

立法會
Legislative Council

LC Paper No. CB(2)566/08-09
(These minutes have been seen
by the Administration)

Ref : CB2/PS/1/08

Panel on Security

**Subcommittee on
Police's Handling of Sex Workers and Searches of Detainees**

**Minutes of meeting
held on Tuesday, 9 December 2008, at 4:30 pm
in Conference Room B of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
Hon Albert HO Chun-yan
Hon WONG Yung-kan, SBS, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Yuk-man

Member attending : Hon Cyd HO Sau-lan

Members absent : Dr Hon Philip WONG Yu-hong, GBS
Hon Abraham SHEK Lai-him, SBS, JP
Hon WONG Kwok-kin, BBS

Public Officers attending : Item II

Mrs Apollonia LIU
Principal Assistant Secretary for Security

Ms Emily MO
Assistant Secretary for Security

Mr Austin KERRIGAN
Assistant Commissioner of Police (Support)

Mr NG Sai-kuen
Chief Superintendent of Police (Crime HQ) (Crime Wing)

Mr Matthew Darron LINDSAY
Superintendent of Police (General) (Support Branch)

Mr Eddy TONG
Chief Inspector, Crime HQ(1) (HQ Group) (Crime Wing)

Clerk in attendance : Mr Raymond LAM
Chief Council Secretary (2) 1

Staff in attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr YICK Wing-king
Assistant Legal Adviser 8

Miss Josephine SO
Senior Council Secretary (2) 1

Ms Camy YOONG
Clerical Assistant (2) 1

I. Election of Chairman

Mr James TO was elected Chairman of the Subcommittee.

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).

II. Meeting with the Administration

3. The Subcommittee requested the Administration to -
- (a) provide information on the number of Level III searches conducted on detainees from July to September 2008 where the detainee was suspected of being involved in offences under the Public Order Ordinance (Cap. 245) or obstructing police officers engaged in a public duty under the Summary Offences Ordinance (Cap. 228) in public order events;

- (b) randomly select 100 cases from those 1 674 Level III searches conducted from July to September 2008, and provide the records of these cases in the Communal Information System, with personal data excised, to illustrate the justifications for conducting Level III searches;
- (c) provide information on how Level III searches would be subdivided into those involving complete removal of underwear, partial removal of underwear and looking into the underwear;
- (d) provide information on the number of searches involving complete removal of clothing conducted after introduction of the use of equipment/device to assist Police officers in the conduct of searches;
- (e) provide a progress update on the status of the Administration's consideration in respect of the suggestions made by the Subcommittee on Police's Handling of Searches of Detainees;
- (f) provide information on the Police's guidelines on undercover anti-vice operations, and advise when such guidelines were introduced;
- (g) explain whether change money collected from sex workers during undercover operations would be confiscated or returned to the sex worker concerned;
- (h) advise whether off-duty Police officers were allowed to visit "one sex worker apartments" and patronise services from sex workers within or outside the district to which an officer was posted;
- (i) gather information on the practice of overseas jurisdictions as to whether their police officers undertaking undercover operations were allowed to receive masturbation or other sexual services offered by sex workers; and
- (j) consider introducing measures for monitoring the work and conduct of Police officers while engaged in undercover anti-vice operations.

III. Date of next meeting

4. The Chairman said that the next meeting would be scheduled pending the availability of the information to be provided by the Administration.

5. The meeting ended at 6:25 pm.

Council Business Division 2
Legislative Council Secretariat
2 January 2009

**Proceedings of meeting of the
Subcommittee on Police's Handling of Sex Workers and Searches of Detainees
on Tuesday, 9 December 2008, at 4:30 pm
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action Required
000000 - 000126	Hon Albert HO Hon Emily LAU Hon James TO	Election of Chairman	
000127 - 000441	Chairman	Welcoming remarks	
000442 - 001433	Admin	<p>Timetable for completing the second stage review of the Police's practices regarding the handling of searches of detainees</p> <p>Major objective of Police's undercover anti-vice operations; operational needs for undercover officers to receive some limited form of sexual service; Police's internal guidelines governing such operations</p> <p>Administration's response to issues raised at the meeting of the Panel on Security held on 27 October 2008 (LC Paper No. CB(2)417/08-09(02))</p> <p>Plan and timetable to enhance the functions of Communal Information System (CIS) for recording searches conducted on persons detained in Police's custody</p>	
001434 - 001617	Chairman Hon Albert HO Hon Emily LAU	Approach for discussion	
001618 - 003410	Hon Albert HO Admin Chairman	<p>Considered that the Administration should review and make improvement to the three-level classification system on searches of detainees, so as to differentiate searches which involved the complete removal of underwear from all other forms of searches under Level III</p> <p>Whether any Level III searches conducted on detainees from July to September 2008 involved offences against public order</p>	Admin to provide information on the number of Level III searches

Time Marker	Speaker(s)	Subject(s)	Action Required
		<p>Whether details of all searches were fully recorded in CIS</p> <p>Annex B to LC Paper No. CB(2)417/08-09(02)</p> <p>Reasons and factors considered by a Duty Officer (DO) in determining whether a Level III search was required</p> <p>Under the new guidelines, DO would determine the scope of a search to be conducted on a detainee on a case-by-case basis, based upon the prevailing circumstances. All searches conducted on detainees would be recorded in CIS. The officer conducting the search was required to explain to the detained person the reason(s) for and the scope of the search to be carried out, before the search was to be conducted. DO would ensure that the purposefully designed Custody Search Form would be served on the detained person, with the contents explained to the individual concerned</p>	<p>conducted on detainees from July to September 2008 where the detainee was suspected of being involved in offences under the Public Order Ordinance (Cap. 245) or obstructing police officers engaged in a public duty under the Summary Offences Ordinance (Cap. 228) in public order events</p> <p>Admin to randomly select 100 cases from those 1 674 Level III searches conducted from July to September 2008, and provide the records of these cases in CIS, with personal data excised, to illustrate the justifications for conducting Level III searches</p>
003411 - 004949	Hon Emily LAU Admin Chairman	Concluding observations of the United Nation's Committee Against Torture on the Fourth and Fifth Reports of the People's Republic of China under the Convention Against Torture and Other Cruel, Inhuman or Degrading	

Time Marker	Speaker(s)	Subject(s)	Action Required
		<p>Treatment or Punishment - Part Two : Hong Kong Special Administrative Region (LC Paper No. CB(2)366/08-09(01))</p> <p>Administration's response to issues raised in the Hong Kong Bar Association's position paper on the Police's practices in handling searches of detainees (Annex C to LC Paper No. CB(2)417/08-09(02))</p> <p>Feasibility of deploying devices that would enable the Police to detect any article kept by a person to be detained without complete removal of clothing</p> <p>Further breakdown of Level III searches conducted on detainees into those involving complete removal of underwear, partial removal of underwear and looking into the underwear</p> <p>The requirement for Police officers to keep accurate record of all searches in CIS</p> <p>Possibility of using digital radiographic scanner, backscatter scanner and millimeter wave scanner to assist Police officers in the conduct of searches, with a view to minimising the need for complete removal of clothing during body searches; 120 hand-held metal detectors had been procured and distributed to police stations to facilitate the conduct of searches of persons to be detained</p>	<p>Admin to provide information on how Level III searches would be subdivided into those involving complete removal of underwear, partial removal of underwear and looking into the underwear</p> <p>Admin to provide information on the number of searches involving complete removal of clothing conducted after introduction of the use of equipment/ device to assist Police officers in the conduct of searches</p>
004950 - 010951	Hon WONG Yuk-man Chairman Admin	Expressed dissatisfaction with the Administration's response to issues raised at the meeting of the Panel on Security held on 27 October 2008, in particular the grounds for Police	

Time Marker	Speaker(s)	Subject(s)	Action Required
		<p>officers undertaking undercover operations to receive some limited form of sexual service for the purpose of gathering evidence</p> <p>Allegations made by Zi Teng about misconduct or abuse of power by Police officers</p> <p>Suggested that the Police should take the initiative to enhance communication with sex worker groups</p> <p>Police's internal guidelines governing anti-vice operations; safeguards to prevent abuse; the requirement for officers undertaking undercover operations to report to their supervisors the details of the operations after the conclusion of each operation. All relevant information had to be faithfully recorded and would be admitted as evidence in court, if prosecutions were instituted</p> <p>Release of sensitive law enforcement information, i.e. number of occasions on which Police officers obtained approval to receive limited sexual service during undercover operations against vice activities, might compromise the ongoing operations of the Police against vice activities</p> <p>Various measures taken by the Police to maintain/enhance communication with sex workers and sex workers groups; mechanism established to disseminate timely crime information to sex workers to enhance their vigilance and safeguard their personal safety</p>	
010952 - 012510	Hon Cyd HO Chairman Admin	<p>Suggestions made by the Subcommittee on Police's Handling of Searches of Detainees as set out in its report (LC Paper No. CB(2)2692/07-08)</p> <p>Whether it was necessary for the Police to conduct undercover</p>	Admin to provide a progress update on the status of the Administration's consideration in respect of the suggestions made by the

Time Marker	Speaker(s)	Subject(s)	Action Required
		<p>operations against vice activities</p> <p>Major objective of Police's undercover anti-vice operations -</p> <p>(a) preventing the exploitation of others for the purposes of prostitution; and</p> <p>(b) combating organised prostitution activities</p> <p>Some 1 300 complaints about prostitution activities causing nuisance to the neighbourhood were received by the Police in the period of January 2007 to October 2008; of the sex workers arrested during January to October 2008, 29 of them were two-way permit holders, 15 People's Republic of China passport holders and 5 illegal immigrants arrested in one sex worker apartments</p> <p>Conducting a closed meeting, if necessary, to discuss past cases where undercover operations were carried out for the purpose of investigating prostitution-related offences</p> <p>Concern about the psychological condition and integrity of Police officers involving in covert operations</p>	<p>Subcommittee on Police's Handling of Searches of Detainees</p>
<p>012511 - 014113</p>	<p>Hon Albert HO Admin Chairman Hon Cyd HO Hon WONG Yuk-man Hon LAU Kong-wah</p>	<p>The internal guidelines governing anti-vice operations, revised and implemented in late 2007, reinforced the key principle that in the process of gathering evidence, Police officers undertaking undercover operations were not allowed to receive oral sex or sexual intercourse service offered by sex workers. Officers should not have body contact with sex workers if the latter were found to be under the age of 16</p> <p>Queried the need for Police officers undertaking undercover operations to receive masturbation service and to complete the whole process for the purpose of gathering evidence</p>	<p>Admin to provide information on the Police's guidelines on undercover anti-vice operations, and advise when such guidelines were introduced</p>

Time Marker	Speaker(s)	Subject(s)	Action Required
		<p>Reasons why undercover Police officers had to visit a vice establishment more than once</p> <p>All relevant information, including the marked money and change money, had to be faithfully recorded and would be admitted as evidence in court, if prosecutions were instituted</p> <p>Whether the Government would confiscate change money collected from sex workers during undercover operations</p> <p>Discussion of Annex A to the Administration's paper at a future meeting</p>	<p>Admin to explain whether change money collected from sex workers during undercover operations would be confiscated or returned to the sex worker concerned</p>
014114 - 014610	Hon Cyd HO Chairman Admin	<p>Alleged misconduct of Police officers</p> <p>Sex workers were encouraged to provide detailed information on alleged misconduct of Police officers so that the Police could investigate into the case</p> <p>Whether off-duty Police officers were allowed to visit "one sex worker apartments" and patronise services from sex workers within or outside the district to which an officer was posted</p>	<p>Admin to advise whether off-duty Police officers were allowed to visit "one sex worker apartments" and patronise services from sex workers within or outside the district to which an officer was posted</p>
014611 - 014847	Hon Emily LAU Admin Chairman	<p>Practice of overseas jurisdictions - whether their police officers undertaking undercover operations were allowed to receive masturbation or other sexual services offered by sex workers; the need to consider the matter in the light of the differences between jurisdictions in terms of public concerns, legislation and enforcement priorities relating to vice activities</p>	<p>Admin to gather information on the practice of overseas jurisdictions as to whether their police officers undertaking undercover operations were allowed to receive masturbation or</p>

Time Marker	Speaker(s)	Subject(s)	Action Required
			other sexual services offered by sex workers
014848 - 015304	Chairman Hon LAU Kong-wah Admin	Measures to monitor the work and conduct of Police officers undertaking undercover anti-vice operations	Admin to consider introducing measures for monitoring the work and conduct of Police officers while engaged in undercover anti-vice operations
015305 - 015333	Chairman	Date of next meeting	