

立法會
Legislative Council

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(These minutes have been seen by
the Administration)

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

**Minutes of meeting
held on Monday, 5 June 2006, at 8:30 am
in Conference Room A of the Legislative Council Building**

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

Hon Audrey EU Yuet-mee, SC, JP
Dr Hon Joseph LEE Kok-long
Hon Daniel LAM Wai-keung, BBS, JP
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
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

Ms Frances HUI
Senior Government Counsel

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 –

Clause 4

- (a) to advise, after liaison with the relevant Bureau, the timetable for taking forward the Law Reform Commission's suggestions on criminalising unauthorised interception and covert surveillance;
- (b) to explain why the Chief Executive would not be subject to the Bill;
- (c) to explain the rationale for imposing disciplinary actions but not criminal liability on public officers breaching the proposed legislation;
- (d) to provide information on local legislation stipulating prohibitions on public officers without imposing any criminal sanction for violation;
- (e) to provide information on the other enactments referred to in clause 4(2)(c); and
- (f) to consider amending clause 4(1) along the lines of "no public officer shall, directly or indirectly, including through any other person, carry out any interception."

3. The Bills Committee requested the Secretariat to provide information on the deliberations of the Subcommittee on Application on Certain Provisions of the Prevention of Bribery Ordinance to the Chief Executive.

II. Date of next meeting

4. The Bills Committee noted that the next meeting had been scheduled for Tuesday, 6 June 2006 at 10:45 am to continue discussion with the Administration.

5. The meeting ended at 10:35 am.

**Proceedings of meeting of the
Bills Committee on
Interception of Communications and Surveillance Bill
on Monday, 5 June 2006, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000600 – 000655	Chairman	Opening remarks	
000656 – 001346	Admin	Briefing on clause 4 of the Bill	
001347 – 002022	Hon LAU Kong-wah Chairman Admin	Differences between radiocommunications and telecommunications; types of interception under other enactments referred to in clause 4(2)(c) of the Bill	
002023 – 003721	Hon Margaret NG Hon Ronny TONG Hon James TO Admin	Meaning of “public officer” in clause 4; whether there were provisions in the Post Office Ordinance and the Telecommunications Ordinance prohibiting interception of communications without lawful authority; whether there should be penalty on public officers who contravened provisions in the Bill	
003722 – 004129	Hon LI Kwok-ying Admin	Scope of the term “through” in clause 4(1)	
004130 – 004219	Hon Howard YOUNG Admin	Whether the term “other persons” in clause 4(1) covered contractors	
004220 – 004941	Hon Margaret NG Chairman Admin	Definition of “public officer”; whether the term “public officer” in the Bill included the Chief Executive	Admin to explain why the Chief Executive would not be subject to the Bill

Time marker	Speaker	Subject(s)	Action Required
004942 – 005741	Hon Ronny TONG Admin Chairman	Whether there were provisions in the Post Office Ordinance and the Telecommunications Ordinance prohibiting interception of communications without lawful authority; whether there should be penalty on public officers who contravened provisions in the Bill	Admin to advise, after liaison with the relevant Bureau, the timetable for taking forward the Law Reform Commission’s suggestions on criminalising unauthorised interception and covert surveillance
005742 – 010759	Hon Emily LAU Hon James TO	Whether the Chief Executive should be subject to the Bill; deliberations of the Subcommittee on Application on Certain Provisions of the Prevention of Bribery Ordinance to the Chief Executive	
010800 – 010956	Hon James TO Chairman Admin	Amending clause 4(1) along the lines of “no public officer shall, directly or indirectly, including through any other person, carry out any interception.”	Admin to consider amending clause 4(1) along the lines of “no public officer shall, directly or indirectly, including through any other person, carry out any interception.”
010957 – 012419	Hon Ronny TONG Hon SIN Chung-kai Hon James TO Chairman Admin	Whether the Chief Executive should be subject to the Bill; consequences of contravention of provisions in the Bill	Admin to explain the rationale for imposing disciplinary actions but not criminal liability on public officers breaching the proposed legislation

Time marker	Speaker	Subject(s)	Action Required
012420 – 013059	Hon James TO Admin Chairman	Whether to prohibit, such as through the code of practice, any other person from carrying out interception and providing the information thus obtained to a public officer	
013100 – 014129	Hon Emily LAU Hon Margaret NG Admin	Whether the Chief Executive should be subject to the Bill	
014130 – 014728	Hon James TO Hon Ronny TONG Admin	Whether the Chief Executive could instruct the Commissioner of Police, under the Police Force Ordinance, to order a public officer to carry out interception;	Admin to provide information on local legislation stipulating prohibitions on public officers without imposing any criminal sanction for violation
014729 – 015545	Hon James TO Admin	Scope of clause 4(2)(b)	
015546 – 020221	Hon Emily LAU Admin Chairman	Types of interception under other enactments referred to in clause 4(2)(c)	Admin to provide information on the other enactments referred to in clause 4(2)(c)
020222 – 020538	Chairman Hon Ronny TONG Hon LAU Kong-wah	Examination of clause 5 at the next meeting; date of next meeting	