

立法會
Legislative Council

Ref : CB2/BC/2/05

LC Paper No. CB(2)660/06-07
(These minutes have been seen by
the Administration)

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

**Minutes of meeting
held on Saturday, 8 July 2006, at 9:00 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 Albert HO Chun-yan
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 Mrs Sophie LEUNG LAU Yau-fun, SBS, 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 Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon LI Kwok-ying, MH, JP
Dr Hon Joseph LEE Kok-long, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon WONG Ting-kwong, BBS

Members absent : Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBS, JP
Hon Bernard CHAN, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon SIN Chung-kai, JP
Hon Timothy FOK Tsun-ting, GBS, JP

Hon Daniel LAM Wai-keung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon Ronny TONG Ka-wah, SC
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

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 2(1)

- (a) to consider amending "a record of the identity of any person" in paragraph (a)(ii) of the definition of "copy" along the lines of "a record showing , directly or indirectly, the identity of any person";
- (b) to provide examples of offences that attracted a maximum penalty of \$1 million or more and an imprisonment term of less than three years;
- (c) to consider adding "physical or electronic" before the term "interference" in paragraph (b)(ii) of the definition of "Type 2 surveillance";

Clause 3

- (d) to consider including an explanation of the intent of the proposed clause 3(1)(b)(iii) in the speech of the Secretary for Security in the Resumption of Second Reading debate on the Bill;

Code of practice

- (e) to consider setting out in the code of practice how claims for damages from parties whose property had been interfered with in an authorised interception of communication or covert surveillance operation should be dealt with;
- (f) to consider providing in the code of practice that the Commissioner on Interception of Communications and Surveillance could make a report to the Chief Executive under clause 48 or make a recommendation to the law enforcement agency concerned under clause 50 in respect of failure to make good damage to property after an interception or covert surveillance operation;
- (g) to consider explaining in the code of practice what constituted a public place;
- (h) to consider setting out in the code of practice that the consent of the participating party in Type 2 surveillance should be obtained prior to an operation and that such consent should be indicated in the relevant application; and

Others

- (i) to consider amending the term "journalistic material" in the Bill along the lines of "content of journalistic material under the Interpretation and General Clauses Ordinance".

II. Date of next meeting

3. The Bills Committee noted that the next meeting had been scheduled for 10 July 2006 at 8:30 am to continue discussion with the Administration.
4. The meeting ended at 1:00 pm.

Council Business Division 2
Legislative Council Secretariat
14 December 2006

**Proceedings of meeting of the
Bills Committee on
Interception of Communications and Surveillance Bill
on Saturday, 8 July 2006, at 9:00 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 001054	Chairman Hon Emily LAU Admin	Arrangement of a briefing on interception of communications; Administration's response in paragraphs 10 to 12 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))	
001055 - 001453	Chairman Admin	Administration's response in paragraphs 13 to 15 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))	
001454 - 003607	Hon Emily LAU Hon James TO Hon Mrs Selina CHOW Admin Chairman	Mechanism for making good damage to property interfered during an interception of communications or covert surveillance operation authorised under the Bill	Admin to consider setting out in the code of practice how claims for damages from parties whose property had been interfered with in an authorised interception or covert surveillance operation should be dealt with

Time marker	Speaker	Subject(s)	Action Required
003608 - 004757	Hon James TO Hon LAU Kong-wah Admin Chairman	Providing that the Commissioner on Interception of Communications and Surveillance could make a report to the Chief Executive under clause 48 or make a recommendation to the law enforcement agency concerned under clause 50 in respect of failure to make good damage to property after an interception or covert surveillance operation	Admin to consider providing in the code of practice that the Commissioner on Interception of Communications and Surveillance could make a report to the Chief Executive under clause 48 or make a recommendation to the law enforcement agency concerned under clause 50 in respect of failure to make good damage to property after an interception or covert surveillance operation
004758 - 011238	Hon James TO Hon LAU Kong-wah Hon Albert HO Hon Emily LAU Chairman Admin	Whether the power of the Commissioner to determine compensation for damage to property when carrying out a prescribed authorisation should be set out expressly in the Bill	
011239 - 011324	Chairman Admin	Administration's response in paragraph 16 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))	
011325 - 011846	Chairman SALA1 Hon LAU Kong-wah Hon Emily LAU Admin	Paper entitled "Amendments to the Chinese text of the Bill" prepared by the Legal Service Division (LC Paper No. LS92/05-06)	

Time marker	Speaker	Subject(s)	Action Required
011847 - 012054	Chairman	Administration's proposed Committee Stage amendments (CSAs) as at 6 July 2006 (LC Paper No. CB(2)2690/05-06(01))	
012055 - 012713	Hon James TO Admin Chairman	Administration's proposed CSAs to the definition of "copy" in clause 2(1)	
012714 - 012743	Chairman Admin	Administration's proposed CSAs to the definition of "court" in clause 2(1)	
012744 - 013533	Hon James TO Admin Hon LAU Kong-wah Chairman	Amending "a record of the identity of any person" in paragraph (a)(ii) of the definition of "copy"	Admin to consider amending "a record of the identity of any person" in paragraph (a)(ii) of the definition of "copy" along the lines of "a record showing , directly or indirectly, the identity of any person"
Break			
015159 - 020154	Chairman Hon Emily LAU Hon James TO Admin	Administration's proposed CSAs to the definition of "covert surveillance", "data surveillance device", "interception product", "journalistic material" in clause 2(1)	Admin to consider amending the term "journalistic material" in the Bill along the lines of "content of journalistic material under the Interpretation and General Clauses Ordinance"
020155 - 021633	Hon Emily LAU Hon James TO Admin Chairman SALA1	Administration's proposed CSAs to the definition of "judicial authorization", "maintain", "postal article", "prescribed authorization", "public place", "public security" and "relevant authority" in clause 2(1)	Admin to consider explaining in the code of practice what constituted a public place

Time marker	Speaker	Subject(s)	Action Required
021634 - 022011	Hon James TO Hon Emily LAU Admin Chairman	Definition of "serious crime" and "tracking device" in clause 2(1)	Admin to provide examples of offences that attracted a maximum penalty of \$1 million or more and an imprisonment term of less than three years
022012 - 030915	Chairman Hon Emily LAU Hon James TO Hon Mrs Sophie LEUNG Hon Howard YOUNG Admin	Administration's proposed CSAs to the definition of "transmitted" and "Type 2 surveillance" in clause 2(1)	Admin to consider setting out in the code of practice that the consent of the participating party in Type 2 surveillance should be obtained prior to an operation and that such consent should be indicated in the relevant application; to consider adding "physical or electronic" before the term "interference" in paragraph (b)(ii) of the definition of "Type 2 surveillance"
030916 - 031049	Chairman Admin Hon Emily LAU	Administration's proposed CSAs to clause 2(2)	
031050 - 032012	Chairman Hon Emily LAU Hon James TO Admin	Administration's proposed CSAs to clause 2(3A), 2(5A), 2(6) and 2(7)	

Time marker	Speaker	Subject(s)	Action Required
032013 - 034339	Chairman Hon James TO Hon Howard YOUNG Hon Mrs Sophie LEUNG Hon Jasper TSANG Hon Albert HO Admin	Administration's proposed CSAs to clause 3	Admin to consider including an explanation of the intent of the proposed clause 3(1)(b)(iii) in the speech of the Secretary for Security in the Resumption of Second Reading debate on the Bill
034340 - 034414	Chairman Admin	Administration's proposed CSAs to clause 4	
034415 - 040030	Hon Emily LAU Hon James TO Hon Howard YOUNG Hon Mrs Sophie LEUNG Chairman Admin	Whether the Chief Executive should be subject to the Bill	
040031 - 040055	Chairman	Date of next meeting	