

立法會
Legislative Council

LC Paper No. ESC81/16-17
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seen by the Administration)

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Establishment Subcommittee of the Finance Committee

**Minutes of the 7th meeting
held in Conference Room 1 of Legislative Council Complex
on Wednesday, 8 February 2017, at 8:30 am**

Members present:

Hon Alvin YEUNG (Deputy Chairman)
Hon James TO Kun-sun
Hon WONG Ting-kwong, SBS, JP
Hon Starry LEE Wai-king, SBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Steven HO Chun-yin, BBS
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
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Dr Hon Fernando CHEUNG Chiu-hung
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHU Hoi-dick
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-chun

Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon HUI Chi-fung
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Nathan LAW Kwun-chung
Dr Hon YIU Chung-yim
Dr Hon LAU Siu-lai

Members absent:

Hon Mrs Regina IP LAU Suk-yee, GBS, JP (Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon CHUNG Kwok-pan
Hon Jimmy NG Wing-ka, JP
Hon HO Kai-ming
Hon SHIU Ka-fai

Public Officers attending:

Ms Carol YUEN Siu-wai, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) 1
Mr Eddie MAK Tak-wai, JP	Deputy Secretary for the Civil Service 1
Mr John LEE, PDSM, PMSM, JP	Under Secretary for Security
Mr Andrew TSANG	Principal Assistant Secretary for Security E
Mr Stanley CHUNG	Assistant Commissioner of Police (Crime)
Mr Anthony TSANG	Senior Superintendent of Police (Cyber Security and Technology Crime Bureau)
Dr Frank LAW	Superintendent of Police (Cyber Security and Technology Crime Bureau)

Clerk in attendance:

Ms Connie SZETO Chief Council Secretary (1)4

Staff in attendance:

Mr Keith WONG	Council Secretary (1)4
Ms Alice CHEUNG	Senior Legislative Assistant (1)1
Miss Yannes HO	Legislative Assistant (1)6
Ms Haley CHEUNG	Legislative Assistant (1)9

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The Deputy Chairman drew members' attention to the information paper ECI(2016-17)13, which set out the latest changes in the directorate establishment approved since 2002 and the changes to the directorate establishment in relation to the eight items on the agenda. He then reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP"), they should disclose the nature of any direct or indirect pecuniary interest relating to the funding proposal under discussion at the meeting before they spoke on the item. He also drew members' attention to RoP 84 on voting in case of direct pecuniary interest.

EC(2016-17)23 Proposed creation of one permanent post of Chief Superintendent of Police (PPS 55) in the Hong Kong Police Force with effect from the date of approval by the Finance Committee to lead the Cyber Security and Technology Crime Bureau

2. The Deputy Chairman remarked that the staffing proposal was to create one permanent post of Chief Superintendent of Police ("CSP") (PPS 55) in the Hong Kong Police Force ("HKPF") with effect from the date of approval by the Finance Committee to lead the Cyber Security and Technology Crime Bureau ("CSTCB"). He pointed out that discussion of the item was carried over from the meeting on 7 February 2017.

Statistics on technology crimes

3. Ms Tanya CHAN remarked that the annual numbers of technology crime offenders arrested by the Police from 2012 to 2016 and the amount of losses involved in such cases were respectively set out in paragraphs 2 and 7 of the supplementary paper (LC Paper No. ESC52/16-17(01)). She

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enquired about the relationship of the two sets of figures, and how the Police calculated the amount of losses.

4. Assistant Commissioner of Police (Crime) ("ACP(Crime)") replied that among the annual numbers of arrestees as set out in the paper, there might be arrestees involved in technology crimes which occurred in the past, so the figures might not reflect the number of technology crimes which occurred in that year. The Police calculated the annual amount of losses involved in technology crimes based on the losses claimed by the persons making the report followed by preliminary verification of the information.

5. Mr LEUNG Kwok-hung and Mr Jeremy TAM pointed out that the Government indicated in paragraph 2 of the supplementary paper (LC Paper No. ESC52/16-17(01)) that it did not maintain annual prosecution and conviction figures on technology crimes. They opined that it was difficult for members to understand how the Police handled technology crimes without the statistics, and requested the Government to explain how prosecution and conviction figures on technology crimes were recorded.

6. ACP(Crime) explained that the Police would only compile statistics on the technology crime offenders arrested, and prosecution and conviction figures would be stored in the Integrated Law and Order Statistical System.

7. Mr Jeremy TAM pointed out that the Administration had set out the statistical breakdown on technology crimes from 2012 to September 2016 in Enclosure 5 of the Government's paper (LC Paper No. EC(2016-17)23). He enquired how the Police classified the cases and compiled statistics on them.

8. Under Secretary for Security ("US for S") replied that the Police would classify technology crimes by mode of operation. A case in point was the figure on cases involving naked chat, which was not an offence in itself, but offences involving blackmail could arise from it. The Police would classify blackmail involving naked chat as blackmail cases.

Concerns over section 161 of the Crimes Ordinance

9. Mr Charles Peter MOK, Ms Tanya CHAN, Mr LEUNG Kwok-hung and Mr KWONG Chun-yu requested the Administration to provide a breakdown by nature of cases on the arrests, prosecutions and convictions under section 161 of the Crimes Ordinance ("CO"), so as to facilitate members' monitoring on how the Police instituted prosecutions by invoking the Ordinance and whether the Police had suppressed freedom of speech online by abusing the Ordinance. They opined that if the Police

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could classify cases by the mode of operation adopted in technology crimes, it should be able to classify the cases by their nature and provide statistics on the prosecutions instituted under section 161 of CO.

10. Mr CHAN Chi-chuen and Mr WU Chi-wai pointed out that if the Government could not provide a breakdown by nature of cases on the arrests, prosecutions and convictions under section 161 of CO, it should make public the details of all the cases for members to review whether the Police had instituted prosecutions by abusing the provisions.

11. US for S advised that he appreciated members' concerns over the Police invoking section 161 of CO, and would endeavour to provide supplementary information as requested by members. He pointed out that the Police provided figures of prosecutions and convictions under the Ordinance in accordance with the Integrated Law and Order Statistical System, and relevant figures over the past three years had also been set out in paragraph 6 of Enclosure 5 to the paper (LC Paper No. EC(2016-17)23). He added that the Integrated Law and Order Statistical System at present did not contain information on statistical breakdown by nature of cases involving section 161 of CO. Therefore, the Police could not provide the information as requested by members and they were not deliberately refuse to provide the information. He reiterated that the Police would examine whether breakdowns by nature of cases on the prosecutions and convictions in relation to a certain offence could be maintained under the Integrated Law and Order Statistical System in the future. ACP(Crime) supplemented that the Government had been handling technology crimes in a transparent manner. Information was also available to the public through media reports and the Court's open trials.

12. Dr KWOK Ka-ki pointed out that there were only around 300 cases of arrests made by the Police by invoking section 161 of CO over the past three years, and queried why the Police could not provide a breakdown. Dr KWOK and Mr HUI Chi-fung considered that the Administration should provide the relevant breakdown before seeking funding from the Legislative Council for the creation of the proposed CSP post.

13. US for S advised that subject to the availability of resources, HKPF would compile and maintain statistics conducive to their work. Compiling statistics on figures outside of what was required of police duties would reduce resources for operations. He reiterated that the number of technology crimes had increased rapidly in recent years, and CSTCB had not been led by a CSP post since its establishment more than two years ago; the work of CSTCB would be seriously affected if the proposal to create the proposed CSP post was further delayed. He

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stressed that there was no direct relationship between how the Police invoked section 161 of CO to handle cases and the creation of the proposed CSP post. He considered it illogical for members to delay the creation of the proposed post on the ground that the Government could not provide the figures they requested.

14. The Deputy Chairman was of the view that members' worries about the Police invoking section 161 of CO improperly to handle technology crimes were directly related to the creation of the proposed CSP post for leading CSTCB in combating technology crimes. As such, he allowed members to continue to raise questions on the subject. US for S advised that he respected the Deputy Chairman's decision.

15. Dr KWOK Ka-ki, Mr Charles Peter MOK and Mr James TO queried that the Administration was deliberately concealing that it had invoked section 161 of CO to institute political prosecutions in the past by refusing to provide a breakdown by nature of cases on technology crimes all along.

16. US for S objected to the members' allegation that the Police had invoked section 161 of CO to institute political prosecutions. He stressed that it was the Police's work to prevent and combat crimes without any political consideration. When taking any arrest or prosecution actions, the Police would only consider whether the arrestees had acted in contravention of the law. He pointed out that in the past there had been arrests of persons supportive of the Government and objecting to the Occupy Movement for their breach of the law. When presiding over the cases, the Court did not mention that political prosecutions were involved in such cases.

17. Regarding the request of several members for the Administration to provide a breakdown by nature of cases involving section 161 of CO, Ms YUNG Hoi-yan pointed out that technology crimes were normally of a more complicated nature; in reaching the verdicts, the Court also needed to consider a number of factors, including the legal opinions of the prosecution and defence and the credibility of the witnesses. She believed that it was difficult for the Government to classify the cases involving section 161 of CO by their nature or element of offence in a simple way. US for S agreed to Ms YUNG's observation.

Cyber attacks

18. Dr Fernando CHEUNG noted from paragraph 7 of the Government's paper (LC Paper No. EC(2016-17)23) that the threats posed

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by cyber attacks to Hong Kong had been serious in recent years. He enquired about the reasons for that, how the Police would guard against the cyber attacks from around the world (including hacking activities from the Mainland), and how the technology and capabilities in guarding against attacks could be enhanced.

19. Superintendent of Police (Cyber Security and Technology Crime Bureau) ("SP(CSTCB)") replied that Hong Kong's Internet take-up rate was high, as evidenced by the wide use of mobile phones for internet access coupled with the popularity of Wi-Fi hotspots and residential broadband Internet access, so members of the public were more susceptible to the threats posed by cyber attacks. To enhance public awareness and capabilities in guarding against cyber attacks, the Police had strengthened relevant efforts on education. US for S added that Hong Kong was subject to cyber attacks from all over the world, and it was often difficult for the Police to confirm the identities of the persons launching the attacks and obtain relevant evidence, thus adding to the difficulty in detecting and guarding against such attacks. On the whole, like their counterparts around the world, HKPF needed to increase manpower for handling technology crimes and enhance leadership competencies so as to step up the efforts against cyber attack crimes.

20. Mr WU Chi-wai enquired how the Police would assist some institutions vulnerable to cyber attacks in upgrading their prevention technology, and how police officers would be trained to enhance their technology and capabilities in detecting complex cyber attack cases.

21. SP(CSTCB) replied that the Police would continue to detect different types of intelligence in relation to cyber attacks on the Internet and share the latest information with organizations of the five major fields defined as critical infrastructures, including the government departments, banking and finance industry, transport and shipping industry, communications service industry and public services industry, enabling them to take precaution early and strengthen the work in respect of cyber system security. US for S added that as technology crimes involved knowledge on technology and the cyber world, most of the police officers under CSTCB had received the relevant training and some of them had even obtained relevant professional qualifications. Moreover, as in the physical world, the Police would keep in view any possible crimes on the Internet, observe the trend of cyber crimes and analyse the inherent security loopholes with a view to enhancing cyber security.

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Work of the proposed post

22. Dr YIU Chung-yim enquired how the Administration would conduct a value-for-money assessment on the performance of the proposed post. Moreover, he opined that if the increased workload of CSTCB was ascribed to the rise in technology crimes, the Police should increase the manpower of frontline police officers rather than creating the proposed post. He requested the Administration to explain the justifications for creating the proposed post.

23. Ms YUNG Hoi-yan enquired how CSTCB's work in relation to detection and prosecution would be enhanced after the creation of the proposed post.

24. US for S replied that there were established Government procedures and mechanisms to assess the performance of a civil servant . He stressed that in order to combat cyber crimes effectively, it was necessary for CSTCB to be led by an officer with foresight and international vision for the formulation of suitable strategies and initiatives, including developing training programmes for police officers to cope with the new technology crime patterns in the future, and strengthening liaison with other international police organizations for exchanging latest intelligence on international technology crimes. Therefore, there was an urgent need for CSTCB to create the proposed CSP post. ACP(Crime) added that if there was an upward trend for a certain type of crime, the Police would first consider improving their handling of cases and review the causes as well as their tackling and prevention strategies. Redeployment of resources or increased manpower would be considered only where necessary. Increasing the manpower of frontline police officers was not an effective option for strengthening the leadership of CSTCB and formulating its development plans. The new CSP should have the international vision to strengthen liaison and cooperation with other law enforcement agencies overseas. He would also oversee internal management and training for CSTCB and map out its future work direction in a forward-looking manner.

Hacking software

25. Mr Nathan LAW pointed out that the community was concerned about whether the Police had used hacking software to monitor the public; members were also worried that the Police would hack into the computers of members of the public through hacking software in the investigation of cases to gather information involving personal privacy. In this connection, the supplementary information provided by the Administration (LC Paper No. ESC52/16-17(01)) had not addressed members' concerns.

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He requested the Administration to explain whether the Police would use hacking software when investigating cases and whether relevant operations were regulated under any legislation. Moreover, he also requested the Police to provide the guidelines relating to the application of court warrants for the purpose of evidence collection in order to obtain documents or information from any organizations and individuals (including Internet service providers).

26. US for S stressed that the Police discharged their duties in order to detect or prevent crimes, and all their operations had to comply with the laws of Hong Kong, including the requirements of the Hong Kong Bill of Rights Ordinance (Cap. 383). If the operations of the Police were regulated by the Interception of Communications and Surveillance Ordinance (Cap. 589), the Police had to obtain the authorization required in accordance with the laws. He supplemented that the Police would not make public the means by which cases were investigated and evidence was collected, lest the effectiveness of their enforcement efforts would be affected.

[Post-meeting note: The supplementary information provided by the Administration was circulated to members on 20 February 2017 vide LC Paper No. ESC61/16-17(01).]

27. At 10:29 am, the Deputy Chairman said that as several members were still waiting for their turn to ask further questions, he decided not to extend the meeting for putting the item to vote. The Subcommittee would continue to discuss this item at the meeting on 21 February 2017.

28. The meeting ended at 10:30 am.