

<p>Draft minutes of the Bills Committee meeting on 14 September 1999</p>	<p>Response from the Administration</p>
<p>(paragraph 5)</p> <p><u>"Clause 35 - Power of authorized persons to enter premises"</u></p> <p>5. <u>Dr LEONG Che-hung</u> asked in the case that an embryo/gametes was seized by the police as evidence, whether the commissioning couple who were waiting urgently to use the embryo/gametes could apply to take it back even though the relevant court proceedings had not yet completed. <u>Mr Michael HO Mun-ka</u> took the view that the embryo or gametes seized should not be frozen for an indefinite period of time as he believed that there should be other substitutes available to be used as evidence in the relevant proceedings. <u>Dr LEONG Che-hung</u> pointed out that the Administration should take into consideration the needs of the commissioning couple as the woman of the couple might not be able to conceive if the RT procedure was deferred. <u>DSHW1</u> agreed to seek advice from the Department of Justice on the relevant criminal procedure rules relating to the handling of evidence for members' reference. <u>The Chairman</u> directed that this point should be discussed again at a future meeting.</p>	<p>"If the gametes and embryos are taken into possession pursuant to section 35 of the Bill, they may be retained by the authorised person for a period of 6 months or, where criminal proceedings are instituted within that 6 months period, and that the gametes and embryos are required to be used as exhibits in those proceedings, they may be further retained until the conclusion of those proceedings in the light of subsection 35(4). If they are not required to be used as exhibits, then there is no objection that they are released to their owners.</p> <p>In respect of whether photographs of gametes and embryos can be treated as legal evidence, the answer may depend on the circumstances of the cases in question. Generally speaking, photographs may be used in lieu of real objects provided that, with or without the assistance of an expert, a witness called can testify in court that the objects shown in the photographs are the gametes or embryos.</p> <p>In conclusion, it is possible for the commissioning couples to retrieve gametes or embryos stored in the reproductive technology centre which is under investigation, provided the court is satisfied to release the gametes or embryos in light of the considerations mentioned in the previous two paragraphs."</p>