

**立法會**  
**Legislative Council**

LC Paper No. CB(2) 2314/01-02  
(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 Monday, 3 June 2002 at 2:30 pm  
in Conference Room A 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 Margaret NG  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon SIN Chung-kai  
Hon Miriam LAU Kin-yee, JP  
Hon CHOY So-yuk  
Hon Henry WU King-cheong, BBS  
Hon Michael MAK Kwok-fung  
Hon Audrey EU Yuet-mee, SC, JP  
Hon MA Fung-kwok

**Members absent** : Hon Eric LI Ka-cheung, JP  
Hon CHEUNG Man-kwong  
Hon YEUNG Yiu-chung, BBS  
Hon WONG Sing-chi

**Public Officers attending** : Miss Eliza YAU  
Principal Assistant Secretary for Security E  
  
Mr Rick CHAN  
Assistant Secretary for Security E3

Miss Betty CHEUNG  
Senior Government Counsel  
Department of Justice

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

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**I. Confirmation of minutes of meeting held on 3 May 2002**

The minutes of the meeting held on 3 May 2002 were confirmed.

**II. Meeting with the Administration**

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).
3. The Bills Committee requested the Administration to provide a written response on the following -
  - (a) To consider whether artistic merit defence should be provided for the production of child pornography within the territory of Hong Kong;
  - (b) To explain whether references to residency status was generally found in provisions on extraterritorial effect in other local legislation, and to explain why reference to residency status was made in clause 16 of the Bill instead of reference to nationality;
  - (c) To consider amending "appears to be" in the definition of child

pornography, having regard to views expressed by members and deputations; and

- (d) To explain the reasons for adopting a two-tier definition for pornographic depiction involving children, and the problems that might arise if a two-tier definition was not adopted.

4. The Administration undertook -

- (a) To provide its response to outstanding issues raised at the meetings on 3 and 17 May 2002; and
- (b) To demonstrate how mainstream movies were unlikely to be affected by the Bill. Subject to clarification regarding the Administration's copyright concern, relevant scenes of the following movies might be shown at a Bills Committee meeting :
  - (i) Lolita;
  - (ii) Traffic;
  - (iii) Blue Lagoon;
  - (iv) American Beauty;
  - (v) Jan Dara; and
  - (vi) Fat Girl.

**III. Date of next meeting**

5. The Bills Committee agreed that the next meeting would be held on Thursday, 20 June 2002 at 10:45 am to continue discussion with the Administration.

6. The meeting ended at 4:10 pm.

Council Business Division 2  
Legislative Council Secretariat  
17 June 2002

**Bills Committee on Prevention of Child Pornography Bill  
Meeting on Monday, 3 June 2002 at 2:30 pm  
in Conference Room A of the Legislative Council Building**

<b>Time</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
000000 - 000215	Chairman	Confirmation of minutes of meeting on 3 May 2002 and relevant papers	
000215 - 000819	Administration	Briefing on the Administration's paper on "defence of artistic merit" (LC Paper No. CB(2) 1982/01-02(02))	
000819 - 000839	Chairman	Invitation of questions from members	
000839 - 000958	Miss Cyd HO Sau-lan	Need for artistic merit defence	
000958 - 001121	Administration	- Ditto -	
001121 - 001132	Miss Cyd HO Sau-lan	Issue of whether artistic merit defence should be provided for the production of child pornography within the territory of Hong Kong	
001132 - 001248	Administration	- Ditto -	
001248 - 001259	Miss Cyd HO Sau-lan	- Ditto -	
001259 - 001347	Administration	- Ditto -	
001347 - 001416	Miss Cyd HO Sau-lan	- Ditto -	
001416 - 001523	Administration	- Ditto -	
001523 - 001608	Miss Cyd HO Sau-lan	- Ditto -	√ The Administration was requested to consider whether artistic merit defence should be provided for the production of child pornography within the territory of Hong Kong
001608 - 001654	Mr Michael MAK Kwok-fung	Assessment of whether an article or film had artistic merit	
001654 - 001612	Administration	- Ditto -	
001912 - 002042	Mr Michael MAK Kwok-fung	- Ditto -	
002042 - 002248	Administration	- Ditto -	
002248 - 002450	Miss Margaret NG	Reference to residency status in provisions relating to extraterritorial effect in the Bill	
002450 - 002550	Administration	- Ditto -	
002550 - 002703	Miss Margaret NG	- Ditto -	

002703 - 002717	Chairman	- Ditto -	√ The Administration was requested to explain whether references to residency status was generally found in provisions on extraterritorial effect in other local legislation, and to explain why reference to residency status was made in clause 16 of the Bill instead of reference to nationality
002717 - 003528	Administration	Briefing on the Administration's paper on the concept of "appears to be under the age of 16" (LC Paper No. CB(2) 1982/01-02(03))	
003528 - 003712	Miss Margaret NG	Views of the Hong Kong Bar Association and The Law Society of Hong Kong on the concept of "appears to be", judgment relating to child pornography handed down by the Supreme Court of the United States, Administration's paper on "Proposed statutory defence in relation to age of person pornographically depicted: clause 4(5)(a) and (b)" and Administration's response on issues relating to the possession of child pornography	
003712 - 003824	Chairman	Administration's response to outstanding issues raised at previous meetings	
003824 - 003920	Administration	- Ditto -	
003920 - 004210	Administration	Judgment relating to child pornography handed down by the Supreme Court of the United States	
004210 - 004243	Chairman	Provision of the Administration's paper on the judgment relating to child pornography handed down by the Supreme Court of the United States	
004243 - 004321	Administration	- Ditto -	
004321 - 004341	Miss Margaret NG	Provision of the Administration's response on possession of child pornography	
004341 - 004405	Chairman	Discussion of the Administration's paper on "Proposed statutory defence in relation to age of person pornographically depicted: clause 4(5)(a) and (b)" at the meeting on 3 May 2002	
004405 - 004456	Miss Margaret NG	Provision of the Administration's response on possession of child pornography	
004456 - 004510	Chairman, Administration	- Ditto -	
004510 - 004716	Ms Miriam LAU Kin- yee, JP	Paragraphs 6 and 10 of the Administration's paper on "appears to be under the age of 16" and issue of whether definition of child pornography in the Bill reflected the legislative intent	
004716 - 004851	Administration	- Ditto -	
004851 - 004905	Chairman	- Ditto -	
004905 -	Administration	- Ditto -	√

005001			The Administration was requested to consider amending "appears to be" in the definition of child pornography, having regard to views expressed by members and deputations
005001 - 005117	Ms Miriam LAU Kin-ye, JP	Provisions encompassing the concept of "appears to be" in relevant legislation of other jurisdictions	
005117 - 005248	Administration	- Ditto -	
005248 - 005404	Chairman	- Ditto -	
005404 - 005531	Administration	- Ditto -	
005531 - 005817	Ms Audrey EU Yuet-mee, SC, JP	Legislative intent on the age of children to be protected	
005817 - 005943	Administration	- Ditto -	
005943 - 010530	Administration	Exhibition of the scenes of six movies which might fall into the definition of child pornography	
010530 - 010736	Ms Miriam LAU Kin-ye, JP	Legislative intent on the age of children to be protected	
010736 - 010831	Chairman	Exhibition of the scenes of six movies which might fall into the definition of child pornography	
010831 - 011025	Administration, Mr SIN Chung-kai, Chairman	- Ditto -	
011025 - 011041	Miss Cyd HO Sau-lan	Question of whether child pornography seized by the Police were produced in Hong Kong	
011041 - 011141	Administration	- Ditto -	
011141 - 011146	Chairman	Recent cases of seizure of child pornography	
011146 - 011249	Administration	- Ditto -	
011249 - 011316	Miss Cyd HO Sau-lan	Enforcement against child pornography under existing legislation	
011316 - 011406	Administration	Difficulties in enforcement against child pornography under existing legislation	
011406 - 011421	Miss Cyd HO Sau-lan	Provision of further information on the cases of seizure of child pornography	
011421 - 011539	Administration	- Ditto -	
011540 - 011655	Chairman	Administration's response to letter dated 14 March 2002 from the Assistant Legal Adviser and the Administration's response to other issues raised by members	
011655 - 012701	Administration	Provision of the Administration's response to other issues raised by members and briefing on the Administration's response (LC Paper No. CB(2) 1982/01-02(04)) to the points raised in the submission from Against Child Abuse Limited	
012701 -	Chairman	Proposed two-tier definition of pornographic	

012809		depiction involving children	
012809 - 013113	Administration	- Ditto -	
013113 - 013315	Chairman	- Ditto -	√ The Administration undertook to demonstrate how mainstream movies were unlikely to be affected by the Bill. Subject to clarification regarding the Administration's copyright concern, relevant scenes of six movies might be shown at a Bills Committee meeting. The Administration was also requested to explain the reasons for adopting a two-tier definition for pornographic depiction involving children, and the problems that might arise if a two-tier definition was not adopted.
013315 - 013338	Chairman	Provision of the Administration's response to issues raised at previous meetings	
013338 - 013404	Administration, Chairman	- Ditto -	√ The Administration undertook to provide its response to outstanding issues raised at the meetings on 3 and 17 May 2002
013404 - 013530	Chairman	Date of next meeting	

**Note : The audio records of the above proceedings are kept at the LegCo Library**

Council Business 2  
Legislative Council Secretariat  
 17 June 2002