

立法會
Legislative Council

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LC Paper No. CB(2)2715/01-02
(These minutes have been seen
by the Administration)

LegCo Panel on Security

**Minutes of special meeting
held on Friday, 10 May 2002 at 1:00 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon LAU Kong-wah (Deputy Chairman)
Hon Albert HO Chun-yan
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon Howard YOUNG, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members attending** : Hon James TIEN Pei-chun, GBS, JP
Hon Cyd HO Sau-lan
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon Emily LAU Wai-hing, JP
Hon LAW Chi-kwong, JP
Hon Henry WU King-cheong, BBS
Hon Michael MAK Kwok-fung
Hon MA Fung-kwok
- Members absent** : Dr Hon LUI Ming-wah, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon IP Kwok-him, JP

Public Officers attending : Mrs Regina IP, JP
Secretary for Security

Mr Timothy TONG, JP
Deputy Secretary for Security 1

Miss Eliza YAU
Principal Assistant Secretary for Security E

Mr TANG King-shing
Director of Operations
Hong Kong Police Force

Mr WONG Doon-yee
Chief Superintendent of Police (Public Relations)
Public Relations Branch
Hong Kong Police Force

Mr WONG Pak-nin
District Commander, Central
Hong Kong Police Force

Attendance by invitation : Hong Kong Journalists Association

Ms MAK Yin-ting
Chairperson

Clerk in attendance : Mr Raymond LAM
Senior Assistant Secretary (2)5

Staff in attendance : Mr Jimmy MA, JP
Legal Adviser

Ms Dora WAI
Senior Assistant Secretary (2)4

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I. Issues relating to the incident on 25 April 2002 where Police took action to stop the public meeting being staged in Chater Garden and media reporters were handcuffed

(LC Paper No. CB(2) 1852/01-02(01))

Secretary for Security (S for S) said that to her knowledge, meetings of the Panel on Security could be broadly classified into two types. One type was attended by members of the Panel, other Legislative Council (LegCo) Members and representatives of the Administration only. The other type was intended for receiving the views of the public and was open to all individuals and organisations interested in expressing their views. She questioned why a representative of the Hong Kong Journalists Association (HKJA) was attending the meeting to present views, although it was not a meeting to receive the views of the public. She said that many members of the public had expressed views on the Police's operations on 25 April 2002. It would be fairer if the Panel held another meeting to receive the views of the public so that all persons and organisations wishing to express views on the matter could do so.

2. The Chairman said that when the Panel decided to hold the meeting, no Member had suggested receiving the views of the public on the matter. It was not until the previous day when HKJA and a human rights group requested attending the meeting to present views on the subject. Having regard to the fact that reporters were involved in the incident and HKJA was an association representing reporters, the timing of the requests and the limited meeting time available, he decided to allow a representative of HKJA but not the human rights group to attend the meeting. He said that there were many occasions in the past when representatives of an association relevant to the subject of discussion were allowed to present views at a Panel meeting.

3. At the invitation of the Chairman, Ms MAK Ying-ting presented the views of HKJA as detailed in the submission tabled at the meeting. She informed Members that the word "One" in the last paragraph of the first page should read "Once", and the word "appropriate" in the second line of the second paragraph under the heading "The HKJA demands" on the second page should read "inappropriate".

(Post-meeting note : The submission from HKJA, with the amendments referred to in paragraph 3 above incorporated, was issued to members vide LC Paper No. CB(2) 1901/01-02 on 13 May 2002. A further submission from HKJA was issued to members vide LC Paper No. CB(2) 1950/01-02 on 15 May 2002.)

4. S for S said that as legal proceedings were being instituted against persons arrested in Chater Garden on 24 and 25 April 2002 and the Complaints Against Police Office (CAPO) was investigating into complaints against Police officers for handcuffing members of the media at Chater Garden on 25 April 2002, it would be inappropriate to discuss the specific cases concerned. The Chairman said that while the Rules of Procedure of LegCo stipulated that reference should not be made to a case

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pending in a court of law, there was no rule prohibiting Members from making reference to any case being investigated by the CAPO.

5. Mr CHEUNG Man-kwong said that the press area established in Chater Garden on 25 April 2002 had forced reporters to a remote location that they could only see the back of the persons in the area that was cordoned off. This reflected that the establishment of a press area would restrict press freedom, which was respected in a civilised society. He queried about the legal basis for the establishment of a press area, and asked why reporters were arrested and handcuffed for refusing to enter the press area.

6. Chief Superintendent of Police (Public Relations) (CSP(PR)) said that the Police attached great importance to maintaining a good working relationship with the media. Guidelines on handling the media were issued to Police officers. Photographers and television (TV) cameramen were given the opportunity to take photographs and TV footage at vantage points. The designation of press areas was a long-standing practice in line with those of other places. It was intended for facilitating news reporting while avoiding undue hindrance to Police operations or safety hazard to persons at the scene, including reporters and Police officers. Where appropriate, officers of the Police's Public Relations Branch were deployed on site to facilitate liaison work.

7. Regarding the legal basis for the establishment of a press area, CSP(PR) said that section 10 of the Police Force Ordinance (Cap. 232) provided that the Police should adopt lawful measures to preserve public peace, prevent injury to life and property, and regulate processions and assemblies in public places. To discharge such duties, it was sometimes necessary for the Police to cordon off an area. Under such a situation, a press area would be established to facilitate news reporting.

8. Mr CHEUNG Man-kwong asked about the criteria for cordoning off an area. He queried the need to cordon off a large area and designate a very small press area within that, even though there was no indication of threat to security or safety hazard to any person.

9. CSP(PR) responded that the need to establish a press area and the size of the area were determined by the Police officer in charge at the scene having regard to the circumstances. The press area had been designated at a reasonable location, as one TV company had managed to cover the entire incident from the press area. He added that officers of the Public Relations Branch of the Police at the scene might have made adjustments to the press area, if any members of the media had made requests for such adjustment. The Chairman requested the Police to provide its guidelines on handling the media for Members' information.

(Post-meeting note : The guidelines provided by the Administration were circulated to members vide LC Paper No. CB(2) 2414/01-02 on 25 June 2002.)

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10. Referring to paragraph 4 of the Administration's paper, Mr LAU Kong-wah asked whether the eight persons arrested on 24 April 2002 were handcuffed in the course of arrest. District Commander, Central (DC(C)) responded that he did not have such information on hand. Mr LAU Kong-wah requested the Police to provide the requested information after the meeting.

(Post-meeting note : The information provided by the Administration was circulated to members vide LC Paper No. CB(2) 2414/01-02 on 25 June 2002.)

11. Referring to paragraph 13 of the Administration's paper, Mr LAU Kong-wah asked about the provision in Chapter 29-09 of the Police General Orders which was relevant to the use of handcuff by Police officers to restrain two reporters on 25 April 2002. DC(C) responded that during the Police operation at Chater Garden on 25 April 2002, two members of the media who refused to move to the press area were arrested for obstructing Police officers in the execution of duty. As they were worked up and struggled in the course of arrest, the Police had handcuffed these persons to avoid injuries.

12. Mr YEUNG Yiu-chung asked whether there was any difference in the treatment of an arrested person, if he was a member of the media. He also asked whether flexibility was exercised in handling members of the media performing news reporting work.

13. DC(C) responded that all arrested persons were treated equally. He stressed that members of the media had already been handled with much flexibility in the incident. Officers of the Public Relations Branch had spent much time persuading members of the media to enter the press area before Police officers were deployed to bring the remaining members of the media into the press area. S for S stressed that every person was equal before the law. There was no difference in the treatment of different people.

14. The Chairman asked whether the refusal of the two members of the media to enter the press area was the only behaviour that constituted "obstructing Police officers in the execution of duty". DC(C) responded that as two members of the media refused to enter the press area and struggled with Police officers who brought them into the area, they were arrested for obstructing Police officers in the execution of the duty to bring members of the media into the press area.

15. Mr MAK Kwok-fung asked whether there were clear guidelines on the determination of the size of the area to be cordoned off and that of a press area. He also asked how members of the media were notified of the exact location of the press area.

16. S for S said that it was evident from the TV footage that one could see a lot from the press area. It should be noted that most members of the media were satisfied

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with the press area. Only two members of the media had clashed with the Police.

17. CSP(PR) said that the size of the area to be cordoned off was determined having regard to the circumstances and in such a manner that facilitated the execution of duties by Police officers. As Chater Garden was an open area without any natural barrier, the area was cordoned off by a human wall of Police officers followed by the use of mills barriers. Thus, anyone should find it very easy to notice the area that had been cordoned off. After the area had been cordoned off, a press area was designated inside the area to facilitate news coverage by members of the media. The press area, which was surrounded by mills barriers, was located at a short distance from the major spot of Police operations. Thus, members of the media could clearly see the operation.

18. CSP(PR) added that after the press area had been designated, officers of the Public Relations Branch of the Police had informed members of the media that a press area had been designated and they had to move into the press area. Police officers had also announced the message with loudhailers for many times. Most but a few members of the media entered the press area. Thus, the problems did not originate from the designation of a press area. He stressed that the Police had maintained good relationship with members of the media in the past. During his experience in the Public Relations Branch of the Police in the past 14 months, there had not been any incident where problems could not be resolved at the scene.

19. Mr MAK Kwok-fung said that the Police should have consulted members of the media at the scene before determining the press area. CSP(PR) responded that most members of the media had co-operated and entered the press area. He reiterated that relationship between the Police and members of the media had been good and the incident was an isolated one. Nevertheless, the Police would examine whether there were areas that could be improved. It had held discussions with representatives of media associations and both sides agreed that the incident on 25 April 2002 was an isolated one and should not affect future co-operation between the Police and members of the media.

20. Miss Margaret NG considered that whether a press area was appropriate should not only be examined from the perspective of whether it was acceptable to members of the media, but also from the perspective of protecting the public's right to know. She said that it could be noted from a photograph appearing in a local newspaper that a reporter in the press area could only see the back of people in the area that had been cordoned off. She added that an area should be cordoned off only when it was strictly necessary and the size of the area should be proportionate to the needs.

21. CSP(PR) responded that there were guidelines for Police officers on handling the media and the press area was determined in accordance with such guidelines. According to the judgment of officers of the Public Relations Branch at the scene, the press area was appropriately located to facilitate news reporting. Members of the media were generally satisfied with the press area. He added that it should be noted

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that a TV station had managed to cover the entire incident clearly from the press area. The cameraman of the Police had also carried out their video-recording work from inside the press area. He stressed that there were many occasions in the past where the size of a press area was adjusted after liaison at the scene.

22. Referring to paragraph 5 of the Administration's paper, Miss Margaret NG said that the Police's operations mainly involved stopping and dispersing the public meeting at Chater Garden. She questioned why it was necessary for the Police to cordon off Chater Garden when it only wished to stop and disperse the public meeting.

23. DC(C) explained the conditions imposed on the public meetings at Chater Garden, the series of events and Police operations as detailed in paragraphs 2 to 7 of the Administration's paper. He said that it was necessary to cordon off Chater Garden to facilitate the checking of the identity and conditions of stay of persons in Chater Garden. Apart from illegal immigrants and overstayers, all other persons were allowed to leave Chater Garden after their identities were checked.

24. Miss Margaret NG asked whether it was in breach of the law if a member of the media refused to enter the press area. She also asked whether the two members of the media were arrested once they refused to enter the press area.

25. DC(C) said that Police officers at the scene had used loudhailers to ask people to leave the area that had been cordoned off. Some members of the media refused to enter the press area or leave the area that had been cordoned off. As these people obstructed the Police operations in Chater Garden, they were arrested for obstructing Police officers in the execution of their duties. S for S said that whether the two members of the media had obstructed Police officers in their execution of duty was being investigated by CAPO. The Chairman requested the Administration to provide information on how the members of the media concerned had obstructed Police officers in the execution of their duties, such as the number of Police officers obstructed and the duties being discharged by these Police officers at that time. He also requested the Administration to provide Members with a video-record of the incident, if available.

(Post-meeting note : The Administration's response was circulated to members vide LC Paper No. CB(2) 2414/01-02 on 25 June 2002.)

26. Ms Emily LAU expressed concern about the impact of the incident on the image of Hong Kong in respect of whether there was abuse of the Police's power and challenge against press freedom. She asked whether representatives of media associations had requested the Administration to conduct an independent investigation into the incident, and whether the Administration would consider conducting an independent investigation. She said that LegCo might consider forming a select committee to inquire into the incident, if the Administration refused to conduct an independent investigation. She also asked whether there were arrangements to prevent similar incidents in the future.

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27. CSP(PR) responded that at the meeting between the Commissioner of Police (CP) and representatives of media associations, both sides agreed that the incident on 25 April 2002 was an isolated one and should not affect future co-operation between the Police and members of the media. One of the follow-up actions was a review of the Police's guidelines on dealing with the media. In this connection, he met with editors and senior representatives of the media on 9 May. He informed Members that the following points were agreed at the meeting -

- (a) Co-operation between the Police and the media had been good and should be maintained;
- (b) Police officers should respect the work and stance of reporters; and
- (c) Reporters should respect the work of and difficulties encountered by Police officers.

28. CSP(PR) said that the Police would consider introducing measures to facilitate co-operation between the Police and the media in news reporting and establish mechanisms to resolve at the scene differences in views regarding a press area.

29. Director of Operations said that representatives of media associations did not request conducting an independent investigation. He considered that there was no need to conduct an independent investigation because the CAPO was conducting investigations into complaints relating to Police operations on 25 April 2002 and the Police had a practice of conducting reviews after major operations.

30. S for S said that whether a select committee was to be formed was a matter to be decided by LegCo. The Administration considered that there was no need to form such a committee, because the existing mechanism of investigation of complaints against Police officers by the CAPO and monitoring by the Independent Police Complaints Council had already ensured fairness and justice in investigation.

31. Regarding the impact of the incident on the image of Hong Kong, S for S said that the Administration had received a letter from a European association which stated that "During the perhaps sensitive years immediately following the Handover, it was understood that the Government was taking a more lenient approach towards offenders. Five years later however, we would expect the Government to uphold and implement the existing laws with no regard to how difficult or politically unpopular this might be. Having had well over 6 000 demonstrations since 1997, it does not make us a popular city in the global community, even more so as some of these demonstrations are breaking the law and the conditions under which they were originally approved". The Administration had also received an electronic mail which stated that "執法人員果斷地執行法律維持公共秩序，拘捕藐視法紀，霸佔遮打花園的滋事份子。遺憾的是有些不負責任和不專業操守的記者妨礙工作，滋生事端。". Thus, it could be noted that many members of the public expressed support for the Police's operations on 25

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April 2002. Ms Emily LAU requested the Administration to provide copies of the two submissions for Members' information. S for S agreed. She added that there were also other submissions in support of the Police's operations on 25 April 2002.

(Post-meeting note : The letter from the European association and the submissions from members of the public provided by the Administration were circulated to members vide LC Paper Nos. CB(2) 1904/01-02, CB(2) 1932/01-02, CB(2) 2060/01-02 and CB(2) 2272/01-02 on 13, 14, 24 May 2002 and 12 June 2002 respectively.)

32. Ms Emily LAU asked whether the handcuffing of reporters on 25 April 2002 was the first time when members of the media were handcuffed. CSP(PR) undertook to provide a response after the meeting.

(Post-meeting note : The Administration's response was circulated to members vide LC Paper No. CB(2) 2414/01-02 on 25 June 2002.)

33. Mr Howard YOUNG said that after the incident outside the LegCo building on 24 April 2002, a person of his constituency had expressed to him on 25 April 2002 the strong view that the Administration should take immediate actions to remove the overstayers in Chater Garden. Thus, there were voices in support of the Police operation on 25 April 2002. He considered that a mechanism should be developed to facilitate Police operations as well as the news reporting work of members of the media. He asked whether the needs of different members of the media were given consideration in the determination of a press area. He also asked whether it was possible to give earlier notice and more briefing for the media before the designation of a press area.

34. CSP(PR) responded that a press area was designated only when there was a safety problem or obstruction of Police officers in executing their duties. He said that there was a need to designate a press area on 25 April 2002 because reporters were running with ladder and equipment between incident spots within Chater Garden, posing danger to members of the public. He informed Members that the Police was considering the establishment of a mechanism to settle differences in views at the scene. He stressed that it was the Police's practice to consider the needs of different members of the media in the determination of a press area. Where necessary, more than one press area might be designated at the same time. There was also well established measures of pooling of news reporting work in situations where there was a need to designate a press area at a remote location.

35. Mr Albert HO said that the question of whether the arrangement on 25 April 2002 was reasonable should be examined in an objective manner rather than based on the views of members of the media at the scene. He expressed concern that the CAPO did not have the practice of disclosing its investigation findings and thus the public did not have the opportunity to know the results. He expressed doubt about -

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- (a) Why it was necessary to cordon off an area for the purpose of dispersing a public meeting or to check the identity documents of persons inside Chater Garden;
- (b) Whether it was necessary to cordon off such a large area;
- (c) Whether it was necessary to separate members of the media from participants of the public meeting and confine them in a remote location; and
- (d) Whether the refusal of members of the media to leave the area that had been cordoned off constituted a sufficient reason for arrest.

36. Ms Audrey EU asked why the incident outside the LegCo Building on 24 April 2002 constituted a contravention of the conditions imposed by CP on the public meeting at Chater Garden.

37. DC(C) responded that seven people, among whom four were overstayers, were arrested in Chater Garden for being involved in the incident outside LegCo Building on 24 April 2002. The obstruction outside the LegCo Building caused by the participants of the public meeting and the presence of overstayers among the participants of the public meeting at Chater Garden were clear contravention of the conditions imposed on the public meeting. In view of these breaches, the Police took action on 25 April 2002 to stop and disperse the public meeting under section 17 of the Public Order Ordinance (Cap. 245) (POO).

38. Ms Audrey EU asked whether the Police General Orders could be publicised. In view of the time constraint, the Chairman requested the Administration to provide a written response after the meeting.

(Post-meeting note : The Administration's response was circulated to members vide LC Paper No. CB(2) 2414/01-02 on 25 June 2002.)

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39. Members requested the Legal Adviser to prepare a list of questions for circulation among members before forwarded to the Administration for a response. Miss Margaret NG said that the Administration should be asked to explain its policy on the enforcement of section 17 of POO and whether refusal to enter the press area alone constituted obstructing Police officers in the execution of duty.

40. Mr YEUNG Yiu-chung suggested that the Panel should hold a meeting to receive the views of the public on the Police's operations on 25 April 2002. Ms Emily LAU also considered that a meeting should be held to receive the views of the public on the matter. The Chairman said that the suggestion would be considered at the next regular Panel meeting on 6 June 2002.

41. The meeting ended at 2:25 pm.

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Council Business Division 2
Legislative Council Secretariat
26 August 2002