

# 立法會

## *Legislative Council*

LC Paper No. CB(2)2367/99-00

Ref: CB2/PL/SE

### **Report of the Panel on Security for submission to the Legislative Council**

#### **Purpose**

This report gives an account of the work of the Panel on Security during the 1999-2000 session of the Legislative Council. It will be tabled at the meeting of the Council on 21 June 2000 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

#### **The Panel**

2. The Panel was formed by resolution of this Council on 8 July 1999 for the purpose of monitoring and examining Government policies and issues of public concern relating to security, public order, corruption-related matters and nationality and immigration matters. The terms of reference of the Panel are in **Appendix I**.

3. The Panel comprises 10 members in the 1999-2000 session. Hon James TO Kun-sun and Hon Mrs Selina CHOW were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

#### **Major Work**

##### Arrangements with the Mainland on surrender of fugitive offenders

4. Upon the Panel's request, the Administration briefed the Panel on the progress of establishing a formal rendition arrangement with the Mainland on surrender of fugitive offenders. The Administration reiterated the five guiding principles in devising the arrangement. The Administration stressed that in dealing with the issue, the first consideration of the Administration was always to protect the principle of "one country, two systems" and the interests of the Hong Kong people. The Administration informed the Panel that through

several rounds of discussions, the experts from both sides had gained more in-depth understanding of the legal system and concepts of the other side. Given the very significant differences in the legal systems of the two places, and that rendition arrangement involved very complex problems, the Administration had not yet concluded discussions with the Mainland authorities.

5. The Panel noted that on completion of the discussions with the Mainland authorities, the Administration would make public the proposal and undertake consultation. The Panel urged the Administration to include in the agreement with the Mainland a provision in respect of the usual safeguard in the existing Surrender of Fugitive Offenders Agreements with other jurisdictions the normal exclusion in relation to political offences and political prejudice.

#### Application and verification procedures for a Certificate of Entitlement

6. The Panel was briefed on the genetic test arrangements to be adopted for verifying the parentage of persons claiming the right of abode (ROA) under paragraph 2(c) of Schedule 1 to the Immigration Ordinance. The Panel was also briefed on the security measures and safeguards to be implemented by the Mainland authorities and the relevant authorities in Hong Kong to ensure the accuracy and reliability of the genetic test results. The Panel stressed the importance of reliable and corruption-free genetic tests. Some members suggested that the relevant authorities in Hong Kong should be empowered to conduct random checking on genetic test results and require the ROA claimants who had entered Hong Kong to undergo a genetic test again. The Administration responded that if there were reasons to believe that the results of the genetic tests were in doubt, the authorities would investigate into the case. The Administration considered that if the suggestion of random checking was adopted, this would give rise to unfairness to ROA applicants born out of wedlock and whose parentage were in doubt as compared to those who were born within wedlock. Some members shared the views of the Administration and did not agree to the suggestion of random checking.

#### Emergency ambulance service

7. One of the major concerns of the Panel was the performance of the emergency ambulance service. The Panel expressed concerned that the inclusion of the response time of ambulance-aid motorcycles in calculating the overall performance would lead to a better overall response time performance of the emergency ambulance service. A subcommittee was formed under the Panel to examine in detail issues relating to emergency ambulance service. According to the statistics covering the period between December 1999 and February 2000 provided by the Administration, 93.15% of the emergency ambulance service calls met the "within 12-minute response time" target, compared to the Fire Services Department (FSD)'s pledged performance of 92.5%. Of all the responded calls, only 0.94 had to rely on the ambulance-aid motorcycles for fulfilling the response time target, and for 92.21% of the cases,

ambulances were able to arrive at the scene within a response time of 12 minutes.

8. The Administration also explained to the subcommittee that as part of the Enhanced Productivity Programme of the FSD in 2000-01, the emergency ambulance service would be strengthened by the addition of eight ambulance-aid motorcycles to further improve the coverage of ambulance-aid motorcycle service. At the same time, three ambulances had reached the end of their serviceable life and would be withdrawn from service. The arrangement would help optimise the utilisation of emergency resources, and facilitate prompt and effective emergency response, particularly to urgent cases requiring immediate attention, or city centres with traffic congestion problems or rural areas without proper road network. As a result of this initiative, each of 29 ambulance depots in the territory would be served by at least one ambulance-aid motorcycle.

9. While improvement in response time performance was important, the subcommittee considered that the quality of emergency rescue service provided by the ambulance crews was of equal importance. The subcommittee urged that the knowledge and skills in paramedic service of ambulance crews should constantly be enhanced. The Administration informed members that a review of paramedic ambulance service by the FSD was underway. The Administration undertook to provide the Panel with the review report when it was completed.

Immigration policy and procedures in respect of applications for entry permits.

10. The Panel was assured that immigration policy in Hong Kong had been applied consistently before and after reunification. The Panel took note of the Administration's explanation that the immigration legislation in Hong Kong originated from that of the United Kingdom (UK). In the UK, there was a wide consensus that immigration policy should be based on public policy needs. The Secretary of State responsible for the Home Office was given wide discretion in determining immigration matters. Similarly, the Director of Immigration (D of Imm) was given wide discretion in determining immigration matters. The immigration legislation in the UK did not require the Home Secretary to give reasons for the refusal of an application for entry. Similarly, the immigration legislation in Hong Kong did not require the D of Imm to give reasons for refusal of an application.

11. The Administration stressed that the main consideration in assessing an application was public interest, which in turn depended on the circumstances, time and purpose of each application. The decision on whether to allow an applicant to enter Hong Kong should not be based merely on the travel document held by the applicant. Thus, permitting a person to enter Hong Kong in the past did not necessarily mean that the same person should be permitted to enter Hong Kong again on another occasion. Although an applicant who was aggrieved by the decision of the D of Imm could apply for review under section 53 of the Immigration Ordinance, some members considered an appeal for

review would not be meaningful if the D of Imm was not required to provide reasons for his refusal. These members also considered that the review mechanism was not transparent.

#### Procedures for handling cases where possession of forged travel documents was suspected

12. In the wake of an incident where a teenage girl was wrongfully imprisoned for the use of a forged travel document which was later found to be authentic, the Panel expressed grave concern about the procedures for handling cases where the use or possession of forged travel documents was suspected, particularly that forensic examination of a travel document would not be carried out if the suspect had made a confession. The Administration assured the Panel that in handling such cases, investigating officers of ImmD would not act in haste. The Administration explained that prosecution would only be instigated when ImmD had sufficient reasons to believe that the document in question was forged. Forensic examination of a travel document would not be carried out if the suspect had made a confession and there was strong circumstantial evidence to indicate that the travel document he or she used was counterfeit.

13. Some members expressed serious concern that the investigating officers of ImmD might be inclined to rely solely on the admission statement of the accused rather than on the result of forensic examination as the main evidence for prosecution. The present procedures could have exerted pressure on frontline officers to obtain admission statements from suspects in order to avoid the trouble of arranging forensic examination of the travel documents in question. Some members also expressed doubt about whether it was appropriate for officers of the ImmD to act as prosecutors as the accused could be sentenced to a maximum of 14 years' imprisonment upon conviction. These members considered that the prosecution of suspects should be made by legal practitioners as the quality of evidence was very important. The Panel called upon the Administration to examine this aspect in its current review of the procedures.

#### Indebtedness of Police officers

14. The indebtedness of Police officers was one of the major concerns of the Panel. The Panel expressed concern that the survey figure might represent only the tip of the iceberg and did not give a full picture of the seriousness of the problem. Once a Police officer was heavily indebted, not only would his performance at work be affected, the image of and public confidence in the Police Force would also be adversely affected. The Panel also expressed concern that when Police officers were unable to repay their debts, particularly those who were indebted due to gambling or overspending, they were prone to corruption or be exploited by criminals. A subcommittee was tasked to examine in detail the problem and consider possible ways of handling the problem.

15. The subcommittee took note of the strategy of the Force for preventing, identifying and dealing with the problem. The subcommittee observed that there has not been a significant improvement in the situation of Police indebtedness. The situation had remained stable having regarded to the fact that the adverse impact of the economic turmoil had taken full effect since the second half of 1998. The subcommittee considered that the preventive measures introduced by the Force management to tackle the indebtedness problem would be effective from a long term perspective. The subcommittee also considered that the arrangement for not deploying officers with unmanageable debts to perform sensitive duties which involve public funds or were vulnerable to corruption opportunities was appropriate. The subcommittee recommended that the Force management should convey a clear and strong message to the Force members that under no circumstances would overspending or gambling be tolerated; and that the Force management should continue to explore, in consultation with the Department of Justice, other feasible measures to tackle the problem.

Feasibility study on a new identity card and its new supporting computer system

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16. The Panel was briefed on the consultants' key findings and recommendations of the feasibility study on introducing a new identity card (ID card). The Panel discussed the three options for the new ID card proposed, namely, a non-smart ID card, a smart ID card which is capable of supporting the Immigration Department's core businesses only, and a smart ID card which could support multiple applications. Some members expressed concern about the need for introducing a new ID card which would have the capability to store a lot of personal data by using the smart card and biometrics identification technology. They were also concerned that the right of individuals to preserve the privacy of their personal data would be infringed if personal data not required for the purposes of Registration of Persons (ROP) Ordinance were stored in the new ID card. This problem would be aggravated if individuals were denied the knowledge of what personal data were stored in the ID cards and whether they were used by other government departments and law enforcement agencies for purposes other than the ROP Ordinance. Some members indicated support for the option of a smart ID card which is capable of supporting multiple applications.

17. The Administration responded that the Administration had not reached a decision as to which form the new ID card should take and what kind of personal data would be stored should a smart ID card option be adopted. The Administration would consult the Panel again when a decision was made on the way forward on the new ID card project, including the choice of a new ID card. The Administration assured members that in determining the kind and the amount of data to be stored in the new ID card, consideration would be given to how personal privacy and data security would be safeguarded. Technical feasibility and costs effectiveness would also be considered. Furthermore, legal

backing would be required for the collection of additional personal data.

Other issues

18. The Panel had also discussed a wide range of other issues with the Administration. They included the promotion of visa-free access for the Hong Kong Special Administrative Region passport holders; state of crime and detection rate; computer-related crimes; development in rehabilitation services for offenders; and operation and establishment of the Commercial Crime Bureau of the Police Force. The Panel was also briefed on a number of legislative and financial proposals. They included the proposals to further enhance the effectiveness of the confiscation and anti-money laundering provisions; and proposed amendments to the Security and Guarding Services Ordinance.

19. Between October 1999 and June 2000, the Panel held a total of 18 meetings, three of which were joint meetings with the Panel on Manpower on Scheme on Admission of Talents; and review of driving duties by foreign domestic helpers. The Panel also conducted three visits.

Legislative Council Secretariat

14 June 2000

立法會  
保安事務委員會  
LegCo Panel on Security

委員名單  
Membership List

涂謹申議員(立席)	Hon James TO Kun-sun (Chairman)
周梁淑怡議員(副主席)	Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Deputy Chairman)
朱幼麟議員	Hon David CHU Yu-lin
何俊仁議員	Hon Albert HO Chun-yan
呂明華議員	Dr Hon LUI Ming-wah, JP
張文光議員	Hon CHEUNG Man-kwong
程介南議員	Hon Gary CHENG Kai-nam
楊孝華議員	Hon Howard YOUNG, JP
劉江華議員	Hon LAU Kong-wah
鄭家富議員	Hon Andrew CHENG Kar-foo

合共： 10 位議員  
Total: 10 Members

日期： 1999年12月30日  
Date: 30 December 1999

**LegCo Panel on Security**

**Terms of Reference**

1. To monitor and examine Government policies and issues of public concern relating to security, public order, public safety, corruption-related matters and nationality and immigration matters.
2. To provide a forum for the exchange and dissemination of views on related policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in the relevant policy areas prior to their formal introduction to the Council or Finance Committee.
4. To examine and to report on any major issues of wide public concern in the relevant policy areas as referred by the Council or House Committee or as raised by the Panel itself.