

立法會
Legislative Council

LC Paper No. CB(2)875/12-13(06)

Ref : CB2/PL/SE

Panel on Security

**Background brief prepared by the Legislative Council Secretariat
for meeting on 5 April 2013**

Police's handling of public meetings and public processions

Purpose

This paper summarizes past discussions of the Panel on Security ("the Panel") on the Police's handling of public meetings and processions.

Background

2. The main statutory provisions regulating public meetings and processions are set out in the Public Order Ordinance (Cap. 245) ("POO"), which provides that a public meeting or procession at which the attendance exceeds the prescribed limit, i.e. public meetings of more than 50 persons and public processions of more than 30 persons, can take place only if notice has been given to the Commissioner of Police ("CP") not less than seven days prior to the intended event, and CP has not prohibited or objected to it. CP may prohibit any public meetings or processions if he reasonably considers such prohibition 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.

3. If CP prohibits, objects to or imposes conditions on a notified public meeting or 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.

Deliberations by the Panel

4. The Panel had discussed issues relating to the Police's handling of public meetings and public processions at various meetings in the past. The deliberations are summarized in the following paragraphs.

Criteria for assessing an application for holding a public meeting or procession

5. Some members queried why objection to the holding of a public procession on 10 March 2007 was made on the ground of low visibility at night. They were concerned whether visibility was one of the factors considered when CP determined whether to object to an application for public meeting or public procession.

6. According to the Administration, 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.

Communication with organizers of public meetings and processions

7. Members noted that upon receipt of a notification about a public meeting or procession, the Police would maintain communication with the event organizers and discuss with them how order could be maintained on the day of the public meeting or public procession. In assessing the crowd/traffic management measures and manpower required for maintaining public safety and public order during the events, the Police would make reference to the information provided by the organizers, past experience in handling similar events as well as other operational considerations. The event organizers were

responsible for arranging wardens to maintain order during the public meeting or public procession.

8. Concern was raised over whether the Police would maintain communication with organizers when public meetings and processions were being held. Members noted that apart from providing advice in advance and agreeing on certain arrangements in relation to the event, a Police Community Relations Officer might also be present during the event to act as a channel of communication between the organizer and the Field Commander.

9. Some members were concerned that the restriction imposed by the Police on procession routes had resulted in repeated confrontation between the Police and demonstrators. According to the Police, it would liaise with organizers on each public meeting or public procession. The procession route and other relevant details would be specified in the "letter of no objection" and participants were required to follow. Whenever a lane of a carriageway was made available for a procession, the next lane would not be used for safety considerations.

Demonstration objects

10. Information was sought on the criteria for allowing the use of demonstration objects at public meetings and public processions. Members noted that based on the principle of facilitating the expression of views by participants of processions, the Police would try to accommodate requests from event organizers concerning the use of demonstration objects as far as practicable. At the same time, subject to the arrangements proposed by the organizer as well as physical restrictions of the venue or the demonstration objects, the Police would discuss with the organizer the arrangements of the objects concerned and set them out as conditions in the "letter of no objection" if necessary. The organizer might lodge an appeal to the Appeal Board if he considered that the conditions imposed by the Police were unreasonable. The Appeal Board would consider and rule on the appeal independently and objectively. Otherwise, the organizer should conduct the public meeting or procession in accordance with the conditions or requirements set out in the "letter of no objection".

Use of pepper spray against demonstrators and the deployment of mills barriers

11. Some members queried the propriety of using pepper spray against demonstrators and the effectiveness of the Police's liaison with the organizer of the public meeting on 16 January 2010. They also queried the effectiveness of

the deployment of mills barriers to barricade certain areas and streets in the vicinity of the former Legislative Council ("LegCo") Building to stop the demonstrators from marching on the street, which resulted in disputes and confrontations between the demonstrators and the Police. There was a view that the Administration should review its guidelines regarding the deployment of mills barriers during large-scale public order events. To minimize the potential harm that might be caused to demonstrators and Police officers, the Administration should also consider replacing the metal mills barriers with those made of other materials. Some members pointed out that some demonstrators were found cooking with naked flame and selling food within the demonstration area, posing danger to the safety of other demonstrators and people in the former LegCo Building and its vicinity. These members considered that while facilitating the expression of views by demonstrators, it was also the Police's responsibility to maintain public order and ensure the safety of other people.

12. According to the Administration, in view of the large number of demonstrators staging demonstrations outside the former LegCo Building in the evening of 16 January 2010, the Police had set up mills barriers in certain areas and streets in the vicinity of the former LegCo Building to ensure the safety of the demonstrators, other people, LegCo Members and government officials attending meetings in the former LegCo Building. A few police lines were stationed at the mills barriers, which were set up as a basic security measure, to prevent any unauthorized persons from entering the former LegCo Building. Late in the same evening, some participants of the public meeting had become antagonistic and besieged the former LegCo Building on all sides and blocked the driveway. Taking into account the chaotic situation at that time, the Police had deployed pepper spray on the demonstrators when they made several attempts to break through the Police lines by pushing and climbing over the mills barriers.

13. According to the Police, when participants of public meetings or processions started crushing the police defence line by using violence, and after exhausting practicable options to stop the use of violence but Police officers were still unable to control the protestors' active aggression, the Police might resort to the use of pepper spray to defend attack from protestors, or to prevent protestors from charging the Police cordon line. On each of the occasions when pepper spray was used, the relevant officers should give verbal warning first if circumstances permitted. At the conclusion of the operation, Police officers of Superintendent rank would assess each instance of the use of pepper spray to ensure that all instances were justified.

14. Members noted that the Police had conducted a review after the event. To ensure public safety, it had examined the arrangements of setting up the defence line. If it was assessed that aggressive actions would probably be involved in a demonstration, the Police would form a defence line by placing two rows of interconnecting mills barriers. This would help strengthen the defence line, avoid direct head-on confrontation between police officers and protestors, and reduce the chance of injuries.

15. According to the Administration, the Police had strengthened training provided to frontline officers in handling public meetings. In addition to verbal warnings, warning banners in orange and red colours were used in situations when protestors were charging the Police cordon line. "Orange banners" were used to remind protestors not to cross beyond the cordon line, while "red banners" signaled a warning that if protestors did not stop charging the cordon line, the Police would resort to the use of force. Warning flags served to give protestors a clear indication of the location of the Police cordon line, and sent a clear signal that the cordon line should not be crossed.

16. Concern was raised over the Police's use of huge water barriers and large canister pepper spray against demonstrators during the visit of President Hu Jintao to Hong Kong in June/July 2012. Information was sought on whether the dosage of the pepper spray used was in line with international practice.

17. According to the Police, it was not the first time that large canister of pepper spray was used. The levels of force and concentration as well as ingredients of the large canisters of pepper spray were the same as those of the small ones. The only difference was the volume of pepper spray contained therein. The large canister pepper spray would be effective within a range of five metres without causing harm. The guidelines on the use of large and small canisters of pepper spray were the same. After having achieved the objective of stopping the violent behaviour of demonstrators, the Police had stopped using pepper spray.

Use of force in the removal of demonstrators

18. In response to some members' criticism that the Police had used excessive force in the removal of demonstrators, the Administration emphasized that the Police had all along been upholding the principles of exercising maximum restraint and using minimum force in facilitating public order events and dealing with violent incident. According to the Police's internal guidelines on the use of force, a police officer should display self-discipline and exercise a high degree of restraint when dealing with the public and should not resort to the use of force unless such action was strictly necessary and he was otherwise unable to effect his lawful purpose. Once that purpose had been achieved, the use of

force should cease. Police officers should identify themselves as such and, when circumstances permitted, a warning should be given of the intention to use force and of the nature and degree of force intended to be used. Persons should be given every opportunity, whenever practicable, to obey police orders before force was used.

19. Concern was raised over the large planter outside the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region ("the Liaison Office") and limited space for peaceful demonstration. There was a view that this had caused much confrontation between the Police and demonstrators, as only a narrow pavement was left for accommodating mills barriers and different parties, including the Police, protestors, reporters and pedestrians, public safety had been affected.

20. According to the Administration, the planter was a district facility that was constructed for some time and consideration had been given to the geographical characteristics when the planter was constructed. The action of protestors was a separate matter and the Police would discharge their duties impartially.

21. Members noted that mills barriers were set up outside the Liaison Office following attempts by radical demonstrators in several incidents to climb over the gate of the Liaison Office, enter into or throw objects into the Liaison Office. The setting up of mills barriers was a measure for crowd management with a view to avoiding direct confrontation between the Police and the demonstrators as well as maintaining public order and public safety.

Arrest and prosecution of demonstrators

22. There was a view that the Police had been increasingly harsh in handling public meetings and processions. Concern was raised over some 400 demonstrators having been arrested in 2011, which was 6.7 times of the figure in 2010.

23. Members were advised that there were a number of occasions on which the Police had arrested people who had assembled unlawfully and had committed acts damaging social order after the end of public meetings or processions. These people had blocked trunk roads and caused serious traffic congestion. After having repeatedly advised them to leave but in vain, the Police had to take action decisively. According to the Police, in exercising the freedom of expression, participants of public meetings or processions should, under the premise of observing the laws of Hong Kong, proceed in a peaceful and orderly manner.

Relevant papers

24. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
27 March 2013

**Relevant papers on
Police's handling of public meetings and public processions**

Committee	Date of meeting	Paper
Legislative Council	21.2.2001	Official Record of Proceedings (Question 8)
	22.1.2003	Official Record of Proceedings (Question 1)
	30.6.2004	Official Record of Proceedings (Question 1)
	23.11.2005	Motion on "Security and public order issues relating to the Sixth Ministerial Conference of the World Trade Organization"
	24.6.2009	Official Record of Proceedings (Question 3)
	2.12.2009	Official Record of Proceedings (Question 12)
	10.11.2010	Official Record of Proceedings (Question 6)
	12.1.2011	Official Record of Proceedings (Question 4)
	13.7.2011	Official Record of Proceedings (Urgent Question 2)
Panel on Security	5.6.2007 (Item VII)	Agenda Minutes
	2.2.2010 (Item V)	Agenda Minutes

Committee	Date of meeting	Paper
Panel on Security	11.11.2010 (Item III)	Agenda Minutes
	8.4.2011 (Item II)	Agenda Minutes
	5.7.2011 (Item IV)	Agenda Minutes
	8.5.2012 (Item V)	Agenda Minutes
	4.7.2012 (Item VI)	Agenda Minutes

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