

立法會
Legislative Council

LC Paper No. CB(2)416/10-11
(These minutes have been seen
by the Administration)

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Panel on Security

Minutes of special meeting
held on Tuesday, 19 October 2010, at 4:30 pm
in the Chamber of the Legislative Council Building

- Members present** : Hon James TO Kun-sun (Chairman)
Hon LAU Kong-wah, JP (Deputy Chairman)
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon CHIM Pui-chung
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Hak-kan
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
- Member attending** : Hon WONG Kwok-hing, MH
- Members absent** : Hon Albert HO Chun-yan
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon WONG Kwok-kin, BBS

**Public Officers : Item I
attending**

The Administration

Mr Ambrose LEE, GBS, IDSM, JP
Secretary for Security

Ms CHANG King-yiu, JP
Permanent Secretary for Security

Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Ms Carol YIP, JP
Deputy Secretary for Security 1

Miss Shirley YUNG
Deputy Secretary for Security 2

Mr NGAI Wing-chit
Deputy Secretary for Security 3

Ms Sally WONG, JP
Commissioner for Narcotics

Mr Victor LO, PDSM
Political Assistant to Secretary for Security

Miss Polly KWOK
Administrative Assistant to Secretary for Security

Item II

Independent Commission Against Corruption

Mr Timothy TONG Hin-ming
Commissioner

Mr Ryan WONG Sai-chiu, IDS
Head of Operations (Acting)

Ms Julie MU Fee-man
Director of Community Relations

Mrs Jean AU YEUNG LUI Miu-kwan
Director of Corruption Prevention

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

Staff in attendance : Miss Josephine SO
Senior Council Secretary (2) 1

Mr Ian CHOW
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Briefing by the Secretary for Security on the Chief Executive's 2010-2011 Policy Address
(LC Paper No. CB(2)38/10-11(01))

Secretary for Security ("S for S") briefed Members on the new and ongoing initiatives of the Security Bureau ("SB") in the 2010-2011 Policy Agenda, as set out in the Administration's paper.

Arrangements for cross-boundary students

2. Mr WONG Kwok-hing noted with concern that the number of children who were Hong Kong residents but residing in Shenzhen had been on the rise in recent years. Many of them crossed the boundary to go to school in the North District on a daily basis. Mr WONG asked about the measures adopted by the Administration to facilitate cross-boundary students' attendance at schools in Hong Kong. He considered that the Government of the Hong Kong Special Administrative Region ("HKSAR") should discuss with and seek agreement with the Mainland authorities to increase the number of special quotas granted to coach operators for operating cross-boundary school bus services to cater for the transportation needs of cross-boundary students. The Administration should also improve the "on-board clearance" services provided to cross-boundary students at Man Kam To and Sha Tau Kok Control Points in order to facilitate the entry/exit of cross-boundary students.

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3. In response, S for S advised that the subject of arrangements and measures to facilitate cross-boundary students attending schools in Hong Kong involved policy issues which straddled different policy bureaux, including the Education Bureau, the Transport and Housing Bureau ("THB") and SB. To facilitate cross-boundary students to travel between the Mainland and Hong Kong, the Administration had, with the consent of the Mainland authorities, approved 42 special quotas in the 2009-2010 school year for coach operators to provide door-to-door transportation service for students using the Lok Ma Chau, Man Kam To, Sha Tau Kok and Shenzhen Bay Control Points. THB would keep the matter under review and discuss with the relevant Mainland authorities the possibility of increasing the number of special quotas for operating cross-boundary school bus services, taking into account the prevailing need of cross-boundary students for such services.

4. S for S further said that "on-board clearance" was currently provided for cross-boundary students on coaches passing through Man Kam To and Sha Tau Kok Control Points. The Immigration Department ("ImmD") would consider further improvements to the existing on-board clearance, with a view to providing a speedy and safe service to cross-boundary students.

Measures to combat drug driving

5. Mr WONG Kwok-hing expressed concern about the increasing number of drivers abusing drug. He noted that the Administration would study how the existing legislation could be enhanced to better facilitate enforcement action and evidence collection by the Police to combat drug driving. Noting that the law drafting and enactment process might take time and the number of drug driving cases was increasing, Mr WONG enquired about the measures that would be taken to combat drug driving during the interim period before the relevant legislation was introduced.

6. S for S responded that -

- (a) THB had recently come up with a basket of measures to combat drug driving for public consultation. Among the measures, it was proposed that the Road Traffic Ordinance (Cap. 374) be amended to facilitate effective enforcement; and
- (b) as complementary measures to prevent the spreading of drug driving in the community, posing hazard to public safety, the

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Administration would continue to remind drivers through publicity and education that they must not take lightly the influence of drugs on driving. The Police would remain vigilant to closely monitor incidents involving drug driving.

Establishing an administrative mechanism for sexual offences records checks for child-related work

7. Mr CHEUNG Man-kwong informed Members that in the past five years, a total of 65 cases of teachers being involved in child-related sexual offences were recorded. In 70% of these cases, the accused was convicted after trial. Mr CHEUNG noted with concern that the Administration would launch a pilot scheme for establishing a sexual conviction record check mechanism to enable employers of persons undertaking child-related work and work relating to mentally incapacitated persons ("MIPs") to check the criminal conviction records for sexual offences of employees, so as to enhance the protection of children and MIPs against sexual assault. While he had no objection to the establishment of such a mechanism, he pointed out that it was the view of many Members that legislation should be enacted to protect and balance the rights of children and those of ex-offenders. He stressed that currently, there was no way to prevent persons who had committed sexual offences from taking up child-related and MIP-related work, as these people might seek out areas of work which would provide them with continued contact with children, such as working as private tutors, music teachers or sports coaches. Mr CHEUNG said that to plug the loophole, the Administration should seriously consider enacting legislation to deal with the matter in parallel to the implementation of an administrative mechanism.

8. Echoing Mr CHEUNG Man-kwong's view on the urgent need to establish such a mechanism, Ms Emily LAU asked about the Administration's timetable for implementing the administrative mechanism. Regarding a comprehensive system with legislative backup, Ms LAU asked whether the Administration was aware of the Law Reform Commission ("LRC")'s timetable for finalizing the recommendations so that legislative proposals with respect to the establishment of a comprehensive legislative scheme for sexual offences records checks could be introduced.

9. In response, S for S highlighted the background against which LRC published its report on "Sexual offences records checks for child-related work : interim proposals" in February 2010, recommending the

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Administration in the short run to establish an administrative mechanism without delay to enable employers of persons undertaking child-related work and work relating to MIPs to check their employees' criminal conviction records for sexual offences. S for S advised that LRC would further consider whether a comprehensive legislative scheme should be introduced to enhance the regulation of sexual offences records checks for child-related work. He noted that a comprehensive legislative scheme would involve highly complex issues such as whether mandatory checking should be introduced, and whether all or certain types of ex-offenders should be banned from working in child-related sectors. Any legislative scheme would also be affected by LRC's ongoing review of sexual offences. These issues were complicated and would require community consensus. S for S considered that it would be prudent to let LRC's experts to study the feasibility of a comprehensive legislative scheme. Once LRC put forward any legislative recommendations, the Administration would follow up accordingly. In the meantime, the Administration would implement an administrative mechanism as soon as practicable and aimed to report to the Panel again in the first half of 2011.

Assistance to Hong Kong residents travelling abroad

10. Ms Cyd HO expressed concern about the assistance provided for Hong Kong residents in distress overseas. She asked whether the Administration had ever considered the need to establish in advance with overseas governments, particularly those countries and places which were frequently visited by Hong Kong people, a formal mechanism and procedures for handling unexpected incidents. Ms HO said that for places posing risk or threat to personal safety, including those cities/countries against which a travel alert under the Outbound Travel Alert System was issued, the Government should promulgate more frequently first-hand information on the latest development in the affected place, together with the travel advice, to facilitate travellers to make an informed decision when planning their trips to these places.

11. S for S responded that -

- (a) the HKSAR Government was committed to providing swift and effective assistance to Hong Kong residents who were in distress overseas. In late 2009, the Administration implemented 30 enhancement measures relating to the provision of assistance for Hong Kong residents travelling abroad. Among others, the three-tier Outbound Travel Alert System was launched in October 2009. The System used

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three colours, namely, Amber, Red and Black, to differentiate the levels of risk to facilitate the public to consider making corresponding trip arrangements, such as adjusting travel plans or exercising caution at the region concerned;

- (b) it should be noted that the close communication between the HKSAR Government and the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in Hong Kong, as well as the assistance rendered by the Chinese Diplomatic and Consular Missions abroad were an integral part of HKSAR's emergency response system. The hostage-taking incident in Manila in August 2010 had demonstrated the effectiveness of the enhanced mechanism. The Administration would continue to optimize the mechanism, with a view to providing appropriate and more effective assistance to Hong Kong residents in distress outside the territory; and
- (c) in respect of strengthening the existing mechanism of providing assistance to Hong Kong residents overseas, the Administration maintained an open mind on proposals put forward by Members, including the inclusion of more and related information on the government website to better facilitate travellers to understand more easily the threat to personal safety when visiting places against which a travel alert was issued.

12. The Deputy Chairman held the view that there was room for improvement in the Government's handling of emergency situations occurring outside Hong Kong. He concurred that the suggestion of disseminating up-to-date information and important messages about the latest development of sudden incidents outside Hong Kong through government website should be further explored, and asked about the timetable for implementing such improvement measure. The Deputy Chairman also noted that ImmD aimed to complete by the end of 2010 the upgrading work of its "1868" hotline system and roll out the electronic network for residents to register their itineraries and emergency contact means before travelling abroad. He suggested that the Government should widely publicize and make known to the public, in particular individual travellers, these enhanced support services of ImmD to encourage the use of such services.

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13. Mr IP Kwok-him suggested that apart from the "1868" hotline and traveller e-network services, the Administration should establish other means to disseminate emergency information. In his view, sending alert messages through mobile phone short message services ("SMS") was an option worth pursuing. When the Government issued a travel alert on a place, the relevant information should reach all Hong Kong people travelling abroad by SMS messages regardless of whether they had before departure registered their itineraries and emergency contact means with ImmD.

14. In response, S for S advised that it was the Administration's preliminary plan to provide on ImmD's website hyperlinks to tourism authorities or organizations of different countries, so as to provide the public with access to up-to-date information on travel-related matters in various destinations. This improvement measure, if found technically feasible, would be implemented as soon as possible. As regards the option of sending alert messages through SMS, S for S said that the proposal would entail some technical issues and extra cost. Hence, careful consideration was required.

15. Mr WONG Yuk-man noted that the Government of the Republic of the Philippines ("the Philippine Government") had released the first report by the Incident Investigation and Review Committee of the Philippines on the hostage-taking incident in Manila on 23 August 2010 and announced the follow-up actions to be taken against the officials and persons involved in handling the incident. He asked about the view of the Administration on the decisions of the Philippine Government after reviewing the report of the Incident Investigation and Review Committee. He was also concerned whether the Administration had formulated any contingency mechanism to deal with similar incidents in the future and clearly defined the negotiation channels for and role of the HKSAR Government in incidents involving Hong Kong residents in distress overseas. The Chairman said that as the Panel would discuss the item "Follow-up on the incident in the Philippines on 23 August 2010 involving a tour group from Hong Kong" at the regular meeting to be held on 2 November 2010, the issues raised by Mr WONG would be dealt with at the Panel meeting on 2 November 2010.

Hong Kong residents being refused entry by the Macao Government immigration authorities

16. Ms Cyd HO referred to a case recently reported by the media where a social worker in Hong Kong who travelled to Macao for leisure

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on 1 October 2010, the National Day of the People's Republic of China, was refused entry by the Macao immigration authorities for the reason that she posed a threat to the stability and internal security of the Macao Special Administrative Region ("MSAR"). She said that there were a number of other cases involving Hong Kong residents being refused entry by the Macao authorities, and asked whether the HKSAR Government had followed up such cases with the MSAR Government.

17. S for S responded that the HKSAR Government attached great importance to the legal rights of Hong Kong residents travelling outside Hong Kong and would provide assistance as and when necessary. On the other hand, it respected the right of other administrations to exercise immigration control in accordance with their laws. Based on the principle of mutual respect and taking into account actual circumstances, the HKSAR Government would liaise and discuss with the relevant authorities of other places and countries, with a view to enhancing travel convenience for Hong Kong residents. It was believed that the cases as referred to by Ms Cyd HO in which Hong Kong residents had been refused entry to Macao were isolated incidents.

18. Responding to the query raised by the Chairman, Ms Cyd HO and Mr LEUNG Kwok-hung on whether the HKSAR Government had ever provided authorities of other places/countries or the Liaison Office of the Central People's Government in HKSAR with information on Hong Kong people who organized or participated in social campaigns or movements, leading to some of them being refused entry by other immigration authorities, S for S said that the Administration was not aware of any overseas agencies collecting intelligence in Hong Kong against people organizing or participating in social campaigns or movements.

19. Dr Margaret NG expressed concern whether personal data and confidential information stored in the Smart Identity Card ("Smart ID Card") of Hong Kong residents could be easily retrieved by other immigration authorities, so that the latter would know without difficulty whether a visitor from Hong Kong had any known adverse records upon his arrival or landing.

20. In response, S for S assured Members that personal data stored in the Smart ID Cards were well protected against unauthorized or accidental access, processing, erasure or other use. It should also be noted that in managing the Smart Identity Card System, ImmD had all along been adopting the "need-to-know" and "least-privileged access" principles, which was in full compliance with the legal requirements. In

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addition, for the purpose of protecting personal data, ImmD had put in place strict controls on the use of the Smart Identity Card System.

Measures for enhancing travel convenience for Mainland residents travelling to Hong Kong

21. Mr IP Kwok-him noted that the Administration would extend the e-Channel service to Mainland frequent visitors from 2012 onwards. He enquired about the implementation details.

22. S for S explained that -

- (a) the Mainland authorities would introduce, from 2012 and by phases, electronic Exit-Entry Permit for Travelling to and from Hong Kong and Macao ("EEP") for Mainland residents travelling to Hong Kong and Macao. To meet the requirements arising from the introduction of electronic EEP, the Administration needed to enhance the computer systems of ImmD and install the required clearance facilities to enable the processing of electronic EEPs;
- (b) the Administration would also install new e-Channels at various control points in order to extend the e-Channel service to Mainland frequent visitors from 2012 onwards. It was the plan of the Administration to allow those Mainland residents who held an electronic EEP to be issued by the Mainland authorities and had enrolled in advance for using the e-Channel service to use the Frequent Visitor e-Channels to perform self-service immigration clearance in the future.

Measures to combat the youth drug abuse problem

23. The Deputy Chairman noted that the Administration planned to extend the Trial Scheme on School Drug Testing in Tai Po District ("the trial scheme") for another year to school year 2010-2011 to sustain the momentum of the scheme. He enquired about the effectiveness of the trial scheme in combating drug abuse among the youth.

24. Mr WONG Yuk-man expressed similar concern about the effectiveness of the voluntary school-based drug testing scheme. He noted that more than 12 400 students had joined the trial scheme since its implementation in December 2009. As at the end of June 2010, a total of 2 495 students had been randomly selected for the screening test, of

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which 1 975 students took the test but no confirmed positive case was found. He also noted that the total number of reported drug abusers in Hong Kong under the age of 21 in the first half of 2010 had decreased by some 20% as compared to the same period in 2009, and the drop in Tai Po District was higher than the territory figure at slightly above 30%. Mr WONG considered that the trial scheme should not be regarded as effective merely based on the participation rate and the decrease in the number of school-age drug abusers in Tai Po. He called on the Administration to come up with a more comprehensive approach and concrete measures to tackle the problem of drug abuse among young people.

25. In response, S for S made the following points -

- (a) the territory-wide campaign against drug abuse in the past two years had garnered the general support of the community. The youth drug abuse problem had shown some signs of abatement;
- (b) according to the Hong Kong Lutheran Social Service Cheer Centre, since the launch of the trial scheme, there had been a rising trend of cases seeking assistance. The rise might be attributable to the positive effect of the trial scheme which aimed at strengthening the resolve of non-drug taking students to stay away from drugs, building an anti-drug culture in schools and motivating those who had fallen victim to drugs to seek help at an early stage;
- (c) schools were an important platform for fighting drugs. The trial scheme launched in December 2009 had been running smoothly. The Administration therefore decided to extend the scheme for one year in order to gain further practical experience. The evaluation research on the trial scheme would soon be completed. The Administration would continue to engage stakeholders in mapping out the way forward for school drug testing; and
- (d) the fight against drug abuse was a protracted war. The trial scheme was only a part of the escalated campaign on anti-drug abuse. The Government would continue with its sustained anti-drug efforts using a five-pronged approach, spanning social mobilization, community support, law enforcement, treatment and drug testing. It would also

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continue to foster within the community a culture of care for young people and mobilizing various sectors in society to support young people's healthy growth so that they would stay away from drugs.

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26. Mr LEUNG Kwok-hung said that to his knowledge, the number of reported young drug abusers aged 21 or below in Yuen Long District dropped by a much higher percentage of 36% in the first half of 2010 over the same period in 2009, even though the voluntary school-based drug testing scheme implemented in Tai Po District was not yet extended to schools in Yuen Long District. He enquired about the reason accounting for the decrease in the number of young drug abusers in other districts. The Chairman requested the Administration to provide a more detailed analysis in writing.

27. Mr IP Kwok-him noted with grave concern that some drug treatment and rehabilitation centres ("DTRCs") operated by non-governmental organizations providing rehabilitation services for young drug abusers were facing the problem of outdated facilities. He asked whether and how the Administration would allocate additional resources through funding support from the Beat Drugs Fund to help improve the facilities of the DTRCs concerned.

28. S for S replied in the affirmative and advised that with an injection of \$3 billion into the Beat Drugs Fund in 2010-2011, it was estimated that the annual average investment return would increase to about \$100 million. This would enable the Fund to have more resources to support different organizations for taking forward various anti-drug initiatives, including upgrading the facilities or accommodation of DTRCs to meet the necessary licensing requirements as well as re-provisioning and expansion of such centres.

Capital Investment Entrant Scheme

29. Mr WONG Yuk-man considered that the Capital Investment Entrant Scheme ("CIES") was discriminatory against Mainland residents with less privileged financial background who applied for entry into the HKSAR through the One Way Permit ("OWP") Scheme, since these people had to wait for a relatively longer period of time before they were approved to enter the HKSAR for the purpose of settlement. Mr WONG queried the purpose of launching CIES.

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30. In response, S for S advised that -
- (a) CIES was introduced in October 2003 when Hong Kong was in an economic downturn after the outbreak of the Severe Acute Respiratory Syndrome to attract foreign capital and facilitate entry for residence by persons who would not be engaged in the running of any business in Hong Kong. Since the introduction of CIES, around 8 200 investors with 15 500 dependants had been admitted to Hong Kong, bringing in some \$58 billion of investment;
 - (b) following a review on CIES to ensure that the scheme was up-to-date and continued to serve the best overall interest of Hong Kong, the Government decided to introduce some amendments to CIES with effect from 14 October 2010. Among others, real estate was suspended temporarily as a class of Permissible Investment Assets under CIES; and
 - (c) at present, the admission quota under the OWP Scheme was 150 places daily, providing a total of more than 54 000 places a year to enable Mainland residents to come to Hong Kong for family reunion in an orderly manner. Among the daily OWP quota of 150 places, 60 are allocated to persons holding Certificates of Entitlement; 30 to spouses separated for 10 years or above and their accompanying children; and 60 to "other categories" of applicants, which included single parent coming to take care of small children.

(Members agreed to extend the meeting by 25 minutes.)

Torture claim screening mechanism

31. Ms Emily LAU noted that to deal with the backlog of torture claims, an enhanced torture claim screening mechanism had been implemented since December 2009. Given that the Administration had undertaken to review the mechanism with a view to establishing a legislative regime with comprehensive and effective procedures for handling torture claims, she asked about the work progress of the Administration in this regard, in particular its timetable for introducing the relevant bill.

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32. In response, S for S made the following points -

- (a) the Administration was providing a subvention to the Duty Lawyer Service for the latter to provide publicly-funded legal assistance to needy claimants. To ensure procedural fairness, the Administration had also appointed adjudicators with legal professional background to handle petitions;
- (b) with the implementation of a series of improvement measures by the end of 2009 to expedite the processing of claims made under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT"), the HKSAR Government was able to handle CAT claims more effectively; and
- (c) it was the plan of the Administration to put in place a statutory mechanism for handling torture claims lodged under Article 3 of CAT, after gaining sufficient practical experience under the enhanced mechanism. The Administration was in the stage of reviewing the enhanced mechanism. It planned to put forth within the 2010-2011 legislative session its legislative proposal for a statutory screening mechanism to be set up for consideration by the Panel.

33. Dr Margaret NG and Ms Emily LAU were particularly concerned whether the enhancement measures could help speed up the clearance of backlog of CAT claims pending processing. The Chairman requested the Administration to provide after the meeting information relating to torture claims screening, including the total number of claims pending screening, the total number of claims processed, and the number of claims processed under the enhanced mechanism.

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II. Briefing by the Commissioner, Independent Commission Against Corruption on the Chief Executive's 2010-2011 Policy Address
(LC Paper No. CB(2)38/10-11(02))

34. Commissioner, Independent Commission Against Corruption ("C/ICAC") briefed Members on the policy initiatives of the Independent Commission Against Corruption ("ICAC") in the year ahead.

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(*Post-meeting note:* The speaking note of C/ICAC was issued to members vide LC Paper No. CB(2)100/10-11(01) on 20 October 2010.)

Corruption complaints relating to building management

35. Ms Cyd HO noted with grave concern that in recent years, the number of corruption reports relating to building management seemed to be on the high side, and investigations revealed in a number of cases the existence of direct corrupt collusions between owners' corporations ("OCs") members and unscrupulous building consultants, contractors and other professionals. She asked about the measures adopted by ICAC to address the corruption problem associated with building management.

36. Mr IP Kwok-him expressed similar concern about corrupt activities in the building management sector. He anticipated that cases of tender rigging, corruption and bribery would continue to grow owing to their lucrative nature and with more and more building maintenance projects being carried out. In his view, OC members' lack of awareness or knowledge about corruption prevention in daily building operation, maintenance and management might be a reason for the increase in the number of corruption complaints concerning building management. ICAC should step up its efforts to liaise with OCs in promoting the concept of preventing corruption.

37. C/ICAC responded that -

- (a) building management corruption accounted for 44% (735 cases) of all the reports received against the private sector in the first nine months of 2010. While a major proportion of these reports were trivial or speculative, essentially targeting at the management or operation of OCs, investigations into the more serious allegations of corruption revealed evidence of syndicated corruption involving OC members and building consultants, contractors and other professionals;
- (b) to address the corruption and management problems associated with building management, ICAC had since 2008 launched a three-year preventive education programme in collaboration with the Home Affairs Department ("HAD"), Hong Kong Housing Society, the relevant professional bodies and District Councils ("DCs") to promote integrity

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building management in the specific areas of building renovation/maintenance, financial management and daily operations of OCs. ICAC had also published tool-kits and conducted education activities to equip the OC office bearers with the necessary legal knowledge and technical skills to properly manage their buildings. ICAC would keep running its Integrity and Quality Building Management Programme, and call upon property owners to take an active interest in managing their buildings and stay vigilant of corruption; and

- (c) with the increase in building maintenance/renovation works in recent years, the number of reports made to ICAC was expected to remain at a high level in the coming years. As building management involved multi-facet issues, ICAC would continue to partner with relevant government departments, notably HAD, and also public bodies, professional bodies and DCs to offer services to OCs to raise their awareness against corruption and train the office bearers to professionally perform their duties in a legal, transparent and accountable manner. At the same time, the fundamental importance of property owners playing an active role in managing their own buildings could not be underplayed.

38. Head of Operations/ICAC (Acting) supplemented that in view of the large number of corruption reports received, ICAC had since 2007 set up two dedicated teams in the Operations Department to deal with all complaints on building management.

39. Responding to Mr LEUNG Kwok-hung's enquiry about the tactics employed by ICAC for investigation of building management corruption cases, C/ICAC and Head of Operations/ICAC (Acting) advised that -

- (a) ICAC would focus on the investigation concerning serious and organized building management corruption cases involving renovation consultants and contractors;
- (b) for cases in which OC members or property owners were suspected of being involved in syndicated corruption, ICAC's investigation teams would monitor closely the known participants of these organized corrupt activities and corrupt OC members; and

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- (c) ICAC would deploy proactive strategies and structured tactics to combat corruption in building management. When circumstances so warranted, undercover operations would be considered.

40. The Chairman suggested that ICAC should consider whether legislative amendments should be introduced to existing legislation concerning building management and if necessary, make such recommendation to the relevant bureau, in order to strengthen the measures against corruption in the building management sector.

Election-related corruption

41. Ms Emily LAU noted that 25 election-related reports were received in the first nine months of 2010. Expressing concern about the nature of the cases, she asked whether most of them were trivial and related to small sum of election expenses incurred by candidates. She also asked about the course of action taken by ICAC in respect of the cases.

42. In response, Head of Operations/ICAC (Acting) advised that following the receipt of some 220 election-related reports in 2009, ICAC had conducted an analysis of issues involved in the election reports after completion of the investigation work. It was found that most of these reports concerned relatively minor and technical breaches of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO") and involved irregularities relating to insignificant amounts of election expenses. The ICAC Operations Review Committee ("ORC") was concerned that detailed investigation into complaints of a trivial nature or involving minor irregularities due to inadvertence might have a resource implication on ICAC. ORC had proposed to the Administration to review the existing arrangement and consider whether election complaints alleging technical and minor breaches of ECICO could be dealt with by alternative means such as administrative action.

43. Mr IP Kwok-him opined that the Administration should review the mechanism for handling election-related complaints. He suggested that complaints of a trivial nature or involving minor irregularities due to inadvertence could be dealt with under a simplified procedure without the need for a party to engage legal representation in court proceedings in order to save time and expense.

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ICAC Student Ambassadors

44. Noting ICAC's plan to launch an association for "ICAC Ambassadors" recruited from tertiary education institutions, Ms Cyd HO enquired about the details of the new initiative.

45. In response, C/ICAC and Director of Community Relations/ICAC advised that -

- (a) fostering positive values in young people was a lasting commitment of ICAC. In this connection, ICAC continued to strengthen integrity-building efforts for tertiary students through the development of teaching modules on personal and professional ethics in conjunction with tertiary institutions; and
- (b) to further promote the probity message in secondary schools and tertiary institutions, ICAC launched the "ICAC Ambassadors Programme" to encourage student ambassadors to arrange integrity-building activities for fellow students to take part. In the year ahead, ICAC would give a further push to this cause by launching an association for "ICAC Ambassadors" recruited from different tertiary institutions, so that these ambassadors could join together after graduation and continue to incorporate integrity messages into their regular activities after taking up employment in different fields.

Manpower situation in ICAC

46. Ms Emily LAU noted from media reports that a number of senior officers with substantial experience had recently left the service of ICAC. She expressed concern about the manpower situation of ICAC, and asked whether ICAC had problems in retaining adequate experienced officers.

47. C/ICAC advised that staff wastage at senior ranks was mainly due to the recent retirement of the first generation of ICAC officers. To address the issue, ICAC had a series of staff succession plans augmented by relevant staff development initiatives.

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ICAC's destruction policy concerning interception products

48. Mr LEUNG Kwok-hung enquired about ICAC's existing policy and procedures for keeping and destruction of information and intelligence derived from interception of communications and covert surveillance activities.

49. C/ICAC responded that notwithstanding that there were a number of legal issues for further deliberation, ICAC's destruction policy and related procedures had been modified in the light of the advice of the Commissioner on Interception of Communications and Surveillance ("the Commissioner") given on two cases which might be subject to legal professional privilege ("LPP") as revealed in the Commissioner's Annual Report 2007 to the Chief Executive. All interception products and records relating to the obtaining of LPP information, including the summaries, were now preserved to facilitate the Commissioner's enquiry and examination.

(Members agreed to further extend the meeting by another 10 minutes.)

Overall corruption situation in Hong Kong

50. Dr LAM Tai-fai noted with concern that ICAC received a total of 2 634 corruption reports in the first nine months in 2010, representing a 5% increase over the same period in 2009. He also noted that the number of pursuable reports also went up by 10% from 1 849 to 2 033. He asked about the reasons for such an increase in 2010.

51. In reply, C/ICAC made the following points -

- (a) the corruption situation in Hong Kong remained well under control, despite a slight rise in the number of corruption reports received;
- (b) of all the corruption reports received in the first nine months of 2010, 1 667 were lodged against the private sector, 787 concerned government departments and 180 involved public bodies;
- (c) the global financial tsunami in late 2008 had not brought about a sharp and sustained increase in the number of corruption reports as the Asian financial turmoil did in 1998; and

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- (d) it should be noted that not all corruption reports justified further action or investigation. Many cases were trivial and insignificant in nature, which might not involve any element of corruption or bribery.

52. Responding to Dr PAN Pey-chyou's concern over the surge of corruption reports against public bodies, C/ICAC said that although the complaints against public bodies recorded an increase of 26% from 143 to 180, with the Hospital Authority topping the list with 29 reports, the corruption situation in public bodies was not that serious. The cases primarily related to impropriety in procurement of medicines; acceptance of advantages in return for giving preferential treatment to patients; and divulging personal information of patients or deceased persons to third parties without the prescribed consent.

53. In response to Dr LAM Tai-fai's enquiry whether there was any mechanism to allow dissatisfied complainants the opportunity to have their complaints re-examined when these cases were classified by ICAC as "non-pursuable" in view of insufficient details, C/ICAC and Head of Operations/ ICAC (Acting) advised that -

- (a) for reports alleging bribery, investigation were normally carried out except for anonymous complaints where there were insufficient details to pursue. After the investigation was completed, those cases with evidence for a suspected offence would be passed to the Department of Justice ("DoJ") for a decision on whether prosecution should be instituted. Cases where the allegation was found to be unsubstantiated and those where DoJ advised that there was insufficient evidence for instituting prosecution would be submitted to ORC for examination. A case would only be closed when ORC was satisfied with the action taken; and
- (b) in the event that any person was dissatisfied with the ICAC practices and procedures, he might lodge a complaint with the ICAC Complaints Committee which was responsible for monitoring and reviewing all non-criminal complaints against ICAC or its staff.

54. The Chairman said that according to his observation, ICAC was prone to adopt in recent years a high-profile approach during the preliminary stage of its investigation or the arrest of persons suspected of being involved in corrupt activities. He cautioned that this could have a

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negative effect on the public image of ICAC, if it subsequently charged the suspect against a minor offence.

55. C/ICAC and Head of Operations/ ICAC (Acting) took note of the Chairman's concern and advised that ICAC had never intended to adopt a high-profile approach in mounting large-scale operations. In addition, ICAC officers were required to comply with the confidentiality requirements. ICAC would not disclose any information or progress of investigation to any party, unless there was false or misleading information inducing speculation within the community, or until charges were laid against the defendants at which stage the provision of essential information would be appropriate.

56. The meeting ended at 6:37 pm.

Council Business Division 2
Legislative Council Secretariat
30 November 2010