

立法會
Legislative Council

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LC Paper No. CB(2)3264/03-04
(These minutes have been seen by
the Administration)

Panel on Security

**Minutes of special meeting held on Tuesday, 25 May 2004
at 8:30 am in the Chamber of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon WONG Yung-kan (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, JP
Hon CHEUNG Man-kwong
Hon LAU Kong-wah, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Michael MAK Kwok-fung
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members attending** : Hon Emily LAU Wai-hing, JP
Hon Albert CHAN Wai-yip
- Members absent** : Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Andrew WONG Wang-fat, JP
Hon Howard YOUNG, SBS, JP
- Public Officers attending** : Mr Stanley YING, JP
Permanent Secretary for Security
- Miss S H CHEUNG
Deputy Secretary for Security
- Mr CHAU Foo-cheung
Director of Crime and Security

Mr WONG Pak-nin
Acting Assistant Commissioner of Police (Crime)

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

Staff in attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2)5

Action

I. Police's handling cases of intimidation or violence against public figures which may be relating to their public comments
(LC Paper No. CB(2)2270/03-04(06))

Members noted a letter dated 21 May 2004 from Mr Albert CHENG King-hon, which was tabled at the meeting.

(Post-meeting note : The letter tabled at the meeting was circulated to members vide LC Paper No. CB(2)2538/03-04 on 27 May 2004.)

2. Mr LAU Kong-wah asked why a joint meeting was not held with the Panel on Home Affairs to discuss the subject matter. He also asked whether Mr Albert CHENG had been invited to attend this meeting.

3. The Chairman said that it was originally intended that a joint meeting be held with the Panel on Home Affairs on 27 May 2004 to discuss the subject matter. However, there were differences in views between him and the Chairman of the Panel on Home Affairs regarding whether Mr Albert CHENG and the other radio phone-in programme hosts concerned should be invited to attend the meeting. It was finally decided that the two Panels would hold their own meetings to discuss matters under their respective purviews. Because of concerns about the personal safety of the radio programme hosts and the fact that the cases concerned were still under investigation, he had not invited the radio programme hosts to this meeting. To his knowledge, the radio programme hosts had been invited to attend the special meeting of the Panel on Home Affairs on 27 May 2004.

4. At the invitation of the Chairman, Permanent Secretary for Security (PS for S) briefed Members on the Police's handling of criminal cases against public figures. He stressed that the Police was adopting a proactive approach in the investigation of the cases involving assault and splashing of paint against the respective premises of two radio programme hosts. It had interviewed all the victims concerned and all

Action

persons who claimed to have information relating to the cases. As the cases were still under investigation, the Administration was not in a position to disclose further details.

5. Mr LAU Kong-wah said that the Secretary for Security (S for S) had recently stated that there was no evidence to suggest that the cases were related to the public comments made by the two radio programme hosts. However, Mr Albert CHENG had indicated in his letter of 21 May 2004 that the assault on him and splashing of paint onto his premises were related to his public comments. He asked whether S for S had confirmed that the cases were unrelated to the public comments of Mr Albert CHENG and Mr WONG Yuk-man, when he made the statement. He also asked about the Police's views on the issues raised in the letter from Mr Albert CHENG.

6. PS for S responded that S for S had stated on 14 May 2004 that up to that point, there was no evidence indicating that the cases were related to the broadcasting work of the radio programme hosts. This was only a description of the facts at that time. He stressed that the cases were still under investigation.

7. Director of Crime and Security (DCS) said that there were two cases involving radio programme hosts. One of the cases involved the splashing of paint onto the premises of a radio programme host's company in North Point. The other case involved assault of a radio programme host and the Police had arrested five persons. He said that investigations into the two cases were still ongoing. So far, there was no evidence to suggest that the two cases were related to the public comments made by the two public figures. He assured Members that the Police would conduct careful and thorough investigation into the cases. Although he was not in a position to disclose the investigation details, the Police was investigating every clue and every possibility, including whether the victims had had conflict with any persons or owed any debts.

8. Mr LAU Kong-wah asked whether Mr Albert CHENG had informed the Police that the assault and splashing of paint were related to his public comments.

9. DCS responded that he was not in a position to disclose details of the case. The victim had informed the Police about many matters, including those related to his public comments. The Police was investigating all clues and all possibilities. He reiterated that there was so far no evidence to suggest that the case was related to the public comments made by the victim.

10. Mr IP Kwok-him regretted that a joint meeting with the Panel on Home Affairs could not be held to discuss the subject matter. He asked whether the victims concerned had provided as much information related to the cases as possible to facilitate the Police's investigation. He said that Mr Albert CHENG had claimed in his letter of 21 May 2004 that the assault on him and splashing of paint onto his premises were related to his public comments. He asked whether the information

Action

gathered so far by the Police supported such a claim.

11. DCS responded that the Police had interviewed all the persons named by the victim and all persons who claimed to possess information relating to the case. There was no evidence suggesting that the case was related to Mr CHENG's public comments. He said that while it was the Police's responsibility to investigate the cases, whether or not the victim could provide as much information related to the cases as possible was essential to facilitating the investigation efforts and bringing the offenders to justice.

12. Mr IP Kwok-him asked whether Mr Albert CHENG had requested personal protection from the Police and whether the Police had provided Mr CHENG with any protection.

13. DCS responded that the Police had been providing different levels of protection to Mr Albert CHENG since the assault incident on Mr CHENG in 1998. At present, the Police was discussing the protection arrangements with Mr CHENG.

14. Mr CHEUNG Man-kwong regretted that the Commissioner of Police (CP) was not attending the meeting. He quoted an article written by Mr Albert CHENG in Ming Pao Weekly and said that it was obvious that the Central Authorities had been exerting pressure on Mr Albert CHENG through some other people. He questioned why S for S and CP still said that there was no evidence to suggest that the cases were related to the public comments made by the two public figures.

15. PS for S responded that the Police was still investigating the cases and there were not yet conclusions on the cases. Where a witness or victim was subject to a real threat of physical injury, he would be offered protection. He said that evidence was an important element in the legal system of Hong Kong. Mere speculations could not constitute evidence before the court.

16. Mr CHEUNG Man-kwong said that it was obvious from Mr Albert CHENG's article that the Central Authorities had been exerting pressure on Mr Albert CHENG through other persons. However, CP had said that the Police would not proactively investigate allegations relating to threat on freedom of expression, unless reports were made to the Police. As the Chief Executive had also ordered a thorough investigation into the cases, he asked whether CP's statement reflected a wrong judgment or dereliction of duty on the part of CP. He also asked how the Police would carry out investigations in the case concerned and protect the victim.

17. PS for S responded that CP had only stated on 15 May 2004 that up to that point of time, there was no indication that the cases were related to the public comments of the two radio programme hosts. This was only a description of the facts at that time. He said that under the legal system of Hong Kong, law enforcement agencies had to gather evidence relating to a case. If there was sufficient evidence, charges would be laid against the suspects concerned. The

Action

public's perception of what had occurred would not constitute evidence before the court. He stressed that the Police was investigating the cases seriously and thoroughly.

18. DCS reiterated that the Police had adopted a proactive approach in the investigation of the cases. Regarding the case of Mr WONG Yuk-man, about four to five persons had been arrested and the case was scheduled for trial by the court in mid-August. So far, there was no evidence suggesting that the case was related to the public comments of Mr WONG. Regarding the case of Mr Albert CHENG, the Police had proactively interviewed all the persons mentioned by Mr CHENG and all persons reported by newspapers as having information relating to the case. However, these persons had indicated that the information concerned was either heard from others or based on their own speculations. Regarding the protection of Mr Albert CHENG, he said that the Police would assess the risks and offer appropriate protection.

19. Mr Albert CHAN stated that he had in the past been intimidated and his car was splashed with paint after lodging a complaint about the trading of illegal CD-ROMs in his district. Thus, he was aware of the immense pressure experienced under such a situation. He pointed out that the absence of evidence suggesting that the cases were related to the public comments of the public figures did not indicate that the allegations were unfounded. He said that there was no other place where radio programme hosts were consecutively off the air. He considered that political pressure and evil forces had forced the radio programme hosts off the air. He asked whether the Administration was treating the cases as general criminal cases only. He questioned whether there was evidence indicating that the cases were unrelated to the public comments of the two public figures.

20. PS for S stressed that the Administration had not treated the cases as general criminal cases. It fully shared the public's concern about criminal cases involving public figures. CP had stressed that the Police was committed to combating such crime. The Chief Secretary for Administration had also stressed that the Administration would not tolerate any use of force against freedom of expression. He reiterated that the cases were still under investigation and it was a fact that there was so far no evidence suggesting that the cases were related to the public comments of the two public figures.

21. DCS added that the Police had deployed the most experienced and capable detection unit for investigation of the cases concerned.

22. Mr Albert CHAN said that it was unusual for the Administration to state in a high profile manner that there was no evidence suggesting that the cases were related to the public comments of the two public figures, when investigation of the cases was still underway. He considered that the Administration should take steps to enable the two public figures to resume radio programme hosting work.

Action

23. DCS responded that it was a usual practice of the Police to disclose some information about cases of public interest.

24. Ms Emily LAU said that the cases had aroused widespread concern in the international community. She considered that the Police should do something to address the concerns of the public. She asked whether the Police had advised Mr Albert CHENG whether he could resume hosting radio programmes or not. Regarding the 48 criminal cases against public figures between 1 January 2003 and 20 May 2004 referred to in the Annex to the Administration's paper, she asked about the number of cases not reported by the victims. She also asked about the details of the eight detected cases, including the identities of the victims and how the cases were detected. She commented that the detection rate of the cases was very low.

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25. DCS undertook to provide a written response. He said that whether Mr Albert CHENG should resume hosting radio programmes or not was a choice of his own. It was inappropriate for the Police to give advice on such a matter. He further said that the Police had been providing different levels of protection to Mr CHENG in the past and was at present discussing the protection arrangements with Mr CHENG. He added that the Police usually carried out investigation into such cases upon the receipt of a complaint. Because of the difficulties involved in the detection of such cases, which usually involved long-term ambushing, the detection rate was comparatively low.

26. Ms Emily LAU asked about the number of persons provided with high level protection.

27. DCS responded that Hong Kong was a comparatively safe place. Besides visiting heads of state from other countries, high level protection had only been provided to the radio programme hosts concerned. For operational reasons, he was not in a position to disclose details about the protection provided.

28. Ms Emily LAU questioned why the Police had handled her cases in a low profile manner and had not notified her of the trial of the old man arrested for smearing faeces outside her office.

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29. DCS responded that it was the Police's usual practice to notify the victim concerned. He undertook to look into why Ms Emily LAU had not been notified. He provided Members with the following information about cases relating to Ms LAU -

- (a) a case involving a nuisance telephone call in January 2002 was not yet detected;
- (b) an old man arrested for smearing faeces outside the office of Ms Emily LAU between July and September 2004 had been arrested and sentenced to a fine of \$1,000;

Action

- (c) a woman aged about 50 had been arrested for making 19 nuisance telephone calls to the office of Ms Emily LAU in January 2004; and
- (d) a case involving criminal damage of the mailbox outside Ms Emily LAU's office in March 2004 had not yet been detected.

30. The Chairman said that when a case was still under investigation, it was inappropriate for the Administration to state that there was no evidence suggesting that the case was related to the public comments of the public figures concerned, unless there was evidence indicating the case was unrelated to the public comments of the public figures concerned. He said that although the protection of persons incurred costs, such expenditure would be worthwhile, if it would enable the persons concerned to resume hosting radio programmes and hence address the worries of the public.

31. PS for S responded that the Police had been providing different levels of protection to Mr Albert CHENG for many years.

32. DCS said that although the protection of persons incurred costs, the Police had been trying its best to provide protection where necessary. He further said that the Police had been providing protection to Mr Albert CHENG for a long time and was currently discussing the protection arrangements with Mr CHENG. He added that investigation of the background of the offenders in the cases detected revealed that most of the offenders were aged and lived near the scenes of crime. It was also revealed that the cases mainly involved mischief or venting of anger.

33. Mr LAU Kong-wah said that Mr CHENG had indicated in his letter dated 21 May 2004 that he was unwilling to attend meetings of the Legislative Council (LegCo) because his personal safety was under threat. He asked whether and how the Police would provide protection to Mr CHENG. He also asked whether the Police would inform Mr CHENG that appropriate protection would be provided and thus he could attend meetings of LegCo safely.

34. DCS responded that if Mr CHENG accepted the protection arrangements offered by the Police, the Police would try its best to protect Mr CHENG. This included protecting Mr CHENG at meetings of LegCo, if Mr CHENG decided to attend such meetings. However, it was inappropriate for the Police to provide advice on whether Mr CHENG should attend meetings of LegCo or not. Mr CHEUNG Man-kwong said that what Mr CHENG needed was a long-term protection both for him and his family members instead of protection at meetings of LegCo only.

35. Mr IP Kwok-him said that he was pleased to note that the Police would provide protection to Mr Albert CHENG at meetings of LegCo, if Mr CHENG decided to attend such meetings. He considered that in most cases, the assaults and

Action

nuisances were related to the political stance of the offenders. He recalled being intimidated on many occasions during the scrutiny of proposed legislation to implement Article 23 of the Basic Law.

36. DCS responded that according to his experience, most of the cases were not related to the political stance of the offenders concerned, although there were a few cases where the offenders admitted that they disliked the victims.

37. Mr IP Kwok-him said that Mr Albert CHENG had indicated on 3 May 2004 that he would not give up hosting radio programmes because of threats to his personal safety. However, Mr CHENG's article in Ming Pao Weekly seemed to indicate the contrary. Mr CHENG had also alleged in the article that some people claiming as conveying messages of the Central Authorities had asked him to stop making public comments. He asked whether the Police had investigated such matters.

38. DCS responded that the Police had investigated all persons named by Mr Albert CHENG. He added that the Police had also contacted the Mainland authorities and had been informed that there was no question of their exerting pressure as alleged.

39. Mr IP Kwok-him asked whether the Police had sought to obtain more information from Mr Albert CHENG regarding his allegation about the Central Authorities and the evil forces concerned.

40. DCS responded that besides the protection arrangements, the Police had discussed various matters with Mr Albert CHENG, including the progress of investigation and whether there was further information relating to the case. He stressed that in the process of investigation, the Police had thoroughly examined all information relating to the case and had interviewed all persons named by Mr CHENG as possibly connected with the case.

41. The Chairman asked about the level of Mainland authorities contacted by the Police. DCS responded that the contact was made in the course of investigation. However, he was not in a position to disclose further details on the ground that the cases were still under investigation.

42. The Chairman said that the Panel might consider holding another meeting to follow up the matter, having regard to the discussions at the special meeting of the Panel on Home Affairs to be held on 27 May 2004.

Action

43. There being no other business, the meeting ended at 10:40 am.

Council Business Division 2
Legislative Council Secretariat
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