

LCQ2: Police's operations outside MTR Prince Edward Station

Following is a question by the Hon Ip Kin-yuen and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (April 29):

Question:

During the Police's operation at the MTR Prince Edward Station on August 31 last year, a number of members of the public were injured and there were even rumours that some persons died. Six months later, on the night of February 29 this year, some members of the public conducted memorial activities outside the ground-level B1 Exit of the Prince Edward Station and repeatedly placed fresh flowers, candles and other items (mourning items) on the nearby railings, and the Police repeatedly removed such mourning items. In mid-March, a representative of the Police told the Traffic and Transport Committee of the Yau Tsim Mong District Council that on that night, the police officers had removed such items in accordance with the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap 570). Besides, some members of the public complained that when they were conducting memorial activities outside the ground-level B1 Exit of the Prince Edward Station on March 31, some police officers ordered five members of the public who did not know each other to stand close side by side, and then ticketed such persons for contravening the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap 599 sub leg G) (commonly known as "the order to prohibit group gatherings"). In this connection, will the Government inform this Council:

- (1) whether the aforesaid location where the mourning items were placed is within the management area of the MTR Corporation Limited (MTRCL); if so, whether it has assessed if the removal of such mourning items by police officers without any request for assistance received from MTRCL constituted an infringement on MTRCL's management authority;
- (2) of the details of the aforesaid operations of the Police to remove the mourning items, including (i) the number of such operations, (ii) the quantity of fresh flowers so removed, and (iii) how the flowers removed were disposed of;
- (3) whether the police officers issued, under Cap 570, fixed penalty notices (FPNs) to those persons who had placed the mourning items; if so, of the number of FPNs issued;
- (4) of the number of FPNs issued by public officers under Cap 570 in each of the past three years and, among such FPNs, the number of those issued by police officers at locations under the management of MTRCL;

(5) given that it has been pointed out in the judgments of some court cases that whether an item should be regarded as "litter" or "waste" depends on whether that item was genuine waste material at the time when the alleged offence was committed, and that some members of the public were conducting memorial activities when the Police removed the mourning items, whether the Government has reviewed if the police officers (i) had the power to remove the mourning items by treating them as litter or waste, and (ii) had unlawfully taken away the private properties of members of the public; and

(6) whether it has reviewed if the aforesaid law enforcement actions taken by the police officers on March 31 contravened the legislative intent of the order to prohibit group gatherings; if it has reviewed and the outcome is in the affirmative, of the follow-up actions; if the review outcome is in the negative, the justifications for that?

Reply:

President,

According to section 10 of the Police Force Ordinance (Cap 232), it is the statutory duty of the Police to maintain public safety and public order. Therefore, if any illegal acts take place and undermine the public peace, the Police must take appropriate actions in a timely manner to restore public safety and public order.

There were no cases involving death in Prince Edward MTR station on August 31, 2019. Despite repeated clarifications by the Government, some people continue to spread false rumours deliberately and make use of them, appealing to protesters to conduct public order events allegedly in the name of "mourning" outside Prince Edward MTR Station with flowers, joss paper, candles and other items at the end of each month. Many of these events ended up as illegal acts of serious violence, including unlawful assemblies, illegal blockage of roads, paralysing the traffic, wounding and violent charging of police cordon lines, severely threatening public safety and public order.

In the afternoon of February 29, a large group of people, in response to appeals on the Internet, assembled again outside Prince Edward MTR station and Mong Kok Police Station with flowers, candles and other items. Some of them subsequently blocked roads in the vicinity of Nathan Road and Prince Edward Road West, seriously paralysing the traffic. Some rioters even threw petrol bombs and burned barricades at multiple locations in Mong Kok, including Nathan Road, Mong Kok Road and Argyle Street, posing a serious threat to public safety. The Police had to take lawful measures to stop unlawful assemblies and prevent the public peace from being jeopardised, including dispersing people participating in unlawful assemblies, as well as removing articles believed to be likely to incite others to continue or resume unlawful assemblies and commit a breach of the peace. The Police were fulfilling their due responsibilities to restore public safety and order as soon as possible, with a view to preventing the situation at the scene from further deteriorating and people from being injured.

Having consulted the relevant departments, our reply to the various parts of the question raised by Hon Ip Kin-yuen is as follows:

(1) When handling public order events, the Police will conduct a comprehensive risk assessment in order to formulate an overall strategy and measures including deployment of staff and equipment as well as contingency plans. The Police will, taking into account past experience in handling events of similar nature or scale as well as other risk factors, assess the crowd management measures and road traffic arrangements necessary during the event.

For the public order events allegedly conducted in the name of "mourning" over the past months, the Mong Kok Police District has been maintaining close liaison with the Mass Transit Railway Corporation Limited (MTRCL), monitoring the relevant situation and conducting risk assessments in order to implement appropriate measures to protect the safety of members of the public, passengers, MTRCL staff and the railway. During public order events, the Police's field commanders and other personnel will monitor and assess the situation at the scene continuously and adopt necessary response measures in light of the actual circumstances.

If illegal acts take place and undermine the public peace, regardless of whether they take place in private premises or managed by private body, it is the responsibility of the Police to take appropriate actions to restore the public peace, with a view to ensuring public safety and public order.

(2) and (5) It is the Police's statutory duty to maintain public safety and public order. Hence, if any illegal acts take place and severely undermine the public peace, police officers must take appropriate actions in a timely manner, with a view to preserving the public peace, preventing crime or protecting properties from criminal injury.

Section 50(6) of the Police Force Ordinance also stipulates that where any person is apprehended by a police officer, it shall be lawful for such officer to search for and take possession of any newspaper, book or other document or any portion or extract therefrom and any other article or chattel which may be found on his person or in or about the place at which he has been apprehended and which the said officer may reasonably suspect to be of value (whether by itself or together with anything else) to the investigation of any offence that the person has committed or is reasonably suspected of having committed.

As for other articles not related to the offence allegedly committed and abandoned in a public place, they will be handled by the departments concerned in accordance with the established procedures.

The Police do not maintain the statistics requested in the question.

(3) and (4) According to the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap 570), the departments being authorised to issue

fixed penalty tickets (FPTs) include the Housing Department (HD), the Environmental Protection Department (EPD), the Marine Department (MD), the Leisure and Cultural Services Department (LCSD), the Food and Environmental Hygiene Department (FEHD), the Agriculture, Fisheries and Conservation Department (AFCD) and the Hong Kong Police (HKPF). In the past three years, the numbers of FPTs issued by authorised departments in accordance with Cap 570 are tabulated as follows:

	2017	2018	2019
HKPF	175	209	90
AFCD	59	169	95
EPD	177	246	173
FEHD	51 708	57 277	55 576
HD	330	506	722
LCSD	3	16	8
MD	16	16	17

The Police do not maintain the other breakdown statistics requested in the question.

(6) The Secretary for Food and Health has, in accordance with the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap 599G), issued a direction to prohibit group gatherings with more than four persons in public places with effect from March 29. The effective term of the direction has been extended to May 7. In view of the severity of the COVID-19 epidemic, members of the public should reduce social contact as far as possible to curb the spread of the virus. The Government's legislative intent in prohibiting group gatherings is to reduce the risk of spreading the virus.

In light of the COVID-19 epidemic, the Police will continue to proactively facilitate various anti-epidemic efforts, including assisting with the enforcement of the requirements under Cap 599G, with a view to minimising the risk of the virus spreading in the community. If police officers find any group gatherings with more than four persons in a public place, they will, in light of the circumstances, verbally explain the regulations, issue an advice or warning, or dismiss the gathering. If the prevailing circumstances require immediate issuing of FPTs to persons participating in the group gathering so prohibited, law enforcement officers will do so in accordance with the law and procedures. Persons issued with FPTs may dispute liability for the offence in accordance with the mechanism stipulated under Cap 599G.