

**立法會**  
**Legislative Council**

Ref : CB2/BC/2/05

LC Paper No. CB(2)1689/05-06  
(These minutes have been seen by  
the Administration)

**Bills Committee on  
Interception of Communications and Surveillance Bill**

**Minutes of meeting  
held on Saturday, 25 March 2006 at 9:00 am  
in the Chamber of the Legislative Council Building**

- Members present** :
- Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
  - Hon LAU Kong-wah, JP (Deputy Chairman)
  - Hon Albert HO Chun-yan
  - Hon LEE Cheuk-yan
  - Hon Margaret NG
  - Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
  - Hon James TO Kun-sun
  - Hon Bernard CHAN, JP
  - Hon CHAN Kam-lam, SBS, JP
  - Hon Jasper TSANG Yok-sing, GBS, JP
  - Hon Howard YOUNG, SBS, JP
  - Hon Emily LAU Wai-hing, JP
  - Hon Timothy FOK Tsun-ting, GBS, JP
  - Hon Tommy CHEUNG Yu-yan, JP
  - Hon Audrey EU Yuet-mee, SC, JP
  - Hon Vincent FANG Kang, JP
  - Hon LI Kwok-ying, MH
  - Dr Hon Joseph LEE Kok-long
  - Hon Jeffrey LAM Kin-fung, SBS, JP
  - Hon LEUNG Kwok-hung
  - Hon WONG Ting-kwong, BBS
  - Hon Ronny TONG Ka-wah, SC
  - Hon Patrick LAU Sau-shing, SBS, JP

- Members absent** :
- Hon Martin LEE Chu-ming, SC, JP
  - Dr Hon David LI Kwok-po, GBS, JP
  - Dr Hon LUI Ming-wah, SBS, JP

Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon SIN Chung-kai, JP  
Dr Hon Philip WONG Yu-hong, GBS  
Hon Daniel LAM Wai-keung, BBS, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon CHEUNG Hok-ming, SBS, JP  
Hon CHIM Pui-chung

**Public Officers :** Mr Stanley YING  
**attending** Permanent Secretary for Security

Miss S H CHEUNG  
Deputy Secretary for Security

Mrs Apollonia LIU  
Principal Assistant Secretary for Security

Mr Ian WINGFIELD  
Law Officer (International Law)  
Department of Justice

Ms Sherman CHAN  
Senior Assistant Law Draftsman

Ms Frances HUI  
Senior Government Counsel

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

**Staff in** : Mr LEE Yu-sung  
**attendance** Senior Assistant Legal Adviser 1

Mr Raymond LAM  
Senior Council Secretary (2)5

Ms Alice CHEUNG  
Legislative Assistant (2)1

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## **I. Meeting with the Administration**

The Bills Committee deliberated (index of proceedings attached at **Annex**).

### 2. The Bills Committee requested the Administration to –

#### Meaning of the term “public security” in the Bill

- (a) consider providing a definition for the term “public security” in the Bill or stating the exclusions from it;
- (b) provide information, if available, on why a definition for “public security” was not proposed in the 1996 Law Report Commission report on interception of communications and the 1997 White Bill on Interception of Communications;

#### Consequence of breach of the provisions in the Bill

- (c) consider setting out expressly the consequence for law enforcement officers in breach of the provisions in the Bill;

#### Legal professional privilege

- (d) consider requiring law enforcement agencies to submit a report to the panel judge for each judicial authorisation relating to legal professional privilege after a specified period;
- (e) explain, quoting the relevant provisions in the Bill, how legal professional privilege would be safeguarded when –
  - (i) a person whose communication was being intercepted or who was under surveillance sought legal advice from his lawyer; or
  - (ii) a lawyer who was suspected of involvement in crime and was under surveillance or whose communication was intercepted provided legal advice to a client;
- (f) consider reflecting the right of residents to confidential legal advice as provided in Article 35 of the Basic Law in clause 56(1)(c) of the Bill;

#### Integrity checking

- (g) advise whether persons who had undergone integrity checking would be informed of the results of the checking and, if not, the reasons for not doing so; and

- (h) provide information on the authorisation authorities for interception of communications or surveillance and details of their regime for granting such authorisations in other common law jurisdictions and whether integrity checking was conducted on judges in such jurisdictions.

## II. Dates of subsequent meetings

3. The Bills Committee agreed that the schedule of meetings between the week of 10 April 2006 and the week of 19 June 2006 would be as follows –

<u>Date</u>	<u>Time</u>
12 April 2006 (Wednesday)	2:30 pm – 4:30 pm
19 April 2006 (Wednesday)	2:30 pm – 4:30 pm
25 April 2006 (Tuesday)	4:30 pm – 6:30 pm
2 May 2006 (Tuesday)	4:30 pm – 6:30 pm
9 May 2006 (Tuesday)	8:30 am – 10:30 am
17 May 2006 (Wednesday)	8:30 am – 10:30 am
25 May 2006 (Thursday)	4:30 pm – 6:30 pm
1 June 2006 (Thursday)	2:30 pm – 4:30 pm
5 June 2006 (Monday)	8:30 am – 10:30 am
13 June 2006 (Tuesday)	4:30 pm – 6:30 pm
19 June 2006 (Monday)	8:30 am – 10:30 am
23 June 2006 (Friday)	8:30 am – 10:30 am

4. The Bills Committee noted that meetings had been scheduled for Monday, 3 April 2006 from 9:00 am to 1:00 pm to receive public views on the Bill and Thursday, 6 April 2006 at 8:30 am to continue discussion with the Administration.

5. The meeting ended at 11:05 am.

Council Business Division 2  
Legislative Council Secretariat  
10 April 2006

**Proceedings of meeting of the  
Bills Committee on  
Interception of Communications and Surveillance Bill  
on Saturday, 25 March 2006 at 9:00 am  
in the Chamber of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
000000 – 001051	Chairman Hon Emily LAU Hon LAU Kong-wah Hon WONG Ting-kwong Hon Albert HO Hon Margaret NG	Schedule of meetings between the week of 10 April 2006 and the week of 19 June 2006	
001052 – 002107	Admin	Briefing on the Administration's response to issues raised by members at the meeting of 16 March 2006 (LC Paper No. CB(2)1516/05-06(01))	
002108 – 002908	Hon LEE Cheuk-yan Chairman Admin	Providing a definition for the term "public security"; difference between the meaning of "public security" and "public safety"; providing exclusions from the meaning of the term "public security"	
002909 – 004404	Hon Margaret NG Admin	Whether legal professional privilege was absolute; whether information subject to the protection of legal professional privilege could be acquired, if judicial authorisation was granted, through interception of communications or surveillance	
004405 – 005735	Hon Albert HO Chairman Admin	Meaning and scope of "public security"; providing a definition for the term "public security"	

Time marker	Speaker	Subject(s)	Action Required
005736 – 011849	Hon Ronny TONG Chairman Admin	Whether the threshold in clause 3(1)(a) of the Bill was too low; whether “public security” included national security; whether the consequence for breach of the provisions in the Bill would be set out expressly; requiring law enforcement agencies to submit a report to the panel judge for each judicial authorisation relating to legal professional privilege	<b>Admin to consider setting out expressly the consequence for breach of the provisions in the Bill; to consider requiring law enforcement agencies to submit a report to the panel judge for each judicial authorisation relating to legal professional privilege after a specified period</b>
011850 – 013322	Hon Emily LAU Admin Hon LAU Kong-wah	Exclusion of lawful demonstrations from acts that prejudiced public security; whether there would be any political vetting in integrity checking; whether there was a need for integrity checking on panel judges; law enforcement officers subject to integrity checking	<b>Admin to consider providing a definition for the term “public security” in the Bill or stating the exclusions from it</b>
013323 – 013853	Hon LAU Kong-wah Chairman Admin	How legal professional privilege would be safeguarded when : (a) a person whose communication was being intercepted or who was under surveillance sought legal advice from his lawyer; or (b) a lawyer who was suspected of involvement in crime and was under surveillance or whose communication was intercepted provided legal advice to a client; how the right of residents to confidential legal advice as provided in Article 35 of the Basic Law could be reflected in the Bill	<b>Admin to explain how legal professional privilege would be safeguarded under the situations referred to by Hon LAU Kong-wah; to consider reflecting the right of residents to confidential legal advice as provided in Article 35 of the Basic Law in clause 56(1)(c) of the Bill</b>

Time marker	Speaker	Subject(s)	Action Required
013854 – 014517	Dr Hon Joseph LEE Chairman Admin	Why a definition for “public security” was not proposed in the 1996 Law Report Commission report on interception of communications and the 1997 White Bill on Interception of Communications; how legal professional privilege could be safeguarded	<b>Admin to provide, if available, information on why a definition for “public security” was not proposed in the 1996 Law Report Commission report on interception of communications and the 1997 White Bill on Interception of Communications</b>
014518 – 015020	Hon Mrs Selina CHOW Chairman	Providing exclusions from the meaning of the term “public security” in the Bill	
015021 – 015510	Hon Margaret NG Chairman	Meeting to gauge public views on the Bill; impact of integrity checking for judges and appointment of panel judges by the Chief Executive on the confidence of the public in judicial independence	
015511 – 020446	Hon Albert HO Chairman Admin	Mechanism for integrity checking on judges; persons who would be informed of the result of integrity checking; whether judges who had undergone integrity checking would be informed of the results of the checking; practice of other common law jurisdictions in respect of judicial authorisation and integrity checking on judges	<b>Admin to advise whether persons who had undergone integrity checking would be informed of the results of the checking and, if not, the reasons for not doing so; to provide information on the authorisation authorities for interception of communications or surveillance and details of their regime for granting such authorisations in other common law jurisdictions and whether integrity</b>



<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
			<b>checking was conducted on judges in such jurisdictions</b>
020447 – 020508	Chairman	Dates of the following two meetings	

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