

立法會
Legislative Council

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by the Administration)

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Panel on Security

**Subcommittee on
Police's Handling of Sex Workers and Searches of Detainees**

**Minutes of meeting
held on Wednesday, 24 June 2009, at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon Albert HO Chun-yan
Hon WONG Yung-kan, SBS, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-kin, BBS
- Members absent** : Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yuk-man
- Public Officers attending** : Item I
Mrs Apollonia LIU
Principal Assistant Secretary for Security
Mr Austin KERRIGAN
Assistant Commissioner of Police (Support)
Mr NG Sai-kuen
Chief Superintendent of Police (Crime HQ) (Crime Wing)
Mr Matthew Darron LINDSAY
Superintendent of Police (General) (Support Branch)

Mr Eddy SIT
Chief Inspector Custody Management and Detention
(Support)

Mr Eddy TONG
Chief Inspector, Crime HQ(1) (HQ Group) (Crime Wing)

Clerk in attendance : Mr Raymond LAM
Chief Council Secretary (2) 1

Staff in attendance : Ms Connie FUNG
Senior Assistant Legal Adviser 1

Mr YICK Wing-kin
Assistant Legal Adviser 8

Miss Josephine SO
Senior Council Secretary (2) 1

I. Meeting with the Administration

The Subcommittee deliberated (index of proceedings attached at **Annex**).

2. The Administration informed members that -
 - (a) since the implementation of the Police's new arrangements for the handling of searches of detainees from 1 July 2008, the Administration had not received any complaint about the new arrangements;
 - (b) in the first five months of 2009, the numbers of Level III(c) searches conducted on detainees involving full removal of underwear were 370, 346, 154, 109 and 28 respectively. Regarding the figure recorded for June, it stood at 22 cases as at 20 June 2009. 95% of these searches were drug-related; and
 - (c) in 2008, the Police conducted a total of 13 350 enforcement actions against vice activities. Of these, 1 186 undercover operations were launched for the purpose of investigating prostitution-related offences and 868 of these operations had led to arrest of persons engaging in vice activities. Among these 868 undercover operations, 312 cases were related to organized prostitution activities. As at the end of March 2009, 301 out of these 312 cases had resulted in successful prosecutions.

3. The Subcommittee requested the Administration to -
 - (a) consider making it clear that the Duty Officer who authorized a search and determined the scope of the search conducted on a detainee should be the officer who issued and signed the relevant Custody Search Form (Pol. 1123) (i.e. the "issuing officer");
 - (b) provide information on how body cavity search or intimate search conducted under the Dangerous Drugs Ordinance (Cap. 134) was recorded, and whether a specific form was designed and used for the purpose of recording such search;
 - (c) consider making further improvements to the Custody Search Form, by asking the officer who witnessed a body search to sign the Custody Search Form;
 - (d) provide information on the number of Level III(c) searches involving full removal of underwear conducted on detainees in the next few months up to 30 September 2009 and the nature of offences involved;
 - (e) provide information on the feedback and complaints of members of the public and police officers regarding the Police's new arrangements for the handling of searches of detainees implemented from 1 July 2008;
 - (f) in respect of those 312 cases related to organized prostitution activities which had led to prosecution as referred to in paragraph 2(c) above, provide a breakdown of the offences involved and the successful rate of prosecution; and
 - (g) advise how the allegations highlighted in the submission of Zi Teng dated 23 June 2009 had been followed up by the Complaints Against Police Office.
4. The Subcommittee agreed that the Clerk would liaise with the Administration to arrange for a closed-door briefing for members' perusal of the report on the Police's internal review regarding the searching of detained persons in the Lee Tung Street incident.

II. Date of next meeting

5. The Subcommittee agreed that the Clerk would schedule the next meeting in consultation with the Chairman.

6. The meeting ended at 10:20 am.

Council Business Division 2
Legislative Council Secretariat
30 July 2009

**Proceedings of meeting of the
Subcommittee on Police's Handling of Sex Workers and Searches of Detainees
on Wednesday, 24 June 2009, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action Required
000000 - 000759	Chairman	Opening remarks	
000800 - 002416	Chairman Admin	Administration's response to issues raised by members at the Subcommittee meeting held on 2 June 2009 (LC Paper No. CB(2)1966/08-09(01))	
002417 - 003852	Chairman Hon Audrey EU Admin Hon Emily LAU	<p>Suggested that the Administration should make it clear that the Duty Officer (DO) who authorized a search and determined the scope of the search conducted on a detainee should be the officer who issued and signed the relevant Custody Search Form (Pol. 1123) (i.e. the "issuing officer")</p> <p>The Administration clarified that searches involving the removal of all clothing except underwear would be classified as Level II searches</p> <p>Enquired how body cavity search or intimate search conducted under the Dangerous Drugs Ordinance (Cap. 134) was recorded, and whether a specific form was designed and used for the purpose of recording such search</p> <p>Suggested further improvements to the Custody Search Form. The officer who witnessed a body search should sign the Custody Search Form</p>	<p>Admin to consider the suggestion (paragraph 3(a) of the minutes refers)</p> <p>Admin to provide the requested information (paragraph 3(b) of the minutes refers)</p> <p>Admin to consider the suggestion (paragraph 3(c) of the minutes refers)</p>
003853 - 004738	Chairman Hon Emily LAU Admin	<p>Shared the view that the Custody Search Form should be countersigned by the witnessing officer</p> <p>Procedures for conducting a search of a detainee</p> <p>The Administration advised that the revised Custody Search Form set out clearly the purpose and reasons for and the scope of the search in question, and better</p>	

Time Marker	Speaker(s)	Subject(s)	Action Required
		<p>reflected a detainee's right in raising concerns and objections regarding the search to be conducted on him</p> <p>The Administration advised that briefings on revisions to the Police General Orders, Force Procedures Manual, the Guidelines on the Searching of Detainees and the Custody Search Form had been arranged for Operation Support Sub-unit Commanders, who would ensure that DOs of their respective units were familiar with the relevant principles and procedures regarding the search of detainees</p> <p>The Administration advised that the revised Custody Search Form was available in fifteen languages</p>	
004739 - 005330	Chairman Hon Abraham SHEK Admin Hon Emily LAU	<p>Definition of "minimum force" as stated in paragraph 14 of the Custody Search Form</p> <p>Considered that the Police should explore the possibility of using equipment/devices, such as metal detectors, to assist its officers in the conduct of searches of detainees. In the situation where a detainee refused to be searched, the Police should first exhaust all other possible means before it proceeded to use the minimum force to carry out the search</p> <p>Interpretation and translation service for detainees with ethnic minority background</p>	
005331 - 010820	Chairman Admin	<p>Whether there would be any adverse consequence on a detainee if he raised concerns or objections regarding the search</p> <p>Whether DOs or the searching officer would read over all the paragraphs in the Custody Search Form to the person to be searched</p> <p>In the situation where a detainee raised objections to the search to be conducted on him, whether it was necessary to record the final decision of DOs and the factors leading to such decision</p>	

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		<p>Whether there would be problem in verifying the identity of a detainee to be searched and completing the Custody Search Form, if the detainee concerned was an illegal immigrant</p> <p>On the meaning of "appropriate adult" as stated on the Custody Search Form, the Administration advised that the Police would confirm the relationship between the detainee to be searched and the person claiming to be the appropriate adult</p> <p>The Administration confirmed that where clothing (including underwear) was to be removed, officers would not require a detained person to remove all of his clothes at the same time, e.g. a person whose clothing above the waist had been removed should be allowed to put the clothing back on before removing clothing below the waist</p>	
<p>010821 - 011558</p>	<p>Chairman Hon Emily LAU Admin</p>	<p>Considered that the Police should endeavour to improve its existing practices regarding the handling of searches of detainees, with a view to minimizing the need for searches involving complete removal of clothing and providing better protection for the privacy, human rights and dignity of detainees</p> <p>Number of complaint(s) received since the implementation of the Police's new arrangements for the handling of searches of detainees from 1 July 2008</p> <p>Number of Level III(c) searches conducted on detainees involving full removal of underwear since January 2009</p> <p>The Administration advised that with enhancement to the Communal Information System, the Police management had been monitoring closely the operation of the procedures for custody searches to ensure their effective implementation</p> <p>Sought information on -</p> <p>(a) the number of Level III(c) searches</p>	<p>Admin to provide the requested information</p>

Time Marker	Speaker(s)	Subject(s)	Action Required
		<p>involving full removal of underwear conducted on detainees in the next few months up to 30 September 2009 and the nature of offences involved; and</p> <p>(b) the feedback and complaints of members of the public and police officers regarding the Police's new arrangements for the handling of searches of detainees implemented from 1 July 2008</p>	<p>(paragraphs 3(d) & 3(e) of the minutes refers)</p>
011559 - 012040	<p>Chairman Hon Emily LAU Admin</p>	<p>Administration's response to issues raised by members at the closed-door briefing held on 12 May 2009 (LC Paper No. CB(2)1999/08-09(01))</p>	
012041-012713	<p>Chairman Admin</p>	<p>Details regarding five cases as referred to in paragraph 6 of LC Paper No. CB(2)1630/08-09(01) involving 10 sex workers who were found working in an apartment with another sex worker during the Police's undercover anti-vice operations (Paragraph 4 of LC Paper No. CB(2)1966/08-09(01) & paragraph 3 of LC Paper No. CB(2)1999/08-09(01))</p>	
012714 - 013944	<p>Chairman Hon Emily LAU Admin Hon Albert HO</p>	<p>Effectiveness of the Police's enforcement actions against vice activities</p> <p>The Administration advised that in 2008, the Police conducted a total of 13 350 enforcement actions against vice activities. Of these, 1 186 undercover operations were launched for the purpose of investigating prostitution-related offences and 868 of these operations had led to arrest of persons engaging in vice activities. Among these 868 undercover operations, 312 cases were related to organized prostitution activities. As at the end of March 2009, 301 out of these 312 cases had resulted in successful prosecutions</p> <p>Sought information on the offences involved in those 312 cases related to organized prostitution activities which had led to prosecution, and the successful rate of prosecution</p>	<p>Admin to provide the requested information (paragraphs 3(f) of the minutes refers)</p>

Time Marker	Speaker(s)	Subject(s)	Action Required
		<p>Suggested that the Administration should review the existing policy governing vice activities and introduce amendments to the existing legislation relating to sex workers working in one sex worker apartments</p> <p>The Administration explained the need for conducting enforcement actions against vice activities and one sex worker apartments</p>	
013945 - 014805	Chairman Hon Emily LAU Admin	<p>Submission from Zi Teng (LC Paper No. CB(2)2022/08-09(01)); hoped that the Administration would enhance the liaison and communication with sex workers groups and follow up the allegations highlighted in the submission of Zi Teng</p> <p>The Administration advised that the Police had an established system for maintaining the communication with sex worker groups. A meeting was held on 12 June 2009 with some 20 representatives from Zi Teng, Action for REACH OUT and Midnight Blue attended.</p> <p>The Administration stressed that investigation could only be carried out with the person who felt aggrieved by any Police action being willing to lodge a complaint and to provide the necessary information</p>	Admin to provide the requested information (paragraphs 3(g) of the minutes refers)
014806 - 014846	Chairman Hon Emily LAU Admin	<p>Closed-door briefing for members' perusal of the report on the Police's internal review regarding the searching of detained persons in the Lee Tung Street incident</p> <p>Date of next meeting</p>	