

立法會
Legislative Council

LC Paper No. CB(2)248/13-14
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of special meeting
held on Monday, 30 September 2013, at 2:30 pm
in Conference Room 3 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 Cyd HO Sau-lan
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Hak-kan, JP
Hon WONG Kwok-kin, BBS
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
Dr Hon Elizabeth QUAT, JP

Members attending : Hon LEE Cheuk-yan
Hon Charles Peter MOK
Hon IP Kin-yuen

Members absent : Hon Albert HO Chun-yan
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Christopher CHEUNG Wah-fung, JP
Hon CHUNG Kwok-pan

Public Officers attending : Item I

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

Mrs Millie NG KIANG Mei-nei
Principal Assistant Secretary for Security

Mr WONG Chi-hung
Director of Operations
Hong Kong Police Force

Mr LAM Man-wing
Assistant Commissioner of Police (Support)
Hong Kong Police Force

Mr WONG Yiu-sum
Superintendent (Licensing) (Acting)
Hong Kong Police Force

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

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 11

Mr Raymond LAM
Senior Council Secretary (2) 7

Ms Kiwi NG
Legislative Assistant (2) 1

Action

I. Police's handling of public meetings and public processions
(LC Paper Nos. CB(2)1702/12-13(01), CB(2)1720/12-13(01),
CB(2)1754/12-13(01), CB(2)1755/12-13(01), CB(2)1813/12-13(01)
and (02))

The Chairman informed Members that the special meeting was arranged in response to a request from Ms Cyd HO for discussing the Police's handling of groups with different positions at public meetings and whether the Police General Orders ("PGO") were applicable to police officers on pre-retirement leave, a request from Mr WONG Kwok-kin for discussing provocative behaviour against police officers at public meetings and public processions, and a request from 23 Members for discussion of the Police's handling of groups with different positions at public meetings.

2. Secretary for Security ("S for S") briefed Members on the principles adopted by the Police in handling public meetings and public processions, handling of groups with different positions and training for police officers in relation to the handling of public order events.

3. Members noted the background brief entitled "Police's handling of public meetings and public processions" prepared by the Legislative Council Secretariat.

Requirements on the impartiality of police officers in their discharge of duties

4. Ms Cyd HO said that a professional police officer, who was in possession of firearms while on duty, should possess emotional management skills to remain clam when encountering provocative behaviour of members of the public. The European Court of Human Rights had also stated that police officers should possess the professionalism to handle provocative behaviour. She considered that the Police had not been impartial in law enforcement work. For example, some members of Scholarship who were assaulted by other persons on the street were asked when reporting the matter to the Police to supply the names of the persons who had made the attack. Referring to a press statement issued by the Police on 8 August 2013 regarding police officers on pre-retirement leave participating in public meetings, Ms HO queried the view that police officers were also entitled to the same rights and freedoms as other citizens and pointed out that police officers were not allowed under the laws of Hong Kong to form trade unions.

Action

5. S for S disagreed with the view that the Police had not been impartial in law enforcement. He said that the press statement concerned was issued by the Police having regard to the information available and paragraph 34 of Chapter 6-01 of PGO, which provided that a police officer should at all times abstain from any activity which was likely to interfere with the impartial discharge of his duties, or which was likely to give rise to the impression amongst members of the public that it might so interfere. Except under certain circumstances, a police officer should not participate in political activities, which included -

- (a) lending support to, or participation in political activities of a political organization;
- (b) speaking publicly, including to the media, on matters of a political nature other than in the course of official duties;
- (c) distributing political publications;
- (d) promoting or advocating political views or the electioneering platform of any candidate; and
- (e) canvassing or campaigning on behalf of a political organization.

6. Director of Operations ("Dir of Ops") stressed that the Police had always applied the same standard to all persons in law enforcement, regardless of their background or positions. Prosecution would be instituted if there was sufficient evidence indicating a breach of the law.

7. Mr KWOK Wai-keung said that many members of the public took the view that police officers in Hong Kong were professional and efficient. He stressed that all citizens of Hong Kong should enjoy the same freedom of speech and expression. A different standard should not be applied to off-duty police officers who were also citizens of Hong Kong. He considered that any member of the public who wished to lodge a complaint against some police officers should do so through the established mechanism instead of merely making comments outside the established mechanism.

8. S for S said that the effective discharge of duties by law enforcement officers required the cooperation, respect and support of the general public. He noted from his meetings with members of District

Action

Councils, District Fight Crime Committees and different sectors of the community that there was general appreciation and support for the Police's discharge of duties in a professional and restrained manner.

9. Mr Alan LEONG noted that police officers were facing increased challenges when discharging their duties in a society with increasingly divergent views. He said that there were videos on the Internet showing a police officer of the Police Tactical Unit in argument with demonstrators at a public order event in August 2013. Members of the public were concerned whether the Police would handle groups with different positions impartially.

10. S for S responded that paragraph 34 of Chapter 6-01 of PGO had already set out restrictions to ensure that police officers adopted a fair and impartial approach in discharging their duties. Dir of Ops added that any person dissatisfied with police service could lodge a complaint with the Complaints Against Police Office.

11. Mr CHAN Hak-kan expressed concern that a teacher had insulted police officers discharging their duties with abusive language. The teacher subsequently reported to the Police that she was subject to intimidation by other persons and complained that the Police had not handled her case seriously. He asked whether there was any difference between the Police's handling of the case and other similar cases. Dir of Ops responded that all reports from members of the public were handled in accordance with established mechanism in the same manner, regardless of the background and positions of the persons concerned.

12. Mr YIU Si-wing said that some members of the public were of the view that because of a lack of clarity of some provisions in PGO, a senior police officer on pre-retirement leave was alleged to have participated in a public order event. He asked whether the Police had examined the issue of whether there was a need for amending PGO in relation to police officers on pre-retirement leave participating in political activities.

13. S for S responded that PGO had been under constant review by the Police. Dir of Ops said that police officers were entitled to the same rights enjoyed by other citizens of Hong Kong under the Basic Law and the Hong Kong Bill of Rights Ordinance. PGO had already spelt out the requirement for impartiality of police officers in their discharge of duties. He pointed out that a police officer on pre-retirement leave had already surrendered his police warrant card and was thus not empowered to discharge the duties of a police officer.

Action

14. Mr YIU Si-wing asked how the spirit of impartiality in the discharge of duties was promoted among police officers. Dir of Ops explained that newly recruited police officers were required to take an oath or declaration to execute his powers and duties honestly, faithfully and diligently without fear of or favour to any person. The Police constantly promoted the professionalism and impartiality of police officers through management, monitoring, counselling and support.

15. Referring to a public procession held on 1 July 2013, Mr LEE Cheuk-yan said that the Police had only opened up the three east-bound lanes outside a department store in Causeway Bay to demonstrators but not all six lanes of the road, although it was already very crowded at that section of the road. He added that a few persons who assaulted others at a recent public order event in Tin Shui Wai were not arrested until a few days later. He considered that the Police's handling of groups with different positions and the arrest of a demonstrator about two years after the incident occurred reflected a lack of impartiality on the part of the Police.

16. Mr IP Kin-yuen considered that members of the public would respect police officers, if they discharged their duties impartially. Police officers could not discharge their duties without support from members of the public.

17. S for S stressed that the Police had always been impartial and had applied the same standard in handling groups of different positions. Regarding the recent public order event at Tin Shui Wai, the Police had announced at the scene the arrest of some persons for assaulting others. It was after the gathering of more information that some further arrests were made afterwards. Among the persons arrested, some had been prosecuted and some had been released because of insufficient evidence. Prosecution decisions were made by the Department of Justice ("DoJ"). Regarding the arrest of a demonstrator about two years after the incident, he suggested Members to make reference to a press release issued by DoJ on the case concerned.

18. Mr IP Kin-yuen asked whether the participation of police officers on pre-retirement leave in a public order event in Mong Kok on 4 August 2013 was in conflict with paragraph 34 of Chapter 6-01 of PGO. Dir of Ops responded that the Police had received complaints about the participation of police officers on pre-retirement leave in the public order event concerned and investigations were ongoing. He said that it was the

Action

Police's practice to seek the advice of DoJ when there were doubts about the interpretation of provisions in PGO. Mr IP asked whether any provisions in PGO were applicable to a police officer on pre-retirement leave. The Chairman suggested that Mr IP could set out his specific questions in writing to the Clerk, who would forward the questions to the Administration for a response.

19. The Deputy Chairman said that some members of the public had noticed the participation of some off-duty police officers in a public meeting held at Mong Kok Pedestrian Precinct on 4 August 2013. He asked whether any requests had been received from police officers for amending PGO to allow them to participate in political activities.

20. Dir of Ops responded that the Police had not received requests of such a nature from police officers. He stressed that the restrictions in paragraph 34 of Chapter 6-01 of PGO sought to ensure that police officers would adopt a fair and impartial approach in discharging their duties.

21. Referring to a press statement issued by the Police on 8 August 2013, Mr Dennis KWOK queried how the Police came to the conclusion that the public meeting concerned was not a political activity. He pointed out that one of the associations which organized the public meeting concerned had stated in its own webpage that it was a political organization.

22. S for S responded that the Police took the view that the public meeting concerned was not a political activity restricted by PGO. He stressed that the spirit of the relevant provisions in PGO was to ensure the impartiality of police officers in discharging their duties.

23. Mr CHAN Kam-lam considered that activities organized by political organizations might not necessarily be political in nature. On the other hand, non-political organizations could also organize political activities. He expressed concern that there were videos on the Internet showing that a police officer was insulted with abusive language by a teacher for more than 10 minutes and the police officer did not respond but continued with his own work. He asked whether the police officer concerned was too tolerant and whether there were other ways to tackle the behaviour of the teacher concerned. He expressed concern whether police officers were required to exercise unlimited restraint.

Action

24. Dir of Ops responded that police officers should not quarrel or enter into any dispute with members of the public. Whether there were other ways to handle the situation would depend on the circumstances, including whether there was material obstruction to the work of police officers. He said that the police officer concerned had handled the situation appropriately.

25. Mr Paul TSE said that different people might have different views about whether a police officer was impartial in discharging his duties. He said that after making a comparison between police officers before and after Reunification as well as between police officers of Hong Kong and other places, he considered that the police officers in Hong Kong were very professional and restrained. He said that it would be very difficult for police officers to enforce the law without dignity. If contempt of the court was an offence, there was no reason why contempt of law enforcement by police officers could not be an offence. He considered that there were no grounds for not enforcing the law because of political reasons.

Handling of confrontation between groups with different positions

26. Mr Michael TIEN asked whether adequate training were provided to police officers in relation to the handling of confrontation between groups with different positions. Dir of Ops responded that adequate training had been provided to police officers in the handling of confrontation between groups with different positions, including those in traffic accidents and public order events.

27. Dr Elizabeth QUAT said that the recent confrontations between two groups with different positions at the Mong Kok Pedestrian Precinct mainly arose from disputes over the display of their respective banners at the same place. She asked whether the Police could take actions against display of banners which posted obstruction to other pedestrians and road users.

28. Dir of Ops responded that when groups with different positions held public order events at the same place in a lawful manner, the Police would facilitate the smooth conduct of the events. If there was any breach of the law, appropriate enforcement actions would be taken by the Police, regardless of their background and positions.

Action

29. Regarding public order events held in Mong Kok on 14 July 2013 by two groups with different positions, Mr IP Kin-yuen queried why the Police had not separated the two groups in confrontation.

30. Dir of Ops responded that police officers at the scene had, having regard to the circumstances, adopted appropriate measures to separate the two groups in confrontation. The past experience in handling these groups showed that they would cooperate upon police advice and express their views separately.

Handling of persons who provoked frontline police officers

31. Mr WONG Kwok-kin expressed concern that although PGO required impartiality in law enforcement by police officers, there was no mechanism for dealing with the act of insulting frontline police officers with abusive language or provoking frontline police officers. He expressed concern that if the dignity of police officers could not be safeguarded, members of the public would not have confidence in the Police's capability to safeguard their lives and properties. He asked whether measures were adopted to protect the dignity of police officers and whether the Administration had any plans to enact legislation against the offence of insulting police officers.

32. S for S responded that police officers were provided with appropriate training to help them exercise restraint and remain calm when subject to physical and verbal provocations. The Administration fully supported frontline police officers in the fair and impartial discharge of duties in accordance with the law. He stressed that when there was a breach of the law, enforcement actions would be taken by the Police. For example, a demonstrator who whistled loudly at the ear of an auxiliary police officer was arrested and prosecuted. He said that although the Administration had no plan to enact legislation against the offence of insulting police officers, such behaviour could be tackled with provisions in existing legislation relating to obstructing police officers in the discharge of duties and assault on police officers.

33. Mr KWOK Wai-keung considered that it was unfair to require police officers, who were also employees, to serve as a channel for members of the public to vent their anger. Consideration should be given to the enactment of legislation against insulting police officers.

Action

34. S for S responded that police officers had the same hard feelings as other members of the public when being insulted with abusive language. While the Administration had no plan to enact legislation against insulting police officers, it would monitor the situation and seek to adopt measures to relieve the pressure on frontline police officers. Dir of Ops hoped that members of the public would understand the difficulties faced by police officers in law enforcement and cooperate with the Police.

35. Mr Michael TIEN asked whether the Administration had studied the issue of what would amount to insulting a police officer. He sought information on the number of such cases in the past three years. Dir of Ops responded that as the act of insulting police officers was currently not an offence in Hong Kong, no statistics were maintained on cases of such a nature.

36. Dr Elizabeth QUAT said that there was a video on the Internet showing demonstrators continuously insulting a police officer with abusive language and the police officer concerned did not respond but merely continued with his work. She queried how police officers could enforce the law, if a large number of members of the public displayed such behaviour. She asked whether such demonstrators could be charged with the offence of obstructing police officers in the discharge of duties.

37. Dir of Ops responded that the court had previously stated that such behaviour might not necessarily amount to obstructing police officers in the discharge of duties. It was the practice of police officers under such a situation to continue with their own work. However, law enforcement actions would be taken against any unlawful act. It was hoped that members of the public would understand the difficulties faced by police officers during law enforcement and cooperate accordingly.

38. Mr CHAN Hak-kan expressed concern that frontline police officers were subject to high pressure in the discharge of their duties. He noted from a video on the Internet that a police officer was insulted with abusive language by a demonstrator for about 30 minutes. He said that the Administration's replies reflected that it could only do very little to address such problem. He queried how police officers could maintain law and order in Hong Kong without dignity.

39. S for S said that the Administration was aware of the importance of upholding the morale of police officers. Through promotion to the public on their rights and the difficulties faced by police officers in law enforcement, he hoped that members of the public would understand and

Action

support the work of frontline police officers. He said that the Police had been awarded a high ranking in international surveys on law enforcement agencies. The Police had also won a number of awards under the Civil Service Outstanding Service Award Scheme 2013.

40. Dr LAM Tai-fai expressed concern that the Administration had merely asked frontline police officers to exercise restraint and remain calm to cope with the heavy pressure encountered in the discharge of their duties. He considered that the Police should strictly enforce the law to maintain law and order. He expressed concern that the Administration might find it increasingly difficult to recruit sufficient police officers to maintain law and order in Hong Kong.

41. S for S responded that after he had taken up the current post, he had attended a number of meetings with frontline police officers to understand their difficulties and challenges encountered in the discharge of duties. He stressed that the Police was committed to maintaining law and order in Hong Kong and taking strict actions against any breach of the law. Whether prosecution was to be instituted in a case would depend on the advice of DoJ. Whether a person would be convicted was to be determined by the court.

42. Mr WONG Yuk-man said that demonstrators in Hong Kong were not violent in comparison with those of other places. He considered that the major issue relating to the Police's handling of public meetings and public processions was that the Public Order Ordinance ("POO") (Cap. 245) was draconian but police officers, who were law enforcement officers, had to enforce it.

43. S for S pointed out that the provisions of POO had been examined by the Court of Final Appeal and the Police was acting in line with the judgment. He added that although the Commissioner of Police might impose conditions on a notified public meeting or public procession, an organizer could lodge an appeal regarding the decision under the existing mechanism to the statutory and independent Appeal Board on Public Meetings and Public Processions.

44. Mr NG Leung-sing considered that public consultation, including consultation with law enforcement officers, should be made on the suggestion of enacting legislation against insulting police officers. He asked whether there was any mechanism for commending police officers and compensation for police officers who were injured when handling demonstrators.

Action

45. S for S said that there was an internal system within the Administration for commending police officers with brilliant performance.

46. The Deputy Chairman said that to his knowledge, some staff associations of police officers had reservations about the suggestion of enacting legislation against insulting police officers. He asked whether the Administration had conducted any study into the suggestion and whether there were requests from police officers for enacting legislation against insulting police officers.

47. S for S responded that the Administration had not conducted such a study and had no plan to enact legislation against the offence of insulting police officers. Dir of Ops said that no request had been received from police officers for enacting legislation against insulting police officers.

48. Mr LEE Cheuk-yan said that the Labour Party opposed insulting police officers. He considered that the foundation for the dignity of police officers was the impartiality in their discharge of duties. The difficulties faced by frontline police officers in dealing with demonstrators arose from the instructions given by the senior management of the Police.

49. Ms Cyd HO said that members of the public were mainly dissatisfied with the government rather than frontline police officers. The dignity of police officers was built upon impartiality in law enforcement. Off-duty police officers should not participate in public order events, as it might give members of the public the impression that police officers might favour the side which received support from off-duty police officers. She considered that as police officers had received training in the use of force, they should be subject to more restrictions on taking part in public order events regardless of whether they were on duty or off-duty.

50. Dir of Ops stressed that police officers had always been impartial in discharging their duties. The restrictions on the participation of police officers in political activities had been set out clearly in PGO.

51. Mr KWOK Wai-keung took the view that police officers were impartial in law enforcement. He said that the Administration had a responsibility to take steps to ensure the occupational safety of its employees, including police officers.

Action

52. Mr LEUNG Kwok-hung expressed concern about whether S for S had received any instructions relating to PGO or the handling of demonstrators when he met Mr ZHANG Dejiang, Chairman of the Standing Committee of the National People's Congress in September 2013. He considered that POO was a piece of draconian legislation and it was unfair to impose restrictions on a public meeting or public procession because of the inconvenience it might cause to other members of the public. He considered that before 1 July 1997, the act of insulting police officers was equivalent to insulting the Queen. The Chairman said that he did not agree to Mr LEUNG's view that insulting police officers was equivalent to insulting the Queen before Reunification. S for S responded that the contents of his meeting with Mr ZHANG in September 2013 had already been widely reported by the media.

53. The Chairman said that he had noted from a video on the Internet that a police officer was insulted with abusive language for about four minutes by a person to whom a traffic offence ticket was issued. He considered that it would be a disaster to Hong Kong, if members of the public did not respect police officers who enforced the law. He agreed with the view that police officers should be impartial in discharging their duties and noted that Members had expressed divergent views on whether police officers were impartial and restrained in law enforcement. He considered that members of the public were generally in support of police officers, who were efficient, fair and enforce the law in a strict and impartial manner.

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

Impact of public meetings and public processions on other road users

54. Mr Michael TIEN said that many members of the public and road users, especially taxi drivers, had complained about participants of public meetings and public processions blocking the road and causing serious traffic congestion. He asked how the Administration would address the problem.

55. Mr NG Leung-sing said that the measures adopted by the Police in Hong Kong in handling demonstrators were relatively mild, as compared with those of many other places, some of which deployed mounted police to disperse demonstrators. He said that many road users had complained of road blockage arising from the holding of public meetings and public

Action

processions. He asked how the Police would balance the rights of demonstrators and other road users. He expressed concern about whether there was any penalty on persons who failed to comply with the conditions imposed on a public meeting or public procession.

56. S for S responded that the enforcement policy of the Police was to strike a balance between facilitating the smooth conduct of lawful and peaceful public meetings and public processions on one hand, while minimizing the impact of such events on members of the public and road users and ensuring public order and public safety on the other hand. He said that the holding of a public order event would inevitably affect traffic in the areas concerned. The Police and the Transport Department had been taking steps to maintain the accessibility of emergency vehicles to the roads concerned and traffic flow through trunk routes when such events were held. He reiterated that the Police would take enforcement actions against any person in breach of the law.

Law enforcement at the National Day Flag Raising Ceremony

57. Mr Alan LEONG recalled that some members of Scholarism who did not shout any slogans or displayed any banners were removed by persons in black coat from the Golden Bauhinia Square in Wan Chai on 1 October 2012 before the National Day Flag Raising Ceremony was held. The Home Affairs Department subsequently explained that they were removed for breach of the rules regarding observing the ceremony. He queried whether there were any criteria for taking law enforcement actions at the ceremony to be held in the coming National Day Flag Raising Ceremony to be held on the following day.

58. S for S responded that the rules regarding observing the ceremony were not issued by the Police, but by the relevant policy bureau(x)/government department(s) responsible for organizing the event. The Police would only take actions to maintain law and order upon a request from the event organizer concerned when a breach of peace occurred.

59. There being no other business, the meeting ended at 4:40 pm.