

TRANSLATION

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

本署檔號 *OUR REF.:* (40) in LM(1) in 202/2 Pt.6 (T/C 9/2007)

來函檔號 *YOUR REF.:* -

電話 *TELEPHONE:* (852)2860 8154

圖文傳真 *FAX NO.:* (852)2527 6687

7 January 2008

Hon. LAU Kong-wah
Room 523A, West Wing,
Central Government Offices,
11 Ice House Street,
Central, Hong Kong.

Dear Mr Lau,

Thank you for your letter dated 2 January 2008.

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 involving media organizations in a prudent manner. The Police's visit to the media organization concerned on this occasion was for the purpose of obtaining its co-operation in providing background information so as to enable the Police to make 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 is in accordance with the established procedures of the Police for handling reports and complaints received. The Police have no intention whatsoever of infringing press freedom, nor do the procedures adopted in this case in any way infringe the freedom of speech and the freedom of the press that are protected by the Basis Law.

Our replies to the specific questions raised in your letter are as follows:

Items 1 to 3 and 6

Article 27 of the Basic Law protects residents' freedom of speech and freedom of the press. The Police respect and uphold these rights. Upon receiving a report or complaint about a press article, in accordance with the established procedures for handling reports and complaints received, the Police will carry out an initial assessment, and collect background information if necessary, before deciding whether and how the case should be followed up. For instance, cases suspected to involve criminal content will be forwarded to the criminal investigation units for follow up. If a case involves a complaint against individual police officers, it will be referred to the Complaints Against Police Office for handling. For matters falling outside the purview of the Police, they will be referred to other government departments for follow up. If necessary, the Police will seek the advice of the Department of Justice.

For cases suspected to involve criminal content, the Police will, having regard to the criminal element involved, the seriousness of the case as well as any initial background information collected, decide whether formal investigation should be conducted. When the Police have embarked upon a formal investigation, where the investigation work involves the search and seizure of journalistic material and unless otherwise provided for in the law, the Police must act in accordance with the provisions on "Search and Seizure of

Journalistic Material” under Part XII of the Interpretation And General Clauses Ordinance (Cap. 1) as well as the relevant circulars issued by the Security Bureau. The law enforcement agencies could only exercise the relevant power after obtaining the court’s approval. The existing legislative provision regarding the law enforcement agencies’ access to journalistic material strikes an appropriate balance between protecting the freedom of the press and safeguarding public interest. The Police have also formulated internal guidelines on the requirements under Cap. 1 and the circulars of the Security Bureau. Only after the Police have carefully considered the nature and seriousness of each case, the necessity and proportionality to search the media organization and the advice from the Department of Justice will they invoke the relevant legislation for the purpose of applying for a search warrant from the court and then collect evidence in accordance with the power conferred by the search warrant.

Item 4

Irrespective of the subject being investigated, the Police will handle the investigation of all cases in like manner in accordance with the established procedures. The entire process will be monitored by supervisors at different levels within the Force. The Police have also drawn up internal guidelines on the relevant handling procedures in order to maintain consistency. With respect to prosecution, the advice of the Department of Justice will be sought if necessary and prosecution will only be instigated after careful consideration. The Police will take prosecution action in an impartial manner, and the same prosecution standard is adopted in respect of all organizations and persons being investigated.

Item 5

Irrespective of whether the person making the report or complaint is

anonymous, or whether the report or complaint involves a media organization, the Police handle all reports and complaints received in like manner in accordance with the established procedures.

Item 7

The Police will carry out an initial assessment on all reports and complaints received. In this process, the Police will determine whether the reports or complaints are supported by facts before deciding whether and how they should be followed up.

Item 8

Irrespective of the channel through which reports or complaints are received (including those referred by other departments), the Police handle all of them in a fair and just manner in accordance with the established procedures. The Police will first carry out an initial assessment and collect background information if necessary before deciding whether and how they should be followed up. If a report or complaint falls under the purview of other government department(s), the Police will refer it to the relevant department(s) for appropriate follow up.

Yours sincerely,

(LAM Man-wing)

for Commissioner of Police

c.c.

Secretary for Security (Attn: Mrs Apollonia LIU)

Clerk to LegCo Panel On Security (Attn: Mrs Sharon TONG)