

立法會

Legislative Council

LC Paper No. CB(2)1407/09-10
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

**Minutes of meeting
held on Tuesday, 2 March 2010, at 2:30 pm
in the Chamber 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 Margaret NG
Hon CHEUNG Man-kwong
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon CHIM Pui-chung
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon WONG Kwok-kin, BBS
Hon Paul TSE Wai-chun
- Member attending** : Hon Ronny TONG Ka-wah, SC
- Members absent** : Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon IP Kwok-him, GBS, JP
- Public Officers attending** : Item IV
Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Mr Paul CHENG
Principal Assistant Secretary for Security (B)

Mr Johann WONG
Principal Assistant Secretary for the Civil Service
(Appointments)

Mr LEE Sheung
Assistant Commissioner (Rehabilitation)
Correctional Services Department

Mr LO Huen, Simon
General Manager (Industries and Vocational Training)
Correctional Services Department

Mr FUNG Man-lok
Assistant Director (Youth & Corrections)
Social Welfare Department

Item V

Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Ms Sally WONG, JP
Commissioner for Narcotics
Security Bureau

Mr David WONG
Principal Assistant Secretary for Secretary (Narcotics) 1

Mr Peter IP
Senior Statistician (Security)
Security Bureau

Mr Steve LEE
Principal Assistant Secretary for Education
(School Development)

Miss Gloria LO
Principal Assistant Secretary for Food and Health
(Health) 2

Mr FUNG Man-lok
Assistant Director (Youth and Corrections)
Social Welfare Department

Dr Heston KWONG
Assistant Director of Health (Special Health Services)
Department of Health

Mr Ted TSANG
Chief Superintendent (Narcotics Bureau) (Acting)
Hong Kong Police Force

Mr John LEE
Head of Customs Drug Investigation Bureau
Customs and Excise Department

Item VI

Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Mrs Millie NG
Principal Assistant Secretary for Security (E)

Mr Larry CHU
Assistant Secretary for Security (E)

Mr Stephen CHENG Se-lim
Chief Superintendent of Police (Crime Support) (Crime Wing)
Hong Kong Police Force

Attendance : Item IV
by invitation

Society for Community Organization

Mr NG Wai-tung
Community Organizer

Mr YAU Kin-man
Community Organizer

Ex-offender Rights' Association

Mr CHOI Yu-kwong
Representative

Mr CHOW
Representative

Street Sleeper Rights' Association

Mr KWONG
Representative

Mr CHAN
Representative

The Society of Rehabilitation and Crime Prevention,
Hong Kong

Mr Andy NG Wang-tsang
Chief Executive

Ms Anthea LEE Shuk-wai
Business Director (Planning and Development)

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

Staff in attendance : Ms Connie FUNG
Senior Assistant Legal Adviser 1

Mr Bonny LOO
Assistant Legal Adviser 3

Miss Josephine SO
Senior Council Secretary (2) 1

Ms Camy YOONG
Clerical Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)986/09-10)

The minutes of the meeting held on 5 January 2010 were confirmed.

II. Information papers issued since the last meeting

2. Members noted that no information paper had been issued since the last meeting.

III. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)985/09-10(01) and (02))

Regular meeting in April 2010

3. Members agreed to discuss the following items proposed by the Administration at the next regular meeting to be held on 13 April 2010 at 4:30 pm -

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- (a) Outcome of public consultation on the proposed introduction of the Medical Priority Dispatch System;
- (b) Enhancement of Information Technology Infrastructure for the Hong Kong Police Force; and
- (c) Proposed capital injection to the Beat Drugs Fund.

Integrity management and behavioural guidelines of the Hong Kong Police Force

4. The Chairman informed members that Mr WONG Kwok-hing had written to the Panel to express concern about the recently reported cases in which Police officers were found drinking alcohol while they were on duty. In his letter dated 2 March 2010, Mr WONG requested the Panel to discuss the subject matter. Sharing Mr WONG's concern, the Deputy Chairman suggested that the Panel should discuss matters relating to the conduct and behaviour of Police officers, including the discipline code and behavioural guidelines adopted by the Police setting out the parameters of the behaviour expected of Force members, at the regular meeting in May 2010. Members agreed.

IV. Employment service support for rehabilitated offenders
(LC Paper Nos. CB(2)832/09-10(03) and (04))

5. The Chairman reminded the deputations attending the meeting that they were not covered by the protection under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) when addressing the Panel. At the invitation of the Chairman, four deputations presented their views on the subject matter.

Views of deputations

Society for Community Organization ("SOCO")
(LC Paper Nos. CB(2)832/09-10(05) & (06) and CB(2)985/09-10(03))

6. Mr NG Wai-tung presented the views of SOCO as detailed in its submissions and joint submission with Ex-offender Rights' Association and Street Sleeper Right's Association. He said that SOCO considered that there was discrimination against discharged offenders in their job seeking and the existing supportive services provided by related government departments and non-governmental organizations ("NGOs") for rehabilitated offenders were far from adequate in addressing their needs. Mr NG said that SOCO had made a number of suggestions in its review report published in March 2009 on employment service support for rehabilitated offenders. He urged the Administration to take heed of the suggestions made by SOCO and take immediate actions to address the needs expressed by inmates and discharged

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offenders.

Ex-offender Rights' Association
(LC Paper No. CB(2)985/09-10(03))

7. Mr CHOI Yu-kwong expressed concern about the need for conducting integrity checking on ex-offenders before their appointment to civil service posts. He queried whether it was a ploy of the Government to bar rehabilitated offenders from joining the civil service, and called on the Administration to review its policy so as to give people with criminal records a chance to be employed in less sensitive posts in the Government.

8. Mr CHOW was concerned about the criteria for issuing Security Personnel Permits to people with criminal records and the arrangements for discharged offenders applying for assistance under the Comprehensive Social Security Assistance ("CSSA") Scheme. He informed Members that upon release from prison, rehabilitated offenders normally had a few hundred dollars, which could only support their living for a few days. They were in urgent need of financial assistance and could not afford to wait one month for CSSA payments.

Street Sleeper Right's Association
(LC Paper No. CB(2)985/09-10(03))

9. Mr CHAN referred to his personal experience to illustrate the plight of discharged offenders after their release from prison. He held the view that the Administration should take the lead in employing rehabilitated offenders, so as to set a good example for NGOs, public bodies and private enterprises.

The Society of Rehabilitation and Crime Prevention, Hong Kong ("SRACP")
(LC Paper No. CB(2)985/09-10(04))

10. Mr NG Wang-tsang briefed Members on the views of SRACP as detailed in its submission. SRACP put forward the following recommendations for consideration by the Government -

- (a) the Correctional Services Department ("CSD") should continue to provide market-oriented vocational training and arrange post-release employment services in order to improve offenders' vocational skills and enhance their chance of securing gainful employment after release;
- (b) alongside with the provision of accredited and market-oriented vocational training for offenders, CSD should also take the initiative to identify the needs and possible difficulties that inmates were expected to encounter after their discharge. Where

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appropriate, CSD should refer cases of inmates to the relevant government departments and NGOs prior to their release for early follow-up actions. For instance, inmates with potential financial or housing difficulties should be assisted in their applications to the Social Welfare Department ("SWD") for CSSA, or the Housing Department for public housing before discharge;

- (c) the Administration should assist the discharged offenders in obtaining the relevant trade test certificates, permits or licences as required by different jobs, so as to enhance the chance of rehabilitated persons in securing gainful employment after release;
- (d) the Administration should consider setting up a specific fund to meet the short-term financial need of discharged prisoners and rehabilitated offenders and implementing an employment facilitation scheme to assist rehabilitated persons in finding jobs. Under the scheme, the Administration should provide unemployed offenders who had been actively seeking employment with financial assistance, such as travel, meal and clothing subsidies or telephone allowance, to facilitate their job-seeking efforts; and
- (e) the Administration should formulate new policies and measures to cultivate a deeper understanding of employers of various trades about rehabilitated offenders and appeal to them to provide more employment opportunities for rehabilitated offenders. The Government should consider making it a mandatory requirement in all outsourced contracts that a certain ratio of posts should be set aside for employment of persons with a criminal record.

Administration's response to issues raised by deputations

11. Under Secretary for Security ("US for S") and Assistant Commissioner of Correctional Services (Rehabilitation) made the following points -

- (a) the Government's policy was to promote the community's support for and acceptance of rehabilitated offenders to facilitate their reintegration into society as law-abiding citizens. To that end, CSD had spearheaded and would continue to organize public education and publicity activities to appeal to the public for support;
- (b) to facilitate prospective employers' better understanding of CSD's rehabilitation services and the vocational training provided to inmates, visits by employers to correctional institutions were arranged to encourage them to offer job opportunities to rehabilitated persons;

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- (c) in respect of concerns of depositions that there might be discrimination against rehabilitated offenders by prospective employers, it was noteworthy that the Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO") provided protection for personal data privacy of all individuals, including rehabilitated offenders. The collection, retention, security and use of personal data in both the public and private sectors were regulated by the Ordinance. While it was understandable that for some professions, a person's past conviction record might be a relevant or important consideration as to whether that person was suitable for employment, an employer should be aware of the guiding principles that personal data should not be collected unless they were collected for a lawful purpose and the data collected should not be excessive in relation to that purpose;
- (d) to enhance the chance of rehabilitated persons in securing gainful employment after release, various vocational training courses were provided to local inmates in correctional institutions. While inmates aged under 21 were provided with half-day general education and half-day vocational training, adult local inmates with remaining sentences from six to 24 months were given the opportunity to take up full-time or part-time market-oriented vocational training in penal institutions on a voluntary basis. Furthermore, CSD had secured the support of a number of NGOs and agencies, such as SRACP, to offer practical skills training on various areas, including interviewing techniques, interpersonal skills and time management, with a view to equipping the rehabilitated persons with the necessary tools to search for a job; and
- (e) for those inmates serving a sentence of less than three months, as time might not be adequate for them to take up and complete any vocational training whilst they were under CSD's custody, CSD would evaluate and identify their rehabilitation needs and would, with the consent of the inmates concerned, refer their cases to the relevant government departments and NGOs prior to their release for early follow-up.

Discussion

12. Mr Ronny TONG and Ms Cyd HO shared the view that the best way to re-integrate offenders into community was successful employment after release. As it was not unusual that rehabilitated offenders were discriminated against by prospective employers, Mr TONG and Ms HO urged the Government to take the lead in providing employment opportunities for rehabilitated persons. Consideration should be given to appointing them to less sensitive government

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posts, such as cleansing worker or workmen. Mr TONG was also concerned about the requirement in government post application form on job applicants to disclose whether they had any past records of conviction. He suggested that the Administration should dispense with the disclosure requirement, so that applicants for posts in the civil service would not be required to indicate in the application form whether they had any criminal convictions.

13. In response, Principal Assistant Secretary for the Civil Service (Appointments) ("PAS(CS)") advised that the requirement to provide past criminal conviction record in the application form for employment with the Government (G.F. 340) had been removed since January 2004, thus ensuring that rehabilitated offenders would be considered on equal terms with other applicants for appointment to the civil service. US for S added that it was the recruitment policy of the Government that appointments to the civil service should be based on the principle of open and fair competition. In considering applications for civil service posts, the Government, as an equal opportunity employer, would select the most suitable candidate for the post concerned, having regard to the applicant's character, qualifications, abilities and merits.

14. Ms Emily LAU expressed strong dissatisfaction with the Administration's response. She considered that a policy should be put in place to protect rehabilitated offenders from being discriminated in seeking employment.

15. Echoing the view of Ms Emily LAU, Mr Ronny TONG considered that the Government should continue with its utmost efforts to further enhance the employment opportunities of rehabilitated offenders in the private sector. He asked whether the Government would, in outsourcing the service contracts, require the contractors concerned to adopt a similar recruitment policy as not to ask the job applicants to furnish information on whether they had any criminal convictions.

16. In reply, PAS(CS) explained that it was the Government policy that civil servants should have a high standard of integrity. To ensure that all civil servants were of good character and high integrity and could be entrusted to perform the relevant duties, all recruiting departments/grades would require those candidates who were initially considered to be suitable for appointment to provide information for the purpose of integrity checking. Under the existing arrangement, if a rehabilitated person met the entry requirements for a job and was shortlisted for appointment, he would not be disqualified for appointment merely because he had a criminal conviction record. The recruiting department, in deciding whether the individual candidate should be appointed, would take into account such considerations as the nature and seriousness of the offence, its relevance to the duties of the post and the operational needs of the post. Each case would be considered on its own merits. The above policy and arrangement had struck a balance between helping ensure the integrity of the civil service

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and providing employment avenues to rehabilitated offenders.

17. PAS(CS) said that for government positions to be filled by non-civil service contract staff or vacancies provided by service contractors, as they were of a short-term or temporary nature, the recruiting departments or the relevant service contractors should be given the discretion to decide whether disclosure of past criminal records by job applicants was needed or integrity checking should be conducted for selected candidates, having regard to the nature and operational needs of the jobs.

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18. Ms Cyd HO and Ms Emily LAU remained unconvinced of the Administration's explanation. They considered that the Administration should demonstrate its determination to address the problem, by coming up with a concrete proposal. They requested the Administration to provide information on the number of rehabilitated offenders employed in the civil service in the past few years, with a breakdown of such figures by government departments and the types of jobs involved.

19. PAS(CS) informed Members that the Civil Service Bureau had ceased to keep statistics on the employment of rehabilitated offenders in the civil service in around 1995. Once an applicant for a government job was offered appointment, no distinction should be made as to whether he was a rehabilitated offender. Apart from protecting his privacy, this approach helped ensure that he would receive fair treatment during his employment with the Government. If different government departments were to compile statistics on the employment of rehabilitated offenders now, they would have to dig up the information considered in past recruitment exercises. During the process, the relevant officers' past criminal records would be unnecessarily disclosed, and this would be inappropriate. Nonetheless, in view of members' concern, the Administration would provide a written response on the matter after the meeting.

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20. The Deputy Chairman shared the view of Mr Ronny TONG that the measures taken by the Administration were far from adequate to resolve the problem of discrimination against rehabilitated offenders in their job seeking. He considered that the Administration should explore further measures to augment the employment prospects of rehabilitated persons in the private sector. If necessary, the Administration should consider actions, such as introducing legislation, to protect the right of rehabilitated offenders in this respect. The Deputy Chairman requested the Administration to provide more concrete information on how it facilitated the employment of rehabilitated persons in the civil service, and the public as well as private sectors.

21. Mr Paul TSE said that in the absence of concrete statistics, it was difficult for Members to draw a conclusion as to whether the Administration had put in adequate efforts in enhancing the employment opportunities of rehabilitated offenders. He held the view that to keep with Hong Kong's status

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as an advanced international city, the Government should critically review its policy and support services which sought to assist rehabilitated offenders in finding jobs upon discharge and reintegrating into the society. Mr TSE further said that among the measures to help rehabilitated offenders reintegrate into the society, none was more effective than the Administration and employers taking the lead to employ rehabilitated offenders.

22. Echoing Mr Paul TSE's view, Mr Albert HO said that to eliminate discrimination against rehabilitated offenders in seeking employment, the Administration should put into practice an equitable policy and prove to the public that ex-offenders were not discriminated when seeking employment in the civil service. He suggested that the Administration should consider taking affirmative actions, such as allocating certain portion of jobs in the civil service to rehabilitated offenders or providing tax incentives to encourage the employment of rehabilitated persons by private organizations, to achieve the purpose.

23. In response, US for S pointed out that CSD had made continuous efforts towards the elimination of discrimination against rehabilitated offenders and there were indications of wider community acceptance of rehabilitated offenders in recent years.

24. Responding to Ms Cyd HO's enquiry about the support services provided to discharged offenders with accommodation needs, Assistant Director (Youth & Corrections)/SWD advised that in addition to the existing six hostels for ex-offenders operated by SRACP, which provided some 130 bed spaces, SWD had launched a scheme in 2007 for a two-year trial to provide short-term rental assistance to discharged offenders for renting low-rental accommodation in the private market. In view of the effectiveness of the scheme, SWD had turned it into regular subventions in 2009-2010.

25. Mr NG Wang-tsang of SRACP supplemented that -

- (a) social workers of SRACP paid regular visits to penal institutions of CSD to publicize among inmates the multifarious services provided by SRACP to discharged offenders, such as short-term financial assistance, employment assistance and accommodation service, to help them cope with their most pressing problems after release; and
- (b) SRACP currently provided about 130 bed spaces for discharged offenders. For those who were just released from prison, SRACP would make every effort to provide them with accommodation so that they would not have to sleep on the streets because of unemployment and financial problems. Those who could not be admitted into the hostels would be provided with rent subsidies

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for renting accommodation in the private market. SRACP would settle the rent arrears with the landlord direct.

26. Mr CHEUNG Man-kwong noted from the statistics provided by SRACP that rehabilitated offenders who had completed pre-release vocational training courses before leaving the penal institutions and received follow-up employment service provided by SRACP had a high success rate and a reasonably good chance of finding a job within three months after release. In the light of this, he considered that the Administration should strengthen the support services provided by SRACP for rehabilitated persons, with a view to helping them become self-reliant as early as possible. Expressing support for the recommendations made by SRACP in its submission, Mr CHEUNG sought more details about the proposals to establish a specific fund to meet the short-term financial need of discharged prisoners and implement an employment facilitation scheme to assist rehabilitated persons in finding jobs.

27. In response, Mr NG Wang-tsang of SRACP said that given that there was a one-month waiting period for CSSA payments, and the amount of financial assistance at \$40 per day currently provided under SWD's programme on services for rehabilitated persons was barely sufficient to meet their expenses on food items, SRACP saw a need to assist rehabilitated persons further to facilitate their job-seeking efforts. SRACP suggested that the Administration should enhance the funding support to discharged offenders who had been actively seeking employment and only needed temporary or one-off financial assistance before they could successfully secure a job, such that the expenses on public transport, clothing or telephone service would not become a heavy burden to needy discharged offenders. SRACP also suggested that the Administration should consider assisting the discharged offenders in obtaining the relevant trade test certificates, permits or licences as required by some labour-intensive work, so as to enhance their chance of employment after release.

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28. Mr CHEUNG Man-kwong requested the Administration to provide a written response to the issues raised by SRACP.

V. 2008-2009 survey of drug use among students and implementation progress of the trial scheme on school drug testing in Tai Po District (LC Paper Nos. CB(2)985/09-10(06) and (07))

29. Mr CHAN Hak-kan expressed deep concern about the increasing number of reported young psychotropic substance abusers in recent years, which had been corroborated by the 2008-2009 survey of drug use among students ("the 2008-2009 survey"). Referring to Table 4.2 of the 2008-2009 survey, Mr CHAN said that since 82.9% of drug-taking secondary students agreed that using drugs would harm one's health, the Administration should capitalize on

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this perception of students and enhance its efforts in educating the youth about the harmfulness of drug abuse, so as to keep them away from drugs. He considered that to address the "hidden" nature of youth drug abuse and young drug abusers' lack of motivation to seek help, the outreaching service should be strengthened to enhance early identification and engagement of youth at risk. His view was echoed by Mr Albert HO.

30. US for S responded that the Administration fully agreed that outreaching service should be utilized to reach out to drug-taking students and youngsters at risk so that they might be motivated and guided towards counselling or treatment as early as possible to avoid the problem from deteriorating. Against this background, the Administration planned to enhance the outreaching service and promote awareness of drug abuse in schools and primary healthcare settings. Apart from allocating resources to strengthen the outreaching capacity of the existing 16 Outreaching Social Work Teams, the Administration had made available resources for opening four new Counselling Centres for Psychotropic Substance Abusers ("CCPSAs"), bringing the total number to 11 on a territory-wide basis and improving geographic accessibility. These CCPSAs would enhance their community-based counselling services by strengthening family support and aftercare efforts, adopting a multi-disciplinary approach in the course of casework counselling, and enhancing collaboration and networking with other players, especially in the health and education sectors for service continuum and effectiveness.

31. On the preventive education and publicity front, US for S advised that the relevant government departments and NGOs had all along organized talks and other activities for students and youngsters to enhance their knowledge on drugs. The format and content of the anti-drug programmes would be improved to make them both informative and relevant to schools and students. Where appropriate, speakers with different background, including medical experts, prominent figures from the anti-drug field or ex-abusers, might be invited to speak at the seminars or talks, since the impact of experience-sharing sessions by these people on students and youngsters was notably stronger.

32. Mr CHAN Hak-kan was surprised to note from the 2008-2009 survey that over 60% of drug-taking students had obtained drugs free of charge, and friends (39.5%), brother/sisters (24.8%) and schoolmates (19.4%) were the most common suppliers of drugs. Mr CHAN was concerned whether adequate support was provided to parents to enrich their knowledge about drug prevention, to enhance their communication skills with children and to inform them of ways to seek help in case their children were found abusing drugs. In his view, the mere provision of an anti-drug resource kit for parents might not be effective enough in delivering drug education to parents.

33. In response, Commissioner for Narcotics ("C for N") said that the 2008-2009 survey had affirmed that the drug abuse problem was widespread

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among schools, districts and families of different backgrounds. The Administration saw a need to mobilize the entire community and drive home the message that different quarters must gear up and collaborate to beat drugs. To enhance parents' awareness of the drug issues, the Administration fully supported the enhancement of preventive education programmes for parents through different channels and means. Apart from developing a resource kit for parents to equip them with drug knowledge and skills to identify and handle youth drug problems, the Government had been working closely with NGOs and parent-teacher associations at the district level to organize seminars and sharing sessions on preventing and combating drug abuse and the use of the resource kit. The Narcotics Division would also revamp its website to make it an engaging, informative and useful one-stop Internet resource centre and portal for the anti-drug cause.

34. The Deputy Chairman said that ever since the Chief Executive ("CE") expressed in October 2007 his deep concern about the rising trend of youth drug abuse and appointed the Secretary for Justice ("SJ") to lead a high level Task Force to tackle the problem, additional resources had been allocated to implement a host of new and ongoing initiatives, including the trial scheme on school drug testing in Tai Po District. Expressing concern about the effectiveness of the five-pronged strategy adopted by the Administration in combating youth drug abuse, he enquired whether the initiatives were properly implemented to achieve their intended results and sought information specifically on the expenditure spent and achievements attained in various areas of anti-drug work.

35. In response, C for N advised that the Administration was firmly committed to taking the lead in combating youth drug abuse. It would continue the long-established five-pronged anti-drug approach along the five strategic directions set out by CE. Further to the additional allocations in 2008-2009 and 2009-2010 financial years to take forward the new initiatives, the 2010-2011 Budget had set aside \$52 million new money to accelerate the drive. She noted that some initiatives, for example, the outreaching and integrated supportive services provided by NGOs or the medical services in Substance Abuse Clinics, were funded by other envelope holders under the current envelope approach for funding operating expenditure. The Administration would provide the information requested by the Deputy Chairman after the meeting.

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36. Mr CHEUNG Man-kwong and Mr Albert HO noted with grave concern that the problem of youth drug abuse tended to become much more "hidden" as the 2008-2009 survey revealed that a majority of drug-taking students took drugs at homes of friends or schoolmates or at their own homes, and they had low motivation to seek help. Mr CHEUNG and Mr HO considered that the Administration should make the most of the valuable information revealed by the 2008-2009 survey to examine the youth drug problem in depth, and consider refining or reinvigorating its existing anti-drug efforts. Where necessary, the

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Administration should explore other innovative measures and untried areas to tackle the problem. They also considered that there should be more engagement with parents to equip them with drug knowledge and skills to identify and handle youth drug problems.

37. US for S responded that the Administration fully agreed that the "hidden" nature of drug abuse among the youths would make identification and support service more difficult. The Administration also saw a need to try out new methods or measures to motivate young drug abusers to seek help. As parents played a pivotal role in the early identification of potential or experimental young drug abusers, the Administration would strengthen the support for parents in future. As explained earlier, the Administration would organize wide-ranging educational and publicity activities to enhance parents' awareness of the drug issues and their readiness and confidence in handling youth drug problems. US for S also advised that to demonstrate the Government's resolution to take the lead in mobilizing the community in the anti-drug cause, the Administration would seek the approval of Legislative Council (LegCo) for a new non-recurrent commitment of \$3 billion to inject into the Beat Drugs Fund ("BDF"). It was noteworthy that BDF had funded many worthwhile projects since 1996 using income generated from investment of its \$350 million capital base. The proposed \$3 billion capital injection would provide BDF with a larger income to support effective and innovative programmes that would help address the drug issue in both the short and long terms.

38. Ms Cyd HO queried whether the proposed provision for the territory-wide campaign against youth drug abuse was adequate, with the problem getting worse. She was particularly concerned whether the Administration would be able to cope with the increasing demand for downstream support services, such as rehabilitative treatment provided for identified drug abusers at residential drug treatment and rehabilitation centres ("DTRCs") run by NGOs. She also enquired about the latest development of the matter relating to the relocation of Christian Zheng Sheng Association ("CZSA") to the former New Territories Heung Yee Kuk Southern District Secondary School.

39. In response, US for S, C for N and Principal Assistant Secretary for Education (School Development) made the following points -

- (a) the Administration had all along attached great importance and was fully committed to combating the youth drug abuse problem;
- (b) should LegCo approve the proposed injection of \$3 billion into BDF, the new capital injection would substantially increase the capital base of BDF to \$3.35 billion. This would enable BDF to generate an enhanced level of income and more resources to sponsor anti-drug programmes organized by various quarters of the community. This would bring the anti-drug campaign to a

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community-wide level;

- (c) while the problem was seen to be more serious when compared to the last survey, the degree of Hong Kong's youth drug abuse problem had not reached a totally unbridled stage as witnessed in some advanced economies. With the concerted effort of the different quarters of the community to fight the battle against youth drug abuse, the use of innovative technology and the introduction of new measures to curb the problem at root, the Administration was confident that Hong Kong could foster a drug free environment for the healthy development of young people;
- (d) with the Task Force led by SJ recommending the enhancement of downstream support measures, additional resources had been allocated for this purpose;
- (e) the Administration would take into account the views of relevant parties when implementing support measures for rehabilitation of students abusing drugs. The Education Bureau ("EDB") would collaborate with various government departments and organizations, with a view to strengthening and enhancing the education services for student drug abusers. The drug treatment programmes in DTRCs usually lasted for about six to 12 months. Since 1995, non-profit making voluntary agencies running DTRCs could apply for subvention from EDB to operate education programmes for young drug abusers aged 18 or below, preparing them for continuation of schooling or employment upon full rehabilitation. EDB and DTRCs would provide appropriate support to students who wished to resume schooling in mainstream schools or pursue other programmes;
- (f) the Fifth Three-Year Plan on Treatment and Rehabilitation Services in Hong Kong (2009-2011) released in April 2009 had recommended the development and advancement of new or proven service models that would better address the needs of student drug abusers due to the changing drug scene. CZSA was an example of one suggestion to develop more complementary services comprising drug treatment and rehabilitation programmes as well as education programmes to school-aged drug abusers; and
- (g) since there remained a number of issues to be resolved by CZSA before its relocation, the Administration would continue its communication with CZSA regarding its relocation and future planning.

(Members agreed to extend the meeting by 15 minutes.)

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VI. Law Reform Commission Report on sexual offences records checks for child-related work

(LC Paper Nos. CB(2)1006/09-10(01), CB(2)1021/09-10(01)&(02) and FS13/09-10)

40. US for S briefed Members on the paper provided by the Administration and made the following points -

- (a) the Administration welcomed the release of the report on "Sexual Offences Records Checks for Child-Related Work: Interim Proposals" ("the Report") by the Law Reform Commission ("LRC");
- (b) to protect children and mentally incapacitated persons ("MIPs") against sexual assault from sex offenders, the Report recommended that the Administration should establish an administrative scheme which would enable an employer to request a job applicant to apply to the relevant authority for proof as to whether the job applicant had any criminal conviction record for sexual offences, before employing the job applicant for work relating to children and MIPs. LRC had also made some specific recommendations relating to the implementation of the proposed scheme;
- (c) the Administration had always been highly concerned about sexual offences against children. The Police also gave high priority to combating these offences; and
- (d) the Administration welcomed the recommendations made by LRC on setting up of a sexual offences records checks mechanism. The Administration would carefully examine the feasibility of implementing the recommendations in the Report. In considering the establishment of such a scheme, it would bear in mind the need to strike a proper balance between offering protection to children from abuse on one hand, and giving due consideration to the privacy and rehabilitation needs of ex-offenders on the other.

41. Dr Philip WONG considered that to enhance the protection of children against sexual assault, the recommendations in the Report should be implemented without delay. He enquired whether the Administration had any difficulties in implementing the interim proposals regarding the establishment of a sexual conviction record check mechanism.

42. US for S responded that there were a number of issues which needed to be addressed in considering the establishment of an administrative scheme to enable employers of child-related work and work relating to MIPs to check the

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criminal conviction records for sexual offences of prospective employees. He pointed out that LRC had proposed in the Report a wide and diverse range of child-related work for the purpose of obtaining sexual conviction records information. The Administration had to critically consider the scheme's capacity to ensure that the service delivery could meet the public expectation and to take into account the seasonal factors of recruitment in these related sectors. In addition, the Police had no prior experience in operating such a scheme and needed time to devise a practicable system design.

43. Dr Philip WONG sought further details on how the Administration would strike a balance between the conflicting interests of children and ex-offenders, in offering protection to children from abuse on one hand and giving due consideration to the privacy and rehabilitation needs of ex-offenders on the other.

44. In response, US for S and Principal Assistant Secretary for Security (E) ("PAS(S)E") advised that LRC agreed that in giving proper and adequate protection to children, the privacy rights and rehabilitation needs of sex offenders were legitimate concerns which should be considered. Hence, the recommendations in the Report were based on the following considerations -

- (a) the proposed scheme was a voluntary mechanism and the check should be initiated only by the job applicant/data subject, and his consent would be necessary to allow the result to be revealed to the prospective employer;
- (b) the employer should be made aware that the sexual conviction records information obtained under the proposed scheme should not be used for any purpose other than the recruitment exercise;
- (c) any employer who was not involved in child-related work but sought to abuse the scheme might contravene PDPO; and
- (d) a "clean" check result would not be recorded in writing, but would be communicated verbally to the applicant or his employer.

45. Dr Margaret NG expressed deep concern about the recommendation in the Report of establishing an administrative scheme as an interim measure to enable the criminal conviction records for sexual offences of persons undertaking child-related work to be checked. She pointed out that LRC was to consider reform of those aspects of the laws of Hong Kong which were referred to it by the Secretary for Justice or the Chief Justice. It was strange to see LRC recommending administrative measures. She doubted whether the recommendation was made independently without influence from the Government.

Action

46. In response, US for S and PAS(S)E highlighted the background against which the LRC's Review of Sexual Offences Subcommittee ("the Subcommittee") released the Report recommending the establishment of an administrative scheme to enable employers of persons undertaking child-related work and work relating to MIPs to check their employees' criminal conviction records for sexual offences. US for S explained that the scheme was intended as an interim measure which could be implemented quickly by administrative means without the need for enactment of legislation in order to respond to concerns expressed by the public and comments made by judges in some court cases in recent years. According to the Government's understanding, the Subcommittee would continue to consider whether a comprehensive legislative scheme should be introduced to enhance the regulation of sexual offences records checks for child-related work, without unjustifiably infringing the privacy and other rights of the offenders. As that would take some time to complete, LRC therefore put forward the interim proposals for consideration and implementation pending the formulation of a comprehensive legislative scheme. PAS(S)E stressed that LRC made the recommendation on its own initiative.

47. Dr Margaret NG considered that even if there was a pressing need to address the question of a possible sexual conviction record check for those engaged in child-related work, it was the responsibility of the Administration, instead of LRC, to draw up such administrative measures. She was concerned whether LRC had deviated from its established practice. She asked whether LRC had in the past recommended administrative measures in the course of reviewing the need for changes in the law, whether this was the first time LRC recommended administrative measures and whether such recommendation of administrative measures was within the terms of reference of LRC. Members agreed that the Clerk should write to LRC to seek a written response to issues and concerns raised by Dr NG.

Clerk

48. The Deputy Chairman echoed the view of Dr Margaret NG and queried whether the LRC Report was a ploy of the Government to test the response of the public. Referring to the submission from the Hong Kong Human Rights Monitor ("HKHRM"), the Deputy Chairman expressed similar concern as to whether the Administration would take forward the LRC's recommendation of establishing an administrative scheme to enable the sexual conviction record of job applicants for child-related work to be checked without further consultation and discussion with LegCo. He asked the Administration to provide a timetable for implementing the recommendations in the Report. He considered that adequate consultation should be held on the proposed administrative scheme before the Administration decided on the way forward.

(Post-meeting note: The submissions from HKHRM and SOCO, which were tabled at the meeting, were issued to members respectively vide LC Paper No. CB(2)1021/09-10 on 3 March 2010.)

Action

49. In response, US for S emphasized that LRC was an independent organization, and the Administration respected the recommendations made by LRC. The Administration would study the recommendations in detail and would revert to the Panel once it had come to a view on the matter.

(As the Chairman had to attend another meeting, the Deputy Chairman took over the chair at this juncture.)

50. Mr CHEUNG Man-kwong said that the need to protect children and the vulnerable had to be balanced against other considerations, including the human rights and rehabilitation needs of ex-offenders. He referred to Articles 19 and 34 of the United Nations Convention on the Rights of the Child ("UNCRC") and stressed the need to take reasonable and necessary measures to protect children from harm and exploitation by sex offenders. As the correct balance had to be worked out with care, Mr CHEUNG suggested that the Panel should receive the views of deputations on the proposals in the Report. His suggestion was supported by Ms Emily LAU. The Deputy Chairman said that he would relay members' suggestion to the Chairman for consideration.

(Post-meeting note: With the concurrence of the Chairman, a special meeting would be held on 8 April 2010 to receive the views of the public on the Report. Members were informed of the arrangement on 4 March 2010 vide LC Paper No. CB(2)1037/09-10.)

51. US for S responded that according to the Report, LRC had given full regard to International Covenant on Civil and Political Rights and UNCRC in drawing up the proposals. It was noteworthy that in July 2008, the Subcommittee issued a consultation paper setting out nine recommendations for comment and discussion by the public. The consultation exercise, ending on 31 October 2008, had elicited some 200 written responses from schools, other organizations and individuals. Having considered the responses received, LRC decided to recommend a scheme that would enable employers of child-related and MIP-related work to have access to necessary information in order to make an informed recruitment decision. The conclusions presented in the Report had reflected the views collected during the consultation period.

52. Mr CHEUNG Man-kwong considered that there was a loophole with the existing system as there was no way to prevent persons who had committed sexual offences from working in the educational sector. Sex offenders whose teacher registration was suspended under the Education Ordinance could not be barred from operating tutorial schools or taking up child-related and MIP-related work in other sectors. Mr CHEUNG informed Members that in the past three years, a total of 54 cases of teachers being involved in child-related sexual offences were recorded. In more than 30 cases, the accused was convicted after trial. The Deputy Chairman requested the Administration to provide a written response to the views and concerns raised by Mr CHEUNG.

Action

53. Ms Emily LAU noted that Dr Philip WONG would move a motion at the Council meeting on 10 March 2010 urging the Government to expeditiously implement the recommendations in the Report to establish a scheme for sexual offences records checks for child-related work, so as to enhance protection for children against sexual assault. She hoped that even if the motion was debated and passed, the Administration would continue to listen to views and engage the public and the relevant parties in the discussion before deciding the way forward. She enquired whether the Administration would, in implementing the interim measures in the Report, give consideration to the HKHRM's suggestion to specify a sunset time for the implementation of the proposed administrative scheme.

54. In response, US for S reiterated that the Administration understood that LRC and its Subcommittee had carefully considered all relevant considerations, including human rights, privacy and rehabilitation needs of ex-offenders and proper protection to children, in their deliberations on the feasibility of setting up a sexual offences records checks mechanism. The Administration was in the process of studying the recommendations. When considering the establishment of such a scheme, the Administration would take into account the views of relevant parties, including LegCo Members, the Equal Opportunities Commission ("EOC"), the Office of the Privacy Commissioner for Personal Data, children concern groups, offenders' rehabilitation concern groups and professional bodies of related sectors.

55. Ms Emily LAU said that EOC's views on the proposals in the Report should be sought before the Council meeting on 10 March 2010, at which a motion debate relating to the Report would be held. She suggested and members agreed that the Clerk should write to EOC to invite it to give views on the Report.

Clerk

56. The meeting ended at 4:38 pm.

Council Business Division 2
Legislative Council Secretariat
30 April 2010