

立法會
Legislative Council

LC Paper No.CB(2) 2619/99-00
(These minutes have been seen
by the Administration and cleared
with the Chairman)

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LegCo Panel on Security

**Minutes of meeting
held on Thursday, 1 June 2000 at 2:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon Mrs Selina CHOW LIANG Shuk-yee, JP (Deputy Chairman)
Hon David CHU Yu-lin
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, JP
Hon Gary CHENG Kai-nam, JP
Hon Andrew CHENG Kar-foo
Hon Howard YOUNG, JP
Hon LAU Kong-wah
- Member absent** : Hon CHEUNG Man-kwong
- Public Officers attending** : Item IV
Mr Timothy TONG
Deputy Secretary for Security 3

Mr Alan CHU
Principal Assistant Secretary for Security

Mr Corrado CHOW
Assistant Secretary for Security

Mr T P WONG
Deputy Director of Immigration
Immigration Department

Ms Helen CHAN
Assistant Principal Immigration Officer
Immigration Department

Item V

Mr Timothy TONG
Deputy Secretary for Security 3

Miss Cathy CHU
Principal Assistant Secretary for Security C

Mr Andy CHAN
Assistant Secretary for Security

Mr P T CHOY, JP
Deputy Director of Immigration
Immigration Department

Mr H K TSOI
Principal Immigration Officer
Immigration Department

Dr David G CLARKE
Government Chemist
Government Laboratory

Dr Betty LAW
Senior Chemist
Government Laboratory

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

Staff in : Miss Mary SO
attendance : Senior Assistant Secretary (2) 8

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I. Confirmation of minutes of meeting held on 4 May 2000 and matters arising

(LC Paper Nos. CB(2) 2128/99-00 and CB(2) 2126/99-00(01))

The minutes of the meeting held on 4 May 2000 were confirmed.

2. Members noted the list of follow-up actions required of the Administration.
3. The Chairman reminded members that a special meeting of the Panel had been scheduled for 15 June 2000 at 2:30 pm to discuss the following three items -
 - a) Revision of fees and charges;
 - b) Safe transportation of used vehicles and spares in containers; and
 - c) Review of the Police Information Systems Strategy.
4. The Chairman said that subject to the Administration's reply, another special meeting of the Panel might be convened to discuss the outcome of the Administration's investigation on the LIN Qiaoying case and related matters, and the issue on enforcement actions taken by the Mainland Public Security officials in the territory of Hong Kong arising from the SU Zhiyi case.
5. Mrs Selina CHOW suggested and members agreed to discuss the fire incident occurred inside the Cross Harbour Tunnel on 29 May 2000 at the special Panel meeting to be held 15 June 2000 if the matter had not been scheduled for discussion by the Panel on Transport at its forthcoming meeting.

(Post-meeting note: The Panel on Transport discussed the matter on 16 June 2000, and members of the Panel on Security had been invited to join the discussion of the issue.)

II. Report of the Subcommittee on indebtedness of Police officers

(LC Paper No. CB(2) 2130/99-00)

6. The Chairman, in his capacity as Chairman of the Subcommittee on indebtedness of Police officers, introduced the paper which detailed the deliberations, observations and recommendations of the Subcommittee. He said that the Subcommittee observed that there had not been a significant improvement in the situation of Police indebtedness. According to an information paper provided by the Administration on the statistics and the reasons for Police officers incurring unmanageable debts for the period between the second half of 1998 to the second half of 1999 (LC Paper No. CB(2) 2134/99-00(01) issued on 30 May 2000), the number of Police officers with unmanageable debts caused by overspending and gambling had

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increased slightly from 57 to 60 between the first and second half of 1999. The Subcommittee had therefore recommended that the Force management should be urged to convey a clear and strong message to the Force members that under no circumstances would overspending or gambling be tolerated and to continue to explore, in consultation with the Department of Justice, other feasible measures to tackle the problem as set out in paragraph 23 of the paper. Members expressed support for the Subcommittee's recommendations.

III. Draft report of the Panel on Security for submission to the Legislative Council

(LC Paper No. CB(2) 2131/99-00)

7. Members endorsed the draft report which gave an account of the work of the Panel on Security during the 1999-2000 legislative session for tabling at the Council meeting on 21 June 2000 in accordance with Rule 77(14) of the Rules of Procedure of the Council. Members also agreed that the report should incorporate major issues discussed at the meeting.

IV. Progress Report on the Hong Kong Special Administrative Region Identity Card Project

(LC Paper No. CB(2) 2126/99-00(02))

8. At the invitation of the Chairman, Deputy Secretary for Security (DS for S3) said that the Consultants had completed the feasibility study on introducing a new identity card (ID card) and its new computer supporting system and submitted a draft Study Report to the Immigration Department (ImmD) in late May 2000. While ImmD was considering the draft report, the Administration would like to brief Members on the Consultants' key findings and recommendations in the first instance. Upon acceptance of the final Study Report, ImmD would assess the Consultants' key recommendations and, in light of comments from this Panel and bureaux/departments, decide on the way forward including the choice of a new ID card. Members would be consulted again prior to seeking funding approval from the Finance Committee of the Legislative Council.

9. Introducing the Administration's paper, DS for S3 said that the Consultants were of the view that the design of the existing ID card and its computer supporting system needed an urgent overhaul as the former was outdated and prone to forgery and the latter was aged and would reach the end of its life expectancy by 2002. On the choice of the new ID card, the Consultants considered a smart ID card more preferable to a non-smart ID card because the former could employ more sophisticated cryptographic techniques to protect the data and ensure that it could not be fraudulently altered. In addition, a smart ID card would enable immigration officers to update the conditions of stay of temporary residents upon granting of extension of

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stay to them or their re-entry to Hong Kong. In anti-illegal immigration operations, law enforcement officers in the field could use a special reader to confirm instantly if their permission to stay was valid without holding up the person for further checks. As regards the cost of the new ID card, DS for S3 said that the Consultants' initial estimation was that the costs for issuing a non-smart ID card, a smart ID card which was capable of supporting ImmD's core businesses only and a smart ID card which could support multiple applications were \$2.3 billion, \$2.6 billion and \$2.9 billion respectively.

10. In view of the sensitivity on the storage of electronic data in a smart card, DS for S3 said that the Consultants had recommended that the design of the new ID card and its new computer supporting system must have regard to the following issues -

- a) compliance with the Personal Data (Privacy) Ordinance;
- b) designing systems and procedures in a privacy-sensitive manner; and
- c) use of privacy enhancing technologies to prevent identity theft and to protect the data privacy of the individual.

The Consultants had also proposed a series of data protection measures which were detailed in paragraph 8 of the Administration's paper. DS for S3 further said that the Administration had discussed with the Privacy Commissioner for Personal Data (Privacy Commissioner) over the design of the new ID card system on numerous occasions. The Privacy Commissioner would continue to be consulted.

11. DS for S3 stressed that the Administration had not come to a view on the choice of the new ID card. The Administration would conduct an internal consultation before deciding whether the new ID card should be a smart card which could support multiple applications, and if so, to identify what such potential value-added applications were. DS for S3 pointed out that if the option of a smart ID card which could support multiple applications was adopted, whether and how an individual application not related to ImmD's core businesses should be incorporated in a smart ID card would be subject to a separate feasibility study to be conducted by the bureau/department concerned. Members would be consulted by the bureau/department concerned. He added that the Consultants had recommended that if a smart ID card which could support multiple applications was to be adopted, then an external agency should be set up to manage the operation and overall security of the smart card scheme.

12. In response to Mr Gary CHENG, DS for S3 said that the external agency referred to a Government body outside ImmD. Deputy Director of Immigration (DD of Imm) supplemented that the external agency would be responsible for managing the operation and overall security of the smart card scheme, such as assigning a specific location on the computer chip of the ID card where the Government departments concerned could store their data and certifying the readers of the departments

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concerned so that they could only read their respective data stored on a card, ensuring that data from different departments stored on a card would not affect one another's operation, as well as rendering technical support to the departments concerned in the form of a help desk. He stressed that the external agency would not have access to the database of the different departments which had their data stored in a smart ID card. The smart card scheme also guaranteed separation of uses from each other, so that immigration data on a card would be protected from access by other departments which had their data stored on a card and vice versa. In reply to Mr CHENG's further enquiry, DD of Imm said that ImmD presently had no plan to add other biometrics identification data to the new ID card apart from the cardholder's facial image and two thumbprints.

13. As turning the existing ID card into a smart ID card which could support multiple applications, including ImmD's core businesses, would completely change the nature of ID card, Mrs Selina CHOW enquired how ImmD would take the whole ID card project forward within the Administration and when it could come to a decision on which form the new ID card would take.

14. DD of Imm replied that upon the acceptance of the final Study Report from the Consultants, ImmD would consider whether the new ID card should take the form of a non-smart card or a smart ID card which was capable of supporting ImmD's core businesses only. As to whether a smart card should be used for multiple applications, and if so, what types of data should be stored in the card, DD of Imm said that this would be a policy matter for the Administration as storing data on the ID card for other applications such as driving licence and voting would require legislative amendments. DS for S3 supplemented that even if it was finally decided that the new ID card should take the form of a smart card which could support multiple applications, such a decision would not affect ImmD's plan to replace the existing ID card in 2002, as spaces could be set aside in the ID card to allow data from other departments to be stored electronically after the issuing of the new ID card. DS for S3 pointed out that decision on whether the new ID card should take the form of a smart card which could support multiple applications would be made at the Legal and Security Policy Group (LSPG). As regards when the LSPG could come to such a decision, DS for S3 said that as the Consultants had not yet submitted their final Study Report, it was difficult to predict the time required for ImmD and other bureaux/departments to study the Consultant's recommendations. Moreover, it was not sure how many meetings would be taken by the LSPG to come to a decision on the choice of the new ID card.

15. Mr Albert HO expressed concern that the adoption of a smart card which could support multiple applications would infringe on the individual's right to privacy, as this would mean that personal data beyond the purposes of the Registration of Persons (ROP) Ordinance would be stored in the ID card. He enquired whether the Administration would seek the individual's consent for storing his or her personal data not required for ROP purposes, such as criminal record and genetic code. Mr HO further enquired about the socio-economic benefits of a smart ID card which could

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support multiple applications and whether other developed countries overseas also used such a card.

16. DS for S3 responded that ImmD had not yet decided whether the new ID card should take the form of a non-smart card or a smart card. However, the Consultants were of the view that a smart ID card was preferable to a non-smart ID card because the former could employ more sophisticated cryptographic techniques to protect the data and ensure that it could not be fraudulently altered. In addition, a smart ID card would facilitate automated passenger clearance at immigration control points and enable immigration officers to update the conditions of stay of temporary residents, which currently numbered some 600,000, upon granting of extension of stay to them or their re-entry to Hong Kong. In anti-illegal immigration operations, law-enforcement officers in the field could use a special reader to confirm instantly if their permission of stay was valid without holding up the person for further checks.

17. As to the question of whether the Administration would seek the individual's consent for storing his or her personal data not required for ROP purposes in a smart ID card, DS for S3 said that consent might not be needed in all instances as some personal data were already prescribed by law to be provided to the departments concerned for certain usage. For those personal data which the departments concerned wished to store in a smart ID card but which were presently not required by law to be provided to them, the Administration's initial thinking was that amendments could be made to the relevant legislation to make the storing of such personal data in a smart ID card mandatory. DD of Imm supplemented that if the new ID card would take the form of a smart ID card which could support other applications such as driving licence, he did not see the need for seeking the individual's consent in this regard as the personal data to be stored in the ID card would be the same as that presently contained in the driving licence. He would appreciate the rationale for seeking the individual's consent in storing very individualized information such as consent to donate organs when he or she should pass away. As regards the socio-economic benefits of a smart ID card which could support multiple applications, DD of Imm said that apart from the obvious benefits of providing more convenience to the public, the potential use of the smart ID card in non-government applications such as digital certificate could boost the growth of electronic commerce in Hong Kong.

18. DD of Imm further said that the use of smart card for identification and other purposes was adopted in many overseas countries. For examples, Finland used a smart ID card which had many applications like electronic commerce, credit card and digital certificate, etc. Malaysia and Israel would soon introduce a smart ID card which would support multiple applications such as driving licence, health records, and digital certificate, etc. Countries like Singapore and Spain also used a smart ID card but their ID cards were solely used for passenger clearance at immigration control points and welfare purposes respectively.

19. Mr Albert HO expressed concern about the possible leakage of personal details if an ID card containing large amount of personal data was lost or stolen. DD of

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Imm assured members that there was no cause for concern as the data would be encrypted in such a manner that if they were intercepted by an unauthorized person, they would be in the form of a set of meaningless characters and numbers.

20. Mr LAU Kong-wah expressed support for the introduction of a smart ID card which could support multiple applications. Noting that other Government departments which wished to store data in the ID card would first need to conduct a feasibility study and then procure the required computer supporting system, he asked whether the plan to replace the existing ID card could implement in 2002 as planned.

21. DD of Imm reiterated that the Administration had not come to a final decision on the choice of the new ID card. If it was finally decided that the new ID card should take the form of a smart card which could support multiple applications, this would not affect the ID replacement exercise as sufficient spaces would be set aside in the computer chip of the new ID card to allow the storage of additional data from other Government departments after the issuance of the new ID card.

22. Mr Howard YOUNG was strongly in support of a smart ID card which could support multiple applications, including non-government ones. He enquired whether ID cardholders would have access to read the personal data which were stored in their cards; and if so, the measures to be taken to avoid access to these data by unauthorized persons.

23. DD of Imm replied that self-help kiosks would be set up in ImmD offices so that cardholders could view the data on their cards. In order to gain access to the data in ID card, the thumbprint of the user must match that stored in the ID card. He added that the latest technology could detect whether the thumbprint was from a live person.

24. As the smart ID card had the potential to include non-government applications, such as entry permit to the Mainland, Mr Howard YOUNG enquired whether the design of the new ID card would enable readers used in places outside Hong Kong to read the data stored in the card. DD of Imm replied that there were international specifications in the design of a smart card. He said that ImmD was in contact with the relevant Mainland authorities on the possibility of including in the new ID card data for entry permit to the Mainland. He pointed out that the determination of this issue still had a long way to go, as a lot of work would need to be done to address the differences in system and law between Hong Kong and the Mainland. Dr LUI Ming-wah urged the Administration to expedite its discussion in this regard.

25. The Chairman expressed strong reservations about the introduction of a smart ID card which could support multiple applications. He said that in the absence of the details of the local legislation to implement Article 23 of the Basic Law and whether the Personal Data (Privacy) Ordinance would bind the state organs in Hong Kong, he was adamant that a smart ID card which could be used for purposes beyond ROP should not be introduced.

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26. In concluding the discussion, the Chairman said that given the significant implications of the new ID card, the Administration should brief the Panel at the next legislative session before deciding on the way forward.

V. Verification of parentage of persons claiming right of abode - genetic test arrangements

(LC Paper No. CB(2) 2126/99-00(03))

27. The Administration took members through the Administration's paper which detailed the genetic arrangements to be adopted for verifying the claimed parentage of persons claiming right of abode (ROA) under paragraph 2(c) of Schedule 1 to the Immigration Ordinance.

28. In order to deter fraudulent act by people taking part in the genetic test in the Mainland, Mr Albert HO enquired whether the Administration would consider sending staff to monitor the genetic test to be conducted by the Criminal Technology Division of the Guangdong Provincial Public Security Department and to randomly require ROA claimants who had settled in Hong Kong after being issued a Certificate of Entitlement (C of E) to undergo another genetic test in Hong Kong.

29. DS for S3 agreed that there was no definitive guarantee that the security measures and safeguards to the accuracy and reliability of the genetic test results would be absolutely foolproof, no matter how stringent they were. The Administration however was confident that the six security measures detailed in paragraph 6 of the Administration's paper and the following four safeguards would prevent the occurrence of fraudulent act by people conducting the genetic test to the maximum -

- a) the Government Laboratory and ImmD had conducted on-site visits to the Criminal Technology Division of the Guangdong Provincial Public Security Department and were satisfied that the latter had the ability to undertake the genetic test;
- b) the Criminal Technology Division of the Guangdong Provincial Public Security Department would forward the results, including the raw data, to the Government Laboratory for cross checking;
- c) the Criminal Technology Division of the Guangdong Provincial Public Security Department would adopt the standards and quality assurance measures as presently in use by the Government Laboratory. To this end, representatives of the Criminal Technology Division of the Guangdong Provincial Public Security Department would shortly visit the Government Laboratory to study how the standards and quality assurance measures used by the Government Laboratory were adopted in practice. A simulated test would also be conducted to ensure the

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smooth implementation of the genetic test arrangements for ROA applicants; and

- d) the results of the two sides would be exchanged for collaborative analysis independently.

DS for S3 added that the Independent Commission Against Corruption considered that the proposed measures and safeguards were practicable and reliable.

30. DD of Imm said that during the past three years, ImmD had processed some 76,000 applications for C of E and about 64,000 of these applicants had been issued a OWP. Amongst the 76,000 applications received, the majority of complaints received by ImmD were related to the long time taken by the Mainland authorities to process the applications. ImmD did receive some complaints about Mainland officials acting as an accomplice with the C of E applicants in defrauding the Mainland authorities. Such complaints however were few in number, and as a result of investigation, prosecutions were made. DD of Imm considered that the existing system provided adequate safeguard to deter fraudulent act by Mainland officials.

31. On the question of requiring ROA claimants who had entered Hong Kong to undergo genetic test again or conducting random checking at immigration control points, Principal Assistant Secretary for Security C said that the Administration had sought legal advice in this regard. Legal advice was obtained that it was unlawful to require C of E holders to undergo another genetic test unless there was strong evidence they had obtained their C of E through fraudulent means, if being a fact that C of E holders enjoyed the right to land, amongst other things.

32. Dr LUI Ming-wah was of the view that the Administration should build in a mechanism to randomly select ROA claimants who had settled in Hong Kong to undergo another genetic test in Hong Kong, as it was inadequate to rely simply on the security measures and safeguard mentioned in the Administration's paper. DS for S3 pointed out that if there were reasons to believe that the results of the genetic tests were in doubt, the authorities would investigate into the case. He said that the suggestion of random checking, if adopted, would give rise to unfairness to ROA claimants who had undergone genetic tests as compared to those claimants who were not required to undergo genetic test.

33. Mrs Selina CHOW and Mr David CHU opposed Dr LUI's views. They considered that it was unfair and unlawful to require these people to undergo another genetic test unless there was strong evidence that they obtained their C of E through fraudulent means.

34. The Chairman said that as the Administration would introduce legislative amendments to the Immigration Ordinance to implement the genetic test arrangements, members would have further opportunity to discuss the issue in future.

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VI. Any other business

Report on closure of Pillar Point Vietnamese Refugees Centre

35. DS for S3 informed members that Hong Kong's last Vietnamese refugees camp, the Pillar Point Vietnamese Refugees Centre (PPVRC), had been officially closed immediately after midnight on 1 June 2000 and the Civil Aid Service (CAS) had formally taken over maintaining discipline of the site. He said that the closure of PPVRC was smooth and peaceful. As of this morning, about 137 Vietnamese refugees and migrants still remained at the site. They had signed a document with CAS agreeing to move out from PPVRC within the next few days. DS for S3 further said that those who were in need of help genuinely had received assistance, e.g. Comprehensive Social Security Assistance and Compassionate Rehousing. The remainders who claimed eligibility for further assistance were required to provide fresh information to support their claims. Lastly, DS for S3 thanked LegCo Members for their concern in the Vietnamese refugees and migrants problem over the years, and for appealing to the Vietnamese refugees and migrants remaining at the PPVRC site to move out.

36. Mr LAU Kong-wah said that the assistance provided to the Vietnamese refugees and migrants still remained at the PPVRC site should not be more than provided to those who had moved out earlier. However, for those Vietnamese refugees and migrants who did not possess a Hong Kong ID card and could not find a place to live after moving out from the PPVRC site, the Administration should ensure that they had a place to stay after moving out. DS for S3 responded that such assistance would be provided where justified.

37. In reply to the Chairman and Mrs Selina CHOW's enquiries, DS for S3 said that if the Vietnamese refugees and migrants refused to join the voluntary scheme to obtain a Hong Kong ID card, they would not be eligible for social welfare assistance and apply for public housing. They would be given a removal allowance when they moved out from the PPVRC site. He added that Vietnamese refugees and migrants who refused to become permanent Hong Kong residents would retain their refugee status. They would be free to find jobs and travel anywhere in Hong Kong. However, they had to renew their refugee card with ImmD from time to time.

38. There being no other business, the meeting ended at 4:36 pm.

Legislative Council Secretariat

19 September 2000