

立法會
Legislative Council

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by the Administration)

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LegCo Panel on Security

**Minutes of meeting held on Thursday, 23 September 1999
at 8:30 am in the Chamber of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Deputy Chairman)
Hon David CHU Yu-lin
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, JP
Hon CHEUNG Man-kwong
Hon Howard YOUNG, JP
Hon Andrew CHENG Kar-foo

Members attending : Hon NG Leung-sing
Hon Margaret NG
Hon LAU Kong-wah
Hon Emily LAU Wai-hing, JP

Members absent : Hon LEE Cheuk-yan
Hon Gary CHENG Kai-nam, JP

Public Officers attending : Item II
Ms CHANG King-yiu
Deputy Secretary for Security 2

Mr CHEUNG Chi-shum
Assistant Commissioner of Police (Operations Wing)
Hong Kong Police Force

Mr Peter HALLIDAY
Assistant Commissioner of Police (Information Systems)
Hong Kong Police Force

Mr CHOW Kwok-chuen
Assistant Director of Immigration (Information Systems)
Immigration Department

Mr CHU Man-chun
Acting Chief Fire Officer (HQ)
Fire Services Department

Mr William HUI Chi-wai
Civil Secretary
Correctional Services Department

Mr Benny LEE Chung-chee
Senior Aircraft Engineer (Maintenance)
Government Flying Service

Item III

Mrs Regina IP
Secretary for Security

Mr Timothy TONG
Deputy Secretary for Security 3

Miss Cathy CHU
Principal Assistant Secretary for Security

Mr Corrado CHOW
Assistant Secretary for Security

Mr CHOY Ping-tai
Deputy Director of Immigration
Immigration Department

Mr Eric T P WONG

Assistant Director of Immigration

Mr TAM Wing-pong, JP
Deputy Director , Beijing Office
The Office of the Government of the HKSAR in Beijing

Mr Raymond SY
Assistant Secretary for Constitutional Affairs
Constitutional Affairs Bureau

Item IV

Mr Timothy TONG 3
Deputy Secretary for Security

Miss Cathy CHU
Principal Assistant Secretary for Security

Mr Andy CHAN
Assistant Secretary for Security

Mr CHOY Ping-tai
Deputy Director of Immigration
Immigration Department

Mr H K TSOI
Principal Immigration Officer

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

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

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I. Confirmation of minutes of meetings and matters arising
(LC Paper Nos. CB(2) 2782, 2800, 2783, 2803 and 2805/98-99)

The minutes of meetings held on 10, 21, 29 June and 13, 21 July 1999 were confirmed.

2. Members noted the outstanding list of follow-up actions required of the Administration (LC Paper NO. CB(2) 2799/98-99(01)).

3. The Chairman informed members of the current position regarding the proposed visits to the People's Liberation Army Garrison in Hong Kong and the Mainland public security authorities. He said that the Garrison had advised that due to their current heavy commitments, they would not be able to arrange for visits to the Barracks by individual organizations/bodies. Regarding visits to the Mainland public security authorities, the Hong Kong and Macau Affairs Office of the State Council had yet to come to a view on the general arrangements relating to visits by the Legislative Council, the Provisional Municipal Councils and the Provisional District Boards. In the circumstances, members agreed to put on hold the proposals and to follow up in the next session, if deemed necessary.

II. Follow-up on progress of Year 2000 contingency planning in departments and related-organizations under the purview of the Security Bureau
(LC Paper No. CB(2) 2799/98-99(02))

4. Deputy Secretary for Security 2 (DS(S)2) said that all five departments under the purview of the Security Bureau had completed their Year 2000 (Y2K) contingency plans and conducted related testings according to their respective schedules.

Progress in related organizations

5. The Chairman expressed concern about the progress of Y2K compliance work in related organizations under the purview of the Security Bureau. In response, Chief Fire Office (Headquarters)(Ag) (CFO(HQ)(Ag)) said that the Fire Services Department (FSD) had issued some 7 000 and 200 letters to building management bodies and fire services installation contractors respectively and asked them to conduct Y2K compliant tests on their automatic fire detection and alarm systems. Over 80% of the fire services installation contractors and 90% of the lift

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contractors confirmed that their systems were Y2K compliant. The responses from the building management bodies were lukewarm. Only some 800 responses were received. He said that notwithstanding the fact that the onus for Y2K compliance in respect of automatic fire alarm systems should rest with the owners and building management bodies concerned, FSD would closely monitor responses from and liaise with these organizations. As regards the progress of Y2K compliant work in the security and guarding services industry, Assistant Commissioner of Police (Operations Wing) (ACP(OW)) said that the Police Crime Prevention Bureau was in touch with the major security and building management companies to remind them of the need to confirm the Y2K compliant status of their systems. Over 80% of these systems were tested and confirmed Y2K compliant. The Force would follow up the matter and ensure that rectification work would be carried out for the remaining systems, if required. He was confident that the testing and related rectification work for these systems would be completed in time.

Hong Kong Police Force

6. ACP(OW) said that the Force had made considerable arrangements to prepare for any eventualities, which might arise from the Y2K issue. Apart from conducting tests and carrying out rectification works on the computer systems and software within the Force, major Formation Commanders would identify their own core business functions and would prioritize these functions according to the main mission of ensuring public safety, public service and the maintenance of law and order. Major Formation Commanders would prepare contingency plans for Y2K related problems which might occur, as identified in the Risk Assessment. These would include -

- (a) resorting to the minimum service level;
- (b) the use of manual systems to replace computer technology;
- (c) the use of runners or point-to-point radios to communicate;
- (d) careful management of transport and fuel for vehicles;
- (e) the use of a pre-determined beat conference point system to ensure a chain of command with duties on the ground;
- (f) the possibility of operating from a District/Division Control Room should there be a loss of service from Regional Command and Control Centres; and

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- (g) the availability of emergency equipment.

During the rollover to the Y2K critical dates, additional Police officers would be deployed to perform the policing duties. A central monitoring unit would be formed to oversee all Y2K critical dates. As regards leave arrangements on the Y2K critical dates, ACP(OW) said that only a minimum number of frontline operational staff would be granted leave and the Force management would be at full strength in order to meet any unforeseeable circumstances. In addition, the Force was in the process of drawing up operational orders for the policing of major millennium events.

7. ACP(OW) said that the Force had conducted tests of all ground level contingency plans in the past few months. According to the assessment conducted by the Audit Department, the results were considered satisfactory. In addition, experts from the United Kingdom were invited to comment on the Y2K tests and contingency plans. Although the reports were still awaiting, the initial response was satisfactory. A number of exercises were scheduled for the coming months in conjunction with other Government departments and public utilities. He assured members that the Force had both the ability and confidence to deal with the Y2K issue.

8. Mrs Selina CHOW said that she was given to understand that the Force had rejected some applications for organizing millennium celebration events. She asked whether it was due to the Force's concern about problems which might arise from a Y2K failure; if so, she wondered if the Force would consider adopting a win-win strategy so as to facilitate the organization of millennium celebration events for the purpose of attracting tourists.

9. In response, ACP(OW) said that as far as he was aware, the Force had rejected one such application from the crowd control point of view, i.e. safeguarding public safety. After a change in the venue for the proposed event, approval was granted subsequently.

10. In response to the Chairman's enquiry about the manpower of the Force on the Y2K critical dates, ACP(OW) said that the Force management would ensure sufficient manpower on beat duty, in particular the policing of major millennium events. The exact deployment of staff would be worked out after taking into account the scale of respective events. He reiterated that no more than five percent of the frontline officers would be granted leave and that the Force management would be at full strength on the Y2K critical dates.

11. The Chairman remarked that an assurance from the Force on the

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provision of sufficient manpower would enhance the public confidence in the Force's ability to maintain law and order in the event of a Y2K failure. He urged that the Force should make known its specific staffing arrangements during the rollover of the Y2K critical dates as far as practicable.

Fire Services Department

12. CFO(HQ)(Ag) said that under the risk assessment, FSD had classified the possible outbreak of Y2K disruption into two categories, namely risks from internal factors and external factors. As regards the internal factors, all the computer systems in FSD were confirmed Y2K compliant. This was verified by a test conducted by an independent third party. Besides, the administrative computer users were advised to make frequent back-ups of data files in particular before the Y2K critical dates. In relation to the external factors, contingency plans to deal with possible interruptions to services were drawn up. A specific contingency plan was drawn up in each Command to cope with individual operational needs with due emphasis given to ensure effective communication in the event of a Y2K failure. He further said that a departmental alert system had been devised to indicate the severity of the situation. In this connection, two levels of response, namely "Service Stand-by" and "Service Stand-to", which constituted two distinctive states of readiness during the contingency plan activation periods would be implemented. Additional resources would be made available for operation during the respective levels of response. For instance, the daily number of fire engines stand-by would be increased from 239 to 273 and to some 290 during "Service Stand-by" and "Service Stand-to" periods respectively, which represented an increase of 14% and 21% respectively. During "Service Stand-by" period, the daily number of ambulances stand-by would be increased from 190 to 227 in the daytime and from 110 to 164 in the night-time. As regards manpower on the Y2K critical dates, no more than 2.5% of the fire staff and 5% of the ambulance staff would be granted leave during the period. An 'FSD Y2K Emergency Command Post' would be set up during "Service Stand-to" period, which would be headed by a CFO. In addition, one desktop exercise and three simulation exercises were carried out in August 1999. Hence, members of FSD were conversant with the contingency plans. He was confident that FSD would be able to cope with any unforeseeable circumstances in the event of a Y2K failure.

13. The Chairman enquired about the extent of the worst scenario being covered under the contingency plans drawn up by FSD. CFO(HQ)(Ag) responded that FSD was particularly concerned about the effective deployment of resources to deal with a sudden upsurge of calls for assistance in relation to the automatic fire alarms failure and lifts failure

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within a short span of time. A similar phenomenon had occurred during a recent hoisting of typhoon signal No. 10, and FSD had proved its capabilities in dealing with the situation.

14. The Chairman further asked which factors covered under the contingency plans for systems failure were tested in the recent exercises. CFO(HQ)(Ag) said that as an instant response to an emergency call for assistance was a critical factor for providing emergency service, FSD attached great importance to the proper functioning of communications systems within FSD and between different departments. The contingency plans in respect of the failure of communications systems were thoroughly tested. DS(S)2 added that details of the exercises conducted in this respect were outlined in Annex B-2 of the information paper.

15. Mr Howard YOUNG said that it was learnt that the lift service in some public housing estates under the management of the Housing Society had been suspended at the midnight on 9 September 1999 (one of the Y2K critical dates) in order to avoid the occurrence of unforeseen circumstances. He suggested that reference be made to the above arrangement during the rollover to Year 2000. The Chairman concurred with Mr YOUNG's suggestion. Mr NG Leung-sing asked whether the Administration would consider encouraging the suspension of lift service on a territory wide basis immediately before and soon after the rollover to Year 2000 so as to avoid problems arising from Y2K-induced systems failure. He further asked whether the Administration would issue guidelines on lift problems related to Y2K-induced systems failure to public funded organizations.

16. DS(S)2 responded that the Administration would give due consideration to members' suggestion. Given that over 90% of lift suppliers and contractors had confirmed the lifts in use were Y2K compliant, the Administration did not want to arouse unnecessary public concern if it launched a large scale publicity over this issue. Nevertheless, she would reflect the suggestion to the Information Technology and Broadcasting Bureau for consideration in compiling the territory wide educational publicity materials on Y2K issue.

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17. Dr LUI Ming-wah enquired about the specific follow-up actions adopted by FSD upon the receipt of false alarms due to the failure of automatic fire detection and alarm systems. CFO(HQ)(Ag) said that FSD maintained a close contact with Chubb Co., Ltd which was responsible for operating a computerized Automatic Fire Alarm (AFA) Transmission System, as well as registered Class 1 Fire Services Installation Contractors who were responsible for proper maintenance of AFA system, to identify cases of excessive unwanted alarm and take necessary remedial actions.

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18. Given some automatic fire detection and alarm systems had failed recently when a typhoon signal no.10 was hoisted, Dr LUI Ming-wah was of the view that the Administration should look into the causes seriously so as to avoid the occurrence of similar incidents on the Y2K critical dates. CFO(HQ)(Ag) said that the recent failure had little to do with Y2K issues but the relevant agents and contractors could be asked to provide further information on the incident. The Chairman requested the Administration to provide further information when available.

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Immigration Department (ImmD)

19. Assistant Director of Immigration (Information Systems) (AD of Imm(IS)) said that ImmD had formulated Year 2000 Business Contingency Plan which aimed to minimize the impact on the operations due to Y2K-induced systems failures. Possible risks to business continuity caused by Y2K-induced systems failures were identified. The ImmD's business operations/services were prioritized, under which passenger clearance at control points was at the top of the priority list. In order to be able to react swiftly to any Y2K-induced failures, ImmD had formulated the escalation procedures. There would be two committees formed, namely, the Year 2000 Emergency Response Centre and the Year 2000 Emergency Command Centre. The former would monitor the rollover and tackle problem with low level impact on business and services whereas the latter would take over the command in case of major problems and make decision on contingent management issues.

20. As regards the preparation for Y2K rollover, AD of Imm(IS) said that ImmD had adopted measures such as to cancel leave and set up a reinforcement team to ensure availability of adequate backup manpower, to make available transport facilities, to stock up essential supplies items, to make preparation for production and distribution of hardcopies of historical records for checking, to reduce non-essential business activities, to arrange checking of all systems/equipment soon after the rollover to Year 2000. He added that testing of the contingency plan and desktop exercises were conducted in August 1999. He stressed that detailed contingency procedures for ImmD's major systems had been in place for a long time and the frontline officers were familiar with their application. Nevertheless, ImmD had made use of the tests to further reinforce the readiness and awareness of its staff on the issue. Further testing of the plan would be conducted in October 1999.

21. Dr LUI Ming-wah enquired about the specific measures put in place for immigration control in the event of Y2K-induced systems failures. AD of Imm(IS) replied that internal systems had been fully tested and

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confirmed Y2K compliance. In the unlikely event of a system failure, the clearance of passengers at the control points could continue by invoking manual processing. Whilst the frontline officers were familiar with these contingency procedures, the clearance speed would likely be affected. But a reasonable level of service could be maintained. As regards the external systems failure, ImmD had commissioned an independent consultant, which was recommended by Electrical and Mechanical Services Department (EMSD), in August 1999 to assess the Y2K compliance of the ancillary systems in each control points. The result of the findings indicated that most of the systems were Y2K compliant except a few minor systems. The EMSD was carrying out the necessary rectification works which were expected to be completed at the end of September 1999.

22. Dr LUI Wah-ming asked whether backup systems were available for the systems in the control points. In response, AD of Imm(IS) said that the host computer system could be rejuvenated shortly after a system failure. In the event of host computer system failure, the Immigration Control Automation System which supported operations at the control points could continue with basic passenger clearance without interruption. Even with a complete breakdown of computer systems, manual procedures could be invoked to ensure continuation of service.

Correctional Services Department (CSD)

23. Civil Secretary of Correctional Services (Civil Secy) said that as the priority of CSD was to ensure safe and secure custody of the prisoners and inmate, the Y2K contingency plan of CSD mainly concentrated on these areas. The major functions of prison management, in order of priority, were the maintenance of security and order, the provision of basic necessities as well as reasonable and safe living environment, the provision of medical services and the engagement of prisoners in useful work. The key systems/elements in support of these functions were broadly classified into internal and external systems/elements and were covered in the Contingency Plan. He said that in the event of Y2K-induced systems failure, manual operations could be adopted for prison management.

24. Responding to the Chairman, Civil Secy said that the Y2K issue had little impact on the locking systems in prisons as CSD did not have any computer-controlled locking systems currently. There were only a few electric locks in penal institutions which could all be switched to manual operation.

Government Flying Service (GFS)

25. Senior Aircraft Engineer (Maintenance) (SAE(M)) said that GFS

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systems had been evaluated and rectified for Y2K readiness since June 1999. An Operation Continuity Plan was formulated to ensure its core activities would be operational if Y2K-related features in the systems occurred. Should Y2K-related problems occur, GFS flying service could be maintained by using alternate systems, equipment or procedures to enable the continuity of its operation. In addition, GFS Air Command Control Centre would work as the Y2K emergency command centre during Y2K emergency situations. GFS would ensure adequate manpower and arrange standby staff for the Y2K critical dates. All aircraft would be made serviceable prior to the rollover and there would be no aircraft maintenance scheduled in that period. Tests and exercises on GFS systems would be carried out in the last quarter of this year.

26. Responding to the Chairman, SAE(M) said that all GFS aircraft were equipped with more than one set of aircraft navigation systems and radio systems which were Y2K compliant. Hence, GFS flying service was unlikely to be affected by the Y2K issue.

27. While understanding a full disclosure of the disciplined services departments' contingency plans would not be appropriate as the contents of the contingency plans involved detailed operational matters, the Chairman asked whether the details of each department's Y2K contingency plan could be provided in the form similar to the details of FSD service-wide contingency plan outlined in the Appendix to Annex B-1 of the information paper. DS(S)2 agreed to provide the information.

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28. To facilitate members' understanding on the Y2K contingency plans, the Chairman enquired about the feasibility for members to attend the forthcoming drilling exercises. DS(S)2 said that she would liaise with the Police Force and FSD for the necessary arrangements.

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III. Follow-up on problem of Hong Kong residents detained in the Mainland and assistance provided by the Administration to Hong Kong residents encountering problems in Taiwan
(LC Paper No. CB(2) 2799/98-99(03))

29. Secretary for Security (S for S) briefed members on the latest development of the establishment of a notification system on Hong Kong residents arrested, detained or imprisoned in the Mainland. At the meeting held between the Hong Kong and Macau Affairs Office (HKMAO) and the Office of the Government of the HKSAR in Beijing (Beijing Office) on 10 September 1999, HKMAO informed HKSAR officials that the Mainland authorities had agreed in principle that a notification system should be established. HKMAO was now co-ordinating with various

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Mainland agencies such as the Public Security Ministry, the Customs, the Supreme People's Procuratorate and the Supreme People's Court with a view to working out a notification mechanism. The meeting was informed of the following general principles to be adopted for the establishment of a notification system -

- (a) The scope of the notification mechanism should be well defined;
- (b) The notification system would be established under the Mainland laws. When a person was arrested and kept in custody by the Public Security Ministry, the Customs or the Supreme People's Procuratorate, or when the case was heard and sentenced was handed down by the Supreme People's Court, the relevant Mainland authorities should inform the detainee's family in accordance with the Mainland laws. Under this arrangement, the Mainland authorities considered that the family members of a detainee could be informed of the details of the detention or judicial proceedings via the HKSAR Government. It was stressed that the purpose of the notification system was to inform the family members concerned of the case instead of the HKSAR Government; and
- (c) The Mainland authorities were of the view that it was inappropriate to extend the notification system to cover every aspect of the judicial proceedings in the Mainland under the Mainland laws. It was because there was no provision in the Mainland laws for the relevant Mainland authorities to inform another executive authority of the progress of judicial proceedings. As the Mainland court would make known to the public about its ruling, the defendant would be given a verdict and his family members would be informed accordingly, there would be no significant difference even if the HKSAR Government was not the one to be informed of the case; and
- (d) HKMAO would give due consideration to including cases such as Hong Kong residents died or being murdered while staying in the Mainland under the notification system having regard to the fact that such cases were followed up by the Public Security Ministry.

S for S added that the Administration would follow up with the Mainland authorities on details of the notification system.

Establishment of a notification system

30. Miss Emily LAU questioned why under the proposed notification system, HKSAR Government would not be informed of cases which involved Hong Kong residents being arrested, detained or imprisoned in the Mainland. Should the HKSAR Government be informed of such cases, it could provide the necessary assistance to the detainees. S for S explained that under the proposed notification system, the Mainland authorities would inform the family members of the detainees about the cases because they had to act in accordance with the Mainland laws. Deputy Director, Beijing Office (DD/Beijing Office) supplemented that the Mainland authorities did not object in principle if HKSAR Government kept record of the cases when the notifications were handed to the detainees' families, and that the HKSAR Government would consider providing assistance as appropriate at the request of the detainees or their families.

31. In response to Miss Emily LAU's enquiry as to when the notification system would come into operation, DD/Beijing Office said that HKMAO was co-ordinating with various Mainland agencies to work out the notification mechanism. Miss Emily LAU urged that the Administration should make every effort to put in place an agreed mechanism with the relevant Mainland authorities without delay.

32. Miss Emily LAU enquired about the role of the Beijing Office upon the establishment of the notification mechanism. In response, DD/Beijing Office said that the Beijing Office was the Administration's major contact point in the Mainland. Hence, the relevant Mainland authorities might inform the detainees' families direct or through the Beijing Office; but that assistance would only be rendered to the detainees or their family members at their request because some detainees might not want the Government to intervene.

33. Mr Andrew CHENG asked how the Administration, under the proposed notification system, could ensure the relevant Mainland authorities at the provincial and municipal levels would inform the HKSAR Government or the Beijing Office of the essential details of detention cases involving Hong Kong residents. S for S said that it was one of the problems to be resolved by the Mainland authorities. She pointed out that it would take some time for the relevant Mainland authorities throughout the country to become familiarized with the operation of the notification system, given the vast size of the country.

34. Mr Andrew CHENG further said that given the Beijing Office was the only contact point of the HKSAR Government available in the

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Mainland, the Administration should consider setting up more offices in the Mainland so that prompt assistance could be provided to Hong Kong residents involving in detention cases in places other than Beijing. S for S said that as the duty and power to supervise the proper functioning of the law enforcement agencies in the Mainland rested with the People's Procuratorate, it was difficult for the Administration to determine whether the Mainland authorities were not in strict compliance with the Mainland laws. Given that the Administration would be responsible for conveying the details of detention cases involving Hong Kong residents to their families, the Administration could follow up the cases if required. In the circumstances, she did not see the need for additional offices of HKSAR Government in the Mainland for the time being.

35. Miss Margaret NG supported the principle that the family members of Hong Kong residents who were being detained in the Mainland, instead of HKSAR Government, would be the object to be informed under the proposed notification system. She pointed out that whether assistance from the HKSAR Government would be sought should be determined by the detainees themselves as some of them might not wish to have their detention made known. Miss NG suggested that when the HKSAR Government conveyed the details of the detention cases to the families concerned, it should also inform them of the assistance available.

36. Dr LUI Ming-wah considered that the slow progress on the establishment of a notification system was due to the complexity of the issue. He said that the problem should be brought to a higher level of the Central People's Government (CPG) by the Chief Executive (CE). S for S responded that CE, the Chief Secretary for Administration and the Secretary for Justice had conveyed to the highest level of CPG the concerns of Hong Kong people on the matter during their visits to Beijing. She added that she herself had also raised similar concerns with the relevant authorities during her visits to the Mainland. The notification mechanism was being worked out under the co-ordination of HKMAO.

37. Mr Albert HO said that Hong Kong and the Mainland were separate jurisdictions. In reaching an agreement on the notification mechanism, it should be made clear that the HKSAR Government had no intention to interfere with the legal and judicial proceedings in the Mainland. S for S responded that the Basic Law would be the basis for establishing any bilateral agreement with the Mainland authorities. The Mainland authorities had indicated that reference to international treaties or agreements could be made when drawing up bilateral agreements with HKSAR. Suitable adaptations would have to be made bearing in the mind the "One Country, Two Systems" principle.

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38. The Chairman asked whether a Hong Kong resident who was arrested by the Mainland public security officers in places other than Hong Kong and the Mainland was within the scope of the proposed notification system. S for S agreed to follow up.

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39. In response to the Chairman's enquiry, S for S said that all criminal offences would be covered under the notification system.

Visits to Hong Kong residents under detention or in prison

40. Referring to para.3(b) of the information paper, Mr CHEUNG Man-kwong noted that the HKSAR Government had no legal right to demand access to or communicate with a Hong Kong resident detained in the Mainland. Besides, the families of the detainees were not permitted under the Mainland laws to visit the detainees. Given the long detention period and proceedings time taken, Mr CHEUNG considered that it was inhumane and unreasonable if the detainees could not be visited by their family members. He asked whether the Administration would actively liaise with the Mainland authorities with a view to working out a viable arrangement to facilitate such visits as soon as practicable.

41. S for S replied that the Administration was fully aware of members' concern about the right to visit Hong Kong residents under detention or in prison in the Mainland. She explained that according to the Mainland laws, there was no provision for the executive authorities, regardless whether it was an executive authority in the Mainland or HKSAR, to visit persons under detention or in prison. The technical difficulties had yet to be resolved. She further said that should a detainee be detained for investigation purpose, the relevant authorities could reject request from the detainee's family to visit the detainee. However, when prosecution had been instituted, the detainee's family was allowed to visit the detainee. DD/Beijing Office added that it was stipulated in the relevant Mainland law that when a detainee was detained for investigation purpose, he could be visited by his lawyer only; but that his family members could apply for permission to visit from the relevant authorities. He pointed out that in some detention cases involving Hong Kong residents, their families had been granted such permission to visit.

42. Mr CHEUNG Man-kwong said that the Administration should make every effort to ascertain the right to access to or communicate with a Hong Kong resident detained in the Mainland instead of relying on the flexibility exercised by the Mainland authorities. He further said that it was noted that officials of Embassies in the Mainland could visit their respective residents who were detained or imprisoned in the Mainland. He enquired about the reasons for the differences in the rights enjoyed by

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Hong Kong and foreign residents.

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43. In response, S for S said that in accordance with the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations as well as the bilateral agreement between a foreign country and the Mainland, officials of the Embassy concerned could visit their residents who were detained in the Mainland. She pointed out that the role of the Beijing Office could not be compared with that of an Embassy. In addition, the Mainland authorities had explained the technical difficulties imposed by the Mainland laws, i.e. no available mechanism under which an executive authority would be notified of legal and judicial proceedings. Nevertheless, she undertook to reflect members' concern to the relevant Mainland authorities.

44. Given the sensitivity of the Administration's involvement in providing assistance to Hong Kong residents detained in the Mainland, Mr David CHU suggested that consideration might be given to setting up a non-government organization comprising representatives from the Mainland and HKSAR to provide the necessary assistance to the detainees.

45. Dr LUI Ming-wah said that the assistance provided by the Beijing Office to Hong Kong residents detained in the Mainland was less than that provided by the British Embassies to Hong Kong residents detained in foreign countries prior to reunification. S for S stressed that under the Mainland laws, the HKSAR Government had no legal right to demand access to or communicate with a Hong Kong resident detained in the Mainland. Nevertheless, the Administration would actively pursue a viable working arrangement to facilitate such visits in future.

46. Mr Albert HO shared Dr LUI's concern. He said that the assistance provided by the Beijing Office should be no less than that provided by the British Embassies to Hong Kong residents under detention prior to reunification. S for S responded that every effort would be made to provide as much assistance as possible to Hong Kong residents detained in the Mainland. She pointed out that prior to reunification, the assistance provided by the British Embassy in the Mainland to Hong Kong residents under detention was very limited.

47. Miss Margaret NG pointed out that Article 4 of the Basic Law might be regarded as providing the necessary legal basis for the Administration to provide assistance to Hong Kong residents who were detained in the Mainland. S for S advised that the Administration was seeking legal advice on the application of the Basic Law in this context. She said that Article 95 of the Basic Law might be relevant.

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48. The Chairman asked whether the non-government organizations from Taiwan could visit Taiwanese who were detained in the Mainland. If so, the Administration might consider making reference to the arrangements. S for S said that no information was available at the moment. She would make reference to the arrangements in due course.

Establishment of a direct complaint channels for Hong Kong residents

49. Referring to the establishment of a direct complaint channel for Hong Kong residents, Mr Andrew CHENG asked how a complaint could be made. S for S responded that according to the Mainland laws, the People's Procuratorate had the duty and power to oversee and supervise the proper functioning of the law enforcement agencies and judicial organs of the Mainland. It had the responsibility to receive complaints, including those relating to illegal or prolonged detentions. The complaint channel was applicable to Hong Kong residents. However, the enforcement standards in different provinces and municipalities might vary. The Supreme People's Procuratorate had agreed that a booklet should be produced jointly between them and the HKSAR Government. This would significantly enhance Hong Kong residents' understanding of the legal and judicial process and complaint channels in the Mainland.

50. Mr Albert HO asked whether the Administration would urge HKMAO to extend its role to follow up the complaints made by Hong Kong residents to the People's Procuratorate given that the enforcement standards in different provinces and municipalities varied. S for S said that HKMAO was performing a co-ordinating role in working out a notification mechanism between Hong Kong and the Mainland. The Mainland authorities considered that it would be more appropriate for the detainees or their family members to lodge complaints with the Supreme People's Procuratorate. Moreover, it had not been HKMAO's practice to inform the Administration of the development of individual cases.

IV. Follow-up on application and verification procedures for a Certificate of Entitlement and related issues
(LC Paper No. CB(2) 2799/98-99(04))

51. Deputy Secretary for Security 3 (DS(S)3) said that the Mainland applications for the Certificate of Entitlement (C of E) submitted after the promulgation of the new application procedures for C of Es in the Gazette on 17 July 1999 had not yet been processed by ImmD because there were many outstanding applications in hand. It was expected that a proper mechanism would be in place when ImmD was ready to process C of E applications received after 17 July 1999. As regards the introduction of

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genetic tests for the right of abode (ROA) claimants, DS(S)3 said that a set of arrangements for the conduct of genetic test had been put forward to the Bureau of Exit-Entry Administration for consideration. It was expected that an agreement could be reached in about two to three months' time.

52. Deputy Director of Immigration added that some 12 000 Mainland applications for C of E had been received since 17 July 1999. Together with the outstanding applications, there were altogether some 30 000 C of E applications pending processing. As ImmD was able to process about 3 500 to 3 600 applications monthly, it was expected that the backlog could be cleared in seven to eight months' time.

53. Referring to paragraph 8 of the information paper, Miss Margaret NG questioned the necessity of requiring ROA claimants to undergo genetic test on equity grounds, in particular for straightforward cases. She said that sometimes genetic test might give rise to ridiculous results. In addition, the requirement for undergoing genetic test did not have direct correlation with equity. Should a person claim to have ROA, the burden of proof should be on the claimant. She considered that genetic test would only constitute one of the various means to prove the parentage of an applicant in substantiating his claim for ROA.

54. DS(S)3 clarified that paragraph 8 covered two types of C of E applicants. The present thinking was that C of E applicants who were born "out-of-wedlock" should be required to undergo genetic test regardless whether they were Mainland or overseas applicants. The requirement was considered necessary on equity grounds. Whilst for other ROA claimants, they might be required to undergo genetic test if their parentage was in doubt.

55. Miss Margaret NG disagreed with the proposal to require all C of E applicants who were born "out-of-wedlock" to undergo genetic test. She pointed out that in some cases, there was no doubt about the parentage of a C of E applicant, e.g. in the *Cheung Lai Wah* case. She was therefore of the view that the requirement of genetic test was needed only when a ROA claimant's parentage was in doubt, regardless whether he was born "out-of-wedlock".

56. DS(S)3 responded that the genetic test provided for an objective criteria and scientific method for determining whether the parentage of ROA claimants was substantiated.

57. Miss Margaret NG opposed the rationale. She commented that when determining whether the evidence produced by C of E applicants were sufficient and whether a genetic test was required would ultimately

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involve the exercise of subjective judgement of individual responsible officials.

58. DS(S)3 pointed out that the majority of the C of E applicants born out-of-wedlock were Mainland applicants, and given the fact that the documentary proof in the Mainland was normally insufficient to substantiate the parentage of these applicants, the Administration's present thinking was that they should be required to undergo genetic test. The requirement was proposed to be extended to overseas C of E applicants on equity grounds.

59. Responding to the Chairman, DS(S)3 said that the relevant legislative amendments to empower the Director of Immigration to require ROA claimants involved to undergo genetic tests would be introduced to the Council. Miss Margaret NG disagreed with the legislative proposal. She would raise her concern in the Bills Committee to be formed to study the relevant bill when it was introduced.

60. Mr Albert HO said that, according to his experience, ImmD was capable of verifying the status and parentage of a ROA claimant by making reference to different sources and documents. He considered that the requirement for genetic test would be regarded as one of the various means to prove the parentage of an applicant and that objective criteria should be adopted for determining when the test was needed. He suggested that the Administration might consider setting up a committee responsible for vetting individual cases on the need to undergo genetic test.

61. The Chairman expressed concern that stringent procedures should be adopted for the conduct of genetic test and the collection of tissue samples. He urged that the Administration should play an active role in the sample collection process, e.g. to conduct random sample checks by the officials from Hong Kong.

62. The Chairman said that the application and verification procedures for a C of E and related issues would be followed up by the Panel.

63. There being no other business, the meeting ended at 10:45 am.

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