

Legislative Council Question No. 6

(Oral Reply)

Asked by: Hon WONG Yuk-man

Date of Sitting: 10 November 2010

Replied by: Secretary for Security

Question:

It was reported that when the League of Social Democrats and more than one hundred members of the public marched to the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region ("the Liaison Office") on 1 October this year to stage a demonstration and shouted slogans such as "without vindicating the 4 June incident, there remain only sorrows of our country" and "without letting the people be their own masters, there be no National Day", etc., demanding that political power be returned to the people and patriotic dissidents such as LIU Xiaobo be released, the Police suppressed their freedom of expression and abused the use of pepper spray on the demonstrators. Moreover, it was also reported that the demonstrators carried a coffin with the words "the people's heroes will remain immortal, the butcher regime will be cursed forever" written on it on the day of the demonstration, the size of the coffin was only one foot by four and a half feet after removal of the supporting bamboo beam, and the Police stopped the demonstrators from carrying the coffin to pass by the Liaison Office on grounds that the coffin was a "bulky item" and "may affect public safety", etc. In this connection, will the Government inform this Council:

- (a) of the justifications for the Police to state that the aforesaid coffin was a "bulky item" and "may affect public safety"; why the Police still refused to allow the demonstrators to carry the coffin and pass by the Liaison Office after they had removed the bamboo beam which supported the coffin; whether it was because of the slogan of "the people's heroes will remain immortal, the butcher regime will be cursed forever" on the coffin that the Police stopped the demonstrators from carrying the coffin to pass by the Liaison Office;
- (b) given that it was reported that after the coffin was forcefully taken away by the Police, the demonstrators had indicated that they would peacefully disperse if they could protest at the front gate of the Liaison Office as planned, but the Police indicated that "the demonstration items have to be put down before the demonstrators can pass by the front gate of the

Liaison Office”, on which legislation the Police have based in giving the aforesaid direction; whether it has assessed if the actions taken by the Police were contrary to the provisions relating to protection of freedom of expression under the Basic Law and the Hong Kong Bill of Rights Ordinance; if an assessment has been conducted, of the outcome; and

- (c) given that it was reported that the Police abused the use of pepper spray on the aforesaid demonstrators right after raising for only one minute a warning notice without content, and had injured one cameraman from a television station, several police officers and demonstrators, of the justifications for the Police to use pepper spray?

Reply:

President,

The SAR Government respects the rights of the public to peaceful assemblies and processions and to express their views. The Police have to strike a balance to reduce the impact of large-scale public assemblies and processions on other people or road users, and at the same time to ensure public safety and public order. In other words, while the Police would facilitate the expression of views by participants of processions, they also have the responsibility to maintain public order and ensure the rights and safety of other people in using public places or roads. Participants of public meetings or processions, in exercising their freedom of expression, should, under the premise of observing the Hong Kong law and without affecting public order, proceed in a peaceful and orderly manner. As the event referred to in the question involves a criminal case which is under investigation, I will not comment on the case in detail.

My consolidated reply to the three parts of the question is as follows.

Under the Public Order Ordinance (Cap. 245), the Commissioner of Police (CP) will carefully examine each case. CP may impose condition(s) on a notified public meeting or procession as reasonably necessary to ensure public order and public safety. Conditions imposed on a public meeting or procession may include restrictions on demonstration objects. The Police will communicate with the organiser prior to the event on the detailed arrangements including any demonstration objects the organiser intends to bring during the event. Based on the principle of facilitating the expression of views by participants of processions, the Police will try to accommodate requests from event organisers concerning the use of demonstration objects as far as

practicable. At the same time, subject to the arrangements proposed by the organiser as well as physical restrictions of the venue or the demonstration objects, the Police will discuss with the organiser the arrangements of the objects concerned and set them out as conditions in the “letter of no objection” if necessary. The organiser may lodge an appeal to the statutory Appeal Board on Public Meetings and Processions (the Appeal Board) if he / she considers that the conditions imposed by the Police are unreasonable. The Appeal Board will consider and rule on the appeal independently and objectively. Otherwise, the organiser should conduct the public meeting or procession in accordance with the conditions or requirements set out in the “letter of no objection”.

During the course of public events, the Police will, in accordance with the “letter of no objection”, facilitate the events to be conducted under peaceful and orderly circumstances on one hand, and ensure that such events will not jeopardise public order and the safety of people at scene as well as the general public. The Field Commander will make assessment according to the circumstances under which the protests are taking place. If any demonstration objects carried along or used by protestors are found to be without prior notification, or not in compliance with the conditions set out in the “letter of no objection”, and the progression of the event may pose a potential risk to the safety of the persons at scene due to the on-site conditions (e.g. a narrow road with many pedestrians or vehicles), the Police will liaise directly with the organiser/persons concerned and make suitable suggestions and arrangements.

As mentioned above, if any participant carries along demonstration objects without advance notification, or not in compliance with the conditions set out in the “letter of no objection”, the Field Commander will make a professional assessment taking into account the objects, the number of people at scene, as well as the traffic and pedestrian conditions nearby, and decide whether to intervene or to liaise with the person concerned for an acceptable arrangement. In making the decision, the Police have to strike a balance between facilitating expression of views by participants and safeguarding public safety.

According to my understanding, the Police had set out the restriction on demonstration objects clearly in the “letter of no objection” which was issued to the organiser prior to the event referred to in the question, and communicated with the organizer on the conditions set out in the “letter of no objection”. During the event, the Police requested the organiser to conduct the public event in a safe and orderly manner in accordance with the conditions set out in the “letter of no objection”.

The question also touches on the justifications for the discharge of Oleoresin Capsicum (OC) Foam by the Police. The Police respect all peaceful and lawful forms of self-expression. However, no violence and disorder at public assembly and procession which constitute criminal acts or threaten public safety and public order will be tolerated. The Police will deal with such situations in a professional and resolute manner in order to protect the wider interests of society. When participants of public meetings or processions start crushing the police defence line by using violence, and after exhausting practicable options to stop the use of violence, police officers are still unable to control the protestors' active aggression, the police may resort to the use of OC Foam to defend attack from protestors, or to prevent protestors from charging the police cordon line. On each of the occasions when OC Foam is used, the relevant officers shall give verbal warning first if circumstances permit. According to my understanding, in the operation referred to in the question, police officers had given multiple verbal warnings before OC Form was used.