

Legislative Council

Panel on Administration of Justice and Legal Services

Incident of the Police Arresting a Witness in Civil Trial

Judiciary's views

- 1 (a) It is not appropriate for the Judiciary to discuss the legal principles that may be applicable. This is because questions concerning the applicable principles and their application may arise in cases and would have to be adjudicated upon by the courts.
- (b) However, it may be stated that depending on the circumstances, it could be a contempt of court for police officers to arrest in the court building a witness who is in the course of giving evidence and thereby, preventing him from continuing with his evidence.
- 2 (a) There is no established procedure involving the Judiciary relating to arrest inside a court building or of any person, including a witness, in an on-going trial.
- (b) However, in considering the question of arrest inside a court building or of any person, including a witness, in an on-going trial, it would obviously be prudent for the Police to take all reasonable steps to ensure that they would not be at risk of committing a contempt of court. For that purpose, they could make appropriate factual inquiries of the Judiciary, for example, as to whether the person is a witness or whether the witness has finished given evidence. Where appropriate, the police should of course obtain legal advice.
- 3 There is no established procedure. However, in the case in question, no inquiries of the kind referred to in (2)(b) were made of the Judiciary.
- 4 By the police acting prudently as referred to (2)(b), the risk of recurrence of similar incidents would be minimised.