

立法會
Legislative Council

LC Paper No. CB(2)1153/09-10
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of meeting
held on Tuesday, 2 February 2010, at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon LAU Kong-wah, JP (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon CHIM Pui-chung
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Paul TSE Wai-chun
- Member attending** : Hon LEE Wing-tat
- Members absent** : Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
- Public Officers attending** : Item IV
Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Mr CHOW Wing-hang
Principal Assistant Secretary for Security (D)

Dr Helen CHAN, IDSM
Assistant Director of Immigration (Information Systems)

Item V

Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Mrs Millie NG
Principal Assistant Secretary for Security (E)

Mr Austin KERRIGAN
Assistant Commissioner of Police (Support)
Hong Kong Police Force

Mr Eric CHENG
Superintendent of Police (Licensing Office)
Hong Kong Police Force

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

Staff in attendance : Mr Stephen LAM
Senior Assistant Legal Adviser 1 (Acting)

Mr Bonny LOO
Assistant Legal Adviser 3

Miss Josephine SO
Senior Council Secretary (2) 1

Mr Ian CHOW
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

Action

I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)816/09-10)

The minutes of the meeting held on 1 December 2009 were confirmed.

Action

II. Information papers issued since the last meeting

(LC Paper Nos. CB(2)670/09-10(01) and CB(2)747/09-10(01))

2. Members noted that the following papers had been issued since the last meeting -

- (a) Submission from the Law Society of Hong Kong on the Annual Report 2008 of the Commissioner on Interception of Communications and Surveillance; and
- (b) Submission from a member of the public expressing concern about recent cases of corrosive fluid falling from height.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2) 832/09-10(01) and (02))

Regular meeting in March 2010

3. Members agreed to discuss the following items proposed by the Administration at the next regular meeting scheduled for 2 March 2010 at 2:30 pm -

- (a) Employment service support for rehabilitated offenders; and
- (b) 2008-2009 survey of drug use among students.

Regarding item (a), members agreed to invite deputations to give views on the subject by posting a notice on the website of the Legislative Council (LegCo).

4. The Deputy Chairman noted that the trial scheme on school drug testing in Tai Po District had been launched from December 2009. He was concerned about the implementation progress of the scheme. The Chairman suggested that in addition to the 2008-2009 survey of drug use among students, the Administration should be requested to brief the Panel on the implementation progress of the trial scheme on school drug testing in Tai Po District. Members agreed. Ms Emily LAU said that as the discussion would touch on drug abuse problems in schools, representatives from the Education Bureau should be invited to attend the discussion of the item.

Anti-terrorism measures

5. The Deputy Chairman expressed concern about recent media reports about terrorists employing a new manoeuvre to implant by cosmetic surgery liquid bombs in the human body of terrorists for the purpose of avoiding being

Action

Admin

detected by equipment, such as millimetre wave body scanner, during security checks. He suggested that the Administration should be requested to provide information about the security measures adopted at the Hong Kong International Airport and other control points in response to such a new manoeuvre adopted by terrorists.

Cross-boundary emergency ambulance service

6. Regarding the issue relating to the regulation and monitoring of Mainland ambulances providing cross-boundary medical transfer services in Hong Kong, as raised by Ms Audrey EU at the last meeting, the Clerk informed members that he had sought clarification from the Administration on whether the subject of cross-boundary emergency ambulance service fell within the ambit of any particular policy bureaux. According to the Administration, the regulatory arrangements for cross-boundary ambulances were matters under the policy area of the Transport and Housing Bureau. As a matter of fact, it was the Secretary for Transport and Housing and the Secretary for Food and Health who responded to an oral question on cross-boundary vehicles and ambulances from the Mainland raised by Ms Audrey EU at the Council meeting on 18 November 2009. As such, members might wish to raise the item in question for discussion by the Panel on Transport and the Panel on Health Services.

IV. Review of e-Channel service

(LC Paper Nos. CB(2) 832/09-10(07) and (08))

7. Under Secretary for Security (US for S) briefed Members on the automated passenger clearance system (e-Channel service) and its development, as detailed in the Administration's paper.

Service for cross-boundary students

8. Mr CHAN Hak-kan noted that up to 31 December 2009, 3 200 cross-boundary students had enrolled for using e-Channels. However, designated e-Channels for use by such students (i.e. e-Channels equipped with lower gates and installed with optical readers for the verification of the travel documents of the students) were only available at the Lo Wu Control Point (LWCP). He asked whether the Administration had any plan to extend the e-Channel service for cross-boundary students to other control points, such as Shenzhen Bay or Lok Ma Chau.

9. In response, Assistant Director of Immigration (Information Systems) (AD of Imm) advised that to facilitate the entry and exit of cross-boundary students, the e-Channel service at LWCP had been extended since December 2007 to cross-boundary students under the age of 11 but above 1.1 metres tall.

Action

A total of six student e-Channels, three for arrival and three for departure, were currently installed at LWCP for pre-registered cross-boundary students to complete the immigration clearance by themselves. On the question of whether the e-Channel service for cross-boundary students would be extended to other control points, AD of Imm advised that the Immigration Department (ImmD) had been paying close attention to the number of cross-boundary students travelling through various boundary control points, including those at Shenzhen Bay and Lok Ma Chau. It was noted that the number of students making trips to and from other control points was not substantial enough to justify the installation of student e-Channels at other control points, ImmD would continue to monitor the situation and consider extending the student e-Channel service to other control points, if and where necessary.

10. Mr CHEUNG Man-kwong said that according to his understanding, much time was needed for students who were Hong Kong residents living in Shenzhen and travelling daily to schools in Hong Kong to complete the clearance procedures on both sides of the boundary. He noted that the Administration was providing "on-board clearance" services on a trial basis to cross-boundary students at Man Kam To and Sha Tau Kok Control Points to facilitate the entry and exit of cross-boundary students of tender age, so that cross-boundary students might stay on board the coaches at the control points to undergo the arrival and departure clearance. He asked whether the Administration would consider putting in place further measures to expedite the clearance procedures for cross-boundary students who travelled individually. He suggested that the Administration should discuss with the Shenzhen Authorities to explore the possibility of adopting "fast-track" immigration clearance procedures for cross-boundary students, by way of operating designated immigration counters or opening special passage ways at various control points for cross-boundary students' use during the busy hours from Monday to Friday.

11. US for S and AD of Imm responded that the Administration shared the view that there was a need to render support to cross-boundary students of tender age. It had put in place various support measures, such as enhancing the boundary facilities and expanding the cross-boundary school bus services, to cater for the needs of cross-boundary students. US for S said that as cross-boundary students were required to undergo customs and immigration clearance on both sides of the boundary, it was not easy to adopt "fast-track" procedures at all boundary control points, having regard to the considerable physical distance between Hong Kong's immigration counters and those on the Mainland. AD of Imm advised that ImmD had all along been working towards the objective of shortening the clearance time required for cross-boundary students, as evidenced by the installation of student e-Channels at LWCP for use by such students. ImmD would continue to explore if there were other ways to streamline the formalities and expedite the clearance procedures for cross-

Action

boundary students.

Extension of e-Channel service and streamlined entry arrangement for Hong Kong and Macao permanent residents

12. Mr CHAN Hak-kan noted that at present, a total of 20 e-Channels were installed at the Lok Ma Chau Control Point for passengers performing self-service immigration clearance. He enquired whether the Administration would consider installing more e-Channels at the Lok Ma Chau Control Point, in view of the huge passenger flow at this particular control point.

13. US for S responded that there were space constraints within the Lok Ma Chau Control Point, and the space had already been maximized for the provision of e-Channels as well as traditional immigration counters. ImmD did not have any plan to install additional e-Channels at the Lok Ma Chau Control Point for the time being.

14. In response to Mr IP Kwok-him's enquiries about the enrolment and clearance processes with the use of Express e-Channels and the automated passenger clearance services provided for Hong Kong and Macao residents, AD of Imm advised that -

- (a) since March 2009, ImmD had launched a pilot scheme on Express e-Channel at LWCP to provide faster e-Channel service to Hong Kong residents aged 18 or above. To use the Express e-Channel service, a resident had to enrol in advance through the enrolment e-Channels designated for such purpose. After enrolment, passengers would be able to use Express e-Channels for future immigration clearance;
- (b) to further enhance immigration facilitation for Hong Kong and Macao residents travelling between the two places, the Governments of the Hong Kong Special Administrative Region (HKSAR) and the Macao Special Administrative Region (MSAR) introduced new immigration facilitation measures in December 2009. Under the new arrangement, Macao permanent residents might use the Hong Kong e-Channel service following enrolment upon arrival at the Macao Ferry Terminal in Sheung Wan and the China Ferry Terminal in Tsim Sha Tsui. Likewise, eligible Hong Kong residents could enjoy automated clearance service in Macao. Holders of valid Hong Kong permanent identity cards (ID cards) might enrol for the service at Macao External Harbour or Macao Taipa Ferry Terminal and use the service 15 minutes after enrolment. Alternatively, they might make use of the self-service enrolment kiosks set up in Hong Kong to register for the Macao

Action

e-Channel service. After completion of the enrolment process using the self-service enrolment kiosks, an applicant might normally use the service after three working days. As personal data of Hong Kong residents who chose to make use of the self-service enrolment kiosks set up in Hong Kong to enrol for the Macao e-Channel service would be transmitted to the relevant authorities of MSAR for validation once a day, it would result in a longer lead time before the e-Channel service could be used after registration; and

- (c) to provide more convenience for passengers, ImmD would explore the feasibility of developing e-Channels with multi-application capability in the context of the Third Information Systems Strategy Study which would commence in 2010, such that passengers who wished to enrol for using Express e-Channels, Frequent Visitors e-Channels or e-Channels for Macao residents could complete the necessary enrolment procedures through a single multi-application kiosk.

15. Mr IP Kwok-him asked whether and when the pilot scheme on Express e-Channel would be extended to other boundary control points, such as the Macao Ferry Terminal in Sheung Wan or the Lok Ma Chau Control Point.

16. In response, AD of Imm advised that statistics showed that LWCP had the heaviest cross-boundary passenger traffic among all 11 control points, and about 15 000 passengers making cross-boundary journeys to and from LWCP were daily users of the e-Channel system. As Express e-Channels could shorten the processing time for immigration clearance by about four seconds for each passenger, the installation of Express e-Channels at LWCP would greatly enhance the handling capacity of this particular control point. AD of Imm further advised that since the launch of the pilot scheme at LWCP, over 900 000 Hong Kong residents had enrolled for using Express e-Channels. ImmD would keep reviewing the pilot scheme. The Administration would consider extending the scheme to other control points if the passenger traffic justified the installation and subject to availability of space for installation.

Other issues

17. Responding to the Deputy Chairman's enquiry as to whether there were cases detected over the years involving the use of forged smart ID cards by Hong Kong residents in an attempt to perform self-service immigration clearance through e-Channels, AD of Imm said that since the introduction of the e-Channel service in December 2004, ImmD had never discovered any cases of Hong Kong residents using forged ID cards to successfully pass through the e-Channels. She informed Members that forged Hong Kong smart ID cards

Action

seized in recent years were of poor quality and defects could be spotted easily. It was because the forgers were unable to grasp the sophisticated anti-forgery features which were unique to the smart ID cards. It was indeed not difficult for the general public to differentiate between a genuine card and a fake one under careful scrutiny. AD of Imm further advised that the Administration was fully aware of the international trend on the use of biometrics identification technology in the verification of a person's identity. ImmD would keep a close watch on any new developments and, if necessary, make improvements to strengthen the security features of the smart ID cards.

V. Police's handling of public meetings and public processions
(LC Paper Nos. CB(2)832/09-10(09) and (10))

18. US for S briefed Members on the Police's handling of public meetings and processions, as detailed in the Administration's paper.

Demonstrations outside the Legislative Council Building on 15 and 16 January 2010

19. The Deputy Chairman referred to an object-throwing incident outside the LegCo Building on 16 January 2010 in which a LegCo Member leaving the LegCo Building after attending the meeting of the Finance Committee (FC) was hit on the head by a plastic bottle flung out from the crowd of demonstrators who surrounded the LegCo Building. The Deputy Chairman said that he learned from discussion fora on the Internet that a plainclothes Police officer, rather than a protester, was suspected to be the person who threw the plastic bottle as that person was seen to have entered the LegCo Building after the incident. The Deputy Chairman enquired whether the Police had conducted any investigation into the incident and if so, the progress and findings of the investigation.

20. US for S responded that he did not believe that any Police officers would behave and act in such a way. Assistant Commissioner of Police (Support) (ACP) said that the Police was not aware of the specific allegation as mentioned by the Deputy Chairman. To facilitate the Police's follow-up and investigation, he asked the Deputy Chairman to provide the Police with more concrete information about the allegation, including the contacts of the person who claimed to have information relating to the object-throwing incident, such as video tapes and photos. He assured Members that the Police would act impartially and would follow up the matter seriously.

21. Mr IP Kwok-him commended the Police for having maintained a high standard of performance to ensure the public order and security within the precincts of the LegCo Building when it was surrounded by thousands of

Action

demonstrators on 16 January 2010 after FC had approved the funding proposals relating to the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL). He expressed gratitude to all Police officers participating in the operation for their hard work and great restraint in handling the demonstration.

22. Mr IP Kwok-him said that when people were staging the protest outside the LegCo Building on 15 and 16 January 2010, he noticed that some demonstrators on the west side of the LegCo Building did make fire and sell food within the protest area, posing danger to the safety of other demonstrators and people in the LegCo Building and its surrounding areas. He enquired whether the Police had ventured to stop those demonstrators from causing danger to others. Mr IP further said that there were critics alleging that the demonstrators were provoked to challenge the police barricades since the Police had stopped them from having a peaceful march after the funding proposal was approved by FC. He sought the Administration's view on such allegation.

23. In response, US for S and ACP made the following points -

- (a) the HKSAR Government respected the rights of the public to peaceful assemblies and processions and to express their views. As Hong Kong was a crowded place, large-scale public meetings and processions would affect other people or road users, and might have impacts on public safety and order. In this connection, it had been, and continued to be the Police's policy to endeavour to facilitate, as far as possible, all peaceful public order events. While facilitating the expression of views by participants of processions, it was also the Police's responsibility to maintain public order, and at the same time strike a balance by ensuring the rights of other people to use the public place or road as well as their safety. Participants of processions, in expressing their views to the public, should also observe the Hong Kong law and public order and proceed in a peaceful and safe manner;
- (b) the Police however would not tolerate violence during the public order events. On occasions where the law was, or was likely to be, violated during public meetings or processions by acts of individuals (especially when there were acts which might cause danger to others or acts which led to a breach of the public order), the Police would, based on the assessment at scene and professional judgment, issue verbal warnings where appropriate. Depending on whether the person involved had ceased the illegal acts and whether his acts led to a breach of public order, or even affected public safety, the Police would, depending on the situation, take appropriate actions at scene. These actions

Action

included issuing verbal warnings or orders at scene, collection of evidence for subsequent investigation and consideration of prosecution, peaceful dispersal of the crowd or other law enforcement including arrest actions;

- (c) with regard to the protest on 16 January 2010, in view of the large number of demonstrators staging demonstrations outside the LegCo Building, the Police had set up mills barriers in certain areas and streets in the vicinity of the LegCo Building to ensure the safety of the demonstrators, other people, LegCo Members and government officials attending the FC meeting. There were a few police lines stationed at the mills barriers, which were set up as a basic security measure, to prevent any unauthorized persons from entering the LegCo Building; and
- (d) in the evening of 16 January 2010, the demonstrators had indeed made several attempts to break through the Police lines by pushing and climbing over the mills barriers. The Police had deployed pepper spray on the demonstrators. The Police's investigation into the incident was still ongoing. A report would be submitted to the Department of Justice (DoJ), upon completion of the investigation, for advice on whether there was sufficient evidence to prosecute any person for breach of the law.

24. Principal Assistant Secretary for Security (E) said that the organizer of the public meeting on 16 January 2010 had been informed of the requirement that no one could make fire within the public meeting venues, since the relevant condition was clearly stated in the approval letter for the use of venues of the Leisure and Cultural Services Department given by the Director of Leisure and Cultural Services. In addition, any sale of cooked food required the necessary permit or permission from the Director of Food and Environmental Hygiene. Officers of the relevant Government departments had communicated with the demonstrators on these requirements.

25. Ms Emily LAU and Ms Audrey EU noted that upon receipt of a notification about a public meeting or procession, the Police would establish early contact and maintain an active and close communication with the event organizer. They however doubted the effectiveness of the Police' liaison with the organizer of the public meeting on 16 January 2010. Ms EU expressed deep concern about the channel and adequacy of communication between the Police and the organizer. Ms LAU said that it appeared to her that the Police was incapable of protecting the right of LegCo Members to enter or leave the LegCo Building, as some of them were trapped in the LegCo Building for quite a long period of time after the FC meeting. She was particularly concerned about the capability of the Police in handling large-scale public order events outside the

Action

LegCo Building in future. Ms LAU also asked about the reasons why some LegCo Members were trapped in the LegCo Building on 16 January 2010, and whether the Administration had learned any lesson from this incident. Ms EU noted that not all LegCo Members had experienced the same problem in leaving the building, and those Members trapped in the LegCo Building were advised to stay. She requested the Administration to provide an explanation on why such advice was provided to Members.

26. In response, US for S made the following points -

- (a) whenever a large-scale public meeting or procession was held, the Police would carry out a review after the event. The aim of the review was to ensure that the tactics deployed and the use of force in the demonstrations and public assemblies concerned were justified and complied with the Police's operational guidelines for regulating public order events;
- (b) if there were conflicts and confrontations, the Police would investigate into the incidents concerned to ascertain whether there were reasonable grounds to arrest any persons for having breached the laws. The Police would consult DoJ as to whether there was sufficient evidence for instituting prosecution;
- (c) it was a general practice of the Police to maintain close communication with the event organizers and discuss with them how order could be maintained on the day of the public meeting or public procession. The event organizers were responsible for arranging wardens to maintain order during the public meeting or public procession. Apart from providing advice in advance and agreeing on certain arrangements in relation to the event, a Police Community Relations Officer might also be present during the event to act as a channel of communication between the organizer and the Field Commander. In assessing the crowd management measures and manpower required for maintaining public safety and public order during the event, the Police would make reference to the information provided by the organizer, past experience in handling similar events as well as other operational considerations. With regard to the public meetings on 16 January 2010, the Police maintained communication with the organizer throughout the event; and
- (d) there was no question of the Police failing to protect the personal safety of LegCo Members and government officials attending the FC meeting. It was noteworthy that in the late evening of 16 January 2010, some participants of the public meeting had

Action

become antagonistic. They besieged the LegCo Building on all sides and blocked the driveway. Taking into account the chaotic situation at that point in time, the Police advised the LegCo Members and the government officials who could not leave to remain in the LegCo Building until the danger was put right. To maintain public order and ensure the safety of the people at scene, the Police made arrangements for LegCo Members and government officials to leave the LegCo Building without removing the demonstrators by force.

27. Ms Cyd HO held the view that the public meeting outside the LegCo Building on 16 January 2010 was conducted in a peaceful manner most of the time. She criticized the Police for using pepper spray against the demonstrators and queried whether the use of pepper spray was justified and appropriate, particularly at times when the demonstrators had been dispersed. She sought detailed information about the Police's use of pepper spray in handling the demonstrators on 16 January 2010, including the number of times and the location where pepper spray was used, whether verbal warning had been given before the Police deployed pepper spray on the demonstrators, and whether the continued use of pepper spray into the faces and eyes of the demonstrators after the removal of the demonstrators was in contravention of the Police's internal guidelines on the use of pepper spray.

Admin

28. US for S agreed to provide the requested information after the meeting. He said that at some points in time, some of the demonstrators rushed to, climbed over and took away the mills barriers. In handling the violent confrontations, the Police had been upholding the principles of "exercising maximum restraint" and "using minimum force" and the Police officers had been issuing warnings against the violent actions taken by some of the demonstrators. It was noteworthy that seven Police officers were injured in course of discharging their duties. One of the officers suffered finger fracture while trying to prevent some demonstrators from pushing over the mills barriers.

29. ACP advised that the Police had examined the justifications and propriety of the use of force after the 16 January 2010 incident. The preliminary findings concluded that the Police's use of force during the event was justified and the degree of force used was appropriate. He emphasized that according to the Police's internal guidelines on the use of force, a Police officer should display self-discipline and exercise a high degree of restraint when dealing with the public and should not resort to the use of force unless such action was strictly necessary and he was otherwise unable to effect his lawful purpose. Police officers should identify themselves as such and, when circumstances permitted, a warning should be given of the intention to use force and of the nature and degree of force which it was intended to use.

Action

30. Mr CHEUNG Man-kwong considered that the Police had made a wrong decision in forbidding the demonstrators from embarking on an "arduous march" around the LegCo Building after the funding proposals relating to XRL had been approved by FC. He noted that when the Police barricaded certain areas and streets in the vicinity of the LegCo Building, some demonstrators started to turn rowdy and the situation became chaotic, which in the end resulted in disputes and confrontations between the demonstrators and the Police. He also criticized the Field Commander in charge of the event for failing to assess the counter-effects of setting up mills barriers to stop the demonstrators from marching peacefully on the streets. He urged the Police to review its guidelines regarding the deployment of mills barriers during large-scale public order events.

31. In response, US for S said that he believed that the Field Commander should have assessed the overall situation, including the public meeting and processions' impact on public safety and traffic management, in deciding the appropriate crowd control measures. He reiterated that the Police would conduct a review after every major operation and the event outside the LegCo Building on 16 January 2010 was no exception.

32. Ms Emily LAU said that the Police should ensure its review was conducted in a highly transparent manner. She hoped that the Police would collect various kinds of evidence, including statements from onlookers or disinterested parties who had relevant information about the event. She also requested the Administration to report back to the Panel after the completion of the review.

Admin

33. Mr WONG Kwok-kin asked whether the Police had anticipated the possibility that the peaceful demonstrations outside the LegCo Building would evolve over time and become violent disputes and confrontations. He said that on 15 January 2010, there were already minor disputes between the XRL project proponents and opponents. However, when the matter was reported to the Police, its response was far from satisfactory. Although the Administration had made it clear that the Police would uphold the principles of providing the greatest convenience for all public activities peacefully held, exercising maximum restraint and using minimum force in facilitating public order events and dealing with violent incidents, Mr WONG said that he had reservations about the tactics and degrees of force employed by the Police in handling the disputes and confrontations on 16 January 2010. He considered that while facilitating the expression of views by participants of processions, it was also the Police's responsibility to maintain public order and ensure the safety of other people. Emphasizing the need to strike a proper balance between protecting an individual's rights and the broader interest of the community, he asked whether the Police would, in similar operations in the future, demonstrate its resolve to disperse the crowd, control the situation and prevent more serious injury, when

Action

situation so warranted.

34. US for S said that the Police was fully aware of the need to strike a balance between safeguarding the right of an individual to demonstrate, and protecting the interests of the community at large. He assured Members that in handling public order events, the Police would, based on its assessment of the relevant risks in each case, decide on the appropriate course of action to be taken. If there was a need to use minimum force to control the situation, the Police would act with determination and resolve.

35. Members noted that the Hong Kong Human Rights Monitor (HKHRM) had provided a submission to the Panel, setting out what the observers of HKHRM had noted during the public order event outside the LegCo Building on 16 January 2010, including the Police's preparations and security arrangements for the event.

(Post-meeting note: The submission, which was tabled at the meeting, was issued to members vide LC Paper No. CB(2)887/09-10(01) on 3 February 2010.)

Admin

36. Dr Margaret NG requested the Administration to provide a written response to the issues raised in the submission from HKHRM.

37. Mr IP Kwok-him expressed concern that the information provided in the HKHRM's submission might not be complete and accurate. He considered that the Police should try its best to collect as much information as possible in conducting the review.

Non-compliance with the conditions imposed by the Commissioner of Police

38. Mr Paul TSE enquired about the consequence of non-compliance with the conditions imposed by the Commissioner of Police (CP) on a notified public meeting and procession. He also asked whether there were precedent cases in which organizers or persons-in-charge of the public meetings or public processions were prosecuted for having provided false or misleading information in a notice of intention to hold a public meeting or public procession.

39. In response, US for S explained that the Public Order Ordinance (Cap. 245) (POO) provided that a public meeting or procession of more than 50 and 30 participants respectively could only take place if notice had been given in accordance with the requirements of POO, and CP had not prohibited or objected to it. CP or his delegated officer might impose conditions on a notified public meeting or procession as reasonably necessary to ensure public order would be preserved and to ensure the overall public safety. In deciding whether

Action

and, if so, what conditions to impose, CP must consider whether such conditions were proportionate and necessary. US for S further advised that the notification system served to enable the Police to contact the organizers in its liaison work. As explained earlier, the Police would communicate with, and secure the support of, the event organizers to ensure that the public events were peacefully and orderly conducted. Should there be contraventions of the conditions imposed by CP, the Police would communicate with the organizer on spot to give appropriate reminders or warnings.

40. ACP supplemented that the Police would continue to adopt the approach of providing the necessary support and assistance to demonstrators participating in a peaceful protest and would not resort to the use of force unless such action was strictly necessary, and Police was otherwise unable to achieve the lawful purpose. On occasions where public order was likely to be undermined, the Police would, where appropriate, issue a verbal warning first and, if it was ignored, the Police would take appropriate actions in response to the circumstances to restore law and order. The Police would facilitate the event as long as it was conducted in a peaceful manner. Generally and in appropriate circumstances, where there were only minor, technical or unplanned breaches of POO, advisory or warning letters would be issued to the persons-in-charge of the public order events concerned. As regards the question on whether prosecution had ever been taken against event organizers for having provided false or misleading information in a notice of intention to hold a public meeting or public procession, ACP said that he would provide a written response after the meeting.

Admin

Use of force in removing demonstrators

41. Mr LEE Wing-tat referred to a small-scale demonstration held in early January 2010 outside the City Hall in Tsuen Wan in which three participants of the demonstration were injured by police violence and sent to the hospital after the rally. Mr LEE criticized the Police officers participating in that public order event for having used excessive force to disperse the demonstrators when the latter attempted to make an appeal by way of petition to the Principal Officials attending a public consultation forum on the two electoral methods for 2012. In his view, it was inappropriate for the Police to use force to remove demonstrators who did not display any overt violence. He expressed grave concern about whether the Police's use of force to remove demonstrators was appropriate, and questioned the need and appropriateness for applying force in peaceful public meetings or processions.

42. In response, US for S reiterated the stance of the Police in handling public meetings and processions, as detailed in paragraph 2 of the Administration's paper. He stressed that in handling violent confrontations with demonstrators, the Police had all along been upholding the principles of

Action

"exercising maximum restraint" and "using minimum force". Under normal circumstances, the force used by the Police was defensive and was appropriately used in response to the level of violence by demonstrators involved. As for the case cited by Mr LEE Wing-tat, US for S responded that the demonstrators were holding a petition which might cause danger to other people at scene. He advised that a formal complaint had been received and referred to the Complaints Against Police Office for investigation.

43. Ms Cyd HO noted with concern that the mills barriers were made of metal or steel. To minimize the potential harm that might cause to demonstrators and Police officers, she suggested that the Administration should consider replacing the metal mills barriers with those made of other materials.

44. The meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
23 March 2010