

立法會
Legislative Council

LC Paper No. CB(2)2115/02-03

(These minutes have been
seen by the Administration)

Ref : CB2/BC/7/01

**Bills Committee on
Prevention of Child Pornography Bill**

**Minutes of meeting
held on Tuesday, 30 April 2003 at 10:45 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Andrew CHENG Kar-foo (Chairman)
Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Eric LI Ka-cheung, JP
Hon Margaret NG
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai
Hon YEUNG Yiu-chung, BBS
Hon CHOY So-yuk
Hon Henry WU King-cheong, BBS, JP
Hon MA Fung-kwok, JP
- Members absent** : Hon CHEUNG Man-kwong
Hon Miriam LAU Kin-ye, JP
Hon Michael MAK Kwok-fung
Hon WONG Sing-chi
Hon Audrey EU Yuet-mee, SC, JP
- Public Officers attending** : Miss Eliza YAU
Principal Assistant Secretary for Security E

Miss Vivian CHAN
Assistant Secretary for Security E3

Miss Betty CHEUNG
Senior Government Counsel
Department of Justice (Law Drafting Division)

Ms Lynda SHINE
Senior Government Counsel
Department of Justice (Prosecutions Division)

Mr Ian Robert MACKNESS
Chief Superintendent (Crime) (Support)
Hong Kong Police Force

Miss Shirley CHU
Superintendent (Crime) (Support)
Hong Kong Police Force

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

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mr Raymond LAM
Senior Assistant Secretary (2)5

I. Meeting with the Administration

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration to provide a response on the suggestion of incorporating in the Bill an express provision that the Police should maintain the confidentiality of information on a case of possession of child pornography until prosecution was instituted.

3. The Bills Committee requested the legal adviser to the Bills Committee to prepare the respective sets of draft Committee Stage amendments (CSAs) to reflect the following scenarios -

- (a) in respect of the "passive possession" of unsolicited child pornography received by means of electronic transmission, to provide that the defendant's knowledge of the exact nature of the thing in possession was to be proved by the prosecution;

- (b) retaining clause 3(3) of the Bill but removing as far as practicable the objective standard in clause 4 relating to a charge under clause 3(3); and
- (c) adding the element of "knowingly" in clause 3(3) and adjusting the relevant defences in clause 4 accordingly.

4. The Chairman suggested that the Bills Committee should come to a decision at the next meeting on whether to accept the Administration's proposed CSAs or move its own CSAs regarding provisions relating to the possession of child pornography.

II. Dates of subsequent meetings

5. The Bills Committee agreed that the next two meetings would be held on 29 May 2003 at 10:45 am and 5 June 2003 at 10:45 am to continue discussion with the Administration.

6. The meeting ended at 12:45 pm.

Council Business Division 2
Legislative Council Secretariat
19 May 2003

**Proceedings of the meeting of the Bills Committee on
Prevention of Child Pornography Bill
on Wednesday, 30 April 2003 at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000134	Chairman	Opening remarks	
000135-002139	Admin	Briefing on the Administration's paper entitled "Administration's response to issues raised at the meeting on 2 April 2003" (LC Paper No. CB(2) 1862/02-03(01))	
002140-002317	Hon David CHU Hon YEUNG Yiu-chung	Support for the Administration's position of not adding the element of "knowingly" to the offence provisions relating to possession of child pornography	
002318-005057	Hon Eric LI Admin ALA4	Drawbacks of not adding the element of "knowingly" to the offence provisions relating to possession of child pornography; whether there were offence provisions without the element of "knowingly" for possession in other local legislation	
005058-010043	Hon SIN Chung-kai Admin	Possibility of abuse of power of Police officers; incorporating in the Bill an express provision that the Police should maintain the confidentiality of information on a case of possession of child pornography until prosecution was instituted	Admin to provide a response on the suggestion of incorporating in the Bill an express provision that the Police should maintain the confidentiality of information on a case of possession of child pornography until prosecution was instituted
010044-010953	Hon Margaret NG Chairman	Adding the element of knowingly in clause 3(3) or retaining the clause but removing as far as practicable the objective standard in clause 4 relating to a charge under clause 3(3)	
010954-012157	Hon Eric LI Admin Hon SIN Chung-kai	Issues related to "passive possession" of child pornography, such as those received by means of electronic transmission	

012158-012439	Hon Cyd HO Chairman	Whether Committee Stage amendments (CSAs) should be moved in the name of the Bills Committee	
012440-013301	Hon Mrs Sophie LEUNG Admin	Whether there should be an express provision on the scenarios exempted from the offence provision on possession of child pornography	
013302-013516	Chairman Hon Mrs Sophie LEUNG	Whether CSAs should be moved in the name of the Bills Committee	
013517-014156	Hon Cyd HO Hon Eric LI Hon SIN Chung-kai Chairman ALA4 Admin	Preparation by the legal adviser to the Bills Committee of the respective sets of CSAs to reflect the scenarios referred to by members; suggestion that the Bills Committee should come to a decision at the next meeting on whether to accept the Administration's proposed CSAs or move its own CSAs regarding provisions relating to the possession of child pornography	ALA4 to draft the CSAs
014157-014318	Admin Chairman Hon Cyd HO	Administration's proposed amendments to clause 2(2)	
014319-014454	Hon Cyd HO Admin	Administration's position on the draft CSAs to be prepared by the legal adviser to the Bills Committee	
014455-014711	Chairman Hon Eric LI Hon Cyd HO Admin	Dates of subsequent meetings	