

**立法會**  
**Legislative Council**

Ref : CB2/BC/2/05

LC Paper No. CB(2)644/06-07  
(These minutes have been seen by  
the Administration)

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

**Minutes of meeting  
held on Tuesday, 4 July 2006, at 8:30 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)  
Hon LAU Kong-wah, JP (Deputy Chairman)  
Hon Martin LEE Chu-ming, SC, JP  
Dr Hon LUI Ming-wah, SBS, JP  
Hon Margaret NG  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon James TO Kun-sun  
Hon Bernard CHAN, GBS, JP  
Hon CHAN Kam-lam, SBS, 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 Audrey EU Yuet-mee, SC, JP  
Hon LI Kwok-ying, MH, JP  
Hon Daniel LAM Wai-keung, SBS, JP  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon WONG Ting-kwong, BBS  
Hon Ronny TONG Ka-wah, SC  
Hon Patrick LAU Sau-shing, SBS, JP

- Members absent** : Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan

Dr Hon David LI Kwok-po, GBS, JP  
Dr Hon Philip WONG Yu-hong, GBS  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Vincent FANG Kang, JP  
Dr Hon Joseph LEE Kok-long, JP  
Hon LEUNG Kwok-hung  
Hon CHEUNG Hok-ming, SBS, JP

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

Miss S H CHEUNG  
Deputy Secretary for Security

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

Mr Ian MCWALTERS  
Senior Assistant Director of Public Prosecutions

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

Miss Helen DIN  
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 -

#### Clause 58

- (a) to consider allowing a judge to decide whether the evidence referred to in clause 58(1) should be admissible;
- (b) to consider deleting clause 58(3) and 58(4);
- (c) to consider setting out expressly what a trial judge might do if the prosecution did not make an admission of fact ordered under clause 58(6);

#### Other issues

- (d) to advise on the role of the Chief Executive under the new statutory regime;
- (e) to advise on the status of the Law Enforcement (Covert Surveillance Procedures) Order after the passage of the Bill;
- (f) to reconsider conducting a briefing on interception of telecommunications;
- (g) to advise whether summaries and extracts of telecommunications intercepts were destroyed within one month;
- (h) to consider reflecting in the code of practice the principles for deriving intelligence gathered from interception and covert surveillance products;
- (i) to consider, in the future review of intelligence management, whether a Superintendent of Police was sufficiently senior for managing the intelligence database;
- (j) to advise on the procedures involved in controlling access to the intelligence database;
- (k) to advise whether administrative arrangements were in place to prevent the theft of contents in postal interception; and

#### Schedule 3

- (l) to consider setting out in the code of practice that any condition set by a health authority for the use of a surveillance device should be drawn to

the attention of law enforcement officers.

3. The Administration advised that it would -
  - (a) set out in the code of practice the requirement to assess the possible impact of a surveillance device on health before the device was first used;
  - (b) report to the Panel on Security the outcome of the review of the intelligence management system of law enforcement agencies; and
  - (c) provide the Panel with an updated version of the code of practice from time to time.
  
4. The Administration agreed to refer to the Commissioner on Interception of Communications and Surveillance the suggestion that he should take into account the views of Legislative Council Members before he made his comments or recommendations on the code of practice to the Secretary for Security.

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

5. The Bills Committee noted that the next meeting had been scheduled for Thursday, 6 July 2006, at 4:30 pm to continue discussion with the Administration.
  
6. The meeting ended at 12:45 pm.

Council Business Division 2  
Legislative Council Secretariat  
13 December 2006

**Proceedings of meeting of the  
Bills Committee on  
Interception of Communications and Surveillance Bill  
on Tuesday, 4 July 2006, at 8:30 am  
in Conference Room A of the Legislative Council Building**

| <b>Time marker</b> | <b>Speaker</b>   | <b>Subject(s)</b>   | <b>Action Required</b>   |
|--------------------|--|---|--|
| 000000 -<br>000304 | Chairman   | Opening remarks   |  |
| 000305 -<br>000619 | Admin  | Administration's response in paragraphs 13 to 16 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06 (01)) |  |
| 000620 -<br>001635 | Hon Emily LAU<br>Admin   | Administration's response in Annex B to the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06 (01))             |  |
| 001636 -<br>010551 | Chairman<br>Hon Margaret NG<br>Hon James TO<br>Hon Ronny TONG<br>Admin | Effect of clause 58; allowing a judge to decide whether the evidence referred to in clause 58(1) should be admissible                                   | <b>Admin to consider allowing a judge to decide whether the evidence referred to in clause 58(1) should be admissible</b>                                  |
| 010552 -<br>012937 | Chairman<br>Hon Margaret NG<br>Hon James TO<br>Admin                   | Whether there was a need for clause 58(3) and 58(4)   | <b>Admin to consider deleting clause 58(3) and 58(4)</b>   |
| 012938 -<br>014118 | Chairman<br>Hon James TO<br>Admin                                      | Setting out expressly what a trial judge might do if the prosecution did not make an admission of fact ordered under clause 58(6)                       | <b>Admin to consider setting out expressly what a trial judge might do if the prosecution did not make an admission of fact ordered under clause 58(6)</b> |
| 014119 -<br>014149 | Chairman<br>Admin  | Administration's response in paragraph 17 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06 (01))        |  |

| Time marker          | Speaker   | Subject(s)  | Action Required  |
|----------------------|---|---|--|
| 014150 -<br>015142   | Chairman<br>Hon James TO<br>Hon Margaret NG<br>Admin                      | Role of the Chief Executive under the new statutory regime; to advise on the status of the Law Enforcement (Covert Surveillance Procedures) Order (the Order) after the passage of the Bill | <b>Admin to advise on the role of the Chief Executive under the new statutory regime; to advise on the status of the Order after the passage of the Bill</b> |
| 015143 -<br>020127 - | Chairman<br>Hon Ronny TONG<br>Hon Margaret NG<br>Hon Emily LAU<br>Admin   | Differences between the products derived from interception of communications and surveillance   |  |
| Break                |   |   |  |
| 021511 -<br>021605   | Chairman<br>Admin   | Whether summaries and extracts of telecommunications intercepts were destroyed within one month   | <b>Admin to advise whether summaries and extracts of telecommunications intercepts were destroyed within one month</b>                                       |
| 021606 -<br>022410   | Chairman<br>Hon Margaret NG   | Differences between the products derived from interception of communications and surveillance   |  |
| 022411 -<br>022454   | Chairman  | Administration's response in paragraphs 18 to 20 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06(01))                                      |  |
| 022455 -<br>022950   | Chairman<br>Hon Emily LAU<br>Admin  | Providing the Panel on Security with an updated version of the code of practice from time to time   |  |
| 022951 -<br>025009   | Chairman<br>Hon James TO<br>Hon Howard YOUNG<br>Hon LAU Kong-wah<br>Admin | Administration's response in paragraph 21 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06 (01))  |  |

| Time marker        | Speaker  | Subject(s)   | Action Required   |
|--------------------|--|--|---|
| 025010 -<br>025031 | Chairman   | Administration's response in paragraphs 22 and 23 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06(01))  |   |
| 025032 -<br>031545 | Chairman<br>Hon James TO<br>Hon Emily LAU<br>Hon LAU Kong-wah<br>Admin | Arranging a briefing on interception of telecommunications   | <b>Admin to reconsider conducting a briefing on interception of telecommunications</b>  |
| 031546 -<br>031725 | Chairman<br>Admin  | Administration's response in paragraph 24 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06 (01))   |   |
| 031726 -<br>034455 | Chairman<br>Hon James TO<br>Hon LAU Kong-wah<br>Hon Emily LAU<br>Admin | Review of the intelligence management system of law enforcement agencies; reflecting in the code of practice the principles for deriving intelligence gathered from interception and covert surveillance products; whether a Superintendent of Police was sufficiently senior for managing the intelligence database | <b>Admin to consider reflecting in the code of practice the principles for deriving intelligence gathered from interception and covert surveillance products; to consider, in the future review of intelligence management, whether a Superintendent of Police was sufficiently senior for managing the intelligence database</b> |
| 034456 -<br>035455 | Chairman<br>Hon Margaret NG<br>Hon James TO<br>Admin                   | Monitoring of the intelligence management system of law enforcement agencies   |   |
| 035456 -<br>035723 | Chairman<br>Hon James TO<br>Admin                                      | Procedures involved in controlling access to the intelligence database   | <b>Admin to advise on the procedures involved in controlling access to the intelligence database</b>  |

| <b>Time marker</b> | <b>Speaker</b>                                | <b>Subject(s)</b>   | <b>Action Required</b>  |
|--------------------|---|---|---|
| 035724 -<br>040131 | Chairman<br>Hon Margaret NG<br>Hon Ronny TONG | Administration's response in paragraphs 25 to 27 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06 (01))                               |   |
| 040132 -<br>040222 | Chairman<br>Admin                             | Administration's response in paragraph 28 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06 (01))                                      |   |
| 040223 -<br>040603 | Chairman<br>Hon Margaret NG                   | Provision of the updated draft Committee Stage amendments (CSAs) by the Administration; draft CSAs to be proposed by Members  |   |
| 040604 -<br>040931 | Chairman<br>Hon James TO<br>Admin             | Administration's response in paragraphs 2 and 3 of the Administration's paper entitled "Response to issues raised at the meeting on 24 June 2006" (LC Paper No. CB(2)2556/05-06 (02)) | <b>Admin to consider setting out in the code of practice that any condition set by a health authority for the use of a surveillance device should be drawn to the attention of law enforcement officers</b> |
| 040932 -<br>041409 | Chairman<br>Hon James TO<br>Admin             | Administration's response in paragraph 4 of the Administration's paper entitled "Response to issues raised at the meeting on 24 June 2006" (LC Paper No. CB(2)2556/05-06 (02))        | <b>Admin to advise whether administrative arrangements were in place to prevent the theft of contents in postal interception</b>  |
| 041410 -<br>041433 | Chairman                                      | Date of next meeting  |   |