

立法會

Legislative Council

LC Paper No. CB(2)946/18-19
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of meeting
held on Tuesday, 8 January 2019, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon CHAN Hak-kan, BBS, JP (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon YIU Si-wing, BBS
Hon MA Fung-kuok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, BBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung, JP
Hon Dennis KWOK Wing-hang
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Elizabeth QUAT, BBS, JP
Hon POON Siu-ping, BBS, MH
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon CHU Hoi-dick

Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-chun
Hon YUNG Hoi-yan
Hon CHAN Chun-ying, JP
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Dr Hon CHENG Chung-tai
Hon AU Nok-hin
Hon Tony TSE Wai-chuen, BBS

Member attending : Hon Vincent CHENG Wing-shun, MH

Public Officers attending : Item III

Mr John LEE Ka-chiu, SBS, PDSM, PMSM, JP
Secretary for Security

Ms Maggie WONG Siu-chu, JP
Deputy Secretary for Security 3

Mr Billy WOO Tak-ying
Principal Assistant Secretary for Security (Review)

Mr William FUNG Pak-ho
Assistant Director of Immigration (Enforcement)

Mr FUNG Ngai-wa
Assistant Director of Immigration
(Removal Assessment and Litigation)

Item IV

Mr Sonny AU Chi-kwong, PDSM, PMSM, JP
Under Secretary for Security

Mr LAU Wai-ming
Administrative Assistant to Secretary for Security

Mr LEUNG Kin-ip
Assistant Commissioner (Operations)
Correctional Services Department

Mr NG Chiu-kok
Senior Superintendent (Penal Operations) /
Penal Operations Section
Correctional Services Department

Mr Dennis CHENG Tung-kit
Senior Engineer / Security / Electronic Project
Electrical & Mechanical Services Department

Item V

Mr Sonny AU Chi-kwong, PDSM, PMSM, JP
Under Secretary for Security

Ms Iris LEE
Principal Assistant Secretary for Security A

Ms Trinky CHAN
Assistant Secretary for Security A1

Captain Michael CHAN, MBS, MBB, GMSM, AE
Controller
Government Flying Service

Captain Trevor MARSHALL
Chief Pilot (Training and Standards)
Government Flying Service

Captain Bowie FUNG
Senior Pilot (Helicopter Technical Support)
Government Flying Service

Mr Michael LI
Project Director 2
Architectural Services Department

Ms Suzanna CHAN
Senior Project Manager 229
Architectural Services Department

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Mr Timothy TSO
Senior Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2) 7

Ms Gloria TSANG
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Information papers issued since the last meeting
(LC Paper Nos. CB(2)452/18-19(01) and CB(2)540/18-19(01))

Members noted that the following papers had been issued since the last meeting:

- (a) Administration's response to issues raised in a joint letter dated 20 November 2018 from Ms Claudia MO, Mr CHAN Chi-chuen, Mr CHU Hoi-dick and Mr AU Nok-hin; and
- (b) joint email dated 29 December 2018 from Ms Claudia MO, Mr CHAN Chi-chuen, Mr CHU Hoi-dick and Mr AU Nok-hin.

2. Regarding paragraph 1(a) above, Ms Claudia MO said that the Administration Wing should be requested not to take action against persons who breached the existing guidelines on use of the East Wing Forecourt of the Central Government Offices ("the Forecourt") before the outcome of a relevant appeal being lodged by the Administration. The Chairman said that the Administration had advised in its response that it was reviewing the existing mechanism and guidelines on using the Forecourt for public meetings and public processions and the Administration would revert to the Panel after the review.

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3. Regarding paragraph 1(b) above, the Chairman said that the Administration had been requested to provide a response to the issues raised in the joint email from Ms Claudia MO, Mr CHAN Chi-chuen, Mr CHU Hoi-dick and Mr AU Nok-hin.

4. Members noted a letter dated 8 January 2019 from Mr AU Nok-hin to the Equal Opportunities Commission, which was copied to the Panel and tabled at the meeting.

(Post-meeting note: The letter from Mr AU Nok-hin was circulated to members vide LC Paper No. CB(2)565/18-19(01) on 9 January 2019.)

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)529/18-19(01) and (02))

Special meeting on 29 January 2019

5. The Chairman reminded members that a special meeting would be held on 29 January 2019 from 2:00 pm to 4:00 pm to receive a briefing by the Commissioner of Police on the crime situation in 2018.

Regular meeting in February 2019

6. Members agreed that the following items would be discussed at the next regular meeting on 15 February 2019 at 10:45 am:

- (a) Cooperation between Hong Kong and other places on juridical assistance in criminal matters;
- (b) An update on the implementation of post-dispatch advice by the Fire Services Department; and
- (c) Replacement of Marine Police Central Command System and its seven electro-optical sensors as well as the procurement of new electro-optical sensors.

Local visits

7. Members noted that the Administration had proposed the following local visits for the Panel:

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- (a) visit to better understand the enforcement work of the Customs and Excise Department against smuggling using air postal packet and shipping cargo;
- (b) visit to better understand the new identity card replacement exercise of the Immigration Department ("ImmD"); and
- (c) visit to understand operations of the new H175 Helicopters of the Government Flying Service ("GFS").

8. The Chairman said that as the new identity card replacement for Members had already commenced, there was no need to conduct the proposed visit in paragraph 7(b). He would liaise with the Administration on the visit arrangements and timing for conducting the visits in paragraph 7(a) and (c) above.

9. Dr CHENG Chung-tai said that he had noted from the new identity card replacement exercise that facial recognition technology was employed in the new identity card. He expressed concern that the employment of facial recognition technology in the new smart identity card had not been mentioned in the Administration's papers relating to the new smart identity card. The Chairman said that Dr CHENG might wish to raise a question on the subject at a Council meeting.

III. An update on the comprehensive review on the strategy of handling non-refoulement claims - proposals to amend the Immigration Ordinance

(LC Paper Nos. CB(2)529/18-19(03) and (04))

10. Secretary for Security ("S for S") briefed Members on the latest progress of the Administration's review of the Immigration Ordinance (Cap. 115) ("IO") and its further proposals to amend IO. He said that the Administration welcomed Members' views on the proposals in the Administration's paper. It hoped to draw up solutions that would protect the rights of persons whose non-refoulement claim was genuine while preventing abuse.

11. Members noted an updated background brief entitled "Proposed legislative amendments relating to the handling non-refoulement claims" prepared by the Legislative Council ("LegCo") Secretariat.

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12. Members noted a submission from Justice Centre Hong Kong, which was tabled at the meeting.

(Post-meeting note: The submission from Justice Centre Hong Kong was circulated to members vide LC Paper No. CB(2)565/18-19(02) on 9 January 2019.)

13. Members noted a letter from Dr Fernando CHEUNG suggesting the holding of a meeting to receive public views on the Administration's proposed amendments to IO. The Chairman said that the suggestion would be conveyed to the Bills Committee to be formed to study the relevant amendment bill.

Removal of non-refoulement claimants whose claims had been rejected but had applied for judicial review or legal aid unless leave to judicial review had already been granted by the court

14. Mr LAM Cheuk-ting expressed concern that the Administration's proposal to remove non-refoulement claimants whose claims had been rejected but had applied for judicial review ("JR") or legal aid unless leave to JR had already been granted by the court would render JR meaningless.

15. Referring to paragraph 10 of the Administration's paper, Mr AU Nok-hin said that the Administration's proposal would undermine the rule of law. He asked whether the Administration had sought legal advice on its proposal. Mr CHU Hoi-dick said that the proposal would render JR meaningless.

16. Ms YUNG Hoi-yan said that she was one of the duty lawyers handling cases of non-refoulement claims. She expressed support in principle for the Administration's proposals. She sought information on the legal basis for the Administration's proposal in paragraph 10 of the Administration's paper and asked whether such a practice was adopted in other jurisdictions.

17. Dr Priscilla LEUNG expressed support for the Administration's proposals. She expressed concern that many claimants had come to Hong Kong for the humanitarian assistance provided by the Administration and taking up illegal employment. She noted that there were differences between the court's views in 2005 and those in recent years regarding non-refoulement claims. She said that in determining

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applications for JR, the court would probably have regard to such factors as public interests, the latest situation regarding non-refoulement claims and the Administration's efforts to screen outstanding claims.

18. The Deputy Chairman said that many jurisdictions were facing a large number of refugees or non-refoulement claims. The Administration's proposal to remove a claimant notwithstanding that the claimant had applied for relevant JR unless leave to JR had already been granted by the court would create a dangerous precedent. He expressed concern that claimants who had been removed but whose leave to JR was subsequently granted by the court might not be able to come to Hong Kong again. There might be thousands of challenges against the legislative proposal concerned, if enacted. He asked whether there were any overseas examples of removal of a claimant notwithstanding that the claimant had applied for relevant JR, unless leave to JR had already been granted by the court.

19. Mr Christopher CHEUNG expressed support for the Administration's proposals. He said that the proposals, which sought to plug existing loopholes to prevent abuse, should be implemented as soon as possible.

20. Mr LEUNG Che-cheung expressed support for the Administration's proposals. He expressed concern that there were still over 10 000 claimants in Hong Kong and heavy expenditure was incurred in providing humanitarian assistance to these claimants.

21. S for S responded that the Administration was not proposing the removal of a claimant whose claim had not yet been finally determined. It was only proposing the removal of a claimant whose claim had already been rejected by ImmD and the Torture Claims Appeal Board ("TCAB"), if the claimant had lodged an appeal. Of all the JR leave applications relating to non-refoulement claims since 2017, the court had so far dealt with more than 1 000 claims and rejected around 98% of them. Also, the role of the court was to consider the lawfulness and fairness of the screening procedures, rather than "re-hearing" the claim to assess whether it should be substantiated or not. Moreover, according to legal advice provided by the Department of Justice, the legislative proposal would not deprive claimants of their fundamental rights. He stressed that a balance had to be struck between ensuring that claimants had reasonable opportunities to substantiate their claims with sufficient procedural safeguards and preventing abuse in the screening of non-refoulement claims and repatriation.

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22. S for S said that most claimants whose claims had been rejected by ImmD had lodged an appeal to TCAB, and a large number of the claimants whose appeal had been rejected by TCAB had applied for leave to JR. According to information provided by the Judiciary, the number of applications for leave to JR in relation to non-refoulement claims received by the Court of First Instance ("CFI") had drastically increased by 10 times from about 100 in 2015 to over 1 000 in 2017. In 2018, there were about 3 000 applications for leave to JR in relation to non-refoulement claims. Existing legislation did not prohibit the removal of a rejected claimant who had applied for leave to JR. He said that judges had also expressed concern about abuse of the existing mechanism by claimants and some of their comments were quoted as follows:

- (a) a judge of the Court of Appeal commented in July 2015 that he could not see how the JR applications concerned could bring about any practical benefit to the applicants and one could not help wondering whether, if the proceedings had not been funded by legal aid, the JR would have been brought;
- (b) a judge of the CFI commented in August 2015 that the system in place was being abused not only by unmeritorious claimants but possibly by claimants with a more sinister purpose in mind;
- (c) a district court judge commented in February 2016 that the claimant had all along been taking advantage of or even abusing the mechanism; and
- (d) a district court judge commented in March 2016 that the system was being abused, which clearly called for certain remedial actions to be taken by the government.

23. Dr CHENG Chung-tai said that the proposal to remove non-refoulement claimants whose claims had been rejected but had applied for JR or legal aid unless leave to JR had already been granted by the court would deprive such claimants of the right to seek legal advice, if they were removed to their country of origin before all legal procedures were concluded. S for S responded that only the rejected claimants who would not face a genuine risk of torture if removed to their countries of origin or were not substantiated on other applicable grounds would be removed.

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24. Dr Fernando CHEUNG said that the fundamental rights of claimants should be respected and they should be handled in a humanitarian manner. He said that the Administration's proposal to remove claimants whose non-refoulement claims had been rejected but had applied for JR unless leave to JR had been granted by the court would render JR meaningless. He considered that if the legislative amendments proposed by the Administration were implemented, the screening procedures would no longer meet the high standards of fairness as required by the court.

25. S for S responded that the screening procedures for non-refoulement claims had been meeting the high standards of fairness as required by the court. Each claimant was provided with publicly-funded legal assistance and interpretation services. Claimants aggrieved by ImmD's decision could lodge an appeal with the independent TCAB. Besides, the proposal to shorten the timeframe for submission of a claim form from 49 to 14 days had been drawn up having regard to overseas practice. For instance, the timeframe adopted in Canada was 15 days and claimants in New Zealand were required to submit a claim form immediately upon the lodging of a claim. In Germany and the United Kingdom, screening interviews were not required to be conducted in the claimant's most proficient language or dialect, but only in languages in which the claimant could reasonably communicate. He stressed that besides maintaining the high standards of fairness in the handling of claims as required by the court, the Administration had to safeguard the overall interests of Hong Kong.

26. Mr WONG Kwok-kin expressed support for the Administration's proposals. He said that problems arising from a large number of non-refoulement claimants in Hong Kong, if not effectively addressed, might result in social discontent. He asked whether the Administration's proposals could enable clearance of the existing backlog within a certain timeframe. S for S responded that if the Administration's proposals were implemented, the screening of outstanding claims by ImmD would be completed shortly while the handling of backlog appeals by TCAB should be completed in about two to three years' time. As the handling of JR applications was under the purview of the court, the Administration proposed allowing the removal of non-refoulement claimants whose claims had been rejected even if they had applied for leave to JR or legal aid, unless leave to JR had already been granted by the court.

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27. Ms YUNG Hoi-yan sought information on the number of claimants remaining in Hong Kong who had applied for JR or were in the course of other litigation procedures. Assistant Director of Immigration (Enforcement) ("AD of Imm (E)") responded that the number of such claimants was about 3 000.

28. Mr Holden CHOW said that there were people who were not Hong Kong citizens and had left Hong Kong after applying for leave to JR. He asked how such JR applications were dealt with by the court. S for S responded that the court could continue to deal with the JR applications even when the applicant concerned was not in Hong Kong.

29. Mr Tony TSE expressed concern that most claimants whose appeal had been rejected by TCAB had applied for JR. He asked about the time needed for the court to process the large number of JR cases lodged by claimants. S for S responded that the time needed for the court to process the outstanding JR applications could take at least two to three years.

30. Mr CHU Hoi-dick sought information on the average time taken by the court to grant leave to JR. S for S responded that the Administration did not have such information.

Implementing the latest requirement of the International Civil Aviation Organization

31. Mr CHAN Chun-ying asked whether India was the country of origin of a majority of visitors who lodged a non-refoulement claim immediately upon arrival at Hong Kong. Referring to paragraph 19 of the Administration's paper, he asked whether countries which were not members of the International Civil Aviation Organization ("ICAO") would also be required to provide passenger information to ImmD before the departure of flights.

32. S for S responded that Vietnam and India were the major source countries of non-refoulement claimants. Most claimants from Vietnam had entered Hong Kong illegally, while most claimants from India had overstayed. He said that the advanced passenger information requirement of ICAO was proposed to apply to airlines, their owners or agents.

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33. Referring to paragraph 19 of the Administration's paper, Mr Tony TSE asked how passenger information submitted by airlines was handled, given the huge number of passengers arriving at the airport each day. S for S responded that such passenger information would be handled with risk-based measures.

34. Referring to paragraph 19 of the Administration's paper, Mr CHAN Chi-chuen asked how the Administration would ensure that the passenger information obtained from airlines was only used for preventing potential claimants from entering Hong Kong. S for S responded that the proposal originated from the new requirement of ICAO in 2018. He stressed that any regulation to be made by S for S in relation to such a requirement would be subject to further scrutiny by LegCo.

35. Mr YIU Si-wing expressed support for the Administration's proposals. He said that there was widespread abuse in the lodging of non-refoulement claims. Referring to paragraph 19 of the Administration's paper, he asked whether passenger information would be sought for all incoming flights or selected flights only. He also asked whether passenger information would be sought for other forms of public transport and whether such requirements were implemented by other jurisdictions.

36. S for S responded that there were 16 countries, including Australia, Canada, the United Kingdom and the United States of America, which had implemented the ICAO requirement. The Administration was studying the experience of other jurisdictions and working on the detailed proposals. He stressed that a balance would be struck between maintaining security control and minimizing the impact on passengers.

Detention

37. Dr Elizabeth QUAT expressed support for the Administration's proposals. She expressed concern that the substantial increase in the number of claimants who applied for leave to JR had created heavy burden on the work of the court. She said that if the Administration's proposed legislative amendments were enacted, there might be an increased number of claimants under detention. She expressed concern whether ImmD had sufficient facilities for detention of claimants. She expressed concern that claimants convicted of committing crime were posing a threat to life and property in Hong Kong. She asked whether

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such persons would be held in closed detention, as in the case of other countries such as Denmark.

38. Referring to paragraph 10 of the Administration's paper, Ms YUNG Hoi-yan asked whether consideration would be given to the detention of claimants, if the screening procedures could be completed within a reasonable period after the Administration's proposals were implemented.

39. Dr Fernando CHEUNG expressed concern that the period of detention of a claimant could be indefinite. He said that claimants who had not committed any crime in Hong Kong should not be detained. Mr CHU Hoi-dick queried whether a claimant who had not committed any crime in Hong Kong should be detained.

40. Referring to the proposals in paragraph 12 of the Administration's paper, Mr Dennis KWOK queried why claimants could be detained despite common law principles regarding fundamental human rights and appropriate procedures.

41. Dr CHENG Chung-tai expressed concern whether the Administration had already planned to detain claimants in closed camps.

42. Ms Alice MAK said that the accumulation of a large number of claimants in Hong Kong had not only created heavy financial burden on Hong Kong but also security problems. Many non-ethnic Chinese residents who were born in Hong Kong were facing difficulties in seeking employment, as employers might suspect that they were claimants. She said that consideration should be given to the closed detention of claimants.

43. Dr Priscilla LEUNG said that a three-month detention period should be a reasonable period under the common law *Hardial Singh* principles. The Administration should proceed with the introduction of its proposed legislative amendments.

44. Mr WONG Kwok-kin expressed concern whether the Administration's proposal regarding detention would have a sufficient deterrent effect on potential claimants who intended to come to Hong Kong.

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45. Dr Junius HO said that there was a need to introduce legislative amendments to plug loopholes and prevent abuse of the existing regime for handling of non-refoulement claims. He expressed concern about the large number of claimants remaining in Hong Kong and said that consideration should be given to the closed detention of claimants.

46. S for S responded that the Administration had not formed a view on the question of closed detention of claimants. While he would not rule out the option of closed detention of claimants, a firm legal basis should be established before such an option could be considered. He said that after making reference to legislation and case law in the handling of Vietnamese migrants in the past, the Administration was proposing the introduction of legislative amendments to set out the factors to be taken into account in considering whether the detention of a person should continue. He stressed that the proposal was not in conflict with the common law principle regarding detention of a person within a reasonable period of time. He added that even where a rejected claimant was to be removed, cooperation was needed from the claimant's country of origin for issue of a travel document to the claimant.

47. Referring to paragraph 12 of the Administration's paper, Mr CHAN Chi-chuen expressed grave concern about the Administration's proposal to stipulate that where it was believed that a person might pose a threat to life or property, the detention of such person might go on, despite any common law principles. He requested the Administration to provide the legal advice obtained in relation to the proposal. S for S responded that he would consider whether the legal advice concerned, which involved legal professional privilege, could be provided. He stressed that the proposal sought to strike a balance between protecting the fundamental rights of a claimant and preventing abuse of the regime for lodging non-refoulement claims.

48. The Chairman said that Mr Dennis KWOK had indicated intention to move a motion under the agenda item. He ruled that the motion was directly related to the agenda item in accordance with Rule 22(p) of the House Rules and said that the motion would be dealt with in the latter part of the meeting.

Other issues

49. Mr Holden CHOW expressed support for the Administration's proposals. Referring to paragraph 5 of the Administration's paper, he

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said that there was a need for imposing a time limit for making a claim, as most claimants did not lodge a claim until being arrested in Hong Kong.

50. Mr POON Siu-ping expressed support for the Administration's proposals. Referring to paragraph 17 of the Administration's paper, he asked how the proposed maximum fine of \$500,000 and 10 years' imprisonment were determined for an offence under section 17I of IO. S for S responded that the maximum penalty level was proposed having regard to that for a person who assisted an unauthorized entrant to remain in Hong Kong.

51. Referring to paragraph 18 of the Administration's paper, Mr POON Siu-ping sought information on the number of cases in which airlines had been fined for passengers arriving in Hong Kong without a valid travel document. He also asked how the proposed maximum fine of \$100,000 was determined. S for S responded that the number of such cases was about 250 in 2017 and more than 200 per year in the past few years. The existing maximum fine of \$10,000 had been in force for more than 20 years. There was a need to increase the maximum fine to maintain a deterrent effect. He stressed that the fine imposed in each case would be determined by the court.

52. Mr Tony TSE said that statistics relating to non-refoulement claims reflected that most claims were not substantiated and there was a need to prevent abuse. He expressed concern about the expenditure incurred in providing publicly-funded legal assistance and humanitarian assistance for claimants.

53. S for S responded that besides the expenditure incurred, the Administration's major concern was the prevention of abuse of the system as well as the social and security problems arising from a large number of claimants in Hong Kong.

54. Dr Junius HO asked whether the Administration would consider providing financial incentives to encourage claimants to return to their country of origin. S for S said that the provision of financial incentives to such claimants was not a major issue to be considered for the time being.

55. Ms Alice MAK expressed concern whether sufficient manpower had been deployed by ImmD to address the problem of claimants taking up illegal employment in Hong Kong. AD of Imm (E) responded that

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intelligence-led operations were launched to combat the problem on an ongoing basis.

56. Ms Alice MAK said that freelance interpreters for claimants had complained about many claimants giving last-minute notice of not attending screening interviews for the reason of sickness, thus disrupting their work. S for S said that ImmD had recently employed its own interpreters to provide services for claimants.

[To allow sufficient time for discussion, members agreed that the meeting would be extended to 5:00 pm.]

57. Mr Michael TIEN expressed support for the Administration's efforts to expedite the screening of non-refoulement claims. Referring to paragraph 5 of the Administration's paper, he asked how the Administration could determine the date on which a claimant met the requirements for lodging a non-refoulement claim. S for S responded that in general, ImmD would be able to gather sufficient evidence on such a date after investigation in most cases.

58. Mr Michael TIEN asked whether there was a time limit for removal of a claimant whose JR application was unsuccessful. Mr YIU Si-wing asked whether the Administration would seek the assistance of the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region in seeking governments of source countries to expedite the issue of travel documents to such claimants. S for S responded that while it was the Administration's policy to remove such rejected claimants as soon as possible, the time taken for issue of travel document by the country of origin for a claimant would also affect the actual timing of removal.

59. Referring to the submission from Justice Centre Hong Kong, Mr CHU Hoi-dick expressed concern that publicly-funded legal assistance was not provided to claimants during the stage of appeal to TCAB. S for S responded that publicly-funded legal assistance was provided to claimants who lodged appeal to TCAB subject to merits assessment of the lawyers. Whether the legal representative would accompany the appellant to attend an appeal hearing was a matter to be decided by the lawyer of each individual case.

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Motion

60. Mr Dennis KWOK moved the following motion:

"Given the controversy of the proposals to amend the Immigration Ordinance and possible violation of the common law principles and/or established legal precedents, and the insufficient information provided by the Administration regarding the proposed amendments, this Panel requests the Administration to provide further details of the proposed amendments, seek independent legal advice, and publicly consult the Legislative Council, stakeholders, civil society etc. thoroughly. Until then, no further legislative steps should be taken by the Administration."

61. The Chairman put Mr Dennis KWOK's motion to vote. Mr Frankie YICK requested a division.

The following members voted in favour of the motion:

Mr James TO, Ms Claudia MO, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Mr Dennis KWOK, Dr Fernando CHEUNG, Mr Alvin YEUNG, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Mr SHIU Ka-chun, Dr CHENG Chung-tai and Mr AU Nok-hin.
(13 members)

The following members voted against the motion:

Mr Jeffrey LAM, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Mr Michael TIEN, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr POON Siu-ping, Mr Jimmy NG, Dr Junius HO, Mr Holden CHOW, Ms YUNG Hoi-yan, Mr CHAN Chun-ying and Mr Tony TSE.
(22 members)

62. The Chairman declared that 13 members voted in favour of the motion and 22 members voted against it. He declared that the motion was negatived.

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IV. Installation of electric locks security system in Pik Uk Correctional Institution

(LC Paper Nos. CB(2)529/18-19(05) and (06))

63. Members noted the Administration's proposal to install electric locks security system ("ELSS") in the Pik Uk Correctional Institution ("PUCI"). Members also noted an updated background brief entitled "Installation of electric locks security system at correctional institutions" prepared by the LegCo Secretariat.

Progress of installation of electric locks security systems in correctional institutions

64. Mr AU Nok-hin expressed support for the Administration's proposal. He queried why ELSS would only be commissioned until 2025 and said that the progress of installation of ELSS in correctional institutions was too slow. He sought information on the number of correctional institutions which had installed ELSS. He considered that more wide-angle closed-circuit television cameras ("CCTVs") should be installed in penal institutions to prevent persons-in-custody ("PICs") from being assaulted at blind spots of CCTVs.

65. Mr CHAN Chun-ying expressed concern about the slow progress of installation of ELSS at correctional institutions.

66. Under Secretary for Security ("US for S") responded that as PUCI had been built 43 years ago, some facilities would need to be refurbished or modified before the installation of ELSS. As PUCI would be in full operation while ELSS was being installed, the works concerned had to be carried out in four stages and hence would take a longer time. He added that the installation of ELSS at correctional institutions was carried out in stages. It was also necessary to examine the specific circumstances of individual correctional institutions and tailor the design of ELSS to the specific circumstances of individual correctional institutions. Assistant Commissioner (Operations), Correctional Services Department ("AC(O)/CSD") added that the installation of ELSS in the non-redeveloped areas at Tai Lam Centre for Women ("TLCW") and Stanley Prison were in progress and would be completed in 2020 and 2025 respectively.

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Recurrent and non-recurrent costs

67. Mr CHAN Chun-ying and Mr Tony TSE expressed concern whether the costs for refurbishment and modification works required for installation of ELSS had been included in the estimated non-recurrent cost.

68. Mr POON Siu-ping sought information on the non-recurrent cost of the facial recognition system in ELSS and the maintenance cost of ELSS. He also asked whether the implementation time of five years could be shortened.

69. US for S responded that the estimated annual recurrent cost would be more than \$30 million, among which 26% would be spent on corrective maintenance, 10% on equipment spare parts and 16% on management fee. The installation of facial recognition system would incur an additional cost of \$25.8 million.

70. Mr Tony TSE expressed support for the Administration's proposal. He asked whether the non-recurrent cost of the proposed ELSS at PUCI was higher than those of previous ELSSs. US for S responded that the non-recurrent costs relating to ELSSs at TLCW and Stanley Prison were about \$30 million and \$700 million respectively. Senior Engineer/Security/ Electronic Project, Electrical & Mechanical Services Department ("SE(S)EP/EMSD") added that the non-recurrent cost of ELSS at PUCI was higher because of the addition of facial recognition function and the fact that door frame structures at PUCI had to be replaced together with gates. Mr TSE requested the Administration to provide a breakdown of the estimated cost for the security system as well as that for builder and buildings services works for the installation of ELSS at PUCI.

Admin

Reliability of the proposed system and adoption of new technology

71. Mr POON Siu-ping expressed support for the Administration's proposal. Referring to paragraph 4 of the Administration's paper, he asked whether the facial recognition function would be incorporated into the ELSS systems installed at Lo Wu Correctional Institution ("LWCI") and TLCW.

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72. Dr Elizabeth QUAT expressed support for the Administration's proposal. She asked about the reliability of ELSSs of LWCI and TLCW and asked whether the facial recognition function would be added to the ELSSs of these two correctional institutions. She also asked whether the ELSS at PUCI would be more advanced than those of LWCI and TLCW.

73. US for S responded that apart from the facial recognition function, ELSS at PUCI would be comparable technologically to those at LWCI and TLCW. Consideration would be given to the addition of facial recognition function at LWCI and TLCW, if such a function was found reliable at PUCI. SE(S)EP/EMSD added that the ELSSs at LWCI and TLCW had an availability rate of 99% and there had not been any case of breakdown of power supply for the systems.

74. Mr CHAN Chun-ying expressed support for the Administration's proposal. He asked whether measures were taken to protect ELSSs from hacking. US for S responded that the system included a back-up server and all wirings were enclosed in conduits to protect them from being interfered or damaged. It was a closed system and thus would not be open to hacking.

75. Mr SHIU Ka-chun expressed support for the proposals to improve correctional institutions. He sought information on the difference in time between opening a gate manually and with ELSS. US for S responded that there was not much difference in the time between opening a gate manually and with ELSS. He said that in the event of a PIC inflicting self-harm, gates would no longer need to be unlocked manually by staff, thus saving the time spent on waiting for the staff on gate-keeping duty to arrive at the scene to unlock the gate. With ELSS, staff deployed for gate-keeping duty could also be redeployed for performing other duties.

Other issue

76. Mr SHIU Ka-chun expressed concern that PUCI was very hot in summer and very cold in winter. The water boiler was worn and the quality of the communication facility inside the visit room was poor. He said that the Administration should carry out improvements in these areas. AC(O)/CSD noted the views of Mr SHIU. He said that ongoing improvements were made to PUCI through repair and maintenance as well as deployment of new technology.

Action

77. The Chairman concluded that members had no objection in principle to the Administration's financial proposal.

[To allow sufficient time for discussion, members agreed that the meeting would be further extended to 5:25 pm.]

V. Flight Simulator Training Centre of the Government Flying Service

(LC Paper No. CB(2)529/18-19(07))

78. Members noted the Administration's financial proposal to establish the Flight Simulator Training Centre ("FSTC") of GFS and set up a flight simulator training device ("the Simulator") in the proposed FSTC.

79. Dr Elizabeth QUAT said that the Democratic Alliance for the Betterment and Progress of Hong Kong supported the Administration's proposal. She sought information on the recurrent cost of the Simulator and asked whether additional staff would be needed for operating the Simulator. US for S responded that the annual recurrent cost for the Simulator was estimated to be \$2 million in the first two years and \$5 million in subsequent years. Five additional staff would be needed for operation of the Simulator.

80. Dr Elizabeth QUAT asked whether the Administration's proposal would help to address the manpower retention problem of GFS through strengthened training.

81. Controller, GFS added that the Simulator would enable the overall training time of individual pilots, which was around eight to 10 years, to be shortened by one year. Regarding retention of pilots, the Efficiency Unit had conducted a study on GFS and made recommendations which were being implemented by GFS. He added that the Administration was conducting a grade structure review on GFS, the results of which was expected to be released in mid-2020.

82. US for S added that the deployment of the Simulator for in-house local training would release pilot manpower for supporting daily operation in a more flexible manner. While the total capital cost for construction of FSTC and the Simulator would be around \$500 million, it was expected that annual savings in the region of \$34 million would be achieved.

Action

83. The Chairman said that the Administration's proposal would enhance the training of helicopter pilots. He asked whether provision would be made for future expansion of FSTC to meet with any possible addition of a fixed-wing simulator for the training of fixed-wing pilot. He further enquired whether provision would be made for the upgrade of the Simulator to suit a new helicopter type when the current type was eventually replaced.

84. US for S responded that the life span of a simulator was around 25 years. If there was a need for future upgrade of the Simulator arising from replacement of H175 helicopters with a different type, some common parts and FSTC could at least be retained. There was no plan to extend the use of the Simulator to training for fixed-wing pilots.

85. The Chairman concluded that members had no objection in principle to the Administration's submission of its proposal to the Public Works Subcommittee.

86. There being no other business, the meeting ended at 5:21 pm.

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