

**立法會**  
**Legislative Council**

Ref : CB2/BC/2/05

LC Paper No. CB(2)2026/05-06  
(These minutes have been seen by  
the Administration)

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

**Minutes of meeting  
held on Wednesday, 12 April 2006 at 2:30 pm  
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 Martin LEE Chu-ming, SC, JP
  - Hon Margaret NG
  - Hon Bernard CHAN, JP
  - Hon CHAN Kam-lam, SBS, JP
  - Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
  - Hon Jasper TSANG Yok-sing, GBS, JP
  - Hon Audrey EU Yuet-mee, SC, JP
  - Hon Vincent FANG Kang, JP
  - Dr Hon Joseph LEE Kok-long
  - Hon Jeffrey LAM Kin-fung, SBS, JP
  - Hon Andrew LEUNG Kwan-yuen, SBS, JP
  - Hon LEUNG Kwok-hung
  - Hon CHEUNG Hok-ming, SBS, JP
  - Hon WONG Ting-kwong, BBS
  - Hon Ronny TONG Ka-wah, SC
- Members absent** :
- Dr Hon David LI Kwok-po, GBS, JP
  - Dr Hon LUI Ming-wah, SBS, JP
  - Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
  - Hon James TO Kun-sun
  - Hon SIN Chung-kai, JP
  - Dr Hon Philip WONG Yu-hong, GBS
  - 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 LI Kwok-ying, MH  
Hon Daniel LAM Wai-keung, BBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon CHIM Pui-chung  
Hon Patrick LAU Sau-shing, SBS, JP

**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** : Mrs Justina LAM  
**attendance** Assistant Secretary General 2

Ms Bernice WONG  
Assistant Legal Adviser 1

Ms Sandy HAU  
Legislative Assistant (2)6

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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 –
  - (a) consider the feasibility of providing in the Bill that if in the course of a duly authorised interception of communications or surveillance operation, certain communications were found to be subject to legal professional privilege (LPP), the interception or surveillance should stop immediately;
  - (b) clarify the meaning of “intercept a private communication” in section 186(2) of the Canadian Criminal Code, to consider prohibiting authorisation of interception or surveillance of communications at a lawyer’s office or residence unless there were reasonable grounds to believe that the lawyer was a party to an offence, and to provide the draft Committee Stage amendment;
  - (c) consider providing the Chief Justice with the reports of extended checking of judges to enable the Chief Justice to decide whether the judges should be recommended for appointment as panel judge or to enable the Chief Justice to appoint panel judges;
  - (d) explain the meaning of “a panel judge shall act judicially” and review the drafting of the expression “以司法身份行事” in section 4 of Schedule 2;
  - (e) explain the criteria adopted in determining whether an appointee could pass an extended checking; and
  - (f) explain how postal interception and covert surveillance products would be used by the prosecutor to carry out his duty to ensure a fair trial in a proceeding, and to provide the draft Committee Stage amendments in respect of use and destruction of products protected by LPP.

## **II. Date of next meeting**

3. The Bills Committee noted that the next meeting had been scheduled for Wednesday, 19 April 2006 at 2:30 pm to continue discussion with the Administration.
4. The meeting ended at 4:35 pm.

Legislative Council Secretariat  
16 May 2006

**Proceedings of meeting of the  
Bills Committee on  
Interception of Communications and Surveillance Bill  
on Wednesday, 12 April 2006 at 2:30 pm  
in the Chamber of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
000000 – 000348	Chairman	Opening remarks	
000349 – 001415	Admin	Briefing on the Administration's response to issues raised at the meetings on 3 and 6 April 2006 (LC Paper No. CB(2)1693/05-06(01))	
001416 – 003009	Hon Margaret NG Chairman Admin	Interception of communications and covert surveillance in respect of a lawyer and legal professional privilege; providing in the Bill that if in the course of a duly authorised interception of communications or surveillance operation, certain communications were found to be subject to legal professional privilege (LPP), the interception or surveillance should stop immediately; mechanism for appointment of judges; proposed checking for judges	<b>Admin to consider the feasibility of providing in the Bill that if in the course of a duly authorised interception of communications or surveillance operation, certain communications were found to be subject to LPP, the interception or surveillance should stop immediately</b>
003010 – 005202	Hon Audrey EU ALA1 Chairman Admin	Whether there was any exception to LPP; circumstances under which interception of communications and surveillance would be conducted in respect of a lawyer	

Time marker	Speaker	Subject(s)	Action Required
005203 – 011528	Hon Albert HO Admin Chairman	Whether it would be expressly provided in the Bill that products from interception of communications or surveillance that had not been properly authorised should not be admissible as evidence; providing the Chief Justice (CJ) with the reports of extended checking of judges to enable CJ to decide whether the judges should be recommended for appointment as panel judge or to enable CJ to appoint panel judges; how consistency could be maintained in the authorisation by panel judges	<b>Admin to consider providing CJ with the reports of extended checking of judges to enable CJ to decide whether the judges should be recommended for appointment as panel judge or to enable CJ to appoint panel judges</b>
011529 – 013141	Hon Ronny TONG Chairman Admin	Prohibiting authorisation of interception or surveillance of communications at a lawyer’s office or residence unless there were reasonable grounds to believe that the lawyer was a party to an offence; meaning of “intercept a private communication” in section 186(2) of the Canadian Criminal Code; effect of the proposed mechanism for appointment of judges on the independence of panel judges	<b>Admin to clarify the meaning of “intercept a private communication” in section 186(2) of the Canadian Criminal Code; to consider prohibiting authorisation of interception or surveillance of communications at a lawyer’s office or residence unless there were reasonable grounds to believe that the lawyer was a party to an offence, and to provide the draft Committee Stage amendment</b>
013142 – 013953	Hon LEUNG Kwok-hung	Whether the proposed mechanism for authorisation of interception of communications and surveillance and the appointment of panel judges was desirable	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
013954 – 014526	Hon Martin LEE Chairman Admin	Use and destruction of interception or surveillance products protected by LPP	
014527 – 014951	Hon Audrey EU Chairman Admin	Circumstances where an application for authorisation would be considered by a panel judge at a place other than within the court precincts; safekeeping of the relevant documents and records	
014952 – 015401	Hon LAU Kong-wah Chairman Admin	Prohibiting the use of interception or surveillance products protected by LPP; how postal interception and covert surveillance products would be used by the prosecutor to carry out his duty to ensure a fair trial in a proceeding; providing the draft Committee Stage amendments in respect of use and destruction of products protected by LPP	<b>Admin to explain how postal interception and covert surveillance products would be used by the prosecutor to carry out his duty to ensure a fair trial in a proceeding, and to provide the draft Committee Stage amendments in respect of use and destruction of products protected by LPP</b>
015402 – 015846	Hon Margaret NG Hon Albert HO Chairman Admin	Mechanism for the appointment of judges; meaning of “a panel judge shall act judicially” and drafting of the expression “以司法身分行事” in section 4 of Schedule 2	<b>Admin to explain the meaning of “a panel judge shall act judicially” and review the drafting of the expression “以司法身分行事” in section 4 of Schedule 2</b>
015847 – 020241	Hon Albert HO Chairman Admin	Provisions on the use of interception and surveillance products protected by LPP; criteria for determining whether an appointee could pass an extended checking	<b>Admin to explain the criteria adopted in determining whether an appointee could pass an extended checking</b>

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
020242 – 020303	Chairman	Date of next meeting	

Council Business Division 2  
Legislative Council Secretariat  
16 May 2006