

立法會
Legislative Council

LC Paper No. CB(2)614/99-00

(These minutes have been
seen by the Administration)

Ref : CB2/PL/HA

LegCo Panel on Home Affairs

Minutes of meeting
held on Monday, 12 July 1999 at 5:45 pm
in the Chamber of the Legislative Council Building

- Members Present** :
- Hon CHOY So-yuk (Chairman)
 - Hon Cyd HO Sau-lan
 - Hon MA Fung-kwok
 - Hon James TO Kun-sun
 - Hon Ambrose CHEUNG Wing-sum, JP
 - Hon Andrew WONG Wang-fat, JP
 - Hon Jasper TSANG Yok-sing, JP
 - Hon Emily LAU Wai-hing, JP
 - Hon Timothy FOK Tsun-ting, SBS, JP
 - Hon LAW Chi-kwong, JP
- Members Absent** :
- Hon Albert HO Chun-yan (Deputy Chairman)
 - Hon Edward HO Sing-tin, SBS, JP
 - Hon LEE Wing-tat
 - Hon Christine LOH
 - Hon Mrs Sophie LEUNG LAU Yau-fun, JP
 - Hon Gary CHENG Kai-nam, JP
 - Hon LAU Wong-fat, GBS, JP
 - Hon Andrew CHENG Kar-foo
- Public Officers Attending** :
- Mr P C LEUNG
Deputy Director of Administration

 - Mrs Apollonia LIU
Assistant Director of Administration

Action

Mr David WONG
Principal Assistant Secretary for Security

Mrs Eliza LEUNG
Acting Deputy Director of Social Welfare

Ms Bonnie WONG
Assistant Commissioner of Correctional Services (Operations)

Mr TSO Tai-kun
Senior Superintendent (Penal Administration)
Correctional Services Department

Clerk in Attendance : Mrs Constance LI
Chief Assistant Secretary (2) 2

Staff in Attendance : Miss Flora TAI
Senior Assistant Secretary (2) 2

I. Information paper issued since the last meeting

[LC Paper No. CB(2)2512/98-99]

Members noted that the Administration had provided a report on an incident relating to the booking of Wong Tai Sin Community Hall as requested by a member at the meeting on 8 February 1999.

II. Review of the Justices of the Peace System 1999

[LC Paper Nos. CB(2)2523/98-99 and CB(2)2551/98-99]

2. Members noted the written submission from Hong Kong Human Rights Monitor (HKHRM) entitled "Report on the Reform of the Justice of the Peace System" which was tabled at the meeting and subsequently issued to absent members vide LC Paper No. CB(2)2551/98-99.

3. At the invitation of the Chairman, Deputy Director of Administration (DD of A) briefed members on the Administration's paper [CB(2)2523/98-99(01)] which set out the results of the review of the Justices of the Peace (JP) system and the way forward to fine-tune the system. DD of A said that the Administration Wing would strengthen its role as the secretariat for the JP system in following

Action

up issues raised during JP visits. On expansion of the visit programme, the Administration Wing would write to seek the views of Non-official JPs as to whether they would like to make more regular visits to certain institutions and to include other types of institutions in the visit programme. A JP web-site would also be set up to provide better communication between the Administration and the JPs.

4. Miss Emily LAU expressed disappointment that the Administration had not conducted a public consultation exercise on the review of the JP system as it also affected people other than the JPs. Assistant Director of Administration (AD of A) responded that as the review was mainly to improve the operation of the JP visit system and the support to JPs, all serving Non-official JPs were consulted. The Administration would welcome any views put forward by the Legislative Council (LegCo) and interested parties.

The power of JP to investigate complaints

5. Referring to the powers and functions of JPs under section 5 of the Justices of the Peace Ordinance (Cap. 510), Mr James TO said that while visit to custodial institutions was a primary function of JPs, it was unclear whether JPs were also expected to investigate complaints. As the public generally expected JPs to monitor prison conditions and address prisoner complaints, Mr TO considered that the Administration should review the role and functions of the JPs in the light of HKHRM's report. He considered that the Administration should also consider providing more support and training for JPs to conduct their own investigation.

6. DD of A responded that the present review was aimed at further improving the existing system. The Administration Wing would continue to provide secretariat service for the JP scheme and would follow up all complaints made to JPs by requiring departments concerned to provide regular reports on issues arising from JP visits. He added that briefings and seminars were organized for all newly-appointed JP and that there was already an established system to follow up complaints arising from JP visits. Principal Assistant Secretary for Security (PAS(S)) supplemented that apart from the provision of investigation reports to the JPs concerned, visiting JPs would also be able to refer to reports of previous JP visits as recorded in the log book kept by each custodial institution. In response to Mr TO, DD of A said that the JP system had been operating satisfactorily for a long time and could effectively monitor the custodial institutions.

7. Miss Emily LAU considered it necessary to strengthen JP's duty to investigate complaints. She said that under the present system, JPs only referred complaints to the CSD for investigation, and the findings were relayed to the complainants by the CSD but not by the JP concerned. Assistant Commissioner

Action

of Correctional Services (Operations) (AC/CS) pointed out that Rule 228 of the Prison Rules already empowered visiting JPs to hear and investigate any complaint made to them. Mr James TO and Miss Emily LAU maintained the view that, without the necessary secretariat support, JPs would not be able to discharge such duty in a meaningful manner.

Adm 8. AC/CS informed members that JPs would normally refer the complaints to the department concerned such as CSD or the Police for investigation. PAS(S) supplemented that JPs could follow up the complaint or refer the case to the Ombudsman for an independent investigation if they were not satisfied with the outcome of the internal investigation conducted by the department. PAS(S) further pointed out that the Administration Wing had undertaken to strengthen its secretariat support to the JP scheme in following up the suggestions made by visiting JPs and in monitoring follow-up actions. Miss Emily LAU stressed that JPs must have an independent secretariat in order to carry out investigation effectively. Regarding the secretariat support from the Administration Wing, AD of A said that the staffing resources for the JP scheme were not provided on a full-time basis, and she would provide more information in this respect after the meeting.

Adm 9. Responding to Miss Cyd HO, AC/CS confirmed that JPs could conduct investigations and review the relevant files and documents in the course of investigation. However, she did not recall that JPs had conducted formal inquiries on their own except for some simple complaint cases. Miss Cyd HO further asked whether JPs were subject to any restriction in exercising their power to investigate under Rule 228 of the Prison Rules. PAS(S) responded that as far as he knew, JPs were not subject to any restriction in this regard. He would provide a written response after the meeting.

Existing complaint channels for prisoners

10. Responding to members' concern about the existing monitoring system of correctional institutions, PAS(S) said that a well-established and effective mechanism was in place to monitor the conditions and operation of correctional institutions in Hong Kong. Apart from prison visits by JPs, there were various channels for prisoners to reflect their views or make complaint on the operation of prisons and treatment of prisoners. Prisoners could write to the following, without the letters being read by the institutions -

- (a) the Ombudsman who had statutory power to conduct independent investigation;
- (b) the Chief Executive, members of the Executive Council, LegCo and District Boards, and the visiting Justices;

Action

- (c) the Police if criminal offence was involved;
- (d) the Independent Commission Against Corruption if corrupt practices were involved; and
- (e) internal investigation unit of CSD .

11. The Chairman asked whether prisoners were informed of their right and ways to lodge complaints. PAS(S) replied that prisoners were well aware of the availability of these complaint mechanisms according to the relevant complaint statistics. He informed members that a total of 257, 119, 172 and 52 complaints were made to the visiting JPs, Ombudsman, CSD internal investigation unit and LegCo Members respectively in 1998. AC/CS supplemented that these complaint channels were introduced during the briefing to new prisoners, and such information was also posted at the dwelling and work places of prisoners. On the number of justified complaints, PAS(S) informed members that none of the 141 complaints made to the Ombudsman in 1997 was found justified or partially justified after investigation, while 2 of the 119 complaints made in 1998 were found partially justified.

JP visits

12. Members noted the current practice that a Non-official JP was paired with an Official JP on visits. Miss Emily LAU expressed disappointment that the Administration decided not to implement the proposal of allowing Non-official JPs to choose either Official JPs or Non-official JPs as their visiting partner. Mr James TO shared similar concern. DD of A explained that as there was considerable support both for and against the proposal, and since legislative amendments were required for the implementation of the proposal, the Administration decided to hold the proposal in abeyance for the time being. Miss Emily LAU remarked that some flexibility should be allowed in the pairing arrangements. DD of A said that he would re-consider the proposal in view of Miss LAU's comment.

13. Responding to Miss Emily LAU, AD of A said that visiting JPs could conduct surprise visits to the assigned CSD prison or hostel at any reasonable time during their tour of duty (usually two weeks for prisons and two to three months for hostels). Mr James TO was however of the view that JPs should be allowed to conduct surprise visits any time to enhance credibility of the JP visit system. Miss Emily LAU also sought clarification as to whether JPs could only visit the assigned institutions but not others during their tour of duty. AD of A responded that JPs might visit any prison or hostel at any time as the guests of the Commissioner of Correctional Service, but such visits were outside the JP system. AC/CS explained that the current practice was for a senior CSD staff to accompany visiting JPs for the sake of courtesy and safety. The arrangement was

Action

also to ensure that visiting JPs would be able to see all facilities at a prison during their visit. Visits during office hours were preferred because visiting JPs would then be able to see the normal activities of prisoners and their conditions. Miss LAU maintained her view that JPs should be allowed to conduct surprise visits at any time to any custodial institution. The Chairman suggested the Administration to consider Miss LAU's suggestion during the review.

Appointment and dismissal of JPs

Adm 14. The Chairman asked about the number of revocation of Non-official JP appointment in the past few years due to absence from Hong Kong over six months without prior approval of the then Governor or the Chief Executive. AD of A replied that eight JPs had resigned in 1998 on grounds of absence from Hong Kong and another two had resigned so far in 1999. Responding to the Chairman, AD of A said that a JP would be dismissed if he/she was convicted in Hong Kong or any other place of an offence in respect of which he/she was sentenced to imprisonment, irrespective of whether the sentence was suspended or not. She informed members that two JPs had been dismissed in the past ten years because of criminal conviction. As regards the number of JPs dismissed for other reasons under section 6(1)(d) of the Justices of the Peace Ordinance, AD of A undertook to provide the figures after meeting. She also noted the Chairman's concern about enhancing the transparency of the dismissal mechanism.

15. Miss Emily LAU and Mr James TO considered that there should be adequate training for the JPs to enable them to discharge their inspection duties effectively. DD of A reiterated that the Administration Wing organised briefings for newly-appointed JPs every year and seminars for Non-official JPs on a need basis.

Adm 16. On the appointment of Non-official JPs, Mr James TO relayed Mrs Sophie LEUNG's view that the Administration should also consider whether the candidate would actively and positively discharge the duties of a JP. DD of A said that the Chief Executive would only appoint a person whom he considered to be proper having regard to his/her background and standing in the community. In response to the Chairman, AD of A agreed to provide information on the sex ratio of serving Non-official JPs.

Adm 17. Miss Cyd Ho enquired about the rationale and criteria for appointing New Territories Non-official JPs (NTJP). AD of A said that only serving Non-official JPs who had close connection with and long service in New Territories affairs would be considered for appointment as NTJPs. She undertook to provide a written response on the policy and background for having NTJPs.

Action

Additional duties for JPs

18. Mr Andrew WONG asked whether Non-official JPs would be considered for appointment to future boards of inquiry. DD of A replied that according to the Justices of the Peace Ordinance, one of the JP functions was to serve as a member of any advisory panel and to perform any other functions as imposed by the Chief Executive. Accordingly, Non-official JPs could be considered for appointment to future boards of inquiry.

19. The Chairman expressed support for the proposal of assigning additional duties to JPs, for example, to assist the Environmental Protection Department in spotting smoky vehicles. The Chairman suggested that JPs could also be asked to assist in spotting litterbugs. DD of A noted the suggestion.

Adm

20. In concluding the discussion, the Chairman requested the Administration to provide a written response to members' views and HKHRM's report.

III. Any other business

[Appendix I to LC Paper No. CB(2)2523/98-99]

21. Members noted the list of discussion items for future meetings [Appendix I to LC Paper No. CB(2)2523/98-99].

22. The Chairman informed members that concerned organisations had been invited to forward their written submissions to the Panel on HKSAR's Report on the International Covenant on Civil and Political Rights by 31 August 1999. Members agreed that the special meeting to meet deputations on the Report would be held on 4 October 1999 at 2:30 pm.

23. Members noted that Hon Ambrose CHEUNG had suggested a number of points on the Consultancy Study on Culture, the Arts, Recreation and Sports Services for members' further consideration [LC Paper No. CB(2)2513/98-99]. Members agreed that relevant issues in the list should be followed up by the Bills Committees on Provision of Municipal Services (Reorganization) Bill, Hong Kong Arts Development Council (Amendment) Bill and Hong Kong Sports Development Council (Amendment) Bill.

24. As the meeting was the last one in the current session, the Chairman thanked members for their contribution to the discussions of the Panel.

25. There being no other business, the meeting ended at 6:40 pm.

Legislative Council Secretariat

13 December 1999