

立法會
Legislative Council

LC Paper No CB(2) 151/00-01

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

Ref : CB2/PL/SE/1

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

The Chairman informed Members that the Department of Justice had advised in writing on 15 June 2000 that the Administration was unlikely to be in

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a position to brief Members on the Police's investigation report on the LIN Qiaoying case before the end of current legislative session because the Director of Public Prosecutions, having considered the report, decided that it was appropriate to obtain an opinion from a Senior Counsel at the private bar. The Chairman suggested that the matter be followed up by the Panel in the next legislative session.

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

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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.

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 took 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

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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 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

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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 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

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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 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

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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.

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.

II. Briefing by the Administration on the recent incident where the Police was accused of using excessive force and pepper spray to remove demonstrators from the Government Secretariat

(LC Paper No. CB(2) 2472/99-00(02) - newspaper cuttings on the incident where the Police was accused of using excessive force and pepper spray to remove demonstrators from the Government Secretariat)

23. Members noted the following papers tabled at the meeting -

- a list of 16 questions raised by the Hong Kong Federation of Students;
- sequence of events prepared by the Hong Kong Federation of Students; and
- a submission from the Hong Kong Human Rights Monitor.

24. The Chairman said that a short video, provided by Television Broadcasting Limited, on the Police removing the demonstrators from the Government Secretariat on 26 June 2000 would be shown at the meeting. The Chairman further said that the video was solely to facilitate discussion at the meeting and should not be construed as evidence for criminal proceedings and civil claim. The Chairman added that if the Administration would like to provide their own video on the incident for Members' viewing, they were welcome to do so.

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(The discussion was held in abeyance for the showing of the short video)

25. At the invitation of the Chairman, Regional Commander, Hong Kong Police Force (RC/HKP) briefed Members on the chain of events which led to the Police using force and pepper spray to remove demonstrators from the Government Secretariat on the morning of 26 June 2000 and the follow up actions which had been taken by the Police on the aftermath of the incident, as detailed in RC/HKP's speaking note (Chinese version only) in the Appendix.

26. At the request of Members, Director of Operations, Hong Kong Police (DO/HKP) tabled for Members' reference a copy of the internal guidelines on the use of pepper spray. DO/HKP requested Members not to disclose the internal guidelines as they were for Police training purpose. DO/HKP said that pepper spray was considered a soft weapon for controlling violence. On the level of force used by the Police to control violence, the use of pepper spray was one level higher than that of using bare hands and one level below that of using batons and firearms.

27. Mr CHEUNG Man-kwong expressed grave concern that the Administration considered the use of force by the Police to remove demonstrators from the Government Secretariat on 26 June 2000 was appropriate, despite the fact that it was clearly shown on the video that a Police officer chased after a demonstrator and punched his back. Mr Martin LEE and Mr LEE Cheuk-yan concurred with Mr CHEUNG.

28. S for S clarified that it was the preliminary view of the Police officer in charge that the level of force used, including the use of pepper spray, was appropriate given the circumstances at the time. She stressed that the Police would not condone any use of force by Police officers for purposes other than self-defence and safeguarding public safety and order. As mentioned in the opening statement of RC/HKP, the Crime Wing of the Hong Kong Island Region was currently investigating the criminal liabilities of all relevant parties and the Operations Wing of the Hong Kong Island Region was reviewing the whole operation, including whether the level of force used and the use of pepper spray were appropriate. S for S hoped that Members would wait for the results of the investigation and of the review before making a conclusion that the Police had been wrong in using the level of force in removing demonstrators from the Government Secretariat on the morning of 26 June 2000. If the investigation concluded that a particular Police officer had used excessive force and/or used the pepper spray inappropriately at the demonstrators, criminal proceedings on the person concerned would follow.

29. Mr CHEUNG Man-kwong maintained his view that it was inappropriate for the Police to use excessive force to remove demonstrators who did not display any overt violence and were not armed. DO/HKP responded that whether the Police had been using excessive force could not be determined by

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the act itself and had to take into account the surrounding circumstances at the time. DO/HKP reiterated that a review would be conducted by the Police to examine whether the allegation of Police using excessive force was substantiated; and if so, appropriate actions would be taken.

30. The Chairman queried why RC/HKP had mentioned in his opening statement that the preliminary view of the Police was that the level of force used, including the use of pepper spray, was justified and appropriate. DO/HKP responded that this was only the preliminary view of a superintendent of the Central District who carried out the removing of demonstrators from the Government Secretariat on 26 June 2000 and would be subject to scrutiny by the Regional Commander. DO/HKP reiterated that a review would be conducted by the Police to examine whether the allegation of Police using excessive force could be substantiated.

31. Mr Martin LEE considered it totally unacceptable that the Police targeted the pepper spray at a very close distance at the demonstrators who were on the way of leaving the Government Secretariat in a peaceful manner. Mr LEE enquired how many Police officers were provided with pepper spray and how many of them had actually used the pepper spray to remove the demonstrators. DO/HKP responded that pepper spray would only be used to prevent violent acts from the demonstrators. S for S said that only one Police officer had used the pepper spray to quell the violent activity. District Commander (Central District), Hong Kong Police (DC/HKP) added that out of the 85 Police officers who were present at the Government Secretariat, 46 carried the pepper spray.

32. Mr Albert HO enquired whether the Administration would retract its preliminary view that the Police had acted appropriately, given what had been captured by the video that the Police had punched and kicked the demonstrators and sprayed them with pepper spray.

33. S for S responded that to rely solely on the video to conclude that the Police had used excessive force to remove the demonstrators from the Government Secretariat on 26 June 2000 was unfair. In order to accurately and fairly assess the appropriateness of the action taken by the Police during the incident, it was necessary to take into account the circumstances which had resulted in the Police using force to remove the demonstrators from the Government Secretariat. For example, the demonstrators had not adhered to the law of notifying the Police in advance the details of their demonstration and ignored the Police's repeated verbal advice and warnings. At one time, the number of demonstrators had grown to close to 1,000 persons, and some of the demonstrators had attempted to barge into the Government Secretariat. DO/HKP said that if the demonstrators had acted in accordance with the law and adhered to the advice of the Police, use of force by the Police would be avoided. He further said that by international standards, the use of force by the Hong Kong Police to control violence had been very restrained and the lowest of force had consistently been used. For example, the use of force by the Police counterpart

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in controlling violence at the European soccer match was much greater than that used by the Hong Kong Police in removing demonstrators from the Government Secretariat. S for S hoped that Members would not use a double standard in determining who was at fault in the incident, and appealed for Members' assistance in asking the students to give prior notification of the demonstration the Police in future as required by law.

34. Mr Albert HO enquired whether the development of the incident starting from the afternoon of 25 June 2000 had accumulated in the Police using excessive force on the demonstrators. DO/HKP responded that the use of force by the Police in removing the demonstrators from the Government Secretariat on the morning of 26 June 2000 was made after repeated efforts to advise and warn the demonstrators had come to no avail, only when some protesters resisted violently on being ushered away, and on the premise that if the situation was not quickly resolved the demonstration might run out of control thereby causing bodily harm to the Police officers and the demonstrators alike. He reiterated that in using the force to remove the demonstrators, only the lowest level of force had been used by the Police.

35. Mr LEE Cheuk-yan said that the provisions in the Public Order Ordinance which imposed conditions on the holding of public meetings should be repealed, as it violated the rights of freedom of assembly and of freedom of association guaranteed under the International Covenant on Civil and Political Rights.

36. S for S responded that regardless whether a law was considered good by some members of the community, if the law was in force it had to be adhered to. She pointed out that there was no dispute that the public had the rights of freedom of assembly and of freedom of association, however, they had to observe that their act would not disrupt public order.

37. Miss Emily LAU said that it appeared that the way the Police had handled the demonstration in question was different from what had been done in the past, she enquired how the Police would handle demonstrations in future. DO/HKP said that the Police would continue to adopt the approach of providing the necessary support and assistance to demonstrators so as to ensure that public order would not be undermined. He assured Members that the Police would not use force if the demonstration was conducted in a peaceful and orderly manner. If that was not the case, the Police might need to resort to force to bring the situation under control so as to avoid disruption to public order.

38. Miss Emily LAU said that having regard to the fact that the chain of events described by the Hong Kong Federation of Students and the Police differed greatly, an independent committee comprising non-Government officials should be set up so as to increase the credibility and impartiality of the investigation on whether the use of force and the level of it by the Police was appropriate. S for S responded that as criminal investigation was still underway and there might be court proceedings, she did not see the need of setting up an

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independent committee at this stage. After receiving the Police's investigation and review reports, the Administration would consider whether there was a need for independent investigation.

39. The Chairman wondered whether the investigation by the Police would only focus on whether it was appropriate for a Police officer to punch a demonstrator, as it seemed to have concluded that the use of pepper spray was appropriate. DO/HKP explained that the Police had adopted a two-pronged approach in dealing with the incident. Firstly, a review was being conducted by the Operations Wing of the Hong Kong Island Region to examine whether the tactics and strategy used by the Police throughout the whole incident from 22 to 26 June 2000 were effective and appropriate, so as to avoid confrontation between the Police and demonstrators in future. Secondly, the Crime Wing of the Hong Kong Island Region was investigating whether anyone, including Police officers and demonstrators, had used force in an unlawful manner.

40. Miss Emily LAU enquired when the investigation and review of the incident would be completed, and whether the Administration would make public the investigation and review reports. DO/HKP replied that the Police expected to complete the investigation and review before 1 August 2000. S for S said that at the moment she did not see any problem to disclose these reports.

41. Mr LEE Wing-tat expressed grave concern about the excessive force used by the Police in removing the demonstrators from the Government Secretariat on 26 June 2000. To ensure impartiality over the investigation of the incident and given the wide public concern on the incident, he was of the view that the Legislative Council should set up a select committee to inquire into the incident in the next legislative session. Mr Andrew CHENG and Dr YEUNG Sum expressed support for Mr LEE's suggestion. Mr LEE enquired why S for S when meeting the press on 26 June 2000 said that about 80 to 90 demonstrators had tried to climb inside the Government Secretariat, whereas it appeared that only one person had tried to do so and 50 to 60 people gathered outside the Government Secretariat.

42. S for S pointed out that not only was the demonstration unlawful because the demonstrators had failed to notify the Police in advance in accordance with the law, some demonstrators had also attacked the Police officers. Given the circumstances, the Administration held the view the Police had been correct in using force to avoid the demonstration getting out of control. On the number of people trying to climb inside the Government Secretariat, S for S welcomed the opportunity to clarify her statement to the press. She conceded that the figure she quoted in Chinese was not entirely accurate. What she really meant at the time was reflected in the English transcript of her press briefing which stated that "As the number gathering outside the main entrance to the Government offices was quite substantial, 80 to 90 people and some of them were trying to climb over." She pointed out that the number of people gathering inside the

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Government Secretariat was about 20-odd and the number of people gathering outside the Government Secretariat was about 50 to 60.

43. On the concern that there would be no impartiality and credibility if the complaints on the Police were investigated by the Police itself, S for S said that there was no cause for such concern as the existing framework was adequate to safeguard against abuse of power by the Police and the Police covering up the misdeeds of its officers. A case in point were the establishments of the Complaints Against Police Office and the Independent Police Complaints Council. She assured Members that the Administration would act impartially after receiving the investigation report. In light of these safeguards, S for S said that she did not see the need for the Legislative Council to set up a select committee to inquire into the incident.

44. Mr Andrew CHENG said that prior to the re-unification, the Police had been very restrained in using force in handling demonstrators. For example, no force had been used by the Police to remove demonstrators outside the Convention Centre in Wanchai before the handover in 1997. However, the approach adopted by the Police in handling demonstrators appeared to have changed. Specifically, excessive force tended to be used to remove demonstrators whom the community had less sympathy, such as the right of abode claimants. Mr LAU Chin-shek echoed Mr CHENG's views. Mr CHENG further said that there was no need for the Police to use force and pepper spray to remove the demonstrators from the Government Secretariat who only numbered between 20 to 30. Given that the presence of Police officers in uniform was already a form of using force, he was of the view that if the Police would dispatch more Police officers to push the demonstrators out of the Government Secretariat, there would be no need for the Police to resort to punching and spraying the demonstrators with pepper spray. S for S assured Members that the Police had been treating and would continue to treat all demonstrators in a considerate manner and would not use force on them if they conducted demonstrations in a peaceful manner.

45. DO/HKP responded that the Police had not used force to remove demonstrators outside the Convention Centre in Wanchai during the incident mentioned by Mr CHENG because the demonstrators did not attack the Police. This however was not the case of the people demonstrating inside the Government Secretariat, as they refused to follow the Police's order to leave the Government Secretariat before 7:00 am on 26 June 2000 and had resisted by starting to attack the Police.

46. DC/HKP supplemented that when the Police officers moved forward to signal the demonstrators to leave the Government Secretariat, the majority of the them were already standing whilst some of them still sat against the railings. As the Police officers continued to move forward, one or two of the demonstrators grabbed hold of the railings and would not let go. When the Police officers ushered them gently on the shoulders, some started to move whereas one took

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exception not to let go and subsequently started viciously attacking one of the Police officers. Two or three of the demonstrators then joined in the fight. DC/HKP further said that up until that point, he expected a gentle approach would be used to move the demonstrators out of the location. This situation changed after three or four of the demonstrators started kicking and punching the Police officers that the Police officer concerned used the spray specifically against these persons. Such activity or the start of it was not captured by the tape shown at the meeting nor, as far as he knew, caught by other tapes. DC/HKP also pointed out that on the tape shown at the meeting and on other tapes, they all shown that the rest of the demonstrators were actually moving quite smoothly away from the location without any problem whatsoever, and that the level of the force was only actually escalated to the use of pepper spray when Police officers were particularly subjected to active and quite violent resistance. The tape shown at the meeting failed to tell the whole story, i.e. the cameraman only started to focus in on the activity after it happened and had not captured what went behind the activity.

47. Responding to Mr CHENG's comment as to why more Police officers were not called in to be present at the Government Secretariat to remove the demonstrators, DC/HKP said that this was because he expected a gentle approach would be required. Moreover, he did not want to escalate the situation by calling in a large number of officers from the Police Tactical Unit (PTU). DC/HKP further said that the Police officers dealing with the situation on 26 June 2000 were all PTU trained and the manner they handled the demonstrators were consistent with the way they had handled all the processions and demonstrations held over the last year.

48. Mr LAU Chin-shek enquired whether the tapes of the Police had captured the initial activity of the three or four demonstrators kicking and punching the Police officers thereby giving rise to the Police officers concerned using pepper spray on them. DC/HKP responded that he himself did witness the initial action that took place when the Police officers went to gently usher this group away, as he was then standing approximately three to four metres away on the other side of the barrier. He however was not sure whether such initial activity was captured on tapes.

49. Mr LAU Chin-shek hoped that the incident of Police using force and pepper spray to remove demonstrators from the Government Secretariat on 26 June 2000 would not engender confrontation between the Police and the demonstrators in future. To this end, he enquired what measures would be taken by the Police to avoid clashes with the demonstrators in the demonstrations and processions to be held the following day.

50. RC/HKP responded that he himself, District Commanders of the Central, Eastern and Wanchai Districts would be at the sites of the demonstrations to ensure that confrontation between the Police and the demonstrators would not happen. DO/HKP said that he would also be stationing at the Police

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Headquarters to oversee the whole operation. DO/HKP further said that although the Hong Kong Federation of Students had not notified the Police of their demonstration to be held the following day, he assured Members that the Police would not use force if the demonstration was conducted in a peaceful and orderly manner.

51. Miss Cyd HO said that she could not agree with the Police's explanation that the use of force and pepper spray was necessary and appropriate. To her knowledge, the student demonstrators and the Police had maintained a close dialogue from the outset, and she did not understand why the Police had to resort to the use of force and pepper spray to remove the student demonstrators from the Government Secretariat.

52. DC/HKP responded that one of the main problems throughout the incident was the fact that there was no one within the demonstrators who was really in charge and with whom the Police could establish a proper dialogue. He said that despite repeated efforts by the Police to try to contact the responsible person from three days before the incident and all the way through the proceedings, different people from the demonstrators had come forward taking responsibility in the discussions at various times.

53. Noting that the Police and the Administration had also video-taped the incident at the Government Secretariat, Miss Cyd HO enquired whether these tapes could be released for public viewing. DO/HKP replied that as the Police's investigation was underway, it was not appropriate to release the tapes at this stage.

54. Mr David CHU enquired whether the Police had already identified the Police officer who had attacked the demonstrator; and if so, whether the person concerned would be subject to suspension from duty. DO/HKP responded that the Police had not yet identified the Police officer in question.

55. Mr Martin LEE said that according to the Police's internal guidelines on the use of pepper spray, circumstances where the demonstrators who attacked the Police officers had started to leave did not meet the criteria for using pepper spray. DO/HKP responded that the guidelines were for the purpose of training only. Nevertheless, the Police would consider this point in its investigation.

56. Referring to page four of the speaking note of RC/HKP which mentioned that the Police had warned a demonstrator that his/her unwillingness to provide details of his/her identity would be in breach of section 49 of the Public Order Ordinance, Miss Cyd HO enquired whether the Police had reneged on its words told to Members at a case conference held on 26 June 2000 that it would issue an internal circular stipulating that the Police should not request demonstrators to give details of their identities.

Action

57. DS for S1 explained that the question referred to at the case conference was different from the situation of the incident in question as the former was related to whether the Police could request demonstrators to show their identities at a demonstration which did not need prior approval from the Police.

58. In concluding the discussion, the Chairman hoped that the Police's investigation into the incident would be fair. He expressed support for an independent committee to inquire into the incident. He further said that the meeting gave him a strong impression that the Police would tend to use force to control demonstrations which had not sought prior approval from Police. S for S responded that there was no question of such a situation.

59. There being no other business, the meeting ended at 5:35 pm.

Legislative Council Secretariat

25 September 2000