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Panel on Security

**Background brief prepared by Legislative Council Secretariat
for the meeting on 6 May 2008**

Prison development

Purpose

This paper summarises past discussions by the Panel on Security (the Panel) on the Administration's prison development plans subsequent to the shelving of the Hei Ling Chau prison development proposal.

Background

2. At its meetings on 7 December 2000 and 7 June 2001, the Panel was briefed on the Administration's long-term prison development plan to address the problems of archaic facilities and inadequate penal places, and to meet the forecast growth in penal population. The Administration informed the Panel that the possible sites for building a large prison complex were Kung Nga Po and Hei Ling Chau.

3. In response to the concerns expressed by members, the Administration revised its proposal and briefed members on the revised proposal at the meeting of the Panel on 7 February 2002. The Administration proposed a progressive approach involving a mid-sized co-location of penal institutions, which would provide 7 220 penal places (among which 2 600 were additional places) by 2013, at a capital cost of \$16 billion.

4. At its meeting on 16 May 2003, the Finance Committee (FC) approved a funding proposal of \$46.7 million for carrying out a feasibility study and associated site investigation for land formation and infrastructure works for the proposed prison development at Hei Ling Chau. In its subsequent progress report to FC, the Administration advised that while the project was technically feasible according to stage 1 of the feasibility study, there was strong public objection to the project. In view of the public's objection to the proposal and

the call for the Administration to explore alternative development plans to address the problem of prison overcrowding, the Administration decided to shelve the project for the time being. In the meantime, the Administration would explore alternative development possibilities. It would consider initially the feasibility of maximising the redevelopment potential of certain existing penal sites to yield additional places.

Prison development plans subsequent to the shelving of the Hei Ling Chau prison development proposal

5. At its meeting on 1 November 2005, the Panel was briefed on the Administration's prison development plans subsequent to the shelving of the Hei Ling Chau prison development proposal as follows -

- (a) carrying out conversion works at the Chi Sun Correctional Institution, which would provide 48 additional penal places around the end of 2005;
- (b) constructing the new Lai Chi Kok Correctional Institution, which would provide 212 additional penal places in the first quarter of 2006;
- (c) launching the extension project at Lai Chi Kok Reception Centre, which would provide 144 additional remand places by the end of 2006;
- (d) redeveloping the Lo Wu Correctional Institution (LWCI), which would provide 1 218 additional places by the end of 2009; and
- (e) identifying the redevelopment potential of existing penal institutions, such as the institutions at Chi Ma Wan.

6. Noting that Mainlanders serving sentences in Hong Kong had taken up 28.8% of the penal population, members considered that the Administration should expedite the establishment of a transfer of sentenced persons arrangements between Hong Kong and the Mainland. Hon James TO suggested that incentives should be provided for Mainlanders serving sentences in Hong Kong to apply for transfer to the Mainland for serving their remaining sentences. Hon LEUNG Kwok-hung however considered that, given the poor condition of Mainland prisons, Mainlanders serving sentences in Hong Kong would unlikely be willing to apply for transfer to the Mainland. Hon Margaret NG asked the Administration to review whether illegal immigrants should be imprisoned for a long period of time, whether such imprisonment could achieve the desired penal effect and the cost implications of such imprisonment.

7. The Administration responded that, under the model agreement on the transfer of sentenced persons, a transfer required the agreement of the transferring and receiving parties as well as the sentenced person. It was difficult to assess the number of sentenced persons who would apply for transfer to the Mainland for serving their sentences, if transfer of sentenced persons arrangements were established with the Mainland. The redevelopment of penal institutions would achieve the purposes of meeting increased demand for penal places as well as addressing the problem of aging of old penal institutions. The Administration also advised that the length of sentence was determined by the court.

8. Hon LAU Kong-wah considered that priority should be given to redeveloping the Chi Ma Wan Correctional Institution. He requested the Administration to provide a comparison between the redevelopment of LWCI and Chi Ma Wan Correctional Institution.

9. The Administration subsequently advised that the existing two correctional institutions at Chi Ma Wan could be redeveloped to provide about 1 600 places, of which 984 were additional places. A rough estimate of the construction cost was about \$1.5 billion. However, the redevelopment of the institutions at Chi Ma Wan would be more complicated than that of LWCI because of the topography of the former site and the need to widen the existing access road substantially. Further studies would be needed.

Redevelopment of Lo Wu Correctional Institution

10. At the Panel meeting on 4 April 2006, the Administration briefed the Panel on its proposal to redevelop LWCI, which would provide 1 400 penal places (of which 1 218 were additional places) by the end of 2009, at a capital cost of about \$1.375 billion. As for the basis for projecting the penal population, the Administration advised that the projections (13 330 by 2010 and 14 250 by 2015) were based on arrest and prosecution statistics provided by the Police and the Immigration Department (ImmD).

11. Members queried whether the Administration should merely construct more prisons to cope with the projected increase in penal population. They asked about the progress of establishing a transfer of sentenced persons agreement with the Mainland. Hon James TO considered that the Administration should review its penal policy, having regard to the deterrent effect and cost considerations. Consideration should be given to non-custodial options such as electronic monitoring. Hon LAU Kong-wah was of the view that if the penal institutions at Chi Ma Wan could be redeveloped to provide more places, such as through the construction of an extra level of floor, there might not be a need to redevelop LWCI. Hon LEUNG Kwok-hung considered that Mainlanders who took up illegal employment in Hong Kong should be repatriated and not imprisoned.

12. In reaffirming its immigration policy for illegal immigrants to be repatriated in general and for illegal immigrants who took up illegal employment or committed other offences to be prosecuted, the Administration advised that the penal policy was reviewed regularly. The Administration had considered in about 1997-1998 the feasibility of introducing other non-custodial options not available then in Hong Kong, such as home detention and electronic monitoring, and noted that these options were not suitable for Hong Kong because of technical difficulties or security threats to the community. The Administration considered it difficult to assess whether the establishment of transfer of sentenced persons arrangements with the Mainland would actually relieve overcrowding in penal institutions, as the consent of the prisoner concerned was required before a transfer could take place. The Administration advised that the redevelopment of penal institutions at Chi Ma Wan was still at an early stage and designs were not yet available. It was the intention of the Administration to redevelop LWCI to alleviate the problems of prison overcrowding and ageing penal facilities as soon as possible.

13. FC subsequently approved the funding for the LWCI redevelopment project at its meeting on 7 July 2006.

Progress of prison development and further development possibilities

14. At the Panel meeting on 3 April 2007, the Administration updated members on the progress of prison development projects as referred to in paragraph 5 above and its work on identifying further development possibilities.

15. Members expressed concern about the serious shortfall in penal places in maximum security prisons, female institutions and remand facilities. According to the Administration, as at 16 March 2007, the total penal population was 11 211. The total number of penal places in all 23 penal institutions was 11 538. In the case of male institutions, the occupancy rate was 95%; however, there was a shortfall of 462 places in remand facilities and maximum security prisons. In the case of female institutions, the occupancy rate was 106%, representing a shortfall of 114 places. The situation was more serious in remand facilities and maximum security prisons, with a total shortfall of 264 places. Given that the proposal to co-locate penal institutions at Hei Ling Chau had been shelved, members enquired about the Administration's plan to address the problems of overcrowding and outdated facilities in penal institutions.

16. The Administration advised that besides minor works and small scale projects which would provide more places in existing penal institutions, LWCI was being redeveloped and the feasibility of developing the existing institutions at Chi Ma Wan was being explored. It was anticipated that these projects would help upgrade the prison facilities and relieve the overcrowding problem

in penal institutions. The Administration was continuing to identify and work on further possibilities, including the addition of an extension block to the existing Lai Chi Kok Reception Centre to provide 144 additional remand facilities for adult males, swapping of the functions of the Lai King Training Centre (which was a penal institution for young male inmates) and the Tai Tam Gap Correctional Institution (which was for young females) to provide 80 additional places for female inmates, and further swapping possibilities in different types of penal institutions. The Administration undertook to report to the Panel the findings of its feasibility study on the redevelopment of penal institutions at Chi Ma Wan.

17. Members also noted with concern the number of Mainlanders in the penal population. According to the Administration, about 28% of the average daily penal population in 2006 was Mainlanders. Some members pointed out that many sentenced Mainlanders were convicted of engaging in vice activities or illegal employment. They considered that the Administration should review its prosecution policy in respect of overstayers or illegal immigrants who committed minor offences so that these persons would be repatriated rather than imprisoned. However, Hon James TO was of the view that the present prosecution policy in respect of illegal immigrants and overstayers engaging in vice activities and taking up illegal employment was appropriate.

18. The Administration reiterated that it was the Government's policy to prosecute illegal immigrants and overstayers who took up illegal employment or committed other offences. An inter-departmental Task Force had been established in 2003 to combat the problems at source. Immigration control was maintained by ImmD at boundary control points. The particulars of convicted Mainland visitors were passed to Mainland authorities so that their subsequent applications to visit Hong Kong could be subject to closer scrutiny. With such measures, the number of Mainlanders imprisoned or on remand had decreased from about 3 800 in 2004 to about 2 800 in March 2007. The total percentage of Mainlanders in the penal population had decreased from 33% to about 25.5%.

Relevant papers

19. Members may wish to refer to the following minutes of meetings and papers for further details of the discussions –

Minutes

- (a) minutes of meeting of the Panel on Security on 1 November 2005 [LC Paper No. CB(2)755/05-06];
- (b) minutes of meeting of the Panel on Security on 4 April 2006 [LC Paper No. CB(2)79/05-06];

- (c) minutes of meeting of the Finance Committee meeting on 7 July 2006 [LC Paper No. FC12/06-07];
- (d) minutes of meeting of the Panel on Security on 3 April 2007 [LC Paper No. CB(2)1964/06-07];

Papers

- (e) Administration's paper entitled "Prison Development Plan" for the meeting of the Panel on Security on 7 December 2000 [LC Paper No. CB(2)388/00-01(03)];
- (f) Administration's paper entitled "Prison Development Plan" for the meeting of the Panel on Security on 7 June 2001 [LC Paper No. CB(2)1689/00-01(04)];
- (g) Administration's paper for the meeting of the Finance Committee on 7 July 2006 [Paper No. FCR(2006-07)20]; and
- (h) Administration's paper entitled "Prison Development" for the meeting of the Panel on Security on 3 April 2007 [LC Paper No. CB(2)1449/06-07(05)].

20. The above minutes and papers are also available on the website of the Legislative Council (<http://www.legco.gov.hk>).

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