

立法會
Legislative Council

Ref : CB2/BC/2/05

LC Paper No. CB(2)3121/05-06
(These minutes have been seen by
the Administration)

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

**Minutes of meeting
held on Tuesday, 6 June 2006, at 10:45 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
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon James TO Kun-sun
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Vincent FANG Kang, JP
Hon LI Kwok-ying, MH
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** : Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP

Dr Hon David LI Kwok-po, GBS, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Dr Hon Joseph LEE Kok-long
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 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 Sandy HAU
Clerical Assistant (2)1

I. Meeting with the Administration

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

2. The Bills Committee requested the Administration –

Clause 6

- (a) to consider providing in the Bill that panel judges were appointed on a personal basis;
- (b) to consider, in consultation with the Judiciary, whether it would be appropriate for panel judges to be affiliated to political parties;
- (c) to consider providing in the Bill that judges would not consider applications for interception of communications or surveillance in the premises of law enforcement agencies;
- (d) to explain the operational arrangements for authorisations by panel judges under the Bill;
- (e) to explain whether panel judges constituted an “entity”;
- (f) to consider providing expressly in the Bill that if authorisation was not granted by a panel judge for an application, an application on the basis of exactly the same information could not be submitted to another panel judge;

Schedule 2

- (g) to consider moving sections 1, 2 and 4 of Schedule 2 to the principal legislation;
- (h) to consider amending “Division 5 of Part 3 of this Ordinance” in section 1(3) of Schedule 2 to explicitly refer to oral applications;
- (i) to provide examples of other legislation with reference to the term “in private” in section 1(1) of Schedule 2; and
- (j) to explain the meaning of “powers, protection and immunities” of the panel judges in section 4 of Schedule 2.

II. Date of next meeting

3. The Bills Committee noted that the next meeting had been scheduled for Thursday, 8 June 2006 at 4:30 pm in the Chamber to continue discussion with the Administration.

4. The meeting ended at 1:00 pm.

Council Business Division 2
Legislative Council Secretariat
29 September 2006

**Proceedings of meeting of the
Bills Committee on
Interception of Communications and Surveillance Bill
on Tuesday, 6 June 2006, at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 – 001000	Chairman Hon Emily LAU Admin	Date of meeting to receive the views of the Law Society of Hong Kong and the Hong Kong Bar Association; date of the Administration's briefing on surveillance devices	
001001 – 001055	Chairman Admin Hon James TO	Examination of clause 5	
001056 – 001350	Chairman Admin	Briefing on clause 6 and Schedule 2 to the Bill	
001351 – 002139	Hon Emily LAU Admin	Meaning of "good cause" in clause 6(3); whether the Chief Executive could revoke the appointment of a panel judge for good cause only on the recommendation of the Chief Justice	
002140 – 002634	Hon Ronny TONG Admin	Definition of "judge" in the Bill	
002635 – 003345	Hon Margaret NG Admin	Whether authorisations should be made by panel judges; providing in the Bill that panel judges were appointed on a personal basis; whether sections 1, 2 and 4 of Schedule 2 should be moved to the principal legislation	Admin to consider providing in the Bill that panel judges were appointed on a personal basis; to consider moving sections 1, 2 and 4 of Schedule 2 to the principal legislation
003346 – 004544	Hon LAU Kong-wah Hon LEUNG Kwok-hung Admin Chairman	Whether it was appropriate for panel judges to be affiliated to political parties	

Time marker	Speaker	Subject(s)	Action Required
004545 – 005441	Hon James TO Hon Margaret NG Chairman Admin	Whether Schedule 2 to the Bill should be relocated to the principal legislation; meaning of “act judicially” in Schedule 2	
005442 – 010910	Hon Margaret NG Chairman Hon LI Kwok-ying Hon Ronny TONG Admin	Practice of the Judiciary in the deployment of judges to deal with cases; whether it was appropriate for panel judges to be affiliated to political parties	
010911 – 011514	Hon Emily LAU Admin Chairman	Meaning of “act judicially” in Schedule 2 to the Bill	
011515 – 012006	Hon LAU Kong-wah Admin Chairman	Whether it was appropriate for panel judges to be affiliated to political parties	Admin to consider, in consultation with the Judiciary, whether it would be appropriate for panel judges to be affiliated to political parties
012007 – 012726	Hon LEUNG Kwok-hung Admin	Whether authorisations should be made by panel judges	
012727 – 013030	Hon LI Kwok-ying Admin Chairman	Whether it was appropriate for panel judges to be affiliated to political parties	
013031 – 013944	Chairman Hon James TO Admin	Meaning of section 4 of Schedule 2 to the Bill	
013945 – 014420	Admin	Briefing on Schedule 2 to the Bill	

Time marker	Speaker	Subject(s)	Action Required
014421 – 015159	Hon Margaret NG Admin Chairman	Amending “Division 5 of Part 3 of this Ordinance” in section 1(3) of Schedule 2 to explicitly refer to oral applications; providing in the Bill that judges would not consider applications for interception of communications or surveillance in the premises of law enforcement agencies	Admin to consider amending “Division 5 of Part 3 of this Ordinance” in section 1(3) of Schedule 2 to explicitly refer to oral applications; to consider providing in the Bill that judges would not consider applications for interception of communications or surveillance in the premises of law enforcement agencies
015200 – 020446	Hon Albert HO Hon Ronny TONG Admin Chairman	Operational arrangements for authorisations by panel judges under the Bill; providing expressly in the Bill that if authorisation was not granted by a panel judge for an application, an application on the basis of exactly the same information could not be submitted to another panel judge	Admin to explain the operational arrangements for authorisations by panel judges under the Bill; to consider providing expressly in the Bill that if authorisation was not granted by a panel judge for an application, an application on the basis of exactly the same information could not be submitted to another panel judge
020447 – 020954	Hon James TO Admin	Whether Schedule 2 to the Bill should be relocated to the principal legislation; whether panel judges could formulate their own rules	

Time marker	Speaker	Subject(s)	Action Required
020955 – 021553	Hon Margaret NG Chairman Admin Hon Albert HO	Examples of other legislation with reference to the term “in private” in section 1(1) of Schedule 2; meaning of “powers, protection and immunities” in section 4 of Schedule 2; whether panel judges constituted an “entity”	Admin to provide examples of other legislation with reference to the term “in private” in section 1(1) of Schedule 2; to explain the meaning of “powers, protection and immunities” of the panel judges in section 4 of Schedule 2; to explain whether panel judges constituted an “entity”
021554 – 021613	Chairman	Date of next meeting	

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