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Panel on Security

**Background brief prepared by Legislative Council Secretariat
for the special meeting on 8 January 2010**

**Allegations of Mainland law enforcement officers
taking enforcement actions in Hong Kong**

Purpose

This paper summarizes the discussions held by Members on issues relating to allegations of Mainland law enforcement officers taking enforcement actions in Hong Kong.

Background

2. On 16 June 2004, the Police received complaints that there were suspicious vehicles in the vicinity of a residential building on Mt. Davis Road. In the evening of the same day, patrolling police officers found a private car with four men standing beside it at the roadside near the building and the bonnet of the vehicle raised. Meanwhile, another private car with three men on board drove up to that location.

3. In response to police enquiries, two of the seven men said that they were Mainland public security officials. A pair of handcuffs belonging to one of these two men was found in a handbag on the back seat of one of the vehicles. The other five were Mainland visitors.

4. The seven men were arrested by the Police for suspected offences of loitering and possession of offensive weapon. All seven men were released on bail awaiting further investigation.

Mechanism of police cooperation between Hong Kong and the Mainland

Meeting of the Panel on Security on 28 June 2004

5. The Panel on Security was concerned whether there was any breach of the mechanism of police cooperation between Hong Kong and the Mainland arising from the case, and discussed with the Administration the mechanism on 28 June 2004.

6. According to the Administration, cooperation between the Police and Mainland public security authorities had been conducted on the basis of Interpol practice. Assistance in police investigation had to be undertaken in accordance with established mechanism. If the police of one side wished to conduct investigation in the territory of the other side, it had to be carried out through the police of the other side. The police authorities of both sides should not conduct criminal investigation on their own in the territory of the other side.

7. Regarding the consequences of breaching the agreed mechanism of police cooperation, the Administration informed the Panel that there was no mention about the penalty for non-compliance. However, should there be a departure from the mechanism, the Police would make a protest to the relevant Mainland authorities.

8. In response to a member's enquiry, the Administration advised that there was no local legislation to deal with Mainland law enforcement officers undertaking investigation in Hong Kong. A member was of the view that legislation should be enacted to deal with Mainland law enforcement officers carrying out investigation in Hong Kong.

9. Regarding some members' concern about the scope of application of the mechanism of police cooperation, the Administration agreed to consider whether the coverage of the mechanism should be expanded to include the Ministry of State Security as well as provincial and municipal government.

Meeting of the Panel on Security on 1 March 2005

10. The issue of the mechanism of police cooperation between Hong Kong and the Mainland was again discussed by the Panel on Security on 1 March 2005.

11. The Administration advised the Panel that only statutorily authorized persons could take law enforcement actions in Hong Kong, even if the alleged offence was committed outside Hong Kong. Any other person, including law enforcement officials of other jurisdictions, attempting to take similar actions in Hong Kong might contravene the local legislation and might be prosecuted accordingly. In addition, the mechanism of police cooperation between Hong Kong and the Mainland had been operating smoothly and effectively. In view of these, the Administration did not consider that there was a need to draft legislation dealing with Mainland public security officials taking enforcement actions in Hong Kong.

12. Responding to a member's question whether there was any agreed mechanism on the taking of law enforcement actions by state security officials in Hong Kong, the Administration advised that the present mechanism was focused on police cooperation in criminal investigations. State security officials had not made any request for taking law enforcement actions in Hong Kong. The Administration had considered the matter and had come to the conclusion that there was not a need to do so, as state security officials were not involved in criminal investigations.

Police investigation and development of the case of two Mainland public security officials and five visitors arrested on 16 June 2004

Meeting of the Panel on Security on 28 June 2004

13. At the meeting of the Panel on Security on 28 June 2004, the Administration also briefed members on the case. Members were informed that the Ministry of Public Security had stressed that it would adhere to the "one country, two systems" principle and Mainland law enforcement officers were strictly prohibited from taking enforcement actions on their own in Hong Kong. Members were also informed that the Police had treated the case with utmost attention and had assigned the Regional Crime Unit of Hong Kong Island Region to conduct investigation.

14. Some members were concerned whether any Mainland public security officials had performed duties in Hong Kong, and whether undertaking surveillance and the possession of handcuffs amounted to taking enforcement actions in Hong Kong.

15. The Administration responded that the Police was investigating whether the Mainland persons were in contravention of Hong Kong laws or the mechanism of police cooperation between Hong Kong and the Mainland. The Police had sought confirmation about the identity of the arrested persons and the purpose of their visit to Hong Kong from the relevant Mainland public security authorities and a reply was awaited.

Administration's letter dated 13 July 2004 regarding the identity of the seven Mainland persons in the case

16. In its letter dated 13 July 2004, the Administration informed the Panel on Security that upon the enquiries of the Administration, the Guangdong Provincial Public Security Department (GDPSD) replied that two of the seven arrested persons were serving public security officials and the other five were employees of a car rental company in Shenzhen. The purpose of their visit was sightseeing and shopping.

Administration's letter dated 15 January 2005 regarding its reply to a press enquiry on the case

17. In its letter dated 15 January 2005, the Administration informed the Panel on Security of its reply to a press enquiry on the case that the Police had completed investigation into the offences of "loitering" and "possession of offensive weapon" which were suspected of having been committed by the seven Mainland persons. The Department of Justice (DoJ) had, after consideration of all the evidence and relevant information, concluded that there was insufficient evidence for bringing prosecution against the seven Mainland persons.

Meeting of the Panel on Administration of Justice and Legal Services on 17 January 2005

18. Issues relating to prosecution of the seven Mainland persons in the case were raised at the meeting of the Panel on Administration of Justice and Legal Services on 17 January 2005 during the briefing by the Secretary for Justice and the Director of Administration on the Chief Executive's Policy Address 2005.

19. Some members expressed concern about DoJ's decision of not prosecuting the seven arrested persons. Some members asked whether the decision not to prosecute was due to insufficiency of evidence, or the lack of specific law in Hong Kong for taking prosecution actions even though there was sufficient evidence such as an admission on the part of the public security officials concerned that they had undertaken law enforcement duties in Hong Kong.

20. The Administration responded that, based on the investigation of the Police and having considered all the evidence and relevant information, DoJ had found that there was insufficient evidence to bring prosecution against the seven persons. There was insufficient evidence to prove all the elements of the two offences concerned after a thorough investigation. The Administration advised the Panel that irrespective of their identity, people coming to Hong Kong had to comply with the laws of Hong Kong, and they would be criminally liable for prosecution for committing offences in Hong Kong.

Meeting of the Panel on Security on 19 January 2005

21. Issues relating to the investigation conducted by the Police were raised at the meeting of the Panel on Security on 19 January 2005 during the briefing by the Secretary for Security on the Chief Executive's Policy Address 2005.

22. Some members asked whether the Administration had requested the Mainland authorities to investigate the case and provide a reply.

23. The Administration responded that it had requested the Mainland public security authorities to investigate the case and the reply obtained was that -

- (a) no Mainland public security official had taken enforcement actions in Hong Kong in the case concerned; and
- (b) one of the Mainland public security officials concerned had inadvertently brought a pair of handcuffs to Hong Kong.

24. Some members queried why the arrested Mainland persons were released on bail, although most Mainland residents who visited Hong Kong with Two-way Permits were not allowed to do so.

25. The Administration advised the Panel that the Police would not allow an arrested person to be released on bail, if investigation revealed sufficient evidence for instituting prosecution against the arrested person or when there was a likelihood that the arrested person might escape when released on bail. In the case, the seven arrested persons were released on bail in accordance with established procedures pending investigation of the case.

Meeting of the Panel on Security on 1 March 2005

26. The Panel on Security was concerned about allegations that Mainland public security officials had taken enforcement actions in Hong Kong arising from the case of the seven Mainlanders, and further discussed the subject matter on 1 March 2005.

27. The Panel was informed that after completing investigation, the Police had consulted DoJ on the sufficiency of evidence to support criminal proceedings against the seven arrested persons. DoJ advised that there was insufficient evidence to justify bringing a prosecution against any of the seven persons.

28. Some members queried why prosecution was not instituted against the seven persons, and whether evidence for bringing prosecution against these persons was indeed insufficient. These members considered that the information provided so far by the Administration could not convince the public of its decision not to institute prosecution against the seven arrested persons. They were of the view that the Administration's refusal to disclose further information about the case might give the public the impression that the Administration was shielding the arrested persons from prosecution.

29. The Administration responded that there was no question of shielding the arrested persons. The Police had followed all the necessary procedures and conducted a thorough investigation before referring all relevant information to DoJ for independent advice on the sufficiency of evidence to support criminal proceedings against the seven persons. The Administration stressed that before and after the reunification, the police authorities of Hong Kong and the Mainland had cooperated in accordance with Interpol practice. To ensure consistent implementation, the basis

and mode of operation were further regulated through regular high level meetings between the police authorities of both sides. Under no circumstances could police officers of one jurisdiction take enforcement actions in the other jurisdiction.

30. The Panel requested the Administration to write to the Mainland authorities conveying members' concerns and seeking a reply on the punishment, if any, imposed on the public security official who brought a pair of handcuffs to Hong Kong. A member requested the Administration to provide the Panel with copies of its letters to GDPSD on the case.

Meeting of the Panel on Security on 5 July 2005

31. At the Panel meeting on 5 July 2005, the Panel further discussed issues relating to allegation of Mainland public security officials taking enforcement actions in Hong Kong.

32. The Administration informed the Panel that the Police had addressed GDPSD in writing twice in October 2004. The letters issued by the Police to GDPSD formed part of its criminal investigation and were issued on a confidential basis. It was therefore not appropriate for these confidential communications to be made public. Nevertheless, the Administration provided the Panel with the essential contents of the letters as well as the replies from GDPSD in the Administration's paper LC Paper No. CB(2)2116/04-05(05).

33. Responding to members' enquiry as to whether the Administration had conveyed to the Mainland authorities the view that Mainland public security officials should not take law enforcement actions in Hong Kong, the Administration advised that there was a clear understanding between the Hong Kong Police and the Ministry of Public Security that under no circumstances should police officers of one jurisdiction take enforcement actions in the territory of the other jurisdiction. The Director General of GDPSD had also assured that Mainland law enforcement officers were strictly prohibited from taking enforcement actions in Hong Kong.

34. Members asked whether the Administration would consider cooperating with state security officials in investigations, if a request was made by the Mainland side.

35. The Administration responded that cooperation between the police authorities of Hong Kong and the Mainland were carried out in accordance with the established mechanism. The Administration had also cooperated with the law enforcement agencies of other jurisdictions in combating crime. Such cooperation was made on the basis of mutual respect for the laws and jurisdiction of both sides. Whether cooperation would be made with state security officials in investigations would be considered when such a request was received.

36. Members were also concerned whether the Administration and the Police had tried their best to investigate into the case concerned. A member queried whether investigation of the case had been blocked by some senior officials.

37. The Administration emphasized that the Police had conducted detailed investigation into the case concerned. The findings in respect of the identities of the arrested persons were consistent with the information provided by GDPSD. The Police had subsequently provided the findings to DoJ for the latter's independent advice on whether there was sufficient evidence to institute prosecution. In reaching the decision of whether or not to prosecute, all relevant material was taken into account. Careful consideration was given to whether any of the suspects could be prosecuted for loitering, possession of an offensive article, or for any other offence. As there was no reasonable prospect of securing conviction, prosecution was not a viable option. If there was new evidence, the decision taken in the case regarding prosecution would be open to re-assessment. However, DoJ was not aware of such new evidence.

Allegations of Mainland law enforcement officers taking enforcement actions against the Hong Kong people who demanded the release of Mr LIU Xiaobo and the accompanying journalists

38. There have been media reports about persons believed to be Mainland law enforcement officers being alleged of taking enforcement actions in Hong Kong at the Lo Wu boundary control point on 27 December 2009 to arrest the Hong Kong people demanding the release of LIU Xiaobo and the accompanying journalists. Relevant newspaper cuttings are in **Appendix I**.

Related information

39. Questions relating to allegations of Mainland law enforcement officers taking enforcement actions in Hong Kong were raised by Members at the Council meetings on 9 May 2001 and 15 October 2003. A list of these questions is in **Appendix II**.

Relevant papers

40. For details of the discussions, members may wish to refer to the following documents -

Minutes

- (a) Minutes of meeting of Panel on Security held on 28 June 2004 (LC Paper No. CB(2)3252/03-04);

- (b) Minutes of meeting of Panel on Administration of Justice and Legal Services held on 17 January 2005 (LC Paper No. CB(2)942/04-05);
- (c) Minutes of meeting of Panel on Security held on 19 January 2005 (LC Paper No. CB(2)1248/04-05);
- (d) Minutes of meeting of Panel on Security held on 1 March 2005 (LC Paper No. CB(2)1392/04-05);
- (e) Minutes of meeting of Panel on Security held on 5 July 2005 (LC Paper No. CB(2)455/05-06);

Papers

- (f) Administration's paper for meeting of Panel on Security on 28 June 2004 (LC Paper No. CB(2)2944/03-04(01));
- (g) Administration's letter dated 13 July 2004 in response to issues raised at the meeting of the Panel on Security on 28 June 2004 (LC Paper No. CB(2)3094/03-04(01));
- (h) Administration's letter dated 15 January 2005 regarding its reply to a press enquiry on the case (LC Paper No. CB(2)682/04-05(05));
- (i) Administration's paper for meeting of Panel on Security on 1 March 2005 (LC Paper No. CB(2)923/04-05(04));
- (j) Administration's letter dated 19 May 2005 in response to a request from the Panel on Security for additional information on the case (LC Paper No. CB(2)1628/04-05(01)); and
- (k) Administration's paper for meeting of Panel on Security on 5 July 2005 (LC Paper No. CB(2)2116/04-05(05)).

41. The above papers are available on the website of the Legislative Council (<http://www.legco.gov.hk>).

深圳邊防羅湖橋越境執法

採訪示威 本報記者遭內地便衣推過邊界扣留

【明報專訊】21名聲援內地異見人士劉曉波的本港居民，昨下午擬經羅湖到內地，步行至深港接壤界線時，內地執法人員即採取行動，混亂間有執法人員越境執法，一名便衣人員更把站在香港範圍的本報攝影記者推到內地範圍，並抬走扣留，本報另一記者上前表明身分亦同被扣留，深圳當局無解釋原因下扣起二人的回鄉證。

《明報》對內地執法人員越境阻撓採訪表示抗議，並要求特區政府跟進；香港記者會協會對事件表示遺憾。

事件中共有4名示威者、3名途經市民和本報兩名記者合共9人被扣留問話。但警方發言人表示：「據了解，內地執法人員並沒有跨境執法。」

《明報》昨晚發表聲明，對內地執法人員越境阻撓記者採訪表示抗議，並要求特區政府跟進，以保障香港記者的採訪自由。

21 網友羅湖橋示威 促釋劉曉波

昨日下午3時，21名響應網上號召聲援異見人士劉曉波的年輕市民，在粉嶺港鐵站集合，約在3時45分乘車到羅湖過境，其後在香港境內的免稅品店商議，其間本港警方曾作警告，指示示威人士違反公安條例。

4時15分，其中約13人排成直行，高呼口號沿羅湖橋遊行往深圳方向，其餘示威者在旁拍攝及支援。10多名本港警察一直在旁戒備。當示威者行到羅湖橋接近深港接壤的中線，已見內地境內有10多名內地執法人員一字橫排阻截示威者。

示威行動發言人余一心表示，當他們接近港深分界線，多名深圳警察即上前拉走在最前3名示威者，質疑有深圳

執法人員「越境」執法。

同一時間，站在分界線香港境內採訪的本報攝影記者葉漢華，突然被一名越過界線的內地便衣人員大力推撞，葉失重心被推過了分界線，並跌在深圳境內，即時有5至6名內地執法人員（包括推撞記者的便衣人員）把他抬走，葉的右腳腳面擦傷，之後內地執法人員曾安排護士到場治理。

沒收兩記者回鄉證 拒解釋原因

明報另一記者梁偉健見狀即上前表明記者身分，但對方不理會，把梁一併帶走，二人先被拘留至一房間，然後分開查問，扣留近3個小時，至晚上7時15分左右才獲釋，但二人的回鄉卡均被沒收，對方並沒有解釋原因，只着記者到中旅社補領回鄉證。4名被扣留示威者至晚上9時左右才獲釋，他們都沒有攜帶回鄉證。

在被扣留期間，不時有穿內地警察制服和便衣的人員查問記者，仔細查閱記者及被扣留人士的攝影器材及手提電話，其間強行刪除不少示威過程的相片，記者的證件和手提電話全被扣起，不能聯絡外界。記者曾詢問便衣人員姓名和身分，他們只表示是「工作人員」，但其掛在身上的證件帶印有「Police」（警察）字樣。

其後一名自稱邊檢的人員客氣地向記者查問採訪目的，並強調兩地法律不同。他亦多次查問記者是否知道示威者的背景資料，稱事件若造成記者受傷，表示歉意。兩記者被扣留近3小時至晚上7時左右，獲發還電話和香港身分證，回鄉證則被沒收，記者要求解釋和取回時，執法人員表示「不用解釋了」，只着記者去中旅社補領。

入境事務主任協會副主席倪錫水表示，按照規定羅湖橋不論內地或本港範圍均屬於禁區，不准拍照、攝影和採訪，但香港入境處一般會酌情寬鬆處理，亦理解傳媒採訪工作需要而不會干預；至於內地機關如何執法則不便評論。據前線工作人員透露，這次事件罕見，除非示威者或市民有犯法行為，否則不會拘留，之前從未聽聞有記者因在羅湖橋採訪而被拘留。

駐足看熱鬧 3人無辜被拘

在今次事件中，有3人無辜被拘留，他們都只是路過，入境深圳期間在羅湖橋遇上示威，停留觀看及用手提電話拍照，均被深圳執法人員帶走拘留逾個半小時，當中一人並無拍照，當時手上只是拿着遊戲機。

馮先生本與女友到深圳旅遊，他無奈表示，遇上示威時與女友好奇停留觀看，他卻被多名內地警察拉走。他苦笑說：「我根本沒有影相，只是我朋友影相。」他拿起手上的手提遊戲機說：「我手上只是遊

戲機，想不到也被拘留。」

來自長春的李先生表示，他剛在香港旅遊完畢，原想經深圳回家，過橋時拍了多張照片，便被深圳執法人員拘留。他表示：「想不到會遇到這事，真無奈。」李先生已自行刪除所拍照片。

3名普通市民在拘留期間，執法人員仔細查閱他們手提電話內的照片，看看有否「違規」照片，其後3人獲發回證件，繼續行程。

記協質疑有預謀 議員斥港警袖手

香港記者會協會表示，對內地邊防無故扣留本港記者近三小時卻未能解釋原因，以及沒收本港記者回鄉證的做法表示遺憾，並批評內地邊防做法是「請君入甕」。本身為資深大律師的立法會議員梁家傑說，若辦事伸張，內地官員便犯下越境執法的問題，又質疑一直在場的香港警員，為何目睹港人被推撞也不伸出援手，做法有問題。

記協主席麥燕庭表示，記協不接受邊防人員越境執法，無論記者當時腳踏在何方邊境，也不應即時拖走記者，此舉令人感到內地邊防一直有預謀，請君入甕，只憑設局拾走記者。她指出，即使記者在禁區內採訪有問題，執法的也應是非法邊境人

員。她不滿內地邊防無故扣留記者，不給予任何解釋，以及沒收回鄉證的做法，記協對此表示遺憾。

梁家傑：推撞足成人身攻擊罪

公民黨梁家傑直言絕不接受內地官員越境執法，因為這是法例所不能容許，又批評他們在香港範圍推撞本報記者，迫使記者進入內地範圍，繼而抬走，這足以構成人身攻擊罪行。梁家傑表示，有本港年輕人敢於到內地，表達不滿內地法院重判劉曉波監禁11年，希望港人切勿抱事不關己、己不涉己的心態，視罷關港人的權利自由為空談。

《明報》聲明

抗議內地人員越境阻撓記者採訪

2009年12月27日下午，明報兩名記者採訪20多名聲援異見人士劉曉波的市民時，於羅湖橋上香港境內，有內地執法人員進入港境內，把其中一名記者推撞至深圳境內，再拘留接近3個小時，至晚上7時後才獲釋放；記者的回鄉卡被沒收，對方未有解釋原因。《明報》對內地執法人員越境阻撓記者採訪表示抗議，並要求特區政府跟進，以保障香港記者的採訪自由。

事緣昨午4時左右，逾20名聲援劉曉波的香港市民，欲到羅湖抗議。示威人士於4時15分左右，行至羅湖橋接近深港兩地的接壤中線時，有10多名內地執法人員一

字排開。當示威人士接近深港分界線，多名深圳警察即上前拉走在場拍攝示威情況的示威者。

同一時間，明報攝影記者葉漢華站在分界線的香港境內採訪，突然，被一名穿著便衣的人士推撞，記者被推過分界線跌入深圳境內，即時有5至6名內地執法人員（包括推撞記者的便衣人員）將攝影記者抬走。

明報另一記者梁偉健上前表明記者身分，亦一併被帶走，二人先被拘留至一房間，然後分開查問，至晚上7時15分左右才獲釋，但對方並沒有解釋原因下，沒收二人的回鄉卡，記者要求取回也不成功。



明報記者葉漢華(左,穿灰衣白褲)在羅湖橋採訪,等候正在深圳方向前進的示威者(右下),當時葉漢華雙腳明顯站在港界(地下銀色界線)內。(示威者提供)



▲示威者行至中線位置,羅湖執法人員即時採取行動,本港記者葉漢華(箭嘴示)在另一邊差不多同時被便衣人員推入深圳境內,被5至6名內地警察抬走。(示威者提供)



◀本報攝影記者葉漢華被推入羅湖橋深圳境內,遭5至6名內地警察抬走,當中包括多名深圳便衣執法人員。(示威者提供)

公安越境阻撓採訪

《明報》兩記者被沒收回鄉卡

【本報訊】內地執法人員不但跨境執法，強行帶走示威者，更連兩名到場採訪的記者及附近三名途經旅客也一併帶走，兩名《明報》記者其後被沒收回鄉卡。《明報》對內地執法人員越境阻撓記者採訪表示抗議，並要求特區政府跟進，以保障香港記者的採訪自由。

被撞過分界線即抬走

內地執法人員跨境執法，連不是參與示威的記者亦不放过，昨午4時許，內地便衣執法人員突然衝入本港範圍，強行把正執行採訪工作的兩名《明報》記者葉漢華及梁偉健帶走，其中葉漢華被箍頸，與其中一名示威者及三名旅客被帶到房間扣留。

兩名記者被沒收手機、身份證及回鄉卡，其後被分開問話。三名旅客一人手上有

相機，一人有手機，餘下一人手持沒有拍攝功能的遊戲機，也被無辜帶走問話。

《明報》昨晚發表題為「抗議內地人員越境阻撓記者採訪」的聲明稱，當時攝影記者葉漢華站在分界線的香港境內採訪，突然被

一名穿着便衣的人士推撞，記者被推過分界線跌入深圳境內，即時有五至六名內地執法人員將他抬走。

聲明稱，另一記者梁偉健上前表明記者身份，亦一併被帶走，二人先被拘留至一房間，然後分開查問，至晚上7時15分左右才獲釋，但二人的回鄉卡均被沒收，對方並沒有解釋原因，記者要求取回卻不成功。

記者協會主席麥燕庭表示，雖然禁區不容許採訪，但記者當時只作為觀察者，內地公安不但未有警告，更越境拉人，絕對不能接受，「佢咁樣做係侵犯咗採訪自由，既然兩個記者唔係犯事，應該要盡快畀番回鄉卡佢哋，畀番出入境自由佢哋。」

立法會議員李卓人直指內地公安的做法離譜，「咁樣做係干預新聞自由，干預正常採訪，應該譴責，同埋盡快發還回鄉卡。」



在羅湖橋中線位置，便衣將其中一名《明報》記者制服按地。

擅自過境違反基本法

兩制何在

圍關網民尚未越過羅湖橋的邊境界線，內地公安已擅自踏進本港境內抓走網民。本身是律師的立法會議員何俊仁批評，公安越境執法涉嫌違反一國兩制原則及《基本法》，但兩地政府可能視此為技術上的小問題，最終不了了之。

《基本法》第22條訂明：「中央人民政府所屬各部門、各省、自治區、直轄市均不得干預香港

特別行政區根據基本法自行管理的事務。」何俊仁指出，條文清楚規定內地政府部門不能在港境內執法。兩地的地界位於羅湖橋中間，兩邊各自隸屬當地政府管轄，雙方不能越界執法。

港警袖手旁觀

何說：「過咗去(公安)就可以請你去，我幾年前都試過一次。呢件事已經唔係本港法例問題，而係一國兩制、《基本法》嘅問題。」

本港警察看見公安越界後袖手旁觀，只呼籲圍關人士「克制」。何俊仁推測，公安可能眼見圍關人士準備越過邊界，因此提早趨前將之制服，但根據《基本法》，公安根本無權這樣做。本港警察理應即時透過保安局與內地交涉，但可能認為只是技術問題而作罷，「如果條界差少少，就唔出聲。可能大家覺得實際有乜分別，你都係行緊過去。事實上係唔啱，佢哋(公安)唔應該咁心急，咁快就拉人。」 本報記者

Twitter 直播闖關過程

轉載力量

「最後一推：三點鐘集合，要準備出門為簽署《零八憲章》圍關投案了。如果平安回來……」北上圍關投案聲援劉曉波的網民昨日透過微博客 Twitter「現場直播」圍關過程，同一時間，大批網民留守電腦螢幕前，追蹤及轉發圍關最新進展。

劉曉波上周五判刑當天，現場有約十名「推友觀光團」，不斷用手機透過 Twitter(推特網)

留言、講述庭外情況。本港網民也透過 Twitter 組織投案行動，他們的個人檔案相片均加上黃絲帶圖案，象徵聲援劉曉波，「投案行動：港獄粉嶺站往羅湖方向，第十二卡車尾集合，準時見！」

今集會聲援劉曉波

昨日下午，有等候消息的網民心急如焚，在 Twitter 留言道：「二小時前有推傳信，現在一直沒有任何消息！沒有手機直播的嗎？」

直至下午4時左右，圍關人士終於透過友人更新訊息，「4:07pm：一行二十一人在香港關口完成過關，正一同前往內地關口……4:51pm：進入羅湖橋，其間內地公安衝入香港境內將四名行動者拉走，當中包括《明報》記者……」

圍關網民晚上召開記者會之後，Twitter 又再熱鬧起來，鋪天蓋地都是動員出席今天尖沙嘴集會的貼文，呼籲網友到場聲援在獄中度过54歲生日的劉曉波。 本報記者



■警搜劉曉波的市民到羅湖口岸「集體投案」，《明報》攝影記者葉漢華被便衣公安強行在羅湖橋中線拖走。



■一名深圳便衣公安(前左)走過邊境線(紅批示)，強行搶走示威者身上的標語(上圖)；便衣公安拉扯時險跌倒，香港警員隨即伸手扶他一把(下圖)。



■插上標語排成直線的示威者，在港警監視下踏上羅湖橋，緩步走向深圳。



■示威者走上羅湖橋，本港警察一度封橋，暫禁旅客前往深圳口岸檢查站。



■四名被公安強行拘捕的港人(左起)曾凌瑛、羅芳宏、秦歷及年僅16歲的學生黃天佑，昨晚獲釋後講述被捕經過。

市民聲援劉曉波闖關被短暫拘留

內地異見人士劉曉波因起草《零八憲章》被判監十一年，本港一群自稱「關注中國民主和維權人士的市民」共二十一人，昨列隊往與深圳羅湖橋闖關，聲稱有份參與草擬《零八憲章》，要求到內地投案，與劉曉波共同進退，結果為首六人被內地公安帶走，包括兩名記者及一名自由攝影師，他們全部在晚上八時半獲釋。

自稱曾草擬《零八憲章》

該二十一人昨約下午三時，乘東鐵經羅湖到深圳，最年輕的是十六歲學生。他們列成一隊縱

隊，背後插着用紙板做的古代犯人「亡命牌」，沿途喊着口號走向羅湖橋彼岸，當最前數人踏入內地邊界時，即被內地公安強行拖走，其中包括三名自稱有份參與草擬《零八憲章》的投案人，以及兩名《明報》記者及一名只有十六歲聲稱是自由攝影師的學生。其中一名被扣留的示威者曾浚瑛說，他們曾經簽署《零八憲章》，希望到內地投案，但內地人員向他們表示，不認識劉曉波，亦不知道什麼是《零八憲章》，扣留他們是因為他們沒有有效證件。他們又指責內地公安越境執法。

《明報》對內地執法人員沒收記者回鄉證及越境阻撓記者採訪表示抗議，並要求特區政府跟進，以保障香港記者的採訪自由。

抗議收記者回鄉證

港府發言人則表示非常關注事件，本港入境處已獲悉事件，並透過駐粵辦向內地當局了解情況及積極跟進事件。

警察公共關係科發言人說，內地執法人員並無跨境執法。記者協會主席麥燕庭表示，不能夠接受有記者在羅湖橋採訪時被扣查。
本報記者

經濟日報

2港記羅湖採訪遭內地扣查

【本報訊】一批往內地聲援劉曉波的港人，在羅湖口岸示威時被帶走，連在場採訪的香港記者亦被帶走問話，6人被邊防扣留接近5小時才獲釋，但記者的回鄉證則被扣起。記協主席麥燕庭表示，記者用觀察身份並無違法，要求內地立即發還兩人回鄉證。

採訪聲援劉曉波港人

據了解，昨往內地聲援劉曉波的市民約有20人，均聲稱曾經簽署《08憲章》。他們以膠帶綁手形式組成人鏈，又高呼「釋放劉曉波」，並在背部插上寫上「簽署08憲章」大牌。

他們在下午3時半打算到內地投案，但正當他們在羅湖口岸打算過關時，就被內地執法人員，強行將當中4人及兩名隨行的《明報》記者帶走。

其中一名被拘留的示威者周諾恒表示，他們被帶走時，在屬於中港邊境的羅湖橋，仍未到達內地管轄區範圍，「我們未到關口，公安已經強行搶人」，他又指，雙方曾經發生推撞，問話期間，又警告示威者不准打電話。

兩名記者及4名示威者，經過接近5小時問話才獲釋，但兩名記者被扣起回鄉證。

入境處發言人表示獲悉事件，已經透過駐粵辦向內地當局了解情況及跟進。

闖關促釋劉曉波 內地一度扣查6港人

【新報訊】21名聲援內地異見人士劉曉波的香港居民，包括部份來自香港大專院校的學生，昨日下午企圖經羅湖到內地投案，因他們都曾經簽署由劉曉波起草的《零八憲章》。其中4名香港居民及2名隨行採訪的《明報》記者被當局扣留，6人在晚上全部獲釋。有人獲釋後表示，在扣留期間遭執法人員使用暴力。

突越過羅湖橋帶走6人

香港入境處表示獲悉有香港居民被內地當局扣留的事件，並已經透過駐粵辦向內地當局了解情況及跟進事件。21名香港居民昨日下午3時30分，在香港羅湖口岸用膠帶綁着手組成人鏈，高叫釋放劉曉波的口號。當他們準備進入內地邊境前，示威人士聲稱，有內地執法人員突然越過羅湖橋，將其中4名人士及2名隨行採訪的《明報》邊境線記者帶走。

記協主席麥燕庭昨表示，記協不能夠接受有記者在羅湖橋採訪時被扣查，她相信記者當時只是在旁觀察，沒有違反法例。

《明報》夜發聲明抗議

有份過關「投案」的余一心表示，當時過關情況非常混亂，在羅湖橋上，已有不少便衣公安人員戒備。余稱有公安上前拉扯帶走仍在香港境內，走得最前的4名成員及兩名記者。而《明報》深夜則發表聲明指出，對有內地執法人員越境阻撓香港記者進行採訪，表示抗議。聲明要求特區政府跟進事件，以保障香港記者的採訪自由。聲明又指兩名記者回鄉證被扣起，至今未解釋原因。

前日稱「沒有」 昨日說「沒見」 內地越境執法 港警口風急轉

【明報專訊】就前日有示威者和《明報》記者在羅湖橋被內地執法人員越境執法扣留，香港警方前晚回應指「據了解，內地執法人員並沒有跨境執法」，警方發言人昨日澄清：前線執法人員當時「沒有看到」穿制服的內地執法人員越過分界線進入港境，也無注意到是否有穿便裝的內地人員越境辦事，但對《明報》記者稱被內地便衣執法人員推撞過中界線後扣留，警方不表示異議。香港記者協會直指警方態度迅速轉變，在場不可能無警員看到事件。

有立法會議員要求翻看入境處的錄影帶，並要求保安局長李少光交代事件（見另稿）。

記協：足證警方知道發生何事

記協主席麥燕庭昨日表示，前日已向警方詢問，內地執法人員是否有越境執法，警方回覆明確表示「沒有」，但昨天發現有報章拍到照片，警方態度即轉變，「證明他們知道發生什麼事」，在場警員衆多，亦不可能無人看到事件。

警方前晚回應傳媒查詢時，指「據了解，內地執法人員並沒有跨境執法」，但警察公共關係科總警司吳家聲昨日傍晚分別接受本報及商業電台節目《左右大局》查詢時，作出進一步解說指，前晚的回應是向前線執法人員查詢及翻看錄影帶後作出的，意思是前線人員「沒有看到」有內地執法人員越境執法。

被問及「看不到不代表沒有發生」，吳家聲回應

稱，昨日已會見羅湖禁區負責同事，得知他們位置接近事發地方，但現場相當多人，情況混亂，確實看不到有內地公安越境拉人。

便衣推記者過境說法「不表異議」

他又向本報說，值勤警員的注意力又集中在示威者身上，沒有特別留意站在一旁拍攝的《明報》記者葉漢華，對於他如何越過中界線進入內地被拘，並不清楚，入境處和警方的錄像並未能清楚顯示這個過程。

對於《明報》昨天A3版刊出葉漢華被強行帶走的圖片，清楚顯示一名穿啡色外套的便衣男子聯同內地穿制服的公安人員一起對付香港記者，吳家聲表示不清楚這名便衣男子的身分，無從分辨他是否內地執法人員。但對於葉漢華指被內地人員推至內地境內然後被抬走，警方不表示異議。

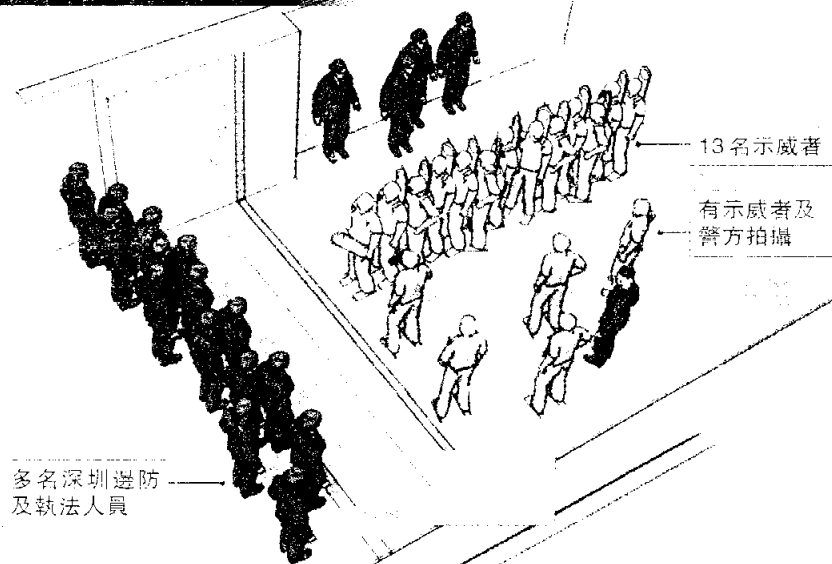
至於《蘋果日報》昨天頭版刊出一幀圖片，清楚顯示一名穿深色外套便衣男子站在港方界線內搶奪香港示威者的標語牌，另一幀圖片更顯示該便衣男子站立不穩，站於其後的香港警員伸手相扶。吳家聲承認，從便衣男子站立位置就在香港警員面前，可合理推斷該男子位處香港境內，他本人亦問過伸手相扶的警員，得悉該警員看到圖片後才記起曾下意識伸手去扶，但當時沒注意這男子的舉動有特別，不覺得他是在執法，也無從辨別該男子的身分是否內地執法人員。

警方關注事件 將向內地了解

吳續稱，鑑於本港傳媒指內地便衣執法人員越境執法，香港警方十分關注，會向內地有關部門了解情況，避免日後發生同類爭議。

吳家聲強調，羅湖橋屬禁區範圍，根據公安條例，任何人到該處集會或示威須事先取得批准，只有過境旅客獲豁免。至於內地與香港的分界線，國務院令221號清楚界定，中界線為深圳河的中界，對應羅湖橋內位置，就是有銀色鐵閘和路軌的線，香港和內地執法人員對這條線非常明白，港方不會過去，內地一方也不會過來。據前線警員所見，前天示威者走近中界線時，站得最前的3至4人確實過了中界線，引發內地公安採取執法行動。

1 羅湖橋示威遊行



13名示威者

有示威者及
警方拍攝

多名深圳邊防
及執法人員

2 內地人員越境執法

一便衣人員越境搶走示威者
身上標語，一名港警曾扶該
便衣一員一下

港警

4名示威者
被捕



一名懷疑內地便衣執
法人員(箭嘴示)，前
日明顯走過邊境線(紅
線示)拔去示威者背後
的標語

(《蘋果日報》提供)

昨日警方回應

發言人承認，從便衣
男子站立位置就在香
港警員面前，可合理
推斷該男子位處香港
境內



該懷疑內地便衣執法
人員在港境內搶去示
威者的標語時，疑於
推撞間失重心後退，
在旁警員出手相扶

(《蘋果日報》提供)

昨日警方回應

該警員昨看到圖片
後，才記起曾下意識
伸手去扶，但無注意
到這男子的舉動有特
別



昨日警方回應

記者所見羅湖橋上便衣行動： 越境搶標語 強拉人過界

特稿

事發當日，本報記者及攝影記者隨同示威者抵達香港羅湖車站免稅店，部份示威者互相在雙手繫上膠索帶，一個跟一個串成人鏈前行，多名示威者背上更插上抗議標語，有如待處決犯人示眾的「亡命牌」。警方發出警告後，人鏈開始以極慢速度緩緩踏足羅湖橋。當時本港警方派出軍裝人員築成人鏈，以左右兩個縱隊將示威人龍夾在中間，把旅客與示威者分隔開。羅湖橋上另有本港軍裝及便裝人員監視及錄影整個過程。

本報記者當時靠近羅湖橋右邊位置，緊隨示威

者的人龍，混雜在被警員分隔開的旅客當中。記者看見深圳境內已有制服人員一字排開嚴陣以待，一批便裝人員更站到橋上邊境線大崗位置。

藍帽子伸手扶便衣

此時，緩緩前進的示威人龍突然停下來，並沒有越過邊境線。瞬間，即看見幾名便衣人員從深圳方向衝過港境，有人連續拔走人鏈最前方幾名示威者身上的抗議標語，他們企圖拔走人鏈第六與七名示威者的標語時，混亂中該名男子險往後跌倒，一名站在旁邊的藍帽子警員，隨即伸出左手扶他一把。該名男子隨即拿着搶來的標語，走向深圳方向。

本報攝影記者當時則站在羅湖橋往深圳口岸左邊拍攝，從另一角度看見多名便衣人員衝過港境，拔走示威者身上示威標語，更強行將幾名示威者拉過邊境線進入深圳境內。電光石火之間，聽見左邊一陣嘈雜聲，啪的一聲，看見有人被推倒地上，並有雜物墮地的聲音。

本報攝影記者的鏡頭從右邊示威者方向轉向左邊深圳口岸，已看見有內地制服人員強行把被捕者推進隱藏角落，不確定是不是屬間。回頭拍攝示威者時，已看見香港警方把示威者以鐵碼分隔到橋的右邊。當時仍有內地便衣人員越界拍攝被分隔開的示威者。

本報記者

警反指採訪記者違法

【本報訊】《明報》兩名記者被內地執法人員越境拘捕，警方昨日辯稱沒有看見有制服人員越境執法。警方反指當日在羅湖橋採訪的記者也涉嫌違法，因為他們並非過境，又沒有申請禁區紙。立法會議員及人權監察組織認為，記者擔綱着見證事態的任務，不應被檢控。

警察公共關係科總警司吳家聲昨日在香港電台節目《千禧年代》回應《明報》記者被捕事件時說，警方維持原先立場，據了解，沒有內地人員越過分界線進入港境執法：「嘅日（前日）

《明報》有幾位同事來到同我哋討論，大家交換意見，我話唔想同大家爭議。」

議員：第三者不涉刑事

吳家聲反指記者進入羅湖橋採訪，應該申請禁區紙，並呼籲傳媒今後往該處採訪，應循正常程序申請。由於當日無記者申請禁區紙，警方會根據一貫做法，有需要時交由律政司研究。

立法會議員涂謹申指出，記者是客觀第三者，不應牽涉入刑事起訴，「被捕嘅記者最慘，

因為佢哋只係想喺現場採訪。就算喺內地，警察都唔可以咁樣對待記者，但係內地執法人員係咁，拉咗先算。」人權監察總幹事羅沃啟也認為，記者突然收到邊境出現突發事故，前往採訪，不應算是違法。

《明報》兩名記者當日被捕後，連同回鄉證也遭沒收，至今未知會否獲發還。本報致電《明報》總編輯張健波查詢，接線的女士表示他不會再就事件回應。據悉，兩名記者將私下再申請回鄉證，不會透過《明報》進行交涉。



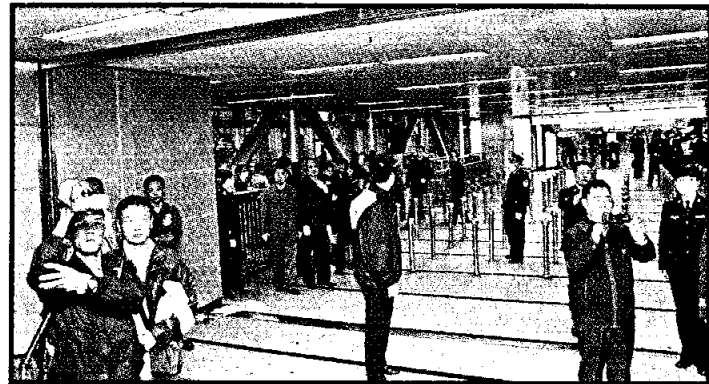
■排在示威隊伍第三位的泰歷(戴圍巾者)，指當時自己並未越界，但已遭便衣人員強行拉過深圳境。



深圳境

邊境分界線

香港境



■本港警方衝鋒隊成員(左)與內地便衣人員(右)，當日在邊境線兩邊分別進行攝錄。

■另一名便衣人員越界拔走示威者的紙牌，警方稱不清楚他是誰。一名港警有意識地伸手扶着該名便衣人員。



深圳境

邊境分界線

香港境

羅湖橋投案事件爭議

警方回應	示威者回應
<ul style="list-style-type: none"> • 有一位警務人員看到有數位涉案人士已過界，但看不見有對方人員站過界 	<ul style="list-style-type: none"> • 排示威隊伍第三位的泰歷相信自己並未越界
<ul style="list-style-type: none"> • 不會容許有人越境執法，有便衣人員拔走投案人士的紙牌及拉扯他們，警方不清楚他是誰 	<ul style="list-style-type: none"> • 警方明明是有意識的扶着該名便衣，一個人從界線對面走過來，如果警方不清楚他的來歷，又怎會這樣做？
<ul style="list-style-type: none"> • 涉案人士不是過境旅客，進入禁區，沒有申請禁區紙。警方會徵詢律政司意見，如何跟進 	<ul style="list-style-type: none"> • 進入羅湖橋目的確為過境投案，但當有四人被公安越境拘捕，其餘人士需時研究對策，並非刻意在禁區停留
<ul style="list-style-type: none"> • 羅湖橋是禁區，每日有數以萬計人使用，涉案人士造成不便 	<ul style="list-style-type: none"> • 當時示威者以人龍方式前行，尚有很多空間給其他旅客行走，反而警方截停旅客造成阻礙

資料來源：警察公共關係科、示威者

羅湖橋示威 警查是否違法

逾二十名示威人士日前在羅湖口岸示威，抗議內地異見人士劉曉波判囚十一年時，警方昨日表示會蒐集證據，調查示威者在羅湖橋上示威有否構成違法進入禁區，而事件日前已交由律政司跟進。警方指，見到有四名示威人士走入中方邊界，但看不到有內地執法人員進入本港境內執法。泛民主派議員則表示會追究懷疑中方便衣人員跨境執法問題。

未見內地人員跨境執法

對於有指一名身穿便衣懷疑是內地執法人員進入本港境內，將到場記者及示威者推到中方境內，在混亂期間曾站不穩，本港警員伸手相扶。警察公共關係科總警司吳家聲表示，該名警員承認曾相扶該名男子，但無注意他的身分，亦不覺得他在執法。他強調，並無看見內地執法人員跨

境執法，認為當日執勤人員並無失職。

他強調，由於羅湖橋屬禁區範圍，任何人到該處示威須事先申請「禁區紙」，但當日在場人士並無禁區紙；他指警方當日即時向他們兩次發出口頭警告，指明示威者若非過境，須事先申請禁區紙才能進入羅湖橋，而示威者堅持正過境投案。

他強調，羅湖口岸是過境禁區，並非示威地方，若有市民停留羅湖橋示威，警方將視乎證據，有需要時會執法。他說，警方將蒐集證據調查，而事件亦已交由律政司跟進。據了解，當日示威者並無攜帶回鄉證。泛民主派議員已表明會就跨境執法問題在立法會內作出跟進，民主黨主席何俊仁昨日就向立法會主席曾鈺成提出，要求進行休會辯論，他指責事件違反《基本法》規定及一國兩制的原則。

大公報

香港商報

示威者闖禁區示威 警方研究會否檢控

【本報訊】警察公共關係科總警司吳家聲昨日在電台節目上，回應有人聲稱內地執法人員越境執法一事。他說翻查當日的錄影片段後，並無看到有內地執法人員越境「拉人」，當日執勤的警員亦無失職。他又表示，羅湖橋屬禁區範圍，十多名示威者並無申請「禁區紙」，可能構成非法進入禁區。

本月二十七日，二十多名示威者在當日有羅湖橋抗議。吳家聲表示，羅湖橋屬禁區範圍，根據法律，只有旅客才可進入羅湖禁區，有其他目的的人士到羅湖橋示威須事先申請「禁區紙」，但當日在場人士並無「禁區紙」，警方不排除檢控他們非法進入禁區。警方亦曾向示威者發出兩次口頭警告，他們聲稱為旅客，故警方沒有阻止他們。警方現正就是否檢控示威人士徵詢律政司意見。

吳家聲表示，翻查當日的錄影片段，在場警員看見站在前面的四名示威人士，走入羅湖邊界，其後被內地執法人員帶走，隨後數名示威者退回本港邊界內。他說，在錄影片段中並無看到有內地執法人員越境「拉人」，本港警方曾就此事查問有關的邊境警員，但站在最前的警員稱當時情況混亂，「在混亂期間，意識到有人站不穩，伸手托一托，沒有留意對方是否執法人員，亦不覺得正在執法」。

警方否認內地越境執法

【商報專訊】記者戴合聲報道：日前有示威者在羅湖橋聲援內地異見人士劉曉波時，有報道指，懷疑有內地執法人員越境執法。警察公共關係科總警司吳家聲昨天在電台節目中表示，羅湖橋屬禁區範圍，任何人到該處示威均須事先申請「禁區紙」，但當日在場的十多名示威者及記者並無「禁區紙」，警方即時向他們發出口頭警告，並將事件交律政司跟進。

吳家聲又說，當日在場的警員，見到站在前面的4名示威人士走入中方邊界，其後被中方人員帶走，但見不到有內地執法人員越境執法。

另外，國務院新聞辦主任王晨在記者會上說，今後將繼續以開放的姿態歡迎港澳傳媒赴內地採訪，盡量多給大家提供一些信息。同時，也希望港澳記者，在積極採訪的同時注意遵守內地相關的法律法規，特別是對突發事件的採訪一定要聽從當地新聞管理部門的安排，依法依規，注意安全。

**Council questions raised by Members relating to
allegations of Mainland law enforcement officers
taking enforcement actions in Hong Kong**

Council meeting on 9 May 2001

At the Council meeting on 9 May 2001, Hon LAU Kong-wah asked a written question on law enforcement officers of the Mainland and Hong Kong carrying out cross-border duties. The question and the reply are available at <http://www.legco.gov.hk/yr00-01/english/counmtg/hansard/010509fe.pdf>.

Council meeting on 15 October 2003

2. At the Council meeting on 15 October 2003, Hon LAU Kong-wah asked a written question on Mainland customs officers taking law enforcement actions within Hong Kong waters. The question and the reply are available at <http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm1015ti-translate-e.pdf>.