

立法會
Legislative Council

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(These minutes have been seen
by the Administration)

Panel on Security

**Minutes of special meeting held on Wednesday, 18 October 2006, at 9:00 am
in Conference Room A of the Legislative Council Building**

Members present : Hon LAU Kong-wah, JP (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Dr Hon Philip WONG Yu-hong, GBS
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung

Members absent : Hon CHEUNG Man-kwong
Hon WONG Yung-kan, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon CHIM Pui-chung

Public Officers attending : Item I

Mr Ambrose LEE
Secretary for Security

Mr Stanley YING
Permanent Secretary for Security

Miss CHEUNG Siu-hing
Deputy Secretary for Security

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Ms Carol YUEN
Deputy Secretary for Security

Ms Grace LUI
Deputy Secretary for Security

Ms Sally WONG
Commissioner for Narcotics

Ms Maisie CHAN
Administrative Assistant to Secretary for Security

Item II

Mr Raymond WONG Hung-chiu
Commissioner
Independent Commission Against Corruption

Mr Daniel LI Ming-chak, IDS
Head of Operations
Independent Commission Against Corruption

Mr Thomas CHAN Chi-sun, IDS
Director of Corruption Prevention
Independent Commission Against Corruption

Mrs Erika HUI LAM Yin-ming
Director of Community Relations
Independent Commission Against Corruption

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

Staff in attendance : Mr Raymond LAM
Senior Council Secretary (2) 5

Ms Katherine YUNG
Senior Council Secretary (2) 8

Miss Helen DIN
Legislative Assistant (2)1

I. Briefing by the Secretary for Security on the Chief Executive's 2006-2007

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Policy Address

(LC Paper No. CB(2)40/06-07(01))

Secretary for Security (S for S) briefed members on the policy initiatives relating to the security portfolio in the 2006-2007 Policy Agenda.

(*Post-meeting note* : The speaking note provided by the Administration was issued to members vide LC Paper No. CB(2)119/06-07 on 18 October 2006.)

Establishment of the Independent Police Complaints Council as a statutory body

2. Ms Emily LAU and Ms Audrey EU asked about the timetable for introduction of the bill to establish the Independent Police Complaints Council (IPCC) as a statutory body. Ms LAU asked whether all the suggestions made by Members at the Panel meeting on 6 June 2006 on the subject would be taken on board in the bill to be introduced. She also asked about the latest development in respect of the leakage of personal data held by IPCC which was uncovered in March 2006.

3. S for S responded that the Administration was consulting IPCC on the contents of the draft bill to be introduced. He was not in a position to undertake that all the suggestions made by Members at the Panel meeting on 6 June 2006 would be taken on board. However, Members could express their views when the relevant bill was introduced into the Legislative Council. To his knowledge, the Privacy Commissioner for Personal Data had investigated the leakage of personal data held by IPCC and was drawing up an investigation report. Legal proceedings in respect of claims for damage arising from the incident had also commenced. He said that IPCC, which was an independent body, had tightened its internal procedures.

Violence and nuisance against well-known personalities

4. Ms Emily LAU said that there were many cases of violence and nuisance against well-known personalities. She questioned whether such cases were dealt with seriously by the Administration. She recalled that she had written to the Administration a few months ago complaining that the Police had not complied with the requirements in the Victims of Crime Charter to notify her of the trial of the person arrested for nuisance against her office.

5. S for S responded that the Security Bureau and the Police were very concerned about such cases. To his knowledge, a victim would be notified as far as possible about the arrests of suspects in a case. He undertook to follow up the complaint of Ms Emily LAU.

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Biometric passports and deployment of immigration manpower after the completion of the identity card replacement exercise

6. Mr Howard YOUNG asked whether biometric passports were issued by many other countries and whether special counters would be established at immigration control points for visitors using biometric passports.

7. S for S responded that there was a global trend in the issuance of biometric passports which complied with the recommendations of the International Civil Aviation Organization. The United States of America (USA) had announced that visitors from countries currently enjoying visa-free status could continue to enjoy visa-free travel to USA, if the country had a program to issue biometric passports to its nationals.

8. Mr Howard YOUNG asked whether the surplus manpower arising from the completion of the identity card replacement exercise could be redeployed for relieving the pressure at boundary control points.

9. S for S responded that the surplus manpower arising from the completion of the identity card replacement exercise would be redeployed. With the opening of new control points, it would not be necessary to reduce the immigration manpower after the completion of the identity card replacement exercise.

e-Channels

10. Dr LUI Ming-wah expressed concern that the response time of e-Channels was longer than expected. To his knowledge, this was mainly due to the lengthy time required for the retrieval of data from the central database of the Immigration Department. He asked whether the Administration would take steps to improve the response time of e-Channels.

11. S for S responded that the time needed for clearance at e-Channels might not be shorter than clearance at counters by immigration personnel. However, e-Channels provided more flexibility than manned counters in the deployment of resources in that more channels could be opened to cope with any sudden increase in passenger flow without a corresponding increase in immigration manpower. He said that the introduction of e-Channels had substantially relieved the pressure on immigration manpower arising from the increased passenger flow at boundary control points. He undertook to consider Dr LUI's views when reviewing the response time of e-Channels.

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12. Ms Audrey EU said that she had experienced problems with the use of e-Channels and more time was needed in comparison with immigration clearance at manned counters. S for S undertook to look into the problems experienced by Ms EU.

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Co-location of immigration and customs facilities at boundary control points

13. Mr Howard YOUNG asked whether the Administration would reconsider co-locating immigration and customs facilities at the Lok Ma Chau Control Point.

14. S for S responded that there was currently no plan to co-locate immigration and customs facilities at the Lok Ma Chau Control Point. After the co-location of immigration and customs facilities at the Hong Kong-Shenzhen Western Corridor was reviewed, the feasibility of extending the co-location arrangement to other control points might be considered.

Progress of enactment of legislation to implement Article 23 of the Basic Law

15. Ms Audrey EU asked about the Administration's progress of work in the enactment of legislation to implement Article 23 of the Basic Law (BL23).

16. S for S responded that there was a constitutional duty for the Hong Kong Special Administrative Region (HKSAR) to implement BL23. However, it was currently not among the list of priority items for the Administration.

Right of abode

17. Ms Audrey EU said that the Administration had previously indicated that it would raise with the Mainland authorities the possibility of creating another channel under the One-way Permit (OWP) Scheme for adult children born to Hong Kong parents in the Mainland to come and settle in Hong Kong. She asked whether there was any progress on the matter. Miss CHOY So-yuk added that a Mainland public security official had once told a delegation of the Democratic Alliance for the Betterment and Progression of Hong Kong that such a channel would be established, although it was subsequently not established for various reasons.

18. S for S responded that the Administration had raised with the Mainland authorities the possibility of creating another channel under the OWP Scheme for such adult Mainland children who had a genuine need to come and settle in Hong Kong and the suggestion was still being considered by the Mainland authorities. He said that the Administration would continue to follow up the issue.

Notification mechanism between the Mainland authorities and the Hong Kong Special Administrative Region Government

19. Ms Audrey EU asked whether there was any progress on the extension of the notification mechanism between the Mainland authorities and the HKSAR Government to include state security officials. S for S responded that the notification mechanism had already been extended to include cases under the Ministry of State Security. In the past few months, the Administration had been discussing with the Mainland authorities how the notification mechanism could be improved by requiring

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a notification to be made within a specified time frame.

Progress of implementation of the Interception of Communications and Surveillance Ordinance

20. The Deputy Chairman questioned why the Administration had not included the progress of implementation of the Interception of Communications and Surveillance Ordinance (Cap. 589) (the Ordinance) in its paper for the meeting. He asked whether the Administration had received any views regarding the authorisations by panel judges or implementation difficulties, and whether there were statistics on authorisations granted on public security grounds. He enquired whether the Administration had closely monitored the implementation of the Ordinance.

21. S for S responded that the Ordinance had just come into operation, and it was too early to comment on its implementation. He said that caution should be exercised to avoid influencing the independent decisions of panel judges. He added that appropriate information would be included in the annual report of the Commissioner on Interception of Communications and Surveillance.

Review of the Money Lenders Ordinance

22. The Deputy Chairman said that there were loopholes in the Money Lenders Ordinance (Cap. 163) (MLO) in that many money lenders were bypassing the effective interest rate ceiling of 60% per annum through various means, such as providing loans through an intermediary or charging a handling fee. The exemption of mortgaged loans from the coverage of MLO was also a loophole. He considered that the Administration should conduct a review on MLO in relation to such aspects. S for S agreed to look into the subject in consultation with the Police and the Financial Services and the Treasury Bureau.

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Progress on the establishment of a rendition arrangement with the Mainland

23. Dr LUI Ming-wah asked about the progress on the establishment of a rendition arrangement with the Mainland and the problems encountered in establishing such an arrangement.

24. S for S responded that the Administration and Mainland authorities were still holding discussions on the establishment of a rendition arrangement between the two places, and the discussions had not yet been completed. This was mainly due to the significant differences in the legal systems of the two places, including the fact that under the Fugitive Offenders Ordinance (Cap. 503), a person would not be surrendered unless an assurance had been given that the death sentence would not be imposed on that person or, if so imposed, would not be carried out.

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Immigration control on Mainland passport holders who possessed right of abode in South East Asian countries

25. Miss CHOY So-yuk expressed concern that holders of Mainland passport who had permanent residence in a country in southeast Asia were required to obtain entry permits before they were allowed to enter Hong Kong, whereas entry permits were not required for the nationals of such countries.

26. S for S responded that he was aware of Miss CHOY So-yuk's concerns about Chinese nationals who had permanent residence in the Philippines. He stressed that the Administration had to strike a balance between facilitating travel convenience and maintaining immigration control to prevent possible abuses. He said that the Administration was discussing with the Ministry of Foreign Affairs whether such persons' permanent residence status could be verified through the Chinese Embassy in Manila so that some form of travel convenience for such visitors could be introduced.

Problems encountered by Hong Kong residents who owned flats in the Mainland

27. Miss CHOY So-yuk said that the windows and doors of some Mainland flats owned by Hong Kong residents were stolen when these residents were not in the Mainland. Some impersonated public security officials had also demanded money from Hong Kong residents living in the Mainland. She asked whether the Administration would request the Mainland public security authorities to step up enforcement against such crime.

28. S for S responded that Hong Kong residents who encountered problems in the Mainland could contact the Assistance to Hong Kong Residents Unit of the Immigration Department, which would relay the matter to the relevant Mainland authorities.

Prosecution against the use of forged travel documents

29. Mr Albert HO expressed concern about a low rate of successful prosecution against the use of forged travel documents, which relied on the admission of the arrested persons or expert opinion on whether the travel document concerned had been altered. He asked why the Administration did not seek the assistance of the issuing country in verifying whether a travel document was a forged one.

30. S for S responded that forged travel documents could be classified as genuine travel documents where some parts had been altered and counterfeit travel documents. Prosecution against the use of an altered travel document would usually require evidence suggesting that certain parts of the travel document had been altered. Prosecution against the use of a counterfeit travel document would usually require the issuing country to verify its record on the travel document concerned. However, some of the issuing countries were either slow in responding or even did not respond.

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Findings of a recent international business corruption survey

31. Mr Albert HO said that some recent media reports on the findings of a business corruption survey had aroused public concern about whether there was increased corruption in the business sector in Hong Kong. Although some clarifications had been issued on such reports, he considered that the Administration should clarify the corruption situation in the business sector.

32. S for S said that while this was a matter for the Commissioner, Independent Commission Against Corruption (C/ICAC), he understood that the respondents in the survey were in fact referring to situations where they encountered corruption when doing business in other places or countries.

II. Briefing by the Commissioner, Independent Commission Against Corruption on the Chief Executive's 2006-2007 Policy Address
(LC Paper Nos. CB(2)40/06-07(02), CB(2)61/06-07(01), (02) and CB(2)104/06-07(01))

33. C/ICAC briefed members on the policy initiatives of the Independent Commission Against Corruption (ICAC) in the year ahead, ICAC's response regarding the findings of a recent survey on international business attitudes to corruption, the corruption situation in the business sector in Hong Kong and ICAC's work in combating such corruption.

(Post-meeting note : The speaking note provided by ICAC was issued to members vide LC Paper No. CB(2)119/06-07 on 18 October 2006.)

Findings of a recent international business corruption survey

34. Referring to paragraph 9 of the speaking note provided by ICAC, the Deputy Chairman suggested that ICAC should consider conducting its own survey on the same subject with a larger sample size on a regular basis.

35. C/ICAC responded that, according to the findings of ICAC Annual Survey 2005, about 95% of the respondents said they had not come across corruption in the past 12 months. Although ICAC's survey had not covered situations where people encountered corruption when doing business outside Hong Kong, he had reservations about whether it would be meaningful to conduct such a survey, as the respondents would be mainly giving their answers on the basis of their own perception without evidence. Nevertheless, ICAC could consider the suggestion.

36. The Deputy Chairman considered that such a survey should be conducted, as it might enable ICAC to identify areas where actions had to be taken. Miss CHOY So-yuk, however, considered that ICAC should conduct surveys on the corruption situation within Hong Kong rather than such a survey.

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37. Miss CHOY So-yuk expressed concern that the reports on the findings of the recent survey on international business attitudes to corruption had affected the image of Hong Kong. She asked whether ICAC would take steps to clarify the corruption situation in the business sector.

38. C/ICAC responded that ICAC was concerned about the media reports on the survey findings and had issued two response statements to clarify the corruption situation in the business sector of Hong Kong. In response to media reports, overseas Economic and Trade Offices of Hong Kong had also issued statements to clarify the corruption situation in Hong Kong. He said that the dissemination of accurate information about the corruption situation in Hong Kong to other places should be an ongoing task and that ICAC had launched an electronic newsletter for this purpose.

Corruption relating to the real estate agency industry

39. The Deputy Chairman said that a director of a real estate agency had stated on the previous day that the offering and acceptance of unauthorised commissions were generally found in the real estate agency industry. He asked whether it was a general problem in the industry, whether ICAC was aware of the problem and whether ICAC had taken steps to address the problem.

40. C/ICAC responded that real estate agency industry should be fully aware of what was permitted and not permitted under the law. He said that the number of reports about corruption in real estate and property transactions had remained relatively stable in the past few years at about 50 to 70 complaints per year, which amounted to about 3% of the complaints received for the private sector. He said that ICAC was conducting, in conjunction with the Estate Agents Authority, a two-year professional ethics programme to enhance real estate agents' awareness about the importance of professional ethics and knowledge about anti-corruption legislation. ICAC would also organise seminars and workshops for real estate agents to enhance their awareness about corruption prevention. The Estate Agents Authority had agreed to incorporate courses on professional ethics and anti-corruption in its Continuing Professional Development Scheme.

Prevention of corruption in building management

41. Miss CHOY So-yuk asked whether the problem of collusive bidding was serious among owners' corporations (OCs) and how ICAC would tackle such a problem in building management.

42. Director of Corruption Prevention, ICAC responded that ICAC would assist OCs in the prevention of corruption in building management through -

- (a) educating OCs the requirements in legislation, including what would constitute illegal commissions;

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- (b) explaining how conflict of interests should be dealt with;
- (c) issuing corruption prevention best practices and guidelines to OCs; and
- (d) providing corruption prevention advice to individual OCs where corruption had been found.

Tenure of the commissioner of the Independent Commission Against Corruption

43. Ms Emily LAU expressed concern that there was no specified tenure for the commissioner of ICAC and the post was filled by serving administrative officers who would return to the civil service after their service with ICAC. She considered that the post of commissioner of ICAC should be filled by an independent person and the tenure should be specified. Her views were shared by Mr LEUNG Kwok-hung.

44. C/ICAC responded that under BL, ICAC functioned independently and was accountable to the Chief Executive (CE). He stressed that ICAC had acted in accordance with the law and discharged its duties in a fair and just manner. The work of ICAC was monitored by three independent advisory committees, the Legislative Council, the media and the court. He said that the appointment of commissioners of ICAC from the civil service was a long-established practice since the appointment of the first commissioner of ICAC.

Adequacy of existing legislation and prevention of corruption in elections

45. Ms Audrey EU asked whether ICAC had discovered any inadequacies in existing legislation.

46. C/ICAC responded that existing legislation was generally adequate for ICAC to perform its duties. He informed members that ICAC was examining with the Administration the feasibility of incorporating misconduct in public office in local legislation.

47. Ms Audrey EU asked how ICAC could prevent political dealings and collusion between the business and the Government in elections.

48. C/ICAC responded that election laws had been enacted to secure fair and clean elections. He stressed that ICAC would take law enforcement actions against persons who breached such election laws, irrespective of the rank of such persons.

49. Ms Audrey EU expressed concern that the application of certain provisions of the Prevention of Bribery Ordinance (Cap. 201) (POBO) had not yet been extended to CE.

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50. C/ICAC responded that, to his knowledge, CE had no objection to the extension of the application of such provisions of POBO to him. The Administration had briefed the Subcommittee on Application of Certain Provisions of the Prevention of Bribery Ordinance to the Chief Executive on its proposals and the relevant legislative amendments were being drafted.

51. The meeting ended at 10:35 am.

Council Business Division 2
Legislative Council Secretariat
1 December 2006