

立法會
Legislative Council

LC Paper No. CB(2)1611/10-11(05)

Ref : CB2/PL/SE

Panel on Security

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 3 May 2011**

**Rules and directions for the questioning of suspects and
the taking of statements : caution statement**

Purpose

This paper summarizes the discussions of the Panel on Security ("the Panel") on the caution statement under the Rules and Directions for the Questioning of Suspects and the Taking of Statements.

Background

2. At common law, there is a right to silence. The Rules and Directions for the Questioning of Suspects and the Taking of Statements, promulgated by the Secretary for Security in 1992, stipulate, among other things, the caution to be used to remind a suspect of his right to remain silent when he is questioned. The wording of the caution statement is as follows -

"You are not obliged to say anything unless you wish to do so but what you say may be put into writing and given in evidence."

Deliberations by the Panel

3. The Panel discussed the caution statement under the rules and directions for the questioning of suspects and the taking of statements at its meeting on 3 January 2006. The deliberations are summarized in the following paragraphs.

4. Regarding the concern about the stipulation of a person's right to silence in the current caution in an indirect manner, the Administration explained that the current caution, which was promulgated in 1992, originated from the English version which was formulated and approved in the United Kingdom in 1912 and reissued in the United Kingdom in 1978. In Hong Kong, although the caution had featured in court cases, including cases before the Court of Final Appeal in 2004 and 2005, no judge had made any adverse comment on the caution.

5. There were suggestions that a suspect's right to silence should be spelt out in a direct manner, such as by adding the sentence "You have the right to remain silent" at the beginning of the caution.

6. The Administration advised that the current caution, which was deeply noted in common law and had been in use for many years, was simple and easy to understand. In considering any changes, it had to be cautious and think through possible implications. The Administration agreed to consider adding the sentence "You have the right to remain silent" at the beginning of the caution.

Relevant papers

7. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
27 April 2011

**Relevant papers on
rules and directions for the questioning of suspects and
the taking of statements : caution statement**

| Committee | Date of meeting | Paper |
|-------------------|------------------------|---|
| Panel on Security | 3.1.2006 (Item V) | Agenda Minutes |

Council Business Division 2
Legislative Council Secretariat
27 April 2011