

**立法會**  
**Legislative Council**

Ref : CB2/BC/2/05

LC Paper No. CB(2)2027/05-06  
(These minutes have been seen by  
the Administration)

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

**Minutes of meeting  
held on Wednesday, 19 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  
Dr Hon LUI Ming-wah, SBS, JP  
Hon James TO Kun-sun  
Hon CHAN Kam-lam, SBS, JP  
Dr Hon Philip WONG Yu-hong, GBS  
Hon Jasper TSANG Yok-sing, GBS, 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 Andrew LEUNG Kwan-yuen, SBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon WONG Ting-kwong, BBS  
Hon Ronny TONG Ka-wah, SC  
Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** : Dr Hon David LI Kwok-po, GBS, JP  
Hon Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon Bernard CHAN, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP

Hon SIN Chung-kai, 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 Daniel LAM Wai-keung, BBS, JP  
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 Justina LAM  
**attendance** Assistant Secretary General 2

**Staff in** : Ms Bernice WONG  
**attendance** Assistant Legal Adviser 1

Mr Raymond LAM  
Senior Council Secretary (2)5

Miss Kiwi NG  
Clerical Assistant (2)3

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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 –

- (a) to consider providing an exclusion provision for the term “serious crime” in the Bill;
- (b) to consult the Judiciary on the suggestion that panel judges should be appointed by the Chief Justice instead of the Chief Executive;
- (c) to reconsider providing a definition for public security and explain what constituted “public” in the term “public security”, including whether national security and risks with no direct relevance to Hong Kong would be covered;
- (d) to consider restricting matters which threatened public security to those which could ultimately lead to or result in serious crimes, such as “terrorist act” as defined in the United Nations (Anti-Terrorism Measures) Ordinance;
- (e) to advise who would determine whether a matter would threaten public security and the criteria to be adopted in such determination; and
- (f) to advise on the scope of the exclusion provision for the term “public security” to be proposed by the Administration and provide the draft wording.

3. The Administration advised that it would consider the feasibility of establishing some form of notification mechanism for notifying targets of interception of communications or surveillance afterwards of the activities conducted under certain circumstances.

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

4. The Bills Committee noted that the next meeting had been scheduled for Tuesday, 25 April 2006 at 4:30 pm to continue discussion with the Administration.

5. The meeting ended at 4:35 pm.

**Proceedings of meeting of the  
Bills Committee on  
Interception of Communications and Surveillance Bill  
on Wednesday, 19 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 – 000927	Chairman	Opening remarks	
000928 – 002911	Admin	Briefing on the Administration's response to issues raised at the meetings on 3, 6 and 12 April 2006 (LC Paper No. CB(2)1742/05-06(01))	
002912 – 003624	Hon Ronny TONG Chairman Admin	Exclusion provision for the term "serious crime"; whether the sample cases in Annex A to the Administration's paper involved threats to public security but not crime in Hong Kong	<b>Admin to consider providing an exclusion provision for the term "serious crime" in the Bill</b>
003625 – 004336	Hon LEE Cheuk-yan Admin	How the exclusion provision for the term "public security" would operate; whether a definition should be provided for public security; whether public security covered national security	
004337 – 005055	Hon James TO Admin	Whether the sample cases in Annex A to the Administration's paper did not amount to crime in Hong Kong	

Time marker	Speaker	Subject(s)	Action Required
005056 – 005635	Hon LAU Kong-wah Admin	Whether the examples in Annex A to the Administration’s paper reflected a need for provisions on public security in the Bill; whether the results of extended checking were currently disclosed to parties other than the appointment authority; whether the appointment authority should be left to decide whether the results of extended integrity checking prior to appointment of panel judges should be disclosed to other parties	
005636 – 010346	Hon Albert HO Chairman Admin	Whether panel judges should be appointed by the Chief Justice instead of the Chief Executive; whether public security covered the security of Hong Kong only or that of other places also	<b>Admin to consult the Judiciary on the suggestion that panel judges should be appointed by the Chief Justice instead of the Chief Executive; to reconsider providing a definition for public security; to explain what constituted “public” in the term “public security”</b>
010347 – 011055	Hon LEUNG Kwok-hung	Whether provisions relating to public security in the Bill sought to implement Article 23 of the Basic Law (BL23)	

Time marker	Speaker	Subject(s)	Action Required
011056 – 011719	Hon Ronny TONG Chairman Admin	Scope of BL30; whether there was any relationship between the Bill and BL23; whether acts which threatened public security should be restricted to those which amounted to serious crimes	<b>Admin to consider restricting matters which threatened public security to those which could ultimately lead to or result in serious crimes, such as “terrorist act” as defined in the United Nations (Anti-Terrorism Measures) Ordinance</b>
011720 – 012445	Chairman Hon LEE Cheuk-yan Admin	Who would determine whether a certain act would threaten public security; whether there was any relationship between public security in the Bill and BL23	<b>Admin to advise who would determine whether a matter would threaten public security and the criteria to be adopted in such determination</b>
012446 – 014729	Hon James TO Hon Albert HO Hon LEUNG Kwok-hung Admin Chairman	Scope of public security and whether the term could be more clearly defined; whether national security could be excluded from the scope of public security	<b>Admin to advise on the scope of its exclusion provision for the term “public security” and provide the draft wording; to advise whether public security covered national security and risks with no direct relevance to Hong Kong</b>
014501 – 015201	Hon LAU Kong-wah Chairman Admin	Whether there was a need for provisions on public security in the Bill, appointment of panel judges and integrity checking; when the draft Committee Stage amendments relating to legal professional privilege would be provided; whether targets of interception of communications or surveillance would be notified afterwards of the activities conducted	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
015202 – 015314	Chairman Hon James TO	Whether the Bill Committee should commence clause-by-clause examination of the Bill at the next meeting	
015315 – 020113	Hon James TO Chairman Admin	Whether there were local examples involving threats to public security but not serious crime in Hong Kong; coverage of the exclusion provision for the term “public security”	
020114 – 020216	Chairman	When clause-by-clause examination of the Bill should commence and how differences in views could be dealt with	

Council Business Division 2  
Legislative Council Secretariat  
16 May 2006