

立法會
Legislative Council

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Panel on Security

Minutes of special meeting
held on Thursday, 15 March 2012, at 9:00 am
in Conference Room 1 of the Legislative Council Complex

Members present : Hon James TO Kun-sun (Chairman)
Hon LAU Kong-wah, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Dr Hon Philip WONG Yu-hong, GBS
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon CHIM Pui-chung
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon IP Kwok-him, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon WONG Yuk-man

Member attending : Hon LEE Cheuk-yan

Members absent : Hon WONG Yung-kan, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Dr Hon LAM Tai-fai, BBS, JP
Hon WONG Kwok-kin, BBS
Dr Hon PAN Pey-chyou

**Public Officers : Item I
attending**

Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Mrs Millie NG KIANG Mei-nei
Principal Assistant Secretary for Security

Mr Paul HUNG Hak-wai
Director of Operations
Hong Kong Police Force

Ms Winnie CHIU Wai-yin
Assistant Commissioner of Police (Support)
Hong Kong Police Force

**Attendance : Item I
by invitation**

The University of Hong Kong

Mr Lester Garson HUANG

Dr Bethany CHAN

Prof Johannes CHAN Man-mun

Mr Stephen CHEUNG Pok-yin

Mr Simon FUNG Shing-cheung

Mr MAN Cheuk-fei

Dr Albert CHAU Wai-lap

International Federation of Journalists

Miss Serenade WOO
Project Manager (Asia Pacific)

Individual

Mr WONG Kin

Clerk in attendance : Mrs Sharon TONG
Principal Council Secretary (2)

Staff in attendance : Ms Connie FUNG
Senior Assistant Legal Adviser 1

Ms Rita LAI
Senior Council Secretary (2) 1

Ms Camy YOONG
Clerical Assistant (2) 7

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I. Review of security arrangements during visits of political dignitaries to Hong Kong
(LC Paper Nos. CB(2)921/11-12(07) and (08) and CB(2)958/11-12(01))

The Chairman reminded the deputations/individual that when addressing the Panel, they did not have the protection and immunity provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382). He declared that he was a member of the Court of the University of Hong Kong ("HKU"). On the appropriateness for the Chairman to chair the meeting, no objection was raised from members and deputations/individual.

Views of deputations/individual

HKU

2. Mr Lester HUANG presented the findings of the review of the security arrangements on 18 August 2011 on HKU campus conducted by the Review Panel on the Centenary Ceremony held on 18 August 2011 ("the Review Panel") with the aid of powerpoint and video. The Review Panel had concluded that the Police had used unnecessary and unjustifiable force to push the three students concerned ("the Three Students") from LG2 of KK Leung Building on HKU campus into the stairwell. Regarding the false imprisonment allegation of the Three Students in the stairwell, the Review Panel had great reservations about the substantiation of such claim.

(Post-meeting note: The softcopy of the Powerpoint presentation materials was issued to members vide LC Paper No. CB(2)1411/11-12(01) on 15 March 2012.)

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International Federation of Journalists ("IFJ")
[LC Paper No. CB(2)1393/11-12(01)]

3. Miss Serenade WOO presented the views of IFJ as detailed in the submission.

Mr WONG Kin

4. Mr WONG Kin expressed his strong dissatisfaction about having been removed by a number of males, who were later identified by the media as Police officers, from the common area outside Block 26 of Laguna City where he resided on 16 August 2011. He further expressed strong disappointment that he had not been provided with a clear account of the incident by the Police in the following six months and was only approached by the Independent Police Complaints Council ("IPCC") regarding a request for an interview in which he was asked to respond to some questions. According to the Owners Corporation of Laguna City, the Police only served a notice several hours before the visit of the Vice-Premier of the State Council, Mr LI Keqiang ("the Vice-Premier") to Laguna City on 16 August 2011 and the Police had not been authorized to execute its duties at Laguna City. He therefore queried that the Police had acted unlawfully in removing him from his residential place and had deprived him of the freedom to move. In his view, the Police officers had become political tools in monitoring the freedom of media coverage and the core values of Hong Kong had been damaged seriously.

Discussion

5. Referring to paragraphs 6.20 to 6.25 of the Report of the Review Panel on the Centenary Ceremony held on 18 August 2011 ("the Report") to the Council of HKU, US for S said that the frontline officers had reasonable and clear understanding of the request of HKU security staff for the provision of assistance after they had tried to ask the Three Students to leave the restricted area without success. In the process, effective and appropriate means had been used to remove the Three Students away from the restricted zone. It was the Police's responsibility to provide assistance to HKU upon its request to ensure that no unauthorized persons would stay within the restricted zone, which was one of the important elements of the agreed security arrangements between HKU and the Police on HKU campus.

6. Director of Operations of the Hong Kong Police Force ("D/Ops") supplemented that the action taken by the Police on HKU campus was based on a prior agreement between the Police and HKU. According to the agreement, HKU would try to arrange its security staff to take preliminary

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actions to handle the public order activities on campus. The Police would take appropriate actions or provide assistance when there was a breach of public peace or when it was requested by HKU staff. The setting up of restricted zone was one of the important elements of the security arrangements. According to HKU, only authorized persons would be allowed to be admitted to the restricted zone but not to stay within the area. On 18 August 2011, the frontline officers were in the restricted zone (i.e. at the exit of the back staircase of KK Leung Building) and had requested the Three Students to produce identification documents but the request was ignored. Immediately, the frontline officers had informed HKU and requested HKU security staff to handle the matter. In front of the frontline officers, HKU staff responsible for security had repeatedly asked the Three Students to leave the restricted zone by way of the back staircase. As they had not been successful, HKU security staff requested the frontline officers to assist in the matter. Given that the Three Students did not agree to leave the restricted area, the frontline officers removed them from the area in accordance with the prior agreement with HKU.

The Police's review of the policing arrangement

7. In comparison with the Report, Ms Audrey EU considered that the Police's review of policing arrangements during the visit of the Vice-Premier to Hong Kong in August 2011 ("the Review") (which was discussed at the Panel meeting on 7 February 2012) only focussed on the public relations issues but not the major principles involved. She recalled that she had urged the Administration to revise the Review report. She expressed strong dissatisfaction about the absence of review on protection of the core values of Hong Kong, including the respect for freedom of press and media coverage.

8. Referring to one of the recommendations made in paragraph 125(b) of the Review report, Mr LEE Cheuk-yan considered that the Review only focussed on strategies of communicating with the media and public through expectation management. Whenever there were visits of political dignitaries to Hong Kong, there would be suppression of rights of expression and assembly rather than protection of human rights.

9. Dr Margaret NG expressed strong disappointment about the performance of the Police in view of the absence of reflection in the Review.

Removal of a person at Laguna City

10. Referring to the removal of Mr WONG Kin from the common area of his own residential place which took place months ago, Ms Audrey EU pointed out that the personal safety of the Vice-Premier or anybody was not

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threatened in the incident. Notwithstanding the fact that a review on the investigation result of the relevant complaint was being conducted by IPCC, Ms EU held the view that the Police should provide a full account of the incident to Mr WONG. Ms Emily LAU shared a similar view. Ms EU requested the Administration to provide an explanation for the removal of Mr WONG.

11. D/Ops said that a complaint about the incident had been received by the Complaints Against Police Office ("CAPO"). Given that the investigation result of the relevant complaint would need to be reviewed by IPCC, it would not be appropriate to make comments on the case. According to the Police's preliminary understanding, a male appeared in the security zone when the Police was conducting a security operation on the ground floor of Block 26 of Laguna City in the afternoon of 16 August 2011. At that time, the Vice-Premier was visiting a family in one of the units of Block 26. The Police inquired the male but the male was very agitated. The Police therefore removed the male from the security zone for further enquiry. The Police's action was purely based on security concerns and there was no political consideration.

12. Ms Audrey EU sought clarification on whether the Police had been invited by the Owners Corporation of Laguna City to execute their duties at Laguna City during the visit of the Vice-Premier on 16 August 2011. D/Ops replied that he did not have the information on hand. Regarding Mr WONG's incident, according to the record, CAPO had difficulties in contacting him to conduct the investigation and only IPCC could approach him and interview him on 5 March 2012.

13. Regarding the removal of Mr WONG Kin from the security zone, Ms Audrey EU and the Chairman asked how the Police informed the residents of the setting up of a security zone in the common area of Block 26. D/Ops said that as the relevant complaint was being investigated by CAPO and the investigation result would be further reviewed by IPCC, it would not be appropriate to make comments at this stage.

14. Mr Abraham SHEK, one of the Vice-Chairmen of IPCC, confirmed that IPCC had interviewed Mr WONG Kin on 5 March 2012 and the case was being reviewed.

Report of the HKU Review Panel

15. Mr LEE Cheuk-yan appreciated the in-depth investigation set out in the Report and its clear reflection on what had happened, which was a great contrast to the Review. He held the view that the Police had not respected

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HKU in the negotiation about the security arrangements on HKU campus and had implemented the security measures forcibly. Referring to paragraph 5.38 of the Report, Mr LEE queried the claim that the Police had acted on the basis of an agreement with HKU. Regarding the setting up of a protest area, Mr LEE said that the Police had ensured that demonstrations were not heard and seen by the State leader. For the sake of maintaining the three vehicular accesses open and clear, the Police disagreed with HKU's proposal to close the vehicular access on the Swire Bridge for setting up a protest area. The Police further vetoed HKU's proposal of setting up a protest area at the parking bay at LG2 of KK Leung Building.

16. Referring to paragraph 5.48 of the Report, Mr LEE questioned the overriding power of the Police to make a recommendation for possible cancellation of the Vice-Premier's visit to HKU. In his view, it was a threat to make such recommendation to HKU if HKU decided to designate a protest area. Mr LEE considered that it was not a genuine negotiation between the two parties. The Police was imperious and this had not been reviewed in the Review. He considered it totally unacceptable.

17. The Chairman considered that the Police could make such recommendation if there was a great risk after having conducted a risk assessment.

18. Assistant Commissioner of Police (Support) ("ACP(SUP)") said that it was a recapitulation of her statement in response to one of the questions of the Review Panel on what if there was disagreement between HKU and the Police on the security arrangements. She had replied that further risk assessment would be conducted and recommendations to be made accordingly. In respect of the recommendations including the possibility of cancellation of the visit of the Vice-Premier to HKU as raised by the Review Panel, at that time she replied that such recommendation would not be ruled out. She added that the Police had no intention to make threats.

19. Dr Margaret NG said that the Police could inform the political dignitary that the protection of the personal safety was not guaranteed and the political dignitary could make decision on whether to pay the visit. The decision on cancellation of the activity to receive a political dignitary should rest with HKU if the security arrangements for such activity would undermine the core values of HKU, including its independence and autonomy.

20. Being an alumni of HKU, Dr Margaret NG expressed the view that the investigation conducted by HKU was serious, fair, in-depth, honest and had not covered up the mistakes. Referring to paragraphs 5.31, 5.54 and 5.60 of the Report, Dr NG asked whether the Police could ensure that the

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Commissioner of Police ("CP") would firstly approach the Vice-Chancellor of HKU for liaison of security arrangements for important events in future and whether the Police would adopt the recommendation of HKU in this respect.

21. D/Ops responded that the Police would accept HKU's recommendation that the VIP Protection Unit ("VIPPU") of the Police would firstly approach the Vice-Chancellor of HKU for liaison of security arrangements for similar events in future. Dr Margaret NG was of the view that CP or a Deputy Commissioner, instead of VIPPU, should contact the Vice-Chancellor of HKU.

22. Ms Emily LAU considered it necessary for the Police to specify clearly the procedures to follow in respect of the arrangements for security operation on similar occasions.

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23. The Chairman requested the Administration to provide information on the procedures ensuring that senior staff members of the Police and HKU would first meet to have preliminary discussion on the security arrangements on HKU campus for important events in future.

Drafting of a protocol

24. Dr Margaret NG suggested that there should be a protocol detailing the procedures to be followed for the Police's operations on HKU campus on important occasions. CP or the Head of VIPPU should firstly approach the Vice-Chancellor of HKU in respect of the Police's operation on HKU campus. Referring to paragraph 5.60 of the Report about the previous practice that VIPPU had directly approached Prof CHENG Yiu-chung, former Vice-Chancellor, at an early stage with regard to security operation on campus and the Police's claim that they did not have such record of communication between the Vice-Chancellor of HKU and senior officers of VIPPU in similar operations in the past, Dr NG invited representatives of HKU to respond.

25. Mr Lester HUANG admitted that HKU was in a passive position in the process of negotiation with the Police as HKU had only limited ability and information on security, including that on threats. HKU could only trust the Police to make reasonable security arrangements. Yet, there were several times that the HKU security team had responded appropriately and rejected the requests of the Police as reflected in paragraph 5.33 of the Report. It was believed that there should be better overall arrangement. As stated in the Report, it was recommended that senior members of HKU (including the Vice-Chancellor) and the Police should first meet to discuss the requirements

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of the security arrangements and the possible threats in the Police's view. As regards the suggestion of written procedures, there might be some practical difficulties. While the principles and the core values of HKU could be specified at an early stage and to be applied accordingly, the detailed and specific arrangements for each occasion would be subject to the circumstances. It was necessary to have the ability to respond to contingency and maintain the core values of independence and autonomy of HKU, details of which were set out in paragraph 5.63 of the Report. Responding to Dr NG's view that the decision on hosting an event should rest with HKU, Mr HUANG referred to point (9) of paragraph 5.63 of the Report and said that HKU would seriously consider whether it should continue to host an event if HKU were not able to uphold its core values and there were restrictions to free access to HKU or on freedom of speech.

26. Dr Margaret NG clarified that a written protocol would only specify the initial contact between CP and the Vice-Chancellor of HKU in respect of the security operation on HKU campus and important decisions to be made. The Vice-Chancellor of HKU could delegate other staff to follow up on the detailed arrangements. She urged HKU and the Police to seriously consider drafting such a protocol. Ms Emily LAU further suggested that the practice of drafting such a protocol should be extended to other universities and tertiary institutions in Hong Kong.

The Police's use of unnecessary and unjustifiable force

27. Referring to HKU's conclusion that the Police had used unnecessary force, and the Police's claim that the Police provided assistance at the request of HKU security staff, Dr Margaret NG invited representatives of HKU to respond.

28. Prof Johannes CHAN of HKU responded that there was an agreement between HKU and the Police regarding the Police's provision of assistance when HKU staff could not handle the situation. In the agreement, HKU had reiterated that HKU had its tradition and was a free place. As part of the agreement, it had been repeatedly expressed that the use of force on HKU campus was not preferred. Even if HKU security staff had requested the Police to provide assistance after having asked the Three Students to leave the restricted zone without success, there were options other than using force as the behaviour of the Three Students at that juncture was rather peaceful. The Review Panel therefore concluded that the use of force was unreasonable regardless of the agreement.

29. Mr Paul TSE sought clarification from HKU on whether information had been directly obtained from the Three Students and the Police officers

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concerned for drawing up the conclusion.

30. Mr Lester HUANG and Prof Johannes CHAN advised that in the process of the investigation, the Review Panel had interviewed all security staff of HKU at the scene on 18 August 2011, Police representatives and Mr LI Shing-hong. Among the Three Students, Mr LI Shing-hong had been interviewed twice whereas the other two non-HKU students declined twice through Mr LI Shing-hong to accept the invitation for a meeting. The Review Panel was of the view that there was sufficient information to draw a conclusion in respect of the Police's use of unnecessary and unjustifiable force, including the statement of people at the scene and the video footage from a closed-circuit surveillance camera.

31. Regarding the Review Panel's preference not to express any definitive view on the issue of the false imprisonment of the Three Students and the absence of assistance from the Police and two of the Three Students on the details of the incident, Mr Paul TSE further enquired whether this was because the Review Panel had not asked for details from the Police and the Three Students or whether this was because the Review Panel did not find it necessary or feel comfortable to draw a conclusion after having obtained the information.

32. Mr Lester HUANG replied that the Police was not willing to provide details in the stairwell in view of the possible litigation to be initiated by the Three Students. Prof Johannes CHAN added that statements had been provided by Mr LI Shing-hong and Mr FUNG Chi-choi. Mr FUNG was the Head Guard and was holding open Door B of the stairwell throughout the incident and he could provide first-hand information. While Mr LI Shing-hong agreed to some of the views of the Review Panel, he was not willing to provide the video clips of the incident taken with his mobile phone in spite of the repeated requests of the Review Panel. With the limited information, the Review Panel's preliminary view was that it would be difficult to substantiate a claim of false imprisonment. Given that there was some information not available, the Review Panel had not come up with a definitive conclusion on the issue. Yet, should there be more information in future, the issue would be revisited.

33. Referring to paragraph 2.25 and other parts of the Report, Ms Emily LAU pointed out that it appeared that not much importance had been attached to the security arrangements and the Vice-Premier's visit had been regarded as a public relations matter. The Review Panel had commented that Mr Frankie LAW, a clerical staff, was responsible for handling the liaison with the Police. Ms LAU queried whether a more senior staff member should have been appointed to be responsible for the security

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matters so as to safeguard the autonomy of HKU during the confrontation on 18 August 2011.

34. Mr Lester HUANG responded that the Review Panel focussed on the adequacies and inadequacies of the security arrangements in its review. The Review Panel recommended that the core values and principles of HKU, as set out in paragraph 5.63 of the Report, be upheld during the visits of dignitaries, including keeping restrictions on access to the campus to the minimum as HKU was an open campus and should remain so. Regarding the inadequacies, HKU had not attached much importance to the security requirements. It had overestimated its ability and underestimated the complexity in the arrangements. It was therefore proposed that there should be better preparation for security arrangements and contingency measures. Referring to paragraph 5.72 of the Report, HKU would work in collaboration with the Police on any security arrangements under the guidance of its core values and the principles. Also, HKU should arrange a meeting between its most senior official and the Police as soon as practicable to work out the parameters and protocols of Police operation for important events on campus in future.

35. Ms Emily LAU sought clarification on whether HKU staff had raised with the Police its requirement that the Police should not use force before 18 August 2011 or at the scene when the Police used unnecessary and unjustifiable force.

36. Dr Albert CHAU of HKU said that at the meeting with the Police in the night of 17 August 2011, at which he was present, HKU staff had appealed to the Police not to use any force to handle demonstration and expression of views. It had not been mentioned in the Report whether Mr Frankie LAW had expressed disagreement to the Police's use of force to push the Three Students into the stairwell on 18 August 2011. Given the review of the incident and recommendations made by the Review Panel, HKU would strive to prevent the recurrence of the incident.

37. Ms Emily LAU urged the other universities and tertiary institutions to draw reference from the incident when they worked in collaboration with the Police during visits of State leaders on their campus.

38. The Deputy Chairman referred to paragraphs 6.37 to 6.39 of the Report which stated the misunderstanding between the Police and Mr Frankie LAW and the remarks of Mr LAW being interpreted as a request for help and the trigger of the "push" command, as well as the Review Panel's conclusion on the use of force by the Police. The Deputy Chairman enquired whether it was appropriate for the Police to use similar force under normal circumstances

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and whether any of the six recommendations made in its Review could address such scenario.

39. D/Ops responded that the Police had clear guidelines and principles governing the use of force by police officers. Police officers could only use minimum force when it was absolutely necessary and there was no other means to achieve a lawful purpose. As stated in the Report and the Review, the Police officers only removed the Three Students from the restricted zone to the stairwell, in response to the request by HKU security staff, and the action stopped immediately afterwards. Such action complied with the principle that the use of force should cease once the purpose had been achieved. The Police's use of force in the incident therefore had followed the principles governing the use of force by the Police.

40. Given that the Police conducted the security operation at the request of HKU, the Chairman queried whether the Police should follow the instruction of HKU and whether HKU staff had requested the Police to use force. D/Ops responded that at that time HKU staff had already requested the Three Students to leave the restricted area and had indicated to the Police that they were unable to handle the situation. Police officers would execute their power when discharging their duties.

41. The Deputy Chairman raised query as to why HKU had not disseminated to the teaching staff and students the information on the incident several months earlier.

42. Dr Albert CHAU explained that HKU did not have all the information to come up with a full picture of the incident in August 2011. Though HKU security staff had been interviewed, there were other parties at the scene, including students, Police officers and two non-HKU students. It was therefore decided not to release any information on the issue at that time. Subsequently, the Review Panel had ample time to interview the relevant people in accordance with stringent procedures and the findings were now provided in the Report. The Chairman recalled that Mr Henry WAI, Registrar of HKU, had advised at the Panel meeting on 12 September 2011 that HKU security staff had not yet been interviewed at that time.

43. The Deputy Chairman was of the view that it might be unfair to HKU security staff at the scene who should have been interviewed immediately after the incident. The release of the Report, including the findings on the false imprisonment allegation, after seven months was slightly late.

44. Dr Albert CHAU clarified that he did talk to the relevant HKU security staff on 22 August 2011 and understood the details. Having regard to the fact

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that HKU had not obtained all relevant information on the incident at that time, he and the Registrar had discussed with the relevant security staff regarding what they could present at the Panel meeting on 12 September 2011 before the Review Panel conducted the review and collected the information in the process.

45. In respect of the Police's taking over the scene and providing assistance upon request of HKU security staff who had repeatedly persuaded the Three Students to leave without success and could not handle the situation, Dr Philip WONG asked what, in HKU's view, the Police could have done better subsequently.

46. Mr Lester HUANG said that Mr Frankie LAW had told the Review Panel that he did not expect the Police officers to push the Three Students into the stairwell. Mr LAW assumed that the Police would continue to talk to the Three Students or use other means to persuade them to leave. Given that the Three Students had stayed at the parking bay of KK Leung Building for a certain period of time and they had not behaved provocatively or acted violently, the Review Panel was of the view that they did not constitute a threat or cause any hindrance. It would have been more appropriate at that time to have continued to talk to the Three Students and to persuade them to leave while allowing them to stay in that area.

47. Responding to the further enquiry of Dr Philip WONG about whether the Three Students behaved provocatively, including speaking foul language, after the Police had taken over the situation, Mr Lester HUANG confirmed that the students did not display provocative behaviour whilst at the parking bay at LG2 of KK Leung Building after having reviewed the relevant video clip and talked to the people at the scene. When the Police officers encircled the students, they raised their arms and behaved passively.

48. The Chairman held the view that the Police had two roles to play in the incident. According to legal analysis, the Police could execute the statutory power if there were criminal offences or the public safety was jeopardized. However, if there was no threat to the personal safety of the Vice-Premier or breach of public order, the Police acted as the "security agent" of HKU and should follow its instruction and the baseline of not using force on the campus. The Police should not push the Three Students into the stairwell unless HKU's consent had been obtained.

49. Referring to paragraph 6.43 of the Report and the photo of the students, HKU security staff and the Police officers taken inside the stairwell, the Chairman queried whether the claim of false imprisonment could be established in view of the encirclement of the students by four to six Police

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officers in the small area of the stairwell.

50. Referring to the diagram F-20 of the Report which was drawn by Mr LI Shing-hong, Prof Johannes CHAN pointed out that Mr FUNG Chi-choi was holding open Door B throughout the time and he could see what happened inside the stairwell. The Police officers blocked Door A but Door B was kept open allowing access and departure. It seemed that the Three Students were encircled by the Police and might claim a false imprisonment. However, consideration should also be given to the reaction of the Three Students. In the process, Mr Frankie LAW had indeed gone into the stairwell and told the Three Students that they could leave but they decided not to do so. Based on the communication between the Three Students and the Police officers in the stairwell, the Review Panel had great reservations that the Three Students were scared and felt so threatened that they dare not leave the stairwell. The conduct and attitude of the Three Students were inconsistent with the allegation of false imprisonment.

51. Referring to the agreement between the Police and HKU that the parking bay at LG2 of KK Leung Building was a restricted area where people could pass through but would not be allowed to remain in the area, Ms Audrey EU understood that the Three Students carrying loudhailers arrived at the parking bay through the stairwell and intended to pass through the parking bay at LG2 so as to meet other students in the protest area in front of the Swire Building. As the Three Students were stopped and were not allowed to pass through but pushed back into the stairwell and were asked to leave through Door B, Ms EU queried whether it was related to the June-4th T-shirt worn by the students, which was similar to the case of Mr WONG Kin.

52. Mr Lester HUANG referred to the students' request for going to the Swire Bridge as detailed in paragraphs 6.15 to 6.21 of the Report, and said that Mr Frankie LAW had suggested that the Three Students be escorted to the protest area but they refused.

53. Prof Johannes CHAN clarified that the protest area was in front of the Swire Building. The Swire Bridge was a restricted area where people were not allowed to stay. As soon as the Three Students emerged from the stairwell, they were stopped by a man in a black suit who was believed to be a Police officer. The man talked to Mr LI Shing-hong and asked if they wanted to go to the protest area. He offered to escort them there and then there were some arguments. Mr Frankie LAW came to ask where they wanted to go to and they indicated that they did not want to go to the protest area but the area opposite to the Swire Bridge. Mr Frankie LAW advised that it was a restricted area. This was then followed by some discussion between Mr Frankie LAW and the Three Students who insisted on going to the area

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near the Swire Bridge. Mr Frankie LAW was of the impression that the Three Students actually wanted to go to the direction leading to Loke Yew Hall instead of to the designated protest area.

54. Mr LEE Cheuk-yan was of the view that there were too many security zones on HKU campus on 18 August 2011 and HKU had been tricked by the Police to extend the security zones. Regarding the Police's handling of the security matters on HKU campus, the Police had made some mistakes. As stated in the Report, the Police had not followed the agreement with HKU and had used excessive force. He referred to the incident at Laguna City and by the same token, the Police had used excessive force and had taken away freedom of individuals.

55. D/Ops responded that it was unfounded to claim that HKU had been tricked by the Police as there were discussions between the two parties according to the record. In respect of the agreement between the Police and HKU about the Police's use of force and HKU's preference of not using force on the campus as stated in the Report, D/Ops said that the Police had not agreed at the meetings not to use force. The Police's operation did not aim at resolving a problem by means of force. Yet, it would be impracticable to commit at the meetings not to use force or other means as it would be subject to needs under specific circumstances. Referring to point 8 of paragraph 5.23 of the Report, D/Ops pointed out that there was an agreement to make preparation for removing people if necessary. The Police was of the view that reasonable means had been used to remove the Three Students away from the restricted zone.

56. Referring to paragraph 5.38 of the Report, Mr LEE Cheuk-yan pointed out that the Police had used unnecessary force and had not adhered to the agreement. D/Ops admitted that some frontline officers had misunderstood the instruction on crowd control measures in respect of setting up the restricted area at Fung Ping Shan Museum. Queries had been raised as to teaching staff and students not being allowed to go to Fung Ping Shan Museum. After having clarified with HKU, the Museum was subsequently re-opened to HKU teaching staff and students. Mr LEE commented that these were not included in the Review.

57. Dr Margaret NG held the view that both the Police and HKU should learn from the incident. Referring to point (8) of paragraph 5.23 of the Report, she expressed disappointment with HKU as there was no self-respect for its independence and autonomy. The way and attitude that HKU staff had dealt with the Police and responded to the Police's pressure and requests were weak, helpless and passive, which did not tally with the spirit of and status of HKU. Given that the Three Students had not acted violently, Dr NG

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considered that the removal should not have happened on the campus. She emphasized that the collaboration between HKU and the Police in receiving political dignitaries on HKU campus should be based on an equal footing.

58. Dr Margaret NG was of the view that on the basis of a cooperative relationship, the Police should have provided information on the number of Police officers who would station on HKU campus and the detailed arrangement to the senior management of HKU so as to facilitate collaboration in the security arrangements.

59. Mr WONG Yuk-man considered that the Review and the Report were not interactive. He recalled that at the Panel meeting on 7 February 2012, he had raised queries as to the claim by CP in response to the Report that there was an agreement between the Police and HKU about the use of minimum force on HKU campus as necessary. Mr WONG queried why HKU had not responded subsequently.

60. Dr Albert CHAU said that HKU had never agreed to the Police's use of force on campus according to the records of the meetings. Referring to a HKU press release of 20 August 2011 as provided in Appendix 17 to the Report, Dr CHAU said that HKU had found the Police's measures used in handling the student protest unacceptable.

61. Mr WONG Yuk-man was of the view that HKU's investigation was not serious and there might be query about the motivation behind the Report. In view of the Three Students' indication to initiate legal proceedings, he considered it inappropriate and unnecessary for HKU to draw a conclusion of the incident at the stairwell. The Review Panel had acted ultra vires beyond its terms of reference. He remarked that HKU was not authorized to judge whether the allegation against the Police in the incident was founded. Given that the Review Panel had not met with the students, it was inappropriate to make a judgement.

62. The Deputy Chairman disagreed with Mr WONG Yuk-man. Given the limited information, which he believed was hard facts, the Deputy Chairman considered that it was fair and necessary for the Review Panel to make a judgement and come up with a preliminary conclusion.

63. Prof Johannes CHAN clarified that the Review Panel did interview Mr LI Shing-hong twice and had obtained his statement. The investigation was also based on the video clip capturing what had happened before the Three Students were pushed into the stairwell at the parking bay at LG2 of KK Leung Building, which served as objective evidence.

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64. Ms Emily LAU sought clarification on points (5) and (7) of paragraph 5.63 of the Report. Regarding point (5), Prof Johannes CHAN clarified that it would be necessary for the Police to execute its statutory power if there were unlawful activities on HKU campus. Yet, there was no unlawful behaviour on the part of the Three Students before they were pushed into the stairwell. Regarding the incompatibility of a strong presence of uniformed Police officers on campus as stated in point (7), it would be difficult to provide a specific number of Police officers. It was therefore suggested that senior members of the Police and HKU would first meet and the Police could provide information on the security arrangements so as to facilitate the risk assessment.

65. The Deputy Chairman considered that the setting up of security zones for the protection of the personal safety of political dignitaries was necessary during their visits to Hong Kong. As provided in the Report, it was clear that there was no question of false imprisonment in the stairwell. While the Police claimed that appropriate force had been used to push the Three Students into the stairwell, it was not easy for members of the public to accept the Police's claim. The issue had not explicitly been addressed in the Review. From the perspective of the Police, given the possible provocation in the demonstrations, the better use of audio-visual equipment would certainly help to have a better control of discourse.

66. The Deputy Chairman remarked that there was insufficient preparation on the part of HKU prior to the incident and there were inadequacies in handling the matter in the process that followed. Pointing out that the Vice-Chancellor was the academic leader of HKU and was heavily engaged in various matters, he considered that there should be a designated person to be responsible for the administration of security matters.

67. The Deputy Chairman considered while students had the right of freedom, such right was not unrestricted. Referring to the students' allegation against false imprisonment at the Panel meeting on 12 September 2011, the Deputy Chairman suggested that the students be requested to provide the relevant video clips on the incident so as to verify the allegation. Mr Paul TSE echoed the Deputy Chairman's views. Mr TSE believed that sooner or later the evidence needed to be presented publicly if legal proceedings were initiated by the Three Students.

68. In view of the possible legal proceedings to be initiated by the Three Students, the Chairman expressed reservations about requesting the students to provide their evidence for members' reference. He said that in the light of fairness, the Police might also be requested to provide relevant evidence.

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69. Mr Paul TSE said that while the Police had made some mistakes in the incident, HKU had greater responsibility in view of the inadequate preparation. It was regrettable that the former HKU Security Manager who was more experienced in handling security matters had left only weeks before the ceremony, leaving Mr Frankie LAW, who was less experienced, to take charge. Regarding the strength of HKU security team of 17 security guards per shift, Mr TSE considered it insufficient to handle the visits of international or national political dignitaries on HKU campus.

70. Referring to the observations of Mr David HODSON (a former Assistant Commissioner (Crime) of the Police and former Honorary Director of the HKU Centre for Criminology) as stated in the Report, Mr Paul TSE considered it important for HKU to note the difference between the practice of the Police as a disciplined force and that of HKU cherishing freedom on its campus. In his view, HKU did not have sufficient communication with the Police and understanding in this respect. It was therefore not solely the wrongdoing of the Police when executing the law on HKU campus.

71. Pointing out that different members had different views about the appropriateness for the Police to respond to the incident at Laguna City and to draw a preliminary conclusion on the incident in the stairwell, Mr Paul TSE asked whether under normal circumstances the Police would make comments on an incident when a relevant complaint had been received by CAPO and the rationale behind.

72. D/Ops responded that under normal circumstances, the Police would not make detailed comments on an incident if a complaint against police officer(s) involved had been received by CAPO. According to the police complaint system, the outcome of CAPO's investigations would be reviewed by IPCC and the preliminary investigation results would be endorsed by IPCC as appropriate.

73. Mr LEUNG Kwok-hung considered that the safety of the Vice-Premier had not been threatened by the Three Students and it was not necessary to protect the dignity and feelings of the Vice-Premier. He held the view that HKU should have stood firm when liaising with the Police in respect of the students' right of demonstration and upholding the core values of HKU. He enquired about the stance of HKU with respect to the appropriateness of the Police's security measures on HKU campus for the protection of the Vice-Premier.

74. Mr Lester HUANG responded that the core values and principles of HKU needed to be upheld. Also, regrets had been expressed in Chapter 8 of the Report regarding the unreasonable and unnecessary use of force by the

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Police. Regarding the overall arrangements, HKU should be the host when receiving the political dignitaries on its campus. Mr LEUNG Kwok-hung was of the view that in order to uphold HKU's core values, HKU should have not accepted the Police's security measures on the campus and should have reprimanded the Police for what it had done.

75. Referring to paragraph 5.14 of the Report, the Chairman sought clarification on the regulations governing the use of loudhailers on HKU campus. Mr Lester HUANG and Dr Albert CHAU replied that there was a university regulation specifying that it was necessary to apply for the use of loudhailers on campus during non-lunch hour and it should not affect the teaching activities. Dr CHAU confirmed that the students had used loudhailers during the demonstration at the Swire Bridge on 18 August 2011. The Chairman queried why the students' use of loudhailers was a concern as stated in the same paragraph of the Report.

76. ACP(SUP) clarified that she had not used the word "concern" when she provided her statement to the Review Panel but was trying to understand with HKU the regulation governing the use of loudhailers on HKU campus.

77. The Chairman stated that it would be difficult to see how the students' use of loudhailers was related to the personal safety of the Vice-Premier. He further raised query as to the necessity for the Police to understand the regulation concerned. ACP(SUP) replied that it was the Police's responsibility to understand the various university regulations governing the traffic, pedestrians and use of different equipment when planning the security operation on HKU campus. Also, the Police would provide assistance to HKU in various areas relating to the management of traffic and people and the public meetings and demonstrations on campus.

78. The Chairman held the view that the Police had tried to protect the feelings of the Vice-Premier rather than his personal safety and therefore was concerned about the use of loudhailers on HKU campus.

(Members agreed to extend the meeting to 12:15 pm.)

Follow-up action to be taken

79. Referring to the findings of the Report and the discrepancies between HKU and the Police in respect of the use of unnecessary and unreasonable force on HKU campus and not following the agreement between the two parties, Ms Emily LAU expressed concern about the follow-up action to be taken by HKU.

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80. Dr Albert CHAU responded that a task force would be set up by HKU to follow up on the recommendations in the Report. Subject to the outcome of the legal proceedings to be initiated by the Three Students, HKU would take further action.

81. Ms Emily LAU was of the view that irrespective of the legal proceedings to be initiated by the Three Students, HKU should liaise with the Police to ensure that similar incidents would not recur. Dr Albert CHAU pointed out that HKU had already expressed clearly to the Police that the use of force in the incident was unacceptable. Arrangement of activities in future would be based on the recommendations of the Review Panel.

82. In his capacity as a member of HKU Council, Mr Lester HUANG added that the Council had accepted the Report and had advised the administration to set up a task force to follow up on the recommendations in the Report. It was understood that the setting up of such a task force was being processed. In future visits of the State leaders to HKU, HKU was committed to collaborate with the Police and make improvements to the security arrangements.

83. Mr Paul TSE sought information on the follow-up action to be taken by the Police in response to the findings of the Report that the Police had used force inappropriately. D/Ops said that follow-up action would be taken in accordance with the review conducted after the operation and reference would also be made to the Report. It was expected that improvement could be made in future if necessary.

84. In response to the enquiries of the Chairman about whether complaints against the Police's push of the Three Students into the stairwell and the false imprisonment of the Three Students had been received by CAPO, D/Ops replied in the negative. Being one of the Vice-chairmen of IPCC, Mr Abraham SHEK confirmed that no relevant complaints on these issues had been received by CAPO.

85. Mr Paul TSE and the Chairman held the view that the Police should be proactive to conduct investigation as appropriate in response to the Report of HKU on the unnecessary and unreasonable use of force by the Police. D/Ops replied that the Police had conducted an internal investigation to understand the incident. On the part of the relevant persons or other persons, they might choose either to lodge a complaint with CAPO or to initiate civil proceedings. It was understood that the Three Students had indicated on various occasions that they would initiate legal proceedings for false imprisonment in respect of the stairwell incident.

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86. Mr WONG Yuk-man was of the view that the Police's use of force should have legal basis. Referring to the tradition of freedom and core values of HKU, Mr WONG considered that the presence of hundreds of Police officers on HKU campus on 18 August 2011 was unacceptable and HKU should reflect on this. He also remarked that the Police should review the policing arrangements and admit having made mistakes. Consideration should be given to making improvements for similar operations in future.

87. US for S responded that the issues had been tackled in several ways. The Police had conducted a Review and the Review Panel of HKU had come up with their Report. Regarding the relevant complaints lodged with CAPO, they were handled impartially and independently in accordance with the procedures. It was understood that IPCC attached much importance to handling these complaints. During CAPO's investigations, IPCC Observers attended 97% of the interviews in relation to the complaints. The CAPO's investigations into the complaints were monitored and examined by the Serious Complaints Committee of IPCC. The Chairman of IPCC had indicated that a report on the review of the complaints would be made available as soon as possible. The Panel had also requested IPCC to release to the public and submit to the Legislative Council the report on the investigation of the complaints about the security arrangements by the Police upon its completion. It was believed when all these reports were available, the issues could be examined from different perspectives and considerations would be given to making improvements where necessary for similar operations in future.

88. Miss Serenade WOO reiterated the importance of media reporting, the role played by the media and the freedom of press. She considered that the Review only focussed on public relations. Referring to the overseas practice as stated in IFJ's submission, Miss WOO requested that the following be clearly specified in the Police's operational plan for execution of duties in future -

- (a) media reporting not to be hindered; and
- (b) the distance between the designated press areas and the political dignitaries or VIP.

89. D/Ops responded that the overall direction was to facilitate media reporting and the media would be arranged at a closer distance from the dignitaries. Yet, there might be difficulties in specifying in the operational plan that the media would have freedom to move around as there would be personal safety concern of the political dignitaries based on the risk assessment. The distance between the designated press areas and the political

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dignitaries would be subject to the location, area and the nature of events.

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90. At the request of the Chairman, the Administration agreed to provide an extract from the operation directive of the Police given to frontline officers in relation to the handling of media and facilitation on media reporting.

91. Mr Lester HUANG concluded that there were a number of recommendations in the Report with regard to different areas of concern for visits of dignitaries to HKU in future. The Council of HKU had urged the Vice-Chancellor to set up a task force to follow up on the recommendations. HKU would be committed to upholding its core values and principles and act as the bastion of freedom of expression.

92. In anticipation of the continued work to provide protection for political dignitaries during their visits to Hong Kong, US for S said that consideration would be given to the various suggestions about the procedures for making arrangements for the security operation and making improvements where necessary.

93. There being no other business, the meeting ended at 12:15 pm.

Council Business Division 2
Legislative Council Secretariat
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