

立法會
Legislative Council

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LC Paper No. CB(2)3240/03-04

(These minutes have been seen by the
Administration)

Panel on Security

**Minutes of meeting held on Tuesday, 6 July 2004
at 10:45 am in Conference Room A of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
Hon Albert HO Chun-yan
Hon CHEUNG Man-kwong
Hon Howard YOUNG, SBS, JP
Hon LAU Kong-wah, JP
Hon Michael MAK Kwok-fung

Members absent : Hon WONG Yung-kan, JP (Deputy Chairman)
Dr Hon LUI Ming-wah, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Andrew WONG Wang-fat, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon IP Kwok-him, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP

Public Officers attending : Item III

Miss CHEUNG Siu-hing
Deputy Secretary for Security

Mr Victor LO
Assistant Commissioner of Police (Crime)
Hong Kong Police Force

Mr Simon SHEUNG
Senior Superintendent (Liaison Bureau) (Acting)
Hong Kong Police Force

Item IV

Mr Stanley YING Yiu-hong
Permanent Secretary for Security

Ms Winnie NG
Principal Assistant Secretary for Security (E)

Mr WONG Pak-nin
Chief Superintendent (Crime) (Headquarters)
Hong Kong Police Force

Mr David CHIU Wai-kai
Assistant Director (Enforcement and Liaison)
Immigration Department

Mr Simon WONG Shiu-ming
Senior Superintendent
Customs and Excise Department

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

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

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I. Matters arising
(LC Paper No. CB(2)2980/03-04(01))

Members noted the list of follow-up actions required of the Administration.

II. Information papers issued since the last meeting
(LC Paper Nos. CB(2)2901/03-04(01), CB(2)2908/03-04(01) and
CB(2)2909/03-04(01))

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

- (a) letter from Hon Margaret NG in her capacity as Hon President of the Prisoners' Friends' Association to the Secretary for Security;
- (b) letter from the Joint Office of Legislative Councillors Martin LEE and YEUNG Sum, Southern District Councillors Chai Man-hon and

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YEUNG Siu-pik regarding security personnel permits; and

- (c) further submission from a member of the public regarding vice activities in Yau Ma Tei.

III. Personal safety problems encountered by Hong Kong residents in the Mainland

(LC Paper No. CB(2)2980/03-04(02))

3. At the invitation of the Chairman, Deputy Secretary for Security 1 (DS for S1) briefed members on the Administration's paper on personal safety problems encountered by Hong Kong residents in the Mainland and the cooperation between Hong Kong and the Mainland regarding the issue.

4. Mr CHEUNG Man-kwong said that the situation of kidnapping and extortion of Hong Kong residents in the Mainland had become increasingly serious. Most of these Hong Kong residents had not reported their cases in the Mainland but to the Police after returning to Hong Kong. He asked about the cooperation between Hong Kong and the Mainland in combating such crimes. He also asked whether there was any indication that such crimes were mostly organised.

5. DS for S1 responded that close communication was maintained at various levels with the Mainland on such matters. Assistant Commissioner of Police (Crime) (ACP(C)) said that besides high level communications, the Police and the Mainland law enforcement agencies had jointly combated such crimes through different channels, such as holding regular meetings and exchanging crime information and intelligence. The Shenzhen-Hong Kong Land Boundary Police Co-operation Scheme (the Co-operation Scheme) had been implemented in January 2003 to strengthen cross-boundary liaison between the police forces of Shenzhen and Hong Kong in the maintenance of law and order of boundary areas and land boundary control points. He said that Mainland law enforcement agencies had taken prompt actions and cited the example of a case being detected within a short period in June 2004.

6. Mr CHEUNG Man-kwong said that there were many cases of Hong Kong residents encountering personal safety problems in the Mainland but the detection rate was low. The Secretary for Security had recently said that 28 cases of extortion or kidnapping had been dealt with under the Co-operation Scheme in the past 17 months and two of the cases had been detected. He considered the situation unsatisfactory.

(Post-meeting note : The Security Bureau has advised that the Secretary for Security had not referred to a detection rate of two cases.)

7. ACP(C) responded that to his knowledge, most of such cases involved false

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imprisonment, which was different in nature from extortion and kidnapping. Nevertheless, the Police would follow up the cases through the established channels of communication with the relevant Mainland authorities. He said that when the Police received a report about false imprisonment of a Hong Kong resident in the Mainland, the Liaison Bureau of the Police would immediately liaise with the relevant Mainland authorities to enable timely actions to be taken on the case concerned. Since the beginning of 2004, the Police had handled about 27 cases of such a nature.

8. Mr CHEUNG Man-kwong said that a Shenzhen court had recently sentenced a gang of 29 persons involved in extortion and kidnapping of Hong Kong residents using vehicles operating without licence. He asked whether the Administration had analysed cases of extortion and kidnapping reported by Hong Kong residents to see whether the same gang was involved in the cases.

9. ACP(C) responded that the Police had conducted such analysis and provided the relevant information to Mainland authorities. He reiterated that the Police had been working closely with the Mainland authorities to combat such crime.

10. The Chairman asked whether the Administration would make regular enquiries with the Mainland on the progress of the cases.

11. ACP(C) responded that such matters were discussed at regular meetings between the Police of Hong Kong and Shenzhen. He said that the Police were alert to the trend and extent of crimes. There were already special channels for discussing cases requiring urgent follow-up.

12. Referring to paragraph 8 of the Administration's paper, Mr Howard YOUNG asked why there were no anti-crime episodes on fraud, although it was stated in paragraph 4 of the Administration's paper that the main category of crimes involved was fraud.

13. ACP(C) responded that the episodes were aimed at promoting the awareness of crime among Hong Kong residents who travelled to the Mainland. He said that fraud was covered in the episode on pickpocketing. He undertook to consider Mr YOUNG's views in the production of further episodes.

14. Mr Howard YOUNG asked about the most common types of fraud encountered by Hong Kong residents in the Mainland. ACP(C) responded that there were various types of fraud, including deception related to job advertisements. There was also interception of containers with old vehicles to create minor traffic accidents followed by demand for damages, on which an episode had been produced.

15. Mr Howard YOUNG considered that the Administration should consider launching more publicity on the use of "blue-plate" vehicles for committing crime.

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ACP(C) responded that there was an episode on "vehicles operating without licence".

16. Mr MAK Kwok-fung pointed out that there were 352 cases of request for assistance between the introduction of the Co-operation Scheme in January 2003 and May 2004, but 1 628 requests to the Police for assistance by Hong Kong residents due to crimes encountered in the Mainland during the same period. He considered this had reflected that many residents lacked confidence in the Co-operation Scheme. He said that the Administration should examine the reasons for such a lack of confidence. He questioned whether the Mainland authorities had investigated the cases concerned seriously. He also asked about the progress of detection of the cases concerned. He questioned how the Police and Mainland authorities could monitor the situation, if a regular meeting was only held at half-yearly intervals.

17. ACP(C) responded that the Police did not have information about the detection rate of the cases concerned. He said that the 352 cases were confined to the four places referred to in paragraph 7 of the Administration's paper. He stressed that the cases were being followed up seriously by the Police and the Mainland authorities.

18. DS for S1 said that the success of the Co-operation Scheme depended on the cooperation of victims. To this end, the Police had encouraged the victims to report their cases to the relevant Mainland authorities. She said that among the 352 cases, the victims of 10 cases or so agreed to their being referred to the Mainland authorities. There was only one case where the victim was willing to go to the Mainland to assist in the process of investigation. She stressed that the Administration was very concerned about the safety of Hong Kong residents outside Hong Kong. However, the jurisdiction of other places should also be respected. The Administration would maintain close liaison with the Mainland authorities to combat such crimes.

19. The Chairman asked about the Mainland authority to which Hong Kong residents could report the corruption of Mainland public security officials.

20. ACP(C) responded that where such cases were reported to the Police, the Police would refer the case to the relevant Mainland authorities for follow-up. To his knowledge, corruption cases were dealt with by the procuratorate.

21. Referring to paragraph 9 of the Administration's paper, Mr MAK Kwok-fung suggested that the Administration should conduct victimisation surveys to find out why Hong Kong residents reported cases of crime encountered in the Mainland to the Police but not to the Mainland authorities.

22. DS for S1 undertook to consider the suggestion, having regard also to the views of the Fight Crime Committee (FCC) and the availability of resources. She

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said that regular victimisation surveys were conducted by the Administration under the auspices of FCC. The objective was to provide those involved in the administration of criminal justice with information on the nature and extent of crime and the reasons for reporting or not reporting crime to the Police. However, the victimisation surveys did not cover crimes encountered by Hong Kong residents outside Hong Kong.

23. Mr LAU Kong-wah said that it was very undesirable that information on cases reported in Hong Kong was only conveyed to the Mainland authorities without follow-up. It was also undesirable that the Mainland authorities were not required to provide any reply and the detailed progress of each case was not discussed at regular meetings. He considered that the Administration and the Police should at least be aware of the progress of the cases concerned. He asked whether the Administration would consider establishing a representative office in Shenzhen to assist Hong Kong residents.

24. DS for S1 responded that representative offices established outside Hong Kong were mainly responsible for the promotion of economic and trade affairs. She considered that the existing communication mechanisms were adequate.

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25. ACP(C) undertook to discuss with the Mainland authorities how the cases could be followed up.

26. Mr LAU Kong-wah said that Hong Kong residents generally had a poor impression about the crime situation in Shenzhen. There would be a negative impact on the image of Shenzhen, if the problem was not addressed. He considered that if the problem could not be addressed through the existing mechanisms, the Chief Executive (CE) should raise the matter with the Mayor of Shenzhen City. He added that the suggested representative office in Shenzhen could focus its work on the provision of advice to Hong Kong residents without dealing with matters outside the jurisdiction of Hong Kong. He pointed out that there were newspaper reports that a Hong Kong resident who was robbed in Shenzhen had to stay overnight on the streets after failing to obtain the necessary assistance.

27. DS for S1 responded that Hong Kong residents encountering problems in the Mainland could seek assistance from the Hong Kong Residents Unit of the Immigration Department (ImmD) or the Office of the Government of the Hong Kong Special Administrative Region in Beijing. She undertook to look into the case referred to by Mr LAU Kong-wah and provide a written response.

(Post-meeting note : The Administration's response was circulated to members vide LC Paper No. CB(2)3084/03-04 on 14 July 2004.)

28. Mr Albert HO echoed the views of Mr LAU Kong-wah. He considered that with the capability of the Mainland public security authorities, whether the

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cases could be detected was only a matter of determination. He said that the Administration should report to the Panel in the next legislative session why Hong Kong residents reported their cases to the Police in Hong Kong but were reluctant to report their cases to the public security authorities in the Mainland. He added that Hong Kong should also issue more warnings about such crimes to residents who intended to travel to the Mainland.

29. DS for S1 responded that there might be difficulties in identifying the reasons for the reluctance of Hong Kong residents to report such crimes to the Mainland public security authorities. The establishment of a representative office in Shenzhen might result in Hong Kong residents seeking assistance from an organisation which did not have law enforcement power. She stressed that there were close communications on such matters between Hong Kong and the Mainland at various levels, including the highest level, and such communication would continue. She said that the Administration would offer assistance to Hong Kong residents encountering safety problems outside Hong Kong while respecting the jurisdiction of other places.

30. Mr Albert HO considered that there was no conflict between respecting the jurisdiction of other places and assisting Hong Kong residents to solve their problems in other places. He said that if the Administration would not examine the reasons for Hong Kong residents' reluctance to report crimes to the Mainland public security authorities, the Legislative Council might consider conducting such a survey on its own.

Adm 31. DS for S1 undertook to consider Members' suggestion to collect such information when Hong Kong residents reported such matters to the Police in Hong Kong.

32. The Chairman suggested that he would, on behalf of the Panel, write to CE conveying members' concerns and views about Hong Kong residents encountering personal safety problems in the Mainland and suggesting that CE should raise the matter with the Mayor of Shenzhen City. Members agreed.

IV. Progress of implementation of proposals of the Interdepartmental Working Group on the Law Reform Commission Report on Arrest
(LC Paper Nos. CB(2)2980/03-04(03) and (04))

33. At the invitation of the Chairman, Permanent Secretary for Security (PS for S) briefed members on the progress of implementation of proposals of the Inter-departmental Working Group on the Law Reform Commission (LRC) Report on Arrest (the Report). He informed members that -

- (a) the United Kingdom (UK) had introduced a number of amendments to the Police and Criminal Evidence Act (PACE) 1984, on which many

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of the proposals in the Report were modelled. The Administration was studying, among others, the Criminal Justice Act 2003, which came into operation in January 2004, under which the maximum detention time of arrested persons was increased from 24 hours to 36 hours and certain codes of practice could be amended by administrative means. It would also study the new codes of practice, which would come into force on 1 August 2004;

- (b) LRC was also studying the amendments made to PACE, and had asked to see departments' guidelines which implemented proposals in the Report. The Administration expected to continue exchanges with the LRC and would consider LRC's views, if any, on such matters;
- (c) the Administration was determining the priority of its work for the coming legislative year, having regard to the availability of resources;
- (d) of the proposals in the report, priority should be given to the implementation of recommendations which had not been implemented. A number of the proposals in the report, concerning power to stop, search, issue search warrants, carry out warrantless search, warrantless arrest and search upon arrest, involved the implementation of the new concept of "imprisonable offences". As this involved a study of all imprisonable offences and non-imprisonable offences as well as consultation with various law enforcement agencies, it would inevitably take some time to complete;
- (e) regarding the proposals in items 21 and 52 of the Annex to the Administration's paper, which involved an expansion of the powers of law enforcement agencies, the views of the relevant law enforcement agencies were being sought on whether there was any urgency for expanding the powers; and
- (f) the law enforcement agencies concerned had produced information leaflets since 1998 to advise the public on what the law enforcement agencies were allowed to do and the rights of members of the public. One possible priority could be to update such information leaflets.

34. Referring to item 27 of the Annex to the Administration's paper, Mr Howard YOUNG asked whether any procedures had been revised following the introduction of smart identity cards.

35. Chief Superintendent of Police (Crime) (Headquarters) (CSP(C)(H)) responded that there had not been any amendment of procedures arising from the introduction of smart identity cards.

36. The Chairman asked whether the Police would obtain the fingerprint record

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of a person convicted of a recordable offence from ImmD, if the Police could not obtain the fingerprint of the convicted person.

37. Assistant Director (Enforcement and Liaison), Immigration Department responded that such a situation would not arise, as the Police's fingerprint system involved taking all the fingerprints of a person, whereas the registration of persons system of ImmD involved taking the two thumbprints of a person. There were also restrictions in the Registration of Persons Ordinance on the use of fingerprint record of a person.

38. The Chairman said that although the Administration had done a lot in seeking adequate law enforcement power, such as the power to take DNA samples from suspects, it had been slow in implementing proposals aimed at protecting the rights of individuals, such as item 12 in the Annex to the Administration's paper. He hoped that the Administration would expedite the introduction of the proposals aimed at strengthening the protection of the rights of individuals. He said that if there had been much development in the relevant legislation and practices of overseas countries, the Administration could focus its study on the latest legislation and practices of overseas countries.

39. PS for S responded that the Working Group had been aware that the proposals had a wide coverage, and it had proposed implementing the recommendations in a phased manner. He said that the study of issues relating to imprisonable offences would inevitably take some time. He added that since 1998, law enforcement agencies had produced pamphlets on the maximum detention period to enhance the public's understanding of their rights and what law enforcement agencies could do.

40. The Chairman said that the Administration had previously indicated that it would implement the proposals in a phased manner by 2000. He asked about the Administration's timetable for implementation of the outstanding proposals.

41. PS for S responded that the Administration had not taken a decision on some of the proposals under study. Thus, it was not in a position to advise on the timetable. He added that the Administration had to prioritise its forthcoming work, including a review on interception of communications, the establishment of the Independent Police Complaints Council as a statutory body and the implementation of international agreements on money laundering. He said that the time frame might be clearer when the Chairman of the Panel and the Secretary for Security discussed the work plan of the Panel for the next legislative session.

42. The Chairman said that to his knowledge, the Police would caution a suspect from whom a statement was to be taken in Cantonese that "唔係事必要你講，除非你自己想講，但你所講的，可能用筆紀錄及用作證供。". He asked about the Mandarin version of the caution statement.

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43. CSP(C)(H) responded that there was no difference between the Mandarin version and the Cantonese version of the caution statement. However, the Mandarin version would be supplemented by explanations facilitating the suspect's understanding of the message.

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44. The Chairman said that the caution statement should be amended along the lines of "你有權保持緘默。保持緘默不會對你構成不利。如你自願作供，供詞將予紀錄，且或會成為呈堂證供。". CSP(C)(H) undertook to consider the suggestion and revert to the Panel.

45. There being no other business, the meeting ended at 12:40 pm.

Council Business Division 2
Legislative Council Secretariat
10 August 2004