

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 Saturday, 17 June 2006, at 2:00 pm
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)
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, SBS, 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
Dr Hon Philip WONG Yu-hong, GBS
Hon Howard YOUNG, SBS, JP
Hon LI Kwok-ying, MH
Dr Hon Joseph LEE Kok-long
Hon Daniel LAM Wai-keung, BBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Ting-kwong, BBS

Members absent : Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon Bernard CHAN, JP
Hon SIN Chung-kai, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Tommy CHEUNG Yu-yan, JP

Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, 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

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

Miss Helen DIN
Legislative Assistant (2) 1

I. Meeting with the Administration

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

2. The Bills Committee requested the Administration -

Clause 29

- (a) to consider setting out in the Code of Practice the procedures for the addition of phone numbers etc. for named persons authorisations, such as explaining why the numbers were believed to be "likely to be used" by the subject of a covert operation;
- (b) to explain the consequences for persons not providing the assistance required under clause 29, and whether it would amount to committing an offence of resisting or obstructing a Police officer in the execution of his duties;

Clauses 30 and 31

- (c) to consider amending the term "further" in clauses 30 and 31 along the lines of "also";

Clause 32

- (d) to consider providing in the Bill or the Code of Practice that law enforcement agencies should normally retrieve a device after a covert surveillance operation as soon as reasonably practicable;

Clause 36

- (e) to consider amending "by force" in clause 36(1)(b) along the lines of "minimal force";

Clause 38

- (f) to consider moving Committee Stage amendments to make it clear that the re-appointment of the Commissioner would be made by the Chief Executive on the recommendation of the Chief Justice;
- (g) to reconsider whether the pool of eligible candidates for the position of Commissioner should be restricted to retired judges, and whether it was appropriate for the Commissioner to work on a part-time basis.

3. The Administration advised that it would consider providing in the Code of Practice that surveillance devices should be retrieved as soon as practicable after an operation.

II. Date of next meeting

4. The Bills Committee noted that the next meeting had been scheduled for Monday, 19 June 2006 at 8:30 am to continue discussion with the Administration.
5. The meeting ended at 5:50 pm.

Council Business Division 2
Legislative Council Secretariat
8 November 2006

**Proceedings of meeting of the
Bills Committee on
Interception of Communications and Surveillance Bill
on Saturday, 17 June 2006, at 2:00 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000443	Chairman	Opening remarks	
000444 - 010831	Chairman Hon Albert HO Hon LI Kwok-ying Hon James TO Hon LAU Kong-wah Hon Mrs Selina CHOW Hon Margaret NG SALA1 Admin	Examination of clause 29; whether there should be restrictions on the interference with property under clause 29(4); whether there should be compensation for damage arising from an interference under clause 29(4); meaning of "made to or from" in clause 29(1)(b)(ii); whether the scope of clause 29 was too broad and provided law enforcement agencies with excessive power; how postal interception was conducted; setting out in the Code of Practice the procedures for the addition of phone numbers etc. for named persons authorisations, such as explaining why the numbers were believed to be "likely to be used" by the subject of a covert operation; consequences for persons not providing the assistance required under clause 29; whether this would amount to committing an offence of resisting or obstructing a Police officer in the execution of his duties	Admin to consider setting out in the Code of Practice the procedures for the addition of phone numbers etc. for named persons authorisations, such as explaining why the numbers were believed to be "likely to be used" by the subject of a covert operation; to explain the consequences for persons not providing the assistance required under clause 29, and whether it would amount to committing an offence of resisting or obstructing a Police officer in the execution of his duties

Time marker	Speaker	Subject(s)	Action Required
010832 - 012839	Chairman Hon LAU Kong-wah Hon Mrs Selina CHOW Hon Albert HO SALA1 Admin	Examination of clause 30; differences between clause 30(g) and clause 29(5)	
012840 - 013137	Chairman Hon Mrs Selina CHOW Hon LAU Kong-wah Admin SALA1	Examination of clause 31; whether the use of the term "further" in clauses 30 and 31 was appropriate; amending the term "further" in clauses 30 and 31 along the lines of "also"	Admin to consider amending the term "further" in clauses 30 and 31 along the lines of "also"
013138 - 020250	Chairman Hon Mrs Selina CHOW Hon LI Kwok-ying Hon LAU Kong-wah Hon Albert HO Hon WONG Ting-kwong SALA1 Admin	Examination of clause 32; scope of "in any way" in clause 32(1); whether clause 29 should incorporate an assessment of the degree of interference with property; whether the obstruction of the retrieval of a device would amount to an offence	
Break			
021819 - 022125	Chairman Hon Mrs Selina CHOW Hon Mrs Sophie LEUNG Hon Alan LEONG Admin	Examination of clause 32; providing in the code of practice that surveillance devices should be retrieved as soon as practicable after an operation; providing in the Bill or the Code of Practice that law enforcement agencies should normally retrieve a device after a covert surveillance operation as soon as reasonably practicable	Admin to consider providing in the Bill or the Code of Practice that law enforcement agencies should normally retrieve a device after a covert surveillance operation as soon as reasonably practicable
022126 - 022902	Chairman Hon Mrs Selina CHOW Hon LAU Kong-wah Hon Albert HO Admin	Examination of clauses 33 to 37; compensation for damages arising from the installation of surveillance devices; amending "by force" in clause 36(1)(b) along the lines of "minimal force"	Admin to consider amending "by force" in clause 36(1)(b) along the lines of "minimal force"

Time marker	Speaker	Subject(s)	Action Required
022903 - 034920	Chairman Hon LAU Kong-wah Hon LI Kwok-ying Hon Alan LEONG Hon James TO Hon Albert HO Hon Margaret NG Hon LEUNG Kwok-hung Admin	Examination of clause 38; whether the Commissioner should be an eligible judge; whether the Commissioner would work on a full-time or part-time basis; political affiliation of judges; meaning of "for good cause" in clause 38(5); moving Committee Stage amendments (CSAs) to make it clear that the reappointment of the Commissioner would be made by the Chief Executive on the recommendation of the Chief Justice; to reconsider whether the pool of eligible candidates for the position of Commissioner should be restricted to retired judges, and whether it was appropriate for the Commissioner to work on a part-time basis	Admin to consider moving CSAs to make it clear that the reappointment of the Commissioner would be made by the Chief Executive on the recommendation of the Chief Justice; to reconsider whether the pool of eligible candidates for the position of Commissioner should be restricted to retired judges, and whether it was appropriate for the Commissioner to work on a part-time basis
034921 - 034942	Chairman	Date of next meeting	