

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1480/11-12  
(These minutes have been seen  
by the Administration)

Ref : CB2/PL/SE

**Panel on Security**

**Minutes of meeting**  
**held on Tuesday, 5 July 2011, at 2:30 pm**  
**in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)  
Hon LAU Kong-wah, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Dr Hon Margaret NG  
Dr Hon Philip WONG Yu-hong, GBS  
Hon WONG Yung-kan, SBS, JP  
Hon Emily LAU Wai-hing, 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 WONG Kwok-kin, BBS  
Dr Hon PAN Pey-chyou  
Hon Paul TSE Wai-chun, JP  
Hon LEUNG Kwok-hung  
Hon WONG Yuk-man
- Member attending** : Hon LEE Cheuk-yan
- Members absent** : Hon CHEUNG Man-kwong  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon IP Kwok-him, GBS, JP

**Public Officers : Item III  
attending**

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

Mrs Millie NG KIANG Mei-nei  
Principal Assistant Secretary for Security (E)

Miss Linda LEUNG Ka-ying  
Assistant Secretary for Security

**Item IV**

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

Mrs Millie NG KIANG Mei-nei  
Principal Assistant Secretary for Security (E)

Mr Peter Geoffrey HUNT  
Assistant Commissioner of Police (Support)

Mr Thomas WONG Kin-yee  
Superintendent of Police (Licensing Office)

**Item V**

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

Mr CHOW Wing-hang  
Principal Assistant Secretary for Security (D)

Mr LEUNG Kwok-hung  
Assistant Director of Immigration  
(Enforcement and Torture Claim Assessment)

**Item VI**

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

Miss Shirley YUNG Pui-man  
Deputy Secretary for Security

Mr CHAN Chor-kam  
Deputy Director of Fire Services

Mr NG Kuen-chi  
Chief Fire Officer (Fire Safety)

Mr YEUNG Chung-hau  
Acting Chief Fire Officer  
(Licensing & Certification Command)

Mr YUK Wai-fung  
Assistant Director 2, Efficiency Unit

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

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

Mr Watson CHAN  
Head (Research)

Mr Bonny LOO  
Assistant Legal Adviser 3

Dr Yuki HUEN  
Research Officer 8

Ms Rita LAI  
Senior Council Secretary (2) 1

Ms Kiwi NG  
Legislative Assistant (2) 1

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**I. Confirmation of minutes of previous meeting**  
(LC Paper No. CB(2)2233/10-11)

The minutes of the meeting held on 3 May 2011 were confirmed.

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**II. Information papers issued since the last meeting**

(LC Paper Nos. CB(2)2094/10-11(01), CB(2)2127/10-11(01) and CB(2)2197/10-11(01))

2. Members noted that the following papers had been issued since the last meeting -

- (a) referral from a meeting between members of the Legislative Council and the Sai Kung District Council regarding upgrading of the Tseung Kwan O Police Division to a police district;
- (b) referral from Duty Roster Members on the welfare and mechanism for adjustment of wages of persons in custody; and
- (c) submission from the Incorporated Owners of Tai Kwei Building and Tai Wing Building.

3. Members agreed that the Administration should be requested to provide a response to the issues raised in the referral in paragraph 2(b).

*(Post-meeting note: The Administration's response was circulated vide LC Paper No. CB(2)2458/10-11 on 28 July 2011.)*

**III. Review of the Interception of Communications and Surveillance Ordinance and intelligence management**

(LC Paper Nos. CB(2)2245/10-11(01) and (02))

4. Under Secretary for Security ("US for S) briefed members on the legislative proposals under the review of the Interception of Communications and Surveillance Ordinance ("ICSO") and the review of intelligence management by law enforcements agencies ("LEAs") as detailed in the Administration's paper.

5. Dr Margaret NG expressed concerns about the following not being covered in the review of ICSO -

- (a) Mainland organizations in Hong Kong were not under the coverage of ICSO;

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- (b) LEAs in breach of ICSO were not subject to any criminal sanction;
- (c) there were problems in the protection of information subject to legal professional privilege ("LPP") even though it was protected under ICSO;
- (d) she was opposed to appointing senior judges as panel judges for the purpose of considering applications for prescribed authorizations to conduct interception and covert surveillance operations; and
- (e) information converted into intelligence were not regulated by ICSO.

6. US for S responded that -

- (a) the application of the laws of Hong Kong to Mainland organizations was a complicated issue being studied by the relevant bureau. The comments of Dr NG would be conveyed to the relevant bureau for consideration;
- (b) law enforcement officers in breach of internal guidelines and procedures regarding intelligence management would be subject to disciplinary actions. They were also required to abide by the laws of Hong Kong. The existing regulation and monitoring mechanism was sufficient and appropriate;
- (c) information subject to LPP could not be used for investigation or prosecution; and
- (d) intercept products were screened before being transformed into intelligence with no indication of the source of information. Access to the intelligence database was restricted to specifically designated officers on a "need to know" basis. There was a mechanism for constant review of intelligence to ensure disposal of outdated and irrelevant intelligence.

7. In response to the Chairman's request for a timetable for completion of its study on the application of local legislation to Mainland organizations in Hong Kong, US for S explained that the matter was very complicated and no timetable was available. The Chairman requested

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that a written response be provided by the Bureau concerned, and US for S undertook to pass on the request.

8. Referring to paragraph 25 of the Administration's paper, Dr LAM Tai-fai asked about the meaning of key stakeholders. US for S responded that the key stakeholders included the legal profession, law faculties of local universities, journalist associations and the Privacy Commissioner for Personal Data. Members of the public were also welcome to submit views on the legislative proposals.

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9. Referring to paragraph 26 of the Administration's paper, Dr LAM Tai-fai enquired about the number of persons prosecuted among the 1 807 persons arrested as a result of or further to operations carried out pursuant to prescribed authorizations between August 2006 and 2009. Noting that the Administration did not have such information in hand, the Chairman requested the Administration to provide the information in writing.

10. Ms Emily LAU said that members of the public, in particular the human rights groups, should be consulted on the proposed amendments to ICSO. She recalled that a law enforcement officer had previously refused to cooperate with the Commissioner on Interception of Communications and Surveillance ("the Commissioner") and enquired whether LEAs had been advised of the importance to cooperate with the Commissioner.

11. In response, US for S recalled that the head of the relevant LEA had made it clear that they fully respected and cooperated with the Commissioner. He reiterated that it would be the responsibility of the LEAs to respect the power of the Commissioner and to provide him with all possible assistance where necessary in the execution of his statutory duties.

12. In response to Ms Emily LAU's enquiry about the number of applications for prescribed authorizations in the past three years, Principal Assistant Secretary for Security (E) ("PAS(S)E") provided the following statistics -

	<u>Interception</u>		<u>Surveillance</u>	
	<u>Number of authorizations issued</u>	<u>Number of applications rejected</u>	<u>Number of authorizations issued</u>	<u>Number of applications rejected</u>
2007	798	16	230	1
2008	801	13	167	2
2009	831	8	142	4

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(*Post meeting note:* The Administration subsequently advised that the number of authorizations issued for surveillance in 2009 should be 152.)

13. The Chairman expressed dissatisfaction about the Administration's review of intelligence management. He expressed concern about a lack of external monitoring of the transformation of interception or surveillance products into intelligence and the keeping of such intelligence. Referring to paragraph 28(v) of the Administration's paper, he queried whether periodic reviews would be carried out on the huge number of entries in the intelligence database.

14. US for S responded that intelligence was screened before storage into the intelligence database and there was no indication of the source in the database. He stressed that only designated officers had access to intelligence on a "need to know" basis through personalized access code.

15. The Chairman considered that in the absence of an independent mechanism for monitoring of intelligence management, the Commissioner should be empowered to monitor the intelligence management system. US for S noted the suggestion and would consider.

16. Referring to paragraphs 11 and 12 of the Administration's paper, the Deputy Chairman enquired about the Administration's preliminary view regarding the Commissioner's proposal to expressly empower him to listen to intercept products.

17. US for S responded that after having consulted the panel judges, the Administration was inclined to allow the Commissioner to listen to the intercept products. Further consultation would be carried out on the Commissioner's recommendation that his designated officer be also allowed to listen to the intercept products and stressed that similar safeguards and requirements imposed on LEAs had to be considered.

18. Referring to paragraph 28 of the Administration's paper, the Deputy Chairman asked about the criteria for screening of intelligence and sought further information on the audit trail on entries of intelligence. US for S responded that a central coordinating group would be responsible for screening of intelligence. Retrieval of information from the intelligence database would be subject to authorization and an audit trail record was kept by the Assistant Commissioner of Police.

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19. Referring to paragraph 18 of the Administration's paper, Mr WONG Yuk-man asked whether the Commissioner could reactivate the examination of any unauthorized interception or covert surveillance after the discontinuation of the relevant criminal proceedings. PAS(S)E replied that this was one of the proposals of the Commissioner.

20. Referring to paragraph 19 of the Administration's paper, Mr WONG Yuk-man considered that the Commissioner should not refuse to carry out the examination if the applicant had died, as it might involve claims for compensation. PAS(S)E agreed to consider Mr WONG's suggestion.

21. Referring to paragraph 20 of the Administration's paper, Mr WONG Yuk-man expressed that the proposed amendment would be open to abuse by LEAs. PAS(S)E responded that the time gap was a technical breach and unavoidable. She stressed that the intercept products obtained during the time gap would not be listened to. This would be dealt with in the legislative amendments.

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22. Dr PAN Pey-chyou enquired whether diplomatic immunity covered exemption from interception and covert surveillance in Hong Kong. The Chairman requested the Administration to provide a written response.

23. Mr Paul TSE asked whether measures were adopted in the intelligence management systems of LEAs to prevent hacking. He also asked whether any law enforcement officer had been disciplined for unauthorized access to information in the intelligence management system. US for S responded that the intelligence management systems were independent systems not linked to any external system. PAS(S)E responded that no person had so far been disciplined for unauthorized access to information in the intelligence management systems.

24. Mr Paul TSE enquired whether protection of privacy was provided for in ICSO.

25. PAS(S)E responded that LEAs were given exemption under the Personal Data (Privacy) Ordinance in conducting operations for the purpose of prevention and detection of crime. Having said that, consideration had been given to protection of privacy in the review of intelligence management.

26. Referring to paragraph 5 of the Administration's paper, Dr Margaret NG said that instead of requiring a panel judge to revoke a

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prescribed authorization in the event of changes in circumstances, ICSO should be amended to the effect that a prescribed authorization would automatically be revoked when there were changes in circumstances.

27. Mr James TO proposed that a subcommittee be formed to review the intelligence management of LEAs. Ms Audrey EU supported the proposal while Dr Philip WONG and Dr LAM Tai-fai opposed the proposal. Mr LAU Kong-wah proposed that Mr James TO's proposal to form a subcommittee should be considered at the next meeting, so that members would have sufficient time to consider the proposal together with the proposed work plan, time frame and terms of reference of the proposed subcommittee. Mr LAU's proposal was seconded by Dr Philip WONG. As there were different views among members, the Chairman put Mr LAU Kong-wah's proposal to vote. Dr Philip WONG claimed a division.

(a) The following members voted for the proposal -

Dr Philip WONG, Mr LAU Kong-wah, Mr Andrew LEUNG, Mr CHIM Pui-chung, Dr LAM Tai-fai, Mr WONG Kwok-kin, Dr PAN Pey-chyou and Mr WONG Yuk-man.

(b) The following members voted against the proposal -

Mr Albert HO, Dr Margaret NG, Ms Audrey EU and Ms Cyd HO.

The Chairman declared that eight members voted for and four members voted against the proposal. Mr LAU Kong-wah's proposal was carried.

**IV. Police's crowd control arrangements in relation to public meetings and public processions**

(LC Paper Nos. CB(2)2235/10-11(01) and CB(2)2245/10-11(03))

28. US for S briefed Members on the Police's crowd control arrangements in relation to public meetings and public processions as detailed in the Administration's paper. Noting the concerns of some Members about the Police's crowd control arrangements on 4 June 2011 at the Victoria Park ("the Park"), he pointed out that the Park had not been designed for large-scale public activities. Unlike the Lunar New Year Fair at the Park which lasted for several consecutive days, a large number of people entered the Park simultaneously within a very short

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period of time during the public meeting on 4 June 2011. For public meeting of such a large scale, there might be participants feeling unwell during the public meeting, therefore, it was necessary to reserve a free Emergency Vehicle Access ("EVA") for rescue purpose. In general, measures had been taken to ensure order of the event and public safety. The Police had informed the organizer of these measures before the public meeting and the organizers had not raised any objection. The Police had been acting professionally and impartially in the execution of duties.

29. With the aid of Powerpoint presentation, Assistant Commissioner of Police (Support) ("ACP SUP") briefed Members on the crowd control arrangements at the public meeting on 4 June at the Park. He referred to the Final Report on the inquiry of the tragedy of Lan Kwai Fong in 1993 by Mr Justice BOKHARY and explained that the principles in the report had been followed in the crowd control on 4 June, having regard to the increasing number of participants in the last three years and the geographical constraints.

*(Post-meeting note: The Powerpoint presentation materials were issued to members vide LC Paper No. CB(2)2325/10-11 on 7 July 2011.)*

30. Referring to the Powerpoint presentation materials tabled at the meeting, Mr LEE Cheuk-yan said that prior to the public meeting on 4 June, he had met with the Police and agreed that participants would enter the Park by the Red route via Gate 15. However, participants were directed at that night to a route leading to Gate 13 via a swimming pool and stairs. The route was comparatively narrower and with staircase. He queried that the Police had deliberately made it inconvenient for participants to enter the Park and had reduced the number of participants. He was dissatisfied that the Police had not informed the organizer of the change of route.

31. ACP SUP explained that the starting point of the Red route at Gate 15 was already congested and the diverted route through Gate 13 was comparatively safe.

32. Dr Philip WONG asked how participants of a public meeting were made aware of the arrangements agreed between the Police and the organising party. He also asked how the bottleneck caused by the location of some booths at the entrance of the Park could be addressed.

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33. ACP SUP responded that more means (including public broadcasting and digital communications) could be explored to inform the public of the messages of the Police and the organizer. Regarding the booths, the Police had suggested that the booths be located on either side of the basketball court.

34. Mr LEUNG Kwok-hung considered that the Police had deliberately not informed the organizer, Hong Kong Alliance in Support of Patriotic Democratic Movements of China, of the change of route. He expressed grave concern about the risk associated with the bottleneck and the staircase near the Swimming Pool with the absence of Police officers and marshals of the organizer.

35. Mr Albert HO Chun-yan said that the Police had been excessively conservative and had diverted the participants to the Central Lawn too early before half of the soccer pitches were filled. This had resulted in a reduction in the number of participants in the public meeting. Instead of entering the Park via the entrance at Gate 14, participants had been directed to use another route in an opposite direction with which they were not familiar. Many people did not understand and left unhappily.

36. ACP SUP pointed out that the Red route had to be reserved for EVA. He said that the Police had made reference to the organizer's plan and diverted people to the Central Lawn at an appropriate time. It should be noted that all soccer pitches were fully occupied and there were a considerable number of people on the Central Lawn. He acknowledged that the Police could have discussed further with the organizer with regard to the location of the booths and donation collection points.

37. Dr PAN Pey-chyou remarked that there appeared to be a lack of mutual trust between the Police and the organizer and the participants at the public meeting on 4 June 2011 and more communication between the Police and the organizer might be needed in future. Clear signage should be erected to inform participants of the EVA. He added that the Police might consider studying the experience of other places in crowd management.

38. ACP SUP responded that consideration could be given to erecting more signage in future. He pointed out that overseas LEAs had used similar measures in their countries for crowd management.

39. Ms Cyd HO referred to a public procession on 1 July 2011 and pointed out that there was a bottleneck at the part of the road outside the

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Sogo Department Store in Causeway Bay where there was a merging of lanes.

40. ACP SUP responded that a number of factors, including the use of the road by vehicles and other road users, had to be taken into consideration when handling the procession. Safety had always been one of the most important considerations.

41. The Deputy Chairman considered it important to maintain communication between the Police and the organizers on the spot so as to reduce misunderstanding during the procession. He pointed out that there were increasingly radical behaviours among participants of a public procession. He asked whether there was room for improvement with respect to strategy in deployment of officers and resources.

42. US for S responded while there were participants who behaved radically during the public meetings and processions, some of these radical participants might not be associated with the organizers. It was the Police's practice to conduct a review after each public meeting or procession with a view to further enhancing the capabilities of the Police in handling public order events. The Police would act resolutely against persons who breached the law. The Police respected the rights of the public to conduct peaceful assemblies and processions and made every effort to facilitate the conduct of these activities. He remarked that the Police had been restrained in the handling of public meetings and public processions.

43. Mr Paul TSE pointed out that members of the public generally respected the Police's execution of duties, in particular in relation to crowd control. Regarding the public meeting on 4 June 2011, he noted that there were communication problems between the Police and the organizers. There were allegations against the Police for serving insufficient notice for change of route. He asked whether the Police would consider specifying contingent arrangements such as change of procession route in the "letter of no objection" in future. He asked about the results of the appeals lodged by the organizer of the 1 July 2011 procession. He also asked whether failure to meet the requirements in the previous Letter of No Objection was a factor considered in the processing of applications.

44. ACP SUP responded that the procession route had been set out in the "Letter of No Objection". However, it would be difficult to set out the contingency plan in the "Letter of No Objection" as the Police had to be flexible in handling the situation on site.

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- (a) The decisions of the Appeal Board on the appeal concerned were as follows -
- (i) the organizer should adopt the most suitable measures to assist the Police in arranging participants to leave the Central Government Offices after the procession; and
  - (ii) the organizer should use its best endeavours to assist the Police to ensure that fund raising activities would be conducted in a proper manner during the public procession including the obtaining of a permit for fund raising activities from the Social Welfare Department.

45. Ms Audrey EU shared her experience about how she and other people were forced to follow a narrow, long and uneven route leading far away to the waterfront when they left the Park after the Lunar New Year Fair in 2011. As it was already close to the end of the event and the entrance had been blocked and nobody would enter the venue, she considered that the arrangement for people to leave the venue from a remote exit was unnecessary and undesirable. She said that communication at the scene was very important.

46. ACP SUP responded that unlike the 4 June Candlelight event, the task of the Police was to ensure the proper flow of people both inside and outside the Lunar New Year Fair so as to ensure public safety and avoid the congestion of people around the entrance of the MTR stations.

47. Dr Margaret NG pointed out that the procession on 1 July was peaceful mainly because of the cooperation of the participants with the Police. She said that she had participated in the public procession on 4 June 2011 and noted that the Police had blocked off the entrance of the MTR stations in Causeway Bay and Tin Hau too early in that afternoon. She also noted some participants' remarks about difficulty in taking part in the public procession on 4 June 2011.

48. US for S and ACP SUP commended on the discipline and patience demonstrated by people in Hong Kong and this had made it possible for the procession to be conducted in an orderly manner. ACP SUP advised that he did not have the specific information about the block-off of the entrance of the two MTR stations. Yet, he explained that a number of factors had to be taken into consideration, including the traffic problem and the need to have contingency so as to ensure the procession to be

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conducted in a safe and order manner. The Chairman requested the Administration to provide response in writing to the queries raised by Dr NG.

49. The Chairman remarked that the Police had made a mistake and it had not been necessary for the Police to direct people to follow the Blue and Green routes. As a matter of fact, some participants did not know where they would be led to and had departed before entering the Park. They were of the view that it was a kind of Police manoeuvring. ACP SUP responded that the basketball court B near Gate 15 was already congested with people and the suggestion of holding people at the bus stop was impracticable. He agreed that better communication was needed.

*(Members agreed to extend the meeting to 6:15 pm)*

50. Mr LEE Cheuk-yan pointed out that the Police had acted unusually on 4 June this year and asked when the Police had planned the route via the swimming pool which they had objected beforehand. He was dissatisfied that the Police had not informed the organizer of the change of route. According to the figures provided by the Administration, more people participated in the event in the previous year and entered the Park via Gate 14 which was supposed to be a narrower route as compared with that for Gate 15. Yet, it had been proved alright. Also, prior to the event, he had been convinced by the Police not to use the narrow route at Gate 14. However, participants were directed to go along a much narrower route near the swimming pool in that night. He therefore queried the logic applied by the Police. On the understanding that the Police should have professional judgment, he suspected that it was the aim of the Police to depress the number of participants.

51. Further to the request of Ms Cyd HO for information from the Administration on the crowd control measures for large-scale public meetings and procession, the Chairman requested the Administration to arrange a briefing for members to discuss in detail the crowd control measures for public meetings and processions around the Park.

*(Post-meeting note: A Police's briefing on crowd control arrangements in relation to public meetings and public processions was conducted for members of the Panel on Security on 14 September 2011.)*

**V. Statutory torture claim screening mechanism - legislative proposal**

(LC Paper No. CB(2)2236/10-11(01) and RP05/10-11)

52. US for S briefed Members on the legislative proposal on a statutory torture claim screening mechanism as set out in the Administration's paper.

53. Research Officer 8 presented the research report on "Mechanisms for handling torture claims in selected jurisdictions" prepared by the Research Division of the Legislative Council Secretariat.

54. Noting that a bill providing for a statutory torture claim screening mechanism would be introduced by the Administration, Ms Cyd HO asked whether human rights groups had been consulted on the proposed statutory torture claim screening mechanism. She requested the Administration to provide information on the views received in the consultation process. She also sought information on the timetable for taking forward the legislative proposal.

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55. Principal Assistant Secretary for Security (D) ("PAS(S)D") advised that relevant human rights groups as well as the legal professional bodies had been consulted in the process. There was a suggestion that the Administration should introduce a coherent and comprehensive system for contemporaneous assessment of both torture claims made under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and claims for refugee status filed with the United Nations High Commissioner for Refugees under the 1951 United Nations Convention relating to the Status of Refugees ("the Refugee Convention"). In this connection, the Administration considered that the Refugee Convention did not apply to Hong Kong and the Government had no obligation to admit persons seeking refugee status or to handle claims for refugee status. Hong Kong's relative economic prosperity in the region and its liberal visa regime made the territory vulnerable to possible abuses if the Refugee Convention was to be extended to Hong Kong. He assured Members that the concerns expressed by deputations and Members earlier had been considered and relevant follow-up work had been taken, including the strengthening of training for officers responsible for reviewing the torture claims, provision of legal and humanitarian assistance to claimants and arranging for a claimant to be accompanied by a lawyer in medical examinations. Regarding the timetable for legislation, he advised that a bill on a statutory torture claim screening mechanism would be introduced into the

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Legislative Council within the 2010-11 legislative session.

56. The Chairman noted from paragraph 6 of the Administration's paper that to ensure fair and effective screening and to reduce abuse, the Administration proposed that certain behaviour of claimants, including that intended to conceal information (e.g. route of travelling to Hong Kong, right to return to another State, etc.), mislead or delay the handling of the claim, might be considered as damaging to their credibility. He opposed the Administration's proposal and pointed out that the concealing of information might sometimes be necessary for the purpose of protection of a third party.

57. Ms Cyd HO considered that the provision of some information by a claimant might not have direct bearing on whether he would be in danger of being subjected to torture when he was returned to the torture-risk state. Being desperate and without legal advice, the claimant might assume that concealment of some information or provision of some inaccurate information would be favourable to his claim. However, such behaviour would not change the fact that he would be subject to torture when he was returned to the torture-risk state.

58. PAS(S)D responded that the concealing of information itself might not be considered as behaviour damaging to a claimant's credibility. It was the concealing of information, such as right of abode in another state, that might be considered as behaviour damaging to a claimant's credibility. In this connection, the Administration had studied the systems of other common law jurisdictions and noted that a similar provision was found in the legislation of the United Kingdom. US for S added that the Government would provide legal assistance to claimants if they were willing to accept such assistance.

**VI. Review of fire safety inspection and related issues**

(LC Paper Nos. CB(2)2245/10-11(04) and CB(2)2245/10-11(05))

59. US for S briefed Members on the review of fire safety inspection and related matters as detailed in the Administration's paper. Assistant Director 2 (Efficiency Unit) ("AD2(EU)") briefed Members on the improvement initiatives of the Fire Services Department ("FSD"), key findings and recommendations in the management study conducted by EU.

*(Members agreed to further extend the meeting to 6:30 pm)*

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60. Ms Cyd HO pointed out that in response to the Administration's policy of revitalizing industrial buildings, many cultural workers had organized classes or exhibitions in industrial buildings. She expressed concern that with more people attending such classes and visiting such exhibitions, FSD had advised that such classes and exhibitions did not meet the fire safety requirements. Ms HO considered this unacceptable as there were more people in the industrial buildings in the past when factories took up the entire building. She said that the Administration should ask FSD to inform the cultural workers of the alterations needed to comply with the regulatory requirements so that cultural workers could continue to organize such activities in industrial buildings.

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61. Deputy Director of Fire Services ("DDFS") responded that some factories were still in operation in these industrial buildings and dangerous goods were stored in some of these factories. This would pose a risk to the safety of those attending classes or exhibitions held in those industrial buildings, especially the aged and people with a disability. DDFS stressed that FSD had no objection to the revitalization of industrial buildings. However, the conversion of land use should cover the whole block or a whole floor in a building for safety reasons. Ms Cyd HO requested FSD to disseminate such a message on the conversion of land use to cultural workers in industrial buildings. The Chairman requested the Administration to provide information on cases of partial alterations to industrial units which had subsequently been approved for fulfilling the fire safety requirements.

62. Ms Audrey EU enquired how fire inspections were conducted by the staff of FSD.

63. DDFS advised that 256 124 fire inspections were conducted in 2010. The major areas of inspection included fire safety installations/equipment in the buildings, fire exits, ventilation system, handling of dangerous goods and the fire safety of licensed premises. As for licensed premises, 41 678 inspections were conducted in the previous year which resulted in the issuance of about 1 000 Fire Hazard Abatement Notices and prosecution in 90 cases. There were several kinds of inspections, including those conducted on the initiative of FSD on fire safety installations/equipments in the buildings or premises, those conducted at random and those conducted upon receipt of complaints.

64. Ms Audrey EU enquired whether different kinds of buildings in Hong Kong were encouraged to conduct fire drills. DDFS responded that it was desirable for a building to conduct a fire drill once a year. For premises with good building management or with an owners' corporation,

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FSD would encourage annual fire drills. For old buildings, a four-pronged approach was adopted to enhance fire safety standards through enforcement, inspection, publicity and education. In addition, a Building Fire Safety Envoy Scheme had been launched with property management staff, owners and occupiers of old buildings as envoys. Responsibilities of the envoys included making arrangements for fire drills as well as reporting fire hazards to FSD.

65. Ms Audrey EU said that to her knowledge, fire drills were not conducted for most of the buildings in Hong Kong, in particular the residential buildings. DDFS responded that publicity on fire safety had been strengthened in recent years on schools and community groups. In addition, FSD operated a fire safety bus which enriched the knowledge of members of the public about fire safety and fire escape in the simulated situations.

66. The Chairman asked whether statistics on fire drills conducted for buildings in Hong Kong were maintained by the Administration. He quoted the recent fire at Ma Tau Wai Road as an example and said that the conduct of fire drills in a building could help prevent fire as well as reveal fire safety problems in the building. DDFS responded that although such statistics were not maintained, he advised that the frontline staff of FSD were committed to enhancing people's awareness of fire safety through seminars and encouraging the conduct of fire drills.

67. Ms Audrey EU suggested that the Administration should launch an Announcement in Public Interest to encourage the conduct of fire drills in residential buildings. DDFS agreed to consider the suggestion. The Chairman suggested that FSD should collaborate with the Home Affairs Department to encourage the conduct of fire drills in residential buildings on an annual basis.

68. Referring to paragraph 5(c) of the Administration's paper and paragraph 18(i) of the executive summary, the Chairman sought information on the difference between the non-target based approach adopted by FSD and the recommendations of EU. DDFS responded that inspections of the fire service installations and equipment were prioritized on the basis of whether a system was a major one and EU recommended that the risk management should be reviewed and a more systematic and elaborate risk-based approach had to be adopted so as to optimize the use of resources. AD2(EU) explained that as FSD did not maintain information on the basis of a building, it was difficult for FSD to keep track of its caseload and plan its resources effectively.

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69. The meeting ended at 6:30 pm.

Council Business Division 2  
Legislative Council Secretariat  
22 March 2012