

立法會
Legislative Council

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LC Paper No. CB(2)79/06-07
(These minutes have been seen
by the Administration)

Panel on Security

**Minutes of meeting held on Tuesday, 4 April 2006,
at 2:30 pm in the Chamber of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
Hon Daniel LAM Wai-keung, BBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, JP
Hon Howard YOUNG, SBS, JP
Hon LAU Kong-wah, JP
Hon CHOY So-yuk, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LEUNG Kwok-hung

Members absent : Hon CHEUNG Man-kwong
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon CHIM Pui-chung

Public Officers attending : Item IV

Ms Carol YUEN
Deputy Secretary for Security 2

Mr Charles WONG
Principal Assistant Secretary for Security

Mr KWOK Leung-ming
Deputy Commissioner of Correctional Services

Mr YING Kwok-ching
Assistant Commissioner of Correction Services (Operations)

Mrs Marigold LAU
Deputy Director of Architectural Services (Ag)

Item V

Miss CHEUNG Siu-hing
Deputy Secretary for Security 1

Ms Amy WONG
Assistant Secretary for Security

Mr Timothy TONG
Commissioner of Customs and Excise

Mr LEUNG Koon-wah
Assistant Commissioner of Customs and Excise (Intelligence and Investigation)

Mr David CHOW
Customs Civil Secretary
Customs and Excise Department

Miss Linda TSUI
Superintendent (Acting)
Headquarters Building Project Team
Customs and Excise Department

Mrs Marigold LAU
Deputy Director of Architectural Services (Ag)

Item VI

Mrs Apollonia LIU
Principal Assistant Secretary for Security

Miss Rosalind CHEUNG
Assistant Secretary for Security

Miss Agnes CHAN
Senior Government Counsel
Department of Justice

Mr Alfred MA
Chief Superintendent of Police (Crime Headquarter) (Crime
Wing)
Hong Kong Police Force

Attendance by : Item VI
invitation

Zi Teng

Ms Elene LAM Yee-ling

Mr WONG Huk-kam

Eight members of Zi Teng

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
Legislative Assistant (2) 6

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)1569/05-06)

The minutes of the meeting held on 7 February 2006 were confirmed.

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II. Information papers issued since the last meeting

(LC Paper Nos. CB(2)1521/05-06(01) and CB(2)1575/05-06(01))

2. Members noted that a joint submission from the Hong Kong People's Alliance on WTO and Asian Human Rights Commission to the United Nations Human Rights Committee had been issued since the last meeting.

3. Members also noted that the Administration had provided a paper entitled "Replacement of Fireboat No. 4". No member suggested discussing the paper at a Panel meeting.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)1565/05-06(01) and (02))

4. Members agreed that the following items would be discussed at the next meeting to be held on 2 May 2006 at 2:30 pm -

- (a) Proposed creation of one permanent post of Chief Systems Manager in the Immigration Department;
- (b) Fire Services Department Diving Training Centre in the Government Dockyard at Stonecutters Island; and
- (c) Central Police District Headquarters and Central Police Division at Chung Kong Road, Sheung Wan.

5. Mr Howard YOUNG suggested that the Administration's immigration policy on foreign visitors be added to the list of outstanding items for discussion by the Panel.

6. The Chairman suggested that the provision of funding by the United Nations High Commissioner for Refugees for refugees and asylum seekers in Hong Kong should be discussed at a future meeting in association with the Administration's policy on the admission of refugees. He also asked the Clerk to check with the Administration when the Police's review on the security arrangements for the Sixth Ministerial Conference of the World Trade Organization held in Hong Kong in December 2005 would be completed.

IV. Redevelopment of Lo Wu Correctional Institution

(LC Paper No. CB(2)1565/05-06(03))

7. Deputy Secretary for Security 2 (DS for S2) briefed members on the Administration's proposal to redevelop the Lo Wu Correctional Institution (LWCI).

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8. Ms Margaret NG expressed doubt whether the Administration should continuously construct more prisons to cope with the projected increase in penal population. She considered that the Administration should review its penal policy. The Chairman asked when penal policy was last reviewed by the Administration.

9. DS for S2 responded that penal policy was regularly reviewed by the Administration. The Administration had considered around 1997-98 the feasibility of introducing other non-custodial options currently not available in Hong Kong, such as home detention and electronic monitoring, and noted that these options were not suitable for Hong Kong because of technical difficulties or security threats to the community. She said that the existing penal population had exceeded the capacity of penal institutions. Apart from increasing penal places, the Administration would continue to examine the viability of other non-custodial options, having regard to technological developments. She said that there was a shortfall of places especially in female penal institutions and maximum security prisons. The development of LWCI, the design of which would enable the accommodation of either male or female prisoners to meet actual demand, would help alleviate the overcrowding problem.

10. Ms Margaret NG asked about the type of facilities to be provided in LWCI.

11. Deputy Commissioner of Correctional Services (DCCS) responded that adequate facilities, including religious activities rooms, multi-media learning and training centre, library and family rooms, would be provided in the redeveloped LWCI. Ms Margaret NG requested the Administration to provide information on the rehabilitation services to be provided in the redeveloped LWCI.

(Post-meeting note : The information provided by the Administration was circulated to members vide LC Paper No. CB(2)1867/05-06 on 28 April 2006.)

12. Ms Margaret NG asked about the type of inmates who would be accommodated in LWCI.

13. DS for S2 responded that the overcrowding problem was particularly serious in female and maximum security institutions. The redeveloped LWCI would comprise two medium security institutions and one minimum security institution. Its design would incorporate the flexibility of accommodating either male or female prisoners to meet actual demand. The redevelopment of LWCI should thus alleviate the overcrowding problem.

14. Mr LAU Kong-wah asked about the progress of the establishment of a transfer of sentenced persons (TSP) arrangement with the Mainland. He asked whether the Administration would merely address the problem of an increasing number of Mainland persons serving sentence in Hong Kong through the construction of more prisons.

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15. DS for S2 responded that the Administration had commenced discussions with Mainland experts on the TSP arrangement since 2000. Much time was needed for studying the legal systems of the two sides, which were much different from each other. According to experience, the time needed for the establishment of TSP arrangements with some jurisdictions took about five to seven years. She added that it was difficult to assess whether the TSP arrangement with the Mainland would actually help relieve the overcrowding situation in penal institutions, as the consent of the prisoner concerned was required before a transfer could take place. Experience indicated that the number of prisoners transferred to other places, such as Thailand and Macau, was much fewer than the number of prisoners transferred from such places.

16. Mr LAU Kong-wah asked how the projected penal population referred to in paragraph 6 of the Administration's paper was compiled.

17. DS for S2 responded that the projections were based on arrest and prosecution statistics provided by the Police and the Immigration Department. Experience indicated that previous projections were accurate.

18. Dr LUI Ming-wah asked about the number of prisoners who were not Hong Kong residents among the 11 296 prisoners as at 10 March 2006 and the distribution of their length of sentences.

19. DCCS responded that among a total of some 11 000 prisoners as at the end of March 2006, there were 3 197 prisoners who came from the Mainland, among whom 2 608 were serving sentences of less than one year and 306 were serving sentences of more than one year. There were also 866 prisoners who came from other places, among whom 524 were serving sentences of less than one year and 214 were serving sentences of more than one year.

20. Referring to paragraph 6 of the Administration's paper, Dr LUI Ming-wah queried why the projected increase in penal population for the period between 2006 and 2010 was substantially higher than the projected increase for the period between 2010 and 2015. He said that if the projected increase for the period between 2006 and 2010 was approximately the same as that for the period between 2010 and 2015, there might not be a need to redevelop LWCI.

21. DS for S2 responded that the penal population of 11 296 as at 10 March 2006 was the actual figure which reflected short-term fluctuations. The figures given in paragraph 6 of the Administration's paper were the long-term projections based on information supplied by the Police and the Immigration Department. Dr LUI Ming-wah requested the Administration to provide information on the penal population and the total population of Hong Kong in the past 10 years.

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(*Post-meeting note* : The information provided by the Administration was circulated to members vide LC Paper No. CB(2)1867/05-06 on 28 April 2006.)

22. Mr LEUNG Kwok-hung said that some residents of Lo Wu had expressed concerns about the proposed project. He asked whether the Administration had addressed the concerns of residents.

23. DS for S2 responded that the Administration started consulting local community representatives on its proposal in October 2005 and consulted the North District Council (NDC) on 8 December 2005. NDC and local community representatives supported the proposal in general, but had raised concerns about possible drainage problems and impact of the project on traffic and local “fung shui”. Regarding a grave inside LWCI, the District Lands Office (North) issued a grave removal notice in September 2005 and March 2006. However, no one had so far claimed ownership of the grave.

24. Mr LEUNG Kwok-hung said that as there were substantial differences between the conditions of prisons in the Mainland and Hong Kong, incentives should be provided to attract Mainlanders to serve their sentences in the Mainland.

25. DS for S2 responded that discussions with the Mainland on the establishment of a TSP arrangement were still ongoing. The Administration would consider the suggestion of providing incentives to attract Mainlanders to serve their sentences in the Mainland.

26. Mr LEUNG Kwok-hung said that Mainlanders who took up illegal employment in Hong Kong should be repatriated but not imprisoned. However, employers who employed illegal workers should be imprisoned. He said that penal institutions in Hong Kong were too overcrowded and the situation should be improved.

27. DS for S2 responded that it was the Administration’s immigration policy that illegal immigrants would in general be repatriated, while illegal immigrants who took up illegal employment or committed other offences should be prosecuted. To address the problem of illegal employment, the particulars of Mainland visitors found working illegally or having committed other offences in Hong Kong were passed to Mainland authorities so that their subsequent applications to visit Hong Kong could be subject to closer scrutiny. In the longer term, the Administration would also seek to address the overcrowding problem through better use of penal facilities.

28. The Chairman said that the Administration should review its penal policy, having regard to deterrent effect and cost considerations. Consideration should also be given to non-custodial options such as electronic monitoring. He considered that the Administration’s projection of penal population was accurate and there was a need to alleviate overcrowding in penal institutions.

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29. Miss CHOY So-yuk asked whether landscaping, green roofs and energy-saving designs would be incorporated in the redeveloped LWCI. She said that the Administration should provide more information on such aspects when submitting the proposal to the Public Works Subcommittee.

30. Deputy Director of Architectural Services (Acting) responded that landscaping and energy-saving designs would be incorporated in the redeveloped LWCI. Consideration would also be given to the incorporation of a green roof.

31. The Deputy Chairman expressed support for the Administration's proposal. He hoped that there would be proper planning in respect of the traffic and other aspects of the project.

32. Ms Margaret NG asked whether young prisoners would be co-located with adult prisoners.

33. DCCS responded that, under the existing penal policy, young prisoners would not be co-located with adult prisoners.

34. Ms Margaret NG requested the Administration to provide a breakdown of the penal population by offences and length of sentences.

(Post-meeting note : The information provided by the Administration was circulated to members vide LC Paper No. CB(2)1867/05-06 on 28 April 2006.)

35. Ms Margaret NG asked whether Macau had established a TSP arrangement with the Mainland.

36. DS for S2 responded that, to her knowledge, Macau had not established any TSP arrangement with the Mainland.

37. Mr LAU Kong-wah asked about the design of the redeveloped penal institutions at Chi Ma Wan. He said that if the penal institutions at Chi Ma Wan could be redeveloped to provide more places, such as through the construction of an extra level of floor, there might not be a need to redevelop LWCI.

38. DS for S2 responded that the redevelopment of the penal institutions at Chi Ma Wan was still at an early stage and designs were not yet available. It was the intention of the Administration to redevelop LWCI to alleviate the problems of prison overcrowding and ageing penal facilities as soon as possible.

39. The Chairman said that he was basically in support of the Administration's proposal. Mr LAU Kong-wah and Mr LEUNG Kwok-hung expressed reservations about the proposal. Dr LUI Ming-wah said that he had to study further information provided by the Administration before deciding whether to support the proposal.

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V. Proposed Customs Headquarters Building
(LC Paper No. CB(2)1565/05-06(04))

40. Deputy Secretary for Security 1 (DS for S1) and Commissioner of Customs and Excise (CC&E) briefed members on the Administration's proposal to construct a headquarters building for the Customs and Excise Department (C&ED).

41. Dr Philip WONG said that the offices of C&ED, which were currently scattered in different locations, should be centralised in a headquarters building for security reasons. He expressed support for the Administration's proposal.

42. Miss CHOY So-yuk said that the Eastern District Council had discussed and expressed support for the proposal. She considered that the proposed building should not incorporate curtain walls, which were not energy saving.

43. Deputy Director of Architectural Services (Acting) (DDAS(Ag)) responded that the Architectural Services Department had always paid attention to the protection of the environment and saving of energy in its designs. She said that integrated glazed units, for example, could be incorporated in curtain walls to facilitate the saving of energy.

44. Miss CHOY So-yuk expressed support for the Administration's proposal. She asked how the spaces currently occupied by the offices of C&ED would be used after such offices were relocated to the headquarters building.

45. CC&E responded that, after C&ED's offices were relocated to its headquarters building, the rent for three offices of C&ED could be saved, while the other office spaces would be returned to the Government.

46. Mr LAU Kong-wah expressed support for the Administration's proposal and centralisation of C&ED's offices. Referring to Annex C of the Administration's paper, he asked why the areas of facilities such as the radio command control centre, the firing range and armoury would be increased, while the area for the customer service centre would be substantially decreased and that for the canteen would remain unchanged.

47. CC&E responded that the areas required for the headquarters building were calculated on the basis of the assessment of future needs submitted by different formations and divisions of C&ED. The area of the radio command control centre would be increased because of growing operational needs. The area of the firing range would be increased because the existing facilities were inadequate, making it necessary for part of C&ED's firing practices to be conducted at the firing ranges of the Correctional Services Department. He added that existing provisions for certain facilities could be reduced as a result of the savings achievable from the pooling of resources.

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48. Mr LAU Kong-wah asked how the proposed firing range of C&ED compared to those of other disciplined services.

49. CC&E responded that the proposed firing range of the headquarters building, which had an area of 1 239 m², would be used by 4 000 personnel. The firing range of the Police New Territories South Region, which had an area of 1 830 m², was used by 7 800 personnel. The firing range of the Independent Commission Against Corruption (ICAC), which had an area of 750 m², was used by 200 personnel.

50. CC&E added that the total number of hours of firing training for the 1 200 C&ED staff who would be co-located at the headquarters building was about 4 800 hours per year. However, the time spent by them in travelling to attend such training sessions amounted to 6 200 to 6 800 hours per year. The firing range at the headquarters building would save the amount of traveling time engaged by the officers.

51. Ms Margaret NG asked whether prosecution was undertaken by C&ED.

52. CC&E responded that prosecution of customs-related cases was undertaken by the Department of Justice since a few years ago. However, preparation work prior to prosecution by the Department of Justice was undertaken by C&ED.

53. Dr LUI Ming-wah considered that the scattering of the offices of C&ED in different locations had affected the operational efficiency of C&ED. He said that a solemn design should be adopted for the headquarters building of C&ED, which was a law enforcement agency.

54. DDAS(Ag) noted the views of Dr LUI Ming-wah. She said that such a design had been adopted for the new headquarters building of ICAC.

55. The Deputy Chairman considered that the Administration's proposal would enhance the operational efficiency of C&ED. He expressed support for the proposal.

56. The Chairman said that the Administration should provide more information, which should be quantified as far as possible, to the Public Works Subcommittee. He asked why there was a need for substantial increase in the areas for facilities such as the indoor firing range, the information technology centre and radio command control centre.

57. CC&E provided members with supplementary information on the indoor firing range, the information technology centre and the radio command control centre, which were tabled at the meeting. He said that planning for the proposed C&ED headquarters building was undertaken by a steering committee of which he was the Chairman.

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(*Post-meeting note* : The supplementary information tabled at the meeting was circulated to members vide LC Paper No. CB(2)1678/05-06 on 10 April 2006.)

58. The Chairman asked why there was a marked increase in the area for lockers and changing rooms. CC&E responded that such facilities were currently inadequate. The increase only sought to provide sufficient changing rooms for uniformed staff and lockers for both uniformed staff and plain-clothed disciplined service officers .

59. The Chairman asked whether cross-formation meetings were frequently held within C&ED.

60. CC&E responded that operations launched by C&ED often involved two formations, namely the formation responsible for the physical operation and the Intelligence Bureau, and sometimes three or more formations. Assistant Commissioner of Customs and Excise (Intelligence and Investigation) added that 301 joint operations had been launched by C&ED in the previous year. Most of the joint operations involved at least two C&ED formations. Some joint operations also involved other law enforcement agencies. He added that the dispersed location of C&ED offices had made it difficult for C&ED to protect the confidentiality of the tasks or the staff involved. Bringing the offices under one roof would facilitate more effective and efficient command and control.

61. Mr LEUNG Kwok-hung asked why the proposed headquarters building had a construction floor area of 65 200 m², but a net operating office area of 27 567 m² only.

62. CC&E responded that the Administration's method of calculation of net operating office area was different from that of the private sector. If the method adopted by the private sector was used, the ratio of net operating office area to gross office area would be more than 70%. The ratio was comparable to that for the new headquarters building of ICAC. DDAS(Ag) added that areas such as those of washrooms, lifts, stairs, carparks, corridors and refuse rooms were not included in the net operating office area. If such areas were included in the net operating office area, as was the practice in the private sector, the ratio of net to gross operating office area for the proposed C&ED headquarters would be comparable to those of private commercial buildings. She added that the floor areas provided for different facilities in the proposed C&ED headquarters were in line with the standard set out in the Administration's accommodation regulations.

63. Mr LEUNG Kwok-hung asked whether any of the general facilities referred to in paragraph 6 of the Administration's paper could be dispensed with to lower the total project price. He asked why a multi-purpose auditorium was needed for the headquarters building.

64. Customs Civil Secretary, Customs and Excise Department responded that the project cost for the proposed C&ED headquarters building had been kept to a

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minimum. A multi-purpose auditorium was needed for press briefings, briefings for overseas visitors, different ceremonies of C&ED, staff meetings and health talks for staff. He pointed out that over 80 meetings and ceremonies of such a nature were held in 2005, among which 40 had to be held at other venues.

65. Mr LEUNG Kwok-hung said that the Administration should provide information on how the general facilities in the proposed C&ED headquarters building compared with those of the headquarters buildings of other disciplined forces in Hong Kong and the customs headquarters buildings of other places.

66. CC&E agreed to provide information on how the general facilities in the proposed C&ED headquarters building compared with those of the headquarters buildings of other disciplined forces in Hong Kong. He added that the headquarters building of C&ED and those of the customs authorities of other places might not be directly comparable because of different circumstances in the communities, e.g. scarcity of land in Hong Kong.

(Post-meeting note : The information provided by the Administration was circulated to members vide LC Paper No. CB(2)1811/05-06 on 24 April 2006.)

67. The Chairman concluded that members generally considered that the Administration's proposal was ready for submission to the Public Works Subcommittee.

VI. Police's undercover operations against vice activities

(LC Paper Nos. CB(2)1565/05-06(05) and CB(2)1597/05-06(01))

68. Members noted a submission from Action for REACH OUT and a further submission from Zi Teng, which were tabled at the meeting.

(Post-meeting note : The submissions tabled at the meeting were circulated to members vide LC Paper No. CB(2)1678/05-06 on 10 April 2006.)

69. Principal Assistant Secretary for Security (PAS(S)) briefed members on the Police's undercover operations against vice activities. Senior Government Counsel (SGC) added that the aim of vice operations was to gather evidence of the offer or solicitation of sexual service.

70. Ms Elene LAM and Mr WONG Huk-kam presented the views of Zi Teng as detailed in the submissions and highlighted the following –

- (a) there were complaints about serious abuse of power by undercover Police officers, such as receiving service involving sexual intercourse or masturbation, in their undercover operations against vice activities.

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Such Police officers should be penalised;

- (b) the Police's internal guidelines governing vice activities should be amended to prohibit Police officers from receiving service involving masturbation during undercover operations; and
- (c) whether service involving masturbation was provided had never been a point of debate in prosecutions. Prohibiting undercover Police officers from receiving service involving masturbation would not affect the Police's prosecution work.

71. Ms Margaret NG said that the problem of Police officers receiving service involving masturbation in undercover operations was serious. She expressed concern that this had undermined the reputation of the Police. She said that it could be noted from the cases referred to in the further submission from Zi Teng that prosecution could be instituted against offer or solicitation of sexual service without a complete course of masturbation. It could also be noted from some of the cases that although the undercover Police officers concerned had received service involving a complete course of masturbation many times, the women concerned were prosecuted for operating a massage establishment without a licence. She questioned whether it was necessary for undercover Police officers to receive service involving masturbation. She considered that the Police's internal guidelines should be amended to prohibit Police officers undertaking undercover operations from receiving such service. She added that the Administration should provide a response to the issues raised in the submission from Professor Simon YOUNG of the University of Hong Kong, which was attached to the submission from Zi Teng tabled at the meeting.

72. PAS(S) responded that the aim of the Police's undercover operations was to gather evidence about the offer or solicitation of sexual service. Sexual intercourse and oral sex were strictly prohibited in the Police's internal guidelines governing anti-vice operations. If it was essential for the Police officer concerned to actually receive some form of service in order to maintain his cover, the extent of service should be restricted to that as required by operational needs. She stressed that Police officers were reminded not to treat sex workers impolitely. In this connection, should Zi Teng be aware of any improper conduct of Police officers taking part in any particular operation, the group could provide information about the cases to the Complaints Against Police Office for follow-up.

73. PAS(S) informed members of the Administration's initial response to the issues raised in the submission from Professor Simon YOUNG, as follows –

- (a) As it was necessary for undercover Police officers to visit a vice establishment more than once in order to gather sufficient evidence for prosecution purpose and it was necessary for an officer to maintain his

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cover, it might sometimes be necessary for an officer to receive some form of sexual service. However, sexual intercourse and oral sex were strictly prohibited under the Police's internal guidelines governing anti-vice operations;

- (b) Undercover Police officers performing anti-vice operations had to act in compliance with the law and the Police's internal guidelines;
- (c) Police officers involved in such operations were carefully selected having regard to their psychological conditions and integrity. There was no evidence that Police officers had abused their powers in such operations; and
- (d) The Administration was willing to consider suggestions as to how body contacts could be minimised in the Police's undercover operations against unlicensed massage establishments.

Adm

74. The Chairman requested the Administration to provide a written response to the issues raised in the submission from Professor Simon YOUNG.

75. Chief Superintendent of Police (Crime Headquarter) (Crime Wing) (CSP) said that the Police were very concerned to ensure the proper conduct of Police officers and there was established mechanism for monitoring their conduct. He said that the Police had, at a meeting with the representatives of Zi Teng on 1 March 2006, invited the group to provide the names and contacts of sex workers who had complained about abuse of powers by Police officers for follow-up. So far no such information had been provided. He further explained that many vice activities in Hong Kong involved triad presence and control. The aim of undercover anti-vice operations was to gather evidence of the offer or solicitation of sexual service. As it was necessary for the Police to demonstrate that sexual services had been offered and payment for those services had been made in order to institute prosecution, a limited extent of body contact was inevitable in order to gather sufficient evidence for the purpose. Imposing too many restrictions on Police officers in such gathering of evidence would seriously undermine their ability in combating such crime.

76. Ms Margaret NG said that although the Police had stressed that its operations were directed at triad societies which controlled vice activities, it could be noted from the information provided by Zi Teng that the sex workers were the persons prosecuted. It could also be noted from many of the cases that although the Police officers concerned had received service involving masturbation, the persons concerned were finally prosecuted for operating a massage establishment without a licence. This reflected that there was no need for Police officers to receive service involving masturbation.

77. SGC responded that anti-vice operations were directed at persons who operated

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the vice establishments rather than the sex workers. As contact between an operator of a vice establishment and a Police officer usually took a short period of time and there might be more than one operator in a vice establishment, it was sometimes necessary for a Police officer to visit a vice establishment a few times before sufficient evidence could be gathered for prosecution. It was also necessary for the undercover Police officer concerned to gather evidence on the types of services provided in the vice establishment. Prohibiting undercover Police officers from having any body contact with sex workers might reveal the identity of the Police officer concerned.

78. Ms Margaret NG said that one of the cases referred to in the submission from Zi Teng clearly reflected that prosecution could be instituted against the offence of operating a vice establishment, although service involving masturbation had not been completed in the case concerned. On the other hand, the other cases referred to in the submission indicated that the undercover Police officers concerned had received service involving complete masturbation a few times before prosecution was instituted in respect of the offence of operating a massage establishment without a licence.

79. The Chairman said that the Administration should provide information on the number of cases where prosecution was instituted against persons who were not sex workers to support its claim that anti-vice operations were directed at the operators of vice establishments rather than sex workers.

80. Ms Elene LAM disagreed with the Administration's view that its operations were not directed at sex workers. She said that according to information gathered by Zi Teng on 50 cases, the persons prosecuted were either sex workers or persons who provided massage service. She added that although finger cure centres provided service involving sexual intercourse but not masturbation, the Police had managed to prosecute finger cure centres even though its internal guidelines strictly prohibited sexual intercourse. This indicated that prohibiting Police officers from receiving service involving masturbation would not hinder the Police's prosecution work.

81. Mr Albert HO expressed deep concern about some Police officers' abuse of power against sex workers during their undercover operations. It would be more shameful if the management level was aware of such possible abuse of power, but did not seek to examine and address the problem. He recalled having providing the Assistant Director of Operations of the Police with copies of the statements given by Police officers in more than 10 cases where the vice establishment concerned was a "one woman brothel", service involving complete course of masturbation had been provided and the person prosecuted was a sex worker. He queried why the Police had said that the cases did not reflect any problem.

82. Mr Albert HO asked why the Administration considered that the four cases referred to in the submission from Zi Teng did not reveal any area requiring review. He queried –

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- (a) whether it was necessary for an undercover Police officer to receive service involving masturbation, if the purpose of the operation was to gather evidence for prosecution against operating a massage establishment without a licence only;
- (b) whether it was necessary for an undercover Police officer to receive service involving a complete course of masturbation in such operations; and
- (c) whether it would be necessary for an undercover Police officer to receive service involving sexual intercourse in order not to expose their identity when gathering evidence for prosecution against offer of sexual service.

83. SGC responded that undercover Police officers could not know before an undercover operation the types of service provided in a vice establishment. When such officers visited vice establishments, they were only provided with limited choices of services, all of which involved contact with sensitive parts of the body. She said that in the case described in the submissions where prosecution was instituted in respect of the offence of operating a vice establishment and service involving a complete course of masturbation had not been provided, it should be noted that the defendant had admitted under caution the operation of a vice establishment. In the other cases, it should be noted that the defendants had not given any statement under caution. Thus, the undercover Police officers concerned had to visit the vice establishment more than once in order to gather sufficient evidence for proving beyond doubt that the accused had committed offences.

84. Mr LEUNG Kwok-hung said that it was not necessary for an undercover Police officer to receive service involving masturbation, if the purpose of the operation was to gather evidence for prosecution against operating a massage establishment without a licence. He considered that the Police's internal guidelines should be amended to prohibit undercover Police officers from receiving service involving masturbation.

85. CSP said that the Police had not targeted "one woman brothels". If these brothels did not involve any breach of condition of stay, vice activities controlled by triads or any other offences, the actions taken by the Police would usually be limited to about two visits a month for the purpose of general checking and providing anti-crime advice. Among the 59 undercover operations targeting "Unlicensed Massage Establishments" that were undertaken by the Police in 2005, there were 58 cases where the arrested persons were convicted. In comparison, the Police had focused more attention on illegal activities relating to vice establishments. In 2005, successful prosecution had been instituted in 848 cases in respect of the offence of keeping a vice establishment. During the year, 73 persons were successfully prosecuted in respect of the offence of "Living on earnings of prostitution". He reiterated that undercover operations would only be conducted on a need basis, and

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the Police's operations in respect of such cases would cease as and when sufficient evidence was collected.

Adm

86. Ms Margaret NG requested the Administration to provide information, including the statements given in the cases concerned, on the number of cases involving operation of a massage establishment without a licence or operation of a vice establishment in 2005, the number of cases where service involving a complete course of masturbation had been provided, the type of persons prosecuted, the offence for which such persons were prosecuted, the Ordinances under which they were prosecuted and the results of such prosecution.

87. The Chairman said that, after considering the Administration's responses, he considered that the Police's internal guidelines should not be revised to prohibit undercover Police officers from receiving service involving masturbation, as this would undermine the Police's capability in combating offences related to vice activities. He was of the view that the Police should review each undercover operation to ensure that the acts of Police officers had not exceeded what was necessary in gathering evidence for instituting prosecution. He added that the Administration should provide the information requested by members to facilitate the Panel's examination of whether Police officers had abused their powers in such operations.

88. Mr Albert HO disagreed with the view of the Chairman. He said that the Chairman's comments might encourage Police officers who abused their powers in such operations to continue doing so. His view was shared by Ms Elene LAM.

89. The Chairman said that his comments were made in view of the following –

- (a) it was difficult to know before an undercover operation the types of services provided in a vice establishment;
- (b) it was also difficult to know before an operation whether the operator concerned was involved in operating a massage establishment without a licence, keeping a vice establishment or any other offences; and
- (c) it was difficult in practice to gather evidence to prosecute persons who were not the providers of sexual services for keeping a vice establishment.

90. PAS(S) responded that the Administration would ascertain if the information requested by members could be provided. She stressed that the Police had always reminded its officers involved in undercover anti-vice operations to strictly adhere to its internal guidelines and minimise body contacts in such operations.

91. The Chairman said that he could not see why the Administration could not

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provide the information requested by members. He said that personal data could be excised, where necessary, in the information and statements provided by the Administration.

92. The Chairman said that the subject would be discussed again at a future meeting.

93. The meeting ended at 6:10 pm.

Council Business Division 2
Legislative Council Secretariat
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