

# 立法會

## *Legislative Council*

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### **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 2002-2003 Legislative Council (LegCo) session. It will be tabled at the Council meeting on 25 June 2003 in accordance with Rule 77(14) of the Rules of Procedure.

#### **The Panel**

2. The Panel was formed by a resolution of this Council on 8 July 1998 and as amended on 20 December 2000 and 9 October 2002 for the purpose of monitoring and examining Government policies and issues of public concern relating to security matters.
3. The terms of reference of the Panel are in **Appendix I**.
4. The Panel comprises 14 members, with Hon LAU Kwong-wah and Hon James TO Kun-sun elected as Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

#### **Major work**

##### Proposals to implement Article 23 of the Basic Law

##### *Public consultation exercise*

5. On 24 September 2002, the Administration issued a Consultation Document on "Proposals to implement Article 23 of the Basic Law" for public consultation. The Panel on Security and the Panel on Administration of Justice and Legal Services held five joint meetings between 26 September 2002 to 17 January 2003 to discuss the Consultation Document with the Administration. In addition, the two Panels held another seven joint meetings

in November and December 2002 to listen to the views of deputations on the Consultation Document. A total of 271 organizations/individuals had made submissions to the two Panel, and 114 of them had given oral representations.

6. Members and deputations raised various concerns and queries about the Administration's proposals to implement Article 23 of the Basic Law (BL23). Some deputations expressed opposition to enact legislation to implement BL23. Some Members and some deputations considered that it was presently not an appropriate time to enact laws to implement BL23. Some Members and some deputations were of the view that there was no need to pass any legislative proposals in haste, especially in view of the fact that there had not been any cases of treason or sedition in the past five years. These Members and deputations urged that the Administration should, after the consultation period, issue a white bill in early 2003 setting out the details of legislative provisions for public consultation, before introducing a blue bill.

7. Some other deputations expressed support for the enactment of legislation to implement BL23 and considered that there was no need to issue a white bill. However, some of these deputations had also raised concerns about various proposals in the Consultation Document.

8. The major areas of concern expressed by Members and deputations included the following -

- (a) the human rights implications of the Administration's proposals;
- (b) the proposal to make misprision of treason a statutory offence;
- (c) the extra-territorial application of the offences of treason, secession, sedition and subversion to HKSAR permanent residents;
- (d) the offences of sedition and possession of seditious publications;
- (e) the proposals to protect information relating to relations between the Central Authorities and the HKSAR, and to create a new offence of unauthorized disclosure of protected information by unauthorized access;
- (f) restriction of freedom of expression, freedom of the press and freedom of association;
- (g) the proposal to provide the police with emergency power of entry, search and seizure without a warrant for investigation of certain BL23 offences; and

- (h) the proposed mechanism to proscribe a local organization by the Secretary for Security on the basis of a proscription by the Central Authorities of a Mainland organization to which the local organization is affiliated.

9. The Administration responded that with matters of principle having been discussed and the detailed proposals being made available, and with sufficient time to study the views received, there was no reason why the legislation to be proposed could not be enacted in July 2003. It is the wish of the Administration and the Central People's Government that the proposals to implement BL23 should be enacted as soon as possible.

10. Regarding the issuance of a white bill, the Administration advised that it was not its usual practice to issue a white bill before the introduction of a blue bill. The Administration considered that a white bill and a blue bill could equally serve the purpose of providing details about the legislative proposals.

#### *Compendium of Submissions*

11. Following the three-month public consultation exercise, the Administration announced the outcome of the consultation exercise and issued a Compendium of Submissions on 28 January 2003. The two Panels held a joint meeting on 6 February 2003 to discuss the Compendium with the Administration.

12. Some Members were dissatisfied with the way the Administration dealt with the submissions received in compiling the Compendium. These Members considered that the Administration should not simply classify the views received into three categories. These Members considered that the Administration should also analyze and summarize the views expressed. They also pointed out that some organizations had complained that their submissions were either not included in the Compendium or wrongly classified.

13. Some other Members, however, considered that the Administration should focus efforts on the drafting of the Bill, rather than summarized the views received.

14. The Administration had apologized for the errors made in the Compendium, and called on those who did not agree with the classification of their submissions to notify the Security Bureau in writing so that amendments could be made. The Administration informed Members that an addendum would be issued and a CD-ROM on the updated Compendium would be prepared and made available to the public. The updated Compendium would also be available on the Security Bureau's webpage.

15. Another joint meeting of the two Panels was held on 17 June 2003 to discuss the Administration's proposed scheme of categorization and consider the views of the Research Team on Compendium of Submissions on Article 23 of the Basic Law of the Department of Statistics and Actuarial Science of the University of Hong Kong.

*National Security (Legislative Provisions) Bill*

16. Following the statement made by S for S at the Council meeting on 12 February 2003 concerning the National Security (Legislative Provisions) Bill to implement BL23, the two Panels held a joint meeting on 15 February 2003 to receive a briefing on the Bill.

17. The Panels noted that the Administration had made a number of changes to its original proposals, having taken into account of the views received in the consultation exercise. These changes included the following -

- (a) the common law offence of misprision of treason would be abolished;
- (b) the offence of possession of seditious publications would be abolished;
- (c) the definition of "unauthorized access" to protected information would be strictly limited to access through criminal means, such as hacking, theft or bribery;
- (d) protection of information relating to relations between the Central Authorities and the HKSAR would be limited to information on matters concerning the HKSAR that were within the responsibility of the Central Authorities under the Basic Law, and disclosure of such information would only be an offence if it was damaging to the interests of national security;
- (e) the power to proscribe a local organization would apply to a local organization which is subordinate to a Mainland organization, the operation of which had been prohibited on the ground of protecting the security of the PRC, as officially proclaimed by means of an open decree by the Central Authorities under the law of the PRC;
- (f) to further protect freedom of the press, a judicial warrant would be required for any search or seizure of journalistic materials when conducting investigations of certain BL23 offences;
- (g) no additional financial investigation powers would be proposed;

- (h) only police officers at the rank of Chief Superintendent of Police or above would be able to authorize the exercise of investigation powers under emergency circumstances; and
- (i) the offence of treason would only apply to Chinese nationals; outside the HKSAR, the offence would apply to Chinese nationals who were permanent residents of the HKSAR.

18. Some Members did not find the changes adequate and considered that there were still serious problems with the Bill, for example, the lack of public interest defence, the provisions relating to the proscription of local organizations and unauthorized disclosure of protected information. Some Members remained opposed to the introduction of the Bill.

Issues relating to the death of an inmate at Siu Lam Psychiatric Centre in November 2001

19. In the wake of an open verdict by the Coroner's Court on the death of an inmate, CHEUNG Chi-kin, at Siu Lam Psychiatric Centre (SLPC) in November 2001, the Panel held three meetings, including a joint meeting with the Panel on Health Services, to discuss issues arising from the case. The Panel also visited SLPC to better understand its operation.

20. Members expressed concern about the control and monitoring mechanism of medical drugs in penal institutions, especially the administration of sedatives to inmates. Some members pointed out that the procedures and practices for applying sedatives to inmates in Hong Kong, for instance, the circumstances under which sedatives could be applied, the requirement of an inmate's consent, and the roles of a medical officer, a nursing staff and a correctional staff in the sedative application process, were more relaxed in Hong Kong as compared with those in Florida of the United States and Canada, and called upon the Administration to review the practices and procedures. Some members also suggested that SLPC should have its own resident psychiatrist, instead of relying on visiting psychiatrists from the Castle Peak Hospital to provide psychiatric service to inmates in SLPC. Another member suggested that the Administration should explore measures to strengthen the work procedures in SLPC, such as introducing more stringent guidelines for monitoring the closed circuit television (CCTV) systems and handling CCTV tapes, so as to ensure the preservation of evidence.

21. In the light of the findings and recommendations of the Coroner's Court, the Administration appointed a special task group to conduct a detailed study into the circumstances surrounding the case with a view to enhancing the quality of service at SLPC. Members were briefed on the recommendations made by the special task group, which included the strengthening of nursing

practices and procedures in relation to medical drugs and its monitoring system, the use of a comprehensive Prescription and Medicine Issue Record in all penal institutions, the installation of a more advanced and reliable CCTV system in SLPC to enable close monitoring of activities in penal settings and to preserve a continuous and high resolution record of activities for evidential purposes, and improvements in other aspects relating to the enhancement of quality of service in SLPC.

22. The two Panels would follow up the progress of the implementation of the recommendations made by the special task group.

23. Regarding the death of the deceased, members expressed doubt as to why there was such a high level of chlorpromazine in the blood of the deceased and why there were four fresh needle marks on the shoulders of the deceased. According to the Administration, the deceased had not received any sedative injections in either SLPC or Lai Chi Kok Reception Centre and no prescription for such injections had been given during his stay in these two centres.

24. At the joint meeting on 5 March 2003, the Administration explained the medical hypothesis which might give rise to the high level of chlorpromazine in the blood of the deceased. Having regard to the purported new points relating to the cause and surrounding circumstances of the death of the deceased put forward by the Administration, members urged the Administration to examine in detail these points and assess the need to reopen an inquiry and to make further investigation with a view to finding out the truth. Members considered that such further investigation would not only help relieve the stress caused by the incident on the Correctional Services Department staff, but would also prevent the recurrence of similar incidents.

25. The Administration advised that its way forward on the case would depend very much on the advice of medical experts regarding the medical hypothesis. The Administration undertook to revert to the two Panels as soon as the medical experts' opinion was available.

#### Immigration policy on capital investment entrant

26. Following a review conducted in consultation with the Hong Kong Monetary Authority and the Securities and Futures Commission, the Administration proposed that a new policy to facilitate the entry of "capital investment entrants" should be introduced to attract the inflow of capital.

27. Members asked how the threshold of \$6.5 million would be assessed given that the value of a financial asset would rise and fall in a free market. The Administration explained that the initial transaction values for the purchase of the permissible investment assets would be taken for the calculation of the threshold of \$6.5 million. The entrant would not be required to top up the

value of his investment in case its market value fell below the threshold of \$6.5 million. By the same token, he would not be allowed to withdraw any capital gain from his portfolio should the subsequent value rise above the requisite level. The investment which qualified the capital entrant's entry and continued stay in Hong Kong would thus be "ring-fenced".

28. Some members shared the view that the requirement of seven years continuous ordinary residence and the threshold of \$6.5 million were too onerous and would affect the competitiveness of the Scheme. They asked the Administration to consider reducing the ring-fencing period of seven years to enhance the attractiveness of the Scheme. The Administration explained that it had to balance the interest of the prospective entrants and the community as a whole. Given the flexibility of a range of investment options under the Scheme, the Administration considered it appropriate to set the ring-fencing period at seven years. The Administration would review the criteria in question in the light of actual experience gained from the implementation of the Scheme.

#### New Admission Scheme for Mainland Talents and Professionals

29. The Panel held a joint meeting with the Panel on Manpower in April 2003 to discuss the New Admission Scheme for Mainland Talents and Professionals which would replace the Admission of Talents Scheme and the Admission of Mainland Professionals Scheme.

30. The Administration pointed out that according to a manpower projection, there would be a shortfall of over 100 000 workers at post-secondary level and above by 2005. To enable Hong Kong to position itself towards a high value-added and technology-based economy, a vast pool of qualified talents and professionals from other places was necessary to supplement the local manpower supply which could not keep pace with the evolving needs of the community. At a time when global competition for quality personnel was keen, relaxing the admission of Mainland talents and professionals would help Hong Kong tap the vast manpower pool available on the Mainland.

31. Some members expressed concern that the new Scheme might adversely affect the employment prospects of the local workforce. For this reason, they considered it important that a monitoring mechanism should be in place to prevent abuse of the Scheme. The Administration pointed out that about 14 000 to 16 000 foreign nationals and residents of Taiwan entered Hong Kong for employment under the general employment policy per annum. This group of professionals had neither created negative impact on local employment nor adverse effect on the wage levels of the local workforce. In processing applications under the general employment policy, the Immigration Department would from time to time conduct field inspections to examine the bona fide of the employing companies as well as the information provided in the

applications. These checking procedures had proved to be effective and would be applied to the new Scheme.

32. To ensure that only Mainland talents or professionals who possessed skills and experience not readily available locally would be admitted, a member suggested that application under the new Scheme should be divided into two categories and handled separately. For applicants with good education background, their applications could be processed and approved by the Immigration Department without the need to consult the Advisory Committee on the Scheme. However, a report on the approved applications should be submitted to the Advisory Committee, and its feedback should be used as reference for handling future applications. For applicants without good education background but with sound technical qualifications and/or relevant professional abilities, the Immigration should seek the advice of the Advisory Committee before approval was given. The Administration agreed to convey the above suggestions to the Financial Secretary, who was the Chairman of the Advisory Committee, for his consideration.

#### Actions taken to combat psychotropic substance abuse

33. The Panel discussed actions to combat psychotropic substance abuse in April 2003. Members noted that with the spread of the rave culture and the emergence of the so-called "club drugs" or "party drugs", the number of reported psychotropic substance abusers started to rise in 1993 and reached its peak in 2001. The rising trend was reversed in 2002, with the number of reported psychotropic substance abusers falling from 6 022 in 2001 to 5 516 in 2002, representing a decrease of 8.4%.

34. Members were concerned that 43% of the 5 516 psychotropic substance abusers reported in 2002 were unemployed and that 61% of the psychotropic substance abusers below the age of 21 had previous convictions. Members sought additional information on the vocational training, as well as the aftercare and outreaching services available to assist these psychotropic substance abusers.

35. Members noted that to enhance their employability after release from correctional institutions, young inmates aged below 21, except those detained in the Detention Centre, received half-day vocational training in industrial or commercial skills and half-day educational classes. The programme enabled offenders to cultivate good work habits and acquire some basic skills in their assigned trades. For offenders who were required to be placed under statutory aftercare supervision, Aftercare Officers would try to help them secure a job and encourage them to participate in continual education after release to better equip themselves. For those who were not subject to any post-release supervision, assistance would be given to them in formulating a discharge plan. With their consent, their cases would be referred to the relevant non-



government organizations (NGOs) for employment guidance and assistance prior to release.

36. In addition, the Social Welfare Department also provided a wide range of support services to vulnerable members of the community through its extensive network of service units run by itself and by over 180 NGOs. SWD had also engaged the Society of Rehabilitation And Crime Prevention to provide counselling, hostel and employment services for discharged offenders including those who were also rehabilitated drug abusers.

37. Members were concerned about external cooperation with the Mainland and Macau on law enforcement against cross-border drug abuse and drug trafficking. The Administration assured members that continued emphasis would be placed on enhancing cross-boundary cooperation in tackling drug related crimes and problems. Tripartite conferences had been held to strengthen cooperation between Guangdong, Macau and Hong Kong. Joint efforts in other areas such as publicity and preventive education, research, and sharing of information on drug abuse trends would be continued to be pursued actively by the three places.

38. Members asked for information on the enforcement actions taken to curb the supply of ketamine, which topped the list of abused psychotropic substances. They noted that in response to concerns of Hong Kong, the Mainland and Macau authorities had amended their laws to strengthen control on ketamine in 2001. The Administration had reinforced anti-drug prevention education. Publicity materials such as posters and notices were posted at the border control points to remind the public of the grave consequences of cross-boundary drug abuse.

39. Members were concerned to note that according to the findings of a survey on drug use among students, 4.1% of the respondents had used psychotropic substances in their lifetime. To address the problem, the Administration had organized anti-drug education talks to help students understand the harmful and addictive effects of psychotropic drug abuse. It also made use of different channels and means to engage parents as a primary preventive agent in promoting the anti-drug message, including working closely with Parent-Teacher Associations and schools to rally their support for anti-drug work.

#### Public access to Police General Orders (PGO)

40. The Panel discussed public access to PGO in November 2002. A member pointed out that the former Secretary for Security, when answering an oral question at the LegCo sitting on 8 January 1997, had promised to deposit PGO in all police stations for direct access by the public. However, the arrangement had only been in place for three years and was discontinued in

2000 on the ground that the public had already been provided with access to information of the Hong Kong Police Force (the Force) since its application of the Code on Access to Information. The Administration explained that PGO was a set of internal orders written for use by trained police officers and thus the public might not be able to comprehend it. Coupled with the fact that it was a voluminous document containing some several hundred pages, it was considered to be a more pragmatic approach for the Force to provide a service to the public in search of information contained in PGO on a request basis. The member held the view that if the Force had found it necessary to change the original arrangement promised by the former Secretary for Security, the Administration should have consulted LegCo on the proposed change before implementation. Otherwise, the original arrangement should be resumed regardless of whether PGO was understandable by the general public.

41. Some members shared the same views. They considered it important to deposit PGO in all police stations for direct access by the public as it would help enhance the monitoring of the Force's performance by the public. Subject to LegCo's endorsement on which parts of PGO were to be restricted for internal use, the Force should make arrangements to deposit the remaining parts in all police stations for direct access by the public. In view of the small number of public requests made so far for access to PGO and the frequent updating required, a member suggested the Administration should consider uploading PGO onto a computer system instead of displaying hard copies in all police stations. Members of the public who were interested in reading PGO could view it from the computer workstations located in police stations.

42. Having regard to the views expressed by members, the Force had reviewed the issue and agreed to reinstate the provision of direct access to PGO for members of the public. The Force would make available the whole set of PGO, except a number of chapters the disclosure of which might harm or prejudice the prevention, investigation and detection of crime and offences, or the proper and efficient conduct of the Force's operations. The public would be able to gain access to PGO electronically through the Information Kiosks in police report rooms.

43. In a progress report to the Panel in April 2003, the Administration set out 10 PGO chapters which in accordance with Part 2 of the Code of Access to Information, it considered that the public should not have access for the reasons mentioned in paragraph 42 above. Action had commenced for the rest to be electronically configured for uploading onto Information Kiosks. The Administration undertook to report to the Panel on completion of the uploading actions.

#### Other issues/items discussed

44. Other issues/items discussed by the Panel included measures to combat

terrorist activities in Hong Kong, the crime situation in 2002, rationalisation of immigration office network, cross border fishing and criminal activities of Mainland fishing vessels, and Hong Kong's work on combating money laundering and terrorist financing. The Panel was consulted on the proposed United Nations (Anti-Terrorism Measures) (Amendment) Bill and a number of public works projects, including the construction of an ICAC Headquarters Building, the Marine Police Outer Waters District Headquarters and Marine Police North Division as well as boundary-crossing facilities at Shenzhen Western Corridor under the "co-location" arrangement.

45. The Panel held a total of nine regular and three special meetings from October 2002 to June 2003. It also held 14 joint meetings with the Panel on Administration of Justice and Legal Services and one joint meeting each with the Panel on Health Services, the Panel on Manpower and the Panel on Transport.

Council Business Division 2  
Legislative Council Secretariat  
18 June 2003

**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 member 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**

<b>Chairman</b>	Hon LAU Kong-wah
<b>Deputy Chairman</b>	Hon James TO Kun-sun
<b>Members</b>	Hon Albert HO Chun-yan Dr Hon LUI Ming-wah, JP Hon Margaret NG Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, 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 Michael MAK Kwok-fung Hon IP Kwok-him, JP Hon Audrey EU Yuet-mee, SC, JP

(Total : 14 members)

<b>Clerk</b>	Mrs Sharon TONG LEE Yin-ping
<b>Legal adviser</b>	Mr LEE Yu-sung
<b>Date</b>	10 October 2002