

立法會
Legislative Council

LC Paper No. CB(2)2507/02-03

(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 Thursday, 29 May 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 CHEUNG Man-kwong
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai
Hon YEUNG Yiu-chung, BBS
Hon Miriam LAU Kin-ye, JP
Hon CHOY So-yuk
Hon Henry WU King-cheong, BBS, JP
Hon Michael MAK Kwok-fung
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

Members absent : Hon WONG Sing-chi

Public Officers attending : Miss Eliza YAU
Principal Assistant Secretary for Security E

Miss Vivian CHAN
Assistant Secretary for Security E3

Mr John HUNTER
Deputy Principal Government Counsel
Department of Justice (International Law Division)

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

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

Mr Armond CHAN
Senior Superintendent (Crime) (Support)
Hong Kong Police Force

Mr Patrick LAM
Superintendent (Technology Crime Division)
Hong Kong Police Force

Mr Hilton CHAN
Superintendent
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

Mrs Eleanor CHOW
Senior Assistant Secretary (2)4

I. Meeting with the Administration

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

2. In response to the Bills Committee's request at the last meeting, the legal adviser to the Bills Committee had prepared three 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 (Model 1);

- (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) (Model 2); and
- (c) adding the element of "knowingly" in clause 3(3) and adjusting the relevant defences in clause 4 accordingly (Model 3).

3. The Bills Committee agreed that the draft CSAs in Model 2 be adopted. The Bills Committee requested the Administration to consider taking up the draft CSAs and the following suggestions -

- (a) deleting clause 4(1)(a);
- (b) whether to use the word "endeavoured" or "believed" in clause 4(1)(b);
- (c) deleting the expression "on reasonable grounds" from clause 4(2);
- (d) deleting the word "himself" from clause 4(5) and (5A);
- (e) whether to replace the word "suspect" with "believe" in clause 4(5A); and
- (f) reviewing the order of the defence provisions in clause 4.

4. The Bills Committee agreed that the Administration's response to the submission from the Law Society of Hong Kong dated 5 May 2003 be forwarded to the Law Society.

II. Dates of next meeting

5. The next meeting would be held on 5 June 2003 at 10:45 am to continue discussion with the Administration.

6. The meeting ended at 12:50 pm.

**Proceedings of the meeting of the Bills Committee on
Prevention of Child Pornography Bill
on Thursday, 29 May 2003 at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000145	Chairman	Opening remarks	
000146-000911	ALA4	Briefing on the three sets of draft Committee Stage amendments (CSAs) prepared by ALA4 concerning the offence of possession of child pornography (LC Paper LS 119/02-03)	
000912-002411	Chairman, Admin	Administration's response to the three sets of CSAs drafted by ALA4 (paragraphs 9-31 of LC Paper CB(2) 2215/02-03 (01))	
002412-004334	Chairman, Hon Miriam LAU, Hon Audrey EU, Hon Cyd HO and Hon Eric LI	Support for Model 2 of the three sets of CSAs. Drafting of clause 4(1) and (2) in Model 2	
004335-005807	Chairman, Admin, Hon Miriam LAU, Hon SIN Chung-kai, Hon MA Fung-kwok, Hon Audrey EU and Hon Cyd HO	Drafting of clause 4(1) and (2) in Model 2 Whether to delete clause 4(1)(a). Whether to use the word "endeavoured" or "believed" in clause 4(1)(b). Whether to delete the expression "on reasonable grounds" from clause 4(2)	
005808-010111	Admin	Deletion of clause 4(1)(a)	Admin to follow up
010112-011549	Chairman, ALA4, Hon Miriam LAU Admin, Hon Audrey EU, Hon SIN Chung-kai and Hon Michael MAK	Drafting of clause 4(1) and (2) in Model 2 Suggestion to use the word "believed" in clause 4(1)(b) Suggestion to delete the expression "on reasonable grounds" from clause 4(2) Request for the Administration to take up the draft CSAs in Model 2, and to consider whether the word "endeavoured" or "believed" should be used in clause 4(1)(b), and deleting the expression "on reasonable grounds" in clause 4(2)	Admin to consider and provide a response

Time marker	Speaker	Subject(s)	Action Required
011550-012210	ALA4, Hon Miriam LAU, Chairman, Admin and Hon Audrey EU	Drafting of clause 4(5) and (5A) in Model 2 Whether to delete the word "himself" from clause 4(5) and (5A) Whether to replace the word "suspect" with "believe" in clause 4(5A) Order of the defence provisions in clause 4 of the draft CSAs	Admin to consider the drafting of clause 4(5) and (5A) and the order of the defence provisions in clause 4 of the draft CSAs
012211-012555	Admin	Administration's response to members' suggestion to include an express provision to ensure that the Police should maintain the confidentiality of information of persons being investigated (paragraphs 1-8 of LC Paper CB(2) 2215/02-03 (01))	
012556-013357	Chairman and Admin	Administration's response to submission by the Law Society of Hong Kong dated 5 May 2003 (LC Paper No. CB(2) 2215/02-03(02))	
013358-013502	Hon Cyd HO, Chairman	Provision of the Administration's response to the Law Society of Hong Kong	Clerk to follow up
013503-013649	Hon Audrey EU	Support for Administration's position to criminalize possession of child pornography	
013650-020123	Hon SIN Chung-kai, Admin, Chairman, Hon Cyd HO and Hon Miriam LAU	Extra-territorial effect of offences listed under Schedule 2	
020124-020218	Chairman	Date of next meeting	