

EXTRACT

立法會

Legislative Council

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by the Administration)

Ref : CB2/PL/SE/1

LegCo Panel on Security

**Minutes of meeting
held on Thursday, 7 March 2002 at 2:30 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
Dr Hon LUI Ming-wah, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHEUNG Man-kwong
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Howard YOUNG, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Member attending : Hon CHAN Yuen-han, JP

Public Officers attending : Item III

Mr Michael WONG
Deputy Secretary for Security 3

Mr Alan K M CHU
Principal Assistant Secretary for Security D

Mr CHAN Man-lang
Assistant Secretary for Security

Mr Peter YUEN Ka-tat
Project Director
Architectural Services Department

Mr Gary CROW
Project Manager
Architectural Services Department

Mr LAW Yiu-tung
Senior Principal Immigration Officer
Immigration Department

Item IV

Miss Eliza YAU
Principal Assistant Secretary for Security E

Mr Albert LAI Kwok-ying
Director of Finance
Administration and Planning
Hong Kong Police Force

Mr Michael B DOWIE
Regional Commander
New Territories South
Hong Kong Police Force

Ms Barbara R WILLISON
Chief Superintendent
Planning and Development Branch
Hong Kong Police Force

Mr LEE Yeung-chi
Superintendent (Weapons Training)
Hong Kong Police Force

Mrs Marigold LAU
Project Director
Architectural Services Department

Item V

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 LEE Wai-lam
Chief Superintendent of Police (Support)
Hong Kong Police Force

Clerk in attendance : Mrs Sharon TONG
Chief Assistant Secretary (2)1

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

Action

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V. Designation of Designated Public Activity Areas and guidelines for frontline Police officers when handling demonstrations
(LC Paper Nos. CB(2) 466/01-02(01) and CB(2)1218/01-02(06))

44. At the invitation of the Chairman, Deputy Secretary for Security 1 (DS for S1) presented the Administration's paper on the designation of Designated Public Activity Areas (DPAAs) and guidelines for frontline Police officers in handling demonstrations. He informed Members that after reunification, an average of six public order events were held in a day and the accumulated total had reached 9 900 public order events by the end of January 2002. He said that in the designation of DPAAs and the handling of demonstrations, the Administration had always sought to strike a balance between facilitating public order events and preserving public order and safety.

Action

45. Mr Albert HO expressed concern that the Police had been oversensitive and had deployed an unnecessarily large number of Police officers in a few public order events and some occasions when international events were held in Hong Kong. Referring to in paragraph 9(a) of the Administration's paper, he expressed appreciation for the instruction given to Police officers that they should presume that demonstrators were doing no more than exercising their freedom of expression. He said that when international events attended by international figures or national leaders were held in Hong Kong, DPAAAs were usually located at remote locations that the views of demonstrators could not be seen or heard by participants of the events.

46. Mr Albert HO added that although there was an appeal board for handling appeals in respect of applications for holding public order events, liaison between organisers of public order events and the Police had usually taken much time that insufficient time was left for the lodging of an appeal, if the organiser intended to do so. He considered that when demonstrators and the Police could not reach an agreement on the route or other details of a public order event at a certain period before the holding of the event, the matter should be referred to the appeal board for a decision.

47. DS for S1 responded that after reunification, the Police had only objected to the holding of four out of close to 10 000 public order events. There were seven to eight appeals lodged, some against the conditions imposed. Director of Operations, Hong Kong Police Force (Dir of Ops) added that the Police had a responsibility to protect the security and dignity of important persons (IPPs). The number of Police officers deployed for an event would depend on the Police's risk assessment and the circumstances of the event.

48. Mr Albert HO asked whether a review had been conducted by the Police on the use of force and pepper spray in handling demonstrators after the FORTUNE Global Forum held in May 2001. Dir of Ops responded that it was the Police's practice to conduct a review, including whether any use of force was justified, after all police operations. Where necessary, disciplinary or legal actions would be taken. He stressed that clear instructions had been given to all Police officers that only minimum force to achieve the purpose might be used in discharging their duties.

49. In response to Mr Albert HO's question about whether the protection of the dignity of IPPs meant that DPAAAs should be designated at a remote location so that any dissenting views of demonstrators could not be seen or heard by participants of an event, Dir of Ops said that the Police had always handled public meetings and public processions impartially. The beliefs of demonstrators and whether dissenting views of demonstrators could be seen or heard by IPPs were not factors considered in the determination of a DPAA. A DPAA was determined having regard to the circumstances of each case. Besides the freedom of expression of demonstrators, consideration was given to factors such as the safety of IPPs and the security of the venue for the event.

Action

50. Mr Albert HO asked whether clearer guidelines had been issued to Police officers after the incidents involving the use of force or pepper spray against demonstrators. Dir of Ops responded that the guidelines and instructions referred to in paragraphs 7 and 9 of the Administration's paper were extracted from a Headquarters Order issued to Police officers in September 2000. The Chairman requested the Administration to provide more information about the contents of the Headquarters Order. Dir of Ops responded that the Headquarters Order was an internal document for use by police officers and the relevant information in the circular had been incorporated in the Administration's paper. Nevertheless, the Administration would consider whether more contents of the Headquarters Order could be disclosed to Members.

(Post-meeting note : The Administration subsequently advised that since the subject Headquarters Order was an internal document for reference by frontline Police officers involved in regulating public order events, the Police considered that it was inappropriate for the document to be released as its disclosure would harm or prejudice the proper and efficient conduct of the Police's operations. Nevertheless, they would endeavour to provide more information on the guidelines and instruction, where appropriate, in response to further request from Members.)

51. Mr Albert HO asked whether there were international standards on the protection of IPPs. The Chairman asked whether there were standards, such as that on the noise level of a dissenting voice, beyond which the dignity of IPPs would be regarded as being prejudiced. DS for S1 responded that to his knowledge, there was no such standard. Dir of Ops added that besides the security and dignity of IPPs, the prevailing circumstances of the events including traffic condition, number of groups and participants involved, the time and form of the public order events and other relevant factors were taken into consideration in the determination of a DPAA.

52. Mr IP Kwok-him said that he had received complaints from shop tenants in a building adjacent to the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region that the displaying of photographs and materials by Falun Gong members on the pavement outside their shops throughout office hours from Mondays to Saturdays had led to a marked drop in the number of pedestrians outside their shops and hence a substantial decline in their business. He questioned whether the designation of such a DPAA was consistent with the principle of minimising inconvenience to the general public referred to in paragraph 9 of the Administration's paper. He said that the Administration should consider relocating a DPAA at regular intervals so as to avoid causing prolonged inconvenience to any particular shop tenants or residents.

53. DS for S1 responded that in the determination of a DPAA, the inconvenience caused to vehicles and persons, the duration of inconvenience, the emotion of

Action

demonstrators, the nature of the public order event and public interests were all taken into account. The conditions would generally be more stringent if the demonstrators were excited or there was a potential threat to public security. He said that public interests included the interests of other persons affected by the event, regardless of the number of persons affected.

54. In response to Ms Audrey EU, Dir of Ops said that the DPAA was first introduced around reunification. It aimed to facilitate the management of public order events and to preserve public order and safety. He undertook to find out the exact time when the DPAA was first introduced and would advise the Panel in writing.

(Post-meeting note : The Administration subsequently advised that the Police had confirmed that designation of DPAA in security operations or major events became one of their policing considerations around the Handover in 1997 when the level of public order events increased noticeably. Similar measure would have been implemented in the past on an ad hoc basis but they had not been able to trace back when exactly such arrangement was first introduced.)

55. Ms Audrey EU said that organisers of public order events should be informed of their right to lodge an appeal with the appeal board if they had any objection to a DPAA. She asked whether a DPAA was determined having regard to the importance of an IPP. She also asked whether the freedom of expression as referred to in the Administration's paper included the right to get one's views seen or heard by others.

56. DS for S1 responded that the Administration had not restricted the freedom of expression laid down in the Basic Law and relevant international covenants. He said that the Department of State of the United States had pointed out in its recent human rights report on Hong Kong that individuals in Hong Kong enjoyed the right to criticise the government and express their views freely. He said that in the determination of the size of a DPAA, the importance of an IPP was not a factor to be considered. Whether the views of demonstrators were seen or heard was not a factor considered in the determination of DPAA, but a factor considered in determining arrangements to ensure the smooth running of an international event. He added that factors considered in the determination of a DPAA, as set out in paragraph 3 of the Administration's paper, included the nature and objectives of the activity concerned.

57. The Chairman asked whether there were different security arrangements for IPPs of different levels of importance. Dir of Ops responded that IPPs were not assigned different levels of importance. The security arrangements for an IPP would be drawn up having regard to the threat assessment.

58. Mr CHEUNG Man-kwong expressed concern that although demonstrators were allowed to access the area outside the main entrance of the Government Secretariat in the past, they were no longer permitted to access the area. He considered that this arrangement was inconsistent with the instruction given to Police officers that they

Action

should presume that demonstrators were doing no more than exercising their freedom of expression. He asked whether public consultation had been made on the arrangement and when the arrangement would be ceased.

59. DS for S1 responded that since the Court of Final Appeal delivered its judgment in respect of right-of-abode cases on 10 January 2002, the Administration had, after consulting relevant government departments, designated a DPAA at the parking spaces outside the west gate of the Government Secretariat to facilitate the management of demonstrators and security of the Government Secretariat. Where necessary, arrangements would be made for representatives of relevant government departments to receive written submissions from demonstrators at the DPAA. He said that the arrangement would be reviewed at the end of March 2002.

60. Miss Margaret NG considered that prohibited zones should be designated instead of DPAA's. She said that the issue should be further discussed at a meeting of the Panel.

61. DS for S1 stressed that DPAA's were designated only where necessary and according to the circumstances.

62. The Chairman concluded that the issue of DPAA's might be further discussed at a future meeting.

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