

立法會
Legislative Council

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LC Paper No. CB(2)338/06-07
(These minutes have been seen by
the Administration)

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

**Minutes of meeting
held on Tuesday, 20 June 2006, at 8:30 am
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
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 Bernard CHAN, JP
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 Howard YOUNG, SBS, 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
Dr Hon Joseph LEE Kok-long
Hon Daniel LAM Wai-keung, BBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon Patrick LAU Sau-shing, SBS, JP

Members absent : Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon CHIM Pui-chung

Public Officers attending : Mr Stanley YING
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 attendance : Mrs Sharon TONG
Chief Council Secretary (2)1

Staff in attendance : Mr LEE Yu-sung
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 40

- (a) to consider extending the scope of the Commissioner's review to cover panel judges;

Clause 41

- (b) to consider providing explicitly in the Bill that the Commissioner could provide his findings to panel judges;
- (c) to consider providing expressly that the report on the measures taken by a department should cover disciplinary actions;

Clause 42

- (d) to consider amending "believes" in clause 42(1) along the lines of "suspects";

Clause 43

- (e) to consider extending the scope of the operations to be examined to include operations not reported but revealed during examination;
- (f) to advise who would count as the subject of the operation to whom the notification or compensation mechanism would be applicable;
- (g) to consider whether the Commissioner should be given the power to order destruction of information obtained from lawful operations, after affording law enforcement agencies a chance to make representations;

Clause 45

- (h) to consider providing in the Bill that an examination under clause 45(1)(b) could be carried out on the basis of information obtained under clause 51; and

Clause 47

- (i) to consider providing in the Commissioner's annual report the follow-up actions taken by law enforcement agencies in relation to disciplinary actions arising from non-compliance by law enforcement officers.

3. The Administration advised that it would consider revising the drafting of clause 43 to reflect the policy intent set out in paragraph 6 of the Administration's paper entitled "Notification of Subjects of Covert Operations".

II. Date of next meeting

4. The Bills Committee noted that the next meeting would be held in the same afternoon at 2:30 pm to continue discussion with the Administration.
5. The meeting ended at 12:40 pm.

Council Business Division 2
Legislative Council Secretariat
16 November 2006

**Proceedings of meeting of the
Bills Committee on
Interception of Communications and Surveillance Bill
on Tuesday, 20 June 2006, at 8:30 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000213 - 000355	Chairman	Opening remarks	
000356 - 001107	Hon LAU Kong-wah Admin	Whether panel judges should be subject to the review under clause 40	
001108 - 001853	Hon Albert HO Admin	Difference between the meaning of "review" and "examination"	
001854 - 010504	Hon Margaret NG Hon Emily LAU Hon Ronny TONG Hon LAU Kong-wah Hon Howard YOUNG Hon Albert HO Chairman Admin	Extending the scope of the Commissioner's review to cover panel judges	Admin to consider extending the scope of the Commissioner's review to cover panel judges
010505 - 011319	Hon James TO Admin	Providing explicitly in the Bill that the Commissioner could provide his findings to panel judges	Admin to consider providing explicitly in the Bill that the Commissioner could provide his findings to panel judges
011320 - 011646	Hon Emily LAU Admin	Providing expressly in the Bill that the report on the measures taken by a department should cover disciplinary actions	Admin to consider providing expressly in clause 41 that the report on the measures taken by a department should cover disciplinary actions

Time marker	Speaker	Subject(s)	Action Required
011647 - 012533	Hon James TO Chairman Admin	Whether the Commissioner should be provided with the power to order law enforcement agencies to provide information	
012534 - 013209	Admin	Briefing on clauses 42 to 46	
013210 - 013907	Hon Margaret NG Admin	Drafting of clause 43(2); whether the threshold of one year in clause 44(1)(a) was appropriate; effect of clause 45	
013908 - 014204	Hon LI Kwok-ying Chairman Admin	Meaning of "as soon as reasonably practicable" and "specified any period" in clause 41(2)	
014205 - 014850	Hon James TO Chairman Admin	Powers of the Commissioner under clause 40; providing in the Bill that an examination under clause 45(1)(b) could be carried out on the basis of information obtained under clause 51	Admin to consider providing in the Bill that an examination under clause 45(1)(b) could be carried out on the basis of information obtained under clause 51
014851 - 015629	Hon LEUNG Kwok-hung Admin	Whether the Commissioner was required to give reasons for not giving notice or not making order under clause 43(5)	
015630 - 020438	Hon Audrey EU Admin	Whether there was a need for clause 45(1); intent of clause 45(3)(a)	
Break			
021621 - 022536	Hon Emily LAU Chairman Admin	Notification of innocent third parties; practices of other jurisdictions in respect of notification; burden of proof for the term "believes" in clause 42(1)	

Time marker	Speaker	Subject(s)	Action Required
022537 - 023332	Hon Albert HO Chairman Admin	Whether there were too many restrictions on examinations by the Commissioner; whether there was a need for clause 45(1)(a); why the Commissioner should carry out examination on the basis of written submissions made to him	
023333 - 024800	Hon Margaret NG Chairman Admin	Whether there were too many restrictions on the powers of the Commissioner; whether the Commissioner should be empowered to carry out examinations on non-compliance with the code of practice; whether clause 45(3)(a) should be amended to require the Commissioner to give reasons for his determination	
024801 - 025511	Hon James TO Chairman Admin	Whether the scope of examination by the Commissioner under clause 43(1) should be broadened	
025512 - 030302	Hon Albert HO Admin	How an applicant for examination would be informed of the results of the examination	
030303 - 032513	Hon James TO Hon LAU Kong-wah Admin	Amending "believes" in clause 42(1) along the lines of "suspects" and for clause 43(1)(a); extending the scope of the operations to be examined to include operations not reported but revealed during examination	Admin to consider amending "believes" in clause 42(1) along the lines of "suspects"; to consider extending the scope of the operations to be examined to include operations not reported but revealed during examination
032514 - 032555	Hon LAU Kong-wah Admin	Drafting of clause 44(1)(d)	

Time marker	Speaker	Subject(s)	Action Required
032556 - 033629	Hon James TO Hon Audrey EU Admin	Who would count as the subject of the operation to whom the notification or compensation mechanism would be applicable	Admin to advise who would count as the subject of the operation to whom the notification or compensation mechanism would be applicable
033630 - 034030	Hon LEUNG Kwok-hung Chairman Admin	Notification of innocent third parties; effect of clause 29(5)	
034031 - 304441	Hon Emily LAU Admin	Who would count as the subject of the operation to whom the notification or compensation mechanism would be applicable; whether the Commissioner should be given the power to order destruction of information obtained from lawful operations, after affording LEAs a chance to make representations	Admin to consider whether the Commissioner should be given the power to order destruction of information obtained from lawful operations, after affording LEAs a chance to make representations
034442 - 035739	Hon Alan LEONG Hon Albert HO Admin	Scope of the Commissioner's powers under clause 43(1)(a); whether clause 45(3)(a) should be amended to require the Commissioner to give reasons for his determination	
035740 - 035933	Admin	Briefing on clauses 47 to 50	
035934 - 040708	Hon LAU Kong-wah Admin	Scope of clause 47(2)(a)(i); meaning of "copy" in clause 47(4)	

Time marker	Speaker	Subject(s)	Action Required
040709 - 041053	Hon Emily LAU Admin	Providing in the Commissioner's annual report the follow-up actions taken by law enforcement agencies in relation to disciplinary actions arising from non-compliance by law enforcement officers	Admin to consider providing in the Commissioner's annual report the follow-up actions taken by law enforcement agencies in relation to disciplinary actions arising from non-compliance by law enforcement officers
041054 - 041208	Chairman	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
16 November 2006