

**For discussion on
10 May 2002**

Legislative Council Panel on Security

Police Operation at Chater Garden on 25 April 2002

Purpose

This paper provides background information on the Police operation at Chater Garden on 25 April 2002, and responses to the Security Panel on the particular points it has raised.

Background

2. Following the ruling of the Court of Final Appeal on 10 January 2002, Right of Abode (ROA) claimants, their family members and supporters held a series of public meetings at the Chater Garden in Central. The organizer of these meetings notified the Commissioner of Police and letters of no objection to these meetings were issued with conditions imposed under section 11(2) of the Public Order Ordinance, Cap. 245.

3. In view of the deadline set by the Administration that all unsuccessful ROA claimants who had no outstanding legal proceedings had to return to the Mainland by 31 March 2002 and recent incidents where ROA claimants and their supporters alike were involved, two particular conditions, amongst others, were imposed by the Commissioner of Police. They were :

- (i) that the organizer was required to ensure that ROA claimants to be repatriated following the CFA's ruling should not take part in the public meetings; and

- (ii) that the organizer was required to ensure that no obstruction was caused to the pedestrian and vehicular traffic in the vicinity of Chater Garden.

4. On 24 April 2002, an incident took place outside the LegCo Building in which the vehicle of the Secretary for Security was besieged by the ROA claimants and their supporters for about 35 minutes. Police took action to disperse the crowd that blocked the passage way of the vehicle. One person was arrested on the spot, and seven other including four overstayers were subsequently arrested inside Chater Garden by police for the offences of “obstructing police officers”, “assaulting police officer” and “disorderly conduct”. During this incident four police officers received minor injuries.

5. The obstruction caused by the participants of the public meeting outside LegCo Building and the presence of overstayers were clear contraventions of the conditions imposed by the Commissioner of Police on these public meetings at Chater Garden. In the wake of these breaches, the Commissioner of Police decided to exercise the power conferred on him under section 17 of the Public Order Ordinance to stop and disperse the public meeting.

6. Prior to taking action to stop the public meeting at Chater Garden, the District Commander, Central District, delivered a letter to the organizer of the public meeting on the afternoon of 25 April 2002 informing him of the police decision to stop and disperse the public meeting at Chater Garden.

7. Shortly after 1500 hrs on 25 April 2002, police took action to stop and disperse the public meeting at Chater Garden. They were joined by Immigration Officers who assisted in checking the identity and conditions of stay of the participants in the public meeting. During the operation, two members of the media refused to move to an area that was designated for use by the press. These two persons were arrested for “obstructing police officers in the execution of duty” and handcuffed. They were, however, released shortly after they were removed from the scene.

8. On 3 May 2002, the Security Panel informed the Administration that it would like to be briefed on the incident, and in particular the following points.

The criteria for taking action to stop and disperse public meetings being staged.

9. Section 17 of the Public Order Ordinance empowers the Police to stop or disperse any public meeting in contravention of any condition imposed under section 11 of the same ordinance. In this connection, the arrest of the four overstayers inside Chater Garden after the incident on 24 April 2002 and the obstruction caused at the driveway outside LegCo Building were clear indications that the conditions imposed had been contravened by the participants of the public meeting.

Whether there is any channel for appeal against such stopping and dispersal of a public meeting.

10. There is no specific provision for appeal against such stopping and dispersal under section 17 of the Public Order Ordinance. Any party which feels aggrieved by the stopping and dispersal may consider applying for a judicial review. Moreover, an organizer may notify police of an intention to hold any subsequent public meeting under section 8. Should police object to the holding of a public meeting under section 8 or the organizer feel aggrieved by the conditions imposed, the organizer may appeal to the Appeal Board on Public Meetings and Processions under section 16 of the Public Order Ordinance.

Whether the designation of a press area is a common practice.

11. The police attach great importance to maintaining a good working relationship with the media. There are guidelines to accord photographers and TV cameramen the opportunity to have vantage points, and their right to take photographs or TV footage in public places is fully respected. The designation of a press area is a long-standing practice, for which the guiding principle is to facilitate press coverage in an orderly and safe manner. At the same time, care is exercised to ensure that the presence of the media should not cause undue

hindrance to police operations or pose a safety hazard to themselves or other members of the public.

12. Where appropriate, Information Officers of Police Public Relations Branch are deployed on site to liaise and facilitate members of the media.

The police guidelines on handcuffing.

13. The Police General Orders Chapter 29-09 stipulates that a police officer may use wrist restraints under the following circumstances :

- (i) to ensure the security and control of a person whom he has reason to believe is likely to escape; or
- (ii) to protect himself or another person, including the person to be restrained, from any injury.

14. The Administration will refrain from commenting on the specific use of handcuffs in the present case as an investigation is being conducted by the Complaint Against Police Office (CAPO). Results of the CAPO investigation will be forwarded to the Independent Police Complaints Council for consideration.

Hong Kong Police Force
May 2002