

November 6, 2007

Dear

I am sorry that I am sending these comments so late, but I was not aware of the Panel meeting until late last week and I am unable to attend the meeting.

As former Chairman of the Privacy Subcommittee of the Law Reform Commission (LRC), I am very interested in the first report of the Commissioner of Interception of Communications and Surveillance. Overall, I believe that there is good reason to praise the Commissioner and the panel of judges for an excellent job well done, which substantially reduces the privacy risk to Hong Kong citizens, while retaining our high level of security. However, I have two comments on Chapter 13 of the report, in the light of the LRC recommendations.

Firstly, item 5 under the issues raised on p123 discusses the issue of the Commissioner's access to documents. In the Report on Interception of Communications, the LRC recommended that the supervisory authority may require any person to produce any document or thing which relates to his review. It was certainly not intended that there should be bureaucratic hurdles to this access, such as requiring the Commissioner to personally visit the PJO in order to access the documents.

Secondly, item 8 raises the issue as to whether providing separate reports for interception and covert surveillance may prejudice the prevention and detection of crime or the protection of public security. This misses the key point that interception (given that it is more intrusive) requires a higher level of justification than covert surveillance. Without separate reports, it is not possible to check whether that higher level of intrusion has been justified. It is hard to see how this breakdown provides any meaningful help to criminals, whereas it is essential for public accountability.

Yours sincerely,

Professor John Bacon-Shone  
Director, Social Sciences Research Centre  
The University of Hong Kong