

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 Thursday, 8 June 2006, at 4:30 pm
in the Chamber of the Legislative Council Building**

- Members present** :
- Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
 - Hon LAU Kong-wah, JP (Deputy Chairman)
 - Hon Albert HO Chun-yan
 - Hon LEE Cheuk-yan
 - Hon Martin LEE Chu-ming, SC, JP
 - Hon Margaret NG
 - Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
 - 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
 - Hon Jasper TSANG Yok-sing, GBS, JP
 - Hon Howard YOUNG, SBS, JP
 - Hon Tommy CHEUNG Yu-yan, JP
 - Hon LI Kwok-ying, MH
 - Hon Jeffrey LAM Kin-fung, SBS, JP
 - Hon Andrew LEUNG Kwan-yuen, SBS, JP
 - Hon LEUNG Kwok-hung
 - Hon CHEUNG Hok-ming, SBS, JP
 - Hon WONG Ting-kwong, BBS
 - Hon Ronny TONG Ka-wah, SC
- Members absent** :
- Dr Hon LUI Ming-wah, SBS, JP
 - Dr Hon David LI Kwok-po, GBS, JP
 - Hon Bernard CHAN, JP
 - Dr Hon Philip WONG Yu-hong, GBS
 - Hon Emily LAU Wai-hing, JP

Hon Timothy FOK Tsun-ting, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Dr Hon Joseph LEE Kok-long
Hon Daniel LAM Wai-keung, BBS, JP
Hon Alan LEONG Kah-kit, 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

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 –

- (a) to consider adopting a more direct approach in the drafting of section 3(6) of Schedule 2;
- (b) to consider providing explicitly in the Bill the power of the panel judges to require law enforcement officers to appear before them in the consideration of an application;
- (c) to explain, with the assistance of a flowchart if appropriate, the application process for judge's authorisation;
- (d) to consider setting out explicitly in the Bill that the Commissioner had the power to ask panel judges to open sealed packets for the Commissioner's examination;
- (e) to consider providing the Commissioner with the power to open and seal packets under section 3 of Schedule 2;
- (f) to consider whether parties other than law enforcement agencies should be covered under section 3(5) of Schedule 2;
- (g) to consider raising the level of approving authority for executive authorisation to the rank of Chief Superintendent of Police;
- (h) to provide information on the ranks of the heads of different crime formations in the Police, and consider prohibiting officers of the same crime formation from being the approving authority for executive authorisation;
- (i) to consider providing explicitly in the Bill that applications under clause 8(2) should be made in writing;
- (j) to advise if Parts 1 and 2 of Schedule 3 already reflected the various conditions for authorisation provided in clause 3;
- (k) to consider requiring that the applying officer should confirm in the affidavit that the facts as presented therein were correct to the best of his knowledge; and
- (l) to explain the types of information to be included in affidavits.

3. The Bills Committee requested the Secretariat to identify model affidavits, if any, that were set out in the overseas legislation studied by the Administration in the drafting of the Bill.

II. Date of next meeting

4. The Bills Committee noted that the next meeting had been scheduled for Saturday, 10 June 2006 from 9:00 am to 1:00 pm to continue discussion with the Administration, and representatives from The Law Society of Hong Kong and the Hong Kong Bar Association would join the meeting at 11:00 am to present their views.

5. The meeting ended at 6:40 pm.

Council Business Division 2
Legislative Council Secretariat
29 September 2006

**Proceedings of meeting of the
Bills Committee on
Interception of Communications and Surveillance Bill
on Thursday, 8 June 2006, at 4:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000521 – 000612	Chairman	Opening remarks	
000613 – 001103	Hon Margaret NG Admin	Drafting of section 3(6) of Schedule 2	Admin to consider adopting a more direct approach in the drafting of section 3(6) of Schedule 2
001104 – 001817	Hon James TO Admin	Effect of section 1(3) of Schedule 2	
001818 – 002550	Hon Ronny TONG Admin	Whether the Commissioner had the power to open a packet referred to in section 3 of Schedule 2	
002551 – 003350	Hon Margaret NG Admin	Providing explicitly in the Bill the power of the panel judges to require law enforcement officers to appear before them in the consideration of an application; powers of the Commissioner under clause 51	Admin to consider providing explicitly in the Bill the power of the panel judges to require law enforcement officers to appear before them in the consideration of an application
003351 – 004130	Hon James TO Chairman Admin	Drafting of section 1(3) of Schedule 2	
004131 – 004912	Hon Ronny TONG Chairman Admin	Setting out explicitly in the Bill that the Commissioner had the power to ask panel judges to open sealed packets for the Commissioner's examination	

Time marker	Speaker	Subject(s)	Action Required
004913 – 005836	Hon Margaret NG Hon Mrs Selina CHOW Admin	Providing explicitly in the Bill the power of the panel judges, to require law enforcement officers to appear before them in the consideration of an application	
005837 – 011740	Hon James TO Hon Ronny TONG Hon LAU Kong-wah Hon Margaret NG Chairman Admin	Whether the Commissioner should be provided with the power to open and seal packets under section 3 of Schedule 2	Admin to consider setting out explicitly in the Bill that the Commissioner had the power to ask panel judges to open sealed packets for the Commissioner’s examination, to consider providing the Commissioner with the power to open and seal packets under section 3 of Schedule 2
011741 – 012105	Hon James TO Admin	Whether parties other than law enforcement agencies should be covered under section 3(5) of Schedule 2	Admin to consider whether parties other than law enforcement agencies should be covered under section 3(5) of Schedule 2
012106 – 013807	Hon LAU Kong-wah Hon Howard YOUNG Hon LEUNG Kwok-hung Hon LI Kwok-ying Admin	Level of approving authority for executive authorisation	Admin to consider raising the level of approving authority for executive authorisation to the rank of Chief Superintendent of Police
013808 – 014503	Hon James TO Admin	Prohibiting officers of the same crime formation from being the approving authority for executive authorisation	Admin to consider prohibiting officers of the same crime formation from being the approving authority for executive authorisation

Time marker	Speaker	Subject(s)	Action Required
014504 – 014740	Hon Margaret NG Chairman	Application process for judge’s authorisation	Admin to explain, with the assistance of a flowchart if appropriate, the application process for judge’s authorisation
014741 – 014807	Hon Ronny TONG Chairman	Timing for provision of the Administration’s response to issues raised by members	
014808 – 014953	Hon James TO Admin	Information on the ranks of the heads of different crime formations in the Police	Admin to provide information on the ranks of the heads of different crime formations in the Police
014954 – 015635	Admin	Briefing on clause 8 of the Bill	
015636 – 020011	Hon Margaret NG Admin Chairman	Providing explicitly in the Bill that applications under clause 8(2) should be made in writing; requiring the applying officer to confirm in the affidavit that the facts as presented therein were correct to the best of his knowledge	Admin to consider providing explicitly in the Bill that applications under clause 8(2) should be made in writing; to consider requiring the applying officer to confirm in the affidavit that the facts as presented therein were correct to the best of his knowledge
020012 – 020405	Hon Ronny TONG Admin Chairman	Whether Parts 1 and 2 of Schedule 3 reflected the various conditions for authorisation provided in clause 3	Admin to advise if Parts 1 and 2 of Schedule 3 already reflected the various conditions for authorisation provided in clause 3
020406 – 020832	Hon James TO Chairman Admin	Types of information to be included in affidavits	Admin to explain the types of information to be included in affidavits

Time marker	Speaker	Subject(s)	Action Required
020833 – 020852	Chairman	Date of next meeting	

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