

立法會

Legislative Council

LC Paper No. CB(2)1421/19-20
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of meeting
held on Tuesday, 7 July 2020, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon CHAN Hak-kan, BBS, JP (Chairman)
Hon YUNG Hoi-yan, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Frankie YICK Chi-ming, SBS, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, BBS, 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 Helena WONG Pik-wan
Hon IP Kin-yuen
Hon Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, GBS, JP
Hon POON Siu-ping, BBS, MH
Hon CHUNG Kwok-pan

Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon Jimmy NG Wing-ka, BBS, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon LAM Cheuk-ting
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon CHAN Chun-ying, JP
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LUK Chung-hung, JP
Dr Hon CHENG Chung-tai
Hon Jeremy TAM Man-ho
Hon Tony TSE Wai-chuen, BBS

Members attending : Hon Michael TIEN Puk-sun, BBS, JP
Dr Hon CHIANG Lai-wan, SBS, JP
Hon Kenneth LAU Ip-keung, BBS, MH, JP

Members absent : Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Dr Hon KWOK Ka-ki
Hon CHU Hoi-dick
Hon Holden CHOW Ho-ding
Hon KWONG Chun-yu

Public Officers attending : Item II
Mr Sonny AU Chi-kwong, PDSM, PMSM, JP
Under Secretary for Security

Ms Joceline CHUI Shih-yen
Principal Assistant Secretary for Security E

Item III

Ms Ivy LAW Chui-mei, JP
Commissioner for Narcotics
Security Bureau

Mr Kevin LAI Ming-fai
Principal Assistant Secretary for Security (Narcotics) 1

Dr Billy LI Yeuk-goat
Senior Statistician (Security)
Security Bureau

Item IV

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

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

Ms Anna TSANG Yim-sheung
Chief Superintendent of Police (Crime Support)
(Crime Wing)

Mr Frank LAW Yuet-wing
Chief Superintendent of Police (Cyber Security and
Technology Crime Bureau)

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

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

Ms Gloria TSANG
Senior Council Secretary (2) 7

Ms Priscilla LAU
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)1162/19-20(01), CB(2)1220/19-20(01),
CB(2)1222/19-20(01), CB(2)1283/19-20(01) and
CB(2)1301/19-20(01))

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

- (a) Administration's response to issues raised in a letter dated 13 May 2020 from Dr KWOK Ka-ki;
- (b) Administration's response to issues raised in a letter dated 26 May 2020 from Mr Jeremy TAM;
- (c) Administration's response to issues raised in a letter dated 20 May 2020 from Mr LAM Cheuk-ting;
- (d) Administration's response to issues raised in a letter dated 1 June 2020 from Mr Andrew WAN; and
- (e) letter dated 2 July 2020 from Mr IP Kin-yuen.

2. Given that the 2019-2020 session of the Legislative Council ("LegCo") was coming to the end, Mr IP Kin-yuen enquired about the handling of his letter regarding Police's dispersal operations towards reporters on 1 July 2020 (LC Paper No. CB(2)1301/19-20(01)). The Chairman said that the Administration had been requested to provide a written response to the issues raised in the letter.

II. Proposed Member's Bill entitled "Public Inquiry (2019 Public Order) Bill"

(LC Paper No. CB(2)1286/19-20(01))

3. Mr Kenneth LEUNG briefed Members on the background of and need for his proposed Member's Bill entitled "Public Inquiry (2019 Public Order) Bill" ("the proposed Members' Bill"), as detailed in his paper provided to the Panel.

4. Mr IP Kin-yuen considered that the proposed Member's Bill was meaningful and worthwhile. He said that the public order events between June and October 2019, which were mainly triggered by the

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Police's excessive use of force and indiscriminate arrests since the "anti-extradition amendment bill" incidents, should be investigated by an independent Commission of Inquiry. He hoped that LegCo would continue supporting the proposed Member's Bill in the next term. Mr Kenneth LEUNG added that an independent Commission of Inquiry would be an appropriate way out of the current political issues in Hong Kong.

5. Mr LUK Chung-hung said that the violent acts committed by some protestors since the "anti-extradition amendment bill" incidents had gradually eroded the rule of law in Hong Kong. He queried whether the proposed Commission of Inquiry would be empowered to investigate the financial support provided in various violent incidents, the infiltration of foreign powers and the dissemination of fake information since June 2019. Mr Kenneth LEUNG responded that the scope of work of the proposed Commission had been spelled out in his paper, adding that Mr LUK was welcomed to give oral evidence to the Commission if so set up.

6. Under Secretary for Security ("US for S") said that the Government opposed to the proposed Members' Bill for the following reasons:

- (a) in accordance with Article 74 of the Basic Law ("BL"), LegCo Members could introduce bills which did not relate to public expenditure or political structure or the operation of the government. Pursuant to past rulings by the President of LegCo, if the amount of public expenditure incurred in respect of a Member's Bill was substantial and could not be ignored, the bill would be regarded as relating to public expenditure. As a secretariat would be required to support the operation of the Commission of Inquiry and public expenditure would be incurred for the remuneration of the staff, the honorarium of the Chairman and Members of the Commission of Inquiry, as well as legal costs, the setting up of a Commission of Inquiry would definitely create significant impact on public expenditure and government's operation. As an illustration, the expenditure of the Commission of Inquiry into the construction works at and near the Hung Hom Station Extension under the Shatin to Central Link Project was about \$92 million as stated in Government's reply to a media enquiry in May 2020, with the actual expenditure incurred to be ascertained;

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- (b) with regard to government policies, the existing Commissions of Inquiry Ordinance (Cap. 86) had already empowered the Chief Executive in Council to appoint a Commission to inquire into the conduct or management of any public body, the conduct of any public officer or into any matter whatsoever which was of public importance. The proposed Member's Bill would therefore be redundant. Furthermore, in accordance with BL74, the written consent of the Chief Executive would be required before bills relating to government policies were introduced; and
- (c) the "Thematic Study Report on the Public Order Events arising from the Fugitive Offenders Bill since June 2019 and the Police Actions in Response" ("the Thematic Study Report") published by the Independent Police Complaints Council ("IPCC") in May 2020 had covered some of the matters that the proposed Member's Bill sought to handle. The Thematic Study Report had set out IPCC's detailed review of the large-scaled public order events and the Police actions since June 2019, as well as recommendations in improving Police practices and procedures made in accordance with section 8(1)(c) of the Independent Police Complaints Council Ordinance (Cap. 604). The Government attached importance to the follow-up work of the recommendations and a Task Force had been established to study the report and follow up with the recommendations, as well as to communicate with relevant departments and organizations. The Task Force held its first meeting on 28 May 2020 and was planned to submit its first progress report to the Chief Executive on August 2020, followed by quarterly reporting.

III. Drug situation in Hong Kong in 2019

(LC Paper Nos. CB(2)1286/19-20(02) and (03))

- 7. Commissioner for Narcotics ("C for N") briefed Members on the drug situation in Hong Kong in 2019 and the Government's anti-drug efforts in response to the latest drug situation.
- 8. Members noted an updated background brief entitled "Drug situation and anti-drug efforts in Hong Kong" prepared by the Legislative Council Secretariat.

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[The Deputy Chairman took the chair during the temporary absence of the Chairman.]

Major drug trends and anti-drug efforts

9. Mr CHAN Chun-ying, Mr POON Siu-ping and Ms Elizabeth QUAT expressed concern about the increase in cannabis abuse in 2019, especially among those aged under 21 which was increased by 48% compared with the previous year. Although there was a new television Announcement in the Public Interest ("API") about cannabis premiered in June 2020, Mr CHAN considered that it did not quite explicitly demonstrate the harms of cannabis, and asked about the publicity work targeting local students studying abroad subsequent to the legalization of use of recreational cannabis and a wide range of cannabis products in some overseas jurisdictions, such as Canada. He also expressed concern about the selling of cannabis products in Hong Kong. As there were many overseas students in Hong Kong, Ms QUAT was worried that cannabis would become more common among youngsters due to peer influence.

10. C for N clarified that Canada prohibited the export of recreational cannabis and related products unless authorized. The Narcotics Division ("ND") had been cooperating with the Hong Kong Economic and Trade Office (Toronto) to conduct publicity work to remind Hong Kong residents in Canada of the difference in law in relation to cannabis between Hong Kong and Canada. For local students studying in tertiary institutions in Hong Kong preparing for departure to overseas exchange programme, ND had earlier conducted seminars to remind them of the harmful effects of drugs and the dire consequences of bringing drugs to Hong Kong. C for N further explained that the new television API was made having regard to the response and comments from the anti-drug sector that youngsters were now more appealed to positive messages and healthy lifestyle instead of mere preaching. New posters and pamphlets were also released in April and June 2020 respectively which provided information on the harmful effects and other pertinent information of cannabis.

11. Despite the decline of 17% in the total number of reported drug abusers in 2019, Mr YIU Si-wing and the Deputy Chairman expressed concern about the sign of increased drug abuse among youngsters, in particular the abuse of cannabis. Mr YIU sought information on the imported cannabis figure by tourists. He was also concerned as to

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whether the frequent students' gatherings due to various social events since the second half of 2019 constituted to the increase in the proportion of students in reported young drug abusers aged under 21, which was 26% in 2019, compared to 20% in 2018. Mr SHIU Ka-chun, however, pointed out that stress, instead of students' gatherings, should be the main reason for taking drugs.

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12. C for N responded that ND was concerned about the increased number of reported young cannabis abusers aged under 21, and had stepped up efforts to enhance their awareness of drug harms of cannabis through various online platforms, parental education and schools. Besides, the Beat Drugs Fund ("BDF") had been funding projects under which online means were used to identify possible young cannabis abusers for providing assistance. As regards the figure of seizure of cannabis and its related products brought to Hong Kong by tourists and the comparison of proportion of students among reported young drug abusers aged under 21 between first and second half in 2019, C for N undertook to provide relevant information after the meeting.

13. Mr POON Siu-ping referred to paragraph 17 of the Administration's paper and sought details on the new approaches and channels to appeal to members of the public to stay away from cannabis and other drugs. Ms Elizabeth QUAT said that the Democratic Alliance for the Betterment and Progress of Hong Kong had conducted a survey, and found that over 90% of parents were worried about cannabis abuse in their children and peers. They were also of the view that the Administration did not provide sufficient publicity and education on the harms of cannabis abuse. Ms QUAT urged the Administration to enhance relevant publicity work.

14. C for N agreed with the importance of preventive education and publicity work. She added that publicity work and parental education on the harms of cannabis had been strengthened. ND had launched a series of initiatives to disseminate messages on harmful effects of cannabis, such as placing advertisements on magazines and publishing advertorial on online platforms which targeted at parents. ND also partnered with a television broadcaster to produce a series of television programme which included tips for parents to identify their children who used cannabis. The programme had been broadcasted recently in June. BDF also granted a total amount of about \$16 million to support projects that enhanced awareness of cannabis among parents. As for new approaches and channels, ND engaged Key Opinion Leaders before and would

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explore wider use of online platforms to disseminate anti-drug messages. Some grantees of BDF also adopted virtual reality technology in different anti-drug projects to let youngsters have a feel of the adverse effects of drug-taking so as to convince them to stay away from drugs.

15. Mr POON Siu-ping referred to paragraph 22 of the Administration's paper and asked about the progress in formulating the priority areas in the coming BDF Regular Funding Scheme ("RFS"). C for N advised that the Governing Committee of the BDF Association would, taking into account the latest drug situation and the advice of the Action Committee Against Narcotics ("ACAN"), endorse specific priority areas in the annual BDF RFS to guide applicants in planning suitable anti-drug projects. All applications would be processed by a strict vetting procedure.

16. While there was a decline in the total number of reported drug abusers in 2019, Mr Tony TSE was concerned that the actual number might not be reflected due to the thinning out of Police's resources to cope with public order events since June 2019. Pointing out that there was an increase in seizures of various drugs recently, he sought information on the drug situation in the first half of 2020. Ms Elizabeth QUAT was worried that the decline in the total number of reported drug abusers might be attributable to the rise in the number of hidden drug abusers, given that half of the newly reported abusers in 2019 had abused drugs for at least 5.5 years (compared with 4.9 years in 2018).

17. C for N explained that the Central Registry of Drug Abuse ("CRDA") was a voluntary reporting system recording the details of drug abusers who had come into contact with and agreed to be reported by reporting agencies, including law enforcement agencies, treatment and welfare agencies, tertiary institutions, hospitals and clinics. Most of the reporting agencies were largely not affected by the thinning out of Police's resources. That said, the total number of drug-related arrests in 2019 had decreased significantly, which could probably be attributable to the re-deployment of large amount of Police's resources to cope with public order events. Besides, she said that BDF, with a capital base of \$3.35 billion, had been providing sufficient funding support to worthwhile anti-drug projects and measures to identify and help drug abusers, including the hidden ones.

18. Given the median drug history of 5.5 years of newly reported cases in 2019 (compared with 4.9 years in 2018), Mr SHIU Ka-chun and

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Dr Fernando CHEUNG were concerned about the issue of hidden drug abuse and asked about the measures to minimize it. Mr SHIU further sought information on the surveys of drug use among students. Dr CHEUNG considered that the number of drug abusers was not truly reflected. C for N explained that CRDA's statistics, by its nature, did not measure the exact size of the drug abusing population in Hong Kong at any particular time. The statistics served as indicators of the trends of drug abuse over time. The continued decline in the total number of reported drug abusers over the years had demonstrated the effectiveness of anti-drug efforts. Nevertheless, the Government would continue collaborating with parents and teachers, schools, social workers and the community for early identification of hidden drug abusers. She further said that the survey of drug use among students was conducted triennially. The next survey would be conducted in 2020/21 school year, and the findings would be reported for members' reference afterwards.

The Three-year Plan on Drug Treatment and Rehabilitation Services in Hong Kong

19. The Deputy Chairman expressed concern about the relapse of drug abuse among youngsters, and sought information on the probation service provided for young drug offenders. C for N said that while relapse prevention was challenging, the Government had adopted a multi-modality approach in providing drug treatment and rehabilitation ("T&R") services. For example, there were voluntary residential programmes in drug treatment and rehabilitation centres by non-government organizations, community-based counselling centres, as well as compulsory treatment programmes operated by the Correctional Services Department ("CSD"). The Government also attached great importance to aftercare programmes, such as providing family support, job counselling and occupational therapies to assist drug rehabilitees' sustained reintegration into society. The Three-year Plan on Drug Treatment and Rehabilitation Services in Hong Kong ("the Three-year Plan") for 2021-2023, which was currently on consultation, aimed to set out the priorities and strategies on T&R services and complementary anti-drug work for reference by service providers in reviewing and developing their T&R programmes, including aftercare services for drug rehabilitees, in the upcoming three-year period. Regarding the community-based probation service, the supervision period of one to three years was determined by the court. In respect of the compulsory treatment programmes in drug addiction treatment centres, CSD

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implemented different programmes such as mindfulness training to minimize relapse rate.

20. Noting that the Administration was currently conducting consultation on the ninth Three-year Plan, Mr SHIU Ka-chun sought information on the way forward of T&R services. C for N said that as the drug situation in Hong Kong kept changing, the Three-year plan would set out the priorities and strategies on T&R services and complementary anti-drug work in the upcoming three-year period in light of the latest drug scene. Dr Fernando CHEUNG called on the Administration to be more focused on drug prevention in the Three-year Plan.

Police's drug abuse and trafficking

21. Mr LAM Cheuk-ting, Dr Fernando CHEUNG, Mr CHAN Chi-chuen and Mr WU Chi-wai cited the case in May 2020 that several police officers were arrested and being charged of methamphetamine (commonly known as "Ice") trafficking, and expressed grave concern about Police's drug abuse, drug possession and trafficking. Mr LAM and Mr CHAN were also concerned about the initiative of Police's voluntary drug tests, and sought C for N's response over it.

22. C for N clarified that the number of police officers arrested because of drug-related offences were extremely few over the years. Besides, Police management had stressed that they would adopt a zero tolerance to any drug-related offences committed by police officers. The Integrity Audit Action Group ("IAAG") established by the Police in May 2020 would strengthen the integrity management of police officers. To her knowledge, IAAG was also conducting feasibility studies on various initiatives, including arranging for officers to undergo voluntary drug tests before appointment or transfer to sensitive positions. C for N further said that ND had attached great importance to preventive education and publicity. Notably, the Healthy School Programme with a voluntary Drug Testing Component had been successfully carried out in some secondary schools. Similar programmes and activities with a voluntary drug testing component were welcomed to be conducted in other organizations.

23. Dr Fernando CHEUNG and Mr WU Chi-wai further cited the case that a lady living in a police quarter, who was initially prosecuted of drug possession but the prosecution was subsequently withdrawn by the

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Department of Justice ("DoJ"). Dr CHEUNG said that this case and the case of Police's "Ice" trafficking he mentioned earlier, would give public the perception of Police's collusion with the triads. He called on the Security Bureau ("SB") to conduct strict and independent investigations. Mr WU sought C for N's response on the case. He was also concerned as to how to rebuild the reputation of Police and DoJ.

24. C for N stressed that the Government had all along adopted zero tolerance against drug possession and trafficking. Every case would be handled and investigated in a strict manner. She noted that DoJ had earlier made a response to the case and she would not comment further.

Other issues

25. Mr Kenneth LEUNG expressed concern about the abuse of over-the-counter ("OTC") drugs in Hong Kong. He said that some youngsters would mix drugs, including OTC drugs, with alcohol to achieve a special physical condition. To his knowledge, such abuse was harmful but the Administration apparently did not pay much attention. C for N disagreed and said that the Government had indeed been taking enforcement action against OTC drug abuse. She said that dangerous drugs were mainly governed by the Dangerous Drugs Ordinance (Cap. 134) in Hong Kong, while some dangerous drugs which could be used for medical prescriptions were governed by the Pharmacy and Poisons Ordinance (Cap. 138). The Department of Health ("DH"), the Police and the Customs and Excise Department had also conducted joint operations and surprise inspections. In 2019, DH had conducted 9 600 inspections, purchased 7 500 times and subsequently 34 cases were convicted.

26. Mr CHAN Chi-chuen was concerned about the way forward of the RESCUE Drug Testing Scheme ("RDT Scheme"). C for N said that ACAN launched a public consultation exercise on the proposed RDT Scheme in 2013. Under the proposed RDT Scheme, when there were reasonable grounds based on strong circumstantial conditions to suspect that a person had taken dangerous drugs, law enforcement officers would require that person to undergo a drug test, and refer him/her to counselling and treatment programmes, where applicable. Since the proposed RDT Scheme involved many complex issues including individuals' rights and personal data on which the community had diverse views, the Government did not have a timetable for further public consultation.

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IV. Proposed introduction of offences on voyeurism and non-consensual photography of intimate parts, and related offences

(LC Paper Nos. CB(2)1286/19-20(04) and (05))

27. US for S briefed Members on the proposed introduction of new offences of voyeurism, intimate prying, non-consensual photography of intimate parts, and the distribution of related images ("proposed offences"). He further said that a three-month consultation exercise would be launched to invite views from members of the public.

28. Members noted a consultation paper provided by the Administration and an information note entitled "Proposed introduction of offences on voyeurism and non-consensual sexual photography of intimate parts" prepared by the LegCo Secretariat.

(Post-meeting note: The consultation paper tabled at the meeting was issued to members vide LC Paper No. CB(2)1334/19-20(01) on 8 July 2020.)

Gender neutrality

29. Mr CHAN Chi-chuen was concerned about the guiding principle of gender neutrality laid down by the Law Reform Commission ("LRC") sub-committee. Principal Assistant Secretary for Security (Review) ("PAS for S (R)") explained that under the same circumstantial factors in compliance with the elements of the proposed offences, the offences would be constituted irrespective of the gender of the victims.

30. Mr CHAN Chun-ying considered that the descriptions under the proposed offences were not clear enough. As one of the descriptions of an "intimate act" was "the person's genitals, buttocks, or breasts are exposed or covered only with underwear", he said that it would not be easy to grasp the meaning of "covered only with underwear", in particular in males.

31. As gender neutrality was one of the guiding principles, and intimate prying covered offences such as observing or recording of intimate acts irrespective of the purpose, Dr Fernando CHEUNG considered that the legislative proposals should be drafted clearly to avoid members of the public breaching the laws inadvertently. He was concerned as to whether inadvertent photography and distribution of

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intimate parts of males would be covered under the statutory defences. Given the long-term distress and stress caused to the victim, Mr LAM Cheuk-ting agreed in principle to the proposed offences. Nevertheless, he was of the view that relevant law draftings should be clear enough to avoid any "grey areas".

32. US for S thanked Members for their comments and agreed that the law draftings and explanations should be clear. He said that the proposed offences were preliminary having regard to LRC's recommendations. The Government attached great importance to the guiding principles laid down by the LRC sub-committee, including the issue of gender neutrality. After the public consultation, the Government would take into consideration the views from Members, relevant stakeholders and members of the public in finalizing the legislative proposals.

Offences covered under the legislative proposals

33. Mr CHAN Chi-chuen expressed concern about the differentiation between the proposed offences of voyeurism and intimate prying. US for S explained that the offence of voyeurism included observing or recording of intimate acts for the purpose of obtaining sexual gratification. However, in the course of a prosecution of voyeurism, if the only element of offence that could not be proved was the purpose of obtaining sexual gratification, the accused might then be convicted of the alternative offence of intimate prying. Such differentiation would assist the court in judging the severity of different cases.

34. Ms Claudia MO expressed concern about the photography of intimate parts of celebrities in public places by journalists and publishing them with blurry images. PAS for S (R) explained that photography of celebrities might commit the offence of voyeurism or intimate prying, provided that the acts were within the coverage of these offences. Even though the victim was in a public place, it might also constitute the offence, if the place would reasonably be expected to provide privacy.

35. Mr LAM Cheuk-ting further enquired about the possibility for journalists to take photos of intimate parts of celebrities on public occasions such as a film premiere. US for S pointed out that the proposed offences of voyeurism and intimate prying did not cover places which would not be expected to provide privacy. PAS for S (R) made it clear that photography of intimate parts of celebrities in a film premiere

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would unlikely constitute the offences of voyeurism and intimate prying as celebrities should generally not expect privacy in such setting. Having said that, Members' attention were drawn to the offence of non-consensual photography of intimate parts which were proposed to be applicable to any person who, without the consent of the victim, operated equipment beneath the clothing of the victim to enable the person or another person to observe the victim's intimate parts or record images of the victim's intimate parts or to have access to such recorded images, in circumstances where the intimate parts would not otherwise be visible. In response to Mr LAM's further concern about the meaning of "beneath the clothing of the victim", US for S said that the Government noted Mr LAM's concern and would analyze all the views collected from Members and members of the public, and report to the Panel the outcome of the public consultation and the Government's final proposals in due course.

36. Regarding the distribution of intimate images, PAS for S (R) said that statutory defences had been provided for similar offences in overseas jurisdictions. The Government also considered that suitable defences should be made available for the proposed offences. Subject to the views from the public and further study, similar statutory defences or reasonable excuses covering acts of law enforcement, journalistic work, etc, would be provided for the proposed offences.

37. Given that there was currently no official requirement on issuance of press identification, Mr CHAN Chun-ying was concerned about the possible abuse on the proposed defence mechanism. US for S stressed that the Government respected the freedom of press. Nevertheless, a balance had to be struck between media activities and privacy issues when drawing up statutory defences.

38. Ms Elizabeth QUAT welcomed the legislative proposals, and said that she had been urging the Administration to introduce the proposed offences as soon as practicable. Referring to consultation question 13 in the consultation paper, she considered that it might not be appropriate if the offence of non-consensual distribution of intimate images would be constituted only under the circumstances mentioned in the question, as the distributor might be doing so for the purposes of showing off to others, threatening the victims, or even selling intimate images for a profit. She also referred to paragraph 16 of the Administration's paper, and pointed out that "down-blousing" might intend to observe or record images of victim's intimate parts (i.e the breast of women) and cause

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victim's distress to a greater extent. As such, she did not agree to the view that "down-blousing" would not be covered under the proposed offences against non-consensual photography of intimate parts. US for S stressed that the legislative proposals sought to protect victims. The elements of offence depended mainly on a person's *mens reas* and relevant acts. That said, the Government would take into account Ms QUAT's comments in the consultation exercise.

Issues relating to the public consultation exercise

39. Mr Charles MOK said that he had raised concern about prosecuting voyeurism or non-consensual photography of intimate parts with the offence of "access to computer with criminal or dishonest intent" under section 161 of the Crimes Ordinance (Cap. 200) over the years, but the Administration had not taken any actions. It was until the Court of Final Appeal held its judgment in April 2019 that "access to computer with criminal or dishonest intent" under section 161 of Cap. 200 did not extend to the use of the offender's own computer and the Administration finally decided to introduce the proposed offences. Ms Claudia MO considered that it had never been appropriate for prosecution under section 161 of Cap. 200 against surreptitious or upskirt photography. Mr MOK sought details on the consultation plan about this legislative exercise, in particular on seeking views from relevant parties or organizations.

40. US for S advised that there were about 300 cases annually related to voyeurism or non-consensual photography of intimate parts over the past five years, demonstrating a pressing need to address related offences with criminal sanctions. He further said that the consultation paper and relevant materials would be uploaded onto the website of SB. Letters would also be sent to relevant organizations to invite their comments and views. PAS for S (R) added that a consultation meeting with relevant organizations might be arranged. Mr SHIU Ka-chun and Dr Fernando CHEUNG suggested the Administration to take heed of the survey report on image-based sexual violence released by the Association Concerning Sexual Violence Against Women in March 2020, and consult the Association accordingly. They further expressed concern about Police's improper attitude towards victims of sexual violence and urged the Administration to enhance police officers' sensitivity when handling such cases. US for S undertook to take note of the aforesaid survey report. Upon the passage of the legislative proposals, training would be provided to relevant officers to strengthen their knowledge and skills in handling cases relating to sexual offences.

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Other issues

41. Dr Fernando CHEUNG and Mr Charles MOK expressed regret over the difference in handling the legislative timetable of the proposed offences and the National Security Law. Dr CHEUNG further considered the progress of introducing the proposed offences a bit slow as LRC had appointed a Review of Sexual Offences Sub-committee in 2016 and published the Report on Voyeurism and Non-consensual Upskirt-Photography in 2019.

42. Although blackmailing had been covered under Cap. 200, Mr CHAN Chi-chuen hoped that the proposed offences would also be able to address cases on threatening others to take intimate photos or videos and distributing them. Mr SHIU Ka-chun asked whether consideration would be given to criminalizing relevant acts under the current legislative proposals. US for S responded that cases on threatening others to distribute intimate photos might be prosecuted under existing offences of blackmail or criminal intimidation. Nevertheless, US for S and PAS for S (R) thanked Members for their suggestions, and reassured Members that the Government would take into consideration the views from Members and the public in finalizing the legislative proposals.

43. Mr SHIU Ka-chun considered that the terms "窺淫" and "拍攝私密處" were not humanized enough. Ms Claudia MO said that "私密" was not easy to understand, and would mislead the public to think of "pantyhose". US for S pointed out that, as far as legal terms were concerned, a balance would be struck between public understanding and legal clarity.

44. There being no other business, the meeting ended at 4:28 pm.