

**For information**  
**4 April 2006**

## **LEGISLATIVE COUNCIL PANEL ON SECURITY**

### **Police's undercover operations against vice activities**

#### **Purpose**

This paper briefs Members on Police's undercover operations against vice activities.

2. We have previously provided Members of the Council with information on such operations. For easy reference, we enclose at **Annex A** the Secretary for Security's written reply dated 17 December 2003 to a question raised by Hon Emily Lau; at **Annex B** the Hansard of the Council's discussion on a question raised by Hon Audrey Eu on 14 January 2004; and at **Annex C** letters from the Police to the Secretariat dated 1 and 18 December 2003 respectively. The following summarizes such information.

#### **General**

3. Police anti-vice operations are targeted at persons controlling prostitutes and operating vice establishments, not prostitutes themselves. Under the existing law, the act of prostitution itself is not illegal. The major objective of enforcement action is to combat other activities that are connected with it, including harbouring or exercising control over a woman for the purposes of prostitution, keeping a vice establishment or permitting or tolerating premises or vessels that one owns or rents to be used for prostitution.

4. However, enforcement of the above offences has never been easy. In the process, it is necessary for the Police to demonstrate that sexual services are being offered, payment for those services has been made and the relevant person(s) are controlling the women for the purpose of prostitution, etc. Evidence collection is extremely difficult. Vice operators resort to various means to avoid prosecution actions, while persons receiving sexual services seldom come forward to provide the necessary proof. Hence, there is a genuine need for the Police to conduct covert operations to collect the necessary evidence for charging vice-operators.

## **Police's undercover operations against vice activities**

5. There is an established system of Police's undercover operations against vice activities. Police officers involving in such operations are carefully selected having regard to their psychological conditions and integrity, etc. Before each individual operation, supervisors will fully brief the selected officers of the objectives of the operation. These officers are required to report to their supervisors after the action. Documentary record of the details of the operation has to be kept and may be used as evidence in court at a later stage.

6. The above has been clearly stated in the Police internal guidelines governing anti-vice operations. The aim of such operations is confined to gathering evidence of the offer or solicitation of sexual service. If it is essential for the officer concerned to actually receive some form of sexual service in order to maintain his cover, the extent of this shall be restricted to that as required by operational need. In particular, sexual intercourse and oral sex are strictly forbidden. All officers taking enforcement actions against vice activities are required to strictly comply with the guidelines.

## **Conclusion**

7. The Police will continue to keep the guidelines under regular review.

**Security Panel**  
**March 2006**

LegCo Question No.12

(Written Reply)

Meeting Date: 17 December 2003

Asked By: Hon Emily LAU

Replied by: Secretary for Security

Question:

Between March and October this year, a concern group for sex workers received 76 complaints from sex workers about the abuse of power by police officers. Of these, 18 cases were allegations of police officers' taking advantage of the opportunities to obtain sex services for free while posing as clients in anti-vice operations, one case related to the alleged use of violence by police officers, three cases involved the use of police officers' capacity to ask for free sex services, and four cases involved police officers unreasonably demanding the arrested sex workers to take off all their clothes for body search in police stations. In this connection, will the Executive Authorities inform this Council:

- (a) whether the Police have obtained concrete information on such complaints and conducted investigations accordingly, and of the penalties to be imposed on those police officers confirmed to have committed the above acts;
- (b) whether the Police have taken the initiative to contact and follow up with the concern group; if so, of the details of such contacts and follow-up; if not, the reasons for that;
- (c) of the measures the Police have adopted for monitoring the conduct of police officers in anti-vice operations;
- (d) whether the relevant internal guidelines of the Police have specific provisions on the permissible body contacts between police officers carrying out anti-vice operations and sex workers; if so, of the details of such provisions; if not, the reasons for that; and

- (e) whether the Police have reviewed the procedures for instituting prosecutions against the sex workers arrested, in order to identify possible areas for improvement?

Reply:

Madam President,

- (a) The Police have not received any complaint on specific incidents raised by the concern group or the prostitutes concerned and hence have not been able to conduct any follow-up investigation.
- (b) Through the arrangement by the Complaints Division of the Legislative Council Secretariat, the concern group met the Duty Members on 3 December 2003 and lodged a similar complaint. In their written response to enquiries from the Legislative Council Secretariat, the Police specifically requested the concern group to provide detailed information on their allegations in order to allow the Police to conduct the necessary investigations.
- (c) The Police have in place a comprehensive mechanism to monitor the conduct of police officers. In addition, clear guidelines have been drawn up on anti-vice operations. All officers taking enforcement actions against vice activities are required to strictly comply with the guidelines.
- (d) Police actions against vice activities are targeted at persons controlling prostitutes and operating vice establishments, but not the prostitutes themselves unless the latter are involved in soliciting for an immoral purpose in public places. Such criminals usually resort to various means to avoid prosecution actions, and persons receiving sex services from prostitutes very seldom approach the Police to provide the necessary evidence. Hence, there is a genuine need for the Police to conduct covert operations to collect evidence for charging such vice-operators. The objectives and the procedures of anti-vice

operations are clearly set out in the Police internal guidelines. These guidelines explicitly forbid officers taking part in such covert operations from having sexual intercourse with the prostitutes. Nevertheless, to achieve the objective of undercover anti-vice operations, it is inevitable for the officers concerned to have body contact with the prostitutes.

- (e) The Police conduct regular reviews on their internal guidelines and procedures and the existing ones are adequate and appropriate.

**Body Contact Between Police Officers and Prostitutes in the Course of Anti-vice Operations**

2. MS AUDREY EU (in Cantonese): *Madam President, regarding body contact between police officers and prostitutes in the course of anti-vice operations, will the Government inform this Council of:*

- (a) *the specific instructions, as set out in the police internal guidelines concerning anti-vice operations issued to police officers, on the conduct of police officers while posing as clients in order to gather evidence for charging vice-operators (commonly known as "covert operations");*
- (b) *the criteria adopted by the police for determining which types of body contact are considered acceptable; and*
- (c) *the police's justifications for its view that body contact is genuinely necessary for collecting evidence?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President,

- (a) The police internal guidelines issued to officers conducting anti-vice operations forbid sexual intercourse and oral sex between the undercover officers and the prostitutes. The guidelines also require supervisors to fully brief the undercover officers and take measures to ensure that the operations are conducted in accordance with the rules set out in the guidelines.
- (b) The objective of conducting undercover operations by posing as clients for sexual services is to collect evidence for charging vice-operators. In order to conceal their identity and to collect evidence on vice activities, it is understandable that undercover officers need to have body contact with the prostitutes in the operations. Since the circumstances surrounding each individual operation vary, the

kinds of body contact that may occur also differ. Hence, the basic criterion for determining what types of body contact are acceptable during an undercover operation is that whether the contact is genuinely necessary in order to achieve the objective of the operation, which is to successfully obtain evidence on the vice activities. Nevertheless, such contacts shall not include sexual intercourse or oral sex.

- (c) If undercover officers behave differently from normal clients seeking sexual services, their identity will be easily exposed and they will not be able to complete the task of collecting evidence. For this reason, limited body contact is genuinely necessary for collecting evidence against vice-operators.

*MS AUDREY EU (in Cantonese): Madam President, part (b) of the Secretary's main reply mentions the prohibition of two specific types of contact under the police internal guidelines; and it is further explained that supervisors are required to fully brief the undercover officers and take measures to ensure that the operations are conducted in accordance with the rules set out in the guidelines. It is first said that the rules prohibit the two types of contact, and it is further mentioned that operations must be conducted in accordance with the rules. But what exactly are the rules? We learn from the press that in one such case, three police officers posed as clients in a vice establishment for six days and received seven masturbations. Has this already violated what is allowed under the rules? Do the rules specify any scope and specific number of such contacts?*

**SECRETARY FOR SECURITY (in Cantonese):** Madam President, I think the rules are about the requirement that before each operation, the supervisor must brief the police officer involved in the undercover operation. First, the police officer must be instructed to act according to the guidelines. Second, the circumstances surrounding each individual case vary. Of course, after each undercover operation, the police officer concerned must make a report to the supervisor. The supervisor will then examine whether the police officer has complied fully with the guidelines, whether he has acted in accordance with the law and whether the objective of collecting evidence has been achieved.

In regard to the case mentioned by Ms Audrey EU, I must say we are equally concerned about such complaints, that is, complaints about abuse of power by police officers in undercover operations. For this reason, we do call upon those sex workers who have been victimized by such abuse of power to lodge complaints with us. I know that not too long ago, an organization named Zi Teng did lodge a complaint with a Legislative Council Member. Precisely because of this complaint, the Commanders of Yau Tsim Mong once met with the sex workers concerned, expressing the hope that they could lodge a formal complaint with us to enable the Complaints Against Police Office (CAPO) to conduct an investigation. But so far, we have not received any complaint in relation to the case. In regard to the case mentioned by Ms Audrey EU, we have not received any actual complaint.

**MS AUDREY EU** (in Cantonese): *Madam President, the case mentioned by me is not as simple as a complaint, but a court case I learnt from the press, numbered WSCC283 in 2002, the date of sentencing being 19 April 2002. It was reported that .....*

**PRESIDENT** (in Cantonese): Please indicate which part of your question has not been answered. If you wish to make a point of elucidation, or if you wish to give any information to the Secretary for Security, please do so after the meeting, for other Members are still waiting for their turns to ask questions.

**MS AUDREY EU** (in Cantonese): *Madam President, I see your point. The Secretary replied a moment ago that no complaint about the case had been received. I therefore wish to clarify that it is not as simple as a complaint, but an actual court case reported in the press. It was reported that there were seven masturbations in six days. That is why I wish to ask the Secretary whether this is already more than what is necessary. This was the question I had asked, but the Secretary did not answer it.*

**SECRETARY FOR SECURITY** (in Cantonese): I suppose Ms Audrey EU should be referring to a court case, the prosecution of the operator of a vice establishment. At the time of trial, the circumstances of case were reported in the press. This is how I understand her question. Is my understanding correct?



To prosecute the operator of a vice establishment, we must need time for undercover operations; what is more, we must not conduct just one operation, but several undercover operations before enough evidence can be gathered to prove that it is a vice establishment, because the relevant ordinance carries a clear requirement on "more than once". In that case, is it against the guidelines for the police officers concerned to go there one or two times more? It can be said that this is compliant with the guidelines.

**MR ALBERT HO** (in Cantonese): *Madam President, if the Secretary really wants members of the public or those affected to lodge complaints, he must make sure that the criteria are clear enough. The sex workers who complained to the Legislative Council alleged that some undercover police officers simply went to a suspected vice establishment, claiming that they wanted to receive sex services. They then received sex services other than oral sex and sexual intercourse, such as masturbation. Some undercover police officers would receive the whole course of service, that is, the complete course that led to their orgasm. But then, they would prosecute the sex workers in the end. That being the case, may I ask the Secretary whether, as a matter of principle, it is really necessary to collect evidence in this manner? And, is it moral at all to collect evidence in this way? Is this an immoral way of collecting evidence that brings the police into disrepute?*

**SECRETARY FOR SECURITY** (in Cantonese): *Madam President, as I have mentioned, actual sexual intercourse and oral sex are strictly forbidden under our internal guidelines. If there have really been any violations of the guidelines as alleged by Mr Albert HO, we very much hope that the sex workers concerned can lodge complaints with us direct, so that we can conduct an investigation. But I can also tell Members that those police officers conducting undercover operations in fact do not find the task exactly enjoyable. There is a process of selection. We will study the psychological and physical conditions of these police officers beforehand to make sure that they will not abuse their power. Before the commencement of an operation, the supervisor will brief them thoroughly, and they have to make a report afterwards, so that the supervisor can monitor their performance. If a case is brought before the Court for trial, the police officers concerned will have to give an account of the whole undercover operation to the Court. That is why there is already a certain degree of monitoring. We therefore do not think that police officers undertaking such duties will do anything wrong or should have any guilty conscience anyway.*

MR ALBERT HO (in Cantonese): *The Secretary has not answered my supplementary question, which is about whether such a method of collecting evidence is warranted and whether it is in compliance with the guidelines in the complaint cited by me. The Secretary seems to have failed to say whether the method is warranted and whether it is in compliance with the guidelines.*

SECRETARY FOR SECURITY (in Cantonese): In regard to the case mentioned by Mr Albert HO, I very much hope that they can really lodge a complaint with the CAPO. I do not wish to comment on any unsubstantiated "facts". As far as my understanding goes, we have already put in place a sound set of guidelines requiring police officers to perform their prescribed duties in undercover operations.

MR ALBERT HO (in Cantonese): *Madam President, I am sorry to say that the Secretary has still failed to say whether the practice is in line with the guidelines. To begin with, let us not bother about whether the complaint can be substantiated. But as a matter of principle, assuming that something like this does happen, is it in compliance with the guidelines? Can the Secretary answer this question?*

SECRETARY FOR SECURITY (in Cantonese): I think the Secretary has already done his best to answer the question.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Secretary has stressed that should sex workers find any abuse of power by the police, they should complain to the police. Last time, when some sex workers approached the Complaints Division of the Legislative Council (I do not know how the Secretary will respond), they claimed that they had tried to lodge complaints, but since the police tried to pester them frequently afterwards, they never dared to do that any more. I do not know what the Secretary is going to do to rid them of such worries, because they are afraid that once they lodge a complaint, they may suffer immensely, as police officers in the various police districts may frequently try to pester them.*

SECRETARY FOR SECURITY (in Cantonese): I have never heard of anything like that described by Mr LEE Cheuk-yan. The information I have got on hand shows that in the past three years, there was only one complaint about abuse of power by undercover police officers. There were no such complaints in 2001, nor were there any in 2002. As for 2003, there was one, where the complainant was a woman who had come here for prostitution on a Two-way Permit. She was arrested by the police during an undercover operation in August 2003. When she was prosecuted in Court, she complained about the undercover police officer for having had sexual intercourse with her. The CAPO immediately arranged a meeting with her in the Court, but she subsequently said in Court that she would withdraw the complaint. Therefore, so far, we have not received any actual complaint. According to Mr LEE Cheuk-yan, once sex workers lodge any complaint, police officers in various police districts may pester them or make life difficult for them. I think that since there was no actual complaint in the past three years, I cannot agree with Mr LEE Cheuk-yan that once they lodge any complaint, our police officers will pester them.

I wish to state here once again that the CAPO is an independent office, a division independent of front-line police divisions. Investigation reports compiled by the CAPO are submitted to the Independent Police Complaints Council for review and endorsement. Should sex workers really have any such complaints, I call upon them to lodge a complaint with the CAPO.

MRS SOPHIE LEUNG (in Cantonese): *Madam President, having listened to the Secretary's replies to Members' supplementary questions, I wonder if he will consider one point — the present method of collecting evidence, having to comply with the guidelines, may well lead to open-ended arguments, with those feeling a need to lodge complaints saying that they may be pestered. To be fair, under such a situation, law enforcers do face difficulties, but it is likewise very difficult to ask sex workers to lodge any complaints. I hope the Secretary can realize this point. Is it possible for the Secretary to look at the matter from a fresh perspective? While the method of collecting evidence must comply with the guidelines, should there in fact be some flexibility for law enforcers, so that they can avoid any unnecessary misunderstanding that may arise from their collection of evidence (and sufficient evidence they must collect too)? Is it possible, even before there is any complaint, for the authorities concerned to look at all these cases, to get a better understanding of them, and then to examine from a fresh*

*perspective, from the legal perspective of evidence collection and compliance with the guidelines, how the whole matter can be followed up and new ideas introduced, instead of leaving everybody to hold on to his or her own arguments?*

PRESIDENT (in Cantonese): Mrs Sophie LEUNG, yours is a good supplementary question, only that it is a bit too long.

SECRETARY FOR SECURITY (in Cantonese): I fully understand what Mrs Sophie LEUNG wishes us to do. Currently, sexual intercourse and oral sex are already prohibited very clearly under our existing guidelines, but in order to conceal their identity and collect evidence of prostitution, undercover police officers are bound to have some physical contact with the targets of their operations. Since the circumstances surrounding each operation vary, it will be impossible, and unrealistic, I must say, to state exhaustively what kinds of physical contact are disallowed. If any such guidelines are set down to allow the touching of hands but not any legs, for example, people will know very quickly. If a police officer's behaviour is markedly different from that of ordinary whoremongers, his identity will be cracked very easily, thus reducing the effectiveness of the whole operation.

PRESIDENT (in Cantonese): We have spent more than 16 minutes on this question. Last supplementary question.

MR JAMES TO (in Cantonese): *Madam President, although the guidelines forbid front-line police officers to have sexual intercourse and oral sex, their identity may still be cracked. The problem now is that we have come to a very fine detail: Under what circumstances should a police officer be permitted to receive masturbation service, a point which has been subject to so many complaints, or even to receive masturbation service that leads to their ejaculation and orgasm. Is it necessary for his colleagues to break in at a particular juncture to stop the whole operation, that is, to end the whole operation at a juncture when enough evidence has been collected? What we are talking about is such a fine detail. In the case of prosecuting "one-woman brothels", since these brothels are not illegal, the women involved have to be charged for operating a massage establishment without a licence, and this does not require*

*any multiple physical contacts, nor any repeated masturbation service that leads to ejaculation. With this example in mind, may I ask the Government whether it will voluntarily conduct a review to determine whether it is necessary to tighten up the guidelines and its monitoring of front-line police officers, if there are so many complaints of this nature?*

**SECRETARY FOR SECURITY** (in Cantonese): I can tell Members that the set of guidelines is subject to frequent review. In the meantime, I again call upon those sex workers who claim that they have been victimized by abuse of power to report to us. The detection of irregularities and abuse of power among police officers will make us realize the areas in which improvement is warranted. But according to our records, in the past three years, we have not received any actual complaints that can substantiate the allegations by some sex workers.

**MR JAMES TO** (in Cantonese): *Madam President, in regard to this fine allegation, I asked the Government whether it would find it necessary to tighten up its monitoring of front-line police officers, even if there were no actual complaints but just mere allegations?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I think the internal guidelines cannot possibly specify each and every physical movement as suggested by Mr James TO. In other words, it is impossible for the guidelines to specify what physical movements are allowed and what are not. The guidelines cannot be written in such a detailed manner. We can only set down a broad principle, or specify one or two things which must never be done. Besides, we must trust that the supervisor of each operation will brief the police officers involved beforehand. And, the police officers responsible for conducting undercover operations will also have to write reports afterwards. In this way, their supervisors will be able to determine whether their conduct was reasonable.

**MR JAMES TO** (in Cantonese): *Madam President, I was not talking about the guidelines. I simply asked whether monitoring would be tightened up under such circumstances.*

PRESIDENT (in Cantonese): Secretary for Security, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): Madam President, I wish to reiterate that our supervisors are already maintaining very tight monitoring of undercover operations.

香港警察總部  
香港軍器廠街

本署檔號 OUR REF.: (75) in CID 18/10 Pt. 14

來函檔號 YOUR REF.:

電話 TELEPHONE: (852)2860 8154

內線 EXTENSION:

TELEX No.: 65367 HX

圖文傳真 FAX NO.: (852)2528 2284

HONG KONG POLICE  
HEADQUARTERS,  
CRIME WING HEADQUARTERS  
ARSENAL HOUSE WEST WING  
ARSENAL STREET  
HONG KONG.

香港中區  
晨臣道八號  
香港特別行政區立法會  
立法會秘書處秘書長

香港中區  
晨臣道八號  
香港特別行政區立法會  
立法會秘書處秘書長

秘書長先生：

有關「紫藤」投訴警隊人員對性工作者濫用職權的事宜

貴秘書處於本年十一月二十五日來函通知本處「紫藤」要求約見立法會當值議員，商討上述事宜。就「紫藤」提出的五點事項，本處之回應如下：

(i) 警察濫用職權要求性工作者提供免費性服務

「紫藤」指稱曾收到有關投訴，但沒有就個案提供具體資料。本處重申，這是一項十分嚴重的指控。若然屬實，本處必須嚴肅處理，依法懲治。本處希望「紫藤」向警方提供詳盡資料，以便跟進調查。

(ii) 警察指引容許警員放蛇時享受手淫服務

根據現時法例，個別妓女賣淫並不違法。然而，操控妓女賣淫，倚靠妓女維生，經營色情場所或在公眾地方引誘他人作不道德行為等活動均屬嚴重刑事行為。警方的執法行動主要是針對幕後操控妓女的不良份子，而非妓女本身。但經營色情場所的不良份子往往利用不同方法去逃避警方的檢控，而光顧的市民亦鮮會向警方提供證據指證他們。因此，警方實在有需要採取「放蛇」行動搜集證據檢控色情販子。行動的情序及最終目的均已清楚列明在警方的指引上。有關指引亦禁止「放蛇」的警務人員與妓女有性行為。然而，要達致行動的目標，「放蛇」的人員與「放蛇」的對象有身體接觸是可以理解的。

「紫藤」這項指控是不正確的。

在警署內無理有要求性工作者除衫搜身

現行法例授權警務人員在合理情況下向被捕人士搜身，包括檢視衣物，隨身物品，甚至除去衣服的搜查，以達致搜集罪證或取走可能會傷害被捕人士或其他人士的物件。根據警方的指引，搜身會由同性的警務人員執行及需要考慮有關人士的私穩權。「紫藤」並無就此指控提供具體資料，本處因此未能作出深入的了解及回應。

警察向性工作者逼遷及騷擾

正如前文所述，警方在掃黃的執法行動是針對幕後操控妓女的不良份子，或是為不道德目的而唆使他人的行為及引用法例賦予的權力，關閉持續用以賣淫的色情場所（註：色情場所指由兩名或以上的妓女完全或主要用作賣淫的處所）。本處的掃黃行動必須合乎法規，亦非針對那些並無違法的性工作者。反之，部份地區市民不斷反映他們的日常生活受到色情活動滋擾，或因該區的色情活動增加而引致治安情況惡化，而強烈要求警方增加執法人手和力度。



警務處未能有效監管警員之操守

香港政府及警方內部有一套大眾認可及完善的制度去監管警務人員的操守。近年進行的獨立調查都顯示市民滿意警方在操守及專業等各方面的表現。本處並不同意「紫藤」在這方面的意見。

警務處處長

( 蔡建祥 *Signed* 代行 )

二零零三年十二月一日

(Available in Chinese only)

香港警察總部  
香港軍器廠街



HONG KONG POLICE  
HEADQUARTERS,  
CRIME WING HEADQUARTERS  
ARSENAL HOUSE WEST WING  
ARSENAL STREET  
HONG KONG.

中文編號 OUR REF.: (83) in CID 18/10 Pt.14

英文編號 YOUR REF.: CP/C 1125/2003

電話 TELEPHONE (852)2860 8154

專線 EXTENSION

TELEX No. 65367 HX

傳真號碼 FAX NO (852)2528 2284

傳真及電郵信件

香港中區  
晨臣道八號  
香港特別行政區立法會  
立法會秘書處秘書長  
(經辦人：余天寶女士)

余女士：

有關「紫藤」投訴警隊人員對  
性工作者濫用職權的事宜

多謝貴處 12 月 11 日來信簡述「紫藤」與立法會議員在 12 月 3 日的會面情況。應當日與會議員的要求，本處就他們提出的事項，作出以下回應：

- (一) 本處已在 12 月 1 日給貴處的信件中指出，「紫藤」並沒有就他們的指控向警方提供具體事實，以便跟進。本處亦在信中呼籲「紫藤」向警方舉報，羅列詳情。本處相信「紫藤」在 12 月 3 日的會面中已得悉本處的呼籲。

/...

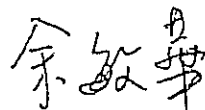
「紫藤」在當日的會面中表示有「放蛇」的警員要求妓女提供各種性服務，而警方亦沒有在案件審結後，發還用作證物的 500 元鈔票（包括 300 元服務費及 200 元找贖）。由於「紫藤」沒有提出具體資料，例如事發日期及案件編號等，本處實難引證有關指控及作出客觀評論。

有關用作呈堂證物的鈔票，一般會在案件審結後，由法庭決定如何處理。若法庭指令發還涉案人士，警方會通知有關人士，安排領回。

- (二) 警方是依據法律執行掃蕩非法的色情活動，有關的工作指引亦是合乎法規。為免不法份子知悉警方的行動策略，公開這些指引並不合乎公眾利益。

參予「放蛇」行動的警員都要在行動完結後向主管人員提交報告。再者，有關行動情況亦會在法庭的審訊中披露。因此，監察「放蛇」警員的行為所採取的措施是足夠的。

警務處處長



( 余敏華 代行 )

二零零三年十二月十八日