

立法會
Legislative Council

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LC Paper No. CB(2)502/06-07

(These minutes have been seen
by the Administration)

Panel on Security

**Minutes of meeting held on Tuesday, 7 November 2006, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon LAU Kong-wah, JP (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon WONG Yung-kan, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon LEUNG Kwok-hung
Hon CHIM Pui-chung

Members absent : Hon Albert HO Chun-yan
Dr Hon Philip WONG Yu-hong, GBS
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP

Public Officers attending : Item V
Ms Sally WONG
Commissioner for Narcotics

Mr Nelson CHENG
Superintendent (Narcotics)

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Item VI

Mrs Apollonia LIU
Principal Assistant Secretary for Security

Miss Rosalind CHEUNG
Assistant Secretary for Security

Mr John READING
Deputy Director of Public Prosecutions
Department of Justice

Mr John LEE
Assistant Commissioner of Police (Crime)

Clerk in attendance : Mrs Sharon TONG
Chief Council Secretary (2) 1

Staff in attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2) 5

Ms Katherine YUNG
Senior Council Secretary (2) 8

Miss Helen DIN
Legislative Assistant (2) 1

I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)213/06-07)

The minutes of the meeting held on 12 October 2006 were confirmed.

II. Information papers issued since the last meeting

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(LC Paper Nos. CB(2)186/06-07(01) and CB(2)239/06-07(01))

2. Members noted that the following papers had been issued since the last meeting -

- (a) a list of the former commissioners of the Independent Commission Against Corruption and their respective terms of office provided by the Independent Commission Against Corruption; and
- (b) a paper provided by the Administration on consumer fraud.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)232/06-07(01) and (02))

3. Members agreed that the following items would be discussed at the next meeting to be held on 5 December 2006 at 2:30 pm -

- (a) Proposed legislation to implement the United Nations Convention Against Corruption in Hong Kong and related matters;
- (b) Fourth and Fifth Reports of the People's Republic of China under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - Part Two : Hong Kong Special Administrative Region; and
- (c) Measures adopted by the Police in combating street deception.

4. Members agreed that interested parties would be invited to the meeting to give their views on the item in paragraph 3(b).

5. Members agreed that the regular meeting on 2 January 2007 would be rescheduled to 25 January 2007 at 10:45 am. Members also agreed that the meeting in May 2007 would be held on 8 May 2007 at 10:45 am.

6. Referring to the item "Police's undercover operations against vice activities" in the list of outstanding items for discussion by the Panel, Ms Emily LAU said that the subject should be discussed by the Panel. The Deputy Chairman pointed out that divergent views were expressed by members at the Panel meeting on 4 April 2006 regarding whether the Police's guidelines on undercover operations against vice activities should be revised. He said that, after studying the supplementary information provided by the Administration in September 2006, he considered it not necessary to discuss the subject again at this stage.

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7. Ms Emily LAU said that the problem of overcrowding in penal institutions should be discussed by the Panel and a visit should be made to penal institutions. The Chairman said that the former Commissioner of Correctional Services (CCS) had written to the Panel on 1 June 2006 inviting members to visit penal institutions. As the former CCS would be retiring soon at that time and members of the Panel were heavily engaged in the scrutiny of a security-related bill, members had agreed that the visit should be considered in this legislative session. Members agreed that the Clerk would liaise with the new CCS on the date and arrangements for the visit. The Chairman added that consideration could be given to discussing the problem of overcrowding in penal institutions after the visit was made.

8. Ms Emily LAU suggested that a visit should be made to old Police stations. The Deputy Chairman pointed out that, to his knowledge, improvement works had already been carried out in many old Police stations in the past few years. Members agreed that the Administration should first be requested to provide a paper on the improvement works for old Police stations.

IV. Report of the Subcommittee on Review of Existing Statutory Provisions on Search and Seizure of Journalistic Material
(LC Paper No. CB(2)232/06-07(03))

9. Members noted the report of the Subcommittee on Review of Existing Statutory Provisions on Search and Seizure of Journalistic Material.

V. Proposed changes to the requirement of obtaining customer's identification and record keeping in remittance and money-changing transactions
(LC Paper Nos. CB(2)232/06-07(04) and CB(2)148/06-07(01))

10. Commissioner for Narcotics (C for N) briefed members on the Administration's proposal to lower the threshold for the requirements of verifying customer's identity and record-keeping in remittance and money exchange transactions from \$20,000 to \$8,000.

11. C for N informed members that local remittance agents and money changers had been invited to submit their views on the Administration's proposals by 20 November 2006. Among 77 submissions received between 20 October 2006 and 3 November 2006, 44 were in support of the proposal, 13 had no views on the proposal, 17 opposed applying the proposed threshold for both remittance and money exchange transactions, and three were of the view that the existing threshold should be

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maintained. She added that two focus group meetings had been held in the previous week. Most of the local remittance agents and money changers who attended the meetings expressed support for the proposed threshold and applying the same threshold to both remittance and money exchange transactions, although a small number opposed applying the same threshold to both remittance and money exchange transactions.

12. The Deputy Chairman asked how the existing threshold of \$20,000 was determined.

13. C for N responded that the existing threshold of \$20,000 was determined having regard to the thresholds in other places and the circumstances of Hong Kong. The proposed threshold of \$8,000 was determined having regard to the threshold of US\$1,000 or €1,000 recommended by the Financial Action Task Force (FATF).

14. The Deputy Chairman considered that a higher threshold equivalent to €1,000 should be adopted in Hong Kong.

15. C for N responded that the existing threshold of \$20,000 was actually more stringent than those adopted by many other countries when the relevant provisions were enacted in 2000. Adopting a threshold based on the recommended US\$1,000 would have the advantage of being immune from fluctuations in exchange rate, as the Hong Kong dollar was pegged to the US dollar.

16. Ms Margaret NG asked about the number of remittance agents and money changers in Hong Kong. C for N responded that there were about 1 700 remittance agents and money changers. They were required to notify the Police before commencing operation. All these remittance agents and money changers had been informed of the proposed changes.

17. Mr CHEUNG Man-kwong said that, according to a recent media report, a local businessman and an Australian businessman had been arrested for laundering about \$72 million through some 1 500 small transactions. It was obvious that a low threshold could be bypassed through dividing a sizable transaction into smaller ones. He asked how the Administration would combat such money laundering.

18. C for N responded that there were requirements on the reporting of suspicious transactions under existing legislation, and the Administration had launched publicity and education on such requirements. Remittance agents should make a suspicious transaction report if they discovered any activity of structuring. As a matter of fact, the number of suspicious transaction reports made by remittance agents had increased in recent years. Moreover, the Police had other sources to gather intelligence on money laundering.

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19. Mr LEUNG Kwok-hung asked whether remittance agents and money changers were subject to any monitoring.

20. C for N responded that there was currently a registration system for remittance agents and money changers. In the longer term, the Administration would examine whether there was a need to establish a regulatory body.

21. The Deputy Chairman said that it was important for the Administration to deal with suspicious transaction reports in time. The Administration should review its adequacy of manpower for processing the increased number of suspicious transaction reports.

22. C for N responded that adequate manpower had been deployed for combating money laundering. She said that the processing of suspicious transaction reports would be computerised in November 2006 and the efficiency of processing suspicious transaction reports would be greatly enhanced.

23. Mr CHEUNG Man-kwong said that the threshold of \$8,000 could be easily bypassed by dividing a sizable transaction into smaller ones. He asked whether the Administration would consider conducting surprise inspections on local remittance agents and money changers on an ongoing basis. He opined that the Administration should take early action to set up a regulatory body if there was such a need.

24. C for N responded that FATF would evaluate Hong Kong's anti-money laundering regime next year. The need for establishing a body regulating remittance agents and money changers would be examined in conjunction with the recommendations in FATF's forthcoming evaluation report. The Chairman requested the Administration to provide a progress report on the issue of establishing a regulatory body in July 2007. Mr LEUNG Kwok-hung added that the report should include a comparison of the regulatory regime in Hong Kong and that of other places such as Singapore and Taiwan.

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25. The Deputy Chairman said that Hong Kong had a very high standing among the international community in anti-money laundering work. As FATF had not ever made any adverse comments on the anti-money laundering regime of Hong Kong, there was no pressing need for more stringent regulatory control over remittance agents and money changers. Imposing too stringent requirements might have a negative impact on the business environment in Hong Kong.

26. The Chairman asked whether the increase in the number of suspicious transaction reports in recent years was due to increased crime or increased awareness in the sector.

27. C for N responded that the increase in the number of suspicious transaction reports in recent years was mainly due to a general increase in awareness among remittance agents and money changers. She pointed out that the number of suspicious transaction reports had increased, whereas the number of prosecutions against offending remittance agents and money changers had decreased in recent years. She said that anti-money laundering workshops and seminars had been held and guidelines had been issued to the sector.

VI. Police's handling of cases of violence against well-known personalities and civil servants in their performance of duties
(LC Paper Nos. CB(2)136/06-07(01), CB(2)232/06-07(05) and (06))

28. Principal Assistant Secretary for Security (PAS(S)), Assistant Commissioner of Police (Crime) (ACP(C)) and Deputy Director of Public Prosecutions (DDPP) briefed members on the number of cases of violence against well-known personalities and civil servants, the procedures for handling such cases, victim protection and the implementation of the Victims of Crime Charter.

29. Mr CHEUNG Man-kwong commended the Police for having put much effort in the investigation of the case of Mr Albert HO and arrested a number of persons related to the case. He expressed concern that cases of violence against political figures had a low detection rate and the masterminds had not been arrested in most of the cases.

30. ACP(C) responded that, as a matter of procedure, upon receiving a report of violence against well-known personalities, the Police would conduct a thorough investigation and try to identify all clues, including fingerprints, DNA profiles derived from exhibits, the video records of nearby closed-circuit television systems and evidence collected by different specialists, that might lead them to the successful detection of the case. However, whether a case could be detected would depend on many factors such as whether the victim had disclosed all relevant information to the Police, whether there were witnesses at the scene and the amount of evidence left at the scene. Whether prosecution could be instituted against a person in a case would depend on whether there was sufficient evidence suggesting the person's commission of an offence. He stressed that the Police had always tried its best to investigate such cases, as any Police officer would not only regard it as his duty but also take pride in the successful detection of a case under his investigation.

31. Ms Emily LAU said that she was pleased to note that a number of persons had been arrested in Mr Albert HO's case. She pointed out that there were more than 40 cases of nuisance or damage to her offices between 1995 and 2006. She asked why

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the statistics referred to in paragraphs 2 and 3 of the Administration's paper did not match the number of cases in Appendix I to the background brief prepared by the Legislative Council (LegCo) Secretariat. She also asked why the case of arson at her Tai Po office on 21 June 2004 had not been included in Appendix I to the background brief.

32. PAS(S) explained that the statistics in paragraphs 2 and 3 of the Administration's paper were provided in relation to the subject of violence against well-known personalities in response to Members' request at the Panel meeting of 12 October 2006, whereas the cases referred to in Appendix I to the background brief prepared by the LegCo Secretariat were detected cases involving public figures for the period between 1 January 2003 and 20 May 2004, which had been provided in response to members' request at the Panel meeting on 25 May 2004, where the scope of the subject discussed was broader than the current one. She said that the case of arson at Ms Emily LAU's Tai Po office on 21 June 2004, had been counted in the statistics set out in paragraphs 2 and 3 of the Administration's paper.

33. Ms Emily LAU said that the Administration should provide detailed information on the cases referred to in paragraph 3 of the Administration's paper in a format similar to that in the table in Appendix I to the background brief. Her view was shared by Mr LEUNG Kwok-hung. The Chairman requested the Administration to consider providing more detailed information on cases which had been detected and had not been detected referred to in paragraph 3 of the Administration's paper. Dr LUI Ming-wah added that the Administration should classify the cases referred to in paragraphs 3 to 5 of the Administration's paper into cases of assault against the victim and other violence.

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34. PAS(S) agreed to consider providing further information as requested by members, having regard to such factors as the impact of the disclosure of such information on the privacy of the individuals concerned and the investigation of the cases in question.

35. Ms Emily LAU asked why the Police had not notified her of the trial of the person arrested for splashing faeces outside her office on 3 September 2003. She questioned why the Victims of Crime Charter had not been complied with in the case.

36. PAS(S) responded that in the case concerned, the accused was prosecuted under the Summary Offences Ordinance (Cap. 228) (SOO), where the court would issue computer-generated summons directly to the accused. In such cases, the Police was not aware of the date of first appearance in advance and hence was not in a position to notify the victim in the case. PAS(S) said that explanation had been given in the Administration's replies to Ms LAU's earlier letters of 2004 and 2006 regarding her case.

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37. Ms Emily LAU queried why the case of splashing faeces outside her office on 3 September 2003 was classified as a case of nuisance in public places instead of criminal intimidation.

38. ACP(C) responded that the Police attached great importance to cases of violence. In the case concerned, there was insufficient evidence to suggest that the accused had committed the offence of criminal damage or intimidation. However, there was evidence that the accused had breached section 4(1) of SOO, hence prosecution was taken forward on the basis of that provision. He added that it was the court which determined the penalty in each case.

39. DDPP said that prosecution against a person for criminal intimidation required specific evidence suggesting the intent of forcing someone to do what they were not obliged to do or forcing someone to refrain from doing what they were obliged to do.

40. Mr LEUNG Kwok-hung said that the evidence gathered in a case usually allowed the Police to choose between prosecution for serious or less serious offences. He asked whether the cases of violence against Mr Albert CHENG and Mr WONG Yuk-man had been detected. He added that the persons arrested in the case of Mr Albert HO should not be released on bail.

41. PAS(S) responded that one of the cases of violence against Mr WONG Yuk-man had been detected.

42. The Deputy Chairman said that although much effort had been made by the Police in the investigation of major cases of violence against well-known personalities, he had noted from a newspaper that some frontline Police officers were discontent with LegCo Members reporting cases of damage of banners to the Police. He considered that as the level of violence of some persons tended to increase progressively and banners served to inform members of the public how the LegCo Members concerned could be contacted, such cases should not be regarded as minor ones.

43. ACP(C) responded that the Police attached importance to such cases. In general, officers understood the concern and significance of such cases, particularly when a lot of them were reported in the media. He said that in a number of such cases, Police officers had taken the initiative to launch ambush operations in the investigation and suspects had been arrested. Nevertheless, he would convey Mr James TO's views to frontline Police officers.

44. Referring to paragraphs 4 and 5 of the Administration's paper, Mr WONG Yung-kan said that the Administration should examine how law enforcement work

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should be conducted so as to minimise possible conflict between law enforcement officers and members of the public when the Smoking (Public Health) (Amendment) Ordinance 2005 came into operation on 1 January 2007.

45. PAS(S) noted the views of Mr WONG. She added that it could be noted from paragraph 4 of the Administration's paper that the number of cases of intimidation against civil servants was small in comparison with the total number of reported cases of intimidation. She also pointed out that the cases referred to in paragraph 5 of the Administration's paper included cases such as fighting between civil servants in dispute and might not necessarily involve a criminal element.

46. Ms Emily LAU asked whether the cases referred to in paragraphs 11(g) to 11(k) of the background brief prepared by the LegCo Secretariat had been detected.

47. ACP(C) responded that -

- (a) a person had been arrested and sentenced to two months' imprisonment in the Siu Lam Psychiatric Centre in the case of assault against Mr WONG Sing-chi on 9 September 2004;
- (b) a person had been arrested and convicted of common assault in the case where three staff members of the Food and Environmental Hygiene Department (FEHD) were assaulted;
- (c) Mr Albert HO had chosen not to pursue the case of assault against him on 27 June 2006;
- (d) four persons had been prosecuted in the case of assault against Mr Albert HO on 20 August 2006;
- (e) three persons had been arrested in the case of assault against Mr LEUNG Hung; and
- (f) two men and one woman had been arrested in connection with the assault against three FEHD staff members on 26 September 2006.

48. The meeting ended at 4:30 pm.