

立法會
Legislative Council

LC Paper No. CB(2)1302/11-12
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by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of special meeting
held on Saturday, 12 November 2011, at 9:00 am
in Conference Room 1 of the Legislative Council Complex

Members present : Hon James TO Kun-sun (Chairman)
Hon LAU Kong-wah, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Dr Hon Philip WONG Yu-hong, GBS
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Hak-kan
Dr Hon PAN Pey-chyou
Hon LEUNG Kwok-hung
Hon WONG Yuk-man

Members absent : Hon WONG Yung-kan, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon CHIM Pui-chung
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Paul TSE Wai-chun, JP

**Public Officers : Item I
attending**

The Administration

Mrs Millie NG
Principal Assistant Secretary for Security

Mr Albert CHEUK
Regional Commander (Hong Kong Island)
Hong Kong Police Force

Mr Oscar KWOK
District Commander (Central)
Hong Kong Police Force

Miss Helen TANG
Deputy Director of Administration 1
Chief Secretary for Administration's Office

Mrs Vivian TAM
Principal Executive Officer (Adm)
Chief Secretary for Administration's Office

Mr Sunny SAN Tze-kin
Chief Inspector (Ops 2) (Central District)
Hong Kong Police Force

Ms Petrina LAI Yin-yue
Chief Inspector (Ops) (HK Island Regional HQ)
Hong Kong Police Force

**Attendance : Item I
by invitation**

Hong Kong Christian Institute

Mr Andrew SHUM Wai-nam
Programme Secretary (Social Concern)

Hong Kong Human Rights Monitor

Mr KWOK Hiu-chung
Officer

Civil Human Rights Front

Mr LAI Yan-ho
Convenor

Clerk in attendance : Mr Raymond LAM
Chief Council Secretary (2) 1

Staff in attendance : Ms Connie FUNG
Senior Assistant Legal Adviser 1

Ms Rita LAI
Senior Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Handling of public meetings and public processions relating to the Central Government Complex
(LC Paper No. CB(2)219/11-12(01) and FS02/11-12)

At the invitation of the Chairman, Principal Assistant Secretary for Security ("PAS(S)") briefed members on the Police's handling of public meetings and public processions relating to the new Central Government Offices ("CGO") as outlined in the Administration's paper. With the aid of powerpoint presentation, Regional Commander (Hong Kong Island) of the Hong Kong Police Force ("RC(HKI)") presented the principles adopted by the Police, which aimed at striking a balance among upholding the right of expression, ensuring public safety and public order, and minimizing the inconvenience to members of the public.

(Post-meeting note: The softcopy of the powerpoint presentation materials was issued to members vide LC Paper No. CB(2)304/11-12(01) on 14 November 2011.)

2. The Chairman sought information on the controversies and disputes between the Police and organizers of public processions where the routes ended at CGO.

3. In response, RC(HKI) referred members to a possible public procession route from the Police Headquarters to the new CGO via the footbridge at Harcourt Garden to Fenwick Pier Street, which was

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commonly known as the Arts Performing Footbridge ("the Footbridge"). He said that organizers of different processions had different views on the use of the Footbridge. According to experience, it was difficult to work out a route suitable for all types of public processions. It would to a large extent depend on the composition of participants, the views to be expressed and the objects carried by participants during the processions. RC(HKI) pointed out that it would be highly risky to implement road diversion on highways such as Harcourt Road suddenly during processions.

4. The Chairman reminded the deputations attending the meeting that they were not protected by the privileges and immunities provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) when addressing the Panel.

Views of deputations

Hong Kong Christian Institute
[LC Paper No. CB(2)255/11-12(01)]

5. Mr Andrew SHUM Wai-nam presented the views of Hong Kong Christian Institute ("HKCI") as detailed in the submission.

Hong Kong Human Rights Monitor
[LC Paper No. CB(2)255/11-12(02)]

6. Mr KWOK Hiu-chung presented the views of Hong Kong Human Rights Monitor ("HKHRM") as detailed in the submission.

Civil Human Rights Front
[LC Paper No. CB(2)289/11-12(01)]

7. Mr LAI Yan-ho presented the views of Civil Human Rights Front ("CHRF") as detailed in the submission.

Discussion

8. In response to the views expressed by the deputations, PAS(S) stressed that the Police respected people's right of expression and its policy was to facilitate the conduct of public meetings and processions in a peaceful, orderly and safe manner. She informed members that on average the Police had to handle about 15 public meetings and processions each day and most of them had been conducted in a peaceful manner. Measures taken by the Police aimed to protect public safety and

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public order and also to minimize inconvenience caused to the road users and members of the public. The Police had no intention to obstruct demonstrators from expressing their views. For some of the public processions to CGO in the past two months, the Police had implemented road closure to facilitate the conduct of public processions. However, it would be undesirable to hold up the traffic of trunk road to an extent that other road users and members of the public would be seriously affected.

9. RC(HKI) advised that the Police had always been respecting people's right of expression. The needs of demonstrators with disabilities had been taken into consideration in the formulation of the route for a public procession scheduled for late November 2011 in which persons with disabilities would be allowed to use the carriageway. RC(HKI) stressed that the Police would implement road closure only when it was necessary so as to minimize the inconvenience caused to road users and other members of the public.

Public procession to CGO

10. Ms Emily LAU said that it was the responsibility of the Police to facilitate the conduct of public meetings and processions in an efficient and peaceful manner. She considered that -

- (a) the use of the Footbridge had to be avoided for public procession routes to CGO as there were different participants, including the elderly and the disabled;
- (b) the Police should temporarily implement road closure to allow demonstrators to go to CGO by crossing Harcourt Road; and
- (c) it was important for the Police to liaise with organizers of public processions and agree on the procession routes beforehand so as to ensure that the public processions would be conducted in a peaceful manner.

11. Referring to the public procession on 24 September 2011, RC(HKI) informed members that the Police had communicated with the organizer in advance. However, the behaviours of some participants were beyond control of the organizer and there were deviations from what had been agreed upon previously. He reiterated that the Police had no intention to restrict freedom of expression. However, it had to ensure that the processions were conducted in a peaceful, safe, rational and non-violent manner. Whether the Footbridge should be used in public processions

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would depend on the composition of the participants and the agreement of organizers to adopt relevant measures to reduce the risks involved. If the organizers refuse to use the Footbridge in public processions, the Police would discuss with them to explore alternative routes to facilitate processions to the CGO. Regarding the implementation of road closure, he told members that the Police had to use considerable time to stop the vehicular traffic well before the arrival of the procession and the duration of road closure would depend on the speed of the procession. The Police's policy was to minimize inconvenience caused to members of the public.

12. Ms Emily LAU queried why the Police did not allow demonstrators to go to CGO by crossing Harcourt Road. RC(HKI) explained that the speed of the traffic on Harcourt Road was very high and it would be risky to stop the vehicular traffic without prior arrangement. There was discussion on spot between the Police and the organizer and a section of Harcourt Road had been closed temporarily for use by demonstrators on that day.

13. The Deputy Chairman considered it crucial for the Police to communicate with the organizers concerned before public processions were held. He considered it important to strike a balance between the right to hold demonstrations and public safety. While it was understandable that demonstrations were aimed at attracting the attention of the public, organizers of public processions should note that it was the responsibility of the Police to maintain public safety. He considered that -

- (a) the restraint demonstrated by the Police when maintaining public safety and facing confrontation during public processions was remarkable. There were some views that the Police had to act decisively in accordance with the law as appropriate when some people breached the law deliberately; and
- (b) there were circumstances under which organizers might not be able to control the participants and a small number of demonstrators might act violently. Organizers should consider how this could be avoided.

14. Given that organizing public processions was no easy task for the small organizers, Mr CHEUNG Man-kwong held the view that it was important for the Police to understand the mentality of the protestors when expressing their grievances. It was believed that the objective of most of the participants was to express views in a peaceful manner

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though there might be a small group of demonstrators who were very agitated. He added that the restrictions imposed by the Police on the procession route, such as converging three lanes into one lane, could cause confrontation. It was crucial to ensure the steady flow of a public procession. Modifications should be made to procession routes as necessary. He disagreed with the view that road closure could not be implemented on Harcourt Road because of its heavy traffic. The Police had to liaise with organizers of public processions and come up with compromises.

15. Ms Cyd HO held the view that it was the responsibility of the Police to facilitate expression of views by members of the public. It would be impossible for the disabled or the elderly to use the Footbridge as there were flights of steps. It was necessary to ensure that demonstrators should be allowed to walk on level ground all the way to CGO. Ms Audrey EU and Ms Emily LAU shared a similar view.

16. Ms Cyd HO pointed out that the recent opening of Lung Wui Road had facilitated the east-bound traffic along the waterfront and had alleviated the pressure on Gloucester Road. With appropriate road closure and diversion, she suggested allowing demonstrators to make use of the vehicular exit of Arsenal Street to cross Harcourt Road and proceed to CGO.

17. In response, RC(HKI) said that while the opening of Lung Wo Road had alleviated the traffic in Central, however the traffic on Harcourt Road and Gloucester Road coming from the Peak and the mid-levels should also be taken into consideration. Crossing the Gloucester Road which was a trunk road would also increase the risk to demonstrators. Ms Cyd HO requested the Administration to provide a written response to the suggestion.

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18. Mr Andrew SHUM reiterated that participants of public meetings and public processions were exercising their civil rights to express their views. He considered that the Police should consider allowing demonstrators to cross Gloucester Road and proceed to CGO.

19. Mr KWOK Hiu-chung pointed out that it was a constitutional right of people to participate in public meetings and public processions. The Police should facilitate the conduct of these activities. The public procession routes should not be confined to those suggested by the Police.

20. Referring to the public procession on 24 September 2011, Mr LAI Yan-ho said that the Police should handle public processions

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flexibly. He was of the view that the Police should have arranged route diversion. The Chairman requested the Administration to provide a written response to the recommendation of CHRF for making use of Cotton Tree Drive for public procession routes to CGO.

21. RC(HKI) advised that the suggestion of using Cotton Tree Drive to CGO had been considered in the discussion with organizers of public processions previously. The Police was concerned about the important role of Cotton Tree Drive as the major node for traffic to and from different areas of Hong Kong Island and the fact that many public buses went through Cotton Tree Drive. A balance had to be struck between the interests of different parties and the minimization of inconvenience.

22. RC(HKI) disagreed with the view that the Police was inflexible in handling the public procession. He advised that after on site negotiation with the organizers on 24 September 2011, half of the demonstrators were facilitated to make use of the pavement and half of the demonstrators had made use of half of the left lane of Harcourt Road before proceeding to the Footbridge.

23. Ms Emily LAU commented that it was very undesirable for the demonstrators using three lanes on Hennessy Road to be forced into one lane in Arsenal Street. RC(HKI) pointed out that Police had made flexible arrangements in handling the public procession according to the circumstances despite the fact that public procession routes had been mutually agreed with organizers.

24. Mr LEUNG Kwok-hung said that demonstrators in Europe were not allowed to go near the pavement but it was just the opposite in Hong Kong. He considered that although demonstrators in Hong Kong were very disciplined and peaceful, they were required to share the pavement with other road users and this might cause accidents. Mr LEUNG held the view that the use of vehicular lanes for public processions could ensure the smooth flow of demonstrators and cause less congestion on pavements.

25. Noting that there were occasions on which the Police and the organizers could not agree on the procession routes, Ms Emily LAU invited the suggestions of the deputations on resolving the issue.

26. Mr Andrew SHUM pointed out that traffic condition had frequently been used by the Police as a reason for hindering public processions. Referring to the public procession to the new CGO on 24 September 2011, he said that a long meeting had been held with the

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Police on the subject. He was of the view that participation in public processions was a civil right and it should not be necessary to obtain a letter of no objection from the Police. Mr LEUNG Kwok-hung shared a similar view. Mr SHUM supplemented that there were occasions that organizers of public processions did not make the application but only informed the Police in advance and the public processions had taken place peacefully.

27. Mr LEUNG Kwok-hung held the view that the Administration should not impose unnecessary restrictions, including that on the number of participants. The Chairman asked whether public processions with participants more than the estimated number would be treated as an unlawful public procession by the Police.

28. RC(HKI) advised that the Police had always acted in accordance with the law. The application for notification of no objection could facilitate communication between the Police and organizers before public processions took place. He said that a public procession would normally not be regarded as unlawful assembly if the actual number of participants exceeded the original estimate.

29. Mr LEUNG Kwok-hung queried the display of a warning sign on 24 September 2011 when demonstrators proceeded from Arsenal Street to Harcourt Road. Mr LAI Yan-ho pointed out that the display of a warning sign had irritated the participants. The Chairman requested the Administration to provide a written response regarding the display of a warning sign on the public procession on 24 September 2011.

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Principles for handling public meetings and processions

30. Referring to the principles for handling public meetings and processions in the powerpoint presentation materials, the Chairman held the view that one of the principles should be the protection of peoples' right of expression rather than respect for peoples' right of expression. The Chairman considered it inappropriate to make reference to the principles recommended by Mr Justice Bokhary as they were made with reference to the Lan Kwai Fong incident in 1993 which was different from the case of a public meeting or procession. He queried whether such a principle was adopted in overseas countries.

31. Ms Audrey EU expressed disappointment that reference had not been made by the Police to the principles referred to by the Court of Final Appeal in respect of handling public meetings and processions. These included the responsibility of the Police to provide assistance to

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demonstrators. She requested the Police to provide information on procession routes from various points to CGO which would not make use of footbridges.

32. In response, PAS(S) reiterated the importance of striking a balance among the three principles referred to in the powerpoint presentation materials, i.e. respecting people's right of expression, protecting public safety and public order and minimizing the disruption to the public. She advised that the Police had been acting in compliance with the ruling of the Court of Final Appeal that the Police should take reasonable and appropriate measures to assist lawful meetings and processions to take place peacefully. She informed members that the principles recommended by Mr Justice Bokhary were not confined to incidents such as the Lan Kwai Fong incident but also applied to public meetings.

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33. RC(HKI) supplemented that the recommendations of Mr Justice Bokhary had been adopted since 1993. The measures adopted were to ensure public safety. Internal guidelines with emphasis on proportionality and reasonableness had been provided to frontline police officers handling public meetings and public processions. The Chairman requested the Administration to provide a copy of the Police's internal guidelines on handling of public meetings and public processions. Mr KWOK Hiu-chung added that the Police should consider making public its internal guidelines on the handling of public meetings and public processions for reference by members of the public.

34. Given the different nature of different public processions, Mr CHEUNG Man-kwong queried why the Police applied the principles recommended by Mr Justice Bokhary in respect of avoiding the assembly of a large group of people at one point. He said that it was important to maintain the smooth flow of a public procession to allow demonstrators to submit petition letters.

35. RC(HKI) advised that the principles recommended by Mr Justice Bokhary focussed on crowd control and could apply to public processions, in particular when the procession involved a great number of demonstrators.

36. Mr CHEUNG Man-kwong was of the view that if there were more than 10 000 demonstrators, there was a need for the Police to stop the vehicular traffic and allow demonstrators to cross Harcourt Road.

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Public activities at the new CGO

37. Given the large area of the East Wing Forecourt ("the Forecourt") at CGO, Ms Emily LAU expressed grave concern that demonstrators were not allowed to enter the area but forced to use the pavement of Tim Mei Avenue.

38. Referring to the comments made by HKCI, the Deputy Chairman enquired about the arrangements for holding public meetings and receiving petition letters at CGO.

39. Deputy Director of Administration ("DDA") responded that -

- (a) members of the public could submit petition letters to the Government from Monday to Sunday at the pavement of Tim Mei Avenue outside the Forecourt;
- (b) staff representing the relevant bureau or a security guard would receive petition letters from members of the public and that the Police would receive petition letters on behalf of the Chief Executive ("CE") from members of the public;
- (c) members of the public could hold public meetings at the Forecourt on Sundays and public holidays after submitting an application and obtaining approval from the Administration Wing. The East Wing of CGO was the only entrance for members of the public accessing CGO and the Forecourt primarily served as vehicular access and passenger drop-off points on weekdays. While the Administration respected people's right of expression, there was a need to maintain public safety and the effective operation of CGO. The Forecourt could be used by members of the public for holding public activities on Sundays and public holidays. The relevant guidelines and procedures for application had been uploaded onto the website of the Chief Secretary for Administration's Office for reference by members of the public; and
- (d) individuals or representatives of deputations could submit petition letters to CE and Members of the Executive Council ("ExCo") on the day of ExCo's regular meetings at the designated area outside the main entrance of CE's Office.

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40. In response to the suggestion of the Deputy Chairman that the Forecourt be opened on Saturdays for public activities, DDA said that meetings with the public were arranged by individual bureaux on Saturdays at CGO. It was necessary to ensure that the Forecourt could serve as vehicular access and passenger drop-off point for members of the public. Given that CGO was newly relocated, the situation would be monitored and a review would be conducted on the use of the Forecourt by members of the public on Sundays. The Chairman pointed out that the loading area at Tim Mei Avenue outside the Legislative Council Complex might be used for dropping off passengers. He requested the Administration to provide statistics on the number of persons and visitors who used the new CGO on Saturdays. DDA said that as the relocation of the Government Headquarters would not be completed till end of 2011, collecting statistics on visitors to the new CGO on Saturdays in the past few months might not truly reflect the actual situation when CGO was in full operation. The Administration Wing would collect relevant statistics of 2012 for reviewing the current arrangement for opening the Forecourt for conducting public activities and report the review findings to members.

41. Mr CHEUNG Man-kwong considered it bureaucratic and inappropriate for the Administration to refuse to open the Forecourt on Saturdays because a small number of civil servants would work on Saturdays. He pointed out that people visiting the East Wing could park their vehicles nearby and walk to the entrance. He added that a complaint had already been lodged with the Administration Wing about the refusal to open the Forecourt on Saturdays. He expressed strong dissatisfaction that the submission of a petition letter by 2 000 parents of kindergarten students in the Forecourt had been refused and the representatives were advised to use the pavement of Tim Mei Avenue instead.

42. The Chairman enquired about the rationale for the arrangement of receiving petition letters to CE by the Police. He added that the Forecourt should be opened for holding public meetings on Saturdays.

43. Ms Audrey EU considered it necessary to make arrangement for receiving petition letters throughout all days of a week.

44. Mr Andrew SHUM suggested that some entrances other than the one near the Forecourt should be opened to the public if the one near the Forecourt was the only public entrance at CGO. Mr KWOK Hiu-chung of HKHRM shared a similar view.

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45. Referring to the public procession on 9 October 2011 to CGO participated by 3 000 demonstrators, Mr LAI Yan-ho considered that the Administration was inflexible for not allowing the demonstrators to enter the Forecourt. He pointed out that at the end the Administration could not prevent the demonstrators from entering the Forecourt.

46. Mr LEUNG Kwok-hung considered that the arrangements for public meetings at the new CGO were more stringent than those at the old CGO. He queried the reasons for the change.

47. DDA responded that the arrangement of opening the Forecourt at the new CGO to members of the public for conducting public meetings on Sundays and public holidays was similar to that at the old CGO at Lower Albert Road.

48. Mr CHEUNG Man-kwong considered it unacceptable that public meetings at the Forecourt were not allowed on Saturdays. He said that reference should be made to the arrangements for demonstration at the Legislative Council Complex.

49. Mr KWOK Hiu-chung considered that the demonstration area at the pavement outside the Forecourt was very small. It would be difficult to accommodate a great number of demonstrators, thus resulting in confrontation.

50. The meeting ended at 11:50 am.

Council Business Division 2
Legislative Council Secretariat
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