

**OBSERVATION REPORT
ON 1 JULY 2018
PUBLIC ASSEMBLY**

DECEMBER 2018



Observation Report on 1 July 2018 Public Assembly

Background

1. The organiser, Civil Human Rights Front (“**the organiser**”) convened a public assembly and procession on 1 July 2018. The event is notified to the Police in the name of the Office of Southern District Councillor AU Nok-hin. Police issued a notice of no objection to the public assembly and procession.
2. The event, known as “July 1 demonstration”, is held annually since 1997. The demonstration became well-known when 500 thousands people participated in the demonstration in 2003 to protest against the Basic Law Article 23 legislation, being one of the largest demonstrations in the history of Hong Kong.
3. Every year, the organiser decides a theme for the demonstration to appeal to public’s participation. The theme for the demonstration this year was “ending one-party dictatorship and rejecting Hong Kong's fall”.
4. The demonstration began with a public assembly which began at 2:00 p.m. at the Central Lawn, Victoria Park. At 3:00 p.m., the public procession (“**the procession**”) set off from the Central Lawn, Victoria Park, and proceeded to the finishing point, i.e. the East Wing Forecourt of Central Government Offices, via the following route:

Central Lawn, Victoria Park (starting point) → South Boulevard of Victoria Park → Basketball Court, Victoria Park → via Gate 15, Victoria Park → Causeway Road → Causeway Road (westbound carriageway) → Leighton Road (westbound carriageway) → Irving Street (westbound carriageway) → Pennington Street (northbound carriageway) → Yee Wo Street (westbound carriageway) → Hennessy Road (westbound carriageway) → Queensway (westbound carriageway) → across Justice Drive to enter into Queensway → Rodney Street (southbound carriageway) → Harcourt Road (westbound carriageway) → U-turn at Far East Finance Centre to Harcourt Road (eastbound carriageway) → Harcourt Road (eastbound carriageway) → northern pavement of Harcourt Road → western pavement of Tim Mei Avenue → western pavement of Tim Mei Avenue and East Wing Forecourt of Central

Government Offices (finishing point)

5. The procession ended at around 5:00 p.m., and the organiser started a public assembly thereafter. The public assembly ended at around 7:00 p.m. The organiser announced that 50,000 people had participated the demonstration. The Police said there were 9,800 people participating at peak.

Summary of the observation

6. Civil Rights Observer ("**CRO**") deployed 12 observers ("**the observers**") to monitor and document the arrangement and the course of the demonstration. The observation was conducted between 1:30p.m. and 7:00 p.m. 1 July 2018.
7. The observers monitored the procession from fixed points and by following the procession at the front, middle and tail parts of the procession. Fixed points of observation were Victoria Park, roads outside the Central Library, across Hennessy Road (eastbound and westbound carriageway) at its junction with SOGO Causeway Bay, and across Hennessy Road near Canal Road Flyover, Causeway Bay.

Overall observations

8. The public assembly hosted by the organiser went smoothly, without any incidents of confrontation. The procession did not encounter significant obstruction at the start of the procession.
9. Various civil society groups set up street stations for the purpose of promotional activities along Great George Street, Causeway Bay. The Police requested certain street stations to change locations for crowd control and public safety. There were incidents of verbal confrontation between the police officers and demonstrators, during which the Police made verbal warnings. There was no incident of physical confrontation.
10. The procession from the Central Lawn, Victoria Park to the East Wing Forecourt of Central Government Offices was generally smooth. There was no incident of serious confrontation identified during the course.
11. CRO noticed that the organiser announced their declaration for the July 1 demonstration 2018 outside Hysan Place on Hennessy Road, during which the Police repeatedly appealed to and requested the organiser to finish the speech as soon as possible and to continue with the procession. The organiser

appealed to members of the public to join the procession, and the appeal was not obstructed by the Police. CRO noticed that there were slight disputes between members of the public and the Police concerning the spatial issues along the route, which was followed by verbal warnings from the Police. There was no incident of physical confrontation identified.

12. The public meeting hosted by the organiser at the East Wing Forecourt of Central Government Offices was carried out peacefully and smoothly, without any incident confrontation.

Specific incidents

13. Incident 1

5:13 p.m. Four police officers in plain clothes and Police vests were video-recording two male demonstrators on the pedestrian pavements near No. 300 Chung Pont Commercial Centre, Wan Chai. (One police officer was filming, with the other three officers observing by his side. They are referred as the “video-recording team” below.) Their video-recording device was one portable video camera, which was not connected to any broadcasting device.

At that time, the two demonstrators were in progress of hanging a “British-Hong Kong flag” onto their retractable pole. These two demonstrators did not conduct any acts that were not peaceful or may be illegal.

5:16 p.m. After putting the “British-Hong Kong flag” onto the retractable poles, one of the two demonstrators held the pole and the flag, and the two of them joined the procession, and proceeded towards the direction of Admiralty. The video-recording team also followed the two into the procession and carried on with the filming. The procession remained peaceful during the course.

5:37 p.m. At No. 184 Hennessy Road, Wan Chai, the video-recording team continued following and filming the two demonstrators. Other than the video-recording team, a Probationary

Inspector of Police was observing on the side and commanded the video-recording team to continue following the procession towards the Admiralty direction. The video-recording team continued filming the two demonstrators. The procession remained peaceful during the course.

5:50 p.m. The video-recording team followed the procession to Southorn Playground, Wan Chai, and continued filming the two demonstrators. Such was last observed at 5:52pm and appeared to go on. The procession remained peaceful during the course.

14. Incident 2

5:56 p.m. A team comprising of two police officers was video recording a demonstrator who was delivering a speech holding a British flag near No. 36 Hennessy Road. The demonstrator mainly criticised China's infringement of the Sino-British Joint Declaration and proposed the return of Hong Kong to the United Kingdom. The content of his speech did not advocate violence or provoke others on the scene.

15. Incident 3

6:10 p.m. A police officer in plain-clothes and police vest was video-recording a demonstrator who was giving a speech on advocating "Hong Kong Independence" at the junction of Queensway and Arsenal Street Flyover, alongside other nearby demonstrators who were displaying "Hong Kong Independence" banners. This police officer was accompanied by 5 other officers, including a Probationary Inspector. The demonstrator mainly spoke about why Hong Kong could be independent in his speech. The content of his speech did not advocate violence or provoke others on the scene.

Analysis

16. The Independent Police Complaints Council (“**IPCC**”) published the “Special Report on Complaint Cases concerning Policing of Public Order Events (“**POEs**”)” on 22 October 2015, which included a case on video recording outside the Chief Executive’s Office during a POE. The report points out that the Complaints Against Police Office (“**CAPO**”) previously stated the Police has set forth internal guidelines on recording POEs on video, including:

- (i) Recordings of POE serve two purposes, one for reviewing the management and policing of the event, and the other for the detection of offences;
- (ii) Normally, it is the event itself which is the subject of video recording. An individual become the subject only when there is a breach of the peace;
- (iii) Copying, movements, retention and destruction of the recordings are strictly controlled and must be recorded on the control registers. Making copies of a recording requires the written authorisation of a Senior Superintendent or above;
- (iv) A video recording has to be destroyed within 3 months of the recording of the event, unless it is required as a case exhibit or for investigative, evidential or other legitimate purpose¹.

17. In this connection, in Incidents 1, 2 and 3, we are of the view that the Police’s action of filming rally participants continuously violated the Police’s guidelines on recording POEs on video:

- (i) In Incidents 1, 2 and 3, the procession was proceeding peacefully and smoothly. There was no incident of breach of the peace;
- (ii) The Police’s continuous filming of certain demonstrators and their speeches did not appear to serve the purposes of reviewing the

¹ According to the Police’s reply to a question asked by a member of Legislative Council in 2017, video clips carrying no investigative or evidential value, or constituting no other legitimate purpose (such as internal review), will be deleted after 31 days from the date of recording. If it is necessary to retain the video clips for over 31 days, written authorisation from a Senior Superintendent must be obtained and such authorisation should be reviewed on a monthly basis by the authorising officer.

management and policing of the event;

- (iii) The Police's video recording device did not connect to any broadcasting equipment; therefore, the purpose of taking video was not for the Police monitoring the procession in real-time in order to enable them to make necessary response; and
- (iv) The police officers of the time were video recording the actions or speeches of specific individual demonstrators, however the individuals did not act or make speeches that may causing breach of the peace, or intended to breach of the peace. In incident 1, the Police's video-recording team followed and filmed the two demonstrators for 39 minutes during which their conduct was entirely peaceful and did not involve any unlawful act.

18. With reference to this, we are of the view that the police officers of the time in the Incidents 1, 2 and 3 had violated the Police's guidelines on recording POEs on video. They were wrongly exercising their power and threatened the participants' rights to freedom of assembly and expression. In addition, we have noticed from Incidents 1, 2 and 3 that the police officers were deployed as teams, dividing their duties to taking video on certain targets. In Incidents 1 and 3, Probationary Inspectors were even present on-site, but they did not stop the respective police officers from wrongly exercising their power. In Incident 1, the Probationary Inspector commanded the video-recording team to follow the procession. In this regard, we are of the view that the operational commander who was in charge of the policing of the July 1 Demonstration may be aware of, agree with or acquiesce the video-recording team's violation of the Police's guidelines by knowingly allowing or commanding the team to take video of the actions and the speeches of certain demonstrators without legitimate ground.

19. In 2016, United Nations Human Rights Council published the "Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies", which points out that the act of recording demonstrators may have a chilling effect on the exercise of rights, including freedom of assembly, association and expression. Recording peaceful assembly participants in a context and manner that intimidates or harasses is an impermissible interference to these rights.

20. In 2013, United Nations Human Rights Committee included some constructive comments in its concluding observations on the third periodic report of Hong Kong SAR. The Committee expressed concerns about the Police's use of video-recording devices during demonstrations, and the subsequent implications on the rights to privacy and freedom of assembly, as enshrined in the International Covenant on Civil and Political Rights ("ICCPR"). The Committee recommended the Police should establish clear guidelines for records for the use of video-recording devices and make such guidelines accessible to the public.
21. CRO believes Incidents 1, 2 and 3 are not isolated cases of Police's abusive video-recording. We are aware that the Police have been deployed video-recording teams during peaceful public assemblies and processions in recent years, where they carried out video-recording duties without clear objectives or legitimate ground. We believe this is a privacy infringement of members of the public, and abuse of power; as well as posing threats on people's rights to freedom of assembly, association and expression.

Recommendations

22. Police should ensure that commanders and frontline officers understand and follow the guidelines on recording POEs on video;
23. Police should make the guidelines on recording POEs on video accessible to the public; and
24. Members of the public should be notified of the total number and length of any video footage recorded after each POE, and how the footage has been stored and destroyed.

Civil Rights Observer
16 December 2018

For all inquiries, please contact Civil Rights Observer at info@hkcro.org.