

立法會
Legislative Council

Ref : CB2/BC/7/01

LC Paper No. CB(2) 631/02-03
(These minutes have been seen by
the Administration)

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

**Minutes of meeting
held on Friday, 29 November 2002 at 4:00 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 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 Eric LI Ka-cheung, JP
Hon CHEUNG Man-kwong
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai
Hon WONG Sing-chi

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

I. Meeting with the Administration

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

2. The Bills Committee requested the Administration -

- (a) To consider revising the proposed replacement for the term "establish" in clause 4 of the Bill from "raise a reasonable doubt by adducing evidence" to "raise a reasonable doubt", and to consider whether the proposed replacement should only be confined to defence provisions relating to the offence of possession of child pornography; and
- (b) To provide precedent that a statutory defence would not be available under certain circumstances as in the proposed additional defence in clause 4(5)(a), and to provide the draft Committee Stage amendments to clause 4(5) of the Bill.

II. Dates of subsequent meetings

3. The Bills Committee agreed that the next two meetings would be held on Thursday, 9 January 2003 at 10:45 am and Friday, 17 January 2003 at 10:45 am to continue discussion with the Administration.

4. The meeting ended at 5:15 pm.

**Proceedings of the meeting of the Bills Committee on
Prevention of Child Pornography Bill
on Friday, 29 November 2002 at 4:00 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000225	Chairman	Relevant paper and other papers previously issued.	
000226 - 001715	Admin	Briefing on the Administration's paper entitled "Administration's response to major suggestions/issues raised by members at previous meetings" (LC Paper No. CB(2) 448/02-03(01)).	
001716 - 002406	Hon Miriam LAU Admin	Effect of replacing the term "establish" in clause 4 with "raise a reasonable doubt by adducing evidence" on the defendant's burden.	
002407 - 003138	Hon Miriam LAU Admin Chairman	Requirement for destroying child pornography within a reasonable time in the revised clause 4(3) proposed in paragraph 6 of LC Paper No. CB(2) 448/02-03(01).	
003139 - 005810	Hon Audrey EU Chairman ALA4 Hon Miriam LAU Admin	Whether the expression "raise a reasonable doubt by adducing evidence" was used in other local legislation; whether the expression should only be used in defence provisions relating to possession of child pornography; criteria for the use of the expression and other terms such as "establish", "show" and "prove"; degree to which the prosecution was required to prove the three essential ingredients referred to in paragraph 2 of LC Paper No. CB(2) 448/02-03(01) beyond reasonable doubt.	Admin to consider whether the proposed replacement of the term "establish" should only be confined to defence provisions relating to the offence of possession of child pornography
005811 - 011104	Hon Miriam LAU Admin Chairman	Effect of revising the proposed replacement for the term "establish" in clause 4 of the Bill from "raise a reasonable doubt by adducing evidence" to "raise a reasonable doubt". Incorporation of the three ingredients referred to in paragraph 2 of LC Paper No. CB(2) 448/02-03(01) in legislation.	Admin to consider revising the proposed replacement for the term "establish" in clause 4 of the Bill from "raise a reasonable doubt by adducing evidence" to "raise a reasonable doubt"

011105 - 011135	Chairman	Members' views on other parts of LC Paper No. CB(2) 448/02-03(01) and the Administration's proposal to revise the two-tier definition of pornographic depiction.	
011136 - 011243	Chairman	Dates of subsequent meetings.	
011244 - 011417	ALA4 Chairman	Precedent where there was a provision setting out that a certain defence would not be available under certain circumstances and draft Committee Stage amendments to clause 4(5) of the Bill.	Admin to provide precedent that a certain defence would not be available under certain circumstances as in the proposed additional defence in clause 4(5)(a), and to provide the draft Committee Stage amendments to clause 4(5) of the Bill

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

Council Business Division 2
Legislative Council Secretariat
11 December 2002