

## **Legislative Council Panel on Security**

### **Allegations of Mainland Public Security Bureau Officials Committing Offences and Carrying Out Law Enforcement Duties in Hong Kong**

#### **Purpose**

This note sets out the Administration's response to requests made by Members at the meeting of the Legislative Council Panel on Security on 1 March 2005. During the meeting, the incident on 16 June 2004, as a result of which seven Mainlanders were arrested under suspicion of having committed criminal offences in Hong Kong was discussed as were the allegations that Mainland public security bureau officials may have been carrying out law enforcement duties in Hong Kong.

2. At the meeting the Administration was asked to provide -
  - (a) copies of correspondence with the Guangdong Provincial Public Security Department (GDPSD) concerning the case; and
  - (b) a written response as to whether there is any agreed mechanism on the taking of law enforcement action by state security officials in Hong Kong.

#### **Copies of the Administration's letters to GDPSD**

3. The letters issued by the Police to the GDPSD formed part of their criminal investigation and were issued on a confidential basis. It is not appropriate for these confidential communications to be made public.
4. It is established international practice that correspondence between law enforcement agencies of different jurisdictions in respect of criminal investigation is treated as confidential. Public disclosure of such correspondence would breach confidentiality and prejudice mutual trust, thereby adversely affecting police cooperation in combating crime.
5. Having regard to the above considerations, we regret that we are unable to provide Members with copies of the letters issued by the Police to the

GDPSD. Nevertheless, we have fully noted Members' concerns, and have therefore set out the essential contents of the letters as well as the GDPSD's replies in the ensuing paragraphs for Members' information.

### **Correspondence between Police and GDPSD**

6. Following the arrest of the seven persons concerned on 16 June 2004, the Police sent four letters to the GDPSD respectively to notify the GDPSD of the arrest of the seven persons under suspension of "loitering" and "possession of offensive weapon", and the seizure of a pair of handcuffs from one of them. The GDPSD was requested to verify the identity of the seven persons as well as the purpose of their visit to Hong Kong. The Police also reflected the wide public concern regarding the incident to the GDPSD. In early July 2004, GDPSD replied that two of the arrested persons were public security bureau officials while the other five were employees of a car rental company in Shenzhen, and that the purpose of their visit to Hong Kong was sightseeing and shopping. The GDPSD also advised that the pair of handcuffs in question belonged to one of the public security bureau officials and was normally used by him whilst on duty and put inside his handbag. The officer had inadvertently carried the handcuffs in his handbag out of the Mainland.

7. In August 2004, the Police requested GDPSD to verify whether the two public security bureau officials had been assigned any duties, and whether there was any rule on the carrying of handcuffs to Hong Kong. GDPSD replied within a week confirming that the purpose of visit of the two public security bureau officials concerned to Hong Kong was sightseeing and shopping, and that they had not been assigned any duties to perform during their visit. The GDPSD also advised that handcuffs constituted a policing device under the Mainland police regulation on the use of policing devices and arms (《中華人民共和國人民警察使用警械和武器條例》) which did not contain express provisions on taking handcuffs out of the Mainland. GDPSD nonetheless indicated that they would take appropriate steps to prevent a recurrence of similar incidents.

8. Upon completion of the investigation of the case and receipt of the Department of Justice's advice that there was insufficient evidence to justify bringing a prosecution against any of the seven arrested persons concerned, the Police addressed the GDPSD in writing twice in October 2004. The Police informed the GDPSD that the seven persons would not be prosecuted, and advised the GDPSD that although there was insufficient evidence for criminal

proceedings, the conduct of the seven persons concerned whilst in Hong Kong had caused wide concern in Hong Kong. The Police also suggested that the GDPSD should take appropriate measures to prevent a recurrence of any similar incidents.

### **State security officials**

9. As the Secretary for Security said at the meeting of 1 March 2005, the existing cooperation mechanism agreed between the police authorities of Hong Kong and the Mainland focused on police cooperation in criminal investigations. State security officials had not made any request to take law enforcement action in Hong Kong. The Administration had considered whether the coverage of the agreed mechanism should be extended to include state security officials and had concluded that there was no such need, as state security officials were not involved in criminal investigations. Cooperation, if any, should be made on the basis of mutual respect for the laws and jurisdiction of both sides.

**Security Bureau**

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