

立法會
Legislative Council

LC Paper No. CB(2)1687/12-13
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of meeting
held on Tuesday, 4 June 2013, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

Members present : Hon IP Kwok-him, GBS, JP (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon Albert HO Chun-yan
Hon CHAN Kam-lam, SBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan, JP
Hon WONG Kwok-kin, BBS
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon Michael TIEN Puk-sun, BBS, JP
Hon NG Leung-sing, SBS, JP
Hon Frankie YICK Chi-ming
Hon YIU Si-wing
Hon MA Fung-kwok, SBS, JP
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Dr Hon Elizabeth QUAT, JP
Hon CHUNG Kwok-pan

Members absent : Dr Hon LAM Tai-fai, SBS, JP
Hon Paul TSE Wai-chun, JP

**Public Officers
attending** : Item IV

Mr John LEE Ka-chiu, PDSM, PMSM, JP
Under Secretary for Security

Miss Bella MUI Bun-ngar
Principal Assistant Secretary for Security B

Mr LAM Kwok-leung
Assistant Commissioner of
Correctional Services (Operations)

Dr Judy HUI Shuk-han
Senior Clinical Psychologist
Correctional Services Department

Item V

Mr John LEE Ka-chiu, PDSM, PMSM, JP
Under Secretary for Security

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

Mr Kilian TUNG Yuk-lun
Assistant Secretary for Security

Mr Matthew Philip James Hemmings
Chief Superintendent of Police,
Crime Support Group

Mr Shaun Clayton Dove
Senior Superintendent of Police,
Identification Bureau

Mr CHAN Sing-cheong
Chief Inspector of Police, Support Section,
Identification Bureau

**Clerk in
attendance** : Miss Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Mr Raymond LAM
Senior Council Secretary (2) 7

Ms Mina CHAN
Council Secretary (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

Action

I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)1245/12-13)

The minutes of the meeting held on 5 April 2013 were confirmed.

II. Information paper(s) issued since the last meeting

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

III. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)1255/12-13(01) and (02))

3. Members noted that the Administration had proposed the following items for discussion at the next regular meeting on 2 July 2013 at 2:30 pm -

- (a) Review of the Interception of Communications and Surveillance Ordinance;
- (b) Screening of Non-refoulement Claims; and
- (c) Resources proposals relating to the upgrading of the Tseung Kwan O Police Division to a Police District - creation of a permanent Chief Superintendent of Police post and the construction of Kowloon East Regional Headquarters and Operational Base cum Ngau Tau Kok Divisional Police Station.

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4. Ms Emily LAU suggested that the item "Police's handling of cases in relation to public order events" in the list of outstanding items for discussion should be discussed by the Panel. The Chairman said that he would liaise with the Administration on whether the item was ready for discussion and the items to be discussed at the next meeting.

(*Post-meeting note:* With the concurrence of the Chairman, the item "Police's handling of cases in relation to public order events" and the items referred to in paragraph 3 above were scheduled for discussion at the next regular meeting on 2 July 2013 and the meeting time was extended to end at 5:30 pm.)

5. The Chairman reminded members that a visit would be held on 10 June 2013 for members to better understand the operations of the Marine Police.

IV. Managing the self-harm behaviour of persons in custody by Correctional Services Department

(LC Paper Nos. CB(2)1255/12-13(03) and (04))

6. Under Secretary for Security ("US for S") briefed members on the measures taken by the Correctional Services Department ("CSD") in managing the self-harm behaviour of persons in custody, as detailed in the paper provided by the Administration.

7. Members noted a question on self-harm of persons in custody raised at the Council meeting of 19 December 2012 and the Administration's reply.

Investigation into the death of a person in custody

8. Mr Dennis KWOK expressed concern about the death of persons in custody in penal institutions. He said that in *Jordan v. the Government of the United Kingdom*, the European Court of Human Rights had held that internal investigations into such cases should incorporate the elements of fairness and justice. In New Zealand, the investigation of such cases was monitored by the Ombudsman. He said that although inquests were held into the death of persons in custody in penal institutions in Hong Kong, the inquests usually took a long time that it was sometimes difficult for witnesses to recall their memories. He asked whether there were guidelines on internal investigations conducted by CSD into such cases.

Action

9. US for S responded that under the Coroners Ordinance (Cap. 504), the Coroner's Court had to conduct an inquest into the death of a person in custody. Investigations into such cases were conducted by the Police, which possessed much experience in such investigation.

10. Assistant Commissioner of Correctional Services (Operations) ("ACCS(O)") said that whenever there was death of a person in custody, an investigative committee chaired by a Senior Superintendent would be formed to investigate into the death case. A report on the investigation would be submitted to the Assistant Commissioner of Correctional Services (Quality Assurance) and the Deputy Commissioner of Correctional Services. He said that there were terms of reference defining the scope of areas to be investigated. Mr Dennis KWOK requested the Administration to provide members with a copy of the documents concerned.

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Causes for self-harm by persons in custody

11. Mr CHAN Kam-lam asked whether there were difficulties for newly admitted persons in custody to adapt to the institutional life. He expressed concern about persons in custody inflicting self-harm and asked whether measures were adopted by CSD to address the problem.

12. US for S responded that according to surveys conducted on persons in custody, about 50% of those who inflicted self-harm had previous psychiatric treatment record, among which 30% were remands and 70% were serving prison sentences. In general, the major causes for self-harm included family problems, emotional problems, health issues, residual effects of drug abuse and difficulties in adapting to institutional life. Senior Clinical Psychologist, Correctional Services Department ("SCP/CSD") added that other causes included interpersonal relations problems and worries related to the sentence.

13. Mr CHAN Kam-lam asked whether the living conditions of penal institutions was one of the main causes of emotional problems of persons in custody. ACCS(O) responded that the emotional problems arose mainly from difficulties in adapting to institutional life rather than living conditions in penal institutions.

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14. Mr YIU Si-wing asked about the proportion of cases in which self-harm was caused by the residual effects of drug abuse. US for S responded that family problems, emotional problems, length of sentence and health issues were the main causes for self-harm. There were only a small number of cases of self-harm arising from residual effects of drug abuse.

15. Mr Frankie YICK asked about the breakdown by causes of persons in custody inflicting self-harm. He expressed concern about six fatal cases of self-harm in the past three years and asked about the measures adopted to prevent persons in custody from hanging themselves.

16. US for S responded that analysis into the self-harm cases indicated that about 20% to 30% were caused by poor interpersonal relations, about 15% were related to the length of sentence and about 10% were due to health issues or emotional problems. He said that the facilities of penal institutions had been designed in such a way to prevent persons in custody from hanging themselves.

Assessment of the risk of self harm by persons in custody

17. Mr CHUNG Kwok-pan asked whether the self-harm risk of a person in custody was assessed at the time of admission to a penal institution. US for S said that an initial assessment was made on every newly admitted person on remand and newly convicted person. CSD staff would ask questions such as whether they had self-harm history and observe whether they were emotionally stable to assess their propensity of self-harm. Those assessed to have relatively higher self-harm risk would be referred to medical officers and clinical psychologists for further evaluation and, if necessary, included in the Medical Observation List.

18. Mr WONG Yuk-man asked whether the Self-harm Risk Index had been suitably adapted to cater for the specific circumstances of Hong Kong. SCP/CSD replied in the affirmative. She said that the Self-harm Risk Index was subject to constant review.

19. Mr WONG Yuk-man expressed concern whether there were cases assessed to be of a low risk in which the person in custody subsequently inflicted self-harm. SCP/CSD responded that the Self-harm Risk Index was only one of the tools for identification of persons in custody with self-harm risk. More than 2 000 cases of such a nature were referred by frontline CSD staff to clinical psychologists in each year.

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20. Mr WONG Yuk-man asked whether a higher rate of self-harm was found with persons in custody under separate confinement. ACCS(O) responded that in the past three years, less than four out of 1 000 persons in custody had inflicted self-harm each year and only 1.8 out of 1 000 persons held in separation arrangements had inflicted self-harm each year. Thus, it could be noted that the proportion of those committing self-harm under separation arrangements was smaller than that of the general penal population.

21. Referring to paragraph 6 of the Administration's paper, Mr WONG Yuk-man expressed doubt that CSD staff would follow management's instruction to closely monitor the behaviour of persons in custody to identify symptoms of self-harm behaviour. US for S disagreed with the view of Mr WONG and said that CSD staff adopted a serious attitude in their work and stayed vigilant while on duty.

Measures to address the problem of persons in custody inflicting self-harm

22. Mr Frankie YICK sought information on the psychological counselling services provided to persons in custody suspected of inflicting self-harm.

23. SCP/CSD explained that suspected cases of self-harm were reported immediately by frontline staff of CSD to clinical psychologists, who would arrange as soon as possible a psychological assessment of the emotional and psychological state of the concerned person in custody, his degree of adaptation to institutional life, perception of the length of sentence, character and family situation to assess the propensity of self-harm of that person and provide suitable psychological counselling services. Persons in custody with a high risk of self-harm or those with psychiatric history might also be referred to psychiatrist for treatment.

24. Mr CHUNG Kwok-pan asked about the total number of clinical psychologists in CSD. US for S responded that there were a total of 22 clinical psychologists in CSD. SCP/CSD added that all 22 clinical psychologists possessed either a master degree or a doctorate in their profession.

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25. Mr MA Fung-kwok asked whether measures were adopted to prevent repeated self-harm by persons in custody. US for S responded that CSD staff were required to maintain patrol on persons with a high risk of self-harm at intervals not exceeding 15 minutes. ACCS(O) said that particular attention was paid by CSD staff to cases of repeated self-harm, which were very rare.

26. The Deputy Chairman expressed concern about six fatal cases of self-harm between 2010 and 2012. He asked whether new measures had been introduced by CSD as a result of the death inquests into the six cases.

27. US for S responded that following the death inquests into the four fatal cases in 2010 and an earlier case, the Administration had implemented the following measures in response to recommendations from the Coroner's Court -

- (a) liaising with the Fire Services Department in regard to the procedure of opening the prison gate immediately upon the arrival of an ambulance to facilitate the rescue of persons in custody who inflicted self-harm. CSD would take appropriate measures to facilitate ambulancemen to provide emergency ambulance services for persons in custody who inflicted self-harm;
- (b) requiring the duty officer to record more details about persons in custody with a high risk of self-harm in the revised Medical Observation List;
- (c) strengthening training for frontline staff on the procedures for handling self-harm by persons in custody by giving talks to new recruits and CSD staff on the behavioral symptoms of persons in custody with high risks of self-harm;
- (d) continuing to look for substitutes for linens for prisoners' beds;
- (e) maintaining sufficient supervision during shift-change; and
- (f) taking into account the penal capacities of institutions to assign sufficient patrolling staff.

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28. The Deputy Chairman sought information on the measures adopted by CSD to prevent persons in custody from hanging themselves. US for S responded that beside visiting persons in custody under the Medical Observation List at intervals not exceeding 15 minutes, those with a high risk of self-harm were referred to clinical psychologists for follow-up. All frontline staff were provided with the CSD Staff Information Booklet ("the Booklet") and strengthened training on the symptoms of self-harm and guidelines on handling suicide and attempted suicide. To ensure sufficient manpower support in cases of emergency, there was a team of staff performing standby duties in every penal institution at night. Sufficient first aid kit was provided in institutions. In response to the Deputy Chairman's question on the number of hanging (excluding death) cases committed by persons in custody, ACCS(O) said that there were 15 cases in 2010, 12 cases in 2011 and 16 cases in 2012.

29. Mr Frankie YICK asked whether special measures were adopted for newly admitted persons in custody assessed to have a higher risk of self-harm. US for S responded that all newly admitted persons in custody had to undergo an induction programme arranged by CSD. Newly admitted persons, regardless of their nationality, would normally be accommodated together with other persons in custody in the first month of custody, with a view to helping them to adapt to the penal environment as soon as possible. Publicity and talks for these persons were organized by CSD in conjunction with non-governmental organizations. A Self-harm Risk Index had been adopted for assessment of newly admitted persons in custody to facilitate the provision of tailor-made psychological counselling services by clinical psychologists.

Self-harm by female persons in custody

30. Ms Emily LAU asked about the percentage of female persons in custody who inflicted self-harm in comparison with male persons in custody in Hong Kong and other places. She suggested that a Justice of the Peace ("JP") who visited a penal institution should be informed of cases of self-harm so that the JP could visit such persons in custody, if necessary.

31. US for S agreed to refer the suggestion of Ms Emily LAU to CSD to consider. He said that in the past three years, 54% of persons in custody inflicting self-harm were females and 46% were males.

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32. Ms Emily LAU asked whether specific measures had been introduced to address the problem of female persons in custody inflicting self-harm. US for S responded that there was a "Psy Gym" in Lo Wu Correctional Institution which provided female persons in custody with specialized psychological treatment. SCP/CSD said that the "Psy Gym" was established two years ago. It was a personal growth and emotion treatment centre for women. It assisted female persons in custody to develop positive thinking and improve communication with others. She added that positive psychology was also adopted in the therapy of female persons in custody in other penal institutions.

33. Dr Elizabeth QUAT expressed concern that there were a number of persons in custody inflicting self-harm, among whom the majority were females. She said that family support was vital to the rehabilitation of a person in custody and suggested that the Administration should consider employing family therapists for the provision of family therapy to persons in custody. SCP/CSD responded that as different persons had different emotional problems, the required psychological treatment also differed. Family therapy would be provided to persons in custody on a need basis.

34. Dr Elizabeth QUAT said that many female persons in custody had expressed concern about lack of sufficient time for visits by their children. She sought information on the number of days and hours for which the children of a female person in custody was allowed to visit their mother. ACCS(O) responded that in addition to the bi-weekly social visit entitled by all prisoners, female persons in custody might be given, on application, half a day to spend with their children in a soft and warm environment within a certain period of time. Dr QUAT suggested that the Administration should increase the number of times of visits by children of female persons in custody. ACCS(O) responded that the suggestion had to be considered with regard to operational and resource implications.

Self-harm by persons in custody in other places

35. Mr MA Fung-kwok asked whether the Administration had compared the percentage of persons in custody inflicting self-harm in Hong Kong with those of other places.

36. US for S responded that as the definition of self-harm differed from one place to another, a direct comparison of the statistics might not be appropriate. In Hong Kong, the definition of self-harm had a broader scope and covered behaviour such as drinking shampoo and swallowing

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soap. He informed members that the average death rate arising from self-harm in Hong Kong for the past three years was 0.2 per 1 000 persons. In 2012, the death rates in Queensland, South Australia, Canada and England and Wales were 0.4, 0.6, 1.3 and 0.76 respectively.

Self-harm by persons in custody who came from other nations or territories

37. Mr Albert HO sought information on the percentage of ethnic minorities in the penal population, the percentage of whom could not communicate in English and Chinese and the percentage of whom had inflicted self-harm.

38. ACCS(O) responded that the current penal population was about 9 200, among whom 16% were persons in custody from other nations or territories and the percentage of whom had inflicted self-harm was very low. SCP/CSD said that translation service was provided to persons in custody who could not communicate in English and Chinese in receiving psychological counselling.

Visits from family members, religious groups and social workers

39. Mr Albert HO noted that persons in custody usually had a higher risk of inflicting self-harm in the first month of admission to a penal institution. He asked whether there were guidelines allowing more visits from family members, religious groups and social workers in the first two months after admission.

40. ACCS(O) responded that applications for additional visits would be considered. CSD would exercise discretion to allow more visits to a newly admitted person in custody, if necessary, to help alleviate unease because of incarceration. CSD also displayed posters in prominent places to encourage visitors and persons in custody to immediately report to CSD staff any signs of emotional problem detected from persons in custody.

Other issues

41. Mr CHUNG Kwok-pan asked whether any work was assigned to persons in custody. ACCS(O) responded that all persons in custody were required to work in penal institutions. Persons on remand could also choose to work.

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42. Mr LEUNG Kwok-hung asked whether a day's leave of absence could be granted to persons in custody found to have serious emotional problem.

43. ACCS(O) responded that Commissioner of Correctional Services might grant leave of absence to persons in custody under Prison Rules (Cap. 234A) subject to such conditions and restrictions relating to custody and escort as the Commissioner might determine. An example would be granting approval to a person in custody to attend the funeral of his/her deceased family member.

44. Mr LEUNG Kwok-hung expressed concern about the contents of the CSD Booklet and asked whether members could be provided with a copy of the Booklet.

45. US for S responded that the Booklet contained 14 pages, among which six pages contained information on the symptoms of self-harm behaviour and guidelines on handling suicide and emotional problems. He would consider providing members with a summary of the content if members considered it necessary.

46. The Chairman said that according to his many years' experience of visiting penal institutions in the capacity of a JP, he noted that CSD had demonstrated continuous improvement in the areas of concern raised by members.

V. The operation and review of the Sexual Conviction Record Check Scheme

(LC Paper Nos. CB(2)1255/12-13(05) and (06))

47. US for S briefed members on the operation of the Sexual Conviction Record Check ("SCRC") Scheme ("the Scheme") and the review conducted by the Administration on the Scheme, as detailed in the paper provided by the Administration.

48. Members noted the background brief entitled "Sexual Conviction Record Check Scheme" prepared by the Legislative Council Secretariat.

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Establishment of a legislative scheme for sexual offence record checks

49. Mr WONG Yuk-man considered that sexual offence record checks should be implemented under a legislative scheme instead of an administrative scheme. He expressed concern that although a motion was passed at the Panel meeting of 8 April 2010 urging the Administration to introduce a bill within 12 months to commence the legislative process, the Administration had not come up with any legislative proposal after 38 months. He queried whether the Administration had any intention to establish a legislative scheme for sexual offence record checks.

50. US for S responded that the Scheme was implemented by stages in accordance with the recommendations of the Law Reform Commission ("LRC"). As LRC had noted that a comprehensive legislative scheme would take some time to be implemented, it had recommended the establishment of an administrative scheme as an interim measure. The enactment of legislation to address the issue would be considered when the recommendations of LRC regarding a legislative scheme were available.

Support for the Scheme

51. Noting from paragraph 6 of the Administration's paper that the Scheme had received strong support from employers, particularly those in the education and welfare service sectors, Mr Frankie YICK asked why a survey commissioned by the End Child Sexual Abuse Foundation in September to November 2012 revealed that about 80% of the private educational institutes surveyed had not used the SCRC service.

52. US for S responded that some private educational institutes had not used the SCRC service because they were mainly tutorial centres. He pointed out that there was strong support from schools for the Scheme.

Scope of the Scheme

53. Dr Elizabeth QUAT said that the Scheme was incomprehensive in that it did not cover existing employees. She considered that the service under the Scheme should be expanded, if there was a strong demand for such service in the community.

54. Mr Frankie YICK expressed concern that existing employees were not covered by the Scheme. He considered that the Scheme should be expanded to cover existing employees as soon as possible to better protect children and mentally incapacitated persons ("MIPs").

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55. US for S said that existing employees had been working in their companies for a period of time and some understanding might have been developed between them and their employers. While the handling capacity of the Scheme had been increased from about 39 000 applications to some 90 000 applications per year, the working population concerned was much larger and priority had to be given to the checking of prospective employees.

56. Ms Emily LAU said that more manpower should be provided for operation of the Scheme, the scope of which should be expanded to existing employees involved in work related to children or MIPs.

57. US for S responded that it was the Administration's intention to expand the scope of the Scheme progressively to cover employees involved in child or MIP-related work whose contract was renewed. Although the processing capacity of the SCRC Office had been expanded to 350 applications per day, it should be noted that there was a large working population and the number of applications might surge after the Administration stepped up publicity on the Scheme. It would be more prudent to consider expansion of the scope of the Scheme after the capacity issue was addressed.

58. Dr Elizabeth QUAT considered that the expansion of the scope of the Scheme to cover employees whose contract was renewed was too conservative. She expressed concern that parents could not check the sexual conviction records of private tutors and the organizers of group activities participated by their children. She considered that parents should be allowed to carry out checking under the Scheme, which should cover persons working at tutorial centres and private tutors.

59. US for S responded that there were concerns expressed about possible abuse of the Scheme after expansion of its scope. He said that the scope of sexual offence record check under the Scheme should be confined to child-related work or work relating to MIPs and the checking should be confined to employment purpose only. He added that a survey conducted by an institution revealed that 75% of the school principals surveyed opposed opening the Scheme to checking by parents. He stressed that the Scheme was not the only solution for protecting children and MIPs from sexual assault, although it was an important element among all safety measures.

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60. Dr Elizabeth QUAT asked about the number of existing employees involved in work related to children or MIPs subject to contract renewal. US for S responded that the number of employees concerned was about 100 000.

61. Ms Emily LAU asked whether LRC had made any recommendations on the handling of employment issues in cases where an existing employee involved in work related to child or MIPs was found to have a sexual conviction record. US for S responded that LRC had not made any recommendations in this respect.

Other issue

62. Regarding the suggestions in paragraph 8 of the Administration's paper, Mr WONG Yuk-man expressed the view that -

- (a) the application fee of \$115 should be reduced or waived;
- (b) while he had no objection to the extension of the Scheme to tutorial centres, the Scheme might be open to abuse if it was also extended to cover private tutors;
- (c) the combining of the sexual offence record checking for certain qualified professions with the checking process under their respective professional registration should be implemented through legislative means; and
- (d) the Police should not open more branches of the SCRC Office.

63. There being no other business, the meeting ended at 4:28 pm.