

臨時立法會
Provisional Legislative Council

PLC Paper No. CB(2) 1459
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by the Administration)

Ref. : CB2/PL/SE/1

Provisional Legislative Council
Panel on Security

Minutes of Meeting
held on Thursday, 19 March 1998 at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon Mrs Selina CHOW, JP (Chairman)
Hon CHENG Kai-nam (Deputy Chairman)
Hon Mrs Elsie TU, GBM
Hon Henry WU
Hon MA Fung-kwok
Hon HUI Yin-fat, JP
Hon CHAN Choi-hi
Hon Andrew WONG Wang-fat, JP
Hon Kennedy WONG Ying-ho
Hon Howard YOUNG, JP
Hon IP Kwok-him
Hon Bruce LIU Sing-lee
Hon LAU Kong-wah
Hon Ambrose LAU Hon-chuen, JP
Dr Hon LAW Cheung-kwok

Members absent : Hon Allen LEE, JP]
Hon CHEUNG Hon-chung] other commitments
Hon KAN Fook-ye]

Public Officers : Item III
attending

Mr Raymond WONG
Deputy Secretary for Security 1

Mr Philip CHAN
Principal Assistant Secretary for Security E

Mr Gordon FUNG
Assistant Commissioner of Police (Crime)
Hong Kong Police Force

Mrs Nancy TSE
Assistant Director of Social Welfare
(Family and Child Welfare)

Item IV

Mr Raymond WONG
Deputy Secretary for Security 1

Mr Philip CHAN
Principal Assistant Secretary for Security E

Mr Gordon FUNG
Assistant Commissioner of Police (Crime)
Hong Kong Police Force

Mr A A GODFREY
Assistant Director (Operations 3)
Independent Commission Against Corruption

Item V

Mr SO Kam-shing
Principal Assistant Secretary for Security D

Mr CHOY Ping-tai
Assistant Director of Immigration

Item VI

Mrs Sarah KWOK
Principal Assistant Secretary for Security B

Mr K P HSU
Chief Fire Officer (Protection)
Fire Services Department

Clerk : Mrs Sharon TONG
in attendance Chief Assistant Secretary (2) 1

Staff : Miss Betty MA
in attendance Senior Assistant Secretary (2) 1

Action

I. Confirmation of minutes of meeting on 22 January 1998 and matters arising
(PLC Paper No. CB(2) 1146)

The minutes were confirmed.

Information paper on bomb incident
(PLC Paper No. CB(2) 1213(01))

2. The Chairman said that in response to some members' requests to discuss the recent bomb incidents at the Panel meeting, the Administration had been requested to provide an information paper on the issue and the actions taken to tackle the problem. The paper had been circulated for members' reference.

3. Mr Kennedy WONG enquired whether there was any statistics on illegal entry of arms and ammunition for the past three years, whether the Police had sufficient manpower to deal with the problem as well as the co-operation in place with the Mainland authorities in handling illegal entry and exit of arms and ammunitions. As there was no representative from the Administration attending the discussion, the Chairman suggested and members agreed to request the Administration to provide such information in writing.

(Post-meeting note: The Administration had provided the information which was circulated to members vide PLC Paper No. CB(2) 1393)

4. Referring to the information paper, Mr HUI Yin-fat opined that as the

several cases about bombs were believed to be unrelated and isolated, he considered that no further in-depth discussion on the issue was required. Members agreed.

II. Draft Report of the Panel on Security (PLC Paper No. CB(2) 1219(01))

5. The Chairman invited members' views on the draft Report of the Panel for submission to the Council. She said that paragraphs on the discussion on the issues of fabrication of evidence by police officers, the Closed Area policy and the entry visa for Taiwan visitors and visitors from overseas would be added as well as the write-up on the cyanide spill incident would be updated after the meeting. On the issues of Vietnamese refugees, migrants and illegal immigrants, Mrs Elsie TU suggested and members agreed that "the Panel called upon the Administration to continue to urge UNHCR to settle the outstanding debt" be incorporated into the Report. The Chairman added that should members have further views after the meeting, they were requested to forward their views to the clerk. The final draft Report would then be circulated to members for endorsement before reporting to the Council.

(Post-meeting note: The final draft Report of the Panel, having incorporated members' views, was circulated for members' endorsement vide PLC Paper No. CB(2) 1319)

III. Problem of domestic violence (PLC Paper No. CB(2) 1219(02))

6. Deputy Secretary for Security (DS/S) briefed members on the measures taken by the Administration to tackle the problem of domestic violence, mainly in areas of wife battering and child abuse. He said that the Administration had adopted a three-pronged approach to tackle the problem, viz. the prevention of domestic violence cases through family life education and publicity, the enforcement of the relevant legislation by prosecuting the offenders where appropriate and the provision of support services to victims. As wife battering and child abuse were multi-faceted problems, professional input from different disciplines was required. Hence, guidelines which set out detailed procedures for various disciplines to follow in handling such cases had been drawn up. At the working level, there was close liaison between government departments and non-governmental organizations (NGOs) so that appropriate actions could be taken and services could be provided to the victims. In addition, the Police had strengthened the training for the front-line officers so as to make them more sensitive in attending to wife battering and child abuse cases.

7. Mr HUI Yin-fat said that it was reported in the 1996 Annual Report of Harmony House (an NGO) that the Administration took nearly five years to institute successful prosecutions against alleged offenders in about 40% of wife battering cases. Mr HUI criticized the long prosecution time taken against the offenders and enquired whether the Administration would consider ways to shorten the lead time. DS/S clarified that the Police had laid down clearly in its internal guidelines that such cases should be handled as soon as possible. He pointed out that, however, in certain circumstances, the statement taking and investigation processes of wife battering cases would be rather long because of the family bonds. The Police could institute prosecution only when there was sufficient evidence.

8. In response to Mrs Elsie TU, DS/S advised that according to the statistics kept by the Police, the number of husband battering cases made known in 1996 and 1997 were 231 and 100 respectively. There would be no differences between the ways of attending to wife battering and husband battering cases, i.e. the welfare of the victims was of utmost importance.

9. The Chairman pointed out that in the Secretary for Health and Secretary's reply to a PLC question raised at the meeting on 14 January 1998, it was stated that between April and Septemeber 1997, 789 cases of spouse battering were made known, of these 30 involved male victims. The Chairman enquired about the reasons for the discrepancy between the statistics provided by the Administration. In response, Assistant Director/Social Welfare Department (AD/SWD) advised that the figures mentioned in the reply to the PLC question covered the period from April to September 1997 only. The information was collected from NGOs, the Hospital Authority and various government departments, including the SWD, the Department of Health and the Police. The Chairman then requested the Administration to provide in writing a breakdown of victims of spouse battering cases by gender.

Adm

10. Referring to para.3 of the information paper, Mr CHENG Kai-nam enquired about the reasons for the significant increase in the number of reported cases of wife battering in 1996 and 1997 as compared with those in 1993-95. DS/S explained that the number of cases in 1993-95 covered offences of wounding and serious assault only. From 1996 onwards, additional offences of criminal intimidation, criminal damage, unlawful detention and common assault were included, which accounted for the increase.

11. In response to another question from Mr CHENG Kai-nam, DS/S advised that the SWD did not keep statistics on the number of cases of wife battering which involved new arrivals. He said that of the 347 cases of wife battering in 1996-97 in which the victims sought assistance from the three refuges provided by the SWD, 39 victims had resided in Hong Kong for less than one year and 76 victims had resided in Hong Kong for less than seven

years, representing 11% and 22% of the total number of victims respectively. DS/S added that the Police also did not keep separate records in respect of new arrivals before April 1997. Between April and December 1997, 7% of the domestic violence cases involved those who had come to Hong Kong for less than three years.

12. Members expressed concerns about the law enforcement actions regarding domestic violence cases taken by the Police. Members' views were summarized as follows:

- (a) although the Domestic Violence Ordinance provided protection to victims of domestic violence, who might apply to the District Court for an injunction to restrain the other party from molesting the applicants, most of the victims would not apply for an injunction because of the processing time taken. The Police should consider rendering more assistance to the victims of domestic violence when such cases were reported to the Police;
- (b) as the protection of victims from further attack was of utmost importance, the Administration should consider ways of shortening the prosecution time taken against the alleged offenders;
- (c) in the cases of wife battering, consideration should be given to serving on an offender a Domestic Incident Notice without having to obtain the consent of the victim; and
- (d) to reduce unnecessary stress or trauma on the victims, the Administration should strengthen training provided to the front-line police officers to make them more sensitive in attending to spouse battering and child abuse cases.

13. In response, the Administration made the following points:

- (a) in the cases of child abuse, the Police would liaise with the SWD on whether the children involved should be allowed to stay at home. As regards cases of wife battering, should the victims need separate residence, the Police would arrange the victims to reside temporarily at the refuges provided by the SWD or Harmony House. In the event that such cases were reported to the Police at night-time, the Police would arrange the victims to stay at the Police stations until arrangements could be made in the following day. In addition, the Police would assign a Police officer of the same sex as the victim to conduct the interview. The victims would be given a copy of the Victims of Domestic Violence Advice Card as to what

Action

courses of action were open to them. The responsible Police officers would also inform the victims of the counselling and various welfare services provided by the SWD and NGOs. Referrals could be made, if needed;

- (b) to protect the victims from further attack, the Police would institute prosecutions subject to the sufficiency of evidence. Should the victims decide not to pursue further or there be insufficient evidence, the Police would issue a Domestic Incident Notice which aimed to serve as a deterrent by drawing the alleged offenders' attention to the legislation that he might have contravened. Even if no prosecution was instituted at the time, each reported case would be kept in file for future reference;
- (c) the procedures adopted for issuing a Domestic Incident Notice were formulated after the Department of Justice had been consulted. A Domestic Incident Notice was not a legal document, but an administrative document which recorded that a case of domestic violence had been reported to the Police; and
- (d) the Police fully recognized the importance of making the front-line officers more sensitive and sympathetic when attending to wife battering and child abuse cases. Thus, a training video on the Police procedures for handling domestic violence was used by each Police district during training sessions. In addition, the Police and Harmony House had jointly conducted regular training sessions on domestic violence for the front-line officers so as to keep them abreast of the proper procedures and developments in handling domestic violence cases.

14. In response to the Chairman, Assistant Commissioner of Police (Crime) (ACP/(Crime)) advised that 252 Domestic Incident Notices had been issued in 1997. As regards the deterrent effect of issuing such Notices, ACP/(Crime) undertook to provide information, if available, on whether any offenders, who had been served on a Domestic Incident Notice, had further attacked the victims.

Adm

15. To increase the deterrent effect on the offenders, Mr Bruce LIU suggested to extend the Police Superintendent's Discretion Scheme to cover cases of wife battering. DS/S responded that the Scheme was mainly applicable to the juvenile offenders. As the parties involved in wife battering cases were adults, it was more important to bring the offenders to justice and refer the victims for appropriate professional follow-up services.

16. Mr Bruce LIU enquired about the housing assistance provided to victims of wife battering cases. DS/S said that under the existing arrangement, when a person living with her/his child(ren) in a public housing unit had made a petition for divorce, the Housing Department might allocate a new housing unit to the person concerned while awaiting the court's decision to grant a decree of divorce. Assistant Director/Social Welfare Department (AD/SWD) said that since the implementation of the arrangements in 1991, SWD had recommended more than one thousand such cases to the Housing Department and the arrangements were proved to be effective in helping those with genuine needs. The arrangements were applicable to those who had made a petition or application for divorce. Mr Bruce LIU suggested that such housing assistance arrangements be further extended to those victims of wife battering cases who did not wish to make a petition or application for divorce. AD/SWD agreed to convey to the Housing Department Mr LIU's suggestion.

Adm

IV. Protection of witness

(PLC Paper No. CB(2) 1219 (03))

17. DS/S briefed members on the information paper. He said that the Administration considered that it was important to encourage witnesses to come forward and bring offenders to justice. Thus, the Administration had adopted a number of measures to ensure that witnesses were reassured, informed of their rights and adequately protected. He stressed that the responsible Police officer for each criminal case would maintain close contact with the witnesses and render assistance and protection whenever required. Protection of witness was not confined to those who had participated in the Witness Protection Programmes (WPPs). Lastly, he pointed out that to further improve the witness protection system, the Administration planned to introduce the Witness Protection Bill to the first SAR LegCo in the Legislative Programme in 1998/99. The Bill aimed to provide the legal basis for, amongst others, the change of identity of high risk witnesses.

18. In response to Mr LAU Kong-wah, ACP/(Crime) advised that various protection measures were adopted to protect witnesses. In general, the following were adopted to protect witnesses:

- (a) the witnesses would be provided with the contact telephone number of the officer-in-charge of the investigation and the name of the investigation officer;
- (b) the officer-in-charge of the investigation would contact or visit the witnesses regularly to see if further protection was needed;

and

- (c) a safehouse with round-the-clock protection by WPP officers be offered.

ACP/(Crime) reiterated that even when a witness was not admitted into the WPP, the Police would, on a case by case basis, offer protection.

19. Referring to the information paper, Mr LAU Kong-wah said that of the 28 requests for witness protection by the Police Witness Protection Unit (WPU) up to the end of February 1998, only 19 requests had been accepted. Mr LAU enquired whether other protection measures had been offered to those witnesses whose requests for witness protection by the Police WPU were rejected. ACP/(Crime) replied that the responsible officers for individual case would take necessary follow-up actions. For instance, relocation arrangements had been made for the witnesses concerned in five of these cases. At the request of Mr LAU, ACP/(Crime) undertook to provide further information in writing regarding the details of the 28 requests in question, such as whether any witnesses in the nine rejected cases had declined to give evidence as a result, whether relocation arrangements had been made for the witnesses concerned in the 19 accepted cases etc.

Adm

20. Responding to a further question from the Chairman, ACP/(Crime) said that of the nine requests which were refused by the Police WPU to admit into the WPP, seven were rejected by the Police and two were withdrawn by the witnesses themselves. No appeal had ever been made.

21. Mr MA Fung-kwok pointed out that very often witnesses in criminal offences were apprehensive about the possibility of retaliation owing to the fact that their names or other identifying particulars might be traced easily. ACP/(Crime) said that all information of the witnesses was kept strictly confidential. When a witness statement or other documents had to be provided to the defendant or kept in the court, the telephone number, address and other identifying particulars of the witness would be deleted or rendered illegible. Assistant Director/Independent Commission Against Corruption advised that the Administration was fully aware of the concerns of members of the public in this regard. Both the ICAC and the Police had a lot of dealings with the credit cards companies in relation to the disclosure of their clients' personal particulars. He assured members that the Administration was fully capable of combating the illegal access to personal pagers, telephone numbers etc. in the commercial field.

22. DS/S added that under the existing legislation, a person could change his/her name on the identity card and the travel document by deed poll, but he/she could not make a corresponding change in the birth certificate. Thus, the Administration planned to introduce the Witness Protection Bill to the LegCo in 1998/99 which would enable a witness in question to have his/her

identity changed completely so as to offer better protection to a witness.

23. Members supported the policy intent of the Witness Protection Bill and urged the Administration to expedite its introduction.

V. Follow-up to issues of Vietnamese refugees, Vietnamese migrants and Vietnamese illegal immigrants
(PLC Paper No. CB(2) 1219(04))

24. At the invitation of the Chairman, Principal Assistant Secretary for Security D (PAS(D)) recapped briefly the results of the comprehensive policy review and the way forward on Vietnamese refugees (VRs), Vietnamese migrants (VMs) and Vietnamese illegal immigrants (VIIs) which had been discussed at the special Panel meeting held on 8 January 1998. He highlighted that the 'port of first asylum' policy had come to an end after the enactment of the Immigration (Amendment) Ordinance 1998.

25. The Chairman noted from Annex B of the information paper that the number of VIIs arriving in Hong Kong in the last few months had been lower than those in the same period last year. She enquired whether the phenomenon was due to the abolition of the 'port of first asylum' policy. PAS(D) responded that notwithstanding the encouraging figures recorded, it would be premature to deduce the reasons for the downward trend. Nonetheless, the abolition of the 'port of first asylum' policy had given a very clear message that all VIIs would be repatriated upon interception. The Administration would continue to monitor closely to see whether the downward trend would continue. As regards the Ex-China Vietnamese Illegal Immigrants (ECVIIs) from the Mainland, PAS(D) said that there were some 300 ECVIIs presently released on recognisance and were awaiting the court's decision. Should the court rule in favour of the Administration, these ECVIIs would be repatriated to the Mainland. PAS(D) advised that the total population of VRs/VMs/VIIs in Hong Kong amounted to 3,140 which included some 50 runaways.

26. Responding to Mr LAU Kong-wah's question on the progress of repatriating VIIs, PAS(D) said that the Administration had formally put forward a proposal to the Vietnamese Government on the speedy repatriation arrangement for Vietnamese new arrivals, i.e. all Vietnamese new arrivals would be repatriated to Vietnam immediately upon interception and be put in a holding centre in Vietnam for identity verification. The Administration was waiting for the response from the Vietnamese side.

27. Responding to another question from Mr LAU Kong-wah, PAS(D) advised that the High Island Detention Centre was the last remaining VM detention centre in Hong Kong which was scaled down in January 1998. There were about 600-odd Vietnamese in the Centre. As repatriation

continued, the Administration would further scale down the Centre. In response to a further question from Mr Kennedy WONG, PAS(D) said that in scaling down a detention centre, the Administration would review the manpower requirements within the detention centre in question as well as the corresponding manpower requirements in the Correctional Services Department and the Immigration Department which included administrative and supervisory staff. For example, the closure of the New Horizon Vietnamese Refugee Departure Centre in March 1998 had resulted in a deletion of 11 permanent posts, some non-permanent posts and a corresponding reduction in overhead expenditure.

28. Responding to Mr IP Kwok-him, PAS(D) pointed out that residents of the camps now consisted of VRs and VMs/ECVIIs released on recognisance. PAS(D) advised that the UNHCR's responsibility for running the camp was originally intended to cover VRs only. Now that the majority of the residents were non-refugees (i.e. VMs and ECVIIIs released on recognisance), the Administration, therefore, had to make contribution to the cost of running the camp (such as provision of security service, cleansing, education etc.). To reduce the Administration's expenses in this regard, residents of the camp would be encouraged to lead a normal and independent life, and be self-reliant as far as possible. The Administration was working closely with the UNHCR on ways and means to achieve this objective. For example, residents of Pillar Point Vietnamese Refugee Centre were encouraged to seek services outside the camp in the same way as normal Hong Kong residents did. The clinic at the camp had been closed. The camp management was also giving consideration to charging residents a fee to defray part of the cost of running the camp.

29. Members expressed serious concern about the outstanding debt, which amounted to HK\$1.16 billion, owed by the United Nations High Commissioner for Refugees (UNHCR). In response, PAS(D) advised that the UNHCR had repaid HK\$3.9 million in February 1998 to Hong Kong. The UNHCR had continually repaid some of the outstanding amount, for instance, the UNHCR had repaid an amount of about HK\$19 million, HK\$23 million and HK\$3.9 million to Hong Kong in 1995, 1996 and 1997 respectively. Before 1995, the UNHCR had repaid some of the debt ranging from HK\$15 to 20 million in each year. Although the UNHCR faced difficulties in raising funds to repay the debt, the UNHCR had stated that it would repay its debt to Hong Kong, subject to availability of funds. Members urged the Administration to liaise with the UNHCR regarding the speedy settlement of the outstanding amount and consider to press them to do so through the Central Government. PAS(D) stressed that the Administration would continue to urge the UNHCR to raise funds to settle the outstanding amount. The Chief Executive had also written to the UNHCR on this subject.

Adm

VI. Follow-up to the cyanide spill incident in December 1997 - a

package of measures to improve the control on dangerous goods
(PLC Paper No. CB(2) 1219(05))

30. Referring to para. 6 of the information paper, the Chairman enquired about the effectiveness of the Code of Practice given that there was no legislative backup for its implementation. Chief Fire Officer/Fire Services Department (CFO/FSD) responded that FSD had consulted the trade on the Code (which was newly developed by FSD on the transportation of Categories 3 and 4 dangerous goods) in February 1998, and organized a seminar in early March 1998 to introduce and distribute the Code to the relevant trades. CFO/FSD said that given that the Code had been put in use for only about one month, it would be premature to assess its effectiveness. The FSD would continue to follow-up on this subject.

31. In response to the Chairman, Principal Assistant Secretary for Security B (PAS(B)) advised that the consultant appointed would be required to provide professional and technical advice on the international standards and practice on the conveyance of dangerous goods, after taking into account the specific circumstances in Hong Kong and the views of the relevant trades. CFO/FSD added that \$3 million had been approved for engaging the consultant in question.

32. Responding to Mr IP Kwok-him, PAS(B) said that the Administration was aware that the Dangerous Good Ordinance (DGO) was in many ways outdated since its enactment in the 1950s. For instance, the existing DGO covered some 400 types of chemicals under ten categories of dangerous goods, and that it was identified that some 1,200 additional types of dangerous goods might possibly be added to the DGO according to the prevailing international standards. Thus, the FSD was reviewing the DGO to bring it into line with the prevailing international standards. Besides, the review being conducted also covered the classification, labelling, packaging and exempted quantities of dangerous goods. The Administration aimed to introduce the legislative amendments in the second half of the 1998/99 legislative session. PAS(B) added that in the light of the cyanide spill incident in December 1997, the Administration was reviewing as a matter of priority the need to tighten the control on the transportation of Categories 3, 4, 6, 7, 8, 9 and 10 dangerous goods by vehicles. The Administration aimed to introduce legislative amendments to tighten the control on the transportation of Categories 3 and 4 dangerous goods before end 1998, after the consultant had reported on its findings. These two categories of dangerous goods were accorded priority as they would likely pose a greater hazard than the other types of dangerous goods. The Chairman requested the Administration to consult the relevant trades when conducting the review of tightening the control on the transportation of dangerous goods.

Adm

VII. Close of meeting

Action

33. The Chairman said that as this was the last Panel meeting, she would like to take the opportunities to thank the Administration and the clerk for their work and assistance.

34. There being no other business, the meeting ended at 4:30 p.m.

Provisional Legislative Council Secretariat

11 May 1998