

立法會
Legislative Council

Ref : CB2/BC/2/05

LC Paper No. CB(2)1859/05-06
(These minutes have been seen by
the Administration)

**Bills Committee on
Interception of Communications and Surveillance Bill**

**Minutes of meeting
held on Thursday, 6 April 2006 at 8:30 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
Hon LAU Kong-wah, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon James TO Kun-sun
Hon Bernard CHAN, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon LI Kwok-ying, MH
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Ting-kwong, BBS
- Members absent** : Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBS, JP
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Howard YOUNG, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP

Dr Hon Joseph LEE Kok-long
Hon Daniel LAM Wai-keung, BBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon CHEUNG Hok-ming, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Hon Patrick LAU Sau-shing, SBS, JP

Public Officers : Mr Stanley YING
attending Permanent Secretary for Security

Miss S H CHEUNG
Deputy Secretary for Security

Mrs Apollonia LIU
Principal Assistant Secretary for Security

Mr Ian WINGFIELD
Law Officer (International Law)
Department of Justice

Ms Sherman CHAN
Senior Assistant Law Draftsman

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

Staff in : Mr LEE Yu-sung
attendance Senior Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2)5

I. Meeting with the Administration

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration to –

(a) explain the difference between “public security” and “public safety”;

- (b) consider providing information on the respective number of cases involving public security and crime where interception of communications and surveillance were conducted in the past three years;
- (c) provide examples of previous interception of communications and surveillance relating to public security;
- (d) advise whether a notice made by the Chief Executive in Council for amendment of Schedule 2 to the Bill would be subject to scrutiny by the Legislative Council;
- (e) advise on the circumstances under which interception of communications and surveillance would be conducted on a lawyer;
- (f) consider setting out in the Bill the safeguards in respect of legal professional privilege;
- (g) provide information on the appointment of judges to statutory positions and advise whether all such appointments were made by the Chief Executive;
- (h) consider setting out in the Bill the requirement for provision of a copy of a prescribed authorisation to affected service providers, and clarify whether service providers were currently provided with a copy of search warrants served on them; and
- (i) explain the circumstances where an application for authorisation would be considered by a panel judge at a place other than within the court precincts.

3. The Bills Committee requested the Administration to provide its detailed response to issues raised by deputations and individuals and the Clerk to prepare a summary of the views expressed by deputations and individuals and the Administration's response.

II. Date of next meeting

4. The Bills Committee noted that the next meeting had been scheduled for Wednesday, 12 April 2006 at 2:30 pm to continue discussion with the Administration.

5. The meeting ended at 10:35 am.

Council Business Division 2
Legislative Council Secretariat
27 April 2006

**Proceedings of meeting of the
Bills Committee on
Interception of Communications and Surveillance Bill
on Thursday, 6 April 2006 at 8:30 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 – 000555	Chairman	Opening remarks	
000556 – 001336	Admin	Briefing on the Administration's response to issues raised at the meeting on 25 March 2006 (LC Paper No. CB(2)1623/05-06(01))	
001337 – 003518	Hon Margaret NG Chairman Admin	Circumstances where authorisation could be granted for the interception of communications or surveillance relating to legal professional privilege; difference between "public security" and "public safety"; regime for the authorisation of interception of communications and surveillance; mechanism for appointment of panel judges; whether a notice made by the Chief Executive (CE) in Council for amendment of Schedule 2 to the Bill would be subject to scrutiny by the Legislative Council; summary of views expressed by deputations/individuals and the Administration's response	Admin to explain the difference between "public security" and "public safety"; to advise whether a notice made by the CE in Council for amendment of Schedule 2 to the Bill would be subject to scrutiny by the Legislative Council; Admin to provide its detailed response to issues raised by deputations and individuals; Clerk to prepare a summary of the views expressed by deputations and individuals and the Administration's response
003519 – 004410	Hon LAU Kong-wah Chairman Admin	Setting out in the Bill the safeguards in respect of legal professional privilege; existing practice in respect of the use of interception and surveillance product	Admin to consider setting out in the Bill the safeguards in respect of legal professional privilege

Time marker	Speaker	Subject(s)	Action Required
004411 – 010019	Hon Emily LAU Admin Chairman	Whether the appointment of judges to statutory positions were all made by CE; integrity checking for judges; formulating an exclusion provision for the term “public security”	Admin to provide information on the appointment of judges to statutory positions and advise whether all such appointments were made by CE
010020 – 011429	Hon Albert HO Admin	Whether a definition should be provided for the term “public security”; whether the Judiciary supported conducting integrity checking for prospective panel judges; regime for the authorisation of interception of communications and surveillance	
011430 – 012742	Hon Martin LEE Chairman Admin Hon James TO	Purpose of integrity checking for judges; whether integrity checking covered political vetting; whether a judge who had issued authorisation for interception of communications or surveillance would be involved in the trial of cases of judicial review	
012743 – 013532	Hon SIN Chung-kai Admin Chairman	Provision of a copy of a prescribed authorisation to affected service providers; whether service providers were currently provided a copy of search warrants served on them	Admin to consider setting out in the Bill the requirement for provision of a copy of a prescribed authorisation to affected service providers, and clarify whether service providers were currently provided with a copy of search warrants served on them

Time marker	Speaker	Subject(s)	Action Required
013533 – 015403	Hon Audrey EU Admin Chairman	Whether there were sufficient safeguards in the Bill in relation to legal professional privilege; circumstances under which interception of communications and surveillance would be conducted on a lawyer	Admin to advise on the circumstances under which interception of communications and surveillance would be conducted on a lawyer; to explain the circumstances where an application for authorisation would be considered by a panel judge at a place other than within the court precincts
015404 – 020013	Hon James TO	Factors giving rise to a high risk assessment in integrity checking; information on previous cases of interception of communications and surveillance; examples of the issues involved in previous cases relating to public security	Admin to consider providing information on the respective number of cases involving public security and crime where interception of communications and surveillance were conducted in the past three years; to provide examples of previous interception of communications and surveillance relating to public security
020014 – 020325	Hon LI Kwok-ying Admin	Views of the Judiciary on the proposed integrity checking for prospective panel judges	
020326 – 020429	Chairman Hon James TO	Provision of the Administration's response to issues raised by members; date of next meeting	