

立法會

Legislative Council

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Draft 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 2001-02 session of the Legislative Council. It will be tabled at the meeting of the Council on 3 July 2002 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

The Panel

2. The Panel was formed by resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000 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 13 members in the 2001-02 session. Hon James TO Kun-sun and Hon LAU Kong-wah were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

Major Work

The Hong Kong Special Administrative Region Identity Card Project

4. The Panel followed up closely the progress of the Hong Kong Special Administrative Region Identity (ID) Card Project (the Project). The Panel was briefed on the progress of the Project, including tendering work, the inclusion of non-immigration related applications in smart ID cards and the legislative amendments proposed in the Registration of Persons (Amendment) Bill 2001.

5. Some members considered that the price of the main tender for the supply of the first batch of blank smart cards and its new supporting computer system was too low. They expressed concern whether the low tender price would be associated by substantially higher prices in subsequent contracts or a substantially high maintenance fee. Some members asked whether a cardholder would have the choice of whether to include non-immigration related applications in his ID card. They were also concerned whether any agency would have access to all encrypted data stored in the smart ID card. Regarding the ID card replacement exercise, some members suggested that the Administration should draw up performance pledges for its appointment system for ID card replacement.

6. The Administration explained that tender price was not the only consideration in the evaluation of tenders. Considerations were also given to the proposed system, technical competence and quality of smart cards. The contract had set out free maintenance for the first year and the annual maintenance cost, which was the lowest among the qualified tenderers, for the following nine years. The Administration assured the Panel that the inclusion of non-immigration related applications in ID cards would be entirely voluntary. Regarding data privacy, the Administration confirmed that there was no sharing of database between government departments. Data for different applications would be held in the computer systems of the relevant departments only and segregated in a secure manner using advanced security technologies. To ensure that the proposed system design being developed could adequately safeguard the privacy of personal data, the Administration had commissioned a second Privacy Impact Assessment study.

7. At the request of the Panel, the Administration undertook to brief the Panel on the results of the second Privacy Impact Assessment study within the current session.

Prison development plan

8. The Panel was briefed on the Administration's revised prison development plan to address the current problems of archaic facilities and inadequate penal places and to meet the forecast growth in penal population. The Administration proposed a progressive approach involving a mid-sized co-location of penal institutions at a capital cost of \$16 billion.

9. Some members considered the capital cost of \$16 billion for constructing the proposed prison complex providing 2 600 additional penal places very expensive. In view of the financial situation of the Government, they preferred the construction of five new prisons under the traditional approach at a total cost of about \$5 billion to meet the projected increase in penal population. Some members expressed concern that the co-location of

penal institutions would result in concentration of security risks. In the event of a riot, the situation might quickly become uncontrollable, thus resulting in a disaster.

10. On the other hand, some members expressed support for the mid-sized co-location of penal institutions, although some of them were opposed to the capital investment that provided for possible future expansion of the proposed prison complex.

11. The Administration explained that the capital investment of \$16 billion would be spent over a long period of time. It would stimulate economic development and create job opportunities. With the proposed co-location, existing penal sites could be released for alternative development. A rough estimate indicated that the value of the land released would far exceed the capital cost of \$16 billion. The Administration assured members that the proposed co-location would not involve having all inmates in one single penal institution. The penal institutions in the proposed prison complex would be divided into several clusters, each of which would have its own perimeter walls or fences and hold a manageable size of about 400 to 800 inmates. Proper security design and advanced technology would be adopted to prevent the spreading of mass behaviour from one institution to another.

Legislative measures against terrorism

12. After the terrorist attacks in the United States on 11 September 2001, the Panel was briefed on the need to introduce legislative measures against terrorism at a joint meeting with the Panel on Administration of Justice and Legal Services on 30 November 2001. Members were informed that the introduction of legislative measures against terrorism would be divided into two stages. The first stage would involve the introduction of legislative proposals to implement the mandatory elements of United Nations Security Council Resolution (UNSCR) 1373. The second stage would involve the implementation of the special recommendations of the Financial Action Task Force, and the United Nations Conventions which were relevant to terrorism, but had not yet been applied to Hong Kong.

13. The Panel was consulted on the legislative proposals to implement the mandatory elements of UNSCR 1373 and other anti-terrorism measures on 5 February 2002. Some members expressed concern whether the definition of terrorist act as proposed by the Administration would be so wide that innocent persons and non-terrorist associations might fall within the definition, and whether the definition would substantially increase the power of law enforcement agencies. They were also worried that terrorist acts outside Hong Kong would fall within the definition of terrorist act in Hong Kong.

14. The Administration responded that the proposed definition of terrorist act reflected modern day requirements, and was similar to those adopted by other common law jurisdictions. The Administration stressed that the enactment of legislative proposals that would increase the power of law enforcement agencies had always been made under the principle of striking a balance between the protection of personal freedom and human rights, and the safety of the public. The Administration assured the Panel that it would not seek more power than was necessary.

15. Regarding terrorist acts outside Hong Kong, the Administration explained that although it was unlikely that terrorist acts would be committed in Hong Kong, funds related to terrorists might be found in Hong Kong. It was therefore necessary to include acts outside Hong Kong in the definition of terrorist act. The Administration also informed the Panel that anti-terrorism legislation in most countries had extraterritorial effect.

16. Some members also expressed concern about the Administration's proposal to empower the Chief Executive (CE) to list terrorists or terrorist organisations, and also amend the list through an administrative process. Some Members considered that the listing should be made through a legislative process. A member expressed reservations about the direct incorporation of individuals and organisations designated under UNSCRs into the initial list of terrorists in Hong Kong.

17. The Administration explained that the proposal was to ensure that the listing of terrorists or terrorist organisations would be conducted expeditiously. CE's power to list individuals or organisations would be subject to the requirement of reasonable grounds to believe that they were connected with any terrorist act as defined in the bill. The listing would also be subject to appeal. The Administration pointed out that the proposed legislation was directed against financing terrorist activities. Even if individuals or organisations were listed, they would still have the freedom of association and holding public meetings.

Installation of closed circuit television cameras in public places

18. The Panel discussed the policy on the installation of closed circuit television (CCTV) systems in public places, and the pilot scheme of the Police to install a number of CCTV cameras in the Lan Kwai Fong area.

19. Members queried the need for the installation of CCTV cameras on a permanent basis in Lan Kwai Fong, given that the crime situation in the Lan Kwai Fong was not serious, and the place was not crowded except during some festivals. Members were particularly concerned about issues of privacy relating to the use of CCTV systems in public places, since such a scheme could be rolled out to other public areas and streets in Hong Kong if so decided

by the Police. Members were also concerned that the recorded videotapes might be used for the surveillance of the public. Some Members considered that the implementation of the pilot scheme involved not just a matter of personal privacy, but the freedom of individuals.

20. Members pointed out that since the installation of CCTV systems on a permanent basis in public areas/streets represented a fundamental change in policy, the pilot scheme should be suspended until the policy had been thoroughly deliberated by the Panel. Members also suggested that further consultation with the parties concerned should be conducted. A member also pointed out that the installation of public CCTV systems in the United Kingdom was subject to statutory control and stringent codes of practice.

21. The Administration responded that Lan Kwai Fong was a popular and busy location at all times of the day and particularly so during weekends, major festivals and events. As Lan Kwai Fong was a small place, the build-up of crowds in the area could lead to serious accidents. Moreover, as it had been designed as a pedestrian zone in late 2001, it was a suitable place to launch the pilot scheme. The Administration stressed that the CCTV cameras in the area would not be monitored on a round-the-clock basis.

22. The Administration also informed the Panel that the Police was aware of the concerns about privacy issues relating to the use of CCTV systems. The Police would develop detailed and stringent procedures as well as guidelines to ensure that the recording, use and retention of the videotapes would be fully consistent with the Data Protection Principles of the Personal Data (Privacy) Ordinance. Nevertheless, the Administration agreed to consider suspending the pilot scheme pending further consultation and discussion on the policy aspects.

23. Members were not convinced of the need to install CCTV cameras in Lan Kwai Fong. The Panel passed a motion at its meeting on 9 April 2002 urging the Police to withdraw the pilot scheme of installing a closed circuit television system operating round-the-clock in Lan Kwai Fong.

Issues relating to the judgment of the Court of Final Appeal delivered on 10 January 2002 in respect of appeal cases concerning the right of abode in the Hong Kong Special Administrative Region

24. On 10 January 2002, the Court of Final Appeal (CFA) delivered its judgment on the right of abode (ROA) litigation on Article 24(2)(3) of the Basic Law involving some 5,000 applications. The Panel held a special meeting to discuss issues relating to the judgment.

25. The Panel noted that the Public Security Ministry in the Mainland made an announcement on 10 January 2002 giving an assurance in respect of those

Mainland residents who had no right to remain in Hong Kong. According to the announcement, for those persons who were parties relating to ROA litigation and their children under the age of 18, if they were willing to voluntarily return to the Mainland within the grace period from 11 January to 31 March 2002, no sanction would be imposed against them for having illegally entered or overstayed in Hong Kong in violation of the applicable exit permission of the Mainland. They could still go to Hong Kong in future to visit their relatives.

26. Some members pointed out that although the Administration had reiterated many times that no amnesty would be granted to ROA claimants, some concerned groups and organisations were still urging the Administration to grant amnesty to these claimants. This would only generate false hopes for ROA claimants. In the view of these members, the immigration regime would be undermined if ROA claimants who had entered Hong Kong illegally or overstayed were not repatriated. Some other members also considered that it was inappropriate from a legal point of view to grant amnesty to all ROA claimants who did not succeed in their appeals. Some members queried whether the Director of Immigration would exercise his discretion under the Immigration Ordinance on the ground of the exceptional background of ROA claimants.

27. Regarding adopted children, some members expressed concern that young children who were adopted by Hong Kong permanent residents would be repatriated, and some of these children had no one to depend on in the Mainland.

28. The Administration stressed that no amnesty would be granted for ROA claimants who did not succeed in their appeals to the CFA to stay in Hong Kong, because any amnesty would only tempt more people in the Mainland to enter illegally or overstay in Hong Kong. It would also be unfair to applicants who had returned to the Mainland or were waiting in the Mainland for the One-way Permit (OWP). The Administration assured the Panel that it respected the CFA judgment delivered on 10 January 2002, and would take necessary measures to implement it in accordance with the law. The Administration also stressed that the Director of Immigration would only exercise his discretion under the Immigration Ordinance on a case-by-case basis and where there were exceptional humanitarian and compassionate grounds.

29. Regarding young children who had no one to depend on when they return to the Mainland, the Administration advised that it intended to seek the assistance of the relevant Mainland authorities to provide the necessary assistance and care for these children.

30. Members suggested that the Administration should discuss with the Mainland the creation under the OWP Scheme an additional category for

children aged over 18 of Hong Kong permanent residents to apply for OWP. Members also suggested that the Administration should explore with the Mainland authorities the possibility of granting Two-way Permits with multiple-entry and longer visiting periods to Mainland residents. The Panel would follow up these issues.

31. A member asked whether forced repatriation of a large scale would be carried out after the grace period. Some members expressed concern whether there would be use of force in repatriation. The Administration responded that it could not disclose operational details, but assured the Panel that should repatriation be necessary, only minimum force would be used.

Issues relating to Police operations at Chater Garden on 25 April 2002

32. Upon the Panel's request, the Administration briefed the Panel on the incident that occurred in Chater Garden on 25 April 2002, where the Police took action to stop the public meeting being staged by family members and supporters of ROA claimants and reporters were handcuffed.

33. Some members questioned the need to designate a press area in the Police's operation to stop the public meeting being staged at Chater Garden. They expressed concern about the handcuffing of two reporters in the operations. Some members also questioned why the Police had cordoned off Chater Garden in taking action to stop and disperse the public meeting.

34. The Panel was informed that a press area was designated to facilitate press coverage in an orderly and safe manner. During the Police operation to stop and disperse the public meeting at Chater Garden on 25 April 2002, two members of the media refused to enter the press area despite repeated persuasion by the Police. They were arrested for obstructing Police officers in the execution of duty. As they struggled in the course of arrest and therefore might cause injury to themselves or Police officers, they were handcuffed in accordance with the Police General Orders, which provided, among others, that a Police officer might use wrist restraints to protect himself or another person from any injury.

35. Regarding the cordoning off of Chater Garden, the Administration explained that as there were overstayers among the participants of the public meeting, it was therefore necessary to cordon off Chater Garden to facilitate the checking of the identity and conditions of stay of the participants of the public meeting.

36. The Panel was assured that the Police attached great importance to maintaining a good working relationship with the media. The Panel was informed that the Police had issued internal guidelines on dealing with the media. After the incident on 25 April 2002, the Police had met with

representatives of four media associations and discussed measures to improve co-operation between the Police and members of the media. The Police had indicated that it would review its internal guidelines on dealing with the media.

Paramedic ambulance service

37. The Panel was briefed on the results of the consultancy study on the further development of paramedic ambulance service. The Panel noted that the consultant had proposed a number of recommendations to achieve the target of the provision of paramedic care on all ambulances by April 2005 and to further develop the service in the longer term. The Panel was particularly concerned about the resources available for implementing the full provision of paramedic ambulance service by April 2005.

38. The Administration assured the Panel that it would try its best to secure resources to achieve the target. The Administration informed the Panel that it had earmarked provisions for the creation of 68 new posts, addition of three ambulances and replacement of 23 ambulances for 2002-03 to implement the provision of paramedic care on all ambulances, and to provide the necessary resources to strengthen the emergency ambulance services for meeting the growing demand. It had also secured resources for the appointment of a dedicated training team and for the advance recruitment of ambulancemen to enable trainees to be released from their normal operational duties to attend the training so as to qualify about 500 ambulance personnel at Emergency Medical Assistant II level by April 2005.

39. The Panel would continue to follow up the further development of paramedic ambulance service, and had requested the Administration to provide a progress report before the end of 2002.

Policy on the Frontier Closed Area

40. The Panel discussed the policy on the Frontier Closed Area (FCA). Members did not raise objection to the need to retain the FCA as a buffer zone to facilitate effective operations against illegal immigration, smuggling and other cross-boundary crimes. However, some members expressed doubt about the need for such a wide coverage of the FCA. These members suggested that the coverage be reviewed, and that the restrictions on business activities in the FCA be relaxed to promote the economic development of the area. A member considered that, as the historical background of Chung Ying Street had made it an area of attraction, the possibility of developing tourism in Chung Ying Street should be explored.

41. The Administration informed the Panel that while there was a need to retain the FCA for security reasons, there was room for a review of the coverage of the FCA. The Administration also informed the Panel that the

Commissioner for Tourism was studying the suggestion of developing green tourism in the North District with the District Officers of North District and Tai Po District and the Hong Kong Tourism Board. The results of the study should be available after the summer of 2002. Members urged the Administration to expedite the study of the development potential of the FCA.

42. Regarding the possibility of developing Chung Ying Street, the Administration considered that as Chung Ying Street had a length of about 250 metres and a width of about three to six metres, serious congestion would arise if large number of visitors were admitted to the area. The Administration had no plan to open up Chung Ying Street to tourists.

Issues arising from the public statements issued by the Police and the Independent Commission Against Corruption over the arrest of three Police officers

43. Arising from a press release issued on 18 May 2002 by the Independent Commission Against Corruption (ICAC) over the arrest of three Police officers, the Police issued a press release on the same day stating that no corruption activities would be tolerated. The Police issued a further press release on 19 May 2002 stating that the ICAC should not issue statements carrying unconfirmed allegations. In response, the ICAC issued another press statement in the same evening.

44. As the public statements issued by the Police and the ICAC had attracted wide public concern, the Panel held a special meeting to discuss the matter.

45. The Panel was informed that the Police and the ICAC had a number of established communication channels at different levels, both on operational and corruption preventive matters. The Panel was also informed that the co-operation between the Police and the ICAC had not been affected by the incident. Members were concerned that the Police and the ICAC should resolve any difference in views through established channels of communication instead of expressing views through the issuing of press releases.

46. The Panel was assured that the Police and the ICAC would review the existing liaison channels and examine ways to strengthen communication, and prevent similar incidents in the future.

Other issues

47. The Panel had also discussed a wide range of other issues with the Administration. They included the immigration policy on adopted children, review of the Methadone Treatment Programme, designation of Designated Public Activity Areas and guidelines for frontline Police officers when

handling demonstrations and allegations of Mainland Public Security officials exercising jurisdiction in Hong Kong.

48. The Panel was also briefed on a number of legislative and financial proposals. They included the proposed legislation for the prevention of child pornography, proposed regulation of dance parties under the Places of Public Entertainment Ordinance and the consultation document on the proposed Independent Police Complaints Council Bill.

49. Between October 2001 and June 2002, the Panel held a total of 18 meetings, including a joint meeting with the Panel on Administration of Justice and Legal Services and a joint meeting with the Panel on Information Technology and Broadcasting. The Panel also received a confidential briefing on the triad situation in Hong Kong, the control of firearms and the situation of loss of firearms of Police officers. In addition, the Panel conducted three visits.

Council Business Division 2
Legislative Council Secretariat
30 May 2002

Legislative Council

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 the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a members of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Legislative Council
Panel on Security**

Membership list

Chairman	Hon James TO Kun-sun
Deputy Chairman	Hon LAU Kong-wah
Members	Hon Albert HO Chun-yan Dr Hon LUI Ming-wah, JP Hon Margaret NG Hon Mrs Selina CHOW LIANG Shuk-ye, JP Hon CHEUNG Man-kwong Hon Andrew WONG Wang-fat, JP Hon WONG Yung-kan Hon Howard YOUNG, JP Hon Ambrose LAU Hon-chuen, GBS, JP Hon IP Kwok-him, JP Hon Audrey EU Yuet-mee, SC, JP (Total : 13 members)
Clerk	Mrs Sharon TONG LEE Yin-ping
Legal Adviser	Mr Jimmy MA Mr KAU Kin-wah
Date	11 October 2001