

立法會
Legislative Council

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LC Paper No. CB(2)3047/03-04

(These minutes have been seen by the
Administration)

Panel on Security

**Minutes of meeting held on Thursday, 13 May 2004
at 2:30 pm in Conference Room A of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
Hon WONG Yung-kan (Deputy Chairman)
Hon Albert HO Chun-yan
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon Andrew WONG Wang-fat, JP
Hon Howard YOUNG, SBS, JP
Hon LAU Kong-wah, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Dr Hon LUI Ming-wah, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Michael MAK Kwok-fung

Public Officers attending : Item V

Miss CHEUNG Siu-hing
Deputy Secretary for Security 1

Mr CHAN Wai-ki
Assistant Commissioner of Police (Personnel)

Mr David CHOW
Departmental Secretary
Fire Services Department

Mr Simon Y L PEH
Assistant Director of Immigration (Administration and Planning)

Mr Albert P W LI
Customs Civil Secretary
Customs and Excise Department

Mr YING Kwok-ching
Assistant Commissioner (Human Resource)
Correctional Services Department

Mr M J BISHOP, IDS
Assistant Director of Operations
Independent Commission Against Corruption

Mr WONG Shiu-cheung, IMS
Principal Investigator
Independent Commission Against Corruption

Item VI

Miss Pamela LAM
Acting Principal Assistant Secretary for Security (E)

Mr WONG Pak-nin
Chief Superintendent of Police (Crime Headquarters)

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

Staff in : Mr Raymond LAM
attendance Senior Council Secretary (2)5

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)2276/03-04)

The minutes of the meeting held on 2 April 2004 were confirmed.

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II. Information papers issued since the last meeting

(LC Paper Nos. CB(2)2098/03-04. CB(2)2208/03-04(01) and CB(2)2265/03-04(01))

2. Members noted that the following papers had been issued since the last meeting -

- (a) a paper on issues relating to the use of the Frontier Closed Area;
- (b) views of a member of the public on the mechanism for handling complaints against Police officers; and
- (c) a paper on issues relating to "one-woman brothels".

3. Members also noted that the issues raised in the paper relating to the use of the Frontier Closed Area and the issues raised in the paper relating to "one-woman brothels" were referred from a meeting with Heung Yee Kuk Councillors and a meeting with Yau Tsim Mong District Council members respectively. No member suggested that these two matters be followed up.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)2270/03-04(01) and (02))

4. The Chairman informed members that the item on "Progress of review of the Interception of Telecommunications Ordinance - follow-up issues" was originally scheduled for discussion at this meeting and the Secretary for Security had been invited to attend the discussion. As the Secretary for Security was unable to attend this meeting, the item had been deferred to the meeting in June when he would be able to attend.

5. Members agreed that the following items would be discussed at the next meeting to be held on 10 June 2004 at 2:30 pm -

- (a) Draft report of the Panel on Security for submission to the Legislative Council;
- (b) Progress of review of the Interception of Communications Ordinance - follow-up issues;
- (c) Police's measures to combat crime directed at visitors; and
- (d) Measures to combat robbery of hikers and provision of emergency assistance to hikers.

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6. Regarding an item on "Progress of implementation of Licensing Scheme for Residential Drug Treatment Centres" proposed by the Administration, members agreed that the Administration be requested to provide an information paper on the item before a decision was made on whether the subject matter should be discussed by the Panel.

7. The Chairman suggested that the item on "Progress of implementation of proposals of the Interdepartmental Working Group on the Law Reform Commission Report on Arrest" be discussed at the Panel meeting in July 2004.

IV. Outline of research study on the regulation of interception of communications in overseas jurisdictions
(LC Paper No. CB(2)2270/03-04(03))

8. At the invitation of the Chairman, Head (Research and Library Services) briefed members on the draft outline of research study on the regulation of interception of communications in overseas jurisdictions.

9. Members endorsed the research outline, subject to the incorporation of -

- (a) a study of the legislative amendments in other jurisdictions arising from the "911" incident and development of communications technology; and
- (b) an analysis of whether interception of communications in other jurisdictions required warrants issued by the court or an administrative order.

V. Policy on integrity checking for disciplined forces
(LC Paper Nos. CB(2)1893/03-04(01), CB(2)2270/03-04(04) and (05))

10. At the invitation of the Chairman, Deputy Secretary for Security 1 (DS for S1) and Assistant Director of Operations, Independent Commission Against Corruption (ADO/ICAC) presented the papers provided respectively by the Security Bureau (SB) and ICAC.

11. Referring to paragraphs 6 and 7 of the paper provided by SB, Mr CHEUNG Man-kwong asked why integrity checking between 2001 and 2003 had resulted in the promotion of some officers being denied, but not the taking of disciplinary actions such as interdiction from duty or termination of employment. The Chairman said that according to the papers provided by SB and ICAC, integrity checking on serving officers and on transfer was only conducted by ICAC.

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12. DS for S1 responded that integrity checking was essentially a risk assessment tool and thus the question of "pass" or "failure" did not arise. Whether an individual should be appointed or promoted was to be determined having regard to the circumstances of each individual case. She added that where integrity checking revealed information requiring attention, the relevant department would follow up, including initiating legal action, as appropriate and necessary.

13. DS for S1 said that if a certain post to which an officer was appointed required normal or extended checking, such checking would be conducted again when the officer was subsequently married. She added that even where integrity checking on an officer revealed no information requiring attention, a department could still launch an investigation on the officer concerned, if there were grounds to do so.

14. The Chairman asked whether integrity checking was conducted on officers employed on contract terms.

15. DS for S1 responded that, in general, integrity checking was not required for officers who were not civil servants. Where a government department made a request for integrity checking on a non-civil servant to be appointed to a particular rank or post, the request would be considered by the Civil Service Bureau having regard to the particular circumstances of each individual case and whether the rank or post concerned could have access to confidential information.

16. Mr CHEUNG Man-kwong considered that the Administration should not treat integrity checking and disciplinary actions as two separated matters. He asked whether integrity checking between 2001 and 2003 had resulted in disciplinary actions such as interdiction from duty or termination of employment. DS for S1 undertook to provide a written response.

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17. Mr Howard YOUNG asked for a comparison between the integrity checking referred to in paragraph 3 of the paper provided by SB and background checks on persons to be appointed to advisory committees and persons to be appointed Justices of the Peace.

18. DS for S1 responded that appointments to advisory bodies and appointment of JPs were under the purview of the Home Affairs Bureau and Administration Wing respectively. She undertook to refer Members' questions to them. Nonetheless, in general, the appointment authority would have to take into account the needs and circumstances peculiar to their own case, which were different from appointment of civil servants.

Adm

19. Mr LAU Kong-wah said that paragraph 6 of the paper provided by SB indicated that in the past three years, there were nine instances of promotions being denied as a result of information revealed from integrity checking. It was also stated in a paper provided as a follow-up to the meeting on 19 January 2004 that the

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promotion of seven Police officers was not endorsed in the past three years due to failure to pass integrity checking. He asked about the departments to which the two remaining cases belong. He also asked about the categories of reasons for the nine instances of promotions being denied as a result of information revealed from integrity checking and why disciplinary actions had not been taken in the nine cases.

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20. Departmental Secretary (Fire Services Department) (FSD) responded that one of the two remaining cases belonged to FSD. DS for S1 undertook to provide a written response on the department to which the other remaining case belonged. She said that as the number of cases involved was small, it was inappropriate to categorise the reasons for the nine promotions denied. She stressed that information revealed from integrity checking was not the sole factor for determining the suitability of an individual for appointment or promotion. Each case had to be dealt with on its own merits having regard to individual circumstances. Miss Margaret NG considered that an individual who failed to pass integrity checking should not be appointed or promoted. The Chairman added that the risk assessed should at least be categorised as high, medium or low.

21. The Chairman recalled that he had previously seen the form used in integrity checking and noted the expressions "通過" and "不通過" appearing on the form. He asked whether there had been a change in the form used.

22. DS for S1 responded that according to information provided by CSB, the question of passing or failure to pass integrity checking did not arise. In any case, disciplinary actions and criminal prosecutions might be instituted against any officer in breach of the guidelines on avoidance of conflict of interest. ADO/ICAC added that the question of passing or failure did not arise in integrity checks conducted by ICAC.

23. Miss Margaret NG said that the public would have more confidence in the mechanism for integrity checking only if there was transparency in the mechanism. She expressed concern that there was no question of passing or failure to pass an integrity check. She considered it inappropriate to leave the decision of whether to appoint or promote a person to the department concerned irrespective of whether the integrity check was passed. She requested the Administration to provide a more detailed paper on integrity checking, including -

- (a) the types of integrity checks applicable to civil servants and other public officers, such as principal officials and the chairmen and members of advisory bodies;
- (b) the types of integrity checks conducted at different stages, such as those conducted on appointment or promotion;
- (c) the persons responsible for conducting integrity checks and how integrity checks were conducted; and

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- (d) measures to ensure that integrity checks were conducted independently.

- Adm 24. DS for S1 undertook to consider the request in consultation with the relevant bureaux and government departments. Departmental Secretary (FSD) added that there was an established mechanism for promotion of officers whose integrity checking revealed information requiring attention. The justifications for promotion of an officer had to be provided and accepted by CSB.
25. Mr IP Kwok-him said that he was surprised to note that there was no question of passing or not passing an integrity check.
26. DS for S1 reiterated that integrity checking was a risk assessment tool, and appointments or promotions were not mechanical processes. She said that it might be more appropriate to describe integrity checks as background checks. She undertook to reflect members' concern regarding there being no pass or failure marks for integrity checks.
27. Mr IP Kwok-him said that he had received a complaint that an applicant was not appointed due to failure to pass integrity check, despite having passed all other tests. He asked whether there was an established mechanism for notifying an applicant of the reasons for his failure to pass integrity check and whether an appeal could be lodged against such a decision.
28. Assistant Commissioner of Police (Personnel) (ACP(P)) responded that to his knowledge, the Police would only notify unsuccessful applicants that the appointment requirements were not met.
29. The Chairman asked whether a Police officer could know the reasons for not being promoted. ACP(P) responded that it was the Police's practice to notify the officer concerned of the results in accordance with the guidelines laid down by CSB. The supervisor concerned would notify the unsuccessful officer the brief reasons for not being promoted, subject to any confidentiality requirements under local legislation.
30. The Chairman said that according to the paper provided by ICAC, integrity checking was conducted on a serving officer upon his or her marriage. He asked whether any checking would be conducted upon the marriage of a serving Police officer. He also asked whether an officer would be transferred, if the checking revealed such a need.
31. ACP(P) responded that normal checking would be conducted upon the marriage of serving Police officers at the rank of inspector or above. He added that in 2003, the Police had issued new internal guideline that a Police officer whose spouse or dependent had or acquired an interest in the entertainment business should

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declare such an interest. Appropriate arrangements were made when the officer was transferred so as to avoid any conflict of interest. The Chairman requested the Police to provide members with a copy of the new guideline.

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32. The Chairman asked whether an officer who made such a declaration would be transferred immediately. ACP(P) responded that appropriate arrangements would be made by the Police, having regard to the overall interest of the Police and whether there was any immediate conflict of interest.

33. The Chairman expressed concern that in the case of SIN Kam-wah, a Police officer was posted to the Kowloon City Police District, although his spouse had an interest in an entertainment business located in Yau Tsim Mong District. He asked whether such a posting arrangement would occur again after the new guideline was in place. He also asked whether Police officers at the rank of inspector or above could have access to the crime database of the Criminal Intelligence Bureau.

34. ACP(P) responded that the power of access to the crime database was related to an officer's post, but not his rank. To his knowledge, an authorised officer could only have access to information about the Police district in which he served. He added that that if the reporting requirement was in place and every officer adhered to the guideline, the situation referred to by the Chairman should not arise.

35. The Chairman asked whether there were detailed guidelines on the posting of an officer who reported that his spouse or dependent had an interest in an entertainment business.

36. ACP(P) responded that upon the reporting of such a matter by an officer, the commander concerned would record the matter and exercise his professional judgment to determine whether any posting arrangements were needed, having regard to the particular circumstances of each case.

37. Mr LAU Kong-wah asked whether it was sufficient for an officer to merely report his spouse's or dependent's interest in an entertainment business.

38. ACP(P) responded that upon receiving such a report, the Police would examine the need for any posting arrangement. He added that if the Commissioner of Police was of the opinion that an officer possessed an interest which led to or might lead to a conflict of interest, the officer might be required to divest himself/herself of the interest, to refrain from acquiring or disposing of the interest or to place it in a blind trust.

39. Mr LAU Kong-wah asked whether the other disciplined forces had laid down similar reporting requirements on the interest of an officer's spouse or dependent in the entertainment business. The Chairman requested the Administration to provide a written response.

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40. Customs Civil Secretary, Customs and Excise Department said that the Customs and Excise Department (C&ED) had published in 1999 a Code on Conduct and Discipline for its staff, which provided guidelines on conflict of interest, as explained in paragraph 14 to 16 of the paper provided by SB, and practical examples. For example, if an officer was responsible for handling intellectual property rights investigation and he/she and/or his/her family members had an interest in the sale or manufacture of optical discs, the officer had to declare such a matter. Where C&ED identified any conflict of interest in the case, it would advise the officer concerned and/or his/her family member to divest of the interest. Failing that, C&ED would consider transferring the officer to another post where there was no such conflict of interest. Under unforeseeable circumstances where conflict of interest was identified during an operation, the officer concerned should make a verbal report to his/her supervisor at the scene, who would record the matter and decide whether the officer concerned should continue to take part in the operation. Members noted that the other disciplined forces and ICAC had also adopted similar guidelines.

41. The Chairman said that a subcommittee might be formed to follow up the subject of integrity checking and guidelines on conflict of interest. Miss Margaret NG said that the Secretary for Security should be invited to attend the meeting of the subcommittee. Mr Andrew WONG said that it might be more appropriate to invite the Chief Secretary for Administration to attend meetings of the subcommittee. Mr IP Kwok-him said that the subject matter seemed to fall under the purview of the Civil Service Bureau. The Chairman said that he would discuss with the Chairman of the Panel on Public Service regarding how the matter should be followed up.

VI. Police's handling of cases of intimidation or violence against public figures and civil servants in their performance of duties
(LC Paper No. CB(2)2270/03-04(06))

42. At the invitation of the Chairman, Acting Principal Assistant Secretary for Security (PAS(S)(Atg)) briefed members on the Administration's paper on the Police's handling of cases of intimidation or violence against public figures and civil servants in their performance of duties.

43. Mr IP Kwok-him said that to his knowledge, cases of intimidation or violence against public figures and civil servants in their performance of duties had a low detection rate. He asked about the reasons for such a low rate.

44. Chief Superintendent of Police (Crime) (Headquarters) (CSP(C)(H)) responded that the Police had always tried its best to investigate every case. Such cases were usually detected when there was new development or when there was new evidence.

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45. Mr IP Kwok-him asked whether there were cases where investigation was stopped due to victim's reluctance to co-operate. He also asked whether the protection provided to victims was adequate.

46. CSP(C)(H) responded that there were such cases. However, he was not in a position to disclose further details of the cases. If any victim considered that his safety was under threat, the Police would assess the threat and take appropriate actions accordingly.

47. Regarding injuries involving workplace violence against civil servants referred to in paragraph 5 of the Administration's paper, Mr Ambrose LAU asked whether the Administration had analysed the breakdown of the figures by government departments. He also asked whether training on preventive measures was provided to the civil servants of such government departments.

48. PAS(S)(Atg) responded that the injured civil servants were mainly from departments which had frequent contacts with the public, such as the Food and Environmental Hygiene Department, the Department of Health and the Police. Where it was anticipated that an operation to be launched by such departments would encounter resistance from members of the public, joint operations with the Police would be considered.

49. Mr LAU Kong-wah asked whether the 15 reported cases referred to in paragraph 2 of the Administration's paper included the case of assault against a public affairs commentator some years ago as well as the recent cases of assault and splashing of paint at the office of a public affairs commentator. He also asked whether there was evidence indicating that the cases were related to the public comments of the victims.

50. CSP(C)(H) responded that the 15 reported cases included the recent case of assault of a public affairs commentator and the case of splashing of paint at the office of another public affairs commentator. Some persons had been arrested in connection with the former case, whereas the latter case was still under investigation. There was no evidence suggesting that the cases had arisen from the public comments of the commentators.

51. Ms Audrey EU asked whether there was evidence suggesting that the intimidation or violence had not arisen from the public comments of the commentators. She questioned why the Police did not openly declare that it had zero tolerance of such intimidation or violence. She considered that the Police should take the initiative to detect the cases rather than relying on the victims to provide information.

52. CSP(C)(H) responded that the provision of more information by a victim to the Police could greatly assist the Police in its investigation work. There were cases where the victim asked the Police to handle the case concerned in a low profile

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manner. Nevertheless, the Police had always tried its best to investigate each case, regardless of whether the victim asked the Police to handle the case concerned in a low profile manner. He stressed that protection could be offered under the regime of the Witness Protection Ordinance to witnesses who wished to provide information but were worried about their own safety upon the disclosure of such information.

53. Ms Audrey EU questioned how one could be convinced that there was rule of law in Hong Kong, if none of the cases were detected. She also asked how similar cases were handled in other countries.

54. CSP(C)(H) responded that he had no information on hand about how similar cases were handled in other countries. He said that the case of assault against a public affairs commentator had been detected and had resulted in the arrest of a few persons.

55. Mr CHEUNG Man-kwong said that although there were 15 cases of intimidation or violence against public figures in a year, none of the cases were detected. He asked whether the Police could provide adequate protection to public figures.

56. PAS(S)(Atg) responded that the 15 cases referred to in the Administration's paper were reported in 2002-03 and 2003-04. She emphasized that the Police were committed to safeguarding and protecting life and property. However, there were practical difficulties in detecting some of the cases, as the motive behind the intimidation or violence might not be ascertained or substantiated by evidence. In some cases, the victim did not even know why he was assaulted.

57. Mr CHEUNG Man-kwong said that there was a case where a friend of Mr SZETO Wah was assaulted shortly after Mr SZETO was insulted. He asked whether the Police had made enquiries with Mr SZETO Wah to gather information about the person who insulted him and assaulted his friend.

58. CSP(C)(H) responded that the Police had contacted Mr SZETO, who replied that he was not at the scene where his friend was assaulted.

59. There being no other business, the meeting ended at 4:35 pm.