

For information
on 8 May 2007

Legislative Council Panel on Security

Processing of Notification of Public Meetings and Processions under the Public Order Ordinance

INTRODUCTION

Members would like to know how the Police process notifications for public meetings and processions, and handle unauthorized public meetings and processions. Members also asked for statistics on the number of notifications, prohibitions / objections and appeals in respect of public meetings and processions in the past five years.

PROCESSING OF NOTIFICATION RELATING TO PUBLIC MEETINGS AND PROCESSIONS

Notification

2. People in Hong Kong have the right to assemble, to demonstrate, etc. as guaranteed by Article 27 of the Basic Law (BL) and Article 17 of the Hong Kong Bill of Rights. It has been our policy that it is the Police's duty to facilitate the conduct of lawful and peaceful public meetings and processions. In doing so, it is important to strike a proper balance between protecting the individual's right to assemble, to demonstrate, etc., and the interests of the community at large.

3. The main statutory provisions regulating public meetings and processions are in the Public Order Ordinance (POO). These provide that a public meeting or procession at which the attendance exceeds the prescribed limit can only take place if notice has been given in accordance with the requirements of the Ordinance, and the Commissioner of Police (CP) has not prohibited or objected to it. CP (or delegated officers) will carefully examine each case and will exercise his discretion properly. He must also state the grounds of prohibiting or objecting to a public meeting or procession by way of a written notice. Also, CP may impose conditions on a notified public meeting or procession. In deciding whether and if so what restriction(s) to impose, he must consider whether

such restriction(s) is proportionate. Wherever possible, conditions that can be justified as being reasonably necessary should be imposed for a proposed public meeting or procession, rather than the event being prohibited or objected to.

4. In *Yeung May-wan & Others v HKSAR*, the Court of Final Appeal (CFA) held that the freedoms protected by BL 27 were at the heart of Hong Kong's system. However, the law required reasonable give and take between users of public places. In *Leung Kwok Hung & Others v HKSAR*, the CFA observed that the right of peaceful assembly involved a positive duty on the part of the Government to take reasonable and appropriate measures to enable lawful assemblies and demonstrations to take place peacefully. It also affirmed that notification is required to enable the Police to fulfill this positive duty.

5. Whenever the Police become aware of any impending public meetings or processions, they will initiate and maintain a dialogue with the organizers and render assistance to them. The Police will offer advice on procedures, the statutory requirements and logistical arrangements, with a view to protecting the interests of all persons involved with the event in question and the interests of the community, particularly in respect of public safety and the proper maintenance of law and order.

Appeal Mechanism

6. If CP prohibits, objects to or imposes conditions on a notified public meeting and procession, the organizer(s) has a right of appeal. The POO provides for an independent Appeal Board on Public Meetings and Processions (the Appeal Board), consisting of three members selected in rotation from a panel of 15 members and is chaired by a retired judge, which can be convened at short notice. The Appeal Board is intended to be "user friendly" to the public, and allows the appellant (and the CP) to be heard and make submissions. The Appeal Board may confirm, reverse or vary the prohibition, objection or condition imposed by CP.

HANDLING OF UNAUTHORIZED PUBLIC ORDER EVENTS

7. Under the POO, a public meeting or procession may become "unauthorized" if, for example, –

- (a) the number of participants requires that the CP is notified, but he has not been;

- (b) it proceeds despite having been prohibited or objected to; or
- (c) its participants do not comply with any direction given by a Police officer for ensuring compliance with or due performance of the conditions specified by CP under the POO.

In handling such an event, the Field Commander must bear in mind the Police's fundamental duty to facilitate the conduct of lawful and peaceful public meetings and processions, and to protect, as far as possible, the interests of the participants, other individual citizens and the community.

8. In general, Field Commanders will –

- (a) whenever possible warn participants of their breach of the law and dissuade them from starting or continuing an unauthorized event;
- (b) try to come to an agreement with the participants concerning arrangements that could help remove any safety or public order concerns, having regard to the interests of the community at large, and thereby enable the event to proceed; and
- (c) if circumstances require, take reasonable steps to end the event by dispersal, physical removal or arrest.

9. In the event that an unauthorized event proceeds, in appropriate cases, the relevant evidence collected will be presented to the Department of Justice, which will, in accordance with the prosecution guidelines, decide whether prosecution action is warranted.

STATISTICS

10. From 2002 to 2006, 6 418 public meetings and 4 692 public processions were held in Hong Kong (or an average of 6 events daily), among which 3 095 public meetings and 3 903 processions were notified events. During the same period, 5 public meetings and 6 processions were prohibited / objected to. A detailed breakdown is at **Annex**. 2 public meetings and 3 processions of these 11 events subsequently took place after the organizers had revised their routing or scale. As for the other 6 events, the organizers cancelled their activities eventually.

11. Over the same period, 11 applications for appeal were lodged with the Appeal Board (see para. 6 above). 3 cases were withdrawn before hearings were conducted while 8 cases were heard by the Appeal Board. Of these 8 cases, the Police's decision was upheld in 7 cases and overruled in 1 case.

**Security Bureau
Hong Kong Police Force
April 2007**

Breakdown of Figures on Police's Prohibitions / Objections to Public Meetings and Processions between 2002 and 2006

Reason / Basis for Prohibition / Objection	2002		2003		2004		2005		2006	
	Public Meetings	Public Processions	Public Meetings	Public Processions	Public Meetings	Public Processions	Public Meetings	Public Processions	Public Meetings	Public Processions
(1) Causing serious inconvenience and obstruction to traffic and / or road users	1	2	0	0	0	0	0	0	0	0
(2) Posing danger to the safety of participants of the events, members of the public and Police officers on duty	0	0	0	1	0	0	0	0	0	0
(3) (1) and (2) above occurring together	1	2	0	0	0	0	0	0	0	0
(4) Breach of Police's conditions by event participants	1	0	0	0	0	0	0	0	0	0
(5) The Police have reasons to believe that serious breach of the peace may occur during the event	2	1	0	0	0	0	0	0	0	0
Total	5*	5#	0	1#	0	0	0	0	0	0

Note: * Among the above 5 public meetings which were prohibited by the Police, 2 of them were allowed to continue as the organizers changed the number of participants.

Among the above 6 public processions which were objected to by the Police, the organizers of 2 of them changed the routing and 1 changed the number of participants, and the processions were allowed to continue.