

立法會
Legislative Council

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LC Paper No. CB(2) 2750/01-02
(These minutes have been seen
by the Administration)

LegCo Panel on Security

Minutes of meeting
held on Wednesday, 10 July 2002 at 8:30 am
in the Chamber of the Legislative Council Building

- Members present** : Hon James TO Kun-sun (Chairman)
Hon LAU Kong-wah (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Howard YOUNG, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members attending** : Hon Eric LI Ka-cheung, JP
Hon CHAN Kwok-keung
Hon SIN Chung-kai
Hon Emily LAU Wai-hing, JP
- Members absent** : Hon CHEUNG Man-kwong
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
- Public Officers attending** : Item III
Mr Timothy TONG, JP
Acting Permanent Secretary for Security

Miss Eliza YAU
Principal Assistant Secretary E
Security Bureau

Miss Pamela LAM
Assistant Secretary E1
Security Bureau

Mr FUNG Siu-yuen
Director of Management Services
Hong Kong Police Force

Item IV

Mr Michael WONG
Deputy Secretary
Security Bureau

Mr Alan CHU
Principal Assistant Secretary
Security Bureau

Miss May CHAN
Assistant Secretary
Security Bureau

Mr Michael STONE
E-government Coordinator
Commerce, Industry and Technology Bureau

Ms Joyce TAM
Principal Assistant Secretary
Commerce, Industry and Technology Bureau

Mr Stephen MAK
Deputy Director
Information Technology Services Department

Ms CHAU Ming-sau, Michelle
Head, Information Technology Division
Leisure and Cultural Services Department

Mr Kingsley LI
Assistant Postmaster General (Business Development)
Post Office

Mr Y C LAM
Manager (Certification Authority)
Electronic Services Division
Post Office

Mr WONG Tat-po
Deputy Director of Immigration

Mr WONG Wai-man, Raymond
Assistant Director of Immigration

Mr TSOI Hon-kuen
Principal Immigration Officer

Item V

Mr Michael WONG
Deputy Secretary
Security Bureau

Mr Alan CHU
Principal Assistant Secretary
Security Bureau

**Attendance by : Item III
invitation**

Mr Robert TANG, SC, JP
Chairman
Independent Police Complaints Council

Mrs Annie LEUNG
Secretary
Independent Police Complaints Council

**Clerk in : Mrs Sharon TONG
attendance Chief Assistant Secretary (2)1**

**Staff in : Mr Raymond LAM
attendance Senior Assistant Secretary (2)5**

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I. Confirmation of minutes of meeting held on 2 May 2002 and matters arising
(LC Paper Nos. CB(2) 2434/01-02 and CB(2) 2433/01-02(01))

Minutes of meeting held on 2 May 2002

The minutes of the meeting held on 2 May 2002 were confirmed.

List of follow-up actions required of the Administration

2. Members noted the list of follow-up actions required of the Administration.

II. Date of next meeting

(LC Paper No. CB(2) 2433/01-02(02))

3. Members agreed that no regular meeting of the Panel would be held before October 2002.

4. Members also agreed that the Secretary for Security should be invited to brief members in late September or early October 2002 on her policy initiatives and work plan for the year ahead, including -

(a) The enactment of legislation in respect of prohibition of any act of treason, secession, sedition and subversion against the Central People's Government, as provided in Article 23 of the Basic Law; and

(b) The development of a comprehensive population policy.

III. The Proposed Independent Police Complaints Council Bill : Briefing on Results of Public Consultation

(LC Paper Nos. CB(2) 2433/01-02(03), (04) and (05))

5. At the invitation of the Chairman, Acting Permanent Secretary for Security briefed Members on the paper provided by the Administration.

6. At the invitation of the Chairman, Mr Robert TANG presented the submission of the Independent Police Complaints Council (IPCC). He informed Members that while the IPCC welcomed the Administration's proposal to empower the IPCC to appoint its own Secretary and Legal Adviser, it was deeply concerned whether sufficient resources would be provided to the IPCC for the employment of suitable staff.

7. Mr LAU Kong-wah asked whether there had been cases where the Complaints Against Police Office (CAPO) had not tried its best in the investigation of complaints

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against Police officers. He also asked whether the IPCC considered that it should be empowered to conduct investigations into complaints of a serious nature.

8. Mr Robert TANG responded that -

- (a) An examination of investigation reports of the CAPO did not indicate any unfairness in the investigation of complaints against Police officers. Assisted by the IPCC Observers Scheme, the IPCC closely monitored the work of the CAPO;
- (b) There were different views among members of the IPCC about whether the IPCC should be empowered to investigate complaints; and
- (c) Although the IPCC did not have the power to investigate a complaint under the existing complaints against police system, it sometimes disagreed with the results of investigation or punishment imposed by the CAPO.

9. Mr LAU Kong-wah asked how the IPCC could identify the truth of a case when it disagreed with the investigation findings of the CAPO, if it did not have the power of investigation.

10. Mr Robert TANG responded that investigation might not necessarily reveal the truth of a case. He said that in most complaint cases, the two sides held their own stories and it was difficult to identify the truth of the case unless there was sufficient circumstantial evidence.

11. In response to Mrs Selina CHOW's question about the additional manpower resources required by the IPCC Secretariat, Mr Robert TANG said that the IPCC had no plan to increase the manpower of its Secretariat. While the existing manpower was adequate, there might be a need for an increase in manpower, if the IPCC Observers Scheme was expanded. If the resources provided by the Administration after the IPCC Secretariat became independent was inadequate, there might be problems in recruiting suitable staff for the IPCC Secretariat.

12. Mrs Selina CHOW asked whether it was a usual strategy of persons under criminal prosecution to lodge a complaint against Police officers. Mr Robert TANG responded that in cases where complainants were under criminal prosecution, their complaints would usually be handled by the Court.

13. Ms Audrey EU asked about the categories of person that should be appointed to the IPCC. Mr Robert TANG said that the membership of the IPCC should be representative of different sectors of the community. There should be representatives from human rights groups and grass-root levels. He stressed that persons appointed to the IPCC should be unbiased and have an open mind.

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14. Ms Audrey EU asked how the IPCC dealt with cases where the complainant and the Police officer being complained held their own stories.

15. Mr Robert TANG responded that complaints about the manner of Police officers were usually inconclusive and the CAPO would usually suggest both sides to enter into an informal resolution. Ms Audrey EU said that similar arrangements were also provided for under The Ombudsman Ordinance (Cap. 397). She asked whether consideration should be given to incorporating similar provisions in the proposed IPCC Bill. Mr Robert TANG said that the informal resolution was handled by the Police and the IPCC played no role in the process.

16. Ms Audrey EU asked whether cross-examination could be considered in cases that were inconclusive. Mr Robert TANG responded that such an arrangement would require substantial resources and therefore was not practicable.

17. Dr LUI Ming-wah asked why it was necessary to establish the IPCC as a statutory body, if the existing complaints against police system was operating well.

18. Mr Robert TANG responded that the establishment of the IPCC as a statutory body would consolidate the legal basis of the operations of the IPCC.

19. Dr LUI Ming-wah asked about the percentage of cases where the truth was identified after investigation. He also asked whether the truth would be identified in more cases, if the IPCC was established as a statutory body and sufficient resources were provided to the IPCC.

20. Mr Robert TANG responded that whether the truth of a case could be identified would mainly depend on the evidence available, including circumstantial evidence.

21. The Chairman asked whether the IPCC had considered establishing a mechanism to allow the complainant and the Police officer who was the subject of complaint to question the other side before the IPCC. He also asked whether such a mechanism would be an improvement and whether the introduction of such a mechanism would be hindered by the availability of resources.

22. Mr Robert TANG responded that the IPCC had not considered establishing such a mechanism. There was also no similar body in other countries adopting such a mechanism. In his view, such an arrangement would require substantial resources but would not bring about any significant improvement.

23. Ms Emily LAU asked whether some members of the IPCC took the view that the IPCC should not only assume a monitory role and that an independent mechanism should be established to conduct investigations into complaints against Police officers.

24. Mr Robert TANG responded that a majority of members of the IPCC considered that the IPCC should continue to perform a monitory and reviewing role,

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and there was no such need for the IPCC to be given an investigation power. A few members of the IPCC considered that investigations into complaints should not be conducted by the Police. However, these members considered that the work of the IPCC would help enhancing fairness in the complaints against police system.

25. In response to the Chairman's question on paragraph (b) of the submission from the IPCC, Mr Robert TANG said that a majority of members of the IPCC considered that investigation of complaints should continue to be conducted by the Police.

26. Mr IP Kwok-him asked how the IPCC would address the public perception that the existing complaints against police system was unfair with "police investigating police". He also asked whether the IPCC Observers Scheme could help changing such a perception.

27. Mr Robert TANG responded that such a perception would be inevitable as long as investigation into complaints against Police officers was conducted by the Police. He suggested that Members might study the investigation reports of the CAPO to gain a better understanding of whether the existing system was fair.

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28. At the request of the Chairman, Director of Management Services, Hong Kong Police Force agreed to consider providing the CAPO's investigation reports on concluded cases for Members' information, subject to the deletion of personal data in the reports.

29. Mr Robert TANG said that the IPCC Observers Scheme was particularly helpful in monitoring the work of the CAPO. He added that most interviews conducted by the CAPO were video-recorded.

30. In response to the Chairman's question about whether surprise visits could be conducted by IPCC Observers, Mr Robert TANG said that surprise visits by IPCC Observers were not provided for under the existing legislation. The Chairman said that consideration should be given to providing IPCC Observers to conduct such surprise visits in the legislative proposal.

IV. Hong Kong Special Administrative Region Identity Card Project - Second Privacy Impact Assessment Report and Update on Non-immigration Applications for Incorporation into the Smart Identity Card
(LC Paper Nos. CB(2) 2433/01-02(06), (07) and (08))

31. At the invitation of the Chairman, Deputy Secretary, Security Bureau (DS(S)), Deputy Director of Immigration (DD of Imm) and E-government Coordinator, Commerce, Industry and Technology Bureau (EGC) briefed Members on the papers provided by the Administration.

32. Mr Howard YOUNG asked -

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- (a) Whether citizens who requested for a physical driving licence would be charged twice for the driving licence fee;
- (b) Whether the Administration had studied a recent case in a European country where many problems were found with newly issued digital certificates (e-Certs) and Personal Identification Numbers (PINs) that the relevant legislative amendments were repealed after enactment; and
- (c) Whether capacity had been reserved in the smart identity (ID) card for the possible future incorporation of a Home Visit Card.

33. EGC responded that there was no question of charging twice for a physical driving licence. He said that the Transport Department was still considering whether or not there should be a difference in cost between a non-physical driving licence and a physical driving licence and if so, how much. He informed Members that PINs and e-Certs served different functions. The e-Cert was capable of making an electronic signature and had encryption functions associated with it, while the PIN was a comparatively less secured form of identification. Thus, the PIN the Administration contemplated had a different function from that of the e-Cert. He said that the Administration had no intention to develop the PIN function at the present stage.

34. DS(S) said that both the Administration and the Mainland authorities had no plans to incorporate a Home Visit Card in the smart ID card. If such an idea was to be considered in the future, issues such as the sharing of data, the acceptance of the general public and statutory considerations would have to be examined prudently.

35. Ms Emily LAU asked whether the reading of information in a smart ID card would require the cardholder to take some steps.

36. DD of Imm responded that access to information stored in a smart ID card would require certain input on the part of the cardholder, such as an input of the e-Cert PIN for his e-Cert. A Police officer could not read the immigration-related information stored in a smart ID card without the fingerprint of the cardholder. Police officers would only be allowed to read information permitted under the relevant legislation. He stressed that data for different purposes would be completely segregated using sophisticated security techniques.

37. Ms Audrey EU asked why two fingerprints of a cardholder were to be stored in the new smart ID card, whereas only one fingerprint was required for the record of the existing ID card. She also asked whether it was possible to duplicate a person's fingerprint and use it for reading personal data in a smart ID card.

38. DD of Imm responded that two fingerprints of a cardholder were to be stored in the new smart ID card to provide redundancy so that if a reading device failed to verify the fingerprint of a cardholder because of accident or false negative reading, a second

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finger of the cardholder could be used for fingerprint verification. It also allowed a person to use either his left thumb or right thumb for fingerprint identification at an automatic immigration clearance counter. DD of Imm added that fingerprint identification technology had developed to such an advanced stage that the reading device could differentiate between genuine and false fingers.

39. Ms Audrey EU asked about the fingerprint identification for persons with disability in fingers. DD of Imm responded that where a person had no thumbs, other fingers would be used for fingerprint identification. Where a person had no fingers at all, immigration clearance would be conducted at counters manned by officers of the Immigration Department (ImmD). He added that help-through desks were provided by ImmD for persons with a disability.

40. The Chairman said that he was opposed to any sharing of data between Hong Kong and the Mainland authorities, as such an arrangement would be inconsistent with the principle of "one country, two systems". He added that even where there was no sharing of data with the Mainland authorities, he still had strong reservations about the incorporation of a Home Visit Card in the smart ID card. Ms Emily LAU shared the views of the Chairman.

41. The Chairman said that the University of Hong Kong had recently held a symposium on smart ID cards. He asked whether it was more appropriate to enact a separate piece of legislation to regulate portable electronic products that could be used in government and non-government applications, instead of introducing legislative amendments to the Registration of Persons Ordinance (Cap. 177) (ROPO). DS(S) responded that prescribing the incorporation of non-immigration related applications in the smart ID card in the ROPO would be sufficient. EGC said that as all the non-immigration related applications were voluntary, there was not a need for introducing a separate piece of legislation. He added that if there was a need to amend other legislation, it would be dealt with in the usual way. The Chairman expressed strong disagreement with the Administration's position. He said that the proposed Schedule 5 of the ROPO might not adequately deal with issues arising from the incorporation of non-immigration related applications.

42. Members requested the Administration to arrange a presentation on the new work processes after the implementation of the smart ID card scheme.

(Post-meeting note : The Chairman of the Panel and the Chairman of the Bills Committee on Registration of Persons (Amendment) Bill 2001 subsequently agreed that the presentation would be conducted at the meeting of the Bills Committee on 4 October 2002. Members of the Panel on Security would be invited to attend the Bills Committee meeting.)

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V. Co-location of Immigration and Customs Facilities at Boundary Control Points

(LC Paper Nos. CB(2) 2096/01-02(09) and (10))

43. At the invitation of the Chairman, DS(S) briefed Members on the progress of co-location of immigration and customs facilities at boundary control points, as detailed in the paper provided by the Administration.

44. Mrs Selina CHOW welcomed the co-location of immigration and customs facilities at boundary control points. She asked about the timetable for such co-location. Noting that both sides would carry out separate immigration and customs clearance in adjacent sites, she asked how the clearance at the Hong Kong side and the Mainland side would be synchronised.

45. DS(S) responded that although an understanding had been reached with the Mainland side on matters of principle, the detailed arrangements were still being worked out. Thus, there was not yet a timetable for the co-location of immigration and customs facilities at boundary control points. He added that both sides would carry out separate immigration and customs clearance because of the substantial difference between the legal system of the Hong Kong Special Administrative Region (HKSAR) and the Mainland. He stressed that the layout of facilities would be carefully designed to facilitate synchronised clearance at both sides. There would be a buffer zone between the clearance counters of the two sides. Where necessary, measures would be adopted to regulate passenger traffic. Mrs Selina CHOW said that a targeted completion time should at least be established. She considered that the co-location of immigration and customs facilities for cargo clearance should be implemented earlier than the scheduled time of 2005/06.

46. Mr Howard YOUNG also welcomed the co-location of immigration and customs facilities at boundary control points. He said that there were frequent breakdowns of the computer system on the Mainland side. He asked whether the Hong Kong side would procure its own computer system and cable networks.

47. DS(S) responded that the Hong Kong side would use its own computer system and cable network to process all data collected by the Hong Kong side.

48. Regarding the Administration's plan of not extending the co-location arrangement at Huanggang to the clearance of cargo, Mr Ambrose LAU asked whether it was due to the high cost involved and, if so, the cost required.

49. DS(S) responded that the co-location of immigration and customs facilities would provide more benefits in the case of passenger clearance than cargo clearance. Co-location of facilities would not result in much change or simplification in procedures for cargo clearance. He said that there was insufficient space at Huanggang to accommodate the cargo inspection facilities and the costs of relocating such facilities were very high. At the request of the Chairman, DS(S) agreed to

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provide a written response on the issue.

50. Mr LAU Kong-wah asked whether the Huanggang or the Shenzhen Western Corridor would be the first control point where immigration and customs facilities were co-located. He also asked about the conversion works at the Shenzhen Carport and the costs involved. He expressed concern whether the current improvement works at the Lok Ma Chau boundary control point had become unnecessary, given that the co-location of immigration and customs facilities would soon be introduced for passenger clearance at Huanggang.

51. DS(S) responded that the co-location of immigration and customs facilities at Huanggang would increase the passenger clearance capacity much beyond that of the Lok Ma Chau control point, which had been expanded to its limit. He said that as the existing improvement works at Lok Ma Chau were mainly focussed on cargo clearance, the improvement works were still necessary. He added that the co-location of immigration and customs facilities at Huanggang would be implemented earlier than that at the new control point at Shenzhen Western Corridor.

52. Mr IP Kwok-him considered that attention should be paid to the equipment and facilities to be deployed to avoid any mismatch in clearance arising from the use of different equipment at both sides. DS(S) noted Mr IP's views. He said that a notification mechanism would be established to ensure the smooth flow of passengers between the facilities of the two sides and that any mismatch in handling capacity was reduced to the minimum.

53. Referring to paragraph 6 of the Administration's paper, Ms Emily LAU asked about the timetable for the introduction of legislative amendments. She also asked about the most controversial or complicated issues involved. She said that any legislative amendments to be introduced should not affect the jurisdiction of the HKSAR. DS(S) responded that while there was not yet a timetable for the introduction of legislative amendments, it was the Administration's intention to introduce the legislative amendments as soon as possible. He stressed that the principle agreed with the Mainland was that there should not be any overlap in jurisdiction between the two sides. At the request of Ms LAU, DS(S) agreed to liaise with the Department of Justice and consider providing a paper setting out the areas where legislative amendments would be required.

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54. The Chairman was of the view that the implementation of "co-location" should not be an administrative arrangement. The Mainland side should also enact legislation to allow law enforcement officers of the HKSAR to carry out enforcement duties inside the designated area at Huanggang. He also said that the Panel would follow up the subject in the future.

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55. The meeting ended at 10:45 am.

Council Business Division 2
Legislative Council Secretariat
5 September 2002