

Legislative Council Panel on Security

Allegation that Mainland Public Security Bureau Officials Performed Duties in Hong Kong

Purpose

This note provides information on a case on 16 June 2004 in which allegation was made that Mainland Public Security Bureau Officials performed duties in Hong Kong and the existing mechanism of police cooperation between Hong Kong and the Mainland.

Brief Facts of the Case

2. On 16 June 2004, the Police received complaints that there were suspicious vehicle(s) in the vicinity of a residential building at Mt Davis Road. In the evening of the same day, patrolling officers found two private cars at the road side near the building. There were seven men on board.

3. In response to police enquiries, two of the seven men claimed that their occupation were Mainland public security officials and the other five were Mainland visitors. One of the men claiming to be a Mainland public security official was found in possession of a pair of handcuffs.

4. The seven men were subsequently arrested by the Police for suspected offences of 'Loitering' and 'Possession of Offensive Weapon'.

5. The Police has treated the case with utmost attention and assigned Regional Crime Unit of Hong Kong Island Region to conduct investigation. All seven men are released on bail awaiting further investigation.

6. Hong Kong Police is seeking confirmation on the identity of the arrested persons and the purpose of their visit to Hong Kong from the relevant Mainland public security authorities. Reply from the Mainland authorities is awaiting.

Police Cooperation between Hong Kong and the Mainland

7. Before and after the reunification, police authorities of Hong Kong and the Mainland has been conducting cooperation based on the Interpol practice. The basis and mode of cooperation are further regulated to ensure consistent implementation through regular high level meetings conducted by Police authorities of both sides. When cooperation is undertaken, both sides are required to strictly abide by the provisions of the relevant laws and to respect the jurisdiction of the local territory.

8. When liaison on individual cases is conducted under this mechanism of cooperation, if one party requires the assistance of the other party, the requested party may gather information relevant to the case through various legal means and provide such information to the requesting party. When the requesting party seeks assistance, it must give prior notification to the requested party and explain clearly the nature of the case and the scope of the assistance sought. It will then be for the law enforcement officers of the requested party to undertake the investigation work in accordance with the law.

9. Under certain circumstances, it may 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. Such cooperation is not infrequent and is important for combating crimes. 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 can police officers take enforcement actions on their own in the territory of another jurisdiction. When these police officers are in the territory of another jurisdiction, they have the same status as any other ordinary visitors. They do not enjoy any police powers or privileges and they cannot, therefore, exercise any power of arrest, detention, search of persons and premises etc. If any law enforcement officers from other jurisdictions are suspected to have undertaken any law enforcement actions in Hong Kong, the Hong Kong Police shall follow up with the relevant authorities.