

PART A CLOSED MEETING

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This was the Closed Part of the meeting for the IPCC and representatives of C&IIB to discuss matters of mutual concern. The minutes of the meeting will not be uploaded onto the IPCC Homepage.

PART B OPEN MEETING

OPENING ADDRESS

The Chairman welcomed all to the meeting particularly Mr John BICKNELL, Mr Percy FUNG and Ms Angela CHIU of Hong Kong Island Regional Headquarters.

I CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 4 SEPTEMBER 2009 (Open Part)

2. The minutes of the last meeting (open part) were confirmed without amendment.

II MATTERS ARISING

3. The Chairman invited police to report the progress on the review of operations and procedures against illegal road racing as well as investigation into the Kwun Tong Bypass incident.

4. CSP C&IIB told the meeting that a working group had been established to review all the instructions related to anti-illegal road racing operation and the setting up of roadblocks. The review was in its final stage and new instructions and procedural guidelines would be derived. Nevertheless, the objective of anti illegal road racing policy would remain the same, i.e. to protect the safety and property of the general public. Once the review is completed, the findings will be provided to IPCC for reference.

5. The Chairman reiterated the statutory functions of IPCC to follow up on issues related to reportable complaints and make suggestions to improve relevant procedures and guidelines.

III

GUIDELINES ON POLICING OF PUBLIC ORDER EVENTS

6. SSP OPS HKI briefed the meeting on the guiding principles, through a powerpoint (attached), major considerations and limitations on the policing of public order events (POE). Apart from respecting the constitutional rights for expression, peaceful assembly and public processions, police will hold a fair, impartial and compassionate attitude towards any POE. Effort will be made to facilitate and regulate all lawful and peaceful public meetings and processions in a professional manner. The police coverage and deployment of a POE would vary with the overriding policing considerations including public safety, public order and the minimum inconvenience to the public, with due regard to the notification submitted by the organizer, geographic considerations and physical constraints on the ground. In policing a POE, police endeavours to strike a balance among the public' s rights of expression, the public safety/public order concerns and the inconvenience caused to the public.

7. The Chairman thanked SSP OPS HKI for giving the presentation on POE. He noted that from time to time complaints would arise from POE as some participants may become emotional and engaged in conflicting situations with police. He asked if there were any measures to avoid or minimize such conflicting situations in POE.

8. SSP OPS HKI assured the meeting that police officers deploying for POE were trained to be patient, restrained and apolitical towards the participants.

9. The Chairman noted that some aggressive protestors might act violently during a POE. He expressed concern how police would strike a balance between the rights of expression and enforcement of public order. He asked if there are any good measures and experiences in handling such situations.

10. SSP OPS HKI told the meeting that sometimes it might be difficult to marshal those very aggressive protestors in a POE but it would always be useful and beneficial when the organizer provides stewards to assist. He quoted an incident whereby an antagonistic protestor shifted the blame to police by scolding a police officer but the confrontational situation was quickly defused by a marshalling steward.

11. The Chairman quoted his previous experience in participating in protest rallies in UK whereby the whole event enjoyed a very peaceful atmosphere. He doubted whether the differential situation in Hong Kong is due to the attitudes of the participants.

12. SSP OPS HKI told the meeting that most POE in Hong Kong were run peacefully and smoothly but sometimes the media tended to cover the untoward or confrontational incidents of a POE. He emphasized that occasionally only a small number of protestors would confront police during POE.

13. Referring to the powerpoint presentation on the point about obstruction, Professor Stephen CHEUNG asked if there are any guidelines for police officers in handling body contact with protestors especially when the antagonistic protestors attempted to penetrate a police cordon line. He further called for the clarification as to which officer would be able to decide whether unreasonable obstruction occurred at the scene.

14. SSP OPS HKI told the meeting that the decision would normally rest on the field commander at the scene whether he / she be in the rank of SP, CIP or SIP but in any event, due consideration would be given on public safety and public order before any removal action is instituted. Scenario training on self-defence and removal of antagonistic protestors are provided to PTU officers.

15. Hon Abraham SHEK commended the professionalism of police officers and supported the four principles in POE policing, i.e. (a) respect rights of expression; (b) fair, impartial and compassionate; (c) facilitate and regulate all lawful and peaceful public meetings and processions; and (d) discharging duties in a professional manner. He asked how police is able to strike a balance between public safety / public order and the rights of procession, and whether there are any political considerations in restricting the movement of participants citing his experience in encountering a procession starting from Victoria Park.

16. SSP OPS HKI told the meeting that if crowd builds up in Victoria Park, police would consider closing the traffic lanes and open more exits to facilitate the procession flow from the Park to the destination such as the Central Government Offices (CGO). The commander at the scene would assess whether the road capacity ahead can accommodate the large number of crowds before making the decision.

17. Hon Abraham SHEK commented that crowd figures published by the police were always smaller than those claimed by the organizers. He asked how police could convince the public that there was no political consideration in this.

18. SSP OPS HKI told the meeting that police had no intention to publish the crowd figure in a POE or to challenge the figure given by the organizers. In fact, the figure was only provided to the media on request.

19. DRC HKI reiterated that the crowd figure was obtained solely for the purpose of police deployment. There is no precise attendance figure from any source as people may join and leave at any time any where during the procession. Police has built up its own counting system over the past number of years to provide an estimated figure which is deemed suitable and appropriate for police deployment purpose. There may well be discrepancies with other estimated figures.

20. Hon Abraham SHEK asked whether police had reviewed the control mechanism of out-flow participants from Victoria Park through a narrow exit.

21. DRC HKI told the meeting that police had constantly kept the mechanism under review and worked closely with the organizers and the marshals of the POE. While public safety remains the prime concern, police would adopt a flexible approach when a large crowd of people builds up in Victoria Park or in adverse weather conditions.

22. Ms Christine FANG asked for the most common type of complaints on POE. She further called for clarification whether there are any procedural guidelines on video filming and music broadcasting during POE.

23. CSP C&IIB told the meeting that the number of complaints arisen from the policing of POE was extremely small. To demonstrate the determination of police to complaint prevention, the Police Community Relations Office of each district has proactively contacted the organizers of the POE before and during the event to enhance a two-way communication and reach a consensus on various conflicting issues so as to minimize the disturbance to the general public.

24. SSP OPS HKI supplemented that the purpose of video filming in a POE was to capture the general atmosphere of the event rather than targeting a specific person. However, video taking may also be used to capture evidence when a breach of the peace has occurred or is likely to occur.

25. The Chairman suggested police to make clear the purpose of video filming to the organizers and participants of a POE as video filming might provoke protestors and cause misunderstanding.

26. SSP OPS HKI noted the comments and agreed to give consideration to erect appropriate signage stating the purpose of video filming during POE.

27. The Chairman asked whether there are any counter measures to safeguard the dignity of the Internationally Protected Persons (IPP).

28. SSP OPS HKI told the meeting that police would consider employing suitable measures to safeguard the dignity of the IPP and music broadcasting is not an existing measure.

29. Dr Hon Joseph LEE commented that individual police officers might have a different interpretation of “obstruction” given that there are various guidelines on the matter. While the commanders may be fully aware of the internal guidelines, the officers at scene may not have the same level of knowledge, thus giving rise to complaints. He asked whether “obstruction” is clearly defined and quantified in the procedural guidelines and urged police to fully brief the organizers on the rationale of POE policing similar to the powerpoint presentation given earlier by SSP OPS HKI.

30. SSP OPS HKI told the meeting that the suggestions raised by Dr Hon Joseph LEE would be considered by police.

31. The Chairman appreciated the efforts made by police and suggested police to consider disseminating the message outlined in the powerpoint to the general public through the media.

32. DRC HKI briefed the meeting that the degree of obstruction is a sensitive matter which is dealt with by the court. As suggested by the court ruling in a stated case, reasonableness is the key issue in determining obstruction and police should give the most lenient interpretation of obstruction in favour of protestors. Police would explain to the protestors the obstruction caused and offer alternative venues for the protest. It is only the last resort that police would decide to interfere the protest when the participants have become completely unreasonable.

33. Dr Hon Joseph LEE asked whether there is a mechanism to ensure those guidelines are being followed by frontline officers in an obstruction case.

34. DRC HKI reiterated that reasonableness is a very subjective matter. He went on to quote that 20 people causing obstruction at a quiet road on a Sunday morning might not be necessarily unreasonable but the same number of people causing obstruction at a busy street corner on a Friday afternoon would be a completely different scenario. Each case of obstruction has to be considered separately based on the circumstances and enforcement decision would not be made lightly by a junior officer at scene without consulting the supervisory officers normally in the rank of CIP or SP if any unreasonable or intolerable obstruction has occurred.

35. Dr Helena YUEN commented that procession has become a local cultural event and participants are eager to be counted for their attendance in a POE. To ensure their attendance being counted by police, some participants would queue up in the starting point and refuse to leave.

Dr YUEN asked how police could avoid a conflicting situation when pro-government and anti-government groups organize a POE on the same day with a completely different theme.

36. SSP OPS HKI told the meeting that protest groups with totally different themes would not be pooled together at any stage of the POE. Measures would be taken to segregate the two groups including the establishment of a buffer zone and the different commencement time.

37. Dr TSE Tak-fu asked what statistical method would police employ to work out the number of POE, number of applications and number of Letters of No Objection. He further asked whether police would refuse the POE if it turns out that the number of participants is much greater than the estimated figure on the notification form.

38. SSP OPS HKI briefed the meeting that not all POEs require notification as the law only requires notification for a public meeting of over 50 people and a public procession of over 30 people. Despite this legal requirement, police would still facilitate POEs where police was not notified. The number of POEs therefore includes all events which have come to the attention of police regardless of whether a notification has been made. Suitable deployment would be made by police to facilitate the POE if the turnout is much higher than the original estimate. However, the organizer may be advised or warned in writing to ensure a better monitoring of the turnout in the future.

39. DRC HKI reiterated that the objective of POE policing is to facilitate the event and ensure it to be held in a safe and peaceful manner. According to police experience, the vast majority of the public and the organizers are cooperative and receptive to public safety advice. Most of them would endeavour to avoid conflict with other interest groups.

40. Ms Christine FANG told the meeting that it was recently proposed in a web forum to cordon off the access to the Government House. She expressed concern over such loosely organized public gathering and urged police to closely monitor the development.

41. SSP OPS HKI briefed the meeting that police was aware of the situation and emphasized that police would in any event facilitate all lawful and peaceful POEs.

42. Mr Eric CHEUNG asked whether apart from the Headquarters Orders (HQO) No. 8/2005 which have been supplied to the Council, there are other guidelines on POE such as under what circumstances would police decide to close traffic lanes to facilitate out-flow of the procession of participants and the number of lanes to be closed. He also asked for guidelines and further elaboration on the manning ratio of POE, the location

of Designated Public Activity Area (DPAA), the dignity protection of IPP and Central People's Government (CPG) leaders and the role of police in taking removal action in CGO which has been classified as a private premises in the HQO.

43. SSP OPS HKI briefed the meeting that HQO No.8 of 2005 contains the Force guideline on POE and there are also relevant memorandums and circulars in HKI Region which provide references to police officers on POE.

44. Mr Eric CHEUNG raised concern over the adequacy of those reference materials and urged police to forward such to the Council for comments.

45. SSP OPS HKI briefed the meeting that a comprehensive order on POE called 'Public Order Manual' (POM) is being compiled.

46. Mr Eric CHEUNG requested police to forward the draft POM to the Council for comments.

47. SSP OPS HKI briefed that there is no explicit Force guideline on the closure of traffic lanes during POE. As a matter of fact, the bottleneck occurred at Yee Woo Street during public meetings / processions involving Victoria Park could have been caused by various reasons, one of which could be the intentional or unintentional slowing down of the procession by the organiser or participants. Once the procession began to slow down, a bottleneck situation developed very quickly and in order to ensure public safety and public order, the Police could not increase the outflow of participants from Victoria Park. During the July 1st procession, the westbound lanes had been closed to facilitate the procession flow and police had at one stage considered the need to close the eastbound lanes.

48. Police will decide its deployment of POE on a case-by-case basis. Consideration will be given to the estimated number of participants in the notification as well as the previous turnout rate of the same event. It is quite common that the actual turnout is much smaller than the initial estimate. In one event, only five participants turned out despite the notified number of participants was over 500.

49. As public safety and public order are the primary considerations in policing POE, a DPAA will be set aside for petitioners in public meetings for better management. Petitioners who refuse to enter DPAA will not be arrested.

50. CPG leaders do not fall into the definition of protected persons under the Internationally Protected Persons and Taking of Hostages

Ordinance (CAP 468). As the protection of IPP' s dignity is a subtle matter, there are no explicit legal provisions or internal procedures on this issue. However, police will conduct a threat assessment on the personal safety of all the visiting national leaders. By way of illustrating the need for close police attention to crowd behaviour, DRC HKI brought the attention of the meeting on the recent attack on the Italian Prime Minister in the street on 2009-12-13.

51. SSP OPS HKI further briefed the meeting that as CGO is under the management of Director of Administration (DoA); it is entirely up to DoA to decide whether the protestors are allowed to stay inside the CGO area after office hours or the permitted public meeting time during Sunday or public holiday. If DoA considers the presence of protestors an unauthorized occupation, the security officers of CGO should give warning first and ask the protestors to leave the premises before resorting to removal action. Police will assist the CGO security personnel in the eviction of protestors only if a breach of the peace has occurred or is likely to occur.

52. Ms Emily CHEUNG urged police to give an advance notice to members of public on road closures prior to POE so as to minimize obstruction and inconvenience caused to road users.

53. SSP OPS HKI welcomed the suggestions and told the meeting that police would discuss with the organizers prior to the event to work out an optimum plan which would be announced to the general public through the media as early as possible. On behalf of HKI Region, he thanked the Chairman for giving him the opportunity to brief members on POE.

IV CAPO'S MONTHLY STATISTICS

54. CSP C&IIB briefed the meeting that 1,592 complaints were received from August to November 2009, an increase of 74% (+677 cases) when compared with the same period last year (915 cases).

55. The number of 'Neglect of Duty' complaints received from August to November 2009 was 800 cases, an increase of 99% (+398 cases) when compared with the same period last year (402 cases).

56. The number of 'Misconduct/Improper Manner & Offensive Language' complaints received from August to November 2009 was 475 cases, an increase of 77.2% (+207 cases) when compared with the same period last year (268 cases).

57. The number of 'Assault' complaints received from August to November 2009 was 170 cases, an increase of 31.8% (+41 cases)

when compared with the same period last year (129 cases).

58. In the first eleven months of 2009, a total of 3,913 complaints were received. It represents an increase of 59.8% (+1,464 cases) when compared with 2,449 cases of the same period last year.

59. The total number of 'Neglect of Duty' complaints received in the first eleven months of 2009 was 1,963 cases. It represents an increase of 85% (+902 cases) when compared with 1,061 cases of the same period last year.

60. The total number of 'Misconduct/Improper Manner & Offensive Language' complaints received in the first eleven months of 2009 was 1,169 cases. It represents an increase of 69.4% (+479 cases) when compared with 690 cases of the same period last year.

61. The total number of 'Assault' complaints received in the first eleven months of 2009 was 412 cases. It represents an increase of 11.7% (+43 cases) when compared with 369 cases of the same period last year.

62. Serious allegations including 'Assault' and 'Fabrication of Evidence' remained steady. A total of 501 complaints of 'Assault' and 'Fabrication of Evidence' were received in the first eleven months of 2009, representing a slight increase of 24 cases when compared to the same period in 2008.

63. In the first eleven months of 2009, a total of 3,913 complaints against police were received, representing an increase of 59.8% when compared with 2,449 cases in same period of 2008.

64. The substantial increase in 'Neglect of Duty' and 'Misconduct/Improper Manner' accounted for the overall increase. 'Neglect of Duty' increased 85% from 1,061 cases in the first eleven months in 2008 to 1,963 cases in the same period of 2009. 'Misconduct/Improper Manner' increased 69.4% from 690 cases to 1,169 cases. The two categories already accounted for 80% of the total complaints.

65. The past two decades saw 14 years in which over 3,000 complaints were received. The successive decrease of complaints in recent years has set a low baseline which makes this year's increase particularly apparent. On average, there was one complaint in every 1,200 contacts between police and members of the public.

66. Nevertheless, Police is very concerned with the marked increase in the number of complaints and has conducted a study in this regard. It is believed that a number of factors may have contributed to the increase:-

- Minor complaints accounted for the majority of the complaints while serious allegations remained at a comparatively low level. The trivial nature of a number of complaints suggests a rising public expectation on police service.
- The majority of the complaints pertain to alleged impoliteness and failure to execute duties satisfactorily. The nature of such complaints appears to be closely knitted with the public perception on the Force. Study on the complaints trend in the past decade suggests that complaints did increase after adverse media coverage on incidents involving police officers.

The publicity on the implementation of IPCCO has enhanced the public confidence in the complaints handling mechanism and may have encouraged aggrieved members of the public to be more forthcoming in voicing out their dissatisfaction via the complaints channel.

67. With a view to preventing avoidable complaints, Police has adopted the following measures or initiatives:-

- The Force Management has directed Regional Commanders to examine the complaints trend in their formations. In addition to CAPO's liaison visits, senior CAPO Management are visiting districts to bring the recent complaints trend to the attention of frontline commanders.
- Complaints prevention committees have been established at regional level to complement the efforts of the Force Complaints Prevention Committee.
- Enhance officers' qualities and communication skills and via trainings on professional sensitivity, empathetic listening and Force values.
- Educate members of the public about the scope of police duties via the media and liaison with interest groups such as professional drivers' associations.
- Enhance communication between IPCC and the frontline officers.

V

CAPO's CRIMINAL AND DISCIPLINARY CHECKLIST

68. CSP C&IB tabled the Criminal and Disciplinary Checklist covering the period from 13 August 2009 to 20 November 2009. He highlighted two cases relating to the failure of the escorting officers to comply with Police General Orders (PGO) provisions on the hooding of detainees. In one case, the complainant, an arrested person of a crime case, made a complaint against a police officer for fabrication of evidence and misconduct when applying handcuffs on him. Despite the case was eventually classified as 'False' and 'Not Pursuable', it was disclosed that the officer concerned who was requested by the complainant for the hooding arrangement failed to make relevant entries on his actions in his police notebook. In another case where the complainant was arrested for

'Trafficking in Dangerous Drugs' made a complaint against police officers for assaulting him and threatening him to admit the offence. Despite the case was eventually classified as 'Withdrawn', it was found that the escorting officer failed to ask the arrested person to verify his request of the hooding in his police notebook. PGO 49-10(2) stipulated that 'If he agrees to being hooded the detained person shall be requested to sign the escorting police officer's notebook to this effect. Should the detained person be unable to sign, a personal notebook entry shall be made by the senior officer at the scene to the effect that the detained person agrees to being hooded and the reason why it is impracticable for him to sign'. The matters would be highlighted in the CAPO Monthly Report 'Matters of Interest' to remind police officers of this provision. CAPO Officers would disseminate the information to formations during liaison visits and Complaint Prevention Talks to remind the frontline officers.

VI ANY OTHER BUSINESS AND CONCLUSION OF THE MEETING


69. The Chairman, on behalf of the Council, thanked Dr Michael TSUI Fuk-sun and Mr Clement TAO for their contribution to the work of the Council during their tenure. He also wished them all the best in the future.

70. The Chairman informed that the next meeting was tentatively scheduled for 4th March 2010.

71. There being no other business, the meeting concluded at 1805 hours.

(SIU Kit-hung)
Joint Secretary
Complaints and Internal
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Policing of Public Order Events
處理公眾活動

Percy FUNG
SSP OPS HKI
港島總區高級警司(行動)馮倍思

Content

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Guiding Principles

- Constitutional Rights
- Policing Principles

Guiding Principles

Constitutional Rights
*Basic Law and
Bill of Rights Ordinance*

Guarantee
FREEDOM or RIGHT
*to Peaceful
Assembly and Public Processions*

Guiding Principles
<p><u>Policing Principles</u></p> <ul style="list-style-type: none"> ➤ Respect rights of expression ➤ Fair, impartial and compassionate ➤ Facilitate and regulate all lawful and peaceful public meetings and processions [E] ➤ Discharge in a professional manner

Major Considerations
<ul style="list-style-type: none"> ➤ Overriding policing considerations ➤ Notification to police ➤ Geographic considerations ➤ Physical constraints on the ground ➤ Police coverage and deployment considerations

Major Considerations
<p><u>Overriding Policing Considerations</u></p> <ul style="list-style-type: none"> ➤ Public safety [E] ➤ Public order [E] ➤ Minimize inconvenience caused to other members of the public [E]

Major Considerations
<p><u>Overriding Policing Considerations</u></p> <p><u>Avoid</u></p> <ul style="list-style-type: none"> ➤ Breach of the peace [E] ➤ Serious traffic disruption [E] ➤ Unreasonable obstruction [E] ➤ Conflicts between participants and other members of the public [E]

Major Considerations

Notification to Police

- Purpose of the public order event [E]
- Date/time/location [E]
- Topography of route [E]
- Estimate no. of participants [E]

Major Considerations

Geographic Considerations

- Entrance/ Exit of public meeting venue
- Starting/ Finishing point of public procession
- Location and route of public meeting/ procession

Major Considerations

Physical Constraints on the Ground

- Concentration of persons or vehicles
- Disruption/ Obstruction
 - normal business/ commercial operations
- Others' rights
 - Passers-by
 - Private property/ commercial interests

Major Considerations

Balance

The diagram illustrates the balance between three key considerations: *Rights of Expression*, *Public Safety / Public Order Concerns*, and *Inconvenience caused to the public*.

Major Considerations

Police Coverage & Deployment Considerations

- Police Community Relations
Officers early involvement
- Liaison meeting(s) and regular contacts with organisers

Major Considerations

Police Coverage & Deployment Considerations

- Adequate Police Resources
 - Crowd and traffic management []
 - UB, PTU, Traffic, female officers
 - Maintain public peace and order
- Emergency Vehicle Access (EVA) []
 - 999 response
 - Emergency service (FSD/Ambulance) escort

Limitations

- Use of Venue
- Geographic constraints
- Ability of the organiser
- Attitude of participants

Limitations

Use of venue

- Capacity limit
- Private owned/management
- Under other Govt's administration
- Clashes with other events
- Give & take by different organisers

Limitations
<p><u>Geographic constraints</u></p> <ul style="list-style-type: none"> ➤ Merging of lanes ➤ Road works ➤ Heavy traffic flow ➤ Crowd caused by bottleneck ➤ Public transport services

Limitations
<p><u>Ability of the organiser</u></p> <ul style="list-style-type: none"> ➤ Late notification ➤ Unreasonable expectations ➤ Deliberate irresponsible act ➤ Slow pace of procession ➤ Ability to control conduct of participants

Limitations
<p><u>Attitude of participants</u></p> <ul style="list-style-type: none"> ➤ Deviation from LONO ➤ Increasingly confrontational ➤ Testing boundaries

Conclusion
<ul style="list-style-type: none"> ➤ Police have no political agenda ➤ Act in accordance with the Laws of HK ➤ Upholding the following principles :-

Conclusion

- Protect constitutional rights
- Facilitate and regulate all lawful public order events
- Preserve public safety
- Prevent public disorder
- In an IMPARTIAL and PROFESSIONAL manner