

# 立法會

## *Legislative Council*

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

#### **Purpose**

This report gives an account of the work of the Panel on Security during the 2011-2012 session of the Legislative Council ("LegCo"). It will be tabled at the Council meeting of 11 July 2012 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

#### **The Panel**

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

3. The Panel comprises 22 members in the 2011-2012 session, with Hon James TO and Hon LAU Kong-wah elected as its Chairman and Deputy Chairman respectively. The membership list of the Panel is in **Appendix II**.

## **Major work**

### Anti-drug work

#### *School drug testing*

4. The Panel was briefed on the evaluation research on the Trial Scheme on School Drug Testing in Tai Po District ("the Scheme") for the school year 2010-2011.

5. Some members were of the view that the Scheme was able to achieve positive results. Given the desirable results of the Scheme and the fact that schools in other district had indicated interest in participating in the Scheme, they suggested that consideration be given to allocating resources to some other districts for launching the anti-drug work.

6. However, there was a view that the Scheme was not able to provide assistance to students and it was more important to combat the source of drugs. Noting that the participation rate of students in the Scheme had dropped from 61% in 2009-2010 to 55% in 2010-2011, it was unconvincing to claim that the Scheme was supported by parents and students. A review of the Scheme should be considered.

7. According to the Administration, the objective of the Health School Programme with a drug testing component ("HSP(DT)") was to extend the Scheme to other schools. Discussion with schools in other districts in respect of their participation in HSP(DT) had commenced and so far, some 40 schools had joined. Different measures had been adopted by the Government to tackle the drug problem on various fronts, including law enforcement. The objective of the Scheme was not to identify and penalize students who were taking drugs but to arouse students' awareness and understanding of the harmful effects of drugs in order to help them develop positive values. The comparatively lower student participation rate in the Scheme for the 2010-2011 school year was due to the fact that some students had participated in the Scheme in the previous year.

8. Regarding the provision of support services to parents, the Panel was advised that resources had been provided by the Home Affairs Department to the 18 districts in the past years for organizing anti-drug activities. Resources for assistance to parents had been included in HSP(DT), including organization of seminars and activities for parents. In addition, an enquiry hotline had been set up to provide relevant

information and assistance to parents as necessary. Also, some district organizations would help approach the working parents and provide assistance to them as appropriate.

### *Community-based drug testing*

9. The Panel noted with concern about the Administration's proposal to take forward the recommendation of the Task Force on Youth Drug Abuse ("the Task Force") for compulsory drug testing by conducting a public consultation exercise in the latter half of 2012. In 2008, the Task Force recommended that, as a matter of principle, new legislation should be introduced to empower law enforcement officers to require a person reasonably suspected of having consumed dangerous drugs to be subjected to a drug test, although important issues including the extent of coverage, human rights concerns, read-across implications on law and enforcement, resources as well as implementation details had to be carefully considered. Having regard to the fact that no other jurisdiction had implemented such a compulsory drug testing scheme and that the proposal would cause impairment to personal privacy, human rights and freedom of people, members generally had grave reservations about the Administration's proposal.

### Police's handling of public meetings and public processions

10. During the session, the Panel continued to monitor the Police's handling of public meetings and public processions.

### *Public meetings at and processions to the new Central Government Offices*

11. Concerns were raised about the handling of public meetings at the new Central Government Offices ("CGO"), and the routing of public processions to CGO. Some members considered that it was the Police's responsibility to facilitate expression of views by members of the public. It was important for the Police to liaise with organizers of public processions and agree on the procession routes beforehand so as to ensure that public processions would be conducted in a peaceful manner. As the disabled and elderly were unable to use the Footbridge because of flights of steps, it was necessary to ensure that demonstrators should be allowed to walk on level ground all the way to CGO. The Police should temporarily implement road closure to allow demonstrators to go to CGO by crossing Harcourt Road during the public procession on 24 September 2011.

12. According to the Administration, the Police had communicated with the organizer in advance. However, the behaviours of some participants were beyond control of the organizer and there were deviations from what had been agreed upon previously. Whether the Footbridge should be used in public processions would depend on the composition of participants and the agreement of organizers to adopt relevant measures to reduce the risks involved. If the organizers refused to use the Footbridge in public processions, the Police would discuss with them to explore alternative routes to facilitate processions to CGO. Regarding the implementation of road closure, the Police had to use considerable time to stop the vehicular traffic well before the arrival of the procession and the duration of road closure would depend on the speed of the procession. The Police's policy was to minimize inconvenience caused to members of the public.

13. Given the large area of the East Wing Forecourt ("the Forecourt") at CGO, some members expressed grave concern that demonstrators were not allowed to enter the area but forced to use the pavement of Tim Mei Avenue. Members queried the arrangements for holding public meetings and receiving petition letters at CGO.

14. The Administration advised the Panel that members of the public could submit petition letters to the Government from Monday to Sunday at the pavement of Tim Mei Avenue outside the Forecourt. Staff representing the relevant bureau or a security guard would receive petition letters from members of the public and the Police would receive petition letters on behalf of the Chief Executive ("CE") from members of the public. In addition, individuals or representatives of deputations could submit petition letters to CE and Members of the Executive Council ("ExCo") on the day of ExCo's meetings at the designated area outside the main entrance of CE's Office. Members of the public could hold public meetings at the Forecourt on Sundays and public holidays after submitting an application and obtaining approval from the Administration Wing. The East Wing of CGO was the only entrance for members of the public accessing CGO and the Forecourt primarily served as vehicular access and passenger drop-off points on weekdays. The relevant guidelines and procedures for application had been uploaded onto the website of the Chief Secretary for Administration's Office for reference by members of the public. While the Administration respected people's right of expression, there was a need to maintain public safety and the effective operation of CGO.

15. Some members considered it unacceptable that public meetings at the Forecourt were not allowed on Saturdays. According to the Administration, meetings with the public were arranged by individual bureaux on Saturdays at CGO. It was necessary to ensure that the Forecourt could serve as vehicular access and passenger drop-off point for members of the public. Given that CGO was newly relocated, the situation would be monitored and a review would be conducted on the use of the Forecourt by members of the public on Sundays.

*Use of pepper spray*

16. Some members were concerned about the Police's use of pepper spray against demonstrators. Query was raised as to whether Police officers were allowed to take away the spectacles of demonstrators and spray into their eyes during the demonstration outside the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region ("the Liaison Office") on 1 April 2012.

17. According to the Administration, when participants of public meetings or processions started charging the Police defence line by using force, and Police officers were unable to control the protestors' aggression after exhausting practicable options, the Police might resort to the use of pepper spray to defend attack from protestors, or to prevent protestors from charging the Police cordon line. There were also other situations where the Police needed to resort to using pepper spray, for example, participants of public processions refused to leave the scene after the event had come to an end, giving rise to traffic blockage. When Police officers used pepper spray, they had to ensure that such use was in compliance with the principle of using minimum force. Under normal circumstances, the effect of using pepper spray could be achieved even when demonstrators were wearing spectacles.

*Demonstrations held outside the Liaison Office*

18. Concern was raised over the large planter outside the Liaison Office, which left a narrow pavement for accommodating the mill barriers and different parties including the Police, protestors, reporters and pedestrians. Some members were of the view that there were political considerations and suppression of freedom of expression in the Police's handling of public meetings and processions outside the Liaison Office.

19. According to the Administration, the planter was a district facility that was constructed for some time and consideration had been given to the geographical characteristics when the planter was constructed. The action of protestors was a separate matter and the Police would discharge its duties impartially.

*Prosecution against demonstrators*

20. Some members were gravely concerned about the recent rise in the arrest of and prosecution against participants of public meetings or processions. Pointing out that 113 persons had been arrested during the demonstration relating to the 2012-2013 Budget on 6 March 2012 and four persons were prosecuted, some members queried about the Government's prosecution policy.

21. The Administration explained that the Police's arrest operation was based on whether there was sufficient evidence to support the relevant offences purported to have been committed by a person. In deciding whether prosecution should be proceeded with, the Police would take into account circumstances of the criminal act involved and the evidence collected and where necessary, obtain legal advice from the Department of Justice. Prosecutors of the Department of Justice would make the decision whether or not to prosecute in each case independently in accordance with established principles set out in the Statement of Prosecution Policy and Practice. The Police had consulted the Department of Justice in relation to the prosecution of arrestees in the demonstration activity on 6 March 2012.

22. Some members urged the Police to review its handling of public meetings and processions to avoid creating confrontation with participants in these activities, resulting in the rise of arrested persons.

Review of security arrangements during visits of political dignitaries to Hong Kong

23. The Vice-Premier of the State Council, Mr LI Keqiang ("the Vice-Premier"), paid an official visit to Hong Kong from 16 to 18 August 2011. There were concerns over the security measures and media coverage arrangements during the official visit, including those at the University of Hong Kong ("HKU") and at the Laguna City. A number of complaints were lodged with the Complaints Against Police Office ("CAPO") and the investigation results were reviewed by the

Independent Police Complaints Council ("IPCC") in accordance with the police complaints system.

24. At the same time, in response to the criticism on the alleged Police's abuse of power and HKU's surrender of core values, the Council of HKU decided to set up a review panel ("Review Panel") to conduct its internal review on the issues arising from the Centenary Ceremony on 18 August 2011, including the security arrangements on its campus on 18 August 2011.

25. The Panel followed up on the review of the security arrangements during visits of political dignitaries to Hong Kong at its meetings in February, March and June 2012.

*The Police's review of the policing arrangements*

26. Following the visit of the Vice-Premier to Hong Kong in August 2011, the Police conducted a review of the policing arrangements in relation to the visit ("the Review"). Some members expressed strong dissatisfaction that the Review only focused on strategies of communicating with the media and public by expectation management rather than a review on the balance between the right of expression and security concerns. The Administration advised the Panel that the security operation for the Vice-Premier was drawn up based on the risk assessment to ensure the personal safety of the Vice-Premier and it was different from the ordinary circumstances under which public meetings and procession could have been allowed closer to the intended object of the demonstration.

27. Members queried why the issues relating to the security arrangements not being covered in the Review, including the removal of a person at Laguna City, setting-up of remote designated press areas and protest areas, security checking of reporters and the false imprisonment of three students on HKU campus. The Administration explained that complaints on the relevant issues had been received by CAPO and the investigations into the complaints were underway. The Police was therefore not in a position to make further comments.

*Report of the HKU Review Panel*

28. The Report of the Review Panel on the Centenary Ceremony held on 18 August 2011 submitted to the Council of HKU ("the Report") was released on 3 February 2012. The Panel discussed with the HKU representatives the review of security arrangements in the Report.

29. Members expressed concern about the discrepancies of the views of HKU and the Police in respect of the Police's use of force to push the three students concerned ("the Three Students") from LG2 of KK Leung Building into the stairwell on HKU campus on 18 August 2011. Members questioned whether there was agreement between HKU and the Police regarding the use of force on campus and whether the use of force was appropriate. According to HKU, there was agreement regarding the Police's provision of assistance when HKU staff could not handle the situation. However, the use of force on campus was not preferred. Even though the HKU security staff requested the Police to provide assistance after having repeatedly persuaded the Three Students to leave without success, there were options other than using force as the behaviour of the Three Students at that juncture was not provocative but rather peaceful. The Review Panel therefore concluded that the use of force by the Police was unnecessary and unreasonable regardless of the agreement.

30. According to the Administration, the frontline Police officers had reasonable and clear understanding of the request of the HKU security staff for provision of assistance after they failed to ask the Three Students to leave. In the process, effective and appropriate means had been used to remove the Three Students away from the restricted zone where authorized persons would be allowed to be admitted to but they were not allowed to stay within the area. The frontline officers had complied with the internal guidelines governing the use of force by the Police. Police officers would execute their power when discharging their duties.

31. Members queried the absence of the relevant records of communication between the Vice-Chancellor of HKU and senior members of G4 of the Police (Very Important Person Protection Unit) with regard to the parameters and protocols of the Police operation on HKU campus. Members urged HKU and the Police to consider seriously drafting a protocol to specify the preliminary contact between the Vice-Chancellor of HKU and the Commissioner of Police ("CP") in respect of the security operation for important events on HKU campus in future.



*IPCC Report (Interim) on Complaint Cases Arising from the Visit by the Vice Premier Mr LI Keqiang*

32. Some members noted with grave concern that CAPO had refused access by IPCC to Operational Orders of the Police as revealed in the IPCC Report (Interim) on Complaint Cases Arising from the Visit by the Vice Premier Mr LI Keqiang ("Interim Report") which was issued on 3 May 2012. According to IPCC, in order to identify any room for improvement in the planning and execution of security operations for visits by political dignitaries in the future and to make recommendations to CP and/or CE where appropriate, IPCC considered it necessary in the discharge of its statutory function to have access to the relevant Operational Orders of the Police. The relevant Operational Orders issued by the Police Headquarters were accessible to officers in the rank of Inspector or above who were involved in the security operation while those issued at the district level were accessible to officers in the rank of Sergeant or above. As such, allowing confidential access by IPCC to these Operational Orders in order to enable IPCC to properly discharge its duties should not, as claimed by CAPO, seriously undermine the effectiveness of similar Police security operations in the future. IPCC had therefore invoked its power under the IPCC Ordinance to request CAPO to provide the documents. Outstanding issues in the Interim Report would be addressed in IPCC's Final Report.

Interception of communications and surveillance

33. The Panel continued to monitor interception of communications and surveillance and discussed the results of the Administration's study of matters raised in the Annual Report 2010 of the Commissioner on Interception of Communications and Surveillance ("the Commissioner") to CE ("Annual Report 2010").

*Commissioner's power to listen to intercept products*

34. Some members were concerned that the recommendation of the Commissioner made in April 2009 for empowering him and staff designated by him to examine intercept and covert surveillance products had not been adopted by the Administration. These members shared the view of the Commissioner that the provision of power for the Commissioner to listen to and inspect intercept and surveillance products would serve as a strong deterrent against malpractice or concealment. They considered that the Commissioner should be expressly empowered

to listen to intercept products in order to effectively monitor the compliance of the law enforcement agencies ("LEAs") with the requirements of the Interception of Communications and Surveillance Ordinance (Cap. 589) ("ICSO").

35. According to the Administration, while it had no objection in principle to the Commissioner's recommendation of empowering him to listen to intercept products, such power was not granted to similar supervisory authorities in other common law jurisdictions, therefore, the Administration considered it necessary to study the recommendation and conduct consultation. In the Administration's view, a proper balance had to be struck between protecting privacy and facilitating the performance of the oversight function by the Commissioner. The Administration was undertaking a comprehensive review of ICSO and the recommendation would be considered in the context of the review.

36. The Panel was advised that the Administration would consider the recommendations of the Commissioner set out in the Annual Report 2010, consolidate comments received during the consultation exercise and report to the Panel on its proposals to amend ICSO after the review.

37. In anticipation of the time needed for amendment of ICSO, some members requested the Administration to study the feasibility of introducing interim administrative measures to enable the Commissioner to listen to intercept products before ICSO was amended. Such interim measure was necessary for the Commissioner to review the non-compliant cases and to verify the claims of LEA officers. The Administration agreed to consult the Department of Justice and make reference to overseas practices to see whether the Commissioner under the existing ICSO could be authorized by panel judges to listen to intercept products before reverting to the Panel.

#### *Legal professional privilege*

38. Some members expressed concern over the increasing number of requests for interception of communication by LEAs where information obtained were or likely to be subject to legal professional privilege ("LPP") while the Commissioner could not verify the cases.

39. The Administration responded that LEAs were required to notify the Commissioner of operations that were likely involve LPP information or where LPP information had been obtained inadvertently. An LEA

applicant was required to state his assessment of LPP likelihood in his affidavit or statement in support of his application. At the request of the Commissioner, all intercept products and related records had been preserved to enable him and his designated staff to check cases of special interest or chosen at random and there was an audit trail record for all access to the intercept products. To avoid being criticized for operating above the law, the Commissioner had chosen not to listen to the intercept products until relevant amendments to ICSO had been enacted.

### *Review of ICSO*

40. On members' concern about the progress of the comprehensive review of ICSO, the Administration advised the Panel that key stakeholders, including panel judges, the two legal professional bodies, law faculties of local universities, journalist associations, and the Privacy Commissioner for Personal Data had been consulted on the legislative proposals in the first round of consultation. The second round of consultation with the same stakeholders was being conducted on the legislative proposals including the two latest legislative amendments recommended by the Commissioner in the Annual Report 2010. Some members were of the view that the Administration should also consult the public on its legislative proposals.

### *Motion on Annual Report 2010*

41. With the support of the House Committee, the Chairman of the Panel moved a motion for debate on the Commissioner's Annual Report 2010 at the Council meeting of 18 January 2012.

### Daya Bay Contingency Plan

42. After the Fukushima Daiichi nuclear power plant incident ("Fukushima incident") in March 2011, the Administration had conducted a comprehensive review of the Daya Bay Contingency Plan ("DBCP"). The review covered various aspects, including its application, the latest international nuclear safety standards and contingency measures, the notification mechanism for nuclear incidents, radiation monitoring assessment in Hong Kong, contingency preparations, and measures and actions to be taken upon activation of the contingency plan. The Panel closely followed up on issues relating to DBCP.

*Framework proposals to enhance DBCP*

43. Concern was raised over the findings and enhancement proposals of the comprehensive review of DBCP, in particular the maintenance of a 20 km radius for Emergency Planning Zone ("EPZ")<sup>1</sup> following the Fukushima incident. According to the Administration, the prevailing 20km-EPZ1 arrangement in DBCP had been critically reviewed with renewed and up-to-date risk considerations and parameters in the ongoing review exercise. The detailed pre-planning of protective actions to a reasonable extent would provide a useful basis in expanding the scope to handle an accident with wider implications if happened. Noting that it would only involve an addition of some 1 000 residents if a 30 km radius for EPZ1 was to be adopted, members urged the Administration to seriously re-consider the area of the coverage of EPZ1.

44. Members expressed concern about the communication with the Mainland authorities regarding the evacuation plan for people in Hong Kong in case of a nuclear emergency and whether there was an urgent evacuation plan for pregnant women, new born babies and their parents. Members were advised of the communication between the Administration and the Mainland authorities about the notification system but not the evacuation plan. In accordance with IAEA's generic criteria, there was no difference of the evacuation plan for adults and that for pregnant women and new born babies and their parents.

45. Information was sought on the ingestion pathway countermeasures for food and water in case of a nuclear emergency. According to the Administration, a range of 85 km covering the whole territory of Hong Kong had been set as EPZ2 with controls over food, live food animals and water imported from areas close to DBNPS, locally produced or supplied. Agreement had been made with the Mainland authorities to implement protective measures for export of food produced within 50 km of DBNPS to Hong Kong so as to guarantee food safety. Regarding the concern over food supply, members were advised that while the Mainland was the most important food source for Hong Kong, especially the fresh food items, only a small proportion of food imported from places in the vicinity of DBNPS. Members were assured that in the unlikely event of a nuclear incident, there would be sufficient and stable supply of live and fresh food to Hong Kong.

46. Concern was also raised as to whether nuclear energy would continue to be used upon the expiry of the service life of the nuclear power stations at Daya Bay. According to the Administration, a review would be conducted on the kinds of energy to be used in Hong Kong with reference to international standards and those of other countries which were being reviewed following the Fukushima incident.

#### *Water supply to Hong Kong*

47. Noting that the source of water in Hong Kong mainly came from Dongjiang (ranging from 70% to 80%) and rainwater collected from catchments in Hong Kong (ranging from 20% to 30%), members expressed concern about the supply of water to Hong Kong and the possible contamination of all sources of water in the event of a nuclear accident at DBNPS. There was a possibility that in case of raining, the wind would carry the plume over the Shenzhen Reservoir (through which water from Dongjiang would be delivered to Hong Kong), the High Island Reservoir and the Plover Cove Reservoir and the depositing of the radioactive substances in these reservoirs would result in contamination of all sources of water supply to Hong Kong.

48. According to the Administration, given the different geographic locations of Dongjiang, the High Island Reservoir and the Plover Cove Reservoir and the specific requirements of the meteorological conditions, it would be impossible that these main sources of water would be contaminated at the same time. The radiation level of Dongjiang water was in effect closely monitored by the relevant Mainland authorities. According to the Consultancy Report of United Kingdom Atomic Energy Authority, the effects on water supply to Hong Kong would be minimal even in the event of a serious nuclear accident at DBNPS. As the water treatment plants in Hong Kong had the capacity to reduce the radiation level in water, the contamination of water in the High Island Reservoir and the Plover Cove Reservoir would not exceed the radiation control standard. Water after treatment would be safe for consumption.

#### *Assessment of accident consequence*

49. Members noted with concern that the Administration had made use of an Accident Consequence Assessment System to assess and simulate the results of the possible radiological consequence of a "S3" type accident occurred at DBNPS with the least amount of release of radioactive materials whereas the contingency plans of some other countries were based on the most serious "S1" type. Queries were raised

about the considerations given to using "S3" source term instead of "S1" source term as the basis for DBCP. Some members were of the view that the basis of DBCP should be changed from "S3" source term to "S1" source term so as to address the concerns of members of the public.

50. According to the Administration, DBNPS were French-designed nuclear power stations with very strong containment structure of the pressurized water reactors. As the local monitoring agencies in France had studied the different scenarios of "S1" to "S3" and had given considerations to the type of reactors and the countermeasures required before working out the contingency plan on the basis of "S3" source term, DBCP was also based on "S3" source term. It was believed that the chance of "S1" type accident was very slim. Also, the filtering system inside the pressurized water reactors was able to reduce the "S1" type accident to "S3" type. Experts from France had paid a visit to DBNPS and they were of the view that the countermeasures based on "S3" scenario were practicable.

51. In response to members' enquiries about the resources implications for the contingency plan on the basis of "S1" type accident, the Administration provided the different technical backgrounds and the specific concepts behind the three scenarios. The Administration stressed that consideration should be given to the scientific justifications rather than the financial implications of adopting "S1" source term as the basis for the assessment of accident consequence.

### Automated Passenger Clearance System (e-Channel)

#### *Security of e-Channels*

52. The Panel was gravely concerned about the security of e-Channels following a press report in January 2012 on the successful attempts by a reporter to pass through an e-Channel by using a fake fingerprint made of a kind of material available for sale on the internet. Some members took the view that the Immigration Department ("ImmD") and the system contractor had not conducted the regular inspection and maintenance properly and had not kept abreast of the updated technology. Members expressed concern as to whether there was any record on the malfunctioning of the e-Channels which had caused other got-through cases since its introduction in 2004. Members were also concerned about the worst scenario that it had already allowed a substantial number of people to pass through for a certain period of time before the malfunctioning of that particular e-Channel had been noticed.

In addition, queries were raised about the accuracy of the immigration records. Members suggested that the frequency of the inspection of e-Channels should be increased, and sought information on the maintenance of the e-Channel concerned.

53. According to the Administration, it was the first time that a visitor had been able to pass through an e-Channel by the use of a fingerprint latex. Regular inspection and maintenance of each e-Channel were done every six months. Additional inspection of e-Channels would be conducted as and when necessary. After the incident, the e-Channel concerned was closed down and the fingerprint scanner of that e-Channel concerned had been taken down and passed on to the manufacturer for detailed examination. While awaiting a comprehensive report on the investigation of the incident, ImmD had conducted thorough testing for all e-Channels by using the fake fingerprint provided by the reporter and other fake fingerprints. It was found that all other e-Channels were secure and reliable, and the immigration records of passengers were accurate.

*Immigration clearance of non-local pregnant women*

54. Members were concerned that non-local pregnant women could also register to use the e-Channel service in their capacity as frequent visitors. Noting the immigration control measure of arrival checking of visitors who were at an advanced stage of pregnancy (i.e. having been pregnant for 28 weeks or above) and therefore might be refused entry unless they could produce a booking confirmation certificate issued by local hospitals, members sought information on the procedures for implementing the measure if non-local pregnant women used the e-Channel service. Concern was also expressed about whether there was sufficient manpower in ImmD to conduct such arrival checking and whether ImmD staff were empowered to request the suspected visitors to undergo a medical examination. On the understanding that only a small number of medical officers stationed at the immigration control points, query was raised as to how the advanced stage of pregnancy of the visitors could be verified if an ultrasound test was not to be conducted in the process.

55. The Administration advised the Panel that at the immigration control points, health surveillance assistants would first assist in the assessment of visitors' body conditions by visual inspection regardless of their choice of using e-Channels or traditional immigration counters. Every three e-Channels would be monitored by a gatekeeper who could

focus more on the identification of advanced stage of pregnancy of visitors as the checking of travel documents and the verification of information on immigration records were performed by the e-Channel system. The transparent design of e-Channels further facilitated the assessment of the stage of pregnancy as compared with that at the traditional immigration counter. The gatekeepers were immigration officers who were sufficiently empowered to discharge their duties in relation to immigration control. The authority exercised by the gatekeepers would be the same as those immigration officers over the traditional immigration counters. Subject to the presentation of a booking confirmation certificate issued by a local hospital, a visitor suspected of beyond an advanced stage of pregnancy would be requested to undergo an inquiry and to produce her booking confirmation certificate issued by the local hospital. Depending on whether a medical officer was present at the immigration control point, his opinion on the condition of the visitors concerned would be sought. If no medical officer was present at the control point and an immigration officer had reasonable cause for believing that the visitors concerned had intention to give birth in Hong Kong, such non-local pregnant women might be denied entry according to the existing policy.

*Further enhancement of the system*

56. Members noted that ImmD had completed the third Information System Strategy review in 2010 and was conducting a feasibility study comprising the technology review for the immigration control system to enhance the system performance and immigration clearance efficiency. One of the areas to be considered by ImmD was whether a second biometrics such as facial recognition technology should be introduced to enhance the immigration service. Given the rapid development of the relevant technologies over the years, members considered that the Government should expedite the pace of adopting the most advanced technology which was already available in the market. Some members in principle supported the adoption of the facial recognition technology and enquired about the timeline of implementation and how the security could be strengthened. Members also sought clarification on whether the process for immigration clearance would be prolonged with the application of both fingerprint verification and facial recognition technologies.



57. According to the Administration, facial recognition technology had been well developed over the years and its accuracy was comparable to that of fingerprint verification. The application of facial recognition technology would be able to strengthen the security of the e-Channel system, given the two levels of security. In view of the global development of electronic document and self-service immigration clearance as well as the inclusion of a digital photo in the electronic travel document as required by various immigration authorities in other countries or regions, the adoption of a second biometrics was being studied. These included the synchronization of the application of both fingerprint and facial recognition technologies and the additional security in the identification process. Members were assured that the processing time would not be lengthened though the decision on the adoption of a second biometrics had not yet been made.

#### Pregnant Mainland women giving birth in Hong Kong

58. The upsurge of "doubly non-permanent pregnant" Mainland women giving birth in Hong Kong in 2011 had attracted grave public concern. The Panel discussed with the Administration its immigration control measures to tackle the problem of pregnant Mainland women giving birth in Hong Kong.

59. Members were concerned whether the measures taken by the Administration were effective in preventing the "gate crashing" by Mainland pregnant women from entering Hong Kong to give birth. Members also raised query as to whether the manpower deployed at immigration control points was sufficient to intercept pregnant Mainland women without booking confirmation certificates issued by local hospitals.

60. According to the Administration, ImmD had, since December 2011, extensively enhanced immigration control measures on non-local pregnant women. ImmD had stepped up inspection of non-local pregnant women at major control points through internal re-deployment. The Department of Health had also deployed an additional 18 health surveillance assistants (making a total of 42) to the control points to enhance assistance in surveillance work since the end of February 2012. As some non-local pregnant women without bookings seeking emergency deliveries at the Accident and Emergency Departments ("A&EDs") of local hospitals were found to have overstayed in Hong Kong, ImmD would step up enforcement and removal actions against these overstayers. ImmD had strengthened cooperation with the

Police in conducting investigation and securing evidence against individual or corporate intermediaries which were involved in illicit activities in arranging for entry of non-local pregnant women to Hong Kong.

61. The Administration advised the Panel that the number of pregnant Mainland women without booking confirmation certificates gate-crashing A&EDs of local hospitals had dropped from the peak of an monthly average of 150 in the last four months in 2011 to a monthly average of 90 from January to April 2012. The number further dropped to 45 in May 2012.

62. Members called on the Administration to strengthen joint efforts with the relevant Mainland authorities to tackle at source the problem of "doubly non-permanent pregnant" women giving birth in Hong Kong. According to the Administration, ImmD had maintained close liaison with the Mainland authorities to deter non-local pregnant women without bookings from taking the risk of seeking emergency deliveries at A&EDs. Since 2011, ImmD referred to the Mainland authorities Mainland pregnant women who were refused entry, so as to assist the appropriate follow-up by the Mainland authorities in deterring the dangerous behaviour of seeking emergency hospital admissions through A&EDs shortly before labour.

#### Other issues

63. The Panel had discussed other issues with the Administration, including dissemination of case information by disciplined services and crime situation 2011.

64. The Panel was also consulted on a number of legislative and financial proposals. These included the proposed amendments to the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575), amendments to the Schedules to the Dangerous Drugs Ordinance (Cap. 134), creation of a permanent Administrative Officer Staff Grade C Post in the Narcotics Division, creation of a new rank of Assistant Aircraft Engineer in the Government Flying Service, new information technology infrastructure of ImmD, development of asset management and maintenance system in the Fire Services Department, replacement of the department launch "Seaward" of the Correctional Services Department, replacement of one high speed pursuit craft of the Customs and Excise Department and Fireboat No. 7 and three turntable ladders of the Fire Services Department, redevelopment of disciplined services

quarters in Fu Tei, Tuen Mun, and construction of a new ambulance depot at Choi Shun Street, Sheung Shui.

Meetings held

65. During the session, the Panel held a total of 17 meetings. The Panel also received a briefing by the Commissioner on Interception of Communications and Surveillance on his Annual Report 2010.

Council Business Division 2  
Legislative Council Secretariat  
5 July 2012

**Legislative Council  
Panel on Security**

**Terms of Reference**

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

**Legislative Council  
Panel on Security**

**Membership list for 2011-2012 session**

<b>Chairman</b>	Hon James TO Kun-sun
<b>Deputy Chairman</b>	Hon LAU Kong-wah, JP
<b>Members</b>	Hon Albert HO Chun-yan Dr Hon Margaret NG Hon CHEUNG Man-kwong Dr Hon Philip WONG Yu-hong, GBS Hon WONG Yung-kan, SBS, JP Hon Emily LAU Wai-hing, JP Hon Timothy FOK Tsun-ting, GBS, JP Hon Abraham SHEK Lai-him, SBS, JP Hon Audrey EU Yuet-mee, SC, JP Hon Andrew LEUNG Kwan-yuen, GBS, JP Hon CHIM Pui-chung Hon Cyd HO Sau-lan Dr Hon LAM Tai-fai, SBS, JP Hon CHAN Hak-kan, JP Hon WONG Kwok-kin, BBS Hon IP Kwok-him, GBS, JP Dr Hon PAN Pey-chyou Hon Paul TSE Wai-chun, JP Hon LEUNG Kwok-hung Hon WONG Yuk-man  (Total : 22 Members)
<b>Clerk</b>	Mrs Sharon TONG
<b>Legal adviser</b>	Ms Connie FUNG
<b>Date</b>	3 July 2012