

立法會
Legislative Council

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Establishment Subcommittee of the Finance Committee

Minutes of the 6th meeting
held in Conference Room 1 of Legislative Council Complex
on Tuesday, 7 February 2017, at 8:30 am

Members present:

Hon Mrs Regina IP LAU Suk-yee, GBS, JP (Chairman)
Hon Alvin YEUNG (Deputy Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Steven HO Chun-yin, BBS
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Dr Hon Fernando CHEUNG Chiu-hung
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting

Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon HUI Chi-fung
Hon LUK Chung-hung
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Nathan LAW Kwun-chung
Dr Hon YIU Chung-yim
Dr Hon LAU Siu-lai

Members absent:

Hon James TO Kun-sun
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Dr Hon Helena WONG Pik-wan
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon SHIU Ka-chun
Hon LAU Kwok-fan, MH

Public Officers attending:

Ms Carol YUEN Siu-wai, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) 1
Mr Eddie MAK Tak-wai, JP	Deputy Secretary for the Civil Service 1
Mr John LEE, PDSM, PMSM, JP	Under Secretary for Security
Mr Andrew TSANG	Principal Assistant Secretary for Security E
Mr Stanley CHUNG	Assistant Commissioner of Police (Crime)
Mr Anthony TSANG	Senior Superintendent of Police (Cyber Security and Technology Crime Bureau)
Dr Frank LAW	Superintendent of Police (Cyber Security and Technology Crime Bureau)

Clerk in attendance:

Ms Connie SZETO Chief Council Secretary (1)4

Staff in attendance:

Mr Keith WONG	Council Secretary (1)4
Ms Alice CHEUNG	Senior Legislative Assistant (1)1
Miss Yannes HO	Legislative Assistant (1)6
Ms Haley CHEUNG	Legislative Assistant (1)9

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The Chairman drew members' attention to the information paper ECI(2016-17)12, which set out the latest changes in the directorate establishment approved since 2002 and the changes to the directorate establishment in relation to the four items on the agenda. She then reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP"), they should disclose the nature of any direct or indirect pecuniary interest relating to the funding proposal under discussion at the meeting before they spoke on the item. She also drew members' attention to RoP 84 on voting in case of direct pecuniary interest.

EC(2016-17)23 Proposed creation of one permanent post of Chief Superintendent of Police (PPS 55) in the Hong Kong Police Force with effect from the date of approval by the Finance Committee to lead the Cyber Security and Technology Crime Bureau

2. The Chairman remarked that the staffing proposal was to create one permanent post of Chief Superintendent of Police ("CSP") (PPS 55) in the Hong Kong Police Force ("HKPF") with effect from the date of approval by the Finance Committee to lead the Cyber Security and Technology Crime Bureau ("CSTCB").

3. The Chairman remarked that the Administration had consulted the Panel on Security on the staffing proposal on 3 June 2014 and 6 December 2016. At the meeting of the Panel on Security held on 6 December 2016, a number of members expressed support for the proposal with a view to combating increasingly complex technology crimes and cyber attacks. Members generally agreed to the Administration's submission of the proposal to the Establishment Subcommittee. Members also noted Dr CHENG Chung-tai's remark that he was not supportive of the creation

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of the CSP post. Some members were concerned about the qualification requirements for the proposed CSP post and how the post would be filled. Moreover, given that the number of technology crimes and the losses involved had continued to rise in recent years, some members requested the Administration to provide the figures of technology crimes and the amount of losses by nature of such cases. Some members were also concerned about whether the Administration would make arrests under section 161 of the Crimes Ordinance (Cap. 200) ("CO") in respect of "access to computer with criminal or dishonest intent", but prosecutions were eventually instituted for breach of other offences. These members requested the Administration to provide the figures of arrests, prosecutions and convictions under section 161 of CO.

4. The Chairman pointed out that the Secretariat had before the meeting received a paper (LC Paper No. ESC49/16-17(01)) submitted by Mr Nathan LAW requesting the Administration to provide supplementary information on the staffing proposal. The Administration had prepared the relevant information (LC Paper No. ESC52/16-17(01)) and the paper concerned had been distributed to members at the meeting.

Work of the proposed post

5. Mr CHAN Chi-chuen pointed out that CSTCB had been headed only by a Senior Superintendent of Police ("SSP") since its establishment more than two years ago. He enquired about the difference between the creation of the CSP post and the present arrangement of having SSP as the head.

6. Senior Superintendent of Police (Cyber Security and Technology Crime Bureau) ("SSP(CSTCB)") pointed out that in his current capacity as head of CSTCB, the bulk of his work was to direct subordinates in detection of technology crime cases and oversee CSTCB's internal management. Other work of a leading nature could only be handled in the remainder of the time, including formulating long-term strategies for strengthening the capabilities in preventing and combating technology crimes and handling cyber security incidents, training frontline police officers and engaging with overseas law enforcement agencies ("LEAs") for combating cross-border technology crimes. Maintaining the current work arrangements would affect the effectiveness of CSTCB's work in the long run.

7. Ms Alice MAK, Mr YIU Si-wing and Mr CHAN Chun-ying expressed support for creating the proposed post. Ms MAK opined that as the number of technology crimes and the relevant amount of losses had

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increased significantly over the past few years, the creation of the CSP post to lead CSTCB could not only strengthen its capabilities but also demonstrate to the public the Government's determination in combating technology crimes. Mr YIU and Mr CHAN enquired about the work targets of the proposed post.

8. Under Secretary for Security ("US for S") said that the overall crime rate of Hong Kong had dropped by more than 10% over the past five years, while the rate of technology crimes had increased five-fold over the same period, showing that technology crimes were getting more serious. It was undesirable that the CSP post had not been created to lead CSTCB's work since its establishment two years ago. He pointed out that the purpose of creating the CSP post was not only to combat technology crimes; given the advances in technology, it was essential to appoint an officer with leadership talents and foresight in future technological development to lead the work of CSTCB. Assistant Commissioner of Police (Crime) ("ACP(Crime)") supplemented that the new CSP would strengthen liaison and cooperation with other overseas LEAs in respect of cross-border technology crimes and would also handle work related to internal management and training, including enhancing training for police officers so as to strengthen their capabilities in investigating technology crimes. The new CSP had to be forward-looking in envisaging the risks of crime brought about by future technological development so as to facilitate the formulation of long-term work strategies for CSTCB. In tackling large-scale cyber attacks, the new CSP also had to be capable of making decisions to coordinate timely response across various units.

9. Mr Holden CHOW and Mr SHIU Ka-fai supported creating the proposed post. As the work of combating technology crimes was normally led by officers at Assistant Commissioner rank in overseas LEAs, they were concerned about whether the cooperation between the Police and overseas LEAs would be affected by the incommensurability of the respective ranks if CSTCB of HKPF was only led by a CSP post.

10. US for S shared the observation of members. He pointed out that in the LEAs of the United Kingdom, Australia and Singapore, the work of combating technology crimes was currently led by commissioners or directorate officers. In addition, HKPF often needed to attend international seminars on combating crimes. If representatives from the Police were of remarkably different ranks compared with their overseas counterparts, the effectiveness of their exchange would be affected.

11. Dr YIU Chung-yim enquired how the Administration would conduct a value-for-money assessment on the performance of the proposed

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post, and asked about the anticipated impact on the technology crime figures of Hong Kong after creation of the post.

12. US for S replied that there was no simple formula for calculating how the engagement of a police officer would affect crime figures. He reiterated that the Police hoped that the new CSP could meet the various job requirements and targets after taking office. ACP(Crime), who would be the supervisor of the new post, would supervise his work and assess his performance in accordance with the current mechanism.

(At 9:11 am, the Chairman invited the Deputy Chairman to chair the remainder of the meeting on her behalf. The Deputy Chairman then took the chair.)

Technology crime trend

13. Mr YIU Si-wing noted from paragraph 7 of the Government's paper that the number of cyber attacks in Hong Kong had been increasing in recent years. He expressed concern about the situation and enquired about the reason for that.

14. US for S replied that given the very high technology penetration rate in Hong Kong and the high mobile and broadband Internet usage rates compared with other regions, the risks of attacks were correspondingly higher. In this regard, the Police were all along committed to working with the Hong Kong Computer Emergency Response Team Coordination Centre and other information technology-related departments of the Government to educate the public through organizing activities such as seminars to enhance public awareness of cyber security and their ability in protecting themselves.

15. Dr CHIANG Lai-wan was concerned that the problems of online frauds, defamation and bullying were serious at present. She commented that the Police should deploy additional manpower to conduct cyber patrols in order to combat such misconducts. She was also concerned about whether CSTCB had sufficient manpower at present.

16. ACP(Crime) replied that there were 238 non-directorate staff in CSTCB at present. In addition to increasing the number of police officers in CSTCB educating the public to use computers properly was also an important means to prevent technology crimes. In this regard, the Police were all along committed to working with other law enforcement departments and LEAs, and initiatives included Cyber Security Competition for educating students as well as Cyber Security Summit for

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disseminating the message of cyber safety.

17. Mr CHAN Chun-ying enquired about the resources that the Administration would deploy to support the Cyber Range and the Cyber-attack Intelligence Sharing Platform initiatives as mentioned in paragraph 12 of the Government's paper for enhancing the capabilities of financial institutions in guarding against cyber attacks.

18. Superintendent of Police (Cyber Security and Technology Crime Bureau) replied that the Cyber Range allowed the simulation of cyber attacks of a larger scale, including malwares and Distributed Denial of Service attacks. Financial institutions could practise how to guard against these attacks through the use of the Cyber Range so as to enhance their defence techniques. Separately, the Cyber-attack Intelligence Sharing Platform would gather from the Internet the intelligence posing threats to the financial system and would disseminate relevant messages to the stakeholders participating in the initiative, with a view to reminding them to protect themselves properly. He added that the Police would keep reviewing their resources and purchase various types of new facilities to help guard against web attacks.

19. Mr LUK Chung-hung pointed out that some of the cyber misconducts involved spying on the confidential information in the computers of others. He enquired whether the proposed post would be responsible for reviewing the current legislation to address this type of misconduct.

20. US for S pointed out that the Police could deal with relevant misconduct through section 161 of CO at present. He supplemented that with the rapid development of technology, some online crimes not covered under existing legislation might turn up in the future, and the new CSP would complement the Law Reform Commission ("LRC")'s efforts if LRC studied and reviewed the legislation in relation to technology crimes.

21. Mr HO Kai-ming pointed out that there were quite a number of technology crimes in Hong Kong involving blackmails through the Internet by lawbreakers outside Hong Kong, and enquired how the Police would follow up such cases. ACP(Crime) replied that if the technology crimes reported involved lawbreakers outside Hong Kong, the Police would normally follow up these cases through overseas organizations, such as the INTERPOL and the G7 High Tech Crime Sub-group. He supplemented that importance had all along been attached in the international arena to combating technology crimes, and the new CSP would enhance the liaison and cooperation with overseas LEAs.

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Concerns over section 161 of the Crimes Ordinance

22. The Deputy Chairman, Mr Charles Peter MOK, Dr KWOK Ka-ki and Mr HUI Chi-fung were worried that the Police would make arrests or institute prosecutions in respect of the remarks posted on the Internet which were not favourable to the Government or incited members of the public to take part in political assemblies when invoking section 161 of CO to handle technology crimes. The practice of the Police would tighten the freedom of speech enjoyed by the public. They requested the Police to disclose the figures of arrests, prosecutions and convictions made under section 161 of CO in the past and provide a statistical breakdown by nature of such cases, so as to address the concerns of the public by demonstrating that the Police would not suppress the freedom of speech by abusing section 161 of CO. They agreed that the problem of technology crimes was serious and it was reasonable to create the proposed post, but the Police had been refusing to provide Members with such figures, so the proposal to create the post had yet to be endorsed. Mr LEUNG Kwok-hung opined that the Legislative Council ("LegCo") was responsible for monitoring the work of the Police, and the Police had to provide the statistics requested by Members to facilitate LegCo's monitoring unless there were technical constraints or the contents were subject to confidentiality agreements.

23. US for S appreciated Members' concerns about section 161 of CO. He pointed out that the relevant subject had been discussed in LegCo on a number of occasions in the past. He advised that the arrests that the Police had made by invoking section 161 of CO in the past involved different types of cases, including disseminating bomb threats on the Internet, clandestine photo-taking and attacks on the financial system, yet most of the cases were unrelated to the remarks of the offenders. Law enforcement departments would collect and compile different statistics in the light of operational needs, such as whether they might lead to successful detection of cases. As regards section 161 of CO, the Police did not maintain a breakdown on convictions as their deployment targeting the offences under section 161 was based on the overall figures of such offences rather than the breakdown; as in the case of burglary and "bogus accounting", the Police would not maintain a statistical breakdown on such offences. There was no question of refusing to provide members with relevant information. He stressed that the Police maintained high transparency in invoking section 161 of CO to handle crime cases; also, the Police would only take action against unlawful acts, and no political consideration was involved. The arrestees in the past included persons supporting the Government and those opposing it, showing that the Police were unbiased. He was aware that LRC was considering a review of section 161 of CO, and the Police would complement LRC's efforts and offer advice. ACP(Crime) supplemented that figures of arrests,

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prosecutions and convictions by the Police under section 161 of CO from 2014 to 2016 were set out in Enclosure 5 of the Government's paper. In addition, information on the nature of technology crimes was also provided in Enclosure 5.

24. Mr Holden CHOW, Mr LUK Chung-hung, Mr HO Kai-ming and Mr KWOK Wai-keung were dissatisfied that non-establishment members had delayed consideration of the item on the ground of Police's refusal to provide statistics. They considered that non-establishment members should be held responsible for the significant rise in the number of technology crimes over the past few years. Mr SHIU Ka-fai hoped that members of different political parties and groupings could minimize controversy for the expeditious creation of the proposed post.

25. Mr LAM Cheuk-ting pointed out that members had been requesting the Police to provide a statistical breakdown as there were many cases involving the abuse of power by the Police in the past, which gave rise to public suspicion on whether the Police would handle cases in a just and impartial manner, especially for cases involving crimes committed by police officers. He opined that the crux of the problem was insufficient mutual trust between members of the public and the Police.

26. US for S pointed out that it was understandable that the Police and members of the public held different views on certain subjects, but it would be unfair for the public to attack the Police on this ground. He stressed that the Police had been addressing irregularities within the Police in a serious manner in accordance with established procedures.

Hacking software

27. Mr CHU Hoi-dick pointed out that the supplementary paper provided by the Administration (LC Paper No. ESC52/16-17(01)) failed to give an account of whether the Police had purchased hacking software and used such software in the investigation of cases. He also requested the Administration to explain how the Interception of Communications and Surveillance Ordinance (Cap. 589) regulated the use of hacking software in Police's investigation of cases and the procedures concerning the use of such software.

28. US for S said that the Police would not make public the means of gathering intelligence, but stressed that the Police had to collect intelligence and evidence by legitimate means when investigating cases and would not gain access to the computer systems of others under circumstances not permitted by the law. If certain means of investigation required approval by a judge, the Police would make the applications in

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compliance with the requirements under relevant legislation. He supplemented that it was necessary for the Police to understand the defrauding tricks currently employed by hackers and their abilities to ensure effective prevention and detection of offences in this regard.

Procedural matters

29. In his speech, Mr Holden CHOW mentioned that the discussion at this meeting could be described as a "witch mirror" showing how members from the opposition camp had put public interests at risk and attempted to smear the Police in their speeches. Dr Fernando CHEUNG, Mr CHU Hoi-dick and Mr LEUNG Kwok-hung raised a point of order that a member should not use offensive language and should not impute improper motives to another member under RoP 41(4) and (5). Mr CHEUNG and Mr CHU requested Mr Holden CHOW to withdraw his remarks.

30. The Deputy Chairman requested clarification by Mr Holden CHOW. Mr Holden CHOW said that the content of his speech was factual; he had neither speculated about the motives of individual members nor quoted anyone by name; he would not withdraw his remarks.

31. While Mr Holden CHOW was speaking, Mr LEUNG Kwok-hung spoke loudly in his seat that "the Democratic Alliance for the Betterment and Progress of Hong Kong is rubbish". Mr Holden CHOW considered Mr LEUNG's speech offensive. Mr Abraham SHEK also commented that while Mr LEUNG Kwok-hung's remark was directed at a political party, it had offended the members of that political party as well. The Deputy Chairman appreciated the views of Mr CHOW and Mr SHEK, but he pointed out that RoP 41 had not provided for the contents of speeches directed at an organization.

32. At 10:27 am, the Deputy Chairman enquired if members agreed to extend the meeting to deal with the point of order raised by members. As no members supported extending the meeting, the Deputy Chairman declared that the meeting be adjourned. The Subcommittee would continue to discuss this item at the meeting on 8 February 2017.

33. The meeting ended at 10:30 am.