

EXTRACT

立法會
Legislative Council

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the Administration)

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LegCo Panel on Security

**Minutes of special meeting
held on Tuesday, 16 January 2001 at 8:30 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon LAU Kong-wah (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, JP
Hon CHEUNG Man-kwong
Hon Howard YOUNG, JP
Hon IP Kwok-him, JP
- Members attending** : Hon NG Leung-sing
Hon Abraham SHEK Lai-him, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Andrew WONG Wang-fat, JP
Hon Ambrose LAU Hon-chuen, JP
Hon WONG Sing-chi
- Public Officers attending** : Mr Raymond WONG, JP
Deputy Secretary for Security 1

Mrs Margaret CHAN
Principal Assistant Secretary for Security A

Mr YAM Tat-wing
Assistant Commissioner of Police (Crime)
Hong Kong Police Force

Mr MA Wai-luk
Senior Superintendent
Liaison Bureau
Hong Kong Police Force

Mr WONG Fook-chuen
Senior Superintendent
Crime, Hong Kong Island
Hong Kong Police Force

Mr WONG Tse-yim
Senior Inspector
Regional Crime Unit, Hong Kong Island
Hong Kong Police Force

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

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

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II. Police cooperation between the Hong Kong Special Administrative Region and the Mainland and the case of SU Zhi-yi - follow-up issues
(LC Paper Nos. CB(2) 2472/99-00(01), CB(2) 659/99-00(01) and CB(2) 559/00-01(01))

2. Deputy Secretary for Security 1 (DS for S1) recapitulated on the background of the case of SU Zhi-yi, as relayed to Members at the Panel's special meeting held on 30 June 2000. He said that the Administration took a serious view on SU Suet's allegation that Mainland Public Security officials had exercised jurisdiction in Hong Kong in 1995. The Police had investigated the case and requested the Guangdong Provincial Public Security Bureau (GDPSB) to provide a formal reply. The

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Administration had explained publicly on a number of occasions that only local law enforcement officers could take enforcement actions in Hong Kong. Anyone who had doubt about the identity of a law enforcement officer should contact the Police immediately for follow-up. He added that the Mainland authorities had reassured the Government of the Hong Kong Special Administrative Region (HKSARG) that Mainland law enforcement officers were strictly prohibited from undertaking law enforcement actions in Hong Kong. If there was sufficient evidence of Mainland Public Security officials exercising jurisdiction in Hong Kong, the Administration would request the Mainland authorities to take up the matter seriously.

3. Assistant Commissioner of Police (Crime) (ACP(C)) briefed Members on the findings of the Police's investigation into the case of SU Zhi-yi and highlighted the following -

- (a) Regarding SU Suet's allegation that two civilian officials from the Zhaoqing City Government and four Zhaoqing Public Security officials had accompanied her to come to Hong Kong on 28 October 1995 for a search at her father's residence at North Point, the Police had carried out investigations at SU Zhi-yi's residence at North Point and tried to identify independent witnesses. However, the caretaker and cleaners on duty at the time could not be identified because the property management company of the time had not maintained such record and the closed circuit television system in the building had no recording function. An interview with SU Zhi-yi's neighbour did not reveal anything peculiar occurring during the period;
- (b) As regards SU Suet's allegation that SU Zhi-yi was escorted to Hong Kong by Public Security officials for seizure of documents from his safe deposit box in the Bank of China in Wanchai on 4 January 1996, the bank's record showed that SU Zhi-yi had withdrawn properties from the safe deposit box and terminated the rental of the safe deposit box on that day;
- (c) Regarding SU Suet's allegation that SU Zhi-yi was escorted to Hong Kong by Public Security officials for seizure of personal effects from his residence in Hong Kong on 12 January 1996, the caretaker or cleaners on duty at the time could not be identified;
- (d) Immigration records indicated that :
 - (i) when SU Suet entered Hong Kong on 28 October 1995, a man confirmed to be a Zhaoqing Public Security official had entered Hong Kong about five minutes prior to her entry. This man departed Hong Kong one hour and six minutes earlier than SU Suet's departure on 29 October 1995. Two men identified to be Zhaoqing City Government officials departed a few minutes within the departure of SU Suet from Hong Kong on 29 October 1995;

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- (ii) a woman identified to be a Public Security official entered Hong Kong about one hour after SU Zhi-yi's entry into Hong Kong in the morning of 4 January 1996 . This woman departed Hong Kong on 7 January 1996. A man identified to be a Zhaoqing Public Security official departed Hong Kong at the time when SU Zhi-yi departed Hong Kong in the afternoon of 4 January 1996. However, this man entered Hong Kong in the evening of 3 January 1996, the day before the entry of SU Zhi-yi; and
- (iii) SU Zhi-yi entered Hong Kong in the morning of 12 January 1996 and departed in the same evening. No Public Security official or Zhaoqing City Government official was identified to have entered or departed at about the same time;
- (e) GDPSB had confirmed that the Zhaoqing Public Security officials who visited Hong Kong during the period had not undertaken any activities related to the case of SU Zhi-yi in Hong Kong; and
- (f) having carefully examined the information available, the Police had concluded that there was insufficient evidence to support that Mainland Public Security officials had exercised jurisdiction in Hong Kong.

4. At the request of the Chairman, a table showing the date and time of entry and departure of the persons mentioned above was provided by the Administration and tabled at the meeting. ACP(C) informed Members that the persons A, D and E as referred to in the table were Zhaoqing Public Security officials, while the persons B and C were civilian officials of the Zhaoqing City Government.

(Post-meeting note : The information tabled at the meeting was subsequently circulated to members vide LC Paper No. CB(2) 720/00-01 on 17 January 2001.)

5. Mr CHEUNG Man-kwong pointed out that -

- (a) when SU Zhi-yi or SU Suet entered Hong Kong, one or both of the parents of SU Suet were held in the Mainland as hostages;
- (b) SU Zhi-yi and SU Suet were accompanied by Public Security officials when they entered or departed Hong Kong, although these officials usually entered or departed at a slightly different time; and
- (c) some staff of the company "Paraway" which was set up in Hong Kong by the Zhaoqing City Government had seized documents from the residence of SU Zhi-yi and a transfer of property rights took place at a later time.

He said that these sequence of events were obviously well planned and organized. It indicated that Mainland Public Security officials had exercised jurisdiction in Hong

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Kong. He asked whether it was acceptable for Mainland Public Security officials to exercise jurisdiction in their personal capacity in Hong Kong.

6. DS for S1 responded that immigration records indicated that a Public Security official entered Hong Kong around the time when SU Suet entered on 28 October and departed an hour before SU Suet on 29 October 1995, the records also indicated that a Public Security official entered Hong Kong about one hour after the entry of SU Zhi-yi on 4 January 1996. The immigration records also indicated that no Mainland official entered or departed Hong Kong at about the same time as SU Zhi-yi's entry and departure on 12 January 1996. Although the immigration records indicated that the entry and departure times of some Public Security officials were quite close to some of those of SU Zhi-yi or SU Suet, there was insufficient evidence to substantiate SU Suet's claim that Public Security officials raided SU Zhi-yi's residence at North Point to seize documents.

7. DS for S1 stressed that Mainland Public Security officials were not allowed to exercise jurisdiction in Hong Kong, regardless of whether they visited Hong Kong in their official or private capacity. He also stressed that Mainland Public Security officials were prohibited from visiting Hong Kong to undertake police activities without prior notification of and liaison with the Hong Kong Police.

8. Mr CHEUNG Man-kwong asked whether the signing of documents or transfer of property rights was legally valid if it was made under threats. He said that it was obvious that the seizing of documents and transfer of ownership were made with a hostage held in the Mainland. He asked whether the Hong Kong Special Administrative Region Government (HKSARG) would raise the issue or lodge a complaint with the Central People's Government.

9. ACP(C) said that the transfer of property rights was made under formal procedures in the presence of lawyers from both sides who had confirmed with the Police that SU Zhi-yi and his family members were not under threat in the transfer of property rights. He added that SU Suet had indicated in her statement to the Police that she was free and not restrained by any means when she entered Hong Kong in the company of Zhaoqing Public Security officials and Zhaoqing City Government officials on 28 October 1995. He said that there were many chances for SU Suet to lodge a complaint during her trip to Hong Kong, as she was alone most of the time.

10. Mr CHEUNG Man-kwong questioned how SU Suet could lodge a complaint when her parents were held as hostages in the Mainland. He said that the Police should carefully examine whether the presence of Public Security officials and Zhaoqing City Government officials were coincidences. This was important as it indicated whether the Police possessed the determination to protect the jurisdiction of Hong Kong.

11. DS for S1 said that to his knowledge, SU Suet had claimed that her parents were under detention when she was asked to collect some documents from Hong Kong to facilitate clarification of their case. As the incident happened about five to six years

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ago, it was very difficult to verify whether her collection of documents was made under threats. He pointed out that there was insufficient evidence to support that it was made under duress.

12. Referring to the fact that SU Suet was holding a Two-way Permit when she entered Hong Kong on 28 October 1995, Mr James TO asked whether the Police had investigated whether the Mainland authorities had detained SU Suet's Hong Kong identity card at that time. ACP(C) responded that according to Mainland authorities, a Two-way Permit was issued to SU Suet because she was registered as a resident of Zhaoqing at that time and she had not made it known that she was holding a Hong Kong identity card until November 1995.

13. Mr James TO asked whether the Police had investigated details such as whether the Public Security officials concerned had resided in the Century Hong Kong Hotel, as claimed by SU Suet. The Chairman asked whether the Police had examined whether the persons A, B and C as referred to in the information tabled had resided at the Century Hong Kong Hotel at that time. ACP(C) responded that the Police had examined the records of the Century Hong Kong Hotel and noted that a Zhaoqing City Government official had used his credit card for paying the bill for three hotel rooms. As hotels were only required under the law to keep the record of names of hotel customers for one year, the record of hotel customers at that time was no longer available.

14. Mr James TO asked whether the Police had requested taking statements from the Public Security officials concerned in the presence of Mainland law enforcement officers. ACP(C) responded that after examining the immigration records and the reply from GDPSB, the Police concluded that there was no need to take statements from the Public Security officials concerned.

15. Mr James TO said that if the Police adopted such an attitude towards other cases in Hong Kong, it would not have proceeded with the detailed investigation of many cases. He said that the Police should at least interview SU Zhi-yi and ask whether he knew of any independent witnesses.

16. ACP(C) said that SU Suet's allegation about her father's escorted return to Hong Kong in 1996 was based on what her parents told her. She was not personally present with SU Zhi-yi during the trips. The Police had carried out investigation into the allegations of SU Suet and noted that there was no prima facie case for taking statements from the Public Security officials concerned. It also noted that SU Zhi-yi was not accompanied by any Public Security official or Zhaoqing City Government official during his trip to Hong Kong on 12 January 1996.

17. Mr Albert HO said that as the departures and arrivals of Public Security officials were very close to those of SU Zhi-yi and SU Suet, it was questionable whether these officials came to Hong Kong in their private capacity during that period. He expressed concern that similar incidents might occur again in the future. ACP(C) responded that as no independent witness could be identified, it was only possible to

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rely on circumstantial evidence, which was insufficient. DS for S1 said that the immigration records indicated that no Public Security officials entered Hong Kong at about the same time as SU Zhi-yi, although one departed at about the same time as SU Zhi-yi. The Hong Kong Police had requested GDPSB to verify the identity of three persons named by SU Suet to be involved in the escorting party. GDPSB had confirmed that these were Public Security officials who visited Hong Kong in their private capacity during that period. They had not undertaken in Hong Kong any activities related to the case of SU Zhi-yi. He reiterated that there was insufficient evidence to substantiate the allegation that Mainland officials had been to SU Zhi-yi's residence to undertake searches and take evidence.

18. Mr Albert HO considered that the Administration should raise any points of doubt to the Ministry of Public Security and inform the Ministry that HKSARG did not accept the reply of GDPSB. The Administration should also convey its deep concern about suspected exercising of jurisdiction in Hong Kong by Public Security officials.

19. DS for S1 responded that allegations made by SU Suet had already been referred to the Supreme People's Procuratorate in the previous year. The case of SU Zhi-yi had also been conveyed by the Secretary for Security and the Commissioner of Police to the highest levels of the relevant Mainland authorities during their visits to GDPSB and the Ministry of Public Security in Beijing respectively in the previous year. The Mainland authorities had reiterated that they respected the jurisdiction of HKSAR and that Mainland law enforcement officials were strictly prohibited from exercising jurisdiction in Hong Kong. The Ministry of Public Security had issued a directive to this effect.

20. Mr Albert HO asked whether the Police had asked the three Public Security officials about their purposes of visits to Hong Kong. The Chairman added that the purpose of visit should have been given in these persons' applications for Two-way Permit. ACP(C) responded that while interviews had not been conducted with these officials, GDPSB had confirmed that these officials had visited Hong Kong in their private capacity during that period. They had not undertaken in Hong Kong any activities related to the case of SU Zhi-yi or gone to his residence in North Point.

21. Dr LUI Ming-wah asked about the assistance that would be provided by the Police if similar incidents happened in the future. DS for S1 responded that if a member of the public encountered similar incidents in the future, he should immediately report the matter to the Police so that follow-up actions could be taken promptly. He said that cases of impersonation of Public Security officials had occurred in the past. He added that Public Security officials had the same status as any other ordinary visitors when they were in Hong Kong.

22. Dr LUI Ming-wah asked about the actions that would be taken by the Police if Public Security officials were found exercising jurisdiction in Hong Kong in their private capacity. DS for S1 said that the Police would first examine whether the Public Security officials had breached the laws of Hong Kong. If these officials had exercised jurisdiction in the territory but not breached the laws of Hong Kong, a

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complaint would be lodged with the relevant Public Security Bureau. He reiterated that the Mainland authorities had reassured the HKSARG that they respected the jurisdiction of HKSAR and that Mainland law enforcement officials were strictly prohibited from exercising jurisdiction in Hong Kong.

23. Dr LUI Ming-wah asked whether Public Security officials were in breach of the law if information was provided to them on a voluntary basis. DS for S1 responded that it would not be in breach of the law if information was provided voluntarily. However, it should be noted that Mainland Public Security officials were prohibited from visiting Hong Kong to undertake police activities without prior notification of and liaison with the Police.

24. Ms Audrey EU said that she was surprised to note that there was insufficient evidence to support the claims of SU Suet because of a lack of an independent witness. She considered that in the absence of an independent witness, effort should be made to gather circumstantial evidence. She questioned why the three Public Security officials concerned were not interviewed. She said that the public was very concerned about the attitude of the Administration and the Police on the issue. The assurances of the Mainland authorities would become meaningless if the Police did not even take the initiative to thoroughly investigate the allegations. She asked about the actions that would be taken by the Police if similar incidents occur again in the future. Mr James TO shared the views of Ms EU. He considered that the Administration should request interviewing the three Public Security officials concerned. ACP(C) agreed to consider the suggestion.

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25. In response to Mr James TO's question about the legal representation of SU Zhi-yi, ACP(C) said that SU Zhi-yi and the company "Paraway" were represented by two different lawyers.

26. Mr James TO said that the Police should at least try its best to carry out investigations into the allegations of SU Suet. It should ask why the Public Security officials entered and departed Hong Kong at about the same time as SU Suet and SU Zhi-yi and whether they had resided in the Century Hong Kong Hotel. He asked whether the Mainland authorities in Beijing would be requested to investigate into the allegations.

27. DS for S1 responded that as the case had already been raised with the GDPSB and the Ministry of Public Security in Beijing, he could not see any further levels to which the case could be raised. He pointed out that ACP(C) had agreed to consider some members' suggestion of interviewing the Public Security officials concerned. The Chairman said that Members could provide further questions or views, if any, to the Secretariat for onward transmission to the Administration.

28. Mr CHEUNG Man-kwong said that the Police had given him the impression that it had not carried out full investigation into the case. He considered that the Police seemed to be answering questions from the perspective of Zhaoqing Public Security officials. He said that the Police should continue to investigate into the case

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and request interviewing the Public Security officials and the Zhaoqing City Government officials concerned.

29. DS for S1 said that the Police had put much effort and time in undertaking a full investigation into the allegations of SU Suet. He stressed that the Administration was presenting the findings of the investigation independently and objectively. There was no question of answering questions from the perspective of Zhaoqing Public Security officials. He stressed that the Mainland authorities had reassured the HKSARG that they respected the "one country, two systems" principle and strictly prohibited Mainland law enforcement officers from exercising jurisdiction in Hong Kong.

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30. Mr James TO requested the Administration to provide a more detailed investigation summary on the case of SU Zhi-yi. He said that information such as investigations in the Century Hong Kong Hotel should at least be provided in the summary. ACP(C) agreed to consider the suggestion.

31. Mr Albert HO moved and members passed the following motion -

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"本會對蘇志一個案調查結果表示質疑，並對警方有否全力調查，以求全面真相表示關注。本會促請港府與內地當局進一步跟進調查，並提交一份更完整和全面之調查報告。"

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Legislative Council Secretariat

17 May 2001