

**立法會**  
**Legislative Council**

Ref : CB2/BC/7/01

LC Paper No. CB(2) 458/02-03  
(These minutes have been seen by  
the Administration)

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

**Minutes of meeting  
held on Friday, 8 November 2002 at 8:30 am  
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 Eric LI Ka-cheung, JP  
Hon Margaret NG  
Hon CHEUNG Man-kwong  
Hon Miriam LAU Kin-yea, JP  
Hon WONG Sing-chi  
Hon MA Fung-kwok, JP

**Members absent** : 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 Michael MAK Kwok-fung  
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 M A 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

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## **I. Meeting with the Administration**

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

2. The Bills Committee requested the Administration -

- (a) To provide the draft amendment to the term "establish" in the defence provisions relating to the offence of possession of child pornography;
- (b) To reconsider the justification for placing the evidential burden on the defendant, especially for simple possession offence, to establish a defence under clause 4(2) or (3) and provide the draft amendments, if any; and
- (c) To provide its latest position in respect of the major suggestions and issues raised by members at meetings of the Bills Committee.

3. In connection with paragraph 2(c) above, the Bills Committee agreed that the Clerk would, in consultation with the Chairman and the legal adviser to the Bills Committee, draw up a list of major suggestions and issues raised by members at meetings of the Bills Committee for circulation to members and the Administration.

4. The Administration agreed to improve the drafting of clause 4(5) and provide the draft amendments.

## **II. Date of next meeting**

5. The Bills Committee agreed that the next meeting would be held on Friday, 29 November 2002 at 4:00 pm to continue discussion with the Administration.

6. The meeting ended at 10:05 am.

Council Business Division 2  
Legislative Council Secretariat  
25 November 2002

**Proceedings of the meeting of the Bills Committee on  
Prevention of Child Pornography Bill  
on Friday, 8 November 2002 at 8:30 am  
in Conference Room A of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
000000 - 000804	Chairman Hon David CHU Hon Margaret NG	Date of next meeting and relevant papers	
000805 - 000842	Admin	Briefing on the Administration's paper entitled "Knowingly" (LC Paper No. CB(2) 58/02-03(01))	
000843 - 001236	Admin Chairman Hon CHEUNG Man-kwong	Visit to Hong Kong Police Computer Forensics Laboratory	
001237 - 001933	Admin	Briefing on the Administration's paper entitled "Knowingly" (LC Paper No. CB(2) 58/02-03(01)) and "The Judgement of R v. Land" (LC Paper No. CB(2)299/02-03(01))	
001934 - 002005	Chairman Admin	The Administration's proposed refinement to the term "establish" in the defence provisions of the Bill (paragraph 19 of LC Paper No. CB(2) 58/02-03(01))	<b>Admin to provide the draft amendment to the term "establish" in the defence provisions relating to the offence of possession of child pornography</b>
002006 - 002859	ALA4 Admin Hon CHEUNG Man-kwong	Mental element of "possession" (paragraph 7 of LC Paper No. CB(2) 58/02-03(01))	
002900 - 005434	Hon CHEUNG Man-kwong Hon Cyd HO Hon MA Fung- kwok ALA4 Admin	Possession of an article or materials downloaded from the Internet in which a person being pornographically depicted appeared to be a child, defence provisions in clause 4(2) and (3), and possibility of criminalising innocent people	<b>Admin to reconsider the justification for placing the evidential burden on the defendant, especially for simple possession offence, to establish a defence under clause 4(2) or (3) and provide the draft amendments, if any</b>

005435 - 010324	Hon Margaret NG Chairman Admin	Drafting of clause 4(5)	<b>Admin to improve the drafting of clause 4(5) and provide the draft amendments</b>
010325 - 011429	Hon Miriam LAU Chairman Admin	Defence for different types of possession of child pornography and evidential burden on a defendant	
011430 - 012249	Hon Margaret NG Hon CHEUNG Man-kwong Hon MA Fung- kwok Admin	Progress of scrutiny of the Bill and major suggestions and issues raised by members at meetings of the Bills Committee.	<b>Admin to provide its latest position in respect of the major suggestions and issues raised by members at meetings of the Bills Committee</b>
012250 - 012536	Hon Miriam LAU Admin	Amendment of defence provisions relating to possession of child pornography along the line of "no prosecution would be brought"	
012537 - 012816	Hon CHEUNG Man-kwong Chairman	Major suggestions and issues raised by members at meetings of the Bills Committee	<b>Clerk to draw up a list, in consultation with the Chairman and the legal adviser to the Bills Committee, of major suggestions and issues raised by members at meetings of the Bills Committee for the Administration's response as above</b>
012817 - 012853	Chairman	Date of next meeting	
012854 - 013220	Admin Chairman Hon CHEUNG Man-kwong	Amendment of "appears to be a child" in the definition of child pornography along the line of "depicted as being a child"	

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