

# 立法會 *Legislative Council*

LC Paper No. CB(2)832/09-10(10)

Ref : CB2/PL/SE

## **Panel on Security**

### **Background brief prepared by Legislative Council Secretariat for the meeting on 2 February 2010**

#### **Police's handling of public meetings and public processions**

#### **Purpose**

This paper summarizes past discussions held by Members on review of the regulatory framework for public meetings and public processions and the Police's handling of such activities.

#### **Background**

##### Notification system relating to public meetings and processions

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 is the Police's duty to facilitate the conduct of lawful and peaceful public meetings and processions.

3. The main statutory provisions regulating public meetings and processions are laid down in the Public Order Ordinance (Cap. 245) (POO), which 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 POO, and the Commissioner of Police (CP) has not prohibited or objected to it. CP can prohibit any public meetings or processions if he reasonably considers such prohibition to be necessary in the interests of national security, public safety and public order, or for the protection of rights and freedoms of others. If the holding of a notified public meeting or procession is considered likely to prejudice the maintenance of public order or to be used for any unlawful purpose, CP must state the grounds of prohibiting or objecting to a public meeting or procession by way of a written notice and notify the organizers of his decision within a specified time limit (e.g. 48 hours before the commencement of the event if seven days' notice is given). If CP does not issue a notice of objection within the time limit, he is taken to have

issued a notice of no objection and the meeting or procession can proceed. CP cannot exercise this power of prohibition if such interests can be met by imposition of conditions. In deciding whether and, if so, what conditions to impose, CP must consider whether such conditions are proportionate.

### Appeal Mechanism

4. If CP prohibits, objects to or imposes conditions on a notified public meeting and procession, the organizers have a right of appeal to an independent Appeal Board on Public Meetings and Processions (the Appeal Board) as provided under POO. The Appeal Board may confirm, reverse or vary the prohibition, objection or condition imposed by CP.

## **Past discussions in the Council**

### Review of the Public Order Ordinance

#### *Government motion on the Public Order Ordinance*

5. The Secretary for Security (S for S) gave notice to move the following motion on POO at the Council meeting on 22 November 2000 -

"That this Council considers that the Public Order Ordinance's existing provisions relating to the regulation of public meetings and public processions reflect a proper balance between protecting the individual's right to freedom of expression and right of peaceful assembly, and the broader interests of the community at large, and that there is a need to preserve these provisions."

According to the Administration, the reasons for moving the motion was to explain explicitly the Government's stance on the provisions of POO regulating public meetings through a debate in the Legislative Council (LegCo) and to gauge the views of LegCo Members and the people or sectors they represented, having regard to a huge controversy in the community over whether POO was a piece of "evil" legislation and whether it should be preserved.

6. As some Members considered that the Administration should not push for a debate in the Council before listening to the views of the community and the Panel on Security, S for S deferred the motion debate on POO to the Council meeting on 20 December 2000.

#### *Discussions by the Panel on Security*

7. Before the Government motion was debated, the Panel on Security held a series of meetings in November and December 2000 to gauge the public views on provisions of POO relating to the regulation of public processions and meetings and also to discuss with the Administration the enforcement and review of POO.

8. Some members and some deputations criticized that the existing legislation was too harsh. They considered that the requirement of giving seven days' notice was unnecessary and out of step with other modern societies. They were of the view that the Police's power under POO was too excessive, and the "notice of no objection" system denied the rights of the public to hold public meetings or processions and contravened BL and the International Covenant on Civil and Political Rights (ICCPR).

9. These members and deputations also criticized the heavy custodial penalty imposed on both the organizer and participants of an unauthorized assembly. They considered that the penalties provisions should be amended so that failure to comply with the notification requirement would not be a criminal offence. Other proposals put forward by deputations for amendments to POO included shortening the seven-day notice period, abolishing the "notice of no objection" system, lowering the threshold on the number of people participating in public meetings and processions, and resting with the court the decision on whether a procession or meeting could proceed.

10. Some other members and deputations, however, considered that no amendment should be made to POO. They were of the view that the seven days' notice requirement was reasonable and necessary to allow the Police to make the necessary preparation for such activities. They also considered that there was a need to strike a balance between safeguarding the right of an individual to demonstrate, and protecting the broader interests of the community at large.

11. In response, the Administration explained that the seven-day advance notice was necessary because the Police needed time to make preparation so as to ensure that the events were carried out in a peaceful and orderly manner and disruptions were kept to the minimum. The Administration informed members that some 6 500 public processions and meetings were held between 1 July 1997 and 31 August 2000. The Police only raised objections to two public processions and three public meetings, all for the reasons that the size, timing or location of the public procession or meeting would cause serious traffic congestion or hindrance to public order and safety. In the view of the Administration, the requirement of giving prior notice and the "notice of no objection" system did not deny the rights of the public to hold public meetings and processions. The Administration stressed that if an organizer was dissatisfied with the decision of the Police, he could lodge an appeal with the Appeal Board.

12. The Administration advised that the penalties provisions, which were enacted in 1967, reflected the consensus of the community at that time. So far, the proportionality of these provisions had not been questioned, even when legislative amendments were introduced to POO in 1995 and 1997. The Administration also advised that a person would not be prosecuted merely because of his failure to comply with the notification requirement. Only persons who knowingly participated in an unauthorized assembly without lawful authority or reasonable excuse would be guilty of an offence under POO. In the view of the Administration, the criminal sanction was necessary and reasonable to uphold the integrity of the notification system.

13. As regards the suggestion to amend POO, the Administration considered that the existing provisions of POO relating to the regulation of public meetings and public processions reflected a proper balance between protecting the individual's right to freedom of expression and right of peaceful assembly, and the broader interests of the community at large. The Administration maintained the view that there was a need to preserve these provisions. Nevertheless, it did not rule out the possibility of future amendments to POO.

*Motion debate at the Council meeting on 20 December 2000*

14. At the Council meeting on 20 December 2000, S for S moved the motion on POO. While agreeing that there was a need to preserve the provisions in POO in relation to public meetings and processions, Hon James TO and Hon Emily LAU considered that a review of these provisions should be conducted. They proposed amendments to the motion to the effect that the Government should review POO.

15. The major views of those Members who expressed support for the amendments to the motion are as follows -

- (a) under the current notification system, an organizer should notify the Police seven days before the procession or meeting. If the "notice of no objection" was not received within 48 hours before the commencement of the procession or meeting, the organizer might conduct the procession or meeting. In other words, the organizer only had 48 hours to promote the procession or meeting and notify participants. The system was in effect a licensing system;
- (b) the seven-day notice period required under POO was too long and should be shortened to three days, or 48 hours, or 24 hours;
- (c) if no advance notice was given for a procession and meeting, the procession and assembly would become an "unauthorized assembly" and all the participants would become criminally liable under POO with a maximum sentence of five-year imprisonment. The maximum penalty under POO was too heavy as compared with the maximum penalty for committing other criminal offences;
- (d) the maximum number of participants that could be exempted from notification should be relaxed; and
- (e) the Police should have the onus of proof to explain why a procession or meeting was to be prohibited; it should not be for the organizer to prove otherwise. The Police should apply for injunction from an independent third party, such as a duty judge, to prohibit the holding of the procession or meeting.

16. In response, the Administration stressed that the provisions in POO relating to the regulation of public meetings and processions had struck a proper balance between protecting individual's freedom and interests of the community at large. The purpose of "a notice of no objection" was to require CP to give a clear indication as soon as possible so that organizers of processions might organize their activities. CP was empowered to prohibit the holding of any public meeting or procession when he considered it necessary on grounds of safeguarding national security, public safety, public order or protecting the rights and freedoms of others. These grounds for prohibition reflected the restrictions on the right of peaceful assembly as allowed under Article 21 of ICCPR. CP could not exercise his power to prohibit the holding of public meetings and processions if the interests of the community could be met by imposition of conditions. The notice of no objection was not a licence, and the procession could take place as scheduled if the Police did not issue a notice of no objection or notice of objection within the specified time limit.

17. Regarding the notice period, the Administration advised that CP had the discretionary power to accept a notice of less than seven days. It did not see any need for amendments. As for the statutory threshold on the number of people participating in public meetings and procession, the Administration pointed out that in view of the extremely overcrowded conditions in Hong Kong, a public meeting consisting of more than 50 people or a public procession consisting of more than 30 people would inevitably affect traffic, public order or activities of other people. Hence, the restrictions could not be relaxed.

18. As regards the offence of making announcement or promotion of an unnotified/unauthorized public meeting or procession, the Administration advised that it saw no difficulty in complying with the notification requirement. The organizer would not commit an offence if he notified the Police before advertising or promoting the event. Such requirement would allow the relevant authorities to assess whether the event complied with the law. Hence, the prohibition of prior promotion or announcement was part of the notification system.

19. The Administration pointed out that POO provided that anyone who was aggrieved by the decision of CP to prohibit, object to or impose conditions on a notified public meeting or procession could lodge an appeal to the Appeal Board, which was chaired by a retired judge and served by three unofficial members. The Appeal Board allowed the appellant and also CP to be heard and make submissions. It might uphold, overturn or change CP's decision.

20. The Administration stressed that the mechanism had been working well since its inception, and the existing provisions in POO should be retained. Nevertheless, it would not preclude the possibility of proposing amendments to POO in response to future social developments.

21. The original motion moved by S for S was carried. Thirty-six Members voted in favour of the motion and 21 voted against it.

The Court of Final Appeal's Judgment on *Leung Kwok Hung & Others v. HKSAR*

*Issues raised during the Panel's discussion*

22. At the meeting of the Panel on Security on 1 November 2005, the Administration briefed members on the background to the case of *LEUNG Kwok-hung and Others v. HKSAR*, and the effect of the judgment delivered by the Court of Final Appeal (CFA) on the Police's handling of notifications of public meetings and processions.

23. Members were informed that in *Leung Kwok Hung & Others v HKSAR*, CFA noted that the Government fully accepted 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. CFA also affirmed that notification was required to enable the Police to fulfill this positive duty. Nevertheless, CFA ruled that CP's discretion to restrict the right of peaceful assembly for the purpose of "public order (*ordre public*)" did not satisfy the constitutional requirement of "prescribed by law" which mandated the principle of legal certainty. The appropriate remedy was the severance of "public order" in the law and order sense from "public order (*ordre public*)" in the relevant statutory provisions.

24. Hon Margaret NG was concerned that the Administration had simplified the CFA's judgment into a matter of merely replacing the term "public order (*ordre public*)" in POO with the term "public order". She pointed out that the court had emphasized that CP must apply the proportionality test in exercising his statutory discretion to restrict the right of peaceful assembly. She considered that the Administration should not merely delete "*ordre public*" from the provisions in POO. It should examine how the provisions could be improved so that Police officers and members of the public would be aware of the scope of the Police's power. Some members also pointed out that POO was enacted in 1967 in view of the riots at that time. They questioned whether such legislation was still suitable for present day circumstances, and asked if a comprehensive review on POO should be conducted.

25. The Administration responded that the court had concluded that CP's statutory discretion to restrict the right of peaceful assembly for the purpose of public order must be held to satisfy the proportionality test and therefore the constitutional necessity requirement. CP would therefore apply the proportionality test in exercising his discretion under POO. Apart from the term "public order (*ordre public*)" which was ruled by CFA to be unconstitutional and thus would be amended, the Administration considered the existing provisions in POO in order, as they reflected a proper balance between protecting an individual's rights and the broader interests of the community at large.

26. The Administration further advised that in the light of the judgment, the Police would, in consultation with the Department of Justice (DoJ), review its internal guidelines for dealing with notifications of public meetings and processions.

Representatives of DoJ would also brief Police officers on the implications of the judgment. On 22 February 2006, the Administration reported to the Panel that the Police had promulgated the "*Guidelines on the approach to the Public Order Ordinance in relation to public meetings and public processions*" among frontline Police officers. The Guidelines explained clearly the meaning of important terms under POO, provided additional guidance on the terms used on the limits to Police discretion, and enhanced the consistency of the criteria with BL's requirements of legal certainty.

*Deliberations of the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2007 - amendments to references to "ordre public" in the Public Order Ordinance*

27. The majority members of the Bills Committee expressed concern about the impact of deleting the term "*ordre public*" from POO on the rights of Hong Kong people, in particular the rights to assembly and demonstrations, and the application of ICCPR in Hong Kong. Members were also concerned whether the Administration's proposed repeal of references to "public order (*ordre public*)" in POO would result in an absence of clear interpretation of the term under the Ordinance.

28. Some members pointed out that the meaning of the French term "*ordre public*" was wider than public order, but its exact meaning had never been made clear in the legislation. They were of the view that the proposed amendments to POO were not merely textual amendments, but involved changes in policy. The Administration should take into account the CFA's judgment and examine how the provisions in POO relating to public meetings and processions could be improved, e.g. by setting out clearly in the ordinance the conditions which could or could not be imposed on public meetings and processions, so that the Police and members of the public would be aware of the precise scope of the Police's power.

29. In response, the Administration explained that the proposed amendments to POO sought to bring the statute book in conformity with the law in force having regard to the CFA's judgment, and they would in no way affect the rights to assembly and demonstration currently enjoyed by the people of Hong Kong.

30. The Administration further explained that under POO, "public order (*ordre public*)" was one of the grounds upon which CP might exercise his discretion to object to public meetings and processions. The Police had all along been applying the term "public order (*ordre public*)" in the law and order sense in their daily operations. Since the handing down of the CFA's judgment on the case in July 2005, the term "public order (*ordre public*)" had been taken to mean "public order" in the law and order sense. There had been no substantive changes to the procedures in the processing of notifications. By deleting the reference to "*ordre public*" from the English text, the citizens' right to peaceful assembly was enhanced since CP's discretionary power was by law limited to public order in the law and order sense. Thus, deletion of the reference to "*ordre public*" from the English text did not have any substantive effect on Police operations in practice.

31. The Statue Law (Miscellaneous Provisions) Bill 2007, which incorporated legislative amendments to POO in the light of the judgment, was subsequently passed at the Council meeting on 30 April 2008.

Police's processing of notification of public meetings and processions

32. Arising from the Police's objection to the League of Social Democrats holding a public procession in the evening of 10 March 2007, the Panel on Security discussed how the Police processed notification of public meetings and processions at its meeting on 5 June 2007.

33. Some members queried why objection to the holding of the public procession on 10 March 2007 was made on the ground of low visibility at night. They asked whether visibility was one of the factors considered when CP determined whether to object to an application for public meeting or public procession. They also pointed out that the Korean farmers had staged a number of public meetings and public processions at night when the Sixth Ministerial Conference of the World Trade Organization (MC6) was held in Hong Kong in December 2005.

34. The Administration responded that as the proposed routing would run through very busy road sections and the procession was scheduled to start in the evening peak hours, the Police objected to the public procession on public safety and public order grounds. Visibility was only one of the factors affecting public safety. The Police had to give regard to the rights and freedom of other members of the public as well as the disruption that the public procession might cause. The Police had suggested that the organizers could advance the public procession to the afternoon of the day but this was not accepted by the organizers. The Administration also informed members that the routing of all public processions held during the MC6 period had been agreed between the organizers and the Police before the public processions were held.

35. On some members' query as to whether the Police would object to all future applications for holding public processions along the same route and around the same time of the day, the Administration advised that each application had to be considered on its own merits and circumstances. Some members expressed concern that this would give an impression that CP could object to the holding of any public procession at his own will.

36. Some members considered that records on applications for public meetings and public processions should be kept by the Police, as objection to the holding of public meeting or public procession involved restriction of the freedom of people. The Administration responded that the Police's database was developed on a need basis. The Police had been keeping records on public order events since 1997. Between January 1997 and April 2007, 6 393 notified public meetings and 7 416 notified public processions had been held in Hong Kong, representing an average of 3.6 public order events per day.

37. Responding to members' further enquiry as to whether the Police had any record on public meetings and public processions held before 1997 and whether the issue of low visibility had been raised in the Police's previous objections to the holding of public processions, the Administration advised that the Police captured only simple statistics on public meetings and processions before October 1998. Based on available information, from 1984 to 1997, the Police processed a total of 8 273 notified public meetings and 4 611 notified public processions. Of these, the Police prohibited 19 public meetings and objected to 27 public processions. Although it had previously used "low visibility" as a ground for objecting to the holding of public processions, the Police's record showed that from 1998 up to August 2007, there had been no such cases other than the one concerning the public procession which the League of Social Democrats proposed to hold on 10 March 2007.

### **Related information**

38. Hon LEUNG Kwok-hung and Hon Cyd HO raised questions on public meetings and processions at the Council meetings on 25 April 2007 and 24 June 2009 respectively. The Administration's replies are in **Appendices I** and **II**. Hon WONG Yuk-man also raised an oral question at the Council meeting on 27 January 2010 on the march for universal suffrage on 1 January 2010; the Administration's reply is in **Appendix III**.

### **Relevant papers**

39. A list of the relevant papers on the Legislative Council website is in **Appendix IV**.

Council Business Division 2  
Legislative Council Secretariat  
28 January 2010

## Press Releases

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LCQ1: Public meetings and processions

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Following is a reply by the Secretary for Security, Mr Ambrose S K Lee, to a question by the Hon Leung Kwok-hung on public meetings and processions in the Legislative Council today (April 25):

Question:

Early last month, the Police objected to the League of Social Democrats holding a public procession in the evening of the tenth of last month, on the grounds that the procession might cause serious traffic inconvenience and pose a threat to public safety. In the said evening, the Police even deployed hundreds of police officers to stop the League from holding the procession, and warned those present that the Police could arrest them under the Public Order Ordinance should they insist on holding the procession. In this connection, will the Government inform this Council:

(a) given that there were past cases in which the Police did not stop the holding of public processions to which they objected (but reserved the right to institute prosecution afterwards), why the Police adopted a different practice in handling the aforesaid procession, and whether guidelines have been issued to front-line police officers on the handling of public processions to which the Police object;

(b) in respect of each of the past five years, of the respective numbers of public processions and public meetings to which the Police objected, a breakdown of such numbers by the reasons for objection, the respective numbers of public processions held in the evening to which the Police objected and did not object (including processions commencing in the afternoon), the basis on which the relevant decisions were made, as well as the reasons for objection; and

(c) whether it will consider amending the Public Order Ordinance by repealing the provisions empowering the Police to object to the holding of public processions and public meetings, so as to give effect to the right to peaceful expression of views enshrined in the International Covenant on Civil and Political Rights?

Reply:

Madam President,

Like other metropolitan cities, Hong Kong has legislation to regulate public meetings and processions. The purpose of such legislation is to maintain a proper balance between protecting an individual's freedom of expression and right to assembly, as well as safeguarding the broader interest of the community. In this connection, the Police have always been committed to facilitating the conduct of lawful and peaceful public meetings and processions.

Our reply to the three parts of the question is as follows:

(a) In handling any public meetings or processions, the aim of the Police is to strike a proper balance between protecting an individual's rights and the broader interest of the community.

The Police would not allow a procession to continue if they have already raised objection to it. Nevertheless, some of the organisers might proactively contact the Police, suggesting changes to the number of participants, routing, time or venue, in order to reduce the inconvenience that might be caused to the public. If the Police assessed that the changes proposed by the organisers could suitably address the reasons for their original objection, the Police would allow the organisers to continue with their procession. Taking 2002 to 2006 as an example, the Police raised objections to six cases of notified processions. Among them, organisers of three cases subsequently reached agreement with the Police on the routing or number of participants and hence the Police allowed the processions to continue. As for the remaining three cases of processions to which objections were raised, the organisers cancelled their activities eventually.

Regarding the public activity scheduled to be held in the evening of March 10 this year (Saturday) as referred to in the question, it consisted of two parts, namely a public meeting and a public procession. The Police did not object to the part concerning a public meeting. But for the procession, as the proposed routing would run through very busy road sections and the procession was scheduled to start in the evening peak hours, the Police objected to the procession on public safety and public order grounds and suggested the organisers to advance the procession to the afternoon of the day. However, the suggestion was not accepted by the organisers, who subsequently appealed to the Appeal Board on Public Meetings and Processions (the Appeal Board). After hearing the grounds of appeal put forward by the organisers, the Appeal Board dismissed the appeal on March 7.

I would like to point out that, as far as public meetings and processions are concerned, all Police officers have been instructed to discharge their duties in accordance with the law in a fair and just manner. In addition, as we reported to the Panel on Security of the Legislative Council on February 22, 2006, the Police have promulgated the "Guidelines on the approach to the Public Order Ordinance in relation to public meetings and public processions" among frontline Police officers. The Guidelines clearly explain the meaning of important terms under the Public Order Ordinance (POO), supply additional guidance on the terms used on the limits to Police discretion, and enhance the consistency of the criteria with the Basic Law's requirements of legal certainty.

(b) Over the past five years (i.e. from 2002 to 2006), a total of 11,110 public meetings and processions were held in Hong Kong. During this period, only in respect of five meetings and six processions did the Police raise prohibitions/objections. A detailed breakdown is at Annex.

The Police do not have ready figures on the number of public processions held in the afternoon and/or evening. According to limited records available, from 2004 to 2006, the Police received notifications on 137 processions which were to start at 6pm or thereafter. Although these processions were to be held in the afternoon/evening, their actual routing, number of participants, as well as the day of the week on which they were to be held were different from those of the event mentioned in the question. After assessing the risk of these cases, the Police did not raise objection to them as the Police had reasons to believe that the events would pose no serious threat to public order and public safety.

I would like to reiterate that the hour that a procession is held is only one of the considerations of the Police. The premise is to strike a proper balance between protecting an individual's rights and the broader interest of the community.

(c) At the constitutional level, Article 27 of the Basic Law

guarantees the freedom of association, of assembly, of procession and of demonstration, while Article 17 of the Hong Kong Bill of Rights gives domestic effect to the provisions of Article 21 of the International Covenant on Civil and Political Rights (the Covenant). The provisions of the POO in respect of the right to assembly were specifically framed with a view to conformity with Article 21 of the Covenant. All decisions made under that Ordinance are subject to the Basic Law, Article 39 of which provides that the provisions of the Covenant as applied to Hong Kong shall remain in force.

Furthermore, in *Leung Kwok Hung & others v Hong Kong Special Administrative Region*, the Court of Final Appeal also 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 to take place peacefully. It also accepted that the present system is both necessary and proportionate, and it therefore satisfies the constitutional obligations and requirements.

In view of the above, we have no plan to amend the part in the POO relating to the discretion of the Commissioner of the Police to object to the holding of public meetings and public processions.

Ends/Wednesday, April 25, 2007  
Issued at HKT 14:31

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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
<b>Total</b>	<b>5*</b>	<b>5#</b>	<b>0</b>	<b>1#</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Note:** \* Among the above 5 public meetings which were prohibited by the Police, two of them were allowed to continue as the organizers changed the number of participants.  
 # Among the above 6 public processions which were objected by the Police, the organizers of two of them changed the routing and one changed the number of participants, and the processions were allowed to continue.

Ends/Wednesday, April 25, 2007  
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## Press Releases

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LCQ3: The Police facilitate public processions or assemblies

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Following is a reply by the Secretary for Security, Mr Ambrose S K Lee, to a question by the Hon Cyd Ho in the Legislative Council today (June 24):

Question:

According to various press reports, as the Police had made a wrong estimate of the number of participants in the "great march on July 1" in 2003 beforehand, insufficient police manpower was deployed to assist the public in participating in the peaceful assembly on that day. Similarly, as the Police had underestimated the number of participants in this year's "June 4 Candlelight Vigil", there was insufficient police manpower and members of the public who were on their way to participate in the event were advised by police officers to leave. Moreover, on many occasions following public processions and assemblies, there were significant discrepancies between the number of participants as announced by the Police and those by community groups. In this connection, will the Government inform this Council:

(a) how the authorities estimate, before a public assembly or procession is held, the number of police officers to be deployed to maintain order, and of the role of the Central Policy Unit and the Executive Council; what mechanism has been put in place by the authorities to immediately mobilise additional manpower to assist in maintaining order when the actual number of participants turns out to be far greater than expected, and whether the police officers at the scene are under order to advise the public not to participate in the procession or assembly with a view to reducing the number of people assembling; if they are, of the rank of the police officers who make such an order;

(b) whether the Police will, on the day when a public assembly or procession is held, carry out aerial video filming and use the video systems in MTR stations to instantly assess the number of participants, so that the authorities concerned can immediately take appropriate traffic measures, such as increasing the frequency of MTR trains to facilitate public participation, or notifying the bus companies to make changes to routes in order to avoid the procession from sharing roads with buses, or opening up more traffic lanes so that the procession will have sufficient room to move forward; and

(c) of the means by which the Police calculate the number of participants in assemblies and processions; and the rank of the police officers who make the final verification of the statistics before they are made public?

Reply:

President,

(a) The Police respect people's right to organise and to participate in processions and assemblies. They will maintain close contact with the organisers of the events concerned and, as far as possible, facilitate the processions or assemblies so as to ensure that public order and the safety of other members of the public will not be affected. In handling public events such as processions and assemblies, the Police will make reference to the information provided by the organisers and past experience in handling similar events so as to assess the measures and manpower required for maintaining public order and

public safety. The Central Policy Unit and the Executive Council are not involved in the Police's work in this area. In addition, the Police will also draw up contingency plans to cope with any unexpected situations that may arise, e.g. when the number of participants is higher than expected, in order to ensure that public events are held in a peaceful and orderly manner.

If the number of participants of a procession or assembly is higher than expected, the Police will, depending on the situation, implement corresponding crowd management measures such as traffic diversion and special crowd flow system, arrange for entry into the venue or access to the starting point of the procession via different routes, and deploy additional manpower to render assistance. The Police will also liaise with the organisers where special circumstances so warrant, e.g. suggesting to the organisers the use of nearby locations to accommodate participants of the event, etc. The Police's main responsibility is to safeguard public order and public safety. Neither the department nor the responsible police officers take any stance in relation to individual assemblies or processions, and they will not advise the public not to participate in such assemblies or processions.

(b) Depending on the need of the situation, the Police will make use of the closed circuit television systems (CCTVs) in the MTR stations, CCTVs installed by the Transport Department (TD) for traffic monitoring and temporary CCTVs installed by the Police as required for crowd management purpose, for assessing the movement of people participating in the processions or assemblies as well as the public order situation so that they can implement crowd management measures and make manpower deployment accordingly. At present, the Police do not carry out aerial video filming for their work in this respect.

When large-scale public assemblies or processions are held, the Police will liaise closely with TD on traffic arrangement. The Emergency Transport Co-ordination Centre of TD will monitor the traffic and transport situation in the vicinity of the venue so that, where necessary, it will co-ordinate with the departments concerned, including the Police, and the organisations concerned in the implementation of appropriate contingency measures for traffic and public transport services. Examples include temporary road closure and re routing of bus and minibus routes with a view to facilitating members of the public to take part in the events and making available space for the events. Bus companies and the MTR Corporation will also be asked to increase the frequency of transport services and adjust the locations of bus stops so as to clear the crowd participating in the events as quickly as possible.

(c) In the course of public assemblies and processions, the Police will assess the number of participants to facilitate the implementation of appropriate crowd management measures as well as contingency measures for traffic and public transport services, and to arrange for flexible deployment of manpower in order to ensure the maintenance of public order and the protection of people's safety.

During large-scale public assemblies, the Police will observe an from different locations. In general, the Police will estimate the number of participants of an event on the basis of the estimated capacity per square metre of the venue. As for processions, the Police will set up observation points along the procession route. The number of participants passing by the observation points will be estimated. With reference also to the duration of the procession, an estimate will be made of the number of people passing through various observation points. As a general arrangement, the most senior police officer in charge of an operation of crowd management is

responsible for verifying the total number of participants of the event.

Ends/Wednesday, June 24, 2009  
Issued at HKT 15:59

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## Press Releases

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LCQ4: Government respects the rights of the public to peaceful assemblies and processions

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Following is a reply by the Secretary for Security, Mr Ambrose S K Lee, to a question by the Hon Wong Yuk-man in the Legislative Council today (January 27):

Question:

There have been comments that the arrangements during and after the march for universal suffrage held on new year's day of 2010 were made by the Police with the intention to suppress the participants of the march, which seriously undermined the freedom of expression. Those arrangements included deploying a large and disproportionate number of police officers at the destination of the march, i.e. outside the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region ("the Liaison Office"), video-filming the faces of the participants at a close distance, and sending police officers to the home of a participant of the march in a high profile manner afterwards to harass her family members. In this connection, will the Government inform this Council:

(a) of the number of police officers deployed outside the Liaison Office on the day of the march and the justifications for the deployment of police of such a scale;

(b) given that it was reported that although the Police had already obtained the telephone number of the aforesaid participant, they still sent police officers to her home early this month to ask her family members about her contact details as a way to harass them, and then arrested the participant in a high profile manner afterwards, of the justifications for the Police making such arrangements; and

(c) given that there have been comments that the Police might have intruded into personal privacy by video-filming the faces of participants of the march at a close distance, whether it has assessed if the participants have the right to refuse being video-filmed by the Police; and whether the Police are required to obtain the prior consent of those to be video-filmed?

Reply:

President,

(a) The HKSAR Government respects the rights of the public to peaceful assemblies and processions and to express their views. As Hong Kong is a crowded place, large-scale public assemblies and processions will affect other people or road users, and may have impacts on public safety and order. In this connection, while facilitating the expression of views by participants of processions, it is 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.

In handling public events, the Police will maintain close contact with the organisers having regard to the information and the expected number of participants provided by the latter. The Police will, by taking into account possible public responses, strategies and experience in handling similar events in the past, details of the events and possible constraints on their operations, make comprehensive risk assessment and examination to decide on the necessary manpower deployment and implement appropriate crowd management measures, with a view to ensuring that the event is conducted in a safe and orderly manner.

With regard to the procession on the first of January, the expected number of participants as provided by the organiser was 10,000. Since the procession itinerary included a number of busy districts and trunk roads, it was necessary for the Police to deploy sufficient officers along the route of procession and at the assembly place to maintain order of the whole procession and to ensure proper crowd and traffic management. The Police have not maintained breakdown figures on police officers on duty at individual locations. Besides, the event on that day demanded flexible deployment to cope with the movement of the crowds in the procession and their activities. According to the Police, about 1,000 officers were deployed in total for the operation on that day.

(b) If the Police need to take arrest and charge action based on the facts and evidence collected, it is a usual practice of the department to go to the reported residential or office address (es) of the case subject to make an arrest action. With regard to the case mentioned in part (b) of the question, I understand that the Police have followed the usual practice in handling the matter.

(c) If the Police consider it necessary to take video records of major public events, the main purpose is to maintain a live record of the event itself rather than to target individual participants. In general, video-filming is to facilitate future internal review and strategy evaluation with a view to improving the management and response capabilities of the Police in dealing with large-scale events. For this reason, video-filming by the Police of any procession or overall movements of crowds does not involve any purpose or act pertaining to personal data collection. Except for the constraints at an event venue or its environment, police officers normally do not video-film individual participants at a close distance.

Only when there are signs of a breach or a possible breach of public peace or public order, will the course of the incident or the behaviour of individuals causing the breach become the focus of the video-filming by police officers. In such cases, it is reasonable and lawful for the Police to take evidence by video-filming those who are suspected to have violated the law.

Only police officers with appropriate training will be tasked to video-film public events. Any such filming will require the special authorisation from officers of the rank of Chief Superintendent or above. Besides, officers responsible for the filming must act in accordance with the specific instructions of a supervisor of the rank of Superintendent or above. Police officers who carry out video-filming will be identifiable by wearing uniforms of police officers.

Ends/Wednesday, January 27, 2010  
Issued at HKT 15:39

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**List of relevant documents on Police's handling of  
public meetings and public processions**

Date of meeting	Meeting	Document / Paper No.
18.11.2000	Panel on Security	Minutes of meeting (LC Paper No. CB(2)986/00-01)
25.11.2000	Panel on Security	Minutes of meeting (LC Paper No. CB(2)1268/00-01)
9.12.2000	Panel on Security	Minutes of meeting (LC Paper No. CB(2)1285/00-01)
12.12.2000	Panel on Security	Minutes of meeting (LC Paper No. CB(2)155700-01)
16.12.2000	Panel on Security	Minutes of meeting (LC Paper No. CB(2)1558/00-01)
		Administration's paper entitled "Public Procession Requirements in Overseas Countries" (LC Paper No. CB(2)303/00-01(01))
		Administration's paper entitled "Provisions of the Public Order Ordinance before and after the enactment of the Public Order (Amendment) Bill 1997 (LC Paper No. CB(2)303/00-01(02))
		Administration's paper entitled "Provisions of the Public Order Ordinance before and after the enactment of the Public Order (Amendment) Bill 1994 and the Public Order (Amendment) Bill 1997" (LC Paper No. CB(2)402/00-01(01))
20.12.2000	Legislative Council	Government motion on the Public Order Ordinance
1.11.2005	Panel on Security	Minutes of meeting (LC Paper No. CB(2)755/05-06)
		Administration's paper entitled "The Court of Final Appeal's Judgment on <i>Leung Kwok Hung &amp; Others v. HKSAR</i> " (LC Paper No. CB(2)192/05-06(05))
-	Panel on Security	Administration's paper entitled "Guidelines on the approach to the Public Order Ordinance in relation to public meetings and public processions" (LC Paper No. CB(2)1224/05-06(01))
		Administration's paper entitled "Recent measures implemented by the Police in relation to public meetings and public processions" (LC Paper No. CB(2)1224/05-06(02))

<b>Date of meeting</b>	<b>Meeting</b>	<b>Document / Paper No.</b>
5.6.2007	Panel on Security	Minutes of meeting (LC Paper No. CB(2)2597/06-07)
		Administration's paper entitled "Processing of Notification of Public Meetings and Processions under the Public Order Ordinance" (LC Paper No. CB(2)1736/06-07(12))
		Supplementary information provided by the Administration on Police's processing of notification of public meetings and processions (LC Paper No. CB(2)2785/06-07(01))
30.4.2008	Legislative Council	Report of the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2007 to the Legislative Council on 30 April 2008 (LC Paper No. CB(2)1717/07-08)

Council Business Division 2  
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