

Electoral Affairs Commission
Interim Report on the 2004 Legislative Council Election

Response to the Hon Albert Cheng's Questions

1.
 - (a) The Registration and Electoral Officer ("REO") used ordinary A3-size white paper for testing. The weight of each piece of paper is 80gsm.
 - (b) The weight of each piece of paper actually used as ballot paper is 100gsm.
 - (c)&(d) When the REO conducted the tests for the capacity of the ballot boxes, ordinary A3-size paper was used because the design of the ballot papers had not been confirmed at the time. When the design of the ballot papers was confirmed eventually in early August, the REO adopted a type of paper which was relatively less vulnerable to damage for use as ballot papers. At the time, the REO staff was engaged in other preparatory work for the election, and so had overlooked the need to re-test the capacity of ballot boxes.
2.
 - (a) There were 736 telephone lines in the system.
 - (b) Apart from the Interactive Voice Response system ("IVRS"), the REO has considered other ways, for example, the Internet and fax machine, for reporting polling and counting figures. Having considered various factors such as system installation, operation procedures and resources involved, the REO has decided to use the IVRS.
3. For the polling station at Po Leung Kuk Fung Ching Memorial Primary School, the Presiding Officer ("PRO") used two carton boxes as ballot boxes. The arrangement had been agreed to by the polling agents of three different candidates' lists, namely, list 3 (CHENG Kar-foo and

others), list 5 (WONG Wang-fat) and list 6 (LAU Kong-wah and others). Upon the arrival of additional ballot boxes, the polling staff transferred the ballot papers in the carton boxes to one of the additional ballot boxes. The process was also witnessed by polling agents. The two carton boxes were returned to the REO for safe custody after the conclusion of the election.

The Electoral Affairs Commission (“EAC”) learnt from the questionnaire returned from Presiding Officers that a carton box was used at the polling station at LKWFSL Wong Yiu Nam Primary School used. In this case, the PRO had used one carton box. The entire process was witnessed by a polling agent and a police officer. The polling staff opened one of the original ballot boxes and re-arranged the papers inside to free up space to make room for ballot papers to be transferred from the carton box. This process was also witnessed by the same two persons. The PRO had also shown the empty carton box to them before disposal.

4. The 21 Geographical Constituency ballot papers which had been determined invalid for being substantially mutilated came from the following 10 polling stations:

<u>Polling Station</u>	<u>Number of Mutilated Ballot Papers</u>
C0601 Shaukeiwan Government Primary School	4
C3001 Sai Wan Ho Sports Centre	2
F0401 St. Francis of Assisi’s English Primary School	4

G2101 S.K.H. Holy Trinity Church Secondary School	1
L1001 Tai Hing Sports Centre	1
M0703 Buddhist Wing Yan School	2
M1102 Temporary Office at Sik Kong Tsuen near the site of ex-Yau Kung School	4
M1501 The Jockey Club Eduyoung College	1
M1801 Christian Alliance S. Y. Yeh Memorial Primary School	1
S0101 CNEC Ta Tung School	1

5. The EAC takes the views that police officers deployed to polling and counting stations are responsible for maintaining law and order. They have the responsibility to assist the PROs in carrying out their duty to ensure that the election is fair, open and honest. Detailed considerations of the EAC are set out in paragraphs 5.14 to 5.17 of the Interim Report.

6. Having noted that ballot boxes were insufficient in some polling stations and that additional boxes had not been delivered in time, the EAC decided at 3:30 pm on polling day to instruct the PROs that when circumstances required, they could open the front slot of the ballot boxes to compress the ballot papers. Later, the EAC instructed that PROs could open the back of the ballot boxes to rearrange

the ballot papers if necessary. At the time, the EAC had exercised its power and authority under the Electoral Affairs Commission Ordinance to make arrangements to perform its function relating to the conduct of election. At an EAC meeting after the election, the representative of the Department of Justice confirmed that in accordance with sections 4(b), 4(h) and 5(g) of the Electoral Affairs Commission Ordinance, the EAC had the power and authority to give the directive for the above expedient measure to be taken.

7. The EAC had considered whether to extend the opening hours for those polling stations which were overcrowded or where electors had to wait for a relatively longer period of time to cast their votes. Having considered that the polling stations in question had not actually been closed, the EAC decided not to adopt the option.
8. The REO had arranged for counsel of the Department of Justice to provide legal advice on electoral arrangements on polling day.
9. The hypothetical situation quoted by the EAC in paragraph 3.14 of the Interim Report is only an example to illustrate that, during unexpected circumstances, the PROs should react swiftly to take expedient measures. With regard to the situation on polling day on 12 September, the EAC considered that as there were no other better solutions at the time, opening the ballot boxes to re-arrange the ballot papers was an expedient measure which could ensure that the poll would not be disrupted. In fact, the EAC had, at that point, considered other options such as the adjournment of the poll. However, the EAC considered that this option would cause inconvenience to the electors.
10. & 11. The EAC takes the view that it has the power and authority to take expedient measures to address unexpected situations (details are set out in paragraphs 3.1 to 3.16 of the Interim Report). The EAC also considers that the transparency of the electoral process should be maintained as far as possible. Thus, the EAC had made clear in its

instructions to PROs that, if they needed to open the ballot box, this should be done in the presence of the candidates or their election/polling agents. In their absence, the PROs could open the ballot boxes with police officers serving as witnesses in order not to disrupt the poll.

12. The EAC does not have information on exit polls conducted by individual organisations. The EAC considers it more reliable to use the actual voter turnout figures of individual polling stations as reference.

13. In assessing whether the election was conducted in a fair, open and honest manner, the EAC has considered a number of factors, including whether voter secrecy could be maintained, whether the rights of electors could be protected, whether there were any corruption and bribery acts in the electoral process, and whether the election results were affected by the inadequacies of the electoral arrangements.

Registration and Electoral Office
15 November 2004