

立法會
Legislative Council

LC Paper No. CB(2) 682/00-01
(These minutes have been seen by
the Administration)

Ref : CB2/PL/SE/1

LegCo Panel on Security

Minutes of meeting
held on Thursday, 7 December 2000 at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon LAU Kong-wah (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHEUNG Man-kwong
Hon Andrew WONG Wang-fat, JP
Hon Ambrose LAU Hon-chuen, JP
Hon IP Kwok-him, JP

Members attending : Hon SIN Chung-kai
Hon Henry WU King-cheong, BBS

Members absent : Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, JP
Hon Howard YOUNG, JP
Hon WONG Sing-chi

Public Officers attending : Item III
Miss CHEUNG Siu-hing
Deputy Secretary for Security (Special Duties)

Mr LEE Ka-chiu
Chief Assistant Secretary for Security F

Item IV

Mrs Jennie CHOK
Deputy Secretary for Security 2

Mr David WONG
Principal Assistant Secretary for Security B

Mr CHAN Chun-yan
Assistant Commissioner of Correctional Services

Mr William HUI
Civil Secretary
Correctional Services Department

Clerk in attendance : Mrs Sharon TONG
Chief Assistant Secretary (2)1

Staff in attendance : Mr Raymond LAM
Senior Assistant Secretary (2)5

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I. Confirmation of minutes of meetings held on 19 and 24 October 2000 and matters arising
(LC Paper Nos. CB(2) 389/00-01, CB(2) 391/00-01 and CB(2) 388/00-01(01))

The minutes of the meeting held on 19 October 2000 and special meeting held on 24 October 2000 were confirmed.

List of follow-up actions required of the Administration

2. Members noted the list of follow-up actions required of the Administration.

II. Dates of subsequent meetings and items for discussion
(LC Paper No. CB(2) 388/00-01(02))

3. Members agreed that the next regular meeting be rescheduled for 18 January 2001 at 10:45 am to discuss the following items -

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- (a) Crime situation in 2000;
- (b) Progress of the Hong Kong Special Administrative Region (HKSAR) Identity Card Project; and
- (c) Retention of two directorate supernumerary posts for secondment to the Aviation Security Company Limited.

4. Members also agreed that the regular meeting in February 2001 be rescheduled for 8 February 2001 at 2:30 pm. Mr James TO said that the Justice and Home Council of the European Union (EU) had recently agreed in principle to grant visa-free access to HKSAR passport holders. He suggested that the visa-free arrangements and the timetable for implementing the EU Council's decision be discussed at the meeting in February 2001. Members agreed.

5. Members agreed that the Administration be requested to provide information papers on the following items before deciding whether the items should be discussed by the Panel -

- (a) progress of establishing an arrangement with the Mainland on surrender of fugitive offenders; and
- (b) the Administration's efforts to enhance travel convenience for visitors to come to Hong Kong.

On item (b), Mrs Selina CHOW suggested that the Administration be requested to include in the paper a comparison of the lead time required for processing applications for various types of entry visas with that of the previous year.

(Post-meeting note : The information papers provided by the Administration were issued to members vide LC Paper Nos. CB(2) 688/00-01 and CB(2) 703/00-01 on 15 January 2001.)

III. Interdepartmental Working Group on Computer Related Crime : Follow up

(Report of Interdepartmental Working Group on Computer Related Crime and LegCo Brief Ref. : SBCR 14/3231/88 Pt.14)

6. At the invitation of the Chairman, Deputy Secretary for Security (Special Duties) (DS for S(SD)) briefed Members on the Report of the Interdepartmental Working Group on Computer Related Crime (the Report).

Jurisdictional problem

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7. Referring to paragraph 8.30 of the Report, Mr CHEUNG Man-kwong asked whether existing legislation was adequate for dealing with the problems of copyright infringing articles, illegal gambling and pornographic materials transmitted through the Internet. He expressed concern about the jurisdictional problem in respect of the removal of offending materials or web sites. He said that some activities which were illegal in Hong Kong, such as gambling on football matches, might not be illegal in some other countries. He asked how the problem would be addressed by the Administration.

8. DS for S(SD) said that as these offences could also be committed through other means besides the Internet, they should be dealt with under the relevant policy context by the respective policy bureaux concerned. As an example, she cited the consultation paper entitled "Protection of Youth from Obscene and Indecent Materials : 2000 Review of the Control of Obscene and Indecent Articles Ordinance(COIAO)" — COIAO was applicable to electronic publications, and 10 out of 12 prosecutions under COIAO between January 1996 and April 2000 against electronic publications had been successful. She said that the Working Group had indeed considered the possibility of amending the offences covered by the Criminal Jurisdiction Ordinance (Cap. 461) (CJO) to all offences triable on indictment. As this might also change the jurisdictional rules regarding non-computer related offences, the Working Group recommended that consideration should be given to conducting a thorough in-depth study of the subject of jurisdictional rules in general. She pointed out that the Working Group had also recommended bringing some individual computer-related offences to be covered by CJO. As regards the removal of offending materials or web sites, she said that the Working Group had suggested that reference could be made to legislation related to copyright in the United States (US) in the formulation of take-down procedures.

Approach for implementation of recommendations

9. Mr SIN Chung-kai expressed support for the Administration's study of legislative and administrative measures against computer-related crime. He considered that non-controversial recommendations of the Working Group, such as better defining the term "computer", should be implemented as soon as possible while more controversial recommendations could be further studied. DS for S(SD) said that it was the Administration's intention to implement the recommendations in phases. However, the Administration considered it more appropriate to consult the public on the Report as a whole because it outlined a framework. Depending on the feedback received during the consultation exercise, the priority for implementing the recommendations would be decided. Mr SIN suggested that the Administration should classify the recommendations as short-term, medium-term and long-term ones to facilitate studying of the recommendations of the Working Group.

Consultation period

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10. Mr SIN Chung-kai considered that the consultation period of two months for the recommendations of the Working Group was too short. He suggested that it should be extended by one month to allow more time for studying the Report. Mr Henry WU shared the same view. DS for S(SD) responded that if there was a consensus among members on the consultation period, she saw no objection to extending the consultation period to three months.

Protection of critical infrastructures from cyber attacks

11. On the protection of critical infrastructures from cyber attacks, Mr James TO said that paragraphs 9.15 and 9.17 of the Report reflected that the Working Group seemed to have no knowledge about the existing situation regarding the protection of infrastructures against cyber attacks. He considered that the Police, which was also represented in the Working Group, should have been following the matter closely and aware of the existing situation. He asked whether the Working Group had contacted individual organisations to understand their plans for protection of critical infrastructures against cyber attacks.

12. DS for S(SD) responded that the Working Group had not carried out an in-depth study of the security of critical infrastructures. However, informal enquiries made by the Working Group indicated that there were contingency plans for most critical infrastructures, although there was currently no mechanism for the coordination of these plans. She said that there was not even an agreed list of critical infrastructures in Hong Kong. She added that the protection of critical infrastructure was a huge task. In US, the Commission on Critical Infrastructure Protection, which had over 60 supporting staff, took 16 months to complete its report. Referring to paragraph 9.18 of the Report, she pointed out that the Working Group recommended the establishment of a standing central coordinating mechanism to protect critical infrastructures from cyber attacks.

13. In response to Mr James TO's comment that there seemed to be no recommendation in the Report for the establishment of a committee to oversee the protection of critical infrastructures, DS for S(SD) said that the Administration was inclined to tackling the issue through existing mechanisms where feasible. A possibility was to assign the task to the subcommittee or task force that the Working Group had recommended to be established under the Fight Crime Committee (FCC). The detailed arrangements would be worked out after the overall institutional framework for addressing computer-related crime had been finalized.

Computer-related commercial crime

14. Mr Henry WU said that there was a lack of reference to computer-related commercial crime in the Report. DS for S(SD) said that a breakdown of reported cases of computer crime could be found in paragraph 1.2 of the Report.

15. Mr Henry WU said that with the development of trading of securities on the Internet, the Administration should put more effort in the prevention of computer-

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related crime in respect of such trading.

International co-operation against computer-related crime

16. In response to Mr Henry WU's question about whether there were international organizations promoting the adoption of common standards and goals in combating computer-related crime, DS for S(SD) said that there was currently no international organization established for such a purpose. However, various organizations, such as the Council of Europe which was preparing a Draft Convention on Cyber Crime, was working in this direction. She added that the establishment of an international contact point system among the law enforcement agencies of different countries would much facilitate combating computer-related crime. In response to Mrs Selina CHOW's question about the adequacy of the existing contact point system, DS for S(SD) said that a comprehensive international contact point system was not yet in place. The Administration would seriously consider participating in such a system when it was established.

Consultation

17. Miss Margaret NG asked whether consultation had been made by the Working Group in the discussion process. She also asked whether consultation had been made in respect of the proposed compulsory disclosure of the decryption tools or decrypted text of encoded computer records, as referred to in paragraph 8(g) of the LegCo Brief. DS for S(SD) said that the Working Group had not conducted formal public consultation in its discussion process. Since the commencement of the consultation exercise in the afternoon of 1 December 2000, no submission had been received, although there were one to two comments in newspapers.

18. Mr Henry WU declared interest as the Chairman of the Eastern District FCC. He asked whether the Administration would brief district FCCs on the recommendations in the Report. DS for S(SD) responded that a briefing had been scheduled for the chairmen of district FCCs on 22 December 2000.

Compulsory disclosure of decryption tools or decrypted text

19. Miss Margaret NG questioned whether it was proper to make it compulsory for a person to disclose decryption tools or decrypted text. DS for S(SD) said that the Working Group had considered other options, for example, depositing the decryption tools or decrypted text with an independent body but noted that privacy issues might arise from such an arrangement. She stressed that the requirement would only apply to more serious offences. Judicial authorization would also be needed for compulsory disclosure. She added that in the United Kingdom, judicial authorization was not a must and the involvement in a serious offence was not required for compulsory disclosure. Miss NG considered that the issue was related to an individual's fundamental right, rather than a person's privacy.

Other issues

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20. Mr SIN Chung-kai said that the term "Internet Service Providers" was too narrow. It should be amended as "On-line Service Providers", as in US. DS for S(SD) undertook to consider the suggestion.

21. Referring to paragraph 14.2 of the Report, Mr SIN Chung-kai said that while the Administration had quoted the Draft Convention on Cyber Crime issued by the Council of Europe in April 2000, it had not pointed out that a further document issued by the Council of Europe in October 2000 revealed that about 30 organizations were opposed to the Draft Convention. DS for S(SD) explained that the Report was completed in September 2000, which was before the issue of the October version of the Draft Convention. She added that a further version was released by the Council of Europe in November 2000. She stressed that the Draft Convention only served as a reference for the Working Group.

22. Mrs Selina CHOW considered it important to educate the public on the prevention of computer-related crime. She asked about the resources allocated for the prevention of computer-related crime and the adequacy of Police manpower in combating computer-related crime. DS for S(SD) said that she had no information on hand about the amount of resource allocated. Such resource was also very difficult to quantify. She acknowledged that the adequacy of manpower resource was difficult to assess in view of the rapidly changing situation regarding computer crime. Nonetheless, should there be a need for additional manpower, requests would be submitted in the normal manner. She stressed that the prevention of computer-related crime was a key recommendation of the Report.

23. In response to Mrs Selina CHOW's question about the participation of the private sector in the prevention of computer-related crime, DS for S(SD) said that there was currently no standing mechanism for such participation. She informed Members that consideration was being given to putting more effort in this respect.

24. Miss Margaret NG commented that the Report was very technical in nature. She suggested that the legal profession and relevant industries should be invited to give their views on the subject. Members agreed that a special meeting be held on 10 February 2001 from 9:00 am to 12:00 noon to receive public views on the Report. They also agreed that all other LegCo Members would be invited to the meeting.

IV. Prison development programme
(LC Paper No. CB(2) 388/00-01(03))

25. Members noted the Administration's presentation on the prison development programme, particularly the concept of co-location of prison institutions in a large

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prison complex. Deputy Secretary for Security 2 (DS for S2) briefed Members on the Administration's paper and said that the new prison complex might comprise four clusters of different penal institutions, such as reception centres, drug addiction treatment centres and prisons. Each cluster would have its own perimeter wall. The penal institutions within a cluster would be completely separated from each other. They would continue to be operated separately under the respective legislation concerned. The Correctional Services Department would continue to allocate different types of inmates to penal institutions of different levels of security. She assured Members that due consideration would be given to the security of the new prison complex. Assistant Commissioner of Correctional Services added that an existing example of co-location of penal institutions could be found in Stanley, where the Stanley Prison, Tung Tau Correctional Institution and Pak Sha Wan Correctional Institution had been operating in the vicinity of each other without problems for many years. The proposed prison complex was only a further development in this direction.

26. Mr Albert HO pointed out that the development of penal institutions should facilitate the provision of the best opportunity for inmates to rehabilitate and receive correctional services. He considered it inappropriate to develop a large prison complex, which would facilitate better management and deployment of resources rather than the rehabilitation of inmates. DS for S2 stressed that a large, new prison complex would also bring about improvements in rehabilitation service, as modern facilities in the complex would make it more effective and efficient to run rehabilitation programmes.

27. In response to Mr Andrew WONG's question about whether large prison complexes were found in other places, DS for S2 said that the Changi Prison Complex in Singapore, which was scheduled for completion in 2008, would provide more penal places than the large prison complex proposed for Hong Kong. She added that large prison complexes could also be found in Shenzhen on the Mainland, New South Wales of Australia and near New York in US.

28. Mrs Selina CHOW said that the co-location of penal institutions, which should bring about better security, might not be undesirable. The key question was whether a sufficiently large site for constructing a large prison complex could be identified. DS for S2 said that the Administration should be able to identify such a site.

29. Mr James TO expressed grave reservations about the development of a large prison complex. He said that the maintenance cost for such a complex would be very high. He considered it more appropriate for some small penal institutions to be grouped together to form medium-sized penal complexes.

30. The Chairman expressed reservations about the development of a large prison complex. He said that a large prison complex might create management difficulties. In the event of a riot, the situation might quickly become uncontrollable, thus resulting in a disaster. He considered that medium-sized penal complexes were preferred to a large prison complex, and some of the existing penal institutions with more modern facilities could be retained. He suggested that the Administration should reconsider

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the issue and come up with other alternatives for further consultation.

31. DS for S2 said that if Members were not adverse to the concept of co-location of penal institutions, the idea would be further pursued with the identification of suitable site(s). She assured Members that they would be further consulted.

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32. The Chairman requested the Administration to provide a written response to the question of riot as referred to in paragraph 30 above.

V. Review of paramedic ambulance service

33. Owing to time constraint, members agreed that discussion of the item be deferred to the next meeting to be held on 18 January 2001.

34. The meeting ended at 4:50 pm.

Legislative Council Secretariat

15 January 2001