

立法會
Legislative Council

LC Paper No. CB(2)873/12-13
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of meeting
held on Tuesday, 5 February 2013, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon IP Kwok-him, GBS, JP (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon CHAN Kam-lam, SBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon Michael TIEN Puk-sun, BBS, JP
Hon NG Leung-sing, SBS, JP
Hon Frankie YICK Chi-ming
Hon YIU Si-wing
Hon MA Fung-kwok, SBS, JP
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Hon CHUNG Kwok-pan

Members attending : Hon CHAN Kin-por, BBS, JP
Hon Claudia MO

Members absent : Hon Albert HO Chun-yan
Hon CHAN Hak-kan, JP
Hon WONG Kwok-kin, BBS
Dr Hon Elizabeth QUAT, JP

Public Officers attending : Item IV

The Administration

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

Ms Carol YIP Man-kuen, JP
Deputy Secretary for Security

Mr TANG How-kong
Director of Management Services
Hong Kong Police Force

Ms Winnie CHIU Wai-yin
Assistant Commissioner (Support)
Hong Kong Police Force

Mr Duncan McCOSH
Chief Superintendent, Complaints and
Internal Investigations Branch
Hong Kong Police Force

Item V

The Administration

Mr John LEE Ka-chiu, PDSM, PMSM, JP
Under Secretary for Security

Miss Bella MUI Bun-ngar
Principal Assistant Secretary for Security

Mr LO Siu-hang, FSMSM
Assistant Director (Headquarters)
Fire Services Department

Mr SO King-yiu
Divisional Commander (Air)
Fire Services Department

Mr Michael YUNG Kam-hung
Assistant Divisional Officer (Planning Group)
Fire Services Department

Attendance : Item IV
by invitation

Independent Police Complaints Council

Mr Ricky CHU Man-kin
Secretary-General

Ms Cherry CHAN Man-yi
Legal Adviser

Clerk in : Miss Betty MA
attendance Chief Council Secretary (2) 1

Staff in : Mr Stephen LAM
attendance Assistant Legal Adviser 11

Mr Raymond LAM
Senior Council Secretary (2) 7

Miss Lulu YEUNG
Clerical Assistant (2) 1

Action

I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)576/12-13)

The minutes of the meeting held on 4 January 2013 were confirmed.

Action

II. Information paper issued since the last meeting

(LC Paper No. CB(2)468/12-13(01))

2. Members noted that a letter from Mr Dennis KWOK suggesting discussion of the subject of self-harm by inmates had been issued since the last meeting. Members agreed that the subject would be included in the Panel's list of outstanding items for discussion.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)578/12-13(01) and (02))

3. Members agreed that the following items would be discussed at the next regular meeting on 1 March 2013 at 10:45 am -

- (a) Management succession in the Independent Commission Against Corruption;
- (b) Replacement of five High-Speed Interceptor Craft for Small Boat Division of Marine Region of Hong Kong Police Force; and
- (c) Replacement of Digital Radar Security System for Marine Region of Hong Kong Police Force.

IV. Final report of the Independent Police Complaints Council on complaint cases arising from the visit by the Vice Premier Mr LI Keqiang

(LC Paper Nos. CB(2)389/12-13(01), CB(2)578/12-13(03) and (04))

4. Secretary for Security ("S for S") briefed Members on the Administration's response to issues raised in the final report of the Independent Police Complaints Council ("IPCC") on complaint cases arising from the visit by the Vice Premier Mr LI Keqiang ("the Final Report"), details of which were set out in the Administration's paper. Director of Management Services, Hong Kong Police Force ("Director of MS") added that there had been cases of attack of political dignitaries in other places and it was the absolute duty of the police in different parts of the world to protect the personal safety of political dignitaries. Besides terrorists, there might be persons with mental problems or radical persons who intended to attack political dignitaries. Police officers involved in

Action

the planning and execution of the security operations faced great pressure and difficulties in discharging their duties. The security operations involved uncertain and complicated factors which were different from general crowd management operations. While such operations might cause inconvenience to members of the public, the Police hoped that they would understand the challenges and difficulties faced by the police officers involved. Secretary-General of IPCC ("SG/IPCC") highlighted the salient points in the Final Report.

5. Members noted the background brief entitled "Final report of the Independent Police Complaints Council on complaint cases arising from the visit by the Vice Premier Mr LI Keqiang" prepared by the Legislative Council Secretariat.

Provision of information by the Police to the Independent Police Complaints Council

6. Mr Michael TIEN asked whether the Police had provided IPCC with all information requested by the latter for its review of investigation results regarding complaint cases arising from the visit by the Vice Premier. He asked whether the Police had exercised any exemption to refuse the provision of confidential information requested by IPCC. He considered that if IPCC had a duty to maintain the confidentiality of information provided by the Complaints Against Police Office ("CAPO"), the Police should not be worried about disclosure by IPCC of any confidential information provided.

7. Director of MS responded that the Police respected the statutory power and role of IPCC and had all along endeavoured to provide all information requested by IPCC for its performance of statutory functions. He said that in the course of review of complaint cases related to the security arrangements during the Vice-Premier's visit, IPCC had requested for access to relevant operational orders and the Police was concerned that the content of these operational orders involved sensitive information such as details of the Police's security operations and deployment of manpower. In order not to undermine the security operations and for the protection of the personal safety of political dignitaries visiting Hong Kong in future, the Police and IPCC had held discussions and reached agreement on the arrangements for the provision of requested information to the latter. The Police had not exercised any exemption to refuse the provision of information to the latter.

Action

8. SG/IPCC said that the duty of IPCC to keep in confidence information provided by CAPO and the specific circumstances under which such information could be disclosed were set out in sections 39 and 40 of the Independent Police Complaints Council Ordinance (Cap. 604) ("IPCCO").

Operational orders of the Police

9. Referring to paragraph 3.5 of the Final Report, the Deputy Chairman noted with concern that in the operational orders for the visit by the Vice Premier, police officers were reminded to take action where necessary against pre-empt embarrassment or threat to the Vice Premier and to ensure that the events concerned were conducted in a smooth and dignified manner. He asked whether similar wording had appeared in previous operational orders. Ms Cyd HO said that although there was a need for the Police to protect the personal safety of a political dignitary, there was no need for the Police to protect his dignity and guard him against pre-empt embarrassment. Ms Emily LAU considered that such wording should not appear in future operational orders.

10. Director of MS responded that it was during the review of the cases concerned that the Police noticed that such wording was used in some of the operational orders by some districts in the past. The Police agreed with IPCC's view that such wording might be ambiguous and should be avoided in future operational orders.

11. The Deputy Chairman expressed strong dissatisfaction that different representatives of the Police who attended previous meetings of the Panel had said that there was no such wording in the Police's operational orders but refused to provide the Panel with a copy of the operational orders. He asked whether the Police had briefed its frontline officers that pre-empt embarrassment and ensuring visits of political dignitaries to be conducted in a smooth and dignified manner were not considerations in such security operations.

12. Director of MS responded that the sole purpose of security operations during visits of political dignitaries was to protect the personal safety of the political dignitary and to maintain public order, without any political consideration. He pointed out that IPCC had stated in paragraph 4.8 of its Final Report that it had not found any evidence to show that the Police actions in the security operations were politically motivated.

Action

13. Referring to paragraph 3.7 of the Final Report, the Deputy Chairman asked whether the Police would stipulate in its operational orders the duty of the Police to facilitate peaceful assembly and demonstration. Director of MS replied in the affirmative. He said that it had been highlighted in the operational orders that the freedom of expression and assembly of members of the public should be respected.

14. Ms Claudia MO asked whether the wording "pre-empt embarrassment" had appeared in the operational orders for security operations during the visit by President Mr HU Jintao ("the President") in mid-2012. Director of MS replied such wording had not been used in the operational orders in relation to the President's visit.

15. Mr Christopher CHEUNG considered that frontline police officers had discharged their duties and struck a balance between the rights of demonstrators and other persons during the visit of the Vice Premier. Noting that some wording in the operational orders were inconsistent and might cause confusion on the part of frontline officers, Mr CHEUNG asked whether the Police had taken any steps to address the issue. Director of MS responded that since the security arrangements for the President in mid-2012, the Police had avoided the use of ambiguous wording that might cause confusion or misunderstanding in the operational orders.

16. Dr LAM Tai-fai declared that he was a Vice-Chairman of IPCC and said that he was speaking in his capacity as a Legislative Council Member. He considered that the Final Report was comprehensive and pragmatic. He said that as all visiting political dignitaries had different political background, it was natural for the security operations to take into account political considerations. In his view, the risk assessment would be incomprehensive if there was no political consideration. Given that the visiting dignitary was a guest to Hong Kong, he considered it reasonable to ensure that the event concerned was conducted in a smooth and dignified manner and the guest would not suffer from pre-empt embarrassment.

17. The Chairman said that there was a need for the retention of wording such as smooth, avoidance of pre-empt embarrassment and dignified manner in the operational orders for visits of political dignitaries. Otherwise, the events attended by the political dignitaries could not be conducted smoothly. Instead of removing the wording, the Administration should retain the wording in the operational orders and elaborate on their meanings. He considered that persons who exercised the freedom of expression should not obstruct the activities of others.

Action

18. Director of MS said that he noted the diverse views of Members on the wording in the operational orders. He stressed that the Police had always and would continue to act in accordance with the law. He reiterated that it was the absolute duty of the Police to ensure the personal safety of political dignitaries as well as public order while keeping inconvenience to members of the public to a minimum.

Police's security operations

19. Mr KWOK Wai-keung asked whether measures would be adopted to improve communication with residents and reduce inconvenience to residents when political dignitaries paid home visits to residents in future. He also asked whether the Police would review the coverage of the security zones. Ms Emily LAU considered that residents living in the vicinity should be allowed to use the streets in the area when political dignitaries paid home visits.

20. Director of MS responded that it was the practice of the Police to conduct a review after each major operation. He stressed that the Police would apply the same principles in conducting future operations and balance the needs of each party. He also pointed out that as the risk assessment and place of visit by political dignitaries differed from one to another, the security arrangements also differed from one visit to another. For security reasons, the detailed security arrangements could not be disclosed in advance. He hoped that members of the public would understand the great difficulties faced by police officers in the protection of political dignitaries during such visits. He stressed that the Police's security arrangements and operations were comparable to those adopted in other advanced countries around the world. In comparison, the security arrangements in Hong Kong had caused less inconvenience to members of the public than those in other advanced countries.

21. Mr WONG Yuk-man said that the Final Report had revealed many problems, although the recommendations were very conservative. In his view, there was political consideration in the Police's security operations. He considered that the Police should only protect the personal safety of political dignitaries but not their dignity.

Action

22. Mr LEUNG Kwok-hung considered that the Police's security operations were not proportionate to the security needs. The establishment of designated public activity area ("DPAA") at a location where the demonstrators could not be seen and heard by the political dignitary was also not proportionate. In his view, the wording on the T-shirt of the complainant in case 13 had not caused the Vice Premier to suffer from indignity.

23. Ms Claudia MO asked whether a person who wore a T-shirt with "Vindication of June 4" printed on the back would be removed and whether a reporter who raised questions on the same subject matter would be taken aside in future visits by political dignitaries.

24. Director of MS responded that the sole purpose of the security operations was to protect the personal safety of the political dignitary and there was no political consideration in the operations.

25. Mr CHAN Kam-lam said that some social movements in recent years were very radical and unacceptable. He expressed strong support for the Police's strict enforcement actions to maintain law and order in Hong Kong.

26. S for S stressed that the Security Bureau fully supported the Police's enforcement of the law against any acts jeopardizing public order or public safety. Director of MS said that the Police would continue to take enforcement actions impartially and act in accordance with the law. It would not take enforcement actions selectively.

Disciplinary actions against police officers

27. Noting IPCC's observation that some operational orders contained guidelines with wording ambiguous in meaning and application which might confuse frontline officers in carrying out their duties or making decisions on the spot, Mr Michael TIEN expressed concern whether there were police officers at supervisory level or above among the 10 police officers against whom disciplinary actions had been taken. The Deputy Chairman and Mr WONG Yuk-man expressed concern that disciplinary actions had been taken against frontline police officers only. Mr WONG added that the disciplinary actions taken against the police officers concerned, especially those disciplined in connection with case 13, were too lenient.

Action

Designated press area and handling of the media

28. Ms Claudia MO, Ms Emily LAU and Mr LEUNG Kwok-hung expressed concern that although it was stated in paragraphs 3.8 and 4.10 of the Final Report that the Police had adopted improvement measures and tightened its coordination role in the security operation for the visit by the President in mid-2012, a reporter was taken away by a police officer for a 15-minute enquiry on 30 June 2012 when the reporter asked the President a question at the cruise terminal site in Kowloon Bay.

29. Director of MS responded that as the reporter concerned had lodged a complaint and legal proceedings on the incident had commenced, he was not in a position to comment on the case concerned. Assistant Commissioner (Support), Hong Kong Police Force added that the Police had, after having reviewed its policy on the setting up of designated press area ("DPA") and considered the views of IPCC on the issue, adopted a series of measures to facilitate media coverage. She stressed that it was the operational policy of the Police to strike a balance between security needs and facilitating media reporting work.

30. SG/IPCC said that IPCC noted that the Police had implemented a series of measures in relation to the security operation for the visit by the President between 29 June and 1 July 2012. These included setting Forward Petition Area inside security zones, allowing the media to move freely outside security zones and establishing eight media liaison teams ("MLTs") to facilitate communication with the media.

31. Ms Emily LAU said that many reporters had expressed concern about the location of DPAs being too far away from the venues of the events that they could not see the Vice Premier or his motorcade, making it difficult for them to carry out their reporting duties. She asked whether the Police had implemented any improvement measures.

32. Director of MS responded that the Police's partnership with the media was not confined to visits of political dignitaries to Hong Kong. Over the past few years, the Police had done a lot to facilitate media reporting work and strengthen communication with the media.

33. Dr LAM Tai-fai asked whether the Police had adopted any concrete measures to improve communication with the media. Director of MS responded that the Police Public Relations Branch had strengthened communication with the media before the visit of political dignitaries to Hong Kong. MLTs had also been established to facilitate the exchange of views with the media on matters of mutual concern.

Action

Complaints lodged by third parties

34. Mr CHAN Kam-lam said that there was a need for the Police to draw up security measures to protect visiting political dignitaries and ensure that the events were conducted smoothly. He asked whether CAPO had encountered difficulties in the investigation of complaints lodged by third parties and how such cases were followed up by IPCC. Referring to case 13 of the Final Report, he said that it would be unfair to the complainee if investigation was conducted into a complaint in the absence of any statement.

35. Director of MS responded that there were provisions in existing legislation on complaints lodged by a third party. He said that in case 13, the complainant had lodged a complaint but refused to give a statement to CAPO. Under such circumstances, it was very difficult for the Police to conduct a fair and thorough investigation into the complaint concerned.

36. SG/IPCC said that for cases in which no statement could be taken from a complainant, IPCC would suggest the Police to conduct investigation into the case if there was sufficient objective information enabling CAPO to arrive at a definite finding. In case 13, IPCC noted that CAPO had conducted a series of investigative actions, including examination of the relevant video records which captured the removal of the complainant from the scene, but could not reach a definite finding on the complaint allegation. Having further reviewed in detail the information supplied by CAPO and the investigative actions it had conducted, IPCC agreed that no definite finding could be reached and endorsed CAPO's proposal that the allegation be classified as "not pursuable".

37. Mr WONG Yuk-man considered that a complaint case should not be classified as "not pursuable" because of the complainant's refusal to give a statement. He added that complaints should not be resolved through the agreement of all the parties involved. Mr CHAN Kam-lam however considered that in the absence of a statement given by a complainant, it would be imprudent to arrive at a conclusion on the basis of other information available.

Action

Complaints in which IPCC and CAPO could not reach a consensus on the classification

38. Referring to case 16 in the Final Report, Ms Cyd HO queried why the DPA concerned was located inside a DPAA. Noting that IPCC and CAPO could not reach a consensus on the classification of the allegations in the case and IPCC's opinion had been submitted to the Chief Executive ("CE") for consideration pursuant to section 19(3) of IPCCO, she asked when IPCC's opinion was submitted to CE and whether CE had made any determination in respect of the case. She added that the Panel might consider seeking information on CE's determination in respect of the case. Otherwise, she might consider following up the issue on her own.

39. SG/IPCC said that IPCC was of the view that the blanket prohibition against all demonstration activities within the security zone might have inhibited the rights of citizens who wished to petition or protest in a peaceful manner that did not require any prior notification or permission under the Public Order Ordinance (Cap. 245). IPCC had submitted its opinion to CE on 19 December 2012. To his knowledge, there was no requirement in IPCCO for CE to make a determination upon the receipt of IPCC's opinion.

Public order events within security zone

40. Referring to paragraph 3.17(ii) of the Final Report, Ms Cyd HO asked whether the Police had sought legal advice on whether it was justifiable for the Police to prohibit the staging of any demonstration activities within the security zone, irrespective of the number of demonstrators and the absence of the dignitary.

41. Director of MS responded that as the Police had already revised the security arrangements within a security zone to address the concerns of IPCC, there was no longer a need for the Police to seek legal advice on the issue. He said that in the handling of public meetings and public processions, the Police had given consideration to relevant judgments delivered by the court in the past.

Existing system for complaints against the Police

42. Mr WONG Yuk-man considered that IPCC had very limited power to monitor abuse of power by police officers. He expressed concern that according to IPCC's annual report for 2011-2012, out of a total of 429 queries raised by IPCC in relation to the classification of findings, CAPO

Action

had only accepted 218 queries and reclassified 154 allegations. He considered that CAPO should be replaced by an independent body with investigative power.

43. Director of MS said that the existing complaints system under IPCCO had proved effective. The number of reportable complaints had dropped by 22% in 2010, 15% in 2011 and 14% in 2012. Since the implementation of the existing complaint system in 2009, 90% of the investigation on complaints was completed within four months and 94% of the investigation results were accepted by both the complainants and complainees.

44. Mr Dennis KWOK considered that the scope of functions of IPCC as provided in section 8 of IPCCO was too narrow. He said that IPCC should discuss how IPCCO should be amended, such as whether IPCC should play a mediating role in the arrangements for public order events.

45. SG/IPCC responded that IPCC had not held discussions on how IPCCO should be amended. He said that IPCC had all along performed its functions in accordance with section 8 of IPCCO and sought to refine the existing practice and procedures in conjunction with CAPO under the existing legislation. Regarding the view of some members of the public that IPCC should be provided with the power to carry out investigation into complaints, IPCC members were of the view that it would involve a fundamental change of the existing complaints system. As the existing system had been implemented for a short period of time, more time should be allowed for it to be fully tested. Regarding whether IPCC could play a mediating role in the arrangements for public order events, there were concerns about whether IPCC should provide advice when there were disputes at meetings between the Police and the public order event organizers, and whether such provision of advice might give rise to questions about the impartiality of IPCC's subsequent review of the complaint concerned, if any.

46. Mr CHAN Kam-lam said that the professionalism and impartiality of the Police in maintaining public order and security should be respected. IPCC should perform its monitoring role in a fair and impartial manner.

[To allow sufficient time for discussion, the Chairman suggested that the meeting be extended for 15 minutes.]

Action

V. Replacement of a Jackless Snorkel for the Airport Fire Contingent

(LC Paper No. CB(2)578/12-13(05))

47. Under Secretary for Security ("US for S") briefed Members on the proposal of the Fire Services Department ("FSD") to procure a Jackless Snorkel ("JS") to replace the one currently deployed at the Main Airport Fire Station.

48. Noting that the JS proposed to be procured would be equipped with a water tank of about 6 000 litres and the piercing nozzle had a maximum water discharge rate of not less than 950 litres per minute, Mr CHAN Kam-lam asked whether all water in the tank would be depleted in about six minutes.

49. Assistant Director (Headquarters), Fire Services Department responded that besides the water tank on JS, fire hydrants within the airport could also supply water to JS. He informed Members that FSD's rescue and fire-fighting vehicles were required to reach each end of the runways within two minutes and arrive at any aircraft movement area in the airport within three minutes. In each aircraft accident at the airport, FSD would deploy a fire-fighting fleet comprising 14 vehicles carrying different fire extinguishing agents including water, foam, dry powder and fire extinguishing gas. The fleet comprised JS, Rapid Intervention Vehicles, Crash Fire Tenders, Hose Foam Carriers as well as other vehicles and thus should be adequate for extinguishing fire in the airport rapidly. JS was mainly deployed for fighting aircraft engine fire at a certain height above ground level. Considering the overall fire-fighting strategy and that water was also supplied by other fire hydrants in the airport, FSD considered the water tank of the JS adequate.

50. Mr NG Leung-sing expressed support for the Administration's proposal. Noting that the existing JS to be replaced had a service life of about 10 years, he asked whether the JS to be procured had a comparable life span. He also asked whether JS was only available from a limited number of suppliers and whether there were any special requirements on the fuel to be used by the vehicle.

51. Assistant Director (Headquarters), Fire Services Department responded that JS was a special type of fire-fighting vehicle produced by a small number of manufacturers in the United States, Austria and Singapore. In the replacement of fire-fighting vehicles, the

Action

Administration would seek to procure vehicles compliant with the latest emission standards on the market. JS would use the fuel required for Euro V engines.

52. The Chairman concluded that members in general supported the Administration's submission of its proposal to the Finance Committee.

53. There being no other business, the meeting ended at 4:28 pm.

Council Business Division 2
Legislative Council Secretariat
27 March 2013