

立法會
Legislative Council

LC Paper No. CB(2)2683/11-12
(These minutes have been seen
by the Hong Kong Police Force)

Ref : CB2/PL/SE

Panel on Security

Minutes of special meeting
held on Tuesday, 17 January 2012, at 2:30 pm
in Conference Room 3 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 Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon CHIM Pui-chung
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun, JP

Members absent : Hon CHEUNG Man-kwong
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon CHAN Hak-kan
Hon LEUNG Kwok-hung
Hon WONG Yuk-man

**Public Officers : Item I
attending**

Mr TSANG Wai-hung
Commissioner of Police

Mr LO Wai-chung
Director of Crime and Security
Hong Kong Police Force

**Clerk in : Mrs Sharon TONG
attendance Principal Council Secretary (2)**

**Staff in : Ms Mina CHAN
attendance Council Secretary (2) 7**

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Crime situation in 2011
(LC Paper Nos. CB(2)778/10-11(01) and (02))

Commission of Police ("CP") briefed members on the overall law and order situation of Hong Kong in 2011, as detailed in the paper provided by the Police.

Criminal intimidation and street deception

2. Noting the increase in the number of criminal intimidation cases relating to debt collection activities, Mr IP Kwok-him asked whether there was a rising trend in the number of non-criminal intimidation cases and the number of non-criminal reports of "low-threat" and "high-threat" cases received in 2011. He also enquired about the concrete enforcement actions taken by the Police against street deception relating to the sale of dried seafood.

3. CP advised members that there were 1 859 criminal cases relating to debt collecting activities in 2011, a decrease of 37 cases or 2% when compared with 2010. "Low-threat" cases such as non-criminal offence of harassment declined from 10 833 in 2010 to 8 870 in 2011, a reduction of 1 963 cases. A drop of 80 "high-threat" cases was recorded, down from 961 in 2010 to 881 in 2011. CP explained that debt collection cases

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involving either loansharking activities in Macau or continuous harassment had all along been treated as high-level threats, and handled by crime investigation units. While improvements were shown as a whole in both criminal and non-criminal cases relating to debt collecting activities, the Force would continue to pay close attention to the relevant situation.

4. CP further said that loansharking activities were particularly serious in Macau, and a variety of new modus operandi had been emerging recently in its illegal money lending business. For example, offering free accommodation, ferry tickets or even female escorts to lure victims into borrowing money to gamble. In order to more effectively combat cross-boundary money lending and debt collection activities relating to loan sharks in Macau, the Hong Kong Police Force and the Macau Judiciary Police had established a referral mechanism, whereby cases involving loansharking activities in Macau could be referred to the Macau Judiciary Police for follow-up and investigation. Priority would be given to the types of cases where the victim was a young person or a student. Where there was an appropriate case for referral, the Hong Kong Police Force would activate the mechanism and arrange the victim to report the case, in the company of the investigating officers of the Hong Kong Police Force, to the Macau Judiciary Police for follow-up action.

5. As regards deception cases relating to dried seafood selling, CP pointed out that there were a great variety of deceptive sales tactics. Most cases involving illegal trade practices were governed by the Trade Descriptions Ordinance (Cap. 362). According to section 13A of the Trade Descriptions Ordinance, it was an offence for shops failing to show clearly quantity and price calculations. The Customs and Excise Department ("C&ED") was responsible for the enforcement of the Ordinance. The Police would refer the relevant cases to C&ED where appropriate. For deception cases of more complicated in nature, they would be dealt with either as specific offences under the Theft Ordinance (Cap. 210) or the common law offence of "conspiracy to defraud". The Kowloon West Region Headquarters had been commissioned to work with C&ED in combating fraudulent activities.

6. In response to Mr IP Kwok-him's further enquiry as to whether the Police would step up its enforcement actions against street deception, CP advised that the Commercial Crime Bureau ("CCB") was responsible for coordinating the investigation of all street deception cases, including "spiritual blessing gangs", "medicine/herbs/pills" scams and deceptive sale of dried seafood. In tackling such crimes, CCB liaised closely with the Mainland and overseas law enforcement agencies to facilitate the

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exchange of intelligence. If the Police received information showing that cross-boundary deception syndicates were operated Hong Kong, it would closely monitor the situation.

Handling of public meetings and processions

7. Mr Albert HO said that 5 656 public meetings and processions were held in 2010. The Police had taken enforcement actions on 25 occasions. Of the 53 people arrested, two were prosecuted. As of January 2011, four arrested were heard by the court and two of them were convicted. In the absence of the relevant figures for the year of 2011, Mr HO requested an update from CP.

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8. CP advised members that a total of 6 878 public meetings and processions were held in 2011 and 440 people were arrested. He explained that the substantial rise in arrests was mainly due to unlawful assembly and illegal road blocking after three large-scale demonstrations, namely the anti-Budget demonstration on 6 March (113 arrests), the public order event in the evening of 4 June (53 arrests) and the rally on 1 July (231 arrests). The number of arrests in 2011 was only 43 when excluding the 397 involved in the above three incidents. As for the total number of people prosecuted in 2011, the Police would provide the figures after the meeting for members' reference.

9. When enquired further by Mr Albert HO on the numbers of people prosecuted in the above three incidents, CP said that four people were prosecuted among the 113 arrested for blocking streets in the "6 March anti-Budget" incident. The remaining 109 arrests received written notices from the Department of Justice ("DoJ"), which pointed out their behaviour was illegal. On 4 June 2011, protesters unlawfully assembled on the King's Road, North Point after the event. Of the 53 arrested, eight were prosecuted and would face a preliminary hearing in February and March 2012. Among the 231 arrested for unlawful assembly in the rally on 1 July, 17 were prosecuted and 192 were advised by DoJ's written notices that their acts were illegal. The 17 who were prosecuted would be brought before the court on 19 January 2012.

10. Mr Albert HO asked the Police to review whether it was necessary to make so many arrests given that only few people were prosecuted in the end. He requested the Police to include the figures on public meetings and processions in its future reports.

11. CP agreed that the Police's report would provide figures on public meetings and processions from next year onwards. As for prosecution,

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CP said that different people could hold different views on the same incident as they had different stances and values. Being the law enforcement agency in Hong Kong, the Police had the responsibility to uphold the law. The decision on prosecution rested with DoJ and the written notice from DoJ could help those not prosecuted understand the matter.

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12. On the Chairman's enquiry about the nature of DoJ's written notice, CP said that it was the responsibility of DoJ to determine whether a person should be prosecuted. DoJ would issue written notices advising those not prosecuted of the nature of their behaviours. At the request of the Chairman, CP undertook to contact DoJ for the details of the written notice, including its purpose of issue and when such a practice had begun.

Shop deception

13. Mr WONG Kwok-kin said that the overall crime situation in Hong Kong remained stable in 2011. Most Mainland tourists considered Hong Kong a safe city. While fully recognizing the work of the Police in the past year, Mr WONG observed that there was a significant surge in the number of deception cases, particularly those relating to shops selling dried seafood and herbal products. He said that according to the media report, such deception cases were on the rise. There was a case where the victim called the Police when he was pushed by a salesperson into purchasing expensive herbal powder. Despite the Police mediation, the victim was ultimately compelled into the purchase. Noting that the Police could not even resolve cases involving such conventional deceptive tactics, he queried about the loopholes in the existing legislation that could be taken advantage of by dishonest traders.

14. CP responded that shop deception cases mostly involved sales malpractice rather than criminal fraud. For shops failing to indicate clearly the price and weight unit of the merchandise, they might commit an offence under the Trade Descriptions Ordinance. If the Police received complaints about misleading prices and false descriptions at shops, it would refer the cases to C&ED for follow-up action. The Police had also conducted joint operations with C&ED to combat such deceptive activities. CP pointed out that Mainland visitors, who were unable to stay long and hence difficult to seek assistance, had become the main target of dishonest traders. Merchandise was mostly priced by the catty in the Mainland while the price was usually marked in the unit tael by those ginseng and dried seafood shops in Hong Kong. As such, Mainland tourists were likely to be misled by the measurements to which the prices

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of goods applied. Disputes then arose when the customers felt that they were bound to purchase as the goods such as ginseng had been hastily sliced or ground into powder by the shops.

15. CP said that apart from the enforcement actions taken by the Police and C&ED in accordance with the Theft Ordinance and the Trade Descriptions Ordinance, the Administration considered publicity and education essential to raise public awareness of such kind unscrupulous sales tactics. However, as tourists would not stay long in the territory, the Administration was studying how to promote and deliver the message of consumer protection to them. On whether the current legislation was effective in protecting the rights of consumers, CP stressed that the Trade Descriptions Ordinance had clearly provided that traders were required to display weight units and price calculations in a readily comprehensible manner. It was an offence if the shops deliberately concealed the weight unit the goods were priced from sight of the customers.

Domestic violence crimes

16. Ms Cyd HO noted with shock that most of the 17 cases of homicide were related to domestic violence while a drop was recorded in both child abuse cases and domestic violence crimes. Ms HO said that her office had been conducting a survey in the past 18 months with the Association for Concern for Legal Rights of Victims of Domestic Violence ("the Association") and Dr HO Kwok-leung on domestic violence victims who had asked for the Police's assistance. She found from the survey the following inadequacies in the Police's handling of domestic violence cases -

- (a) the Police did not ask other people at the scene of the domestic violence incident to make statements, and only relied entirely on the victim's statement, which provided weak evidence, to build a case;
- (b) most of the domestic violence victims were not provided by the Police with a copy of their statements; and
- (c) both the abused and the abuser were typically questioned in the same room and the victim was asked by the Police whether to press charges.

Ms HO criticized the Police for poor handling of domestic violence cases and shifting the responsibility for filing charges to the victims. She urged CP to review the guidelines for the Police on handling domestic violence

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cases, including those of child abuse and elder abuse. She said that she would provide CP with a copy of the report on the above survey for his reference.

17. CP pointed out that a total of 1 928 criminal domestic violence cases were recorded in 2011. Of these, five cases involved murder/manslaughter, showing a slight improvement when compared with seven cases in the previous year. Domestic violence cases in 2011 were mostly related to wounding and assault (1 108 cases), criminal intimidation (510 cases) and criminal damage (156 cases). CP denied that it was a standard practice for a police officer to question both parties involved in a domestic violence incident at the scene. The Police was willing to give members a briefing on its procedures for dealing with crimes associated with family violence, if necessary.

18. CP said that the survey report Ms HO referred to should be the one entitled "The Situation and the Experience of Seeking Legal Protection of Domestic Violence Victims". The Police was aware of the survey results announced by the Association in November 2011 and had contacted the Association immediately after the release of the survey report. However, the Association refused to disclose further details of the respondents for the Police to follow up on individual cases. CP hoped that the Police would be offered the opportunity to study the cases when such allegations arouse. He would approach Ms HO after the meeting for her assistance in obtaining further information about the cases from the Association. CP stressed that the Police attached great importance to domestic violence problem though individual police officers might have made mistakes in their handling of domestic violence cases. He therefore hoped that the Association could provide the Police with detailed information so that the Police could follow up on those cases in a serious manner.

19. Ms Cyd HO thanked CP for his concern about the issue and attention in the survey results. She said that in order to protect the privacy of the respondents, their consents must be sought prior to disclosing information about them. Nevertheless, the survey report had clearly showed that police officers were unable to place themselves into the position of victims when handling domestic violence cases. She urged CP to look into the matter.

20. The Chairman asked whether consideration would be given to inviting the abused to police station for questioning. CP responded that it might not be feasible for the Police to make such an arrangement given the proliferation of cases relating to family dispute. It was not a proper

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procedure for a police officer to ask the complainant in the presence of the complainee to decide whether to pursue the case. He said that a database was installed to draw the attention of police officers in respect of repeated cases of domestic violence. An inter-departmental working group was also set up to review the measures to tackle domestic violence. CP undertook to relay the views of members to the working group for consideration.

Triad-related crimes and illegal parking

21. Dr PAN Pey-chyou pointed out that the number of triad-related crimes accounted for 2.9% of the overall crime only, representing a rise of 0.2 percentage point when compared with 2.7% in 2010. However, there was a substantial increase in the number of triad-related crimes, particularly offences relating to unlawful society (15.1%) and wounding and serious assault (11.8%) when compared with the preceding year. He enquired whether such upward trend was contributed by the change in the modus operandi of triad gangs or the relaxation of enforcement efforts in combating this long standing problem. Dr PAN also dissatisfied that the Police did not take enforcement action against illegal parking.

22. CP stressed that it was the unwavering goal of the Police to combat triad and organized crime. The Force had devoted greater efforts in fighting triad activities. While there was a rise of 8.3% in triad-related cases in 2011, the increase in the number of arrests for triad-related crimes far exceeded the increase in the number of cases. He advised members that a total of 3 456 persons were arrested for triad-related offences in 2011, a rise of 29.1% when compared with 2 678 people in the previous year. The detection rate for triad-related crimes also increased from 81.9% in 2010 to 83.1% in 2011. CP said that the Police was gravely concerned about the gang recruitment of juveniles as around half of the triad-related arrests in 2011 were young people. The Police would closely monitor the situation and conduct crackdown on such illegal activities. In combating triad-related crimes, the Police would conduct undercover operations. Four undercover operations were conducted in 2010 with 229 people arrested and eight in 2011 with 420 people arrested. CP assured members that triad and organized crime was still under control.

23. On whether there was a new change in triad crimes recently, CP advised members that apart from street-level triad activities such as syndicated vice, illegal gambling, drug trafficking and extortion, triad societies also engaged in deception activities. The Organized Crime and Triad Bureau was responsible for investigating serious triad offences and

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collecting intelligence about personalities and activities associated with syndicated and organized crime. CP pointed out that there had been no significant changes in the nature of triad activities in the past few years. However, some triad societies used legitimate business as fronts for their illegal activities. In combating such triad-related crimes, the Police would conduct financial investigations to tackle money-laundering activities.

24. Regarding the road safety issue, CP admitted that traffic enforcement was inadequate in certain police regions to prevent illegal parking. He explained that the primary aim of traffic enforcement was to ensure the safety of road users and to maintain smooth traffic flows. Individual police officers might show excessive tolerance for minor traffic offences. CP pledged that attention would be paid to the matter.

Arson and online fraud

25. Noting that there were substantial financial losses resulting from cases of vehicle arson and online deception, the Chairman enquired about the cause of arson cases involving vehicles and the total amount of money lost in the reported cases of online scams.

26. CP responded that 118 arson cases involving vehicles were recorded in 2011, a substantial rise in the number when compared with 81 cases in 2010. Among them, 34 cases were caused by various disputes and anti-social behaviours; nine cases involved stolen vehicles used by criminals. Around one-third of the 24 detected cases were related to motorcycle and one-fourth involved private car. Regarding online fraud cases, CP said that cases relating to online auction/shopping and deceptive emails incurred a loss of \$7.75 million and \$49.2 million respectively in 2011. A total loss of some \$149 million in computer-related scams was registered. CP further said that the Force was gravely concerned about the modus operandi of technology crime. He pointed out that there were 11 "denial-of-service" attacks in 2011 while there was only one in 2010. The culprits of the 11 cases were all based overseas and the victims were, among others, financial institutions. In view of the upsurge in computer-related offences, technology crime had been added to the operational priorities for 2012. A proposal to set up a cyber security centre was also being considered with a view to co-ordinating the efforts of other relevant government departments and law enforcement agencies in combating such crime.

Crime statistics and charges of unlawful assembly

27. Mr Paul TSE asked how a case was defined in the crime report, and how the Police determined whether a person arrested during a public meeting or procession should be charged or issued with the written notice of DoJ.

28. CP explained that a number would be generated by the computer system for each reported case, regardless of whether it was criminal or non-criminal. As there might be a number of persons arrested in one case, the number of arrests was not necessarily the same as the number of cases. Depending on the nature of the case received, for instance, request for assistance, an incident number or a complaint number would be assigned. Only the figures on homicide were calculated based on headcount. CP added that statistical officers were seconded from the Census and Statistics Department to assist in compiling the figures. For comparison of data over time, the above criteria adopted in counting the numbers of cases would not be changed. With regard to the issue of DoJ's written notice, CP said that the decision on whether a person should be issued with the written notice was entirely in the hands of DoJ, and the criteria for the issue was based on the recipient's role in the relevant incident. The receipt of DoJ's written notice inferred that the related case was closed for the person concerned.

Enforcement actions against deception

29. While noting that the enforcement agency of the Trade Descriptions Ordinance was C&ED, Mr Paul TSE asked whether the Police would take part in combating deception in view of the significant increase in its number of cases. CP advised that the Police had provided support to C&ED in some crime preventive activities, for instance, anti-smuggling operations. The Police was willing to offer assistance, if required, and would liaise with C&ED in the fight against crime.

30. The Chairman asked whether the tactics of deception, in particular online/email deception and telephone scams, had become more sophisticated, and whether there was detailed analysis of this issue. He enquired about the strategies deployed by the Police to address the problem.

31. CP pointed out that most of the perpetrators of online business fraud were not based in Hong Kong. They would illegally break into other people's computers in order to obtain information that would allow them to commit fraud. Widespread distribution of deceptive emails was

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also one of the major types of cyber crime. Lottery scams were on the rise and showed an increase from 26 cases to 400 cases in 2011. The Police appealed to the public to remain cautious and skeptical about suspicious emails.

Elder abuse

32. Noting that there was a marked increase in the cases of elder abuse in 2011, Dr PAN Pey-chyou was concerned that most of the victims of crime, particularly deception, were elderly people. He asked whether there was statistical analysis of age distribution of victims of fraud offences.

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33. CP advised that of the 381 cases of elder abuse, physical abuse accounted for nearly 50% and about 40% was related to embezzlement of property. On whether elder abuse cases relating to embezzlement of property had caused a huge loss of money and whether caretakers or care centres were involved in such crime, CP said that relevant information and figures, including the age pattern of victims of deception, would be provided after the meeting.

Handling of land disputes

34. The Chairman said that there was an allegation that the Police in the regions of New Territories was not keen in tackling land disputes and inclined to treat the complaints as civil claims. Police officers were also accused of being not impartial in their dealings with such kind of conflicts as they might be well acquainted with some indigenous villagers involved in the incident. The Chairman urged CP to look into the matter.

35. CP explained that it was difficult to determine land boundary. However, the Police must ensure that the public order and public safety would not be threatened when handling such cases. He also assured members that police officers would act with fairness and impartiality in all their dealings with the public.

Compensated dating

36. On whether there was a change in the trend of "compensated dating" in the past two years, CP said that adolescents took part in compensated dating through the internet. Though compensated dating was not necessarily related to sex crimes, the Kowloon West Regional Headquarters had set up a task force to tackle the problem. The Police would monitor the situation by patrolling the internet, and take

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enforcement actions, if required, after investigation. The Kowloon West Regional Headquarters conducted a crackdown in the previous year on compensated dating and 26 people were arrested in the operation. CP pointed out that if compensation dating involved sex trafficking, the people taking part in the activity might have committed a variety of sexual offences. He appealed to teenagers to protect themselves.

Robberies

37. The Chairman said that the law and order situation in Happy Valley had been very grave. Noting that there was a number of cases of robbery occurred in recent months at the same building in Happy Valley, he expressed concern about the situation.

38. CP responded that there was a significant improvement in robbery cases as a whole and the rate was the lowest in the past decade. The Police noted that robberies on some of the buildings in Happy Valley had shown a marked increase recently, in particular the tenement buildings without sufficient security, which had become the victims of robbery crime. In view of the above, the Police had provided property owners and management companies with some advices on preventive measures to reduce crime, and formulated strategies to tackle the problem.

39. In closing, the Chairman commended the Police for its efforts in keeping Hong Kong a safe city and maintaining the law and order situation and the stability of the crime rates in the past year.

40. The meeting ended at 4:05 pm.