

立法會

Legislative Council

LC Paper No. CB(2)1271/19-20

Ref : CB2/PL/SE

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 ("the Panel") during the 2019-2020 session of the Legislative Council ("LegCo"). It will be tabled at the Council meeting of 8 July 2020 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 50 members in the 2019-2020 session, with Hon CHAN Hak-kan and Hon YUNG Hoi-yan elected as its Chairman and Deputy Chairman respectively. The membership list of the Panel is in **Appendix II**.

Major work

Maintaining public order and safety

4. Maintenance of law and order in Hong Kong has all along been a matter of great concern to the Panel. Since June 2019, there had been continued public order events including protests and rallies in Hong Kong, which were triggered by the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Fugitive Offenders Bill"), and

some of them ended up in violence. During this session, the Panel followed up with the Administration on its handling of public order events. At the briefing by the Commissioner of Police on the overall law and order situation in 2019, members noted that the overall crime figure in the first half of 2019 recorded a drop of 4.7% when compared with that of 2018 (which was a record low since half yearly figures had been maintained in 1997), but since June 2019 the yearly figure of 2019 recorded an increase for the first time since 2007.

5. Some members expressed grave concern about the rise of 9.1% of violent crime and the drop of 13.8% of detection rate of violent crime in 2019 when compared with 2018. Considering that the continuous escalation of violent acts since June 2019 was reversing the good law and order that Hong Kong used to maintain, these members were highly concerned about the Police's efforts and capability in handling radical protests. They were also concerned that the deteriorating law and order situation in Hong Kong was attributable to the thinning out of crime prevention work and resources of the Police to cope with public order events since June 2019. These members called on the Police to deploy sufficient officers for anti-crime patrol and law enforcement as well as upgrade Police's equipment, with a view to curbing violent acts and restoring social order. The Administration advised that the Police would deploy adequate manpower for anti-crime patrol, upgrade Police's equipment, strengthen law enforcement and improve the overall law-abiding awareness of the society. Members were also advised that majority of police officers had returned to the frontline and resumed patrol duties since March 2020 subsequent to the winding down of violent protests.

6. Some other members, however, criticized that the Police had used unnecessary and excessive force against members of the public who peacefully participated in the public order events arising from the Fugitive Offenders Bill since June 2019. These members were much concerned about the Police's follow-up in respect of complaints and allegations of inappropriate handling of arrested persons and hindrance of reporters' work during several protests and rallies related to the Fugitive Offenders Bill. They pointed out that the findings of several opinion polls showed that many people were strongly dissatisfied with the Police's overall performance during these incidents. To address the public concern over the Police's excessive use of force, these members strongly urged the Police to make public the relevant investigation results without delay and take appropriate sanctions against those police officers concerned. Separately, some members strongly called on the Administration to set up an independent commission of inquiry to investigate the Police's handling of protests and rallies related to the Fugitive Offenders Bill, with a view to giving a fair and objective account of the facts of the matters.

7. Members were assured that the Police would handle every case in a fair, just and impartial manner in accordance with the law. The Police had stringent guidelines on the use of force. Police officers might use minimum force as appropriate only when such an action was necessary. It should, however, be noted that when situations such as illegal blockage of roads, unlawful assembly and violent charging at police cordon lines occurred, the Police would, after making risk assessment, take appropriate actions to ensure public safety and public order. According to the Administration, the Independent Police Complaints Council, with its experience and expertise, was the most suitable authority to conduct the thematic study on public order events since June 2019.

8. Noting that there was a remarkable increase in proportion of students and youngsters being arrested for taking part in unlawful public order events, some members were concerned that some people were romanticizing violent acts and promoting hostile views against the Police, which instigated more people, especially young people, to commit crime. These members called on the Police to step up public education in collaboration with schools to enhance the law-abiding awareness of students such that they could better understand that they need to take responsibility for their own behaviour, and that the consequence of having a criminal record for life would have a profound impact on their future. The Administration advised that to tackle youth crime, the Police, apart from investigating the arrested youths, would pursue those people inciting them to commit unlawful acts. It would take heed of members' views on launching its public education programmes and also appealed to parents and teachers to cultivate correct values among students and youngsters.

Seemingly emergence of local terrorism

9. Members noted with grave concern that some 10 cases involving explosives and firearms had been taken place since July 2019, which were alarming in term of both their destructive power and quantities. The Panel discussed with the Administration the strategy to prevent and tackle the seemingly emerging local terrorism in Hong Kong.

10. In the light of the numerous cases involving explosives and firearms stemmed from the protests and rallies related to the Fugitive Offenders Bill, some members expressed grave concern that these cases showed signs of the breeding of local terrorism which was definitely threatening public safety. To combat the threat of local terrorism, they considered that the Administration should institute prosecution against cases of explosives and firearms under the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) ("UNATMO"). Some other members, however, expressed the view that the Administration should not make use of the anti-terrorism legislation to suppress

protests. They pointed out that the definition of "terrorist act" under UNATMO was too wide and was not fully complied with the relevant United Nations Security Council Resolution. Notably, the use or threat of action in the course of any advocacy, protest, dissent or industrial action would be exempted from UNATMO only under certain circumstances. Instead, the Administration should narrow the definition of "terrorist act" to specific circumstances commensurate with the severity of the offence of terrorism to prevent capturing inappropriately protests or acts, such as participating in public order events, as terrorist activities.

11. The Administration advised that the definition of "terrorist act" was clearly spelt out in UNATMO. If sufficient evidence was found upon investigation, the Police and Department of Justice would consider prosecution under UNATMO, and would also consider freezing assets involved in terrorist activities. Regardless of whether UNATMO was invoked, possession and use of explosives and firearms per se were very serious criminal offences and breached the Crimes Ordinance (Cap. 200), the Firearms and Ammunition Ordinance (Cap. 238), the Organized and Serious Crimes Ordinance (Cap. 455) with a maximum penalty of life imprisonment.

12. Given that the terrorist threat level of Hong Kong was moderate, most members took the view that the Administration should enhance its counter-terrorism preparedness and response against terrorist threat. They also called on the Administration to step up its publicity work to raise the awareness of the public to guard against suspected explosives and strengthen law-abiding value of the public, in particular the youths, to prevent local terrorism from taking root in Hong Kong. The Administration advised that an Inter-departmental Counter-terrorism Unit comprising members from six disciplined services was set up in April 2018 to strengthen the Government's overall counter-terrorism capability and public education programmes on counter-terrorism awareness. Members were assured that the Government would keep a close watch over the situation and keep enhancing its capability and preparedness in the prevention and response against terrorist attacks.

Corruption-related matters

13. At the Panel's request, the Independent Commission Against Corruption ("ICAC") exchanged views with members on its work progress and planning for the year ahead. Members were pleased to note that corruption in Hong Kong continued to be under control, as registered by a decrease in the number of corruption complaints.

14. In view of the public concern over Government's various initiatives on innovation and technology development, which involved substantial amount of public money, members took the view that ICAC should assist the relevant government bureaux/departments as well as public bodies to ensure that the relevant procurement procedures and work practices were corruption resistant. In light of a series of cases involving malpractice in major public works projects, some members also called on ICAC to assist the relevant works departments and major public bodies to enhance their systems for the supervision of works projects. Members were advised that ICAC would continue to provide corruption prevention advice to government bureaux/departments and public bodies. Specifically, a review of the site supervision system for public works projects and the use of digital technologies in the system was underway.

15. Some members expressed concern that Hong Kong's score under the Corruption Perceptions Index released by the Transparency International had dropped from 84/100 in 2010 to 76/100 in 2019. To uphold Hong Kong's probity environment, these members considered that ICAC should thoroughly investigate all complaints of corruption and misconduct in public office and institute prosecution as appropriate. Some members also expressed concern about ICAC's investigation progress in respect of complaints against serious abuse of office by some high-ranking police officers in handling cases of assaults during protests and rallies related to the Fugitive Offenders Bill. They considered that these police officers had committed the offence of misconduct in public office and had created a negative impact on the integrity and conduct of the Police. They called on ICAC to uphold its impartiality in conducting investigation into complaints concerned and make public the results of investigation. According to ICAC, despite isolated prosecutions and convictions involving public servants, the civil service generally remained clean and honest. Members were assured that ICAC would follow up all complaints and investigate all pursuable reports of corruption in strict accordance with the law.

Fire safety

16. It was announced in the 2017 Policy Address that a \$2 billion Fire Safety Improvement Works Subsidy Scheme ("FSW Scheme") would be launched to subsidize owners of target composite buildings in complying with the requirements on enhancing the fire safety of common areas of the target buildings concerned pursuant to the Fire Safety (Buildings) Ordinance (Cap. 572) ("FS(B)O"). In mid-2018, the Government jointly launched the FSW Scheme with the Urban Renewal Authority with an allocation of \$2 billion. The Panel discussed with the Administration the progress of the FSW Scheme, and was also briefed on the proposal to allocate an additional funding of \$3.5

billion to the FSW Scheme to subsidize more owners of target composite buildings.

17. Members welcomed and supported the proposal to allocate an additional funding of \$3.5 billion to the FSW Scheme to benefit more target buildings which, according to the Administration, would cover all eligible target buildings (i.e. around 6 000 to 6 500 buildings) regulated under FS(B)O and in need for subsidy. Members, however, were concerned about the slow implementation progress of the FSW Scheme given that only around 400 to 500 applications could be processed annually. Some members also expressed grave concern that owners of old buildings encountered many difficulties, such as structural or spatial constraints of buildings, in carrying out fire safety improvement works required under FS(B)O and urged the Administration to adopt a flexible and pragmatic approach in handling individual cases.

18. The Administration advised that the number of applications to be processed per year under the FSW Scheme was drawn up taking into account the market capacity of qualified professionals in a bid to avoid driving up the costs of the fire safety improvement works required under FS(B)O and to ensure the quality of the works carried out. The Administration took heed of members' concerns and assured members that it would keep in view the implementation progress of the FSW Scheme.

Correctional institution management

19. According to the Administration, most of the correctional facilities were either aged or converted from buildings originally used for other purposes. The manually-operated mechanical locks at the gates of correctional institutions were one of the facilities that required improvement. In this session, the Panel was consulted on the proposal to install electronic locks security system in the Shek Pik Prison to enhance the efficiency of institutional management and level of security.

20. Members in general expressed support for the funding proposal. Most members, however, expressed concern that the overall progress of installation of electronic locks systems in various correctional institutions was too slow as it normally took more than seven years for project completion. They called on the Administration to expedite the implementation schedule. The Administration advised that as some correctional institutions had been built a few decades ago, some facilities therein would unavoidably need to be refurbished or modified before the installation of electronic locks security system and the installation work had to be carried out in stages.

21. Noting the adoption of facial recognition technology in the proposed electronic locks security system in the Shek Pik Prison to enhance operational efficiency, members requested the Administration to safeguard the privacy of staff and inmates concerned. The Administration advised that the use of facial recognition function would allow staff in the control room to promptly confirm the identity of staff pressing the call button, and prevent unauthorized access to restricted areas or leaving of designated areas. Moreover, the facial recognition function was used for staff identification only, and relevant staff information and data would be deleted upon their resignation or retirement.

Interception of communications and surveillance

22. Under section 49 of the Interception of Communications and Surveillance Ordinance (Cap. 589) ("ICSO"), the Commissioner on Interception of Communications and Surveillance ("the Commissioner") shall, for each report period, submit a report to the Chief Executive ("CE"). In the course of examination of the Interception of Communications and Surveillance Bill, the Administration undertook, inter alia, to report to the Panel the results of the Administration's study of matters raised in the Commissioner's annual report to CE. In this session, the Administration reported to the Panel in January 2020 on its responses to the observations and recommendations made in the Commissioner's 2018 Annual Report.

23. Members in general considered that the ICSO regime had provided a stringent control and monitoring at all stages of law enforcement agencies' interception of communications and covert surveillance operations. Noting that most of the non-compliant cases mentioned in the Commissioner's annual report were occasions where officers were not vigilant and cautious enough in discharging ICSO duties, some members suggested that relevant law enforcement officers should be required to undergo assessment so as to ensure that they were familiar with the requirements in ICSO. The Administration advised that although relevant officers were not required to undergo assessment on the requirements in ICSO, law enforcement agencies concerned had provided diversified training to all officers assigned to ICSO duties, including induction and refresher training, briefings, seminars, workshops, practical training, theoretical and case-sharing sessions, which particularly covered issues on legal professional privilege and journalistic material.

24. Some members expressed concern that electronic messages/digital contents were transmitted via social media and instant message applications within seconds and it would be difficult, if not impossible, to be intercepted. Hence, records stored in mobile phones or other similar devices after transmission were beyond the scope of regulation under the existing ICSO.

Having regard to the proliferation of use of social media and instant message applications among members of the public, these members took the view that the Administration should conduct an overhaul of ICSO to address the inadequacy and possible loophole of the regime.

25. The Administration advised that as the definition of "interception" in ICSO did not explicitly stipulate the means of communication to be regulated, it was sufficiently broad so as not to be circumvented by specific technologies. The ICSO regime was similar to those in many overseas jurisdictions, and considered suitable for the situation in Hong Kong and should continue to operate. Therefore, it was considered not necessary for a review of or amendments to ICSO. The Administration assured members that it would continue to closely monitor the operation of ICSO, and fully cooperate with the Commissioner and the panel judges, with a view to better carrying out the objects of ICSO.

Meetings held and visit conducted

26. From October 2019 to June 2020, the Panel held a total of seven meetings, including three special meetings. Due to the outbreak of the Coronavirus disease 2019 in early 2020, the Panel meetings originally scheduled for February to April 2020 were not held. The Panel has scheduled another meeting in July 2020 to discuss the drug situation in Hong Kong in 2019, the proposed introduction of offences on voyeurism and non-consensual photography of intimate parts, and related offences as well as the proposed Member's Bill entitled "Public Inquiry (2019 Disturbances) Bill". The Panel also conducted a visit to the San Uk Ling Holding Centre on 26 May 2020 to better understand the detention facilities therein and procedures for handling detained persons.

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.

Panel on Security

Membership list for the 2019-2020 session*

Chairman	Hon CHAN Hak-kan, BBS, JP
Deputy Chairman	Hon YUNG Hoi-yan, JP
Members	Hon James TO Kun-sun Hon Abraham SHEK Lai-him, GBS, JP Prof Hon Joseph LEE Kok-long, SBS, JP Hon Jeffrey LAM Kin-fung, GBS, JP Hon CHAN Kin-por, GBS, JP Dr Hon Priscilla LEUNG Mei-fun, SBS, JP Hon WONG Kwok-kin, SBS, JP Hon Paul TSE Wai-chun, JP Hon Claudia MO Hon Frankie YICK Chi-ming, SBS, JP 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 CHAN Han-pan, BBS, JP Hon LEUNG Che-cheung, SBS, MH, JP Hon Kenneth LEUNG Hon Alice MAK Mei-kuen, BBS, JP Dr Hon KWOK Ka-ki Hon KWOK Wai-keung, JP Hon Dennis KWOK Wing-hang Hon Christopher CHEUNG Wah-fung, SBS, JP Dr Hon Fernando CHEUNG Chiu-hung Dr Hon Helena WONG Pik-wan Hon IP Kin-yuen Hon Elizabeth QUAT, BBS, JP Hon Martin LIAO Cheung-kong, GBS, JP Hon POON Siu-ping, BBS, MH

Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, BBS, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon CHAN Chun-ying, JP
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LUK Chung-hung, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Tony TSE Wai-chuen, BBS

(Total : 50 members)

Clerk Miss Betty MA

Legal adviser Mr Timothy TSO

* Changes in membership are shown in Annex.

Panel on Security

Changes in membership

Member	Relevant date
Hon Vincent CHENG Wing-shun, MH, JP	Up to 2 December 2019
Hon Andrew WAN Siu-kin	Since 16 December 2019
Hon Gary FAN Kwok-wai ¹	Up to 16 December 2019
Hon AU Nok-hin ²	Up to 16 December 2019
Hon HO Kai-ming ³	Up to 31 May 2020

¹ According to the Judgment of the Court of First Instance of the High Court handed down on 13 September 2019, Gary FAN Kwok-wai was not duly elected as a member of LegCo at the LegCo by-election held on 11 March 2018 and no other person was duly elected instead. According to the decision of the Appeal Committee of the Court of Final Appeal of 17 December 2019 refusing Mr FAN's application for leave to appeal, Gary FAN Kwok-wai, by virtue of section 72(5)(b) of the Legislative Council Ordinance (Cap. 542), has ceased to be a member of LegCo since 17 December 2019.

² According to the Judgment of the Court of First Instance of the High Court handed down on 2 September 2019, AU Nok-hin was not duly elected as a member of LegCo at the LegCo by-election held on 11 March 2018 and no other person was duly elected instead. According to the decision of the Appeal Committee of the Court of Final Appeal of 17 December 2019 refusing Mr AU's application for leave to appeal, AU Nok-hin, by virtue of section 72(5)(b) of the Legislative Council Ordinance (Cap. 542), has ceased to be a member of LegCo since 17 December 2019.

³ Pursuant to section 15(1)(a) of the Legislative Council Ordinance (Cap. 542), HO Kai-ming ceases to hold office as a member of LegCo upon his resignation on 1 June 2020.