

立法會
Legislative Council

LC Paper No. CB(2)602/09-10
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

**Minutes of meeting
held on Tuesday, 3 November 2009, 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) Hon Albert HO Chun-yan Dr Hon Margaret NG Hon CHEUNG Man-kwong Hon Emily LAU Wai-hing, JP Hon Audrey EU Yuet-mee, SC, JP Hon Andrew LEUNG Kwan-yuen, SBS, JP Hon LEUNG Kwok-hung Hon CHIM Pui-chung Hon Cyd HO Sau-lan Hon CHAN Hak-kan Hon WONG Kwok-kin, BBS Hon WONG Yuk-man Hon IP Kwok-him, GBS, JP Hon Paul TSE Wai-chun |
| Members absent | : Dr Hon Philip WONG Yu-hong, GBS Hon WONG Yung-kan, SBS, JP Hon LAU Wong-fat, GBM, GBS, JP Hon Timothy FOK Tsun-ting, GBS, JP |
| Public Officers attending | : <u>Item IV</u> Ms Sally WONG, JP Commissioner for Narcotics Mr David WONG Principal Assistant Secretary for Security (Narcotics) |

Item V

Ms Carol YUEN Siu-wai
Deputy Secretary for Security

Mr WONG Sai-chuen
Chief Fire Officer (Headquarters)
Fire Services Department

Mr LEUNG Shiu-hong
Chief Ambulance Officer (Acting)
Fire Services Department

Mr Charles CHOW Chi-ping
Project Director 2
Architectural Services Department

Item VI

Mr Alan Y K LO
Principal Assistant Secretary for Security

Mr Eric K K CHAN, IDSM
Deputy Director of Immigration

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

Staff in attendance : Mr Timothy TSO
Assistant Legal Adviser 2

Mr Bonny LOO
Assistant Legal Adviser 3

Miss Josephine SO
Senior Council Secretary (2) 1

Ms Camy YOONG
Clerical Assistant (2) 1

Action

I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)137/09-10)

The minutes of the meeting held on 15 October 2009 were confirmed.

Action

II. Information papers issued since the last meeting

2. Members noted that no information paper had been issued since the last meeting.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)146/09-10(01) and (02))

Regular meeting in December 2009

3. Members agreed that the following items would be discussed at the next regular meeting to be held on 1 December 2009 at 2:30 pm -

- (a) Torture claim screening : enhanced mechanism and way forward;
- (b) Replacement of emergency ambulances; and
- (c) Manpower situation in the Independent Commission Against Corruption.

Special meeting in November 2009

4. The Chairman reminded members that a special meeting would be held on Wednesday, 25 November 2009, at 8:30 am to discuss the overall progress of anti-drug efforts and the trial scheme on school drug testing in Tai Po District.

Other issue

5. The Deputy Chairman expressed concern about the division of work among the Under Secretary for Security who was appointed from 1 November 2009, the Political Assistant to the Secretary for Security and other senior servants in the Security Bureau (SB) and their scope of responsibilities following the appointment. Members agreed that the Clerk should write to the Administration for provision of the relevant information.

Clerk

IV. Proposal for creation of an additional three-year supernumerary AOSGC post in Narcotics Division

(LC Paper No. CB(2)146/09-10(03))

6. Commissioner for Narcotics (C for N) briefed members on the Administration's proposal to create a three-year supernumerary post of Administrative Officer Staff Grade C (AOSGC) (D2) in the Narcotics Division (ND) of SB from February 2010, as detailed in the Administration's paper.

Action

Need for an additional AOSGC post

7. The Deputy Chairman said that the directorate support in ND should be strengthened to sustain the full momentum of the Administration in the battle against drugs. He noted that the incumbent would be required to undertake extensive high-level coordination with a wide spectrum of sectors in the community to mobilize support and resources, and some of the measures put forward by the Task Force on Youth Drug Abuse (the Task Force) were highly controversial and involved meticulous consultation with a wide range of stakeholders. In view of the level of responsibility, experience and political awareness required for the job, the Deputy Chairman was of the view that instead of creating an additional AOSGC post in ND, the new Under Secretary for Security should take on these important duties. His view was echoed by Ms Emily LAU and Mr CHEUNG Man-kwong.

8. In response, C for N made the following points -

- (a) while the new Under Secretary for Security might provide his inputs to the anti-drug cause from the policy perspectives, there remained a substantial amount of work relating to the detailed planning and implementation of the 70-plus recommendations of the Task Force covering the five prongs of the enhanced anti-drug strategies, which had to be shouldered by the proposed supernumerary AOSGC post, to be designated as Principal Assistant Secretary (Narcotics) Special Duties (PAS(N)SD); and
- (b) this PAS(N)SD would underpin C for N focusing on anti-drug work relating to drug testing, treatment and rehabilitation, and the post was proposed to be maintained for three years to allow sufficient time to take forward the major measures in these domains.

9. Notwithstanding the explanation provided by the Administration, the Deputy Chairman said that he would have difficulty in supporting the funding proposal since there were other alternatives to achieve the purpose, including entrusting the new Under Secretary for Security the responsibility to coordinate efforts to implement the comprehensive recommendations of the Task Force.

10. Mr WONG Yuk-man said that he would not support the funding proposal. In his view, the existing manpower resources in ND were not put to the best use. The Administration should critically examine whether staff in ND or SB had spare capacity to take up any extra workload.

11. Mr Andrew LEUNG expressed support for the proposed creation of an AOSGC post in ND for a period of three years from February 2010 onwards,

Action

on account of the need to strengthen the capacity and directorate support for ND to take forward the planning and implementation of the drug testing schemes.

12. Expressing support for the funding proposal, Mr CHAN Hak-kan was concerned whether the provision of frontline staff in ND could cope with the significant increase in workload.

13. C for N responded that to support the proposed PAS(N)SD post, the Administration planned to create in ND one three-year Administrative Officer post and one Personal Secretary I post. As ND would continue to cooperate with non-governmental organizations in different areas of anti-drug work, including preventive education and publicity and treatment and rehabilitation, the existing manpower resources at the frontline was sufficient.

14. Mr IP Kwok-him said that the Democratic Alliance for the Betterment and Progress of Hong Kong appreciated the need for expedited and intensified efforts in the battle against drugs and supported the Administration's proposal to create an additional AOSGC post in ND to provide the necessary directorate support to C for N. He sought information about the main duties of the proposed post and the specific performance targets and achievements expected of the post-holder.

15. In response, C for N advised that the additional supernumerary post of AOSGC was proposed to be created for three years in ND with effect from February 2010 to undertake the following major duties -

- (a) to oversee the implementation of the school drug testing trial scheme in Tai Po and to steer a research study on the effectiveness of the trial scheme;
- (b) to draw up the way forward on school drug testing for promotion to all local schools, having regard to the views of stakeholders, resource implications and findings of the research study on the trial scheme in Tai Po;
- (c) to steer the introduction of hair testing of illicit drugs in Hong Kong;
- (d) to explore and pursue innovative ways for the provision of treatment and rehabilitation services to meet the needs of drug abusers;
- (e) to intensify efforts in bringing drug treatment and rehabilitation centres up to licensing standards particularly in respect of finding

Action

suitable sites, land and planning issues, local consultation, voluntary professional help;

- (f) to re-engineer drug treatment and rehabilitation resources and programmes to meet the rising need for services for psychotropic substance abusers;
- (g) to take forward the measures set out in the Fifth Three-year Plan on Drug Treatment and Rehabilitation Services in Hong Kong, including the development of a network service model on a cluster basis to provide a continuum of services, the training of anti-drug workers, and improvement to the capacity and quality of drug treatment and rehabilitation programmes; and
- (h) to monitor and review the efficiency and effectiveness of various downstream services, including both subvented and non-subvented ones.

Admin 16. To facilitate members' work in reviewing the effectiveness of the PAS(N)SD post in the fight against drugs, Mr IP Kwok-him requested the Administration to provide in writing the specific performance targets and achievements expected of the post-holder.

Drug testing

Admin 17. Referring to paragraph 14 of the Administration's paper, Ms Emily LAU asked about the reasons for advancing the voluntary trial scheme on school drug testing and deferring the public consultation exercise on the proposal to carry out compulsory drug testing in Hong Kong. She requested the Administration to provide a written response in this regard. She was also concerned whether the new arrangements had been endorsed by the Task Force.

18. In response, C for N said that -

- (a) following the release of the Report of the Task Force in November 2008 and the recommendations made therein, ND had originally planned to commission a research party to start a research project within 2009, and based on the findings of the research study, take forward a pilot testing scheme in a few schools in the 2010-2011 school year;
- (b) in view of the falling age of first-time drug abusers and a series of incidents of drug abuse involving young students in early 2009, there were voices in the community to expedite the implementation of school-based drug testing. Some schools also

Action

expressed a clear intention to launch a pilot testing scheme as soon as possible. Having reviewed the developments, the Administration undertook to study how best to address the deteriorating situation;

- (c) in July 2009, the Chief Executive announced that he would lead relevant Principal Officials to expedite and strengthen efforts to combat the youth drug problem in five directions, including drug testing; and
- (d) the original plan for the compulsory drug testing proposal was to first formulate a concrete scheme involving stakeholders within and outside the Government and then launch a formal public consultation exercise with details set out in a public consultation paper before the end of 2009. This plan, however, had to be adjusted given the expedited voluntary drug testing trial scheme in Tai Po District which was scheduled to be launched in December 2009. As launching a public consultation exercise on a compulsory scheme at the same time when the voluntary trial scheme was implemented might cause confusion in the minds of the public, ND planned to first engage stakeholders in discussions on the compulsory scheme to address the complex legal, human rights, enforcement and other issues involved, with a view to launching a public consultation exercise in 2010, and subject to public views, going through a possible legislative exercise in 2011-2012.

19. Mr WONG Yuk-man said that the League of Social Democrats objected to the implementation of voluntary and compulsory drug testing on students, since promoting drug testing in Hong Kong remained a subject of debate and the concerns raised by various parties, such as privacy, confidentiality, consent and stigmatization, had not been sufficiently addressed. Mr WONG considered that the Administration should tackle the problem of youth drug abuse at source by stepping up enforcement actions against drug abuse and trafficking activities.

20. Mr CHEUNG Man-kwong expressed concern about the proposed timetable for extending the trial scheme on school drug testing. He noted that the Administration planned to launch the trial scheme in all 23 secondary schools in Tai Po District within the 2009-2010 school year and roll out the same to 460 public sector secondary schools in other districts starting from the 2010-2011 school year. Stressing the importance of providing efficient and effective drug treatment and rehabilitation services to ensure a continuum of service for young drug abusers, he called on the Administration to estimate the number of drug abuse cases uncovered by the scheme, and to ensure the provision of sufficient resources to meet the increased demands for downstream support services.

Action

21. In response, C for N advised that the Administration's intention was to implement the measure by phases. At the initial stage of implementation in the 2009-2010 school year, all the 23 secondary schools in Tai Po would be involved. The Administration would consolidate the experience gained from the trial scheme and consider how school-based drug testing could be extended to other districts. The scheme was likely to be rolled out in phases in three to four years' time. The Administration was well aware that this proposed scale and timetable for possible expansion of the scheme to more than 460 public sector secondary schools would pose significant challenges to the bureaux and departments concerned, as well as the healthcare, social welfare and educational sectors. ND would continue to spearhead this important initiative, addressing various concerns identified in the preparation for and implementation of the trial scheme, and tapping the full potential of school drug testing as an additional preventive and early intervention tool for young abusers at school. It would work with the Education Bureau, the Labour and Welfare Bureau and stakeholders concerned to tackle the complex issues in education, rehabilitation, law, privacy, resources and other areas.

22. Mr CHEUNG Man-kwong enquired about the Administration's plan on how school-based drug testing would be extended to other schools and districts, including the timetable and criteria for selecting the schools/districts, and the Administration's discussions with the healthcare, social welfare and educational sectors regarding the gradual and phased implementation of the scheme. C for N said that the Administration would commission a research study to evaluate the effectiveness of the trial scheme, suggest refinements and propose a strategy for rolling out the scheme. There was no definite plan on the latter at the moment.

Treatment and rehabilitation

23. Noting the significant increase in the number of reported young drug abusers over the years, Mr WONG Yuk-man expressed concern about the rehabilitation facilities and services for young drug abusers. He held the view that the Administration should continue to critically monitor the demand for downstream services for young drug abusers, seek appropriate provision for efficient and effective programmes, and encourage the development of non-subvented services that were of good quality.

V. The Development of Aberdeen Fire Station cum Ambulance Depot
(LC Paper No. CB(2)146/09-10(04)

24. Deputy Secretary for Security (DS for S) briefed members on the Administration's proposal to demolish the existing Aberdeen Fire Station and to

Action

construct a new fire station-cum-ambulance depot at Nam Fung Road, Aberdeen as detailed in the Administration's paper.

25. Ms Emily LAU expressed dissatisfaction that the Administration's paper did not give sufficient information on the considerations and justifications underlying the project. She said that a brief description without quantifying the precise impact of the projected increase in population of the Southern District with age exceeding 60 and the anticipated expansion of the Ocean Park as well as the future development of the Wong Chuk Hang area could not facilitate members' consideration as to whether there was a pressing need to take forward the project. She further said that although in 2008, the Fire Services Department (FSD) was only able to meet 92.3% of building fire calls from the Aberdeen area within the graded response time against the service pledge of 92.5%, it was not sufficient to justify the reprovisioning of the existing Aberdeen Fire Station at a capital cost of about \$176.3 million.

26. In response, DS for S and Chief Fire Officer (Headquarters) (CFO) made the following points -

- (a) commissioned in 1961, the existing Aberdeen Fire Station was a three-bay fire station designed to accommodate only three fire appliances, namely a Hydraulic Platform, a Major Pump and a Light Rescue Unit. With the development of multi-storey residential and commercial buildings in the area, FSD had deployed an additional 37-metre Turntable Ladder, and a command car to the Station. Besides, as there was no dedicated ambulance depot in Aberdeen and Apleichau, four ambulances were also parked at the Station. Sheds were built at the drill yard to accommodate the ambulances and the additional fire appliances. The proposal to demolish the existing Aberdeen Fire Station and to construct a fire station-cum-ambulance depot with five larger bays to accommodate the existing fire appliances and ambulances would help relieve the overcrowding situation at the Aberdeen Fire Station, improve the existing service and meet the long term operational needs in the area;
- (b) as far as the provision of fire services was concerned, the overcrowding situation together with the traffic congestion in the vicinity of the existing Aberdeen Fire Station had affected the turnout efficiency of fire appliances when responding to incidents. In 2008, FSD was only able to meet 92.3% of building fire calls from the Aberdeen area within the graded response time, against the service pledge of 92.5%. To ensure effective fire services coverage for the area, the Administration was of the view that there was a need to reprovision the existing Station to a larger site with better traffic condition to improve the operational efficiency

Action

and to cope with the development in the area;

- (c) with respect to the provision of emergency ambulance services, at present FSD was able to meet the performance pledge of handling 92.5% of emergency ambulance calls within the 12-minute response time target. However, the Administration saw the need to construct a dedicated ambulance depot with larger parking bays to accommodate the existing ambulances and provide room for possible expansion; and
- (d) according to the population projection of the Census and Statistics Department, the population of the Southern District with age exceeding 60 would drastically increase by 28% from 2009 to 2016. With the expansion of the Ocean Park and the development of the Wong Chuk Hang area, the demand for both fire and ambulance services would likely increase in future.

27. Ms Emily LAU requested the Administration to illustrate with specific figures the likely magnitude of the potential problems mentioned in paragraph 26. She also requested the Administration to provide information on the projected population by 2016 in the Southern District for all age groups and their corresponding impact on demand for both fire and ambulance services.

Admin

28. Sharing the views of Ms Emily LAU, Mr CHEUNG Man-kwong questioned the need for building a new fire station-cum-ambulance depot. He said that the information provided by the Administration had given him an impression that the crux of the problem laid with the adequacy of parking spaces for fire appliances and ambulances. If it was true, the more straightforward and less costly way to address the problem would be making changes to the design of the existing Aberdeen Fire Station with a view to accommodating the vehicles concerned. He further said that in the absence of additional information and strong justifications, he would have difficulty in supporting the funding proposal.

29. The Deputy Chairman echoed Ms Emily LAU's view that the paper did not contain sufficient information, such as the forecast demand for fire and emergency ambulance services in the area, to justify the need for building a new fire station-cum-ambulance depot at Nam Fung Road. He said that the Administration should quantify the impact of the overcrowding situation at the Aberdeen Fire Station, the expected improvement in the provision of fire and emergency ambulance services and the economic benefits of the proposed project.

Admin

30. DS for S agreed to provide the requested information after the meeting to justify the need for a new fire station-cum-ambulance depot in Aberdeen. Regarding the forecast demand, she informed members that the continued

Action

growth in demand for both fire and ambulance services over the years had posed increasing pressure and challenge in the provision of effective and efficient services within the Southern District. In 2008, while fire calls recorded an increase of 5%, the number of ambulance calls had also recorded an increase of 3.4% over the preceding year. The Administration believed that the demand for both fire and ambulance services would likely increase in future years.

31. Responding to Ms Emily LAU's enquiry about the additional annual recurrent expenditure arising from the project, CFO advised that it was estimated to be \$4.025 million, to cover the staff cost due to the deployment of additional ambulance officers in the new ambulance depot and other operational expenses such as utilities charges, repairs and maintenance.

Admin

32. Mr LEUNG Kwok-hung suggested that to assist members to have a better understanding of the operation of the existing Aberdeen Fire Station, the Administration should arrange a site visit for the Panel. Members agreed.

33. Concluding the discussion, the Chairman said that the Administration should provide the Panel with the requested information and arrange a site visit to the existing Aberdeen Fire Station.

VI. Removal of persons refused entry into Hong Kong
(LC Paper Nos. CB(2)146/09-10(05) and (06))

34. The Deputy Chairman expressed strong dissatisfaction that the paper provided by the Administration contained very little information, covering only the policy and general arrangements on the removal of persons who had been refused permission to land in Hong Kong. He said that the Administration should have been well aware of members' concern and the public sentiments about the removal incident concerning Mr ZHOU Yong-jun, who was repatriated to the Mainland after being refused entry to Hong Kong, and the need to provide the Panel with a paper setting out the details of the case. He said that if the Administration continued to adopt an evasive approach, he would consider moving a motion on the appointment of a select committee to inquire into the removal incident of Mr ZHOU.

35. Sharing the concern of the Deputy Chairman, Mr Albert HO urged the Administration to provide a full account of the incident involving Mr ZHOU Yong-jun to allay members' worry as to whether the Immigration Department (ImmD) had handled Mr ZHOU's entry application in accordance with the law and whether his subsequent repatriation to the Mainland was legitimate.

36. The Deputy Chairman, Mr LEUNG Kwok-hung and Dr Margaret NG said that they had strong reasons to believe that Mr ZHOU Yong-jun would be

Action

subjected to political persecution if he was repatriated to the Mainland. Noting that Mr ZHOU had right of abode in the United States and he travelled to Hong Kong from Macau on a Malaysian passport, they questioned the decision of the Government in sending Mr ZHOU back to the Mainland. They were particularly concerned whether such repatriation arrangement had been accepted by Mr ZHOU.

37. In response, Deputy Director of Immigration (DD of Imm) and Principal Assistant Secretary for Security (PAS(S)) made the following points -

- (a) the Administration noted members' concern about the removal of Mr ZHOU Yong-jun. However, the Administration was not in a position to comment on individual cases;
- (b) ImmD had the responsibility to uphold effective immigration control to safeguard Hong Kong's interests. It handled all entry applications in accordance with the law and the prevailing policy, having due regard to individual circumstances;
- (c) visitors were required to fulfil immigration requirements before they were allowed to enter Hong Kong. There could be different circumstances under which visitors were refused entry. Quite a number of cases involved "use or in possession of forged travel documents" or "seeking entry on false identities". Under the existing arrangements, persons who had been refused permission to land would be repatriated to their place of embarkation or place of origin;
- (d) a visitor suspected of using forged travel document would not be allowed to use that travel document again. Officers of the Enforcement Division of ImmD would conduct investigation, during which immigration officers would ask the person concerned whether he had any request regarding his removal and record the relevant information. For those persons who refused to provide information or with doubtful identities, immigration officers would try to ascertain their true identity and place of origin, based on the information obtainable;
- (e) where there was sufficient evidence, ImmD would consider instigating prosecution against the visitor for the relevant offences;
- (f) generally speaking, prosecution on cases involving unlawful alteration or photo substitution of travel documents was more likely, as evidence could be easily collected through the assistance of Government Laboratory. For doubtful identity cases,

Action

prosecution would be more difficult as the document itself carried no forgery features and the users usually refused to answer any questions. In case of non-prosecution, those refused landing passengers would be removed from Hong Kong as quickly as possible; and

- (g) all operations concerning the removal or repatriation of persons who had been refused permission to land in Hong Kong were carried out exclusively by ImmD staff who would escort the persons concerned during the journey and, on arrival in the territory of destination, hand them to the receiving authorities. Under no circumstances were Mainland and overseas counterparts allowed to participate in the removal operation.

38. Notwithstanding the above information provided by the Administration, Mr LEUNG Kwok-hung said that he remained dubious about the reason why Mr ZHOU Yong-jun was repatriated to the Mainland, as it was neither his place of embarkation nor place of origin. Sharing similar concern, Mr CHEUNG Man-kwong, Dr Margaret NG and Ms Audrey EU asked whether ImmD had contacted the government of the United States, apart from the relevant authorities in Mainland China, to verify the identity of Mr ZHOU.

39. In response, DD of Imm and Principal Assistant Secretary for Security (PAS(S)) explained that where a visitor was suspected of using or in possession of a forged travel document, he would not be allowed to use that travel document again. ImmD officers would carry out investigation to ascertain his true identity and place of origin, before deciding on the appropriate course of action. During investigation, ImmD officers would interview the suspect, search his luggage, examine the travel document suspected to be forged and verify his identity with other authorities, consulates, Mainland and overseas counterparts, as appropriate. If the suspect had made known to the immigration officers that he had right of abode in a certain country and indicated clearly his wish to be removed thereto, the Government would give due consideration to his request upon ImmD officer's satisfaction that the country concerned would admit him.

40. Mr CHEUNG Man-kwong said that to his knowledge, the Mainland authorities had issued a wanted notice on Mr ZHOU Yong-jun. Expressing concern whether ImmD had acted in collusion with the Mainland authorities or sent Mr ZHOU to the Mainland by mistake, he asked whether the case had been brought to the attention of the Secretary for Security (S for S).

41. Without commenting on individual case, DD of Imm said that there was no question of ImmD acting in collusion with the Mainland authorities. He reiterated that Mainland public security personnel were not allowed to cross the boundary to take enforcement actions in Hong Kong, and ImmD had always

Action

acted in accordance with the law and the prevailing policy in processing applications for entry into Hong Kong. DD of Imm further said that not all removal cases were brought to the attention of S for S. The removal of visitors who failed to meet the entry requirements took place every day, and the number of persons refused entry in a year could be very high. While ImmD was entrusted with the responsibility to uphold effective immigration control, immigration officers were expected to exercise their professional judgment on whether there were justifiable grounds for refusing applications for entry to Hong Kong and removing visitors who failed to meet entry requirements.

42. Responding to Mr CHEUNG Man-kwong's and Ms Audrey EU's enquiry about removal procedures adopted in the case concerning Mr ZHOU Yong-jun, DD of Imm reiterated that it was the Administration's position not to comment on individual cases. Notwithstanding this, he assured members that in operations where Mainland residents were involved, only vehicles of the Government of the Hong Kong Special Administrative Region (HKSAR) would be used for conveying passengers who were subject to removal. According to the established arrangements, immigration officers escorting the persons under removal would hand over the latter to the Mainland authorities at the boundary control points.

43. Dr Margaret NG sought clarification on whether ImmD had obtained Mr ZHOU Yong-jun's consent before removing him to the Mainland.

44. DD of Imm responded that according to the established policy, ImmD would inform the persons of their rights during the period of detention or investigation. These included making telephone contacts with the consuls, lawyers or relatives, and having private sessions with the consuls or lawyers. Before effecting removal, immigration officers would notify the persons concerned and any person who felt aggrieved with ImmD's decision might raise objection in writing to the Chief Secretary for Administration. Persons who considered that they had not been fairly treated or that their rights had been infringed might also raise objection or seek judicial review.

45. Mr Albert HO said that he had, in his capacity as the legal representative of Mr ZHOU in his petition against the HKSAR Government, written to ImmD seeking clarification on several points relating to the case. Enquiring about ImmD's policy on record keeping, disclosure, handling and destruction of materials relevant to removal cases, he asked whether the Administration would provide a written reply to those questions raised in his letter.

46. DD of Imm replied that it was a general requirement for all records relating to the removal of persons who had been refused permission to land in Hong Kong and investigated for possible immigration offences be preserved for a specified period. Generally speaking, the retention period would be more than one year. If necessary, ImmD would extend the retention period of those

Action

cases which had attracted enquiries on legal matters. Regarding the issues raised in the letter of Mr Albert HO over the removal case of Mr ZHOU, ImmD was preparing a reply to the letter.

47. Mr Albert HO said that to his knowledge, an arriving visitor who, for one reason or another, was refused permission to land in Hong Kong would be served with a "Refusal Notice". If Mr ZHOU Yong-jun was suspected of having committed the offence of using a forged travel document, he should be detained pending examination by immigration officers before he was removed, and a "Notice to Detainee" should be served on him informing him, among other things, his rights to telephone his consul, solicitor or friends and relatives. Knowing that Mr ZHOU was repatriated to the Mainland within two days after his arrival at Hong Kong, Mr HO said that he was surprised that the Administration had reacted so quickly. He enquired about the prosecution policy in respect of visitors suspected of possessing or using a forged travel document.

48. In response, DD of Imm said that -

- (a) the use of a forged travel document referred to the use of a travel document which was completely counterfeit, or one in which the personal particulars, the photograph or certain pages had been altered. It also referred to the use of a travel document which had been obtained illegally or where a person used a genuine travel document through impersonation;
- (b) in handling cases where use or possession of forged travel documents was suspected, investigating officers of ImmD would not act in haste. They would interview the suspects, search their luggage and examine the travel documents suspected to be forged to verify the authenticity of the travel documents and to ascertain the identity of the visitors and their countries of origin. If the investigating officers had doubts about the authenticity of the documents, the documents would be sent to the Government Laboratory for examination;
- (c) the investigating officers, on completion of the investigation, would recommend whether or not a prosecution should be instituted based on the evidence available. The recommendation would be subject to review by a Senior Immigration Officer of the Prosecution and Deportation Section and the final decision to prosecute would be made by the Chief Immigration Officer of the Section. During the process, legal advice from the Department of Justice would be sought, where necessary; and
- (d) if there was no sufficient evidence to initiate prosecution, the

Action

Government would aim at securing their repatriation as early as possible.

49. Mr WONG Yuk-man and Ms Emily LAU considered the Administration evasive in answering members' questions concerning the removal of Mr ZHOU Yong-jun. They queried whether the removal of Mr ZHOU was an unlawful one. They urged the Administration to provide a full account of the incident to allay public worries.

50. DD of Imm responded that the Administration had explained clearly to members the policy and general practice in the handling of persons who had been refused permission to land in Hong Kong. Reiterating the stance of the Administration, DD of Imm said that while the Administration would not comment on individual cases, members could be assured that immigration officers, in processing applications for entry and arranging removal of persons who had been refused entry, acted in compliance with the law and the prevailing policy. He further advised that section 53 of the Immigration Ordinance (Cap. 115) allowed a person who was refused permission to land in Hong Kong a right to seek a review of that decision. The right to appeal, together with the reasons for removal, was explained to all persons pending removal. Mr IP Kwok-him said that he accepted the Administration's explanation.

51. The Chairman said that the matter could be discussed again if there were any new developments in the future.

52. The meeting ended at 4:50 pm.

Council Business Division 2
Legislative Council Secretariat
21 December 2009