

立法會
Legislative Council

LC Paper No. CB(2)650/15-16
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of meeting
held on Tuesday, 1 December 2015, 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
Hon CHAN Kam-lam, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon Frankie YICK Chi-ming, JP
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Elizabeth QUAT, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS

Member attending : Hon Steven HO Chun-yin, BBS

Members absent : Hon CHUNG Kwok-pan (Deputy Chairman)
Hon Cyd HO Sau-lan, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon NG Leung-sing, SBS, JP
Dr Hon Kenneth CHAN Ka-lok
Hon KWOK Wai-keung
Hon Dennis KWOK
Dr Hon CHIANG Lai-wan, JP

Public Officers attending : Item IV

The Administration

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

Ms Mimi LEE Mei-mei, JP
Deputy Secretary for Security 1

Mr Andrew TSANG Yue-tung
Principal Assistant Secretary for Security E

Mr CHIU Man-hin
Assistant Secretary for Security E2

Independent Commission Against Corruption

Mr Steven LAM Kin-ming
Assistant Director / Operations 3

Ms Winky HSU Man-wai
Senior Principal Investigator / R Group

Item V

The Administration

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

Mr Alex CHAN Yuen-tak
Principal Assistant Secretary for Security B

Mr LI Kin-yat, FSDSM, FSMSM
Deputy Director of Fire Services

Mr KWAN Kam-wing
Deputy Chief Fire Officer (Hong Kong)
Fire Services Department

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

Staff in attendance : Mr Timothy TSO
Senior Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2) 7

Ms Mina CHAN
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Information paper issued since the last meeting
(LC Paper No. CB(2)320/15-16(01))

Members noted that a letter dated 18 November 2015 from Dr Priscilla LEUNG had been issued since the last meeting. The Chairman said that Dr LEUNG's request for discussion of her proposed Member's bill to amend the Fire Safety (Buildings) Ordinance (Cap. 572) would be dealt with under agenda item II.

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)341/15-16(01) and (02))

Regular meeting in January 2016

2. Members agreed that the following items would be discussed at the next regular meeting on 5 January 2016 at 2:30 pm -

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- (a) Training on psychological quality of Police Officers;
- (b) Acquisition of mobile response and command platform for the marine region of the Hong Kong Police Force;
- (c) Creation of a Chief Pilot post in the Government Flying Service for strengthening management and enhancing flight safety;
- (d) Installation of electric locks security system in the Stanley Prison; and
- (e) Proposed Member's Bill to amend the Fire Safety (Buildings) Ordinance.

(Post-meeting note: On the instruction of the Chairman, the ending time of the meeting on 5 January 2016 was extended to 5:00 pm.)

III. Proposal to conduct an overseas duty visit by the Panel
(LC Paper No. FS03/15-16)

3. The Chairman referred to a fact sheet entitled "Handling of non-refoulement claims in selected places" prepared by Research Office of the Legislative Council ("LegCo") Secretariat. He said that consideration might be given to conducting a duty visit to study the experience of Australia in handling non-refoulement claims and security-related facilities. Representatives of the Administration could be invited to join the visit, as in the case of overseas duty visits of some Panels.

4. Mr James TO said that consideration should be given to visiting a few European countries, especially those in the Mediterranean region, which were facing various problems related to non-refoulement claims as well as threat of terrorist attacks.

5. Ms Claudia MO said that if the proposed duty visit was to be conducted, Australia might be a more appropriate choice. However, she considered the proposed duty visit unnecessary.

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6. Mr LEUNG Kwok-hung said that consideration should be given to visiting places in which non-refoulement claims were determined expeditiously. The Panel should consider visiting the Mainland to understand its mechanism and experience in handling such claims.

7. Mr Kenneth LEUNG said that consideration should be given to visiting common law jurisdictions in which non-refoulement claims were determined expeditiously and the Panel might consider visiting Australia or New Zealand for such purpose. He added that consideration could also be given to visiting South Korea or Japan to understand their experience in handling confrontation between demonstrators and police officers in major public order events as well as the operation of specialized crowd management vehicles with water spray devices.

8. Mr YIU Si-wing said that the Panel should visit places in which non-refoulement claims were determined expeditiously. Consideration might be given to visiting Australia, where the annual expenditure on the provision of legal assistance to claimants was about A\$2.5 million.

9. Ms Emily LAU expressed concern that according to information provided in the fact sheet, the mechanism adopted by Australia was subject to more criticism in comparison with that adopted by Germany.

10. Members agreed that an overseas duty visit would be conducted around 19 to 25 March 2016 to study the mechanism(s) and experience of Australia or a few European countries in handling non-refoulement claims and related facilities. It was also agreed that officials from the relevant policy bureau and government department would be invited to join the duty visit and members' views on the place(s) to be visited would be sought by circulation of papers. Mr WONG Kwok-kin said that members should also be allowed to suggest other places to be visited in the reply slip.

(Post-meeting note: A paper inviting members' views on the place(s) to be visited was issued to members vide LC Paper No. CB(2)381/15-16 on 3 December 2015.)

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IV. Results of study of matters raised in the Annual Report 2014 to the Chief Executive by the Commissioner on Interception of Communications and Surveillance

(LC Paper Nos. CB(2)327/15-16(01), CB(2)341/15-16(03) and Annual Report 2014 to the Chief Executive by the Commissioner on Interception of Communications and Surveillance)

11. Members noted a Summary of the Annual Report 2014 ("the Annual Report") to the Chief Executive by the Commissioner on Interception of Communications and Surveillance ("the Commissioner"), which was downloaded from the website of the Commissioner's Secretariat and tabled at the meeting.

(Post-meeting note: The Summary tabled at the meeting was circulated to members vide LC Paper No. CB(2)377/15-16 on 2 December 2015.)

12. The Chairman informed Members that the new Commissioner, Mr Justice Azizul Rahman SUFFIAD, who had been invited to attend the meeting had declined the invitation for the reason that it was not appropriate for him to discuss matters raised in his predecessor's report.

13. Secretary for Security ("S for S") briefed Members on the results of the Administration's study of matters raised in the Annual Report, details of which were set out in the Administration's paper.

14. Members noted an updated background brief entitled "Results of Study of Matters Raised in the Annual Report to the Chief Executive by the Commissioner on Interception of Communications and Surveillance" prepared by the LegCo Secretariat.

Briefings by the Commissioner on the Annual Report

15. Mr James TO expressed concern that the incumbent Commissioner had not, in line with the practice of former Commissioners, held a briefing on the Annual Report for LegCo Members, the media and members of the public. While noting the incumbent Commissioner's view that it was not appropriate for him to discuss matters raised in his predecessor's report, Mr TO considered that the incumbent Commissioner, who was assisted by staff of his office, should be requested to consider holding an informal meeting with members for exchange of views on the

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Annual Report. His view was shared by Mr Charles MOK. Mr TO requested the Secretariat to convey his request to the incumbent Commissioner.

Reports of non-compliance and irregularities

16. Referring to paragraphs 6.14 to 6.16 of the Annual Report, Mr James TO expressed concern about the Commissioner's view that the case concerned was a serious one and the verbal warning suggested to be given to the officer-in-charge of the operations concerned and his supervisor was too lenient. He also expressed concern about whether the Administration had taken follow-up actions in response to the Commissioner's comments.

17. Referring to paragraphs 6.14, 6.16 and 6.19 of the Annual Report, Mr LEUNG Kwok-hung expressed concern that the mistakes of the law enforcement officers concerned had resulted in unauthorized interception of an individual's facility for about four days. He queried whether disciplinary actions taken against the law enforcement officers concerned had been revised in response to the comments of the Commissioner.

18. S for S responded that in cases where disciplinary actions were to be taken against the law enforcement officers concerned, the relevant law enforcement agency ("LEA") would take into account the views of the Commissioner, if any, before actions were taken against the officers concerned. He stressed that the LEA concerned took the Commissioner's view very seriously and would follow up on his views diligently.

19. Referring to cases of non-compliance and irregularities referred to in Chapter 6 of the Annual Report, Ms Claudia MO considered that more information on the cases, such as the nature of crime involved in Report 1, should at least be disclosed.

20. S for S responded that it had been highlighted in paragraph 1.8 of the Annual Report that the Commissioner had continued the practice of providing the utmost transparency of his work as the Commissioner, while taking care not to divulge any information the disclosure of which might prejudice the prevention or detection of crime or the protection of public security.

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21. Referring to Report 4 in Chapter 6 of the Annual Report, Ms Emily LAU asked whether interception products obtained between the revocation of the prescribed authorization concerned and the actual discontinuance of the operation could be used by LEAs. Deputy Secretary for Security 1 responded that it was proposed in the Interception of Communications and Surveillance (Amendment) Bill 2015 ("the Amendment Bill") that the Interception of Communications and Surveillance Ordinance ("ICSO") (Cap. 589) would be amended to the effect that any interception or surveillance products obtained after the revocation but before the actual continuance of the operation would be deemed to have been obtained pursuant to a prescribed authorization. The Code of Practice ("CoP") for LEAs would be updated to stipulate a timeframe within which discontinuation should normally be effected and that when the officer in charge of the interception or covert surveillance concerned had notice of the revocation of the prescribed authorization by the relevant authority, the officer must not use or gain access to the protected products obtained after the revocation of the prescribed authorization concerned.

22. Referring to Report 5 in Chapter 6 of the Annual Report, Ms Emily LAU sought information on the revised procedures referred to in paragraph 6.40 of the Annual Report. S for S responded that the LEA concerned had revised the relevant procedures so as to require the supervisor of the device store to deploy manpower to take care of the return of devices which had been used in operations.

23. Mr WONG Yuk-man considered that the cases of non-compliance and irregularities referred to in the Annual Report were relatively minor in comparison with those identified by the first Commissioner. He said that this might, however, be due to the fact that LEAs had become aware of ways to evade the monitoring of ICSO. Referring to paragraph 6.38 of the Annual Report, he considered that the mistake in recording the device return time was not an incidental one. He expressed concern that mistakes were still made by law enforcement officers despite the provision of induction training and refresher training by LEAs.

Statistics relating to ICSO

24. Mr Kenneth LEUNG said that an analysis of the statistics for 2006 to 2014 revealed that the ratio of the number of persons arrested as a result of or further to interception or covert surveillance carried out

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pursuant to prescribed authorizations to the number of prescribed authorizations issued had decreased in 2012, 2013 and 2014. He asked whether this was the result of LEAs embarking on "fishing expedition" in the investigation of crime in recent years, which would pose a threat to the privacy of the general public.

25. S for S responded that there was no question of LEAs embarking on "fishing expedition" in the investigation of crime. There was no correlation between the number of prescribed authorizations and the number of persons arrested as a result of or further to interception or covert surveillance carried out pursuant to prescribed authorizations. He pointed out that although legislation on interception of communications and covert surveillance had remained unchanged since 2006, the procedures required of LEAs had been tightened over the years. An application for prescribed authorization was considered by a panel judge having regard to the proportionality and necessity of the operations concerned. It was pointed out in the Annual Report that panel judges had continued to be very cautious in dealing with applications.

26. Mr Charles MOK said that the number of prescribed authorizations had increased in recent years while the number of rejected applications had decreased. He expressed concern about the number of prescribed authorizations relating to cases involving cyber crime.

27. Mr YIU Si-wing asked whether there had been any case of abuse of interception of communications or covert surveillance by LEAs and whether any person had been disciplined for such abuse.

28. S for S said that it could be noted from the Annual Report that there was no abuse of interception of communications or covert surveillance by LEAs for any unauthorized purposes. He said that CoP had been revised several times over the years in response to comments and suggestions of the Commissioner. LEAs were required to report all cases of non-compliance and irregularities, as well as cases involving legal professional privilege ("LPP") or journalistic material to the Commissioner. LEAs were also required to report to panel judges any material change in circumstances which involved LPP or journalistic material. He said that since ICSO came into operation some nine years ago, about 60 law enforcement officers had been subject to different levels of disciplinary actions.

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Monitoring of the work of LEAs by the Commissioner

29. Mr Frankie YICK asked how the Commissioner would monitor the work of LEAs before passage of the Amendment Bill, which was under scrutiny by a Bills Committee.

30. S for S stressed that LEAs had to act in accordance with the law. Interception of communications and covert surveillance conducted by LEAs were monitored by the Commissioner. There were established mechanisms for LEAs and panel judges to provide weekly reports to the Commissioner to facilitate his monitoring work. Information provided by LEAs were cross-checked by the Commissioner against information provided by panel judges.

31. S for S added that the Amendment Bill sought to introduce, among other things, a former Commissioner's recommendation to amend ICSO to expressly empower the Commissioner and staff designated by him to examine products of interception and surveillance. In this connection, relevant intercept products had been retained by LEAs for the Commissioner's checking after passage of the Amendment Bill.

32. Mr YIU Si-wing expressed concern that discussions of the Bills Committee had been mainly focused on side issues not directly related to the subject of empowering the Commissioner to examine products of interception and surveillance. He hoped that the Bills Committee could complete its scrutiny of the Amendment Bill in the short future.

33. Referring to paragraph 7.2(b) of the Annual Report, Mr Frankie YICK asked whether there were written guidelines on the arrangements for safeguards against protected products.

34. S for S responded that the LEA concerned had issued written guidelines on interception of communications and surveillance, with the safeguards against protected products included in such guidelines. On the recommendation of the Commissioner, the LEA concerned had developed a separate set of written guidelines on the arrangements to ensure compliance with the requirements for safeguards against protected products.

[To allow sufficient time for discussion, the Chairman advised that the meeting would be extended to 4:45 pm.]

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V. Marine fire-fighting and rescue strategies of the Fire Services Department and procurement of two fire vessels
(LC Paper Nos. CB(2)341/15-16(04) and (05))

35. The Chairman drew Members' attention to Rule 83A of the Rules of Procedure concerning the requirement of disclosing personal pecuniary interest.

36. Under Secretary for Security ("US for S") briefed Members on the marine fire-fighting and rescue strategies of the Fire Services Department ("FSD") and the Administration's proposal to procure a fireboat and a fast rescue vessel.

37. Members noted an information note entitled "Marine fire-fighting and rescue strategies of the Fire Services Department" prepared by the LegCo Secretariat.

Target response time for marine fire and incidents

38. Mr James TO expressed concern that in a recent hydrofoil accident in Hong Kong waters, many passengers had complained of insufficient ambulancemen for handling the large number of injured passengers. He asked whether the Administration would consider establishing a target response time for the arrival of fire vessels at the scene of marine incidents.

39. Mr CHAN Chi-chuen expressed support for the Administration's proposal to procure two fire vessels. He considered that the Administration should consider establishing a target response time for the arrival of fire vessels at the scene of marine fire or incidents. He also expressed concern about whether FSD had reviewed its fire-fighting efficiency in the vessel fire at Shau Kei Wan Typhoon Shelter in September 2015.

40. Mr LEUNG Kwok-hung considered that the Administration should consider establishing a target response time for the arrival of fire vessels at the scene of marine fire or incidents. Noting that the Hong Kong Fire Services Department Ambulancemen's Union had suggested the establishment of an ambulance launch fleet, he expressed concern about whether the suggestion would be considered by the Administration.

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41. US for S responded that marine rescue operations were carried out by FSD in collaboration with relevant government departments including the Marine Department ("MD") and the Marine Police. As marine rescue operations are affected by a range of different factors, it would not be practicable to set an appropriate target response time whether or not for a specific area of waters. Rescue was to commence as soon as possible and vessels of any relevant government department in the vicinity would be immediately deployed to proceed to the scene. It was the objective of FSD to dispatch fire vessels to the scene as quickly as possible.

42. Deputy Director of Fire Services ("DDFS") said that the actual time taken for fire vessels to arrive at the scene of marine fire was subject to various factors, including the location of relevant vessels at the time of call, the marine traffic at that time, weather, wind speed and direction of current as well as the maximum speed of fire vessels. He pointed out that under the present system, fire vessels were positioned at various strategic locations to facilitate marine fire-fighting and rescue.

43. Mr WONG Yuk-man considered that more detailed information on the proposal to procure two fire vessels should be provided in the Administration's paper. Regarding a vessel fire which broke out at Shau Kei Wan on 27 September 2015, he expressed concern that it had taken about 26 minutes for a fireboat to arrive at the scene. He queried why a target response time could not be set for fire vessels. He added that fixed fire service installations should be provided on the shore of typhoon shelters so that land crews of FSD could carry out fire-fighting immediately upon arrival at the typhoon shelters.

Issues relating to typhoon shelter fire

44. Mr Steven HO expressed support for the Administration's proposal to procure two fire vessels. He said that there was a higher risk of typhoon fire when a large number of vessels returned to berth at the typhoon shelters during fishing moratorium and festive periods. He expressed concern that according to information provided in the Administration's reply to a question raised at a Council Meeting, the time taken for a fireboat to arrive at a typhoon shelter could be as long as 46 minutes. He queried whether the proposed procurement of two fire vessels could address the fire-fighting and rescue needs at typhoon shelters. He expressed concern that the risk of marine fire and incidents in the waters of Hong Kong would increase with the commissioning of more works projects such as the construction of the third runway for the

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Hong Kong International Airport. He said that the Administration should continue with its review of the fire-fighting strategy at typhoon shelters and provide members with the results of its review in such area.

45. US for S responded that the two proposed fire vessels would be stationed in Sai Kung waters to shorten the response time in deploying fire service resources from the Victoria Harbour to maritime incidents which occurred in the eastern waters of Hong Kong. As regards typhoon shelters, he said that fireboats were currently stationed at the Aberdeen and Cheung Chau typhoon shelters where water depth was sufficient and adequate space was available for accommodating the supporting facilities. During peak seasons including the fishing moratorium and important festive periods, FSD would step up patrol along the shipping channels within typhoon shelters.

46. DDFS said that FSD was very concerned about typhoon shelter fire. Apart from the deployment of fire vessels, fire appliances were mobilised from on-shore fire stations near typhoon shelters by the land crew of FSD who would board police launches and set off for the scene to carry out fire-fighting and rescue operations. This was in accordance with operational protocol in which police would assist to dispatch police launches to convey FSD officers quickly from land to the scene at sea. FSD was procuring more advanced portable fire pumps for fire stations near typhoon shelters to enhance the fire-fighting capability of the land crew. Publicity and thematic talks on fire prevention were organized for fishermen groups.

47. Mr Frankie YICK expressed support for the Administration's proposal to procure two fire vessels. He said that the difficulties encountered by the fireboat to enter the Shau Kei Wan Typhoon Shelter in September 2015 reflected the need for FSD to procure more small fire vessels. DDFS responded that small fire vessels were deployed by FSD to scenes of fire or incident, where necessary. In addition, small fire vessels were deployed at certain typhoon shelters especially at periods when there was a higher risk of vessel fire.

Other issues

48. Mr Frankie YICK expressed concern about reports that the difference in level between the deck of rescue vessels and the vessel in distress might have hindered rescue work. DDFS responded that certain fire vessels were equipped with gangways to facilitate access to vessels in distress. With the procurement of more portable equipment, the

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flexibility of marine fire-fighting and rescue work would be further enhanced.

49. Mr Frankie YICK said that regular exchanges should be arranged between FSD and the marine transport industry to update the latter on the latest information and measures on fire prevention. DDFS responded that thematic talks on fire prevention were regularly organized by FSD for relevant groups to remind them of the precautions when using and maintaining electrical installations on vessels and to teach them on the correct use of fire extinguishers.

50. Mr YIU Si-wing expressed support for the Administration's proposal to procure two fire vessels. Noting that there were only about 21 fire vessels available for deployment by FSD, he said that the Administration should carry out a review on the fire-fighting needs of different water areas in Hong Kong, having regard to the respective traffic volume, accident rate as well as infrastructure, and redeploy the fire vessels among different water areas in Hong Kong.

51. US for S responded that FSD reviewed from time to time its marine fire-fighting and rescue strategies as well as equipment needs. The proposal to procure two fire vessels had been drawn up after reviewing the maritime operational needs of the eastern waters of Hong Kong. FSD had, as a member of the International Maritime Rescue Federation, made exchanges with the relevant marine rescue bodies of other places on the latest strategies and technology in marine rescue. He said that under an inter-departmental "Contingency Plan for Maritime and Aeronautical Search and Rescue", MD acted as the Search Director to coordinate search and rescue operations within Hong Kong waters and was responsible for the deployment of vessels for the operations. For instance, there were 26 police launches equipped with fire-fighting equipment which could also be deployed in marine fire-fighting and rescue operations, as and when necessary.

52. The Chairman concluded that members supported in principle the Administration's proposal to procure a fireboat and a fast rescue vessel.

53. There being no other business, the meeting ended at 4:39 pm.