. He said that there were many existing channels of communication between the Police and ICAC, including communication through the Security Bureau, the Chief Secretary for Administration or even the Chief Executive. He questioned why the Police had, instead of making use of existing channels of communication, issued a public statement criticising the work of the ICAC. He asked -

- (a) Whether the Police and the ICAC had drawn any experience from the incident;
- (b) Whether the Police and the ICAC had conducted reviews after the incident; and
- (c) Whether measures would be adopted to prevent similar incidents from occurring in the future.

4. CP responded that the public statement issued by the Police on 19 May 2002 was neutral and necessary. It was drawn up after careful consideration. The Police issued the public statement because it found that the background information provided by the ICAC did not support the allegations contained in the press release issued by the ICAC on 18 May 2002. The public statement sought to balance the public's perception of the incident and uphold the reputation of the Police. Referring to an article in a local magazine, he said that the Police officer concerned had already been convicted and condemned by the article.

5. CP said that a law enforcement agency should be cautious in the release of news information about arrested persons. He informed Members that the Police sometimes had a different view from that of the ICAC on the amount of news information that should be released on arrested persons. The Police and the ICAC would discuss the release of news information on arrested persons and prevent similar incidents from occurring in the future.

6. The Chairman asked whether the Police had requested the ICAC to provide background information on the case concerned before issuing a public statement on 19 May 2002.

7. CP responded that the press release issued by the ICAC on 18 May 2002 had affected the public's perception of the Police. It was thus necessary for the Police to issue the public statement to balance the public's perception of the incident.

8. Mr Albert HO said that the wide coverage of arrested persons by the media was not an unusual matter. He questioned whether it was necessary and appropriate for

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the Police to issue the public statement of 19 May 2002. He said that if the Police considered that there were areas where ICAC should improve, such views should be conveyed through the existing channels of communication instead of through a public statement.

9. C/ICAC said that the ICAC would continue its co-operation and communication with the Police. He stressed that after the Police issued a public statement on 19 May 2002, the ICAC had also issued a response on 19 May 2002 and provided the Police with further information relating to the allegations. CP subsequently stated on 20 May 2002 that he was satisfied with the ICAC's response. He added that the ICAC had issued stringent guidelines on the release of news information. Such guidelines were regularly reviewed and revised where necessary.

10. Mr IP Kwok-him said that the public was concerned about the relationship between the Police and the ICAC. He said that the public statement issued by the Police on 19 May 2002 gave him the impression that the Police reproved the ICAC. He asked whether there were channels of communication at senior levels between the Police and ICAC.

11. CP responded that there was no communication problem between the Police and the ICAC. The existing channels of communication between the Police and the ICAC were adequate. However, there were sometimes differences in views between the Police and the ICAC on the release of news information. He said that there might be a need for the Department of Justice to issue guidelines on the release of news information by law enforcement agencies.

12. Mr IP Kwok-him pointed out that information reported by the media was sometimes so detailed that it seemed to have come from officers responsible for investigation of the case concerned. He asked whether the ICAC had examined whether there were weaknesses in its release of news information.

13. C/ICAC responded that arrests were made by the ICAC only after investigations revealed that there were sufficient grounds for reasonable suspicion that the persons concerned were involved in corruption-related offences. He said that in the disclosure of information about a case, the ICAC would only provide basic information, including the number and rank of the government officers involved and the nature of corruption allegations. The names of arrested persons were not disclosed. Where enquiries were received from the media, the consent of directorate officers of the ICAC would be required before officers of the Press Information Office of the ICAC could disclose information on a case, such as the number of ICAC officers deployed, the name of the operation and the number of search warrants issued. He added that employees of the ICAC were required to comply with the Commission's Standing Orders, which required staff members, among others, to maintain the

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confidentiality of information about the operations of the ICAC unless authorised. Any staff member in breach of this requirement would be subject to disciplinary actions.

14. C/ICAC stressed that although the media usually managed to identify and disclose the names of the arrested persons, the information reported by the media might not necessarily come from the ICAC. He said that some of the information reported by the media was even new to ICAC.

15. Mr IP Kwok-him said that the information reported by the media was usually very detailed and consistent among different newspapers. This might give one the impression that the information came from law enforcement officers involved in the operations. He asked whether the ICAC had looked into the issue and strictly enforced the Commission's Standing Orders.

16. C/ICAC responded that the ICAC had always strictly enforced the Commission's Standing Orders. He said that some of the information reported by the media was related to operations not yet completed. The ICAC had no reason to disclose information that might affect its operations. Where there was any indication of leakage of information by officers of the ICAC, investigations would certainly be conducted. In this connection, he informed Members that the ICAC had conducted investigations into the possible leakage of information in the past. However, the media concerned usually refused to disclose the source of information. He added that any person could lodge a complaint to the ICAC Complaints Committee against the inappropriate handling of information by officers of the ICAC.

17. Mr CHEUNG Man-kwong said that media coverage on the arrest of a public figure was unfortunate but inevitable. However, it would be even more unfortunate if the Police and the ICAC appeared to be in dispute before the public. He said that the press release issued by the ICAC on 18 May 2002 was very short and issued in response to enquiries from the media. It only contained basic information such as the number and rank of the people arrested and the nature of corruption allegations. He asked whether the Police had made a mistake in issuing its public statement on 19 May 2002. Referring to the public statement issued by the Police on 19 May 2002, he said that -

- (a) The public statement was not neutral, as the statements "...that ICAC should be more circumspect in the release of information relating to specific allegations which have yet been clarified. With regard to the several cases which occurred last year, ICAC should provide the public and the Force with a clear update as soon as possible." implied that the ICAC had been wrong;

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- (b) The statement had failed to achieve the desired effect of a balanced perception on the incident and upholding the reputation of the Police; and
- (c) The statement was unnecessary, as it would already have been sufficient for CP to convey his views to C/ICAC through other channels of communication.

18. CP responded that the issuing of the public statement by the Police was not a mistake. As the case concerned was still under investigation, he was not in a position to disclose the difference in view between the Police and the ICAC. However, the allegations in the press release issued by the ICAC on 18 May 2002 were serious and its impact had been substantial. The Police thus considered it necessary to issue the public statement. He said that there were different views on the matter in the community and some people did not share the views of Mr CHEUNG Man-kwong. He considered that as a balanced view could not be achieved through internal channels, the issuing of the public statement by the Police was inevitable.

19. C/ICAC said that it was not the ICAC's practice to issue press releases on each case of arrest by the ICAC. Where a press release was issued, only basic information, such as the number and rank of the government officers involved and the nature of corruption allegations, would be released.

20. Mr CHEUNG Man-kwong asked whether the Police would handle similar situations in the same way in the future, despite the public's interpretation of the incident as a row between the Police and the ICAC.

21. CP reiterated that the public had different views on the matter. He said that in view of the incident, the Police and the ICAC would discuss the release of news information on arrested persons and prevent similar incidents in the future.

22. Mr YEUNG Yiu-chung asked whether the Police would not have issued the public statement on 19 May 2002, if the term "tip-offs" was not used in the press release issued by the ICAC on 18 May 2002. He also asked whether the ICAC considered it appropriate to use the term "tip-offs" in its press release.

23. C/ICAC responded said that he was not in a position to disclose further details about the case concerned. He added that if basic information about an arrest was not provided upon enquires from the media, there might be unnecessary speculation that resulted in more harm to the arrested persons.

24. CP said that the allegations in the press release issued by the ICAC were not only confined to "tip-offs". The Police and the ICAC had different views about whether the information constituted sufficient support for the allegations. However,

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he was not in a position to disclose information about details of the case concerned.

25. Mr LAU Kong-wah asked about the basis on which the Police concluded that there was insufficient information to support the allegations in the press release issued by the ICAC. He also asked -

- (a) Whether the ICAC had been unwilling to provide information on the progress of investigations in the past; and
- (b) Whether the ICAC had provided more information about the case concerned after the Police's public statement on 19 May 2002.

26. CP responded that the ICAC had provided more information after the Police issued its public statement on 19 May 2002. He said that there was a mechanism under which the ICAC notified the Police on the arrest of Police officers over allegations of corruption and provided information on the reasons for arrest to facilitate the Police's decision on whether the officer concerned should be suspended from duty.

27. C/ICAC said that among the cases where press releases were issued by the ICAC on operations involving Police officers in the years 1999-2001, only three were pending further investigations or legal advice. Progress on the cases was regularly reported to the Operations Review Committee of the ICAC, of which CP was a member. He added that there were established procedures for the investigation of corruption, the details of which were set out in Annex 4 to the paper provided by the ICAC.

28. CP informed Members that there were media reports that there was syndicated corruption in the Police Force following a press release issued by the ICAC on a case involving Police officers in Kwun Tong. A public statement subsequently issued jointly by the Police and the ICAC had not received much attention from the media. He added that although he was a member of the Operations Review Committee of the ICAC, he was not in a position to disclose the progress of cases under investigation by the ICAC. To facilitate the public's understanding of the corruption situation of Police officers, he considered that the ICAC should, besides issuing press releases on arrests, issue press releases on whether the arrested persons were eventually prosecuted or not. He said that the incident had undermined the reputation of the Police.

29. Mrs Selina CHOW expressed deep concern that the Police had sought to balance the perception of the public through the issuing of a public statement, instead of resolving the matter through existing channels of communication. While expressing respect and support for the Police, she said that no one could guarantee an absolutely corruption-free Police Force. The ICAC had a responsibility to monitor and combat

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corruption, including that in the Police.

30. Referring to the statement "With regard to the several cases which occurred last year, ICAC should provide the public and the Force with a clear update as soon as possible" in the public statement issued by the Police on 19 May 2002, Mrs Selina CHOW said that it was an allegation against the work of the ICAC. She considered that the Police should have resolved the matter with the ICAC through existing channels of communication. Where necessary, it could bring the matter to the attention of the Chief Executive.

31. CP responded that the public statement issued by the Police only set out the views of the Police. It was neutral and did not contain any allegation against the ICAC. The public statement only sought to balance the public's perception of the incident and to uphold the reputation of the Police. He stressed that he had expressed support for the investigation work of the ICAC. The Public Relations Branch of the Police had also set out such support in writing. He also stressed that there was no problem with the existing channels of communication with the ICAC. There was in fact frequent communication between him and C/ICAC. However, there might be a need to review the release of news information.

32. Miss Margaret NG asked whether the Police took the view that the ICAC had not gathered sufficient evidence before arrests were made. She also asked whether the Police considered that the ICAC had issued unconfirmed allegations that undermined the reputation of the Police. She said that the public statement issued by the Police had given her such an impression.

33. CP responded that the Police fully supported the operations of the ICAC. He stressed that the Police had not raised any queries regarding the sufficiency of evidence before arrests were made by the ICAC. The major issue was only a difference in view regarding the release of news information. The Chairman considered that the issue was not only a matter of release of news information.

34. The Chairman said that the Panel might consider at a later time whether and how the matter should be followed up.

35. The meeting ended at 2:30 pm.

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