

立法會

Legislative Council

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Report of the Panel on Security for submission to the Legislative Council

Purpose

This report gives an account of the work of the Panel on Security during the 2008-2009 session of the Legislative Council. It will be tabled at the meeting of the Council on 24 June 2009 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

The Panel

2. The Panel was formed by resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000, 9 October 2002, 11 July 2007 and 2 July 2008 for the purpose of monitoring and examining Government policies and issues of public concern relating to security, public order, corruption-related matters and nationality and immigration matters. The terms of reference of the Panel are in **Appendix I**.

3. The Panel comprises 18 members in the 2008-2009 session. Hon LAU Kong-wah and Hon James TO were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

Major Work

Assistance provided by the Administration to Hong Kong residents encountering problems outside Hong Kong

4. Arising from the incident where hundreds of Hong Kong residents were stranded in Thailand in late November and early December 2008 after the closure of the international airport in Bangkok due to the protest and demonstration activities taking place in Bangkok during that time, the Panel discussed the assistance provided by the Administration to Hong Kong residents stranded overseas in times of crises and unexpected incidents.

5. Members considered the Administration slow in responding to requests for assistance from Hong Kong residents stranded in Thailand. They were particularly concerned with how similar cases would be handled in future, and sought information on the existing mechanism in assisting Hong Kong residents who had encountered problems outside Hong Kong.

6. The Administration advised that the Hong Kong Special Administrative Region (HKSAR) Government had an established emergency response mechanism to help Hong Kong residents stranded overseas in times of crises and unexpected incidents. Under this mechanism, there were clear and effective alerting, notification and activation procedures to ensure that the relevant government officials were informed promptly of any natural or man-made disaster that had happened anywhere in the world with the likelihood of Hong Kong residents being affected, or in which Hong Kong residents were injured or died. The procedures were built upon a system which sought to monitor worldwide news events on a 24-hour basis by the Information Services Department and a hotline (i.e. 1868) of the Assistance to Hong Kong Residents Unit of the Immigration Department (ImmD) that operated round the clock.

7. Members in general took the view that the airport crisis in Thailand had revealed that the HKSAR Government failed to take community sentiments fully into account in formulating policies and measures to facilitate the safe and timely evacuation of Hong Kong residents stranded overseas. They opined that a fully responsible government should put the interests of its people at the forefront of its administration. They urged the Administration to conduct a comprehensive review with a view to improving and enhancing the efficiency of the system which sought to provide assistance to Hong Kong residents in distress overseas or involved in major external disasters. They considered that improvements should be made to the emergency response mechanism, including the structure and operation of the system, the respective roles and responsibilities of the relevant bureaux and government departments, and principal government officials' involvement in deciding whether or not to arrange chartered flights to speed up the return of stranded Hong Kong residents.

8. The Administration stressed that it acknowledged the public aspirations for a better coordinated emergency response mechanism. The Security Bureau (SB) would conduct a review to assess whether any adjustment or improvement would be required. The review would focus on identification of measures that would help improve the response time and evacuation plan for emergency response operations outside Hong Kong. The Administration would explore with airlines the possibility of reserving a certain proportion of seats for allocation to specific passengers by the HKSAR Government, so as to accommodate the need for taking Hong Kong residents back to Hong Kong in future relief operations. The Administration would also consider establishing

a mechanism for making use of Mainland's chartered flights as a possible option.

Replacement of emergency ambulances

9. The Panel was concerned about cases of breakdown of emergency ambulances and the ageing of the ambulance fleet. When briefed on the lead time required for the replacement of emergency ambulances, members in general considered that the lead time of two to three years for the replacement of aged emergency ambulances was far too long. They enquired whether the Administration would review the existing procedures for vehicle procurement, so as to shorten the lead time required and expedite the replacement of ambulances. Members considered that timely replacement of ambulances was essential and possible given the rapid developments in technology.

10. The Administration explained that a period of six months was normally required for the preparation of the specifications of requirements, and another six months for the submission, receipt, evaluation and awarding of contracts. Depending on the number of new vehicles to be purchased, it would probably take six months to one year for the suppliers to complete the manufacturing process and deliver the vehicles to the Fire Services Department (FSD). There was not much room for expediting the replacement programme by compressing the time required for the tendering exercise. Nevertheless, the Administration would endeavour to shorten the period for preparation of specifications of the requirements. The Administration stressed that it attached great importance to the quality of its emergency ambulance service. In deciding on the replacement schedule, the departments concerned would take into account a number of factors, including the actual working condition of the vehicle, vehicle age, cumulative mileage, maintenance history. With a view to further improving the reliability of the ambulance fleet, FSD would replace in batches a total of 196 aged ambulances, including those which only had a service life of five years. Of these new vehicles, the first 100 should enter service before the end of 2009, with the remaining 96 becoming available in the first half of 2010. By the time all these new vehicles arrived, the average age of FSD's ambulance fleet would be reduced from the current average of 8.4 years to 1.7 years.

11. Members were concerned whether there were any objective assessment criteria for determining the replacement schedule of ambulances.

12. The Administration informed the Panel that emergency ambulances were regarded as specialized vehicles and there were specific criteria for determining the replacement schedule of ambulances. According to the Electrical and Mechanical Services Department, the economic service life of an ambulance was normally seven years. This served as a general guide for shortlisting a vehicle for possible replacement. FSD had all along been

replacing ambulances in accordance with the general guide and actual need. In view of the long lead time required, the Administration had been working in full gear to advance the replacement of the 196 ambulances in question. The Administration would review the assessment criteria and make adjustment, as and when necessary.

13. Some members were concerned that in the past few years, ambulance replacement had not been planned and carried out in an orderly manner. They enquired whether it was due to low vehicle breakdown rate or resource constraints of the Government, and whether the Administration would formulate a more structured plan on ambulance replacement.

14. The Administration advised that it had all along been replacing ambulances in accordance with the resource allocation mechanism, having regard to the actual need and the advice of the relevant departments. The criteria for determining the priority of ambulance replacement included the age, maintenance history and mileage of the vehicles. Among the 196 new ambulances to be procured, the funding for 123 ambulances was secured in previous years. The expenditure involved was around \$147 million. The Government had provided further funding of \$97 million for the procurement of another 73 ambulances in batches, so as to speed up the replacement programme of aged ambulances.

15. Members noted that around 92% of emergency calls could be met within the 12-minute target response time. Regarding those calls to which FSD failed to respond within 12 minutes, members sought information on the length of and reasons for the delay.

16. The Administration explained that FSD had a performance pledge of responding to at least 92.5% of all emergency ambulance calls within a response time of 12 minutes. In the past few years, there were only a small number of emergency ambulance calls where the response time target of 12 minutes was not met. According to FSD's records, response time could be affected by many factors, including travelling distance, traffic and weather conditions. Generally speaking, the percentage of calls in the New Territories with response time exceeding 12 minutes was slightly higher than those of the other regions. FSD believed that this was mainly due to the comparatively larger geographical coverage of the New Territories region and hence the longer travelling time required.

Immigration convenience measures for Hong Kong and Macao residents travelling between the two places

17. The Panel was briefed on the progress of implementation of the immigration convenience measures for Hong Kong and Macao residents travelling between the two places.

18. Members were informed that SB and ImmD had engaged in active discussions with the Identification Department of the Macao Special Administrative Region (MSAR), the Office of the Secretary for Security and the Immigration Department of the Macao Security Police on measures to further facilitate the flow of residents between the two places. It was the consensus of the HKSAR Government and the MSAR Government that measures should be introduced to enhance immigration convenience for residents of the two places.

19. Some members expressed concern about repeated cases of Hong Kong residents being refused entry into Macao. They were concerned whether the Macao authorities had refused the entry of Hong Kong residents because of their political views, and asked whether the Administration had taken the matter up with the Macao authorities.

20. The Administration responded that to its knowledge, the MSAR Government had its own immigration control. Nevertheless, in view of the wide public concern over the cases of Hong Kong residents being refused entry into Macao, the HKSAR Government had, through ImmD, approached the Macao authorities to understand the situation and expressed its concern about the matter. In early March 2009, the Chief Executive himself had also expressed the concern of the HKSAR Government about the ways in which the MSAR Government handled the matter to the Chief Executive of MSAR.

21. Noting that about 2 100 Macao residents had been denied entry into Hong Kong between January 2008 and March 2009, some members asked about the reasons for refusal of the entry of these people.

22. The Administration advised that in exercising immigration control, each case was considered by ImmD on its own merits. Regarding those 2 100 Macao residents who had been refused entry in 2008, the majority of them were refused on the ground of failure to produce the Declaration Form for Holders of MSAR Permanent Resident Identity Card to HKSAR (the Declaration Form). In order to eliminate the situation whereby Macao visitors had to return to Macao merely because they were not in possession of a Declaration Form, the HKSAR Government had assisted the Macao authorities to make arrangements for the installation of self-service kiosks at the Macao Ferry Terminal and the China Ferry Terminal to provide printing service on the spot for those Macao visitors who had not brought along the Declaration Forms.

23. Some members said that the HKSAR Government had in the past prohibited members of certain groups or individuals with background associated with the democratic movement in China from entering Hong Kong. They asked whether a person's political inclination and religious belief had any impact on his application for entry.

24. The Administration stressed that during immigration examination on arrival, ImmD would consider whether the visitor met normal immigration requirements, such as whether he possessed a valid travel document, sufficient re-entry facilities to his place of residence and sufficient funds for the proposed stay, whether he had any known adverse records, as well as his purpose of visit. ImmD would also consider whether or not his entry would be conducive to the public interest. ImmD's procedures in processing entry applications were in line with the practices of the immigration authorities of many other places. In considering an entry application, ImmD would act in accordance with the law and prevailing policy, and take into account all relevant circumstances and factors on a case-by-case basis.

25. Some members enquired whether the Administration had a "black-list" of Macao residents visiting Hong Kong. The Administration responded that there was no "black-list". However, there was a "watch-list" of persons such as terrorists and wanted persons. The "watch-list" had been established for a long time to uphold effective immigration control. Where intelligence indicated that a person's presence in Hong Kong might not be conducive to the public good of Hong Kong, his name might be put on the "watch-list". The appearance of a person's name on the "watch-list" did not mean that the person would necessarily or automatically be refused entry. The "watch-list" was by no means a list of persons not allowed to enter Hong Kong, and was not a so-called "black-list". There were occasions where persons on the "watch-list" were allowed entry into Hong Kong after immigration examination.

26. Notwithstanding the enhanced immigration convenience measures proposed by the Administration, some members were of the view that unequal treatment would continue to exist between Hong Kong and Macao. For instance, although the HKSAR Government had extended with effect from 16 February 2009 the limit of stay for MSAR permanent residents as visitors in Hong Kong from 14 days to 180 days, such a length of stay was much shorter than that enjoyed by HKSAR permanent residents as visitors in Macao with a limit of stay of one year. These members enquired about the rationale for the difference. Regarding the existing requirement for MSAR permanent residents to furnish the Declaration Forms on their arrival at Hong Kong, members asked about the purpose of imposing such a requirement and the possibility of waiving this requirement in the long run.

27. The Administration responded that Hong Kong residents as visitors in Macao had enjoyed the one-year-stay period for a long time. In considering measures to facilitate the visit of Macao residents to Hong Kong, the HKSAR Government had made an attempt to narrow the difference between Hong Kong and Macao in respect of the limit of stay. The limit of stay of 180 days for MSAR permanent residents as visitors in Hong Kong was the longest

period allowed for any visitors to stay in Hong Kong on each landing. The Administration also advised that every visitor to Hong Kong was required to process a valid travel document. As the Administration did not accept Macao Smart Permanent Identity Card as a valid travel document, MSAR permanent residents were therefore required to furnish the Declaration Forms for visits to Hong Kong. The Declaration Forms served as a travel document and thus chops were stamped on the document at the immigration checkpoints and offices to indicate the limit and any other conditions of stay imposed. In the long run, the Administration aimed to waive the requirement for MSAR permanent residents visiting Hong Kong to produce the Declaration Forms. Reciprocally, the Macao side would dispense with the existing requirement for HKSAR permanent residents to fill out arrival/departure cards. In other words, HKSAR and MSAR permanent residents travelling between the two places would be able to go through immigration clearance solely on the strength of their permanent identity cards.

28. The Administration informed the Panel that the measure of allowing MSAR permanent residents to visit Hong Kong solely with their Macao Smart Permanent Identity Cards without the need to complete and furnish the Declaration Forms had to be complemented by the exercise of the Director of Immigration's discretionary power under the Immigration Ordinance (Cap. 115) (IO) to accept the Macao Smart Permanent Identity Card as a valid travel document, and the issuance of some form of document, such as printed notice, stating the limit of stay and such other conditions of stay imposed on a Macao resident if permission was given for him to land in Hong Kong.

29. Some members expressed reservations about the exercise of the Director of Immigration's discretionary power under IO to accept Macao Smart Permanent Identity Card as a valid travel document. They considered it more appropriate for the Administration to introduce amendments to the law which mirrored such a decision.

30. The Administration explained that section 61(1) of Cap. 115 provided that a travel document should not be valid for the purposes of IO unless it bore a visa which was issued by or on behalf of the Director of Immigration and was in force on the date on which the person to whom the travel document related arrived in Hong Kong. While section 61(2) of IO empowered the Director to exempt any person or any class or description of person from section 61(1), the exercising of discretionary power by the Director of Immigration to grant exemption to holders of Macao Smart Permanent Identity Card was the simplest and easiest way to make Macao Smart Permanent Identity Card a valid travel document under the provision.

31. After consideration, the Administration advised that it intended to introduce legislative amendments to IO to allow Macao permanent residents to visit Hong Kong solely on the strength of their Macao Permanent Identity Cards.

Youth drug abuse and the work of the Task Force on Youth Drug Abuse

32. The Panel continued to follow up the problem of youth drug abuse. The Administration briefed members on the recommendations in the Report of the Task Force on Youth Drug Abuse (the Report) and the progress of implementation of the recommendations.

33. Members noted that the major recommendations in the Report included, among others, enhanced anti-drug education for different stakeholders, increased cooperation with the Mainland authorities to combat cross-boundary drug abuse, strengthened law enforcement and probation system, enhanced treatment and rehabilitation programmes, improved medical support in counselling centres for young drug abusers, structured professional training for teachers and protocols for school personnel, and the introduction of a school-based drug testing scheme.

34. The Panel was informed that an inter-departmental working group (the Working Group) chaired by the Commissioner for Narcotics had been set up in early 2009 to steer, coordinate and monitor the implementation of the recommendations of the Task Force on Youth Drug Abuse (the Task Force). The Working Group had identified a number of areas as its priority areas of work in 2009-2010. These included commissioning the research study on voluntary school-based drug testing, conducting public consultation on compulsory drug testing, tackling cross-boundary drug abuse and institutionalization of a "Healthy School Policy".

35. Regarding the proposal in the Report for introducing compulsory drug testing, some members cautioned that it might be argued as an interference with human rights, in particular the right to privacy. Some people might even argue that compulsory drug testing would provide excessive powers to law enforcement agencies (LEAs). For this reason, the Administration should address all possible problems before taking forward any proposals. Some members took the view that this approach would result in confrontation and even radical response from the youngsters. They expressed reservations about the proposal of implementing compulsory drug testing, as many important issues, including human rights and privacy, were not addressed.

36. The Administration explained that the primary purpose of the compulsory drug testing scheme was to enable early intervention for treatment and rehabilitation, rather than facilitating prosecution. The Task Force fully recognized the sensitive issues and wide implications involved in seeking to introduce compulsory drug testing, particularly from human rights and privacy perspectives. As the proposal was controversial, there was a need for consultation and consensus before proceeding. Against this background, the proposal for a compulsory drug testing scheme would be set out in a detailed

consultation paper and public views would be invited before the proposal was taken forward. The Narcotics Division (ND) and relevant bureaux and government departments were working for the launching of a public consultation exercise on such testing by the end of 2009. The Administration would proactively engage various stakeholders in formulating the details of the proposal.

37. Regarding the school-based voluntary drug testing scheme, some members enquired about the implementation details, including the timetable, the process of testing and the criteria for invoking the drug testing process. They asked whether a test would be conducted only where there was reasonable suspicion or by means of random sampling. These members held the view that, in devising the voluntary drug testing scheme, the Administration should avoid possible labelling effect on schools and students.

38. The Administration advised that the Task Force appreciated the validity of all relevant concerns, such as privacy, confidentiality, consent and stigmatization. All these issues had to be fully addressed. A research project would be commissioned to devise possible school-based drug testing schemes for voluntary adoption by schools, having regard to the practices in local international schools and those in overseas jurisdictions. Upon completion of the research study, which would take about a year, the Administration would launch a pilot scheme in selected schools to test out the viability of the schemes. ND, relevant bureaux and government departments would commission a research study by the fourth quarter of 2009 to devise the possible school-based drug testing scheme for voluntary adoption by schools. Some members suggested that the Administration should consider advancing the research study on voluntary drug testing.

39. The Administration informed the Panel that drug testing in schools had attracted considerable discussion within the school sector. Given the host of issues of concern identified, the Administration would undertake a more in-depth study into the relevant issues and suggest model schemes for reference, in order to assist the schools in considering the feasibility of introducing drug tests on campus. Wide consultation would be conducted, especially in the school sector.

40. Some members considered that the Administration should tackle the problem of youth drug abuse at source. They suggested that the Government should invoke enhanced sentencing pursuant to section 56A of the Dangerous Drugs Ordinance (Cap. 134) (DDO), so as to increase deterrence against sale and supply of drugs to youth or exploitation of youth in illicit drug activities. They considered that the Administration should step up enforcement actions and strengthen cooperation with the enforcement agencies of other jurisdictions to combat the problem.

41. The Administration explained that the maximum penalties for drug-related offences were severe. For example, trafficking in or the manufacture of dangerous drugs was subject to a maximum penalty of a fine of \$5 million and life imprisonment, whereas possessing or consuming a dangerous drug was subject to a maximum penalty of a fine of \$1 million and seven years' imprisonment. The Police was aware of the provisions in section 56A of DDO. Where possible, applications would be made for imposition of a heavier sentence under the section. The Administration advised that LEAs in Hong Kong had been working closely with the Mainland authorities to combat the problem.

42. The Administration advised that the anti-drug efforts on preventive education and publicity would focus on reducing the demand for illicit drugs by imparting knowledge on drugs to different stakeholders, dispelling any misconceptions, strengthening young people's life skills and resistance to adversity and temptations, and mobilizing the whole community to join the anti-drug cause. Noting that Internet was the most effective medium to reach out to young people, the Administration would explore disseminating anti-drug messages to the general youth and to assist those at risk through this medium. At present, online resources were provided through the website of ND in the government domain and other websites. The traditional approach of ND's website and its contents would be revamped and constantly updated, so as to make it an engaging, informative and useful one-stop Internet resource centre and portal for the anti-drug cause. Apart from the proposed anti-drug portal, the Administration would explore further online opportunities to reach out to the youth, as many of them might visit discussion forums, blogs, popular social networks and video sharing web sites.

Results of study of matters raised in the Annual Report 2007 to the Chief Executive by the Commissioner on Interception of Communications and Surveillance

43. The Panel was briefed on the results of the Administration's study of matters raised in the Annual Report 2007 to the Chief Executive by the Commissioner on Interception of Communications and Surveillance (the Commissioner).

44. Members expressed deep concern about how LEAs handled interception products involving information which might be subject to legal professional privilege (LPP). Members considered that LEAs should be mindful of the need to protect LPP in carrying out interception or surveillance operations, as failure to observe the requirements of the Interception of Communications and Surveillance Ordinance (ICSO) regarding handling of LPP would have an adverse impact on LEAs' reputation.

45. Members were also concerned whether LEAs carried out interception in a responsible manner and complied closely with the requirements and spirit of ICSO to ensure that the intrusion into privacy of the subject of the prescribed authorization, albeit a suspected offender, would not be continued unless it was necessary and reasonable.

46. The Administration responded that section 59(2)(b) of ICSO and paragraphs 124 and 169 of the Code of Practice (CoP) provided adequate safeguards for protected products, including those containing information subject to LPP. ICSO and CoP required that any intercepted product containing information that was subject to LPP should be destroyed as soon as reasonably practicable.

47. The Administration advised that the checks and balances built into the ICSO regime had struck a balance between protecting privacy and LPP, while allowing LEAs to carry out covert operations for the prevention and detection of serious crimes and protection of public security in warranted circumstances. Whenever an application was made to the relevant authority (panel judge or authorizing officer) for a prescribed authorization, the relevant authority would assess whether the conditions for issue of the prescribed authorization as set out in section 3 of ICSO were met. Applications for renewal of prescribed authorizations were also subject to stringent requirements.

48. Some members requested expanding the content of the Commissioner's annual report to include the numbers of applications received from and authorizations issued or renewed for respective LEAs, as well as more detailed information on renewal cases.

49. The Administration responded that it was concerned that the provision of too much information in the Commissioner's annual report might reveal the investigation capability of LEAs, and would be prejudicial to the prevention and detection of crime and the protection of public security. Notwithstanding this concern, the Administration undertook to refer members' request to the Commissioner for consideration.

50. Some members were concerned that the four cases of irregularities as reported in the Commissioner's Annual Report 2007 which involved inadvertent obtaining of LPP information had aroused grave concern in the community, including the legal sector, over law enforcement officers' understanding of and compliance with the relevant requirements under ICSO.

51. The Administration advised that although there were some instances of non-compliance with the requirements of ICSO by individual officers of LEAs, such non-compliance was mainly due to inadvertence, or the lack of thorough understanding of or familiarity with the relevant requirements of ICSO. While the Commissioner had identified some inadequacies in individual law

enforcement officers in their handling of suspected LPP cases, he considered that such inadequacies were glitches at the initial stage of the implementation of the ICSO regime. The Commissioner had stated in his Annual Report 2007 that he was satisfied that LEAs were on the whole compliant with the ICSO requirements, and that they had been cooperative in assisting the Commissioner in the performance of his oversight and other functions under ICSO.

52. A member suggested that consideration should be given to engaging officers or organizations independent from any LEAs, such as the Office of the Commissioner on Interception of Communications and Surveillance, to be responsible for listening to interception products. In his view, this measure would serve as a safeguard against LEAs since staff members of the Commissioner's Office would screen out any suspected LPP information before passing it to the investigators for their retention. The Administration responded that it would consider the suggestion when conducting the comprehensive review of ICSO.

53. Some members noted from the Commissioner's Annual Report 2007 that some conversations containing LPP information or possible LPP information might touch on matters not directly related to legal advice but useful for crime prevention or detection purposes, and the Commissioner had raised a query on whether LPP information obtained in this manner could be used for criminal investigation purposes, relating to the offence for which the prescribed authorization was granted or to other offences. These members sought clarification on whether information subject to LPP, if obtained, could be used for crime prevention or detection purposes.

54. The Administration advised that its stance had always been clear that any information subject to LPP was to remain privileged notwithstanding that it had been obtained pursuant to a prescribed authorization. As a matter of fact, ICSO required that any telecommunications interception product should not be admissible as evidence in any proceedings before any court and should not be made available to any party to these proceedings. LEAs must fully observe the requirements of ICSO in their handling of LPP matters.

55. A member considered that penalty should be introduced for non-compliance with the provisions in ICSO or CoP, and suggested that the Administration should consider making the use of LPP information obtained through interception of telecommunications for any purposes a criminal offence.

56. Members were concerned that LEAs and panel judges held different interpretations on a number of provisions in ICSO regarding the power of panel judge to revoke an authorization that had been granted. Some members queried whether LEAs were challenging the rule of law, the power of panel judges and the views of the Commissioner. They took the view that if LEAs

questioned the power of the panel judge to revoke the prescribed authorization, LEAs should seek remedy from the court, such as to quash the panel judge's decision of revocation or his refusal to allow the continuance of the prescribed authorization or to seek for a declaration of a proper interpretation of the statutory provision.

57. The Administration advised that although the Annual Report 2007 had revealed that there was occasional disagreement between LEAs and the Commissioner on the interpretation of certain provisions of ICSO, there was no question of LEAs being disrespectful to panel judges or the Commissioner. In the LPP case referred to in the Annual Report 2007, the LEA concerned had accepted the panel judge's view and discontinued the covert operation as soon as reasonably practicable. All LEAs had adopted pragmatic measures to address the Commissioner's concerns and resolve the differences in views between them regarding the power of panel judge to revoke an authorization. SB had amended CoP where appropriate to address the issues identified in the Annual Report 2007. As some of the Commissioner's recommendations arose from different interpretations of certain provisions in ICSO, the Administration would consider those recommendations in detail when it conducted the comprehensive review of ICSO after the second full-year report of the Commissioner was available. The review would provide an opportunity for the Administration to identify further legislative improvements to ICSO.

58. Some members were concerned whether the reports of irregularity mentioned in the Commissioner's Annual Report 2007 represented only the tip of an iceberg. They considered that the Administration should conduct a comprehensive review on ICSO without further delay. In their opinion, the review should cover the authority for authorizing all interception of communications and Type 1 surveillance operations, which was now vested in one of the three to six judges of the Court of First Instance appointed by the Chief Executive as panel judges.

59. Some members pointed out that if protected product was destroyed as soon as reasonably practicable prior to the Commissioner's commencement or completion of the review, the Commissioner's oversight and review functions on LPP cases would be severely hampered. A member took the view that to facilitate the Commissioner in the performance of his oversight and other functions under ICSO, the Administration should consider making arrangements to allow the Commissioner to recover the recordings of or products derived from interception of telecommunications, which had been destroyed by LEAs pursuant to the requirement of ICSO or CoP.

60. The Administration stressed that it would conduct a comprehensive review of ICSO after the Commissioner had submitted the second full-year report, but preparatory work on the review had already commenced. In the interim, LEAs had adopted pragmatic measures to address the Commissioner's

concerns and resolve the differences in the interpretation of provisions in legislation. The Administration had also amended CoP where appropriate to address the issues identified in the Annual Report 2007.

Police's handling of sex workers and searches of detainees

61. The Subcommittee on Police's Handling of Sex Workers and Searches of Detainees formed under the Panel held six meetings with the Administration between December 2008 and June 2009. The Subcommittee also received a closed-door briefing by the Police on its undercover operations against vice activities and the findings of its internal review on the handling of searches of arrestees in the Lee Tung Street incident. Issues discussed by the Subcommittee included the scope and classification of searches on detainees, ranking of authorizing officers for searches involving full removal of underwear, the use of advanced technology and devices to assist Police officers in the conduct of searches, monitoring of undercover operations against vice activities, and monitoring of Police officers engaged in undercover anti-vice operations.

Other issues

62. The Panel had also discussed other issues with the Administration. These included admission arrangements for employment of talents and professionals, pilot scheme on Express e-Channel, delegation of authority for the issuance of Fire Hazard Abatement Notice, latest development in the provision of rehabilitative services by the Correctional Services Department, Police's handling of ethnic minorities, installation of closed-circuit television cameras in public places, discretion of the Director of Immigration in the processing of contract renewal applications from foreign domestic helpers, torture claim screening mechanism, Police's handling of cases of violence against well-known personalities and civil servants in their performance of duties, measures to combat illegal immigration, and the proposed introduction of a Medical Priority Dispatch System for ambulances.

63. The Panel was also briefed on a number of legislative and financial proposals. These included legislative proposals to amend the Pawnbrokers Ordinance, to enhance control over smuggling at sea, to adapt military references in Hong Kong laws, proposed Rules of Court and Code of Practice to be made under the United Nations (Anti-Terrorism Measures) Ordinance, and funding proposals to replace the respective radio communications systems of the Correctional Services Department, the Customs Drug Investigation Bureau of the Customs and Excise Department and FSD, to procure one mobile X-ray vehicle scanning system for the Customs and Excise Department, to replace four fire appliances of FSD and two fixed-wing aircraft for the Government Flying Service, to construct rank and file quarters for ImmD, and to construct boundary fences and the Boundary Patrol Road arising from the reduced coverage of the Frontier Closed Area.

Meetings held

64. Between October 2008 and June 2009, the Panel held a total of 13 meetings and conducted two visits. The Panel also received a briefing by the Commissioner on Interception of Communications and Surveillance on his Annual Report to the Chief Executive.

Council Business Division 2
Legislative Council Secretariat
19 June 2009

**Legislative Council
Panel on Security**

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to security, public order, public safety, corruption-related matters, nationality and immigration.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Legislative Council
Panel on Security**

Membership list for 2008-2009 session

Chairman	Hon LAU Kong-wah, JP
Deputy Chairman	Hon James TO Kun-sun
Members	Hon Albert HO Chun-yan Dr Hon Margaret NG Hon CHEUNG Man-kwong Dr Hon Philip WONG Yu-hong, GBS Hon WONG Yung-kan, SBS, JP Hon LAU Wong-fat, GBM, GBS, JP (up to 1 March 2009) Hon Emily LAU Wai-hing, JP Hon Timothy FOK Tsun-ting, GBS, JP Hon Abraham SHEK Lai-him, SBS, JP Hon Audrey EU Yuet-mee, SC, JP Hon Andrew LEUNG Kwan-yuen, SBS, JP Hon LEUNG Kwok-hung Hon CHIM Pui-chung Hon CHAN Hak-kan Hon WONG Kwok-kin, BBS Hon WONG Yuk-man Hon IP Kwok-him, GBS, JP

(Total : 18 Members)

Clerk Mr Raymond LAM

Legal advisers Mr LEE Yu-sung
Mr YICK Wing-kin

Date 2 March 2009