

**For discussion
on 8 January 2008**

Legislative Council Panel on Security

Police's Handling of Reports or Complaints About Press Articles

PURPOSE

This paper sets out the Police's practices in handling reports or complaints about press articles and the Administration's response to related issues raised by Members at the Panel meeting held on 4 December 2007.

BACKGROUND

2. On 1 November 2007, three police officers visited a media organization with a view to obtaining its co-operation in providing background information for an initial assessment on five complaints received in October 2007 about an article published in a publication under the organization on 9 August 2006 allegedly instigating violence. At its meeting held on 4 December 2007, the Panel requested the Administration to provide the following information :

- (a) the Police's practices in respect of the handling of reports or complaints about press articles, and the circumstances under which investigation will be conducted;
- (b) whether steps will be taken by the Police to protect the freedom of speech and freedom of the press in such investigation process; and
- (c) the number of such reports/complaints received in the past ten years, the nature of complaints, how the cases were handled, whether investigations on media organizations were conducted and the outcome of the cases.

HANDLING OF REPORTS OR COMPLAINTS ABOUT PRESS ARTICLES

3. Under the prevailing procedures, upon receiving a report or complaint from a member of the public, the Police will carry out an initial assessment, and collect background information if necessary, before deciding whether and how it should be followed up. The Police will, having regard to whether the case involves a criminal element, the seriousness of the case as well as any initial background information collected, decide whether formal investigation should be conducted. For instance, cases suspected to involve criminal content will be forwarded to the criminal investigation units for follow up. If a case involves complaint against individual police officers, it will be referred to the Complaints Against Police Office for investigation. For cases falling outside the purview of the Police, they will be referred to the appropriate government department for follow up. If necessary, the Police will seek the advice of the Department of Justice.

4. Irrespective of the channel through which the report or complaint is received, or whether the person making the report or complaint is anonymous, or whether the complainant or complainee involved is a public figure, the Police handle all reports and complaints received in accordance with the above-mentioned established procedure. The same procedure applies to the Police's handling of reports or complaints about press articles.

FREEDOM OF SPEECH AND PRESS FREEDOM

5. Article 27 of the Basic Law protects Hong Kong residents' freedom of speech and freedom of the press. The Hong Kong Special Administrative Region Government respects and upholds these rights.

6. The Police are committed to upholding the freedom of the press and the freedom of speech strictly in accordance with the law. The Police handle reports or complaints against the mass media in a prudent manner. At the same time, if there is any suspected breach of the law, the Police are duty-bound to give serious and impartial consideration to necessary follow-up action in accordance with the law.

7. The Police wish to reiterate that their visit to the media organization concerned on 1 November 2007 mentioned in paragraph 2 above was for the purpose of obtaining its co-operation in providing background information for an initial assessment on the relevant

complaints. It did not involve any criminal investigation or search, let alone seizure of journalistic material. The procedure of collecting background information in this incident follows the established procedures for handling reports and complaints received by the Police. The Police certainly have no intention to infringe press freedom, nor do the procedures concerned in any way infringe the freedom of speech and the freedom of the press as protected by the Basic Law.

8. Part XII of the Interpretation and General Clauses Ordinance (Cap. 1), as supplemented by relevant circulars promulgated by the Security Bureau, imposes stringent criteria in respect of access to journalistic material by law enforcement agencies. Unless otherwise provided for in the law, their power of entry and search or seizure in relation to journalistic material is subject to the special requirement set out in Part XII of Cap. 1 and could only be exercised with the court's approval. The present legislative scheme on the law enforcement agencies' access to journalistic material strikes an appropriate balance between protecting the freedom of the press and safeguarding public interest.

STATISTICS ON REPORTS/COMPLAINTS ABOUT PRESS ARTICLES

9. The Police have not kept separate statistics on reports or complaints about press articles in the past 10 years. However, according to files still available, there are only two cases in which the Police conducted investigation on complaints about press articles and resulted in prosecution actions. In addition, three cases have been referred to other relevant authorities for follow up. The two prosecution cases involve publishing child pornography and publishing indecent articles respectively. With regard to the three referral cases, two of them have been referred to the Television and Entertainment Licensing Authority for follow up while the other one has been referred to an overseas enforcement agency for action.

**Security Bureau
Hong Kong Police Force
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