

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 2003-04 session of the Legislative Council. It will be tabled at the meeting of the Council on 30 June 2004 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 and 9 October 2002 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 14 members in the 2003-04 session. Hon James TO Kun-sun and Hon WONG Yung-kan were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

Major Work

Measures to combat illegal employment

4. The Panel discussed the measures adopted by the Administration to combat illegal employment. Members expressed concern about a sharp increase of 61% in the number of illegal workers arrested in the first nine months of 2003 over that for the corresponding period in the previous year. They were also concerned that a number of illegal workers were found to have

entered Hong Kong using a Two-way Permit or a business visit endorsement, and queried whether the existing measures had any deterrent effect.

5. The Administration responded that out of the 5.6 million Mainlanders who entered Hong Kong in the first nine months of 2003, about 2.2 million Mainlanders had entered with a business visit endorsement. The number of Mainland visitors arrested for working illegally in Hong Kong stood at 3 536, which only accounted for about 0.06% of the total number of Mainland visitors. Thus, the problem of illegal workers entering Hong Kong with a business visit endorsement was not serious.

6. The Administration informed the Panel that different operations were launched from time to time to combat illegal employment. The Administration had maintained close liaison and exchanged intelligence with the Mainland authorities to tackle the problem at source. In addition, to enhance coordination among various departments with a view to taking more effective actions against Mainlanders working illegally or engaging in other unlawful activities in Hong Kong, an Interdepartmental Task Force was formed in April 2003. The Task Force facilitated regular exchange of information among different government departments. It adopted proactive and pre-emptive strategies to identify black spots of illegal employment so as to combat the problem more effectively.

7. The Administration also advised that in outsourcing services through tenders, all government departments had adopted an assessment scheme under which one of the criteria considered was whether the employer had any past record of hiring illegal workers. In addition, the Immigration Department was examining the possibility of introducing a photograph recognition system in which the photographs of offenders could be used for spotting repeated offenders seeking to enter Hong Kong again on false identities.

8. Members asked the Administration to provide information on the provinces from which arrested illegal workers came. The Administration responded that it was not in a position to provide a statistical breakdown on their origin according to Mainland provinces or cities because it might affect future operations against illegal employment, and might result in visitors from some provinces or cities being inappropriately labelled and stigmatised.

Progress of implementation of recommendations in the Report of the Special Task Group set up in relation to the death of an inmate in Siu Lam Psychiatric Centre in November 2001

9. At a joint meeting with the Panel on Health Services, the two Panels were briefed on the progress of implementation of recommendations in the Report of the Special Task Group set up in relation to the death of an inmate in Siu Lam Psychiatric Centre (SLPC) in November 2001.

10. Members noted that as of 31 December 2003, 29 out of 34 recommendations of the Special Task Group had been implemented. The Correctional Services Department (CSD) was following up the implementation of the remaining five recommendations, covering the areas of regular review of the nursing manpower of SLPC; external certification of the services of SLPC; accreditation of procedures and documentation adopted; provision of digital closed circuit television monitoring systems in all penal institutions; and the installation of a local system to back up the central system.

11. Members were concerned about the number of frontline personnel in SLPC with psychiatric nursing training, given that some of them had resigned or been transferred to other posts. The Administration advised that although there had been turnover in the frontline staff of SLPC, regular in-house training was provided to frontline staff; thus the number of frontline personnel with such training had remained unchanged.

12. Pointing out that the death of the inmate in SLPC in November 2001 seemed to arise from a lack of diagnosis of a diabetic inmate who reached the stage of diabetic ketotic coma in SLPC, members asked about the measures adopted to prevent the recurrence of similar incidents. Members suggested that blood glucose test should be made a standard procedure on all newly admitted remands and prisoners who could not excrete urine so that inmates suffering from hyperglycaemia could be detected in time for treatment.

13. The Administration responded that CSD had reviewed the guidelines and procedures for conducting medical examination on inmates of penal institutions upon admission and transfer. Two new forms aimed at facilitating comprehensive medical examination by medical officer had been used since 1 September 2002. The enforcement of instructions given by CSD was regularly reviewed by the Quality Assurance Division of CSD. The Administration also advised that since September 2002, it had been a standard procedure to collect urine sample from all newly admitted remands and prisoners for testing of blood glucose and advice would be sought from a medical officer if a prisoner could not excrete urine.

14. Members suggested that information about the case of the death of the inmate in SLPC should be circulated to all medical officers in penal institutions and their attention should be drawn to the point that diabetes could lead to very serious consequences.

Issues relating to the incident on 2 April 2004 where protestors were removed from the area outside the Central Government Offices

15. Upon the Panel's request, the Administration briefed the Panel on the incident on 2 April 2004 where protestors were removed from the area outside

the Central Government Offices (CGO).

16. Some members questioned whether the Administration had decided at the outset to remove the protestors and reporters instead of resolving the matter peacefully. These members also questioned whether a designated press area (DPA) was established and whether reporters at the scene were informed of the DPA. Some members considered that there was a serious dereliction of duty on the part of the Administration Wing and the Director of Administration (D of Adm) in the incident. They considered that D of Adm had not dealt with the matter promptly.

17. The Administration explained that the Police's policy of facilitating media coverage within what was permitted under the law and the circumstances had remained unchanged. During the operation outside CGO, the Police had acted in accordance with the law and adhered to the guidelines in the Force Procedures Manual on media coverage. Prior to the operation, the Police had issued a number of warnings to protestors and asked them to proceed to the designated public activity area. The Police had also informed reporters at the scene about the establishment of a DPA. It was necessary for reporters to be clear of the zone of operation, so that the Police's operation would proceed as planned without posing safety hazard to any person at the scene. Despite repeated advice by the Police, some reporters insisted staying among the protestors. The Administration stressed that the Police's operation did not involve stopping the demonstrators, but the removal of demonstrators from the area outside the entrance of CGO to a nearby area so that CGO could operate normally.

18. The Administration informed members that the Police was investigating the whole incident. In line with its usual practice, the Police would review the operation and, if necessary, review the Police's operation procedures. The Administration also advised that throughout the incident, D of Adm was directly in charge of the dialogues with the protestors. As the protestors had made other requests besides having a senior government official to receive their protest letter, time was needed for considering the different options available for dealing with the requests.

19. A member suggested that the Police should include in its internal guidelines those actions and postures which should be avoided when carrying out removal actions.

Review of interception of communications

20. The Panel discussed the review currently undertaken by the Administration on interception of communications. Members expressed concern that the Interception of Communications Ordinance (ICO), which was enacted on 28 June 1997, had not yet been brought into operation.

21. The Administration responded that the implementation of ICO in its current form would pose serious operational difficulties to law enforcement agencies and prejudice the security of Hong Kong. In view of this, the Chief Executive in Council decided on 8 July 1997 that ICO should not be brought into operation pending a review. The Administration had set up an interdepartmental working group in late 1999 to undertake a comprehensive review of the existing law, regulatory regime and related matters in relation to interception of communications. As part of the review, the working group examined the relevant legislation and regulatory framework in other jurisdictions. The working group would also take into account the significant legislative amendments that had been introduced in other jurisdictions since the "911" incident in the United States. The Administration assured members that the Panel would be consulted on the way forward after the review was completed.

22. The Panel had asked the Administration to explain the difficulties encountered in the review of ICO and to provide the timetable for completion of the review. The Administration assured members that it has no intention to delay indefinitely the review of the matter. The Administration advised that the review had taken longer than anticipated as it covered highly technical and complex issues. In addition, the rapid development of communications technologies had compounded the complexity of the task. In drawing up its recommendations, the working group would strike a balance between the need to provide sufficient powers to law enforcement agencies and to protect the rights of individuals and their personal privacy. The Administration would make every effort to submit its policy recommendations to the Panel during the 2004-05 session.

The Law Reform Commission Report on "The Regulation of Debt Collection Practices"

23. In July 2002, the Law Reform Commission (LRC) issued a report entitled "The Regulation of Debt Collection Practices". Upon the Panel's request, the Administration briefed the Panel on the progress of the Administration's consideration of the recommendations in the LRC Report.

24. Members were informed that the Administration was carrying out a comprehensive study on issues relating to the recommendations in the LRC Report. These included the impact of the proposals in the Report on Civil Justice Reform, developments after the LRC Report was issued, for instance, the Code of Practice on Consumer Credit Data issued by the Office of the Privacy Commissioner for Personal Data, the enforceability of the proposal of creating the criminal offence of harassment of debtors and others, and whether a licensing scheme should be introduced for debt collectors, its objectives, design and coverage of such a scheme. The result of the study would be made

public, and public consultation on the way forward would be conducted.

25. Members expressed concern as to when the study would be completed. Members pointed out that there had been concerns in the community about debt collection practices since 1993. The matter had been discussed at meetings of the Fight Crime Committee and studied by LRC for many years. Members urged the Administration to expedite its study.

26. Members also pointed out many neighbours of debtors had complained about serious disturbance from debt collectors, such as knocking on the doors without lawful excuse, even though the debtors had moved to another place. Members suggested that the Administration could implement the recommendations in stages and enact legislation to protect the third parties first.

27. The Administration responded that the recommendations, if adopted, could be implemented in stages as necessary. The Security Bureau was consulting the Department of Justice regarding the enforceability of the LRC recommendations. The implications of the civil justice reform announced recently on the regulation of debt collection practices would need to be studied.

28. Members considered that there was an urgent need to implement the recommendations in the LRC Report, and should not wait for the outcome of the civil justice reform. If there were difficulties in implementing some of the recommendations, those which were easier to implement could be dealt with first. Members urged the Administration to expedite the implementation of the LRC recommendations.

Policy on integrity checking on disciplined forces

29. The Panel discussed the policy on integrity checking on disciplined forces, including the Independent Commission Against Corruption (ICAC).

30. The Panel was informed that the Government's overall policy on integrity checking for the civil service was applicable to all government servants. The aim was to ensure that potential and serving employees were of good character and high integrity. The management would, among other things, take into consideration the results, if any, from the integrity checking to decide on the overall suitability of the candidate or officer for appointment to a post, promotion to a rank or in some cases continuing to discharge his duties in his current capacity. In addition, guidelines on avoidance of conflict of interest specific to each of the disciplined forces and ICAC were in place.

31. The Panel was also informed that integrity checking was a risk assessment tool and was not the sole factor for determining the suitability of an individual for appointment or promotion. Each case had to be dealt with on

its own merits having regard to individual circumstances, including the nature and severity of any adverse comments and its relevance to the officer's posting. It remained a conscious decision of the appointment authority as to whether a particular individual should be appointed or promoted if the check revealed information that might need to be taken into account. Between 2001 and 2003, there were a total of nine instances of promotions in the disciplined forces being denied as a result of information revealed from integrity checking, having taken into account all relevant considerations. During the same period, no ICAC officer had failed to pass integrity checking, resulting in his promotion not being endorsed by the management, interdiction from duty or termination of employment.

32. A member was of the view that a person who failed to pass the integrity check should not be appointed or promoted. The member also considered it inappropriate to leave the decision of whether to appoint or promote a person to the department concerned irrespective of whether the integrity check was passed. To increase public's confidence in the system of integrity checking, measures should be in place to ensure that the check was conducted independently.

33. The Panel requested the Administration to provide a more detailed paper on integrity checking, including the types of integrity checks applicable to civil servants and other public officers, and measures to ensure that integrity checks were conducted independently.

Police's handling cases of intimidation or violence against public figures which might be relating to their public comments

34. It was reported that in March 2004, Mr WONG Yuk-man, a radio phone-in programme host, was assaulted and his noodle shop was splashed with paint, and the premise of Mr Albert CHENG King-hon's company, also a radio phone-in programme host, was splashed with paint respectively. In May 2004, Mr CHENG and Mr WONG respectively announced that they would be off the air. The Panel discussed how the Police would handle cases of intimidation or violence against public figures which might be related to their public comments.

35. Members were concerned whether the recent two cases of intimidation or violence against phone-in programme hosts were related to their public comments and, if so, would pose a threat to the freedom of speech in Hong Kong. Some members pointed out that Mr CHENG had said publicly that the incident was related to his public comments, and he was worried about his personal safety. These members queried how the Police would investigate the cases and whether protection would be offered to the victims concerned.

36. The Administration stressed that the Police attached great importance to criminal acts against any public figures. On receiving reports of such cases, the Police would conduct careful and thorough investigation into them, taking statements from relevant parties, locating witnesses, gathering evidence at scenes of crime, establishing the culprits' profiles, and analysing their modus operandi. Depending on the evidence available and subject to legal advice, the Police might arrest and lay charges against the persons concerned. Regarding one of the two cases in question, the Police had arrested five persons. The Administration stated that investigations on the two cases were still underway. So far, there was no evidence to suggest that they were related to the public comments made by the two public figures.

37. The Administration assured members that the Police was committed to protecting the safety of the public, and would not tolerate any threat to public figures. The Police would provide appropriate protection to the witnesses and victims as necessary. Regarding one of the victims concerned, the Police had been providing different levels of protection to him since the assault incident in 1998. At present, the Police was discussing with him the protection arrangements.

38. Some members pointed out that it was alleged that the Central Authorities had been exerting pressure on Mr CHENG through some other people. The Administration informed members the Police had contacted the Mainland authorities and was informed that there was no question of exerting pressure as alleged. However, the Administration declined to disclose the level of the Mainland authorities contacted on the ground that the cases were still under investigation.

Other issues

39. The Panel had also discussed a wide range of other issues with the Administration. They included the application for Hong Kong permanent resident status by non-Chinese nationals; provision of medical services to inmates in penal institutions; monitoring of expenditure on Reward and Special Services of the Hong Kong Police Force; trial in the Mainland of serious crimes committed in Hong Kong; and allegations of Mainland Public Security officials exercising jurisdiction in Hong Kong.

40. The Panel was also briefed on a number of legislative and financial proposals. They included the legislative proposals to provide for a revised scheme for the determination of the minimum term of imprisonment to be served by certain prisoners affected by a judgement of the Court of First Instance in September 2002; proposed amendments to the criteria for issuing Security Personnel Permits; and implementation of Phase III of the Updated Information Systems Strategy for the Immigration Department.

41. Between October 2003 and June 2004, the Panel held a total of 17 meetings, including a joint meeting with the Panel on Administration of Justice and Legal Services, a joint meeting with the Panel on Health Services and three joint meetings with the Panel on Welfare Services.

Council Business Division 2
Legislative Council Secretariat
25 June 2004

**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 for 2003-2004 session

Chairman	Hon James TO Kun-sun
Deputy Chairman	Hon WONG Yung-kan
Members	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 Howard YOUNG, SBS, JP Hon LAU Kong-wah, 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)

Clerk	Mrs Sharon TONG LEE Yin-ping
Legal adviser	Mr LEE Yu-sung
Date	9 October 2003